



Northern Ireland Affairs Committee

Oral evidence: [Brexit and the Northern Ireland Protocol](#), HC 767

Wednesday 2 December 2020

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Members present: Simon Hoare (Chair); Caroline Ansell; Scott Benton; Mr Gregory Campbell; Stephen Farry; Mary Kelly Foy; Mr Robert Goodwill; Claire Hanna; Ian Paisley; Stephanie Peacock; Bob Stewart.

Questions 230 - 305

Witnesses

I: Mark Davies, Deputy Director, Transition Task Force Northern Ireland, Cabinet Office; Ian Broadhurst, Deputy Director, VAT Reliefs, Deductions and Financial Services, HM Revenue and Customs; Mark Denney, Director of IT, EU Transition and Covid-19 Chancellor Schemes, HM Revenue and Customs; Aidan Reilly, Director for Customs and Border Design, HM Revenue and Customs; James Smallbone, Deputy Director, VAT Fraud and Transition Readiness, HM Revenue and Customs.



Examination of witnesses

Witnesses: Mark Davies, Ian Broadhurst, Mark Denney, Aidan Reilly and James Smallbone.

Q230 **Chair:** Good morning colleagues, and good morning to our witnesses, as we begin our meeting this morning, taking evidence from HMRC on customs, tax and the Northern Ireland protocol. You would have to be made of stone if you are not going to be excited by those three words. This is important stuff.

Given the time pressures that I know HMRC are under as we approach the year-end and uncertainties with regards to a deal or not, I am particularly grateful, on behalf of the Committee, that you have found the time to appear before us today.

It has either been overnight or very early this morning that the BBC has started to report, gentlemen, on one of their business pages, that "Industry sources have been told to expect guidance on Friday"—this coming Friday—"for a possible six-month unilateral easing of the requirement for new customs declarations on Great British and Northern Ireland trade". Is that the case?

Aidan Reilly: Good morning. I am Aidan Reilly, director of Customs and Border Design in HMRC. I am afraid it is not a story I recognise. I am not sure where they got that information from.

Q231 **Chair:** You have not been tipped off or anything of that nature that there was supposed to be a six-month unilateral easing.

Aidan Reilly: No.

Q232 **Chair:** Does anybody else among our witnesses recognise that as the picture, or does Mr Reilly speak for all of you? I will take that silence as an affirmative and we will wait to see how accurate or not the BBC was in that report. It seems a very odd statement to have arrived at without any basis or foundation.

Gentlemen, we are in such a peculiar time. The finishing line towards the end of this year gets ever closer. The uncertainty remains. Everybody is hopeful that that uncertainty will clarify with a deal being struck, and we understand that they are now in the tunnel. Could you just answer the "two sides of the same coin" question? If we get a deal, are you as an organisation prepared for it? In your estimation, are the businesses of Northern Ireland prepared for it? As a corollary to that question, if we do not, on 1 January what are you most worried about? In other words, what is going to spoil your Christmas?

Aidan Reilly: I will endeavour to answer your question. Just to be clear about what we mean by "deal" in this context, in the context of the Northern Ireland protocol, the issues that are in play in the Joint Committee are matters such as whether goods moving into Northern Ireland will be considered at risk or not at risk and therefore subject to



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tariffs or otherwise on those movements, particularly on the GB-to-NI route.

If there is a trade deal with the EU, with a zero tariffs and zero quota position, clearly the challenges in respect of whether goods are at risk or not at risk become significantly less, because the goods moving will not be subject to tariffs. Clearly, those goods will still need to comply with the various provisions of the Northern Ireland protocol with respect to declarations, et cetera, but the position on tariffs will be significantly better.

The discussions on the Joint Committee continue with respect to the conversations on the position on at risk or not at risk. Once those conversations finalise, hopefully fairly soon, HMRC will be moving as quickly as possible to provide traders, both directly and through the Trader Support Service, which I am sure we will want to discuss during this session, with as much information as possible to traders on how they can declare their goods not at risk if that is the basis on which their goods are moving. We will want to do that as soon as possible to ensure that traders are in the best position possible by the end of the year.

Q233 Chair: Are you hearing from businesses? I presume businesses are contacting you as an organisation to say, "Look, we are law-abiding, we pay our taxes, we pay our dues, et cetera, and we want to stay on the right side of the law. There are a few weeks to go. We have Covid, Christmas and the new year. What the hell are we supposed to be doing?" When they ask you that question, from a business-friendly perspective, what advice are you giving them? Is it literally, "Watch this space"?

Aidan Reilly: First of all, the advice is to sign up and register for the Trader Support Service. If they have the wherewithal and they are ready to comply with the provisions themselves, that is fantastic. In the circumstances that you have described, our first advice would be to sign up and register with the Trader Support Service. The Trader Support Service will provide guidance, support and will help those traders in making the necessary declarations into our systems. That would be the first piece of advice.

Clearly, businesses have lots of questions they would like to be answered. We endeavour to answer as many as possible, both directly and through the Trader Support Service, but, inevitably, some of the issues they want answers on are ones that are subject to ongoing negotiations. We are somewhat limited in what we can say in that respect but, as I say, we will endeavour to get information out to traders as quickly as possible as soon as the discussions conclude.

Q234 Chair: What is the mindset of your organisation? Will it be very rigid and heavy-handed from day one, where the rules are the rules, whatever the rules manifest as being, or have you set, in the minds of you and your colleagues, a grace period of pointing out errors and helping people



overcome—that sort of approach, rather than an approach of, “We will see you in court”?

Aidan Reilly: Yes, absolutely. We are acutely aware that there are many traders who are going to be entirely new to these processes, so we will be looking to ensure that we get as much information out as possible and to support them in understanding what they need to do. We will of course want to be sympathetic to traders in the early days of this regime who are trying to do the right thing but who are not exactly clear on what they need to do.

Q235 **Chair:** “Early days” is one of those things that is capable of being interpreted, a bit like a Minister saying, “We will publish it later in the summer”; very often early December becomes very late summer. When you say “early days”, is that the first VAT quarter? Is it up until the end of half-year?

Aidan Reilly: It really depends. Some traders will be moving goods immediately in January and will be confronted with the rules very fresh. Therefore, they will need quite a lot of help and support in doing that. Clearly, if you are not moving your goods until sometime in the middle of year, you will have had significantly longer to get yourself ready and we would be expecting people to have got themselves fully appraised of all the rules in those circumstances.

Q236 **Chair:** Could I turn to the general question of staffing? When we had the Chancellor of the Duchy of Lancaster and the Secretary of State before us back in the summer, both were at great pains—particularly the CDL—to stress the recruitment drive and that whatever regulatory regime that needed to be applied would be well resourced from day one in order to provide the support and the efficiency.

Yesterday morning on Radio 4’s “Today” programme, the CDL was saying that they had not met the target of recruitment and that it was not all direct recruitment; a lot of it was agency. Are you able to say anything about the resilience within your organisation to police and educate/advise your customers on the regulations, whatever they may be?

Aidan Reilly: Yes, indeed. The way HMRC has approached EU transition resourcing is that we have done it on a national basis. Although there are specific teams on the policy and delivery side in particular who are focused on aspects of the Northern Ireland protocol delivery, the vast majority of our EU transition staff are a national resource, so they can be deployed to the areas of greatest demand.

We have managed to protect the resource on EU transition during the last period when HMRC has had significant input into some of the Covid scheme support. We have protected the EU transition FTE resource so I am very confident that we will have the necessary resources to provide the support and guidance to administer the regime in Northern Ireland once it is introduced.



Q237 **Chair:** By how many have your numbers gone up to deal with these issues?

Aidan Reilly: I do not have the number of the increase but I can give you the actual numbers in October that were supporting the EU transition in the round. There were 5,991 permanent staff plus another 300-odd contractors and contingent labour who were supporting the EU transition work across both Great Britain and Northern Ireland activities.

Q238 **Chair:** What would the figures have been the previous October?

Aidan Reilly: I do not have those figures. Because we were running up to a couple of different no-deal situations, we would have recruited and resourced up to that as well. The numbers, we believe, are sufficient to deal with the issues from our perspective.

Q239 **Chair:** It may be, Mr Reilly, that you are able to give us those figures in a written submission. You mentioned 5,991 as a figure for October. Last October, would that figure have been 3,000, or would it have been 5,500? I am trying to get some sort of handle on the scale of the scaling up.

Aidan Reilly: I would need to write to you on that. We did, as I say, recruit or scale up significantly for a potential no-deal last October as well, which would have required significant resource. I would need to write to you to give you the precise numbers on that.

Q240 **Chair:** Can I briefly take us back to my first question about the BBC report? You have said, Mr Reilly, that is a scenario that you do not recognise. I am reminded that, under the protocol, HMRC has a duty to administer and enforce EU laws as they apply in Northern Ireland while simultaneously having an obligation to follow UK law. The BBC is not always right but sometimes its prescience is alarming. I can see Mr Benton nodding at that. I do not know which part of the proposition he was nodding at; I am going to guess the former rather than the latter. Given that that could put your organisation in a very difficult position, do you think you should be seeking clarity from Ministers over the next 24 hours on that point?

Aidan Reilly: As I say, it is not a situation that I recognise. Clearly, if there are rules that we need to abide by under the Northern Ireland protocol, HMRC will always seek, as you might imagine, to act within the law. That is the position we would want to take.

Q241 **Chair:** It has been reported by the BBC and raised at the Northern Ireland Affairs Select Committee this morning. That would not pique your curiosity to seek clarification either way from Ministers.

Aidan Reilly: I am sure that, if Ministers have anything like that in mind, they will tell us about it. As I say, HMRC has a duty to administer the law as it stands and that is what we will seek to do.

Q242 **Chair:** There will be many businesses, Mr Reilly, rather relieved that the



mindset of HMRC is now that it is up to people to point things out to you rather than you to ask questions of them to seek answers. None of this has piqued your interest to seek clarity, either further up the HMRC complex chain or directly with the Chancellor of the Duchy of Lancaster or any other Government Minister.

Aidan Reilly: I am sure I will explore things in due course but, as I say, it is not a story that I recognise.

Chair: I think we had established that.

Q243 **Bob Stewart:** First, thank you so much for coming. Secondly, I would hate to have your job right at the moment, because, goodness me, you must be spinning like tops wondering what the heck is going to happen. It is totally unclear. You can go to Ministers and they will come back with a totally unclear answer and you will still be spinning. I am very sympathetic with your awful situation.

Under the Northern Ireland protocol, which we are trying to drill down a bit on, can we talk about those new customs declarations that might be required to cross the Irish Sea? How many might there be? You have already answered the second part of my question, which was about how many extra staff you would need; you have already given that to the Chair, so my only question is about how many more customs declarations you anticipate.

Aidan Reilly: First of all, I would preface what I am going to say by saying that it is highly uncertain. The reason it is highly uncertain is because the GB-NI route is not one for which we have had reason to collect data previously. The number of traders who would be moving goods that would be subject to the Northern Ireland protocol is a very uncertain number at the moment. We have some working assumptions for the purposes of our planning. Our estimates are about 11 million declarations for GB to Northern Ireland.

Q244 **Bob Stewart:** Blimey, that is one heck of a lot. That is far more than I thought. Mr Denney, you might have some views on that. How are you going to deal with this, from your perspective?

Mark Denney: My speciality is from a systems perspective. Overall, we have a number of core systems that we have been developing over the previous two years. Our delivery track at the moment is to have all of those core delivery components delivered for 1 January. At the moment, we have a very busy December upcoming with a lot of testing to finish off. We are getting ready for deployment and implementation. We fully expect to have a broadly functioning model available for 1 January.

We understand that there are a number of external parties that are flagging that they will not quite be there. Hence, we have been working with the TSS—the Trader Support Service—to provide an additional service to what we are building internally.

Q245 **Bob Stewart:** So it is going to be a pretty short Christmas for you, Mr



Denney, and your guys.

Mark Denney: Christmas is cancelled. We will be implementing all the way through.

Bob Stewart: You are going to have to work very hard. Thank you so much for that.

Q246 **Ian Paisley:** I thank our witnesses for the material they have given us so far. Aidan, do you have any plans or modelling on how HMRC will identify at-risk goods after January?

Aidan Reilly: As I said to the Chair a little earlier, the discussions are ongoing in the Joint Committee to determine the decision on what the position is on at risk and not at risk. As soon as those discussions conclude, HMRC will need to get out guidance and support to traders as quickly as possible to give them the information they need to be able to determine whether their goods are at risk or not and to be able to declare appropriately when they are moving their goods. That is what we are going to be entirely focused on, but, of course, we need the discussions to conclude before we can do that.

Q247 **Ian Paisley:** At present, 1% to 2% of goods are examined in Northern Ireland as they come into Northern Ireland. Do you expect to see a major increase in that number?

Aidan Reilly: No, the Government have set out in the Command Paper that they expect the goods moving from GB to NI to be at lower risk than those that are moving from the rest of the world ordinarily. We will be keeping customs checks at the minimum necessary to police the regime.

Q248 **Ian Paisley:** That is very reassuring, Aidan, and it is probably something that traders will welcome in that they will not actually see much of a difference, in terms of the number of goods anyway. The Government have made commitments about frictionless trade between Northern Ireland and GB. You have already said that you are looking at a light-touch mechanism anyway. I assume that you can give us assurances that what you are looking at in the modelling is all about light-touch.

Aidan Reilly: Yes, absolutely. We want to make the regime appropriate for the circumstances in which it is operating, which is within the overall UK customs territory. HMRC will administer both sides of these transactions so we will be able to access data that would not ordinarily be the case for cross-border movements. We will look to police it, as you say, appropriately and in as light-touch a way as possible.

Q249 **Scott Benton:** Good morning to all of our witnesses. I have another question for Mr Reilly, I am afraid. May I ask what preparations have been made to prevent Northern Ireland being used as a backdoor route into the UK market from January?

Aidan Reilly: You are referring to the unfettered access commitments that the Government have made. The Government have been very clear



that Northern Ireland traders should have unfettered access to the Great Britain market. On the GB side of the Irish Sea, the intention is that there will be no declarations, tariffs or other regulatory requirements for those Northern Ireland traders.

The unfettered access provisions are going to be introduced in two phases. In the first phase, from January, there will be unfettered access for goods in free circulation in Northern Ireland, but there will be an anti-avoidance rule in place to police any diversion of trade to take advantage of those unfettered access provisions, which HMRC will be administering from January.

Q250 **Scott Benton:** I just want to pick up on a point you mentioned in relation to the anti-avoidance measures. In a letter to this Committee earlier this year, the Northern Ireland Secretary stated that regulations would be accompanied by further anti-avoidance provisions before the end of this year. This legislation has not come forward yet. Do the Government still plan to bring forward legislation by the end of this year? I would be interested in some Cabinet Office input, potentially, from one of the witnesses on that point but I will address that to you, Mr Reilly, in the first instance.

Aidan Reilly: Mark Davies may well want to come in from the Transition Task Force. Yes, the intention is to have the legislation in before the end of the year.

Q251 **Scott Benton:** In terms of the answer you have just given, you said “before the end of the year”. Obviously, we are at 2 December at present, so presumably we can expect this imminently, while Parliament is sitting over the next few weeks. Would that be a fair assumption?

Aidan Reilly: Yes, there is quite a lot of legislation that is going to be laid over the next couple of weeks on EU exit and the transition at year-end.

Q252 **Scott Benton:** Mr Davies, do you want to pick up the question and add anything, potentially in relation to the anti-avoidance measures that we may look to expect over the next few weeks?

Mark Davies: I would just echo exactly what Aidan has said. The legislation for the phase 1 regime is already before Parliament. It has been debated in the Lords and the Commons. You should expect the anti-avoidance provisions during the course of the next few weeks.

Q253 **Chair:** There is a terrible tendency of Governments of all stripes to deal with legislative affairs when it comes to Northern Ireland in an at-pace emergency-type session, which usually means that scrutiny and the like is the victim. Mr Davies, do you have any clarity on the number of statutory instruments—I presume they are statutory instruments rather than primary legislation—that are required? How many are being prepared?



Mark Davies: We can certainly write with the specific number but there has been a steady flow of statutory instruments that have been introduced to give effect to various aspects, particularly on unfettered access. As well as the definition of qualifying goods SIs, there have been various other measures concerning some of the highly regulated goods for which provision is required.

As I say, the phase 1 SI has gone through in the ordinary course. It had a delegated legislation debate in the Commons and had its Grand Committee debate in the Lords yesterday. The same is true of the provisions giving effect to the democratic consent mechanism, which is also making its way through Parliament at the moment. The intent is to take those through in the ordinary way.

Q254 **Chair:** Those are the ones that are live. Speaking back to Mr Benton's question about the legislation and the narrowing of the timetable, the expectation is that the House will rise on 18 December, as I understand it. How many more have to be through the process?

Mark Davies: From our tracking, most of the SIs that are required have made or are making their way through the process and we are very much on track to have that all through by the end of the year. As part of the submission from Mr Reilly to the Committee, we can give you a detailed breakdown of the number of SIs already laid, where they are in the process and where we are expecting any final provisions before the end of the year. From our perspective, that material is on track and we certainly took it through in the ordinary way.

Q255 **Chair:** That note, Mr Davies, would certainly be appreciated. Of those that have not been laid as yet but that need to be laid, what is the ballpark figure? Are we talking about five, 10 or 15?

Mark Davies: The ballpark figure will be low. We work very closely within Government to co-ordinate those so that there is time to have all the legislation needed before the end of the year in before the end of the year. I can come back to you with a detailed breakdown but I think the figure is going to be low.

Q256 **Chair:** By the end of the year is, by definition, by 18 December, which is the last day that Parliament is presumed to be sitting in this year. I am always a bit anxious when somebody says, "They are estimated to be low", because "low" is one of those moveable feasts. If you are used to dealing with thousands, a hundred is low. If you are used to dealing with tens, three is low. Can you give us any indication? Are we talking about fewer than 20 or fewer than 10?

Mark Davies: Yes, I think it would be lower than both of those numbers. As I said, I do not have the figure to hand but I will certainly get that to you. If I can in fact find out during the course of this session, I would be very happy to update you.

Chair: That is fine. The note would be helpful but what you have given us



reassurance of is that there is not a great mountain of stuff that needs to be pushed through, which the hours of the day simply would not facilitate.

Q257 **Mr Goodwill:** I am still trying to get a fix on what would be a qualifying good and what would not. Could you give us some examples of what would not be considered a Northern Ireland qualifying good under the regulations passed last month?

Mark Davies: The intent was to capture a definition that would avoid disruption for those goods that presently move into GB via Northern Ireland. As Aidan said, the overarching aim is to capture goods in free circulation in Northern Ireland—the traditional definition of that. There are also then some specific provisions around goods moved from GB that are subject to processing and goods that enter a customs procedure in Ireland as they move through into Northern Ireland. Those are the range of goods that move NI to GB today.

That is a necessarily broad-based initial regime to operate from January. It is important to be clear that our long-term aim is to have a regime, which we want to see in place as early as possible in 2021, that focuses its benefits specifically on Northern Ireland businesses. That is a discussion that we are having on an ongoing basis with Northern Ireland business and the Northern Ireland Executive to ensure that it is Northern Ireland businesses that are receiving the benefits of unfettered access.

Q258 **Mr Goodwill:** Would repackaging count as reprocessing? If I was importing something into Northern Ireland in bulk, breaking it down, packaging it and then selling it freely, which could well cross the border, would packaging in that case count as processing, or would the actual goods themselves have to be changed in their structure or content?

Mark Davies: In the circumstances you have described there, I would imagine that, if you broke the goods down and sold them elsewhere, you would remove them from any kind of inward processing procedure, so your good would have entered free circulation and would have been caught under one of the other definitions. We accept a necessarily broad definition in the initial period.

What we did not want, while working with Northern Ireland business on that longer-term regime and as you have staged controls from GB to EU, is to have inadvertently missed a bit of trade in Northern Ireland that meant a Northern Ireland trader was suddenly facing procedures that no one was wanting them to face. We have sought to capture the range of activities that are likely to be undertaken on the island of Ireland in order to avoid any disruption in the near term, and then to follow that up as swiftly as possible with a longer-term regime that is focused on differentiating Northern Ireland businesses and focusing the benefits on them.

Q259 **Mr Goodwill:** To take another example, let us say I have a white goods shop in Newry and I am importing washing machines from GB. They are



circulating freely in Northern Ireland but I have a really good online presence and customers from Dundalk are purchasing goods that I can ship in my van, or indeed somebody could come themselves with cash; I do not need to ask them where they are from. Would those washing machines be at risk, either because of my online presence, which could send them anywhere, or because my customers can just nip across the border to buy cheaper washing machines?

Mark Davies: I would distinguish here between what qualifies as a qualifying Northern Ireland good for unfettered access purposes—those that can move from Northern Ireland to Great Britain—and those goods that may or may not be considered at risk when moved from Great Britain to Northern Ireland and therefore being subject to tariffs. The latter, as Aidan said, are subject to very intensive discussions with the Commission via the Joint Committee. On the former, our definition would protect all of the kind of movements that you are talking about and ensure that, if any of those goods were then moved by that trader back into GB, it would be on an unfettered basis.

Q260 **Mr Goodwill:** Further to that, why have the Government opted for such a broad definition of qualifying goods? Is that to make the system work more easily? When will we know what the longer-term regime for qualifying goods will be?

Mark Davies: I agree that the initial definition is broad. That is a necessary consequence of needing to work through the regime that works for Northern Ireland business and that we can work through with the Northern Ireland Executive as well. Obviously, that then requires you to adapt your systems and to make sure the processes are in place to properly differentiate between your NI trader and your non-NI trader. Given the need for that process to be done in a way that works, that necessitated a phased approach. That mirrors very much what is happening GB-EU with the staged controls.

You are absolutely right that we are keen to get on with that longer-lasting regime as soon as possible in 2021. The shift for GB-EU controls is happening in July 2021, which we are conscious of. We are keen to get the details out on the baseline of how it works as soon as possible. I know, Chair, you are always suspicious of civil servants talking about “by the end of the year”.

Chair: Mr Davies, forgive me. It is not civil servants who talk about the end of the year; it is Ministers.

Mark Davies: We will certainly be keen to set out some of the baseline details of that regime in the course of the next few weeks, as we are very conscious that traders and others need to be ready to make preparations for making sure they can make use of the regime.

Q261 **Mr Campbell:** Welcome to the witnesses. On Article 12 of the protocol and the oversight role that the EU would have regarding that, what is your understanding of what that would include in terms of the EU’s



oversight, and what would it preclude? What would they be allowed to do and what could they not do?

Mark Davies: In terms of Article 12 and the supervision articles, the protocol entitles the Commission to be witness to covered activities. The specifics of that is one of the discussion points that the Joint Committee is considering at the moment. We have been very clear publicly that that cannot mean a permanent office for the Commission. It cannot mean anything that gives rise to the perception of joint controls, in line with the February 2018 conception of how the protocol would operate. Our position there is very clear.

That is something that we are working through very intensively with the Commission and the Joint Committee process to identify what those practical arrangements would be. We have been clear in public on some of the UK's parameters for that and continue to be so in those discussions.

Q262 **Mr Campbell:** That is why I put the question the way I did. The Government have been clear about what they would not include, and you have outlined some of the issues that Government Ministers have indicated. What does that leave in terms of what the oversight rule would include? We know what they cannot do and what the Government are saying they will not permit them to do, but what will they do in the absence of that?

Mark Davies: Purely because these practical arrangements are the subject of those discussions, I do not think I can give you a definitive answer on what those arrangements will be until we have concluded the discussions. As I say, Article 12 refers to the Commission being able to, on request, have access to things relating to covered activities, so processes or controls applied as a result of the protocol. There is an awful lot of detail that needs to be fleshed out beneath those broad parameters, and that is what we are doing at the moment.

As I say, this is something where, once the Joint Committee process is concluded, we can be very clear on what is and is not involved. As those discussions are very live, I am sorry that I cannot be slightly more definitive in what it covers.

Q263 **Mr Campbell:** You are probably aware of the issue that airports in Northern Ireland have raised regarding the sale of duty-free and tax-free shopping and the disadvantage that airports in Northern Ireland have compared to airports in GB and in the Republic of Ireland. I understand they are speaking to a Committee of the Northern Ireland Assembly this morning on this issue. They have drawn attention to the issue that pertains in Jersey, where there is an exemption there. What needs to happen to ensure that Northern Ireland airports are on a level playing field with all the other airports across the UK in relation to that duty-free shopping?



Ian Broadhurst: We have had a consultation on the potential approach to duty-free and tax-free sales that apply in Great Britain following the end of the transition period. As you are probably aware, on 11 September the Government announced that passengers travelling from Great Britain to any destination outside the UK will be able to purchase duty-free excise goods once they pass security controls at ports, airports and so on.

Although the EU will also be offering duty-free sales of excise goods for travel to Great Britain, passengers travelling from the EU, including Ireland, will have to pay import VAT and excise duty on goods they bring into the UK, subject to certain personal allowances. This means that passengers will need to go through customs processes and declare goods they are carrying in their luggage where VAT or duty is due.

In contrast, the UK Government have committed to Northern Ireland continuing to have unfettered access, as we have been saying, to the rest of the UK, including passengers from Northern Ireland being able to carry unlimited amounts of personal goods into Great Britain without having to declare them. Offering duty-free sales without charging import VAT and excise duty on entry to Great Britain would compromise the UK internal market by allowing unlimited duty-free goods to enter the UK and so undercutting domestic retailers and eroding the tax base.

The alternative would be to charge import VAT on these goods to put Northern Ireland in the same position as Ireland. In practice, this would mean treating goods moving from Northern Ireland to Great Britain as though it was an international border for passengers. This clearly goes against the Government's clear policy that Northern Ireland is, and will remain, an integral part of the UK, including for excise purposes. The Government have no plans to implement duty-free sales between Northern Ireland and Great Britain. I am not sure if that answers the question fully.

Q264 **Mr Campbell:** It does not deal with the issue that pertains, as I understand, to Jersey and Jersey Airport. Why can a regime similar to that which exists in Jersey not be implemented for Northern Ireland's airports?

Ian Broadhurst: I would have to write to you on that. I will confess it is not my direct area of expertise.

Mr Campbell: I understand that Belfast International Airport has written to Michael Gove, the Chancellor of the Duchy of Lancaster, just yesterday on this issue. Obviously, it will not have had a response yet, but it is an issue that needs a resolution. All I want to establish is what will need to be done to change this—to make sure that Northern Ireland airports are not at a disadvantage compared with other airports in the rest of the UK and other airports in the Republic, such as Dublin Airport—which puts them in a seriously disadvantaged position in terms of their already compromised position on freight and other issues where they are



significantly down. All airports are down but this is an additional burden that others do not share, which they will have to bear virtually alone.

- Q265 **Chair:** Could I suggest that Mr Broadhurst provides a note to the Committee on that, with particular reference to what, if any, hurdles exist in terms of comparing Northern Ireland's airports to Jersey's?

I am now thinking particularly of foodstuffs leaving GB for consumption in Northern Ireland through a supermarket, wholesaler or whatever. What message are you giving to supermarket operators that make daily exports from GB into NI? There has been a lot of anxiety about access to foodstuffs. We have sorted out the medicine stuff pro tem, so that is good news, but what is the message that you are giving to the supermarket operators and those who export stuff that, because it is perishable, cannot be held up at ports forever and a day awaiting one piece of paper to be signed or agreed, or for some row to be resolved?

Mark Davies: Since the summer, we have been very clear that there are specific solutions that are needed for supermarket trade. They have very complex but stable supply chains, with very highly traceable visibility through that supply chain. Our absolute priority, exactly as you have described—and this is a message that we also convey in discussions both between us and between Defra and the supermarkets—is to maintain food supplies in NI and to avoid risks of disruption from 1 January. That subject is right at the top of our list of what we are discussing with the Commission and the Joint Committee. Exactly as you have described, on medicines and VAT we have been able to find the right and pragmatic approaches, and it is exactly the same here. In any case, as we have also said, we are looking at additional support measures that the UK can provide unilaterally to support agri-food traders, and that is something where we will also want to be sending out details shortly.

We completely understand the anxiety. We completely understand the need for solutions to take account of some of the issues here. I know CDL would say exactly the same; this is right at the top of the list of what we think needs to be resolved via the Joint Committee.

- Q266 **Chair:** Is there the urgency behind it? If you are a transport logistics director of a supermarket, you are either booking or confirming your slots to transport goods over the sea, and you are sorting out what is going to go into your regional distribution centres to be packed into lorries as a one-store delivery to arrive and to go to whichever store it happens to be providing to. They will be doing that today. They will be making those decisions today, if not last week. Is there the urgency that you have been able to say to them, "You can go ahead, you can make those plans, you can book those slots, you can make those deliveries and there will not be, metaphorically, a man with a clipboard and a bowler hat standing somewhere with a stop sign saying, 'No, you have to wait because you have not got the right paperwork'?"

Mark Davies: The urgency is absolutely there. I can speak for myself and colleagues in the negotiating team with the EU. Defra has a lot of



resource focused on working on the solutions here. Yes, we are in contact with the supermarkets. We completely understand, exactly as you say, the timelines in which they are working to make their decisions. We are absolutely clear on the need to avoid disruptions to food supplies in Northern Ireland. I would not under-stress the imperative placed on finding ways forward here from the UK Government's perspective, and we absolutely understand the need to ensure that can be fed through to the supermarkets in time for them to inform their planning.

Q267 **Chair:** You started off by saying you had the urgency, which was encouraging, but the tail-end of your answer suggested, again, "This is what we will be doing". Are there daily or weekly Zoom calls, team meetings, telephone conferences or whatever with the logistics directors of supermarkets, saying, "This is what you will need to do. Do not worry. These are the plans. Go ahead. You can still get your foodstuffs into Northern Ireland"? There is a disconnect between the start of your previous answer and the end of your previous answer.

Mark Davies: There was intended to be no disconnect. The urgency is definitely there. The conversations are happening very regularly indeed. That feedback is coming through and informing our position. There are very strong and very rapid feedback loops. This is an absolute priority and an issue that is being attended to with very significant urgency across all the relevant Government Departments.

Q268 **Chair:** When was the last conversation or the last meeting?

Mark Davies: I would need to get that from Defra, which obviously has a lead on the liaison. We ourselves have spoken no more than a week or two ago. Defra is engaged on a far more frequent basis but I would need to double-check with them on the regularity of their conversations.

Chair: Maybe a note of the schedule of that would be helpful.

Q269 **Claire Hanna:** Looking at the GVMS and the CDS, what are the current risk assessment ratings for readiness of those services on 1 January?

Mark Denney: Let me take them one by one. CDS is a live system and has been for quite some time. The changes that we have been making to CDS to get it ready are to meet the UCC requirements and also to add a dual tariff capability. That is all fully deployed now and in testing, with the outside world having access to a test environment to test against CDS. Our confidence level is high for CDS but with work to do during the month of December.

GVMS is fully built. It is currently in testing and the testing is going very well. It is heading towards an end-to-end test on 14 December, which will include some of the trade bodies in that testing too. Where we currently sit, we have high confidence but, again, there is a fair degree of risk because we still have a lot of activity through the month of December. I would probably categorise it by saying that it is as good as it can be at



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the moment but with work to do as we go through December and then through the implementation period.

Q270 **Claire Hanna:** That includes both phases. You think both phases will be ready to go at the end of this month.

Mark Denney: Yes. When you say “both phases”, can you just clarify?

Q271 **Claire Hanna:** I mean in terms of new capabilities coming on CDS in a second round. You spoke about some of the additional functions but it sounds like you have it all ready to go. Do you have contingency plans in place if there are any issues with that?

Mark Denney: We do. As we go live, let us deal with that first. As you put any new system live, you can have glitches and you can potentially have a bumpy time. We do not plan for that but it can happen. What we are ensuring is that we have an extra care team that is going to be sat around us from a technology point of view. That team will be 24 by 7 and will be there if there are any live service issues that we face. Again, we are not expecting any but we are making sure that we cover that base.

We are also looking at fallbacks and contingencies. Obviously, it would be remiss of us not to do that. We are thinking about what it would look like if, say, CDS or GVMS were not available for a period of time. What would the fallback procedures be? We are actively discussing that on a regular basis, making sure that the escalations and procedures that we have can be enacted quickly, which is important at the border. It is well worked out and we know what we are doing that way.

Q272 **Claire Hanna:** Does the European Commission have sight of those contingency plans and has it raised any concerns? Would it be normal that you would engage with it on the fallbacks? It is not a completely one-sided process. I was probably thinking more of the Cabinet Office for this.

Mark Davies: There have been some quite detailed technical discussions on the CDS and GVMS systems between HMRC and DG TAXUD as the relevant Commission service. We are making sure that information is available on how those things are being prepared but the most important point we have noted is that both of those key systems are on track. That is the important point from our perspective. All efforts are being discharged to make sure that they are ready from 1 January.

Clearly, you are right that, if we were to face any significant issues, we would want to discuss those, but the basis of some of the technical discussions so far has been reflecting where we are in practice, which is that those systems are proceeding on track.

Q273 **Chair:** Mr Davies, members of this Committee have been asking Government Ministers, in Committee as witnesses and in questions to statements and UQs on the Floor of the House, about compatibility between UK systems and EU systems on VAT and everything else. Every



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answer we have been given has been, "Yes, that is a really good point. It is absolutely pivotal. We are working on this at pace. We are nearly there. Compatibility is all sorted out. Nobody need worry about this. It is done".

The answer you have given today, which has been refreshing and frank, does not give the Committee the comfort that we would probably hope for at this stage on this issue.

Ian Paisley: I must say, Chair, I disagree. I think it has been very calm and cool and has played down the frantic nonsense that we have been subjected to for years that this is going to be an absolute cataclysmic disaster. The evidence from the experts is clearly the opposite to that.

Chair: Mr Paisley, I do not think anybody is suggesting a cataclysmic disaster. We are merely asking for clarity about the compatibility of IT systems.

Aidan Reilly: We have been engaging with the Commission since the summer on the various systems that HMRC needs to engage with the Commission on across a range of different systems, both on a technical level and a policy level. Those discussions have been very constructive. We have done a series of conformance testing on the various systems with the Commission, all of which have worked appropriately.

My understanding, from the conversations with the Commission, is that it is very satisfied with the way that HMRC's systems and sharing of data, et cetera, will work with the Commission's systems.

Q274 **Chair:** Would there need to be any bilateral concordats with regards to data protection regulations, or do those just fall in behind almost by default?

Aidan Reilly: They would fall in behind the Protocol overall and the Union Customs Code.

Chair: That is encouraging.

Q275 **Bob Stewart:** I want to ask questions about the border control posts in Northern Ireland ports. I gather they will not actually be finished until June 2021. Are you anticipating having HMRC staff in those ports?

Mark Davies: Just to confirm, exactly as you say, it is recognised that the enduring solution for the limited expansion of agri-food points of entry will take a period beyond 1 January next year. As a result, the Northern Ireland Agriculture Department and Defra have been working together and indeed communicating those interim plans with the Commission, to ensure that, first, there are facilities in place that enable SPS checks to be conducted and, secondly, that the Commission is aware of the process there.

In terms of the specific staffing arrangements at each of those BCPs, I am afraid that is a detailed operational one where I would need to go back to the NI Department, Defra and others and understand. Obviously,



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the nature of agri-food checks is a devolved issue, so I would need to check into their staffing arrangements.

Apologies for hijacking this question, but I have done some checking with the team on the SI programme; it is something between 10 and 20, so in fact you were very prescient with your numbers. I was slightly behind the times in terms of the numbers, but, in order of magnitude terms, exactly as you described, there are not lots and lots. We are talking somewhere between 10 and 20. My apologies for being slightly off, but I was only five or six away, I am hoping.

Q276 **Chair:** Mr Davies, thank you for your apology. I do not have a crystal ball. My arrival at a figure between 10 and 20 was entirely by chance rather than by any internal information. You have come back to us and that is perfectly in order. In terms of the laying of them for the requisite time and their determination, does that give Government time to deal with them all before the House rises?

Mark Davies: On the more detailed bits, I will have to come back to you. A lot of the things remaining are negative instruments, so the periods can continue. I will endeavour to give you a much clearer answer in writing, but I just wanted to confirm for the record the number.

Chair: That would be helpful.

Q277 **Bob Stewart:** We are not quite sure whether HMRC staff will be required at these Northern Ireland ports. The staffing is not decided.

Aidan Reilly: To be clear, Mr Stewart, it will not be HMRC staff. It will be the local agri-check staff.

Q278 **Bob Stewart:** They will check on your behalf.

Aidan Reilly: Yes.

Q279 **Chair:** Mr Davies, although this Committee understands that the range of function at these facilities may be slightly expanded in physical presence and manifestation, the man on, if not the Clapham omnibus, then the Ballymena omnibus is not going to notice very much difference. Are we correct in that presumption, in terms of physical manifestation?

Mark Davies: As we have recognised, there will be expansion at sites where there are controls at present: Warrenpoint, Belfast Port, et cetera. You are absolutely right that we are not establishing new places where all these things are being conducted. People will have experience of moving live animals, as now, where there are checks conducted as they move into Larne. That has very much been the guiding principle, and it is very much the same from the Northern Ireland Agriculture Department as well. Yes, that is the basis on which we are taking forward the development work.

Q280 **Chair:** I presume that you will be aware that we have taken evidence from the chief constable and others. Are we correct to presume that as



these facilities expand, irrespective of the quantum of expansion, the security of them in their broadest sense at what could be quite a febrile time has been and is being taken into account?

Mark Davies: Yes, absolutely. The sensitivities that will always be there are what has guided why we are very focused on them being the limited expansion necessary to keep trade flowing and to do that in the most appropriate and low-key way. That also tends to why it is so important to get solutions on issues such as supermarkets, because the way to ensure this works on the ground is by ensuring that the day-to-day lives of businesses and communities are disrupted as minimally as possible.

Chair: Thank you for that. That is encouraging.

Q281 **Stephen Farry:** Good morning to our witnesses. I am coming back to the IT issue, but just before I get to that, can I row back a bit in terms of the rough estimates on the number of movements or checks required? Eleven million was given as the rough estimate in that regard. I am just hearing from some folks in Northern Ireland that that number seems very low in terms of their estimations. Some of them are talking much higher than that. Even the Trader Support Service was talking in the region of something like 30 million movements. I just want to query that. In that respect, as part of the potential difference, I was wondering whether or not things like parcels are counted in those figures, or are you talking purely in terms of the movement of goods by traders and such?

Aidan Reilly: As I say, the number is very uncertain, because, as we have said before, it is not a dataflow we have previously captured any data on. The number of traders, the number of movements, what will happen and whether trader behaviour will change and you might start to load significantly larger loads, et cetera, mean that that is the best estimate of the number we have at the moment. As I say, it is highly uncertain still.

Q282 **Stephen Farry:** If that differentiation is genuine, surely that suggests that some of the underlying assumptions you have around preparation may be considerably off the mark. Would that point to a substantive risk to the viability of the systems you are putting in place?

Aidan Reilly: Mr Denney may want to come in on this, but we do plan for worst-case scenarios to make sure that we have the capacity on the systems to deal with numbers that might turn out to be significantly larger than we might expect. Mr Denney might want to come in on that.

Mark Denney: Mr Reilly is absolutely right on that. We do not just scale the systems to handle what the expectations are. We go well up and beyond what the general expectations are. We are very comfortable that we have the right scale in the systems to handle the range of volume that we are going to see.

Q283 **Stephen Farry:** That is great; thank you for that. Just briefly on the point I made there about parcels, a lot of the discussion this morning has



been about business-to-business interaction. Is there any anticipation of what is in store for people who are, for example, sourcing goods online from Great Britain and what is involved in suppliers shipping things directly to household customers in Northern Ireland? Are customers going to feel any potential differences come the beginning of January?

Aidan Reilly: The Government's intention is to make that sure all the processes are kept to the barest minimum necessary and to make things as straightforward and simplified as possible across all routes. As I mentioned earlier, the Trader Support Service is there to support traders moving goods, whether they move them by freight or otherwise. I would encourage anybody who is going to be moving goods to register with the Trader Support Service, to ensure they can get the best guidance, support and assistance in making any declarations they need to make.

Q284 **Stephen Farry:** We are talking here largely about businesses. Obviously most of the online trade will be originating from businesses, but there may well be household-to-household transactions. In the event of no deal in particular, if we are talking about high volumes or high prices hitting in, customs may have to be engaged. I am trying to make sure that that segment of the market has been captured. I am not sure the Trader Support Service is necessarily going to identify and assist that type of person.

Aidan Reilly: No, but as I think was set out in the Command Paper, the Government are endeavouring to make sure that we keep processes as simple as possible and make sure that consumers in particular see as little change as possible with respect to the operation of the Northern Ireland protocol.

Q285 **Stephen Farry:** Just for the record, particularly in these Covid times, we should be stressing the importance of supporting our local traders rather than the online. That is a choice for the consumer.

I just want to turn briefly to the much more benign scenario where we have a zero-tariff, zero-quota deal in place. In relation to the customs part of the infrastructure, how much of that still needs to be in operation? Is most of it stood down? What elements would still apply in terms of the Irish Sea interface?

Aidan Reilly: The key benefit of the trade deal is that, although there will still need to be some rules-of-origin requirements in certain circumstances, the tariffs issue largely comes off the table. The issue around at risk and not at risk becomes significantly less of an issue. The actual declarations processes will be required whether we are in an FTA situation or otherwise, as we will on the GB-EU routes and otherwise as well, because they are a key point of entry in the Northern Ireland protocol.

Q286 **Stephen Farry:** In essence, the processes remain broadly the same; the only issue is whether money is paid out in terms of tariffs and such.



Aidan Reilly: Yes, indeed. It will make the process easier in the sense of the various evidence traders might need to get, but the process in itself will remain. As I said earlier and at the risk of repeating myself, the Trader Support Service is a free-to-use service that is there to support traders in making declarations and helping them comply with the protocol requirements.

Q287 **Stephen Farry:** At the start we talked about the BBC report around a unilateral grace period. Just to confirm, if that was to be on the cards—I would very much endorse that—that needs to be something that the EU sign off on, because, in effect, the UK is policing the EU customs code on behalf of the EU. It is ultimately a decision for the European Union to give the green light to.

Mark Davies: We have been in specific areas where we have needed to take account of specific issues, as on medicines and on the VAT identification mechanisms. Those have been discussions that we have had with the EU. Exactly as Aidan said, it not something we recognise around pursuing a six-month unilateral easing of customs requirements, just to reaffirm what was said earlier. In some of the areas where there have been specific issues, we have found specific solutions.

Stephen Farry: That is great. I just want to put on record my thanks to Mr Davies for his work on the medicines aspect as well.

Q288 **Ian Paisley:** This moves me on to the exciting issue of VAT. I am wondering how goods moving into Northern Ireland from GB will comply with EU VAT rules as of January.

Ian Broadhurst: It might help if I set out some of the general principles that we have been adopting in approaching resolving the VAT position. You are absolutely right that the Northern Ireland protocol means that Northern Ireland will continue to align with EU VAT rules in respect of goods but not services. Northern Ireland is and will remain part of the UK's VAT system. We will continue to be responsible, as HMRC, for the operation of that collection of revenues, taking into account Northern Ireland's integral place in the internal market.

When we are implementing the protocol, our top objectives, as Aidan has been saying, are about keeping the processes as simple as possible and keeping things for VAT businesses as close as they are today. We are confident that, in the way we have used the flexibilities that are open to us in EU legislation, we are doing that in a way that minimises new costs and burdens on businesses in Northern Ireland. In fact, in many cases there will be no change to the VAT treatment in Northern Ireland. EU VAT rules that apply in relation to the movement of goods between the EU and Northern Ireland will continue to apply. Movements of goods between Great Britain and Northern Ireland will technically be treated as exports and imports for VAT purposes, but the Government have implemented this in a way that minimises any costs and burdens on businesses, using those flexibilities that are referred to within the EU legal framework.



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To give you an example of a typical transaction from Great Britain to Northern Ireland, businesses moving goods into Northern Ireland will continue to account for VAT on all the sales through their single UK VAT return, and that will contain the same boxes as it does now. VAT will continue to be accounted for as it is currently on goods sold between Great Britain and Northern Ireland. This means that the seller of the goods will continue to charge its customers the VAT and show that on its invoices. The VAT charged will be accounted for as output VAT on the VAT return in the same box that it is now. Technically, that VAT will actually be the import VAT that is due on entry into Northern Ireland, but we are using the flexibilities set out in EU VAT law to nominate the seller as the person liable for that VAT. Where the customer then receives an invoice from the seller showing that VAT has been charged, they can use that as evidence in order to reclaim the VAT as import VAT, subject to the normal rules.

In this way, we end up in a position that is essentially the same as it is today, with the seller charging and accounting for VAT on its VAT return and the customer recovering that VAT on its own VAT return, subject to the normal rules.

There are a small number of exceptions to this, for example where goods are brought in through a special customs procedure. Inward processing has already been mentioned, when they enter Northern Ireland from Great Britain. In those cases and where those other exceptions apply, particularly with things like the domestic reverse charge rules or where the goods market is subject to an onward supply procedure, the customer or the importer will then account for any VAT, if any VAT is actually due—for instance, in inward processing it quite probably will not be—on their UK VAT return.

Another important example is in respect of the movement of owned goods. When you have a business that is moving goods from Great Britain into Northern Ireland for selling on the market there, in those cases the businesses will need to account for the import VAT on their VAT return, and they will normally be able to reclaim that VAT at the same time. It will be effectively an in and an out on the same VAT return. Businesses will have flexibility in how they record this in their business records so that it is the best fit for their own existing systems.

Q289 Ian Paisley: That is incredibly helpful. I am glad you got space to put that on the record, because there are a lot of people out there who just want the clarification in terms of these VAT mechanisms. What you have put on record there appears to be very clear and, in some of these mechanisms, straightforward.

Can I pick up on one point? Where you have, for example, a different VAT level being charged in the EU to that being charged in the United Kingdom and goods are coming from GB into Northern Ireland, to a Northern Ireland company that pays VAT, should it record the higher level on those forms, or should it record the UK level and charge only the



UK level? What does the EU do under those circumstances?

Ian Broadhurst: I should be absolutely clear that Northern Ireland is part of the UK VAT system. The VAT rates that are in play in Northern Ireland will be UK VAT rates. There will be no change. The UK rates that are in play in Northern Ireland are entirely a matter for Parliament. Parliament will be responsible for those rates. There is no notion of any EU VAT rate being applied there in the same way that it is currently, or when the UK was a member state. The VAT rates we apply, yes, are subject to a broader legal framework, but they are rates that Parliament here in the UK sets for the whole of the UK. I think you were suggesting some form of differential between the two jurisdictions; that will not be the case.

Q290 **Ian Paisley:** That is even if those goods are moving onwards and transiting through Northern Ireland into the Republic of Ireland or into the EU jurisdiction.

Ian Broadhurst: In the VAT world there is a procedure known as onward supply relief, where goods can come into the EU and VAT can be suspended until it gets to the final destination. It is possible that, for some goods moving in that fashion, the VAT effectively will not be accounted for in Northern Ireland at all. If it is, then it would be accounted first in Northern Ireland, on the rate that is due in Northern Ireland, which is the UK VAT rate. Then, from a VAT perspective, it would be a dispatch from Northern Ireland into Ireland, which would be zero-rated under the normal rules, subject to obtaining the VAT number from the Irish business.

Q291 **Ian Paisley:** A number of companies in Northern Ireland will, of course, reclaim their VAT as they are entitled to, from big hauliers right the way through to smaller companies. You do not envisage any change in the reclaim system or any delay in that reclaim system as a result of these other burdens or perceived burdens that could be introduced?

Ian Broadhurst: We just need to clarify that there are two things in play here. For any VAT that is incurred in Northern Ireland by a Northern Irish business, that business will be able to recover that on its VAT return in the normal way.

However, there are also businesses that will be incurring VAT in Ireland and would need to recover that; hauliers are a very good example. At the moment they use something called the EU VAT refund mechanism. We have had ongoing discussions with the Commission about this very issue, because it is an issue that it wants to resolve as much as we do. What I can say is that, from 1 January, all UK traders established in Northern Ireland that have been identified as dealing in goods under the terms of the protocol and are operating under EU VAT legislation—i.e. under the VAT rules that apply in Northern Ireland—will continue to be able to use the EU VAT refund system to recover VAT incurred in EU member states as they do now on transactions, but only on transactions that involve



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supplies of goods. All other refund claims for VAT incurred in the EU made by UK traders will be made using the EU's 13th VAT directive procedure for third countries.

The reason for that is of course that the protocol in Northern Ireland only applies to goods in play in the VAT system, not to services. There is a distinction there in which route and which mechanism you use to recover that VAT incurred in another member state. Similarly, EU businesses will continue to be able to use the EU refund system, but again only in respect of transactions that involve supplies of goods that they have received when they have been in Northern Ireland.

I hope that is helpful. Hauliers are a good example. The supply of fuel is a supply of goods and so, as long as they are recognised as Northern Ireland protocol businesses, they would be able to use the existing EU VAT refund scheme to recover their VAT.

Ian Paisley: They are, of course, very familiar with that and use it frequently anyway. If there is no added change to that, a lot of hauliers will be breathing a sigh of relief. I really thank you for being clear on that; that is incredibly helpful.

Chair: I would echo that. Thank you, Mr Broadhurst. As Mr Paisley has noted, the haulage sector is important.

Q292 **Mr Goodwill:** That runs quite well into my line of questioning on the different treatment of VAT on goods and services. Before that, can I ask Mr Broadhurst just to clear one thing up for me? You said that Northern Ireland will align with EU VAT rules, but you also said the British Government and the UK Parliament will set the levels of VAT. In terms of the tampon tax, for example, I remember having a conversation with Philip Hammond when he was Chancellor, asking, "Why can we not reduce it?" and he said, "EU rules will not allow us to reduce it to zero. When we have left the EU, that will obviously happen". Which of those applies? Do we have to apply the EU rules that say we cannot reduce it to zero, or can we set the rate?

Ian Broadhurst: Just to be clear on that, as I say, Parliament will remain responsible for setting VAT rates across the UK. You are absolutely right that EU VAT law will apply to supplies of goods in Northern Ireland. However, the protocol—this is actually set out in Article 8—provides for flexibility on the application of those rates.

In respect of the issue you are referring to, women's sanitary products, we will be able to apply the zero rate across the whole of the UK, including Northern Ireland, from 1 January, because of the flexibilities that are contained within the protocol.

Q293 **Mr Goodwill:** That is brilliant. That will be a big relief to a lot of people. Turning to the different application of regimes for goods and services, could you give me a bit of an idea of how you are preparing for that rate



and what difference that will make for businesses that either are engaged in goods and services or are exclusively in one area or the other?

Ian Broadhurst: Essentially, as I have said, there will remain a single UK VAT return. Businesses will continue to operate and function using that single VAT return. Whether they are trading in goods or services, they will use that VAT return and they will interact with other businesses entirely in that nature. In respect of services that apply cross-border, the key issue there is determining where the place of supply of those services is. That is a technicality in the way that VAT operates. Our rules are broadly in line so actually there will be very little material change in respect of the application of those rules.

There will be a requirement for businesses to identify themselves. To be clear, there is no requirement for a new VAT registration for sales of goods in Northern Ireland. As I said, there is a single VAT registration, a single VAT return and that will cover goods and services. If a business is already VAT-registered, its existing VAT registration will therefore be unaffected. I want to be clear on this: it will not need to get another VAT registration; it is a single UK VAT registration.

For businesses involved in trading goods between Northern Ireland and the EU, this does mean that they will need to use an XI prefix before their existing UK VAT number on, for example, invoices when they are communicating with suppliers and customers in the EU. We at HMRC will be carrying out an exercise to identify all those businesses based in Northern Ireland that will be operating under the protocol, and will be writing in mid-December to all of those that have been identified.

There will be businesses that do not receive a letter. For example, businesses that are trading only in services and do not get involved in goods may well not receive a letter, but they may believe that they are operating under the protocol because they have isolated transactions in goods that they need to make us aware of. They will need to notify HMRC. Guidance on how to do that will also be available shortly.

I should stress that this XI prefix is only in respect of those transactions and interactions in respect of movements between Northern Ireland and the EU. It will not be required for any other purpose.

Q294 **Mr Goodwill:** That is understood. One example that occurs to me is in terms of the VAT registration threshold, which is around £85,000. If the EU were to change that threshold and I was a business in Northern Ireland supplying services, would I have to comply with the new EU threshold or the existing UK one? Indeed, the UK may decide to bring the threshold down, which would then be different to the EU. How would that apply in terms of a service-providing company?

Ian Broadhurst: Our position on thresholds is that it is very much the UK threshold that will apply. More generally, it is worth noting real-world developments. The Commission has a long-standing proposal in respect



of thresholds; it is certainly something that is already in line with UK practice. The earliest that would even begin to be on the horizon is 2025. There is a lot of mileage certainly before that point, but in respect of the application of our thresholds, we will apply UK thresholds consistently across the whole of the UK.

Mr Goodwill: Incidentally, you will find that farmers like me are always very well disposed to VAT, because we generally supply zero-rated or non-VATable items, so we usually get a bit of money back at the end of the month. I know shopkeepers and other businesses do not share the same positive disposition towards HMRC in that regard.

Q295 **Mary Kelly Foy:** Good morning. I will just continue with a few more VAT questions. First, I know you have just mentioned the XI prefix number that Northern Ireland companies will need. Can you clarify? It seems that the Government were advising that people who were registered before 23 November would get their number, but it seems the process has not opened yet and it may be mid-December before those numbers are issued. Is that the case? Do you see any problems with that delay? How many people are likely to require that number and how many have already signed up or tried to sign up for that number?

Ian Broadhurst: I may actually bring in Aidan shortly on this, because this may be an issue about EORI numbers rather than necessarily VAT. Just to emphasise what I was saying earlier, the VAT number itself will not change. An existing VAT business will keep its own VAT number. What we are advising in respect of VAT is that they will need to use the XI prefix before their current number. That is all they will have to do. We will be advising them that they are recognised as a business that can use that prefix. If they do not receive that notification, there will be a process for them to get in touch with us. I think you may be referring possibly also to the EORI numbers.

Aidan Reilly: As Ian says, for customs purposes traders under the Northern Ireland protocol will need an XI EORI to enable them to access the systems that we will be sharing data with the Commission on and to ensure they can get access to various authorisations and facilitations under the protocol. With the XI EORI, we have run an auto-enrolment process, where we have auto-enrolled nearly 36,000 traders for the XI EORI. That is likely to be significantly more than the number of traders who might be in scope of the protocol, but it is just a belt-and-braces to ensure that any traders who are Northern Ireland VAT-registered traders who do business that requires them to engage with the Northern Ireland protocol going forward have the XI EORI in place.

You are right to say there will be another issue of auto-enrolment of XI EORIs in the middle of December to try to pick up on those traders who have not already been identified. Traders who are registered with the Trader Support Service before 14 December will be automatically enrolled with an XI EORI number, so it is important that traders do that to ensure that they are ready for the end of the period.



Q296 **Chair:** Mr Reilly, how many do you estimate still need to register for one? You have mentioned that 36,000 have, but a number of those will not have needed to. They have done it as a belt-and-braces, if you like. How many do you estimate still need to do so?

Aidan Reilly: It is a very difficult answer to give. We have registered the VAT-registered traders in Northern Ireland. We have also auto-enrolled anybody who has signed up for the Trader Support Service who has identified themselves. It may be that there are GB traders who, because of the terms of their sale, will be the importer under the Northern Ireland protocol and will need an XI EORI. Hauliers who are moving goods and making safety and security declarations will need one as well.

It is a difficult number to come to, but we are trying to ensure that as many traders as possible sign up for the Trader Support Service to ensure that they get auto-enrolled. If traders are not auto-enrolled, they can register for an EORI themselves. It is a simple process that takes a very short period of time. Traders can do that themselves, but we have tried to capture as many as possible in the auto-enrolment process.

Q297 **Mary Kelly Foy:** That has cleared that one up; thanks for that. Will Northern Ireland and Great Britain operate under different VAT margin schemes from January? If so, could the two schemes be made interoperable?

Ian Broadhurst: As I have said, the protocol applies the EU's VAT rules in Northern Ireland. These rules include allowing businesses to account for VAT on the profit margin when trading in second-hand goods. That is the second-hand margin scheme that you referred to, subject to the normal conditions. If the goods purchased do not fall within the scope of the scheme, VAT is charged on the full resale value rather than the margin.

The provisions allowing for VAT to be accounted for on the profit margin only apply where those EU VAT rules are applied. This means that, after the end of the transition period, that will only be where the goods are purchased either within the EU or locally within Northern Ireland. This will mean that, although the second-hand margin scheme can continue to be used in Northern Ireland, it will not be able to be used where the goods are purchased in or from Great Britain and moved to Northern Ireland after the end of the transition period. However—I want to be clear on this point—this will not affect any stock purchased before the end of the transition period, so all stock on hand can continue to be included in the margin scheme.

We very much understand the impact that this is having or is likely to have in certain sectors, particularly including the resale of second-hand cars. The Government are keeping all aspects of the protocol under review. We have raised the issue with the European Commission, so it is a matter for ongoing discussion. There is not really much more I can add on that.



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In terms of what you were saying about whether the two can meet, from one perspective the rules in play in Great Britain are obviously down to us. The rules that apply in Northern Ireland are as I have set out. EU VAT rules say that only goods that are sourced within the European Union, or, indeed, in this instance, the UK in respect of Northern Ireland, can then qualify for use in the margin scheme.

That is the position. Hopefully I have set that out clearly. I appreciate that it is going to have an impact and, as I have said, we have raised it with the Commission.

Q298 **Mary Kelly Foy:** Finally from me on that, obviously it is complicated. When is HMRC going to issue guidance to Northern Ireland businesses about the whole VAT process?

Ian Broadhurst: We have already issued guidance at a relatively high level.

Chair: I am just keeping an eye on the clock. We have Northern Ireland Questions in the Chamber, and Ms Hanna and I are numbers 1 and 2. I am going to have to draw the session to a conclusion, unless the Committee wishes to continue, in which case I would hand the Chair over to Robert.

Ian Paisley: There are a couple of follow-up issues, especially on this VAT margins issue.

Chair: In which case, Robert, could I ask you to as of now take the Chair?

Mr Goodwill: By all means, yes.

Chair: Could I just apologise to our witnesses for having to duck out to do this, and also to my colleagues? I know that Mr Goodwill will do it at the end of the meeting, but can I thank you for your courtesy this morning and also for the detailed and reassuring answers that you have given. I am not necessarily asking this as a question, but I am going to guess that most of you will have, "Dear Santa, please bring us a deal", at the top of your list, because if we have a deal it might mean that you and your families may then end up having a Christmas as well. Let us hope that Santa is listening and you have all been good boys. If you have been naughty, you can just forget it.

[Mr Robert Goodwill took the Chair.]

Q299 **Ian Paisley:** On the issue to do with VAT margins, the answer was that this is an ongoing discussion and that it has been raised with the EU and the United Kingdom. If, however, we get to the end of the discussion point in this and there is not a resolution, who has the final call on that VAT margins subject? If it goes the way it is intended to go at the present time, it will effectively put second-hand car businesses out of business in Northern Ireland, because it removes the profit from that market. Is this



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something that the UK could make a final call on, or is this something that the EU would make a final call on?

Ian Broadhurst: I am not sure whether Mark might want to come in at this point. To some extent I have set out the VAT position and I have set out the VAT analysis of that position and flagged that we have raised that with the Commission. I do not know if Mark Davies has anything further to add on that.

Mark Davies: No, I do not think so. You are right. We are working through the implications. It is being raised in discussions as an issue around the implementation of the protocol. In terms of the overall approach, that is subject to where those get to and ultimately is a question of the UK giving effect to the obligations under the protocol. That is not a definitive answer on the question, but, as Ian says, it is still something we are keen to work through.

Ian Paisley: The Secretary of State commented about breaching the protocol in a very specific way. This could be one of the areas where there is a specific breach, if we do not get a resolution. Who knows?

Q300 **Chair:** To finish on the Trader Support Service, how many companies will still need to sign up under the Trader Support Service?

Aidan Reilly: As I said to Mr Hoare and others earlier, the overall numbers that are going to need to be in scope of the Northern Ireland protocol are pretty uncertain. We have had over 17,000 businesses registered to date, which is a pretty good number. I am sure there are more traders out there who are going to be within scope of the protocol who should sign up and we would encourage them to do so. In terms of what the overall number is, due to the fact we do not capture data currently on those movements from GB to NI, it is uncertain what the final target number would be, but we are encouraging anybody—hauliers or any traders who are likely to be moving goods at any point across the Irish Sea—to register with the Trader Support Service.

Q301 **Chair:** Will that be a phone line or a frequently asked questions website?

Aidan Reilly: They can come through the gov.uk website. If they put in “Trader Support Service” that will bring them to the page on which they can register. The Trader Support Service has a call centre that is up and running, currently with 79 staff but it will have up to 800 staff by the end of the month.

Q302 **Chair:** You have mentioned goods in transit. Will it also be able to help traders with that requirement, in particular, on sanitary or phytosanitary requirements in terms of agriculture or fish?

Aidan Reilly: It will not do the full requirements on the agri side. I might turn over to Mark on what other support there might be in that space. What they will do is flag up where traders might need a licence, an export



health certificate or whatever in respect of goods, and point them in the right direction for getting the support and help they need.

Q303 **Ian Paisley:** I have a point on a slightly separate issue that I am wondering if I can get some clarification on. I know preparations are being made for free ports to be created in the UK, and it is indicated that Northern Ireland might get one, either at Larne, Foyle, Belfast or Carlingford. I am just wondering whether there are any preparations being made for the implications of that in terms of taxation and regulations, and whether you gentlemen are involved in any of that?

Aidan Reilly: I am afraid I will not be able to give you the detail that you might be looking for on that right now, but I can say that free ports are possible under the Union Customs Code, so Northern Ireland could well qualify for having a free port. There are plans afoot for getting various ports to bid for the free port process over the next year or so. In terms of what the various elements underlying the free port are, we will need to provide you with further details there after this session, if that is alright, Chair.

Q304 **Chair:** Would I be right in saying that different politicians have a different view of what a free port actually is? As I understand it, with a free port, you bring goods in, you process them, you export them immediately and therefore there is no entry into the UK tariff regime, whereas I think a lot of the goods might well come into the free port, be processed and then be brought into the UK. That is a different situation altogether to what many places like Dubai have as free ports.

Aidan Reilly: Yes, exactly. There are different aspects to a free port. The traditional one, if you like, is exactly as you have described. It is a customs-free zone where goods are brought in and various activity takes place and then the goods are re-exported. There are other elements you can have in free ports—tax shelters, et cetera—that various different countries look at. Clearly the Treasury is leading the work on where the UK is going to go with regards to free ports and the aspects that will be in place in the UK.

Q305 **Chair:** We will continue to watch this space, and I suspect the Committee might even want to do a report or an evidence session on that, when we have a bit more positive news on how free ports are going to be developed.

Finally, before we close, could I ask whether HMRC will be available to provide troubleshooting support for traders? Will that be a helpline or an email or what?

Aidan Reilly: Yes, absolutely. We have a call centre in our customer services group that will be ready to support traders on their questions and any guidance they require. I go back to referencing the Trader Support Service, again, which will have its own contact centre with over 800 staff in place by the end of the year, which will be there to guide and support traders through the issues with regard to complying with the



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protocol. And for any traders who have not managed to sign up by the end of the year but then realise that they wish to do so, we are looking to introduce an expedited service to ensure that they can get registered as quickly as possible.

Chair: Good. Could I formally thank all our witnesses? Ian Paisley characterised the evidence as being very measured, and quite different to some of the hyperbole we read in the newspaper, which seems to be a “we are all doomed” scenario from “Dad’s Army”. I suspect that all bases are trying to be covered, given the very short timescale. Thank you very much indeed.