

# Still no breakthrough in the Brexit negotiations

*CIB affiliated organisation the Labour Euro Safeguards Campaign (LESC) provides an update on the state of play of the ongoing Future Relationship negotiations between the UK and the EU. This article is taken from LESC's latest bulletin, the full version of which can be downloaded at the end of the article.*

Only a few months ago, coverage of Brexit was the lead story in the media almost every day. Now its place has been taken by Covid-19, but this does not stop important developments on the EU front continuing to take place.

Labour's line at the moment – very sensibly – is to allow current negotiations to proceed, wishing them all success on the basis that criticism will be reserved for failure. The government's line is to implement the mandate given by the electorate in the December 2019 general election and, now that any extension has been ruled out, to get Brexit completed as soon as possible i.e. at the end of December 2020 when the transitional period ends.

With our chief negotiator, David Frost, very much holding the line, the two major sticking points remain the same: fishing, and the extent to which the UK might remain subordinate to EU jurisdiction after the transitional period. There are also important outstanding issues on how the border between Northern Ireland and the Republic will operate. If there is to be an agreement in place in time to take effect on 1 January 2021, therefore, there is still a good deal of ground to be covered to get all the necessary arrangements signed off and in place by the end of 2020.

## **Where are we on fishing?**

The Common Fishing Policy (CFP) always gave the UK a very poor deal in relation to the size and richness of UK waters compared to those of other EU states, some of which have no seaboard at all. These disparities have created a powerful alliance of commercial concerns, particularly in France and Spain, with strong interests in keeping the existing control system in place.

Understandably, the UK position is that, post-Brexit, the UK should have complete control of its surrounding seas on the same basis as every other maritime nation. This means that agreement on EU vessels' access to UK fishing grounds should be subject to annual negotiation, as is the case between the EU and Norway.

At present the fishing industry only makes up a small (roughly 0.1%) element of UK GDP. But it is a totemic issue in the eyes of the public, and while the UK is willing to agree to a reasonable settlement it is in no mind to back down on the principle of sovereignty. It appears that Michel Barnier, the EU's chief negotiator, is aware of this; failure to make concessions will leave EU fishing interests in a weak negotiating position. The EU position on fishing therefore shows some signs of softening.

## **What about the European Court of Justice?**

The other major issue at stake is the extent to which the UK should allow itself to be bound by EU regulations and legislation post-transition period.

Some compliance will take place automatically as a result of market pressure. It makes sense, for example, for the UK to follow EU standards on issues such as product safety – while

reserving the right to be judged on *outcomes* (as opposed to having all production *processes* carried out in accordance with EU regulations).

All trading relationships need some mechanism for resolving disputes, and entail being bound by international agreements and accepting the outcome of arbitration procedures. The EU, however, wants to see more control than this – over issues such as state aid, regulation and competition policy – in ways which would not normally be part of a trade treaty. They were certainly not, for example, components of the EU-Canada CETA trade deal.

## **What is going to happen to the Irish border?**

Boris Johnson resolved the issue which scuppered Theresa May's Withdrawal Agreement by effectively moving the problem of handling trade from the North-South border to the Irish Sea (i.e. between Northern Ireland and mainland Britain). The problem here is that Northern Ireland will be subject to a measure of EU control, which in turn means that if UK standards diverge from those of the EU, Northern Ireland will have to diverge from the rest of the UK.

Irrespective of whether tariff and quota free trade between the UK and Eire continues, there will still have to be new paperwork regimes in place to deal with certificates of origin – so border controls will have to operate somewhere. If there is no deal, tariffs will have to be collected, meaning the problems surrounding management of the border between Britain and Northern Ireland will inevitably become more acute. While in principle technical solutions should be relatively easy to find, the political sensitivities in Northern Ireland make this much more difficult.

## Deal or no deal?

It is still, of course, uncertain as to whether a deal will be done between the UK and the EU which maintains tariff and quota free trade beyond the end of 2020. Given the arguments advanced by both the EU and the UK in favour of free trade agreements generally, it seems logical there should be a deal. From this standpoint, it makes no sense for the UK and the EU to erect even relatively small barriers to trade between themselves, while at the same time attempting to negotiate free trade deals with much more distant and less obvious partners.

In EU affairs, however, politics usually trumps economics. At a time when the benefits of globalisation are being questioned more vigorously than before, it is not clear that conventional economic logic will prevail.

Both the UK and the EU have taken up relatively intransigent positions from which it is going to be difficult for either side to climb down. The UK negotiators in particular – backed by the outcome of the December 2019 general election – believe that on both fishing and the role of the ECJ, right is on their side.

Time is running very short, especially considering the protracted affirmatory process which has to be undertaken to ratify any agreement. All this is complicated by the impact of the coronavirus pandemic, making it more difficult for meetings to be held at which negotiation progress can be made. All the same, the EU has a long tradition of taking difficult negotiations to the wire and coming to a deal at the last minute. This may well be what happens again in this case.

*To download the LESC July 2020 bulletin click here: [LESC bulletin July2020](#)*