House of Commons

Exiting the European Union Committee

Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 35

Tuesday 15 October 2019

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Watch the meeting

Members present: Hilary Benn (Chair); Joanna Cherry; Jonathan Djanogly; Peter Grant; Wera Hobhouse; Stephen Kinnock; Jeremy Lefroy; Seema Malhotra; Mr Pat McFadden; Sammy Wilson.

Questions 1 - 52

Witnesses

I: Dr Esmond Birnie, Senior Economist, Ulster University; Professor David Phinnemore, Professor of European Politics, Queen's University Belfast.

II: George Clarke, Assistant Chief Constable, Police Service of Northern Ireland; Ivor Ferguson, President, Ulster Farmers Union; Roger Pollen, Head of External Affairs, Federation of Small Businesses Northern Ireland.

Examination of Witnesses

Witnesses: Dr Esmond Birnie and Professor David Phinnemore.

Q1 **Chair:** On behalf of the Committee, I welcome the witnesses for our first panel this morning. Dr Esmond Birnie, senior economist at Ulster University, and Professor David Phinnemore, professor of European politics at Queen's University Belfast, you are both most welcome. Thank you very much for coming today and bearing with us while this panel was arranged and then rearranged, as events have unfolded. We are very grateful to you for your co-operation. As always, we have a lot of ground to cover.

We have just under an hour for this panel, because we have a second one, so succinct questions from colleagues and as succinct answers as possible would be really helpful. I want to begin with what may be a slightly unfair question, and if you think it is then tell me. In so far as we understand what may be being negotiated, in terms of customs arrangements consent mechanisms, in respect of a Northern Ireland backstop, what do you make of it? What do you see as the issues that the negotiators are probably wrestling with as we speak?

Professor Phinnemore: I think we are all relying on whatever is in the media, but it seems to me, in terms of the customs issue, that whereas the Prime Minister proposed back in August and more recently in his submission to the EU that there would be a customs border on the island of Ireland, that now seems to have been pushed back, so we are now talking about what form of customs arrangements you might put in the Irish Sea.

Within that context, there seem to be two ideas doing the rounds. I do not know the detail, but one involves what is called the channels method, whereby goods are processed either for the Northern Ireland market or onward to the EU, and go through a green or red channel at some point as they move across from Great Britain to Northern Ireland. The other is whereby you would pay any tariffs due, but if the tariff is lower for the UK in relation to the EU you would get a rebate. There would be a rebate system for businesses and consumers in Northern Ireland. It is only the headlines that we have seen of those.

The second issue is how you introduce some arrangement for consent in Northern Ireland. Initially the idea being put forward by the Prime Minister was a confirmatory vote: the arrangements specific to Northern Ireland would come into force at the end of transition, and would be renewed every four years thereafter. There has been quite considerable pushback on that from the EU side, such that we are now probably talking about a single vote at some point, not requiring cross-community support, in terms of parallel consent. That would possibly be a one-off vote. It is not clear whether that would be before the arrangements come into force or after a five, six or seven-year period.

Dr Birnie: I agree with a lot of what Professor Phinnemore has said. It seems that a shift is going on. Last week the Prime Minister seemed to be envisaging that you would need consent to opt into Northern Ireland remaining part of the single market regulations. Like you, David and I are basing this on the limited amount we can read out from what is going on, but my impression is that that is now being reversed, particularly under pressure from the EU27. They wish it to be consent to opt out.

How should one interpret that? My feeling is that it would be closer to both the spirit and the content of the 1998 Belfast agreement that consent is sought to opt in rather than to opt out. There are then questions about the mechanisms and petitions of concern across community, weighted voting and so forth, which are very important as well.

Chair: So that I understand—you think it is more important that there was consent to opt in?

Dr Birnie: That is my personal view. What I will call the Prime Minister's original proposals, because obviously over the last week, and continuing, the ground seems to be shifting, initially envisaged opting into a change, which de facto represents a change in the constitutional status of Northern Ireland and has implications for the scope of legislative power of the Northern Ireland Assembly. That is of sufficient importance that there should be an opting in mechanism, allowing accountability to Members of the Northern Ireland Assembly, rather than letting it happen, with the possibility that they could choose to opt out five years down the line.

Chair: Presumably you can see why that potentially creates a difficulty from the EU's point of view, because the EU has always said we need to have legally operable arrangements that we can rely on in all circumstances. If the bedrock of this could be removed right at the start by the Assembly deciding not to opt in, presumably you can see why that creates a difficulty from the EU side.

Dr Birnie: Of course, they have a negotiating position, and they wish to get what they wish to get. Arguably, the UK Government should similarly be adopting a strong position to defend what seems to be closer to both the spirit and the content of the 1998 agreement, which the EU27 repeatedly say they are very anxious to maintain.

Q2 **Joanna Cherry:** What about the spirit of the December 2017 agreement? What about the letter of that?

Dr Birnie: My understanding is that the UK Government gave commitments at that time that there would be some provision for recognising accountability back to Northern Ireland opinion, expressed through Northern Ireland politicians.

Q3 **Sammy Wilson:** Can I push you on that? Paragraph 50 of the joint agreement made it clear that there would be a mechanism by which the Northern Ireland Assembly would have a say in any of the changes that might occur. Dr Birnie, you are saying that, first of all, the spirit of the Belfast agreement and the explicit content of the 2017 agreement would indicate that the Northern Ireland Assembly should have the right to opt into any different arrangements that would affect Northern Ireland.

Dr Birnie: Yes.

Professor Phinnemore: There is a lot of talk about the spirit of the 1998 agreement and the spirit of consent within it. It is worth recalling that the 1998 agreement provides for consent in two cases. One is for a change to the constitutional status of Northern Ireland, i.e. Northern Ireland leaving the United Kingdom and becoming part of a united Ireland. Secondly, there are issues around consent for the appointment of certain individuals and some legislative decisions, mainly on finance. When the UK decided to leave the European Union, the courts indicated that the principle of consent should not apply in that instance because it was a matter for the UK Government to decide.

There is a question mark as to whether the principle of consent that is in the 1998 agreement necessarily transfers to arrangements for the future of Northern Ireland within the context of withdrawal, mindful too that the withdrawal agreement, as it was agreed in December 2018, makes explicit the constitutional status of Northern Ireland as being part of the United Kingdom. I also note what is said about paragraph 50, from the joint report, which does talk about a role for the institutions in Northern Ireland. When we look at the withdrawal agreement as is and go into the protocol and the governance arrangements there, there are mechanisms whereby the UK would have to sign up to further changes to the regulations applicable to Northern Ireland. The question is how the UK Government engage with the institutions in Northern Ireland around that decision.

Here, we go back to the UK Government's commitments from the May Government, back in January this year, on consulting the Assembly. Traditionally, the EU's position has been that it is a matter for the UK Government to determine internally how they reach their position in their negotiations with the EU, in the operation of the protocol. There is an argument to say that that is where we need to be looking to find mechanisms for the consent of Northern Ireland to changes in the operation of the protocol.

Q4 **Mr Djanogly:** Good morning. The Yellowhammer document said that the UK's approach to managing a Northern Ireland border after a no-deal Brexit was "likely to prove unsustainable." Would you agree with that? What types of issues are of most concern if you think that is the case?

Dr Birnie: One of the problems we have in commenting on the Yellowhammer document is that, as I understand it, we have not seen everything. There is a lack of clarity about what the complete content of it is, or indeed its status. Leaving that to one side, a question of sustainability raises the issue: over what timeframe? You could envisage what might be done on day one of Brexit, be it Brexit with a deal or in this case a no-deal scenario. That might well be sustainable for a short period of time. Problems may develop, the longer that period exists for.

Q5 **Mr Djanogly:** What sort of period would you attach to a sustainability issue?

Dr Birnie: I do not know. It is very hard to say. Let me put it this way: if there were no deal, the initial impact on movement of people, goods and services might be quite small, because on the UK or the Northern Ireland side, according to the temporary tariff plan, there would be no tariffs applied on movements of goods from the Republic of Ireland into Northern Ireland. I do not envisage the Irish Government introducing customs tariffs or requirements immediately. That is why I am raising this point about timescale.

It is only as pressure then mounts from the EU26, probably along with the Ireland Government, in terms of this often-used phrase, "protection of the integrity of the single market", that you would begin to see customs requirements appearing on the Southern Irish side of the border.

In terms of movements of people, I am fairly confident that the common travel area would continue, as reinforced by the recent memorandum of understanding between the UK and Dublin Governments. Obviously, the future is inherently uncertain. There may be part icular issues about backlogs of lorries and shortages of particular medicines. Very little evidence exists in the public domain as to the extent to which Government or the public sector in Northern Ireland is fully prepared, as far as you can be fully prepared for something that is uncertain.

I would be reasonably confident of sustainability in the short run, but as time goes on, in the absence of ad hoc agreements between the UK and Irish Governments, difficulties will accumulate.

Q6 **Mr Djanogly:** You are saying that, in a reverse of what may happen in the UK, where things may improve over time, things may worsen over time.

Dr Birnie: Yes, that is possible, partly because on day one I do not envisage customs requirements operating for Northern Ireland-based businesses selling into the Republic of Ireland. At some point, and I would guess within one year, pressure would come from the rest of the EU27 on the Irish Government to maintain what would then be the edge of the single market and, indeed, the customs union.

Professor Phinnemore: I would agree. I have not seen enough of Yellowhammer to be able to comment on what the Government's plans are. I would agree that it is a question of time. Day one will not be difficult, but very quickly the EU will want to be reassured that the goods moving into its market meet its standards. That is possibly less around industrial goods and more around agricultural goods. It is the implementation of the SPS standards which the EU is going to insist on being upheld.

Over time, you also have the possibility of increasing UK divergence in its own domestic rules. Therefore, products entering the EU market will not continue to meet EU rules. As soon as you see changes there, the EU will want to ensure checks are in place.

Thirdly, it will not take too long for unscrupulous businesses to be using the open border between Ireland and Northern Ireland to gain access to the EU market. There are genuine concerns, on the part of the EU, that that will be exploited. Businesses in Northern Ireland have also raised questions about the implications for fraud, for smuggling, in the context of the contingency arrangements that the UK Government envisage. If we begin to see that happening, you are going to get a huge reaction from businesses in Northern Ireland.

The other question is the implication of the gradual introduction of controls and, potentially, the tariffs that the UK Government has essentially acknowledged would have to come in at some point. They are going to be very difficult for certain sectors in Northern Ireland to withstand, particularly the agri-food sector, as the Dairy Council indicated last week.

Q7 **Mr Djanogly:** We have not yet mentioned the security issue. Do you have a view on the sustainability of the current security arrangements?

Professor Phinnemore: If we look at what the PSNI has been indicating quite consistently over the last number of years, there are genuine concerns about its capacity to support the implementation of any controls as and when they are introduced. I know we will have evidence later from someone probably in a better position than I am to comment on this, but there are genuine concerns, which have been restated on numerous occasions.

Q8 **Mr McFadden:** Good morning. I would like to pursue this question of consent a little bit with you, if I could. Paragraph 13 of the memo issued last week by the Government sets this out, and says that consent is needed both during the transition period and then every four years. I just want to ask for your views on how this might work. First of all, what is your understanding of how that consent could be expressed? There are different ways this could be done.

Dr Birnie: There is no firm detail on this as of yet but, to remain compatible with the content of the 1998 agreement, this would surely be viewed as one of the controversial matters, as that agreement considered certain issues. It could be that that would require parallel consent by both sections of the Northern Ireland community, through their designated political representatives. It would require sufficient support from both those designated as nationalists and those designated as Unionists. It would require dual consent.

Q9 **Mr McFadden:** That is quite an important point, just to pin that down. You are saying to us that this would not just be a matter of a simple majority in, say, the Northern Ireland Assembly; this would have to be consent coming from both designated Unionists and designated nationalists.

Dr Birnie: Yes. As I say, surely this would be deemed a controversial matter. Indeed, in the Prime Minister's original proposals of last week, it was about, in a sense, putting it very crudely, taking powers away from the Northern Ireland Assembly, powers relating to economic regulation, in terms of ensuring harmonisation with the EU27 single market standards. It is about a reduction in the original 1998-99 devolved settlement, a shift of legislative competence. Therefore, it would be worthy of going through that full parallel consent approach.

Mr McFadden: The institutions are not up and running. This is a question I raised with the Minister last week, in the House. What is your understanding of what would happen if those institutions were still not running when this point came? According to paragraph 13 of the memo that sets this out, the first moment of consent is during the transition period itself, which if there was a deal could be very soon. That is not inconceivable. In fact, some people would say it is likely that the institutions will still not be running when this first moment of consent is expected to happen.

What is your understanding of what would happen if the political parties in Northern Ireland were still not able to come to an agreement that the institutions be re-established, which is not exactly a vanishingly small possibility?

Dr Birnie: To be honest with you, I do not know. The transitional period is envisaged through to the end of next year, 2020, although there is scope for extension of it. I suppose I am bound to say to you that this period of a lack of a devolved Government in Northern Ireland is extremely disappointing at all sorts of levels, not only in relation to this issue of Brexit. Indeed, we have just passed through 1,000 days of non-operation of the institutions. It is my sincere hope, along with many others, that they would be back in operation. As to your question, "What if?", I do not know the answer.

Q10 **Mr McFadden:** I will turn to you, Professor Phinnemore. Arlene Foster has said that, in the event of the institutions not being up and running, perhaps there could be some sort of vote on a Northern Ireland Committee of MPs. What do you think of that proposal?

Professor Phinnemore: That is one option, which I will come to in a moment, if I could just respond to some of the initial questions. We cannot get away from the fact that the implementation of a differentiated regime under the terms of withdrawal for Northern Ireland is controversial for a good number of people in Northern Ireland. We also need to reflect, though, on the fact that the referendum outcome, the decision of the UK to withdraw from the EU, while 56% of people in Northern Ireland voted for the UK to remain in the EU, was equally controversial. It was not decided to proceed with the consent of the people of Northern Ireland to the triggering of Article 50.

When we are talking about the decision to have differentiated arrangements for Northern Ireland, we have to remember that not all of the legislative powers reside with the Assembly. A number of issues covered by the terms of the withdrawal agreement and the protocol on Northern Ireland and Ireland are reserved matters. They are matters for the UK Government. That has not been unpicked. Even if there is a mechanism whereby the Northern Ireland Assembly is consulted, it will not necessarily be on all matters, because there are matters in the implementation of the protocol that are the responsibility, currently at least, of the London Government.

In terms of how you might proceed with consent, yes, there is the route we have available in the spirit of the 1998 agreement, whereby you would have a decision of the Members of the Legislative Assembly. Equally, however, there is the possibility of a popular consent option.

It then raises the question: what are the terms there? Is it a simple majority, which existed for the approval of the 1998 agreement and would be the basis on which any decision was made for Northern Ireland to remove itself from the UK and become part of Ireland? It does not necessarily follow that you would need to have cross-community support for the outcome, although I appreciate the politics around this.

Northern Ireland is a radically different place to what it was in 1998. Then, 33% of the population did not identify as Unionist or nationalist. The latest survey indicates that is now 50%. I wonder whether the parallel consent mechanisms, where you have to designate as Unionist or nationalist, really are fit for purpose in the Northern Ireland of today. There is far more to this question than simply drawing on what we have done in the past and what exists within the 1998 agreement.

You ask about a Grand Committee of MPs. We really have to look at this as a decision being taken by people in Northern Ireland itself.

Q11 **Mr McFadden:** Can I ask you one other question about your understanding of how this might play out? The same paragraph 13 that I keep referring to in this memo, which sets this out, it is a bit unclear on what happens if, for some reason, consent is not given. It talks about falling back on existing arrangements, but I do not know whether that means existing arrangements as we are part of the EU, or those arrangements that would apply to the rest of the UK as it left the EU.

Let me just ask you this. We are going through a process of three potential steps here. One is the process of agreeing a deal or a withdrawal mechanism between the UK and the EU. That is what is going on in this tunnel, and there are talks and so on. That is step one. Step two would be the endorsement, or otherwise, of that deal by the UK Parliament. Step three, at some point during the transition period, would then be the kicking-in of this consent mechanism.

Is it possible, or is it your understanding, that what could happen here is that the UK and the EU could agree a deal. The UK Parliament could then endorse that deal but, if that consent was not forthcoming from whatever mechanism during the transition period, it might never come into force in Northern Ireland.

Professor Phinnemore: Indeed, that is the logic of what was being proposed by the Prime Minister recently. All the media indications are that there has been considerable pushback on that mechanism. There is also a clear desire on the part of business in Northern Ireland for some degree of certainty, and the logic would be that you would have some mechanism whereby Northern Ireland might come out of those commitments in due course, once they have been implemented.

The other dimension of the proposal is this further consent every four years. This is really problematic, partly because the political cycle would be geared to debating remaining in or leaving on a four-year basis. We have enough problems at the moment in not addressing the real, important policy challenges that Northern Ireland faces without having to be perpetually in this question: "In three years' time, there is going to be another referendum".

Businesses are really sceptical about this, because they really want to create some degree of certainty so they can begin to plan more, invest and secure the economic future of Northern Ireland. We also have to recognise that, for a good number of people, although the question will be about Northern Ireland remaining in the differentiated arrangements for itself, increasingly it is going to be seen as a proxy for a border poll. The question is going to be wider: "What do we want the future of Northern Ireland to be?" I am not too sure Northern Ireland politics can withstand that every four years, mindful of the fact that, if there were to be a border poll, the Good Friday agreement and the arrangements implementing it do not allow for another one for another seven years afterwards, to recognise that you probably need a cooling-off period.

Mr McFadden: In your view, the four-year cycle of this is anything but getting Brexit done, because it continues for ever.

Professor Phinnemore: It is a way for the Government to secure an agreement, possibly with the support of DUP MPs in the Chamber, but I cannot see it as a meaningful way forward to provide stability and certainty, which we probably want to see from this process.

Q12 **Sammy Wilson:** To follow on from that question, Professor Phinnemore, opting into arrangements that would lead to different regulatory laws in Northern Ireland is a huge risk for the Northern Ireland economy, given our reliance on the UK economy. Does it not make sense that the Northern Ireland Assembly should have the opportunity to review whether the arrangements it has opted into are actually good for firms in Northern Ireland, the economy of Northern Ireland and the links that the Northern Ireland economy has with the UK, its biggest market? Do logic and good economic sense not suggest that there has to be a means by which that situation can be reviewed, whether it is on a yearly or four-yearly basis?

Professor Phinnemore: Yes, there is going to be a risk to the Northern Ireland economy if the UK diverges. The risk on day one is negligible because the UK is committed to the continuity from EU legislation that currently exists. The risk emerges over time, if and when the UK diverges. This then brings us to the question: "What is the future UK-EU relationship?" If that relationship turns out to be one that involves a very close customs relationship with the EU, whether that be a customs union—I know that has been rejected by the current Government, but need not necessarily be by a future Government—and participation in the single market, or otherwise, the risk is negligible. It is a question of degree, but we already have a number of differentiated regimes between Northern Ireland and the rest of the UK.

In terms of how you review, the current withdrawal agreement provides for a review as and when the UK and the EU agree there might be grounds for moving away from the provisions in the protocol. Any increase in the regulatory divergence coming about from new EU legislation has to be approved by the UK and the EU within the joint committee that will be established under the withdrawal agreement and will be responsible for implementing the protocol. Yes, there is a need to constantly review the arrangement. I am not too sure whether it needs to be put to a regular vote.

Sammy Wilson: The review you are talking about of any agreement would be between the UK and the EU. I am talking about how the arrangements that apply to Northern Ireland could specifically impact on Northern Ireland's relationship with its biggest market. Therefore, there needs to be a review at Northern Ireland level. You mention that it depends on our long-term relationship with the EU, but as has been made clear, the understanding, certainly of the current Government, is that leaving the EU means we do not tie ourselves to either a customs union with the EU or the single market of the EU. We want to have the freedom to do our own trade deals and to make our own laws.

Professor Phinnemore: That is the position of the current Government. I would point out that, from day one, the expectation is that the UK will carry forward existing EU legislation. There is a question here of what the current Government's commitment is to the commitment made by the previous Government back in January that the UK, as a whole, would remain aligned with EU regulations in those areas covered by the protocol on Northern Ireland. We have not seen what the position there is. If that situation is maintained, the level of regulatory alignment between Northern Ireland and the UK will remain essentially as is at the moment.

It is worth recalling that the current Government and the previous Government have stated quite categorically that they will ensure there is unfettered access for Northern Ireland goods into the GB market. I take it that it is not from GB into NI, but from NI into GB, which will reduce any negative economic implications of withdrawal for Northern Ireland if there are differentiated arrangements in place.

Q13 **Sammy Wilson:** That is unless the regulations diverge. Can I ask you a question, Dr Birnie? You said that you thought initially there would not be much disruption in trade between Northern Ireland and the Irish Republic, because the Irish Government might not impose many changes. However, they have said that from day one, despite the fact that we will allow goods to come from the Republic into Northern Ireland without tariffs, they will impose tariffs on goods going from Northern Ireland to the Irish Republic. Since they have not made any preparations for border posts and so on, how do you envisage those taxes being collected?

Dr Birnie: It is very difficult to see how they could do it from day one. There have been quite mixed messages over the last 12 months from the Irish Government as to the speed with which they would move in applying tariffs and other custom requirements facing goods coming from Northern Ireland to the Republic of Ireland.

To add to the answer to your previous question through the Chair, it is significant that, whereas roughly £2 billion worth of goods are imported every year from the Republic of Ireland into Northern Ireland, the similar figure for goods coming from Great Britain to Northern Ireland is of the order of £10.5 billion, so it is five times bigger. Therefore, to the extent that regulatory divergence opens up between Great Britain and the EU27, if Northern Ireland was aligned to the EU27, it is really in terms of the cost implication to businesses in Northern Ireland when they are importing goods, components and raw materials from Great Britain. The figures show that predominantly they import from Great Britain as opposed to the Republic of Ireland or the rest of the EU27. That is where you do have an economic cost.

All economic forecasts, I would say, especially as an economist, have to be treated with great caution, but the recent report from the Fraser of Allander Institute at Strathclyde University in Glasgow shows that there is an economic penalty over the next 15 years if Northern Ireland is aligned to EU27 standards, whereas GB begins to diverge. Admittedly, the cost is smaller than in a no-deal scenario, but it is still there and it is still non-negligible.

Q14 **Sammy Wilson:** I know it is a lot of speculation, so it is hard to be precise on this. One of the solutions that has been suggested is that, rather than have a customs border between Northern Ireland and the Irish Republic, we would have a customs partnership, which would involve goods coming into Northern Ireland, tariffs being placed on them and rebates being given if they do not move on, etc? Do those costs include the financial costs that would be involved there? What dangers do you see for Northern Ireland businesses with such an arrangement?

Dr Birnie: There are some dangers and admittedly, again, we are somewhat in the dark about the details. According to all the rumours that are available, it is envisaged that Northern Ireland could be liable to pay tariffs on goods imported from Great Britain to Northern Ireland, but then, as you rightly say, there would be rebates of those payments. If I get it the right way round, de jure we are part of the EU customs union, but de facto we remain part of the UK's customs system, which is a very messy type of situation.

There are a number of points to be made. The sums of money would be quite considerable. As I have already indicated, roughly £10.5 billion worth of goods flow every year from Great Britain to Northern Ireland. If they are subject to a tariff of, say, 5%—that is an approximate, ballpark figure because for many goods the EU's external tariff is under 5%, but for agri-food, dairy and meat products it can be 25% to 50%—the amount of money that will have to be rebated is of the order of £500 million per annum. Businesses would be, up front, out of pocket for a considerable sum of money and then there would be an administrative burden on their part to retrieve that money.

It is not a perfect analogy, but there is some similarity. We all know the difficulties that the business community has faced in terms of the apprenticeship levy, a system whereby most businesses pay into a pot of money and then, if they can, are required to draw it back. The business community, both in North Ireland and here in Great Britain, has been extremely unhappy about how that has worked. I would envisage similar problems in a tariff-rebate-type system. It would be fiendishly difficult to administer. There would be a cost to Government of actually setting it up.

One of the ironies of the situation is that some of the so-called alternative arrangements that Prosperity UK's commission was proposing, in its report in July of this year, for handling the customs arrangements between Northern Ireland and the Republic of Ireland might have to be applied between Northern Ireland and Great Britain, in terms of using digital technology, the transit procedures, gateway technology, trusted economic traders, authorised economic operators and so forth. There would be a cost to this, a cost in setting it up and a cost to businesses in terms of their cash flow. You should perhaps ask the representatives of the business community coming to you later how they feel about that.

Q15 **Sammy Wilson:** Currently, businesses have to pay taxes on goods that move across the Irish border and do not have the complicated arrangements that you have outlined there. For example, they have to pay VAT and excise duties. Why could the systems that are used to collect those taxes, which are collected after the event, not paid in advance, and do not require rebates or anything like that, not be used to collect EU tariffs when goods cross the Irish border, instead of the complicated system that has been outlined in the customs partnership?

Dr Birnie: I am not sure if that has been considered. Part of the challenge would be that, whereas the excise duties are highly specific to tobacco, alcohol, diesel and petrol, the tariffs would be across the range of products. There is a widening of scope, and I am not sure whether a VAT system could handle it either.

Q16 **Peter Grant:** Could I ask you to repeat the figures you gave us for the value of annual exports from Northern Ireland to Great Britain and from Great Britain to Northern Ireland? I did not quite catch the figures.

Dr Birnie: The figure I gave was £10.5 billion of goods, and I stress the word "goods", because there are also services, but the tariffs are much less likely to apply to services. That is the flow from Great Britain to Northern Ireland. The flow in the reverse direction was £7.6 billion of goods and £3.7 billion of services.

As somebody has already said, the original backstop draft withdrawal agreement had a guarantee, which the current Government have repeated, relating to so-called unfettered access in the Northern Ireland trading to Great Britain direction, but what is not guaranteed and, indeed, cannot be guaranteed is movement in the reverse direction, particularly if you have divergence in standards, which is the single market, or Northern Ireland in some way is part of the European customs union but GB is not. Then you have tariffs and additional customs requirements, stating country of origin of products and so forth.

Q17 **Peter Grant:** Is it fair to say, then, that the proposal as originally produced by the Prime Minister a few weeks ago, to try to solve the problem that they have created on the island of Ireland, puts businesses in mainland Britain at a significant competitive disadvantage compared to businesses in Northern Ireland, because they have unfettered access to sell their goods to Britain, but businesses in Britain will have some kind of fettered, restricted barrier, with tariffs or whatever? There is no guarantee of unfettered access going the other way.

Dr Birnie: Yes, there is something in that.

Professor Phinnemore: So much will ultimately depend on the nature of the UK-EU relationship. It is worth also noting that, although under the backstop provisions Northern Ireland will retain access to the single market, that access is restricted to goods. It does not have the access on services. In that respect, one could argue that the arrangements being proposed for Northern Ireland are suboptimal, because there is an increasing shift into the services sector, and that is vital for the Northern Ireland economy. It does not have that access to the EU market.

Dr Birnie: Funnily enough, I take a reverse view to that view about services. I would agree with David that there is a lot of evidence that the UK economy generally, including Northern Ireland, has what might be called a competitive advantage in service activities: the construction sector internationally, consultancy, transport, tourism, logistics, research, the arts, music and so forth. The European single market post-1992 was never completed in services. There are still barriers if you want to operate as a lawyer, a consultant or whatever in the rest of the EU and so forth.

It would be a good thing if Northern Ireland and/or Great Britain were not part of any single market European regulations re services, because that would give us more scope to strengthen the service sector trading relationship with the wider world. We always have to remember that the world outside the EU27 takes up at least 85% of global GDP, so the European Union is a small fraction now. It is 15% or less, and shrinking in relative terms, of global GDP or output.

Q18 **Peter Grant:** Can I go back to the current proposals as we understand them? I do not know if anyone here has seen the detailed text, because the Government will not show us it. They have given us the imported version, which may or may not be a completely accurate reflection of the full proposal. The UK Government have become very fond of talking about this thing called the single market of the United Kingdom. Whether that exists is a matter of debate. In the way you have described it, if the Prime Minister's proposal was implemented entirely, would Northern Ireland still be fully within this single market of the United Kingdom, if the rest of the United Kingdom did not have unrestricted access to sell its goods to Northern Ireland? Does it not mean that, at least in part, Northern Ireland has been taken out of the single market for goods of the United Kingdom?

Dr Birnie: Yes. That is the short answer.

Professor Phinnemore: A lot will depend on the future of the UK-EU relationship, as I said, but, yes, whereas Northern Ireland would retain unfettered access to the GB market, there would be restrictions on the movement of goods from GB into Northern Ireland. If the UK is moving out of the single market and out of the customs union, there have to be customs checks and regulatory checks either on the east-west border or on the north-south border. You can limit the number of checks going three of four ways, but you cannot eliminate them all, unless the UK is in the single market and customs union.

Q19 **Peter Grant:** Can I go back finally to the questions on consent that some members asked earlier on? We have not really looked at what happens in reality if, at some point in the future, that consent is not forthcoming. It should be easy to guess, although it is not set out clearly in the documents that have been published, what happens if consent is not given on day one, but if consent is subsequently withheld, after four years, eight years, 12 years or 16 years, the Prime Minister's letter to the EU simply says that the arrangements will lapse.

The more detailed commentary that the Government have issued says in paragraph 13, "Arrangements will default to existing rules". Can you give any clarity as to what "existing rules" means? If it means the existing rules before the agreement was signed, that means that we are in the European Union, so it is the entire rules of the European Union. If it means the rules as they apply the day before consent is withheld, effectively you are asking the Northern Ireland Assembly to agree to continue something happening, and the consequence of them not agreeing to continue is that things continue as they were the day before.

The consent in that context seems to be completely meaningless. Can you give any clarity as to what would happen in, say, eight years' time? Where would Northern Ireland finish up if the Assembly withdrew or declined to renew its consent after the arrangements had been in place for eight years or 12 years? Do we have any clarity as to what would happen then?

Professor Phinnemore: We do not have any clarity. My assumption is that Northern Ireland would default to the UK-EU relationship, in which case, if Northern Ireland were to consent to come out of any arrangements, were they applied, you would have the customs regulatory regime at the north-south border on the island of Ireland that would reflect any border between the UK as a whole and the EU. We would basically be voting to have border controls north-south.

Q20 **Chair:** Given the fact that the Assembly has not been functioning for over two years now, do you think we can get much further without the Government having to take on some form of direct rule? There has been a court case on the powers of civil servants, the limitations on them and so on. Do you think that is a sustainable position?

Professor Phinnemore: The current situation is not sustainable. It depends on the timeline. As the Northern Ireland Civil Service has quite clearly indicated, it is not in a position, either politically or legally, to take some of the decisions that would be necessary if the UK were to leave with no deal. Decisions would have to be taken. They do not have the legitimacy to take those decisions.

There is a genuine desire on the part of the political parties in Northern Ireland to see a restoration of the Assembly and of the Executive. Talks are ongoing. There is a sense that you probably need the Brexit question to be resolved before we will get an Assembly back. That said, it is still not clear when that Assembly might come back. The fact that we have now passed 1,000 days without a Government in Northern Ireland may act as a prompt in that direction. We also need a more stable UK Government to be able to put pressure on the parties to bring that about.

If there is a withdrawal agreement in place and the UK leaves without restored devolution in Northern Ireland, there are questions about how you implement the arrangements that relate to Northern Ireland. Although the protocol would only come into force at the end of the transition period, if we look at the current wording of the protocol, there are provisions that kick in on day one and there will need to be decisions taken relative to Northern Ireland. You would really need to have Northern Ireland input into that process and you would want to ensure that the Assembly is back up and running for that. Whether politically that is possible is contingent on a number of other issues, which are more to do with divisions over the Irish language Act and other issues in Northern Ireland, but we need to see that Assembly, without question.

Dr Birnie: I agree that the current position is not sustainable. Major decisions are required in any case, even beyond the Brexit issue. It would be desirable if they were made by locally elected and accountable representatives, but failing that direct rule is regrettably necessary.

Chair: That is very clear.

Q21 **Stephen Kinnock:** Sorry, I missed that last section of the conversation, but hopefully my question will not cut across what may have already been said. I am just thinking about this link between the future relationship, the arrangements for the Northern Irish border and the idea, under the customs partnership, that for goods moving from Great Britain into Northern Ireland tariffs would be collected. The non-tariff barrier element plays an important role there as well.

For example, each time there is divergence in terms of tariffs or, indeed, non-tariff barriers, and all the paperwork that goes with it, do you see that, each time that happens, the joint committee would have to approve the agreed gap in tariffs or the agreed gap in paperwork and what needs to be done to fill those gaps, or do you think there is automaticity in that? You would have a system set up and, once it is set up, you would not require the joint committee or any approval process. There would simply be a button pressed and it would happen automatically. How do you see that working?

Professor Phinnemore: If we take the current terms as set out in the withdrawal agreement, there are two types of regulatory alignment. One is what we refer to as dynamic, and that becomes automatic. In the annexes to the protocol, there are listed around 300 directives or regulations that would have continued to apply to Northern Ireland were the backstop provisions to come into force. If there are amendments or replacements to those, those will apply automatically to Northern Ireland.

We have to recognise there the range of provisions. Some of them date back to the 1960s, some to the 1970s and 1980s. Some of them are long-standing, fairly settled legislation. We do not know what likely changes there are in those spaces. If there are new EU Acts that the EU argues should be applied to Northern Ireland in order to maintain the free movement of goods, it will be a decision of the UK and the EU in the Joint Committee as to whether those new Acts apply in respect of Northern Ireland. It is unclear, however, what would happen if the UK did not agree to the application of those new Acts to Northern Ireland. The EU has reserved the right to take appropriate measures.

Q22 **Stephen Kinnock:** Through the European Court of Justice.

Professor Phinnemore: It is unclear. Possibly not through the Court of Justice, but there may be some safeguard mechanism introduced. A comparison would be with the European Economic Area arrangements, whereby if the EFTA/EEA countries do not accept new EU legislation deemed applicable to the single market the EU can suspend, in part or in full, the operation of the EEA agreement.

Interestingly, in the context of the withdrawal agreement and the protocol arrangements with Northern Ireland, there is no such mechanism provided for. My understanding is that there would be essentially political discussion about trying to find ways forward to mitigate the non-adoption of those new EU Acts. How often this would be the case very much depends on the development of the EU acquis as it relates to the free movement of goods.

We also need to be reminded there that the protocol arrangements in relation to Northern Ireland do not cover the entirety of the EU acquis in relation to the free movement of goods. It is a stripped down version of it. My guess at the moment is that we would not see too much change there.

Going back to one of the earlier points about the role of the Northern Ireland Assembly and Northern Ireland Executive, it is expected that the UK Government will be consulting the Northern Ireland Assembly on any additional EU acts that might be applied to the protocol. They will also consult, according to the protocol arrangements, the North/South Ministerial Council, if that is up and running. There will also be mechanisms in place beneath the Joint Committee, so a specialised committee and a joint consultative working group, whereby the UK will be involved in discussions with the EU about proposals coming forward.

A key issue there is how you make sure that Northern Ireland's voice is part of those discussions. There is an interesting question for the UK Government as to how it creates its delegations to those meetings to ensure there is informed understanding coming out of Northern Ireland.

Chair: That is really helpful.

Stephen Kinnock: That is very helpful.

Chair: Unfortunately, we have run out of time, but on behalf of the Committee can I thank you, Dr Birnie and Professor Phinnemore, for your evidence this morning? It has been really helpful and unbelievably timely.

Examination of Witnesses

Witnesses: George Clarke, Ivor Ferguson and Roger Pollen.

Q23 **Chair:** Can I, on behalf of the Committee, welcome our second panel this morning? Roger Pollen, head of external affairs for the Federation of

Small Businesses Northern Ireland, Ivor Ferguson, president of the Ulster Farmers Union, and George Clarke, assistant chief constable, Police Service of Northern Ireland, I thank you all for coming today. Can I thank you for bearing with us, as the arrangements have slightly changed as events have unfolded? We have, as ever, a lot of ground to cover. Succinct answers would be much appreciated. Do not feel under obligation, all three of you, to answer every question, because some of them will be directed to you individually.

Can I begin by asking each of you to tell us what you think the implications of a no-deal Brexit would be for the areas you have responsibility for?

George Clarke: Good morning. As a police officer, one's eye is automatically drawn to the change of provision around what might be called justice and home affairs measures. The reality is that, in a situation where we lose access to the current systems to detain suspects and share information through the European arrest warrant, ECRIS and so forth, one is very clear that we will go back into sub-optimal situations. There is a common-sense element to the measures we currently have, developed to improve and make more efficient the 1957 and 1959 conventions. In the event of a no-deal exit, if we step back to the 1957 and 1959 conventions, we step back into a system that is sub-optimal, slower and—forgive the awful phrase—clunky, as opposed to the EAW and current situations. That is my first reaction.

The second reaction is that the impact no deal could have within Northern Ireland, which my colleagues on my right will comment on too, will inevitably affect policing, because we do not police in a vacuum. We police the Northern Ireland that is experiencing the challenges or rewards that are going on around it at that time.

Q24 **Chair:** That is very helpful. You say "sub-optimal". Does that mean it would be more difficult or it would take longer for you and your colleagues to get the information needed to ensure the safety of people in Northern Ireland and to fight crime and terrorism?

George Clarke: There is an element of both. The European arrest warrant enables us to essentially circulate throughout the European Union details of a person who is wanted. That warrant can be executed anywhere within the European Union, so you almost have a double effect of making other states aware that someone is wanted and having the capacity to have that person arrested. It is quite a reciprocal and swift arrangement. If we revert back to the 1957 and 1959 conventions, we are talking about going back into the world of extradition, as opposed to the more direct and swifter European arrest warrant.

Q25 **Chair:** The threat from those who are unreconciled to the peace process had been increasing, we see, because of the number of incidents. What impact do you think a no-deal Brexit would have when it comes to the threat from those individuals and organisations?

George Clarke: It is really important to note, before talking about the impact that a no-deal scenario would have, that violent dissident republican groups, which have as their primary aim the Police Service of Northern Ireland, Prison Service colleagues and to a lesser extent others, have essentially been operating at a severe threat level for nine or 10 years, so that level of threat is not new. The issue with Brexit or EU exit as a generality is that it can become a tool. Even using the terms "Brexit" or "EU exit" can provide you with perhaps a clarion call or rallying cry.

It is really important, however, to remember that these people have posed a very real, very significant and very dangerous threat, against which we work extremely hard and with considerable success, although one has to be careful never, ever to become complacent or self-regarding in that element. They have a potential to rally. Opportunities may exist for them to carry out their terrorist crime and activities, depending on what infrastructure, for example, would look like.

Q26 **Chair:** That is very helpful. Thank you very much indeed. Mr Ferguson, what would a no-deal Brexit mean to your members, to farmers?

Ivor Ferguson: Right from the word go, we realised that no deal would be catastrophic for our farming members in Northern Ireland. It would be catastrophic right across all sectors of farming and, indeed, for the agri-food business in general. The agri-food business and farming is the biggest sector in Northern Ireland, so it would have a detrimental effect on the Northern Ireland economy.

Coming back to individual farmers, I live quite near the border and, if we are thinking about farming in particular, 30% of the milk from Northern Ireland travels on a daily basis over that border. That is a lot of product. We would be facing tariffs of 17p per litre and £30 to £35 per lamb, with 50% of our lambs going south. From a farming point of view, it would just be catastrophic. I know there may be some difficulties with regulations, but the latest all-Ireland proposal on regulations would certainly help with all that. At the end of the day, the tariffs we face are our biggest problem by far.

What would it mean for us? It would mean market failure. It would mean bankruptcy for a fair percentage of farmers, so you can understand that it is a place where we just do not want to go. That is why we as a farming organisation supported Theresa May's deal at the start, although it is dead in the water now, because it allowed us to trade both north-south and east-west. We as farmers respect the result of the referendum. We voted for that withdrawal agreement, under which we would have left the EU, but in an organised and managed manner. That is where we would like to see it going forward.

Chair: That is very clear. Thank you very much.

Roger Pollen: We surveyed our members in advance of coming here, just to try to get an up-to-date sense of what they were thinking on this.

If I highlight a couple of points from that, one is, I suppose, the concern about the asymmetry that would emerge in the event of no deal. That is one of the biggest concerns coming through. The second is that there is no guidance from the Republic of Ireland, which will be a key market for many of our members. There is guidance coming through from the UK Government as to what they can do, but there is no reciprocal guidance, so there is no understanding of how they may or may not be able to access that market.

About two-thirds of our members responding to the survey said that they import from the Republic, and over half of them import from other EU countries as well, so there is a significant impact on them there. About three-quarters of our businesses export to the Republic of Ireland, 24% to other EU countries and 21% to the rest of the world, so there is quite a big appetite among small businesses in Northern Ireland and among our members for accessing EU markets. In the event of no deal, there is a complete lack of clarity as to how that would continue.

Similar to Ivor, we have a lot of people in the agri-food sector within the membership, who are deeply concerned about the tariff and non-tariff barriers that would be placed in front of them, and the risk of substitution coming in from third countries and destroying existing markets within the UK itself.

Q27 **Peter Grant:** To what extent were businesses in Northern Ireland consulted on the Government's latest proposal?

Roger Pollen: Do you mean consulted in advance of it being put out?

Q28 **Peter Grant:** In advance, what opportunity did you have to influence the proposal that the Prime Minister sent off to the EU?

Roger Pollen: We have all engaged hugely with Government, at a ministerial level and with advisers and civil servants, so we have raised all the concerns that we have. The question is how much that has then filtered through into what was proposed, and I cannot judge that. We have certainly had an opportunity to make input over the last number of months and years.

Ivor Ferguson: We did not have any direct consultation on what was proposed before it was proposed. Having said that, we did engage with all the politicians and we have made our position very clear. When this latest proposal came out, we could not accept the proposal from a farming point of view, but we were encouraged at least that there was a proposal put on the table and something definite going forward, because uncertainty is one of the biggest problems that we face. Given that we have had no certainty for these last three years, we did welcome the fact that here is a proposal on the table.

However, there were a couple of points that we could not accept in this new arrangement. One was that, at the end of the 12-month transition period, we would still be faced with going back to WTO tariffs and the tariffs that I mentioned earlier. The other point that we could not accept was the fact that there was a four-year review, for the very reasons I have already mentioned. We were leaving to politicians how they would put this plan in place, but our problem was that, at the end of four years, we were back to the same uncertainty, and as agri-food business and farmers we certainly do not want to have any more uncertainty.

Q29 **Peter Grant:** Have either of you been given any indication as to what would happen if the consent of the Northern Ireland Assembly was not given? You have mentioned, Mr Ferguson, this review every four years, which means that Brexit is never done. It is always only four years away. Do you have any indication as to what would happen for businesses in Northern Ireland if, after four years or eight years, for example, the Assembly says, "We do not like this arrangement that we have any more. We are not going to give consent for it". What happens the day after that or the year after that consent has been withdrawn?

Ivor Ferguson: From that point of view, we have no indication as to what would happen at the end of four years. We have to point out as well here that farming is a long-term business. We are in a long-term business and, for that reason, anything that takes away from that would certainly be unacceptable. There is very little in the way of mitigation measures that we can put in place. If you are a dairy farmer, your milk leaves the farm every day. There are no mitigation measures that we can really put in place, so at the end of four years we do not know where we are going. That will be a major problem for us. Our agri-food businesses, processors and that, have all vented the same opinion. We just do not want to go there every four years.

Roger Pollen: There is a sense that it would add to uncertainty. We have already gone for very nearly three years now without an Assembly, so our day-to-day decision-taking is massively impaired. The prospect of something that could have such a huge impact on business being regularly revisited would cause concern to many businesses.

Q30 **Peter Grant:** Finally, Mr Clarke, have you done any assessment as to what the security implications would be if, effectively, the Northern Ireland part of a withdrawal agreement had to be revisited every four years? Would that give you concerns that potentially, every four years, there would be a build-up to potential conflict between the different parties in the Northern Ireland Assembly? Is that something you have built into your longer-term assessment?

George Clarke: Not in that specific sense, but where you have any democratic event, where you have elections or where you have discussions, there is inevitably a policing response to that in order to keep people safe. Some of the discussion that has occurred has been around how people and communities can feel unsettled by these discussions and the emotive expressions used.

Q31 **Mr McFadden:** Mr Clarke, can I ask you another few questions about the policing situation? Policing the border is a very specific task and you have developed systems that try to protect your officers in that situation. What thinking has gone into how the border might be policed in the event of a no-deal outcome?

George Clarke: If you might forgive me, we police communities, not the border. We police with the communities of Northern Ireland to keep them safe in a way that builds confidence in policing and in the criminal justice system. In that regard, the question almost becomes what you mean by the policing of the border.

Q32 **Mr McFadden:** I mean the border areas. You are trying to do this in a way that puts your officers at the minimum risk.

George Clarke: We are currently operating, as I mentioned to the Chair, in a severe threat envelope, so substantial planning and preparation goes into how we deploy in areas where there may be a heightened threat. Traditionally, there has quite often been a heightened threat in border areas. We have tactical awareness, training, equipment and approaches that we already adopt, which would carry on, whatever circumstance we find ourselves in.

One of the key things we have been able to do, with some increased funding, admittedly funding that was generated within the context of a deal, if I may call it that, was to increase our number of officers by a little over 300. Around 200 of those officers have moved into neighbourhood policing in those areas where one might feel that the communities would welcome a little bit of additional reassurance. That has quite often been in the five border districts. We have increased our number of neighbourhood policing officers there. It is really important for us to emphasise that we currently operate within a severe threat, but also that we police with communities as opposed to policing some sort of static area or arrangement.

Q33 **Mr McFadden:** On the police numbers that you were talking about, as I understand it, the PSNI was allocated an extra £16 million or so to recruit roughly 300 more officers. You were saying a moment ago that you have recruited about 200 of those 300. Is that right?

George Clarke: No, around 200 of them have moved into neighbourhood policing, and we have other officers we have uplifted in other investigative areas where we would need to have an increased presence—areas such as human trafficking, where you have to keep people safe in a changing and a different environment.

Q34 **Mr McFadden:** On that money for an extra 300, can you tell us how many of those extra 300 have been recruited since the money was allocated?

George Clarke: The best answer I can give you is that I believe they will all be recruited by April 2020. I am not sure of the precise number in play at the moment, but I know that we have uplifted already our neighbourhood profile and we continue to so do. The Chief Constable has recently been making the argument, which we within policing all understand and support, that the Police Service of Northern Ireland needs to grow a little bit beyond that envelope anyway to deliver effective policing to probably a ceiling of around 7,500 officers. We see that there is a need for further growth, for reasons additional to the EU exit issues.

Q35 **Mr McFadden:** How many do you have at the moment?

George Clarke: We are sitting at around 6,900.

Q36 **Mr McFadden:** Your ideal number would be 7,500 or thereabouts. Can I ask you about mutual aid provisions, because there are mutual aid provisions whereby you can call on assistance from other police forces around the UK? For example, I represent a West Midlands constituency. What kind of discussions have you had with other forces, such as the West Midlands Police, about the potential need for mutual aid provisions in the event of no deal?

George Clarke: Mutual aid is not an unusual thing in policing. It is quite a standard thing. I walked over the bridge this morning and Hampshire police were in position there, so mutual aid within UK policing is quite normal. It is quite usual and quite well practised. Our engagement is with the National Police Coordination Centre, which will then develop a mutual aid request across the UK, because it is not just the Police Service of Northern Ireland that may be looking for mutual aid around exit time. There may be requests from other services as well.

Our preparation for mutual aid is based on that element of it not being unusual and the fact that we deployed mutual aid in 2013, around the time of the G8 and the parading season, very effectively and very well. We are very grateful for the support we get from colleagues in England, Scotland and Wales. Those arrangements are in place and they have been tested by way of mobilisation exercises, to see whether the system would work and how quickly we could get officers to come into Northern Ireland to support us.

Those officers who come into Northern Ireland to support us will be trained, or have been trained and will receive refresher training, on arrival in Northern Ireland. They will be appropriately equipped to deal with the particular circumstances of Northern Ireland and deployed in a way that reflects their experience and training. In 2013, I commanded a number of the operations in which mutual aid officers were deployed. They were seamless. Officers integrated extremely well because we operate to common standards and systems across UK policing.

The system is in place. I am confident that, if those officers are asked for, when they arrive in Northern Ireland they will be properly received, properly trained, properly equipped, properly supported and properly deployed.

Q37 **Mr McFadden:** Do you think it is likely that the PSNI would make such a request in the event of no deal?

George Clarke: It is extremely difficult to put a likelihood on it, because it is so dependent on what is happening and circumstances. For example, from 31 October, we have restricted leave for our officers to 10%, so we have already put arrangements in to maximise our ability to stand on our own two feet, if I can use that phrase. The likelihood of us sending for mutual aid is dependent on the situation being such that we cannot consume our operational requirement within our own resource envelope.

It is not something that, as a gold commander, one would do lightly. It is not something that one would do without being aware of the consequences for policing elsewhere. We have to make sure that we have done everything we can to resource ourselves before sending for it. I would not wish to say how likely or otherwise it is, because, as you will understand, it is absolutely event-driven.

Q38 **Wera Hobhouse:** Can I come back to how much the farming and business community was involved in the proposals of the Government? We have heard today that we do not really know where the negotiation is going and whether it is ultimately more of a customs border emphasis in the Irish Sea or on the island of Ireland. Whatever is at the core of the Government proposals, they have been talking for a long time about trusted trader schemes. Could you explain a little more about how you understand these trusted trader schemes will work?

Ivor Ferguson: From a farming point of view, as I said earlier, we had consultations with the then Environment Secretary, Michael Gove. We made our position very clear on where we would like to be. When it comes to these trusted trader schemes and how we deal, as I said, our main market is the GB mainland market. We always asked for unfettered access to the GB market. We understood there would be some checks on product coming back from the GB market, but it would be major businesses, such as retailers and wholesalers, that would be coming back into Northern Ireland.

We understood that there would be checks. We would be able to handle those checks, as far as we could see, because there are checks at the moment coming from GB to Northern Ireland on live animals, so the fact that there would be extra checks would not greatly concern us. The tariffs would be our biggest issue, as I was saying, leaving Northern Ireland. That is our position at the moment.

Q39 **Wera Hobhouse:** It seems, because a lot of it is speculation, that what is being proposed would not decrease bureaucracy but increase bureaucracy quite considerably, particularly for the smaller and not the bigger players. Is that the way you see it?

Ivor Ferguson: Yes, anything that increases bureaucracy would be a real problem for us. The non-tariff barriers have the potential to add a lot of cost to our industry. We would not find those increased costs very acceptable. Leaving the EU is not a simple operation, as we all know. We have been working at it now for a number of years. We, as farmers, are quite happy to look at the best possible scenario and, if that involves some checks coming back from GB, we would be prepared to accept that, provided we did not have tariffs to pay on the way out of Northern Ireland. Reciprocal tariffs would help us, but would not solve our problem completely.

Q40 **Wera Hobhouse:** In terms of onus, do you not worry that the smaller operators would be disproportionately affected by the increased bureaucracy, or do you think it is the same for everybody? Are there smaller businesses that might have much bigger burdens on them, which might place them in a very difficult position?

Ivor Ferguson: When you are asking me those questions, as farmers, we are not really directly involved in businesses travelling across the border. We sell our products to processors, to other businesses and to manufacturers. They are the people who will be most impacted by that. It certainly would come back to us down the chain, but we are not actively, directly involved in businesses travelling across the border. It is up to our processors. They look after that for us.

Roger Pollen: We are hampered by the lack of detail at this stage and lack of agreed positions on it. One of the proposals the Government set out to the EU said special provision would be made for small traders. It depends how you define that. Something like 65% of businesses that export to the Republic have fewer than 10 employees, so it depends on where you draw the line of small; 81% of firms are SMEs, so they have fewer than 250 employees.

On the trusted trader scheme that you specifically referred to, the bottom line is that, if there is a scheme in place that means there is an agreement, so we have certainty and a framework in which to operate, that is better than not having one. Anything that would avoid no deal, even if it adds some bureaucracy and complexity, is the lesser of the two evils. We would need to see the detail of it to understand what the level of bureaucracy actually is and what costs would apply to businesses.

Q41 **Wera Hobhouse:** Would any proposals in which Ireland and Northern Ireland are in separate customs territories have to rely on exemptions for small businesses operating across the border to work? This is about whether the whole system would rely on exemptions between Northern Ireland and Ireland if they were separate customs territories. Would any proposal in which Ireland and Northern Ireland are in separate customs territories have to rely on exemptions and what are called derogations for small businesses operating across the border to work?

Roger Pollen: I struggle to know if we have enough detail to answer your question meaningfully. There are proposals in play at the moment, but we have not seen how those are really being responded to.

Q42 **Wera Hobhouse:** What it really leads to is always a question about smuggling. What effect would such exemptions have on the trade flows and smuggling? Do you worry about that at all?

Roger Pollen: We all do. The three of us would share that concern, because anything that increases illegality and criminality, and embeds that in society, where there are both suppliers and customers for that, causes concern, because that breaks down the norms within which legitimate traders operate. Anybody who is acting illegally for profit is doing so at the expense of somebody who is acting legitimately for profit.

Ivor Ferguson: This is a very big concern for us as farmers, not only about the illegality of it; the whole integrity of our food chain could be greatly affected here. That is one of the things that concern us greatly. We produce our food to the highest Red Tractor quality-assured standards, and everybody accepts that. This smuggling could bring in a product that is way below our standards and affect the integrity of our food business. That is something we are very concerned about. As long as there is a difference in the tariff regime on both sides of the border, it will be very difficult to stop smuggling.

Q43 **Wera Hobhouse:** That has an impact on policing as well, does it not?

George Clarke: Smuggling is primarily a matter for Her Majesty's Revenue & Customs, and the enforcement of food standards would be a matter for other agencies, but the police service plays its part as a partner in dealing with all forms of illegality and dealing with smuggling. The point around smuggling is that, if you have any sort of differential tariff, you have a potential economic reward for a criminal to act. We see that at the moment. We see evasion of duty on fuels, for example. That work already is in place and would continue.

Q44 **Wera Hobhouse:** You do not necessarily think it would increase the danger of smuggling operations.

George Clarke: It would depend on the differentials in tariff or regulation and how economically rewarding it is for a criminal to move into that. Criminals are very fluid actors and they will move to where the reward is highest and the risk is lowest. There is a substantial effort between the Organised Crime Task Force and the joint agency task forces, which we operate multiagency and cross-border, to deal with the smuggling threat, but primarily tariff and regulatory enforcement is not a matter for the police service. We have our role to play and we do that.

Q45 **Jeremy Lefroy:** At the moment, what kinds of procedures or checks are involved, I would imagine particularly over agricultural produce and livestock products, between, say, the island of Britain and Northern Ireland? Are there checks at the moment? I understand that there are in some cases.

Ivor Ferguson: Yes, there certainly are checks. If we take the sheep sector, because the highest number of live animals moving from north to south is in the sheep sector—over 400,000 lambs per year for processing—there are checks. We have a system in place. I have to say, the system works pretty well.

The system is that a veterinary surgeon has to come to a designated area that is passed for export to another country. Those animals are collected there. They all have tags, which electronically identify each animal, and the exporter uploads all those tags to a computer system. The vet goes down through it and checks that. Once he pushes a button, all that information goes to the processor in the south of Ireland, before the lambs even leave. Then the vet checks the animals to see if there is any lameness and that everything is okay from an animal welfare point of view. Then the animals travel over the border with no checks at the border, but that is done before they go to the border.

That system works pretty well. In fact, to do our bit in the Ulster Farmers Union, we facilitated two gentlemen from the alternative arrangements programme. Shanker Singham, who headed up that programme, brought another gentleman called Frank Dunsmuir, who works for Fujitsu. They provide technology for our other Government Departments, such as HMRC. We took them to both a lamb export centre and a dairy farm that exports milk on a daily basis to a southern processor. We were happy as the Ulster Farmers Union to look at all these alternative arrangements to see if we could facilitate something that would work for us.

To sum up what he said, Shanker was quite happy that he could make this system work. It would need the co-operation of processors both north and south. At the moment, we do not know whether that co-operation would be there in an adequate way, but we would like to think that there would be co-operation.

The other point about it was the technology that is there today. He assured me that it would take three years to have it up and running, so that was a bit of a disappointment to us. Nevertheless, we believe there is technology there, but the thing is that it just takes us three years to get there.

Q46 **Jeremy Lefroy:** That is very clear on north-south. I am thinking about whether there are already checks across on produce from Northern Ireland to Wales, England and Scotland. I had understood that there were some kinds of checks. They were around phytosanitary and so on, because of the all-Ireland economy and particularly the phytosanitary concerns.

Ivor Ferguson: Yes, indeed. If I go to Scotland, for example, which I did, and bring some animals into Northern Ireland, when they come into the port of Larne they have to be expected by the Department of Agriculture or DAERA, as we call it. They have to check them. In fact, we would not in any way be against those checks. In fact, we think those checks are a positive thing because, in the course of any disease outbreaks, it gives us a bit of comfort that there are checks. There are some checks coming into Northern Ireland and there are checks at the moment, but they do not cause an awful lot of concern. We have a system in place. We are happy with that system.

Q47 **Jeremy Lefroy:** Moving on from there, if there were other types of checks that could perhaps be done on traders' premises, whether in Scotland, England or Wales, of goods going to Northern Ireland and vice versa, would that cause major concerns for Northern Irish business and Northern Irish agriculture? I am talking about the east-west trade now.

Ivor Ferguson: We do not know the extent of what those checks would be. We can only judge it on a couple of things. We know that, at the moment, on products coming from outside the EU, for example New Zealand lamb, there are checks and 1% to 2% of containers are checked coming in.

To get a steer on this, we have spoken to processors and one processor is bringing about 30 to 40 container loads of product into Northern Ireland. They say that, whatever the percentage check would be, it would not be a major obstacle for them. It would be a hiccup, but it would not be a major obstacle. We do not live in a perfect world. We understand that we are going to have to accept some checks, but at this moment in time we do not see it as a major problem for us.

Roger Pollen: Anecdotally, we have asked some members what their sense of it is, without actually having any detail to go on. Their sense is that, if it is something they need to comply with and it is largely going to be done in the ports, it is just one of those administrative burdens on business that they will have to get on with if it keeps markets open to them.

Q48 **Jeremy Lefroy:** We do not know the details of the talks going on at the moment. Some people have suggested that Northern Ireland could somehow remain part of both a UK customs territory and an EU customs territory. Do you think one possibility might be for Northern Ireland to be its own customs territory, which would then decide how it aligned itself, by the democratic process that has been envisaged by the Government at the moment or some kind of similar democratic process? Therefore, it is very much in the hands of the people of Northern Ireland.

Roger Pollen: That sounds like another level of complexity that has not really been addressed or evaluated. The proposal that came out a couple of weeks ago that we would stay within the UK's customs territory but operate EU tariff levels was a move towards squaring some of the circles and working with people's red lines. I have not seen any analysis or consideration of how Northern Ireland could operate its own, separate to those two. That might be quite a way down the road.

Ivor Ferguson: From the farmers' point of view, all we would like to see is probably the status quo, because at the moment we are able to trade freely with our GB market, which is our main market, with the Republic of Ireland and with the other member states. What we would like to see is probably the status quo, with enough transition period within that to allow us to get to some sort of a free trade agreement under which we could continue trading. That is our objective as farmers.

Jeremy Lefroy: That is very clear. I imagine it is the same for you, Mr Pollen.

Roger Pollen: Yes. I am just thinking back to your earlier question. There is an aspiration among a lot of businesses to see how they can really look to Brexit and come out of it more positively than they go into it. They see that there is huge change with it, and where there is change there is opportunity, so there is an appetite for that, but the idea of moving that further down the line, where Northern Ireland becomes its own customs territory and has to negotiate its own agreements, tariffs and everything else, would be a huge leap beyond even what they are suggesting.

Q49 **Chair:** One idea that we understand is now being looked at is that importers would pay an EU tariff and, if the goods were going to stay in Northern Ireland, they would get a rebate. From an administrative point of view and your members, what do you think of that as an idea?

Roger Pollen: The idea has emerged recently, and we discussed it with some of them, just to get a sense for it. The idea was not rejected. It was down to what would lie behind it. If the process could be a simple transaction that would show tariff paid and tariff due to be reclaimed, and then it was complete, so that there was no actual movement of money and there was just a reconciliation, people felt it was manageable. Again, it comes back down to the level of detail and what will actually lie behind that sort of transaction. If it could be as seamless as that, it is something that people will deal with and take in their stride.

Q50 **Chair:** One other feature of what the Government have been proposing is that the commitments made previously by Theresa May to have a level playing field are being rowed back from. The Government have said that quite clearly. What implications do you think that would have for the degree of access that your members in Northern Ireland would have to the rest of the EU in those circumstances? The EU might say, "If you are not going to commit to a level playing field, we are going to have to take account of that in deciding what degree of access to give you in any free trade agreement that may follow". Is that something that would concern you?

Ivor Ferguson: Yes, certainly from a farmer's point of view. At least 50% of the product that we sell in Northern Ireland goes into the mainland GB market, and 20% to 25% is consumed in Northern Ireland, but the other 25% goes to EU member states, so that would be Southern Ireland or the other member states. Anything that would restrict our ability to trade would be a major problem for us and something we would not welcome.

Q51 **Chair:** I asked at the beginning what the implications of no deal would be, and you gave a very, very clear answer, Mr Ferguson and Mr Pollen. Do your members think it might happen on 31 October or, having been marched up the hill twice, are they now thinking, "We are not entirely sure it will"? Have you seen that reflected in the degree of preparation that they are making for that eventuality?

Roger Pollen: FSB is the largest business organisation in Northern Ireland. We have about 6,000 members. That is a big slice of the population, so you probably have most shades of opinion reflected within the membership as well. Where you might have one person who feels no deal is inevitable, another person will feel that it is definitely not going to happen, and so on.

We have one particular member called Justin McGorman. He runs a business called Reveal Business, and he is a consultant who analyses procurement principally within businesses, but he has been doing a lot of Brexit analysis. Within that, he has heightened the awareness that firms need to understand what no deal might mean for them. Beyond the simple thing of looking immediately upstream at their supply chain and immediately downstream at their customer base, it is looking at the transport systems that all those suppliers have for import and that all their customers have for export, and so on, so really going into a tremendous amount of detail with that.

What we are getting back from him is that some businesses have decided the risks are too high, so they have diversified. Other businesses, such as Ivor's—we share members in common in that—that have a very long-term business, particularly regulated businesses, are not masters of their own destiny, so they are having to wait to see what is handed to them and cannot really make a lot of preparation or mitigation around that.

Q52 **Seema Malhotra:** I want to understand your view about where goods or products may be going across the border multiple times and whether you see any new proposed mechanisms being able to cope with those circumstances. It may be the production of clothing or production of Baileys, as an example. What are small businesses thinking in terms of planning for those scenarios, and how are any checks going to be able to deal with those circumstances?

Ivor Ferguson: From a farmer's point of view, we have not had any comfort yet as to how those multiple crossings will be handled. As farmers, we went to discuss this with a sizeable haulier in Northern Ireland and had a look at his system. His system was transferring goods from major manufacturers or major processors in Northern Ireland. Some 85% of his business was on the island of Ireland and most of his business was crossing that border every day. There was no system in place that was going to allow him to operate without major disruption and cost. In fact, there were a lot of areas where he was not able to get any help as to what he should do or how he should handle it.

I suppose it is like a lot of things. When it comes down to the fine detail, there are lots of things that have not been thought of. For example, when he goes to a retailer in Southern Ireland, there may be some pallets or products that have to come back again to Northern Ireland because they are damaged or unacceptable. With all those little details, he found that it was going to be very difficult for him to operate.

The haulier's main problem was the timescale. If he had to go to a central point somewhere to have the load checked every time, it simply would not work for him. You had the other problems as well for lorry drivers. There is a limited time, as you know, for them to be able to drive a truck. After so many hours, they have to rest. All those things were of great concern to him and he did not have much comfort in the answers to many of his problems. From our point of view, that would be a problem for us.

Roger Pollen: I suppose the point is that, with an agreement, all these things are much more straightforward, not least because you will have a framework you are moving to, but you will also have a transition period to get to that framework, so these things can be worked out. If there is no deal, very rapidly you probably cease to be able to have those cross-border movements for processing and that is where immense damage would be done. We have seen the estimate of some of the impacts on jobs and so on, and they are all pretty catastrophic.

Chair: That concludes our evidence session. Can I thank all of you, Mr Pollen, Mr Ferguson and Mr Clarke, for giving up your very valuable time to be with us today? You have given really helpful and important evidence, and we are grateful to you.