

Corbyn BREXIT speech without the soundbites – does he actually say anything about BREXIT?

By Dagmar Schiek, [Professor of Law at QUB](#), published under eulawcritique.wordpress.com

And if what Corbyn promises is done – what will it mean for the island of Ireland? This blog uses parts of the speech of 26 February 2018 (copy pasted from <https://blogs.spectator.co.uk/2018/02/full-text-jeremy-corbyns-brexite-speech-2/> text in italics and and red) in an attempt to make sense of the new positioning of labour. These musings are in straight text (grey). I intended to only use the actual content, but while reading found that there was not very much content, and that some of the “vibe” was needed to understand the non-position.

“We (assuming that is Labour if in government) will use funds returned from Brussels after Brexit to invest in our public services and the jobs of the future,”

Well, that is assuming that there are “funds returned from Brussels”. So far, the UK will need to pay up first, for liabilities incurred (including unpaid bits of their reduced membership fees – that is the bit remaining after countries as poor as Romania coughed up 20% of the fees due for one of the richest countries in the EU).

First (...) We are committed to building a more prosperous and a more equal Britain, in which every region benefits and no community is left behind, as we set out in our manifesto. And that is what underpins our approach to Brexit. (...) The second is unity. Most people in our country, regardless of whether they voted leave or remain want better jobs, more investment, stronger rights and greater equality. So, we will not let those who want to sow divisions drive this process. No scapegoating of migrants, no setting one generation against another and no playing off the nations of the UK.

Not sure how this differs from May’s approach that all parts of the UK leave the EU at the same terms, irrespective on what their population voted for...

No one should be willing to sacrifice the Good Friday Agreement, the basis for 20 years of relative peace, development and respect for diversity in Northern Ireland.

Dear Jeremy, do you realise that said 1998 Agreement (also known as Good Friday Agreement or Belfast Agreement) establishes that Northern Ireland is different from any other part of the UK? The agreement cements a hybrid identity between two states: if and when the people of Northern Ireland (sadly this decisive term is not defined in the agreement) vote to leave the UK, so be it, and whether the province is part of the UK or of Ireland, the part of the population which disagrees with that affiliation not only has to be respected, but also must have a share in its governance...

The third is our global perspective. We are leaving the European Union but we are not leaving Europe. We are not throwing up protectionist barriers, closing the borders and barricading ourselves in. And we want a close and cooperative relationship with the whole of Europe after Brexit. (...) Labour wants a Brexit for all our people. One that offers security to workers in the car industry worried about their future, hope to families struggling to pay the bills each month and opportunity to young people wanting a decent job and a home of their own. (...) Leaving the EU, whenever that exit date comes, risks delivering a shock to the UK economy unless the right plans and protections are in place to allow the kind of investment and economic transformation programme that the country needs and that Labour is committed to.

For 45 years our economy has become increasingly linked into the European Union. Many of our laws and regulations are set and monitored by joint European authorities, from implementing rules on use of pesticides to assessing the levels of fluoride in our drinking water.

The European Food Safety Authority plays a vital role in monitoring the substances used in manufacturing or growing our food using the latest scientific evidence to assess whether substances are likely to have harmful effects on human or animal health. While the European Chemicals Agency carries out the vital task of evaluating and authorising chemicals as safe for use.

And many businesses have supply chains and production processes, interwoven throughout Europe. Take the UK car industry, which supports 169,000 manufacturing jobs, 52,000 of which are here in the West Midlands.

If we look at the example of one of Britain's most iconic brands in this sector, the Mini, we begin to see how reliant our automotive industry is on a frictionless, interwoven supply chain.

A mini will cross the Channel three times in a 2,000-mile journey before the finished car rolls off the production line. Starting in Oxford it will be shipped to France to be fitted for key components before being brought back to BMW's Hams Hall plant in Warwickshire where it is drilled and milled into shape.

Once this process is complete the mini will be sent to Munich to be fitted with its engine, before ending its journey back at the mini plant in Oxford for final assembly.

If that car is to be sold on the continent then many of its components will have crossed the Channel four times.

(I am starting to wonder how he is going to make the case for BREXIT after all this...)

It makes no sense for the UK to abandon EU agencies and tariff-free trading rules that have served us well, supporting our industrial sectors, protecting workers and consumers and safeguarding the environment.

If that means negotiating to support individual EU agencies, rather than paying more to duplicate those agencies here then that should be an option, not something ruled out because of phoney jingoistic posturing.

So we will want to remain a part of agencies like Euratom, regulating nuclear materials in energy and health sectors and programmes like Erasmus that give students opportunities to study across Europe, because they serve our interests.

I see. Jeremy Corbyn will need some more information on what that beast "EU" actually is. Let's give him some ideas, shall we?

- Euratom is not an agency. Instead it's a Treaty separate from the EU Treaties, its separate community of law. If the UK is to stay in, it will have to pay contributions. Also, the ECJ is the Court for supervising Euratom. Of course, it is a very good idea to remain, if only in Euratom.
- Erasmus is a programme, not an agency - as the speech states correctly, though it puts it under the subheading of agencies. It's a programme furthering free movement of persons. That is the reason why Switzerland, for example, was excluded from Erasmus as long as it did not accept the principle of free movement of persons. But the good news are, states do not need to be in the EU to be part of Erasmus. They just need to accept free movement of persons along with the other elements of the Internal Market. That can be achieved through EFTA membership and subsequently underwriting the EEA, with its regulatory alignment to most Internal Market and EU citizenship legislation. Good idea, Jeremy. Not sure whether the Norwegians, Icelanders, Swiss and Liechtensteiners agree (and they would have to, as they constitute EFTA). So, maybe ,maybe you could convince the EU to create a EEA agreement with the UK alone... But this means: accepting the four economic freedoms undivided, alongside EU competition law (which includes rules on state aid), and an institution paralleling the EU commission, and a court which aligns itself with ECJ case law...

Why leave the EU then? Maybe the EU wants this after all... the UK would be unable to block their progress.

When 44% of our exports are to EU countries and 50% of our imports come from the EU, then it is in both our interests for that trade to remain tariff-free.

It would damage businesses that export to Europe and the jobs that depend on those exports for there to be the additional costs of tariffs and it would damage consumers here, already failed by stagnant wages and rising housing costs.

We will remain close to Europe, that's obvious.

Britain will need a bespoke, negotiated relationship of its own.

Sounds like the government programme to me...

During the transition period, Labour would seek to remain in a customs union with the EU and within the single market. That means we would abide by the existing rules of both. That is so the government, businesses and workers only have to make one adjustment, from the current situation to the final terms. Labour spelled out the need for a stable transition period last summer. Both the TUC and CBI agree. We thought the government had accepted that case but they now seem to be in disarray on the issue again.

This is good thinking. The UK can use some more social partnership, by consulting management and labour for important issues such as leaving the EU. The transition period does not only need to be agreed between the warring Brits, but also with the EU, and how long do you want it to be?

Labour would seek a final deal that gives full access to European markets and maintains the benefits of the single market and the customs union as the Brexit Secretary, David Davis promised in the House of Commons, with no new impediments to trade and no reduction in rights, standards and protections.

Next there is actually some programmatic declaration – but I thought it would be a good idea to stress that J does not wish to deviate from D

Labour would seek to negotiate a new comprehensive UK-EU customs union to ensure that there are no tariffs with Europe and to help avoid any need for a hard border in Northern Ireland. But we are also clear that the option of a new UK customs union with the EU would need to ensure the UK has a say in future trade deals. A new customs arrangement would depend on Britain being able to negotiate agreement of new trade deals in our national interest

So, if the UK wants a say – why not stay in the EU with all the obligations that come with this? Because they do not want all the obligations: Jeremy wants a say on the EU's future trade deals (as every EU Member State has), and at the same time ability to negotiate new trade deals. This is a little ambiguous. The UK can negotiate trade deals beyond free movement of goods presently, so the last sentence is not incompatible with staying in the EU customs' union.

Some seem very keen on downgrading our trading links with Europe. But we do not believe that deals with the US or China, would be likely to compensate for a significant loss of trade with our trading neighbours in the EU, and the government's own leaked assessments show that. Both the US and China have weaker standards and regulations that would risk dragging Britain into a race to the bottom on vital protections and rights at work. And Labour is implacably opposed to our NHS or other public services being part of any trade deal with Trump's America or a revived TTIP-style deal with the EU, which would open the door to a flood of further privatisations.

Ah. I see. Staying in the EU would mean that the UK is part of the TTIP, which Jeremy rejects. While that TTIP will not happen as it is now also rejected by the US, JC might still be critical of other agreements, such as CETA or TPP. Only that the CETA (Canadian European Trade Agreement)

protects public services more comprehensively than TTIP. Maybe a reevaluation is needed on whether the full membership in the EU customs union might not be preferable?

Labour would negotiate a new and strong relationship with the single market that includes full tariff-free access and a floor under existing rights, standards and protections. That new relationship would need to ensure we can deliver our ambitious economic programme, take the essential steps to intervene, upgrade and transform our economy and build an economy for the 21st century that works for the many, not the few. Labour has set out how we would create a National Investment Bank to drive investment in every community through a network of regional development banks so that every area has an industrial strategy, based on investment in a high skill, high wage and high productivity economy

(...) now, here it comes: its all about state aid and posting of workers

So we would also seek to negotiate protections, clarifications or exemptions where necessary in relation to privatisation and public service competition directives state aid and procurement rules and the posted workers directive. We cannot be held back inside or outside the EU from taking the steps we need to support cutting edge industries and local business, stop the tide of privatisation and outsourcing or from preventing employers being able to import cheap agency labour to undercut existing pay and conditions.

Ok. That is the special relationship Labour style. Let's just consider what this actually may mean...

Jeremy seems to think that there is a complex of "privatisation and public service directives". This may be based on the opinion of his advisers that the EU obliges member states to privatise their national rails. This is not quite true, but what is true is that there is a package of railway directives [for an overview: https://ec.europa.eu/transport/modes/rail/packages/2013_en], which aim to ensure that EU railway operators are able to operate in other EU countries, and in particular are able to establish EU wide services for transporting passengers and freight. The 2016 package actually strengthens the position of national railways. For example, directive 2016/2375, amending Directive 2012/34 clarifies that state-owned rail way operators are not automatically seen as an integrated undertaking only because the infra structure manager is also state owned. It also introduces a number of exemptions from the general obligation to allow state owned or private providers from other Member States to use the national railway network, while also stressing transparency of costs. Further [Regulation 2016/2338, amending Regulation 1370/2007](#), introduces numerous new options of allowing authorities to directly award contracts for passenger transport, and also provides that those contractors have to comply not only with labour legislation, but also with collective agreements. There is no denying that the transport packages are based on the ideas that transport markets should be opened for providers from different countries, which is informed by a general believe in competitive markets. However, the 2016 package has introduced a number of exceptions and additions in favour of social standards – maybe that is what JC was thinking of?

[State aid rules](#) are actually part of the TFEU, which provides that state aid is prohibited, if not recognised as compatible with the Internal Market by the Commission ([Articles 107-109 TFEU](#)). State aid rules do not prevent industrial policy, though individual exemptions may have to be sought – and a mechanism for that is provided. Public procurement rules are derived from Article 56 TFEU on freedom to provide services, and embedded in a number of directives. Aiming to create an equal playing field for companies from all over the EU within each Member State, these basically require that any public contract [above a certain threshold](#) is publicly advertised, and awarded to the most efficient bidder. A thorough [reform package of 2014](#) gave more space for including social and environmental criteria in the definition of "efficient", and the [next reform is pending](#). Again, while the undercurrent is a certain belief in competitiveness, there was and is space to influence the EU within the market. The direction of travel has been towards more social and environmental responsibility in public procurement. Good news for the UK: the 2017 consultation also has

questions on securing opportunities for bidders from non-EU countries. Once again, the UK will be treated more fairly once outside the EU than it will treat EU Member States.

When it comes to posting of workers, the UK has implemented the relevant directive in a way that affords posting workers the same rights as national employees – however, as national agency workers have next to no rights under national law, posted workers coming through an agency are equally without any rights. The [Directive on posting of workers is under review](#) – allegedly the Commission pursues the aim of “equal pay for equal work at the same place of work” by this (not [quite successfully yet](#), though). To improve the situation it would be more advantageous to stay in the EU, being able to influence it...

Our immigration system will change and freedom of movement will as a statement of fact end when we leave the European Union. (...) Labour would design our immigration policy around the needs of the economy based on fair rules and the reasonable management of migration. (...) As Diane Abbott, our Shadow Home Secretary, set out last week, “We do not begin with, ‘how do we reduce immigration?’, and to hell with the consequences. (...)”

Sorry, but this is truly ambiguous. Abbot and Corbyn do not wish to reduce immigration, but they wish to control it. If this means rejecting free movement of workers, it also means that Labour envisages the UK outside the internal market.

When migrant workers come to Britain, they must not be exploited or used to undercut or suppress better working conditions or higher pay. Those issues can only be tackled by stronger employment law. To stop employers being able to import cheap agency labour to undercut existing pay and conditions, collective agreements and sectoral bargaining must become the norm. Labour stands for ‘the rate for the job’, not ‘a race to the bottom’.

Now, partly, free movement of labour EU style addresses this: EU free movers have a claim to equal treatment with nationals. This right adds to existing employment laws. Of course, it is necessary that its easy to enforce, and perhaps this would have been the place where labour should say that they restore the efficiency of the employment tribunal system and provide additional help for free movers and other migrants to access justice in employment matters. Collective labour law issues remain in the hands of the Member States within the EU (Article 153 (5) TFEU), though the EU could use another base to create some EU level structures complementing those national structures. Basically, maintaining EU membership, or at least membership in the Internal Market, would make it easier for a labour government to achieve these stated aims.

The devolution of the last Labour government completed the peace process in Northern Ireland, which we must cherish. The Good Friday Agreement was a great achievement and I pay tribute to the work done by Tony Blair, Mo Mowlam and all sides in Northern Ireland to secure that Agreement. We must continue to support the restoration of the Northern Ireland Assembly and to ensure we maintain the situation of no hard border in Northern Ireland.

Well said. However, avoiding a hard border is already compromised by Labour’s ambiguity around the Internal Market, as well as around remaining part of the EU agricultural policy, and its VAT regime. As the paragraph indicates, there is more to the 1998 agreement than avoiding a hard border – maintaining peace also entails avoiding diminishing of rights.

To conclude: let’s hope that the ambiguities allow Labour to promote for the UK to stay in the internal market as well as the Custom’s union, the EU’s agricultural market and to maintain the *acquis* on other areas identified as central for avoiding the diminishing of rights (mainly the citizenship *acquis* and EU anti discrimination legislation). While this is still a muddled position, if it

prevails there would be more hope for Northern Ireland post Brexit than under the current TORY government.