



Endorsing Brexit or Preparing for ‘No Deal’? A Belgian Perspective

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What are we to make of the Withdrawal Agreement and the Political Declaration outlining the future relationship between the EU and the UK? This European Policy Brief explores the current state of the Brexit debate from a Belgian perspective. While the Brexit deal deserves to be welcomed, domestic politics continue to act as a bottleneck. Whether or not the Withdrawal Agreement obtains parliamentary approval, Belgian authorities would do well to stay alert and prepare for multiple potential outcomes.

INTRODUCTION

In recent weeks, the Article 50 negotiations on the UK’s departure from the EU have entered the proverbial rapids. On 14 November, UK Prime Minister Theresa May and EU Chief Negotiator Michel Barnier presented a draft withdrawal agreement and outlined the political declaration setting out the framework for the future UK-EU relationship. At a special European Council on 25 November, the Heads of State and Government endorsed both documents. In London, Theresa May faced a number of cabinet resignations and

heavy criticism. Yet before the withdrawal agreement can have binding effect, the approval of the House of Commons as well as from the European Parliament is required. Similarly, the future relationship still needs to be negotiated in detail. This leaves policy-circles in all EU capitals pondering three critical questions: what to make of the proposed agreement, which future scenarios are possible from this point, and in what ways can negative outcomes be mitigated?

From a Belgian perspective, the withdrawal agreement and the accompanying political declaration deserve to be welcomed. While the prospect of Brexit is not in the national interest, the Article 50 negotiations offer a reasonable way forward in order to avoid worst-case outcomes. Fundamentally, the withdrawal agreement respects the democratic choice of the British people to leave EU, whilst safeguarding the rights of EU citizens and the financial interests of the EU-27. Also, the transition that the withdrawal agreement provides for, in combination with the political declaration aiming for “a trading relationship on goods that is as close as possible” (§20), goes a long way in protecting the deep commercial ties that exist between Belgium and the UK.¹ Last but not least, both documents help

preserve the integrity of the single market and the EU's political architecture while leaving open different avenues for maintaining a close economic and security partnership with the UK that is devoid of political integration. Some caution is nonetheless in order. What has been agreed has not yet received parliamentary consent. Important questions with respect to the future relationship remain. Recent developments thus constitute a transitory step rather than a definite outcome.

This European Policy Brief explores the current state of the Brexit debate from a Belgian perspective. The first section explores in what ways the arena of domestic politics continues to be the bottleneck through which Brexit must necessarily unfold. The second section outlines different scenarios in function of the question whether parliamentary consent can be obtained. The third and final section distills a number of policy implications for Belgium. These encompass not only the need for preparedness for multiple outcomes at the national level, but also the relationship between Belgian authorities and the wider European framework.

DOMESTIC POLITICS AS THE BREXIT BOTTLENECK

In keeping with earlier Egmont analysis, it is the domestic political context on both sides of the English Channel that explains the slow pace of Brexit negotiations earlier.² While the *sui generis* nature of the EU translates into a painstaking coordination process amongst the European Commission and the member states, with the resulting limits in terms of political flexibility, the fraught situation of UK domestic politics has been the most responsible for the absence of more substantial progress to date. After all, it was only at the Chequers meeting in July 2018 that the UK government confronted the inevitable trade-offs that leaving the EU would entail.³ As the negotiations now approach their second major moment of truth, both parties are coping with

political headwinds that limit their freedom of action.

On the UK side, the issue of parliamentary approval represents the make-or-brake issue for the proposed Brexit agreement. The government led by Theresa May has now survived two successive waves of resignations by leading Brexiteers (most notably David Davis and Boris Johnson in July, then Dominic Raab and Esther McVey in November). As Brexiteers and Remainers find themselves united in opposition to the withdrawal agreement – albeit for different reasons – it has become most uncertain whether the weakened May government can muster sufficient support in Westminster to get the deal approved, that is to say at least 320 MPs. Theresa May confronts both hardline Brexiteers and committed Remainers within the ranks of her own party, and cannot necessarily rely on much support from the opposition benches.⁴

Before exhorting the British to get on with Brexit, the EU-27 would do well to look in the mirror. The much-vaunted unity amongst the EU-27 is on full display when defending the *acquis*, but when it comes to imagining the future of the European project, the consensus quickly disappears, as for example the debate on the banking union can attest. Paradoxically, this lack of consensus amongst the EU-27 about their common future breeds a degree of intransigence in dealing with the UK. While the political declaration on the future relationship displays some conceptual similarities with the UK White Paper set forth in July 2018 (most notably in the area of Justice and Home Affairs) the EU negotiators have been reluctant to give much ground. This hard-nosed approach may also relate to the time pressure exercised by the March 2019 deadline, which plays to the bargaining advantage of the EU. At the heart of the Brexit talks exists a tension between desire for change and defence of the status quo. Seen in this light, pressing the EU's negotiating advantage to the

maximum carries a significant risk of souring the future relationship.

These domestic political difficulties are unlikely to go away. Even if Theresa May's government manages to garner sufficient parliamentary support, the negotiations on the future relationship will continue to be bedeviled by similar dynamics. Both the UK and the EU are struggling to maintain their internal cohesion and to meet the various demands of their own citizens. Taking into account that the essential interests of the EU with respect to financial matters and the rights of citizens have been protected, considerable forbearance towards Brexit is required in order to safeguard the attraction of the European project.

TO RATIFY OR NOT TO RATIFY, THAT IS THE QUESTION

With the deadline of 29 March 2019 looming, much attention has gone to the notion of preparing for different future outcomes.⁵ With the withdrawal agreement being concluded, this debate has acquired greater clarity and urgency. Future scenarios can be organized into two broad categories, depending on whether the agreed documents survive ratification in the House of Commons and in the European Parliament. In both cases, however, important questions on the future relationship remain to be addressed later on. Preparing for Brexit must therefore proceed from a position of prudence, that is aiming for a UK-EU relationship that is as close as possible, while not discounting the risk of political disruption leading to a 'no deal' outcome. The latter is also reflected in the so-called Contingency Action Plan drawn up by the European Commission.⁶

In the scenarios in which the withdrawal agreement manages to obtain sufficient parliamentary support in London and Strasbourg to obtain legal effect, ratification will not represent the end of the road. It will mean that

the transition arrangement can go into effect on 30 March 2019. This will provide for considerable continuity in the economic relationship until the end of 2020 and perhaps beyond. This would avert major economic disruption while the future relationship is being negotiated. It also postpones the hard trade-offs the UK faces in choosing between market access and regulatory autonomy. The economic partnership referred to in the political declaration foresees a free trade area as well as wider sectoral cooperation, yet this is premised on the existence of "distinct legal orders" which are to be "managed through customs procedures and checks" (§ 21). The exact mandate for negotiating the future economic partnership would constitute the next decisive point: these directives would need to be adopted by the end of March 2019.

In those scenarios in which the proposed withdrawal agreement gets rejected by the House of Commons (or by the European Parliament, although a more remote possibility), the existential choice is back in the UK's camp: to continue with Brexit without a withdrawal agreement providing for an orderly process, or to buy time for alternative outcomes. Given that the 'no deal' option would result in severe political and economic disruption, the most obvious way of avoiding the cliff-edge would be to extend the Article 50 negotiations on a basis of a unanimous decision by the UK and the EU-27. Presumably this can only be done with a good reason, such as another referendum or an alternative form of Brexit, such as EEA membership.⁷ From a Belgian perspective the desire to avoid a disorderly Brexit is paramount.⁸ Should the withdrawal agreement fail to be ratified, the option of extending Article 50 should therefore be embraced as an emergency measure.

As dissimilar as they are in their instantaneous result, all the above scenarios share the important feature of leaving open the long-term characteristics of the UK-EU relationship. In the political declaration, the EU has made the depth

of the future relationship conditional on UK choices that are yet to be made. As such, the withdrawal agreement minimizes economic disruption in the short term, but leaves the fundamental characteristics of the future relationship unaddressed. This makes prudent planning for future scenarios all the more reasonable. To this purpose, various Belgian federal and regional authorities have already launched various measures to mitigate the negative fallout and exploit new opportunities, such as the ‘Brexit Impact Scan’ led by the federal Ministry of Economy or the ‘Brexit Actionplan’ adopted by the Flemish Government.⁹ What remains to be done?

FOUR IMPLICATIONS FOR BELGIUM

Firstly, a **state of alert** continues to be required. Today, a palpable sense of Brexit fatigue is setting in. As Belgium is gearing up for elections in the spring of 2019, political attention risks being scattered. Yet given the Article 50 negotiations are approaching their point of culmination, this is not the time to be distracted. All member states will seek to get their interests reflected in the forthcoming negotiation directives for the economic partnership: this is the critical time for exercising influence. Also, if the withdrawal agreement fails to obtain parliamentary backing, more turbulent European Council deliberations can be expected. This provides a reminder that Belgium can ill-afford a prolonged period under a caretaker government.

Secondly, the **future evolution of UK-EU custom arrangements** constitutes a particular point of attention. Whether a new customs regime phases in on 1 January 2021 (at the end of the agreed transition), or already in 2019 (in the case of ‘no deal’), or at a later date to be defined, the reality is that even if a free trade regime for goods can be negotiated, the customs regime will be in flux. As the political declaration states in § 28, “the extent of the United Kingdom’s commitments on customs and regulatory

cooperation, including with regard to alignment of rules, would be taken into account in the application of related checks and controls. (...) This (...) can lead to *a spectrum of different outcomes for administrative processes as well as checks and controls*” (emphasis added). For Belgium as a logistic hub with deep commercial ties to the UK, this remains a critical issue. A first response concerns the recruitment and training of 141 additional custom officials, yet it is doubtful whether this will suffice.¹⁰

Thirdly, it remains urgent to **diversify foreign trade relationships** with a view to nurturing Belgian economic prosperity beyond Brexit. Even the best EU-UK free trade deal will not substitute for the mutual economic benefits of full membership. Belgium must also brace for potential regulatory hurdles to Belgo-British trade to emerge, most notably in the area of services. The best answer to this challenge is to pursue to the maximum the benefits and opportunities presented by the trade agreements the EU has already concluded with the wider world, such as with the Republic of Korea, Canada, or soon with Japan.

Fourthly, the **Belgian position in the EU** warrants monitoring. Looking back to the point at which preparations for Brexit began, Brexit has become a good example of how the combined muscle of Belgian federal and regional authorities can be pulled together when facing an imminent threat to the common interest of all Belgian citizens. At the same time, concern has grown that the budgetary and institutional neglect of foreign policy has resulted in a progressive loss of Belgian influence in the EU and the wider world.¹¹ The most recent Belgian foreign policy statement unsurprisingly labeled Brexit the first priority of its EU policy.¹² Yet it also notes that the Belgian diplomatic corps faces major staffing challenges and continues to shrink in size. It is hard to see how Belgium’s international ambitions can be upheld without sustained investment and leadership focus.

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ENDNOTES

¹ Council of the EU, ‘Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom’, Brussels, 22 November 2018, XT 21095/18.

² See Alexander Mattelaer, ‘Towards a Belgian Position on Brexit: Actively Reconciling National and European Interests’, Brussels: Egmont Institute (Egmont Paper 99), 24 November 2017, available from: <http://www.egmontinstitute.be/towards-belgian-position-brexit-actively-reconciling-national-european-interests/>.

³ For analysis, see Andrew Duff, ‘Brexit: Beyond the transition’, Brussels: European Policy Centre (Discussion paper), 21 August 2018, available from: http://www.epc.eu/documents/uploads/pub_8720_brexitbeyondthetransition.pdf.

⁴ Cf. e.g. Jeremy Corbyn, ‘This is a bad deal for the country and Labour will oppose it in Parliament’, 25 November 2018, available from <https://twitter.com/jeremycorbyn/status/1066687794842673152>.

⁵ See e.g. the European Commission’s Communication, ‘Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019’, Brussels, 19 July 2018, COM(2018) 556 final.

⁶ European Commission Communication, ‘Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan’, Strasbourg, 13 November 2018, COM(2018) 880 final.

⁷ For insightful speculation, see Camilla Cavendish, ‘There is still the Norway-style alternative to May’s Brexit deal’, *Financial Times*, 23 November 2018.

⁸ Cf. Pieter Timmermans, ‘Brexit: scheiden doet lijden. Een analyse en perspectief om de schade te beperken’, Brussels: Verbond van Belgische Ondernemingen, 21 June 2018, available from: https://www.vbo-feb.be/globalassets/actiedomeinen/europa/actualites-europeennes/brexit-de-steun-voor-het-europese-integratieproject-heropbouwen_2018-06-20/brexit---scheiden-doet-lijden.pdf.

⁹ FPS Economy, ‘Brexit Impact Scan’, <https://brexit-impact-scan.be/>; ‘Brexit Actieplan’, Brussel: Vlaams Departement Buitenlandse Zaken, 16 November 2018, available from: <https://www.fdfa.be/sites/default/files/atoms/files/ACTIEPLAN%20BREXIT%20web.pdf>.

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¹¹ Cf. e.g. this interview with former DG CLIMA Jos Delbeke, ‘België verliest zijn invloed in Europa’, *De Tijd*, 18 November 2018, available from: <https://www.tijd.be/dossier/europareeks/belgie-verliest-zijn-invloed-in-europa/10070710.html>.

¹² Didier Reynders, ‘Algemene Beleidsnota: Buitenlandse Zaken / Note de politique générale: Affaires étrangères’, Brussels: Belgian Parliament, 19 October 2018, doc 54 3296/005. Available from: <http://www.dekamer.be/doc/FLWB/pdf/54/3296/54K3296005.pdf>.



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