

Ivan Rogers: no deal is now the most likely Brexit outcome



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We all know this is a great country. Sadly, it's one currently very poorly led by a political elite, some masquerading as non-elite, which has great difficulties discerning and telling the truth. I am discouraged by just how badly Brexit has been handled to date, and currently pessimistic that this is going to get any better any time soon. I am worried that the longer the sheer lack of seriousness and honesty, the delusion mongering goes on, the more we imperil our long-term prospects.

It is not patriotism to keep on failing to confront realities and to make serious choices from the options which exist, rather than carrying on conjuring up ones which don't. So I thought what I should do today is offer you candid advice on:

- Why I believe 'no deal' is now the probability. To be clear, it is a majority chance, not an inevitability.
- Why going to – or rather, as I shall explain, via – 'no deal' would be bad for the UK. Bad for the EU too, but much worse for us.
- How you should think about what 'no deal' would look like for you, given that you are being sold any number of absurd fantasies about how it would play out. Nearly all from the people who sold you absurd fantasies about how the last 3 years would play out.
- Finally, some thoughts about how, even now, we might find a saner route to a post Brexit destination which is economically viable, if sub-optimal, and delivers a vibrant democracy and strong relations with both our key EU partners and the rest of the world.

I talk about a 'post-Brexit destination' deliberately because my starting point has always been that the democratic mandate of June 2016 needs to be fulfilled. The vastly overwhelming majority of the 17.4 million people who voted for Brexit are not fools, knaves or bigots. They had, and have, serious and justified grievances with the status quo, whether or not one believes that EU membership is a major impediment to changing it. And they have the right to expect the political elite to deliver on the mandate, and to feel let down that it so far has

not happened. I can't blame them. But, they also have the right – the whole electorate has the right – to have the political class level with them about what Brexit actually entails doing. And about the inevitable choices and trade-offs it imposes on us, rather than just stir up feelings that Britain has been in some way humiliated.

The only people who have truly been humiliated are those in both the Executive and Legislature, many of whom are now marketing the national humiliation and betrayal story hard, precisely to try and escape their own profound responsibility for the current political paralysis. I now think a 'no deal' outcome the probability, for reasons I shall explain. But I have thought it a serious risk since autumn 2016, and been saying to private sector and university audiences since then that I thought the risk was vastly underpriced by the markets, most companies and the media. Why? Because the previous Prime Minister kicked off the negotiation process with two speeches – at the 2016 Party Conference and at Lancaster House in January 2017, which I think frankly were two of the most ill-advised speeches given by a British Prime Minister since the War. Those speeches revealed a fundamental misunderstanding of the nature of our post-Brexit options.

And of the scale, length and complexity of the disentanglement process which Brexit entails. That misunderstanding perpetuates itself even now in the surreal debates we see unfolding 3 years after the referendum. And those speeches completely cemented the total unity of the 27 in how to run the Article 50 process – which had been very much in doubt, and which has held ever since – and enabled them, in conjunction with the decision to invoke Article 50 before the slightest consensus had been built as to where we wanted to get, to take complete control over the conduct and sequencing of the negotiations. The then Prime Minister was of course thunderously applauded for the approach in these early speeches by the very colleagues and media who have then spent the bulk of the following years determined only to bring her down, and to reject any deal she brought back. She was lionised in the press as a cross between the new Iron Lady and the new Boudicca. The EU would be brought to heel – indeed, as I recall, crushed beneath it – it did not deliver the deal we wanted. In reality, she had already signed her own political death warrant.

Prepare yourselves now, incidentally, for a new exciting version of this story in autumn 2019, when the new prime minister will be lionised for bold statements about how the UK will now negotiate with vision, determination, optimism and guts. Which will, I fear, be met with precisely the same reaction outside the UK, and deliver the same spontaneous complete solidifying of the 27's position – in the face of being told endlessly that now we finally have a prime minister prepared both take them on at the table, and to walk away from it, their united front will duly crumble, and we shall then walk away with the deal of his dreams. The 'belief' theory of negotiations – if we just have enough true belief, confidence in our greatness and chutzpah, we shall achieve all we want – always reminds me of some of the more ill-fated underachieving England World Cup campaigns of past decades. The pre-tournament 'this time the Cup is coming home' media spree is this year's Tory Party Conference coverage.... I was in Brussels running the preparation process for the then Prime Minister's first European Council in October 2016, and able to feel the severe frost – and, as I say, also the total internal solidarity – her speech 10 days previously to the Party Conference had engendered.

Well just think ahead to the October European Council this year, 3 years on, which will be the EU debut, and perhaps the final curtain too, for the next prime minister, just 2 weeks after a first Party Conference leader's speech. And do we think whoever wins the leadership

contest will, in their first leader's speech to Conference have set out a subtle, nuanced, principled and collaborative approach to sober up the Party faithful for the many difficult compromises ahead? As the former Prime Minister gradually came to understand that these speeches had locked her into a position both wholly unsustainable and undesirable from the UK economic viewpoint, every baby step she then took to nuance her position, in particular, to address UK manufacturers' concerns, and prevent the decimation of key industries, was met with howls of outrage from her Right as the betrayal of the 'only true path' Brexit. Which, it turned out, was a hard 'no deal' Brexit which had not been the prospectus sold to the public in the referendum campaign.

I won't try and rehearse the full gory history. Better not to waste time, and to look forward. But let's also try this time not to lock ourselves into positions from which the only conceivable exit leads to accusations of betrayal, humiliation and 'stab in the back' from all the usual suspects. Suffice it to say that every successive iteration, from Florence to Mansion House to Chequers of the former Prime Minister's version of Brexit went down progressively worse with her Right. And having agreed the backstop proposal in December 2017, the Prime Minister's only escape route from a Northern Ireland specific backstop was the all UK backstop she urged EU leaders through autumn 2018 to insert in the legal Withdrawal Agreement. Telling them indeed that only this would win her the 'meaningful vote' in the House. They duly gave her what she asked for and signed it off now 7 long months ago. But it was just never going to fly. Her strategy of 'you'll see: it's my way or the abyss and you will have no other or better choice in the end, because I will prevent any other emerging' held no terrors for those who much preferred the abyss – because, for them, it was not an abyss but a 'clean break' liberation. And her deal delivered too close an economic and juridical relationship with the EU ever to be tolerable for them. None of this – surely to goodness – can have been a surprise to No 10.

They will, of course, take the same position under the new prime minister and they believe the wind is in their sails and they can deliver the so-called 'clean break' and hope finally to have a prime minister committed to it. Nor did the Prime Minister's threats hold terrors for those whose worst nightmare was 'no deal', because they thought they had the numbers in the Commons always to see off 'no deal' and could see that she herself was endorsing that view in what she was telling their political enemies. They too believe the wind is in their sails and that they can reverse Brexit. So the strategy was never destined to work, and European leaders progressively, and correctly, lost all faith in her ability to deliver.

The Prime Minister's last opportunity to deliver anything close to her version of Brexit was to reset after the 2017 General Election and to recognise she could not conceivably land it without significant Labour votes. Those could, in my view, probably have been got. But only if the prime minister had started in 2017, not in an act of desperation after her third thumping defeat when she was manifestly sitting on the ejector seat. The reality was that she was, until far too late, utterly determined to put Party before the national interest, and seek to win solely on Tory and DUP votes. She was counting on loyalty which she might perhaps have had some right to expect but was never in danger of getting.

The principled, if that is the word, 'no dealer' Brexiteers duly voted against her in every round. They were always going to. They want a complete rupture with the EU. Most always did, actually. But they were savvy enough to recognise that you would not get 52% of the public to vote that prospectus in 2016. The ambitious ones voted against her up only until the point when she had guaranteed to fall on her sword. And then they voted for her deal. No

doubt hoping that they would get all the credit amongst the Party faithful for opposing her deal, but the benefit once they were in office of its transitional arrangements coming into force when it passed before she exited. We duly drifted on to the rocks on which we are now becalmed and paralysed.

Whilst the former Prime Minister must bear the primary responsibility for beaching us there – and for the understandable huge public frustration on all sides – we should not exonerate those whose only ambition was to lob enough rocks at their own prime minister to ensure that any deal she concluded could not pass, thereby removing her from office. Objective achieved.

Nor in my view, can we exonerate those Remainers who spent all their time training their guns on any other compromise version of Brexit in order that they could reduce it to a choice between ‘no deal’ and ‘revoke’. It is frankly ludicrous for all parties – the former prime minister herself, the hard Brexiteers and the hard Remainers – to have played this out before a disillusioned public.

We are all now paying heavily for it. But the whole game is, of course, to avoid taking any personal responsibility whatever for the paralysis and the scale of the crisis we now face, and to offload that blame on whichever of ‘intransigent Eurocrats determined to humiliate Britain’, ‘deep State fifth columnists determined to betray Britain’, or ‘offshore tax haven Brits seeking to sell Britain to the US’ has greatest conspiracy theory appeal. I tried, in an earlier lecture which turned into a small book, to distil the lessons it seemed to me we really needed to try and learn from the last few years if the country were to be able to come together behind a version of Brexit which left us with a healthy democracy and a strong economy. That was by no means an exhaustive list of lessons and I am sure there are other better ones others can distil. But that is still the exam question.

But I look at the current Tory leadership election, and frankly it brings to mind more Talleyrand’s great quote about the Bourbons having ‘learned nothing and forgotten nothing’. We hear all manner of undeliverable promises, made as if the events of the last 3 years have made no impact on the collective consciousness. I also look across the Channel and see a Continental elite which is bored with Brexit, frustrated and baffled by London, increasingly reconciled to the likely failure of the process, and prepared to move on to what they regard as more important issues in the next 5 years. Putin, Trump, China, trade and multilateral governance, migration and the Eurozone’s major challenges, plus, one would hope, climate change. On which of those, bar the last, would they currently look at Britain as both truly pivotal and reliable allies? London might reflect on what the answer in capitals would be. It’s hard to think of any previous generation of British political leaders as poorly regarded as this one. The fact that one says so does not make one unpatriotic. Rather the reverse.

I have to say though, that the EU too risks drawing all the wrong lessons from the last 3 years, and are, in my view, simply too complacent about the prospect that a breakdown in negotiations might lead to a long-lasting rift with the UK with dangerous consequences for the western world. It is understandable, but just too comforting, to think that ‘this is all nothing to do with us, or with what we did/ did not do’ and is just a Conservative Party psychodrama. That is not true, either. But the difficulty with the approach we see from leading politicians here is that, as I said, it makes it just incredibly easy for the other side to unify around a common position, and to conclude that there is precious little point in thinking about the issues. This is a major mistake.

I fear I now expect that to be the syndrome we again face this autumn, with the near inevitability of a prime minister who would start with far lower levels of trust with the EU than his predecessor progressively squandered. (I say 'his' predecessor because we already know the gender at least of the new prime minister.) And as all the evidence and the bookies tell us is almost certainly going to be someone whose reputation with them would be of someone who had deliberately undermined the Agreement they had, over years, reached with his predecessor. But was now telling them, at best, that it was imperative that they reopen that deal and offer him a better one within days or weeks if there were to be any chance of any Withdrawal Agreement.

Of course, the issue does not even arise at all if he is true to his current word – let us all suspend disbelief there for one moment – and does not ask for an extension of the Article 50 process beyond October 31. Because, unless the UK seeks an extension, there is no decision for the 27 to take. 'No deal' is then automatic. (I accept he could, of course, be mandated by the House to seek such an extension against his will. But then all his EU opposite numbers know that his political ambition will be to seek a dissolution to change the composition of the House which mandated him.)

If, contrary to what is being said in order to garner votes now, and in line with most EU expectations, he seeks an extension at the October European Council – recognising, as is completely obvious already, incidentally, that no new deal could under any conceivable circumstances, be negotiated and passed in the House by October 31 – the 27 would, I suspect, be prepared to extend. But only on the basis that a Withdrawal Agreement containing the backstop was not reopened. And that revisions to the Political Declaration and any texts elaborating on the process by which one might obviate the need for a backstop ever to come into force, or the steps by which it might be 'phased out' after it had come into force, were the maximum on offer.

In other words, not a time limit, nor a unilateral exit mechanism, but some further explication of what is already in the Withdrawal Agreement and some warm words about the process to try and arrive an alternative to the backstop over the next several years. Seen from the other side of the Channel, there is simply no political upside whatever for the 27 to offer a new prime minister, particularly an avid Brexit campaigner and a populist with Trumpite attributes, the basis on which to say that he had delivered some fundamentally different and better deal. So the best I think he will get is a new Political Declaration setting out a destination which is more distant from the EU than the one his predecessor sought. That is easy to write. And some clarificatory stuff on the process by which, over several years, the need for an all UK backstop might be obviated.

Unless of course, he proves willing to go back to a Northern Ireland specific backstop, on the grounds that it is buccaneering mid-Atlantic Great Britain (not UK) which is his central Brexit ambition. The EU will of course test whether a new Prime Minister might be prepared to sell – to oversell – cosmetic changes and might, by dint of not being his predecessor, supply the political alchemy to make an essentially unchanged deal pass in the House. You can hardly blame them for thinking that what we hear now might well all be bluster and bullshit. A flamboyant version of what the previous prime minister did for 34 months: tell everyone what they most wanted to hear. My purpose here though is not to speculate as to whether, ultimately, a new Prime Minister will, in practice, be prepared to indulge in precisely the same Commons process around an unchanged Withdrawal Agreement and a

much revised Political Declaration as his predecessor. But to explain how I believe the key EU players now view things.

From the Opposition's point of view, a revised Political Declaration would obviously be very materially worse than the Political Declaration proposed by his predecessor, as it would rule out a future Customs Union relationship. So the vast bulk of the Labour Party would vote against and a new prime minister would be more reliant than ever on delivering the entire Tory and DUP vote behind it. Yet the main Tory opponents of the current Withdrawal Agreement, who insist it must be reopened, have now rallied overwhelmingly to one person in the leadership race: Boris Johnson.

Draw your own conclusions from that. They must have concluded that he is either completely genuine in saying he will not seek an extension – in which case 'no deal' is a certainty, because no new deal can be reached and passed by October 31. There are only 9 working days between what will be the new prime minister's first meeting with all his oppos and October 31. So let's be serious. Or they have concluded that if and when Macron and others say that they will not agree an extension to negotiate anything new in the Withdrawal Agreement, he will not cave in at that point.

Perhaps we are owed a clear answer in these things in the coming days? At least journalists might ask; This is why serious players in Brussels and certain capitals have concluded, as have I, that we are now rather likely to be headed for a breakdown to 'no deal'. The cynical amongst them remark that the best political route to 'no deal', given that the current Commons evidently won't vote for it, is to demand the revision of the Withdrawal Agreement replacing the backstop with the so-called 'alternative arrangements' set out in the Brady and Malthouse amendments, the handling of which so grievously damaged the previous Prime Minister's reputation in capitals earlier in the year.

Once that proposal is duly rejected – which it will be – you say you have been rebuffed by the intransigent, faceless technocrats of Brussels and thwarted by a Parliament dominated by Remainers. And you have teed up an election in which the Conservative manifesto seeks public backing for the proposition that we either get those alternative arrangements in lieu of the backstop or we go to 'no deal'. Within weeks. That might skewer Mr Farage and force the Labour Party to have a policy... Though of course nothing, of course, prevents Labour writing one of its very own unicorns into an Election manifesto. And nothing prevents Mr Farage saying 'you promised to leave by now and you haven't'.

The assumption that a General Election is therefore coming really rather soon – and much sooner than anyone is prepared or incentivised to admit – is now as widespread in other capitals as it is with the bookies here. The political change is that we are indeed likely to have a prime minister who would ultimately be prepared to go to 'no deal', even if constantly shedding crocodile tears at being most reluctantly forced to by beastly foreign forces.

I agree with those who say that the EU never believed that the previous prime minister would be, however often she repeated that 'no deal is better than a bad deal'. They discounted that from very early on.

Where I completely disagree, however, is whether the real threat of 'no deal' now keeps anyone awake at night and would consequently trigger them to make a fundamentally better

offer to the new prime minister than to his predecessor. The EU will, on the contrary, I am prepared to wager, conclude that its best long-term interests are served by staying basically where it is and that it would be a fatal error for it to produce something appreciably better to a new prime minister than was ever on offer to May.

I am conscious that, as in 2016, the crucial mercantile interests of the German car makers, the Italian Prosecco makers and the French knicker makers, to name but 3, will then be wheeled out for the 437th time as evidence that this is just defeatist talk from someone who does not understand how the EU elites will just buckle when we finally have the guts to threaten ‘no deal’ as if we mean it.

This again is the Tory Party as the modern Bourbons. And if in a negotiation, you never think about and understand the paramount incentives and interests of your negotiating opposite numbers, you fail, and you deserve to. How many more times have we got to listen to failed Eurosceptic leaders railing against the German hegemon but convinced she will nevertheless ultimately sweep in to do the deal of their dreams at the behest of BMW? It would be genuinely funny if it were not tragic. The reality is that the prospect of ‘no deal’ now holds many fewer terrors for the 27 than much of the Tory leadership and membership thinks. I personally think it should hold a few more terrors, but I am not persuaded it does. Why? Because ‘no deal’ hands the control of the next phase of the process to the 27. It will ‘take back control’ of the precise legal framework of the economic relationship because it will legislate at 27 – without consultation with us – the economic framework under which we will have to operate.

It is just utterly untrue to say, as key Brexiteers continue to, that all non-member countries’ trade with the EU is conducted under WTO rules, ‘so what we have lost?’ This is a woeful and willful misunderstanding of how developed countries trade with each other. Even those without an FTA with the EU have a plethora of lengthy complex negotiated legal sectoral arrangements which deliver far more access to the EU market than do WTO multilateral commitments. The very fact that our Trade Secretary is so keen to try and roll over – unchanged – the provisions of existing EU FTAs with third countries suggests he knows the difference between WTO terms and good FTA ones, even for countries with which we do a tiny fraction of the trade we do with our behemoth neighbour.

Deliberately to walk out of the deepest internal market on the planet without a replacement looser preferential deal in place is an act of economic lunacy. We shall need A preferential deal. Even if it is one appreciably looser – and hence reduces trade and investment flows from today, because we cannot live with supranational legislation, adjudication and enforcement which EU membership entails. No deal’ is not a destination. It is simply a volatile and uncertain transitional state of purgatory, in which you have forfeited all the leverage to the other side because you start with a blank slate of no preferential arrangements, and live, in the interim – probably for years – on a basis they legislate – in their own interests. At 27. Without you in the room, and without consulting you politically. So much of our debate about ‘being ready here for ‘no deal’ therefore totally misses the point.

Namely: it is the others who largely dictate what we have to be ready for. Yes. ‘No deal’ can and will be ‘managed’ or controlled to a degree. And it would be. But by the EU. Ask the Swiss about trading and dealing. with the EU from outside. Hardly a country which is not immensely proud of its sovereignty and of its extraordinary democratic traditions, and

evidently not a country destined to join the EU or Euro – though it does operate free movement with EU citizens treated far more favourably than others. Just as evidently, like us, it's a country with a global, not a parochial regional outlook. The reality is that the Swiss, who are now nearing the end of yet another difficult multi-year negotiation of their most comprehensive package of economic and juridical relationships ever with the EU, know full well that their economy would not survive 'trading with the EU on WTO terms'. They don't. They haven't for decades. And they are probably about to have to agree to legal provisions at which the European Research Group would blanch because they have no negotiable alternative.

Reality, whether on industrial norms and standards, on financial services, on phytosanitary provisions, on aviation, energy, road haulage, even on tax, intrudes on Swiss Cantons just as it will in the years ahead on English shires. A so-called 'clean Brexit' into blissful autarky is just the latest pipe dream. Even once one has punctured this prevalent myth of the 'no deal nirvana' – and I now spend a lot of time with others doing so – one gets the next hoary old chestnut.

'Well OK, it's perhaps not the ultimate destination we need: but for x years under Article 24 of the WTO, we would be able to benefit from existing terms – an interim Agreement – which it would be illegal for the EU to disapply, whilst we negotiated a new Canada style FTA'. Completely untrue.

In circumstances where you leave the EU without a deal, there simply IS no interim agreement. That is the whole point. The EU is entirely within its WTO rights to say that it will treat us as a bog standard third country, without any preferential arrangements, the day after we leave. And if we refuse to sign a Withdrawal Agreement, there IS no interim deal. The superseding legal arrangements will, as I say, simply be legislated at 27. And tariffs will, automatically, be reapplied in the absence of an agreement. Again, we hear endlessly now the canard that if we lifted all our tariffs to the EU and others, the EU would be being vindictive and punitive if it failed to reciprocate.

Again, an inverted pyramid of piffle, as someone once said. The EU could only remove tariffs on a Most Favoured Nation basis, i.e. to all trading partners. When with all other trading partners, they would get no reciprocation. So it is 100% certain that they will apply tariffs to UK goods if we go 'no deal'. I give you a cast iron guarantee on that. Which is of course why those Brexiteers sitting in key Ministries responsible for key sectors have belatedly gone completely cold on 'no deal'. And one only hears it from those pandering to a Party base who do not realise for example what it does to the UK food and drink industry. They only do not realise that, because the political class has not had the guts to tell them. Because it would reveal that the whole proposition on how to Brexit was not thought through from the outset. If one ever gets that far in this conversation, the final argument one faces is the old favourite 'well, the EU won't cut off their nose to spite their face'. I agree. But it does not need to.

The EU will not set out to humiliate Britain, to punish us, hobble us or 'bring us to our knees'.

Though of course, we shall shortly be hearing plenty of that again. Sure: the EU, like the US or China, plays hardball in negotiations. Because it has the weight to. That is, after all, rather

the idea of trade blocs. We knew that when we joined one. But it is not daft. It will not prohibit every flight from Stansted to Malaga, stop any British truck invading Calais, turn off all energy interconnectors, terminate all cross-border data transfers, or whatever else. Please note, incidentally, that whatever key Brexiteers tell you, these are classic examples of where so-called WTO rules simply have zero-bearing on what happens on day 1 after a 'no deal' Brexit.

'WTO Only' is being represented – in fact, grossly miss sold – to the public as a featherbed for the entire economy, meaning there is no cliff we are jumping off with 'no deal'. But this is a straight falsehood. I have already explained what would happen on tariffs. But free trade in the 21st century is not primarily about tariffs. And in huge swathes of the economy, exiting the EU legal order without a replacement preferential agreement is an act with major negative consequences. The EU will not 'punish'. It will simply do what we would do in the same position: legislate in its own best interests, to provide a high degree of continuity where it needs it, and to maximise the pressure on the UK where it doesn't. Actually, it would even smooth a 'no deal' Brexit in the early months. It has even set out precisely how on its website, after all. What is the optimum post 'no deal' state for the EU?

An outcome which leaves the British so far short of the gains we could make from a bog standard Canada style Free Trade Agreement that we are incentivised and desperate to kick off negotiations on one, but which leaves the EU pretty relaxed about the pace at which any such negotiation – which also needs unanimous agreement at 27 on a negotiating mandate to open – might start, or finish. If it ever does. 'Stick the UK in a legal limbo which is asymmetrically in the 27's favour, and it will sooner or later sober up and conclude this is politically and economically unviable, and be in such a rush to get out of it, that we can dictate terms'. Note again the similarity with 'the clock is ticking' methodology of the last 2 years.

It is very sad to watch blustering Brexiteers played for fools, and being nicely set up for their next thrashing. Because it will not be they who suffer the consequences. Why does this generation of UK politicians seemingly find it so difficult to think its way into the shoes of key opposite numbers, and work through how exactly you would play this if you were them, given the domestic political incentives they face? Is that not part of the job? As I have said before, other people have sovereignty too. They have politics as well. So, no: they are not going to wilt at the first sign that a new prime minister is prepared to withhold the money and walk.

They will legislate the 'no deal' world as far as possible to suit themselves. And they will simultaneously make clear – in print – that if the UK finds that state of the world is intolerable and wants a full-blown negotiated comprehensive preferential trade deal, the EU is more than ready to negotiate one. But that the preconditions to opening trade talks will be agreement citizens' rights, on the full money agreed by the prime minister's predecessor, and on a backstop arrangement to guarantee that, regardless of the outcome of trade talks, no hard border will be erected across the island of Ireland. They will no doubt add one or two more along the way: fisheries being an obvious candidate.

And indeed on money, as time ticks on, far from the £39 billion bill coming down, it will go up if we grind into next 7-year EU Budget period. Which is now inevitable, precisely because we have wasted so much time we did not have to waste. That is another reason why I believe

‘no deal’ is inexorably becoming the Tory path of least resistance, and the obvious place to land if you are desperate to marginalise Farage and to dish Labour.

This account of the preconditions the EU would impose if we go via ‘no deal’ is, I should add, not me crystal ball gazing. It’s all there in speeches and texts in Brussels and in key capitals. The real issue on the 39bn is not that failure to pay it would constitute a conventional sovereign default. I don’t believe that to be the case, though I defer to the lawyers on that. It is that manifestly, any failure to pay it completely guarantees that the EU would refuse to open Free Trade Agreement negotiations under Article 218 of the Treaty – a decision which requires unanimity. And patently will not get it if we refuse to honour the obligation the previous Prime Minister took, on her own Attorney General’s advice. British politics currently blithely ignores the realities of what others will self-evidently do.

There is one final, final fantasy in the ‘clean break’ cupboard. Namely that a Canada style FTA was always on offer from Presidents Tusk and Juncker. And was somehow wilfully spurned by the previous Prime Minister and her dastardly fifth column entourage as they sought ways to enmesh the UK forevermore in the nets of the EU. But this too is just the purest nonsense.

Of course, the EU would negotiate a Canada Dry deal (that joke was running in Brussels well before I left in January 2017) with Great Britain. Why would it not? It would be hugely asymmetrically in the EU’s interests. Sorting all the key issues in goods, in which they have a massive trade surplus with us, and screwing us on market access in services, in which we have a major surplus with them. What is not to like from their viewpoint? As they actually negotiated the Canada deal, unlike UK politicians, they know what is in it. And they know the UK will, when it comes to it, want very appreciably more, because it does huge multiples of the trade Canada does with the EU, and is a huge services economy.

So they know that when it comes to it, London will in practice have to offer a great number of concessions to get the sort of deal it will want. Because although the Institute of Economic Affairs text which may well be the next prime minister’s wish list was badged as Canada +, it is in practice an incoherent mishmash of virtually unchanged Single Market access where we most want it – which we shall not get – and a juridical relationship which meets European Research Group fantasies, which we shall not get either. The likely next Prime Minister’s people now go round the City excoriating the absence of any seriousness from Prime Minister May on services. I completely agree with them, as it happens.

But unless the new Prime Minister is prepared to reverse his predecessor’s stance on free-movement of people, and risk pushing his new found friends back into the Brexit Party, this is just whistling in the wind. We are going to get standard third country equivalence treatment and learn to live with it unless the free movement issue is reopened. No senior politician on either side here dares say that in the City or elsewhere of course.

The damage to the UK is already obvious. Because firms shift huge balance sheet outside the UK – which means very substantial tax revenue losses for the UK down the line – and have, quite rightly, created new legal structures predicated on us ending up without a deal and without any transitional arrangement. They can do no other. But I said Great Britain earlier on. Not the United Kingdom. As did the EU Presidents, repeatedly. People are clearly suffering from selective deafness. A Canada style deal does not obviate the need for a

backstop. And negotiating one does not mean they would suddenly decide Malthouse max fac arrangements would suffice.

If the EU believed that such technological and administrative solutions already existed for Ireland, they would, to be clear, already be operating them at borders between Sweden and Norway. Which, after all, within the EEA, is seeking to remain vastly more closely enmeshed in and aligned to EU regulations than the Brexiteers want in post-Brexit Britain. The technological and administrative solutions do not yet exist which would permit the EU to drop the backstop or guarantee to do so by a clear end date. So you can forget the 'with one bound we can be free and living in a loose FTA negotiated in a matter of months' merchants. We heard all that in 2016. It is no truer now than it was then.

To conclude. I want to be very clear what I am saying here. I do not believe 'no deal' is yet inevitable. Nothing is inevitable in a negotiation until it has happened. And sometimes not even then when dealing with the EU. I do not believe the collective EU preference is for 'no deal'. It is for what they call an orderly exit with a Withdrawal Agreement. A Prime Minister they truly believed had both the appetite and the numbers to push through the Withdrawal Agreement would get assistance with a Political Declaration which set out a different destination from Mrs May's. And with language explicating the Withdrawal Agreement, which conveyed what I believe is the reality: they will work on alternative technological and administrative ways to try and obviate the need for a backstop over time. That is better for them, not just us. They will just in my view, which I hope is disproved, not guarantee there will be a date certain by which they decide that the backstop will not be needed or can be exited.

I am simply saying that others are now increasingly reconciled to the probability that this will not suffice, given the history of the last year. And if it does not, they are inexorably trending towards the view that it might just be better for the UK to experience the reality of 'no deal' for a while. And that maybe the only route to a Free Trade Agreement without endless tedious fantasies now goes via our experiencing the absence of ANY preferential arrangements for a while. Some think the upheaval brings the UK back to the negotiating table within weeks, prepared to sign on the dotted line on the lot to get a negotiation – which, as I say, requires the unanimous agreement of all Member States and the European Parliament under Article 218 – underway. That is just a hugely naïve view, in my opinion.

The politics and distrust on both sides militate against any breakdown being short or amicable. It would be lengthy and rough. Which ought in itself surely to give people on all sides pause about where we might be heading.

The more realistic, though, think that the economic consequences will take a fair while to sink in. And frankly, that they can reap major competitive advantages against the UK while they do so. The slow but steady constriction of the UK economy via prolonged uncertainty about the destination and an inability even to get to the start line of negotiation would, in their view, do its work.

It's an understandable calculation, but even that may prove a fateful miscalculation, to join so many others in recent years, about the British political reaction.

As I have explained, the miscalculations on this side are even greater. They have bedevilled for the last 3 years. And there is no sign of that changing. With a ‘new deal’ impossible by October 31 – and all know full well it is, whatever they profess to believe – we shall seemingly either have a prime minister fully aware that ‘no deal’ can be the only outcome on that date, hoping that the 27 deliver it for him, and genuinely not intending to seek an extension.

Or we have a prime minister who fully intends to seek an extension, calculating – wrongly, I fear – that, unlike his predecessor, he can deliver a Withdrawal Agreement with alternative arrangements to a backstop embedded in it, or guaranteed to come into force before it was ever triggered.

Or we have a prime minister who privately knows that the Withdrawal Agreement will not be reopened, but thinks he can sell it unchanged, accompanied by a changed destination in the Political Declaration, with some brio, charisma and bluster, to a Commons some of whom are desperate now to get anything over the line.

Or we have a prime minister who intends to make what he knows to be unnegotiable demands in order to have the pretext to go for an election which enables him, once the demands are rebuffed, to go to ‘no deal’ if he can change the composition of the Commons to back it.

If it is the last, once you go to ‘no deal’, everything I have outlined earlier applies and we discover, painfully, that it is not sustainable and that the only route to a loose preferential trade deal lies by agreeing precisely what we are rejecting now. But with a lot more money.

As we now, for the second time in 3 years, see a new prime minister elected by a small group who think it falls to them to determine what the ‘will of the people’ is – a peculiar view of liberal democracy in my view – perhaps we can dispense with the fantasies and falsehoods, and learn which of these four propositions we are facing this autumn.

This article is an edited transcript of a speech made by Sir Ivan Rogers at a Compeer Limited event.