



Theresa May's meaningless meaningful vote?

by Agata Gostyńska-Jakubowska

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Though many British parliamentarians believe Brexit will harm the UK, it is unlikely that they will derail it. However, Westminster could help to mitigate its negative consequences.

Prime Minister Theresa May has promised that the UK parliament will have a “meaningful vote” on the withdrawal agreement with the European Union. She wants to submit the deal to Parliament together with a political declaration on the future relationship with the bloc. The government has tried to make the vote meaningless, however, by insisting that if Parliament rejects the package, Britain will leave the EU without a deal.

On April 30th the House of Lords adopted an amendment to the government's [Withdrawal Bill](#) (repealing the European Union Act) in an attempt to reassert parliamentary sovereignty. The amendment is designed to ensure that the British parliament votes on the withdrawal agreement before the European Parliament ratifies it. The government had already promised to ensure this, but peers worry that May might present the agreement to Parliament at the very last moment, so that it has no choice but to approve it.

Lord Hailsham, a former Conservative cabinet minister, who presented the amendment ahead of the vote, said it would ensure that Parliament has a real choice about whether to accept or reject the withdrawal agreement. Then, if Parliament does reject the deal, it would have several options: vote to crash out of the EU with no deal; instruct the government to embark on further negotiations with the EU; hold a referendum on the deal; or decide to remain in the EU. The amendment also provides that Parliament could instruct the prime minister to choose one of those options if there is no agreement between the UK and the EU-27 by February 28th 2019, one month before the UK's scheduled departure from the EU.

The revised draft of the Withdrawal Bill will return to the Commons after its third reading in the Lords. The elected chamber will then have to decide whether to accept the changes. In December 2017, 12 Conservative MPs voted with Labour for the ‘Grieve Amendment’ to the Withdrawal Bill, put forward by

former Conservative Attorney General Dominic Grieve, which ensures that the government cannot start implementing Brexit before Parliament has approved the final agreement. The peers' amendment goes further, since it would stop the government from offering Westminster a false choice between accepting the deal or having no deal at all. There may well be a majority for this in the Commons.

If the Commons accepts the Lords' amendment, what would the implications be?

First, Westminster could instruct the government to leave the EU without a deal. But that seems very unlikely. Though some die-hard Brexiters still say that no deal is better than a bad deal, the government's own analysis shows it would do serious damage to the British economy. There also appears to be no majority in the Commons, or the Lords, for leaving without a deal.

Second, Parliament could instruct the prime minister to revoke the notification of the UK's intention to withdraw. But the chances of that happening are slim, too. Both the Conservatives and Labour have made clear that they accept the result of the Brexit referendum, even though they disagree on what the future EU-UK relationship should look like.

The third option would be a referendum on the terms of the government's exit deal. On April 15th, a group of pro-EU MPs, business representatives and celebrities launched a campaign calling for just that. They want the British people to have the opportunity to compare the final outcome of the negotiations with what Brexiters promised them during the campaign. Their hope is that British voters would realise that what is on offer falls short of the so-called sunlit uplands of Brexit, and vote to stay in the EU.

But reversing Brexit is easier said than done. So far neither the Conservative party nor Labour has been keen to hold a referendum on the final deal. For a second referendum to take place, either Labour would have to shift its position, perhaps arguing that the government had made such a mess of the negotiation that the results would not match what the Leave campaign promised, so the people should have the final say; together with other opposition parties and a few pro-EU Tory rebels, it could then probably assemble a majority for a second vote. Or there would have to be cross-party agreement on a new referendum (though this would only be likely if the government thought that the leave side would win again).

But to call for a referendum on the withdrawal agreement, the parties would have to be confident that they had the public with them. Almost two years after the UK voted to leave the EU, the country remains divided. The latest [polls](#) suggest that the government's clumsy negotiations may have made the public more concerned about Brexit: 45 per cent think that it was wrong to vote to leave the EU, whereas 42 per cent continue to believe that it was the right decision. But this result is within the margin of error, and there is no clear sign that another referendum would produce a different outcome. Despite having no majority in the Lords, the government won a vote on April 30th against an amendment that would have given Parliament the power to call for a referendum on the final deal. Labour peers were instructed to abstain, though some rebelled.

Keir Starmer, the shadow Brexit secretary, has [argued](#) that sending May back to Brussels to renegotiate would be Labour's preferred option if Parliament rejects the withdrawal package. The party has said the withdrawal deal must meet their six Brexit tests. The tests include that "any Brexit deal should not deliver less benefit than the UK currently has as a member of the EU's single market and its customs union". But no Brexit agreement can deliver that, unless the government's red lines shift.

Pro-EU Tories agree with Labour that the prime minister's negotiating red lines will hurt British businesses. But equally, they worry that defying the government and voting with Jeremy Corbyn's Labour could damage their standing with voters, particularly after the Labour leader's poor handling of the Skripal case and the chemical weapons attacks in Syria. Some eurosceptic Tories think that if their pro-EU colleagues wanted to vote against the final exit deal, May could always make the vote on the deal a matter of confidence in the government to deter rebels. But the Fixed-term Parliament Act means that May cannot carry out such a threat and tie the meaningful vote to a motion of confidence in her government. The government would have to table a separate motion to hold snap elections. But that requires a two-thirds majority in the Commons, which the Conservatives and their allies lack; and it is unlikely that May could convince her own party to vote together with Labour in favour of Parliament's dissolution. The Conservatives learnt the hard way in 2017 that snap elections can be very unpredictable.

May could still try to bring her pro-EU colleagues to heel by threatening that she or her entire government would resign if Parliament rejected the withdrawal agreement – the central plank of government's policy. Pro-EU rebels are wary of undermining May's already fragile party leadership – they have no desire to see her replaced by an even stauncher eurosceptic Tory, at least until after the hard work of leaving the EU is done, in March 2019. But despite the risks, pro-EU Tories might eventually decide that the national interest obliges them to vote against May's final exit deal.

The major problem with the British debate about a meaningful vote, however, is that it ignores the fact that the EU-27 also has a voice. All EU member-states would have to agree to any extension of the Article 50 talks to continue or re-open negotiations. But there would be little inclination to agree to last minute UK requests. The EU member-states might agree to give the UK extra month, but a longer extension looks unlikely. Both the member-states and the EU institutions want to get Brexit out of the way ahead of the European Parliament elections and the nomination of a new Commission in 2019. The European Council has [supported](#) the European Parliament's proposal to redistribute 27 of the current 73 British seats to member-states which have been under-represented in proportion to their populations, and to keep the remaining 46 seats for future enlargements. France, Italy and Spain, which will together receive almost half of the available British seats, might be among the most vocal opponents of an Article 50 extension. Paris, Rome and Madrid would argue that it makes no sense to elect British MEPs and select a British commissioner only to see them go in a matter of months.

Some proponents of the meaningful vote might think that the EU's reaction would be different if the UK and the EU-27 failed to agree a deal by the end of February 2019 or if, the government collapsed as a result of parliamentary rejection of the Brexit package: a no deal scenario would be a nightmare scenario for many European businesses, and especially for Ireland. But if there is indeed no withdrawal agreement on the table a month before the UK's planned departure, it will most probably be because the UK has refused to accept a fall back option for the Irish border, to come into effect if neither a future EU-UK trade agreement nor technological solutions remove the need for physical infrastructure on the Irish border. The UK and the EU-27 have agreed about 80 per cent of the withdrawal issues, but the Northern Ireland question is nowhere close to resolution. The other 26 member-states have repeated that that they all stand behind Ireland, and that nothing is agreed until everything is agreed. Unless MPs instructed the government to accept the EU-27's suggested fall back option for Northern Ireland, it is unlikely that any extension of the talks would bring the parties closer to a mutually agreeable solution.

British parliamentarians have complained that the European Parliament has so far had greater influence on the Brexit negotiations than Westminster. Michel Barnier, the EU's chief negotiator, has consulted MEPs and taken on board their concerns, in order to avoid Parliament obstructing the process. MEPs have in the past used their veto in international negotiations when the European Commission and the member-states have not involved them in the process. The House of Lords' amendment promises to give Parliament an opportunity to become an active player in the Brexit negotiations, with similar powers of scrutiny to those of the European Parliament. MPs should embrace the powers that the Lords have offered them. But rather than waiting to exercise these powers when May comes back from Brussels in the autumn with a bad deal (or without any deal), they should follow the European Parliament's example and force the prime minister to soften her red lines before it is too late. If she will not give meaning to the 'meaningful vote', perhaps MPs can.

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