THE PEOPLE versus PARLIAMENT

By *Professor David Blake at Cass Business School, 29 Jan 2019*

The People did not vote to ‘take back control’ from the European Union only for Parliament to hand it back again

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**Those opposing Brexit began a three-pronged campaign of condescension, confusion and charade in an attempt to reverse the Brexit vote. There is one last chance to stop it.**

David Cameron gave us a very simple choice in the Referendum on 23 June 2016: “It’s in or out. This is your decision – the Government will implement what you decide”.  In the biggest single act of direct democracy in British history, 17.4m people (52%) voted ‘out’.

**Leaving the EU could not have been more straightforward**

Nothing could be more straightforward: ‘out’ means leaving the EU and all its structures, in particular, the Customs Union, the Single Market, and the jurisdiction of the European Court of Justice (ECJ). This would place us precisely in the same position as all other countries that are ‘out’ of the EU –  such as the US, Canada, China, Japan or Australia – which account for 80% of global Gross Domestic Product. For the avoidance of doubt, these countries are not ‘in’ the Customs Union, the Single Market, or subject to the jurisdiction of the ECJ. They trade with the EU very successfully either on the basis of World Trade Organisation (WTO) rules or, like Canada, on the basis of a free trade agreement (FTA).

Nothing could have been simpler than to move over the two years following the triggering of Article 50 to the same relationship that these countries have with the EU – and then to leave the EU without any need for a transition period on 29 March 2019. Except for one small problem.

**But the British establishment was opposed to it**

Almost the entire British political and business establishment was opposed to Brexit. Some might well have believed in the ‘European dream’ and associated leaving the EU with leaving ‘Europe’.  But most of the others were tied to the EU gravy train: civil servants who loved the idea of bureaucrats running everything, as they do at the European Commission; big businesses which loved the idea of the Customs Union that raises the prices of imports from abroad and the Single Market  that allows them to bring in cheap labour from poorer parts of Europe; and lobbyists making millions from persuading Brussels to introduce more regulations to make it more difficult for innovators to compete against incumbent businesses.

But nowhere was hostility to the Referendum result greater than the UK Parliament.  The majority of parliamentarians were determined to stop it by whatever means possible. Indeed, Lord Heseltine said the day after the Referendum that Brexit would never happen**.**

Those opposing Brexit began a three-pronged campaign of condescension, confusion and charade in an attempt to reverse the Brexit vote – aided and abetted by the Brussels Broadcasting Corporation.

**Condescension**

The first prong was to start patronising those who voted ‘out’.

Some said that Leavers did not really understand the ‘self harm’ that Brexit involved. So, we would get the likes of Sir Martin Donnelly, the former permanent secretary at the Department of International Trade, warning on Radio 4’s Today programme that Brexit would be “giving up a three-course meal… for the promise of a packet of crisps in the future”. Or Lord Kerr, the former British Ambassador to the EU who drafted Article 50, arguing that “the City needed to prepare for a deal that would ultimately hurt London’s standing as a global financial centre”.

Others disdainfully searched for “causes of the referendum result” that need to be “tackled”. We would have [Keir Starmer](https://www.theguardian.com/politics/2019/jan/19/brexit-labour-must-keep-open-option-of-second-referendum), the Shadow Brexit Secretary, saying that “deeply embedded in our values are internationalism, collaboration and cooperation with our European partners”. The Leave vote was a betrayal of these values and the “causes”, such as “inequality, low pay, [and] a broken housing market”, needed to be “tackled”.

Others picked on older voters, the majority of whom voted ‘out’.  They were told that they were stealing the futures of the young. [Polly Toynbee](https://www.theguardian.com/commentisfree/2019/jan/17/saturday-uk-remain-parliament-force-second-referendum), like Madam Defarge in a *Tale of Two Cities*, even started counting them as they died off and proudly announced that on 19 January 2019 enough old people had died that a second referendum would now result in Remain vote.

The British establishment were more than happy to see the EU bully and humiliate us to bring us back into line. The BBC was ever willing to cooperate by reporting the dire warnings of Michel Barnier, Jean-Claude Juncker, Donald Tusk and Guy Verhofstadt in Brussels and the patronising views of other commentators from around the world.  So we would have Sarah Montague on [*The World at One*](https://www.bbc.co.uk/sounds/play/m00021qt) interviewing Steven Erlanger, the *New York Times* Chief Diplomatic correspondent in Europe, and reminding him that in 2017 he had described Britain as “a modest sized ship on the global ocean unmoored heading to nowhere”.  Egging him on for an update, he duly obliged: “Now the ship is turning in circles, still heading to nowhere in a very circular fashion… The Britain that we all thought we knew is not quite the Britain that we see now decide what it really wants… This nationalist fantasy that the World is waiting for Britain to bestride it again I think will be proven hollow”. Montague couldn’t contain her laughter.

**Sowing confusion**

The second prong was to turn a simple decision into a complex one and thereby sow confusion. So we were told that ‘out’ is not as straightforward as it looks and we were invited to consider a whole range of Brexit choices. There was a Norway-style Brexit or a Turkey-style Brexit.  Alternatively, there was the Swiss model or the Canadian model with up to three plusses. Or we could join the EEA and possibly EFTA too. Then again, we could possibly go for a Moldova-style deal with a Lichtenstein emergency break. And don’t forget, if all this gets too confusing, there is always the option of remaining in the EU.

**The government’s charade of negotiating Brexit**

The third prong was to go through the pretence of negotiating Brexit with the EU by a Remain-supporting Prime Minister and a negotiating team made up of Remain-supporting civil servants.

In public, the PM made it very clear what Brexit meant.In her Lancaster House speech in January 2017, she said that leaving the EU meant leaving the Customs Union, the Single Market, the jurisdiction of the ECJ, and ending free movement and the budget contributions. She wanted to continue having a strong trading relationship with the EU.

This is a Brexit that every Leaver could sign up to. But it was pure deception. As far back as October 2016, there were [secret government assurances](https://www.ft.com/content/304e55ce-9d00-11e6-8324-be63473ce146) to companies like Nissan – which had[expressed concern](https://www.ft.com/content/53bc5cec-8660-11e6-a29c-6e7d9515ad15) that the UK’s departure from the EU could damage the competitiveness of UK-based car makers – that nothing would really change.

In fact, the Withdrawal Agreement (WA) that the government was ‘negotiating’ with the EU would turn out to be far worse than remaining in the EU. Michel Barnier, the EU’s chief Brexit negotiator, made very clear in a tweet in 2016 that this was his objective: “I would have succeeded in my task if, in the end, the deal is so hard on the British that they’ll prefer staying in the EU”.  Drafted by EU lawyers, it traps the UK as a non-voting satellite of the EU indefinitely.

There is no clearer evidence of this than the article published on 10 January 2019 by an unnamed civil servant entitled: [*Don’t be fooled – this Brexit deal creates a triple lock to shackle the UK to Brussels forever*](https://brexitcentral.com/dont-fooled-brexit-deal-creates-triple-lock-shackle-uk-brussels-forever/):

* **The first lock: the transition period**. The first lock is the transition period, which lasts until at least 2021. We must hand over an estimated £39 billion for nothing, be bound by EU law and take orders from an unelected Joint Committee operating under the jurisdiction of the ECJ.
* **The second lock: the Northern Island backstop**. The backstop [which was suggested by Theresa May herself] is intended to be inescapable. It prepares Britain for the final destination set out in the Political Declaration, as a permanent satellite state of the EU. … Not only does the backstop carve out Northern Ireland as an EU province and set a border in the Irish Sea, it creates a partial “customs union” that requires us to implement EU trade tariffs and policy with no decision-making powers. Under highly restrictive “non-regression clauses”, the UK also agrees to implement all EU environmental, competition, state aid and tax harmonisation laws, with the unelected Joint Committee and the ECJ once again able to punish us for any perceived backsliding.
* **The third lock: the ‘future partnership’.** Anyone expecting the EU27 to give up the immense advantages they gain under the backstop is delusional. Retaining tariff-free access to the UK market and effective control of UK trade and competition policy must be nirvana for them. To ensure they reap the full benefit, there is the third and final lock in the Withdrawal Agreement. Unless we agree to a ‘future partnership’ as set out in the Political Declaration, the backstop will endure in perpetuity. The Political Declaration replicates all the onerous ‘non-regression’ clauses of the backstop and requires even more surrender of sovereignty via participation in and funding of the EU’s aerospace and defence programmes, free access to UK waters for EU fishermen, a full customs union and common trade policy, free movement by the backdoor under ‘mobility’ clauses, EU control of UK agriculture via the state aid rules and in general full adherence to the *acquis communautaire* in all policy areas.

The author concludes that the Withdrawal Agreement “would end Brexit and get Britain ready to board the express train to a United States of Europe. The political takeover of the UK represented by the Withdrawal Agreement is an audacious attempt to reverse a damning popular vote of discontent with the European Project and provide fresh impetus for the federal superstate that is the EU’s *raison d’être*”.

This is not just the view of a disgruntled civil servant, the PM’s own [Attorney General](https://lawyersforbritain.org/wp-content/uploads/2018/12/181113-AG-to-PM-Legal-Effect-of-the-Protocol-on-Ireland-Northern-Ireland.pdf) confirmed in his written advice to the Cabinet that there was no legal escape route from the backstop Protocol and that it would “endure indefinitely”.

[Jean-Claude Juncker](https://www.thesun.co.uk/news/brexit/8193941/brussels-brexit-boast-following-rules-for-years-to-come/), the President of the European Commission, is openly boasting that the EU got “almost everything” they wanted from the UK over Brexit and that we will be tied into following the EU’s rules and courts for years to come. According to the minutes of a meeting between Commission officials and diplomats from the EU27 remaining members:

* Britain has signed up to Level Playing Field provisions that are “without precedent” in previous trade deals
* Brussels will push for euro judges to have a significant role in the future relationship
* Promises that an EU-UK trade deal will be ready by the end of the transition are “a commitment to make an effort, not to deliver a result”
* Eurocrats will use “every element” of future trade talks as “leverage” to secure generous access to UK fishing waters.

But Theresa May refuses to listen.

**The ‘meaningful vote’ on the Withdrawal Agreement**

The European Union (Withdrawal) Act 2018 granted Parliament a ‘meaningful vote’ the WA. This took place on 15 January 2019. The PM said it wouldbe a “catastrophic and unforgivable breach of trust in our democracy” if her Brexit deal was rejected and the UK remains in the EU.  She urged MPs to “do what is right for our country” and approve the WA. Otherwise, the UK risks “crashing out” of the EU without a deal or, if MPs are “unwilling” to face the uncertainty of no deal, then the UK may not leave at all.  She said it was time for politicians to “deliver” for the people.

In the event, Parliament rejected the WA by432 votes – which included 118 Conservative MPs – to 202, the biggest defeat for any government in modern British history. The PM said in response to the defeat that while Parliament had decisively rejected her deal, it had not said which deal it would approve. She announced she would open discussions with senior members from other parties to see if a consensus Brexit deal could be found and report back to the House with a statement on 21 January.

**A chance for Parliament to honour the Referendum result?**

So, at last, Parliament was going to use this opportunity to honour the Referendum result after all?  Not a bit of it.  It had been apparent for some time that there was no parliamentary majority for leaving the EU on the terms laid out in the Lancaster House speech, terms which had since been labelled pejoratively as ‘no deal’.  This was despite the fact that 82% of electors in the June 2017 General Election voted for the Conservative and Labour parties which both promised to “implement the Referendum result”. By contrast, the Lib Dems and the Scottish National Party opposed Brexit and their vote fell.

Only a minority of Conservative, Labour and Democratic Ulster Unionist Party MPs support ‘no deal’. All the other parliamentarians saw this as an opportunity for Parliament to ‘take back control’ of the Brexit process, not to honour the Brexit vote or even to ‘respect’ it, but either to reverse it or, if that was not immediately possible, then to implement a ‘softer’ Brexit dubbed ‘BRINO’ (Brexit in name only). The day after the‘meaningful vote’,Ed Miliband, the former Labour Leader, called on the government “to take seriously the will of the House, …not to just work across party lines, but to give the House of Commons its voice”. Later, Sir [John Major](https://www.theguardian.com/politics/2019/jan/19/give-mps-free-vote-on-brexit-options-says-sir-john-major-theresa-may), the former Conservative Prime Minister, called for MPs to be allowed to have a free vote on a series of options to establish whether any proposals could command a majority in Parliament, because he fears “millions will be hurt if Britain leaves of the EU with the wrong deal or none at all”. Neither mention the Referendum result at all.

**More confusion – this time by MPs**

Analysis by the BBC’s [John Pienaar](https://www.bbc.co.uk/programmes/m0002192) said that a softer Brexit than the WA – along the lines of a Norway-style deal which involves remaining in the Single Market – was the single most popular option mentioned by MPs.  Labour would like a redder Brexit with more workers rights and greater protections for consumers and the environment.  Labour also wants to stay in the Customs Union.  Put all this together and you get what’s been dubbed ‘Norway plus Customs Union’ or simply ‘Norway plus’.

On any objective measure, this would amount to remaining in the EU, being subject to the jurisdiction of the ECJ, but having no vote.  There is little fundamental difference between this and the PM’s WA – which the House of Commons massively defeated.  Some MPs have clearly confused themselves!

**Parliamentary dirty tricks to scrap Brexit**

There are, however, two groups of MPs who are not at all confused – they are determined to scrap Brexit. One group wants to do this using a second referendum.  Another group wants to delay or cancel Article 50 which would also have the effect of blocking a ‘no deal’ Brexit.

There is, of course, a problem with these two strategies. The clock is ticking. The European Union (Withdrawal) Act 2018 clearly states that the UK will leave the EU at 11pm on 29 March 2019 whether or not there is a withdrawal agreement with the EU in place.  The default position is ‘no deal’ if a withdrawal agreement with the EU is not approved by both sides.  This Act was approved by the vast majority of MPs (498) as was the original decision to trigger Article 50. A second referendum could take up to a year to organise.

**A second referendum**

The idea of a second referendum or ‘People’s Vote’ – a campaign started by Labour’s Chuka Umunna and Tory Anna Soubry – has been around for some time: “Our campaign has always been clear we want the British public to have a new vote because it is becoming ever-more obvious that the big claims in 2016 about how leaving the EU would give the UK more control, more trade and more money for the NHS were a fantasy. A People’s Vote is the only way forward. …[We] believe passionately that the people themselves, not some Westminster elite, should be given the final say”.

But this is not at all a neutral organisation set up to give voters the opportunity to change their mind. [Eight of the nine of the organisations](https://www.telegraph.co.uk/news/2018/12/15/eight-nine-organisations-backing-peoples-vote-campaign-actively/) backing the People’s Vote campaign are actively lobbying for the UK to remain in the EU. These include For our Future’s Sake, NHS vs Brexit, InFacts, European Movement UK, Britain for Europe, Scientists for EU, and Wales for Europe. The ninth group, Open Britain, states that it is “leading the fight against a hard, destructive Brexit”.  People’s Vote is chaired by Roland Rudd, who also chairs the public relations firm Finsbury which makes millions lobbying Brussels on behalf of big corporations. On 22 January, he was interviewed by the [*Today*](https://www.express.co.uk/news/uk/1075951/BBC-news-Davos-people-s-vote-second-referendum-Roland-Rudd) programme from the World Economic Forum in Davos, described by Labour leader, Jeremy Corbyn, as the “billionaires’ jamboree”. Even the interviewer, Justin Webb, commented: “you’re talking to us from Davos. If you’re listening to this and you’re in Stoke and you voted to Leave it is going to sound like a coup being organised behind your back”. Rudd could only reply: “But listen, Justin, nobody voted for no deal”.

Another organisation supporting a second referendum is ‘Best for Britain’ which was set up in 2017 to “fight to keep the door open to EU membership”. It is chaired by Lord Malloch Brown, a formerUnited Nations Deputy Secretary-General, and is partly funded by George Soros, the Hungarian-American investor who took $1 billion off British taxpayers during the 1992 Black Wednesday UK currency crisis. Soros hosts an [annual dinner](https://www.biznews.com/wef/davos-2018/2018/01/26/george-soros-lets-rip-in-davos) at Davos.

People’s Vote and Best for Britain spent £373,587 on Facebook advertising in the run up to the parliamentary vote on the WA. Neither has a full list of donors. An example was an advert about [orang-utans](https://www.telegraph.co.uk/news/2019/01/18/facebook-accused-pumping-fake-news-running-ads-claiming-endangered/) being under threat because the UK “plans to reverse” an EU commitment to “introduce a ban on palm oil… in return for corporate trade deals”. In contrast, Leave-supporting groups spent around £93,000.

These two organisations have some very strange bed fellows. [Keir Starmer](https://www.theguardian.com/politics/2019/jan/19/brexit-labour-must-keep-open-option-of-second-referendum), the Shadow Brexit Secretary, has said that Labour must keep open the option of a second EU referendum. At the time of writing, more than 100 Labour MPs and a growing number of pro-Remain Conservative MPs, such as Sarah Wollaston, have said they could support a second referendum.  [Corbyn](https://www.telegraph.co.uk/politics/2019/01/16/advocates-peoples-vote-need-remember-corbyns-record-eurosceptic/), was initially opposed to a second referendum, not just because he has always been a Eurosceptic, but because of his fear of a backlash amongst Labour Leave voters in key marginal seats in the midlands and the north of England. However, we live in very fluid times and on 22 January [Corbyn](https://www.telegraph.co.uk/politics/2019/01/21/jeremy-corbyn-backs-mps-plan-force-second-brexit-referendum/) backed plans for a second referendum. He wants the Government to give MPs the final say on a second referendum.

While Eloise Todd, chief executive of Best for Britain, described Labour’s new policy as “a momentous day in our campaign”, Corbyn’s decision was heavily criticised by [Labour frontbenchers](https://www.theguardian.com/politics/2019/jan/22/labour-frontbenchers-warn-of-opposition-to-second-brexit-referendum) who warned of the scale of opposition to the idea of a second referendum amongst Labour voters. Even Corbyn’s close ally, [Chris Williamson](https://www.telegraph.co.uk/politics/2019/01/22/labour-backlash-second-referendum-jeremy-corbyn-faces-frontbench/), opposed the idea on the grounds that the party was in danger of being associated with the political “elite” backing the People’s Vote. [John Curtice](https://www.telegraph.co.uk/politics/2019/01/22/campaigners-claim-people-want-second-referendum-not-polls-say/), the UK’s leading psephologist, points out that there was no majority for a second referendum in the country.

[Alex Wickham](https://www.buzzfeed.com/alexwickham/the-campaign-for-a-peoples-vote-on-brexit-has-descended) of BuzzFeed reports that the People’s Vote has descended into infighting and splits – between those who want to table the second referendum amendment immediately and those who want to wait until all other options have been knocked off the table, and also over who should be involved in running the second campaign: “There is absolutely no way the Blairite faction can be allowed to run the campaign at a second referendum. We’d lose 70–30”. As I say, we live in very fluid times and on 24 January [Corbyn](https://www.theguardian.com/politics/2019/jan/24/mps-drop-cross-party-peoples-vote-amendment-second-brexit-referendum) changed his mind again. As a result,  Umunna  and Wollaston announced that they will not now table a second EU referendum in the Commons as it would have little chance of being passed without formal support from Labour.

Perhaps this is a good time to ask ourselves why people like Roland Rudd, George Soros and Tony Blair want the UK to remain in the EU – it sure ain’t because of their love of democracy.

**Blocking a ‘no deal’ Brexit by delaying or cancelling Article 50**

Corbyn is also a prominent supporter of taking the prospect of ‘no deal’ off the table. Other supporters include Philip Hammond, Chancellor, Greg Clark, Business Secretary, Stephen Barclay, Brexit Secretary, David Gauke, Justice Secretary, Claire Perry, Energy Minister, and Amber (Roland’s sister) Rudd, Work and Pensions Secretary, who said that ‘no deal’ was “unmanageable”. Under current parliamentary rules, cancelling Article 50 would have to be initiated by the government and the PM has said she would refuse to do that, since it would be a “betrayal of democracy”.

Two groups of parliamentarians have come up with separate plans for Parliament to take away control of the Brexit process from government – with the support of the Speaker, [John Bercow](https://www.bbc.co.uk/news/uk-politics-46818428), who unilaterally changed the House of Commons rulebook and elected himself as the sole arbiter of how Parliament conducts its business.

The first group is led by Labour’s [Yvette Cooper](https://www.independent.co.uk/news/uk/politics/brexit-yvette-cooper-amendment-article-50-extend-backstop-theresa-may-a8738981.html) and Tory Nick Boles.  Cooper has introduced an amendment to the WA which would give the PM until 26 February to get the WA passed by Parliament or give control to Parliament. [Boles](https://www.theguardian.com/politics/2019/jan/17/nick-boles-tory-mp-plans-bill-make-no-deal-brexit-legally-impossible) has introduced a Private Members’ Bill – the EU Withdrawal (Number 2) Bill – which extends Article 50 to allow negotiations to continue beyond 29 March 2019 and which would block a ‘no deal’ Brexit.  Other members of the group include Labour’s Liz Kendall and Hilary Benn, the Conservative’s Nicky Morgan and Sir Oliver Letwin and the Lib Dem Norman Lamb. Benn, chair of the Brexit select committee, denied reports that MPs and Commons clerks were “plotting” to block Brexit, saying that backbenchers were just “trying to sort out the mess the Prime Minister has created”.

The second group is led by Dominic Grieve, the former Conservative Attorney General. This group wants to go further than the first one by not only blocking a ‘no deal’ Brexit, but by blocking Brexit itself.  [Grieve](https://www.telegraph.co.uk/politics/2019/01/22/dominic-grieve-tables-plan-would-allow-mps-demand-article-50/) has introduced an amendment to extend or revoke the Article 50 notice, as permitted by the [ECJ ruling](https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-12/cp180191en.pdf) in December 2018. If passed, the amendment would allow MPs to take control of House of Commons business to debate a range of different Brexit options on six separate days in the run up to March 29 – and the Government would be expected to act on any which secured a majority. If all the options failed to win parliamentary approval, MPs could demand the Government seek an extension to or revocation of Article 50. The final day of debate would be three days before Brexit day on March 26. Grieve said: “I have to say Article 50 is going to have to be extended, even if the Prime Minister got her [revised WA] deal through Parliament, it is inconceivable that we do the necessary enabling legislation for us to leave on the 29th of March”.

Another parliamentarian said that: “This is another example of centuries of procedure being overturned to suit an agenda that denies the referendum result. If government can no longer govern the public should be rightly outraged”.

The tactic was also heavily criticised by constititional lawyers.  For example, [Sir Stephen Laws QC](https://policyexchange.org.uk/wp-content/uploads/2019/01/The-Contest-to-Take-Control-of-Brexit.pdf), First Parliamentary Counsel between 2006-12, argues that:

*…it would be contrary to the national interest and disastrous for our constitutional settlement for Parliament to take over functions that more appropriately belong to the executive, such as the initiation and co-ordination of policy formulation and the management of public finances. They are functions that Parliament is ill-equipped to perform effectively and for which it is incapable, as a body, of being held democratically accountable in the same way as a government can be. To do so just to solve a short-term political crisis or in order to win a particular political argument – however important it is thought to be – is quite unjustifiable.*

He goes on to say:

*The current crisis exists because MPs on all sides have persuaded themselves that they can act irresponsibly because responsibility for the policy of leaving the EU has been assumed directly by the electorate. This is despite the fact that they have themselves, on numerous occasions, already accepted responsibility for ratifying the electorate’s choice, and so remain accountable to the electorate for implementing it.*

*….If collaboration between the House of Commons and the government has truly broken down completely, then the government has lost the confidence of the House, and the House needs to vote accordingly. If it will not, the House’s constitutional duty is to make the collaboration work in a way that does not involve undermining or corrupting fundamental constitutional principles. The foundation of democracy and constitutionalism is that you accept outcomes produced by the established system, however unwelcome, without trying to destabilise or destroy it.*

**The Prime Minister’s Plan B Statement**

The PM was required to return to the House on 21 January with a [statement](https://www.youtube.com/watch?v=V82tEkn5ZJE) on the status of the discussions she had had with senior parliamentarians in advance of proposing a Plan B WA that could command the support of Parliament.

She was opposed to both no deal – it was better to have a deal approved by EU – and revoking Article 50 – it would go against the Referendum result and was “not an action we should take”, since it “could damage social cohesion by undermining faith in our democracy”.

She recognised that there was concern about the backstop which was there to respect the Good Friday Agreement that there would be no hard border between Northern Ireland and Ireland or down Irish sea. There had been two core issues raised by parliamentarians: fear the UK could be trapped permanently in the backstop and concerns over the potential impact on the union if Northern Ireland was treated differently from the rest of the UK.

She said the Political Declaration will provide the basis for developing our detailed negotiating mandate for the future and this new phase of negotiations will be different in a number of ways. It will cover a far broader range of issues in greater depth and so will require the building of a negotiating team that draws on the widest expertise available from trade negotiators to security experts and specialists in data and financial services. She would ensure that Parliament has a proper say and fuller involvement in these decisions and would also engage with both the devolved administrations and with businesses, civil society and trade unions.

She would also ensure that leaving the EU would not lead to a reduction in social and environmental standards or in workers rights. Finally, EU citizens in the UK will be able to stay and to continue to access benefits and services as they do now whether there is a deal or no deal.

The House would debate the statement on 29 January. While clearly reaching out to the Labour Party and the devolved administrations by offering more involvement in negotiating the future relationship, the statement says nothing about how to resolve the main problems with the WA – the backstop and the different treatment of Northern Ireland.

**Plan B will be a tweaked version of Plan A**

Priti Patel, the Eurosceptic Tory MP, asked the PM following her statement: “When she goes to Brussels, is she prepared to reopen the text of the withdrawal agreement in order to address many of the concerns that she has heard from many members of the House with regard to the backstop?”  The PM’s reply was instructive: “What we are doing is talking to Members across the House to identify the various ways in which it would be possible to address the issue of the backstop. A number of options have been raised with us, and we are looking at all those options that have been raised”.  In other words, she would continue talks with MPs from all parties to seek a way through the impasse, but the clear implication was that the WA remained the basis for the exiting from the EU on 29 March 2019.

She made the point even clearer at Prime Minister’s Questions on 23 January, when she told MPs that delaying Brexit would not “solve the situation”, adding: “The decision remains the same – the deal, no-deal or no Brexit”. The PM is therefore hoping that MPs will end up supporting her WA – or some modification of it acceptable to the EU – for fear that otherwise there will be no-deal or no Brexit.

So we are left with the unavoidable conclusion that the PM is running down the clock in the hope that sufficient MPs will panic and change their vote against the WA in order to avoid no deal or no Brexit on 29 March.

[Nick Timothy](https://www.telegraph.co.uk/politics/2019/01/16/theresa-mays-withdrawal-agreement-dead-no-deal/), the PM’s former adviser, pointed out that the decisive parliamentary vote against the WA was equally a massive vote against a ‘no deal’ Brexit.

Brexiteer [Boris Johnson](https://www.telegraph.co.uk/politics/2019/01/18/boris-johnson-urges-theresa-may-go-back-brussels-get-better/) has urged the PM to go back to Brussels to demand a new deal without the backstop – and “mean it this time”.  He also wanted to withhold half the £39bn from the divorce settlement to secure a new deal: “It is time for us to go back to Brussels fortified with the emphatic and conclusive mandate of Parliament and demand real change to that backstop and mean it this time so that Britain can get out unilaterally”.

[Jacob Rees-Mogg](https://www.telegraph.co.uk/politics/2019/01/23/eurosceptics-soften-opposition-theresa-mays-brexit-deal-jacob/), the chair of the European Research Group (ERG) of Eurosceptic Conservative MPs said he would still prefer the WA to no Brexit, but the biggest obstacles within the WA are the “£39 billion we currently propose to give to Brussels but for which we get nothing in return”, remaining under the jurisdiction of the ECJ, but “overwhelmingly the biggest problem is the backstop”. He said the ERG would only back the WA if the PM managed to secure a legally binding change to the backstop. Anything short of changes to the legal text of the deal with Brussels would be unacceptable.  There needs to be an on an expiry date to the backstop, and Tory MP Andrew Murrison has suggested 31 December 2021.

**A Fifth Column is operating in Government to defeat Brexit**

There is now clear evidence that a Fifth Column is operating in Government to defeat Brexit. It has links to the backbench Tory plotters, pro-EU businesses and the EU itself.

One striking piece of evidence for this is the [leaked transcript](https://www.telegraph.co.uk/politics/2019/01/16/hammond-phone-call-full-transcript-conversation-11-business/) of the telephone conversation that the Hammond and Clark had with business leaders following the parliamentary defeat of the WA. Hammond told them: “…this [the proposals of Boles and Grieve] is a backbench initiative. The Government is not in control of this. I am only telling you what information I have been able to glean. My understanding is that because the Bill being brought forward will simply and solely rescind the Article 50 notice, the legal opinion that they have is that that will meet the test that the European Court of Justice has laid down for unilateral recision of an article 50 notice”.

Hammond went on to say that: “it is clear to me there is a large majority in the Commons that is opposed to no deal in any circumstances”. Clark qualified this as follows: “quite a lot of the people that voted against it didn’t want to see no deal, didn’t want to take away any of the aspects of the agreement that have been reached, they want it to go further”. Carolyn Fairbairn, director-general of the CBI said: “I will just reinforce the message that is coming from businesses across the country about taking [no deal] off the table. Just to reiterate how very important that will be”. The chairman of Tesco wanted an “undertaking” that the government will do nothing to frustrate the passage of the amendment.  [Fraser Nelson](https://www.telegraph.co.uk/politics/2019/01/18/note-conservatives-cosying-big-business-going-fuel-corbynism/) described the discussion as reading like “a capitalist cabal issuing instructions to politicians who seem to be at their beck and call. …Colluding with corporates about how to best frustrate a referendum result is not a good look”.

Another example is the encouragement given to Airbus Chief Executive [Tom Enders](https://www.bloomberg.com/news/articles/2019-01-24/airbus-calls-brexit-process-a-disgrace-threatens-to-leave-u-k) to threaten to move the wing-making division of Airbus – which directly employs 14,000 British workers and supports another 110,000 – out of the UK if there is a no-deal Brexit. One the countries, Airbus said it was considering moving to was India. This has to be one of the most absurd examples of Project Fear, since no tariff is charged on aircraft parts or components, Airbus does not run a just in time manufacturing process, and India is not in the EU Customs Union or Single Market. As [Peter Lilley](https://mobile.twitter.com/standup4brexit/status/1088725872507604993) tweeted: “It was outrageous that a faction within our Govt put Airbus up to make this statement, instead of asking them to put pressure on their own governments, in the EU, to reach a sensible compromise”.

[Leave-supporting Cabinet ministers](https://www.telegraph.co.uk/politics/2019/01/22/cabinet-minstersround-remain-colleagues-amid-backlash-plans/) were equally outraged by the faction’s support for stopping a no-deal Brexit, as well as demanding a free vote on the amendments, so that they did not have to resign from government in order to vote against their own government’s policy.  [Liam Fox](https://www.telegraph.co.uk/politics/2019/01/19/mps-plotting-thwart-brexit-risk-unleashing-political-tsunami/), the International Trade Secretary, said that it would be the “most stupid thing possible” in a negotiation is to “give away your strongest card”.   Jeremy Hunt, the Foreign Secretary, Michael Gove, Liz Truss, Penny Mordaunt, and Chris Grayling argued that a free vote would be “abdicating collective responsibility”.

However, Robert Buckland, the Solicitor-General, supported a free vote on various different options being put forward: “I think there is an argument, a strong argument, for parliamentarians to in effect replicate the positions that we all took in the Referendum, which were not on party lines as we all know, and to exercise a vote according to what their views are and the views of their constituents and the businesses and what they judge to be in the national interest. That could be on a range of issues from second referendums, through no deal, to what type of future relationship we want”.

Ever ready to be helpful is [Olly Robbins](https://www.telegraph.co.uk/politics/2019/01/21/theresa-mays-chief-brexit-negotiator-cast-doubt-plan-b-textto/), Theresa May’s chief Brexit negotiator who also, in effect, operates as the EU’s principal agent in the UK. He was listening in on the Cabinet conference call where the PM was discussing the Plan B revisions to the WA that could win over the ERG and the Democratic Unionist Party (DUP) – although most Cabinet ministers were not aware of this. He texted the Chancellor to say that renegotiating the backstop with the EU was “for the birds”.  Hammond then informed the PM that reopening the WA could jeopardise other aspects of the deal because the EU would not give “something for nothing”.  Unlike the UK, of course, which has given away £39bn for nothing.

Asked about Robbin’s text, Downing Street said: “Everyone accepts that making significant changes to the backstop was going to be difficult. If it was easy we would already have made the changes, but we are determined to secure the changes that Parliament needs so we can leave with a deal”. Let’s not forget that it was Theresa May and Olly Robbins who foolishly offered the backstop in the first place.

**Cornered by the EU – which is systematically ramping up the pressure**

The disastrous Brexit negotiations of Theresa May and Olly Robbins have allowed the UK to be completely cornered by the EU. Michel Barnier said there were currently only two Brexit options – the PM’s deal or no deal – and that even if MPs decided to take no deal off the table, this would not stop it from happening unless there was “a positive majority for another solution”.

The EU have also repeatedly claimed that the WA and, in particular, the backstop cannot be renegotiated.  When, following the parliamentary defeat of the WA, the PM phoned around Europe’s capitals requesting a legally binding time-limit for the Irish backstop, a right for the UK to withdraw unilaterally, or a hard commitment to finalise a trade deal before 2021 to avoid the backstop coming into force, this was “[greeted with incredulity](https://www.telegraph.co.uk/politics/2019/01/18/theresa-may-leaves-diplomats-disbelief-presenting-eu-leaders/)” in Berlin, Paris, The Hague and Dublin.  These demands had already been decisively at the European Council summit in December.

The EU is now systematically ramping up the pressure on the PM to accept the WA she signed in Brussels on 25 November 2018, soften her read lines about the future relationship, recognise the inevitability of a hard border in Ireland in the case of a ‘no deal’ Brexit, or remain in the EU.

[Michel Barnier](https://luxtimes.lu/european-union/36279-barnier-backstop-is-not-the-central-issue) says that the backstop is no longer the “central issue” and the debate has now moved on to the shape of the UK’s future relationship with the EU after it leaves on the basis of the WA: “We are ready to be more ambitious if the British decide to shift their red lines, for example by remaining in a customs union, or participating in the single market. I believe there is a readiness in London” for that to form part of a revised Political Declaration (which is a non-binding document setting out the scope of the future UK-EU trade negotiations).

EU spokesperson [Margaritis Schinas](https://www.bbc.co.uk/news/uk-northern-ireland-46961982) has warned that in “a no-deal scenario in Ireland, I think it’s pretty obvious, you will have a hard border… Of course we are for peace; of course we stand behind the Good Friday Agreement, but that’s what a no-deal scenario [would] entail”.

Speaking from Davos, [Pierre Moscovici](https://www.telegraph.co.uk/business/2019/01/23/eu-floats-irish-method-reversing-brexit/?li_source=LI&li_medium=li-recommendation-widget), the EU’s Economics Commissioner has called on Parliament to authorise a second referendum and cancel Brexit altogether: “We share so much, we are all defending liberal democracy. It is much better if the UK stays in the EU. If the only way to get out of the mess is a second referendum, why not? It would be fully legitimate”. He said that this was the model the EU in the case of Ireland when it rejected Nice and Lisbon treaties following referenda.

**It is time to call the EU’s bluff – it will be the last chance we get**

Mr Schinas says that there would be a hard border in the case of a no-deal Brexit. The British and Irish governments have said repeatedly there can be no hard border under the Good Friday Agreement. However, [Leo Varadkar](https://www.bbc.co.uk/news/uk-politics-46981032), the Irish Prime Minister, conceded that avoiding a hard border would be “more difficult to achieve without the withdrawal agreement and would require very difficult discussions with our EU partners. Working out suitable customs and trade arrangements compatible with our EU membership will require detailed discussion with the commission”. Ireland would have obligations to protect the Single Market, the United Kingdom would have obligations to protect WTO rules and both states would have an obligation to honour the Good Friday Agreement, protect the peace process and honour their commitments to the people of Northern Ireland that there will not be a hard border.

WTO rules do not require a hard border. So the ball would lie in the EU’s court. They would have to introduce the very same technological solutions for dealing with customs clearances away from the border that work well everywhere else in the world – as Lars Karlsson, the former Director of the World Customs Organization, who wrote [*Smart Border 2.0: Avoiding a Hard Border on the Island of Ireland for Customs Control and the Free Movement of Persons*](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/596828/IPOL_STU%282017%29596828_EN.pdf) for the European Parliament, and as others, such as [Graham Gudgin and Ray Bassett](https://policyexchange.org.uk/publication/getting-over-the-line-solutions-to-the-irish-border/) have pointed out – but which the EU had previously dismissed as “magical thinking”.

The widespread outrage at Schinas’ comments led to an immediate backtracking by the EU. [Barnier](https://www.thesun.co.uk/news/8266637/brussels-backtracked-on-threats-of-hard-border-in-ireland/) said the EU would look at ways to check goods away from the frontier: “If we’re facing a no deal…we’ll have to find an operational way of carrying out checks and controls without putting back in place a border”.

[Laura Kuenssberg](https://www.bbc.co.uk/news/uk-politics-46981032), the BBC’s Political Editor, reports that: “Government insiders, not just Brexiteers, now believe they will have to get the EU to look again at the overall divorce deal, not just the promises being made about the future in the Political Declaration. …That is a shift. And it might mean the Prime Minister raises it in a rather more firm way with her EU counterparts, unlike in previous conversations where it’s suggested she did not actually ask for that to happen”. The last sentence here is as striking as it is incredible!

[Guy Verhofstadt](https://www.dailymail.co.uk/news/article-6611129/Enter-Mogg-peacebroker-Help-save-Theresa-Brexit.html), the European Parliament’s Brexit negotiator, says the PM would find “an open door” if she wanted to make changes to the deal but “must act soon”. [Jacek Czaputowicz](https://www.telegraph.co.uk/politics/2019/01/21/poland-breaks-ranks-eu-suggest-time-limit-irish-backstop-instead/?li_source=LI&li_medium=li-recommendation-widget), Poland’s foreign minister, said that the Irish border issue could be solved if the backstop were time-limited to five years. He talked of the risk of a “frontal collision” unless a compromise was made and that Ireland had the most to lose from a ‘no deal’ Brexit.  [Peter Altmeir](https://www.bbc.co.uk/news/uk-politics-46981032), Germany’s Economic Minister, said a no deal should be avoided at all costs, even if it meant extending UK membership of the EU beyond 29 March.

[Sammy Wilson](https://www.bbc.co.uk/news/uk-northern-ireland-46961982), the DUP’s Brexit spokesperson, said “Good luck to [the EU] if they think they can put a hard border up. We’ll see it for bluff come 1 April, if there is no deal”.

It is time to call the EU’s bluff.  Failure to do so now would mean that we are trapped in the backstop indefinitely. It’s our very last chance.

**What deal would be acceptable?**

It’s very simple – the deal that would be acceptable would be the one that Donald Tusk, President of the European Council, and Michel Barnier have offered on two occasions, described by Professor [David Collins](http://www.politeia.co.uk/the-eu-want-to-hear-britains-offer-the-prime-minister-should-propose-a-uk-eu-free-trade-deal-by-david-collins-2/) as “formally-established, properly notified preferential Free Trade Agreement with the UK”.  And this deal would be entirely consistent with leaving the EU in the way outlined in the Lancaster House speech.

The deal has two simple steps. The first step is to move to what [David Campbell Bannerman MEP](https://brexitcentral.com/managed-no-deal-wto-option-using-article-24-gatt-can-avoid-raising-tariffs-quotas/) describes as a ‘Managed No Deal’, while the second step is to move to a FTA along the lines of an extended [Canada deal](https://news.sky.com/story/brexit-what-is-a-canada-style-trade-deal-11096397).

The first step would be based on [Article 24 of the General Agreement on Tariffs and Trade](https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXIV) (GATT) which can be used to ‘freeze’ EU-UK tariffs and quotas in a ‘no deal’, assuming that the EU and UK agree to negotiate an FTA. Article 24 allows countries to deviate temporarily from the WTO’s principle of non-discrimination. A similar opportunity exists for services using [Article 5 of the General Agreement on Trade in Services](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm#articleV) (GATS).

This was first discussed as a possibility by [Tom McTague](https://www.politico.eu/article/britain-10-year-interim-zero-for-zero-trade-deal-brexit/) and [Peter Ungphakorn](https://tradebetablog.wordpress.com/2017/03/20/two-uk-eu-interim-deals/) nearly two years ago.  [Sir Tim Barrow](https://www.theguardian.com/politics/2017/mar/20/britain-can-complete-trade-talks-within-two-years-says-uks-eu-envoy), the UK’s ambassador to the EU, said at the time it would be perfectly possible for the UK and EU to conclude a full FTA within the 2-year Article 50 period. As Professor Collins argues: “The UK must now present a draft FTA to the EU providing for zero tariffs on all goods and a commitment to eliminate all non-tariff barriers through comprehensive and dynamic, meaning forward-looking, mutual recognition. It should also guarantee mutual recognition for services along with enhanced equivalence for financial services”, as detailed by [Barney Reynolds](http://www.politeia.co.uk/wp-content/Politeia%2520Documents/Unpublished/A%2520Template%2520for%2520Enhanced%2520Equivalence%2520-%2520Reynolds%2520-%2520July%25202017.pdf). There would still need to be rules-of-origin checks, but these are “not as onerous as is often thought, as explained many times by specialist authorities on the matter. Rules-of-origin compliance costs are typically less than 1% of traded value and inspections would not require infrastructure at the border”.  As a reference point, we should bear in mind that [the cost of EU regulations amounts to 4% of GDP](https://brexitcentral.com/every-aspect-british-life-positives-leaving-eu-without-deal/).

So how could we end up with this ludicrous WA?  Perhaps it is because we have a Prime Minister who has been completely outmanoeuvred by the EU, who believes everything the EU tells her, and actually offered the backstop to solve a non-existent problem that the EU raised. [She said](https://www.bbc.co.uk/news/uk-northern-ireland-46961982) the EU had made it “clear there will be no flexibility on border checks in no deal. …The Irish government will be expected to apply EU checks in full”. But they don’t have to do this at the border!  Holland conducts its customs checks for imports into Rotterdam, at a [border inspection post (BIP) that is forty kilometres away from Rotterdam](https://www.bbc.co.uk/news/uk-46739895)!

Sir Graham Brady has said that the EU has “run rings around our negotiators”. There is strong evidence for saying that our negotiators fully cooperated with this.

**Brexit betrayal by our Parliament**

Seventy per cent of Conservative voters supported Leave and a recent [Populus poll](https://www.theguardian.com/politics/2019/jan/19/labour-would-lose-voters-with-stop-brexit-policy-poll-suggests) indicated that the electorate would be less likely to vote Labour if it tried to stop Brexit.

Yet parliamentarians are not interested in our views. Instead, they patronise us. They tell us that Leave voters wanted to return sovereignty to Parliament – so what’s wrong with MPs deciding what to do and ignore the voters even in their own party? We have Umunna and Soubry marching their team of ‘People’s Vote’ MPs down Whitehall to the House of Commons shouting: “The Government is not in charge, Parliament is”. Parliamentarians are making fools of themselves and their country. They want a second referendum – but Parliament has not yet honoured the first one.  They want to block ‘no deal’, but that is what being ‘out’ of the EU means.

Even those MPs who appear to want to ‘respect’ the Referendum result want as soft as possible a Brexit – a BRINO Brexit such as ‘Norway plus’. These MPs have confused themselves. We are in the process of negotiating a ‘withdrawal agreement’ – which as its name implies is an agreement on withdrawing from the EU.  The WA is itself a ‘no deal’ outcome, since ‘the deal’, i.e., the future relationship will be negotiated after the UK’s departure from the EU. MPs are clearly conflating the withdrawal and the future relationship.  Of course, the EU is happy with all this confusion, since the Political Declaration ties us down to a ‘future agreement’ that the EU chooses.

We should be under no illusion that whether it is a second referendum, the PM’s WA deal or a ‘Norway plus’ deal, these are all intended to be different ways by Parliament of betraying Brexit and remaining in the EU.

We are now in grave danger of either a stillborn Brexit or one whose growth is so stunted after birth by the WA’s grip around its throat that it will be returned to the EU’s ‘tender loving care’ for resuscitation.

**Remaining in the EU would be the real disaster**

Those that want to remain in the EU or to return to it as soon as possible after Brexit do not take into account the developments going on over there.  I have written elsewhere in Briefings for Brexit about the [severe political, economic and financial crises facing the EU](https://briefingsforbrexit.com/the-european-union-is-in-total-crisis-we-need-to-get-out-as-soon-as-possible/) and have given [ten reasons why we should leave](https://briefingsforbrexit.com/ten-reasons-that-justify-the-uks-decision-to-leave-the-european-union/).

What the anonymous civil servant said above is precisely where the EU is heading. The Lisbon Treaty introduced a European Constitution which allows the EU to become a superstate with a single president, foreign policy and army. But this will only work if there is full political, fiscal, monetary and banking union. This will, in turn, require member state budgets and tax rates to be set centrally in Brussels. Europe’s capital city will then become the centre for EU-wide lobbying by big businesses to get higher tariffs on imports and more onerous regulations. All this will be dressed up as ensuring a ‘level playing field’ and that the EU’s high standards for consumer and environmental protection are met. But the real purpose is to restrict competition, raise prices for consumers and – making use of the Single Market’s four freedoms – keep labour costs down for those businesses which are free to move cheap labour into regions where labour costs are high or move their factories to regions where labour costs are low.

This might well be attractive to the crony capitalists meeting in Davos, but I fail to understand how it can be attractive to those who believe either in genuine market competition or in real socialism. Those parliamentarians on the Left who support the Norway plus option would do well to read [Maurice Glasman](https://www.thenation.com/article/brexit-britain-may-confidence-vote/)’s article on why leaving the European Union is the necessary goal of the left in Britain.

The UK will be expected to become full participating members in this process, beginning by joining Schengen and the single currency as soon as possible. Once that happens, there will be no escape. Brexit will be lost forever. I discuss the disastrous consequences of the single currency in another article in [Briefings for Brexit](https://briefingsforbrexit.com/target2-the-silent-bailout-system-of-the-eurozone-by-david-blake/).

**The People did not ‘take back control’ from the European Union only for Parliament to hand it back again**

As [Andrea Leadsom](https://www.telegraph.co.uk/politics/2019/01/18/exclusive-ministers-trying-block-no-deal-think-know-better-voters/), the Leader of the House, said: “Parliamentarians are the servants of the people – and the people gave us a very direct answer to a direct question. We must leave the EU”. And as [Councillor Bob Perry](https://www.telegraph.co.uk/politics/2019/01/19/rage-tory-grassroots-brexit-betrayal-will-consign-party-oblivion/), chairman of the Hornchurch and Upminster Conservative Association, wrote to Brandon Lewis, chairman of the Conservative Party, the people “did NOT vote for a DEAL, they voted to LEAVE”. And as Boris Johnson said during the Referendum campaign, the Referendum was about the “right of the people of this country to settle their own destiny”.

We have had enough condescension, complexity and charade. The only logical strategy for honouring the Referendum result by leaving the EU in the way outlined in the Lancaster House speech is the two-step process that moves first to WTO via [Article 24 of](https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXIV) GATT and [Article 5 of](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm#articleV) GATS, and then to an extended Canada deal. [Martin Howe QC](https://mobile.twitter.com/standup4brexit/status/1088366510266028038) believes the first step could be done very quickly if the EU agrees to a ‘managed no deal’.  If they refused, they would be to blame for any chaos that follows an ‘unmanaged no deal’.  As [Andrea Jenkyns](https://www.express.co.uk/news/uk/1069744/Brexit-news-latest-no-deal-WTO-Theresa-May-vote-agreement-2019-UK-EU) has said it is time “stand up for democracy and embrace a clean Brexit: let’s go WTO!”.

There is, of course, a very high probability that, with the current Parliament, this will not happen. And we have been here before. The 1992 European Communities Act – which took the UK into what became the EU – was passed by the House of Commons by means of a secret agreement between the Tory Chief Whip, FrancisPym, and pro-European Labour MPs, including Roy Jenkins and Shirley Williams. Tony Bennsaid “It was a coup d’état by a political class who didn’t believe in popular sovereignty. That’s what it was – a coup d’état. The power was seized by parliamentarians.  They seized power that did not belong to them and used it to take away the rights of those they represented”.

This is precisely what is happening now. There is one last chance to stop it.

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