

3 July 2018

BREXIT BOWL

Despite the summer sun, the mood in Brussels remains overcast and gloomy. Last week's Council meeting was originally supposed to witness a final Brexit agreement, outlining the UK's terms of withdrawal from the EU. Not so.

The lack of progress in the negotiations is best highlighted by the fact that Brexit was not a major subject of conversation. European leaders have other pressing issues which requires more urgent care and attention. Brexit has been pushed to the margins lately, with the EU prioritising issues around immigration (notably with the new Italian populist government, and Conte attending his first summit as Italian PM) and the trade tariff dispute with the Trump administration, best summed up in the G7 fiasco in Canada.

With 29 March 2019 getting ever closer, earlier expectations were that both sides would have most of the details wrapped up by now. However, "*huge and serious*" differences remain according to Michel Barnier, the EU chief negotiator. While his priority since Article 50 was triggered has been the Withdrawal Agreement, not the UK's future relationship with the EU, the two main issues causing most concern remain the future customs relationship and complex and sensitive issues associated with the Irish border.

The lack of substantive progress with the UK to date is frustrating the other EU27 members given the need for Europe to get on with its day to day priorities. Unity within the EU27 remains strong and expected divisions have yet to appear. Most of the focus continues to be an internal UK one, both within the UK Government and between Government and Parliament. Until the negotiations on the withdrawal issues are finalised (including finding solutions to Ireland and perhaps even Gibraltar), don't expect anyone to break cover soon.

With that in mind, Theresa May left for Brussels for the recently concluded June Council meeting to discuss progress with a clear message for EU leaders focussed around defence and security. While progress on some divorce issues like intellectual property rights and VAT arrangements has been made, serious questions have also arisen about what role the EU sees the UK playing in the future of European security. Recent evidence has shown that British businesses are being shut-out of a number of strategic tenders, evoking the ire of even ardent Brexainers.

Hans Hack



View from Brussels

More clarity please

The EU stressed it is open to reconsider the proposals it has already published but has made this dependent on receiving more clarity from the UK Government. It wants realistic and workable proposals on a future relationship that work for both sides. Clarity seems to be the main challenge for the British Government – or at least agreement internally on a common approach to its negotiating position.

The EU side has already rejected the UK governments two proposed customs solutions: a partnership, under which Britain would collect import duties on the EU's behalf, and a high-tech 'max-fac' alternative.

So what next? Later this week Theresa May has promised a white paper which could unlock a third option. This assumes the British Prime Minister can unite her own Cabinet around it which needs to happen before the summer recess which begins on July 24.

Earlier in June, in an attempt to prevent the Irish border question from thwarting a potential agreement, the UK government published a technical note on temporary customs arrangements post any Brexit transition period which is provisionally agreed to run through to the end of December 2020. In this note, they proposed keeping the whole of the UK inside the customs union for a further period. This proposed backstop *"will only be in place until the future customs arrangement can be introduced"*. However, the EU27's conclusions on progress in the negotiations suggested that such a compromise is a long way off being found.

Planning for the future

FTI Consulting's *'Brexit in the Boardroom'* survey, published in March, highlighted how business expected 'clarity' on Brexit by June 2018, with 75 percent of companies arguing they would wait until June 2018, before taking major Brexit related decisions. June has now passed and companies are increasingly going public. Industry is feeling the pressure.

While the UK Government may wish industry to avoid public comment to avoid disrupting sensitive negotiations and unsettling a delicate political process, captains of industry will be very aware of their responsibilities to their shareholders, employees and suppliers who need answers to important questions. Few wish to enter the political fray but a hard Brexit or a 'no deal' cliff edge has significant implications and the time for concrete answers is fast approaching

The UK's five main business lobby groups, recently outlined in a letter to UK Prime Minister May their concerns. *"In the absence of clarity, businesses will inevitably have to implement plans for a worst-case scenario, which could cost the U.K. economy billions of pounds, thousands of jobs and leave many families without a main income,"* the letter reads.

The letter follows Tom Williams, Airbus' chief operating officer, warning that *"we have to come to the point where we have to make serious decisions"*, arguing that the company's British operations are now in danger as a result of Brexit uncertainty. Such sentiments were also echoed by the German car group BMW.

The financial sector was again reminded of the uncertainty Brexit brings last week when European banking supervisors stressed again that banks that want to be certain of being able to do business in the EU post Brexit, would need to ensure their requests for EU authorisation were submitted by Friday 29 June. However, there was some good news. A key concern of the industry about (derivative) contract continuity did receive some EU support when the French prudential regulator made clear that contracts concluded pre-Brexit with U.K.-based market participants *"remain valid and must be executed in good faith"*.

It's not just the private sector either. Major employers of overseas staff are also nervous. Simon Stevens, the Chief Executive of England NHS who this past weekend stated that *"significant planning"* was now underway for a no-deal Brexit scenario.

Business, whether British, European or multinational, is unlikely to remain silent unless there is some reasonable clarity relatively soon.

Back to basics

There is still a lot of work that needs to be done before the next European Council in October. Theresa May not only needs to find a compromise that the EU is prepared to consider – she must first get her Government onboard too. The time for political infighting is over if the UK wants to avoid the very worst consequences of a no-deal situation.

Back in Brussels, Member States will be only too aware of the consequences on their own communities of a UK crashing out of the EU – and at a time when the EU faces a number of other crucial challenges. With even Jean-Claude Juncker stating that the EU is now working on an emergency contingency plan, eyes will be firmly fixed over what happens in the next few months.

In the meantime, industry will continue to have to wait for the answers it wants. How patient it will continue to be, and how vocal, will become apparent over the summer. Brexit naysayers who predicted an immediate post referendum meltdown may have been premature in their expectations, but a sense of realism is creeping into the corporate boardroom given the lack of political progress. While the sun may continue to shine, the weather forecast looks grey and increasingly stormy.

View from London

In a presentation lasting almost two hours, the UK's lead official on Brexit – Olly Robbins – provided the Cabinet sub-committee on exiting the EU with one startling fact. Factoring in summer holidays, there are now just six working weeks remaining before the crunch EU Council summit in October that is supposed to see the Withdrawal Agreement finalised.

Theresa May Brussels message on defence and security follows a number of recent decisions that have cast a showdown on future cooperation. British businesses are being shut-out of tenders for the Galileo satellite project; new rules are being debated in the European Parliament on third country cooperation in the European Defence Fund; and France and Germany are making strides towards industrial cooperation on the next generation of fighter aircraft. All of this, it seems, is designed to push the UK away from collaboration in defence and security on the continent. Many commentators are questioning this position, with even ardent Europhiles in the UK – such as Hilary Benn MP – claiming that the Commission's position in regards to Galileo is "*frankly insulting*", as Mr Benn told Parliament earlier in June. UK businesses are also expressing frustration on this issue, with ADS – the UK's trade organisation for aerospace, defence and security – writing to the Commission to express its dismay at recent developments.

For the UK's part, the Government have been clear that they are seeking an ambitious and deep partnership on security and defence post-Brexit – including everything from cooperation on major crimes, anti-terror operations, and force deployment in Eastern Europe. The Prime Minister set this out in her speech to the Munich Security Conference in February. Yet the EU appears to be placing more emphasis on the integrity of their political order than on its internal and external security. That's why the Prime Minister delivered a stark warning to her opposite numbers at the EU Council summit, pleading with them to consider the impact their position will have on the safety and security of

European citizens. However, it appears that the appeal fell on deaf ears, with the Council conclusions not even mentioning security issues.

In the lead-up to the NATO summit, this position may alter as EU leaders encounter Donald Trump's hardening position on defence spending. With increasing threats from Russia, challenges in the EU's southern borders, and the continuing threat of terrorism, can the EU really stick to their guns and resist a deep security relationship with one of the strongest military powers in the world? At this point it does appear that 'solidarity' is trumping security.

In other areas of the future relationship, the UK Cabinet is due to meet at Chequers next week for a final effort to agree a position on what the UK wants in terms of trade. Pressure is being exerted from big businesses, such as Airbus and BMW, to form as close a relationship as possible – a position that would clearly break the UK's stated red lines. In more positive news for the PM, several announcements in the past week make for pleasant reading for the Government. Australia decided to purchase BAE Systems' Type 26 frigates at a cost of £20bn, Jaguar Land Rover announced plans to invest over £350m in a low emissions vehicle plant in the Midlands, and the Office for National Statistics revised economic growth for Q1 up to 0.2%.

Nonetheless, time is now short to agree with all the outstanding issues relating to the Withdrawal Agreement, including a Heads of Terms agreement on what the future economic relationship will look like. In a not-so-subtle jibe, the PM was greeted by the Belgian Prime Minister at the EU Council summit last week and he presented her with his national teams' football shirt; with the name of their star player emblazoned on the back – Hazard. Jokes aside, this metaphor could well be a sign of things to come.

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