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Why the U.S. Is Right to Back the "Mini-Deal Brexit"

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KEY TAKEAWAYS

The dichotomy between a Brexit governed by outgoing Prime Minister Theresa May's withdrawal agreement and a "no-deal" exit is a false one.

A network of mini-deals among Britain, the EU, and the U.S. is already in place, and this network can be expanded before October 31.

A "mini-deal Brexit" is not simply an alternative to Prime Minister May's withdrawal agreement: It is the superior way forward.

It is widely argued that there are only two ways Britain can exit the European Union: (1) either by accepting outgoing Prime Minister Theresa May's comprehensive withdrawal agreement, or (2) by leaving without a deal at all, the so-called hard Brexit or no-deal option. This dichotomy is false, and no longer exists. The choice is instead between the withdrawal agreement, which the House of Commons has repeatedly and rightly rejected, and the smaller, tailor-made agreements that U.K., EU, and U.S. authorities have already concluded. This is the mini-deal option.

The U.K. is in an excellent position to depart on the basis of these mini-deals. Its economy is strong, and despite efforts to talk down its preparations for leaving, it is now close to being ready for exit on the basis of the agreements that exist today. The U.S. can play a valuable role in completing these preparations in two ways: by continuing to make it clear that it is ready to conclude an ambitious free trade area with the U.K., and by urging both the U.K. and EU authorities to conclude an agreement facilitating free trade after Brexit.

The U.K.'s Strong Economic Position

The uncertainty surrounding Brexit has had little obvious effect on the British economy. In the three months from February to April, pay rose by 3.4 percent before inflation, while unemployment remained at 3.8 percent, the lowest since December 1974. The percentage of the U.K. working-age population in employment is at an all-time high of 76.1 percent, well above the peaks reached in previous expansions.[1]

The impact of U.S. tax reform makes assessing the U.K.'s foreign direct investment position challenging, but in 2017, the U.K. welcomed $101 billion in inward investment, less than in 2016 (when it brought in $196 billion), but more than it did from 2012 to 2015, before the Brexit referendum, when it averaged less than $45 billion.[2] The fact that Citigroup made an offer in February 2019 to buy its London headquarters for £1.2 billion is a vote of confidence in the future of the City of London.

Of course, all of these happy facts are not the result of Brexit. They are the result of the fact that British economic policies have been basically sensible, and of the fact that the rising economic tide in the world is currently lifting all boats, including Britain's. Those fundamental facts will continue to determine Britain's economic future after Brexit. Being in the EU, as Greece has discovered, is no recipe for automatic prosperity, and being out of the EU, as nations around the world know, gives them the freedom to succeed or fail based on the wisdom of their own policies.

The U.K.'s Preparations for Brexit

The overwhelming majority of the U.K.'s preparations for Brexit are not the responsibility of the government. For the private sector, Brexit is simply one more event for which businesses must prepare. The government can make this process easier or harder, but ultimately, as with most events in business life, the success or failure of businesses in adapting to Brexit will rest on their own foresight and entrepreneurial instincts. Given the U.K.'s excellent economic performance to date, there is no reason to be concerned that the British private sector is failing on the job.

The official preparations take several forms. First, the government has had to repatriate EU legislation into British law through statutory instruments (SIs) that are laid before Parliament and subject to its scrutiny. Initially, it was believed that between 800 and 1,000 such SIs would be necessary. But as various measures have been combined, or found unnecessary, the number of SIs has been revised down to fewer than 600. So far, the government has laid 528 Brexit-related SIs before Parliament, and on April 4, the leader of the House of Commons, Andrea Leadsom, said that program of SIs was "almost complete."[3]

Second, the government has had to make a wide variety of plans, covering many areas of government responsibility. Though the opponents of Brexit have attempted to cast doubt on the progress of these plans, their leaks have instead depicted a Britain that is nearly ready to leave. In early June 2019, a leaked memo to the British cabinet dated May 21 noted that while government departments had delivered around 85 percent of their core plans, it needed six months of engagement with the pharmaceutical industry and four months to "improve trader readiness for the new border checks that might be required."[4]

This leak was clearly an effort to damage the campaign of Boris Johnson to be the leader of the Conservative Party and the new Prime Minister, as Johnson has taken a strong stand in favor of exiting the EU on October 31. But as of late May, the U.K. still had more than five months before October 31, and thus, even on the evidence of the cabinet memo, enough time to complete its preparations to leave. As Sir Mark Sedwell, the Cabinet Secretary—Britain's top civil servant—put it recently, the government is in "pretty good shape" to leave the EU, and the efforts so far are among "the most impressive pieces of cross-government work" he has seen.[5]

Of course, the U.K. will never be completely ready to leave: It will always be possible to find minor preparations that have not been perfected. But a standard of perfection is unrealistic. The fact is that today Britain is close to being ready to leave, and the four months it has starting in July are enough time to complete those preparations to a reasonable standard of readiness.

The Existing Mini-Deal Brexit

In discussions over Brexit, the common dichotomy is that Britain can either exit the EU with a deal (in the form of Theresa May's withdrawal agreement) or with no deal at all. This dichotomy is wrong in practice, and, because it makes Brexit sound like a crash into nothingness, the use of the term has been a propaganda boon to those who wish to frustrate the results of the June 2016 referendum by keeping the United Kingdom in the European Union.

But in fact, as analyst Alastair MacMillan has recently emphasized, the term "no deal" is a "complete misnomer."[6] In the weeks and months before the first Brexit deadline on March 29, 2019, U.K. and EU authorities—and U.S. and U.K. authorities—made a wide variety of reciprocal agreements covering areas from health care to the rights of British nationals in EU member states. If the U.K. exits without voting through the comprehensive agreement drafted in November 2018, it will not crash into nothingness. Rather, it will leave with a network of reciprocal agreements in place (including an important one between the U.S. and Britain negotiated in February on derivatives, which "removes concern of turmoil if Britain leaves the EU without an agreement.")[7]

Much the same is true of Britain's international trade. Approximately 11 percent of Britain's trade is covered by existing EU trade agreements. However, these agreements take many forms, including the EU's mutual recognition agreements with the U.S. The U.K. has so far signed, or agreed in principle, trade agreements with 35 countries, including mutual recognition agreements with Australia, New Zealand, and the United States, and trade agreements with Chile, Colombia, Norway, South Korea, and Switzerland.

The share of U.K. trade with countries with which it has not yet signed an agreement is only 3.82 percent, of which 1.43 percent is with Canada, 0.75 percent is with the Southern Africa Customs Union, and 0.34 percent is with Mexico. The only other significant trading partners not covered by an agreement are Turkey, with 1.39 percent of U.K. trade, and Japan, with 2.2 percent, the latter of which the U.K. was trading with on a Word Trade Organization (WTO) basis until February 2019. In short, even assuming that no new agreements are announced by the end of October, only about 5 percent of Britain's non-EU trade will not be covered by new agreements and will have to adapt to being conducted on a WTO basis.[8]

Finally, there is the issue of the Irish border. The withdrawal agreement has been justified on the grounds that it is the only way to prevent the creation of a hard border between Ireland and Northern Ireland. This is false. The U.K. has already announced that it will unilaterally waive all checks at the border in the event that Britain exits the EU without the withdrawal agreement.[9] The burden of avoiding a hard border therefore rests entirely on the EU. The EU has not wanted to acknowledge that it is possible to avoid such a border, because that is what justifies the withdrawal agreement that the EU wants and Britain has rejected.[10]

In fact, the EU already has provisions for a "local border traffic regime," which

> has been established for border residents who frequently need to cross the external borders of the Union. It enables EU States [such as Ireland] to conclude bilateral agreements with their neighbouring non-EU countries [such as Britain] so that the border residents can travel back and forth without a Schengen visa and, therefore, without any impediment to trade, social and cultural interchange in the region concerned.[11]

If this approach is acceptable between Schengen countries—which do not include Ireland—and nations outside the EU, then it should be acceptable between Ireland and Britain. Reports that the EU is in fact working on contingency plans to use technological solutions to regulate the cross-border trade after Brexit confirm that the problem of the Irish border is in fact perfectly amenable to reasonable solutions, if the EU cares to adopt them.[12]

The Brexit mini-deals are a better approach to dealing with the challenges of Brexit than Prime Minister May's withdrawal agreement. Mini-deals can be tailored to particular problems by those who know them best. They can be practical, and they can be re-opened if need be, whereas the withdrawal agreement is fundamentally incapable of being fixed. Given its size, and the inherent problems that led to it being rejected three times by historic margins in the House of Commons, the withdrawal agreement is not simply a bad deal: It is a flawed approach to the issues raised by Brexit, and its rejection by the Commons was an act of governing wisdom. The existing Brexit mini-deals are not simply an alternative to the withdrawal agreement: They are the superior way forward.

What the U.S. Should Do

The U.S should take two steps to encourage both Britain and the EU to accept that Brexit will occur on the basis of mini-deals, and to build on the mini-deals that already exist. The U.S. should:

1. **Continue to back Brexit by emphasizing Administration support for a major U.S.–U.K. trade deal.** During President Trump's recent state visit to the United Kingdom, both the President and the Prime Minister emphasized their intention to negotiate an "ambitious" U.S.–U.K. free trade deal.[13] The President should set a goal of signing such a trade deal in 2020 to give this project a sense of urgency and immediacy.

2. **Support continued free trade between the U.K. and the EU.** The missing element in the existing Brexit mini-deals is an agreement between the U.K. and the EU to use the 1947 General Agreement on Tariffs and Trade's Article 24 to allow trade to continue between the U.K. and the EU on a free trade basis. Such an agreement would be a short, bare-bones one that would be in force until a future and more comprehensive agreement took its place.[14] All sides, including the U.S., would benefit from avoiding the disruption to trade that would ensue if the EU imposed tariffs on U.K. trade post-Brexit.[15]

Conclusion

The U.K. is in an excellent position to exit the EU on October 31, 2019, without accepting the formal withdrawal agreement, which is what will happen unless Parliament votes through alternative arrangements before that date. But refusing to accept the withdrawal agreement does not mean that Britain will exit without a deal. Rather, it will exit into an existing network of mini-deals. To the extent that British preparations for exit are not complete, the British government should use the four months between now and the end of October to complete its internal preparations, to press ahead with an ambitious U.S.–U.K. free trade deal, to roll over as many EU trade agreements as possible (with a priority focus on Canada, South Africa, and Mexico), and to negotiate additional mini-deals with the EU to build out the existing network.

One such valuable mini-deal that the U.K. should prioritize, and that the U.S. should back, would be an agreement to continue tariff-free trade with the EU after Brexit. If the EU does not accept such an agreement, it will be responsible for the significant new burdens of protectionism that it will add to its own economy and consumers after Brexit takes place. The U.S. can further ease the path of Brexit, and play a constructive role in advancing free trade, by promoting as a top priority the ambitious U.S.–U.K. free trade deal to which both nations are already committed.

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