

# Labour's Triple Shift on Europe



## How Labour takes the initiative and proposes an alternative to Hard Brexit

The people have spoken. Their will should prevail. But the referendum offered voters a ballot paper not a blueprint. A simple choice on Brexit: not a roadmap through the minefield Britain now has to navigate.

Labour can't block the exit. The debilitation of Brexit is not the facilitator of Labour's resurgence. Voters will not applaud, reward or admire a churlish backseat driver. Let's

remember that in the English super-marginals we held in 2005 and then lost, the Brexit vote was nearly 60%.

But we can offer a safer surer route forward. And the lead role we should seek is the steely, steady sherpa - better navigators than the occupants of Downing Street who seem determined to take us over the cliff in a last gasp bid to appease the infamous 'bastards' of their backbenches. And as it happens, there is a better route up the mountain which we should now propose.

Theresa May has set out a few principles that guide her.

“I want the UK to emerge from this period of change as a truly Global Britain’ she said in Davos, ‘the best friend and neighbour to our European partners, but a country that reaches beyond the borders of Europe too; a country that gets out into the world to build relationships with old friends and new allies alike’.

She went on; ‘I believe strongly in a rules based global order. The establishment of the institutions that give effect to it in the mid twentieth century was a crucial foundation for much of the growing peace and prosperity the world has enjoyed since.’

It could perhaps be most charitably described as a vague sense of direction. But not much more.

This discussion paper argues that Labour should now step into the breach - and offer a harder challenge to the Government, based on a triple-shift in our European policy:

- Proposing membership of the European Free Trade Area, to create a safety net for our new trade relations with Europe and the rest of the world
- Creating a points-based system to manage EU migration (which should form the basis of a long campaign to lobby for free movement reform in Europe), and which would set a foundation-stone to the best comprehensive free trade agreement (FTA) with the EU we can secure.
- Strategically using our membership of the Council of Europe to create conventions that lock the UK into social rights which the Tories threaten with the Great Repeal Bill.

## **Membership of EFTA**

Patriots will be prudent. Leaving the European Union is the biggest decision we've taken for 50 years. It's not a moment to throw caution to the wind. Only fools would rush in where angels fear to tread. True patriots will not sue for a shotgun divorce, nor a rush to the exit.

The truth is the hard Brexiteers know they've oversold their case. They've falsified hope. They're skating on thin ice and they hope speed and speed alone will get to the other side of their argument.

Yet, a shotgun divorce from Europe will bring shock therapy for our economy. For inflation. For trade. For jobs.

The price of trading in our biggest market on WTO rules - the alternative to a 'deal' on a new EU free trade agreement - is gigantic. Tariffs that could destroy our car firms. A haemorrhage in services orders. Wipeout for farmers. The best guess is that trading with the EU on WTO rules would amount to a loss of between £48.6 billion and £58 billion, equivalent to between £741 and £884 per head of population<sup>1</sup>.

The new border would prove a celice bleeding our trade to death. The Brexiteers might feel it brings them moral purity. But no one else will enjoy the economic sadomasochism. Their purity will mean our poverty. And exit won't be cheap. So what's the hurry? Why rush to pay the bill?

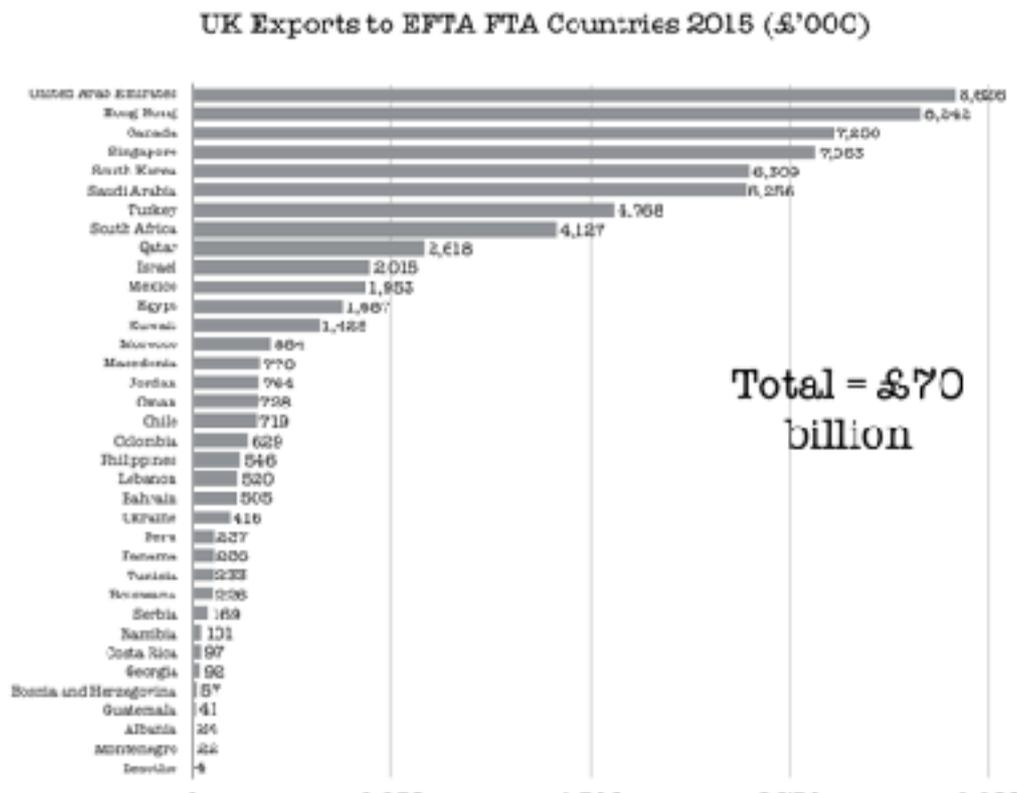
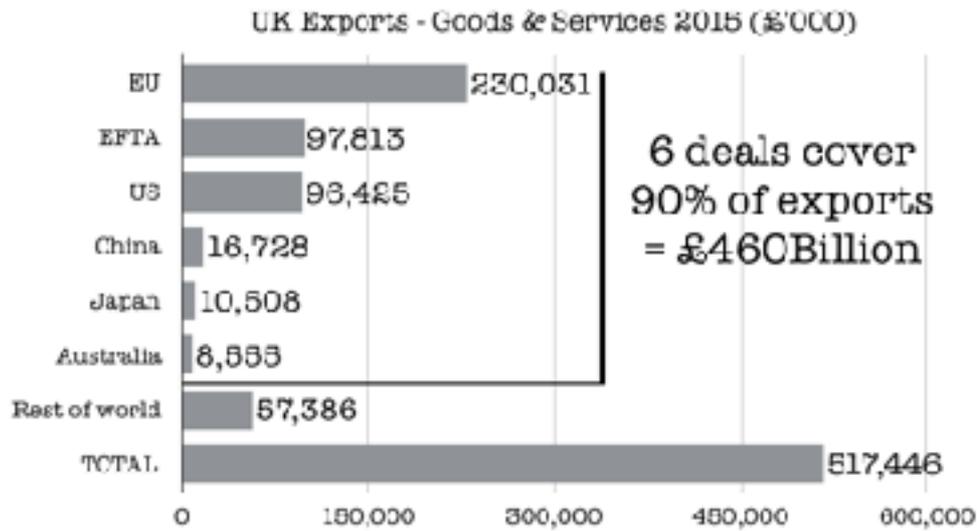
There is an alternative. And that is to rejoin the free trade club we helped to found as a alternative to the Treaty of Rome back in 1960: the European Free Trade Association, known as EFTA.

EFTA is a free market not a political union. With the freedom to control our borders. Outside the ECJ but with a trade court that's tried and tested. With the flexibility to fix our own terms with the EU. The free trade deals EFTA has in place cover nearly a fifth of our export markets. Indeed, with EFTA membership the U.K. would need just five more deals - with the EU, the US, Japan, China and Australia, to cover almost 90% of exports. Crucially, EFTA is an arrangement that's only a short hop back into the single market in a future where circumstances change. It's the logical strategic alternative to the leap into the void offered by the hard Brexiteers.

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<sup>1</sup> 2016 prices. These numbers, taken from the IFS, which derives its work from two other bodies. The Centre for Economic Performance at the LSE estimates that the direct trade effects of trading under WTO rules alone would reduce GDP by 2.6% in 2030. The National Institute of Economic and Social Research, incorporating some effects on foreign direct investment as well as direct trade effects, estimated that a static fall in GDP of 3.2% would result from trading under WTO rules alone – [Brexit and the UK's Public Finances](#), Institute for Fiscal Studies (May 2016), p 36; Office for National Statistics, [Gross domestic product, preliminary estimate: Oct to Dec 2016](#), January 2017.

## Joining EFTA, means just six deals could cover 90% of UK exports



## **EFTA membership**

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1960	EFTA founded at Stockholm Convention 7 members: Austria, Denmark, Norway, Portugal, Sweden, Switzerland, UK
1961	Finland joins
1970	Iceland joins
1973	Denmark and UK leave to join EU
1986	Portugal leaves to join EU
1991	Liechtenstein joins
1995	Austria, Finland and Sweden leave to join EU
Source:	EFTA

Leaving the single market is without doubt, three steps backwards. But rejoining EFTA, is at least one step forward. It is a tactical retreat to ground that is more easily defended and from where we can advance when new times allow. And, as it happens, EFTA was proposed by the Conservatives.

Just before 4pm on 14 December 1959, the Conservative Chancellor, Derick Heathcoat Amory, got to his feet to ask Parliament's welcome for the Stockholm Declaration signed the previous month, establishing the European Free Trade Association. Signed between Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the United Kingdom, EFTA brought together seven founding members for the purposes of 'economic expansion, full employment the rational use of resources, financial stability and a higher standard of living.'

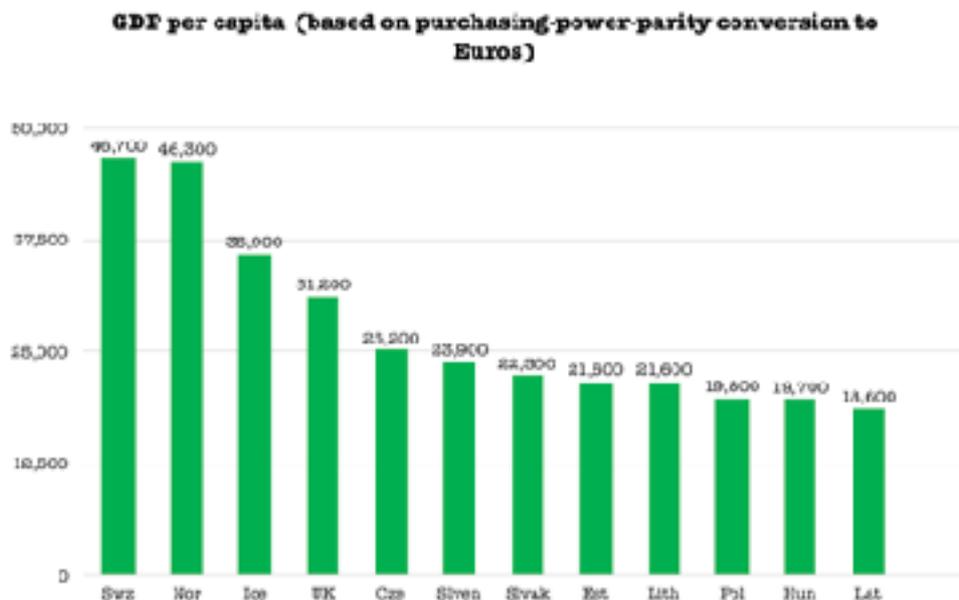
Amory explained that EFTA emerged as a shared ambition for economic cooperation amongst those, who did not see the political union set out in the Treaty of Rome, as the right way forward. Our ties to the Commonwealth, our particular political links to Europe, and the need for a common commercial policy set by a bloc with which we did just one-seventh of our trade were all barriers, as was the proposed common agricultural policy.

'Though we could not take part' Amory went on 'we certainly did not wish to stand aside... We wanted to be able to share in the prosperity that a great single trading unit would bring with it'.

EFTA, would show, he explained, that a free trade area *without* a common external tariff can be made to work. This was important to the spirit of the Stockholm Declaration which aimed at establishing a free market between the members of the Association, achieved by the abolition of tariffs and other obstacles to trade in the industrial products of members. However, ‘the individual freedom of action of E.F.T.A. members in their external tariffs will allow each of them to participate actively in GATT negotiations for tariff reductions’. It was in effect, an economic counterbalance to the more politically driven European Economic Community.

Over the years, many EFTA went on to join the EU. It has just four members today; Iceland, Liechtenstein, Norway and Switzerland. Each is free to set its own relationship with the EU and concomitant agreements on free movement. Three (Iceland, Liechtenstein and Norway) are also in the European Economic Area (EEA).

What will be of interest, is that that the trade intensity of EFTA members (imports and exports as a fraction of their economy) is much higher than for the UK - and the EU average. GDP growth rates amongst EFTA members have been much higher than EU averages (between 1.5 and 1.7% GDP/ year - compared to EU average of 1.2%), and today, wealth per capita in EFTA members is much higher than in Britain. EFTA is a club that is working.



Already, EFTA members - like Iceland - have expressed support for the UK rejoining EFTA,, as it would make EFTA stronger<sup>2</sup> as has Carl Baudenbacher, President of the EFTA Court<sup>3</sup>. We should take up the offer.

## A points-system for European migration

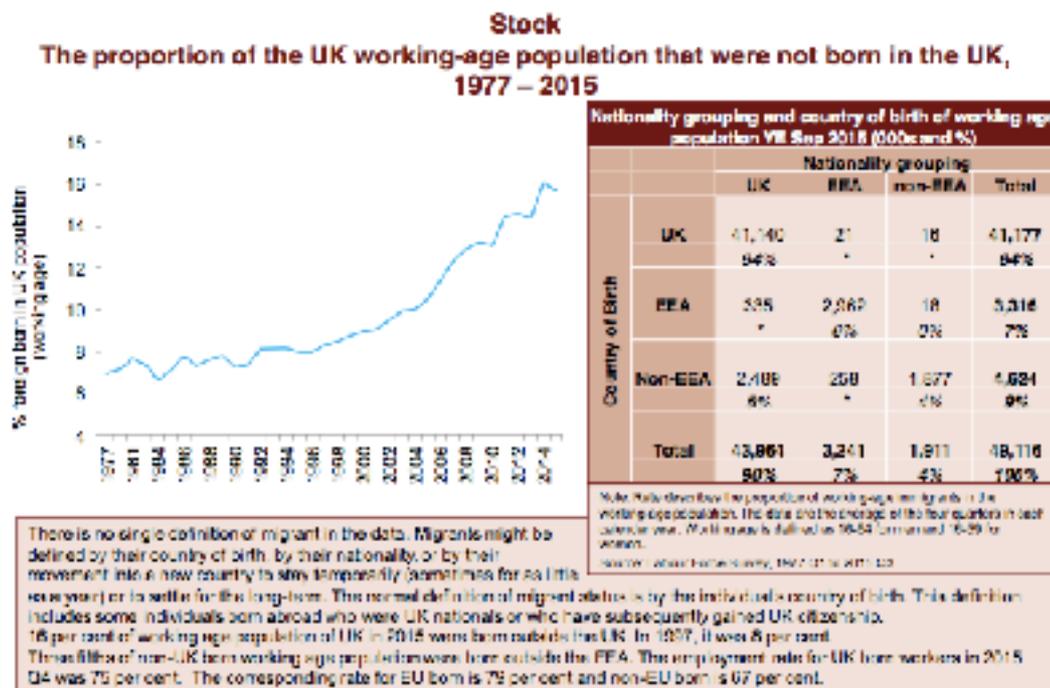
For those who campaigned, like me to stay in the European Union, it's fairly obvious that the concern to reduce migration was at the top of voters list of ambition. But now we are leaving the EU, a new system will be needed to manage migration from the EU.

Those who want of to keep ties to Europe strong must now lead the argument for a sensible, moderate set of changes that don't wreck our economy - in the hope that in the long term, free movement policy in Europe might converge with the reforms we suggest. In the short term, we might persuade our colleagues to maximise our access to the single market.

So how do we think about change?

First we *should* acknowledge that migration is now at a new scale.

The proportion of the UK working age population that were born abroad doubled between 1977 (8%) and 2015 (16%). The 8 million working age people born abroad comprise 3.3 million from the EEA and 4.6 million from non-EEA .



<sup>2</sup> St

<sup>3</sup> [European free trade area could be UK's best Brexit option, says judge](#), Guardian 1 December 2016

Before 1990 the inflow of migrants was always below 300,000. Since then it has doubled. That should not surprise us. The whole world is on the move. While global migration had remained steady at around 3% of global population, the absolute numbers have dramatically changed. In 2015, the number of international migrants worldwide was the highest ever recorded, at 244 million (up from 232 million in 2013).

Britain's migration system is deeply rooted in our history, exiting from Empire and then joining the EU. Since the late 1940s, there have been two big periods of immigration reform in the UK. Both were responses to big changes in the world community.

In the years immediately after the war, migration to Britain was limited. Some 130,000 Poles arrived, followed by 14,000 Hungarians after the failed uprising in 1956. But the controversy in the public debate was really sparked by the right, from 1948, of Commonwealth citizens to seek free entry to the UK. Between 1956 and 1960, some 813,000 new entrants were recorded on the Government's migration scheme. One hundred and thirty thousand were from the West Indies; 55,000 from South Asia; and 24,000 from Africa. Not everyone of course, decided to stay, but by 1962 Britain's black and Asian community was 0.5 million strong.

From 1954, working parties of civil servants began to survey the terrain. Thirteen Cabinet discussions ensued in a year. The Home Secretary and the Colonial Secretary divided. Watching briefs were established. Draft Bills were prepared and shelved. There were riots in 1958. Monitoring reports were established for the Home Secretary. Ministerial committees were set-up. Finally, in 1961 the decision was taken to legislate.

The questions debated were difficult;

- Which British subject should be allowed to come, and which should not? What of those in countries Britain still administered?
- How could a British subject be deported from Britain?
- How could we preserve the historic freedom of Irish citizens, whose country left the Commonwealth, to move around?
- How could the growing appetite of a growing economy for labour be satisfied?
- How could international relations with former colonies – relations which undermined the sterling area – be preserved?

In 1961, the bridge was finally crossed; a British subject no longer had the right to come to Britain. The Act, ending what Rab Butler called 'the cherished tradition of the Mother Country'<sup>4</sup> was passed in 1962. It was followed by another in 1968 in the wake of the Uganda

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<sup>4</sup> R A Butler, Commonwealth Immigration Bill 1961, Hansard col. 687

crisis and again in 1971. But almost all the legislative provisions centred on the key question of controlling who could – and could not – come.

By the mid 1990s, Britain's migration system was heading for big changes once again. As the Cold War ended, civil war exploded. During the 1990s the toll on human life inflicted by conflict *inside* states outstripped that inflicted by conflict *between* states. Britain was naturally affected. By the end of the 1990s, 374,000 people had claimed asylum; 23% from just four countries; former Yugoslavia – which had collapsed into bitter and bloody internal ethnic fighting; Iraq – under the brutal dictatorship of Saddam Hussein; Somalia – a failed State with no central government and no rule of law; and Afghanistan, under another brutal dictatorship, the Taleban.

Asylum applications increased, from less than 25,000 in 1992 to over 70,000 seven years later. Britain's systems were simply not designed to cope with pressure on this scale. By mid 1998, there was a backlog of over 50,000 asylum applications, over 30,000 immigration appeals and nearly 100,000 citizenship applications. Appeals could take over a year to be heard, and another 3 months for the decision to be communicated. Yet in 1997 only 7,000 failed asylum seekers were removed.

Reform of this chaotic system dominated the Labour government's legislative agenda for migration reform. Ten acts of parliament, beginning in 1999 were required alongside new border security arrangements stationed abroad and wholesale administrative reform. The change worked to such an extent, that removals of principal applications increased by 128% and in March 2007, I was able to say that in 2006, for the first time, we hit the 'tipping point' target – removing more failed asylum seekers than the number of unfounded claims lodged.

The final set of changes came with the introduction of the points system in 2007/08. As David Metcalfe, the first chair of the migration advisory committee, argued, migration could now be thought of as a 3 X 3 matrix. There are three main reasons for immigration : family, study and work, and there are three key groups : British, EU, non-EU. The points system controlled 3 out of these 18 flows – non-EU inflows for family, work and study.

Exiting the EU will be a change of even bigger significance than the points system.

Before setting out some proposals for reform, it's worth spelling out some guiding principles. I would suggest five, to get us started;

1. We should step up to do more to help Europe's refugee crisis.
2. We should not interfere with a British citizen's right to fall in love with whoever they like and get married
3. We should let in the skills we need, to help grow the number of good jobs in Britain

4. We should allow free movement of scientists and students, to help foster a stronger knowledge economy
5. We should seek a migration bargain that is good for British citizens, who want to live abroad (like pensioners), but equally allow all newcomers to Britain, a path to ‘earned citizenship’.

Now, principles are one thing. But the reality is, the public mood is slow down the pace of change. But how slow?

Let's say for the sake of argument we wanted to slow down migration to the levels before accession of east Europe in 2004.

In 2015, some 300,000 Brits left the country - and some 600,000 arrived, putting net migration in the area of 300,000<sup>5</sup>.

Personally, I don't think we should count students as part of our inflow; generally speaking, students leave at the end of their course and while they are here, they fuel one of Britain's greatest export industries: education.

Nor would I suggest we seek to reduce flows of newcomers from outside Europe who apply through the points system. The points system works well - and around half of those coming through the point system come through Tier 2, of which most come through Intra-Company Transfers. These workers are very good for the economy. They are highly skilled, and already have a job. The Migration Advisory Committee reports they help British workers become more productive.

This implies that the burden of slowing down migration flows should fall on EU citizens.

If we wanted to slow EU migration back to the levels last seen before east European accession and assuming 300,000 Brits continue to emigrate each year, work based migration from Europe down would need to slow to 177,000 a year - that's 130,000 less than the number of arrivals from Europe in 2015.

How could such a slow down be achieved?

The logical reform is two fold.

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<sup>5</sup> Immigration (630,000) is presently over double emigration (297,000). And half of the immigration inflow – 308,000 – is work-related, a record figure

First, to extend the Tier 2 skilled workers visa to skilled workers from Europe. This would still mean that jobs in the U.K. need to be offered to British citizens first - before being offered to someone from abroad (the so-called Resident Labour Market Test).

***We could start by applying to the EU migrants, the same thresholds as we apply to others: newcomers would need to apply for a graduate level jobs, earning at least £30,000. In addition, we should allow a generous Intra-Company Transfer scheme (uncapped), provided workers were coming to do a managerial - not a routine - job. Tier 2 should remain uncapped.***

Given we want privileges for Brits working in Europe, it might make sense to privilege EU citizens within the new framework.

Four privileges makes sense.

First, there should be generous allowances for an EU intra-company transfer scheme. Firms working in Britain, especially in financial services and manufacturing are highly integrated across Europe. They need the flexibility to move people around flexibly and at short notice.

Second, we could allow EU citizens generous short term visit visas (perhaps 12 months) and allow EU citizens to switch their visa to a work visa in Britain, rather than forcing workers to return home to apply.

Third, we might allow workers to transfer their visa to a new UK employer within a certain timeframe.

Fourth, we might allow EU citizens fast-track access to British citizenship, within say, three years instead of the standard five.

These privileges could be crystallised in a new Green Card system offered exclusively to skilled EU citizens.

The second set of changes is to low skilled migration. There are 13 million low-skilled jobs in Britain - and two million of these (16%) are held by migrants. The MAC reports, 40% of these workers are EEA citizens. A million migrants in low-skilled jobs have come to the UK in the last decade. Half of them were from Central and Eastern Europe following enlargement. That implies, broadly speaking, low skilled migration from Europe has averaged 100,000 a year for the last decade.

How should this be managed in the future? The logical answer is to create a fixed quota system.

We provided for this in the points system by creating Tier 3 - low skilled migration. But this was never opened up.

The logical step is to now open this to EU workers only and to fix an annual quota - or rather quotas, fixed sector by sector.

We have a precedent for this. When we operated transitional controls on Bulgaria and Romania, we put in place a fixed quota system for the agricultural industry. It worked well and we asked the Migration Advisory Committee to tell government the right quota each year, taking into account the needs of industry but also the capacity of public services to adequately support newcomers, as they should support all tax-payers.

If we want to slow EU migration down by 130,000 a year, then we may need to keep this quota close to zero for several years. A more rational approach however, would be to create sector-based quota schemes, and ask the Migration Advisory Committee to recommend, sector by sector, what the quota should be. This would help take the politics out of the decision.

This 'Green Card plus Quotas' approach has the advantage of helping things as simple as possible, allowing a demand-led approach to high skilled migration and offers privileges to our neighbours in the hope of something in return.

There are however four big implications of this new approach - that touch on domestic reform. Over the years, it is domestic policy (like skills) that has the biggest impact on movement of people.

First, we have to ensure that the new training levy, which is introduced in 2017 (and scored at £2.7 billion a year) could transform levels of training in industries that currently import lots of workers. Several industries are especially important. Low skill industries like food manufacturing, accommodation, and warehousing, all employ lots of EU nationals. But amongst high skill industries, Computer Programming and consultancy stands out as a industry that is heavily dependent on foreign workers.

Second, public services - and in particular the NHS - have to get their act together. For instance, nurses were recently added to the Shortage Occupation List. Government should have forecast the rising demand for NHS workers; total population is rising and, on average, living longer. The NHS is being put in on 7 day working and nurses have taken on more responsibilities. Yet, the number of training places fell by one fifth 2010-2013.

Third, we still need to transform enforcement. David Metcalfe, reports the following;

	Number of people employed				% of workers by nationality			
	UK nationals	Non-UK nationals	EU nationals	Other non-UK	UK nationals	Non-UK nationals	EU nationals	Other non-UK
<b>Non-UK nationals employed in different industry sectors, Q3 2015 to Q2 2016</b>								
Manufacture of food products	280	180	110	70	51%	32%	17%	1%
Accommodation	780	80	70	30	78%	11%	11%	1%
Warehousing & support for transport	290	70	60	30	55%	24%	19%	2%
Food and beverage service activities	1,350	250	130	700	50%	19%	12%	19%
Services to buildings and landscape	540	120	90	20	52%	22%	13%	1%
Computer programming and consultancy	360	180	60	60	52%	25%	17%	6%
Wholesale trade, except vehicles	680	110	30	30	85%	13%	1%	1%
Residential care activities	510	120	60	70	57%	23%	1%	1%
Auxiliary to the industrial sector	380	80	30	30	87%	13%	7%	1%
Construction of buildings	740	110	90	20	67%	15%	10%	1%
Other personal service activities	120	60	30	20	58%	25%	1%	1%
Financial & insurance and pension	510	70	40	20	58%	12%	1%	1%
Head offices; management consultancy	410	80	30	20	58%	19%	1%	1%
Land transport (except pipelines)	700	80	40	40	55%	11%	1%	1%
Human health activities	2,350	210	110	170	51%	9%	1%	1%
Retail trade, except vehicles	2,520	240	140	100	52%	1%	1%	1%
Specialised construction activities	1,300	90	70	70	52%	6%	1%	1%
Education	5,070	240	130	100	52%	5%	1%	1%
Social work without accommodation	580	70	40	30	52%	7%	1%	1%
Public administration, education	1,780	80	40	40	52%	4%	1%	1%
<b>Total</b>	<b>28,380</b>	<b>3,300</b>	<b>2,100</b>	<b>1,100</b>	<b>52%</b>	<b>11%</b>	<b>7%</b>	<b>1%</b>

“vulnerable low skilled workers – natives and migrants – need protection... There are insufficient resources devoted to key regulatory bodies such as HMRC which enforces the national minimum (now living) wage (NMW) and the Gangmasters Licensing Authority. Similarly, the penalties for breaching the regulations are not severe enough. Consider NMW enforcement: an employer can expect an inspection visit once-in-260 years and a prosecution once in a million years. This hardly incentivises compliance!”

Finally we need to reinstate the Migration Impact Fund. The reality is that some parts of the country have seen much faster change than others, and that inevitably puts pressure on public services, in a world, where people move faster than money. There has been a (small) negative impact on wages of low paid workers, and crucially, there has been serious exploitation of some migrants. Fixing these problems takes money.

## The Council of Europe

The third shift in Labour's European policy could come slowly but surely over the months ahead as the Great Reform Bill threatens to strip away European legislation which reinforces social rights, or shared obligations, forward to work together on climate change. Here, we need to return to the great European club, we helped found after World War Two as the guardian of the European 'Magna Carta' which we helped draft to ensure there was never a return to the horrors of the Nazi era.

Founded in 1949, the Council of Europe quickly oversaw the creation of the European Convention on Human Rights, which came into force in 1953. Britain was critical to its creation. The decision to proceed with a distinct European covenant on human rights was heavily influenced by Sir Winston Churchill, then Leader of the Opposition.<sup>6</sup> The Assembly's committee on Legal and Administrative Questions was chaired by British MP Sir David Maxwell-Fyfe who had already contributed to a draft proposed by the European Movement.<sup>7</sup> When work began on drafting the Convention, it was the British representative, Sir Oscar Dowson, a former legal advisor to the Home Office, who tabled a set of definitions of rights based on the Universal Declaration of 1948.

By ratifying the ECHR, Member States accept international legal obligations to guarantee certain civil and political rights to individuals within their jurisdiction which are set out in a series of Articles of (and Protocols to) the Convention. All Council of Europe Member States.<sup>8</sup>

The United Kingdom ratified the Convention in 1951 but it was not until 1965 that the UK Government declared, by an option under then Article 25 of the Convention, that it would accept the jurisdiction of the ECtHR in relation to individual complaints. The Human Rights Act 1998 made the ECHR directly applicable within British courts.

Very few of the Convention rights are expressed in absolute terms (although there is an absolute bar on torture and inhuman or degrading treatment and slavery under Articles 3 and 4 of the Convention respectively). The vast majority of rights are subject to exceptions and many judicial decisions in human rights cases are about the necessity and proportionality of the interference with individuals' fundamental rights. But *the* European Court of Human Rights, which adjudicates, is an international court, which rules on individual or State applications alleging violations of the rights and freedoms set out in the ECHR.

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<sup>6</sup> *Debates of the Assembly of the Council of Europe*, 17 August 1949, p. 284

<sup>7</sup> A former British (Conservative) Attorney General and future Home Secretary and (as Lord Kilmuir) Lord Chancellor

<sup>8</sup> Resolution 1031 (1994): Honouring of commitments entered into by member states when joining the Council of Europe: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=16442&lang=en>

**When Britain leaves the EU, the Council of Europe becomes extremely important because Brexit means we leave the jurisdiction of the European Court of Justice (ECJ).**

The ECJ rules on EU law – but not the European Convention on Human Rights (ECHR). At the moment, the timing of the departure from the ECJ is in dispute. The Maltese Prime Minister (who holds the Presidency of the European Council), says EU law, and therefore the jurisdiction of the European Court of Justice, will apply to us as an essential part of any transitional deal towards Brexit.<sup>9</sup>

Brexit does not mean we leave the Council of Europe – or the European Convention on Human Rights. However, the *Conservative Party Manifesto 2015* said the Government would seek to “curtail the role of the European Court of Human Rights” by repealing the Human Rights Act 1998 and replacing it with a British Bill of Rights.<sup>10</sup> When Secretary of State for Justice, Michael Gove MP announced that the Government would introduce reforms that would allow British judges to ignore rulings from the ECtHR.<sup>11</sup>

Labour pressure has helped clarify that the government has now changed its position. Sir Oliver Heald, declared in November that the government would ‘set out our proposals for a Bill of Rights in due course. We will consult fully on our proposals’<sup>12</sup> and went on to add; ‘The Government were elected with a mandate to reform and modernise the UK human rights framework, and there are good reasons for that. We have a proud tradition in respect of human rights. The Government are also considering the overall constitutional landscape and how this will fit it following Brexit, but this is something that we are committed to’.<sup>13</sup>

Ministers however, were then forced to clarify under sustained questioning that; ‘Government has no plans to withdraw from the ECHR’.<sup>14</sup> Our Council of Europe membership is therefore secure for the foreseeable future, and this creates an opportunity for Labour to use the Council of Europe to create Conventions that enshrine common European social rights, which we campaign for the government to sign.

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<sup>9</sup> ‘EU law ‘will continue to apply in UK during transition deal’’, Jennifer Rankin, *The Guardian*, 12 January 2017: <https://www.theguardian.com/politics/2017/jan/12/eu-law-will-continue-to-apply-in-uk-during-transition-deal>

<sup>10</sup> *The Conservative Party Manifesto 2015*, 13 April 2015, pp. 58, 60: <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf>

<sup>11</sup> ‘Michael Gove to tell judges they can ignore European Court of Human Rights rulings’, Charlie Cooper, *The Independent*, 8 November 2015: <http://www.independent.co.uk/news/uk/politics/michael-gove-to-tell-judges-they-can-ignore-rulings-from-european-court-of-human-rights-a6726181.html>

<sup>12</sup> HC Deb 1 November 2016, vol 616, col 765

<sup>13</sup> HC Deb 1 November 2016, vol 616, col 766

<sup>14</sup> Written Question 51087: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-11-01/51299/>

The Statute of the Council of Europe, signed in London on 5 May 1949, makes power for the organisation to discuss 'questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms'<sup>15</sup>.

The Council of Europe - and its parliamentary assembly - therefore develop conventions and treaties and negotiations culminate in a decision of the Committee of Ministers to adopt the final text of the proposed treaty. It is then agreed to open the treaty for signature by member States of the Council and, if necessary, by the other States or organisations who have taken part in its elaboration. *The conventions of the Council of Europe are not statutory acts of the Organisation. They owe their legal existence to the consent of those member States that sign and ratify them.*

*As such, this is not a perfect arrangement - because implementation relies on Government ratifying the treaties which are developed. And there are some treaties/ conventions which we have signed, but not ratified, including;*

- European Social Charter (Revised) (1996, ETS 163, signed: 07/11/1997)
- The Council of Europe Convention on the Protection of Children against Sexual Exploitation and sexual Abuse (Lanzarote Convention) (2007, CETS 201, signed: 05/05/2008)
- Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) (2011, CETS 210, signed: 08/06/2012)

However, the Council of Europe gives Labour a place where we can lead, developing Conventions that would repair the damage of the Tories' Great Repeal Bill, and giving us specifics to campaign for.

## End notes

In a foreign policy parliament, there's a risk that domestic policy gets forgotten.

And we should never lose sight of this: voters chose Brexit in the hope of a better life. That simple ambition should be our North Star. Frustrating Brexit is to frustrate that dream.

In many ways, this was a rebellion of the baby boomers and their parents against the new orthodoxies that took hold in the years after the fall of the Berlin Wall - orthodoxy that was no longer seen as offering either opportunity or security for them, or their grandchildren.

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<sup>15</sup> Article 1, paragraph b

Those votes weren't cast in spite but in hope. It might be a miscalculation but it wasn't malevolence. Patience will the new levels of inequality - and immigration - ran too thin to sustain the status quo. Those voters believed the patriotic and practical thing to do was to press the reset button because the equation between 'open' and 'fair' had lost all balance. Alongside a plan for Europe has got to come a plan for a new sort of economics - inclusive growth, and without doubt, a concerted effort to recapture the leadership on patriotism - progressive and inclusive - which is disappearing in the minds of too many voters.