

Deal or No Deal: The clock is ticking...

By Professor Alex de Ruyter, Director, Centre for Brexit Studies

Last night's vote on the first reading of the UK Government's Internal Market Bill was notable in that it comfortably passed a vote in the House of Commons, despite the media frenzy on the prospect of a Tory backbench rebellion. In the end, 30-odd Tory MPs (including former Chancellor of the Exchequer Sajid Javid) abstained and two (Sir Roger Gale and Andrew Percy) voted against.

The Internal Market Bill has raised the ire of the EU because it explicitly seeks to override any international law that obstruct its operation – specifically the Northern Ireland Protocol of the EU Withdrawal Agreement that commits NI to essentially remain within the EU Single Market and Customs Union whether there is a UK-EU trade agreement, or not.

On two areas the PM has said that this is now unacceptable (bearing in mind that less than a year ago he endorsed the Withdrawal Agreement as an “oven-ready” Brexit). The first is that the EU could block British food imports into NI. Whilst there are potentially genuine challenges relating to the stocking of supermarkets in Northern Ireland, much of this is hyperbole. In any event, there are dispute resolution mechanisms and safeguards built into the treaty. Moreover, all these issues were known at the time: the Withdrawal Agreement is simply what we agreed to.

The second aspect here is the need for the UK Government to inform the EU of what its sanitary and phyto-sanitary standards for animals and plants crossing the border from NI into Ireland will be. The Government has so far failed to sufficiently disclose this to the EU and hence under the Withdrawal Agreement protocol the default setting will be for checks on all goods crossing from NI to Ireland.

Then there are related issues around state aid, which the UK Government has thus far held-out on releasing details to EU negotiators over. Suffice to say, there is some irony in a Conservative government holding out on state aid and thereby potentially scuppering a trade deal with the largest free trade bloc on the planet,

but then, to paraphrase the sardonic Chinese saying, we live in “interesting times”.

Moreover, the Government’s purpose behind the Internal Market Bill is to ensure that the whole of the UK basically adheres to the same regulatory thresholds. That this will drive a coach and horses through the devolution settlement with Scotland, Wales and Northern Ireland goes without saying.

Indeed, its detractors in those administrations see the bill as a Trojan horse to undermine their autonomy in setting health and agriculture policies for example; so as to enable a UK-US trade deal to apply to the whole of the UK. The Scottish Government are unlikely to give assent to the bill (should it be passed at Westminster) and this will only further inflame support for Scottish independence.

So, given the manifest perils that passing the Bill poses to both the continued viability of the UK as a cohesive political entity, and the fact that doing so will result in legal action by the EU – and hence a collapse in trade talks, why is the UK Government doing this?

In terms of what they are trying to achieve I would argue that the primary audience is domestic, pure Trump-style in terms of appealing to their supporter base, and trying to put Keir Starmer’s Labour on the spot in the process. I don’t think that Boris Johnson or Dominic Cummings is particularly concerned about whether there is a de facto border in the Irish Sea or not.

As such, I think that the real aim here has been to stir up vitriol in their base and deflect blame for any “no deal” onto the EU (and deflect attention from their poor handling of the Covid19 pandemic). If the legislation ends up being passed by Parliament (assuming it wins in the Commons but is rejected by the House of Lords and then has to return to the Commons for further iterations as a precursor) then the EU **will** instigate legal action at the end of the month.

The other possibilities are that they’re going to pull a last-minute rabbit (deal) out of a hat and will need to sell it to true Brexit be-leavers (especially if it’s closer than Canada) or that they’re really deluded enough to believe that this gives them some sort of leverage. I doubt

the latter: they will be getting legal advice on this and they will (or should) have known in advance how the EU would respond...

Either way, it certainly has damaged the standing of the UK and will lessen trust, even if the bill is not passed in its current form. Not just with the EU but also with the US, where leaders in Congress have made it clear that they will not pass a UK-US trade deal if Brexit results in a hard border in Northern Ireland. Not that a US trade deal has much chance of ever seeing the light of day, given concerns around agriculture and the impact on the NHS.

Meanwhile, away from the Westminster bubble and back in the real world, the Government's latest study into making the necessary logistical preparations for No Deal makes for eye-watering reading.

With the prospect that only 30-60% of lorries will be Brexit-ready at the end of the year, the government's own modellers estimate that up to 7,000 lorries per day could be queuing by next February, with the time taken to get to the front of the queue being two days!^[1]

As it stands, of the 30 "lorry parks" earmarked in Councils across the country to cope with this volume of HGVs, only one (Ashford in Kent) has been currently confirmed. And a key IT system for hauliers to cope with new border checks is not expected to be publically tested until the end of November.

As such, I continue to have reservations over the sincerity of the UK Government in genuinely wanting to reach a trade agreement with the EU and the passage of the Internal Market Bill has only reinforced my view in this regard. No Deal still remains the most probable outcome given the differences on the Irish border issue and the ongoing vexation over state aid.

[\[1\] https://www.theguardian.com/politics/2020/sep/14/official-post-brexit-report-warns-of-queues-of-7000-lorries-in-kent](https://www.theguardian.com/politics/2020/sep/14/official-post-brexit-report-warns-of-queues-of-7000-lorries-in-kent)