

Brexit: What is the Northern Ireland Protocol and why are there checks?

Despite a government promise that there would be no impediments¹ to trade between Northern Ireland and Great Britain (GB) after Brexit, new checks have been causing disruption to supplies of food, plants and online deliveries.

- 5 This new bureaucracy has increased political tensions within Northern Ireland, and between the UK government and the European Union (EU). The EU has now launched legal action against the UK, alleging that it is unilaterally changing the rules in breach of international law.

The checks apply to goods travelling from GB to Northern Ireland and were introduced under the terms of the Northern Ireland Protocol, part of the treaty which took the UK out of the EU.

What is the deal for Northern Ireland?

- 10 During Brexit negotiations, all sides agreed that protecting the Northern Ireland peace deal (the Good Friday agreement) was an absolute priority.

It meant keeping the land border between the Republic of Ireland (in the EU) and Northern Ireland (in the UK) open and avoiding new infrastructure like cameras and border posts. That was easy when the whole island of Ireland was part of the EU.

- 15 But after Brexit, a new arrangement was needed because the EU requires certain goods to be inspected at the point of entry into its single market.

So, the EU and the UK negotiated the Northern Ireland Protocol, which came into force on 1 January 2021.

How have they avoided checks at the land border?

- 20 After Brexit, Northern Ireland continues to follow many EU rules, in particular the ones governing the trade in goods, meaning lorries can drive across the land border without being inspected.

However, there is a new “regulatory” border between Northern Ireland and Great Britain (England, Scotland and Wales) because GB is no longer following those rules.

That means new checks on goods.

- 25 Inspections take place at Northern Ireland ports and customs documents have to be filled in – leading to criticism that a border has effectively been created in the Irish Sea.

What is being checked?

The EU has very strict rules about what can enter its market, especially for food such as meat, milk, fish and eggs.

- 30 Some food products arriving in Northern Ireland from GB have to be monitored to ensure they meet EU standards. They need to go through a border control post, where paperwork is checked and some physical inspections take place.

The new system got off to a shaky start. The EU said in early February that the control posts were not yet fully operational and some goods were entering Northern Ireland without being properly

35 declared.

What are the security concerns?

Checks were temporarily suspended at the beginning of February, over what were described as “sinister” threats to some border staff checking goods.

40 Unionists are strongly opposed to the checks because they don’t want Northern Ireland to be treated differently to the rest of the UK. One group has written to the Prime Minister to withdraw support for the Good Friday agreement. UK and EU leaders say they condemn “unreservedly” any intimidation, but border checks resumed after the chief constable of Northern Ireland said there was no evidence of a “credible” threat to staff.

What about supermarket food?

45 Supermarkets were given an initial three-month grace period, during which the rules were not to be enforced on food they bring into Northern Ireland. This was to give them time to adapt and to ensure supplies were maintained.

Some meat products, like sausages, were given a six-month grace period.

50 But there was still some disruption at the beginning of the year with certain types of fresh produce missing from shelves. Northern Ireland businesses have always said the grace periods need to be longer.

With time running short before they expire, the UK made a unilateral decision on 3 March to extend them until October. It subsequently announced further unilateral moves, to make the trade in parcels and plants from GB to Northern Ireland easier.

55 The EU insists that this breaks international law, and has now launched legal action which could end up with the European Court of Justice imposing substantial fines on the UK.

An EU official said the UK moves were a “bad mistake” and the premise that there would be some checks on goods going from GB to Northern Ireland was “crystal clear” when the protocol was negotiated.

60 On a visit to Northern Ireland on 12 March, before the EU legal action was launched, Boris Johnson insisted that the government’s move was lawful.

“What we want to ensure is that the protocol upholds the wishes of all communities,” the Prime Minister said, adding that there needed to be “East-West consent as well as North-South. ”

What about Article 16?

65 Many Unionist politicians in Northern Ireland, who defend its status as part of the UK, want the Protocol to be scrapped altogether.

They have also urged the UK government to invoke Article 16 of the Protocol, which allows either side to suspend any part of the agreement that causes “economic, societal or environmental difficulties”.

70 Those calls grew louder after a row over the supply of coronavirus vaccines.

The EU – citing Article 16 – announced on 29 January that it would introduce export controls on vaccines produced in the EU, including vaccines moving between the Republic of Ireland and Northern Ireland.

75 There was widespread criticism, from the Irish Prime Minister and all five parties in Northern Ireland's devolved government, and the EU decision was reversed within hours.

But it set the scene for what will be months of politically sensitive arguments about how the protocol can be made to work, without upsetting the delicate constitutional balance.

After four years, the UK is required to give Northern Ireland a vote on whether to continue with the new trade arrangements the protocol contains.

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