Shamrock (4-Leaf Clover)-Proposal

„How to overcome the problem of the backstop“
"The Withdrawal Agreement includes the Protocol on Ireland and Northern Ireland, also known as the ‘backstop’ solution for avoiding a hard border on the island.

There’s no need for a backstop during the transition period negotiated in the Withdrawal Agreement as the UK will continue to participate in the EU Customs Union and the Single Market.

The Protocol is effectively an insurance policy that guarantees that, whatever the circumstances, there will be no hard border between Ireland and Northern Ireland.

Both sides agree that the future EU-UK agreement must include provisions that avoid a hard border. However, if there’s no agreement on how that happens by 31 December 2020 the backstop solution will apply.

That means both Ireland and Northern Ireland would remain part of the same EU-UK customs territory with no tariffs, quotas, or checks on rules of origin.

Northern Ireland would also remain aligned to a limited set of rules related to the EU’s Single Market that are indispensable for avoiding a hard border.

The rules would include legislation on goods, sanitary rules for veterinary controls and VAT and excise in respect of goods.

If the backstop was in place, there would therefore be a need for checks on goods travelling from the rest of the UK to Northern Ireland, to ensure they comply with EU standards.”

High risk of No Deal Brexit because of Backstop

BBC, 14 January 2019: “The DUP has been saying for weeks that its 10 MPs will vote against the deal because of their opposition to the backstop, ...”

Reuters, January 24, 2019: EU parliament won't approve Brexit deal without Irish 'backstop' - statement

Consequences of No Deal Brexit
→ massive negative impact on people and economy (UK and EU)
→ major risk for peace in Northern Ireland
Perceived main interests of the parties

- Avoiding a hard border: peace based on Good Friday Agreement
- Minimize trade frictions

- Avoiding a hard border: peace based on Good Friday Agreement

- No backstop with final decision by the EU:
  - issue of UK sovereignty
  - Avoiding a hard border: peace based on Good Friday Agreement
  - Freedom to negotiate free trade agreements

- Avoiding a hard border: peace based on Good Friday Agreement
  - Loyalty towards the Republic of Ireland
  - Protect the integrity of the Single European Market
Proposal – based on the Good Friday Agreement (I)

Key idea:
Using the right of self determination from the Good Friday Agreement
Proposal – based on the Good Friday Agreement (II)

CONSTITUTIONAL ISSUES

1. The participants endorse the commitment made by the British and Irish Governments that, in a new British-Irish Agreement replacing the Anglo-Irish Agreement, they will:

(i) recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland;

(ii) recognise that it is for the people of the island of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish, accepting that this right must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland;
The Good Friday Agreement includes the right of national self determination for the people of Northern Ireland.

→ It can be argued that the right of national self determination leads to sub rights on issues of overriding importance. The issue of the future border is of such importance.
→ The border in the future (no border/hard border) is the result of the future customs and regulatory regime between UK and EU.
→ Only then, when the future customs/regulatory regime („customs model“) between UK and EU is agreed, any consequences for the border and the people of Northern Ireland will be evident.

The proposal
If in 2020 no agreement can be reached on a customs model without a border, the people of Northern Ireland will have a vote on the future customs model.
Scenarios based on the proposal

**Scenario 1:**
Both parties, UK and EU, agree in 2020 on a concept of future relations and resulting customs model, which will not require a hard border:
→ no further activities needed

**Scenario 2:**
The parties are not in agreement whether the negotiated future relations (“customs model A“) will require a hard border in Ireland or not.
The disagreeing party will prepare an alternative model for Northern Ireland (“customs model B“) without the need for a hard border:
→ The two custom models shall outline the impact on the relations between Northern Ireland and the UK and between Northern Ireland and the Republic of Ireland (especially with respect to the need for a hard border).
→ The people of Northern Ireland will vote on customs model A vs. B.
When you think about it …

- the people of Northern Ireland have already the right of self determination
- they could exercise this right at any given point in time
- based on the above, a future vote on the border issue is an element of self determination, ...
- ... a vote, which may not even be necessary in 2020
- But: Today it could be decisive to eliminate the backstop, to avoid a No Deal Brexit and to preserve peace.
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Brexit and the Moon Landing from a Project Complexity Perspective: A Comparative Case Study

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https://www.researchgate.net/publication/328291589_Brexit_and_the_moon_landing_from_a_project_complexity_perspective_A_comparative_case_study