

Q&A: The Irish border Brexit backstop

By John Campbell

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Getty Images

With fewer than 200 days to Brexit in March 2019, one question is never far from the headlines - how do you solve a problem like the Irish border?

The UK and the EU both want to avoid a "hard border" - physical checks or infrastructure between Northern Ireland and Ireland - but cannot agree how.

A key part of the negotiation is the controversial border "backstop".

Go on then, what is the backstop?

The backstop is a position of last resort, to protect an open border on the island of Ireland in the event that the UK leaves the EU without securing an all-encompassing deal.

At present goods and services are traded between the two jurisdictions with few restrictions.

As the UK and Ireland are currently part of the EU single market and customs union, products do not need to be inspected for customs and standards, but after Brexit, all that could change.



BBC News NI's political reporter Jayne McCormack explains why the border is an issue

The UK government has said it does not want a hard Irish border. The EU has said it does not want a hard border. But how to guarantee such a thing in the complex world of Brexit negotiations?

Well, you could try to put up a safety net.

The backstop solution is that safety net - an arrangement that will apply to the Irish border if a wider deal or technological solution cannot keep it as frictionless as it is today.

The UK and the EU would prefer to solve the Irish border issue through an overarching economic and security deal.

However the UK's current red lines, which include leaving the customs union and the single market, make that very difficult and could lead to no deal at all.

In July, [Parliament voted through several amendments to the Customs Bill](#) that directly contradicts the EU's interpretation of the backstop.

The reason why an agreement on the backstop is so important is that the EU won't agree to a transitional period and substantive trade talks until it is in place.

So, what has been agreed on the backstop so far?

The UK and the EU agree a backstop is needed - [they both signed up to it in December 2017](#).

There is also agreement on what it needs to achieve - maintaining cross-border cooperation, supporting the all-island economy and protecting the Good Friday peace agreement.

But beyond that here are major differences between the two sides.



Reuters Michel Barnier is the EU's chief Brexit negotiator
What is the EU's position on the backstop?

The EU has proposed a backstop that would mean Northern Ireland staying in the EU customs union, large parts of the single market and the EU VAT system.

Its chief negotiator, Michel Barnier, has continually emphasised that this backstop can only apply to Northern Ireland.

And that is a problem in the UK?

That is an understatement.

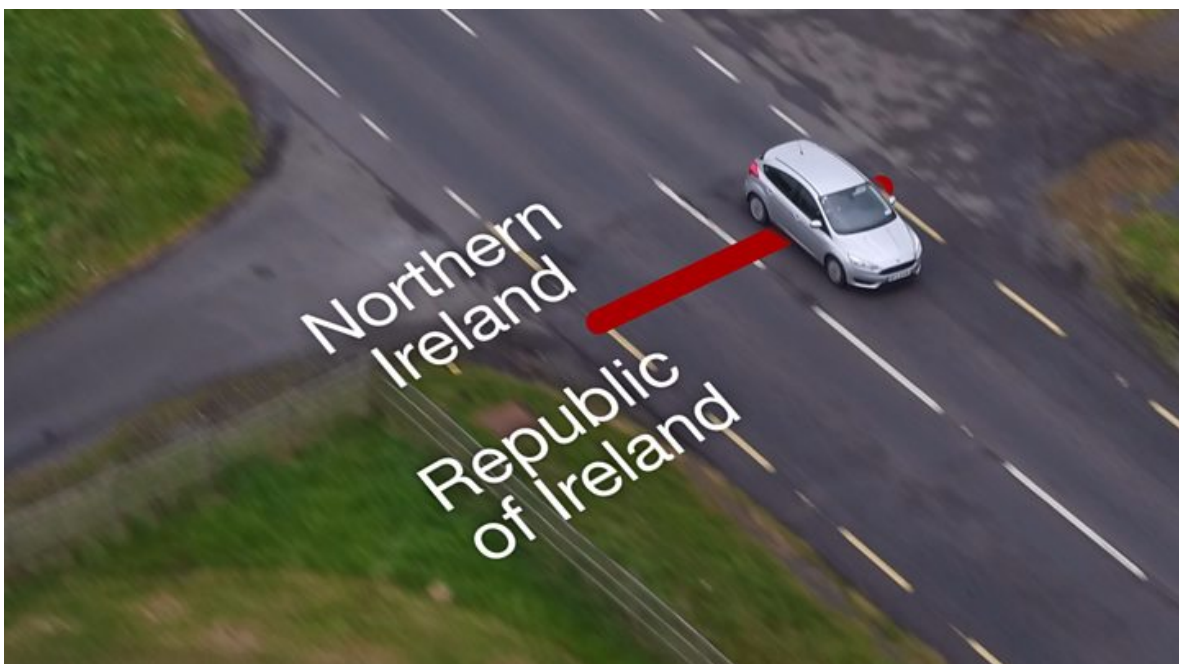
If the backstop only applies to Northern Ireland, then the customs and regulatory border is essentially drawn down the middle of the Irish Sea.

Any separate status for Northern Ireland from the rest of the UK is seen as potentially damaging to the union as a whole.

As such, [Prime Minister Theresa May has continually rejected the EU's proposal saying it would threaten the constitutional integrity of the UK.](#)

She suggested a backstop that would see the UK as a whole remaining aligned with the EU customs union for a limited time after 2020.

Her proposal, published in June, contains nothing about single market regulatory issues, which are probably more important than customs in terms of maintaining a soft border.



Would you notice if you crossed the Irish border?

How did the EU react to that?

With scepticism. Mr Barnier said it cannot even qualify as a backstop since the issue of regulatory alignment is not addressed.

However, he did not entirely rule out some sort of long-term customs relationship with the UK.

Taoiseach (Irish Prime Minister) [Leo Varadkar said that the backstop cannot have a time limit.](#)

How did the UK Parliament respond to the backstop row?

The Customs Bill amendments passed at Westminster gave the prime minister limited room to manoeuvre on the backstop.

One of the amendments explicitly prevents Northern Ireland staying in the customs union, as per the EU's proposal.

Mrs May has already rejected that suggestion so that may not be such a big deal - but the EU backstop also proposed that EU law on VAT should continue to apply to Northern Ireland.

This was also explicitly prevented in one of the amendments and that could be a problem, as the UK outside the EU VAT system could mean VAT processes have to happen at the border.

The UK's position in regard to ongoing participation in the EU VAT area has never been clear up until now.



Getty Images Both the UK and the EU have said they do not want to see a hard Irish border

What is the latest?

Over the last couple of months Mr Barnier appeared to soften his tone, saying the EU is "ready to improve" its offer on the backstop.

The chief negotiator said he wanted to "de-dramatise" the issue and suggested that inspections of goods did not necessarily have to take place at Irish Sea ports or airports.

"We are clarifying which goods arriving in Northern Ireland from the rest of the UK would need to be checked and where, when and by whom these checks could be performed," he said.

"We can also clarify that most checks can take place away from the border at the company premises or in the markets."

Some reports have suggested the only checks which would have to happen at the border would involve some food and agricultural products.

Mr Barnier said the EU respects the "territorial integrity of the UK" and hopes both sides will be "able to find a position where this improved backstop is acceptable".

Donald Tusk, President of the European Council, has kept up the pressure saying there must "maximum progress" at October's EU summit.

And what is the UK government saying?

The Prime Minister is playing her cards very close to her chest, saying only that the UK will present a new backstop proposal "in due course".

Speculation has centred on a "hybrid backstop" - an arrangement which would see the whole of the UK effectively staying in the customs arrangement with goods coming into Northern from elsewhere in the UK being subject to some minimal regulatory checks.

Could that work?

It seems possible that the EU could live with it, but the Prime Minister's partners in government, the DUP, are implacably opposed.

The DUP, a Northern Ireland unionist party, have repeatedly said they would not accept any additional Northern Ireland-only checks no matter where or how they take place.

The party's leader Arlene Foster said: "The United Kingdom single market must be protected with no new borders between Northern Ireland and Great Britain being created. From day one this has been the DUP's only red line."

And if a compromise cannot be reached?

If there is no backstop then there is no Withdrawal Agreement and no transition period. That means a hard, possibly chaotic, Brexit.

At that point the EU and the Irish government would have some difficult decisions to make about what happens at the border or to Irish goods going into the wider single market.