

THE RT HON BORIS JOHNSON MP



HOUSE OF COMMONS

To: Conservative MPs and Peers

11 September 2020

Dear Colleague,

I wanted to write to you to set out why we are bringing forward the UK Internal Market Bill, and in particular address some of the questions about what impact this might have on the Northern Ireland Protocol.

We signed up to the Withdrawal Agreement and Northern Ireland Protocol last year in good faith. It took us out of the EU – delivering on our election promise to get Brexit done – and it brought to an end a period of unprecedented political deadlock.

Fundamentally, this Bill will ensure the United Kingdom – the most successful union of nations in the world – continues to thrive. This again is delivering on a manifesto commitment on which we all stood last December – to ensure unfettered trade across the United Kingdom, no ifs or buts.

This Bill will mean more powers for all parts of the UK and ensure businesses can continue to trade across our country as they do now, avoiding new burdens and barriers. It will therefore allow us to protect jobs, and is essential to supporting our recovery from the coronavirus pandemic. We all stood as candidates for the Conservative and Unionist Party – and this Bill will strengthen our Union.

Regarding the Northern Ireland Protocol, the Government's first priority is ensuring peace, security and good governance for the whole country – and so we have proposed reasonable steps to create a safety net so that we can deliver on our commitments under the Belfast/Good Friday Agreement to ensure peace in Northern Ireland. With the end of the transition period fast approaching, there are no guarantees that the Joint Committee – established to iron out inconsistencies in the terms of the Protocol – will reach agreement on all outstanding issues before the clock runs down. Talks are ongoing but this safety net is an essential mechanism to ensure we can always stay true to our commitments to the people of Northern Ireland.

Our manifesto pledged that: *'We will ensure that Northern Ireland's businesses and producers enjoy unfettered access to the rest of the UK and that in the implementation of our Brexit deal, we maintain and strengthen the integrity and smooth operation of our internal market.'* The Northern Ireland Protocol was the product of compromise, and as a result there are provisions which cut across one another, but there is one consistent thread: that both parties recognise the overarching importance of the Belfast/Good Friday Agreement.

Article 1 affirms that nothing in the Protocol should interfere with the provisions of the Belfast/Good Friday Agreement which confirm Northern Ireland's constitutional status as part of the UK. The text is also explicit in recognising 'the importance of maintaining the integral place of Northern Ireland in the United Kingdom's internal market'. Article 4 guarantees Northern Ireland's place in the UK's customs territory, while Article 6 guarantees unfettered access for goods moving from Northern Ireland to Great Britain.

But there are provisions of the Protocol that run against the grain. Despite Article 4 upholding Northern Ireland's place in the UK customs territory, unless we can come to a reasonable decision in the Joint Committee, under Article 5, *all* goods moved from Great Britain to Northern Ireland will be assumed to be at risk of re-export to the EU, and liable to pay full EU tariffs. So the default under Article 5 – which will be the automatic result if the EU 'sit on their hands' – would totally nullify Article 4, and set up barriers between Northern Ireland and the rest of the United Kingdom.

Separating Northern Ireland and Great Britain in this way cannot have been the intention of the parties – and it is something that no Prime Minister of the United Kingdom could stand for. The references to the Belfast/Good Friday Agreement in the Protocol were not just for show. Anyone who knows the history of the peace process would know immediately that any border between Northern Ireland and the rest of the UK is completely incompatible with that Agreement. Having no 'hard' border in the Irish Sea is just as important as having no 'hard' border on the island of Ireland.

When we signed the Protocol we had hoped – and still hope – that these contradictions would be resolved in the Joint Committee. We were willing to sign based on the good faith of the EU. However, that hope now has to be tempered with the reality that the Joint Committee may come to a very unfavourable decision, or indeed come to no decision – in which case we will be powerless to stop these damaging defaults kicking in. We must take action to plan for the eventuality that no agreement is forthcoming. As a result, while talks continue, this is what any responsible government would do.

I also want to take this opportunity to clear up some misconceptions that have emerged in the past few days. It is not novel or unprecedented for Parliament, or indeed other like-minded governments, to consider legislation that has the potential to override treaty obligations. Whether, and how, to implement our treaty obligations is for Parliament and Parliament alone: a conclusion backed up by parliamentary supremacy – the bedrock of our constitution – and the UK's 'dualist' system which separates domestic and international law. This principle was upheld unanimously by the Supreme Court in the *Miller* case in 2017, and was expressly confirmed in Section 38 of the EU Withdrawal Agreement Act 2020. It comes down to being honest with Parliament, and the British people, about what we are doing and why it is necessary.

The much misunderstood Ministerial Code is not relevant to the question of what Parliament can do – that question is rightly for Parliament alone. It goes without saying that we are committed to the rule of law, as determined by our democratically elected Parliament.

This Bill is an opportunity for Conservatives to strengthen our Union and protect peace in Northern Ireland. Nothing in the Internal Market Bill undermines the Belfast/Good Friday Agreement in any way, and there is no possibility of a hard border between Northern Ireland and Ireland under any circumstances.

More than anything, this Bill represents Conservatives in government delivering on our promises. Our manifesto promises to ensure unfettered access to the rest of the UK for Northern Irish businesses, but also our promises to the people of Northern Ireland that we will always preserve peace. The UK Internal Market Bill is fundamental to delivering both of these – and that is why I hope you will support it.

Please find attached a copy of my article for *The Daily Telegraph* tomorrow.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Boris Johnson". The signature is fluid and cursive, with the first name "Boris" written in a larger, more prominent script than the surname "Johnson".

The Rt Hon Boris Johnson MP