

Inquiry into EU reform and the EU referendum: implications for Scotland

Written paper from Alyn Smith, MEP, SNP

The agenda for European Union reform has been thrown into a new light since the confirmation from the UK Government that there will be a referendum on EU membership.

Whilst I am unashamedly in favour of Scotland's membership I am not going to deny that there are always areas that can be improved upon. Equally, I fully support the Scottish Government's position that these can be worked upon through the existing treaty framework. It is essential for us encourage the EU and its institutions to do all we can to directly engage with the populations of Europe.

The Scottish Government's agenda for reform is currently the only constructive approach I have seen and stands in stark contrast to the UK Government's strategy. This seems to be a case of policy being shaped by events and fear rather than being a thought out and considered position. I wholly reject it.

The PM's reforms are also unlikely to deliver anything substantive and will certainly not convince euro-sceptics. The perspective of the rest of Europe is crucial to what happens in these negotiations and David Cameron's approach is damaging the view that our European partners have of us. Most of Europe is rightly focused on the humanitarian disaster in the Mediterranean and the ongoing problems of the euro-zone. The UK's antics in the face of this mean that few are in the mood to appease Cameron.

Unfortunately it is not just the UK government's negotiations that I have concerns about.

The nature of the referendum, driven by fear of UKIP and the euro-sceptics in the Conservative party, means that Scotland will not have a double lock on leaving: if a majority UK wide votes to leave, Scotland leaves regardless of how we vote. Despite the best efforts of the SNP team at Westminster, it seems likely that 16 and 17 year olds, along with 2.6 million EU nationals, are all going to be excluded from the vote. Both of these decisions are unacceptable and undemocratic.

The so far undefined "in" and "out" options mean it seems likely that we face a referendum full of fantastical and untested claims. I fear that the UK is heading into a toxic debate devoid of details based on sentiment and prejudice.

I know that we in Scotland will be at the forefront of making a positive case for the EU in the face of this. We have gained so much from the EU during our 40 year membership. In essence our membership is pragmatic: being in the EU is in the best interests of the people of Scotland and after eleven years in the European Parliament I am now more convinced of this than ever. In simple terms the EU is an effective trade area which provides economic opportunities and generates jobs in Scotland but it is also more than that. On the foreign affairs committee I work with colleagues from across Europe to help shape a collective policy that engages with world, not threatens it with ill thought out military action. This, as with many other areas, is far more in sync with the wishes of the Scottish people than the foreign policy of the UK.

To be clear, the EU is democratic and accountable but it is also a collective of members states. So long as we are represented within it by a UK government which does not defend the interests of the people of Scotland we will continue to struggle. The solution is

not to leave the EU, but to seek to be represented within it by a Scottish Government reporting to this parliament.

TTIP

Over the last twelve months I have continued to receive thousands of emails from concerned constituents about the Trans-Atlantic Trade and Investment Partnership, or TTIP. Since this committee last heard from me much has changed.

Most importantly the European Parliament now has a position, though it is one I disagree with. The European Parliament adopted the Lange TTIP report by 426 votes to 241 despite SNP opposition. This report should have set out a clear unambiguous set of red lines which the European Parliament would not accept. Unfortunately it is a messy, inadequate compromise that does not do enough to protect our public services or European standards. I demanded an exemption of agriculture from TTIP but this call, and many others, was not heeded.

The only good news is that the report does demand the protection of cultural services but this is too little. Various amendments to explicitly protect public services such as the NHS and water were comprehensively defeated. The proposal still accepts the premise that corporations need a different set of rules to the general law. Considering that we are talking about Europe and the USA, two of the most advanced legal systems in the world, this is ridiculous. The new 'compromise' amendments on the controversial Investor State Dispute Settlement (ISDS) are so vague as to be meaningless. Indeed it effectively requests that ISDS be replaced with a variation of ISDS called something else.

Unsurprisingly, this is precisely what the Commission has done. Instead of responding to widespread concerns about ISDS, Commissioner Cecilia Malmström has indulged in a political marketing exercise and simply replaced it with an almost identical Investment Court System (ICS).

In better news, I was delighted to announce that Nicola Sturgeon has written to the UK Government urging them "to ensure that the NHS is fully and explicitly exempt from TTIP and, if that is not the case, to use its veto at the European Council to prevent TTIP progressing." The complete text of the letter is enclosed with this submission. For my own part, I repeat my assurance that if there is any risk to the provision of public services in Scotland, TTIP will not receive my support in the European Parliament.

TTIP's sibling, the Comprehensive Economic and Trade Agreement (CETA) with Canada, has also been moving along quietly. A number of constituents have emailed me about this treaty which is currently more developed than TTIP. The full text of CETA as negotiated is available to anyone who wishes to read it on the Commission's website. The text is currently undergoing a process called 'legal scrubbing.' This will result in a number of (I suspect substantive) changes to the text we currently can view and until we know what these changes are I will continue to withhold my final judgment.

Let me reassure you that the red lines that myself and the SNP have for TTIP are every bit as applicable to CETA and I will not support a treaty that contains ISDS or any similar system.

I still think it could be possible to reform TTIP in a positive direction and I will use every effort to do so. It would be irresponsible to disengage from the process and then complain afterwards that the end result isn't good enough. I am deeply concerned by TTIP and

CETA but so long as I have a mandate to get the best deal for Scotland I will not take the easy approach of walking away.

My red lines are clear and I will not compromise upon them. The NHS and other public services must be clearly carved out, European standards must not be compromised and corporations must not be given any special rights to sue governments that pursue policies they disagree with.

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Rt Hon David Cameron MP
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Dear David

As you know, the Scottish Government has raised concerns about the impact of TTIP on the NHS with both the UK Government and the European Commission on a number of occasions. These concerns are shared by campaigns such as the People's NHS and thousands of people across Scotland and the UK.

It remains our view that the most effective way to put the issue beyond doubt and to provide the concrete assurance that we and the public require is to provide an explicit exemption for the NHS on the face of the agreement. Legal advice for Unite has suggested specific legal text to provide such an exemption:

'The UK reserves the right to adopt or maintain any measure with regard to the organization, the funding and provision of the National Health Service in the UK, as well as with regard to the public and/or the non-for profit character of the National Health Service in the UK, where services may be provided by different companies and/or public or private entities involving competitive elements which are thus not services carried out exclusively in the exercise of government authority.'

I urge the UK Government to ensure that the NHS is fully and explicitly exempt from TTIP and, if that is not the case, to use its veto at the European Council to prevent TTIP progressing.



NICOLA STURGEON