

The
**Red
Cell**

**The Inside Track:
Personal Insight from
Europe Ministers**

Rt Hon David Jones MP

Rt Hon David Heathcoat-Amory

October 2018

www.theredcell.co.uk

The Inside Track: Personal Insight from Europe Ministers

Introduction

This paper comprises short pieces from two people who have had unique opportunities to see the negotiating machinery of the European Union up close.

Both have been Europe Ministers, though in very different departments and in very different times. One had to manage UK relationships within the EU, and then try to apply the brakes on the EU Constitution; while the other has had to deal with the nation's negotiations to extricate itself entirely.

While this paper is intended here to be a gentle insight into how the EU functions, it at the same time offers salient counsel for those reflecting on its longstanding strategy and ambitions. British negotiators would do well to pay heed.



An Unexpected Adventure

Rt Hon David Jones, MP

David Jones is a patron of The Red Cell. He was an AM before becoming an MP, and subsequently Secretary of State for Wales. He served as the first Minister of State in the Department for Exiting the EU.

My appointment to the office of Minister of State for Europe happened in somewhat unorthodox circumstances. It was not, I have to say, an office for which I had ever cherished any great ambition. I had always taken my place squarely on the Eurosceptic wing of the Conservative party, convinced that Britain would enjoy a happier and more prosperous future outside the European Union. My greatest wish, in fact, was that the office of Europe Minister should cease to be. I was consequently delighted when David Cameron announced that there was to be a referendum on the UK's continued membership of the EU, threw myself into the campaign and was equally delighted with the outcome.

I was at home in my North Wales constituency on the morning of 16 July, 2016 when my mobile phone rang. It was the Downing Street switchboard: "Mr Jones, I have the Prime Minister for you."

I was still absorbing the words when I heard Theresa May's voice: "Good morning, David."

"Good morning, Theresa... er, Prime Minister."

There was no reply, just stony silence. Had my inadvertent over-familiarity, I wondered, caused mortal offence to the woman I had supported in the recent leadership process, from which she had emerged triumphant, her opponents metaphorically strewn like ninepins across the pavements of Westminster?

The truth was, fortunately, less perturbing. She had simply lost her telephone connection in the notorious mobile black spot that is 10, Downing Street.

I waited. I was reconnected. Once again, the call failed.

The phone rang for a third time.

“Sorry, Mr Jones, but the PM’s taken another call. She will get back to you. It’ll probably be a while.”

I took the dog for a walk. Quite a long walk.

I was heading back up the garden path when the mobile rang again. This time the connection held up. “David, I’d like to offer you the position of Minister of State at the Department for Exiting the European Union.”

I accepted without hesitation. The new Department had been created specifically to undertake the function of extricating Britain from the EU, a task that I was more than happy to help complete. What’s more, I would be working with David Davis, a colleague I had liked and respected ever since I had supported his candidacy for the party leadership in 2005. I could want nothing more.

The significance of my title did not become apparent to me until, shortly after I had been installed in my new office at 9, Downing Street, I was asked to sign a routine piece of ministerial correspondence. There was a space for my signature and underneath it the words: “Minister of State for Europe”.

“Surely that’s not right,” I said to the official who was waiting for me to sign the document. “Minister of State for Europe is an FCO role. I’m here to help take us out.”

“No, it’s quite correct, Minister,” he replied. “The FCO functions in relation to the EU have been transferred to this Department. For those purposes, you are Minister of State for Europe.”

“What about Sir Alan Duncan?” I enquired.

“Ah, he’s Minister of State for Europe and the Americas,” he answered. “That’s quite a different thing.”

...

A big part of the duties of the Europe Minister is to attend the EU General Affairs Councils (GACs). These are monthly events, usually held in Brussels, but occasionally in Luxembourg. Twice a year, however, informal Councils are also held in the capital city of whichever member state has taken over the rotating presidency of the Union.

Thus it was that, one morning, barely a week after my appointment, I woke up in a hotel room in Bratislava, the capital of Slovakia, which had just assumed the presidency at one of the most critical moments in the history of the European Union. It was, in the circumstances, a role that would have been challenging for even one the larger Member States, but was particularly so for the small central European country, which had itself been a member of the EU for only 12 years.

The event was to be my first encounter with EU ministers and representatives of the Commission. I wondered what sort of reception I would have. I did feel a certain amount of nagging guilt that, by voting the way we had, we Brits had rather rained on the Slovaks' parade. This was, after all, their big moment. It was the first time they had held the presidency of the Union, which, as a consequence of our vote, was just about to start shrinking. The other EU ministers, too, I felt were likely to be less than overjoyed.

Nevertheless, the Slovaks were apparently determined to put up a good show. Parked up outside the hotel was a fleet of black BMW 7 series. In turn, each of the EU ministers stepped into one of the cars and glided away.

As I sat in the back of my limo, I couldn't help reflecting that my experience so far vindicated my assessment of the EU. Here were these middle-ranking ministers, most of whom, back home, would have been lucky to have the shared use of a Mondeo, being conveyed like satraps on the leather-upholstered rear seats of top-of-the-range Beemers. It confirmed my suspicions of incontinent Euro-waste.

The car drew up outside the Reduta concert hall, an extravagant white wedding cake of a building, where the Council was being held. I emerged from the car and was startled to receive a smart salute from a police officer. I walked up the red-carpeted stairs, where I was greeted by my Slovak opposite number. We shook hands and posed for the press photographers. So far, the reception was relatively cordial.

The Slovak minister then introduced me to a gentleman standing to his left. He was a senior EU Commissioner, who extended his hand. We turned toward the cameras, and as we waited for the flashes to subside, he enquired through the gritted teeth of his well-practiced smile: "How long, Mr Jones, does the UK intend to remain shackled to this corpse?"

It seemed fairly clear to me that he was a bit upset.

...

The Commissioner was not the only person to be experiencing angst over the UK's decision to leave.

Some time shortly after my Bratislava visit, I was told that a very senior Scandinavian former minister had made an urgent request to meet me. I agreed to do so, and arranged to have coffee with him in the Pugin Room in the House of Commons.

He was a distinguished man, who spoke impeccable English. He sipped his coffee and said, "I have come to see you for reassurance. Please tell me that the UK will not really be leaving the EU."

I was astounded.

"We are certainly leaving," I assured him. "The country has just voted to do so."

The Scandinavian replied, "But surely you are not serious. The referendum was advisory, no more. You are not bound by it. You must see that for the UK to leave would be disastrous for Europe."

Once again, I told him that we would certainly be leaving. I explained that the Government had given a commitment to comply with the outcome of the referendum and that it would be politically

impossible to go back on that commitment. I pointed out that my Department had been created specifically to achieve our withdrawal from the EU.

“But you can still stop it,” he replied. “Have a second referendum. The people must understand what damage this would do to the whole of Europe. The smaller member states need the UK as a counterbalance to Germany. You simply can’t leave.”

“I’m sorry,” I answered. “That’s not the way things work in this country. We made it clear that would abide by the referendum. We are leaving, and there is no going back.”

The gentleman was palpably saddened. He finished his coffee, shook hands with me and left. It was clear to me that, despite his distinguished service to democracy in his own country, he simply could not understand why the British Government should feel so perversely obliged to fulfil the referendum mandate. It was, after all, only advisory; and why should politicians listen to the electorate’s advice?

...

My meeting with the Scandinavian was my first introduction to the EU way of doing things. More was to come.

The General Affairs Councils were very different, both in feel and procedure, from the UK Cabinet committees upon which I sat. Cabinet committees tended to be meaty events, chaired by a senior minister, in which there was extensive and detailed discussion of the matters under consideration. They were not, generally, time-limited. They were meetings at which things tended to get done.

The GACs, however, were wholly different, both in terms of substance and style. For a start, the positions of the various Member States had already been substantially agreed in principle by officials before the meetings commenced. There were infrequently any matters of significant dispute or, to be frank, of substantive discussion.

Not, however, that that deterred any of the EU ministers present at the Council from expressing an opinion. Everyone took his or her turn. Because there were so many ministers present, the person chairing the discussion would usually impose a time limit of two or three minutes for each contribution. Most of the ministers tended to adhere to the limit, though there were exceptions. One female minister from a south European country invariably exceeded her allotted time very substantially. Oblivious to the sighs and rolling eyes around the table, she would drone on interminably, thereby reducing the time available to other ministers. She never appeared abashed, and her colleagues were always too polite to complain.

I had half anticipated that the meetings would be a sort of Babel, with everyone plugged into delayed translations over their headphones. That, in fact, turned out not to be the case. The French, of course, invariably spoke French. They did so, I felt, as a matter of principle, simply because almost everybody else spoke English. Otherwise, the headphones were rarely used.

I felt a certain degree of disappointment at this, since I had assumed that lurking in the Council were officials with such rarefied language skills they they could, for example, translate from Maltese to Estonian. Maybe those super-linguists did exist, but if there were any, I saw no evidence of them. Everyone spoke English.

What, I wondered, would happen when the UK finally left the EU? Would English cease to be an official language? After all, only the Irish would remain as first-language English speakers. My suspicion was that everyone would continue to use English, simply because it is so convenient.

Everyone, of course, except the French.

...

The GACs, by and large, were conducted reasonably efficiently and without controversy. The one exception was the occasion when the Council was considering its approval of CETA, the Comprehensive Economic and Trade Agreement between the EU and Canada.

The meeting was being held in the vast and largely deserted EU building in Luxembourg. It had been anticipated that there would be little difficulty in approving the agreement, which had been some seven years in the negotiation. Indeed, arrangements had already been made for the reception of the Canadian Prime Minister, Justin Trudeau, to sign the document.

At the last moment, however, there was a hiccup. The regional government of Wallonia was withholding its approval, apparently concerned about the potential impact of CETA upon agriculture.

The Belgian Foreign Minister, who was in attendance, made clear that he could not give his approval for so long as consent was being withheld by the Walloons. He kept disappearing to make telephone calls, while the rest of us chatted abstractedly, consuming huge quantities of coffee.

After a full three hours, the Belgian returned from his umpteenth telephone call, to announce that there had been no significant progress. The rest of us decided it was time to go home.

As I exited the conference room, I overheard one of my colleagues say to another: "Where exactly is Wallonia?"



How Not to Negotiate with the EU

Rt Hon David Heathcoat-Amory

David Heathcoat-Amory is a patron of the Red Cell. His significant front bench service included becoming Minister of State at the FCO covering Europe. He later resigned from the Treasury ministerial team in protest at the prospect of the UK joining the Eurozone. He was Chairman of the ERG, and served as the Conservative Parliamentary Delegate to the Convention on the Future of Europe.

The rules of any successful negotiation are essentially the same, whether it's buying property, selling a business proposition or agreeing the terms of an international treaty. Three are foremost:

- **Keep focused on the big picture and don't become bogged down in early detail.**
- **Have a walk away option which your opposite number believes you might take.**
- **Look after the interest group on whose behalf you are negotiating, be keeping them united and determined.**

None of these principles has been followed with Brexit.

The EU referendum decision was categorical and final. Both sides of the argument agreed this in advance. The leave decision is not a radical constitutional experiment: Britain will be joining the rest of the world, which is founded on the principle of national self-government, which includes unconditional control over citizenship, borders, laws and trade policy.

This essential requirement has become sidelined by indecision in government over whether we should really leave the customs union, and how the Northern Irish border should be managed. This has led to a proposed 'common rule book' with the EU, and an undefined 'mobility framework'. It does not mean self-government. Clarity of purpose has been replaced with detailed confusion.

The second requirement, a walk away option, was removed early on by the Chancellor, Philip Hammond, who would not contemplate a complete break in any circumstance, and insisted on retaining an EU designed trade agreement with regulatory controls from Brussels. No work was done on a no deal possibility, and no planning for an exit on World Trade Organisation terms. As a result, EU negotiators knew from the start that the UK was trapped, with no alternative and nowhere else to go.

The folly of this was demonstrated by David Cameron's failure to secure any worthwhile concessions from the EU before the referendum. By publically announcing that he was in favour of staying in regardless, he threw away his bargaining strength. The derisory concessions he secured helped persuade people that the EU was unreformable as well as being contemptuous of national government.

The third failure has been the absence of any attempt to rally public opinion or keep intact the 52% voter majority which wanted to leave. Instead the whole exercise has been conducted as an opaque process of damage limitation. The opportunity to renew our democracy has been presented as a conversation about import prices. The chance to end the lies about controlling immigration, where no legal controls exist at present, has been derailed by confusion within government over the status of EU citizens.

Or take the question of damaging business regulations. Successive treasury reports have exposed the loss of economic growth caused by EU overregulation. As chairman of a firm of housebuilders I see at first hand the regulations which push up the price of housing and damage employment. But instead of being assured that Brexit will mean a comprehensive repeal of unnecessary red tape, we are told to accept an indefinite 'common rule book' with the EU, which will include our firm even though we do no trade with the EU.

So the business case for leaving the EU has not been made, allowing the CBI and their corporate bureaucrats to continue their dire warnings about what might happen to us when we are free. At root there is a failure to understand the true nature of the EU. My own experience started as Europe Minister in 1993-94. Denmark had rejected the Maastricht treaty in a referendum, but this was not allowed and after some cosmetic adjustments they voted to accept it. My job was to implement the treaty and the consequential changes as they affected the UK.

During the Maastricht debates the prime minister, John Major, had assured the House of Commons that the centralising tendency of the EU had been halted and there would be a new respect for national and regional differences. This barely lasted a month. When the negotiations were over the tide came back in.

I sought allies amongst other member states in opposing some of the unwelcome new EU laws and regulations. Sometimes we were successful; but it was rather like a fight on an escalator – you might win it but you still arrived at the bottom. The essential dynamic was to extend central powers and expand the rule book.

Next, as a Treasury minister, I grappled with the EU budget, which was regularly failing its annual audit test. Instead of reform, the EU proposed to make it larger, by raising the amount demanded from member states to 1.27% of GNP. The government only just got the necessary legislation through the House, with eight members of the party voting against it and losing the whip.

I resigned from the government in 1996 in protest at the government's European policy, and in particular the failure to rule out joining the euro which I knew would be a disaster.

The EU is not an association of nation states coming together for certain common purposes. It is a highly self interested bureaucracy which has one response to any problem: More Europe. Its entire legal order is founded on the principle of ever closer union.

No other group of countries in the world has followed the EU's example and transferred their law making powers to a central body which overrides their domestic law. The EU is stranded by history, but resists any move which threatens its authority.

In 2001 I was elected to represent the House of Commons at the Convention on the Future of Europe. This two-year Convention, chaired by ex-President of France Valéry Giscard d'Estaing, was instructed to create a Europe 'closer to its citizens', because it was admitted that the EU was 'behaving too bureaucratically'. It was even proposed that some powers should be returned to member states.

The European Commission was represented by delegates of its own, and provided the secretariat. They immediately took control of the agenda and the proceedings. Nothing more was heard of reform, still less of any return of powers. Instead they produced a draft Constitution for Europe, with more powers handed to the centre.

Very occasionally real Europe could be glimpsed in the background. One evening I was invited to dinner by the Hapsburg descendants of the Holy Roman Emperors. Their extraordinary history, spanning five centuries, describes a Europe we will always be part of. To accuse critics of the EU as being 'anti European' is a simple category mistake, and not very bright.

Back at the Convention, a small band of dissidents submitted a minority report calling for a Europe of Democracies, based on the principle of national self government, but this was not debated. We felt vindicated when referendums in France and Holland rejected the European Constitution. But these expressions of popular will were ignored and the text was incorporated whole into the Treaty of Lisbon.

Ireland, heroically, held out against this subterfuge and rejected the new Treaty in a 2008 referendum. As always they were made to try again and, under immense pressure, they accepted the Treaty the following year. In this country we were of course denied the referendum on the issue which had been promised by Tony Blair.

These events showed me that the EU is not just undemocratic but anti democratic. Hostile to reform, centralising by instinct, it will never treat fairly a country which undermines its authority by voting to leave.

They fear that a successful Brexit would embolden the increasing number of Eurosceptic parties in the EU. It could also expose the economic weakness of the Eurozone, where the Mediterranean states, already laid waste by the euro crisis, have an unresolved debt problem.

There are no technical barriers to a Brexit deal over trade, security cooperation, dispute resolution, the Irish border and everything else. The EU is endlessly flexible when it wants to be. The entry criteria for joining the euro were overridden when it suited. The 'no bail out' rule in the EU treaties was ignored during the euro crisis. There are dozens of exemptions and derogations to deal with special situations when required.

This will not be achieved by present methods by which a confused compromise from a divided cabinet is then forced into an endless series of retreats. It is time, however late, to apply the principles of negotiating to achieve a principled Brexit.

