

December 2011

Cameron's EU veto: 10 lessons that need to be learnt

Much has been said about the decision made by UK Prime Minister David Cameron to exercise a 'veto' over proposed changes to the EU Treaty, designed to toughen up budget rules and sanctions for the eurozone. Reactions have ranged from 'victory' and 'Churchillian' to charges that the veto has left Britain 'isolated' and en route to 'falling out of the EU'. So was the summit a success or failure for the UK?

The simple answer is that the jury is still out. The threat of a veto is only credible if you are willing to use it, and stopping a bad treaty is better than accepting one, so in that sense Cameron did the right thing. But by vetoing a deal of the 27 he also walked away without any of the UK's demands being met.

The initial reactions from the media and politicians were fuelled by confusion – with the dominating theme being that Cameron stood alone against 26 other nations. However, as more member states have shown their reluctance to sign up to the deal in its entirety, the initial dramatic portrayal of an isolated Britain was clearly premature.¹

There are also those who claim that Cameron did not actually want to agree an EU Treaty involving all 27 member states at all, as such a deal would need to go through the UK Parliament, where his Conservative MPs could rebel against him. Assuming that Cameron wanted a deal, what might the Government do differently in order to improve the chances of its demands being met, next time the Prime Minister travels to Brussels for treaty talks?²

And there will be a next time for, just as the Lisbon Treaty was not, as often claimed, the last treaty change for ten years, the summit to 'rescue the euro' will not be the last summit to 'rescue the euro'. David Cameron's use of the veto illustrates that the UK is now serious about defending its interests and has given some indication as to what these interests are – but there are also things that it could do to improve the chances of gaining EU acceptance for its position. Here we highlight ten lessons:

Lesson 1: Get in early

The Coalition had over one year to prepare for a treaty change but gave the impression that they had left it to the last minute.



This sovereign debt crisis has been a rollercoaster and it has clearly been difficult to predict all the developments of the last two years. However, at a very early stage of the eurozone crisis, Open Europe predicted that Germany was likely to push for Treaty changes in response to the crisis.



The Coalition has itself admitted that "lessons need to be learnt". We would agree.

Sir Humphrey it appears that "lessons need to be learnt" on how to negotiate EU Treaties.

¹ See Mats Persson '26 versus 1 really?' on the *Spectator CoffeeHouse* 14, December 2011, <http://www.spectator.co.uk/coffeehouse/7483143/26-versus-1-really.html>

² Times, 13 December 2011, <http://www.thetimes.co.uk/tto/news/politics/article3256276.ece>

In May 2010, we argued:

“The crisis enveloping the euro amounts to a much grander litmus test for European countries – integrate further or not? Treaty change clearly entails further integration, something which the coalition has pledged not to accept. But Treaty changes – or any substantial changes that require unanimity in the EU – could actually be good news for the UK. It would finally present a British Government with real leverage in negotiations with EU partners: in return for allowing the eurozone to integrate further, the UK should ask for any of a number of things in return.”³

And in October 2010, in an article for *House Magazine*,⁴ looking ahead to potential flashpoints for the Coalition in Europe, we noted “

“The third issue is a potential Treaty change. While there’s some way to go before EU leaders agree to open up another painful round of Treaty negotiations, German Chancellor Angela Merkel has repeatedly called for such changes to fix the eurozone. This would require unanimity amongst all member states, and therefore the UK’s approval.”

In December 2010, EU leaders also agreed a limited Treaty change in order to enable the creation of the European Stability Mechanism, which could have served to set the stage for the next round of Treaty talks.

In other words, the Government was far too slow to react to the prospect of a series of Treaty changes hampering its ability to set the agenda. The Coalition needs to start thinking now about not only the next potential opportunity but the one after that.

Lesson 2: If you fail to prepare, you prepare to fail



The exact details of the UK negotiating position are still unclear and we do not know how much actual preparation was done. However, possibly as a consequence of its failure to foresee the Treaty changes, the UK Government gave the impression of tabling hurriedly thought out demands in return for accepting the changes.⁵

Not only did Berlin and London misunderstand each other (see lessons 3 and 4), many of the UK’s potential allies – including Sweden – seem to have been unsure about the exact nature of the UK’s demands up until the eve of the summit. This is partly a problem of communication (see below) and partly due to the lack of a long-term UK strategy in Europe and a network of potential allies to go to on individual policies at crucial moments in negotiations.

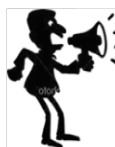
The Coalition had a year to prepare the groundwork in EU capitals and cultivate allies, but failed to do so. The lack of preparation made the chances of success very small. Some have asked the question, at what point during the EU summit on 8-9 December Cameron ‘lost’ the argument? The truth is that, the argument was lost well before he ever sat down at the negotiation table.

³ The Economist, ‘Britain and the Euro’ 24 May 2010, http://www.economist.com/blogs/charlemagne/2010/05/britain_and_euro_crisis

⁴ Mats Persson, House Magazine, 4 October 2010, <http://openeurope.org.uk/analysis/housemag.pdf>

⁵ The Independent for instance reports that David Cameron’s EU adviser Sir Jon Cunliffe’s habit is to “come up at a late hour with a complex, brilliant new policy position to lay before an EU summit, and overlook the political spadework needed to get it through.” <http://www.independent.co.uk/news/people/diary/diary-international-relations-its-all-in-a-knights-work-6276156.html>

Lesson 3: Communicate intelligently and to persuade



“We wish to protect taxpayers, promote the single market and ensure subsidiarity”

According to some reports, it took 45 minutes for Sir Jon Cunliffe – Cameron’s outgoing Europe advisor – to explain⁶ the UK’s technical position directly to German Chancellor Angela Merkel and French President Nicolas Sarkozy on the Friday of the meeting. Given the media backlash that Cameron experienced immediately following the veto – much of it based on hearsay rather than fact – it is clear that the British Government had, and still has, a serious communication problem on its hands. Headlines around Europe were full of claims that Cameron asked for ‘special UK exemptions’ – which is not what Cameron actually asked for. However, the Prime Minister’s comments leading up the summit left the impression that he both wanted the cake and to eat it: protect the single market at 27 while asking for carve-outs from single market legislation in financial services.

Absent clarity about what the UK wanted, Sarkozy, who clearly wanted a “eurozone plus” deal, could push the line that Cameron wanted a “free zone” for the City – at a time when Europe needed “more” financial regulation.

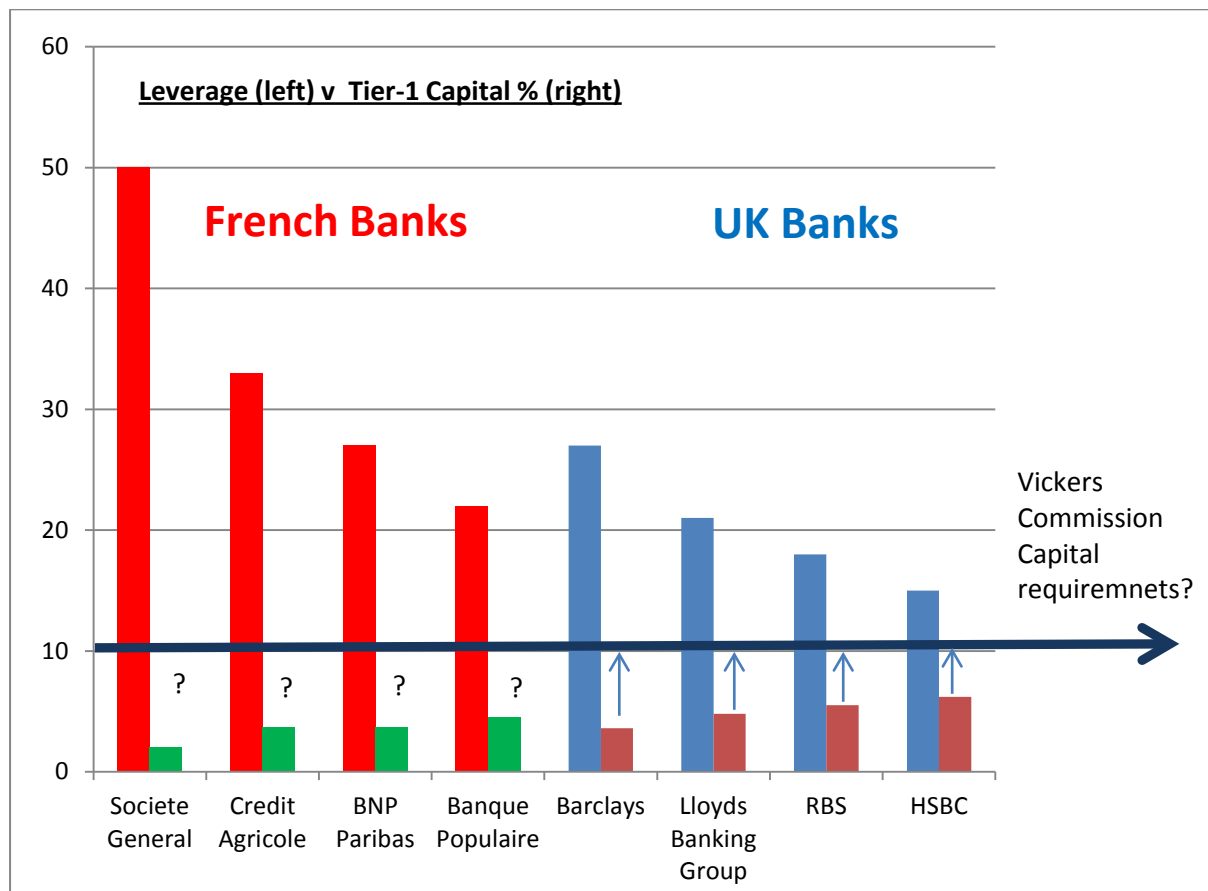
What would an alternative message look like, keeping in mind Cameron’s demands (for the particular demands see lesson 5)?

First, the Government completely failed to get across to EU partners (and the media) around Europe that one key aim was actually to ensure *stricter* regulation to avoid a repeat of the 2008 crisis. The Government missed an open goal in its failure to develop the narrative that the UK was also seeking to protect its taxpayers against future bailouts of ‘greedy bankers’.⁷ Sarkozy’s claim that Cameron wanted a “free zone” for the City, could have instantly been countered by the graph below – showing that, in fact, Cameron wants the exact opposite:

⁶ Guardian, 9 December 2010, <http://www.guardian.co.uk/world/2011/dec/09/angela-merkel-david-cameron-table>

⁷ There have been suggestions that the proposed Commission rules implementing the Basel III agreement would prevent the UK imposing stricter requirements on UK banks even if it wanted to. This has subsequently been denied by Internal Market Commissioner Michel Barnier. For the purpose of this discussion, it does not necessarily matter whether the UK government was misguided in its fear that so-called maximum harmonisation could prevent it from reining in banks, nor is it necessary to pass judgment on whether the so-called Vickers Commission recommendations are justified.

Ironically the UK was not arguing for a ‘free zone’ as some believed but for higher standards – a point it failed to communicate.

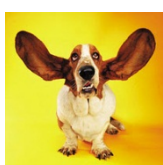


Secondly, Cameron was right to stress the need for a vibrant single market, ensuring that decisions relating to it are taken by all 27 member states, but he could have made more of the need to use the single market as a tool for growth – rather than an avenue for the eurozone to push its own agenda.

Thirdly, given that one of Cameron’s demands was that excessive powers should not be transferred to the EU’s financial supervisors, he should have also made much more of the EU Treaty-enshrined subsidiarity principle. There is a strong case, after all, for keeping as much responsibility as possible with national supervisors with greater proximity to, and knowledge of, local and national market players.

The Coalition needed to set out a coherent narrative prior to the summit that was easy to understand and capable of being articulated by all strands of the Government. Protecting taxpayers, promoting the single market, ensuring subsidiarity could have been that narrative.

Lesson 4: Listen and understand what the other side is thinking



Crucially, there seems to have been a break-down in communication and understanding between Berlin and London – with Cameron and Chancellor Merkel leaving a key meeting in November with diverging interpretations of where the other stood: Cameron thought he had broad support for additional

⁸ Source, Octa Finance.

Treaty changes, whilst Merkel perceived Britain's potential demands as far more minor (and therefore possible to sell to Nicolas Sarkozy).

Some post-summit commentary has drawn the conclusion that the most serious failure was to correctly estimate Angela Merkel's attachment to a Treaty at the level of all 27 EU members, as opposed to a French-style 'eurozone plus' treaty. However, the German perception of the UK position was clearly a major factor in Merkel's readiness to accept a eurozone plus treaty.

If the UK had better understood the mood in Berlin and other capitals it could have changed its tactics and targeted subsequent summits for the more detailed discussions. Part of the problem is that the UK diplomatic machine in Europe is primarily geared towards Paris – when Berlin is now the key player.

Lesson 5: Tailor your demands to nature of the negotiations



There have been suggestions that Britain's demands were unsuitable and opaque.⁹ There is some truth to this. Demands for checks on transfers of powers to the EU's financial supervisors, the European Supervisory Authorities (ESAs), were probably justified, given that such transfers are currently being decided through qualified majority voting – which is rather strange given that moves to change the institutional balance in the EU are usually protected by national vetoes. As we have noted elsewhere, this is particularly important as a more fiscally integrated eurozone will develop parallel needs for more eurozone-level financial supervision, which could see the ESAs colonised by a Single Currency agenda.¹⁰

What did the UK ask for?

- 1. Unanimity over major transfers of power to the European Supervisory Authorities (ESAs).**
- 2. Unanimity over the use of 'maximum harmonisation'**
- 3. Unanimity on decisions within the ESAs with impact on fiscal policy**
- 4. Unanimity on the location of the ESAs (i.e keeping the banking supervisor in London)**
- 5. Safeguards against ESA mission creep**
- 6. Exemptions from some EU rules for 3rd country firms based in one state if they do not wish to 'passport' into the single market.**
- 7. Preservation of the single market.**

11

Likewise, the demands for protecting the Single Market are justified as is the request to make 'maximum harmonisation' (which would restrict the UK's efforts to impose tougher regulation) subject to unanimity. However, the request for exemptions for third country funds that only operate in one country seems out of place. This is a very specific demand, which does not lend itself to EU Treaty talks and is hard to communicate – something which no doubt fuelled the image that the UK was asking for a special deal.

⁹ The negotiations concerned limited Treaty changes under the so-called "special revision procedure" – a fairly opaque mechanism that allows EU leaders to change parts of the Treaties without necessarily going through the cumbersome process involved in "full" Treaty changes (including an Intergovernmental Conference, European Parliament involvement).

¹⁰ *Open Europe*, 'Continental shift: safeguarding the UK's financial trade in a changing Europe', 2011; <http://www.openeurope.org.uk/research/continentalshift.pdf>

¹¹ Leaked copy of the UK's negotiating requests, <http://www.scribd.com/doc/75193128/UK-protocol-demand-to-EU>

In all Treaty talks, there needs to be a clear link between the proposed changes and the concessions you are asking for.

Lesson 6: Have a clear view of your own long-term interests



A lot of the above problems stem from a simple, but hugely important problem: unlike many other EU countries, the UK has no clear view of its basic, strategic interests in Europe. We have argued in recent reports that for economic reasons the UK needs to prioritise financial services and treat it in the same way that France treats agriculture and Spain treats fishing – as a long term vital national interest. In that sense, the UK Government’s emphasis on financial services in the EU Treaty negotiations was a step in the right direction.

The positive result of the EU summit on 8-9 December is that the UK has drawn a line in the sand and marked out a key national interest that it is willing to talk and act tough over. This must now be followed up by efforts to establish an overall strategy as well. This clarity, in combination with improvements in the areas we highlight above, could make the UK’s dealings and, potentially, agreement with EU partners more straightforward and likely in future.

Lesson 7: Don’t expend unnecessary political capital on lecturing others



Both Osborne and Cameron have been doing their fair share of lecturing over the last few months, which allegedly led Sarkozy to tell Cameron at an EU summit to “shut up”. In particular, the UK has called on the ECB to step in and effectively act as the eurozone’s lender of last resort and/or for the eurozone bailout fund, the EFSF, to be “maximised” (this could mean eurozone Triple A countries providing around one-third of their respective countries’ GDP in loan guarantees for the EFSF to reach €2 trillion).

On its most fundamental level, the belief in a strong, independent central bank is, for well-known historical reasons, a fundamental foundation of modern Germany. After having lectured the Germans on the need for the ECB to wade into fiscal policy and thereby compromise its independence, the UK can hardly complain about the German government failing to appreciate how important financial services is to the UK’s commercial identity.

If you want to frustrate fellow EU leaders and expend political capital, do it as part of a concerted effort to achieve something concrete in negotiations – posturing and lecturing will make little difference.

Lesson 8: Have a united front across the political parties



There will always be domestic political calculations that conflict with the long term national interest. But the UK would be better served if UK interests can be agreed across the political parties *and* in the European Parliament where other nationalities have a strong record of co-operating across political blocks in their own countries’ interests.

For example, it is common for French MEPs, diplomats, government agencies, regulators and businesses to subscribe to broadly the same view of their national interest and pursue it across the board. By contrast, the UK is uniquely adept at allowing its national interests to become a victim of party politics.

Sterile and shallow arguments about being a “strong” leader a “weak” leader, being “at the table” and “being isolated” or “having/not having influence” in Europe have tended to obscure what the UK is actually trying to achieve, while tying the hands of UK politicians going out to achieve them. The UK should also do more to engage its MEPs and its staff in the EU institutions with a national strategy based around the UK’s strategic interests.

Lesson 9: Determine who’s in charge



It is not clear who exactly was in charge of coming up with the UK’s list of requests – was it the Treasury, Downing Street, the Cabinet Office, Foreign and Commonwealth Office (FCO), all or none of them? The confusion rests on the complicated arrangements that have been designed to smooth over the interests of competing departments and parties in the coalition. To some extent, such tensions and complications exist in most countries, but it is particularly bad in the UK (largely a result of the absence of a long-term strategic view).

In the aftermath of the summit, there have been suggestions that there was a particularly bad break-down between the Foreign Office and UKREP (the UK’s representation in Brussels) on the one hand and Number 10 and the Treasury on the other, exacerbated by tensions between key civil servants. The current Whitehall system of EU decision making is highly complex consisting of Cabinet sub-committees, the Darroch-Cunliffe weekly meeting, ad hoc meetings of officials and a belief that those who are aware of issues will communicate across departments – something that does not always happen. This complex system combined with internal politicking could have resulted in sending diplomats off to ask for things they did not fully understand themselves.

The Coalition needs to make its decision making processes more efficient and joined up across departments and agencies.

Lesson 10: The Treasury and FCO are on the same side



In the complex Whitehall EU process, the key UK institutional relationship in the negotiations was between the FCO and the Treasury. It is clear that this relationship broke down. This needs to be repaired so that all parts of the Government are signed up to the same strategy. In particular, the Treasury has to learn how to better engage with other departments, other member states and other stakeholders in order to become more effective negotiators.

The Treasury needs to learn to cultivate relationships across the EU and gain a fuller understanding of EU decision making machinery in order to better promote UK interests.

Conclusion:



The Coalition Government will most certainly be faced with further EU summits. Though it remains unclear what the consequences of this initial veto will be, by accident or design, the UK Government has set down a marker for future negotiations. It has signalled that it’s prepared to use the veto.

The broadly positive public reaction to Cameron’s veto should give him the confidence to move forward with setting out what the UK wants from its relationship with Europe and pursue the means needed to achieve it.