

Extracts from the five-page letter, dated November 7 2018, from Theresa May, the prime minister, to Arlene Foster, DUP leader, and Nigel Dodds, deputy DUP leader:

Dear Arlene and Nigel,

Thank you for your letter of November 1 on the United Kingdom's negotiations with the European Union. Your letter has raised a series of issues about the nature of the backstop.

On never wanting to use the backstop

The backstop is not, and will never be, our preferred outcome. As I said in my statement to parliament last month, it is an insurance policy that no-one in the UK or the EU wants or expects to use. Our overriding priority is to deliver a future partnership between the EU and the whole of the UK which delivers in full on the commitments we have made... The future relationship will apply across the United Kingdom as a whole.

On the permanence of the backstop

Your letter refers to the backstop as being a permanent arrangement enshrined in international law. We should be clear that the backstop would only ever be temporary. This is inherent in the Article 50 legal base on which the withdrawal agreement will be founded, which cannot aim to establish a permanent relationship. This position will need to be reflected in any backstop legal text we agree with the European Union. Furthermore I have been very clear that the government I lead would not accept being kept in a backstop arrangement indefinitely

On the backstop as a basis for the eventual deal

I fully understand your concerns that the backstop could become a legal mechanism which could be resurrected once we have our future relationship in place. We will ensure that we address them. When our future deal - which of course will avoid a hard border - comes into force the backstop must be legally superseded by that future relationship.

On what the backstop applies to

[The need to avoid a hard border] is why we put forward our proposal in June for a temporary UK-EU joint customs territory in the limited circumstances in which the backstop might apply. As you know, the EU has proposed that, although this option could be negotiated in the future, they want to maintain a Northern Ireland only "backstop to the backstop" in case the future negotiations are unsuccessful. I am clear that I could not accept there being any circumstances or conditions in which that 'backstop to the backstop', which would break up the UK customs territory, could come in to force. That is why it is critical that the provision for a UK-EU joint customs territory is legally binding in the Withdrawal Agreement itself, so that no 'backstop to a backstop' is required.

On time-limiting the backstop

Your letter also raised the issue of a time limit. We should be clear that a time limit on a UK-wide customs arrangement that simply resulted in a NI only "backstop to the backstop" coming into force would be totally unacceptable. We must preserve NI's place in the UK customs territory, and I would never accept a time limit proposal which threatened that.

What happens to regulations in the backstop

The government has consistently said that the unique circumstances of NI could require specific alignment solutions in some scenarios, provided they are consistent with the constitutional and economic integrity of the UK.

Single electricity market

Your letter mentions, for example, the single electricity market, which is legally underpinned not by a bilateral arrangement but by single market regulations relating to the EU internal energy market. If we were to reject any targeted alignment of rules needed to maintain this arrangement, which is different to the market in the rest of the UK, then we would be making a choice to undermine security of power supply and disadvantage consumers and businesses across Northern Ireland. That is not a choice any government could or should make.

Human and animal matter checks

Similarly, the all-island single epidemiological unit has for a long time protected animal and human health in NI and Ireland and there are statutory provisions for unique licensing, checks and control powers within the UK in this area.

Greater alignment?

Nonetheless it will clearly be essential that the scope of any alignment in a backstop scenario is carefully circumscribed to what is 'strictly necessary' to avoid any hard border. It will also be critical that any arrangements take account of the very important trade between GB and NI. Whilst we recognise there are already more than 30 existing types of 'regulatory check' between GB and NI at present, covering a range of products, it is nonetheless essential that arrangements operate sufficient flexibility in any scenario to preserve the UK's internal market.

GB will continue to copy NI relations in the backstop

We are also reflecting on how to give expression to the pragmatic and political reality that, given that any backstop would apply only in time limited circumstances and for a temporary period with a view to that future UK-wide arrangement, we would not expect regulations to diverge between Great Britain and Northern Ireland during a backstop scenario.

In conclusion

Finally I welcome the commitment of you and your party as a whole to a negotiated outcome for an orderly withdrawal. I do not accept that a no deal outcome should be our preferred scenario, or that it is the most likely outcome. These are important times for our Union, for our economy and for the people and businesses across the UK. It is essential that, at such an important time, we are guided by the national interest and upholding our precious Union for the long-term. We all owe it to future generations to make the right decisions in the national interest.

Theresa May