



CENTRO STUDI SUL FEDERALISMO

SUFFICIENT PROGRESS? IRELAND'S BREXIT CONUNDRUM

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Next week, on 14-15 December 2017 the European Council is set to decide whether sufficient progress has been made in the negotiations on the UK withdrawal from the EU to begin a discussion on the terms of the future relations between the UK and the EU. As is well known, the European Council concluded in October 2017 that, given the uncertainties of the UK Government, not enough progress had taken place by then in the negotiations and that therefore the beginning of phase 2 in the Brexit talks had to be postponed.

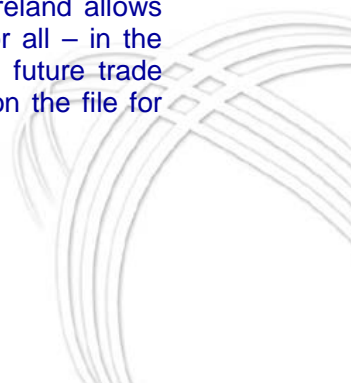
Since October, the EU Chief Negotiator Michel Barnier and his UK counterpart David Davis have made a number of steps forward, bridging several of the outstanding files in the divorce talks. First, the EU and the UK have essentially reached agreement on a reciprocal protection of citizens' rights post-Brexit. Second, rumors have it that the UK is about to propose a satisfactory settlement of its financial obligations before leaving the EU – with a payment into the EU budget which comes fairly close to what the European Commission had initially estimated.

Nevertheless, a third obstacle stands in the way of the successful resolution of the divorce talks: the Irish border. As made clear by the April 2017 European Council negotiating guidelines, and constantly repeated by the Commission and the Irish Government, the resolution of the Northern Ireland border question is a condition to move to phase 2 of the Brexit talks. While the UK Government has in principle agreed with this view, and expressed in writing its wish to avoid any return to a board of the past, it has so far failed to provide any solution for the problem at hand.

In fact, on 4 December, UK Prime Minister Theresa May was forced to call off the announcement of an agreement during a meeting with European Commission President Jean-Claude Juncker since her initial offer to preserve regulatory alignment between Northern Ireland and the Irish Republic – a proposal which would have gone a long way in assuaging Dublin's concerns – was immediately stopped by the former First Minister of Northern Ireland Arlene Foster. Speaking from Belfast, the leader of the Democratic Unionist Party (DUP) closed any door to the idea that Northern Ireland could be on different regulatory terms from Great Britain.

This effectively poses a difficult conundrum for the Irish government ahead of the December European Council meeting. On the one hand, Ireland could decide to veto an EU decision allowing the start of negotiations with the UK on the future trade relations between the EU and the UK – until the border issue is effectively and satisfactorily resolved. On the other hand, Ireland could give its green light to advance to phase 2 in the hope that this will offer a framework to solve the Northern Irish border issue – but without any formal guarantee on it.

Neither of these solutions is ideal. If Ireland vetoes a step forward toward phase 2, it may actually increase the chance that its worse-case scenario – namely a cliff-edge UK exit from the EU with no deal and thus, the reintroduction of a border – will materialize. Otherwise, if Ireland allows negotiations to move forward without the Northern Irish issue settled once and for all – in the hope that the border problem may eventually be solved in the framework of the future trade relations between the UK and the EU – it runs the risk that it will lose leverage on the file for good.



The reassuring news for Ireland, however, is that it has the EU's unwavering support. As European Council President Donald Tusk made clear after meeting Taoiseach Leo Varadkar in Dublin on 1st December 2017, "the EU is fully behind [Ireland]", "the Irish request is the EU request", and "if the UK's offer is unacceptable for Ireland, it will also be unacceptable for the EU". In a world of international negotiations where weight matters, Dublin can thus find solace in knowing that Brussels is on its side, shoulder to shoulder, as it engages with London.

As negotiations with the UK hectically continue in these days, however, it becomes increasingly clear that the resolution of the Brexit puzzle interplays closely with the debate on the future of Europe. The regulatory regime of territories at the edges of the EU (such as Northern Ireland/UK) could be more easily dealt with in a Europe of concentric circles, along the lines recently suggested by French President Emmanuel Macron – in which a core group of states deepen their integration, while an outer periphery connects with the EU trade area through softer forms of cooperation.

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(The opinions expressed here do not necessarily reflect those of the CSF)

