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Is 'De-withdrawal' an alternative to withdrawal?



Theresa May has made withdrawal from the European Union the key word in defining what Brexit means, while advocates of remaining in the EU are now arguing for 'de-withdrawal', that is, a second referendum held before withdrawal becomes effective. The question on the ballot of this second referendum would be whether people want to endorse or reject the conditions for leaving the European Union that would be on offer after negotiations between the UK and the EU. In case of rejection, the UK's withdrawal from the EU would be withdrawn.

For the EU, each member state has the right to withdraw from membership. The terms for doing so are set out in Article 50 of the Lisbon Treaty. Once the UK notifies its intention to withdraw, two years are allowed for negotiations about the future relationship with the EU. When that period ends, the UK's membership of the Union shall cease, whether any post-membership agreement has been reached or not.

Advocates of a second referendum believe that negotiations would make evident disastrous consequences of leaving the European Union. This prospect would cause more than two per cent of voters to switch from favouring exit to endorsing remaining in Europe. This shift would be

sufficient to reverse the verdict of the June referendum. There is precedent in Ireland for a second referendum on specific features of EU policy. These have been called when the government did not get the result it wanted in the first round.

In the jargon of the British debate, 'de-withdrawal' is a unicorn. If Theresa May were to propose a second referendum, many would see this as reneging the pledge that won her Downing Street. Before the Commons could consider a bill to authorize a de-withdrawal referendum, angry Tory MPs would be triggering a new leadership election and Cabinet ministers would be lining up in the race to succeed her. Unlike David Cameron, Theresa May is averse to risking Downing Street on the outcome of a referendum.

It is also unclear whether Brussels would consider 'de-withdrawal' possible. In fact, Article 50 makes no provision for withdrawing notification for withdrawal, and EU leaders would have neither the time nor the patience for starting yet another set of negotiations with the fractious British. Continentals expecting to benefit from British withdrawal would lose pickings from the British corpse that were almost in their hands, such as more seats in the European Parliament.

Paradoxically, the completion of British withdrawal from the EU in 2019 opens up the path to re-entry by applying to become a new EU member state under Article 49 of the Lisbon Treaty. This would not mean reverting to the UK's status in the EU before the referendum, since new applicants for membership are not eligible to receive the budget rebate and eurozone opt out that Britain has had.

It is conceivable that a pro-EU post-Corbyn Labour government winning the 2020 British general election in alliance with a revived Liberal Democratic party could seek to rejoin the EU. A second possibility is that pro-European Tory MPs become numerous enough to fight and win back control of the party from Brexiteers. However, what is possible is not thereby probable. Cautious MPs might regard either possibility as a unicorn dressed up in the clothes of a very dark horse.

Even if a different British government successfully negotiated re-joining the EU, any agreement would be subject to the unanimous approval of all EU member states. Under the terms of the 2011 UK Parliament Act, it would also be subject to approval by another British referendum. If advocates of Britain being an EU member state are determined, they must be prepared to do what the victorious Brexiteers did: spend decades banging on about Europe until persistence and fortuitous circumstances bring success.

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