

Brexit is not inevitable. These are the steps Parliament could take to halt it



*Brexit is likely but not inevitable, argues **Steve Bullock**. He sets out the steps Parliament could take to halt the process, providing that – as senior EU figures have signalled – Article 50 can be revoked.*

Only nine months ago the government was still talking about no deal being better than a bad deal. MPs were fighting for a meaningful vote on the Withdrawal Agreement, and were being told that voting against it could only ever mean leaving the EU without an agreement (making such a vote in no sense meaningful). Those, like me, who believed Brexit could still be stopped were dismissed by many as cranks. Brexit, we were told, was inevitable. Get over it.

Well, it turns out Brexit isn't inevitable. Parliament can, if it wishes, stop it, or create the opportunity for it to be stopped. It may not yet be likely, but it is possible. Here's how.



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Assuming that a Withdrawal Agreement and an accompanying joint declaration on a framework for a future relationship is negotiated by the October European Council, the UK Parliament will then be asked to debate and vote on a motion or resolution approving it. This is the 'meaningful vote' that the government promised Parliament. If the recent House of Lords' amendments to the EU Withdrawal Bill are agreed by the House of Commons, the motion or resolution would not only be a politically binding decision, but a legal requirement for the government to be able to conclude the Withdrawal Agreement. Even without this Lords amendment though, it would be almost impossible for the government to conclude the agreement against the stated wishes of Parliament, not least because government will rely on its support for the other pieces of Brexit legislation it needs to get through.

Much of the discussion has been around what would happen if the House of Commons voted against the resolution. Until recently, government ministers argued repeatedly that the consequences of this would simply be that the UK left the EU without a deal on 29 March 2019, two years after invoking Article 50. The same ministers have now accepted that this is not the only option open to Parliament.

A recent [paper](#) by Raphael Hogarth and Hannah White for the Institute for Government explains why. It points out that Parliament will be able, if it wishes, to amend the motion on the Withdrawal Agreement and, crucially, it will be able to use those amendments to place conditions on its approval. This is where the key opportunities lie.

On the one hand, Parliament could require the government to seek to extend the two-year Article 50 period, renegotiate aspects of the Withdrawal Agreement, or even withdraw Article 50 notification entirely. The EU27 are unlikely to be amenable to re-opening negotiations at that stage though. Why indeed would anyone be willing to re-open an agreement for the purposes of giving concessions to their opposite number that they failed to achieve the first time round? While the idea of simply attempting to revoke the Article 50 notification may be appealing to many Remainers, it is very hard to imagine Parliament doing this. It could if it wished though.

Parliament could however amend the resolution to make agreement to the Withdrawal Agreement conditional on a referendum approving it. This is the route to a “People’s Vote”, or “Final Say”. It would then require two things. The first would be that legislation was brought very quickly for a referendum to happen. However quickly this could be done though, it’s obvious that an extension to the two-year Article 50 period would be required for the legislation to be put in place and the referendum held. Even if the usual timeframes could be compressed significantly, it is simply not feasible to hold a referendum only weeks before the expected exit day.

An extension of the Article 50 period requires the unanimous agreement of the EU27. While agreement would be unlikely if it were simply to renegotiate, indications are that an extension would be possible if it were for democratic processes to play out. Indeed, it is hard to imagine the EU27 insisting that the UK leave the EU while it is still in the process of deciding democratically whether it actually still wants to leave.

There is then the question of what the consequences of a “No” vote in a referendum on the Agreement would be. Parliament again has options here. It could include a provision in the resolution that if the referendum rejected the Withdrawal Agreement, the government should seek to revoke Article 50. It may also be possible to put this provision in the legislation for the referendum itself.

Steve Peers [points out](#) that, if agreed by the Commons, the Lords’ amendments would mean that if either there was no Act to implement the Withdrawal Agreement by the end of January 2019, or no Agreement at all concluded by the end of February 2019, Parliament would be able to direct the government in its actions. Of course, if Parliament rejected the resolution on the Withdrawal Agreement outright, then these conditions would also be likely to be triggered. Peers argues that it is not clear that this power to direct would include revoking Article 50, and an attempt to do so would no doubt draw litigation, but in the face of a catastrophic (and it [would be](#)) no-deal Brexit, any sane Parliament would surely attempt to take all possible measures to avoid the cliff-edge.

Is any of this hugely likely? At the moment, it doesn’t seem so. While there are some signs of growing opposition, Tory rebels are still in short supply, and the Labour leadership still maintains at least passive opposition to a referendum on the deal. This is not really the point though. The point is that there is a clear, if difficult, route for Parliament to take if it wishes to either attempt to stop Brexit, or, if it wishes, to pass the responsibility back to the people to decide whether they think that what is on the table in October 2018 is what they voted for in June 2016. As, even now, nobody knows exactly what large parts of the Withdrawal Agreement will contain, or anything of what will be in the declaration on the future relationship, it’s hard to make a case that the 2016 mandate extends to an acceptance of whatever is agreed.

A final point is that all of this relies on Article 50 being revocable. Politically speaking, EU27 have leaders have been at pains to convey the message that the UK can abandon Brexit if it so wishes. While there is a current case in progress to get a definitive legal ruling on the revocability of Article 50, prevailing opinion, including that of some [very senior EU legal figures](#), suggests that it is.

The conclusion for Remainers is that Brexit is by no means certain. It is in the hands of Parliament, and convincing MPs to act, both directly and through attempting to shift public opinion, should be their focus. For Brexiters, the conclusion is that they should be careful what they wish for when they boast about sovereignty and taking back control. Parliament never lost sovereignty, but it does have the means to take back control from the government if it chooses.

This post represents the views of the author and not those of the Brexit blog, nor the LSE.

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