

Deal or no deal on the Protocol

It is difficult to write about a deal where there is no text, and where the UK government assures us there is currently no deal over the Northern Ireland Protocol. Many of us would be delighted if there is an agreement to free the flow of goods within the UK to and from NI to GB, and even happier if there is an agreement to lift the way the EU wishes to impose its laws on NI that do not apply in the rest of the UK. So what are we to make of the fevered speculation that there is a deal in the offing?

The first scenario is I am afraid the least likely. In this the EU has at last realised its demands to have a border between GB and NI, and to require NI obeys all new EU laws does violate the first 3 Articles of the Protocol itself and prevents Unionists from returning to Stormont. They have kept their decision to make a revision to their demands secret whilst they get buy in, but we will be pleasantly surprised and will be able to welcome the new deal when announced. It will remove the democratic deficit, uphold the UK internal market and will look to the UK to ensure compliant goods only flow to the EU across the invisible Irish land border. Mutual enforcement where the UK enforces EU standards on all exports to the EU and vice versa has always been the sensible outcome. There is then no need for a physical border into NI nor into the EU. The UK has never proposed a new physical border into the UK from the Republic.

The second scenario is the EU and UK are close to having agreement on how the UK should manage an internal border, with relaxations for the bulk of goods which are internal trade within the UK. Without any agreement on EU laws and their enforcement by the EU's own court it is difficult to see how this could persuade the Unionists back into power sharing. Were the UK government to press ahead with this it could get it through Parliament because Labour has said it will support more or less any Agreement, but it will not resolve the larger Good Friday Agreement issues with the Unionists. It also leaves open how much electronic paperwork companies would need to produce to satisfy EU demands for data on internal UK trade and whether this will still impede our internal market.

The third scenario is there are still genuine talks underway concerning the democratic deficit issues but the EU is reluctant to move. All the time the EU insists on imposing its laws and ECJ judgements on NI the UK government should decline to settle, knowing it will not sort out the Good Friday matters.

The Prime Minister's tasks

As the PM takes up arms against a sea of troubles it is a good idea to determine which are the battles to fight and where his powers as PM can make the most difference. His five aims set out clearly at the beginning of the year were a good start.

The PM is with all Conservative MPs the custodian of the 2019 Manifesto. The central theme was to get Brexit done. The millions of Brexit voters who backed us did not just mean to complete our tortured exit, but to follow up to secure some Brexit wins. There is still much to do to deliver.

The EU has behaved badly to Northern Ireland, distorting the meaning of the Protocol to enforce laws on NI against its will, to impede GB to NI trade and to refuse to respect the UK internal market and sovereignty of our country clearly set out in the Agreement. Worse still, the EU has undermined Stormont and the Good Friday agreement. There can be no compromise on these central constitutional matters. Unionists expect the UK to stand up for their interests as the EU does for the Republic. The PM should be friendly but firm with the EU and hasten the passage of our NI legislation. We are quite entitled to legislate an answer all the time the EU refuses to understand why current arrangements subvert the peace agreement.

The PM's first priority he told us is to stop illegal migration by small boats across the Channel. We now have the freedoms to legislate and to instruct our courts and border authority accordingly. The legislation should be clear and targeted on the specific issue of illegal arrivals and can include a clause telling the courts that the Act overrides any other laws and rules that courts might like to apply, including any European Court of Human Rights intervention. We held out against votes for prisoners without leaving the ECHR and can exempt ourselves from any ECHR attempt to impose illegal travellers on us.

His second priority must be to get growth back into the economy. His wish to get borrowing down in five years time is best advanced by getting growth, as growth brings higher revenues and less benefit spending. His wish to get inflation down will be assisted by more investment in additional supply of things like energy and food which have fuelled the inflation.

His third priority is to cut NHS waiting lists and waiting times. That requires better management of the substantial extra money and additional people committed to the NHS in the last three years.

Labour's devolution model fuelled the SNP

At the end of the last century Labour pushed through a devolved Parliament for Scotland and a devolved Assembly for Wales. They did so claiming it would end the growth of the emerging nationalist parties in both parts of the UK.

Instead in Scotland it gave a platform and more grievance to the modest minority campaigning for independence twenty five years ago, swelling their support and leading to an SNP government in Edinburgh always pressing for more powers and for full independence. Under Nicola Sturgeon the SNP became a very successful vote winning party, drawing the support of a much enlarged minority that did want an independent Scotland and adding to it others who thought it a good idea to have an aggressive Scottish government seeking to maximise money and support from the rest of the UK under threat of leaving.

It led directly to the need for an independence referendum, which the SNP said they would regard as a once in a generation opportunity. No sooner had they lost and they were looking for reasons to try again, wanting to commit Scotland to permanent uncertainties and painful divisions as long as they lacked a majority for their cause. Nicola Sturgeon managed to keep in office whilst fuelling the divisions,. She did not seek to use the governing powers she enjoyed to improve Scottish services, but as a battering ram against the Union. During covid she gained advance information on the views and understandings of the Union government, to always go earlier and for more lockdown than the rest of the country. There was no wish to work collaboratively at a time of public health danger common to all when the rest of the UK wished to help and share with Scotland.

Now she has resigned it is possible to have a more informed debate about why the Scottish devolved powers in crucial areas like health and education have not been used to make improvements in services and management, despite the more generous money allocations sent by the Union Parliament. It is possible to rethink the collision course Nicola Sturgeon was designing to raise the issue of independence again, despite losing a court case over another referendum. Her party can rethink its views in letting rapists serve sentences in women's prisons which proved to be a provocation too far even for the very tolerant UK government.

Meanwhile our Union is also threatened in Northern Ireland by the EU. Fresh from its success in standing up at last to the SNP by seeking to override its unwise law, the government of the UK now needs to complete the passage of tis legislation to restore UK government of Northern Ireland.

My Article in the Telegraph

The Unionist community in Northern Ireland has been ignored and angered by the actions and words of the European Union. The Northern Ireland Protocol has as its first Article a statement that the Good Friday or Belfast Agreement takes precedence over the Protocol. It states that the constitutional status of Northern Ireland is to be upheld and all has to proceed based on the principle of consent. The hard won peace in 1998 established Stormont as a devolved Assembly where all decisions were to be agreed between the two main communities, Republican and Unionist.

The EU's insistence that all new laws passed by the EU apply to Northern Ireland breaks that promise of consent. Northern Ireland sends no Ministers to the Council to frame the laws and has no MEPs in the Parliament to approve them. The European Court of Justice is the ultimate authority on how those laws are interpreted and enforced. For this reason all Unionist parties in Northern Ireland refuse to return to Stormont to govern in agreement with their Republican colleagues.

The EU wishes to portray this dispute and the rest of Brexit as a matter of trade, when it is primarily a matter of who governs. There are various ways of smoothing the passage of goods between Great Britain, Northern Ireland and the Republic of Ireland that do not require EU laws to apply to Northern Ireland and do not end up in the European Court of Justice. It is the EU's refusal to explore such options that have left this issue unresolved for so long. The EU should return to the negotiating table willing to accept Article 1 of the Protocol and the Articles of the Good Friday Agreement, and to see they are incompatible with Northern Ireland having to accept EU law and the EU Court.

The UK and the EU have both said they do not want new physical border controls. There is no need for them. The EU now seems to want to walk away from this promise, by proposing new border posts and controls between GB and Northern Ireland, whilst respecting the wish not to have such further controls between NI and the Republic. It is neither sensible nor fair to suggest creating a complex internal border within the UK to avoid one with the EU. The UK would happily make it an offence to seek to send unwanted or non compliant goods to the Republic from Northern Ireland, and would use full state powers to enforce against smuggling. Checks needed on GB to NI trade can as now take place at the premises of the company despatching the goods from GB or at the premises of the buyer in NI. All will be covered by the usual standards, enforcement and electronic paperwork that is used to regulate internal trade in GB. Trusted trader schemes work well. Surely a UK supermarket chain which can send sausages to Liverpool without a border check at the city edge can also be trusted to send the same sausages to Belfast for its store there?

The UK government has said it cannot accept proposals which do not result in the restoration of Stormont. As Unionists have made clear, it will require a sensible fix on trade issues which end the idea that Northern Ireland is

governed by EU laws and is still under some influence or jurisdiction of the European Court of Justice. The EU/UK trade agreement has reference to an independent arbitrator for disputes, not to the ECJ. That is what is needed as a long stop in issues of UK to EU trade across the invisible Northern Irish border. People in Northern Ireland will follow EU rules and requirements for anything they export to the Republic as all countries selling into the EU need to do, but not for the rest of their business activity.

More Tax offsets are not as good as a lower rate

Those who battle Treasury orthodoxy of no tax cuts often end up going for a feeble compromise of allowing more tax offsets, tax free allowances and temporary concessions. These are well intentioned and marginally better than unrelieved high taxes, but they will not provide the big boost to investment we need.

A business looking at an investment is of course worried about the up front costs and cash outflows when making the initial commitment. An investment allowance allowing the business to pay less business tax in the year or two when it is building the new factory can help with that initial cash outlay. What the up front allowance cannot do is to make the figures for the rewards on the investment over the life of the project look much better to justify going ahead in the first place. An investment when our business tax rate is 19% looks a lot better over 25 years than if you have to put a 26% tax rate in. An investment earning £100 m of profits over 25 years will pay £7m or 37% more tax at 26% than at 19%.

Worse still is many company investors will look at where best to place their next factory or office from a list of countries ranked by their headline tax rate. Where the UK at 19% was in a decent place on the table, at 26% it is an also ran. Many lists will not include countries with a rate that high. The company with a possible £100 m of profits will stay and pay £19m but may well not hang around to pay £26m.

The Treasury needs urgently to rethink its policies to attract and sustain investment in the UK. 26% does not hack it, with or without super allowances at the beginning.