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The British General Election and the Brexit Negotiations



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Theresa May called the British General Election for 8 June ostensibly to obtain a larger majority to “strengthen her hand” in the Brexit negotiations with the EU which are scheduled to start on 19 June. This AP Insight piece, written by our Co-Chairman Dr Peter Collecott, looks at what we learnt about the British Government’s approach to Brexit from the Election Campaign, and at the implications of the unexpected Election results for the Brexit negotiations.

Not many in the UK or in Europe bought Mrs May’s ostensible reason for calling the Election. To most it looked like political opportunism – capitalising on a weak opposition Labour Party, and avoiding having an Election in 2020, when the Brexit negotiations – at least those for a new UK-EU relationship - would still be underway, and the British economy might well be suffering from the effects of leaving the EU.

An enlarged majority would have eased the problems of Party management, including importantly, avoiding being held to ransom by the more fanatical pro-Brexit, or anti-Brexit, factions in Mrs May’s very split Conservative Party.

Nevertheless, the question remains, what did Theresa May want to do in the Brexit negotiations with her assumed enlarged majority?

- Did she want it to push through Parliament the hard Brexit that she has been talking about – no membership of the Single Market; no membership of the Custom’s union; no jurisdiction of the European Court? Plus a restrictive immigration policy for EU nationals to help move towards her reiterated target of “tens of thousands” a year?
- Or did she want a larger majority to be able to side-line the hard-line Brexiteers, and push through necessary compromises at the end of the divorce and future relationship negotiations? Compromises which might involve paying a substantial portion of the one-off €100 bn “obligations” demanded by the EU, and then annual sums to maintain access to, say, science

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research programmes and Europol. Perhaps even softening on ECJ jurisdiction in some areas – like the rights of EU citizens in the UK?

We don't know; and it is not clear that Theresa May herself knew. It seemed more likely that she was set on a course to a hard Brexit, if only because it would require less political courage, and fewer U-turns. However, she could also have been putting on a hard front to calm the more extreme Brexiteers in her Party, and with a view to winning back UKIP voters in the General Election, knowing that she would have had to make compromises later in the negotiations.

The Election campaign itself gave us very little further indication of how the Government was intending to play the Brexit negotiations, and no further details of the outcome they would be aiming for. Theresa May stuck to repetition of “Brexit means Brexit”, “obtaining the best deal for Britain”, and “no deal is better than a bad deal”. The Labour Party, equally split over Brexit, didn't want this to be the focus of the campaign, and gave little further insight into their policy, except to say that the economy, and hence access to the Single Market, should trump ideological concerns over immigration and the reach of the European Court of Justice.

In the event, the British electorate was not to be taken for granted, and, after a campaign badly handled by Theresa May, she unexpectedly lost the slim majority that she had and will have to govern with support from the Northern Irish sectarian, and pro-Brexit, DUP. Power has drained from her, to the extent that Theresa May has been unable to carry out the reshuffle of senior Cabinet posts she apparently intended, or keep her closest advisers. It is very unclear how long this arrangement can last. Most likely, the Brexit negotiations will start on 19 June, at least formally, and the Conservative Party will use the Summer period to elect a new leader, before their Party Conference in the Autumn, and the crucial phase of negotiations once the German elections are over.

The changed political landscape in the UK has changed the outlook for the Brexit negotiations. Despite all the denials, the British position has been weakened. The EU will deal with the British Government as the British Government, but will know that the positions being taken often will not have solid political backing in Westminster, and that any agreements reached may not stick.

On the substance, the Election result could reopen the issues of membership of the Single Market and Customs Union. It is pretty clear that there is not a Parliamentary majority at Westminster for exit from the Single Market. In particular, the Scottish Conservatives oppose this. However, a Norway-type solution, and consequent continued ECJ jurisdiction, would be opposed by Brexiteers in the Conservative Party. Much would depend on the willingness of soft Brexit Conservatives to vote down the Government in association with the Opposition. The Customs Union issue is opened up by the DUP, who want a soft Ireland/Northern Island border.

More generally, the Election result should lead to a reassessment of the overall British approach. So far, Theresa May has been confrontational towards the EU. This is not the way to achieve a constructive agreement, particularly when one's negotiating hand is weak, and the clock ticking. She no longer has the political stature to maintain this line. It is to be hoped that she also steps back from the “no deal is better than a bad deal”.

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Negotiations are usually a positive sum game. The object of both sides is to identify the “zone of convergence”, where both sides gain, and then haggle over the detail to ensure the balance of advantages is acceptable. The Brexit negotiations are a negative sum game. Any outcome is worse for the UK and for the EU than the status quo, which sits in the “zone of convergence”. Leaving aside that the EU may want the UK to pay a price for leaving the EU – in order to discourage others – the nature of these negotiations is to haggle over disadvantages, with the UK proposing self-imposed disadvantages (eg ending freedom of movement), and the EU ensuring the damage to them is not too severe, and that the UK does not maintain too many correlated advantages (eg free circulation of goods and services in the Single Market). If the balance of disadvantages is not acceptable, the temptation will be to add more disadvantages. This is an unstable and potentially damaging type of negotiation.

No-deal would be the worst of the lot. All our trade with the EU – goods and services - would be subject to tariffs and non-tariff barriers overnight. In fact, we would have no agreed basis for trade with the EU or any other market; we would have no agreed WTO tariff schedules. That way lies chaos, steep economic decline, and possibly very explosive politics.

Let us hope that the unexpected outcome of the General Election leads to a reassessment of both policy and negotiating tactics in the time for the beginning of serious negotiations, under extreme time pressure, this Autumn.

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