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## Brexit ... Boris' Oven Ready Deal Emerges Half-Baked

Not surprisingly both the UK government and its EU counterparts proclaimed a victory for 'fairness' in their eventual agreement over the terms of Brexit. Supportive elements in the British press<sup>1</sup> lionised Boris Johnson for his approach in the face of EU hardlining, seeming to have forgotten the process was one imposed by the UK. It is poor diplomacy to crow too loudly over any 'wins' especially if one party only wants the other to discover its losses as relations unfold through time.

In his preamble to the announcement of the Brexit Agreement the UK's prime minister Boris Johnson made the following statement

*... this ambitious Agreement – carefully judged to benefit everyone – is the first the EU has ever reached allowing zero tariffs and zero quotas. We will preserve the immense benefits of free trade for millions of people in the United Kingdom and across Europe. At the same time, our Agreement means that the UK will fully recover its national independence. At 11pm on 31 December, we will take back control of our trade policy and leave the EU customs union and single market. We will take back control of our waters, with this treaty affirming British sovereignty over our vast marine wealth. We will take back control of our money by ending vast payments to the EU. We will take back control of our borders and will introduce our new points-based immigration system at the start of next year. Most importantly, the agreement provides for the UK to take back control of our laws, affording no role for EU law and no jurisdiction for the European Court of Justice. The only laws we will have to obey are the ones made by the Parliament we elect.*

*While we made our fair share of compromises during the negotiations, we never wavered from the goal of restoring national sovereignty - the central purpose of leaving the EU. I have always said that Brexit was not an end but a beginning:*

*the start of a new era of national change and renewal, the next act in the great drama of our country's story. We will regain the ability to wield powers that have for too long been the sole preserve of Brussels. We will now take up these tools to deliver the changes that people yearn for and, in so doing, we will restore faith in our democracy.*

*The UK is, of course, culturally, spiritually and emotionally part of Europe. This agreement provides for close and friendly cooperation with our neighbours in all the many areas where our values and interests coincide. It is my fervent hope that this Treaty, rooted in Britain's sense of itself as a proudly European country, will help to bring people together and heal some of the divisions created by the referendum over four years ago.*

*The responsibility now falls on our shoulders to take full advantage of the freedom of action our country has regained. Next year will be our opportunity to show what Global Britain can do, reasserting ourselves as a liberal free trading nation and a force for good in the world.*

However, President Emanuel Macron declared that while the UK would remain a friend of France that Brexit was the 'child of European malaise and lots of lies and false promises'.<sup>2</sup> After a deceitful campaign based on a promise that the British public would benefit from Brexit to the extent of £350m a week, purged the Conservative Party of cautionary voices and bullied the EU into a hasty 'divorce' deadline, it was always in doubt that prime minister Johnson could be trusted to give an honest evaluation of the gains achieved through his agreement with the EU.<sup>3</sup> Under questioning by Andrew Marr he was unable to describe how businesses would benefit in 'real terms' from Brexit.

Although Brexit was driven under a banner of 'taking back control' pre-Brexit, UK had already enjoyed a unique level of independence as an EU member - control over its currency

while benefiting from the single market (its own initiative); and greater control over entry to the country by staying out of the Schengen region. Post-Brexit it has gained a greater degree of sovereignty in its lawmaking and courts but what else? Will its laws deviate that significantly from the tenor of EU standards? Exporting into the EU still requires strict adherence to EU standards and is not frictionless at all.

Negotiations were run on Mr Johnson's favoured approach – brinkmanship – and it seems this was reciprocated. It is an approach fraught with risk. Long positional standoffs can produce last minute deals but if the energies of the parties have been invested in holding to a line rather than thinking through alternatives, constructive concession exchanges, or the detail of implementing possible deals, problems arise. Johnson publicly puffed and pouted that a deal was eminently desirable and that all the UK wanted was a Canada style deal which for some incomprehensible reason was being denied. His bargaining leverage seemed (at least publicly) to lie in a hard position on fishing rights, and the extent of commercial interdependence (less loudly voiced) – but he had real problems in defining a border in Ireland (simply denied) and in articulating what in real terms the benefits of taking back control for the British people would be. In the end three major sticking points emerged: fishing rights, Northern Ireland, and a trade deal. To these can be added comment on the so-called divorce bill.

### **Divorce Bill and Upfront Costs and Benefits Estimates**

The House of Commons had objected to the 'divorce bill' of £35-39bn in Mrs May's deal. The Office of Budgetary Responsibility (OBR) estimated that this would be reduced to about £32,8bn by virtue of continued membership and payments to the end of December 2020, and that contributions were smaller than if the UK had remained in the EU. However OBR pointed out that UK would have to supplement its agricultural industry by £3bn, would no longer receive funds for science research as part of the EU, and would lose £2bn each year by ending its participation in the Erasmus programmes. In addition there would be costs of setting up new customs and migration offices – already at £1,5bn in 2018/19 in the preparation phase. The real costs it projected in 2018 would come in lost trade seeing a drop of 4,9% in

GDP.<sup>4</sup> In short the UK government forecast a drop in GDP, and little if anything was saved in the divorce process itself. Of Mr Johnson's key vote gathering promise that £350m per week would be saved by leaving the EU ... silence.

### **Northern Ireland ... and some Implications for the United Kingdom**

Having vetoed proposals for a border in the Irish Sea, Mr Johnson has, while denying its existence, triumphantly created ... a border in the Irish Sea. Past Prime Ministers Major and Blair voiced early concerns over the implications of Brexit for the Good Friday Agreement (GFA) and incoming US President Biden has clarified that the integrity of the GFA is an important factor in UK-USA relations into the future.

The Brexit deal sees Northern Ireland remaining effectively 'borderless' with the Republic of Ireland with free flows of goods, services, and people. Despite promises of frictionless trade there *are* now extra customs checks between Northern Ireland and the UK and the weight of these has in the early weeks of the deal seen empty shelves in Northern Ireland shops and some large British retailers complaining that the volume of red tape now required for deliveries there is unworkable. Effectively the North has been ceded in terms of trade relations to the EU. And, despite the cautions of Cooley<sup>5</sup> not to confuse religious with national identity, a politically united Ireland may not be far behind. The GFA makes provision for a unification of the North with the Republic provided a majority in both dispensations votes in favour. Demographic changes have seen the unionists now perhaps only one election or referendum away from a majority. The signal is that the UK government has accepted that it may lose it anyway and is segueing its way out.

Northern Ireland border tensions rose again at the end of January in a bizarre contest over COVID vaccines produced in Europe. The EU which had started late in its vaccine planning and ordering tried to stop the export of vaccines from the region and accused the UK of using the open border in Ireland as a backdoor to circumvent this. A few phone calls settled the matter with the EU backing down on the issue.

In the referendum, only England as part of the UK voted for Brexit; Scotland, NI and Wales voted remain. Brexit has fuelled rather than dampened the Scots' vision for independence and the prospect into the future of Great Britain

shrinking into a little old England is not unrealistic. The UK has lost its international clout as a key member of the EU and it may well lose its internal coherence as well. England's younger population voted to remain ... they will grow into the consequences of their parents' votes to leave.

### Fishing Rights ...

Bearing in mind the relatively small contribution of the fishing industry within the larger UK economy (0,1%) and the reality that many EU members have no fishing fleets at all, it surprised many that it became such a salient obstacle to conclusion of a deal. Its worth was only £784m against the UK economy of £132tn in 2018. But history matters, and votes matter. The votes of UK fishers are important to the Brexit campaigners ... as were those of France's fishing communities to President Emanuel Macron. The EU was catching about £600m of fish in British waters each year. It argued that no deal on fishing rights would mean no deal on access to the single market – in other words a precondition for a free trade deal (no tariffs or taxes on goods crossing borders).

The UK opened negotiations with a position that EU quota of fishing would drop by 80% - in the outcome this was reduced to a drop by 25% leaving one with the impression that it was used as a bargaining chip to be played late by the UK in exchange for a desirable trade deal. There is of course a history: UK fishers felt their interests had been traded off in a larger trade deal by Edward Heath in the past seeing coastal towns in the north struggle economically. Many accepted an EU cash grant to destroy their boats seeing little alternative but of course this money ran out. Johnson's opening approach on fishing raised hopes.

Under EU rules all nations had full access to one another's waters except for the first 22 km off the coast. EU ministers haggled every December over quotas of fish of various species that could be caught.<sup>6</sup> Unhappy with its quota since 1970 Britain has long wanted greater control of access to its waters and what is fished out of it. The fish are largely in British waters but half the quota was in foreign hands. British skippers have sold off parts of their quota to boats from other parts of the EU each year. Britain wanted to take back control of waters in the EEZ stretching 200km into the north Atlantic. 80% of fish are caught in this region.

The issues are who can fish in the waters, what fish will be caught and who can sell them. Most fish eaten in the UK is imported; and most of what it catches it exports. 75% of fish caught are sold into the EU which took a line: no deal on fish, no deal on access to the single market.

In the end the UK agreed to reduce the EU's quota by just 25% phased in over five years. British share of fishing will rise from 50% to about 67%. The CEO of the National Federation of Fishermen's Organizations (NFFO) argued that Johnson had 'caved' on the fisheries issue, repeating Heath's actions in 1973. But UK negotiators countered arguing they had regained total control over its own waters after the five-year transition period.<sup>7</sup> Indications are that the French, Dutch and Belgian fishing communities face big losses into the future. Scots fishing boats are planning to deliver their goods directly to Denmark rather than through the UK.

In January 2021 UK fisheries were plunged into crisis. The bureaucratic complexity of new Brexit border controls in the form of health certificates, customs declarations slowed deliveries by up to four days making it unworkable to deliver highly perishable seafoods to EU markets. And the costs of health certificates were flattening profits.<sup>8</sup> In the Scottish fish exporting trade, for just one example, 150,000 certificates will probably be needed annually (BBC). The Welsh fishing trade has also been battered<sup>9</sup> by the deal with fishermen complaining that apart from a prohibitive bureaucracy it has opened its waters to much bigger European fleets with which it cannot compete.

### Trade in Goods and Services: 'Welcome to Brexit, Sir'

In the first weeks of the new deal British lorry drivers had their ham sandwiches confiscated on entry to the EU with a polite 'welcome to Brexit, Sir'. Pork and dairy goods require documentation to be brought into the EU.

The trade standoff was rooted in the desire of the UK to have the freedom to subsidise and support certain industries as a sovereign nation while the EU wanted to ensure trade on level terms. In the end a no deal was too costly to contemplate for both sides. The trade deal was held up in the UK as including no tariffs on goods ensuring 'a level playing field' with the promise that businesses on both

sides would avoid costly taxes and price rises for consumers. But some analysts see the deal as one almost entirely favouring the EU.

UK officials estimate between 200-400 million additional customs checks as goods are exchanged across borders, and British businesses exporting to Europe now face extensive customs declarations and other paperwork in getting goods into the EU. The EU's strict health and safety rules will see costly processes for exporters of food, plant, and animal goods. This bureaucracy is likely to see delays and extensive queueing at borders with the UK government seeing a worst-case scenario of up to 7000 HGV's in waiting mode. The Office for Budget Responsibility's latest forecast indicates the country's long-term economic output could be reduced by over 4 percentage points.<sup>10</sup>

Hutton points out that the no tariff deal is almost entirely on EU terms operating under governance of a new partnership council to ensure UK does not violate EU regulatory standards (UK the rule taker). It allows British exporters to self-certify compliance with EU standards, a deal beyond WTO standards but 'very much in EU interests' as it enjoys a £97bn annual surplus in goods exports to the UK. Point of origin rules mean that many goods leaving the UK for the EU are not in fact tariff free. As some clothing retailers have discovered goods imported into the UK (for rework, finishing or just in transition) before being sent to the EU are subject to a 12% tariff at the EU border. Diverting such goods will be paid for in jobs.

By mid-January 2021 there was evidence of deep discontent amongst some businesses trading into the EU. Apart from the unhappy fishing industry, large retailers were finding obstacles of sending goods into Northern Ireland were such that their stores there had empty shelves and many small businesses were finding that they could no longer just pack up goods and send them into the EU. Export levies have been introduced by courier companies to cover the costs incurred in completing extra documentation for transportation of goods; then there are deferment account fees (prepaying import costs into a nation) and disbursement fees (calculated as a percentage of the value of a good plus VAT in a destination country).<sup>11</sup>

In February 2021 the Road Haulage Association's (RHA) warned the government that 65-75% of trucks arriving from

the EU were returning to it empty, with a 68% drop in the volume of exports compared with the same period the previous year. The RHA called for an increase in customs officials from 10000 to 50000 to assist with the new bureaucracy.<sup>12</sup> And importantly services which comprise the major part of UK's business with the EU are not covered in the deal. Hutton states "Services, insurance companies and investment houses – great economic strengths – will have to go cap in hand asking permission to trade where once they welcomed".

According to the Express<sup>13</sup> the EU has banned its financial institutions' trading in London pending a new agreement, arguing them not be equivalent to its own regulatory systems. This has seen a sizeable shift of shares trading to the EU, and to Wall Street.

The European Commission has estimated that the UK's exit on the terms agreed will see a drop in UK GDP by the end of 2022 of about 2,25% against a cost to the EU bloc of 0,5%.<sup>14</sup>

## Movement of People

For many Brexit was about taking greater control of immigration based on a resistance to the impact of foreigners on British life in terms of its culture, employment opportunities, health and welfare costs as well as security concerns.<sup>15</sup>

UK passport holders may now visit the EU for periods of up to 90 days without a visa, but will now join queues for passport stamping and those driving vehicles will require permits and an international driving licence. The UK's community of performing artists, struggling under COVID-19 restrictions has been enraged to learn that UK negotiators turned down a EU offer of visa-free tours by entertainers on the grounds that it would violate principles of controls over free movement. 1500 British students will lose the right to study for no fees under the Erasmus programme.

Britain is no longer part of the European Investment Bank. It is out of Euratom, Europol and Eurojust, the EU Emissions Trading Scheme (part of the fight against climate change) and key to the economics of wind farms and new nuclear stations. And it loses automatic access to EU data bases.<sup>16</sup> The BBC reported that the Northern Ireland protocol with new customs forms was inhibiting even the free movement of the British military to the region – a report denied by the Ministry of Defence.<sup>17</sup>

## Brexit ... at this Stage

UK government ministers argue that obstacles experienced are merely ‘teething problems’ – and indeed it is early days. At the end of December 2020, the government was boasting new trade deals with 91 countries but it is unclear to what extent these will offset any losses incurred as a consequence of Brexit (the EU accounted for just short of 50% of UK trade). On 31 January 2021 the UK’s trade secretary boasted that deals were in the pipeline with the USA and that it was poised to become the 12th member of the £9tn free trade region covered by the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) involving nations accounting for 40% of world GDP. These of course if they come to fruition will offer opportunities to the UK but whether UK businesses are positioned to optimise these has yet to be seen. Foreign Secretary Dominic Raab has argued that the benefits of Brexit should be evaluated over a ten-year period rather than in the immediate. And as a harbinger of future benefits inherent in being able to operate independently some have pointed to the efficiency in the acquisition and distribution of COVID-19 vaccinations in the UK relative to the EU operating within a slower bureaucratised environment.

As regards the EU some analysts warn that the future is one of ongoing niggly negotiation premised on a desire by the EU to show the move was a mistake, and by the UK to prove that it can do better ‘out than in’.<sup>18</sup> And the niggle is increasingly apparent in the UK’s refusal to give the EU’s ambassador full ambassadorial status preferring recognition as a ‘representative of an international organization’; the EU’s threats to obstruct a UK idea of becoming a ‘Singapore on the Thames’; and a nasty squabble over the distribution of the Oxford/Astra-zeneca COVID-19 vaccine. Questions are being asked as to whether the taking back of control over its own law-making and courts has been achieved at the cost of its economic interests, its capacity to advance its national interests, and its internal coherence. But of course, the EU faces its own problems of coherence into the future with fracture lines emerging between members over immigration with Poland and Hungary holding particularly conservative positions, and with economic tensions between northern and southern members.

## ENDNOTES

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