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Battle of the bulldogs

Damage control or just control: can the Brexit negotiations bridge the gap between two markedly different visions?

In the UK, Theresa May's 'Brexit' election has all but smothered any real progress on Britain's exit from the EU. Negotiations are expected to begin on 19th June, but with the election campaign dominating the headlines, the UK's negotiating position on our EU departure is no more clearly defined than in January of this year, when Theresa May gave her Lancaster House speech.

On the other side of the Channel, the EU27 have met, talked and hammered out negotiating guidelines with a speed and alacrity that has surprised even Donald Tusk, the EU Council President. At their meeting of 22nd May, the EU Council laid down a set of negotiating guidelines for the European Commission in the first phase of its talks with the UK. Although these contained no surprises, these 'directives' are notably more detailed and practical than the May blueprint.

As far as the agenda is concerned, the EU wants to deal with the 'divorce' - to clear up issues where Brexit creates legal uncertainties – before moving on to the EU's future trade relationship with the UK. Only when the Council sees 'sufficient progress' in the first-phase negotiations will it consider the nitty gritty of a trade deal. It is equally clear that the UK must not get a better deal out of the EU than it had as a member. For the sake of the Union's future, the exit strategy must not be seen to pay.

The issues on both sides of the table can be boiled down to two overarching aims. For May, the point of the negotiations is to gain control: control over borders, policy and law-making, choice of trading partners and deployment of security resources. She has always made clear that if the deal on offer doesn't suit, she'll be prepared to secure that control by abandoning the deal. For the EU, it's about partnership: to ensure a smooth divorce process that doesn't unsettle the EU's external partners and to cooperate on a constructive future partnership with the UK. In itself, this discrepancy in aims creates a power asymmetry that favours the UK. It takes two to co-operate, but only one to walk away.

Michel Barnier, the EU's chief negotiator, maintains that no deal is not an option. Certainly, 'no deal' would expose more vulnerable EU member states to an economic backlash. It would hollow out the EU's external and internal security capacity and credibility on the world stage. A freelance UK would create new uncertainties in external affairs at a time when the EU already has its hands full.

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Over the past months, the UK has turned up the pester power to the max. It has threatened to walk away from the negotiations before they have even begun and it has refused to pay an 'exit charge' if no trade deal is reached. It has dragged its heels over the formal triggering of Article 50, formally launching the Brexit process and has delayed matters even further by calling an unscheduled election. To add injury to insult, it has blocked amendments to the EU's budget even though it is set to leave the club. This has resulted in not a little frustration in Europe. Juncker's ill-judged dinner tales about Theresa May were not so much an attempt to meddle in the UK election campaign as an expression of the exasperation widely felt in European circles.

The EU refuses to be intimidated by such UK berserker tactics and has quietly got on with the Bratislava Process – planning for the future EU27 – and working on its Brexit negotiation plans. So far, Theresa May has failed to press home the UK's power advantage. She wanted talks behind closed doors: the 27 have cemented transparency as one of their guiding principles for negotiation. Likewise, May insisted that the talks should begin with the issue of the UK's trade deal with the EU. This has been quietly but firmly set aside by the EU's own agenda: first 'sufficient progress' on the 'divorce' bill, citizens' rights and the UK-Irish border; then talks on trade. In particular, the EU27 wants a single financial settlement from the UK that honours its share of commitments undertaken as a member and covers the costs of withdrawal. It is looking for reciprocal guarantees on the basis of equal treatment for UK and EU residents, including workers, family members and students. These are to include the right to permanent residence after five years of legal residence. On the UK-Irish border, the EU is determined that the UK withdrawal must not undermine the aims of the Good Friday Agreement and should avoid the creation of a hard border between Northern Ireland and Eire.

While the UK election is an irritant for the EU, the outcome is unlikely to shape negotiations in any meaningful way. Whichever government is in power in Westminster and whoever represents the UK at the negotiations, the fundamental issues and power structures remain the same. The most likely outcomes – a 'hard' Brexit or 'no deal' – will be determined more by the flexibility and negotiating skill of the respective parties than by the size of the UK government majority. Looking ahead to the formal acceptance of any Brexit deal, the difficulties arising from a divided UK cabinet or a narrow government majority pale into insignificance in comparison with the fact that all of the remaining 27 member states will have to endorse the final trade deal, and possibly also an interim 'divorce bill'. It is one thing for the EU27 to readily agree a set of 'red lines' for negotiation, but quite another to achieve this degree of unity when specific measures are in place.

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While the UK election outcome is unlikely to trouble the Brexit negotiations, the reverse is proving true. The spectre of the Brexit negotiations is haunting the UK campaign, to the advantage of the Conservatives. First, against all her previous assurances, May called her snap election in order to secure a mandate for the Brexit negotiations – or so she said. For a new Prime Minister launched to power without the backing of the UK public, the time to call for a mandate would have been when she first took office. This would have given fair warning to our European partners and a residual voice to the UK 'remainers' who made up (almost) half of the referendum voters. Instead, May waited until Brexit was effectively locked in and she was riding so high in the polls that a quick election would be almost guaranteed to consolidate her personal power position. Second, it is no coincidence that as Theresa May's hold on the polls has slipped over who pays for home care of the elderly, she has chosen to warn voters there will be no time for a new government to position itself for the start of the scheduled Brexit talks. Deal or no deal, Mrs May might yet thank Brexit for cementing her leadership for the next five years.



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