

11 Mar 2021 03:16 EST

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More escalation, deterioration, likely in the short-term

- The UK's decision to unilaterally postpone the implementation of new trade arrangements between Great Britain and Northern Ireland has led many in Brussels to conclude that British Prime Minister Boris Johnson's ultimate objective is to demonstrate that the Northern Ireland protocol is unworkable.
- The EU will now respond legally and politically in the coming days; still, non-ratification of the trade deal by the European Parliament, the suspension of parts of the agreement or "cross-retaliatory" tariffs remain unlikely for now.
- The new disagreement between the two sides reflects the fundamental lack of trust that has accumulated since 2016 and as such, is unlikely to be resolved quickly; it will also make building a more positive UK-EU agenda, such as on services trade or foreign policy co-operation, harder to achieve.

Relations between the UK and EU continue to deteriorate at breakneck speed, following David Frost's decision last week to unilaterally postpone the implementation of new trade arrangements between Great Britain and Northern Ireland. The UK government argues that red tape caused by the trade border in the Irish Sea has created shortages in the province's supermarkets, and that it had to provide certainty for business. (Ministers will likely further delay introducing checks on EU imports into the UK, though this would not be a concession to Brussels but aimed at avoiding food shortages in UK shops and restaurants).

Brussels and EU capitals are now likely to react legally and politically over the Northern Ireland Protocol in the coming days.

The nuclear options—of the European Parliament not ratifying

the treaty, parts of it being suspended, or “cross-retaliatory” tariffs remain unlikely. However, an agreement between the two sides is equally hard to see. It’s therefore more likely that the situation will get worse before a negotiated compromise can be reached—at least in the short-term.

This is partly because of the “accumulated mistrust” that has built up over the last four and a half years—and which now informs the way each side interprets the other’s actions. Hope of a more “positive agenda” in the near future are also shot. Although the EU’s institutions and member states will never say it out loud, the likelihood that the EU will agree on even a limited memorandum of understanding on financial services trade (“equivalence” is not on the table), let alone a deal on broader services trade, is less likely in these circumstances.

In Brussels, senior officials argue that the Joint Committee— established to address the challenges involved in implementing the Withdrawal Agreement—alongside the European Commission, were close to agreeing an extension of the grace period that would have enabled the government to continue disapplying checks, in this case, on agri-food products going from Great Britain to Northern Ireland, for several more months.

Senior UK officials disagree a solution was in the offing. They argue that the temporary flexibility that was agreed last year was done quietly with the Commission; that created a degree of mistrust between EU capitals and Brussels that made additional flexibility now much more difficult to secure. Yet the shortages of food in Northern Irish supermarkets was an immediate political problem that required instant resolution. Frost’s move, UK officials accept, is not a long-term solution.

But the two sides don’t agree on what is. The EU thinks the UK should simply agree to follow its sanitary and phytosanitary (SPS) rules and regulations—to reduce the risk that animal and/or plant diseases are introduced into the EU by goods coming from Great Britain. If not, the government should articulate a timeframe in which it will implement border controls.

However, the UK deliberately chose not to seek a deal on SPS in its EU trade agreement precisely because it wanted the freedom to diverge in the future. “Trade deals often include agricultural produce, and Number 10 felt there was no reason to tie itself down in this regard”, says one senior UK official with knowledge of British Prime Minister Boris Johnson’s thinking. This is especially as the UK continues to have the same SPS standards as the EU—at least for now.

In the UK’s view, a pragmatic solution exists—one that involves “lots of evidence and data” provided to the EU to demonstrate that the UK is still in conformity with its SPS rules; this would help to limit the scope and frequency of checks, and disruptions to supply chains (and supermarkets) that are being experienced as a result. “We can’t assume that hardline member states like France will understand that there are not massive trade flows from the UK into Northern Ireland and then into Ireland and the broader EU Single Market. We have to show it and we need to tell that story” says one UK official involved in the discussions.

Disagreement over the technical fixes to the problems of the GB-NI border therefore proxy the much bigger, philosophical fight that has defined Brexit since 2016—sovereignty for the UK; the integrity of the Single Market for the EU. The EU believes the UK’s fixation on sovereignty remains too ideological and overdone; the UK that the EU’s concerns that Northern Ireland becomes a backdoor for cheap British products to infiltrate the Single Market are massively exaggerated (“All this about the theoretical possibility of a sausage ending up in an EU supermarket” in the words of one UK official). “Signing up” to EU rules would remain a hard sell for Johnson to Brexiteer MPs and some voters.

The recent breakdown is now sponsoring a view within the EU that Johnson, using Frost, wants to create a situation where he can demonstrate that the protocol is unworkable. This will create a context where the government can either push for its renegotiation, hope to force a conversation between Dublin and Brussels about standing up a light touch, technological border on the island of

Ireland, or else convince the EU that the checks are largely unnecessary. “This will then set a precedent for other crossings, like Calais,” says a spooked senior EU official. “They are trying to create a situation in which they can extract from us what they could not secure in the negotiations, but hope to achieve illegally.”

The EU also believes that the government’s tough stance is serving a political and electoral objective for the Tory party—bolstering the Conservative party’s polling with its base and new “red wall” voters, and leaving Labour’s Keir Starmer largely stuck on the Europe question. “Frost is the last export of Bannionism”, says one senior EU official, referring to Donald Trump’s former chief strategist Steve Bannon. They also suggest Frost’s bombastic approach has served his personal career interests well; as such he has little reason to moderate his approach (a recent survey of Conservative Party members had Frost, the Cabinet’s newest member, as its fourth most popular figure). Other senior UK voices, whether Michael Gove or Lindsay Appleby, the UK’s new Ambassador to Brussels, are seen as carrying much less clout.

Brussels also suspects London is cynically seeking to weaponize the Democratic Unionist Party (DUP), and is happy for a more radicalised Arlene Foster to run on a platform of scraping the protocol in next year’s Northern Irish Assembly elections, to afford Downing Street more leverage in its negotiations with the EU. (The assembly will vote on whether to keep the protocol).

But the story is of course far from one sided. The UK’s counter is four-fold. First, that the EU fails to appreciate the sensitivities of Northern Ireland—something aptly demonstrated by the Commission’s blunder over its hastily withdrawn plan to use Article 16 to ban vaccine exports from Ireland to Northern Ireland. “The Article 16 blunder said to DUP that this is about the Single Market, not the North-South border”, says one UK official. The EU thinks the problem is solved, but the unionists have been radicalised.” UK ministers believe the EU does not understand such sensitivities. Indeed, both sides accuse each other of playing with fire because the peace process remains fragile; both are lobbying the Biden administration, knowing the US President would likely intervene if the UK-EU dispute over the province deepens.

Second, that the EU is overplaying personalities—the idea that Frost is harder than Michael Gove—to deflect hard questions about the way in which the EU works vis-à-vis third countries. “For third countries, it’s always the lowest common denominator that prevails,” says another senior UK official. “It only takes one hardline member state—and that then becomes the position. The EU creates a stereotype and that is all the member states then ever see.” This has made it harder for the UK to convince the EU of the very real challenges the government faces in implementing the protocol.

Third, UK officials also question the idea there are substantial electoral gains from a tough approach to Europe. “Johnson is a sufficiently savvy political operator that he doesn’t need a hackneyed re-run of the same EU story year after year” says one senior UK official. “He’s on vaccines and build back better”. Many across Whitehall share this view, that Johnson is keen to move the narrative on more quickly from EU issues.

Fourth and perhaps most importantly, the UK argue the EU is far from the innocent party it is so often portrayed. “Are their lines factual, correct, and meant to foster a closer relationship?” asks one bemused senior UK official, citing European Council President Charles Michel’s factually incorrect assertion about UK vaccine export bans; French President Emmanuel Macron’s intervention about the safety of the Oxford/AstraZeneca vaccine; and in the older days, Donald Tusk’s twitter channel. As another official argues, “There is no one in Brussels that wishes the UK well with its Brexit. Theresa May said she wanted a deep and special relationship with the EU, and they humiliated her. The French said May’s Chequers agreement would be worse for them than no deal”, the official continues: “You could be forgiven for wondering why Johnson and Frost have concluded that they have to play tough. You could be forgiven for thinking that the EU has ended up with the relationship it deserves.”

At a time when they struggle to agree on much, UK and EU politicians and their advisers are on the

same page on one point: their relationship is going to get worse before it can get better.

Happy to discuss

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