

COMMENT

## Brexit Deal Series: The Westminster Politics Could Be Unpredictable to the End

Anthony Salamone | 16 November 2018



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After months of negotiations intertwined with political wrangling, a [Brexit deal](#) is, to use a phrase often repeated by EU leaders this week, finally on the table. The resulting political drama which has unfolded in the UK over the past 48 or so hours has been as predictable as it has been intense.

The Prime Minister [presented](#) her deal, and it is already severely threatened. Labour will not support it, as it does not meet its Brexit tests and in any case its leadership has made clear its desire for a general election. The SNP will not back it, as the direction of travel does not point towards the single market and customs union option for the whole UK which it has [advocated](#) since December 2016.

Theresa May's erstwhile Westminster allies, the DUP, will not vote for it either, as despite its provisions intended to maintain peace and stability in Northern Ireland the deal apparently does not satisfy their concerns on the UK's political union. Brexiteer backbenchers – the vast majority Tories, though a few Labour – will equally reject the deal, due to it not meeting their conception of what pure Brexit should mean.

These political developments were predicted in their entirety. It was practically a pre-recorded segment, ready to play on cue. Watching the Prime Minister's three-hour appearance in the House of Commons on Thursday, it was nevertheless striking to witness the manifested depth of opposition to her Brexit deal from all sides of the chamber. While expressing their criticism, many MPs made a point of praising her determination, hard work and commitment to public service – valedictory comments normally reserved for a leader on the way out.

At present then, Theresa May appears left with only the payroll vote plus moderate Conservatives to back her deal – with the current parliamentary arithmetic, hardly enough to win

the day. It is undoubtedly not lost on politicians in Westminster that their opposition has only been given real weight by the [government's concession](#) on holding a 'meaningful vote' on the deal. Recent events have made plain why the Prime Minister originally hoped to avoid one.

### **If the Brexit deal is rejected**

The UK government has been in free fall yet, just as she has done throughout the Brexit process, May has committed to carrying on with her plan. During the Commons marathon, she rejected seeking an extension of the [Article 50 process](#), expressed vociferous opposition to a referendum and reaffirmed her view of no early general election. Regardless, it is highly probable that the current Brexit deal could indeed be voted down by the Commons. So what would actually happen after that?

Rejection of the Brexit deal would lead to an even more acute UK political crisis. It is difficult to predict what might unfold. However, the main options would be to attempt to renegotiate the deal, to call a general election or to organise a further referendum. Under any of these scenarios, the government or parliament might decide to request an extension of Article 50. The default outcome if no way forward could be found would be the UK's withdrawal from the EU by default with no deal.

The primary substance of this week has been the full [draft withdrawal agreement](#). The accompanying [political declaration](#) on future EU-UK relations is currently only seven pages long. While Northern Ireland and the backstop are incorporated in the withdrawal agreement and the debate really does focus on the treaty, much of the political rancour has actually concentrated on the future relationship – and the lack of certainty or detail.

Theresa May stated on Thursday in the Commons and at her evening [press conference](#), also confirmed by the European Commission, that the political declaration will be expanded on by the negotiators between now and the Commons vote. Presumably then her main remaining hope is that the revised declaration will convince a sufficient number of MPs to support the deal – at present at least, that prospect seems somewhat remote.

### **The EU's response to the Brexit tumult**

Equally predictably, now that the deal has been provisionally agreed, EU institution and member state leaders have enunciated their view that the withdrawal text will not be substantially renegotiated and that this overall proposal is the final offer. Although they all regret Brexit, they will advocate this deal, subject to its approval by the EU27 at the [special European Council](#) scheduled for 25 November, as the means of ensuring an orderly exit.

It is also clear that a majority exists in the Commons against no deal. However, the UK parliament cannot decree an outcome to Brexit – it is a negotiation and both sides must agree. The Commons can only mandate the government to pursue a particular objective. However, it might have one unilateral option – to revoke (or, moreover, to instruct the government to revoke) the UK's Article 50 notification before the departure date. The [current reference](#) to the CJEU from the Court of Session on this question should clarify whether that mechanism would be possible.

The EU27, currently observing the tumult in Westminster, will have to decide how they would respond if the deal is voted down by the Commons. The planned sequence of events will not make recovering after a parliamentary defeat easier. The European Council summit will take place later this month, and the meaningful vote should follow in December. That schedule will reduce the

amount of time available to cope with the Commons fallout. The European Parliament will also eventually have its say, but that should take place closer to Brexit day.

In the face of a no-deal outcome instead, the EU27's position on two issues will be crucial – renegotiating the deal and extending Article 50. Despite the current line that the present deal will not be negotiated further, the EU has a history of final concessions and last-minute compromises. It should not be ruled out that the EU27 might have one or two points on which they are ready to be flexible as a means of winning the requisite support in the UK, should that prove necessary – but nothing fundamentally important or manifestly counter to the EU's interests.

If the failure of the Brexit deal in the Commons leads to a general election or further referendum, the EU27 might well be persuaded to extend Article 50 – but that is [not guaranteed](#). A sufficiently long extension would likely run past May, and therefore ostensibly require the UK to participate in the upcoming European Parliament elections that month. That eventuality would surely annoy the EU27, as the UK's seats have already been redistributed (with some in reserve) – though the relevant European Council [decision](#) makes clear that the reallocation only has effect if the UK has left the EU.

### **The uncertain path ahead**

Despite British politics seemingly crumbling around her, Theresa May has resolutely maintained her course. This Brexit deal is unquestionably her Brexit deal – all the more so given the various ministerial resignations along the way and the sidelining of her Brexit secretaries in the negotiations. If the deal is not approved by the House of Commons, then the hourglass on her premiership must surely begin to run down.

The Westminster politics are unpredictable and could remain so to the end on Brexit. For now, it does not appear as though the sufficient votes will be forthcoming to pass the Prime Minister's Brexit deal. Additional detail on the political declaration, which will nevertheless not be binding, might persuade some opponents to back the agreement. May's ultimate gamble is that, faced with the alternative of no deal and the risk of being seen to be responsible for that outcome, enough MPs will support her deal.

The Prime Minister is correct that her deal would indeed deliver a Brexit outcome. Considering that the UK parliament voted both to activate Article 50 and to enact EU withdrawal legislation, it is somewhat ironic that the Commons does not currently appear to be in a position to support the Brexit deal on the table. However, that awaiting impasse is rooted in the differing expectations between and within the parties in Westminster of what Brexit should mean in practice.

Nevertheless, the withdrawal agreement at the heart of this debate primarily concerns the UK's arrangements for exiting the EU, with the important exception of the Irish backstop and its implications for Northern Ireland and the whole UK (particularly on customs and trade policy). The future relationship still remains to be negotiated, and would be shaped by whoever is in power in the near future. Whatever happens, the UK seems set to continue with its introspective political battles – and the EU will look on with resigned dismay.