

No deal is the worst deal yet Brexfast is still in the cards

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Prime Minister Theresa May has finally triggered the Article 50 negotiations, nine months after the referendum vote. The Article 50 notification letter emphasises the aspiration of reaching a good deal and offers potential compromises on areas such as the rights of EU citizens already in the UK. However, there are still some obstacles ahead: hard lines on issues such as budgetary payments and the jurisdiction of the European Court might make a divorce deal and the transition to a long-term trade agreement hard to swallow for the EU27 and the European Parliament (EP).

While no deal would be the worst of all outcomes for the UK, domestic politics might drive Great Britain to Brexfast, leaving the EU as quickly as possible, but with no deal at all and no transition period. The UK government's White Paper stated that no deal is better than a bad deal. This is not true - Brexfast would be economically and politically highly damaging. But it might be what is needed for Theresa May to keep the Brexiteers on board.

Towards a trade deal?

Brexfast would scupper the UK's desired outcome of a comprehensive trade deal, and make any transition arrangement(s) between withdrawal and a possible future trade deal impossible. While a hard Brexit will always be inferior to membership of the single market, such a trade deal would enable Great Britain to be selective regarding in-migration and strike trade deals with the rest of the world, and would limit the negative impact on trade and investment flows to and from the UK.

Such a trade deal or transition arrangement(s) will not be easy to negotiate. Any deal has to meet the interests of the EU27 and satisfy the EP, which will probably react unfavourably to any mercantilist behaviour, for example with regard to corporate tax. But before both sides can even enter these negotiations there will have to be a successful conclusion of the withdrawal agreement.

First things first

The initial negotiations will focus on the withdrawal process, only taking account of the framework of the UK's future relationship with the Union. They are not intended, nor is it possible within this timeframe, to pre-negotiate a future trade and investment deal between the EU27 and Great Britain. Such a deal will take a number of years to conclude and the concrete negotiations can only start in earnest after the UK has left the EU.

The perceived wisdom is that the process by which the UK will leave the EU will take at least the two years specified in the EU Treaties, with some arguing that this period might have to be extended (which would need to be decided unanimously by the EU27), given the sheer difficulty and scope of issues that will need to be resolved. However, such an extension seems rather unlikely in light of the required unanimity, unless it is a purely technical provision to allow for the ratification of a deal already reached or to conclude on some of the finer details.

The danger of Brexfast

Domestic politics and the media in the UK will follow the process closely. A big hurdle will be the legacy payments the EU is going to demand from the UK. While estimates vary, it will certainly be a significant amount. This is anathema to the Brexiteers in the British government and will certainly prompt a reaction in the Eurosceptic tabloid press. So far, at best, this payment has been portrayed in the British debate as the price the UK will have to pay for continued market access. But given the sequencing of the negotiations, this is unlikely to remain a convincing argument.

From a negotiation perspective, reaching a withdrawal deal without any payment is highly unlikely. After all, the EU will not simply scrap its demands in the face of UK opposition. But without a withdrawal deal, there is little chance of reaching a transition arrangement or a long-term trade deal. This will add fuel to the arguments of those in the UK who believe that a quick exit, a Brexfast, will be better in any case: if you can't reach a long-term deal, better to strive out on your own now and conclude trade deals with other countries.

Such a breakdown in the withdrawal negotiations, leading to Brexfast and driven by UK domestic political considerations, would impose some costs on the EU but it would be highly damaging for Great Britain's economy: companies would bear the brunt of the immediate consequences, with significant litigation in both UK and EU courts, and there could be global financial turbulences. The UK's credibility as signatory to international treaties would also be undermined, jeopardising its ability to reach trade deals with third countries. But given the UK government's focus on keeping the Conservative Party together and winning the next election, domestic politics might override economic reasoning.

Scot-in when the UK leaves?

There might also be a domestic reason why Brexfast is desirable from the perspective of some. The Scottish government, adamantly opposed to a hard Brexit, is pushing for an independence referendum between autumn 2018 and spring 2019. The UK government has stated that there will be no referendum before the outcome of the Brexit process is clear. But if the signs point towards a bad deal, leaving the EU quickly with no deal in advance of such a referendum might make it harder for the Scots to vote to leave the UK.

This is a delicately balanced judgement as a yes to independence cannot be ruled out, especially with no or a bad deal. It could still result in Scotland voting yes to independence after Brexit, in a process compliant with the constitutional provisions of the UK. The EU will then have to decide how to manage the accession process if an independent Scotland applies for membership, accepting all associated conditions. There might need to be certain transition/temporary arrangements for a limited period (EEA membership for example), but it seems unlikely that, in the end, the EU would not accept a country that fulfills the accession conditions and has expressed such a strong desire to remain part of the European family.

The price of Brexit

The triggering of Article 50 is thus likely to accelerate the negative political and economic impact of Brexit. The cards are stacked against the UK in the Article 50 negotiations and economic costs are going to increase the faster and deeper the UK moves to a hard Brexit. Domestic political developments might well magnify the difficulties, with a realistic chance of a chaotic Brexfast and a break-up of the United Kingdom. This is an example no one else in Europe will want to follow.

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