

European Affairs Committee

Protocol on Ireland/Northern Ireland Sub-Committee

Corrected oral evidence: The Northern Ireland Protocol Bill

Thursday 20 October 2022

4.45 pm

Members present: Lord Jay of Ewelme (The Chair); Baroness Goudie; Baroness Ritchie of Downpatrick.

Evidence Session No. 6

Heard in Public

Questions 46 - 53

Witnesses

I: Liam Nagle, Chief Executive and Chairman, Norbrook Laboratories; Dwyer Magee, Chief Financial Officer, Deli Lites; Gareth Chambers, CEO, Around Noon.

Examination of witnesses

Liam Nagle, Dwyer Magee and Gareth Chambers.

Q46 The Chair: Welcome to all of you and thank you very much for coming and giving evidence to us. We are very glad indeed to be here today. The evidence we have had so far this afternoon has made it seem all the more important to us that it is important to leave Westminster in this particular inquiry that we are doing and to visit parts of Northern Ireland, which gives us a much greater understanding of the way in which the protocol affects businesses and affects people who are dealing with it day by day. We are very glad to be here. We are very grateful to you for giving evidence to us.

We are engaged now in an inquiry into the Northern Ireland Protocol Bill that is before Parliament. It has been through the House of Commons. It is now before the House of Lords. It has been through one of its various stages, and it has perhaps some rather contentious stages still to go. That follows quite a lot of work we have been doing on the other aspects of the protocol, which has been the focus of our attention as the only committee in the Houses of Parliament engaged solely with scrutiny of

the Ireland/Northern Ireland Protocol.

We are very glad to be here and to see you. It is a formal session, so there will be a transcript taken, and we will send a copy of the transcript to you fairly shortly after the session so that you can correct anything that you need to.

Perhaps I could start off by asking how you would summarise the impact of the protocol as it currently operates on the businesses that you engage with. Could you also try to help us by summarising, in so far as there are any, the positive benefits and, in so far as there are any, the negative drawbacks of the protocol from your point of view? That is the question to start with. Who would like to go first? Shall we go in reverse order, starting with you, Mr Nagle?

Liam Nagle: Let me give you a short summary about Norbrook. Norbrook was founded by the late Lord Ballyedmond in 1969. It is a 53-year-old business. Our annual revenue is approximately £230 million. Of that, about £50 million, or 20%, goes directly into Europe, so it is a significant part of our business, and it is where our business started outside the UK in terms of our customer relationship.

In Newry, which is our headquarters, we have three manufacturing sites. We employ 2,000 people globally. Of those 2,000, approximately 1,500 work here in Newry in Northern Ireland. Three of our biggest manufacturing sites are here, as well as all our corporate functions, research and development, regulatory control and the head office. We have sales offices in the US, Melbourne and Nairobi. We also have a manufacturing plant in Nairobi that employs 200 people. We sell products into 120 different countries around the world. That is a little bit about Norbrook.

It is important to understand the pharmaceutical sector, if I can just give you a quick summary of that. It is highly regulated. Change is slow and does not come easy in the pharmaceutical sector. That is probably one of the key challenges we have had with the protocol. We made a decision a couple of years ago that we could not deal with the uncertainty. Brexit created significant uncertainty for our sector and particularly for our customers. We are a generic manufacturer, which means there is at least one competitor out there that can put product on the shelf. Because we are a generic manufacturer, we are an alternative. It is 100% equal as an alternative but has lots of competition.

Our customers require certainty because, if they need to treat an animal, they need to know that they have access to the medication, so uncertainty in our sector causes us to lose customers. Unfortunately, because of the extended uncertainty around Brexit we have lost customers; we know that for a fact.

Faced with the risk of losing £50 million of our European turnover, we made a decision a couple of years ago that we had to invest to eliminate that uncertainty. That decision was that, in order for us to guarantee supply to our European customers, we had to be able to test and release

to product in Europe for Europe. In essence, that means that for us to release product to the customer we had to prove that it was tested twice; we test it here in our facility and we have to test it again in Europe for European sale. It has cost us about £5 million in once-off capex costs.

The Chair: Is £5 million the total so far?

Liam Nagle: The total so far, but that is a once-off capex cost. We have a facility in Monaghan where we have a manufacturing plant. We have now co-located next to that a test-and-release facility. We have built a new lab. We are hiring people. Within the early part of calendar 2023, we will be ready to test product for release into Europe. That obviously will have an impact on our business here in that, if we can get to a place where it is not a permanent disadvantage that we have to test product twice, there will be a loss of employment here. It is not huge, but clearly there will be a seeping of some capability from the United Kingdom into the facility in the Republic of Ireland.

The protocol for us has had few or no negative issues. I would say we had minor logistics issues in the first couple of months, but nothing that negatively impacted our ability to supply product to the customer. We have had no issues since. The biggest issue we have had with the protocol is that it created certainty when it was put in place, and we were very certain. The constant questioning of it and of its fundamental long-term ability to survive, and the political questioning of it in particular, has caused our customer base to be anxious. As a result of that, we made the decision to make the £5 million capex investment, or capital cost. The annual cost is about £2 million a year, so we will have a permanent cost disadvantage of about £2 million a year because we are testing the product twice to be able to release it twice into Europe.

We made that decision because we needed to be able to go to our customers and say, "We want your £50 million-worth of business every year. To do that, we are making this investment and we are eliminating any uncertainty caused not by the protocol but the potential removal of the protocol with Article 16".

In summary, we see the protocol as being positive. It gives us access to two markets. Without it, we would not be able to support 20% of our business. To protect that business, we have made the investments that I have shared with you to bring certainty to our customers.

The Chair: Thank you. That is very clear and helpful. Dwyer Magee.

Dwyer Magee: I am the chief financial officer at Deli Lites. We are a food-on-the-move manufacturer based in Warrenpoint, which is four or five miles from here. It is a family-owned business. It has been operating for about 25 years. Our turnover is circa £30 million and we employ just under 250 people at the site in Warrenpoint.

We have a number of trusted long-term suppliers in GB. We bring across ingredients such as ham, cheese, bread, et cetera, which we then make

into sandwiches, wraps and ancillary products. We sell those products locally in Northern Ireland and in the Republic of Ireland, we sell them back across in GB, and we sell them to mainland Europe.

Like any business, we crave certainty, and the protocol delivered that. More importantly, we are an innovative company, and we are a sales-led company. The most important thing is that that market opportunity stays open to us to the maximum. That is the market opportunity to sell in GB and also sell in Europe.

There was a little bit of heartburn, if I can use that word, in terms of some of the bureaucracy around bringing those ingredients across, but after a few months we kind of got used to that, and that is a small price to pay for the bigger opportunity, which is that market opportunity.

The Chair: Do you feel unique? Perhaps that is not the right word. We have heard evidence from others that it has sometimes caused difficulties bringing things across. How have you managed to bring things across without that being really difficult?

Dwyer Magee: It has caused some difficulty, but that is something that we have worked through, and the benefit of working through is to maintain that wider market opportunity both back into GB and into Europe.

The Chair: Thank you. Gareth Chambers.

Gareth Chambers: I am the CEO of Around Noon. We are a food-to-go manufacturer based in Newry. We also have a base in Slough in England. We have been in business for about 33 years and have circa £50 million revenue, with about 35% of it in ROI. We manufacture sandwiches and wrapped salads. There is a bakery arm to the business as well. Effectively, we produce those in Newry for sale in NI and ROI, and in Slough for sale right across GB.

We initially had some pain and some cost inflation on the introduction of the protocol in bringing ingredients across from GB into NI, but that was very quickly rectified by the fact that everyone got used to the protocol and got used to the logistics, so that worked itself out. We benefited quite positively in that a number of English retailers made the decision to source more locally on the island of Ireland, and as a result we have onboarded a number of significant clients and we have been able to partner with them to allow them to have fresher and more local supply here on the island of Ireland.

We also trade back across into GB on the bakery side of the business for the travel sector. The frictionless access east-west and north-south has been invaluable for our business not only in shoring it up from any threat of the protocol not being there initially but with the added advantage of some wins thrown into the mix.

Q47 **The Chair:** Thank you very much for that. Perhaps I can follow up. This has been partially answered. You have talked about the uncertainty that

comes from the protocol. This is a dynamic situation. Things are changing all the time. You are aware of that far more than we are. How significant is the protocol compared with other factors that have affected the way in which your business has developed over the last five years or so? It is a question of perspective.

Gareth Chambers: It would be remiss not to touch on the impact of Brexit and the uncertainty within Northern Ireland that Brexit has caused. The work done to mitigate a potential hard Brexit is some cost that businesses here will never get back. The unwillingness of businesses here locally to invest due to that uncertainty is very real, and I think Northern Ireland as an economy has suffered as a result of that uncertainty. So anything that can be done to eliminate uncertainty is good for business. Anything that can be done to give us a smooth ride would be greatly appreciated and well received.

Liam Nagle: I will answer it this way. We have a risk register that we take to our board twice a year. It has no more than 10 items on it. Brexit is the only item that has been on it for six years and in the top five.

The Chair: Brexit and not the protocol? When you say Brexit, do you mean Brexit and the implications of Brexit?

Liam Nagle: Yes. I would put the protocol—

The Chair: You would put the protocol in that context.

Liam Nagle: Yes. It has been on our risk register as long as Brexit has been here, and it has been in the top five persistently. It is the only item that I can truthfully tell you has lasted that long.

The Chair: Thank you.

Dwyer Magee: As to where we are with the protocol today, our view is that that should be the baseline, so any changes moving forward should make that position better for companies like us rather than a step backwards. Of course, in the times we are living in, with inflation, energy, interest rates, et cetera, those other things are all part of the general risks that any business faces at any time. I would say it is more imminent changes to the current arrangement in a negative way than the current status of the protocol per se that would be the risk.

The Chair: That is a very good start. Thank you very much.

Q48 **Baroness Ritchie of Downpatrick:** You are very welcome, gentlemen. I have to say that I visited Deli Lites in a previous life in Warrenpoint, and I remember Jackie in particular giving me a tour of the facility and showing me the different processes involved. This morning on our flight from London we had an opportunity to eat a little breakfast bar from Around Noon—and I knew Lord Ballyedmond and Lady Ballyedmond as well.

I suppose there are two parts to this question, and in many ways they are political questions because Brexit and the protocol have been totally politicised. What is your overall assessment of the UK Government's

approach in relation to the protocol as well as bringing forward the protocol Bill, and do you believe the Bill represents a viable means to address the issues that have arisen under the protocol? I can nearly imagine your answers because you have given us those in your first submissions, but could I go to Liam first?

Liam Nagle: I do not like being drawn into the political arena—

Baroness Ritchie of Downpatrick: I appreciate that.

Liam Nagle: —because I am not a politician. I am responsible for a family business and all that comes with that. The protocol Bill without presenting an alternative is a problem. Anything that creates risk or change, in my opinion, and an alternative solution to what it will create is a problem. I can tell you that when I talk to our customers—and I talk to them a lot—they will say, “We’re now hearing about this protocol Bill. What does that mean?” I can now say, because we have invested £5 million and we are investing £2 million in a permanent increase in our cost base, “Customer, don’t worry”. Any part of life that suggests a change like the protocol Bill without presenting an alternative is not a good approach, because options need to be put in front and solutions need to be found. I am not sure whether that answers your question or not.

Q49 **Baroness Ritchie of Downpatrick:** The second part of my question is the converse of that. What is your overall assessment of the EU’s approach to the protocol and, in particular, its response to the Bill? Is the EU going far enough in addressing the problems that have arisen under the protocol; and, therefore, in your view, is the negotiated settlement between the UK and the EU the best approach?

Liam Nagle: A negotiated settlement is the only approach. All parties have to get around the table. If I delve into the political arena, my observation from a distance is that it is unfortunate that one party did not engage in the negotiations in recent times. I do not think that is a positive solution, and I would suggest that negotiation is the only way out.

I had the opportunity to meet Vice-President Šefčovič several times when he came early in his remit, and I got a general sense of a person who wanted to compromise and was willing to compromise—and I saw compromise. Whether or not the compromise was complete or sufficient I do not know, but I at least saw a willingness from him and the European Union to compromise. Honestly, the only solution here has to be to get around the table. I was pleased in recent times to hear that those negotiations had restarted and that conversations were taking place between the United Kingdom and the Europeans, because that is the only way out.

Baroness Ritchie of Downpatrick: Thank you, Liam. Dwyer: the UK Government’s approach and then the EU’s approach.

Dwyer Magee: In the business world, everything is about negotiation. Unilateral action does not work. In my view, the parties need to get around the table and come to a resolution. That is not going to be easy, but I believe that, if there is a will on both sides, that is something that we should strive for, and that is the outcome that all the parties should be striving for.

Does that mean both parties need to be a little bit more flexible? Probably. Certainly, one side coming down with unilateral action does not set the tone very well. I would agree that in recent weeks that the mood music seems to have been a little better, so let us hope that continues.

Baroness Ritchie of Downpatrick: Would you believe that that is better than bringing forward legislation—

Dwyer Magee: Totally.

Baroness Ritchie of Downpatrick: —that would cancel the protocol?

Dwyer Magee: Yes.

Baroness Ritchie of Downpatrick: Right, thank you.

Gareth Chambers: Similar to Liam, I am certainly not going to enter into any political conversations here.

Baroness Ritchie of Downpatrick: I did not think you would.

Gareth Chambers: Having said that, the only way through it is obviously by negotiation and by a willingness to come to an agreement on both sides. The uncertainty that has been caused by the notion of the protocol potentially being ripped up has been very damaging to business and has caused a number of customers to ask questions and to put a contingency in place, potentially, which is damaging and costs the economy here locally. Anything that can be done to improve the arrangements and the movement of goods, and anything that can be frictionless, is always beneficial. There is still some red tape there and there are still elements of it that are imperfect, but, that being said, unilateral action causes uncertainty and causes damage, and that is something that we would not want to see.

Baroness Ritchie of Downpatrick: You bring in materials from the UK—foodstuffs—from the UK. What do you think then of the dual regulatory regime that is mentioned in the Bill?

Gareth Chambers: Again, we like the status quo that is there because the dual regulatory regime is also further change. The fact that there is a period of calm at present is something that we would like to see remain. Dual regulation comes with a whole host of other challenges. If it was business as usual, that would definitely be our preference.

Baroness Ritchie of Downpatrick: Thank you.

The Chair: On the dual regulatory regime, do any of you have any idea

how it might work?

Gareth Chambers: No.

The Chair: Have you thought at all about how it might work? Is it on your risk register?

Liam Nagle: I do not think it could work. We operate, as you know, in a regulated industry. When we make, for argument's sake, 2,000 litres of a medication that might be put into anything from a 5 milligram vial to a 1 litre vial, we can only make that to one standard, and that is the highest possible standard. We shape our products globally, and we cannot operate in a regulatory environment where there are all different types of standards. We will always operate to the highest standard because that is the only way we can run our process efficiently and safely in terms of treating patients—in our case, animals and our pets. The human system is the same. Frankly, we could not manage dual standards.

The Chair: If you are operating to the highest standards, would that mean you would automatically meet both standards, or, irrespective of being higher or lower, are they so different that you could only—

Liam Nagle: We do not know in truth, but our default position would be to operate to the highest standard.

The Chair: If you were in the negotiations, in so far as your industry is concerned, would you be able to help them find some way that would meet your concerns?

Liam Nagle: We would find a way. The most obvious way of making it happen in each country is this. In the United Kingdom, the regulatory body that manages veterinary medicine is the VMD, the Veterinary Medicines Directorate. Its peer in Europe is the European Medicines Agency. We will be working with both those groups to come to a consensus. Generally speaking, that is what happens in the background when bureaucracy takes over. We would work with those agencies all the time, just as we work with the FDA in the USA.

The Chair: Sorry, Margaret, I interrupted you.

Baroness Ritchie of Downpatrick: I understand the position you are coming from. You do not want any further change, because change causes uncertainty, and the best thing for business is a certain economic environment and a certain political environment, because both are interlinked. Would you have any views, Liam or Dwyer, on the regulatory regime?

Dwyer Magee: Where we are sitting here, we are a small part of a small island, and we are a small island beside a slightly bigger island, which is beside a huge market in Europe. Any regulatory divergence or difference between this small part of the world we all occupy is just another uncertainty. As I mentioned earlier, in bringing ingredients across the Irish Sea into Northern Ireland and some products being consumed in

Northern Ireland, some going to the EU and some going back to GB, the uncertainty that that would bring would not be helpful.

Baroness Ritchie of Downpatrick: Thank you.

Liam Nagle: The more consistent we are in business, and in our case how we treat animals, the better: it gives the best outcome for patients. Divergence is not good, and we would seek the most common approach in terms of regulation. That is what the industry wants, by the way.

Baroness Ritchie of Downpatrick: Thank you.

Q50 **Baroness Goudie:** Before I ask my question, the uncertainty for all three of your companies is that you employ huge local labour at every level besides the other labour you employ, and it would be very bad if anything were to go wrong with investors. It would really destroy Newry in some respects, if you work out how many people all three of you employ.

Coming away from that, which is really important, in the context of the recommencement of the talks with the UK and EU, how realistic is it to expect a mutually agreed settlement with the EU? Do you see, and how would you describe, a potential landing zone of compromise and agreement between the two sides? I know all three of you have been talking to the EU. How do you feel it would pan out with GB as well?

Liam Nagle: From a distance, it is very hard for me to answer. As one of the gentlemen said, business problems are solved by people getting around the table.

Baroness Goudie: Absolutely.

Liam Nagle: I think political problems have to be solved the same way. With that conversation, generally, I have found over the years that people figure it out together. All I can say is that, if this was a business issue that Norbrook was facing, rather than closing the door, we open doors and we seek to get the best solution and give people a win-win. Perhaps that is an important thing to say. Approaching this as win-lose is not going to work. Approaching it from a win-win perspective and a willingness and an ability to compromise is the only way I can see it happening. You have to leave something for the other person. You have to leave something at the table. You cannot take it all. You have to give the other side a win—on both sides.

Baroness Goudie: Absolutely.

Dwyer Magee: I would say that hope springs eternal. In business we have to be optimistic. You mentioned the number of employees we have in this area. We would have aspirations to grow those employee numbers, driven predominantly by sales into Europe. We have mentioned the Government in London. We have mentioned the people in Brussels. But I believe this is something that should be done with Northern Ireland, not to Northern Ireland. There is a voice. I am not a politician and I have

no aspirations to be a politician, but it is important that the Northern Ireland voice is part of that discussion between London and Brussels.

Gareth Chambers: There would be some optimism there that any solution will mean that we are in a better place than we are now from a business perspective. Our business was founded here in Newry. We made a very big decision when we acquired the UK business to keep our head office in Newry and to double down on our investment locally rather than investing in the Slough area to the same extent. We decided to keep those higher-paid jobs here locally and to work with Invest NI and the Government here to try to ensure that there are highly skilled jobs in this area as well as production operative jobs, et cetera. It would be my hope that there is a positive resolution to this and that the negotiations are open on both sides, and that we get this done and get moved on, because it is starting to rumble on a little bit, is it not?

Q51 **Baroness Goudie:** Thank you. You have partly answered this question. What impact will the Northern Ireland Protocol Bill have on the economic climate if it does come into law?

Dwyer Magee: As currently drafted, it may well suit some sectors within the economy—for example, large supermarkets that bring in goods for consumption within Northern Ireland—but there has to be a solution here that suits all sectors of the economy. I do not know whether you carve in or carve out, or whatever the terms are. It should work for manufacturers that are exporting as much as it does for large supermarkets that are bringing goods across the Irish Sea for consumption within Northern Ireland.

Gareth Chambers: Invest NI and local businesses here have worked so hard for many years, because we are such a small island and such a small country, on export. There are only so many chimney pots on this little island. We developed a plan back in 2012 called *Let's Get Off This Island*, and that was really a case of what we could do to export. We would not be in favour of anything that is going to come anywhere close to damaging that in any way, shape or form.

Liam Nagle: It is a very difficult question to answer. The reason I say that is that we do not know how Europe will react. They may take a very strong position and put up trade barriers, and that immediately closes doors and closes opportunities for those who export, unless companies like us have spent money—several million—to protect their business.

I think there are several scenarios. There is one where Europe compromises and says, "Let's just be calm and let's leave business to continue as is for a period of time". As I understand it, the trade agreement calls for a 12-month standstill, but we do not know how Europe will react. I think their reaction could be critical. I would hope they would be pragmatic and I would hope that the standstill period of 12 months would continue. We have certainly looked at that as an important part of our contingency planning, but, if there is no agreement when the

end of that 12 months comes, I would worry about the economic stability of Northern Ireland and I would worry about growth.

I have worked here for eight years and I have seen the economy go from strength to strength in those eight years. I would worry about the continuity of that, and I would ask those who are contemplating the Northern Ireland Protocol Bill and those who are currently sitting around the negotiating table to consider the livelihoods and the economic viability of employees who contribute to all our companies very strongly but have no say in this. I would ask those who are around the table to consider those people.

Baroness Goudie: Thank you very much.

Q52 **The Chair:** I thought Dwyer Magee's point that the implementation of the protocol should be done with and not to Northern Ireland was a very pertinent point. That is a general point that has been made a number of times to us while we have been here. It seems to us that effective consultation with an involvement of different kinds of institutions in Northern Ireland is necessary and the absence of involvement is wrong. That is something that has come across very strongly so far this afternoon.

Can I ask a slightly technical question? What do you think the practical impact would be of the Bill's provisions to disapply EU customs and goods regulations for specific goods destined for the UK or non-EU countries only, and, as a final point, to allow for the introduction of a system of red and green lanes? Have you done some thinking about, or working on, how red and green lanes might work?

Dwyer Magee: As I referenced, my understanding is that the green lane would work perfectly well for the large retailers that are bringing goods across the Irish Sea for consumption in Northern Ireland, but, as I also referenced, I do not believe that would work at all for manufacturers that are exporting some or all of the goods that they are bringing across into Europe. How all that will look in time is unclear, but, again, it is another uncertainty, and I can only imagine additional bureaucracy, additional cost and additional time. All those plus European customers looking in at that scenario bring risks to business, and those are risks we can do without.

Liam Nagle: We have not looked at that. We have taken a view that we have made the investments we have made in the Republic of Ireland to protect our European customers. We have taken the view that the standstill period of 12 months will apply. That will give us time to figure it out. There are so many scenarios we have worked out in the last six years. If I could have all that time back, God knows what we could have done with it. There is only so much time you can put into some things.

The Chair: I sympathise.

Gareth Chambers: Similarly, having manufacturing on both sides of the water has enabled us to mitigate some of the supply chain challenges.

We have sourced more locally on the island of Ireland for our NI operation and the opposite for our GB operation. It is not something that is currently being looked at in great detail by Around Noon. I echo some of the comments around the challenges it would bring. You have heard my views today on looking for a period of stability rather than any change.

Q53 **The Chair:** Thank you for that. I have one final question, which I think in a way you have all answered indirectly. What are your views for the way forward to resolve the current impasse? The answer you might all give is certainty.

Liam Nagle: Sit down and talk.

The Chair: Sit down and talk.

Baroness Goudie: Absolutely. Never stop talking.

Dwyer Magee: Certainly, from the manufacturing and exporting standpoint, as was referenced earlier, let us see if we can improve on the baseline rather than go backwards. Also, whatever solution is arrived at, let us have some permanency around that. The idea of "Let's get a derogation for 12 months and talk about it later" does not work. Twelve months passes very quickly. We need a permanent solution, but we need some sort of review mechanism as well so that the parties can keep in touch with this issue and make sure that on a continual basis everything is as good as it can be. I believe we have a unique opportunity here. Let us try to make the best of it and make the most of it.

The Chair: Thank you.

Gareth Chambers: The unfettered access to the single market and the frictionless access to GB has given NI a phenomenal opportunity in terms of a manufacturing hub. My view would be to negotiate it, make it better and take away some of the bureaucracy, if possible. The alternative to it potentially right now is very damaging. What both parties should consider, with all the headwinds we have had between Brexit, Covid and the energy crisis we are currently in, is whether we really need more uncertainty. Could we not just put this to bed and move on?

The Chair: Thank you very much. I think we have got the message. I suppose I have a final partly rhetorical question. Is that a Newry answer or do you think we would have got that answer from all businesses in Northern Ireland?

Dwyer Magee: My view is that a lot is made of the border region, but the reality is that the rules apply whether you are in Newry, Coleraine, Belfast or Lisburn. This is not an issue about the regions per se; it is about the totality of Northern Ireland.

Liam Nagle: I talk to peers very regularly in Northern Ireland, and I would expect you would get a very consistent message with what you have heard today.

Gareth Chambers: It was a business answer, not a Northern Ireland answer.

The Chair: It was a business answer. Thank you very much to all of you. I am extremely grateful to you for spending time with us. Thank you. Back to your risk register.