

Brexit state of play post-Salzburg

The informal meeting of the European Council in Salzburg this week marked an important point in the Brexit negotiations: it was the moment the rubber hit the road. The last formal European Council meeting was at the end of June, so this was the first time the Chequers plan (which was announced at the beginning of July) was discussed by the leaders of the other 27 EU member states.

The informal Council meeting in Salzburg was primarily convened to discuss the EU migration crisis and Theresa May was only given a short slot at Wednesday's dinner to explain how the UK's negotiating position had 'evolved' since they last met. Chequers optimists highlight the growing split between France and Germany on the one hand, and Denmark, the Netherlands and Sweden on the other. Chequers pessimists point to Donald Tusk's tough stance at the final press conference. So whilst the Prime Minister's plan did not implode on impact, it certainly did not receive the soft, pre-Party Conference landing which we had been briefed to expect in advance. Government insiders were certainly surprised by the bump.

So how did we get to this position over the summer? What should we expect for the rest of the year? And what are the chances of the EU (a) agreeing a deal and (b) it being approved by Friday 29th March 2019. The next six months are certain to come closer to 2016 levels of drama than the epic year that was 2006.

Progress on Brexit over the summer

Parliament might have taken a six-week break over the summer (and is now back in recess after its traditional two-week September sitting), but this did not put a damper on Brexit manoeuvrings. Jacob Rees-Mogg's European Research Group was active with its #ChuckChequers campaign, which was reinforced by the resignation of several Ministers and aides in the immediate aftermath of Chequers. Steve Baker has galvanised the backbench Eurosceptics with his top-notch organisational skills but the apparent lack of coordination between Boris Johnson, David Davis and the ERG has somewhat blunted what might have been a concerted fightback by Eurosceptics.

More coordinated was the opposition to Chequers from former Remain supporters on the government backbenches – from those who have been accepting of the referendum result and the need to deliver on the public vote of June 2016, like Nick Boles, all the way through to those who have struggled to reconcile themselves to accepting Brexit, like Putney MP Justine Greening. The #NorwayThenCanada plan garnered significant media coverage, particularly in the op-ed columns, but its traction in Westminster underlined the fact that the Prime Minister's position is bolstered by facing a divided opposition.

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Also busy, but travelling under the radar, was Dominic Raab, who spent the summer collecting Eurostar Frequent Traveller points. The new Brexit Secretary has already had more facetime with the EU's Chief Negotiator, Michel Barnier, than David Davis had in his entire two years at DExEU. The pair announced after their meeting on 21st August that the

talks would henceforth be “continuous” rather than in regular rounds, as had been the case until that point. Whilst it is unfair to accuse Davis of being workshy, Raab has certainly thrown himself into the position, and his hard work has not gone unnoticed amongst colleagues discussing the next leadership election.

Both sides in the negotiation have been underlining for some time now that a deal is 80% done, and in recent weeks the figures “90%” and “95%” have cropped up in off-the-record briefings. But clearly there remain sticking points, of which issues relating to the Irish border remain the most prominent – an issue we have highlighted previously.

This was the issue which the European Research Group published a paper on earlier this month, proposing the use of technology as an answer to the Irish backstop question. They saw their proposed solution as a ‘get out’ for the Prime Minister to abandon Chequers and to move back to a Lancaster House approach to the negotiations, or a ‘Canada +++++’ deal, as David Davis often described it.

The use of technology has also been proposed in recent days by the European Union, but for a rather different border – the Irish Sea as opposed to the land border. This will remain the key issue which all sides dance around, but the recognition that technology provides the solution for frictionless trade could prove to be an important breakthrough for the final stage of the negotiation.

Key milestones for the next few months

With Salzburg over, when the Conservative Party Conference is out the way (first week of October) the next milestone will be the formal European Council in Brussels on Thursday 18th October. This meeting was the original self-imposed deadline for agreeing the legally binding treaty setting out the terms of the UK's withdrawal agreement and the 21-month transition period. But a special meeting has been agreed this week for November (rumoured to be pencilled in for Tuesday 13th) to sign off on the final deal. This would leave December free for the ‘meaningful vote’ in Parliament; January and February available for the European Parliament to sign off on the deal; and all parties signing on the dotted line at the European Council meeting on the 21st and 22nd March, allowing Brexit to occur on the 29th March.

There is not much wriggle room in this timetable, but there is another formal European Council meeting scheduled for the 13th and 14th December, and Parliament doesn't rise for Christmas recess until Thursday 20th December. The prospect of missing some of their Christmas holiday would certainly focus the minds of wavering Parliamentarians.

Some people (including Chancellor Philip Hammond) have mooted extending the Article 50 process, but this would raise difficulties from an EU perspective. The next round of European Elections will take place at the end of May 2019, so extending the Article 50 process would raise all sorts of difficult questions about whether they should take place in the UK. This is an important reason why all sides have an incentive to conclude a deal before Christmas, so don't expect slippage.

Deal or no deal?

95% of the deal might already have been agreed, but one contact at DExEU still puts the chance of a deal at 50:50 (and that's before it hits either the UK or EU Parliaments). The mood in No.10 before Salzburg was more optimistic, and even David Davis spoke earlier

this week about how there could be a “reset” in the negotiations as the European Council takes over the reins in the negotiations from the European Commission.

The public mood is a mixture of frustration, irritation with the grandstanders and – increasingly – disengagement, so it will be interesting to see whether Theresa May responds to this week’s unexpected reprimand by EU leaders by cowering or by calling their bluff. I expect the Prime Minister to explain in her low-key but forceful way that the EU’s intransigence over the border issue would cause chaos to the Irish economy, with the rest of the EU having to pick up the bill.

When it comes to the meaningful vote in December, the key imponderable is what the Labour Party will do. Jeremy Corbyn’s silence on Brexit is notable and it is sometimes difficult to work out whether he is being menacingly unpredictable, very canny or desperately hoping no one seriously asks him to spell out his position.

Sir Keir Starmer’s ‘six tests’ seem designed to allow Labour MPs to vote against the deal whatever it contains. But there is always an outside possibility that rather than whipping the Party to vote against the deal, Jeremy Corbyn might allow a free vote or – more likely – MPs might choose to do whatever takes their fancy. It’s worth recalling the vote in June this year, on staying in the Single Market (Lords’ amendment 51), when Labour MPs were whipped to abstain: 75 voted for the amendment and 15 voted with the Government, allowing it to be voted down. Labour’s discipline at the moment isn’t exactly iron-clad.

There are so many ‘unknown unknowns’ that making predictions on this is a mug’s game. But my current instinct is that the EU’s reaction this week was no more than grandstanding: Theresa May will get a deal not dissimilar to Chequers, it will be approved in Parliament, and Britain will leave the European Union at the end of March next year. We will not have fully taken back control, but we will have a deal that most Leavers would have leapt on before 2016, and which most Remainers can live with.

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