**ADEPT View from Westminster November 2018**

I would like to apologise in advance this month for authoring what is, without doubt, the most boring prose you will read before Christmas. I strongly suggest that only those possessing a strong constitution or a need to cure insomnia should read any further.

Alas, such tedium is necessary to understand Westminster and Whitehall as it stands right now. Which is on the precipice staring into the abyss.  The place is consumed with the Brexit Withdrawal Agreement and we have reached the point where we cannot ignore the matter any longer. The deal is on the table and the House of Commons will spend about 10 years (well 5 days) discussing it before the meaningful vote occurs on December 11th. I shall try and save you all the pain of watching the debate by explaining why so many are minded to vote the deal down….

Are you sitting conformably? Then I shall begin.

We officially leave the European Union in March 2019. Upon doing so, we enter a transition period where everything stays the same.  Under the terms of the Withdrawal Agreement, the transition period can last until 2022. During the transition period, the UK and the EU will attempt to negotiate a free trade agreement (FTA). In theory, it should be straightforward since both sides will want to keep imports and exports moving. If we succeed, we can get the bunting out and all have a jolly nice party!

If we fail, then the much-discussed backstop kicks in. The backstop exists as an insurance policy to ensure, whatever happens, both the UK and EU remain adherent to World Trade Organisation (WTO) Most Favoured Nation Principles (MFN). MFN principles mean we cannot trade (set tariffs) with one country differently to another unless we have a free trade or customs agreement (I’m simplifying here!). The backstop has a customs agreement, namely the EU Customs Union and therefore keeps everyone compliant.

If we fail to secure a FTA and the backstop wasn’t there…then imports (for example) into Dover from America would face checks that imports into Northern Ireland wouldn’t, since the latter lacks customs checkpoints. Similarly, imports into Dublin from Belfast would not be treated the same as imports into Berlin from Kentucky. Such a thing would be discriminatory and would end up in the WTO courts. The only way around this would be (a) installing customs checkpoints at the Northern Irish border, (b) removing checkpoints at all other entry points, (c) removing all tariffs for everyone so there’s no need to check anything, or (d) agreeing alternative arrangements, such as point of arrival/departure checks that see customs officials inspect at source/destination as opposed to the border. As it stands, there’s no political will for any of these options.  That might change….

Now, the agreement we’ve reached with the EU says we cannot break out of the backstop when we want.  We need agreement from a joint panel that includes the EU. Mrs May says the withdrawal agreement contains a good faith clause that means the panel cannot reject any reasonable request to leave the backstop. She also says Article 50 (the thing we triggered to start this process off) does not allow the backstop to become a permanent solution. Her opponents question the worth of the good faith clause and A50 legalities and insist we must have the right to leave an international agreement unilaterally. They also note that the continued existence of a customs arrangement makes signing free trade deals elsewhere impossible, a point reinforced recently by President Trump. Finally, they note that the signing of a FTA requires unanimous support, a point not lost on President Macron judging by his recent comments and fishing quotas and the Spanish over Gibraltar. And we’re paying £39bn for the privilege.  That’s a lot of potholes that could be filled…

The comprise position – assuming we cannot renegotiate the backstop clauses - might be option (d) as presented earlier. Some float EFTA as an alternative, but that requires the UK to accept freedom of movement…

And there you have it…The debate in a nutshell…You pays your money and takes your choice… The suboptimal compromise of risking the backstop for a FTA by 2022 vs worst deal in history.

So, what next? Ultimately, the EU or Parliament will have to blink.  No deal, as we have seen, is not an option unless we take the steps outlined to keep us compliant with WTO rules. The EU says this is the deal.  Parliament looks set to reject it. Waiting in the wings is Mr Corbyn with a no confidence motion and John McDonnell with utterances about a peoples vote should that happen.

Uncertainty reigns supreme. Let us hope it has been resolved by the next column for all our sakes.  The stakes could not be higher.