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## **A Better Deal for the United Kingdom and the EU**

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It is now clear that there is very little support in parliament for the Prime Minister's Withdrawal Agreement. The most important objection is the so-called Irish backstop in Protocol 9 which essentially keeps Northern Ireland in the EU indefinitely and binds the UK into a customs union from which there is no release unless the EU says so, which it would have little incentive to do; even under our present terms we can leave if we choose.

Other options such as another referendum, or some version of "Norway" are for various reasons unworkable. It is equally clear that neither side wants a "no deal" scenario. However, if a solution could be found that preserves the transition period and most of the Withdrawal Agreement, it must be considered, for the sake of continuity, good relations with the EU and the island of Ireland. Today we are laying before policymakers an alternative that we believe would remove those aspects of the Withdrawal Agreement which are unacceptable, and yet retain the genuine progress achieved to date. This is not to say that there is nothing else in the Withdrawal Agreement which is objectionable, including its one-sided structure. However, in the spirit of compromise, we do not pursue those matters, but offer a solution to the heart of the problem. This, we believe, solves the Irish border issue on a permanent basis, enables a backstop to exist on a basis acceptable to all reasonable stakeholders, and builds on the EU's offer to the UK of an advanced Free Trade Agreement with regulatory cooperation, customs facilitations and Irish border facilitations. This is part of a bigger project to propose real legal text of a free trade agreement between the UK and EU.

First, the proposed backstop needs to be replaced, with an alternative based on a basic free trade agreement in goods and agri-food, with a chapter on Customs and Trade Facilitation, and Irish Border Facilitations, which would in due course become part of the ultimate comprehensive Free Trade Agreement which the UK and EU will seek to negotiate, with some additional provisions for regulatory cooperation, and stand-alone dispute settlement mechanisms. Our proposed backstop could last for a fixed period, say 10 years, on any view long enough for a comprehensive Free Trade Agreement to be negotiated between the UK and EU: in other words, our backstop can function as a front-stop, should the need arise, unlike the EU's, which gives them no incentive to release the UK from *de facto* EU control. Since the backstop is the ultimate permanent arrangement, there is no loss of negotiating leverage for the UK to remain in it, nor is it a threat.

Contrary to what the government has claimed, this does not involve the use of "magical" new technology but existing customs facilitation procedures already in use across the world. It avoids a hard border – which in any event all sides have pledged to do – respects the Good Friday Agreement, and removes the challenge to the territorial integrity of the UK posed by the creation of "UKNI" in the existing Withdrawal Agreement, aptly described as "a new country". From the EU point of view, it enables a smooth UK withdrawal, and avoids an attempt to exercise jurisdiction in the territory of a non-Member State.

We also believe that, if the current flawed and legalistic process is allowed to hit the buffers, there is an opening for a more political solution driven by European heads of state, since neither side wants a no deal outcome. Naturally, the UK government must prepare for no deal, since there is always the possibility of no deal, through no fault of the UK. The UK parliament cannot control the actions of the EU and therefore for the UK parliament to decree that there shall be no deal is pointless; it is also extremely damaging, as it tells the EU that the UK will accept any deal. We must become serious negotiators and understand that being prepared for no deal is a way of ensuring a better deal for both the UK and the EU.

We must also be prepared to push back against the fear and risk-aversion, and ask for what we want, presenting a draft Withdrawal Agreement to back it up. We have done altogether too much negotiating with ourselves.

From an EU point of view, any failure by the EU to reach a deal acceptable to its nearest neighbour, closest ally and largest third-country market, will have enormously adverse political and economic consequences, within the EU and around the world. There are significant and powerful economic forces at play, and not all are in the EU's favour. For example, one aspect of the EU's very large favourable balance of trade with the UK - now seriously at risk - is the EU's need to maintain its high market share in UK markets for its agricultural exports. The farm lobby is the most powerful in Brussels, and in member states. The EU must know that no responsible UK government could, or would need to, allow no deal to mean food price inflation, and that we would have to either apply a third-country tariff of zero for certain agri-foods, or open the relevant trade quotas to other countries (on a first come, first served basis). Irish beef farmers, French beef and dairy, and Bavarian dairy farmers would lose market share almost instantly, and this will have a massive impact on them. For the UK, lower food prices could well be the unexpected bonus of the rejection of the present Withdrawal Agreement.

While there will no doubt be those who say that what we are offering is not enough to save a very bad deal, there will also be those who say it is too much for the EU to accept. But our aims are straightforward: to put on the table the necessary changes to the Withdrawal Agreement, a concrete future framework for a trade agreement that builds on their offer to us, and shortly the full text of such an agreement, specifically noting what the EU has already agreed in other contexts. Let us lift our eyes to a higher vision of what this relationship should look like, instead of the myopic approach all sides have adopted thus far. Let us also recognise that it is impossible to determine the full conditions of our withdrawal, without knowing much more about the future relationship. Indeed, that is the inherent illogic of the EU's negotiating mandate, which is partly responsible for the current predicament, but that cannot politically bind us at this late stage.

Nonetheless, we are laying before you today a concept of what the Alternative to the Withdrawal Agreement might look like. We strongly advise the government to present this to the EU immediately, along with a clear framework of a Trade Agreement, the full legal text of which we will shortly table. Since this builds on what has already been offered, there is very little reason for the EU to reject it. We badly need to show our peoples on both sides of the Channel and the Irish sea that we have momentum and are moving towards a good resolution. We have a huge responsibility: future generations will not forgive us if we fail them.

As explained, the text we will shortly circulate essentially replaces the proposed common customs territory with a Free Trade Agreement and comprehensive customs and trade arrangements that can

serve as the backstop, or if you prefer, front stop, in Ireland. Some changes may be necessary to the Political Declaration, in order to conform to our changes to the Withdrawal Agreement, but most of it can stand, as can much of the Withdrawal Agreement, for example citizens' rights and financial matters, subject to the money being based on benchmarks and milestones related to progress on the free trade agreement. Some issues, such as Geographical Indications belong in the future trading arrangements, rather than the Withdrawal Agreement. The UK must also be able to negotiate its WTO modification by itself without having to consult with the EU, and then be free to operate in the WTO as an independent player. We have also turned the non-regression clauses into the sorts of mutual disciplines you would see in a typical free trade agreement, and ensured that they are mutual. We have provided that the transition period may be extended by agreement but there is no need to provide for extension now. Deadlines in trade negotiations are important, and concentrate negotiators' minds. We see no reason to prolong business uncertainty for years.

The changes we have outlined allow a deal to the benefit of all European citizens to be reached before 29<sup>th</sup> March 2019.

ENDS