

# European Affairs Committee

## Protocol on Ireland/Northern Ireland Sub-Committee

### Corrected oral evidence: Follow-up inquiry on impact of the protocol on Ireland/Northern Ireland

Wednesday 11 May 2022

3.55 pm

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Members present: Lord Jay of Ewelme (The Chair); Lord Bew; Lord Dodds of Duncairn; Lord Empey; Lord Godson; Baroness Goudie; Lord Hain; Lord Hannan of Kingsclere; Baroness O’Loan; Baroness Ritchie of Downpatrick; Lord Thomas of Gresford.

Evidence Session No. 3

Heard in Public

Questions 22 - 31

### Witnesses

[I](#): Sacha Berendji, Managing Director, Marks & Spencer, Ireland and Northern Ireland; Sean Dowling-Jones, Head of Exports and Brexit Lead, Marks & Spencer; Andrew Opie, Director of Food and Sustainability, British Retail Consortium; Anne Randles, Director of Corporate Affairs, Ornu.

### Examination of witnesses

Sacha Berendji, Sean Dowling-Jones, Andrew Opie and Anne Randles.

Q22 **The Chair:** Good afternoon and welcome to this public meeting of the sub-committee on the protocol on Ireland/Northern Ireland. We are today holding the third evidence session of our follow-up inquiry into the impact of the protocol on Ireland/Northern Ireland. This inquiry is a follow-up to the committee’s introductory report published last July and the committee’s examination of individual aspects of the protocol’s operation in the period since then. Our inquiry was paused for the duration of the Northern Ireland Assembly election campaign and resumes today.

We are joined today in virtual format by a panel of expert business representatives. You are all extremely welcome. Thank you very much for

joining us this afternoon. We much look forward to your evidence. Perhaps I could ask you to introduce yourselves the first time you speak. That would be very helpful. We know who you are, but not everybody else will know who you are until they have heard from you.

Today's meeting is being broadcast and a verbatim transcript will be taken for subsequent publication. It will be sent to all of you to check for accuracy. I refer to the list of Members' interests as published on the committee's website. We aim to finish by 5.45 pm, so if it looks as though we are getting short of time we will try to speed up a little bit. That will be our aim.

Perhaps I could ask each of you to summarise your business models and operations, or those of the businesses you represent, in Great Britain, Northern Ireland and Ireland, and say how they have changed since the UK withdrew from the European Union. In doing so, perhaps you would introduce yourselves as well.

To add one more point, we would very much welcome it if at some stage during the inquiry you could say a little bit about the extent to which you think technology can solve some of the difficulties that have arisen from the protocol. I notice that that is mentioned in the very helpful note we received from Marks & Spencer. I think that is a point worth commenting on.

First, could I ask you to introduce yourselves and answer the first question?

**Sacha Berendji:** I am managing director of Marks & Spencer for the island of Ireland. I look after our businesses in both Northern Ireland and the Republic of Ireland. I am joined today by Sean Dowling-Jones, our head of exports. He is in charge of day-to-day operations and can help with technical detail on how we move goods to both Northern Ireland and the Republic of Ireland. Do you want me to cover our business in the UK and elsewhere now, or is it introductions first?

**The Chair:** Perhaps you would just introduce your business now and we will pass on to the other interlocutors in a moment.

**Sacha Berendji:** I think everyone will be familiar with Marks & Spencer. We are a food, clothing and home retailer represented in about 700 locations across the UK and Northern Ireland. In Northern Ireland specifically, we have 21 stores and we have 18 in the Republic of Ireland. We employ about 2,500 people in Northern Ireland and about 1,200 in the Republic of Ireland. We have the same format of stores in both Northern Ireland and the Republic of Ireland as we have in the Great Britain business. We have a combination of full-line stores, by which we mean stores that sell clothing, home and food, and Simply Foods, which are food-only stores.

We have been operating in Northern Ireland for 54 years. It is a very significant market for us. The Belfast area, along with Glasgow, has one of the highest food market shares in the whole company, and our biggest food hall in the business is located at Lisburn just outside Belfast. We are

very committed to our business in Northern Ireland. We have had continuity of trade throughout the 54 years we have been there, and it is a business we would like to continue to grow and expand.

We have been in the Republic of Ireland for less time, but consistently since opening, and we have the same format of stores as in the rest of the business. In both countries, we have extremely loyal and committed colleagues and customers, for which we are very grateful.

**The Chair:** That is a very helpful introduction. Perhaps I could ask Anne Randles to go next.

**Anne Randles:** I am the director of corporate affairs here in Dublin working with Ornu. Ornu is a dairy co-operative headquartered in Ireland. We have a turnover of €2.3 billion and significant global reach. We employ about 2,800 people around the world. We are the largest dairy exporter from the island of Ireland, exporting to about 110 markets globally. The UK is the single largest strategic market for us.

The UK accounts for about 25% of our total sales, but if you break it down into individual products, the UK is the single most important market that we have for cheddar cheese, and accounts for about 60% of our total sales. We have a significant market and business presence in the UK, built up over five decades, and we have four business units in Great Britain.

In the context of Ireland's dairy trade with the UK, it is important to note that the UK is a deficit milk and dairy market, while Ireland is a surplus producer. That symbiotic relationship has worked well over many decades. The UK imports about 100,000 tonnes of cheddar annually, of which 80% is sourced from Ireland and 70% directly from Ornu.

Our business model is very much to export bulk cheese, butter, milk powders and pre-packed butter under our Kerrygold brand to the UK. The bulk ingredients are sold directly to large UK food companies and to our UK subsidiaries. The products are then formatted for onward sale to customers in the United Kingdom, the EU and other third countries.

If we look at the companies themselves, Ornu Food Ingredients is based in Leek in Staffordshire. It is a supplier of butter and cheese to the market, largely to the retail sector. It is the largest supplier of British and Irish cheese in the UK. It is the UK's largest retail cheese packing site and supplies over 40% of the UK retail market. The business supplies the own brand and private label sectors, and owns the Pilgrims Choice cheddar brand, which is the UK's No. 2 cheddar brand. It employs over 700 staff in Leek in Staffordshire and the business is an important regional employer.

Our Ornu Ingredients Europe business is headquartered in Nantwich in Cheshire. It too is a leading supplier of innovative, high-quality nutritious cheese and dairy powder ingredients to the food manufacturing, food service and the QSR- fast-food sectors. It operates three processing and

NPD facilities in the UK, in Leek, Nantwich and Ledbury, and employs over 300 people. In total, we employ over 1,000 people in Great Britain at four sites. The UK businesses have a combined turnover of more than £500 million per year.

Our principal trade flow is from Ireland to Great Britain, but we also have important, largely cheese, customers in Northern Ireland that we serve both from Ireland and from Great Britain, depending on customer needs and product needs in terms of the type, origin and format of the cheese.

I am happy to go into the headline, top-level changes to the business since the UK withdrew from the EU in much more detail. There is an awful lot more complexity in the supply chain and inevitably a much higher cost to market, which ultimately will feed its way to the consumer.

**The Chair:** I think you said that Britain imports 100,000 tonnes of cheddar.

**Anne Randles:** It is 100,000 tonnes of cheddar, of which 80,000 tonnes is sourced from Ireland.

**The Chair:** And 70% is from your company.

**Anne Randles:** That is correct.

**The Chair:** That is a lot of cheese.

**Anne Randles:** A lot of good cheese.

**The Chair:** Thank you. That is very helpful. Andrew Opie, over to you.

**Andrew Opie:** I am director of food and sustainability at the British Retail Consortium. We are the trade association for UK retailers, including all the major high street brands, many of those online and particularly all the major UK supermarkets. If we look specifically at the food and supermarket trade, most of our members trade across the UK, so that includes Northern Ireland as well as their Great Britain stores, and some of them trade in the Republic of Ireland. One of our members trades in Great Britain and the Republic of Ireland but not in Northern Ireland.

We worked with government and members for a number of years before withdrawal from the EU and afterwards on both Brexit controls and the Northern Ireland protocol. We can certainly talk a lot more about the impact we see today as we go through this afternoon. There has been some impact on operating in Northern Ireland, but it was very limited and was due primarily to the standstill procedures that have been in place since we left the EU. I am sure we will be able to look at the contrast between members currently trading in Northern Ireland and those trading in the Republic of Ireland and the rest of the EU in the controls and checks required to keep supply chains going for those countries, compared with our trade between Great Britain and Northern Ireland.

**The Chair:** Thank you all. That has been a very helpful introduction.

Q23 **Lord Empey:** Good afternoon to our guests. How would you summarise the overall impact, both on your businesses and more generally, for trade and the movement of goods between Great Britain and Northern Ireland, between Ireland and Northern Ireland, and between Ireland and Great Britain?

**Andrew Opie:** To come back to the point I made at the end, Great Britain and Northern Ireland trade has not been significantly impacted, but that is due very much to the fact that we have been following standstill procedures since we left the EU. We are very fortunate as major retailers that we can use what for shorthand is called the STAMNI process, which is a very simplified process for sending food between Great Britain and Northern Ireland. It greatly simplifies the checks and balances and certification required to send food from Great Britain to the European Union.

That has meant that, although there has been an investment by companies to be able to adhere to the STAMNI process, it has not had an enormous impact on businesses based in Northern Ireland in terms of the products they sell and the value they can offer their consumers. That is important to us, because many of those businesses run UK businesses and look to offer consistent service, value and choice to customers wherever they are in the UK. The ability to source and sell those products universally across the UK means that the benefits are passed to every consumer in the UK, including those in Northern Ireland. There would have been a huge difference if we had not been able to follow the standstill process and the STAMNI process. It has made a huge difference and means that we have largely been able to maintain the trade, affordability and value that we have in the rest of the UK.

Trade the other way is obviously important to us. We heard from Anne earlier about the imports of dairy and meat products that we take from the Republic of Ireland, and Northern Ireland, for that matter, which are very important to us. We have faced fairly light controls on those ever since we left the EU. The Republic of Ireland is slightly unique in the fact that it has not been asked to join the prenotification process introduced for other EU countries exporting to the UK. Although there have been some changes that way, it is relatively light touch and it has not heavily impacted on our supply chains and, through that, the products we have been able to offer and the value to customers in the UK.

**Lord Empey:** Could you elaborate a little bit as to what would happen if the standstill arrangements were not in place?

**Andrew Opie:** We will probably be able to contrast that very clearly with colleagues from M&S, because they are operating on both sides of the border between the Republic of Ireland and Northern Ireland. We looked at the process quite closely with members in the run-up to Brexit. The major problem is that adherence to the EU's rules for official controls on the movement of food across borders, and the products that can be placed on the borders, would have made a significant impact on our

ability to continue to sell the same range of affordable products in Northern Ireland.

There are two reasons for that. First, there is quite a high level of cost for compliance with the checks and balances and the certification process that would be necessary if we could not follow the global certification of STAMNI, which is a very simple process. It is still an extra process that we do not use anywhere else in the United Kingdom business, but it is relatively light touch.

The other difference is that there are some products that you cannot necessarily trade with Northern Ireland and certainly cannot send to the Republic of Ireland, which would have reduced our ranges. What we have found among our members who operate in the Republic of Ireland is that they have reduced sourcing some of their ranges from Great Britain and found alternative sources for some of those products. They are well-known products you have probably heard of. The shorthand is P&R—prohibited and restricted products. They tend to be things such as chilled meats—sausages, sausage rolls and some minced meats—which traditionally would be in a typical supermarket supply chain. Those are prohibited for export to the EU, so you would not have been able to do that.

For the other products we sell, there would have been quite a bit of expense. There is a lot of expense, because if we send a lorry across, typically it will have hundreds of different products on it. Potentially, each range of products needs its own export health certificate to go with it, so a lorry could involve hundreds of certificates all prepared to send, with the backing of a vet to sign them off. The cost of operating under that system in Northern Ireland would undoubtedly have added cost to the system, pushed up prices for consumers and reduced the ranges that we currently sell in Northern Ireland.

**Lord Empey:** Could I ask Anne for her opinion?

**Anne Randles:** I agree with Andrew in the context that we have been able to maintain volumes of trade between GB and Northern Ireland, and we have done that well. I would almost liken it to a duck in the amount of work that has to be done unseen under the water to make for smooth transition and smooth movement because, purely from a logistics perspective, selling into Northern Ireland from GB involves a lot more paperwork, resources and complexity. Lead times have grown. We are also perhaps less capable of responding to unplanned orders and additional demand. A differentiation needs to be made in supplying to the retail sector in Northern Ireland and supplying, for example, food manufacturing companies in Northern Ireland. The latter type of trade does not benefit from some of the standstill arrangements and the grace periods, and therefore is subject to much more restriction.

A year and a half in, the business and our customers have adapted well to the new normal, as Andrew mentioned. We have had to streamline our offerings and reduce our consignment schedules in order to manage the

complexity and ensure that when we ship, we are shipping full containers and full truckloads, but there are additional costs to market from the added complexity that we have to manage very carefully by ourselves.

We are very conscious in the context of Northern Ireland that we are operating in a regulatory environment that is in a state of flux, which is obviously not conducive to a stable trading platform for the business. We also trade on the island of Ireland, which will be no surprise. That trade has been very much facilitated by the Northern Ireland protocol. It has remained largely unchanged and unencumbered from a logistics perspective. We are not selling to the retail sector in Northern Ireland; we are selling to food companies and other manufacturers. Milk from Northern Ireland can be moved to processing facilities on the island of Ireland, and dairy products containing Northern Irish milk can now, under the protocol, be sold into the EU.

Operationally, although the protocol has been good in that context and has allowed us to facilitate ongoing trade on the island of Ireland, we need to segregate more in our business, products and stock, depending on the origin of the milk, whether it is Irish milk or Northern Irish milk, because that has implications for market access to some third countries. That is important. We have to provide for more segregation in our operations.

As for Ireland to GB, there was significant upfront work required to prepare the business for the introduction of the border controls with our most important market. As an export business, we had the inhouse skill set to understand what the implications would be of the UK leaving both the EU customs union and the single market. We understood what needed to be done from an operational perspective to manage our business with the UK, but although understanding the implications was essential and helpful for planning and preparation, we still needed to put that into operation, and fully understanding the implications has not protected us from the additional costs to market. Significant adaptations were required to manage customer deliveries and supply expectations, and to comply with the new customs declarations for shipments to Great Britain, both for exporting from the island of Ireland and importing to mainland Great Britain.

It is probably fair to say that we have been preparing for Brexit with our customers and suppliers for 18 months. Even so, transition has been challenging and, as you know, it is not yet complete. Those are the main points.

**Lord Empey:** Thank you very much. Could I ask Sacha and Sean for their views?

**Sacha Berendji:** I very much agree with many of the comments you have just heard. Pre-Brexit, for Marks & Spencer, our food supply chain worked in exactly the same way for all our stores in the United Kingdom and Ireland. In, in preparation for Brexit we had to adjust our supply chain significantly. Although our business on the island of Ireland is

significant, it is not big enough to stand up its own supply chain on the island, so the vast majority of our goods continue to be shipped from GB over to Northern Ireland and Ireland.

In order to facilitate our trade to the island of Ireland after Brexit, we had to create a new export centre, which we did in Motherwell. All our product for export to Northern Ireland and the Republic of Ireland is now shipped from Motherwell; previously, it was just in our regular depots. At Motherwell, the vehicles are separated and dispatched to Northern Ireland and the Republic of Ireland. The process for dispatch and handling is the same for both countries, but, as we have heard, with the easements there is a significant difference in the process of actually moving the goods. In Northern Ireland it is much simpler. I will come to that in a moment, but in both countries the impact has been that we needed to move from what we call day one to day two model. Previously, goods would come into our depot the evening before and be shipped out ready for sale the following morning. The process now requires an extra 24 hours in our export centre, which means that we have taken one night's life out of all the product we ship, which clearly has had an impact on shelf life for our customers.

We have seen an availability impact, less so in Northern Ireland but still there. In our Republic of Ireland stores, we are not able to export 600 lines out of around 7,000, so we need to find a different solution for those. Therefore, the net impact on our customer has been worse availability in both countries, albeit markedly worse in the Republic of Ireland than Northern Ireland, and higher waste levels for us. Therefore, there has been a significant impact. On top of that, we have said publicly that the additional cost of setting up the operation has been about £30 million for the island of Ireland, so there has been quite a significant impact.

In what we have been able to do to mitigate some of that impact, the easements in Northern Ireland are of significant help but the impact is still fairly substantial, as we have already discussed. It can take up to 20 people an hour to dispatch every vehicle with the correct documentation to Northern Ireland. That number is eight hours for the Republic of Ireland vehicles. In answer to the question about what would happen if the easements were not in place, for us every vehicle would take an extra seven hours, depending on the load, and up to 20 people would be working on it, because every single product of plant or animal origin that goes on a load to the Republic of Ireland needs to be certificated every single day. That is a significant difference from the current arrangements for Northern Ireland.

To help mitigate that, we have looked at other options. We have built and recruited a local sourcing team for the island of Ireland, and we are starting to see products come through. We are now sourcing about 450 products locally, including short shelf-life products such as sandwiches, which we launched about a month ago. We have one sandwich supplier on the island of Ireland that supplies all 38 of our stores. We are looking



at ways we can further develop local supply for short shelf-life products in the island of Ireland and also import products direct into Ireland from other EU countries, where appropriate, which will give us some mitigation, but overall that will be a small volume of what we do.

As I said, the greater percentage of our product will continue to be shipped from GB to Northern Ireland and ROI. What I would say in answer to the question is that there is a substantial difference between the current arrangements for Northern Ireland and the Republic of Ireland. It has been made significantly easier, but it is still much more complex than it used to be.

**The Chair:** That was very interesting. To make sure that I am clear on one point, I think you said that 600 out of 7,000 lines are no longer supplied to Northern Ireland. That is nearly 10%.

**Sacha Berendji:** That was to the Republic of Ireland; it is much less to Northern Ireland. They would be meat-prep products such as burgers and some branded products, organic vegetables and those kinds of things, but for Northern Ireland it is far less.

**The Chair:** Thank you.

Q24 **Baroness Goudie:** First, what are the main practical issues that you or the business you represent have encountered since January 2021 when the Brexit transition period ended and the protocol came into force? Has the situation improved, deteriorated or remained almost static? Secondly, how would you describe the practical implications for customers, whether in Northern Ireland, Ireland or Great Britain? I have heard quite a bit from customers in Ireland and Northern Ireland, so I would be interested to hear all your comments on that as well.

**Sacha Berendji:** I will start with our customers. We are very grateful; we have loyal and committed customers in both Northern Ireland and the Republic of Ireland. In particular, in January 2020 they had some really difficult moments around availability when we were trying to get on top of the complexity of shipping and saw both very poor availability and very high waste because we were losing a lot of shelf-life before products came in. I think the customer impact in the early months was much greater than it is now.

If I think about the customer impact now, we are in a steady situation in Northern Ireland where, broadly speaking, we are able to deliver most of what we would like to for our customers, albeit with the shelf-life impact I have discussed, but there are some key areas we are still not able to do, such as our very popular Christmas food to order. We were not able to do that in Northern Ireland or the Republic of Ireland last year because of the complexity of shipping product. The risk of getting a vehicle turned around and not giving people Christmas dinner was too great, so there has been customer impact in that regard in Northern Ireland.

In the Republic of Ireland, we are selling a reduced range, by about 600 lines. We are working on local sourcing and other things to replace that,

but we are in a more consistent environment from the availability perspective and we have a degree of stability, but in both operations the cost increases are very significant, and that is what we want to resolve.

To return to the first question, what we saw when this started was the sheer complexity of what needs to happen to ship a load. I have mentioned that it takes up to eight hours and 20 people to get our vehicles for Ireland prepared each day. Every product needs data from the supplier right the way through. A single piece of data on a single product can and has stopped a load. At the start, a lot of vehicles were being turned around because of administrative errors and data that was not consistent with the requirement. We have worked very hard with our fantastic supply chain partners, vets and everybody else in our supply base to get that stabilised, but it does not hide the fact that the level of detail required is extremely complex. Therefore, even if it is stable from a cost position, it is very expensive.

**Anne Randles:** In summary, since 1 January 2021 our exports to Great Britain are now deemed to be third-country exports. Sacha has explained the complexity of that. Prior to that, if we were shipping containers of dairy products to the UK, it was no different to transporting them between two points in Ireland, and no additional paperwork was required. There was no difference. Now it is a completely different scenario, where you are talking about commercial and customs documentation. All that paperwork has to be done on a container basis, which is 20 metric tonnes, whereas before you might have done a full contract with a customer of maybe 100 or 200 tonnes. We are now down to paperwork on a container basis, which means a lot more administrative burdens. We have customs controls on both the import and the export side. Complex customs rules came to the fore and we all had to get very expert on them very quickly—for example, rules of origin and origin declarations. We now also have prenotifications to the veterinary authorities.

I have already mentioned the issue of milk origin segregation. We supply food companies. Therefore, incoterms, delivery and contractual terms, became very important. There are labelling issues. The longer lead-in and delivery times have already been mentioned. That flexibility of day one to day two delivery is a key thing. We could now have delivery up to day eight or nine. That indicates the level of additional delay. It also means that we no longer have the flexibility to respond to customers' additional requirements as and when they come in.

There are higher transport costs. There was a reference to getting multiple products on to a container. If the documentation for one product is wrong, the whole container or truck gets pulled. Those are also considerations and risks that we have to take into account.

A very practical issue for our GB subsidiaries is upskilling. Most of our UK-based colleagues were not exposed to third-country international trade, so it was a matter of training them up on international trade rules and how to complete customs documentation. Sacha explained very

eloquently how all of that had to be managed, and additional resources needed for that.

We rely more on veterinary support and have contracted additional third-party brokerage services. All of these features are additional costs that we would not have had previously to deal with. Do not forget small things like the need to source heat-treated pallets. That became an issue as well.

Reference was made to exporting from Ireland to GB. The postponement of full import controls between Ireland and GB is very welcome, but it is worth pointing out that in advance of that announcement, plans had been put in place four times for the introduction of veterinary controls, only for them to be postponed. As a leading dairy export company we would have put in a lot of work and effort to prepare ourselves for those changes and in anticipating what the changes might be. I am not saying that we are not grateful for the postponement of further import controls between Ireland and GB, but last-minute change is a further disruption to any business. Lack of foresight or insight as to what is going to come down the line adds to uncertainty, which can be difficult to manage.

I have already mentioned that we have sought to minimise as much as possible the practical implications for customers, through our model to supply direct from GB store. Where feasible, we ship to store in Great Britain and supply our GB customers directly from there. That has helped us significantly in managing the practical logistics and delivery lead times for our customers.

Those are the main issues. There is a lot more complexity and paperwork and slower delivery times.

**Baroness Goudie:** I am so sorry. Thank you, Anne.

**Andrew Opie:** If I start with the Republic of Ireland to UK, there is relatively little change in supply chains, certainly nothing that consumers would have experienced in Great Britain stores and supermarkets. We had a much bigger concern about potential delays from border checks from mainland Europe when bringing in fresh produce, which is much more perishable than the type of inputs we generally bring in from the Republic of Ireland. Therefore, from that perspective I would say that consumers in Great Britain have not been greatly affected to date since we left the EU.

On trade into the Republic of Ireland, I have nothing to add to Sacha's points. They are mirrored by any of our businesses that also operate in the Republic of Ireland. They have had to go through the same stages of segregating products, thinking about ranges and where they might need to change the sourcing of some of the products they cannot bring in, and supplementing with technical support on export health certificates.

To focus more on Northern Ireland, there were the initial start-up costs that Sacha mentioned, which every company had to go through:

segregated depots and dedicated resources in those depots to be able to manage the new processes, the STAMNI process, to get it over. That is a continuing issue, plus the 24-hour prenotification and the channelling process, where you have to notify DAERA that the product has arrived at its destination. All of that adds additional bureaucracy and cost, but it is manageable within the cost. The reason I say that is that, for Northern Ireland consumers, we have pretty much maintained the ranges that we had prior to leaving the EU. The UK pricing model that most supermarkets offer, which is the same kind of price for the basic ranges across the UK, has been maintained in Northern Ireland even after Brexit.

The minor issue with the P&R products I mentioned earlier is that, although we can send them to Northern Ireland, which is great, there is an additional cost, in that they require export health certificates. You cannot use the global STAMNI certificate to send those products; you need supplementary certificates for them. That has led to some problems at peak periods. Sacha mentioned Christmas, when those products tend to be most in demand. Adding that certification, even for a relatively small range of products, was quite a challenge for many companies, and we experienced some problems there. It probably gave us a little window into companies that are exporting into the EU, compared to those just operating across the UK and some of the burdens and challenges they would face if we had had the full official controls for products that were going to Northern Ireland.

Generally, although there has been additional cost, it has not manifested itself in higher prices for Northern Ireland consumers. There have been some minor changes in ranges, but generally availability is the same. To finish on that point, it is worth stressing that approximately 75% of the food that is sold in Northern Ireland supermarkets comes from Great Britain, so a large proportion of the food that is sold in Northern Ireland would be affected by any controls on that trade. That is a much higher figure than the figure I have seen from companies such as M&S and other companies that operate in the Republic of Ireland.

There is a clear impact on range, but because of the standstill processes we have largely been able to maintain the same service and affordability that we had pre-Brexit, which is great for Northern Ireland consumers, who have the lowest disposable income of consumers across the UK. Northern Ireland generally is a more expensive place to service simply because it is more costly to transport food there. Being able to maintain that service through the standstill process has been really important, particularly when we see consumers struggling with higher prices at the moment.

**Lord Hain:** Thank you all for your very valuable evidence and time today. Sacha made an interesting reference to short-life products now being sourced within Northern Ireland. Is there any increase in employment in Northern Ireland in that respect? Presumably, there is. Do you have any idea of the scale of it? Perhaps you would not mind addressing that, and then I will come to the substance of my question.

**Sacha Berendji:** The answer is yes, and it would not necessarily be just in Northern Ireland; it would be across the island of Ireland, depending on where we source from for our 38 stores there. Our sandwiches are sourced from a new supplier in Newry. Between now and September, they will migrate to producing virtually our whole sandwich range. At the moment, we do six of them and there are another 12 to come. That will definitely lead to more employment. We are looking at how we can upscale our local sourcing. Realistically, it will never be the majority, but there will definitely be employment opportunities as a result of our putting volume into suppliers on the island of Ireland.

**Lord Hain:** Andrew, I saw you nodding. Can you give any further information, briefly?

**Andrew Opie:** I agree with the sentiment. There was already quite a large amount of sourcing of fresh produce from Northern Ireland, for good reason. It is local, and great produce is produced there. I do not think I can give you a figure for jobs, and I doubt whether it runs into the thousands you suggested, but every company will be looking at its sourcing regularly. Interestingly, wherever this debate goes potentially, in terms of how restrictive the checks are on products going from Great Britain to Northern Ireland, it would drive the case for looking at sourcing. This is what we have seen in the Republic of Ireland; we have seen more sourcing from the Republic of Ireland, Northern Ireland and the EU directly into supermarkets in the Republic of Ireland than we would have seen previously, when that food would have come from Great Britain, simply because it is so difficult and expensive to go through the certification process.

Q25 **Lord Hain:** If I could come to the substance of the fourth question, I am very interested in what steps you would like to see taken to address all the practical and, in some cases, costly procedures you have to take on board. If you were in charge of the negotiations, what would you like to see happen?

Anne, I think I am right in saying that all milk produced in Northern Ireland is processed in the Republic and then goes back over the border. I do not know whether there has been any increase in milk exports from Northern Ireland to the EU, or perhaps that is outside your scope. At any rate, I am interested in your ideas about how we solve the practical issues we have been discussing.

**Anne Randles:** From an all-Ireland perspective, the protocol works in that context. It is not all milk, but there is a substantial amount of milk. About 800 million litres of milk produced on dairy farms in Northern Ireland goes over the border.

**Lord Hain:** In some cases, it comes back processed.

**Anne Randles:** Yes, in some cases. A lot of it is exported from the island of Ireland as well. There are some very good dairy companies located in Northern Ireland and they largely supply the local domestic market. A lot of the Northern Irish milk processed in Irish facilities would be milk that is

going into products for export either to the EU or to third-country markets.

**Lord Hain:** Has the volume altered at all under the protocol?

**Anne Randles:** No. More than anything else, it is to do with how much is produced on farms; it is more to do with the capacity of milk production in Northern Ireland at farm level. There is very limited processing capacity in Northern Ireland. Historically, the surplus has always been shipped south. Volumes have definitely grown, as the dairy industry on the island of Ireland has grown, since the removal of quotas in 2015, but not on the basis of the UK withdrawing from the EU; there has been a natural growth over the last seven or eight years.

In terms of GB to Northern Ireland, the other two witnesses have pointed to where the potential solutions are from a practical perspective. We need to be able to build on the concept of goods that are imported to Northern Ireland that are not at risk of being moved into the single market. That is where the focus of attention needs to be in improving overall practicality. If those goods can be identified up front prior to movement, they can be treated differently from a customs, veterinary and control perspective, because either the UK authorities or the EU authorities will have the surety and knowledge that the product is going where it is supposed to be going and are being consumed in Northern Ireland.

**Lord Hain:** Are you suggesting some kind of fast-track procedure?

**Anne Randles:** It would be a trusted trader arrangement where the whole supply chain has been audited and it is clear from an end-to-end perspective. It is up front, so we know who and where it is being sourced from, the supply chain into Northern Ireland and the depots involved, and we know where it is going and there is proof that it is actually going into the retail sector, for example, or that its end use is consumption in Northern Ireland.

It is not an outrageous or new concept. Trusted trader schemes are operated under customs rules in many countries, but you need end-to-end monitoring. For me, that is where we need to be going. We would extend it though. It exists currently for GB to Northern Ireland trade through the retail sector. The retailers themselves are helping; there was reference to the fact that Defra needs to be notified by the retailer when the product has arrived in Northern Ireland, so that reporting is going on.

I suggest that we have the basis of something that we can expand to companies like ours that supply retail products to the retail sector. We are not the retailer ourselves; we are supplying to retailers' warehouses in Northern Ireland. We do not have an establishment in Northern Ireland, so we need to be able to take that into consideration and benefit from those alternative controls arrangements. We have no objection at all to being part of a process that will report to the authorities that a product is being moved to a retailer's warehouse in Northern Ireland. That can be

audited and controlled to ensure that the product is consumed in supermarkets there.

If that works, why not extend that whole end-to-end audited structure to other companies that are supplying products regularly from GB to Northern Irish companies and entities, not just food but right throughout the chain? That sort of idea would allow for controlling products that are staying in Northern Ireland. For everything outside that, it would be assumed that there is a risk the goods could enter the single market by moving across the border. In that sense, there must be something in those ideas that would work.

**Lord Hain:** I am sorry to interrupt. Would that be the bulk of trade?

**Anne Randles:** Very briefly, we have seen that the standstill arrangements work; they definitely work for Northern Ireland. Can we in some way make sure that they are formally built into the implementation of the protocol? The other one is the veterinary side of things. We absolutely need an SPS agreement. It is at the basis of a lot of the problems with controls. If we had a UK-EU veterinary agreement, I think that would facilitate a resolution of an awful lot of the complexities and would help with the difficulties that we currently have. Those are my three suggestions.

**Lord Hain:** Thank you for that.

**Andrew Opie:** The first thing is that we need a long-term solution that has the agreement of both the EU and the UK. The way we are operating the standstill process at the moment is with the UK's support but really with the tacit approval of the EU. That raises concerns with any company around investment in supply chains and investment more generally. It is important that we manage to get long-term agreement.

Something that builds, as Anne said, on the STAMNI principle would be important. Even going beyond that, the STAMNI still requires a certificate to move with every lorry every time you move it. We should be looking at authorised and audited supply chains rather than necessarily looking at quite an old-fashioned approach to trade, which is to move goods every time with a piece of paper, or even an electronic piece of paper. We should be auditing supply chains, making sure that they are okay and, in this case, we can absolutely justify it because we know for retail that the destination of those goods will be Northern Ireland. We can demonstrate, through traceability on our IT systems, that they are going out of one of our depots in Great Britain to a store in Northern Ireland and will be only within the Northern Ireland market.

From that perspective, that is the approach we need to take, and probably going on from where we were with the protocol, which would be an adherence to the EU rules in terms of official controls that are not set up for this type of transport. Those export/import rules around certification work for things like a big boatload of New Zealand lamb, which has come in for four or five weeks from New Zealand, and maybe

has two or three certificates with it. We are moving thousands of products every day between Great Britain and Northern Ireland, each of which potentially requires a certificate. It is absolutely impossible to manage that system.

That is why an authorised supply chain approach that moves away from single movements but looks at the supply chain and authorises it, recognising that the product stays in Northern Ireland, has to be the way forward.

**Sacha Berendji:** I agree with a lot of what has been said, particularly about the paper. It is not a piece of paper. Pre-Brexit, when a wagon would have gone with about six pieces of paper, it can now be up to 600 per vehicle, all of which have to be kept for, I believe, five years. That is a heck of a lot of paper we have to sit on; there must be a digital solution.

On simplification, we have requests in three parts. We said at the time that we would have liked to see time-limited equivalence so that we could take the time to set up a suitable stable framework for future trade. We understand that is not on the table, but that would have been our preference, recognising the high standards of food in both the UK and the EU.

Failing that, what we would really like is a facilitated movement scheme, which is what Anne was saying, where we would certificate the products and only need to change the certificates if the product composition changed. As you have heard, we are certificating every product every day. The reality is that the certificate that was issued on the Monday came from the same source as it did on the Sunday. If we could move to a trusted model, where we only had to do that either once every certain period of time or on an auditable basis, and our obligation was to keep those records up to date, and make sure that they complied, it would take a lot of the friction out of the movement. We believe that could work both ways, so it could ease trade inbound to the UK as well.

Failing that, the third solution would definitely be what Andrew has just touched on: some form of digital solution. I know both the UK Government and the EU have mentioned labelling. For us, that is potentially even more cost-prohibitive than some of the current arrangements, because of the logistics of getting labels on to products and the extra separation it would create.

The theory of it is absolutely right. If you can separate goods going to Northern Ireland that will not go to the EU, there should not need to be checks on those products. We believe that most large food retailers, as you have just heard, with a combination of date and batch codes would be able to identify where the products were going and prove it. You can easily close the loop by making sure you tally that up with sales and waste data, so you can prove beyond any doubt that what you sent to Northern Ireland stayed in Northern Ireland.



If we could come up with that solution, it would be the best scenario if we were not able to work the previous two solutions.

**Lord Hain:** Thank you very much. That has been very valuable.

**The Chair:** Thank you very much indeed; some very, very interesting points were made there.

Q26 **Lord Thomas of Gresford:** May I say how much I agree that there is a problem caused by Article 5 of the protocol and the presumption that goods imported into Northern Ireland will move on unless the importer proves that they will stay in Northern Ireland? It is because of that that there is so much paperwork. I agree that a digital solution that could avoid that, a reversal of the burden of proof so that only the customs people would have to prove that goods were going to move on, would save an awful lot of the problems.

I want to be a little more positive. Northern Ireland seems to many to have the benefit of access to the European market and access to the GB market. Does it have benefits in that way? Does it present potential economic opportunities either for your business or for those you represent? More generally, is there a positive side to the position that Northern Ireland finds itself in at the moment?

**Sacha Berendji:** From our point of view, this would be for our suppliers to deal with, but we already have, as we have heard, a significant supply base of around 25 key suppliers on the island of Ireland that supply both our Northern Irish/Republic of Ireland business and the GB business. They would see benefits from that.

From our point of view on moving food into both Northern Ireland and the Republic of Ireland, we send most of the product from GB. There is not the technical expertise to make some of our more complex products, our meals, et cetera, or the supply base currently in Northern Ireland to do that. Therefore, as I said at the start, for the foreseeable future the majority of our food will need to be imported. We have touched on local sourcing and where that is possible that gives an advantage to those suppliers but we don't have the option in the majority of instances.

**Anne Randles:** For us, the protocol, as I mentioned earlier, supports the ongoing arrangements that currently exist on the island of Ireland for the processing of milk. That allows all dairy companies to export dairy products of what we call mixed milk origin. We export dairy products that contain both milk from Northern Ireland and milk from the Republic of Ireland.

Having had to segregate that and separate it would have had serious implications for efficiencies, in processing and in stock management. That is definitely an advantage. To be fair, that is what the protocol was designed to do. It is working from a dairy farmer and a dairy processor perspective.

As I mentioned, about 800 million litres of milk are delivered annually across the border from Northern Ireland. Milk is a very perishable product and it is an expensive product to ship in its raw form. It does not make economic sense to ship liquid milk, which is 87% water, to GB for processing; indeed there are insufficient processing facilities for it in Great Britain.

The protocol very much facilitates the seamless movement of milk on the island of Ireland. There are no more additional veterinary requirements now than there were prior to the UK withdrawing from the EU, or prior to the implementation of the protocol. That milk can also benefit from the UK's negotiated free trade agreements, which is welcome. Importantly, the protocol preserves the important supply chains and value chains that have been built up on the island of Ireland between companies and by companies. Of course it allows, as you mentioned already, for the free movement and unencumbered movement of products containing Northern Irish milk into the single market, which is a huge advantage without a doubt for Northern Irish dairy farmers.

**Andrew Opie:** I am sure, as Anne particularly laid out, that there are benefits for Northern Ireland producers. I look at it from the perspective of retail. The protocol has created new challenges that are really only being overcome by the position the UK Government have taken, with the tacit approval of the EU, on the standstill process. There is no getting away from the fact that we operate UK supply chains. We are able to give the benefit to UK consumers, wherever they are in the UK, because we are running those UK supply chains with the volumes and the efficiencies of scale that we can obtain from that.

It has been a challenge. That challenge has been largely, not entirely, overcome by the STAMNI and the standstill process, but the protocol has definitely introduced challenges for any retailer operating across the UK.

**Lord Thomas of Gresford:** But has it introduced benefits for Northern Ireland producers?

**Andrew Opie:** Yes, that was my first point. Listening to Anne, I have no doubt that it has. I deal a lot with food producer groups and farming groups across the UK. I would say that those producers are in a more favourable position in their ability to trade with both Great Britain and the UK, and with the EU. I have no doubt about that because I have seen the challenges facing farmers and producers in Great Britain, for example, who are trying to access the EU market.

**Lord Thomas of Gresford:** In other words, Northern Ireland obviously has greater access to the EU. That is happening in practical terms; there is more access to the EU.

**Andrew Opie:** I cannot speak on behalf of Northern Ireland producers, sorry. I can only speak about UK retailers and the challenges the protocol has given. I think Anne summed up the benefits pretty well.

**Lord Thomas of Gresford:** Thank you very much.

**Baroness Ritchie of Downpatrick:** Thank you, Lord Chair and members of the panel; you are very welcome. I want to ask a simple question as a supplementary to the ones from Lord Thomas.

Are you aware of the report that was published today by the National Institute of Economic and Social Research, which is a British think tank? It said that Northern Ireland was outperforming the UK and that that in part was due to the protocol: "This is partly an outcome of the Northern Irish protocol and its special status in the Brexit arrangements, including better trade and investment conditions as part of the EU's single market and customs union". Are you aware of that report and did you contribute to it?

**Andrew Opie:** I can confirm no to both of those. I am not aware of the report and we did not contribute to it.

**Sacha Berendji:** Again, no and no, in that we were not aware and we did not contribute. Most of our food product is supplied from GB, so the availability and waste challenge we had is not the case for our food business in Northern Ireland, which is tracking a bit behind the GB business.

**Anne Randles:** Similarly, I am not aware of it and we did not contribute to it. I understand where they are coming from. For a company in Northern Ireland with an export focus, absolutely I can see where the benefits of the protocol will be in unfettered access into Great Britain and unfettered access into the single market. That has to give companies in Northern Ireland a benefit, without a doubt. You can see where the economic benefits would be. For some of the witnesses here, selling into Northern Ireland can be a bit more problematic, but Northern Irish exporters are definitely benefiting from the protocol.

**Baroness Ritchie of Downpatrick:** Thank you, Lord Chair. Would it be possible for us to get a copy or an e-link to that report?

**The Chair:** We will certainly try to do that.

**Baroness Ritchie of Downpatrick:** Thank you.

Q27 **Baroness O'Loan:** Thank you, Lord Chair. I would like to thank our witnesses. The evidence that you have given us today is enormously valuable. I am particularly concerned about the complexity of the information that is required. You described one container requiring eight people working for 20 hours. Was that what you actually said to us?

**Sacha Berendji:** It was 20 people for eight hours, the other way round.

**Baroness O'Loan:** That takes me to the question that I am tasked to ask you. To an extent, Andrew dealt with it as he was answering the previous question from Lord Thomas. What is your overall assessment of the UK Government's approach on the protocol? Do the Government's

proposals, as set out in their July 2021 Command Paper and subsequently, represent a viable means to address the current impasse?

What would be the impact on your operations of any unilateral action by the UK to mitigate the perceived negative impact of the protocol—for example, by introducing legislation in relation to the protocol or using the safeguarding provisions of Article 16 for the protocol? I will start with you, Andrew, since you led into that with your discussion of the tacit approval of supply chains.

**Andrew Opie:** Thanks for the question. On the Command Paper, to go back to first principles, or when we first left the EU, the UK Government understood and appreciated the challenge that faced any retailer sending food from Great Britain to Northern Ireland, and they moved quite quickly in the early days to establish the grace period with the EU and then to come to the standstill process with the STAMNI. There is a recognition from the UK Government of the challenges for food and, through that, the impact that would absolutely be had on Northern Ireland consumers if we were to follow full official controls under the protocol.

We definitely agree with the principle at the heart of the Command Paper, which is that if the product is staying within Northern Ireland, that should be the basis on which the controls should be adhered to. As we said earlier, if we could find a solution that shows that that would be so, we feel that is the right way forward. I am not sure that the Command Paper would necessarily have persuaded the EU that any particular controls were in it. It was a little bit lacking in detail about how that would operate, other than the point on labelling, which Sacha mentioned earlier, and which would not be our preference either, but the principle of doing that is the right one. We want an agreement across both sides, and to satisfy the EU we need to go into more detail on how that would work.

We have tried that. As an organisation, we have had officials from the UK Government, the EU Commission and member states in our depots and supply chains and across to Northern Ireland to show them how product moves, how it is controlled and the IT systems we have to demonstrate that. We hope that there is a better understanding that, if we could focus on that as a solution, maybe we could move away from a more standardised certification model, which is the EU approach as it stands at the moment. In principle, there are definitely benefits in the paper, but we would like to see agreement with the EU on it. We feel that we can demonstrate evidence to justify those controls, and we will continue to help support the UK Government by demonstrating that to the EU and the Commission as necessary.

One thing in the Command Paper that we have not touched on today, and that we have a concern about going forward, is that it suggested that retailers would be able to place products on the market in Northern Ireland that adhered to either EU or UK food standards. One of the things we have not touched on today is the issue of divergence. As EU regulation starts to divert from the UK, or vice versa, it will be difficult for retailers operating a UK model and producing for the UK. To try to

produce for a relatively small segregated market in Northern Ireland will add costs to the system and may affect some availability.

We feel that discussion should be had about how we stop divergence becoming a problem in the range and availability that Northern Ireland consumers have access to. I am sure there are discussions that could be had between both Governments to sort that out. I wanted to raise that as we have not talked about divergence yet. Going forward, it is inevitable that we will see divergence, whether on new technology, labelling or various other issues. If we want a long-term agreement, we have to look at the area of divergence.

To your final question on our reaction to any unilateral action, the first thing to reassure Northern Ireland consumers is that all retailers are absolutely committed to their businesses there and to providing the best service and affordable products to those consumers, and that will continue. That is what retailers do; that is what drives them every day and that will continue. Our concerns would be about the wider impact potentially to all consumers in the UK if there was any retaliatory action from the EU. By that I mean that, if it affected the actual trade deal itself and we saw consequences that added costs to our food supply chain, it would have a serious impact, potentially, on consumers not just in Northern Ireland but across the UK.

We need to remember that the EU is the biggest exporter to our supply chain; 80% of our food imports come from the EU. Any disruption or added cost that might derive from any issues in that would be our concern as much as the decision to take unilateral action.

**Baroness O’Loan:** Thank you very much indeed. Anne, can I invite you to respond?

**Anne Randles:** I question whether it is really appropriate for me to comment on either side’s proposals. I am not completely familiar with the Command Paper proposals, or indeed the Commission’s in October, certainly not to the extent that would allow me to make any reasoned comments on them. All I would say from a business perspective is that continued dialogue is absolutely essential on this, and we need flexibility on both sides to find a resolution. Business thrives on certainty and stability. There needs to be additional simplifications on trade between the two islands, as we have already mentioned. That is absolutely necessary. Companies have adapted to the new normal and trade is continuing. We need to keep that in perspective.

Lord Chair, you asked at the beginning of the meeting for a comment on some of the technology, which I did not have an opportunity to mention. I am glad that Andrew raised the regulatory divergence risk to trade between the two islands. We have already talked about the commitment by Her Majesty’s Government to the greater digitisation of trade in the context of the supply chain. The digitisation of trade may be a solution to greater import controls, and is something that the Government will be working on over the next year and a half until the end of 2023. That

definitely has to be welcomed. We see it as a good move. Anything that will reduce the burden on businesses is essential.

In that particular context, we need to understand that digitisation works only when the data is good. Somebody has to input that data. Food business operators will still have to input the data. It will probably be more beneficial for the customs authorities and the veterinary authorities. There will still be quite a considerable burden on data collection and data inputting by companies but, having said that, it would be more preferable than the current arrangements.

Unless you have an SPS agreement on the veterinary side, you will not eliminate the need for export health certificates. Whether they are digital or hard-copy paper health certificates, they will still be required in the absence of any EU-UK SPS agreement. Therefore, without the SPS agreement and with the risk of additional regulatory divergence and without regulatory alignment, we will have suboptimal implementation of any digital arrangement from 2023. It is important to say that.

**Baroness O'Loan:** Thank you, Anne. Sacha, would you like to respond to the two questions?

**Sacha Berendji:** Yes, thank you. I do not want to repeat everything that has just been said, so I will just reinforce three points, if I may. It is not our place to comment on the political likelihood of any particular outcome, but I totally agree with the comments made; we remain completely committed to our customers both in Northern Ireland and in the Republic of Ireland, and that is a really important point for us to emphasise.

The second point I want to emphasise is what you heard from Andrew, which is our preference for a stable environment and to reach a mutual agreement that creates a predictable business environment for us to do business in. That is really important. Anne emphasised that point too. Stability and agreement are really important.

The final point—I do not want to labour it—is the labelling issue. We must be able to find a way to ensure that goods going to Northern Ireland and not sent anywhere else can be sent there without all the complexity. I totally emphasise that labelling for us is potentially as difficult as the current set-up, and, therefore, we would like to extend any help we can give to the UK Government, the EU or anybody else to come and see what we do and how it is set up. We have a Defra team going up to our export centre in Motherwell. We are happy to share with everybody. Part of the reason we wanted to be here today is to say that we are keen to do what we can to help and support. This is a fundamental issue. We need a digital solution so that we can come off all this paperwork and make sure that things work sensibly and properly.

**Baroness O'Loan:** When you talk about paperwork, Sacha, do you actually mean paper?

**Sacha Berendji:** Yes. There are 500 to 600 pieces of paper. Every SPS product needs certification, and it goes with the load. It used to be about six, depending on the complexity of the load. As you heard, if you are shipping a single product, it is a single certificate. If you imagine a Marks & Spencer load, the volume is relatively low, so we have multiple mixed trays on every load, each one of which requires documentation. It is physical paperwork that goes with the driver, signed off by the vets and checked through.

**Baroness O’Loan:** It has to be kept for five years.

**Sacha Berendji:** Yes, I believe that is right. Five years.

**Baroness O’Loan:** That is quite amazing in this modern age.

**The Chair:** I must say, for those of us who have been spending the last few years thinking about how we are going to introduce more modern technology, to hear that there are thousands of pieces of paper having to be filled in is an extraordinary throwback to what life used to be like in the 1950s. However, Lord Dodds has a question.

**Lord Dodds of Duncairn:** Thanks, Lord Chair, for letting me in at this stage. I have a supplementary. I am reminded that when we talked about digital solutions in the run-up to Brexit a lot of people dismissed it as seeking unicorns and all sorts of magical solutions, but now, of course, they all seem back in vogue.

I want to make a point about unilateral action. Clearly, an agreement and a negotiated outcome is better, but is it not worth bearing in mind that the reason why we have some of the mitigations for Northern Ireland and the problems are not as bad as for the Irish Republic is that the UK Government took unilateral action to solve the supermarket export health issue and the chilled meats problem in the initial stages? That has been accepted by the EU on a tacit basis as a result of the standstill period, but it instigated legal action at that point. Presumably, you welcome the fact that the UK Government took that action at that stage, otherwise the consequences would not bear thinking about. Perhaps that is a rhetorical question. I will not force you to answer.

**The Chair:** Have a go anyway. Are there any comments on Lord Dodds’s points?

**Andrew Opie:** I think you are right. It maintained that trade. I remember that the run-up to 2021 was quite a frantic period for all the retailers in terms of certainty about products that they could trade with Northern Ireland. That was true, but it was still in the context that they were seen as short-term bridging measures until a longer-term solution could be made. That would be our preference. All the witnesses have talked about long-term stability.

Where we stand at the moment with the STAMNI process is that Lord Dodds is absolutely right in that it was a unilateral decision by the UK, but it had the tacit support of the EU while negotiations were continuing

to find a long-term solution. It is whether that context and the approach of the EU would change going forward. Our preference would absolutely be to find an agreed solution between both sides. From our interaction with both sides, that should be possible.

**The Chair:** Thank you for that. Thank you, Lord Dodds. Lady Goudie, do you have a brief question?

**Baroness Goudie:** I have a question for you at the end of the meeting.

Q28 **Lord Godson:** Thanks to our witnesses. In particular order rather than no particular order, for Sacha in the first instance, I was struck when the Lord Chair said you had kindly supplied materials from *The Grocer* about the new outlet in Banbridge that you are setting up. I was interested—perhaps it reflects the interests of the journalist in both cases—in the appreciable difference of tone between that article from an M&S perspective and the Charles Moore discussion with Archie Norman in the *Daily Telegraph* last year on the subject of the sandwich and what a sandwich goes through as it comes from GB into NI. I am sure that others here, although it is a specifically M&S question, might wish to answer it as well, but for you in the first instance, Sacha, what has changed between July 2021 and March 2022 with that piece that you kindly supplied to us from *The Grocer*?

**Sacha Berendji:** Thank you. I touched earlier on what a sandwich has to go through, and it still has to go through that. That is why we are moving supplier, and by September we will be locally sourced for all sandwiches on the island of Ireland. With regard to our new store in Banbridge, which opened yesterday, we have been clear that we have, as I said in my introduction, a loyal and committed customer base in Northern Ireland. We are committed to Northern Ireland and believe that we can grow our business there. Brexit has made investment decisions more difficult.

The decision to open Banbridge was taken pre-Brexit. We have not made decisions to open any more stores post Brexit, but we are maintaining the commitment to our customers that we had already made. I hope and believe that we can find a solution that will mean we can have a successful business. We look forward to opening more outlets not just in Northern Ireland but in the Republic of Ireland too. I emphasise that we have not made any investment decisions anywhere on the island of Ireland with regard to new trading space since Brexit came in.

**Lord Godson:** I am interested in the specific difference in the period between your chairman Archie Norman's pronouncements in summer last year and the more recent piece. What has got worse and what has improved?

**Sacha Berendji:** I see. I beg your pardon.

**Lord Godson:** Sorry, I should have made it clearer. Forgive me.

**Sacha Berendji:** From a Northern Ireland point of view, the easements are obviously very welcome. Anything that reduces bureaucracy means



that we are able to move goods more freely into Northern Ireland, and we are in a much more stable trading position than we were when Archie made his comments. We have made efforts to make our supply chain more robust and get better data from suppliers. We have recruited experts to the team. We are in a more stable environment but, as I said earlier, the cost base remains.

What has changed most is that the reliability of our supply has improved through the amazing endeavours of our suppliers, our supply chain team and our store colleagues. When Archie made those comments, availability was significantly behind where it is today and we had some range challenges. We would not have been selling things like organic vegetables and produce back then. We now have those back. We have found a way to get the range back, but the costs still remain a challenge.

**Lord Godson:** Thank you. Does anyone else from beyond the M&S family want to say anything?

**Andrew Opie:** No, nothing from me.

**The Chair:** Let us move on.

Q29 **Lord Godson:** The other question I want to ask is broader. The technical and legal bases for the checks on movements between Great Britain and Northern Ireland are the sorts of checks that one would expect to see on movement across international borders, rather than the movement of goods within a country. I would like you to reflect a little on whether the model that seems to be emerging of movement across international borders is suitable for the kind of optimal trading that you want. Perhaps it is a question for those who have not answered my previous stanza.

**Anne Randles:** That is an excellent observation, and I would even extend it to movement of products from the rest of Europe into the UK. The regime that has been put in place certainly reflects the EU's import controls, which, from a food perspective—I think somebody has already mentioned this—work if you have a consignment of lamb coming from New Zealand and you have several weeks on the high seas to get your paperwork together and complete your notifications; but you are under huge time constraints when you are shipping either from Great Britain into Northern Ireland or from Ireland into Great Britain. There is a very short sea journey of three hours, yet built into it are systems where you need prenotification of 24 hours or longer. Officially, it could be up to four days. You have very onerous export checks and veterinary controls.

As I said, the current EU import arrangements work in the context of large containers and shipments, or indeed a shipment of multiple containers, and they are on the high seas coming from far distances, but they do not work when you have significant volumes of continuous trucks that are moving on a daily basis, geographical proximity of a few hours and the goods are perishable. We feel it would be beneficial if the system could take all those attributes more into consideration. That would help significantly in addressing many of the difficulties that we are facing both

from GB to Northern Ireland and between the two Irelands, north and south.

**Andrew Opie:** I totally agree with that. The EU system for imports is out of date in some ways and has not kept pace with supply chain technology either. It does not work in this case, where there are hundreds of lorries criss-crossing the Irish Sea delivering complex loads, each requiring an individual certificate signed by a vet. The bureaucracy is ridiculous, frankly, and I am not sure it adds much in food safety. It certainly is not adding anything above the world-class traceability systems that every UK retailer has in controlling their product through the supply chain. That is the point that always needs to be thought about; we need a better system than that.

The recent postponement of UK border controls is interesting. I am much more positive that the UK will be taking a much more modern approach to its border controls, which would still give sufficient control on food but reduce some of the bureaucracy and simplify the process from next year. We should start to think about this different type of trade, which is probably slightly unique to the EU model. There probably are not many countries bordering the EU that are sending supermarket-type loads across borders into the EU as an import. We need a bespoke system.

That is why the STAMNI process, the standstill, works for retailers. If we could build on that, that would be the solution. Hopefully, by demonstrating the controls, as we have done with the Commission and the member states, we can show them that we have control of the product, and focus on the product and the controls that are in it and the IT systems that can deliver that, rather than relying on an old-fashioned approach, which is reams of paper being signed off by a vet every time a lorry moves.

**Lord Godson:** Is the EU going far enough in addressing the problems that have arisen in the protocol? I just want an overall assessment. That question is to Andrew, and then to anyone else who wishes to come in.

**Andrew Opie:** If you look at the non-papers that were published, at least they show that there is movement and a recognition, to the point we have just been discussing, that the current system does not work. Having a global certificate, as was proposed, would be a good movement from the EU. The problem that remains is how much behind that global certificate it would expect to see in justification for the certificate to be signed off before it could move.

The other problem is that the EU non-papers made it clear that the product should be compliant with EU regulations. The point about divergence that I raised earlier will become an issue and become more of an issue going forward. We have talked about it a lot. The EU has talked about labelling within that. Finally, that general certificate would not necessarily cover the P&R products we have talked about, but adds an additional problem in that third-country imports to the UK would not be covered.

To go back to my New Zealand lamb example, if that comes into Southampton rather than being split through Rotterdam and approved through there, it would not be covered by the general licence, and you could not send it to Northern Ireland on that licence. The EU has moved. We have had some really constructive discussions, and, as I said, we have been able to show EU officials round our supply chains, but it is a long way from where we are with the STAMNI process and would undoubtedly bring additional costs and burdens, and potentially reduce the availability that Northern Ireland consumers have at the moment if we were to follow the approach in the non-papers.

**Sacha Berendji:** I have very similar feedback. First, although it is good that we have seen some movement, it lacks a little bit of detail about what it would mean. We would have to understand what they really meant. Specifically, on the simplified certification, at present, on other than non-P&R goods, traders can self-certify. We would want to understand who would sign. If it had to be a vet, that could add costs, not remove them. Secondly, what level of information is required? To take the example of Our Best Ever Lasagne, it requires 157 static fields and 96 variable fields of information to export one product. We would need to understand what information would be required on demand by the EU. Finally, labelling is definitely not the solution. We would need to work that through the proposals.

I agree with what Andrew just said about origin of products. We need to make sure that we do not exclude products by accident without realising, because they are non-EU or from some other source.

**Lord Godson:** Anne Randles, a final verdict?

**Anne Randles:** I will leave it at that. The two previous speakers are much more experienced and expert on both those issues. I agree with everything, particularly on the labelling. I have not mentioned it, but I completely concur with them. It is not the way to go. It does not work for a small market like Northern Ireland, and it would be cost-prohibitive.

**Lord Godson:** Thank you, my Lord Chair. I yield the floor.

Q30 **The Chair:** Following on from those questions, what scope do you see for compromise between the UK and the EU positions as they have been set out recently? In what areas is there scope for compromise? In what areas do you think compromise might be most difficult to reach?

**Andrew Opie:** The compromise might be closer, as we have just been discussing, around acceptance that the products are going to Northern Ireland and will stay within the Northern Ireland market. We are probably still some distance apart on what the controls on those products would be to allow that to happen. That would need to be resolved.

The area that is more difficult is the EU imports system model, which is difficult for it to move away from. We have talked about the simplified approach, but, as both Sacha and I mentioned, even with the global certificate that was mentioned in the non-papers it is difficult to see how

much supporting paperwork and authorisation would be required to operate that system. The EU seems wedded to quite a bureaucratic system of import controls, and that would take some movement.

The other big area will be divergence. We will start to see that more and more. Where are we on approved product for the UK but not the EU, and vice versa? Can we place those products on the market or not? Although we start in a very close position on alignment—we obviously adopted the EU legislation in UK legislation on food—I can see that there will be more divergence going forward, and I really worry that, unless there is some kind of agreement on that, it will be too difficult for the EU to accept that we could put products on the market that met either UK or EU standards.

**The Chair:** Thank you for that. Sacha Berendji, do you have any thoughts on that?

**Sacha Berendji:** Yes, I will add to that very briefly. On compromise, we are very keen to help find a solution. We have said that we believe the best environment is a stable one, with agreement. We are very willing to help the EU, the UK and anyone get a more detailed understanding of how retail operations work and what the impact of some of these regulations are. I mentioned the 250-odd fields of information required for the beef lasagne, not to mention a decent command of the Latin language when you are selecting the meat product. Those are areas where there could be compromise, because I am not clear that anyone really understands that that is the level of detail that goes into every product we ship, and we send about 280,000 trays a week.

Being practical and showing people what is on the end of those regulations for a retailer operating a complex load export system would be an area where compromise could happen, because everyone would benefit from seeing the detail of it. Although it seems that both sides can be a long way apart on certain issues, being able to get goods into Northern Ireland and prove it digitally seems to be an area that should not be contentious if we can close the loop and make sure that we are able to send product that everyone agrees has no risk of ending up in the Republic of Ireland. Those are a couple of areas. As I say, we are very happy to help and play our full part if anyone wants further information.

**The Chair:** Thank you very much for that. Anne Randles, do you want to comment?

**Anne Randles:** I reiterate what the two previous speakers have just said. We always have to hope that there is room for compromise. I genuinely believe that there is on this. If the Commission can be assured about this issue, about protecting the integrity of the single market and that there are no goods at risk of moving into the single market without the appropriate controls, which we have mentioned a few times, I believe that that is where the compromise can be made. Focusing on that particular element will go a long way. There has to be compromise, and I believe firmly that there will be.

Reaching consensus on the degree to which there can be completely unfettered access between GB and Northern Ireland will be challenging, particularly in the context of regulatory divergence, as mentioned. Without a doubt, the focus should be on goods at risk and goods not at risk, and that is where there has to be compromise to find a resolution.

Q31 **The Chair:** Thank you very much. I have one final question to bring it completely up to date. In the context of last week's Northern Ireland Assembly elections, what impact do you think continuing political instability and uncertainty around the protocol might have on your operations?

**Andrew Opie:** I do not think it will have any impact on any of the businesses that are our members. Their focus is on their consumers and the cost-of-living problems that they are all facing at the moment. Retailers, as I said earlier, are—*[Inaudible.]*

**The Chair:** We lost you. You froze. Can you go back a bit?

**Andrew Opie:** Sorry. I will start again. Hopefully, I will not repeat too much. I do not think it makes any difference to the businesses that are members of the BRC, because their focus will always be on Northern Ireland consumers and helping them tackle the problems that they are currently seeing with the cost-of-living crisis. That will be absolutely their focus. We do not interfere in any of the politics of this at all. Our focus will remain Northern Ireland consumers. Our final plea to all parties involved is that they must never lose sight of the consumer at the end of the day. Our members—*[Inaudible.]*

**The Chair:** You have gone again.

**Andrew Opie:** —doing what is right for Northern Ireland consumers.

**The Chair:** Thank you very much for that. Anne Randles, do you have any thoughts on that?

**Anne Randles:** Political instability and uncertainty are never good for business and for investment longer term. That is just stating a fact. We have significant integrated supply chains. They have been built up over decades on the island of Ireland and between the two islands. That is for the benefit of the three economies that we are talking about here, and to the benefit of our customers and our consumers. If Brexit challenges those traditional supply chains and value chains, the uncertainty added to that by the protocol could have wider implications for overall trade between the two islands, and it would certainly be something that we would be concerned about and that we believe would be very damaging.

**The Chair:** Thank you very much. Sacha Berendji, do you have any final thoughts?

**Sacha Berendji:** If the grace periods remain in place, there will be no impact on the current trading arrangements we have with Northern Ireland. I echo that our focus needs to remain on serving our customers,

and, as a business, we will work with whoever to try to find a mutually agreeable solution to make life easier for everybody. While grace periods are there, we do not anticipate any change in the current situation.

**The Chair:** Thank you all very much. It has been a really helpful session and we have learned a great deal from you. The two points that strike me from what you have been saying are the risk of divergence and the benefits of technology. There is an awful lot in what you have said that is really important for us, and we are very grateful to you. We have taken up a great deal of your time. We very much appreciate it. Thank you very much indeed for the evidence you have given.