

The complexities of Brexit

Having been opposed to to our EEC/EU membership since the early Seventies when Mr. John Selwyn Gummer (as he then was – now Lord Deben) addressed our grain trade conference and told us that the Commonwealth countries wanted nothing more to do with us, I have picked up one or two things along the way. Our family firm bought milk powder from New Zealand and we knew that our friends there were not at all pleased to be losing one of their best customers.

From late 1971 the government consulted our trade association and gave very full, detailed information about what our firm would have to do when we joined the EEC on January 1 1973.

Without that information, we would have been in a total mess. Please see my account in Articles 2 and 3 of “The Miller’s Tale”.

We are due to be out of the EU by the end of March 2019, so the government will have to start giving full, detailed information to all trades quite early in 2018, if businesses are to have any chance of being ready. Government departments such as Customs and Excise will have to be fully informed and equipped too. There appears to be very small chance of this because of the lackadaisical way the government has approached the negotiations, handing the initiative to M. Barnier. It always was unrealistic to expect to complete a wholly new style of comprehensive trade agreement within two years but they appear not even to be able to agree in cabinet what they actually want.

We already have three ministers involved – David Davis, Boris Johnson and Liam Fox plus the new unit which has been set up in the cabinet office, in part by transferring staff from David Davis’s department DExEU .

Robert Peston, who is reckoned to be a very well-informed

reporter, wrote in a Facebook post that

“(Mrs May’s) fatal weakness is that she lacks the authority to settle this argument such that the EU would have a clear understanding of who actually represents the UK and what we want from Brexit.

In the words of a senior member of the cabinet, it is a scandal that there has never been a cabinet discussion about what kind of access we want to the EU’s market..., what kind of regulatory and supervisory regime should then be in place to ensure a level playing field for EU and UK businesses....”

As far as I know, no significant country trades with the EU on World Trade Organisation rules alone. They all have additional agreements on things like customs co-operation, approval of manufacturers and their quality standards etc. All our present arrangements simply cease to exist if we “just walk away”.

To give just one example – British farmers presently export 40% of their lamb to the EU. As an independent country outside the single market without an additional agreement that would be subject to a “sheep meat” tariff of £2,689 per tonne. The price to British farmers would collapse. But the lamb would not even get as far as customs until it had satisfied the “sanitary and phytosanitary” health controls which apply to all food products. The shippers would also have to appoint official importers on the other side – firms or individuals resident in the EU – to be responsible to the authorities for conformity to EU standards and, of course, the payment of inspection charges and tariff. This is not the EU “punishing” us but the simple effect of the rules, if there is no other agreement.

With regard to EEA/EFTA, you may recall that Mr. Cameron went on his “hug a husky” trip and gave out quite a bit of unfavourable information which was misleading and not entirely

correct but still avidly accepted by many from UKIP to extreme Europhiles.

Very few have since taken the trouble to check it. We in CIB have been supporting our fishermen and insisting on the need to assert control over all our fisheries – including the 200 mile Exclusive Economic Zone. Norway and Iceland reserve all their territorial waters and EEZ for their own boats under article 112 of the EEA agreement. Our government is not guaranteeing that to our own fishermen. Iceland was able to impose capital restrictions during the financial crisis and Liechtenstein imposes strict limits on immigration – all under this arrangement.

Mrs. May is proposing a transition/implementation period which involves continued subjection to the European Court of Justice (ECJ). The EEA agreement is preferable, being subject to the EFTA court which can only rule on on “EEA-relevant” matters and has no formal powers of enforcement. If the arrangement does not suit us, we can be out of it by simply giving a year’s notice. Under the ECJ we would be subject not just to the 20% or so of EU legislation affecting trade but to the other 80% which enforces the political project, including things like the European Arrest Warrant..

Given the weakness of the government’s performance, I cannot see it negotiating anything better than the EEA agreement as a basis. As an interim, it has the advantage of being a known quantity and could be subject to agreed amendments (off the peg with alterations rather than “bespoke”). It is a least worst option. I have not heard of anything equally practicable and achievable in the limited time available.

Funnily enough, when we started discussing this possibility some years ago it was fiercely attacked by a man who said it would be enough simply to repeal the European Communities Act 1972. It turned out he was a keen Europhile! I wonder why he was so against it? Perhaps this article Europhiles for a

sovereign Parliament may give us a clue.

When Mrs. May announced the government's approach to Brexit in her Lancaster House speech in January, I felt that she was biting off much more than she could chew. A free trade agreement of the scope and complexity which she proposed seemed just too much to cram into a maximum negotiating period of two years.

But, on reflection, there was not even two years available. Basing things on my experience in a firm approaching entry into the EEC in 1972, it was obvious that both government departments and businesses would need a substantial lead time to get ready for the changeover to the new system. Farming and other industries with long production cycles would need at least a year's notice, in full detail, of what the government intended. Businesses contemplating investment projects would need to know too.

In our CIB newsletter of 29 March 2017, (when Article 50 was triggered), I wrote about our chemicals industry which is a very important part of our exports. I had listened to the proceedings of the Environmental Audit Committee of 7 March.

"GREAT REPEAL BILL MAY SECURE BRITISH EXPORT SUCCESS – OR NOT

The chemicals industry is a key British exporter. For years now it has been working to comply with the EU REACH Regulation (Registration, Evaluation and Authorisation of Chemicals). On 7 March DEFRA told MPs that the Great Repeal Bill (Now the European Union (Withdrawal) Bill) would create an identical British version to be called BREACH so that British-manufactured chemicals could continue to circulate freely in the EU market.

REACH requires companies which produce the same chemical to submit joint dossiers on their product with safety data to the European Chemicals Agency. Many such registrations have been filed at very considerable expense.

Next year will be the deadline for registering specialised low-volume chemicals which will affect thousands of companies. This is creating problems. For instance, should a British manufacturer which only sells in the UK go to the expense of registering with REACH when it might have to do the same a year later with BREACH?

The officials appear to be in a muddle and not to know. DEFRA has promised that the UK "will have a functioning scheme from Day One" but this is not good enough. The UK Chemical Industries Association says there is "no clarity at all" and doubts that such a scheme can be put in place within the two year negotiating period. According to a survey of the industry, one fifth of the UK chemical manufacturers are already planning to establish themselves in another EU country as insurance against the muddle. Whether they stay or go depends on their confidence in the British government.

The government has realised that the British chemical industry must be helped over this non tariff barrier, if it is to continue its success as our second largest single exporter. The highest levels of political and official will are needed to secure the confidence of the industry. The Devil, as always, is in the detail and will not be exorcised by vain repetition of mantras about "WTO Rules". At least it is clear, they know that much!"

Yet now, seven months later the muddle persists. Private Eye reports a setback, even from this unsatisfactory position.-

"MORE on the consequences of Brexit nobody seems to have thought of until now. The European Chemicals Agency has quietly confirmed that more than 6,000 substance registrations filed by UK-based chemical s companies will be "regarded as non-existent" after Brexit.

These registrations are a condition of access to the European Union market, but in the bloc's overarching REACH chemicals

law, there is no legal basis for registrations from countries outside the single market, which the British government is determined to leave.

This puts UK chemicals companies in a bind. As 60 per cent of UK chemicals exports go to the EU, companies will need to switch their registrations to associated companies or agents inside the single market. This will involve new contracts and costs, including payments to the European Chemicals Agency which charges about 1,600 euros to change the identity of a registrant and between 9,000 to 34,000 euros paid for the original registration.

A final deadline for registration of chemicals under REACH falls on 31 May 2018, nine months before Brexit. The deadline applies to low-volume and specialised chemicals. Should UK-based companies bother? Those that sell sufficient volumes into the EU market will need to ensure their registrations continue, but what about UK companies that sell only in the UK or to non EU countries?

In fact, they have no choice. The UK will still be a member of the EU in mid -2018 and companies have a legal obligation to register their substances. Moreover, the British government has said that it will continue after Brexit with a facsimile of REACH, including its registration provisions. So, if UK companies selling only in the UK don't file their EU registrations, when Brexit comes round they would be on the UK market illegally.

The government says it is "working to ensure a smooth transition for the chemical industry as we leave the EU". But time is short and there is still little clarity on the many practical details."

So the authorities have marked time for seven months. I hope that CIB members and supporters – especially those with experience of the industry or living in areas of substantial

chemical manufacture – will contact their MPs to pressure DEFRA to get a move on. There are thousands of similar things which will need to be sorted out quite early in the New Year, if affected firms are to have a chance of making a living and paying their workers after Brexit.

As a post script, readers may be interested in an e-mail exchange in which I was involved:-

From: xxxx@xxx

To xxxx@xxx

Sent: 24/10/2017 11:19:06 GMT Summer Time

Subj: RE: The complexities of Brexit – Campaign for an Independent Britain

THERE NEED NOT BE ANY COMPLEXITIES WHATSOEVER !!!!!!! We have a very good balance of trade and payments surplus with that Mighty Economic Colossus, The United States of America, the largest economy in the World. Nor do we have a trading agreement!!! This endless babble with the EU, by the UK Government is just a load of procrastinating tripe created by a weak leadership who are quaking in their Knickers and Underpants. We also have good trading, and profitable relationships with a good number of other countries around the World.

The fact the people who would be quaking in their underwear if we simply walked away; would be the likes of Merkel, Macron, Barnier and Juncker. Particularly Merkel who is already in the cart following the German elections, having caused an election result that has resulted in the Neo NAZIs getting into the Bundestag for the first time since 1945. As we all know this is the direct result of her insane immigration policies. She would also be very worried about the German car industries employees because of the huge number of

cars that are currently imported into the UK. 1.3 million German car industry employees rely on exports to the UK, in order to keep their jobs.

As we are seeing with other national elections, the four of the above EU and national leaders, plus a number of others, are between them destroying the EU from within. The USSR was destroyed from within, and in that there is a lesson for Juncker and Barnier; POWER!, without accountability, destroys that which it represents. Ken.

Dear Sonya and Ken,

I just remembered this article from PRIVATE EYE which includes BREXIT problems with regard to farming, trade with the USA under EU/US trade agreements and the time needed to adjust to any new arrangements.

“BREXIT is less than 18 months way and yet still no post-Brexit transitional arrangements or EU-UK trade deal is even under discussion, let alone agreed. Given that farming is a long-term business and its viability is currently governed by the EU’s international trade arrangements, will UK farmers continue to commit to the financial risks of food production faced with such uncertainty?

A good example of the difficulties ahead concerns the threat to the UK organic cheese Kingdom Cheddar, which is currently exported to the US .

Kingdom is made from organic milk produced by the 265 UK dairy farmers in the Organic Milk Suppliers Co-operative (OMSCo). In 2015, under US-EU trade arrangements, OMSCo qualified to export its premium organic cheese to the US. It took OMSCo eight years to develop the Kingdom brand, its dairy farmer members having substantially altered their farming practices to meet US standards (including using fewer antibiotics and improving animal welfare).

The arrangement that allows Kingdom to be sold in the US however is between the EU and the US. OMSCo points out that unless an "equivalence" agreement on organic farming standards is signed between the UK and the US "in the next three months", it will stop production of Kingdom at the end of December. OMSCo chairman, Nicholas Saphir says "We cannot take the risk of producing a niche market product that, given its 18 month production(cycle) may not be able to be sold after Brexit".

OMSCo is unique in the UK in exporting high volume premium organic cheese to the US; but given agriculture's long production cycle, all UK food exports face the same risk of disruption, as the clock ticks down".

The article goes on to make the same point about lamb production which I made in "The Complexities of Brexit", pointing out that farmers will have to decide this Autumn whether to retain millions of ewe lambs for breeding or send them for slaughter as fat lambs because their progeny will not be born until Spring 2019, just as Britain leaves the EU which currently takes 40% of British lamb.

I am afraid that neither government nor Brexit campaigners appear to be taking this sort of thing into consideration. All industries with long lead times will have similar problems.

Regards

Edward