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John Buck's insight on Brexit through the prism of negotiating technique

The Prime Minister has appointed a new Cabinet. Its key priority will be to take the UK out of the EU. But ministerial signals as to how this might be done, and what Brexit will look like, remain contradictory. Pronouncements thus far seem to be a mixture of aspiration, exhortation and magical thinking.

Amidst this confusion, the Government's task is to explore and understand the UK's (and others') interests; undertake consultations with EU partners; develop a negotiating strategy and options; and embark on formal negotiations.

Let's look at these questions through the prism of negotiating technique.

Understand what the negotiation is about

All international negotiations come down to four needs: resources, security, control and identity. The relative prominence of these will vary from negotiation to negotiation. Different participants may place greater importance on different needs, creating the potential for trade-offs.

How do these needs manifest themselves in the prospective Brexit negotiation?

Resources (Prosperity), Control

If the overwhelming majority of economists are correct, the UK has in effect opted to trade a significant degree of prosperity for greater (theoretical) control, particularly over immigration. But we will still want to minimise the economic hit. That will mean retaining the best possible access to the single market.

Security

Security will be a less central aspect of the Brexit negotiations. But recently retired Heads of the Security and Secret Intelligence Services have been clear that leaving the EU could undermine the UK's participation in decisions that will shape the sharing of data. We will wish to establish mechanisms to avoid that.

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Identity

Identity – who we are as a country, and who we are as individual citizens within it - is at the heart of the UK's decision to leave the UK. One reason so many Remain supporters feel devastated by the referendum result is that it threatens to take away their identity as EU citizens.

During the referendum on Scottish independence, the then Prime Minister was clear that in the event of a Yes vote, Scots who chose to do so could retain their UK citizenship. Will the UK Government wish to secure some similar arrangement for those UK citizens who wish to retain their EU citizenship? If so, how? If not, how will the Government heal a country left badly divided?

Understand the interests of others

It will be crucial to develop the best possible understanding of the interests and aims of other EU governments. Thus far Brexit champions have done little more than project their hope that German car manufacturers will ensure the retention of a single market incorporating the UK.

But it is facile to assume the interests of our European partners will easily align with ours. Other EU Governments face their own domestic pressures. There will be elections in France, Germany and the Netherlands next year, against a background of rising populism. Eastern European governments may see our wish to control immigration as an attack on their citizens. Frankfurt, Paris, Amsterdam and Milan may seek to ensure the City does not retain its financial services passport.

More generally, EU partners may be angry and resentful that we are turning our back on them, and fearful of the political and economic risk we have unleashed. Some may wish to demonstrate that countries leaving the EU are not rewarded.

Listen

Meanwhile, leading Brexit ministers are adopting public positions. 'The UK won't budge on freedom of movement'. This may play well at home, but is unlikely to help us achieve a successful outcome.

We should stop talking at our EU partners, and instead listen to their concerns. We might then begin to identify common ground and map out elements of an agreement satisfying both our needs and theirs. This will involve compromise and subtle political judgment. We have to hope, meanwhile, that our politicians resist the temptation to adopt rigid positions.

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Frame the discussion

During the referendum campaign prominent Leavers couched the debate in terms of liberation of the UK from a malign EU. This sets the stage for confrontation rather than cooperation.

Our leaders will need to change the terms of discussion, so as to convince our partners that we want Brexit to strengthen both the UK and Europe, and provide a firm basis for a cooperative approach to the many problems the continent faces.

Time

How the UK handles time will be crucial to the prospects of success.

Article 50 of the Treaty of Lisbon, which provides for (but never really envisaged) the departure of an EU member state, is triggered when that member state notifies partners of its intention to leave. Notification sets the clock ticking, and departure must take place within two years.

This creates a difficult negotiating dynamic, since it gives the departing state the incentive not to trigger Article 50 until the shape of its future relationship with the EU is clear, while it encourages the other member states not to engage in serious discussions until Article 50 is triggered.

Given the shift in negotiating power when Article 50 is triggered, and the difficult political background in Europe, the UK would do well to seek an understanding with its major partners that it will not trigger Article 50 until the second half of next year, after elections in Germany, France and the Netherlands; and that meanwhile serious but informal consultations should begin to map out the shape of a settlement.

Develop options

Best alternative to a negotiated settlement – BATNA – is a favourite concept of negotiating theorists. Put simply, it means that the more alternative options you have, the less desperate you are for a negotiated settlement, and the easier it will be to walk away from an unsatisfactory agreement.

The Brexit negotiations don't quite fit this template – could we ever walk away from Europe? But it clearly makes sense to engage in trade discussions with non-EU countries, in parallel with consultations with our European partners, so that we fully understand the prospects the UK faces outside the EU.

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Credibility and Trust

In the end, successful negotiation depends on the quality of the relationships between the parties. Lasting agreements can of course emerge when negotiators dislike and distrust each other – although in such circumstances a skilful mediator will often be necessary. But a successful negotiation is more likely to result from a context of credibility and trust.

The two credibility questions negotiators will always have about the other side are: does this person know what they are taking about? And will they be able to deliver on any agreement?

Given the words of some Brexiters during the referendum campaign, and the actions of some since, our EU partners may have doubts on both counts. It will be important that our new leaders quickly lay any doubts to rest, and build the sorts of relationships in Europe that will give them the best chance of securing Brexit arrangements in which both the UK and the EU might thrive.

For further information please contact:

Caroline de Lisle

Business Development Manager

caroline.delisle@ambassadorllp.com