BREXIT

- What if? Impacts (especially) on the financial markets -

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Frankfurt am Main, [•] 2016

GSK STOCKMANN + KOLLEGEN RECHTSANWÄLTE

Why we are talking today?

TOTTERING-BY-GENTLY By Annie Tempest

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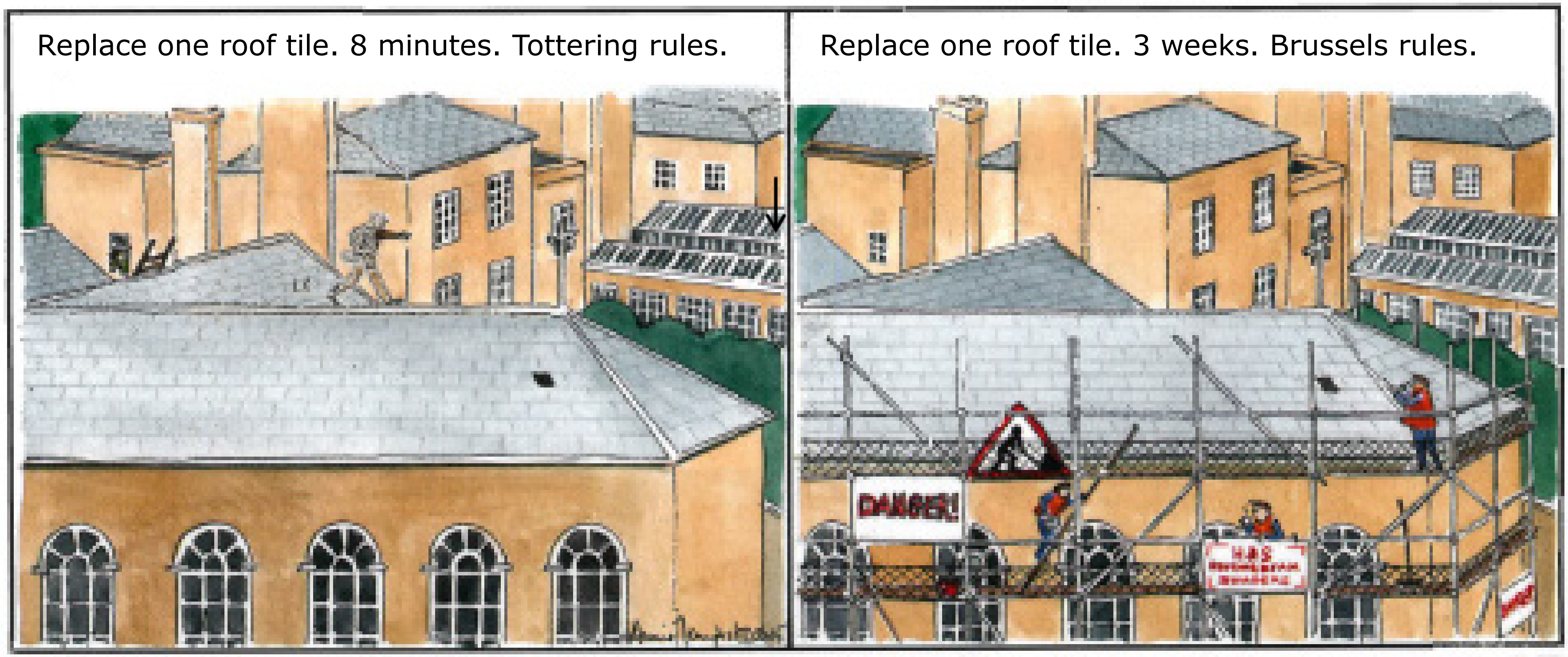


Euro sceptical tradition of the UK

- 1973 Joining of EEU (heavy controversial)
- 1975 Referendum on exit (failed surprisingly)
- 1984 Margaret Thatcher: „I want my money back!“
- 1992 „Opt out“ (exit) of the EMU (and temporarily of the Social Protocol of the Treaty of Maastricht on EU).
- 1994 Founding of the UKIP (UK Independence Party)
- 1997 „Opt out“ of the Schengen-Agreement
- 2007 „Opt out“ of the Charter of Fundamental Rights of the EU
- 2013 „opt out“ of the AFSJ (area of freedom, security and justice)
- 2013 David Cameron wants a „new settlement“ for the UK in the EU and promised a referendum in case he is successful in the elections 2015
- 2016 Referendum on 23 June

Camerons reform package of 2016

- No obligation for an „ever closer European Union"
- Supervision of the UK financial markets and UK banks remains by the supervisory authorities of the UK only
- National parliaments may have more to say and – under specific requirements – also a veto right
- Prevention against „unnecessary" EU legislation
- Complete social benefits for EU immigrants in the UK only after 4 years
- Possibility to suspend social benefits for up to 7 years in case of „extraordinary extent of immigration"
- Child benefits only in the amount of the EU home country for children who live in their home country

But: public discussion only knows one topic…

„We think they come here
for the in-work benefits"

Benefits of a Brexit?

- More sovereignty of the UK, less influence of the rest of the EU („splendid isolation“?)
- Less bureaucracy (although the UK is very good therein too)
- More pragmatism in politics
- Better protection of own borders
- Saving EU membership fees (around 0.5 per cent of the GDP = around EUR 10 bn.)

Disadvantages of a Brexit (1)

For the UK:

- Economic losses due to omission of intra-European trade and the implementation of cross-border taxes and duties with the rest of the EU (estimates from 1.1 to 9.5% of the GDP of the UK)
- As a result, hazard of a deep recession
- Forstered by migration out of the City of London and relocating the EUR-trade from there to the continent
- Job losses, shortfall in tax receipts, capital flight
- Forced to reorganise all international trade relations
- Hazard of spin-off of Scotland and Northern Ireland
- Common Travel Area (CTA) between the UK and Ireland cut up by an European external border
- Growing global insignificance


And then your little country left the EU and was *never* heard of again

Disadvantages of a Brexit (2)

For the EU:

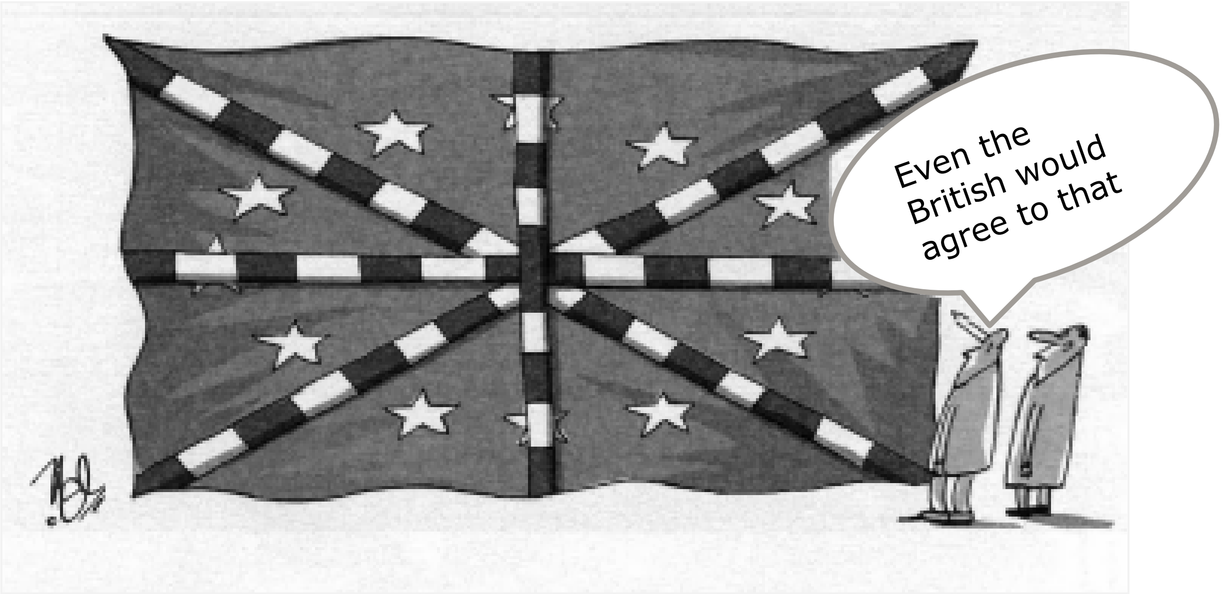
- Smaller (and somewhat less important) Union: Economical and political loss of significance
- Economic losses caused by the decrease of intra-European trade
- Damage to the European integration project
- In practical terms: European Banking Authority (EBA) has to be relocated
- Fourth-largest contributor drops out (i.e. less work to be done by the EU or more costs for the other Member States)

Disadvantages of a Brexit (3)

For Germany:

- Economic losses due to the decrease of trade with the UK (estimates from 0.3 to 2%)
- Already the largest net contributor, Germany would probably be even more asked to pay up
- Less political influence in the EU through omission of qualified veto power in the European Council/Council of Ministers (resolutions with qualified majority require, *inter alia*, 65% of the population majority): Without the UK, there may be no barrier against more interventionist member states
- Transfer-Union would become a real risk

Brexit-Prevention



Withdrawal from the EU

- Article 50 of the TEU with 4-step-process:
  1. **Notify** the European Council of the intention to withdraw (Article 50 para. 2 sentence 1 of the TEU)
  2. Negotiate and conclude an **withdrawal agreement**, covering a the framework for its future relationship with the Union (Article 50 para. 2 sentences 2, 3 of the TEU in accordance with Article 218 paras. 2 *et seqq.* of the TFEU, i.e. with the guidelines of the Council)
  3. Concluded by the **Council,** acting by a qualified majority, after having obtained the consent of the European Parliament (Article 50 para. 2 sentence 4 of the TEU)
  4. From the date of **entry into force** of the withdrawal agreement **or, failing that, 2 years** after the notification: The treaties cease to apply (Article 50 para. 3 of the TEU)

Future relations between UK and rest of the EU (1)

- (Again) **EFTA/EEA** membership (see Iceland, Liechtenstein and Norway)
  BUT: Recognition of the "*acquis communautaire*" is required, i.e. the objectives sought under the BREXIT could not be achieved

- **Only EFTA** membership, without EEA membership (see Switzerland)
  BUT: That requires numerous individual agreements and again the recognition of EU-free movement of persons, i.e. significant objectives sought under the BREXIT could not be achieved

- **Customs union** (see Turkey)
  BUT: This is intended to be a pre-stage to full membership and requires recognition of not the whole, but a large part of the "*acquis communautaire*", as in the financial services sector. That should be difficult for UK

Future relations between UK and rest of the EU (2)

- Simple trade relations on **WTO base**
  BUT: UK = third country, i.e. customs barriers and no common free trade area: A hard way!

- **„Special deal"**, i.e. a kind of „EEA light" with unlimited access to the common market, but without observing unpopular rules (for example, free movement of persons) and without contributions

  BUT: This dream of the Brexit supporters should remain a dream! The EU cannot permit such a result, in order not to set exit signals for other member states. That would be the beginning of the end of the Union. And there is no reason to treat UK in a better way than Switzerland or Norway

Consequences for the financial sector (1)

Currently:

- Unsettled markets
- Weak GBP in relation to EUR

No-Brexit-referendum-result:

- „Back to normal"?
- 2016 reform package
- Further demands?

Pro-Brexit-referendum-result:

- Depending on the withdrawal agreement: Yes/No? If so, content?
- Transnational arrangements required, but such grandfathering is supposedly limited - and after that?
- The markets remain unsettled

Consequences for the financial sector (2)

Without withdrawal agreement:

- No more EU passport system (EU branches, cross-border business) for the UK and rest of EU (very important for institutions (banks, financial services), fund managers, funds, and insurance companies)
- For international groups with a "hub" in London: Relocation to the rest of the EU

BUT: Chance of a more attractive supervisory regime in the UK

HOWEVER: On the downside,

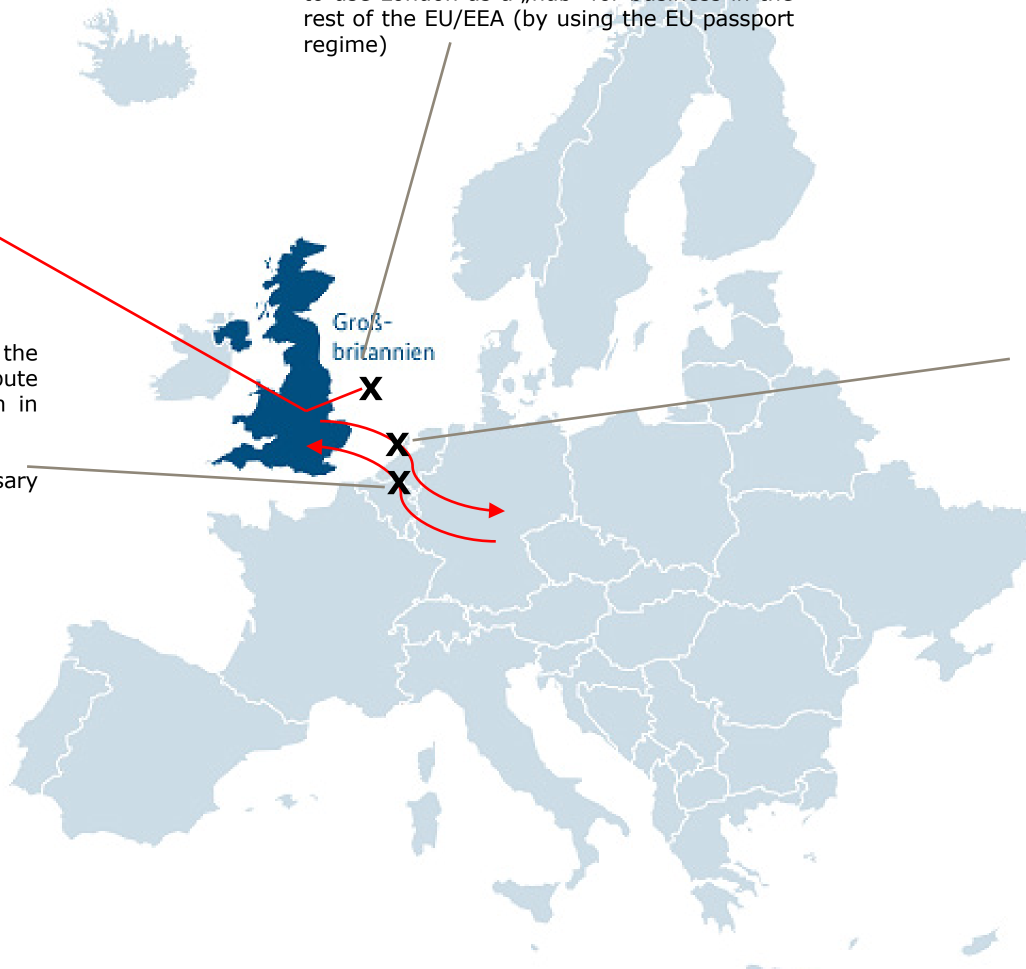
i. there would still be no more EU passport system,

ii. the UK voter wouldn’t appreciate a massive reduction of supervisory standards and

iii. the UK would be in competition with others (e.g. HK and especially Singapore)

Consequences for the financial sector (3)

No further possibility for companies from other countries than the EU/EEA (e.g. USA) to use London as a „hub“ for business in the rest of the EU/EEA (by using the EU passport regime)



No further possibility to use the EU passport regime to distribute products or having a branch in the UK

➔ licence/permission necessary under (new) UK law

No further possibility to use the EU passport regime to distribute products or having a branch in the rest of the EU/EEA

➔ „new“ licence/permission necessary under EU law (treatment as a non-EU country)
➔ intergovernmental agreement between the EU and the UK necessary in many cases

Consequences for the financial sector (4)

Without withdrawal agreement:

- As a result, massive damage to the City of London as an international financial centre
- Different regulations in the UK and the rest of the EU, i.e. more supervisory arbitrage
- Internationally active groups: compliance with EU and UK regulations, i.e. higher costs

Consequences for the financial sector (5)

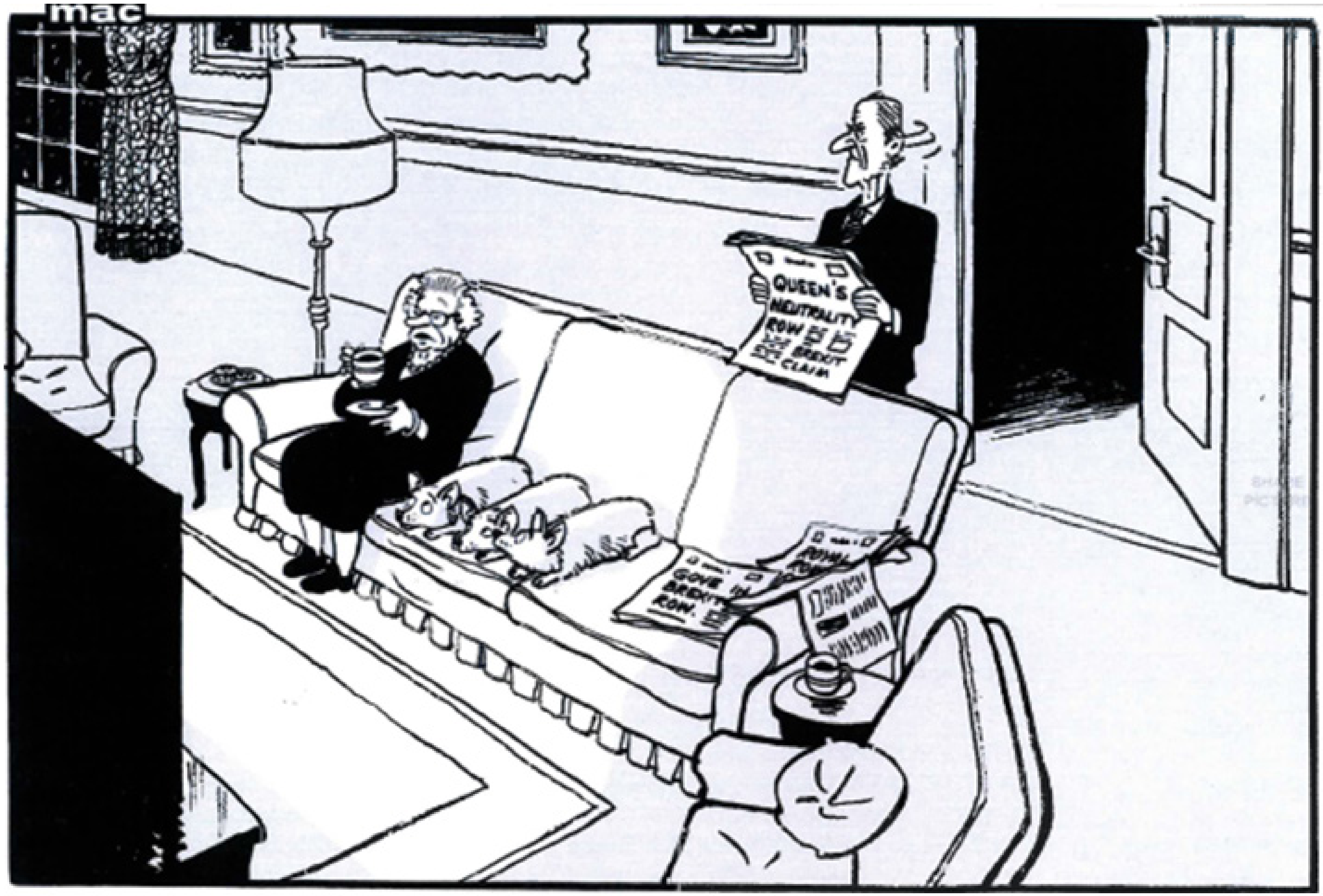
With withdrawal agreement:

- Consequences naturally depend on its content (currently completely unknown)
- „Grandfathering" is likely in both directions
  BUT: How for how long? Also for new services or products?
- Therefore, still many and considerable uncertainties
- From an EU perspective, a lasting arrangement is only possible within the EU or the EEA or a special status (e.g. comparable to the status of Switzerland), but it cannot unilaterally grant the benefits of the free movement of goods and services and possibly capital. In return, the free movement of persons (which seems to have provoked the UK into Brexit) and the assumption of certain costs of the common market would have to be accepted. Without such a perspective a grandfathering would clearly be finite.

Conclusions

- A Brexit would bring more disadvantages than advantages to all parties
- It currently appears factually possible, it is also legally possible within the scope of Article 50 of the TEU
- Then it would depend on the withdrawal agreement (whether and, if so, with which content?)
- Considerable concessions of the EU cannot be expected
- Brexit supporters will not achieve what they want (free trade without contributions and without free movement of persons)
- Major uncertainties, more regulatory arbitrage and higher costs would be very likely
- EU passport system and much more is expected to lure companies and businesses from the City to the rest of the EU
- Damage to the City of London, Frankfurt could benefit!

An important concept in the end



„So many bare chested hunks on TV nowadays – shame Nigel Farage never takes his shirt off"

Thank you for your attention!