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## BREXIT AFTER THE EUROPEAN COUNCIL



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The October European Council decided the BREXIT negotiations had not made sufficient progress to move to the second stage covering the UK’s future relationship with the EU. But the atmosphere has changed since Mrs May’s Florence speech. EU leaders did decide to begin internal discussion of the future relationship. Subsequent reports suggest the UK will be kept closely informed. What is happening – and will it be enough to tip the negotiations towards a successful outcome? A little analysis may be useful.

Leaving aside the complex substance, BREXIT is difficult because so much emotion is involved. In the UK, the debate is still largely ruled by people’s hearts rather than their heads. It will be fuelled further by the Parliamentary debate on the EU (Withdrawal) Bill.

Emotion plays a role for the EU too. This is evident from e.g. M Juncker’s and Mr Verhofstadt’s periodic statements and from the furore and concern over leaks from various May/Juncker dinners. Fortunately, EU leaders have recognised that public rows don’t help and are moving to cool things down.

The second reason Brexit is complicated is that it needs strong leadership from all sides to navigate successfully through a highly charged situation. In the UK it was never going to be easy to hold together either divided political parties or a self-evidently divided nation.

Leadership is complex on the EU side too. Until very recently the Commission negotiators could motor on behind the European Council guidelines. They were good enough to start with – and certainly set out the EU’s key concerns. But since Mrs May’s Florence speech and the discussion around the European Council it’s increasingly clear the guidelines need to grow and adapt to meet the EU’s purpose. That purpose should be to secure an outcome that

meets its broader interests – and I would argue those of the UK, since ultimately they largely coincide.

EU leadership dynamics are inevitably complicated by national agendas. Given the history of many messy EU budget negotiations, it's not surprising the supposed lack of clarity over the financial divorce settlement featured so heavily in the run-up to the European Council. There is also a feeling across European governments and business that – put at its most benign – the UK cannot be seen to do better outside the tent than in. The rationale varies from discouraging other EU member states from leaving the Union to demonstrating clearly the benefits the EU offers to its members. Both are difficult arguments for UK Brexiteers to swallow. Certainly, at present there seems no rush for the exit door.

Thirdly, there is the big issue of uncertainty and lack of clarity. This is becoming hugely important. Complaints about the lack of a clear UK position are probably the biggest issue in the public (let alone private) debate on both sides of the English Channel. On any given day, a fair proportion of the British press will be devoted to the strapline 'Business needs Clarity'. This is mirrored in Europe, though with somewhat different emphasis and motivation. Views about Brexit among British and European business vary by company, sector and individual but the need for clarity is a fair one. The December European Council will be a significant crunch point in the negotiations. Brexit issues will be under the microscope and the need for reassurance is real. Both sides (but perhaps especially the British body politic) would do well to make great efforts to provide it.

It's important not to get carried away by the ebb and flow of negotiations and over-hyped media coverage. In no negotiation will everything ever be put on the table. Lots of things will be said and done for effect. In particular, preparations for a 'hard' BREXIT may be stepped up on the UK side. It is important that these should be credible and effective. This is partly because a lot of work is necessary anyway to prepare for the UK's desired outcome of a much 'softer' arrangement. In addition, the EU needs to receive a clear and credible message of UK intent.

How can we expect the negotiations to go? And what can be done to get them on track?

The answer to the first of these questions is almost certainly 'not as fast or well as one would like'. Mrs May's Florence speech was significant for both its tone and substance. More UK position papers have followed since. It's important not to forget that agreement has been reached on a number of significant technical points. Atmospherics are now better. Following the European Council, Chancellor Merkel said all sides were now working in 'good conscience' and invited Britain to come forward with 'ideas' to inform the next stage of the talks. But the British government still has a lot to do to clarify its positions and think through its negotiating options.

What can be done to help the process? The key issue is to move the negotiations from a 'win/lose' mentality to 'win/win'. As the BREXIT deadline moves closer, I would expect more EU member states to share that view.

So – while the EU sorts out its position - allowing informal exchanges to start on a transition period and the future relationship would be a good and sensible way forward. Work on the exit package will need to continue. It would be good if imaginative ways could be found to deal with the detail of issues such as the exit payment. This could involve some sort of arbitration process. That might reinforce the message that a collaborative approach is a way to show real leadership. Successful negotiations need durable outcomes – and those are best achieved through fair process.

Negotiations on a transitional period will not be easy. There is as yet little clarity about what it would entail – except, in the British Government view, little immediate change! There is likely to be a major argument in the UK about the extent to which the terms of the transition might pre-empt what follows thereafter. But it is essential to prepare the ground for the even longer and harder slog of agreeing future economic and trade relationships. Moving to ‘win-win’ now is of extreme importance.

*This AP Insights article is developed from remarks to the Partners Dinner of the FERMA Risk Management Conference in Monaco shortly before the European Council*

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