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Brexit and the Future of the EU: An Analytical Perspective

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Four analytical lenses on Brexit and the European Union

1) *Pooling of sovereignty*

- The EU is a treaty-based supra-national collection of Member States in which various dimensions of sovereignty are pooled or shared to varying degrees
- “Sovereignty,” defined by the Oxford Dictionary as “supreme power or authority” or “the authority of a state to govern itself or another state,” is the key concept
- “Brexit,” the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the EU, needs to be seen in this light
 - the UK is attempting to take back part of the sovereignty it has been sharing with the other members of the EU (the EU27)
 - ✧ Brexiteers talk of “taking back control of our borders, our money and our laws”
- Sovereignty in the EU, by design, is partially and inconsistently shared, making the EU a “half-built (three-quarters-built?) house” or “work-in-progress” (the EU aspires to “ever-closer union”)
 - In many aspects, the EU operates as if it is a single country or sovereign state
 - ✧ It has a parliament (the European Parliament) and an executive (the European Commission)
 - ✧ It has a body of EU law and a “supreme court” (the European Court of Justice)
 - ✧ It is an “economic and monetary union (EMU) whose currency is the euro” and has a central bank (the European Central Bank) (19 of the 28 members of the EU are in the Eurozone, and the others, except the UK and Denmark, are expected to join when they can)
 - ✧ It has a “single (internal) market,” based on the “four freedoms”: that

of goods, services, capital, and persons/workers

- “Freedom of movement” is a bit different from the 26-country “Schengen border-free area:” six EU countries are not in Schengen, two of which (the UK and Ireland, the other four being Bulgaria, Croatia, Cyprus, Romania) have permanent “opt outs,” while the four members of the European Free Trade Area (Iceland, Liechtenstein, Norway, Switzerland) are members
- ✧ It operates as a customs union (having no internal tariffs and a common external tariff) and the EU, not the Member State, is responsible for negotiating and concluding trade deals
- In other aspects, it operates as if it is a collection of (cooperating) individual countries or sovereign states
 - ✧ The European Council, the “EU institution that defines the general political direction and priorities of the European Union”, and which features so prominently when crises are in the news, consists of the heads of state or government of the member states, together with the European Council President, currently Donald Tusk, and the President of the European Commission (currently Jean-Claude Juncker)
 - ✧ While membership imposes fiscal and budgetary constraints, the Eurozone does not operate as a proper fiscal union, particularly as a transfer union
 - A “no bailout clause” (Article 125 of the Treaty on the Functioning of the European Union) prohibits the Union or a Member State from “[being liable for or assuming] the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State [or] of another Member State”
 - ✧ Primary responsibility for (sovereignty over) borders, particularly EU external borders, lies with Member States
 - The European Border and Coast Guard Agency (“Frontex”) (315 staff) “helps EU countries and Schengen associated countries manage their external borders”
 - In the EU Treaties, the “Member State” is a key sovereign category and “competences” not designated exclusively to the Union or as being shared with Member States lie with the

Member State (principles of subsidiarity and proportionality)

- ✧ National identity is very strong and usually trumps European identity

2) Evolution of the institutional framework

- Starting with the European Coal and Steel Community (six countries: Belgium, France, Italy, Luxembourg, the Netherlands, and West Germany) in 1951, through successive treaties and enlargement, the institutional framework of EU has progressively developed
- Founding Father of Europe, Jean Monnet, famously said: “Europe will be forged in crises, and will be the sum of the solutions adopted for those crises.”
 - This has been the case since the Eurozone sovereign debt crisis (2010-2010) and the migrant crisis (from 2015)
- In response to the sovereign debt crisis in particular, the EU has laid out a number of visions and blue-prints for reform. Some key ones are:
 - The Four Presidents’ Report, June 2012: “Towards A Genuine Economic and Monetary Union.” This report to the European Council called for moving towards:
 - ✧ An integrated financial framework (subsequently dubbed a “banking union”)
 - ✧ An integrated budgetary framework (“a qualitative move towards a fiscal union”)
 - ✧ An integrated economic policy framework
 - ✧ Strengthening of democratic legitimacy and accountability
 - European Commission report, November 2012: “A blueprint for a deep and genuine economic and monetary union: Launching a European Debate”
 - The Five Presidents’ Report, June 2015: “Competing Europe’s Economic and Monetary Union.” This report mirrored and developed further the ideas in the Four Presidents’ Report and called for a move towards:
 - ✧ Economic Union - Convergence, Prosperity and Social Cohesion
 - ✧ Financial Union - Integrated Finance for an Integrated Economy
 - ✧ Fiscal Union - an Integrated Framework for Sound and Integrated Fiscal Policies

- ✧ Democratic Accountability, Legitimacy and Institutional Strengthening
- The European Commission “White Paper on the Future of Europe: Reflections and scenarios for the EU27 by 2025”, March 2017. This laid out five illustrative scenarios “to help steer a debate on the future of Europe.”
 - ✧ Carrying on
 - ✧ Nothing but the single market
 - ✧ Those who want more do more
 - ✧ Doing less more efficiently
 - ✧ Doing much more together
- Consistent with these reports and political deliberations, and typically in reaction to the escalation of crisis, the EU has added to and strengthened its institutional foundations. Some noteworthy developments are the:
 - ✧ Establishment of the European Financial Stability Facility (2010)
 - ✧ Introduction by the ECB of a Securities Markets Programme (2010-2012)
 - ✧ Strengthening of the powers of Eurostat (2011)
 - ✧ Introduction of a Macroeconomic Imbalance Procedure (2011)
 - ✧ Strengthening of the Stability and Growth Pact (“Sixpack”) (2011) and introduction of a Fiscal Compact (2012)
 - ✧ Introduction by the ECB of Outright Monetary Transactions (2012)
 - ✧ Establishment of the European Stability Mechanism (2012)
 - ✧ Establishment of a Banking Union (Single Supervisory Mechanism and Single Resolution Mechanism from 2014, and European Deposit Insurance Scheme planned for the future)
 - ✧ Beefing up of Frontex into the European Border and Coast Guard Agency (2016)
 - ✧ Signing by France and Germany of the Aachen Treaty (Treaty on Franco-German Cooperation and Integration (2019)

3) *Impossibility theorems*

First, let’s recap recent Brexit history, starting with the key provision of:

Article 50 of the Treaty on European Union

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

- The Brexit referendum on June 23, 2016 asked; “Should the United Kingdom remain a member of the European Union or leave the European Union?”
 - 51.89% voted Leave, 48.11% voted Remain (turnout: 72.21%)
- The UK Government invoked Article 50 on March 29, 2017
- The European Council agreed the text of a 599-page Withdrawal Agreement (a legally binding treaty) and a 26-page Political Declaration, a previously agreed with the UK Government, on November 25, 2018
- Since then the UK Parliament has failed to pass the necessary legislation to enact the Withdrawal Agreement three times (and the Political Declaration twice)
 - January 15, 2019: Yes 202, No 432, 1 Abstention
 - March 12, 2019: Yes 242, No 391, 1 Abstention
 - March 29, 2019: Yes 286, No 344, 4 Abstentions
- The UK Parliament has also failed to pass a number of “indicative votes” on Parliament’s preferred Brexit options, on March 27, 2019 (8 voted down) and April 1, 2019 (4)
- On March 13, 2019 Parliament passed a non-binding motion blocking a “no-deal Brexit” (312 to 308, with 14 Abstentions)
- On March 20, 2019, Prime Minister Theresa May requested to the European Council a delay until June 30, 2019 of the date for the UK to leave the EU
- On March 21, 2019, the European Council announced that it was agreeing to an extension to May 22, 2019 if the UK Parliament passed the Withdrawal Agreement during the week ending March 29, 2019 and to April 12, 2019 in the event that it did not
- On April 2, 2019, Prime Minister May announced that she would be inviting Leader of the Opposition Jeremy Corbyn to enter talks with a view to “[trying] to agree a plan - that we would both stick to - to ensure that we leave the

European Union and that we do so with a deal” but that “if we cannot agree on a single unified approach, then we would instead agree a number of options for the Future Relationship that we could put to the House in a series of votes to determine which course to pursue.”

- On April 3, 2019, the Parliament passed a motion requiring the Prime Minister to seek an Article 50 delay from the European Council to prevent the possibility of the UK leaving the EU without a deal on April 12, 2019
- Postscript: On April 5, 2019, Prime Minister May requested again to the European Council a delay until June 30, 2019 of the date for the UK to leave the EU (or earlier if the Withdrawal Agreement is ratified by both sides before then)

Now a little theory:

- The failure of the UK Government and the Parliament to reach agreement on their side of the agreement with the EU reflects the well-known result from social choice theory that no political system is capable of perfectly aggregating social (political) preferences
- The most famous result (for economists) is Arrow’s Impossibility Theorem (proved by Ken Arrow in his doctoral dissertation and published in his 1951 book), which establishes that, under a small number of seemingly innocuous assumptions, it is not possible to convert a ranking of individuals into a group (or aggregate) ranking (another theorem in a similar spirit is the Gibbard–Satterthwaite theorem, which applies to ordinal or ranked voting systems). As later refined, the theorem establishes that if the following three conditions hold, the only way to aggregate the preferences of three or more individuals in a group into a group preference ranking is for a dictator to impose his/her preferences:
 - “Unrestricted domain:” For any set of individual voter preferences, the social welfare function should yield a unique and complete ranking of societal choices
 - “Independence of irrelevant alternatives:” The social preference between two options should depend only on the individual preferences between those options
 - “Pareto efficiency:” If every individual prefers a certain option to another, then so must the resulting societal preference order

- Ken Arrow also proved the First Fundamental Theorem of Welfare Economics (also known as the Invisible Hand Theorem) that, under certain strict limiting assumptions, any competitive equilibrium leads to a Pareto efficient allocation of resources
- Why the difference between the economic and the political sphere? Very intuitively, it is because a market is a decentralized sphere in which individuals can keep adjusting the quantities of goods and services they demand, given the prices that prevail (which in aggregate reflect the sum of all the individual choices), until they are completely satisfied; whereas in the political sphere, individuals have almost no mechanisms (other than an election or referendum here or there) by which to either communicate the richness (and complexity) of their preference and make adjustments when outcomes are not to their liking

4) Game theory

- Non-cooperative game theory (the qualifier is instructive) provides some powerful tools for understanding a negotiating process such as the negotiations between the EU and the UK over Brexit
- There is a question of whether the Brexit negotiations needed to have been conducted in the arms-length, somewhat adversarial way in which they have been. The European Council stated its overall objective in these negotiations as being “to preserve its interests, those of its citizens, its businesses and its Member States.” It has often been suggested that the EU needed to be tough with the UK and make sure the UK got a bad deal and suffered from Brexit as a lesson to other members not to follow in the UK’s footsteps
- Conceivably, the EU could have taken the opportunity of Brexit, both in the negotiations that led to the referendum in the first place and in the wake of the referendum result, to avert or address it on the much broader canvass of how to fashion the future economic and political architecture of the EU itself
- A key concept in game theory is that of a “credible threat:” a threat is credible when it would be in the best interests of the party making the threat to carry it out when the circumstances call for it (subgame perfection in a multi-stage game)
 - If the other party believes that the threat is credible and prefers the outcome associated with avoiding the threat being carried out to that of

the threat being carried out, that party is likely to give in to the other party's threat

- In such cases, credible threats influence the outcome but are never carried out or observed ("in equilibrium"). It is the belief by the other party that they *would* be carried out and be deleterious to them that makes them so powerful
- A threat on both sides that might or might not be credible is the threat to go to a no-deal Brexit ("no deal" is a misnomer because there will still be a deal or number of deals. Exiting without a formal agreement, in a sense, just shifts the bargaining context and changes bargaining positions)
- The approach of the UK in game theory terms is hard to fathom: a majority in Parliament rejects the Withdrawal Agreement, particularly on the sticking point that the Irish backstop provisions could conceivably result in either the UK being locked in permanently to a customs union with the EU or the integrity of Northern Ireland's place in the UK being threatened
 - It might be possible for the UK to extract the necessary concessions from the EU if the UK used the threat of exiting without a deal and the EU believed this threat to be credible
 - ✧ However, the UK is not making such a threat: indeed it is committing not to
- For its part, the EU has been negotiating as if it understands the logic of game theory
 - Despite the fact that the UK Parliament has rejected the Withdrawal Agreement three times, the EU has steadfastly refused to "reopen" the Withdrawal Agreement and negotiate any part of it
 - ✧ For instance, in granting the UK an extension at its March 21, 2019 meeting, the European Council "reiterate[d] that there can be no opening of the Withdrawal Agreement that was agreed between the Union and the United Kingdom in November 2018," stating that "Any unilateral commitment, statement or other act should be compatible with the letter and the spirit of the Withdrawal Agreement".
 - This is despite the EU stating in its own April 2017 negotiating guidelines that "nothing is agreed until everything is agreed"
 - The EU is doing everything to make it appear that its threat to let the UK exit without a deal if the Parliament does not vote through the Withdrawal Agreement is credible. Here is the Statement by the European

Commission on the [March 29, 2019] vote on the Withdrawal Agreement in the House of Commons: “A ‘no-deal’ scenario on 12 April is now a likely scenario. The EU has been preparing for this since December 2017 and is now fully prepared for a ‘no-deal’ scenario at midnight on 12 April. The EU will remain united. The benefits of the Withdrawal Agreement, including a transition period, will in no circumstances be replicated in a “no-deal” scenario. Sectoral mini-deals are not an option.”

- For her part, PM May has consistently accepted the EU’s refusal to renegotiate even one line of the Withdrawal Agreement, stating in her latest (April 2) statement that: “Any plan would have to agree the current Withdrawal Agreement – it has already been negotiated with the 27 other members, and the EU has repeatedly said that it cannot and will not be reopened
- Postscript: In her letter of April 5, 2019 to the President of the European Council, Donald Tusk, requesting a further extension of the Article 50 Brexit date, PM May wrote: “I am clear that all of these discussions [with the Leader of the Opposition and Members of Parliament] need to be based on acceptance of the Withdrawal Agreement without reopening it, as the United Kingdom agreed with the European Council at our last meeting, and should focus on the framework for the future relationship between the United Kingdom and the European Union”.

Further reading

Europa: the official website of the European Union, https://europa.eu/european-union/index_en

Sheard, Paul, 2019: “UK to EU: Reopen the Withdrawal Agreement!” Briefings for Brexit, <https://briefingsforbrexit.com/uk-to-eu-reopen-the-withdrawal-agreement/>

Sheard, Paul, 2018: “Brexit is a wake-up call to the EU, but so far it is not being answered,” <https://briefingsforbrexit.com/brexit-is-a-wake-up-call-to-the-eu-but-so-far-it-is-not-being-answered-by-paul-sheard/>

Sheard, Paul, 2016: “Brexit’s Wake-Up Call To The EU: Selectively Sharing Sovereignty Is Unsustainable,” S&P Global Ratings RatingsDirect, 11pp.