

The Border in Ireland and Trade, Déjà vu time again!

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During December's general election campaign, PM Johnson promised that he had an "oven ready" withdrawal deal he'd agreed with the EU. As he claimed incessantly, the only impediment to its implementation was Parliament's refusal to fulfil the will of the people. Support for the Conservatives, he faithfully assured potential voters, would "Get Brexit done".

The stunning majority of 80 seats Johnson achieved meant that he was indeed able to gain approval by Parliament for his "wonderful" deal. The UK left the EU on the 31st January as had been promised and represented remarkable progress when compared to 2019 when Parliamentary disagreement over the deal Theresa May had agreed with the EU in November 2018 created impasse.

Rebels with May's party, who revelled in being described as 'Spartans', fundamentally and ideologically believed that the 2016 referendum result meant that the UK should simply leave. For them, debate concerning the nature of the UK's departure and whether there should be arrangements to ensure frictionless trade was irrelevant.

Though certain sectors would be negatively affected, they accepted, overall, they asserted, the UK would be entirely free to carry out trade with whichever country it wished and on terms and conditions. This would be advantageous to the UK.

Such logic, virtuous in its simplicity, created consternation among leaders of business and industry who feared a 'hard' Brexit which would be detrimental to many key industries; particularly those reliant on adherence of aligned customs rules to effectively operate supply-chains.

Hard Brexiters asserted May was attempting to reach an accommodation with an organisation they detested and considered

bureaucratic. It had never done the UK any favours. The deal May agreed with the EU confirmed their worst fears.

One element caused apoplexy among them and the ten members of the Democratic Unionist Party whose support was crucial in keeping the government in power after her ill-fated decision to call a general election in June 2017, the 'backstop'.

The 'backstop' would mean that the UK would remain in the EU customs union and Northern Ireland would follow single market rules was intended to act as a way to deal with the border in Ireland; a division that had resulted in the conflict known as 'The Troubles' with the loss of over three and half thousand lives and almost 50,000 injured.

Should it prove impossible to reach agreement on how to manage trade crossing the border by the end of the transition period, 31st January 2020, the backstop would be triggered until, it was suggested, a solution, including by innovative technology became possible.

During negotiations that provided the basis of what became the Good Friday Agreement, an international treaty, an open border was perceived as integral to success in attaining peace. That Ireland, north or south, would at any point in the future would no longer be part of the EU would have been considered inconceivable.

May's inability to reconcile the deadlock in Parliament led to her resignation last year and, of course, her being replaced by Boris Johnson, someone who's proved himself adept at changing direction (and arguments) should it prove expedient. Johnson had resigned from government in July 2018 due to his disagreement with the 'Chequers plan' formulated by May and her cabinet he and others critics considered too willing for the UK to remain aligned with the EU.

Johnson who's alleged to have responded to anxieties expressed by business that traded with the EU that a hard Brexit would be extremely damaging to their interests, "f**k [them]" gained support from the members of his party that elect leaders by being bullish about how hard he was prepared to be. Nonetheless, those who read the runes were aware that being prepared to talk about a hard Brexit

is one thing but, faced with the economic consequences, doing such is another thing.

That Johnson was able to renegotiate the deal that May had achieved almost a year previously created genuine optimism that the ongoing stalemate would be ended.

It's significant that what he achieved his renegotiation was effectively a finessing of her agreement.

Northern Ireland would effectively stay in the single market for goods and EU customs procedures continue to apply on goods coming into Northern Ireland from Great Britain, in order to avoid checks at the Irish border, (an arrangement that may be reviewed by its executive four years after transition ends.

Though some expressed concerns that such an arrangement requiring EU customs procedures (checks) would be contrary to the spirit of a truly United Kingdom and, besides, this was something Johnson had explicitly ruled out when campaigning for the leadership of the Tory Party, the Spartans' fury was assuaged.

Nonetheless Unionists and Loyalists vented their concern that what was being proposed was a slippery slope of sorts towards a unified Ireland based on what was economically practical.

Johnson ability to achieved what had bested May meant that his deal was likely to pass as long as he could achieve a majority. Prorogations and distasteful scenes in the Commons aside, this is exactly what has been achieved. All that needed to be sorted out was the free trade agreement with the EU that will exist after transition.

Those who choose to understand such things, not the majority who voted to get Brexit "done" at the general election it appears, have long recognised the virtual impossibility of achieving an agreement that is as good as what will be lost by leaving the EU in the remaining ten months of the year. Some hoped that Johnson's surprise majority would enable him face down the Spartans and, as the leader of the party that had, traditionally, been closets to business, implement a much softer Brexit than had been considered possible under May or even Johnson before December's general election.

Sadly, it has to be said, such optimism was misplaced.

This week's *Sunday Times* contains an article written by political editor Tim Shipman, 'Brexit team seeks to evade Irish Sea checks on goods' <https://www.thetimes.co.uk/article/brexit-team-seeks-to-evade-irish-sea-checks-on-goods-mv3pqjkc> suggests that Johnson prefers acting in bad faith with those he negotiated his deal that facing down Eurosceptics in his own party.

As Shipman claims, "Officials in Taskforce Europe, run by Johnson's EU negotiator David Frost, are working in secret on proposals to ensure that there do not need to be checks on goods passing from Britain to Northern Ireland."

Many expressed fear that Johnson as PM would run amok with parliamentary procedures and stretching the rule of law as far as possible; let's not mention his advice to the Queen on prorogation that was held by the Supreme Court to have been illegal. Changing those members within his cabinet who considered unable or unwilling to fully support him or his closest advisor, Dominic Cummings, gives the impression of a PM who demands absolute compliance.

One such appointment that was made in the reshuffle was the replacement of attorney-general Geoffrey Cox by the relatively inexperienced Suella Braverman. Cynics suggested that she will be much more willing to give legal judgements that suit the government's objectives than her predecessor.

Shipman contends that Braverman may be expected to interpret what was agreed between Johnson and the EU on trade between Great Britain and Northern Ireland so that there is legal 'cover' for justify the avoidance of checks on goods. This would, of course, be regarded as a breach of good faith.

Notably, on a visit to Derry/Londonderry on Monday, Northern Ireland secretary Brandon Lewis stated that it's not the intention of the government to impose a customs border down the Irish Sea; "We want to make sure that the United Kingdom is one whole union, and one that is good for business across the United Kingdom. We've always said there will not be a border down the Irish Sea, there will be unfettered access for business."

This story, regardless of its veracity, is presumably intended to have raised the stakes prior to the free trade negotiations that commence next month. As such it may be a case of Johnson's government, as he did on becoming leader last summer, raising the temperature and, judging by the comments coming from the EU, tempers of officials and EU leaders, so as to gain maximum advantage.

EU leaders who met on Tuesday to agree their negotiating mandate for the free trade agreement talks with the UK have restated their determination to remain united in demanding that arrangements contained in the Northern Ireland protocol should be implemented when the transition period ends at the end of this year.

Ireland's current Minister for Foreign Affairs and Trade, Simon Coveney, was especially forceful in stressing that the implementation of the new border arrangements affecting Northern Ireland previously agreed as part of the withdrawal agreement with the EU were a matter of "good faith and trust".

Failure by the UK to do what was promised would, Coveney, claimed, damage significantly the prospects of being able to get even a bare-bones trade agreement along with a number of other things that need to be done..."

Any normal process of negotiations will be accompanied by whatever tactics assist one or other side. That stated, it is to be sincerely hoped that the eventual outcome of the free trade negotiations by the UK government is wholly sympathetic to the needs of those businesses (and organisations) that rely on the EU for effective trade. Anything less will cause immense damage.

It's worth recalling that the House of Commons Exiting the European Union Select Committee stated last July in its report, 'The consequences of "No Deal" for UK business Fourteenth Report of Session 2017–

19' <https://www.parliament.uk/business/committees/committees-a-z/commons-select/exiting-the-european-union-committee/news-parliament-2017/consequences-no-deal-business-report-published-17-19/>, that the Government's own economic assessment demonstrate that "a 'no deal' exit from the EU would be the most

economically damaging outcome for the UK.” (HC 2560, Published on 19th July 2019 by authority of the House of Commons)

As this committee stressed, “The effect would be most severe in the North East and the West Midlands, and the chemical, retail, food and drink and manufacturing sectors would be hardest hit.”

Regardless of what advocates of a hard Brexit may claim, leaving with no deal or one that approximates with the characteristics of one, will not assist in the objectives of levelling up regions outside London and the south-east through job protection/creation in essential sectors. It will not make people wealthier; quite the contrary.

Given the years of misery suffered during ‘The Troubles’, any action that might undermine the fragile peace achieved through adherence of all principles of Good Friday Agreement should not be considered by any leader wishing to be considered as exhibiting integrity and honesty.

What seems assured in coming months is continuing uncertainty that will destabilise the hard-won peace in Ireland.

Sadly, we’ve been through all this before. It feels like *déjà vu*.

Dr. Steven McCabe is co-editor of *Brexit and Northern Ireland, Bordering on Confusion* (published by Bite-Sized Books, ISBN-13:978-1694447807)