

Brexit Insight Issue 10:

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| BREXIT Insight

A Fortnightly Analysis for Senior Executives Issue No.10 | 06 June 2017



By Brendan Halligan



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The British general election campaign has created a lull on the Brexit front which provides an opportunity for stock-taking. The below is one attempt at an audit of where things stand at the beginning of June. Ten different issues are examined, ranging from the opening of the withdrawal negotiations to the completion of a new EU-UK trade deal. The good news for business is that the planning horizon is longer than believed and the bad news is that uncertainty about the UK's intentions remains as high as ever.

Timetable

The audit begins with the timetable. Here it's just as well to remember that despite all the talk about hard and soft Brexits the negotiations haven't started yet and, indeed, won't do so until a new British government is in place, its chief negotiator appointed and the UK's opening position spelled out.

It was reported some time back that 19 June 2017 had been penciled in as the opening date but that tentative timetable must now be in doubt in the light of the fall-out from the snap UK election and, understandably, the demands of the security situation. So, the second point is that while we can mark in 29 March 2019 as the end

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date for the negotiations we are still not sure when they'll formally begin.

What the UK Wants

The next point is that we know more about what the UK does not want than we do about what it does. Mrs May has ruled out the four pillars on which the EU is constructed: the Single Market, the Customs Union, the EU Court of Justice and the EU budget. In contrast to these precise statements of intent there have only been broad brush references to an

ambitious trade agreement with the EU without spelling out how it is to be achieved. So the degree of uncertainty about the future remains as high as ever.



EU Ready To Go

The fourth point is that all the preliminaries have now been completed by the EU and there is a clear idea of what the EU wants - and how it intends to get it. On 22 May 2017 the General Affairs Council, attended by Europe Minister, Darragh Murphy, authorised the opening of the negotiations and adopted its [“Directives for the negotiation of an agreement with the United Kingdom setting out the arrangements for its withdrawal from the European Union”](#).

The directives repeat what had been previously agreed as “guidelines” by the European Council. In short, a political consensus among the EU27 Heads of State or Government has been transformed into a legal mandate based on the EU treaties. So, Michel Barnier has been given his riding instructions on how to conduct the negotiations on behalf of the EU27. Running to 18 pages of text, they lay down the objectives to be pursued and how the talks are to be structured.

Brexit Bill

That introduces the fifth point, which is arguably the most important. According to the directives, the negotiations are to be divided into two parts. The first phase is to include what is officially called the *‘single financial settlement’* but which has become popularly known as the *‘Brexit Bill’*. The key requirement from an EU perspective is UK agreement in principle that its withdrawal triggers financial obligations that will have to be paid. If that’s conceded then discussions will shift to agreeing a methodology for computing the amount owed by the UK to the EU.

The problem so far is that the UK has signalled it neither agrees on the principle of a Brexit Bill nor on the division of the negotiations into two separate parts. The chances of a breakdown are high, even before the talks really begin.

Catch 22

That introduces what could be labelled as a *Catch 22*, the sixth point. It is only when sufficient progress has been recorded in the first phase that Monsieur Barnier will be authorised by the European Council to move to the second, which includes the framework for the new EU/UK relationship, the issue of most interest for business, and indeed, for the UK.

Put crudely, the UK can only get what it wants - discussion on a trade deal - by conceding what it doesn’t want - paying a bill for the privilege of leaving the EU. From a UK perspective, the stumbling block is the refusal of all other Member States either to pay more into or to receive less from the EU budget. Their common determination not to be financially disadvantaged by Britain is now a major political factor. So, we’re confronted with what appears to be an impasse the true nature of which will become evident when the talks actually open.

Sufficient Progress

Barnier will have no formal role in determining whether sufficient progress has been made on moving from the first to the second phase. That is a matter for the EU27 Prime Ministers and Presidents, a formidable bunch whose feathers had been ruffled by the noises coming from London about them wanting to “punish” Britain. If the *Catch 22* is to



be resolved it will require a rare combination of ingenuity and goodwill, which both appear to be in short supply. Make that point eight.

Five Years of Talks

Point nine: on reflection, perhaps the most important conclusion for business is that the European Council is determined to separate the withdrawal discussions from those on the new EU/UK relationship and that has profound consequences for the timetable. Separating the negotiations accords with the provisions of the treaties which stipulate that trade agreements can only be concluded with a “third country” - and the UK will only become a third country when it leaves the EU in March 2019.

Assuming that those negotiations take another two years, and that ratification of any such deal will take a further year, then the new relationship will only come into force in March 2022. Until then, the best bet is that status quo will remain in being. Even George Soros [agrees](#) on that. So the planning horizon for business is longer than is commonly assumed.

New Political Realities

The last audit point is that the European political landscape has undergone significant change since Mrs May dispatched her letter to Donald Tusk on

Brexit Brief

The IIEA’s “Brexit Brief”, edited by Anthony Brown and Andrew Gilmore will appear fortnightly in view of the gathering pace of the negotiations. The most recent issue can be [read here](#).

29 March. France has a new President who seems destined for undisputed rule over the next five years and Mrs Merkel seems equally destined for another five-year term as Chancellor, with even greater authority at home and abroad. The Franco-German alliance is back in business and the EU will enter the negotiations with greater self-confidence and cohesion than seemed possible last March. On the other hand, the UK government’s political authority remains to be determined. The conclusion to be drawn is that the balance of advantage has shifted in favour of the EU.

End Thoughts

Some have described the period since Mrs May sent off her letter to Donald Tusk as a phoney war. There’s an element of truth to that but, as the above audit shows, old truths about the Brexit negotiations remain as valid as ever: the outcome will depend on the political will to solve common problems and the degree of goodwill between the parties. We’ll know more about both in the weeks to come.

The final point. Brexit has featured very little in the General Election campaign, despite attempts to the contrary. A pointer for the future, surely.

Brexit Insight

Brexit Insight also appears fortnightly, alternating with the Brexit Brief. That means we’ll be issuing updates and analysis on a weekly basis. The previous issue can be [read here](#).

The Brexit Insight is produced by the IIEA Brexit Project Group chaired by Dáithí O’Ceallaigh, former Ambassador to the UK. This issue is written by Brendan Halligan, President of the Institute.

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