

The island of Ireland and the Brexit deal ^[1]



What does the joint report on the withdrawal agreement from the EU negotiators and the UK Government mean for the island of Ireland?

Issue

UK constitutional integrity

What the document says

“The United Kingdom will continue to respect and fully support Northern Ireland’s position as an integral part of the United Kingdom, consistent with the principle of consent.”

What this means

This provides reassurance to the Unionists that there will be no change in the constitutional settlement.

A specific agreement on Ireland

What the document says

“The commitments and principles will not pre-determine the outcome of wider discussions on the future relationship between the EU and UK and are, as necessary, specific to the unique circumstances on the island of Ireland.”

What this means

This stipulates that the agreement is only about the relationship between the UK and Ireland and not the future UK-EU relationship, which is still up for discussion. It has to apply regardless of that wider relationship. This raises the question of how the deal will work in practice.

Cooperation between Northern Ireland and Ireland, and between Ireland and the UK

What the document says

“The UK remains committed to protecting and supporting continued North-South and East-West cooperation...including the continued operation of the North-South implementation bodies.”

What this means

This provides reassurance on the continuation of the Good Friday Agreement arrangements and that there will be no border in the Irish Sea.

A hard border guarantee

What the document says

“The UK remains committed to protecting North-South cooperation and to its guarantee of avoiding a hard border.”

What this means

The UK is reaffirming its commitment to avoiding a hard border.

How a hard border guarantee will be achieved

What the document says “Any future arrangements must be compatible with these overarching requirements. The United Kingdom's intention is to achieve these objectives through the overall EU-UK relationship. Should this not be possible, the United Kingdom will propose specific solutions to address the unique circumstances of the island of Ireland. In the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all island economy and the protection of the 1998 Agreement”

This is the absolutely critical passage and much will turn on whether the UK and the EU have the same understanding of what this means in practice.

What this means A triple lock of guarantees aims to achieve the objectives of an overall deal, a specific solution and a default of maintaining “full alignment”.

The UK appears to think that equivalence may be enough, as it proposed on agrifoods in its Northern Ireland and Ireland position paper. But the EU usually insists on third countries adopting its own rules.

The relationship between Northern Ireland and the rest of the UK

What the document says “The United Kingdom will ensure that no new regulatory barriers develop between Northern Ireland and the rest of the United Kingdom, unless, consistent with the 1998 Agreement, the Northern Ireland Executive and Assembly agree that distinct arrangements are appropriate for Northern Ireland. In all circumstances, the United Kingdom will continue to ensure the same unfettered access for Northern Ireland's businesses to the whole of the United Kingdom internal market.”

This clarifies that divergence from UK regulations will only occur if a Northern Ireland executive wishes to do so.

What this means Again, these are reassurance to the Unionists but could put a future power-sharing executive under a lot of pressure if it is forced to choose between aligning with the rest of the UK or the Republic of Ireland.

Oversight

What the document says “Both Parties will establish mechanisms to ensure the implementation and oversight of any specific arrangement to safeguard the integrity of the EU Internal Market and the Customs Union.”

What this means The question is whether there is a continued role for the European Commission and European Court of Justice (ECJ) in ensuring there is compliance with EU rules. The EU insists that the ECJ is the sole arbiter of EU law.

Citizenship

What the document says “The people of Northern Ireland who are Irish citizens will continue to enjoy rights as EU citizens, including where they reside in Northern Ireland. Both Parties therefore agree that the Withdrawal Agreement should respect and be without prejudice to the rights, opportunities and identity that come with European Union citizenship for such people.”

What this means The UK government is committing to allow Irish citizens in Northern Ireland to continue to exercise their rights as EU citizens.

Rights and equalities in the Good Friday Agreement

What the document says “The United Kingdom commits to ensuring that no diminution of rights is caused by its departure from the European Union, including in the area of protection against forms of discrimination enshrined in EU law.”

What this means This is a further reassurance from the UK on its commitment to the Good Friday Agreement.

Common Travel Area

What the document says “The United Kingdom confirms and accepts that the Common Travel Area and associated rights and privileges can continue to operate without affecting Ireland’s obligations under Union law, in particular with respect to free movement for EU citizens.”

What this means The Common Travel Area is retained and the UK agrees it has no impact on the free movement from other EU member states to Ireland.

Programme funding

What the document says “Both Parties will honour their commitments to the PEACE and INTERREG funding programmes under the current multi-annual financial framework. Possibilities for future support will be examined favourably.”

What this means This states that future EU and UK contributions to these programmes, which support the Good Friday Agreement, remains a possibility.

The further discussions needed

What the document says “Both Parties agree that in the next phase work will continue in a distinct strand of the negotiations on the detailed arrangements required to give them effect.”

What this means This is a recognition that the deal is not a detailed blueprint and that it reiterates the recognition of the specific issues for Ireland that result from Brexit.

Issue	What the document says	What this means
UK constitutional integrity	“The United Kingdom will continue to respect and fully support Northern Ireland’s position as an integral part of the United Kingdom, consistent with the principle of consent.”	This provides reassurance to the Unionists that there will be no change in the constitutional settlement.
A specific agreement on Ireland	“The commitments and principles will not pre-determine the outcome of wider discussions on the future relationship between the EU and UK and are, as necessary, specific to the unique circumstances on the island of Ireland.”	This stipulates that the agreement is only about the relationship between the UK and Ireland and not the future UK-EU relationship, which is still up for discussion. It has to apply regardless of that wider relationship. This raises the question of how the deal will work in practice.
Cooperation between Northern Ireland and Ireland, and between Ireland and the UK	“The UK remains committed to protecting and supporting continued North-South and East-West cooperation...including the continued operation of the North-South implementation bodies.”	This provides reassurance on the continuation of the Good Friday Agreement arrangements and that there will be no border in the Irish Sea.
A hard border guarantee	“The UK remains committed to protecting North-South cooperation and to its guarantee of avoiding a	The UK is reaffirming its commitment to avoiding a hard border.

Issue	What the document says	What this means
How a hard border guarantee will be achieved	<p>hard border.”</p> <p>“All future arrangements must be compatible with these overarching requirements. The United Kingdom's intention is to achieve these objectives through the overall EU-UK relationship. Should this not be possible, the United Kingdom will propose specific solutions to address the unique circumstances of the island of Ireland. In the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all island economy and the protection of the 1998 Agreement”</p>	<p>This is the absolutely critical passage and much will turn on whether the UK and the EU have the same understanding of what this means in practice.</p> <p>A triple lock of guarantees aims to achieve the objectives of an overall deal, a specific solution and a default of maintaining “full alignment”.</p> <p>The UK appears to think that equivalence may be enough, as it proposed on agrifoods in its Northern Ireland and Ireland position paper. But the EU usually insists on third countries adopting its own rules.</p>
The relationship between Northern Ireland and the rest of the UK	<p>“The United Kingdom will ensure that no new regulatory barriers develop between Northern Ireland and the rest of the United Kingdom, unless, consistent with the 1998 Agreement, the Northern Ireland Executive and Assembly agree that distinct arrangements are appropriate for Northern Ireland. In all circumstances, the United Kingdom will continue to ensure the same unfettered access for Northern Ireland's businesses to the whole of the United Kingdom internal market.”</p>	<p>This clarifies that divergence from UK regulations will only occur if a Northern Ireland executive wishes to do so.</p> <p>Again, these are reassurance to the Unionists but could put a future power-sharing executive under a lot of pressure if it is forced to choose between aligning with the rest of the UK or the Republic of Ireland.</p>
Oversight	<p>“Both Parties will establish mechanisms to ensure the implementation and oversight of any specific arrangement to safeguard the integrity of the EU Internal Market and the Customs Union.”</p>	<p>The question is whether there is a continued role for the European Commission and European Court of Justice (ECJ) in ensuring there is compliance with EU rules. The EU insists that the ECJ is the sole arbiter of EU law.</p>
Citizenship	<p>“The people of Northern Ireland who are Irish citizens will continue to enjoy rights as EU citizens, including where they reside in Northern Ireland. Both Parties therefore agree that the Withdrawal Agreement should respect and be without prejudice to the rights, opportunities and identity that come with European Union citizenship for such people.”</p>	<p>The UK government is committing to allow Irish citizens in Northern Ireland to continue to exercise their rights as EU citizens.</p>
Rights and equalities in the Good Friday Agreement	<p>“The United Kingdom commits to ensuring that no diminution of rights is caused by its departure from the European Union, including in the area of protection against forms of discrimination enshrined in EU law.”</p>	<p>This is a further reassurance from the UK on its commitment to the Good Friday Agreement.</p>
Common Travel Area	<p>“The United Kingdom confirms and accepts that the Common Travel Area and associated rights and privileges can continue to operate without affecting Ireland’s obligations under</p>	<p>The Common Travel Area is retained and the UK agrees it has no impact on the free movement from other EU member states to</p>

Issue	Union law, in particular with respect to free movement for EU citizens." What the document says	Ireland. What this means
Programme funding	"Both Parties will honour their commitments to the PEACE and INTERREG funding programmes under the current multi-annual financial framework. Possibilities for future support will be examined favourably."	This states that future EU and UK contributions to these programmes, which support the Good Friday Agreement, remains a possibility.
The further discussions needed	"Both Parties agree that in the next phase work will continue in a distinct strand of the negotiations on the detailed arrangements required to give them effect."	This is a recognition that the deal is not a detailed blueprint and that it reiterates the recognition of the specific issues for Ireland that result from Brexit.

Update date:

Friday, December 8, 2017

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