

# Brexit

## Agreement on a revised Protocol on Ireland / Northern Ireland and a revised Political Declaration on the framework of the future EU-UK relationship

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## Overview

### Backstop is gone

The ‘backstop’ is removed. The revised Protocol is no longer an insurance policy that applies unless and until the EU and the UK conclude a subsequent agreement that replaces it in part or in full. Instead, it is a fully legally operative solution that will continue to apply unless it fails to receive the support of the Northern Ireland Assembly.

### What does it do?

The revised Protocol:

- Avoids a hard border on the island of Ireland
- Protects the all-island economy and the Good Friday Agreement, and
- Safeguards the integrity of the EU Single Market.

### Border issues

- Northern Ireland will remain aligned to a limited set of Single Market rules to avoid a hard border on the island of Ireland
- No customs border on the island of Ireland
- Northern Ireland remains part of the UK’s customs territory.

## Northern Ireland Assembly

- Will be able to determine the long-term application of relevant EU law in NI
- Will be asked to provide its continued support for the Protocol 4 years after the end of the transition period and every 4/8 years thereafter.

## Political Declaration

(relating to the future EU-UK economic relationship)

- UK government has opted for a model based on a Free Trade Agreement (FTA)
- Ambition is to conclude a FTA with zero tariffs and quotas between EU & UK
- Safeguards on a level playing field should ensure open & fair competition
- However, it will depend on the FTA but it should have safeguards to uphold the common high standards applicable at the end of the transition period as regards state aid, competition, social and employment standards, environment, climate change and relevant tax matters, in order to avoid unfair competitive advantages to either the EU or UK.

## Northern Ireland

### What rules will apply?

There will be alignment with EU rules in respect of:

- legislation on goods
- sanitary rules for veterinary controls (“SPS rules”)
- rules on agricultural production/marketing
- VAT and excise in respect of goods, and
- state aid rules.

### Can NI benefit from future UK FTAs?

Yes. As NI will remain part of the UK customs territory *and provided that those UK FTAs do not prejudice the Protocol*:

- NI may benefit from future FTAs that UK concludes with third countries
- Future UK FTAs may provide that goods produced in NI may be exported to third countries on the exact same conditions as goods produced in other parts of UK.

## Customs applicable

The EU's Customs Code will apply to all goods entering NI:

- Thus, avoiding any customs checks and controls on the island of Ireland
- EU customs duties will apply to goods entering NI if those goods risk entering the EU's Single Market (to be determined by the Joint Committee)
- But no EU customs duties will be payable, if goods entering NI from the rest of UK are not at risk of entering the EU's Single Market
- Applicable to all goods not subject to further processing
- For goods from third countries not considered to be at risk of entering Single Market, customs duties applicable in NI will be the same as in rest of UK
- UK may reimburse duties levied according to EU law where UK duty is lower subject to the correct application of EU state aid rules
- No duties will be payable in some specific cases, e.g. moving personal property, consignments of negligible value or sent by one person to another.

## VAT

NI will remain part of the UK's VAT area:

- HMRC will remain responsible for applying VAT legislation, including the collection of VAT, and the setting of VAT rates, and
- UK will keep revenues accruing from VAT.

However, in order to avoid a hard border on the island of Ireland, while protecting the integrity of the Single Market

- EU's VAT rules for goods will continue to apply in NI
- VAT exemptions and reduced rates applied in Ireland may also be applied in NI in order to avoid distorting the level playing field on the island, and
- NI will continue to be able to operate the EU's VIES system (VAT Information Exchange System) and to share data with Ireland and other Member States.

## Protection of the Single Market

Legally binding obligations will apply so that:

- NI will continue to apply EU Customs Code and remain aligned to those rules of the Single Market
- Necessary checks and controls will take place on goods entering NI from the rest of UK, e.g. border inspection posts to ensure that the necessary sanitary and phyto-sanitary controls are carried out
- UK authorities will implement and apply the provisions of EU law that the Protocol makes applicable in UK in respect of NI. Therefore, all checks will be carried out by UK authorities with appropriate supervisory and enforcement mechanisms for the EU.

## Consent

A new mechanism on “consent” has been agreed:

- It concerns regulatory alignment on goods and customs, the Single Electricity Market, VAT and state aid
- 4 years after the end of the transition period, the NI Assembly can by simple majority give consent to the continued application of relevant EU law, or vote to discontinue its application, in which case the UK would notify the EU and the Protocol will cease to apply 2 years later
- Effectively, there will be an initial period of at least 7 years (1 year for the (initial) transition period, 4 years thereafter and, if Assembly votes to discontinue, a final 2 years)
- Every 4 years thereafter, the NI Assembly can vote on the continued application of EU law
- If a vote of the Assembly gathers a ‘weighted majority’ (i.e. 60%, including at least 40% of each of the nationalist and unionist designations) for the continued application of EU law, the next vote can only take place 8 years thereafter.

## Conclusion

If approved and executed, the revised Protocol and Political Declaration will provide:

- An orderly withdrawal of the UK from the EU
- A legal framework for such withdrawal, and
- Certainty (or, at least, a good measure of certainty) for business.

However, the terms of the future FTA between EU and UK – as regards the shared ambition to have zero customs duties and quotas – will have a bearing on the practical application of the Protocol.



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