

Resistance

'THE SIEGE OF OUR



DEMOCRACY'

Happy non-EU year? Reporting on Brexit has been so loose and speculative that we can probably find at least one quote to support any conclusion. This issue, with its online **references** annex, aims to provide some clarity and consistency.

Q: How bad is the proposed deal?
There are some good explainers from Dr Lee Rotherham, UKIP and the European Research Group. The hottest was from *Briefings for Brexit*.

✦ The UK will have **no escape clause** from the 'choice' of extended transition or backstop, both imposing EU control. It is an act of faith that the EU which has acted to assert control in such a heavy-handed way, will somehow just let the UK walk away without a further price to pay.

✦ The backstop contradicts the PM's assertion that there will be "no border in the Irish Sea". It creates a tax border between Northern Ireland and the rest of the UK. A "UK Movement Certificate" for goods exported from mainland GB will be required.

Brexit Deal Explained



The government spent a fortune pushing the deal on social media and in papers.

✦ In several areas, the UK or bodies established by it, such as the Northern Ireland Assembly are to be banned from law-making; hardly respecting the Belfast/Good Friday Agreement? Perversely no UK body will be allowed to carry out any checks on farming in N Ireland, including those needed to stop the spread of diseases.

✦ Far from removing the UK from the shadow of the Common Agricultural Policy that the PM admits has failed, the UK will be barred from deciding the level of support for farmers in any extended transition. Instead, the EU will actively require them to be disadvantaged. Under the backstop, agriculture would remain an exclusive EU competence UK-wide after Brexit.

✦ The EU will have almost a free hand to impose new laws during the transition period, even those clearly detrimental to our interests – e.g. an EU Financial Transactions Tax. The UK must transpose certain EU directives on taxation and follow EU rules on business taxes.



By coincidence, the BBC cited President Juncker's insistence that 'If 'the deal' doesn't pass the Commons there will be no deal'. By coincidence, May was reportedly persuaded to call the 2017 general election by Juncker.

✦ The EU can effectively decide our trade policy with no right to be consulted or to vote on any trade remedies (sanctions) it sees fit to take. It may enter into agreements with third countries which give access to our markets, without the UK having reciprocal rights.

✦ The EU will be able to force "non-regression clauses" to deny UK businesses a chance to remove burdensome regulations and thus gain competitive advantage. The EU will also rule over competition issues; hardly a level playing field, when it provides the pitch, the rule book, the referee and other match officials?

✦ Where there is any question over the UK's obligations or whether it has complied with same, the European Court of Justice (ECJ) would be empowered to make a binding judgment. This would seem to shun any rights the UK has in wider global bodies such as the World Trade Organization or the International Civil Aviation Organisation (which have previously over-ruled the EU). Recourse to the UN International Court of Justice could similarly be restricted – the ultimate denial of sovereignty?



The *Leave Means Leave* group is also preparing for a possible referendum

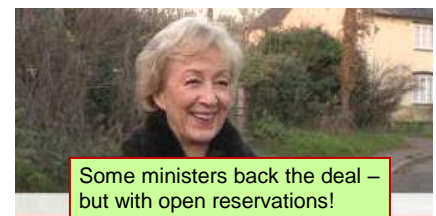
✦ The European Commission can bring any action against the UK under this wide-ranging agreement to the ECJ for up to 4 years after completion of transition. It is typically expected that transition would extend past 2020, either because of the time taken to conclude a free trade agreement, or because it suited the EU to drag its feet in the interest of continuing dominance.

A 2022 completion date could leave the UK exposed until at least 2026, with the threat of arbitrary and even unlimited penalties hanging over our heads for however long it took a case to conclude. Experience shows that over 2 years is possible – leading us up to 2029, around ten years after 'Independence Day'.

✦ During transition, the UK would have to pay, with no say, towards EU defence initiatives, and towards the Galileo/space programme with our suppliers restricted from bidding from contracts. The UK will also be liable for EU spending commitments made in 2021, after the advertised target date for completing transition! Should, as many expect, transition does extend, the UK's contribution and ongoing liabilities will be decided by EU bodies!

This hardly lives up to the PM's hyped 'vision' of taking back control of our laws and our money.

Economics Professor David Blake even asked "Was the Withdrawal Agreement drafted by civil servants seeking to make remaining in the EU look attractive?"





Exposing May's dodgy deal

Q: Has the EU negotiated in good faith?

✦ Negotiations are managed by the European Council – leaders of 27 states, all of which are bound by the UN Charter promoting amicable relations. Interpreted by UN Resolution 2625, this binds them: *"No State may use or encourage the use of economic, political or other types or measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind."*

The negotiations have not respected the UK's sovereignty or territorial integrity, and have failed to meet other commitments, for instance at G20 (2016) on trade liberalisation and the 1995 Barcelona Declaration.

✦ Martin Selmayr is Juncker's top aide at the Commission. Then-Brexit Secretary Dominic Raab was told by British diplomats that Selmayr had boasted that losing Northern Ireland would be the "price" Britain has to pay for Brexit."



TRASHING BRITAIN
Commission President hopeful Manfred Weber MEP (right) with friend

✦ Manfred Weber is leader of the largest group of MEPs who will decide Brexit terms. He declared that Britain must pay *"a demonstrable political price for leaving the EU"*.

Politico.eu reported on a meeting of Weber and Juncker's EPP Group. EU chief negotiator Barnier was "feted as much as the UK was vilified" and repeatedly praised by Weber and other speakers.

DEXEU aide Nick de Bois noted (Nov) that the EU refused to let UK officials engage widely with member states or the Commission to agree steps to minimise disruption should the EU's proposed deal be rejected. (i.e. sensible contingency measures)

Q: What other evidence is there that the deal would be illegal?

✦ On BrexitCentral, Martin Parsons also observed a human rights dimension and. felt that it could be subject to a Judicial Review.

✦ On Conservative Home, Paul Goodman saw making Northern Ireland a part of the EU customs territory as against the Taxation (Cross-Border Trade) Act 2018.

✦ WTO legal precedent is that regional unions such as the EU should "to the greatest possible extent" **avoid creating adverse effects** on the trade of others. WTO Agreement (GATT) trade goals include **"mutually advantageous arrangements** directed to the **substantial reduction** of tariffs and other barriers to trade". The deal would create barriers to trade.

✦ It is interesting that the government has only released its legal advice on the Northern Ireland backstop and not on the wider deal. Despite a 'contempt of Parliament' threat – what has it got to hide?

Daniel Hannan MEP used literary licence in expressing concerns. He saw "a deal that keeps the worst aspects of membership and junks the potential advantages. Instead of staying in the common market but leaving the EU's more federal policies, we are doing the reverse. We propose to leave the common market but keep, as much as any non-member can, the obligations imposed on us by the European Arrest Warrant, the Common Foreign and Security Policy and the rest.

Instead of doing a Switzerland – leaving the Customs Union but retaining chunks of the Single Market – we shall end up staying in the Customs Union but leaving most of the Single Market."

Q: What safeguards on ending the NI backstop are possible?

The backstop is so unpopular that a former minister admitted the deal was heading for a heavy defeat.

Phillip Souta, of law firm Clifford Chance, advises the withdrawal agreement could have added "a protocol or annexe" or "conclusions in the document". However the EU has ruled out changes.

Another possibility is "exchanging letters". International law allows both sides to agree the meaning of words in a treaty. Even if this was possible – and something could well be stage-managed to try to win the vote in Parliament - it would **not** make the interfering backstop or the proposed wider deal at all acceptable! The only real safeguard is a hard-headed deal asserting our rights!!!



Q: What are the implications of 'No Deal'?

✦ Strictly speaking, 'No Deal' is a concept of not reaching *any* form of agreement. Experience has shown that some measures *will* be agreed to keep trade flowing or provide certainty for expats should the EU's proposed 500-page deal fall through.

By cavalierly calling for 'No Deal', some may be falling into a Remoaner trap. Remoaners would love the public to be presented with a false choice of May's deal (unacceptable), 'No Deal' (likely to produce chaos) and staying in the EU (their goal). The option they do not want is a successfully-managed Brexit!

They would love a referendum in which they could claim that we are blinkered types who either couldn't care less about damage to people's jobs and lives or who have no grasp of what Brexit really means. (To defuse this, we could show an alternative that restores sovereignty but has safeguards on practicalities.)



Remoaners use imagery such as freight lorries piled up to scare Brexit voters.

✦ Some refer to 'a managed No Deal' although this is a contradiction. It is more sensible to talk of a 'bare bones deal'. Even if the initial deal is basic, the UK and the EU27 states will need in time to fill various gaps.

With the EU having a trade surplus, £500Bn investments and expats working in the UK, we would in fact have a lot of clout! The BBC's Katya Adler remarked that EU leaders are hell-bent on avoiding "a non-orderly Brexit", Eurospeak for 'No Deal'.



Jacob Rees-Mogg MP would prefer a deal. Lord Lilley talks of 'WTO+++'. WTO Agreements do provide some safeguards, but there are gaps. It's a false argument that if we trade with others on WTO-terms, it would be fine for EU trade (needless tariffs?) We need to think of a customised 'Brit Option' raised in 2016 and add many practical non-trade provisions.



Winning the Battle for Britain

Q: What is a 'managed glide path'?
International Development Secretary Penny Mordaunt has called for this - up to 2 years of 'stand-alone transition period' to stabilise our economy. As reported, it didn't seem well-defined, sounding more like extending negotiations or postponing Brexit?

However Franklin Dehousse, a former EU judge, has criticised the EU over its unbalanced approach. According to international law, he says the EU cannot impose conditions that will make the UK exit impossible, or extremely difficult. The UK 'cannot create conditions that will destabilise the EU while it leaves'. (Presumably vice versa too).

'Good faith' requirements would mean providing a stability period. A transition that respected our sovereignty would benefit business and governments everywhere.



Q: What might happen with the Meaningful Vote in mid-January?

Sir David Natzler, the Clerk of the Commons, has said that the Government can ignore any non-statutory vote by MPs that suggests an alternative Brexit plan. However the Guido website queries to what extent it can ignore 'the will of Parliament'. Speaker John Bercow could choose to hold the PM in contempt, or to be flexible about the amendments in scope of Brexit legislation. So, in theory, Bills could be amended to be conditional upon a second referendum.

Dr Alan Wager sees the government as selling MPs that there is a lack of preparation to deliver the necessary contingency ('No Deal') legislation. The vote becomes an ultimatum to accept May's deal or be responsible for the consequences. The game of chicken intensifies as the clock ticks and an uncompromising EU expects Westminster MPs to blink first.

Legal eagles Craig and Phillipson have written detailed articles on the possibilities, but only see court action if legal procedure is not followed; the courts may ignore the politics.

Some believe that a deal lacking consent would undermine the Belfast (Good Friday) Agreement.

However if the current deal is passed, then the DUP looks set to avenge it by tipping a vote of No Confidence in the government. That could well see the end of May or produce a general election.

Some have queried whether the DUP would risk an election that could make Corbyn PM, or in which they could lose votes from Ulster farmers.

Others ask if a 'No Deal'ish outcome might trigger a referendum on NI leaving the UK. One pundit queries whether the Republic could find an extra 5% of GDP (£11Bn a year) to replace current UK funding for NI.



Q: Is a second referendum likely?

The newspaper claims have been denied (by Lidington and Barwell), The Guardian, the usual PR arm of the Remoaner 'People's Vote' campaign, had to quote "there is not currently a majority in support at Westminster". Economist editor Anne McElvoy doubts if Labour front benchers and MPs in Leave seats would support a second referendum.

The Electoral Commission admits to contingency plans and the Mail reports unnamed Leave campaigners are looking at preparations. However a referendum could increase tension and uncertainty, and is unlikely for time reasons with 12 weeks to go.



Q: Does the public support Brexit or a second referendum?

Polls vary, and there are suspicions of the People's Vote polls by YouGov. (Proven propagandists who have recently claimed 'large support' for ID cards, despite other evidence of the public being sceptical of Big Brother measures like smart meters.)

One poll only found 9% wanted a revote, and a Shropshire group had to admit only 13% locally wanted it. Meanwhile the local Express & Star reader poll found 72% still wanted out. Another 'IQ' poll recorded 57%.



Q: Is there a danger of extended transition?

Yes. It could take 5-6 years for a new Free Trade Agreement. 30 months could be needed for an IT system for the NI backstop, and that's from a date when the government knows what it wants; not straightforward.

Q: Could we later escape from May's deal (if passed)?

Former Bank of England governor Mervyn King believes that the UK will end up terminating it independently. Although there's a potential compensation angle, there's also the question of whether the deal is valid in international law.

A BUSY QUARTER. We have been writing to opinion formers about the illegality of May's deal, and pointing out better alternatives. (Sir Bill Cash, chairman of the EU Scrutiny Committee has separately written of his own reservations.) Our online comment in the Financial Times got 100 responses, many pro!

It was pleasing to see information we supplied (on Selmayr) being used in a Parliamentary Question!

Despite worries about the public being 'Bored on Brexit', Mark Taylor's mailshot letter to various local papers urging an alternative deal was published. We even got a personal thank you from one group editor!

Daniel Kawczynski MP was stunned to discover that Europhile Foreign Secretary Douglas Hurd had waived the UK's rights to war reparations from Germany in 1990, even though their value would be £120 Bn (£3 Trillion now). The reason? To "enable the united Germany to have full sovereignty over its affairs"!!!

References and notes for this issue <http://www.newalliance.org.uk/ref119.htm>

Also links to a Glossary of terms used.



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