

Why I support the UK Single market Bill

I have stated why I think this Bill is necessary and legal. Let me remind those who write to me to complain about the draft legislation.

The EU Withdrawal Agreement left open a solution to the borders and customs issues in Northern Ireland. The Irish Protocol is at best ambiguous. There is no single interpretation or right understanding of it, as it sought to bridge differences and leave a further period of negotiation to settle the future relationship in a way which would deal with the outstanding issues. Many of the problems would fall away were the EU to accept the UK Free Trade proposal which is included in the Political declaration signed by both parties.

Thus the Protocol is introduced by a series of propositions which include

“Nothing in this Protocol prevents the UK from having unfettered market access for goods moving from Northern Ireland to the rest of the UK’s internal market.”

““Underlining the Union’s and UK’s shared aim of avoiding controls at the ports and airports of Northern Ireland to the extent possible in accordance with applicable legislation and taking into account the respective regulatory regimes”

“Recalling that Northern Ireland is part of the customs territory of the UK and will benefit from participation in the UK’s independent trade policy”

“Having regard to the importance of maintaining the integral place of Northern Ireland in the UK’s internal market”

So the Agreement accepted the UK could diverge in regulations, and there would be no barriers to trade between Northern Ireland and the rest of the UK, which is what this Bill seeks to implement. The Agreement also put in various Union requirements which they now wish to highlight at the expense of these UK protections.

In case there is doubt, as there are some conflicts with other aims and clauses in the Agreement, Section 38 of the UK’s EU Withdrawal Act provides for a UK Parliamentary override of the provisions if necessary.

Mrs May and her advisers would not accept such a UK provision, as they thought it meant we would not properly implement the Agreement. The EU sustained no objection when this crucial safeguard was inserted and passed. They must have known it meant conditional or qualified implementation. Nothing is agreed until everything is agreed was a sensible mantra. I would not have voted for withdrawal without the crucial sovereignty override as I made clear at the time. I also made clear I expected we would need to use it if the EU did not proceed to an FTA respecting our sovereignty.

I also now have confirmed that the UK government also thinks it is acting legally. Speaking in the House of Lords, Lord Keen a Law Officer in the government said: 'I continue in post and continue to advise, encourage and stipulate adherence to the rule of law – understanding that, from time to time, very real tensions can emerge between our position in domestic law and our position in international law.

'It is not unprecedented for legislation passed by this parliament to cut across obligations taken at the level of international law. In those circumstances, domestic legislation prevails"

Both the Lord Chancellor and the Attorney General stay in post and have been party to the discussions on the draft legislation. The statement by the Northern Ireland Secretary is not a view shared by many, and is not as significant as the clear understanding of the Law Officers that the government is behaving legally.