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Extension Rebellion

Brexit update

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Summary

- ‘Super Saturday’ turned into an anti-climax. The parliamentary approval of Prime Minister Johnson’s withdrawal agreement has been withheld, which forced him to ask for an extension
- But it also became clear that he might have the numbers to get his deal through
- The appeal of Johnson’s current deal is that it doesn’t specify what sort of Brexit he eventually seeks to achieve, which allows for an unusual alliance of Labour Leave MPs and the ERG. This dynamic may change when the deal is scrutinized or even amended in the next week
- The government will therefore press on this week, trying to get the required legislation through the Commons at breakneck speed
- There is a clear risk that the current withdrawal agreement will prove to be the precursor of a hard but managed Brexit in December 2020
- The EU will wait with their decision on the extension to allow for events to unfold in London

They couldn’t Let him Win...

Parliament’s first weekend sitting in 37 years was billed as a Super Saturday, but came to an anti-climactic conclusion as there wasn’t a meaningful vote on Prime Minister Johnson’s deal at all. The amendment that was put forward by former Cabinet minister Letwin threw the spanner in the works. This amendment withholds the parliamentary approval of Prime Minister Johnson’s withdrawal agreement with the European Union until the legislation to implement this deal is fully in place. It was passed by 322 to 306. **The Benn Act, which forced Prime Minister Johnson to seek an extension until January 31, kicked in as a consequence.**

The amendment reflects the total collapse of mutual trust in UK politics, as it was being sold to the MP’s as an insurance policy to make sure that the European Research Group, the hard Brexiteers of the Conservatives, doesn’t get a chance to frustrate the Brexit legislation and secure a no-deal Brexit on October 31. The so-called “Spartans” within the ERG have stated time and again that they actually prefer a “clean Brexit” over any deal at all, especially a very pricey one in which one part of the UK remains closely aligned with the EU, but (suspiciously?) supported Johnson’s deal. **The amendment effectively locks in a deal on October 31, or a further delay.**

At the same time, it became clear that Prime Minister Johnson could actually have had the numbers to get his deal through the Commons. The Letwin amendment passed by just eight votes, with the DUP abandoning Johnson because of the way Northern Ireland is being treated in his deal. However, statements from several expelled Tories, independents, and a number of ‘Labour Leavers’ who might defy the party whip, provided an indication that the government probably had a majority for the deal – albeit just by a handful of votes.

The appeal of Johnson’s current deal is that it doesn’t really specify what sort of Brexit he eventually seeks to achieve, which allows for an unusual alliance of the Labour Leave MPs and the ERG. This dynamic may change when the deal is scrutinized or even amended in the next week. The government now has to publish the text of the withdrawal agreement bill first, the details of which could change the minds of either the ERG or the Labour rebels. It allows more time for closer scrutiny of the deal, but also opens up pathways for new amendments, including one for a second referendum or a customs union.

What's the deal?

Johnson's deal is for 95% similar to May's deal, but there are some very crucial changes. **The three most important adjustments are: customs, consent, and level-playing field:**

1. *Customs*: Northern Ireland will be part of the UK customs territory, but will follow EU rules on tariffs and quotas and align with many of its regulations. This effectively draws a border on goods in the Irish Sea.
2. *Consent*: A complex decision-making system has been proposed, but in any case the Stormont Assembly will have a say four years after the end of the transition period.
3. *Level-playing field*: these commitments, which relate to competition rules and regulatory standards, have moved from the legally-binding withdrawal agreement towards the non-binding political declaration.

The combination of these changes opens up a wide range of potential trading relationships after the withdrawal from the European Union is secured. While Johnson's goal is to strike a free trade agreement, it's also still possible that the UK eventually leaves to trade on WTO terms or – if the politics change – remains in the Single Market.

The backstop has turned into a frontstop

Prime Minister Johnson asserts that the new border solution is very different from the much derided UK-wide backstop. This is true. In fact, it is precisely the opposite. The deal provides a solution as to what the end-state of the Irish border should be, regardless of the trade relationship he would want to agree between the EU and the UK. The backstop, on the other hand, was designed to be superseded in case any alternative arrangements emerge.

Johnson had previously said that "*no British Conservative government should sign up to a plan that would impose customs controls between Britain and Northern Ireland*", but this is what will happen if Johnson's deal is ratified. No wonder that the DUP feels duped, even though there actually is a unilateral exit clause included in the agreement. The arrangement lapses if a majority in the Stormont Assembly agrees to withdraw its consent. But this is currently highly unlikely as the unionists don't have a numerical majority and the Stormont Assembly hasn't sat for more than two and a half years. **The backstop has therefore become an everlasting frontstop.**

Going on your own?

And this 'frontstop' may turn out to be very necessary. Prime Minister Johnson is looking for a free trade agreement, but appears less keen on adhering to the level playing field commitments. The previous withdrawal agreement included articles on "non-regression" in the level of environmental protection or in labour standards, but these are now gone. Instead the non-binding political declaration now states that both the UK and the EU will simply commit to maintain the current standards. **And while there are of course political hurdles, these promises and pledges could eventually be watered down if a majority in the House of Commons chooses to do so.**

Even though Prime Minister Johnson went to great lengths to convince the public that these rights and standards are enshrined in his Brexit deal, this simply isn't the case anymore. If the UK indeed uses Brexit to undercut EU regulations –in order to strike deals with the US, for example– the best trade deal that it can probably get with the EU is a very basic one. Recall that various EU leaders have frequently raised the danger of the UK developing into another competitor on the continent's doorstep. **There is an inverse relationship between UK divergence and the depth and breadth of the future trade relationship with the European Union.**

A hard Brexit in disguise?

The UK will only just have concluded the first phase of project Brexit after the ratification of the withdrawal agreement, opening up the transition period and allowing the UK to move from full EU membership towards a new relationship. **The parts in the withdrawal agreement that set out the terms of this transition period have been left unchanged.** To recall: the UK will de facto remain part of the EU Single Market and of the EU Customs Union until December 2020. This can be extended once, by a maximum of two years, and a Joint Committee in which both the EU and the UK are represented should decide on this before 1 July 2020. Prime Minister Johnson has ruled out such an extension.

This is worrying, as it is expected to take much, much longer to negotiate a comprehensive free trade agreement such as 'Canada-plus'. The "plus" in Canada-plus refers among other things to a mutual recognition of each other's regulations. The decision to shift the bits on level playing field to the political declaration suggests that the UK may decide that it wants to diverge. This means that there will be plenty to negotiate. But the timeline looks also very tight for even a very basic trade agreement. The past three years have taught us that time *will* run short, especially if an election is held in the next few months as well. **Hence, when Johnson's deal will be signed off in the next week(s) or months without any amendments, the speculation of the risk of a very hard WTO-style Brexit will intensify sooner rather than later.**

There is a clear risk that the current withdrawal agreement will prove to be the precursor of a hard but managed Brexit in December 2020.

The UK risks raising high barriers to trade with an economic bloc at its doorstep in order to get as much freedom as possible to trade with countries further away. It's trying to defy gravity, and that typically doesn't work out well. The belief that Johnson's deal should be passed quickly in order to provide UK businesses and households with certainty is therefore misguided. In any case, another cliff-edge looming at the end of 2020 does surely not provide this certainty.

What's next?

Hopes that a Brexit agreement could find its way through the Commons rise and fall. There is reason for Prime Minister Johnson to be optimistic, but it is inherently unpredictable. As it stands, the government will seek to hold another meaningful vote on the current deal on October 21, but Theresa May can tell Boris Johnson from experience that Speaker Bercow isn't eager to allow the government to repeatedly hold debates on the exact same subject until it gets its way. The government had its chance, and that was last Saturday.

But there will be another opportunity on Tuesday, when the withdrawal agreement bill will have its second reading in the Commons. The opposition will seek to change the legislation, trying to find a majority for an amendment to attach a customs union and/or a second referendum to Johnson's deal. Even though previous indicative votes showed that there has never been a majority for one of these two options, **it could potentially force the debate in yet another direction. Meanwhile, Prime Minister Johnson will be in doubt whether he still has the numbers for his deal now the threat of a no deal Brexit on October 31 has gone.**

Finally, the EU appears to be very reluctant to be dragged into the Westminster political drama. Donald Tusk, the President of the European Council, has received the extension request and will treat it as such, but EU leaders are likely to play ball with Johnson to keep the pressure on the Commons.

While it remains very likely that they ultimately will grant an extension, they will most likely wait with their decision to allow for events to unfold in London.

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A summary of the methodology can be found on our website www.rabobank.com

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