

## The government's proposal for the Northern Ireland protocol <sup>[1]</sup>



Prime Minister Boris Johnson has written to the European Union to set out the UK's proposal for the Irish protocol (the so-called backstop) – the most contentious part of the Brexit Withdrawal Agreement. We look at what is in the proposal:

### Area

#### Overarching measures

#### What the proposal says

The UK government restates its commitments to the Good Friday (Belfast) Agreement and its pledge to not impose a hard border on the island of Ireland under any circumstances.

The UK wants this Northern Ireland protocol to form a model that can be transferred to other aspects of the future relationship.

With no customs union, the UK does not believe there is any requirement for level playing field <sup>[2]</sup> provisions or alignment.

These arrangements are not meant to be a basis for the future relationship between the UK and EU.

In the accompanying letter to Jean-Claude Juncker, Boris Johnson promises a 'new deal' for Northern Ireland to support economic growth.

#### What the proposal means

The UK's commitment to avoiding a hard border on the island of Ireland is not a new commitment. It has been the UK's position from the beginning of the negotiations with the EU.

The UK wants some elements – but not all – of this arrangement to be a 'model' for the relationship the whole of the UK might have with the EU after Brexit. One example might be customs, where the simplified measures could prove mutually beneficial for Dover-Calais trade.

Outside of the customs union, the EU would be able to levy tariffs on UK goods – so the UK rejects the premise that level playing field provisions are also required to ensure fair competition.

#### Regulatory compliance for goods

#### What the proposal says

The UK government proposes that Northern Ireland maintains alignment with the EU's Single Market rules on food safety, animal and plant health, as well as rules related to manufactured goods.

Regulatory checks will be performed on goods moving from Great Britain to Northern Ireland where necessary.

Traders moving goods from Great Britain to Northern Ireland will need to notify relevant authorities to provide necessary information to undertake these checks.

The UK government reiterates a commitment to Northern Ireland's position in the UK's internal market and that Northern Irish businesses and farmers will continue to have 'unfettered access' to the rest of the UK market.

The core of the UK's proposal is designed to allow regulatory alignment on the island of Ireland and remove the need for regulatory checks on goods crossing the Irish border.

The island of Ireland is already a single unit for the purpose of disease control. This means there are already some checks on agri-goods moving between Great Britain and Northern Ireland, but these would need to be extended much wider.

What  
the  
proposal  
means

The government postpones the decision making on "arrangements for ensuring the effective operation of this approach" – saying it will be decided by the Joint EU-UK Committee during the transition period. The transition period is due to end in December 2020, so there isn't much time to agree technical details.

The government's commitment to Northern Ireland's place in the UK Union is to reassure the Democratic Unionist Party – and confirms that the UK government will not apply checks in Great Britain to goods coming from Northern Ireland.

This part of the proposal will be welcomed in part as it represents significant movement from the UK – it is very similar to the current backstop but with some of the regulations relating to customs removed. However, it does not talk about how the UK will manage these checks and ensure Single Market standards are met – which will be a big concern for the EU.

## Consent

What  
the  
proposal  
says

The Northern Ireland Assembly and executive will be given a vote on whether the protocol comes into force at the end of transition and, if consent is given, it would be required to vote again every four years to stay aligned.

This essentially gives the UK an exit mechanism from the backstop. The Northern Ireland executive or Assembly could decide to end the regulatory co-operation and the EU would be required to put a border in place as a result.

These votes would be subject to a 'petition of concern', where 30 Members of the Legislative Assembly (MLAs) can require a decision to have cross-community support. This means that 50% of both nationalist and unionists MLAs would need to vote in favour of consent for the vote to pass – this could allow unionist parties to block consent.

What  
the  
proposal  
means

The default position would be alignment with the UK, so if Stormont does not give consent to the protocol – either because it votes against it or is blocked by unionists – Northern Ireland will diverge from the Republic of Ireland.

The executive has not been running for the past two and a half years – it is unclear what would happen if it was still not in place by December 2020.

The EU is likely to see this as one of the most contentious and unacceptable parts of the proposal. Particularly given the demand in the overarching measures that would mean the EU would be legally unable to place regulatory controls in place if Northern Ireland diverged – it is not clear how the EU could protect the Single Market if Stormont voted against alignment.

## Customs

The whole UK will leave the EU Customs Union, creating a customs border between the Republic of Ireland and Northern Ireland.

The UK proposes that no customs controls would take place at or near the border.

What  
the  
proposal  
says

Traders must complete a declaration to notify authorities prior to trade. The relevant customs authority would be notified once the goods cross the border. Where physical checks are required, they would take place at traders' premises or customs clearance hubs away from the border. The UK wants to waive the requirement for entry or exit summary declarations.

The UK is seeking exemptions for small traders, both from customs processes and tariffs.

Trusted trader schemes, simplified procedures and a deal on 'temporary admissions' are proposed for further simplification.

The UK would be outside of the EU VAT and excise area [3], with border checks avoided by using deferred accounting.

With Northern Ireland outside of the EU Customs Union, traders would be required to pay tariffs and complete paperwork for goods travelling across the Irish border.

Many of the simplifications suggested could mean checks take place electronically, or away from the border. This would remove the need for infrastructure.

But it could also prove very difficult to negotiate. The previous UK government agreed with the EU that, in addition to no border infrastructure, there would be no associated checks and a protection of the ‘all-Ireland economy’. This government, and this proposal, no longer accept that as a basis of a solution.

What  
the  
proposal  
means

The EU has previously rejected the UK’s calls for exemptions for small businesses, and has said that if Northern Ireland is outside of the EU VAT area then some checks would be required. The scale of derogations the UK is asking for is unprecedented and would put the EU in a very difficult position with a number of other neighbouring countries.

Many of the details of exactly how these checks would work are yet to be defined and would need to be agreed during the transition. Without these details the EU are unlikely to sign up – not least because the controls may need to be in place within 14 months, which is significantly less time than these changes usually take to implement.

Area	What the proposal says	What the proposal means
Overarching measures	<p>The UK government restates its commitments to the Good Friday (Belfast) Agreement and its pledge to not impose a hard border on the island of Ireland under any circumstances.</p> <p>The UK wants this Northern Ireland protocol to form a model that can be transferred to other aspects of the future relationship.</p> <p>With no customs union, the UK does not believe there is any requirement for <u>level playing field</u> [2] provisions or alignment.</p> <p>These arrangements are not meant to be a basis for the future relationship between the UK and EU.</p> <p>In the accompanying letter to Jean-Claude Juncker, Boris Johnson promises a ‘new deal’ for Northern Ireland to support economic growth.</p> <p>The UK government proposes that Northern Ireland maintains alignment with the EU’s Single Market rules on food safety, animal and plant health, as well as rules related to manufactured goods.</p> <p>Regulatory checks will be performed on</p>	<p>The UK’s commitment to avoiding a hard border on the island of Ireland is not a new commitment. It has been the UK’s position from the beginning of the negotiations with the EU.</p> <p>The UK wants some elements – but not all – of this arrangement to be a ‘model’ for the relationship the whole of the UK might have with the EU after Brexit. One example might be customs, where the simplified measures could prove mutually beneficial for Dover-Calais trade.</p> <p>Outside of the customs union, the EU would be able to levy tariffs on UK goods – so the UK rejects the premise that level playing field provisions are also required to ensure fair competition.</p> <p>The core of the UK’s proposal is designed to allow regulatory alignment on the island of Ireland and remove the need for regulatory checks on goods crossing the Irish border.</p> <p>The island of Ireland is already a single unit for the purpose of disease control. This means there are already some checks on agri-goods moving between Great Britain and Northern Ireland, but these would need to be extended much wider.</p> <p>The government postpones the decision making on “arrangements for ensuring the effective operation of this approach” – saying</p>

Area	What the proposal says	What the proposal means
Regulatory compliance for goods	<p>goods moving from Great Britain to Northern Ireland will need to notify relevant authorities to provide necessary information to undertake these checks.</p> <p>The UK government reiterates a commitment to Northern Ireland's position in the UK's internal market and that Northern Irish businesses and farmers will continue to have 'unfettered access' to the rest of the UK market.</p>	<p>It will be decided by the Joint EU-UK Committee during a 12-month transition period. The transition period is due to end in December 2020, so there isn't much time to agree technical details.</p> <p>The government's commitment to Northern Ireland's place in the UK Union is to reassure the Democratic Unionist Party - and confirms that the UK government will not apply checks in Great Britain to goods coming from Northern Ireland.</p> <p>This part of the proposal will be welcomed in part as it represents significant movement from the UK - it is very similar to the current backstop but with some of the regulations relating to customs removed. However, it does not talk about how the UK will manage these checks and ensure Single Market standards are met - which will be a big concern for the EU.</p>
Consent	<p>The Northern Ireland Assembly and executive will be given a vote on whether the protocol comes into force at the end of transition and, if consent is given, it would be required to vote again every four years to stay aligned.</p> <p>The whole UK will leave the EU Customs Union, creating a customs border between</p>	<p>This essentially gives the UK an exit mechanism from the backstop. The Northern Ireland executive or Assembly could decide to end the regulatory co-operation and the EU would be required to put a border in place as a result.</p> <p>These votes would be subject to a 'petition of concern', where 30 Members of the Legislative Assembly (MLAs) can require a decision to have cross-community support. This means that 50% of both nationalist and unionist MLAs would need to vote in favour of consent for the vote to pass - this could allow unionist parties to block consent.</p> <p>The default position would be alignment with the UK, so if Stormont does not give consent to the protocol - either because it votes against it or is blocked by unionists - Northern Ireland will diverge from the Republic of Ireland.</p> <p>The executive has not been running for the past two and a half years - it is unclear what would happen if it was still not in place by December 2020.</p> <p>The EU is likely to see this as one of the most contentious and unacceptable parts of the proposal. Particularly given the demand in the overarching measures that would mean the EU would be legally unable to place regulatory controls in place if Northern Ireland diverged - it is not clear how the EU could protect the Single Market if Stormont voted against alignment.</p> <p>With Northern Ireland outside of the EU Customs Union, traders would be required to pay tariffs and complete paperwork for goods travelling across the Irish border.</p> <p>Many of the simplifications suggested could</p>

Area	What the proposal says	What the proposal means
Customs	<p>the Republic of Ireland and Northern Ireland. The UK proposes that no customs controls would take place at or near the border.</p> <p>Traders must complete a declaration to notify authorities prior to trade. The relevant customs authority would be notified once the goods cross the border. Where physical checks are required, they would take place at traders' premises or customs clearance hubs away from the border. The UK wants to waive the requirement for entry or exit summary declarations.</p> <p>The UK is seeking exemptions for small traders, both from customs processes and tariffs.</p> <p>Trusted trader schemes, simplified procedures and a deal on 'temporary admissions' are proposed for further simplification.</p> <p>The UK would be outside of the <a href="#">EU VAT and excise area</a> [3], with border checks avoided by using deferred accounting.</p>	<p>mean checks take place electronically, or through the ports. This would remove the need for infrastructure.</p> <p>But it could also prove very difficult to negotiate. The previous UK government agreed with the EU that, in addition to no border infrastructure, there would be no associated checks and a protection of the 'all-Ireland economy'. This government, and this proposal, no longer accept that as a basis of a solution.</p> <p>The EU has previously rejected the UK's calls for exemptions for small businesses, and has said that if Northern Ireland is outside of the EU VAT area then some checks would be required. The scale of derogations the UK is asking for is unprecedented and would put the EU in a very difficult position with a number of other neighbouring countries.</p> <p>Many of the details of exactly how these checks would work are yet to be defined and would need to be agreed during the transition. Without these details the EU are unlikely to sign up – not least because the controls may need to be in place within 14 months, which is significantly less time than these changes usually take to implement.</p>

**Update date:**

Friday, October 4, 2019

Copyright 2019 Institute for Government | [Home](#) | [Privacy](#) | [Accessibility](#) | [Site map](#) | [Contact](#) | [Work for us](#)

The Institute is a company limited by guarantee registered in England and Wales No. 6480524 Registered Charity No. 1123926

**Links**

- [1] <https://www.instituteforgovernment.org.uk/explainers/northern-ireland-brexit-proposal>
- [2] <https://www.instituteforgovernment.org.uk/explainers/eu-trade-what-level-playing-field>
- [3] <https://www.instituteforgovernment.org.uk/explainers/tax-and-brexit>