

THE RT HON THERESA MAY MP



HOUSE OF COMMONS

7 June 2018

Dear Colleague,

Temporary Customs Backstop

After the December European Council the EU and the UK published a joint report that set out our objectives in relation to Northern Ireland. We remain committed to those objectives: avoiding a hard border on the island of Ireland, as well as, vitally, preserving the integrity of our own UK internal market and Northern Ireland's place within it, as we leave the EU's Internal Market and Customs Union. We are not committed to these objectives because the EU has compelled us, but because as unionists we are committed to Northern Ireland's place in the United Kingdom and to its settlement under the Belfast Agreement.

The joint report set out our intention to achieve these objectives as part of the deep and special partnership we are negotiating with the EU, while acknowledging that it may be necessary to devise specific solutions to address the unique circumstances on the island of Ireland. It also stated that, in the absence of those agreed solutions, the UK will maintain full alignment with those EU rules that support North-South cooperation and the protection of the Belfast Agreement, while ensuring that no new regulatory barriers develop between Northern Ireland and the rest of the UK: in other words, a backstop.

In February the European Commission proposed their version of the backstop. It is, as I said at the time, unacceptable. It would mean a customs border between Northern Ireland and the rest of the United Kingdom. So it fails to preserve the integrity of the UK's own internal market and fails to protect the Belfast Agreement in all its parts. No British Prime Minister could ever agree to it, and I believe no Parliament could ever agree to it. As I said in my speech at Mansion House, just as it would be unacceptable to go back to a hard border between Northern Ireland and Ireland, it would also be unacceptable to break up the United Kingdom's own common market by creating a customs border down the Irish Sea.

Today we are publishing our counterproposal on the customs element of a temporary backstop. This would only come into effect if our new customs arrangement with the EU is not in place at the end of the Implementation Period. Our proposed temporary customs arrangement would:

- Avoid a hard border in respect of customs on the island of Ireland and between Northern Ireland and the rest of the United Kingdom, through the UK applying the EU's common external tariff (CET) at its external border, alongside the relevant customs legislation and such parts of the Common Commercial Policy (CCP) as are necessary to make the temporary backstop function.
- Leave the UK outside the rest of the CCP and hence free to negotiate and sign free trade agreements with the rest of the world and implement those parts not covered by this temporary customs arrangement, so we are able to begin to reap the fruits of an independent trade policy.

The backstop would be part of the Withdrawal Agreement, so if we did not reach a deal it would not apply. And we will only agree a Withdrawal Agreement if alongside it and linked to it we have an agreement on the terms of our future relationship that would include our future customs arrangements outside the customs union. The backstop would only apply if there were a gap between the end of the Implementation Period and the future customs arrangements coming into force. As soon as that happens, the backstop will automatically fall away.

Our objective is for the new customs arrangements to be in place at the end of the Implementation Period. But of course we cannot ignore the possibility they are delayed for technical reasons, bringing the backstop into effect. The exact period for which it would be in force would depend on the nature of the delay, but as a Government we are committed to making sure that the future arrangements are in place by the end of December 2021 at the very latest. Therefore, to be clear, we do not envisage the temporary backstop being in place in the run-up to the next General Election. Crucially, we will not accept an agreement that gives the EU a lock on ending the backstop when we have new customs arrangements that meet our commitments on avoiding a hard border for Northern Ireland in place. In those circumstances the EU must not be able to hold the UK in this temporary backstop against its will. So at that point the backstop, should it have been activated, shall end.

To put it frankly, if we are to make good progress in the negotiations and deliver the smooth, orderly and successful Brexit the country wants, we need to agree with the EU the terms of the backstop. We have a choice between the Commission's proposal, which however hypothetical must be unacceptable in principle to anyone who believes in the Union of the United Kingdom, and an alternative that is unpalatable but, at worst, temporary. That is why we are advancing this proposal.

This backstop arrangement is in no way the Government's intended or desired future customs arrangement, and in any case its temporary nature means that it cannot be. It is the Government's settled policy that in our future relationship the UK will be out of a customs union.

Work is progressing on that future arrangement so that it meets our three goals of no hard border either between Northern Ireland and the Republic of Ireland or between Northern Ireland and Great Britain, trade as frictionless as possible between the UK and the EU and an independent trade policy.

This is a necessary part of the negotiations, through which we will deliver a Brexit that takes back control while establishing a new deep and special partnership with the EU to support our continued prosperity and security.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'T. May', with a stylized flourish at the end.

The Rt Hon Theresa May MP