

Brexit Deal Talks: Stalemate. But why can't we budge?

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Well! Boris had dinner with the President of the European Commission, Ursula von der Leyen last Wednesday evening, 9 December 2020, in Brussels. They were joined by Lord Frost and Michel Barnier, lead negotiators respectively for the UK and the EU. Turbot was on the menu, moot, given that the issue of fishing rights is part of the discussions over a post-Brexit free trade deal. Dessert was reported ironically as being pavlova, an Australian recipe. One wonders, whether the first course was Brussels pate; it was scallops.

The dinner ended with a failure to agree a compromise on the areas of disagreement, the gap between the two sides apparently as wide as at the beginning of the week. It was reported the following morning, 10 December, that the EU has issued contingency plans for a 'No Deal Brexit' to warn businesses, individuals and other interested parties what to do, in such an eventuality (Guardian 10 December). It was said that talks will continue until Sunday 13th, when the EU and the PM will make a decision about a deal (BBC News, 11 December).

One concession to the UK in the contingency plans is that provision will be made by the EU to ensure that planes can still fly and trucks can still be driven, across the border, between the UK and the EU which include Aviation Safety certificates and connectivity for road freight and passenger transport. A period of grace, of six months was offered. In return, the EU want the UK to agree "equivalent regulations" and it will allow UK fishermen access to EU waters and include discussion of quotas over the next year, if the UK reciprocates (Guardian, 10 December).

In the UK, we are being assured that the government has made 'extensive preparations' to secure supply chains irrespective of a No Deal scenario. One wonders whether many businesses in the UK are aware of what these are and whether they are clear about what they have to do. Of course, in the case of a 'No Deal', as the chair of Tesco, John Allen, has warned, food prices will rise since tariffs will be imposed on imports and there will be delays at the border as goods

will have to be checked, with the attendant paperwork having to be in place.

Dominic Raab, Foreign Secretary has responded and said that tariffs are “a very minor proportion” of food prices and that there would be no shortage of foodstuffs coming from the continent (Guardian, 10 December). We wait to see, whether this will be the case and moreover wait to see what the impact will be of tariffs imposed under WTO rules on our exports of foodstuffs. Prices to EU consumers will rise; sales may fall and jobs will be lost as our foodstuffs will no longer be in demand. We also wait to see what the impact of delays will be like, as trucks wait for checks on exports at the border, in the lorry park in Kent. That is, if we can get driver permits. The UK was granted fewer than 2,000 of the permits that are given to third country hauliers; we need 10,000 (Guardian, 10 December).

In this flurry of news about the deadlock, I was also struck by what Dominic Raab said about the state of the negotiations. In a blame game, he argues that the EU has to back down on its demands and would have to make substantial concessions for the talks to continue after Sunday (Guardian, 10 December). Surely the position is that it is the UK that has to back down and make concessions, a position fuelled by a realisation of the impact of a No deal Brexit. One hopes that by now, people are beginning to recognise that leaving the EU is damaging to the British economy. Not least, Brexit will also affect our holiday travel plans; we will need a Green card; a European Driving licence, a health certificate for the dog we might take with us, health insurance and will be subject to additional checks at the borders when standing in the ‘other’ queues at air and seaports.

So Raab thinks that the EU has to make concessions? The UK equally has to make concessions. Firstly, in regard to the competition rules of the level playing field. It is foolish to think that the UK can have access to the European market on a tariff and quota free basis, without agreeing to provisions of the level playing field. It is a basic tenet of the single market of the EU that to deal with non-tariff barriers to trade that standards are set, on the quality of goods, environmental regulations and employment rights, but this is to ease trade within the EU and give the EU comparative advantage in trade outwith the EU. Tariffs (as a tax on imports) are also thus imposed on goods produced outside the EU; these aim to divert consumers to buy goods produced

within the single market and increase trade and production within the EU.

If the UK wants to have the sovereign right to set different (likely to be lower) standards, it means that the UK would gain comparative advantage over the EU; this is unacceptable to the EU. In such a situation, the UK needs to recognise that tariffs will have to be applied to UK produced goods. It cannot have access to the Single market on a tariff free basis; if it wants this, it has to agree to be bound by competition rules. Similarly, State aid (subsidies), which the UK government wants to have the right to grant (ironic for a government which would ideologically be opposed to state aid), also hand competitive advantage to businesses in the UK. The UK needs to give way on this too.

Secondly, in regard to the governance of such rules. These clearly have to be administered and adjudicated at the EU scale. The UK needs to give way on this issue as well, and needs to recognise that, in line with the 'pooled sovereignty' of EU, it means that fairness is achieved in free trade within the Single market.

Thirdly, in relation to the issue of fishing rights. The UK, seeing itself post-Brexit as an independent coastal state, is claiming that the nation should have the right to rule over its waters (BBC News 11 December). It can be argued that the EU recognises the complexity of the fishing industry. Most of UK landed fish is shipped to EU countries. Quotas are set how many fish each country's fleets are allowed to catch. However, half of England's quota of fish is foreign owned; UK fishing rights were sold off by British fishermen in the 1990s to companies based in Iceland, Spain and the Netherlands (BBC News 8 December). So the issue is not only about access by foreign boats to UK coastal waters but also about quotas and more particularly ownership of the British catch, a long standing issue.^[1] It must be remembered also that fish cannot be assigned a nationality; they swim freely in the sea^[2].

The EU is offering an option for attempting to resolve these issues, in its contingency plan, by giving British fishermen access to its seas, the UK can sell its fish in the EU and it is offering to open negotiations about quotas, provided the UK reciprocates (Guardian 10 December). This would seem to be a reasonable suggestion, which could be part

of a deal, and would address the issue about the ownership of quotas, predating the current situation. Better, surely than sending in the gunboats to 'protect UK waters', in the event of a No-deal Brexit, as reported in the news on Saturday 12 December (BBC News 12 December).

We wait to see if some progress is being made and whether the decision on Sunday 13 December is to end, or continue, the talks. The UK may end up with the 'No Deal Brexit' that, it can be argued, Boris Johnson and the Brexiteers have wanted all along. The blame for the No Deal will be squarely placed on the EU.

But, while it's a stalemate, the UK has to make concessions to come to an agreement, just as the UK expects the EU to make concessions.

References

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[1] It is being reported that British negotiators are insisting that boats must be majority British owned in order to take advantage of a larger catch in UK waters.

[2] For example, North Sea fish swim between waters belonging to the EU, Norway and Britain. It is reported

that Oslo wants a trilateral deal in place. These negotiations have not yet started. (Reuters 11 Dec. 20)