

How likely is No Deal?

No Deal is a misnomer, like much of the rest of the Brexit debate. No deal means leaving without signing the Withdrawal Agreement, but with a number of other agreements in place governing trade facilitation, aviation, haulage and government procurement. It would also mean using the extensive rules and regulations of the WTO to govern our trade with the rest of the EU just as our trade with the rest of the world is governed today. The Withdrawal Agreement was not of course allowing exit any time soon, as it was a decision to delay exit for 21 to 45 months, with uncertainty about how to get out thereafter.

The Withdrawal Agreement has been three times rejected by Parliament, and overwhelmingly defeated in the European elections with only 9% supporting the party that proposed it. It is possible a new Prime Minister will be able to negotiate enhanced arrangements before October 31 that add to the various agreements available for exit then without the Withdrawal Treaty. The new Prime Minister should offer a comprehensive free trade agreement, with a text based on EU/Canada and EU/Japan. We could then proceed to leave without imposing tariffs if the EU agrees to negotiate such an agreement.

Some say Parliament can block leaving without signing the Withdrawal Agreement. That would be very difficult for Parliament to do. If the new Prime Minister wishes just to leave he need not ask for a further delay to our exit after 31 October, so we will just leave. How would Parliament be able to make a Prime Minister seek a delay when he does not wish to do so? Parliament anyway cannot legislate to require a delay, because a delay not only needs a Prime Ministerial request of the EU but also a positive response by the EU. Mrs May decided she wanted a delay and asked for it regardless of the view of Parliament last time this arose. European law is superior to UK law all the time we stay in, and under EU law we are out on 31 October unless something else happens.

In this issue the PM is central. If the PM is determined to leave without the Withdrawal Agreement and keen to keep to the specified date, it would be very difficult for Parliament to find a way to stop him.