
Chairman's Business Briefing

Shangri-La Hotel, at The Shard, London

Monday, 5 December 2016



On 5 December 2016, the **International Business and Diplomatic Exchange (IBDE)** hosted its first Chairman's Business Briefing. The meeting was held in line with IBDE's post-referendum policy strategy. The Chairman's Business Briefings are designed to complement IBDE's [Ambassadorial Discussion Groups](#). Held under the Chatham House rule, these briefings will bring together senior diplomats and corporate executives to discuss Brexit and its implications for the UK, EU and the wider global markets.

Given IBDE is the only organisation that covers international commercial and trade diplomacy, the meeting provided some 50 high-level guests with an opportunity to learn more about IBDE's expertise and experience as it continues to play an invaluable role in the post-EU referendum policy dialogue. The meeting also explored the ways in which IBDE can play a constructive role and support the UK Government, the City of London and our diplomatic and business partners.

The meeting was opened with welcoming remarks from the IBDE Executive Chairman who extended his warm welcome to all participants, and members of the IBDE Board and Advisory Board. Following the Chairman's opening remarks, the remainder of the meeting was held under the Chatham House Rule.

Discussion

The briefing was opened with a statement that the EU referendum and the UK's decision to leave the EU is undoubtedly the most complex set of economic challenges the UK has faced since 1945. In light of the presidential election in the US and President Elect Trump's intentions to renegotiate free trade deals such as NAFTA, the assumptions made by many of the proponents of Brexit that the UK would be able to rely on a global trading and financial system, which would enable the UK to take advantage of open markets elsewhere and for British exporters in financial services to flourish unencumbered by strict EU regulations, now looks increasingly tenuous. This was further elaborated by a statement that the UK can no longer rely on the continued openness of the global trading system because globalisation can only flourish with wholehearted US support.

One participant discussed the potential costs of leaving FTAs, which the UK is currently part of, due to its EU membership. Not only does the EU market account for 45% of British exports, another 15% goes to countries where the EU has already negotiated FTAs deals from which the UK benefits. If the UK is no longer a member of the EU it will lose its preferential access to these markets until replacement deals can be negotiated, which could take years. The same goes for FTAs currently under negotiation.

The meeting then went on to discuss possible scenarios for how the future relationship between the EU and the UK could look. One proposal was a scenario where the UK would maintain a customs union link with the EU. Although this scenario might be questionable under current WTO rules, it must be borne in mind that a customs union by definition means agreeing on a common external tariff, which would rule out the UK's ability to offer tariff concessions elsewhere.

A further point was then made that third countries are not going to rush into negotiations of FTAs with the UK before they know what the future relationship between the UK and the EU will look like.

The discussion continued with an analysis of the politics and processes of Brexit. The politics in the UK of Brexit is not getting any simpler; if anything, it is getting more complicated and uncertain as the government begins to acknowledge some of the complexities of the process while still being pushed to a policy of a clean break from the EU.

The meeting explored various options of leaving the EU, either in terms of a hard or a soft Brexit and the possibility of paying to retain access to certain parts of the single market. These discussions on how to leave the EU as well as the Supreme Court Hearing, that started simultaneously on Monday 5 December, all contribute to making the process of Brexit seem more complicated. Furthermore, the position in the EU seems to be hardening and no negotiation before notification seems to be the line in Brussels.

The meeting noted that Article 50 is only one part of the process and not actually the most important in terms of the future relationship between the UK and the EU. What will the agenda for the article 50 negotiations be from both sides? Will it be a narrow agenda focusing on what you need to do to get the UK out of the EU, which is how the EU lead negotiator Michel Barnier is interpreting it at the moment? The UK government, for its part, may seek to add in different elements, linking it to the longer-term negotiations about the future relationship with the EU which is largely going to be conducted under article 218 of the treaty. It is doubtful whether this negotiation will be able to be completed in two years even if the article 50 negotiations are completed within two years. The issue of a transitional period therefore seems to be more complicated.

It was noted during the meeting that the real priority should be to continue the work in government to think through the agenda on the priorities of the article 50 process and the longer-term negotiations. It was noted however that the tight control of the negotiating plan, together with the little information coming from government on this issue, seemed to create uncertainty both politically and in the business world. Hope was expressed that the government would soon be in a position whereby it would be able to share more information.

It is important that the UK is realistic about the mood on the continent. The impression is that British ministers are over confident about what they are likely to achieve in these negotiations. They apparently underestimate firstly the determination of the EU that the UK cannot go through leaving the union, coming out with a preferential arrangement, and secondly that the priority on the continent is that of the EU-27 and not about the UK relationship with the EU.

The meeting then moved on to discuss the legal issues of the Government's appeal in the Article 50 ruling in the High Court.

At the heart of this discussion is the power of the crown, which in today's world is the Prime Minister and the Cabinet, and what the crown can do without the approval of parliament. Generally, there are two key arguments in this case. The first is whether the effect of serving an Article 50 notice would be to remove citizens' rights that were created by an Act of Parliament. The second is whether the government needs express permission to vary laws of the land or whether Parliament needs expressly to forbid the Government from varying laws of the land?

The outcome of this legal discussion seemed to be that although the appeal case seems close, the most likely conclusion will be that an act of parliament is required before triggering article 50.

The meeting then went on to explore the issue of whether article 50 is revocable. This is a crucial point in the Supreme Court case as the intellectual integrity of the claimant's case relies on revocability and the fact that parliament needs to decide now and not in two years' time.

Furthermore, it was noted that the question of revocability is not an open or shut case. Article 50 has consequences within a specific timeframe, and therefore withdrawal has the potential to defeat this effect. However, the Vienna Convention on Treaties explicitly accepts the possibility of withdrawal.

The legal issues of the UK staying in the EEA after leaving the EU were also discussed, however, according to one delegate this scenario seemed unlikely due to legal implications.

The meeting then moved on to discuss the implications of Brexit on businesses in international trade. It was expressed that some of the issues they are worried about are the prospects of tariffs, duties and taxes and the devaluation of the pound, all of which have huge impacts on sales and freight costs. The negative view of the UK in the EU and the prospect of delays due to documentation at borders were also mentioned as major concerns. One general request to the Government from businesses seems to be an attempt to stay in the single market.

The meeting then moved on to discuss the transition period and the gap between article 50, which determines the way the UK leaves the EU and article 218 which determines the future relationship. At the transition period there may be a jurisdictional gap where the UK is no longer in the EU and not yet part of a new relationship. This issue has become the focus of many businesses and certainly one of the key issues post Brexit. Instead of having a costly adaption following article 50 and another costly adaption following the future agreement, businesses seem to prefer a transitional period where this happens gradually. This is something businesses hope can be agreed at the outset of the article 50 negotiations to ease concerns. However, one comment suggested that this might be complicated.

One participant submitted that the UK is going to leave the EU in any case, and, whether one likes it or not, businesses are well advised to focus on the future, making a limited specific case for what we would like to have that is different or improved coming out of the negotiating process.

A comment was made that one of the many positive things to come out of the referendum was that Government has never been more willing to heed the advice of businesses. There are enormous opportunities for businesses to get the attention of Government and there are enormous opportunities to arise out of change. Businesses which commit to new product lines, or to new headquarters or to new employees get good positive publicity and attention from Government and conversations at ministerial and secretary of state level. Therefore, the participant argued, there is simply no need to remain stuck in the same pre-Brexit rhetoric arguing that Brexit is only a negative.

In reply, it was stated that while there may appear to be opportunities, the path is also laden with risks concerning time, managing expectations and more importantly the outcomes which are not guaranteed. This is what needs to be brought to the attention of the ministers and the British public - the very real dangers which lie ahead along the path we are embarking on.

Another delegate noted that it was not an indication of negativity but an acceptance of the realities. It was reiterated that negotiating under article 50 would not be a pick and choose menu but rather a set menu and that politicians should be realistic on what they can achieve in these negotiations. Another participant noted that the rhetoric focuses so much on confusion due to lack of clarity from government.

One participant noted that the issue for the UK government is whether the opportunities that arise for business will also be in the interest of this country, or whether business will make its own choices based on its commercial imperatives. This distinction is very important and one that needs to be borne in mind.

One delegate argued that the Prime Minister recognises all the interdependencies related to these negotiations, which is why Government does not want to be rushed on one issue and then find that a lot of other options have been closed out. In addition, one should appreciate the work carried out by the Bank of England in making contingency plans to mitigate and smooth the decline that businesses have experienced since the referendum. Furthermore, it was argued that agreements that work badly for one side are not sustainable and will actually damage everyone. Negotiations have to be carried out in a way that strengthens both the UK and the EU-27 in order to secure a sustainable future relationship.

One delegate argued that the EU is one of the least entrepreneurial parts of the world in relation to start-ups and that strict EU regulations are not facilitating a start-up friendly environment. It was therefore argued that Brexit provides a great opportunity to break away from this, thereby facilitating an environment where this is possible. Another delegate argued that being part of the EU has not prevented the UK from creating a business friendly entrepreneurial environment. It has been possible within the EU for the UK to do that, while the problem seems to be that the rest of the EU has not embraced that same spirit.

In response to this another delegate argued that listening to the argument that start-ups and innovation in the EU-27 were not possible was unacceptable, and that the EU-27 are indeed no foes of innovation. It was noted that this way of presenting the UK as being better than the EU-27 is not a good way of embarking on the coming negotiations.

One delegate reminded the attendees that one should not dismiss the EU simply because it is going through a rough period of difficulty. The EU member-states figure high on the UN's human development index as well as GDP per capita. The EU is a haven of prosperity and stability and the EU-27 will continue to work to maintain that.

Another delegate noted that although many in the EU-27 regretted the outcome of the referendum, they of course accepted the UK's decision and urged both sides to seek compromise in the forthcoming negotiations. There is a balance to be struck and compromises to be made and, furthermore, it is the general experience that the EU is a great place to reach compromise but there has to be a desire to reach a compromise and a desire to reach settlement. Hope was expressed that this desire will develop in the coming months and years.

The question was raised by a participant that, given the binary outcome of the referendum, why is there an element of surprise at the economic adjustments, such as the depreciation of sterling, and more importantly, why is there a lack of acceptance of the result of the referendum? The reply contained arguments that it is a mixture of still reeling from the shock, in terms of international trade, or that the hedge against currency rates can only protect for a short period of time or whether intervention from the Bank of England can smooth out any decline in economic indicators.

Conclusion

The meeting concluded that these are indeed challenging times and that Brexit poses major challenges for international businesses and that clarity and certainty are vital issues in the coming years. Both the EU and the UK were encouraged to be realistic when embarking on the negotiations under article 50 and be willing to make compromises. It was also concluded that great opportunities can rise from change and that probably, Brexit could provide such opportunities. In the end it is vital that both the EU and the UK experience prosperity and in order for this to continue to be the case a beneficial partnership for both sides is necessary.

On behalf of IBDE, the meeting's chairman once again thanked [Passageways](#) for sponsoring this meeting and [Shangri-La Hotel](#) at the Shard for their kind hospitality. He also thanked the speakers, members of the IBDE Board and Advisory Board and all other attendees for providing a stimulating discussion.

IBDE is proud to have played an important and constructive role in the UK's EU Referendum debate. IBDE has been hosting monthly seminars debating the consequences of Brexit since June 2015. Seminars have been inclusive, in that they have attracted leading representatives from various institutions and the fields of politics, policymakers and opinion shapers (including businesspeople, politicians, diplomats, academics, civil society representatives and the media). In addition, these seminars have been thematically comprehensive in their content, having offered speakers and the audience an opportunity to explore the various viewpoints of the In/Out EU referendum debate. IBDE hopes that the pooling of experience and intellectual resources through these meetings has been useful to participants. Given IBDE is the only organisation that covers international commercial and trade diplomacy, the meeting was a great opportunity for IBDE to showcase its expertise and experience as it continues to play an invaluable role in the post-EU referendum policy dialogue.

Following the closing remarks by the chair, the participants had the opportunity to continue their conversation informally during the networking coffee.

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