Where are we with the economics of Brexit?

By Tom Hayes, BEERG

*"Five hour, Covid-spreading queues at passport control, empty supermarket shelves, mountainous red tape when trading with Europe, big increases in business and personal taxes, including – unforgivably – 50 per cent marginal rates of taxation among some of the relatively young when taking account of student loan repayments, another sticking plaster solution to rising health and social care costs, more highly paid bureaucrats to "manage" the extra spending, apparent impotence in the face of a renewed onslaught of illegal migration – welcome to "Global Britain"." **here***

Not my words, but those of Jeremy Warner, an influential columnist with the Brexit supporting *Daily Telegraph.* Brexit, apparently, is not delivering the "Britannia Unchained" that was promised.

"*Where's our Singapore-on-Thames? Brexit backers feel let down by high-tax PM*" runs a **headline** in the *Sunday Times.*

Brexit does not appear to be going to plan. But it can't because there never was a plan. Or at least a plan that was made public. And, you have to ask, is it actually serving up any benefits for anyone in the UK?

Brexit is legally done

For all that, Brexit is done.

The UK has legally quit the EU, even if it has left Northern Ireland partially behind. And Scotland appears to want to be left fully behind. The Scottish government is demanding a second independence referendum so it can leave "Brexit Britain" and re-join the EU.

What is done cannot be easily undone. It is not open to the UK to say to the EU: "Sorry, we seem to have got that wrong. Can we cancel our resignation?" That was a possibility until the moment it actually left on January 31, 2020. But that moment has passed.

The UK could decide to re-join. But that is unlikely to happen anytime soon. And even if it did apply to re-join, the re-entry negotiations would be long and very tortuous. There are no special deals on offer to ex-members. Would the people of the UK be willing to give up the pound to join the euro?

Actually, would the EU want a disgruntled and quarrelsome UK back as a member? Questionable.

The economic impact

While legal Brexit may have been done, the economic impact Brexit is only beginning, as Warner notes.

Which is not to say that Brexit is not already biting. It is, and hard. But the depth of the bite is not at all obvious because there is “visible Brexit” and “invisible Brexit”.

“Visible Brexit” is about border controls, whether for goods or people. Border controls are visible because they are physical. You can get stopped. And searched. And rejected. And turned back. They make life unpleasant. For both travellers and businesses.

On January 1 last, the first day the UK was completely outside the EU’s Single Market and Customs Union after the end of the “transition period”, the EU immediately imposed the full panoply of border controls on manufactured goods and consumable produce (food, drink, and seafood) being exported from the UK to the EU. And people. The UK also imposed controls on people. But not goods.

The UK wanted to become a “third-country”, a country outside the EU’s borders. These borders were always there. They are not new. It is just that before Brexit the UK was inside these borders. Now it was outside. Maybe before Brexit people in the UK simply did not give enough thought to what being outside the EU’s borders would mean.

If British people think that the “new” EU borders are unnecessarily bureaucratic, try bringing an apple into Australia.

Because of the new borders it is UK business that has taken the hit on exports to the EU, and on business within the UK itself:

- See these figures from CER on the loss to the British economy from Brexit here
- See this September 12, 2021, report from Luke McGee an CNN: here
- Britain’s goods trade deficit hit a seven-month high in July amid a slowdown in exports to the European Union. The change was driven by a £900 million, or 6.5 per cent, fall in goods exports to the EU. Exports to non-EU countries increased by £700 million, or 5 per cent, but the slump in trade with the European bloc drove total exports down by £300 million, or 1 per cent. Imports from the EU fell by £100 million, or 0.5 per cent, driving down total imports by £100 million, or 0.3 per cent, during the month. *Sunday Times 10/September/2021*
- Around 50% of UK exports go to EU countries. It is difficult to find alternative markets for such volumes, especially in the short to medium term. If you can’t export to Europe, which until January of this year was effectively your home market, just where do you export to? A German, French or Irish company faced with UK border bureaucracy can find alternative outlets with the EU single market. It you can’t export to London, there is always Lyon, Lisbon, or Leipzig.
- “The trade barriers … added an extra £600m in costs to British importers since January, it has emerged. Customs duties paid by UK businesses shot up from £1.6bn in the first half of last year to a record £2.2bn in the same period this year, according to an analysis of HMRC data.” here
- The table below, taken from a London School of Economics web post ***Dancing in the dark***: ***What Brexit means for UK-EU trade and UK industry*** highlights the range of issues that UK exporters now have to deal with when trading with the EU

TCA commitments	Effects on exporters
Rules of Origin (RoO)	To qualify for tariff-free exports, a minimum share of the value added must be produced in the UK or the EU.
Product marking and product standards	The UKCA product mark (standard) will be different from the CE mark. Imports from the UK will depend on the EU's acceptance of the UKCA mark for the product as 'equivalent'. If the EU does not recognise the UKCA mark as such, products exported to the EU will have to respect EU norms. For these goods, unilateral changes in regulations, as 'take back control' implies, are therefore impossible without loss of export markets in the EU.
Customs regulations and VAT	All goods exported and imported have to respect customs requirements, such as import/export declarations, which can dramatically increase the red tape that companies face and increases prices for consumers (frequently up to €20 per declaration). While the British VAT is waived for EU buyers, they are now invoiced their national VAT rates on all UK orders.
Tariffs	The UK/EU free trade agreement only covers blanket provisions for tariff- and quota-free trade of goods under certain conditions such as the RoO requirements mentioned earlier; else tariffs apply.
Adherence to environmental and labour standards	The UK is committed to maintaining labour and environmental standards that are broadly equivalent to those of the EU. Wages and working conditions should also be considered broadly equivalent. In all these areas, the EU needs to formally approve the equivalence to allow tariff-free exports into the bloc.
Sanitary and phytosanitary (SPS) regulations	All living animals and plants as well as products of animal/plant origin must be physically checked at the point of entry into the EU, in addition to customs formalities.
UK companies' exposure to broader EU regulations that apply to third countries	Since 1 January 2021, when the UK left the EU and its Single Market, companies in the UK are located in a 'third country': by default, in the areas not covered by the TCA, they come under the same trade restrictions as countries without trade deals with the EU.
Tax and VAT rules	The EU has launched a VAT reform for e-commerce, which came into force on 1 July. This modifies thresholds for VAT collection on online sales in Europe and, importantly, substantially modifies the way companies in third countries (including the UK, in other words) can sell into the Single Market and pay their VAT. One way that UK companies can adapt is to make the export process to the EU a B2B operation, so that goods are delivered to customers from a starting point in the EU.

In time, EU businesses will also have to face similar barriers when exporting to the UK. However, for now, the UK does not have the infrastructure in place to impose similar controls on EU goods entering the UK. They are just waived through customs. As far as manufactured and agricultural goods from the EU to the UK there does not appear to be any new customs barriers to trade at this time.

As we write in early September, the UK government is still maintaining that that border controls will be imposed in two phases, October 1st and January 1st. But multiple commentators cast doubt on this, arguing that the UK simply does not yet have the necessary physical or IT infrastructure in place to do so, nor does it have the necessary people to properly staff border posts. [here](#)

Commentators also argue that as soon as the UK starts to implement border controls there will, inevitably, be truck tailbacks as paperwork is checked. These tailbacks will be in France, Belgium, and the Netherlands. It has happened before when there were border problems. I particularly remember 40 to 50K tailbacks a couple of years back when French border officers decided to “test” Brexit controls and “worked to rule”.

With the UK already experiencing food shortages because of supply chain difficulties and driver shortages would the government want to exacerbate such difficulties in the winter months and in the run-up to Christmas?

Transport critical

What has emerged as critical is transport. Or, to be more exact, a shortage of truck drivers. While trans-European, just-in-time, supply chains may be premised on frictionless borders, frictionless borders are of little use if there is no one to do the driving. Or not enough people at any rate. And the border between the UK and the EU is no longer frictionless.

From multiple newspapers reports, there is a chronic absence of drivers, not just in the UK but across Europe. See, for instance, this report from the *Financial Times.* But, as the journalist Iain Dunt points out, here, the problem is particularly acute in the UK, in part because of Brexit.

According to the BBC:

> *There is now a shortage of more than 100,000 drivers in the UK, out of a pre-pandemic total of about 600,000, a Road Haulage Association survey of its members estimates.*

The BBC report goes on to note:

> *There is evidence of HGV driver shortages across Europe, but the UK has been among the hardest hit by the problem. This was because many European drivers went back to their home countries or decided to work elsewhere. When the UK was part of the single market, they used to be able to come and go as they pleased.*
>
> *But the additional border bureaucracy after Brexit meant it was too much hassle for many of them to drive into and out of the UK. Many drivers are paid by the mile or kilometre rather than by the hour, so delays cost them money. Also, the decline in the value of the pound against the euro since the Brexit vote has meant that being paid in pounds has been less attractive for EU nationals.*

Another issue which causes problems is *cabotage.* Cabotage refers to the ability of a driver from one country to make multiple drop-offs and pick-ups in another. So, before the UK left the EU’s single market, a French driver could cross the Channel and maybe spend several days in the UK dropping-off and picking-up before taking a final load and heading back to France. UK drivers could do the same across Europe.

But Brexit put a stop to that. Now, UK drivers can make at most two stops in the EU and EU drivers can make just two stops in the UK. For an outline of what can and cannot be done see here The cabotage restrictions limit flexibility and undercut the most efficient use of trucks and driver time.

New testing regulations

To combat the driver shortage the UK government has changed its driver testing regulations here. The revised regulations say:

> *HGV driving tests will be overhauled, meaning drivers will only need to take 1 test to drive both a rigid and articulated lorry, rather than having to take 2 separate tests (spaced 3 weeks apart). This will make around 20,000 more HGV driving tests available every year and mean drivers can gain their licence and enter the industry more quickly.*
>
> *Tests will also be made shorter by removing the 'reversing exercise' element – and for vehicles with trailers, the 'uncoupling and recoupling' exercise – and having it tested separately by a third party. This part of the test is carried out off the road on a manoeuvring area and takes a significant amount of time. Testing such manoeuvres separately will free up examiner time, meaning they can carry out another full test every day.*
>
> *This new legislation is changing previous EU regulations which the UK is no longer obliged to use.*

[Our underlining].

Which raises the question if UK HGV drivers with non-EU-compliant licences will be allowed to drive on EU roads? Could such "deregulation" be seen as undercutting the working conditions level playing field provisions in the EU/UK Trade and Cooperation agreement?

People

Border controls also apply to people. What paperwork and permits do you require to enter the UK and to live and work in the UK? The same applies to UK citizens wishing to move to any one of 26 EU countries. There are no restrictions on UK citizens moving to Ireland, or Irish citizens moving to the UK.

The *Observer* reports families being split because of delays on the part of the UK Home Office in process applications for updated residency authorisations, even where the applicant is clearly entitled to such authorisation.

Earlier this year *Euronews* reported

> Thousands of EU citizens were refused entry at the UK border in the first three months of 2021, representing a major surge in cases despite a decline in travel due to the coronavirus pandemic.
>
> As many as 3,294 EU citizens were blocked from entering the UK in the first quarter of 2021, according to new data published by the British government.

Yes, it cuts two ways and there are also stories of UK citizens being blocked from entering the EU or running into difficulties establishing the right to residency in the EU. As *The Local* reports

> *Some UK nationals who have had their Spanish residency applications rejected are being sent notices telling them they must leave the country within 15 days or risk being classified as illegal.*

When you create borders where none have existed for years and when you demand permits and paperwork for residency when none was required for years, then difficulties will inevitably arise. A great many people fail to read government advisory notices sometimes in the mistaken belief that the new rules and regulations do not apply to them. Or they reject the rules and regulation and demand that "common sense" apply.

Frontline officials can be unhelpful and officious. "Little tyrants" who can make your life miserable. When their decisions are wrong it can take a long time to have them reversed. Your holiday or business trip ruined.

Officiousness comes with borders and Brexiters wanted borders.

The invisible side

If border blockages to people and goods are the visible side of Brexit, there is also an invisible side. Take two examples.

Lugano

> The EU has blocked the UK from accessing the Lugano Convention. The Convention determines which countries may hear cross-border disputes between the 27 EU member states, Iceland, Norway, and Switzerland in civil and commercial cases.
>
> Additionally, the Lugano also ensures recognition of judgments across the member states, which in turn significantly reduces legal costs for individuals and small business seeking legal redress outside their home countries.
>
> London has always been a highly attractive venue for the settling of commercial disputes. Before Brexit, UK court judgements were enforceable across the EU. With the exclusion of the UK from Lugano, London's attractiveness as a legal centre for settling commercial law disputes has taken a hit. This is big money business that London corporate law firms may see drifting away over time. If you cannot be sure of the enforceability of a court's judgement across jurisdictions, what's the point?
>
> The reasoning behind the EU's blockage of the UK's application to join Lugano has been queried (here) and it is suggested that the real motivation is to prise legal business away from London.
>
> > *The real reason behind the EC's decision is no secret. Legal services is a very lucrative sector, and the Commission has long had its eye on London's preeminent role as a centre of commercial litigation, intending to prize away as much business as it can from it.*
> >
> > *As former Spanish judge, Josep Gálvez told The Financial Times: "It's a way to punish the UK for leaving the EU, but also a very good opportunity for some EU jurisdictions to attract international litigation to their courts"*
>
> This may well be true. Brexiters have said more than once that they see the UK as now being in "competition" with the EU. If that is the case then why would the EU not take measures to defend

itself against such competition? If you want to be in competition then be in competition but don't complain where your competitors take defensive, or offensive, actions to protect their own position.

In such conflicts of interest there is no court to which you can appeal to rule on the matter. The outcome is decided by bargaining leverage. There is no appeal to "fairness".

Data transfers

Cross-border data transfers are at the heart of transnational business. Data cannot be divorced from the trade in goods. Just think about how many data transmission points are built into a car: Read about it here. The "internet of things" will make this even more the case.

Before Brexit, the UK had a surplus of about £18bn annually with the UK from the sale of services. Services accounted for 42% of the UK's exports to the EU in 2019. Financial services and other business services (a category which includes legal, accounting, advertising, research and development, architectural, engineering, and other professional and technical services) are important categories of services exports to the EU.

All these services are dependent on seamless and continuous data flows between the EU and UK.

Today, the UK has an EU "data adequacy" decision which means that personal data can freely flow between the EU and the UK. But within the past week the UK has announced a consultation on changes to its data laws which are, in effect, laws based on the GDPR. For a comment on the consultation from *techUK* see this: here

techUK, to which many BEERG members are affiliated, notes:

> *"The consultation opens a significant discussion in the UK about the future of the UK's data protection regime. The approach is firmly rooted in the GDPR framework, and the consultation includes some sensible ideas about how it can be improved. However, both businesses and civil society will want to take a close look at the proposed reforms to privacy management frameworks, the grounds for data processing and international data transfers.*
>
> *Encouraging innovation need not come at the cost of weakening of data protection standards. The objective must be to ensure that innovation is enabled, citizens are able to exercise their rights and the UK is seen a secure location for international data. Businesses will want to see the UK maintain its data adequacy agreement with the EU."*

In other words, do not change the law in such a way as to put the EU data adequacy decision at risk.

The UK Culture Secretary, Oliver Dowden, says he is planning to change the law to deliver a Brexit "data dividend". It is difficult to see any change to UK data law that would give a significant "data dividend" with putting the EU adequacy decision at serious risk. The *Financial Times* knows this to be the case: here

The adequacy decision is not a negotiated agreement between the EU and the UK. It is a unilateral decision on the part of the EU Commission. Further, it is at risk of court challenges from privacy activists such as Max Schrems, whose complaints about Facebook brought down the EU/US *Safe Harbour* and *Privacy Shield* agreement between the EU and the US.

Of course, the UK is fully free to diverge from GDPR standards. It will just come at a hefty price.

Wrapping up

Of course, Brexiters are entitled to say that the principal benefit of Brexit is that the UK is now free from European decisions and the oversight of the Court of Justice of the European Union. The UK is, once again, a fully sovereign, independent state. It can set its own course.

It can. But what happens when its sovereignty runs up against the sovereignty of others? UK sovereignty cannot expect to trump the sovereignty of every other sovereign nation, especially the 27 who have partially pooled their sovereignty in the European Union. There is no “exceptionalism” for the UK. It is what it is: A medium-sized island off the northwest coast of the Eurasian landmass. An island that has seen better days. It can “go its own way” as much as it wants. At what price?

As Lord Frost, the UK government’s point man on UK/EU relations says on his Twitter profile: “You don't get something for nothing, you can't have freedom for free.”

To date, it is difficult to identify the benefits of Brexit for business. Putting barriers to trade in place at newly erected borders hardly counts as a benefit unless you happen to be in the customs clearance business. Making business travel more difficult is not good for business. Suggesting you plan to deviate from the GDPR will bring complications.

As the former Labour EU Minister, Dr Denis MacShane, has rightly said, the day the UK left the EU was also the day that “Brexiternity” began, a never-ending negotiation between the UK and the EU over everything and anything.

And never-ending uncertainty for businesses and ordinary citizens.

There are no Brexit winners.

Sept 14th , 2021