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Italy and the Renegotiation of the UK's EU Membership

by Riccardo Alcaro

ABSTRACT

British Prime Minister David Cameron has pledged to campaign for the UK to stay in the EU in the incoming in-or-out referendum on the UK's EU membership, but only if London succeeds in recalibrating its relationship with the Union. As the EU's fourth largest country, Italy will play a crucial role in the negotiation. The challenge for Rome is to balance its long-standing commitment to strengthening European integration with the interest in keeping a country the size and influence of the UK in the EU. Matteo Renzi's government should be supportive of British proposals about competitiveness, pragmatic as far as sovereignty issues are concerned, constructive but cautious regarding economic governance, and understanding of British concerns but also firm about immigration.

European Union | European integration | UK | Italy



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by Riccardo Alcaro*

British Prime Minister David Cameron has recently sent a letter to Donald Tusk, President of the European Council, in which he has put forward a number of proposals for reforming the EU and recalibrating the EU-UK relationship.¹ Cameron has pledged that, should action be taken in four policy domains, he will vigorously campaign for the UK to stay in the EU when a national referendum on the UK's continued membership in the Union is held either in 2016 or 2017. Italy, as the EU's fourth largest country by economic and demographic size, will play a crucial role in the negotiations between the UK and its fellow EU partners. The Italian government should work towards a mutually satisfying agreement, thus contributing to avoiding "Brexit," without compromising on its national interest in European integration.

1. The UK membership in the EU: an Italian interest

The UK is an invaluable asset for the EU. It is its second-largest economy,² its only military power worthy of the name (along with France),³ a net contributor

¹ The full text of Cameron's letter to Tusk is available, among others, on the London School of Economics' blog *BrexitVote*: <http://wp.me/p6zUkq-7i>. The letter is dated 10 November 2015.

² According to World Bank and International Monetary Fund (IMF) data, in 2014 the UK's gross domestic product overcame France's, with 2.95 trillion dollars against France's 2.83 trillion. For more precise figures, see IMF, *World Economic Outlook Database*, October 2015, <https://www.imf.org/external/ns/cs.aspx?id=28>; and World Bank, *World Development Indicators: GDP (current US\$)*, <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD>.

³ According to data by the International Institute for Security Studies (IISS), in 2014 the UK spent about 61.8 billion dollars in defence, equal to 2.4 percent of its GDP. In the same year France's military expenditures amounted to 53.1 billion dollars, or 1.9 percent of its GDP (IISS, *The Military Balance 2015*, p. 484-485). The Stockholm International Peace Research Institute (SIPRI) reported the following figures for 2014: 60.5 billion dollars for the UK and 62.3 for France. See Sam Perlo-Freeman et al., "Trends in World Military Expenditure, 2014", in *SIPRI Fact Sheets*, April 2015, p. 2,

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to its budget in spite of the rebate,⁴ a powerful sponsor of the single market, an indefatigable promoter of sound governance, the co-founder with France of the Common Security and Defence Policy (CSDP), and an inexhaustible source of diplomatic expertise. An EU without the UK would be economically smaller, shorter of financial and diplomatic resources, and less influential in international institutions and negotiations.

Italian-British economic relations are solid and intensifying. Italy is the third largest European investor in the UK,⁵ while bilateral trade is worth dozens of billions of euros a year (around 20 billion euros only in the first half of 2015).⁶ If the UK were to leave the EU common market, both investment and trade relations would be negatively affected. So would the life of the 150,000 circa Italian expats (2014 data)⁷ living in the UK, who would have to rearrange the terms under which they are allowed to reside and work in the country. In short, Italy would incur potential high costs if Brexit were to materialise.

Against this backdrop, there is little doubt that Italy has an interest in the UK's continued membership in the EU. Given the stakes, the government led by Prime Minister Matteo Renzi should adopt a "constructive approach" favouring some form of compromise. At the same time, Italy will have to ensure that the other party shows common sense too. While keeping the UK in the EU is certainly in Italy's interest, the government in Rome should not be ready to compromise on its greater interest in preserving the ability of the EU to function properly and continue to integrate.

http://books.sipri.org/product_info?c_product_id=496.

⁴ Thanks to the so-called "rebate," which was negotiated in the early 1980s by PM Margaret Thatcher, the UK gets back about 66 percent of its net contribution to the UK. The rebate was (and still is) justified on the ground that the UK did not benefit from allocations distributed under the Common Agricultural Policy (CAP) and the EU's structural funds. See Dominc Webb, Matthew Keep and Marcus Wilton, "In brief: UK-EU economic relations", in *Commons Briefing Papers*, No. 06091 (3 June 2015), p. 11 and ff., <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06091>.

⁵ See UK Trade & Investment (UKTI), *Inward Investment Report 2014/15*, 17 June 2015, p. 12-13, <https://www.gov.uk/government/publications/ukti-inward-investment-report-2014-to-2015>.

⁶ According to the Italian Trade Agency (ITA), between January and August 2015 Italian exports to the UK amounted to 14.6 billion euros, Italian imports from the UK to 6.7 billion. See ITA, *Interscambio commerciale dell'Italia per settori: gennaio-agosto 2015. Paese partner: Regno Unito*, http://actea.ice.it/tavole_paesi/T1_006.pdf.

⁷ UK Office for National Statistics, *Population by Country of Birth and Nationality Report*, 27 August 2015, <http://www.ons.gov.uk/ons/rel/migration1/population-by-country-of-birth-and-nationality/2014/rpt-population-of-the-uk.html>. Specific data by country can be found in the data section of the referred document (see in particular Table 3.1: Overseas-born population in the United Kingdom, for the period January-December 2014).

2. What should Italy's approach be?

PM Cameron's letter has generated mixed feelings in Italy's foreign policy circles. On the one hand, officials and experts see it as a promising first step towards a rapid solution to the problem of the UK's troubled relationship with the EU. On the other hand, many feel frustrated about the fact that the problem to which Cameron is proposing a solution is also one he has himself contributed to creating.

In a speech held at Chatham House, a London-based think tank, Cameron has spoken of the EU in more positive terms than he has hitherto. He has argued that membership in the EU is a net gain for the UK in several respects, including national security – a novelty for a Tory prime minister.⁸ Many people in Italy (and certainly in other countries too) wonder why the British government sees the *status quo* as unsustainable if, after all, EU membership is an asset. Not unreasonably, they argue that many of the proposals made by Cameron could have been discussed and agreed upon in "normal" intra-EU negotiations, and that raising the spectre of the UK leaving the Union ultimately amounts to a not-so-covert attempt at blackmail. Others complain that the whole thing smacks of political opportunism, as Cameron promised to hold the in-or-out referendum to silence the most restive eurosceptic faction of the Conservative Party as well as sideline the viscerally anti-EU UK Independence Party (UKIP).

The Renzi government had best not allow these arguments to influence its approach. Instead, it should let itself be guided by a pragmatic assessment of its interests. Italy should not agree to measures that could set back the European integration process, but it should also be ready to make concessions that meet some of the British requests. Cameron's letter was unspecific about the contents of the changes the UK is seeking. Yet the letter has the merit to provide the UK's fellow EU partners with the broader contours of the final agreement London is pursuing. Cameron's proposed reforms address four policy areas:

- *economic governance*, with a focus on the balance between eurozone members (euro-ins) and non-members (euro-outs);
- *competitiveness*, with special emphasis on completing the single market;
- *sovereignty*, a broad category that encompasses the UK's resolve to safeguard its desire not to integrate further as well as the need for greater involvement of national parliaments in EU decision-making; and
- *intra-EU migration*, which the UK would like to see regulated on stricter terms.

From Rome's point of view, the various proposals included in these areas go from sensible (some) to acceptable (most) to hardly achievable (a few). The Renzi government should be supportive of most proposals included under the competitiveness heading, pragmatic as far as "sovereignty" is concerned,

⁸ A full transcript of PM Cameron's speech is available on Chatham House's website: *The Future of Britain's Relationship with the European Union*, 10 November 2015, <https://www.chathamhouse.org/node/19083>.

constructive but cautious regarding governance, and understanding of British concerns yet also firm on immigration.

3. Competitiveness: a supportive approach

Competitiveness is a policy area in which Italian interests converge with the UK's demands. Cameron argues in favour of creating a truly *single digital market* as well as a *common capital market*. Italy should be supportive on both accounts. Capital market integration, in particular, would increase the availability of badly needed financing sources for Italy's cash-strapped small and medium enterprises (SMEs). Italy could also renew focus on simplifying *regulation*, thereby meeting another key British request that would also benefit Italian SMEs (which suffer disproportionately from heavy regulation due to shortfalls in time and human resources). The European Commission is already working in this direction, so this seems to be a promising area for achieving results in line with British expectations.⁹ This could include a commitment to keeping an eye on regulation so that the Commission would be mandated to regularly check on the amount of red tape produced by the EU and advise on ways to cut it. However, Italy should also insist that such commitments would come along with a stronger EU authority over the protection of consumers. *Free trade agreements* (FTAs) should be indicated as an objective if they strengthen EU social, labour, environmental and health standards, as the EU's trade strategy recently released by the European Commission suggests.¹⁰

It is not clear how the British could obtain the binding commitment they are looking for. One option could be the drafting of something along the lines of the 1985 European Single Act, which committed the then European Economic Community (EEC) to complete the single market by 1992. While not necessarily binding in all its elements – many of which would be agreed upon over the course of the years – such document could be presented by the UK government as a tangible achievement to the British public.

4. Sovereignty and differentiation: a pragmatic approach

The issues raised by Cameron under the "sovereignty" heading – in particular the UK's resolve not to be under any obligation to work towards an "ever closer union" – are generally considered of symbolic rather than practical value. However, it would be disingenuous to present the matter as pertaining to the form but not to the

⁹ The European Commission has recently taken a number of measures that constitute a "Better Regulation package," which could very much form the basis for discussion with the British. The measures are listed on the Commission's website: <http://ec.europa.eu/smart-regulation>.

¹⁰ European Commission, *Trade for All. Towards a more responsible trade and investment policy* (COM/2015/497), 14 October 2015, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52015DC0497>.

substance of European integration. Differentiation has been a reality of European integration since the UK and Denmark obtained a permanent opt-out from the eurozone (the UK has also opted out from other areas, in particular justice and home affairs). By demanding a binding and irreversible commitment, Cameron is in fact forcing his EU colleagues to confront the issue of differentiated or “modular” integration in more explicit and definitive terms than has so far been the case.

Italy has traditionally been a committed integrationist country, always supporting the EU's successive “leaps forward.” It needs not to abandon this old tradition, which has served its national interests well. Notwithstanding, the Renzi government had best meet the UK requests halfway. The point here is not so much to accommodate a particular British request, as it is to recognise that flexibility has become a distinguishing feature of the European project. The special arrangements agreed so far – incidentally, most of them with the UK – have given rise to the notion of a “multi-speed” Europe, which, however, does not capture the growing diversity in the member states' attitudes towards deeper integration. A multi-speed Europe implies a differentiated integration pace towards a common destination, which can no longer be taken for granted. Today's European Union looks increasingly like a *multi-level*, rather than multi-speed, system of governance. This is the case in monetary, budgetary and defence affairs, and is likely to be increasingly so also in justice and home affairs, particularly in the immigration and asylum policy areas.

In June 2014 the European Council issued a declaration that interpreted the “ever closer union” phrase in terms broadly in line with the notion of a multi-level Union.¹¹ Italy should seize on the wording of the Council's declaration and be open to support some stronger form of codification, including the insertion of specific wording in protocol. Since there is no time for a treaty amendment before the British referendum is held, a solemn commitment to doing so by European leaders should suffice. At the same time, Italy should take special care that whatever room is made for differentiation, the capacity of like-minded EU states willing to move forward on the integration path remains intact and unaffected. Besides, Italy should not accept that differentiation could result in a reversal of significant achievements.

This is why, for instance, Italy should not accept the idea that national parliaments be given the power to initiate or block EU legislation, as this would impinge on the Commission's exclusive right of initiative and the legislative prerogatives of the EU Council and the European Parliament. The Renzi government could agree, however, to explore ways to strengthen the mechanisms by which national parliaments can *temporarily* block EU legislation – the so-called “yellow card” and “orange card” procedures. Options to do so include the possibility of giving

¹¹ European Council, *Conclusions of the European Council of 26-27 June 2014* (EUCO 79/14), 27 June 2014, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/143478.pdf. See in particular paragraph 27: “the European Council noted that the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while *respecting the wish of those who do not want to deepen any further*” (emphasis added).

national parliaments more time to review the proposed law; extending the right of national parliaments to use the "orange card" procedure to areas of exclusive EU competence; and compelling the Commission to submit to national parliaments as well the reasoned opinion as to why it has decided to move forward anyway. To this end, a change of the protocol on the role of national parliaments would probably be needed. Italy should be ready to consider such an option.

5. Economic governance: a constructive but cautious approach

One of Cameron's main concerns revolves around the possibility that eurozone members caucus make binding decisions affecting the euro-outs that are opposed to the interests of the latter. The British want firm guarantees that this will not happen in the future. Italy should be constructive but move forward carefully on this front. Until British negotiators provide more details, the Italians should treat the general requests made by Cameron with caution.

Italy should pragmatically concede to the British request that the EU be acknowledged as a "multicurrency Union." As stated above, differentiation is here to stay. How to do this is, again, an issue open to various options. As changing the EU treaties is not a realistic prospect in the time span between now and the UK referendum, some sort of commitment by EU leaders, for instance a pledge to add an *ad hoc* protocol to the EU treaty, could be envisaged.

Italy should also support the principle that eurozone membership should not engender discrimination effects on euro-outs. Yet it should not accept any commitment that could impinge on the integrity and the well-functioning of the Economic and Monetary Union (EMU). Preserving the right of euro-ins to achieve more integration in fiscal, social and monetary policies is a fundamental, even vital Italian interest. Rome should therefore reject proposals that would establish a formal safeguard for euro-outs that the latter could invoke any time they claim the integrity of the single market is at stake. According to the same logic, Italy should not accept an extensive use of the double majority procedure, which gives a majority of the (currently) nine euro-outs the power to block decisions even if they are voted by the 19 euro-ins in unison. As the number of euro-outs may diminish over time, this would eventually grant the UK a blocking power closely resembling a veto prerogative.

While cautious, the Italian government should nonetheless be constructive. It should support the establishment of mechanisms that would safeguard euro-outs from being unduly affected by decisions taken by euro-ins. The key here is to determine in advance where and when these mechanisms could be applied, instead of leaving ample leeway to euro-ins to make use of them. Euro-outs do not contribute to facilities created with the goal of supporting eurozone countries in financial distress – notably the European Stability Mechanism (ESM) and its forerunner, the European Financial Stability facility (EFSF). Yet, they do contribute,

via the EU budget, to other instruments that have been or could be used to support the stability of the eurozone. Thus far, euro-ins and euro-outs have managed to protect the interests of the euro-outs, for instance by agreeing to refund them when the EU budget has been used to support euro-ins only. Italy should support a commitment on the part of the whole EU to continue agreeing on such *ad hoc* safeguards. This would even include the possibility of agreeing to a double majority voting system on a sectorial basis, as has been done in the Banking Union.

6. Immigration: a realistic but firm approach

The fourth area highlighted in Cameron's letter, intra-EU immigration, is where the British government is likely to struggle the most to get Italy's support. This difficulty stems not only from a divergence of views but also from legal difficulties. Yet, the Renzi government should realise that this area is of critical importance to the British: realistically, the Cameron government is unlikely to run a successful campaign to stay in the EU if some progress is not made in this area too.

Cameron wants permanent restrictions to access from acceding countries into the labour market of the old member states until the former have somehow caught up with the latter's living standards. Accepting this principle would involve a *de facto* downgrading of the freedom of EU citizens to work in any EU country. In fact, such restrictions could ultimately result in denting the 60-year old ideational basis on which European integration has relied: namely that workers, along with goods, services and capitals, should be free to circulate in the EU. Italy cannot accept that. The Renzi government could nonetheless explore ways by which access would be limited on a temporary basis. When the EU expanded to ten new countries in 2004, several old member states (notably, the UK excluded) opted for limiting access to their labour markets for citizens of new members for a set amount of time. Some imposed such limits for up to seven years. Italy should be open to insert stricter rules on temporary restrictions in the accession treaties with the acceding states (after all, Italy was itself subjected to even longer terms when it first acceded the EEC).

Arguably more important is the UK's request to limit the ability of non-British EU citizens working in the UK to apply for in-work benefits such as tax credits and social housing. While the EU is not expected to accept any new member state for years at least, hundreds of thousands of EU citizens currently work in the UK and, consequently, have the right to apply for the same in-work benefits all British citizens are entitled to. Cameron has proposed a 4-year long period during which in-work benefits would be legally denied to EU citizens. Italy should not support such a measure, as it would amount to discrimination against EU citizens working in the UK and, therefore, again impinge on the EU citizens' right to free circulation and establishment in the Union. In addition, the matter is hardly for EU leaders to decide. Unless the EU treaties are changed accordingly (not a realistic option currently), the European Court of Justice (ECJ) would be likely to declare such restrictions as in breach of EU law.

The Italian government could be more forthcoming on other immigration-related issues raised by Cameron. It could agree to work on access restrictions to out-of-work benefits along the lines indicated by a recent ECJ ruling establishing that national governments have the right to limit access to social benefits if certain conditions are not met (for instance, a reasonable amount of years of residence).¹² Renzi could even contemplate to accept limits to the practice of sending child benefits overseas (provided it is not against EU law), although such a measure raises moral questions of fair treatment. In addition, it could agree to a crackdown on the abuse of free movement, such as longer and tougher re-entry bans for fraudsters and people involved in fake marriages, as highlighted in Cameron's letter (even though this is more a matter of national, rather than EU, legislation). Of course, Italy should take care that such measures do not result in hidden discriminatory practices.

Conclusions

In the hope of pushing for the case of reforming the UK-EU relationship while not alienating its fellow EU partners, the Cameron government has had the common sense not to advance unreasonable demands (with the partial exception of immigration). What it has proposed is largely achievable, all the more so considering the fact that it will have to backtrack on certain issues (again, immigration comes to mind) if it wants a successful conclusion of the negotiations. Some of the UK's demands – on competitiveness, for instance, but also on differentiation – can be presented not only as a concession to the UK but as an opportunity to (slightly) restructure the EU so as to make it reflect the reality of today's intra-EU politics more closely.

The Italian government should support reform proposals that can actually benefit the Union as a whole and accept that a degree of differentiation can no longer be seen as a temporary exception but should be understood as part of the "new normal" in the EU. On the other hand, it should oppose measures that could hamper the well-functioning of key integration achievements or reverse them. Instead of looking at the prospect of Brexit as a problem of the UK's own making, the Italians should consider it as a way for the UK to settle the issue of its EU membership for a generation and a chance to show the wider public that the EU is not disrespectful of national sensitivities. The alternative – a diminished EU and an estranged UK – might well turn out to be worse.

Updated 30 November 2015

¹² See Philip Oltermann and Rowena Mason, "Germany can deny benefits to jobless EU migrants, court rules", in *The Guardian*, 11 November 2014, <http://gu.com/p/437p7/stw>. The case concerned the application for social benefits filed by a Romanian national residing in Leipzig, which the local job centre refused to provide. The ECJ ruled that EU citizens residing in other countries for less than five years without having ever worked there are sole responsible for their subsistence.

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