



Brexit Conundrum

*Dr. Ankita Dutta**

Abstract

UK's Prime Minister Theresa May in July 2016 made a statement that 'Brexit means Brexit and we are going to make a success of it'. The only thing that is probably clear is that 'Brexit means Brexit', but what is less clear is how the UK is 'going to make a success of it'. With the European Union stepping up pressure on Britain, on one hand, to approve its Brexit deal by ruling out the prospect of further negotiations, and on the other, the significant resistance among her own Members of Parliament, Prime Minister Theresa May is stuck between a rock and a hard place. This paper tries to analyse what was proposed in the draft Brexit deal, which was published in November 2018, and the reaction to the proposed deal. It also looks at the alternatives to the proposed deal, as has been suggested to the government.

Introduction

With the 100-days countdown beginning for United Kingdom for leaving the European Union, the Brexit deal between the two remains as elusive as ever. In the last few weeks, British Prime Minister Theresa May finalised a withdrawal bill with European Union, secured her Cabinet's approval, defended the Brexit deal in the Parliament only to postpone the vote and survived a vote of no-confidence moved by her Conservative Party. This paper tries to analyse the draft Brexit deal which was negotiated between Prime Minister May and the EU. It also looks at the reaction to this deal and at the possible alternatives suggested to the British government.

What has been Proposed

The United Kingdom and European Union on 25 November 2018 endorsed a draft Brexit deal which proposed how and when the UK would withdraw from the EU. Following are the main features of the deal¹: *First*, the proposed withdrawal bill called for a 21-month transition period,

which would end on 31 December 2020 and could be extended for further two years. During this period, UK would remain completely in the Customs Union and UK-EU will finalise their new trade relations; *Second*, for safeguarding of rights of the EU nationals living in UK and vice-versa, the withdrawal bill suggests that all those arriving in the UK at any given point during the transition period would fully enjoy the rights that EU nationals have today. Also, EU nationals who have lived in the UK for five years can remain with their families. Britons will also be allowed to stay in the EU country where they currently live; *Third*, the Divorce settlement, the amount that the UK would pay the EU, amounts to £39 billion to cover its contribution to the EU budget until 2020, and other outstanding commitments; *Fourth* and also bone of contention is of safeguarding the open border between Ireland and Northern Ireland. UK's membership of the Union has been crucial to preserve the open border between Ireland (which is part of the EU) and Northern Ireland (which is part of UK). This "Backstop Plan" is a kind of an insurance that comes in force if the future trade talks fail to avoid a hard border on the island of Ireland. In that scenario, the whole of UK will remain in the customs union, but only Northern Ireland will have to follow single market rules. This has turned out to be the most controversial aspect as critics point out that this provision would leave UK 'bound' to the EU rules and regulations.

Apart from the withdrawal agreement, a political declaration on the future of UK-EU relations was also endorsed by both sides. Although, it is a political and not a legally binding document, it gives an indication of areas that the UK and EU will have to work on over the coming years. Although there is no mention of frictionless trade in the declaration as the UK wanted, but "comprehensive arrangements that will create a free trade area" is mentioned and there will be "no tariffs, fees, charges or quantitative restrictions across all sectors." On the issue of services, the two sides "should conclude ambitious, comprehensive and balanced arrangements". Trade will be based on equivalence, and both sides will try to conclude equivalence assessments by June 2020 to avoid disruption. Also, in terms of security cooperation, the two sides would cooperate in EU police agency Europol and judicial cooperation agency Eurojust.²

Reactions to the Deal

Prime Minister Theresa May presented the draft Brexit deal to her Cabinet on 14 November 2018, and the approval from the Cabinet paved the way for a parliament vote on the deal. However, the cabinet consensus proved hollow as the Brexit Secretary Dominic Raab resigned on 15 November saying he cannot "in good conscience" support the deal. He became the second Brexit Secretary to resign as a sign of protest to the proposed deal. The area of contention for him was the proposed Backstop on the Northern Ireland issue. This was followed by a spate of resignations. Also, the hardline Brexiteers in Conservative party rejected the proposed deal. For them, the deal ties UK to the EU indefinitely, sacrificing the sovereignty Brexit was supposed to help reinstate. For those who want a close relationship with the EU, the Withdrawal Agreement looked problematic for its lack of commitment to close economic integration and its ambivalence about the status of EU citizens in the EU and UK citizens in the EU.³ The Opposition Labour Party leader Jeremy Corbyn also rejected the deal, calling it a "leap into the dark."⁴

Given the high probability of the deal being rejected, Prime Minister May on 10 December 2018 postponed the UK Parliament vote on Brexit deal, declaring that she would resume talks with EU over the sticking points. According to many observers, it seems that she was angling for any assurance from the EU that the Backstop plan for the Irish border will not be permanent.⁵ However, the European Union leaders insisted the deal, reached in November after lengthy negotiations, was their final offer. On the other hand, a no-confidence vote among the Conservative Members of Parliament was triggered on 12 December 2018 which the Prime Minister survived with 200 votes in her favor, but the win does little to improve her chances of getting her Brexit deal through Parliament.

Alternatives Suggested for Brexit

As Prime Minister Theresa May is struggling to win over the members of Parliament for her Brexit deal, there are several alternatives and that are being debated. Following are the alternatives presented:

Soft Brexit

A “soft” Brexit would involve a less severe break with the EU. In this, the UK would stay close to the EU and retain access to the single market and customs union. The caveat, though, is that the UK would also have to abide by many of the EU laws and regulations that govern the single market and customs union. Since it would no longer be an EU member, the UK would have little or no say in what those rules are or how they’re applied.⁶ For Soft Brexit, two models have been put forward – first is *Norway for Now* as proposed by Tory backbencher Nick Boles. In this, the UK takes on temporary membership of the European Economic Area (EEA) and European Free Trade Association (EFTA) while a future trade deal is negotiated. This membership would allow the UK to remain within a common market area and continue with existing customs arrangements, while pulling out of common agricultural and fishing policies. However, being in this arrangement would also mean that it would have to accept the freedom of movement for EU citizens. Also, the EU and Norway have doubts over this arrangement as it would be “difficult” for existing EFTA members to accept an application by a country which wants to be a member on temporary basis. Second is negotiating *Canada plus-style free trade agreement*, which focuses on the reduction or elimination of goods tariffs. Under an FTA of this kind, the UK would not be in a customs union and hence would be free to negotiate trade deals with other countries. However, the Canada-style deal would not provide the same access currently enjoyed to the EU market for services, especially financial sector and shipments to the union will be checked by EU customs authorities to ensure that they conform to local safety rules, even if no tariffs are due or a backstop arrangement at the Irish border.

Hard Brexit/No Deal Brexit

This is favoured by hard Brexiters, like Jacob Rees-Mogg and John Redwood. In this scenario, the UK envisions a clean break with the EU, and then would try to negotiate a free trade deal with the EU. The UK would gain control over its immigration policy and borders, but this arrangement would also be incredibly disruptive to businesses and the country’s economy. This is because

there would be high tariffs on many goods and exclusion from existing Europe-wide systems in areas like aviation, food safety and credit card payments. But advocates of no deal insist the UK could offer low- or zero-tariff trade to partners and benefit from swift FTAs around the world while saving the £39 billion “divorce” payment to the EU.⁷

Second Referendum

Support for a “people’s vote” has increased in recent weeks, as the likelihood of the Prime Minister winning support for her deal has diminished. Several cabinet ministers believe the government may have to resort to a referendum as a way out of the stalemate in parliament, and several other senior Tories, including Jo Johnson and Sam Gyimah, left the government to campaign for such a vote.⁸ So far, the government has denied drawing up contingency plans for a second referendum and the Prime Minister appears determined to pursue her strategy of seeking legal guarantees on the backstop from the EU leaders.

Managed No Deal Brexit

As “no deal” refers to the UK leaving the EU without a withdrawal agreement, a “managed no deal” is being currently favoured by some Brexit supporters, like Development Secretary Penny Mordaunt, Gavin Williamson and Foreign Secretary Jeremy Hunt. They see it as circumventing the withdrawal agreement which was negotiated with the EU. The “managed” part of the deal is the idea that issues like aviation, border controls and security cooperation can be sorted out by striking individual deals after leaving. Those advocating this approach see trade as the primary issue at stake in Brexit.⁹

Responding to the calls for ‘managed no deal Brexit’, the EU officials have said that it will not seek a “managed no-deal”. Instead, it will take unilateral steps to protect its interests, putting in place certain emergency measures. The commission put forward 14 measures in areas including citizens’ rights, air landing rights and safety, customs, climate change and financial services, will be taken unilaterally by the EU on condition that the UK reciprocates fully.¹⁰ And they will apply for a limited period only – of up to nine months or a year – from the day Britain leaves the EU on March 29, 2019.¹¹

Conclusion

Theresa May in July 2016 had made a somewhat decisive statement after her appointment as Prime Minister: ‘Brexit means Brexit and we are going to make a success of it’. However, this has brought many uncertainties and the only thing that is probably clear is that ‘Brexit means Brexit’¹², or in the words of the Prime Minister: ‘[t]hat means there’s no second referendum; no attempts to sort of stay in the EU by the back door; that we’re actually going to deliver on this’.¹³ What is less clear is how the UK is ‘going to make a success of it’. A chaotic departure from the EU, on one hand, would alienate Scotland and would justify their demand for second referendum, and on the other hand, would raise the fear for hard border in Ireland.

The crux of the problem is - for those who want UK to remain in the European Union, the proposed deal is worse than staying in the bloc under the current terms, because it forces UK to adopt European trading rules without having a say in what they are. For those who want to sever ties, it is worse than a clean split from the EU, because the agreement could trap the country in a regulatory system.¹⁴ However, both sides have failed to suggest any alternatives to the deal and the 100-days countdown to the exit has begun. It is true, that Prime Minister Theresa May's proposed deal is full of compromises but it must be measured against all the alternatives - like snap elections, soft Brexit, hard Brexit, second referendum - which also does not provide any answers.

The next crucial date for the government is 14 January 2019 when the Brexit deal would be discussed and voted on by the Parliament. As the European leaders have refused to re-negotiate the proposed deal, the government for now has no plan B. In UK, the government has already gone into 'no deal' preparations. Downing Street's plan to "ramp up" preparations across all areas of EU trade, gives a clear sign that the Government believes crashing out of European Union is more likely than ever. The 'no deal scenario' would be the worst possible scenario for both the UK and EU because it would be much more disruptive and chaotic.

**Dr. Ankita Dutta, Research Fellow, Indian Council of World Affairs, New Delhi.
Disclaimer: The views expressed are that of the Researcher and not of the Council.*

Endnotes

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