

The Prime Minister's 'new' Brexit deal ^[1]



The Prime Minister has offered a 10-point 'new deal' on Brexit – here is our analysis of what it will mean.

Pledge

Alternative arrangements to the Irish border backstop

“We will place the UK Government under a legal obligation to conclude alternative arrangements ^[2] to replace the backstop by December 2020, so that it never needs to be used.”

The Government is already funding work on alternative arrangements for the NI border and it is a strand the EU has agreed to explore for the future relationship. But this does not mean that the EU will accept that those arrangements are sufficient to avoid the backstop – and the implementation timetable is completely implausible.

Legal duty is new; but substance is not.

Measures if backstop in force - a role for Northern Irish Assembly

“Should the backstop ^[3] come into force, the Government will ensure that Great Britain will stay aligned with Northern Ireland.”

“We will deliver on our commitments to Northern Ireland in the December 2017 Joint Report in full.”

“We will implement paragraph 50 of the Joint Report in law.”

“The Northern Ireland Assembly and Executive will have to give their consent on a cross-community basis for new regulations which are added to the backstop.

And we will work with our confidence and supply partners on how these commitments should be entrenched in law.”

This is the Northern Ireland lock ^[4] on regulatory divergence and Great Britain leaving the temporary customs union. It is a guarantee of NI's role on the Joint Committee looking at how new Single Market regulations apply to NI.

Some of the areas where the UK Government is offering to maintain alignment will be devolved after Brexit ^[5]: it is not clear whether the Government can commit the Scottish and the Welsh governments to maintain alignment.

No. The Government offered these guarantees in January.

Parliamentary role on future relationship

“The negotiating objectives and final treaties for our future relationship ^[6] with the EU will have to be approved by MPs.”

“The new Brexit deal will set out in law that the House of Commons will approve the UK’s objectives for the negotiations on our future relationship with the EU and they will approve the treaties governing that relationship before the Government signs them.”

Provides a guaranteed role for Parliament on the future relationship. It offers MPs a vote on a negotiating mandate as well as a ‘meaningful vote’ on the future relationship deal.

No. The Prime Minister had already said that Parliament would have a bigger role in phase 2 of the negotiations, and government ministers indicated they would have accepted an amendment to this effect from Labour MPs Lisa Nandy and Gareth Snell had it been selected at meaningful vote 3.

Workers' rights

“A new Workers’ Rights Bill ^[7] that guarantees workers’ rights will be no less favourable than in the EU.”

“We will introduce a new Workers’ Rights Bill to ensure UK workers enjoy rights that are every bit as good as, or better than, those provided for by EU rules.

And we will discuss further amendments with trade unions and business.”

The UK had already agreed to “non-regression” on social protection in the temporary customs arrangement and published draft clauses in March which would have given MPs the right to vote on whether to match EU changes on workers’ rights. Not clear whether this goes further.

Offering separate legislation means MPs cannot guarantee that the legislation is passed if they pass the Withdrawal Agreement Bill.

This may go further than the Government’s earlier offer – we need to see the draft bill.

Environment

“There will be no change in the level of environmental protection when we leave the EU.

And we will establish a new independent Office of Environmental Protection to uphold the highest environmental standards and enforce compliance”

The UK had already agreed to “non-regression” on environmental protection as part of the temporary customs arrangement, but this goes further and makes it a feature of the future relationship.

The Government is already committed to establish an Office for Environment Protection in the proposed Environment Bill next session.

The environmental protection provisions appear to go further (though the Government had made plans to maintain or exceed EU environmental standards in the future). The Office for Environment Protection is not new.

As close as possible to frictionless trade

“The UK will seek as close to frictionless trade ^[8] in goods with the EU as possible while outside the Single Market and ending free movement.”

The Prime Minister's longstanding ambition on goods trade contained in the Chequers proposal ^[9]. Rejected by the EU as cherry picking.

No.

Common rulebook

“We will keep up to date with EU rules for goods and agri-food products that are relevant to checks at border protecting the thousands of jobs that depend on just-in-time supply chains.”

As above.

No.

Customs compromise

“The Government will bring forward a customs compromise for MPs to decide on to break the deadlock.”

MPs will be able to choose between the Facilitated Customs Agreement proposed by the Government and the compromise position from talks – temporary customs union on goods only, including a UK say in relevant EU trade policy ^[10] and an ability to change the arrangement, so a future government could move it in its preferred direction

The Facilitated Customs Agreement proposal was in Chequers – and rejected by the EU.

The temporary customs arrangement, which would last until the next election, appears new – but the UK already has the option to ask for an extension of transition to the end of December 2022 (beyond the last date for the next election) which would mean staying in the current customs union; or using the customs arrangements in the backstop which could last longer.

The UK Government would need EU agreement for a “say” in future trade policy – this is unlikely to include a role in decisions though the EU would probably concede consultation.

This implies that the future economic relationship would still be being negotiated at the time of the next election – otherwise a new government would find itself bound by a new treaty.

Partly – and the idea of giving Parliament a choice is new.

Referendum vote

“There will be a vote for MPs on whether the deal should be subject to a referendum”

“The Government will ... include in the Withdrawal Agreement Bill at introduction a requirement to vote on whether to hold a second referendum ^[11].

“This must take place before the Withdrawal Agreement can be ratified.

And if the House of Commons were to vote for a referendum, it would be requiring the Government to make provisions for such a referendum – including legislation if it wanted to ratify the Withdrawal Agreement.”

The Government is committing to giving a MPs a vote on whether to require a confirmatory vote before the Withdrawal Agreement can be ratified. If they voted yes in favour of the bill, the Government would then allow MPs to vote on whether to hold a confirmatory vote, and bring in the necessary legislation if they voted in favour.

In practice, MPs could have tabled an amendment to this effect – but this guarantees

that the question of a confirmatory vote would be debated. The process offered by the Prime Minister does not guarantee a confirmatory referendum if the Withdrawal Agreement Bill is enacted. It offers a vote on whether one should be held, and would still leave the details of that referendum to be settled later – so MPs may choose to table their own amendment.

Yes. Theresa May has never previously offered a vote on a confirmatory referendum.

This introduces a potential two-stage process.

Legal duty to reflect changes to the Political Declaration

“There will be a legal duty to secure changes to the Political Declaration ^[12] to reflect this new deal”

Some of these proposals would require changes to the non-binding political declaration. To do that, the UK would need to go back to Brussels to agree them with the EU.

It’s far from clear these proposals would be acceptable to the EU, in part or in full, so there’s no guarantee those changes could be made. MPs may request a further vote on changes to the Political Declaration.

Yes

Pledge	What the Government will do	What it means	Is it new?
Alternative arrangements to the Irish border backstop	<i>“We will place the UK Government under a legal obligation to conclude <u>alternative arrangements</u> ^[2] to replace the backstop by December 2020, so that it never needs to be used.”</i>	The Government is already funding work on alternative arrangements for the NI border and it is a strand the EU has agreed to explore for the future relationship. But this does not mean that the EU will accept that those arrangements are sufficient to avoid the backstop – and the implementation timetable is completely implausible.	Legal duty is new; but substance is not.
Measures if backstop in force – a role for Northern Irish Assembly	<p><i>“Should the <u>backstop</u> ^[3] come into force, the Government will ensure that Great Britain will stay aligned with Northern Ireland.”</i></p> <p><i>“We will deliver on our commitments to Northern Ireland in the December 2017 Joint Report in full.”</i></p> <p><i>“We will implement paragraph 50 of the Joint Report in law.”</i></p> <p><i>“The Northern Ireland Assembly and Executive will have to give their consent on a cross-community basis for new regulations which are</i></p>	<p>This is the <u>Northern Ireland lock</u> ^[4] on regulatory divergence and Great Britain leaving the temporary customs union. It is a guarantee of NI’s role on the Joint Committee looking at how new Single Market regulations apply to NI.</p> <p>Some of the areas where the UK Government is offering to maintain alignment will be <u>devolved after Brexit</u> ^[5]; it is not clear whether the Government can commit the Scottish and the Welsh governments to maintain alignment.</p>	No. The Government offered these guarantees in January.

Pledge	What the Government will do	What it means	Is it new?
	<p><i>added to the backstop.</i> <i>And we will work with our confidence and supply partners on how these commitments should be entrenched in law."</i></p>		
Parliamentary role on future relationship	<p><i>"The negotiating objectives and final treaties for <u>our future relationship</u> [6] with the EU will have to be approved by MPs."</i></p> <p><i>"The new Brexit deal will set out in law that the House of Commons will approve the UK's objectives for the negotiations on our future relationship with the EU and they will approve the treaties governing that relationship before the Government signs them."</i></p>	Provides a guaranteed role for Parliament on the future relationship. It offers MPs a vote on a negotiating mandate as well as a 'meaningful vote' on the future relationship deal.	No. The Prime Minister had already said that Parliament would have a bigger role in phase 2 of the negotiations, and government ministers indicated they would have accepted an amendment to this effect from Labour MPs Lisa Nandy and Gareth Snell had it been selected at meaningful vote 3.
Workers' rights	<p><i>"A new <u>Workers' Rights Bill</u> [7] that guarantees workers' rights will be no less favourable than in the EU."</i></p> <p><i>"We will introduce a new Workers' Rights Bill to ensure UK workers enjoy rights that are every bit as good as, or better than, those provided for by EU rules."</i></p> <p><i>And we will discuss further amendments with trade unions and business."</i></p>	<p>The UK had already agreed to "non-regression" on social protection in the temporary customs arrangement and published draft clauses in March which would have given MPs the right to vote on whether to match EU changes on workers' rights. Not clear whether this goes further.</p> <p>Offering separate legislation means MPs cannot guarantee that the legislation is passed if they pass the Withdrawal Agreement Bill.</p>	This may go further than the Government's earlier offer – we need to see the draft bill.
Environment	<p><i>"There will be no change in the level of environmental protection when we leave the EU."</i></p> <p><i>And we will establish a new independent Office of Environmental Protection to uphold the highest environmental standards and enforce compliance"</i></p>	<p>The UK had already agreed to "non-regression" on environmental protection as part of the temporary customs arrangement, but this goes further and makes it a feature of the future relationship.</p> <p>The Government is already committed to establish an Office for Environment Protection in the proposed Environment Bill next session.</p>	The environmental protection provisions appear to go further (though the Government had made plans to maintain or exceed EU environmental standards in the future). The Office for Environment Protection is not new.
As close as possible to frictionless trade	<p><i>"The UK will seek as close to <u>frictionless trade</u> [8] in goods with the EU as possible while outside the Single Market and ending free movement."</i></p>	The Prime Minister's longstanding ambition on goods trade contained in the <u>Chequers proposal</u> [9]. Rejected by the EU as cherry picking.	No.
	<p><i>"We will keep up to date</i></p>		

Pledge rulebook	with EU rules for goods and services, and for products that are relevant to checks at border protecting the thousands of jobs that depend on just-in-time supply chains." What the Government will do	What it means As above.	Is it new? No.
Customs compromise	<p><i>"The Government will bring forward a customs compromise for MPs to decide on to break the deadlock."</i></p> <p>MPs will be able to choose between the Facilitated Customs Agreement proposed by the Government and the compromise position from talks – temporary customs union on goods only, including a <u>UK say in relevant EU trade policy</u> ^[10] and an ability to change the arrangement, so a future government could move it in its preferred direction</p>	<p>The Facilitated Customs Agreement proposal was in Chequers – and rejected by the EU.</p> <p>The temporary customs arrangement, which would last until the next election, appears new – but the UK already has the option to ask for an extension of transition to the end of December 2022 (beyond the last date for the next election) which would mean staying in the current customs union; or using the customs arrangements in the backstop which could last longer.</p> <p>The UK Government would need EU agreement for a “say” in future trade policy – this is unlikely to include a role in decisions though the EU would probably concede consultation.</p> <p>This implies that the future economic relationship would still be being negotiated at the time of the next election – otherwise a new government would find itself bound by a new treaty.</p>	Partly – and the idea of giving Parliament a choice is new.
Referendum vote	<p><i>"There will be a vote for MPs on whether the deal should be subject to a referendum"</i></p> <p><i>"The Government will ... include in the Withdrawal Agreement Bill at introduction a requirement to vote on whether to hold a <u>second referendum</u> ^[11].</i></p> <p><i>"This must take place before the Withdrawal Agreement can be ratified.</i></p> <p><i>And if the House of Commons were to vote for a referendum, it would be requiring the Government to make provisions for such a referendum – including legislation if it wanted to ratify the Withdrawal Agreement."</i></p>	<p>The Government is committing to giving a MPs a vote on whether to require a confirmatory vote before the Withdrawal Agreement can be ratified. If they voted yes in favour of the bill, the Government would then allow MPs to vote on whether to hold a confirmatory vote, and bring in the necessary legislation if they voted in favour.</p> <p>In practice, MPs could have tabled an amendment to this effect – but this guarantees that the question of a confirmatory vote would be debated. The process offered by the Prime Minister does not guarantee a confirmatory referendum if the Withdrawal Agreement Bill is enacted. It offers a vote on whether one should be held, and would still leave the details of that referendum to be settled later – so MPs may choose to table their own amendment.</p>	<p>Yes. Theresa May has never previously offered a vote on a confirmatory referendum.</p> <p>This introduces a potential two-stage process.</p>
		Some of these proposals would	

Pledge to reflect changes to the Political Declaration	What the Government will do <i>There will be a legal duty to secure changes to the Political Declaration [12] to reflect this new deal"</i>	What it means require changes to the non-binding political declaration. To do that, the go back to Brussels to agree them with the EU.	Is it new? Yes
		It's far from clear these proposals would be acceptable to the EU, in part or in full, so there's no guarantee those changes could be made. MPs may request a further vote on changes to the Political Declaration.	

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- [2] <https://www.instituteforgovernment.org.uk/explainers/alternative-arrangements-northern-ireland-backstop>
- [3] <https://www.instituteforgovernment.org.uk/explainers/northern-ireland-backstop>
- [4] <https://www.instituteforgovernment.org.uk/blog/government-brexit-reassurances-northern-ireland-risk-angering-more-people>
- [5] <https://www.instituteforgovernment.org.uk/publications/devolution-after-brexit>
- [6] <https://www.instituteforgovernment.org.uk/publications/negotiating-brexit-preparing-talks-uk-future-relationship-eu>
- [7] <https://www.instituteforgovernment.org.uk/blog/workers-rights-after-brexit-limits-legislation>
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- [10] <https://www.instituteforgovernment.org.uk/blog/labour-alternative-pm-plan-appears-have-little-substance>
- [11] <https://www.instituteforgovernment.org.uk/explainers/second-referendum-brexit>
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