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House United, House Divided: Explaining the EU's unity in the Brexit negotiations

Mads Dagnis Jensen (Copenhagen Business School) & Jesper Dahl Kelstrup (Roskilde University)¹

Introduction

The Brexit negotiations endured a turbulent year in 2018.² Nevertheless, the member states and EU institutions were able to produce timely and coherent negotiating positions on Brexit. Just as importantly, they have appeared, by and large, united and have not broken rank in the negotiations despite some attempts by the UK to play a divide-and-conquer strategy (Kassim and Usherwood, 2018). This article sets out to explain the unexpected unity of the EU in the Article 50 negotiations.

The year commenced with the UK government submitting its European Union (Withdrawal) Bill to the House of Lords on 18 January after its approval in the House of Commons. The House of Lords began its readings, which led to several amendments, most of which were defeated in the Commons (Walker, 2019). On 26 June, the bill received Royal Assent and thus became an Act of Parliament (Department for Exiting the European Union, 2018). The European Union (Withdrawal) Act sets out how to repeal the European Communities Act of 1972 and states that the UK Parliament must approve the negotiated withdrawal agreement between the government and the EU as well as how EU laws are transposed into UK law (*European Union [Withdrawal] Act*, 2018).

After the terms of the divorce were defined, the next important event was the Chequers plan published on 12 July 2018 by Prime Minister Theresa May. The plan sets out a detailed vision for the future relationship between the UK and the EU (Great Britain. Department for Exiting the European Union, 2018). Special attention was paid to the economic relationship, where the aim was to maintain frictionless trade in goods after Brexit. Prior to launching the plan, the prime minister gathered her ministers and requested the collective support of her cabinet on 6 July 2018. Not all members of her cabinet could support the plan. The Secretary of State for Exiting the European Union, David Davis (BBC, 2018c), and Foreign Secretary Boris Johnson (BBC, 2018a) both resigned in the wake of the meeting, before the plan was official. Both indicated that the government's vision of Brexit was too far away from their respective visions.

The Chequers plan got a lukewarm reception from the EU (Jensen and Kelstrup, 2018). On one hand, the EU wanted to recognise the new momentum after many months of limited progress in the negotiations. On the other hand, the EU could not support ideas in the plan which would allow UK companies free access to the single market without being legally bound to follow EU rules. At an informal meeting of the EU Heads of State or Government in Salzburg on 20 September, President Donald Tusk stated that the EU would not accept a deal where the UK could have free movement in goods without also accepting the other three freedoms (Consilium, 2018).

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² The outline of the events of 2018 were built primarily on Walker (2019).

As the negotiations approached the end, both parties stood far apart. The EU could not support any deal which would hamper the integrity of the single market, while the UK would not support a deal which would hamper the unity of England, Scotland, Wales and Northern Ireland. Despite the major differences, the UK government and EU negotiators managed to reach an agreement on 14 November 2018 (*Draft Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, 2018). The agreement determined the principles of how the UK would depart from the EU on 29 March 2019 and was accompanied by a political declaration on the future relationship between the two. The next day, the new Secretary of State for Exiting the European Union, Dominic Raab, and other ministers resigned from the Cabinet in opposition to the agreement (BBC, 2018b). On 25 November 2018, the leaders of the remaining 27 member states gave their support for the withdrawal agreement and the political declaration (General Secretariat of the Council, 2018). The House of Commons in the UK was supposed to do the same on 11 December but the prime minister decided to postpone the vote to January to gain more time to secure the necessary support (BBC, 2018d).

The EU remained surprisingly united while the UK became increasingly divided over the course of the negotiations in 2018 (Kassim and Usherwood, 2018). From both an empirical and theoretical point of view, previous crisis management and diverging interests in and between EU and member states provided reasons to expect that unity in the EU would be difficult to achieve and maintain. First, the EU has in recent years been faced with multiple crises such as the economic crisis and the refugee crisis in which it has been hard to find common ground (Seabrooke and Tsingou, 2019). Second, the EU is a fragmented political system with considerable division of powers among EU institutions including a well-known rivalry between them (Jensen, Koop and Tatham, 2014). Third, the member states of the EU are extremely heterogeneous in terms of their political systems, relationships with the UK and political and economic vulnerabilities to Brexit (Kassim and Usherwood, 2018).

In order to explain the unexpected unity of the EU27 and the EU's institutions, this article develops and operationalises four different models to account for the unity, namely the 'rational choice model', 'identity model', 'bureaucratic model' and 'framing model'. Building on comprehensive empirical material, this article examines the explanatory value of the models. Third, this article concludes by reflecting upon the utility of the theoretical framework.

Theorising and measuring the EU's unity in the negotiations

Inspired by Allison's classic study of decision-making (1969), this article utilises four different theoretical models as lenses to illuminate the EU's unity in the Brexit negotiations. Each model is discussed with regard to its theoretical foundation and causal mechanism and is operationalised in terms of a set of expectations, which are matched with empirical material in terms of policy documents, background interviews and academic sources.

Rational choice model

The rational choice model is based on economic theory and includes a number of prominent theories of European integration such as classic intergovernmentalism (Hoffmann, 1966), liberal intergovernmentalism (Moravcsik, 1993) and principal-agent frameworks (Pollack, 2003). Though these theories differ in some important respects, they share some common basic assumptions about decision-making in the EU (Lewis, 2003). The member states are taken as the main unit of analysis and are assumed to act instrumentally rationally when faced with a strategic problem such as Brexit. That implies that the member states calculate the cost and benefits of different options with regard to European integration and work strategically for the one which is most likely to maximise their utility.

Identity model

The identity model is derived from sociology and social psychology and is embedded in the neofunctional focus on changes in loyalties of national actors (Haas, 1958) as well as other studies which focus on how national plenipotentiaries form and internalise common values and norms through socialisation (Lewis, 1998; Checkel, 1999). A common assumption among these approaches is the idea that by interacting over time, actors in the EU develop a group identity with a set of shared norms and values. Common group identities are often associated with an in-group/out-group dynamic where the in-group tend to favour members coming from it and discriminate against members of the out-group (Tajfel and Turner, 1979). Based on this line of reasoning, the UK's decision to leave the EU has changed its status from being a part of the in-group to joining the out-group. This in turn has reinforced the common identity and unity of the remaining member states vis-à-vis the UK.

Bureaucratic model

The bureaucratic model draws on organisational theory and is related to approaches which focus on the existence of a European administrative space in which national administrations and EU institutions are increasingly intertwined (Olsen, 2003; Heidbreder, 2011; Trondal and Peters, 2013). According to this model, the unity in the Brexit negotiations is a result of administrative action which has been successful in aligning the approach taken by national governments and EU institutions. Specifically, the bureaucratic model points to how the European administrative space has delivered a coordinated response between the multitude of national governments and EU institutions. This happens through the identification of common goals, which are associated with activities and actors through a system which manages interdependencies via resource allocation, sequencing and synchronising (Malone and Crowston, 1994).

Framing model

The framing model draws from agenda-setting, deliberative theories and political communication. Framing is an integral part of approaches in EU studies, emphasising 'rhetorical action' (Schimmelfennig, 2001), 'communicative action' (Risse, 2000) and deliberative

intergovernmentalism (Puetter, 2012). These approaches can be seen as argumentative ways to search for collective policy responses and as a type of non-hierarchical steering characterised by performative speech acts. Specifically, framing is the ability to construct a narrative of an issue so that it is likely to be interpreted in specific ways by the receiver. If the model is valid, the unity of the EU can be ascribed to the ability of the actors which support unity in the EU27 to frame the Brexit negotiations as a situation where the united EU stands against a divided UK.

Summary of theoretical models

The four theoretical models are summarised in Table 1. Even though the models are sometimes seen as competing, this paper follows Allison (1969) by applying them in a symbiotic way to answer the puzzle of why the EU has remained united in the face of heterogeneity. Each model can be seen as a necessary but insufficient condition for explaining the unity of the EU in response to Brexit.

Table 1. Theoretical models of EU unity in response to Brexit.

Name	Rational choice	Identity	Bureaucratic	Framing
Expectations	EU unity is a function of interests of the member states	EU unity is a function of reinforced in-group identity	EU unity is a function of efficacious coordination	EU unity is a function of a shared interpretation.
Logic	Utility maximising	Collective identity	Administrative coordination	Common narrative
Questions	What are the costs and benefits of different options for the EU27 member states with regard to Brexit? Which option is most likely to maximise the utility of each member state?	How do the EU27 perceive themselves and each other? How do they perceive the UK before and after the EU referendum?	What organisational setups are there to handle Brexit? How is coordination between the various actors handled?	How is Brexit being constructed rhetorically? To what extent do the EU27 agree on the master narrative of Brexit and how is it being reinforced?

Analysis

Brexit and the rational choice model

Explanations based on rational choice reasoning are frequently used in media coverage, policy documents and academic analysis of the Brexit process. This is hardly surprising since Brexit is a strategic problem with strong national interests at stake where it is reasonable to expect that the member states will act instrumentally to maximise their utility. In the media, the negotiations are covered using rational choice theoretical metaphors and concepts such as categorising Brexit as ‘lose-lose’ (Financial Times, 2019), how the actors are deploying ‘hardball tactics’ (Reuters, 2018) and how national interests—especially the German car industry—at the end of the day will prevail over EU unity (Posaner, 2017). In policy documents, the mapping of the member states’ preferences with regard to Brexit is frequent, e.g., the negotiating Brexit project led by Kassim and Usherwood (2017, 2019), the Institute For Government’s mapping of ‘the views of the EU27’ (Durrant, Stojanovic and Lloyd, 2018) and the House of Commons’ ‘The EU27: Internal Politics and Views on Brexit’ (Fella *et al.*, 2019). In academic studies, the rational choice model has also been utilised to analyse the Brexit negotiations. In their study of the renegotiation of British membership, Kroll and Leuffen (2016: 1317) conclude that David Cameron failed to use domestic pressure to extract significant concessions from the EU because ‘the cost–benefit structure of the other member states was not affected in such a way as to overcome the logic of the joint decision trap’. In another rational choice-guided analysis, Hix (2018) examines how the EU and UK ranked different Brexit options by factoring in both economic and political costs and identified the likely equilibrium outcome to be a basic free trade agreement.

The rational choice model holds some sway when analysing the Brexit negotiations. Many member states have indeed made different estimations of the Brexit’s consequences for them which have fed into the domestic preference formation process (Kassim and Usherwood, 2017). Yet the standard rational choice model is challenged by the Brexit negotiations in two respects. First, the negotiations in 2018 and their likely outcome are characterised by observers as having a high degree of complexity and incomplete information, which makes it difficult to search for the optimal solution. Though different outcomes can be placed on a continuum with hard Brexit (i.e., no-deal) on one end and soft Brexit (i.e., European Economic Area) on the other, the degree of uncertainty is high. The national preference formation as described by people close to the process is thus characterised more by bounded rationality and the search for satisfactory solutions in the face of the many unknowns (Simon, 1957; Cyert and March, 1992). Second, the cost–benefit calculations of each member state are often misconceived when applying the rational choice model. This leads to the erroneous conclusion that the EU ought to be more divided than it is because of the asymmetric impact of Brexit on the member states. To be more specific, policy reports have listed trade balances between each member state and the UK (Durrant, Stojanovic and Lloyd, 2018), whereas some academic studies have used more sophisticated gravity models to estimate the impact on member states’ GDP under different Brexit scenarios (Chen *et al.*, 2018). However, when member states establish their preferences, they are not (only) looking at the net cost of the UK leaving versus the status quo. The member states are also looking at the net benefits they receive from the single market without the UK and from the EU as a decision-making system for handling

interdependence. Put differently, though some member states could in the short-run minimise the costs of Brexit by giving the UK a favourable deal which allows access rights to the single market without being bound by many of its obligations, such a deal could be costly in the longer run, hampering the integrity of the single market. Such a deal would give the UK competitive advantages and perhaps undermine the EU's system. If this were to happen, the cost of Brexit would become much higher. Thus, to explain the EU's unity, one must operate with an advanced utility function of each member state, which also factors in the value they attach to the single market, competitiveness and the EU as a decision-making system. Moreover, collective action strengthens the EU27's chances of imposing preferences on the UK, thus giving the EU a collective advantage in the negotiations.

Brexit and the identity model

The departure of the UK from the EU implies a move from being part of a community to being in an out-group. The identity model captures different ramifications of this process and how it may have impacted, and in some respects strengthened, common identity and unity in the EU27 (see Laffan, 2019, in this issue). While the UK's EU referendum and the resulting decision to leave the EU have widely been understood in contrast to European values such as cosmopolitanism, tolerance, pragmatism and shared sovereignty (Adler-Nissen et al., 2017), the identity formation in response to the Brexit negotiations has several underpinnings.

The Brexit negotiations have contributed toward reinforcing a common EU identity based on the idea that the UK has always been an "awkward partner" in the EU, tending to oppose European integration in many areas (George, 1994). Moreover, the level of awkwardness increased several years prior to the 2016 referendum as the UK moved away from its pragmatic approach to EU decision-making and took a more uncompromising stand (Rasmussen, 2016; Jensen, 2017). In the unfolding Brexit negotiations, it seems that the difficulties in managing Brexit have been much more obvious in London than in Brussels, where there has been almost consensual support for the EU's common principles adopted in 2016. EU identity was already visible in a joint response to the Brexit vote issue by the Presidents of the European Council, European Parliament and the European Commission the day after the referendum. The statement emphasised the survival of the EU27, a commitment to preserving EU unity in the negotiations and the importance of an orderly withdrawal, and it paved the way for treating the UK as a third party in the negotiations (Laffan, 2019, in this issue). In the unfolding negotiations, the sense of unity has been reinforced by the idea that the single market signifies common European values in both economic and symbolic terms. In practice, the Article 50 negotiations also imply that the EU27 leaders now meet as a group and are "visited" by the British prime minister, who is eating by herself during lunches and dinners. As a result, the unfolding negotiations have consolidated a sense of remaining in an in-group with a joint purpose, if not a common identity, for the EU27. Small member states in particular enjoy the shared responsibility taken by the EU27 in the negotiations (Wishart, 2019).

However, the identity model faces several challenges. First, although the negotiations have been running for several years, they are by definition time-limited and it is, therefore, questionable whether they have similar long-term socialising effects to the regular European integration process.

Second, as illustrated by the limited success in agreeing on new reform initiatives such as those suggested by French President Emmanuel Macron (New York Times, 2018), it is questionable whether Brexit has triggered a new sense of common purpose in the EU. Rather, the EU's unity is about defending the status quo. Member states such as the Netherlands, Sweden and Denmark that have tended to vote in similar patterns to the UK in the Council (Hix, 2016) stand to lose a key ally after the UK leaves the EU. Such countries emphasise a shared free-market identity and are likely to pursue a close future relationship with the UK despite Brexit. The statements issued by the Finance Ministers from the eight countries in the so-called New Hanseatic League from March 2018 and onwards point in the same direction, although the future viability of the alliance remains uncertain (Korteweg, 2018).

Brexit and the bureaucratic model

The EU27 by-and-large have similar interests in relation to the UK, but was this a starting point or the result of a bureaucratic process? The bureaucratic model emphasises the organisational setup around the negotiations, including the early and comprehensive use of the common principles which were adopted by the European Council on 26 June 2016. In this mode, the Article 50 task force under the commission and the task forces which were established in many member states are important factors in explaining the unity of the EU27.

The common principles, most notably maintaining the integrity of the single market (popularised under the term “no cherry picking”) and mandating that a task force would conduct the negotiations based on EU27 mandates and UK notifications, meant that important EU27 priorities as well as the negotiation procedures were evident from early on. The principles worked as a platform for establishing a common framework for managing the evolving negotiations, which were consolidated in an informal European Council meeting in December 2016 (Kassim, 2018). Both the priorities and the negotiation setup were results of EU-level actions and European Commission activities in coordination with the Article 50 Task Force, the European Council and the Article 50 Working Group in the Council as well as task forces in the member states. The close involvement of member states in the negotiations appears to have minimised concerns about EU-level negotiators becoming too distant from EU member states' positions. The horizontal and vertical coordination between these EU and member state actors dovetails with the idea of a common administrative space in the EU (Heidbreder, 2011). The setup for managing the negotiations remained in operation in 2018.

Importantly, responses have been coordinated around not only summits but also smaller issues relevant to Brexit. In coordination with the Council Secretariat and a variable geometry of DGs, the Commission's Article 50 Task Force has made a difference by providing a horizontal framework which contrasts sector-specific responses from the member states and EU institutions. A sector-specific approach would, if seen in isolation, tend to lead to a preference for the closest possible future relationship with the UK without considering common principles such as preserving the integrity of the single market and securing a broader balance between the UK's rights and obligations vis-à-vis the EU. Coordination in the EU's administrative space was applied to prepare for no-deal responses between affected member states in 2018.

Brexit and the framing model

While some of the other models have gained considerable traction in media coverage, policy documents and academic analysis, the framing model has received little attention. Framing studies have mainly focused on how the EU or Brexit is framed domestically in the media or by politicians rather than looking at the frames deployed in the negotiations (Koller, Kopf and Miglbauer, 2019). However, the framing model has some explanatory power regarding EU unity in the Brexit negotiations. Before the result of the Brexit referendum was known on the evening of the EU Referendum, Tusk had cleared with the EU27 leaders the framing to be conveyed in case of a majority for leave: 'The central message was that EU business would continue as usual, that everything was under control, and that there was "a pilot in the plane"' (Kassim, 2017). Subsequently, the EU27 Heads of State or Government came together at an informal European Council meeting on 27 June in Brussels, emphasising in their statement: 'The outcome of the UK referendum creates a new situation for the European Union. We are determined to remain united and work in the framework of the EU to deal with the challenges of the 21st century and find solutions in the interest of our nations and peoples. We stand ready to tackle any difficulty that may arise from the current situation' (European Council, 2016). The frame that the 'EU stands united in the face of Brexit and difficulties will be tackled' has been repeated regularly thereafter by different EU actors. Arguably, this frame serves the dual function of uniting the EU27 vis-à-vis the UK and reminding all remaining member states that EU membership is something that has to be fought for. Tusk, Michel Barnier and Jean-Claude Juncker, among others, have underlined both that negotiations take place under time constraints with a fixed deadline and that it is important for the UK to provide clarity on what it wants.

At the outset of the negotiations, the EU and member states were very conscious of emphasising their unity vis-à-vis the UK. This was not in the least based on the fear that the EU would be divided as in previous crises (e.g., the Greek crisis and the refugee crisis). However, the need to frame the EU as a united block became less necessary as the negotiations progressed. The divisions in the UK government and Parliament and a 'united house' in the EU overtook the framed versions. Thus, while this framing was initially created and synchronised intentionally, it soon became less necessary as events unfolded. In many cases, EU actors, such as relevant ministers and EU officials, independently articulated that the EU agreed, while there was considerable internal disagreement within the UK. Yet the framing in terms of EU unity was not only rhetorical but has been implemented in the few instances when member states deviated from the EU's line. In those cases, the member state was informed of the importance of backing the EU's position and not creating fragmentation which the UK could use in a divide-and-conquer strategy.

Overall, the explanatory value of the framing model must be considered in conjunction with the other three models. First, the frame that the EU stands united was made feasible by a common material interest by all member states in defending the integrity of the single market and the EU's system in line with the rational choice model. Second, the common frame was also made possible by the common norms and values among the actors on the EU's side as purported by the identity model. Third, the frame was supported by a system which first established a set of principles

according to which the negotiations must be conducted and subsequently coordinated the activities among the various actors involved following the bureaucratic model.

Conclusions

Given the fragmented nature of the EU, its unity in the Brexit negotiations is puzzling. Although the departure of a member state from the EU is exceptional, the EU's unity has been maintained throughout the Article 50 negotiations. The rational choice, identity, bureaucratic and framing models have been deployed to explain the EU's unity in 2018. All models found support but were also challenged in some respects. A common economic interest in preserving the single market, a sense of common purpose among EU leaders, the early and comprehensive coordination of positions and the successful framing of the EU as a unitary actor in the negotiations all contribute to explaining the EU's unity in response to Brexit. However, the EU's unity is likely to be a function of the context-specific nature of the Brexit negotiations. The EU's unity in response to the Brexit divorce settlement is not likely to transpose to other third party negotiations, and it may even be challenged when the future relationship between the EU and the UK is put on the table. Yet the four theoretical models used in this study to examine the Brexit divorce may also be utilised to identify factors causing disarray in other negotiations.

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