

Where do we go now?

Ever since Michel Barnier was appointed to lead the Brexit negotiations for the EU , he has been clear and precise, Unfortunately, neither the UK Government nor the mainstream media have taken the slightest notice in what he is saying.

In his press statement of 20th December 2017, Barnier laid out the procedure the EU wants the negotiations to follow as everyone moves on to so-called “Phase 2”:-

- By October 2018 a withdrawal agreement and a new treaty (to cover the transitional period) should be in place, in order for time to get these through the various bodies by 29th March 2019.
- The old article 50 of TEU allows the negotiation of the withdrawal agreement, which must be completed on time or else there will be no transition period.
- The new treaty will come into force on 30th March 2019, and I suspect it will be the reverse of an Accession treaty, with transitional derogations.
- This is where it gets a little complicated. At 23.01 of 29th March 2019 we will have left the EU and will have become a “third country”. Apart from Banier’s talk of a treaty, no one has provided any other detail, so we have to make a guess as to what will happen next.
- You can’t leave the EU, take up third country status and then carry on as if nothing had happened until 1st. January 2021, when it is possible we will be in the same position as now.
- So the new Treaty which will cover the withdrawal agreement will come in to force in tandem with the EU (Withdrawal) Bill. Together, these two pieces of legislation would, I suspect, enable us to carry on trading, as we do at present, although it will be only

for a fixed period covered by a time-limited transitional derogation.

- On 1st January 2021, the derogation will cease, and either a new EU/UK trade agreement treaty will be created, or added to the new treaty.

It is hard to believe that our own Parliament is going to place us in such a vulnerable dangerous position. The period from 30th March 2019 to 1st January 2021 gives EU-based companies a more than adequate time frame to allow themselves to extricate themselves from the UK. Meanwhile, the UK government will bang on about this “deep and special relationship” and the wonderful trade deal we will get, yet at the same time, the European Commission and Parliament have both made it very clear that we will be treated like any other third country. Unless UK-based companies realise the reality of this, they will hit the buffers unprepared.

Our side cannot even get their terminology correct. “Transitional” is the word the EEC/EU has used since our 1972 Accession Treaty, so why are we talking about an “implementation” period? In the House of Lords Select Committee session of 13th December 2017 asked what the difference was between transition and implementation but was not given an answer.

What are the electorate going to say and do when they find the economy is in decline and EU continuity rights have been established? This is no real Brexit.

Both the Prime Minister and David Davis claim that the plan for a transitional (or implementation) period was first mentioned in the Lancaster House speech of 17th January 2017. Michel Barnier, however, claims it was first raised in the Florence speech and this appears correct.

Mrs May said in Florence, “As I said in my speech at Lancaster

House a period of implementation would be in our mutual interest. That is why I am proposing that there should be such a period after the UK leaves the EU”

But what she said in the Lancaster speech was , “I do not mean that we will seek some form of unlimited transitional status, in which we find ourselves stuck forever in some kind of permanent political purgatory”

Here, Mrs May uses “transitional” the commonly used word of the EU since 1972 for such a situation, so why switch to “implementation” if there is not a difference of meaning? No one seems to have offered us any real answer.

In the Florence speech, she continued, “we believe a phased process of implementation, in which both Britain and the EU institutions and member states prepare for the new arrangements that will exist between us will be in our mutual self-interest.”

This all sounds very confusing, but I believe the key to Mrs May’s thinking remains the words in her Lancaster House speech: **“I want us to have reached an agreement about our future partnership by the time the two-year Article 50 process has concluded”** I take this to mean that she wanted the agreement done and dusted by Brexit day, which we now know will be 29th March 2019. She did not mean that only a withdrawal agreement would be in place by that date, with a trade deal to follow. She continued: **“From that point onwards, we believe a phased process of implementation, in which both Britain and the EU institutions and member states prepare for the new arrangements that will exist between us will be in our mutual self-interest”.**

“For each issue, the time we need to phase-in the new arrangements may differ. Some might be introduced very quickly, some might take longer.”

Her original objectives seem to be the very opposite of the direction in which we are now heading. Because so much time has been wasted, instead of applying for an extension to Article 50 of TEU, where we could have carried on for a further 21 months (although we would not have been out of the EU, which would have been politically unacceptable with a general election looming), the Government has chosen formally to leave the EU at 23.00 hours on 29th March 2017 but then hand over our governance back to the EU, with no representation, and accepting all the institutions of the EU. This is a situation far worse than anything we suffered during our 44 years of membership and all for the hope of a trade deal which still may not be ready to be signed in time.

The worst feature of this proposal is that during those 21 months we would have to accept any new EU legislation that comes into force during those 21 months, even though David Davis was very evasive when questioned about this during the select committee session of 25th October 2017:

*Q89 **Mr Djanogly:** During that period, will the UK have to accept new EU laws made during that period?*

***Mr Davis:** One of the practical points of this, which anybody who has dealt with the European Union knows—as you will have done, I guess—is that it takes two to five years from inception to outcome for laws to make it through the process. Anything that would have any impact during those two years we are talking about will already have been agreed with us in advance. Anything that happens during it will be something for subsequent discussion as to whether we propose to follow it or not. That is where the international arbitration procedure might become important.*

So Mr Davis thinks we will have some choice, However, M. Barnier, made it very clear in his speech of 20th December 2017 there will be no cherry picking; we will have to accept **EVERYTHING** during transition period, including legislation

currently in the pipeline.

This is a rather complex and technical subject, but I hope I have been able to convey just how dangerous this “transitional period” is. My own industry, fishing, would still be stuck with the Common Fisheries Policy but worse, it would not really be Brexit in anything other than name only.