

European Affairs Committee

Protocol on Ireland/Northern Ireland Sub-Committee

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

Wednesday 9 March 2022

3.55 pm

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

Evidence Session No. 1

Heard in Public

Questions 1 - 9

Witnesses

[I](#): Sarah Hards, Sales Director, AM Logistics; Conall Donnelly, Executive Director, Northern Ireland Meat Exporters Association.

Examination of witnesses

Conall Donnelly and Sarah Hards.

Q1 The Chair: We are today holding the first evidence session of our follow-up inquiry into the impact of the protocol on Ireland/Northern Ireland. This inquiry is to follow up the committee's introductory report published last July and the committee's examination of individual aspects of the protocol's operation in the period since then. The inquiry will be paused at the start of the Northern Ireland Assembly election campaign at the end of March, and will resume after the elections on 5 May.

We are joined today in virtual format by Sarah Hards from AM Logistics and Conall Donnelly from the Northern Ireland Meat Exporters Association. You are both extremely welcome, and we very much look forward to hearing the evidence that you will give us. Perhaps you could introduce yourselves for the record, if not for all of us, the first time you

speaking. Today's meeting is being broadcast and a verbatim transcript will be taken for subsequent publication, and sent to both of you to check for accuracy. I refer to the list of Members' interests as published on the committee's website.

Once again, welcome to both of you. Thank you very much for being with us. Perhaps I could start by asking the first question to get us going. What is your assessment of the overall economic impact of Brexit and of the protocol on Northern Ireland? That is a general question for starters. Who would like to go first with that one?

Conall Donnelly: I am happy to open on that, if that is okay. We obviously see this through the lens of the agri-food industry, specifically the meat industry. I am from the Northern Ireland Meat Exporters Association. We are the representative body for red meat processing in Northern Ireland, and we represent the large beef and lamb processors that are supplied by our Northern Ireland farmers.

The key point is that Brexit is not yet complete as such. The EU SPS controls are not implemented yet. We have not seen the impact of the removal of the grace periods. We have not seen the long-term impact of the trade policy changes and migration policy changes. All of those will manifest themselves over the long run. Brexit could hardly be described as a positive process economically for Northern Ireland on a general basis, given the uncertainty that it has created over the course of the process. Thinking of a number of different aspects of it, or the Brexit position more widely, trade policy changes are probably going to result in more third-country competition in the UK market.

From a trade point of view, we are seeing changes in trade policy that is opening the UK market up to more competition. For example, the New Zealand trade deal is forecast to boost the Northern Ireland economy by 0.01%, so it is hard to see the benefit when you see figures like that, or the Australian trade deal, where the sensitivity analysis, when you take into account the multiplier effects and things like that, is that it is the only region in the UK that is forecast to potentially be worse off as a result of the deal. The impact on the rural economy and the agri-food sector will be key factors. From that perspective, that is just one indication of some of the issues.

For market access with respect to sales, however, the protocol has provided some protections with respect to unfettered access to both UK and EU markets. There are some issues, and I will certainly come to those later. There are a few other issues on the broader Brexit front, with things such as access to labour. It is not just about Brexit, obviously; there are other factors involved.

The ending of free movement has been an important factor, and the labour shortages we face in the broader economy. Late last year, we were looking at labour shortages of between 10% and 15%. Despite 10% increases in wages, that is the equivalent of the loss of about £1 million

per week to the local economy in Northern Ireland, which probably throws some of the impacts of the trade deals into sharp relief.

Maybe on a more positive front, agriculture policy is now under the control of the devolved regions, and that freedom is going to be used in different ways in different devolved regions. Northern Ireland has just consulted on its first agricultural policy, which we strongly welcomed. It has good potential to drive us forward in both productivity and environmental sustainability, but it will only be useful if it is properly resourced. That is a critical concern. That is it from me on the broader Brexit front.

The Chair: Thank you for that. We will come on to some of the more detailed questions later in the session. Could I ask Sarah Hards for her answers to that question? It is good to have you with us.

Sarah Hards: Thank you. I am from AM Logistics. To give you a bit of background, there are two parts to our business. We are retail distributors; we bring goods over from GB, and distribute them to different retailers throughout Northern Ireland and the Republic of Ireland. We are also part of the Pallet Network; we are the Northern Irish depot for the Pallet Network, which is 125 depots in GB and 25 in Ireland. That could be goods from gym equipment to clothing to grass seed. It is very varied, from companies sending hundreds of pallets per day to people who are sending one pallet per week. It is a really broad range of people.

We find that trade has decreased. There was a major drop-off in the first quarter of 2021, but that came back when confidence grew in how to use the TSS, how to do customs declarations, et cetera. We are not back to where we were pre-Brexit, but it is slowly getting there. One of the major issues is that there has been a lot of education here in Northern Ireland for companies bringing in goods, but there may not be the education for the businesses in GB to make them fully aware of what they have to do to sell their goods into Northern Ireland. The onus has been put on the Northern Irish businesses buying those goods. Sometimes goods are sent across and the customs that are done for them are as minimal as possible, which makes it harder for the consumer in Northern Ireland to give the full detail. As I said, trade has decreased, but it is on the way back.

For the Pallet Network side, we were sending five trailers per night into GB with goods from Northern Ireland. Previously, that would be met with five trailers coming back, if not more; it was usually in excess of that. At the minute, we are sending five trailers out and getting four back. We are 20% down when we were getting two to three trailers back before. It has increased, but it is not where we were.

The Chair: You say that it went down and it is now coming up again. Do you expect it to go on coming up, and exceeding where it was before, or do you think there will be some longer-term decline? Do you have a judgment on that?

Sarah Hards: If only we had a crystal ball. We need confidence in what will happen over the next six months, and traders need to be told about what the final decisions are and what it is going to look like for them to trade with Northern Ireland. We are in a unique position; we have a special position within the EU and the UK, and the key is to maximise that. However, we are not doing that currently. I think it will come back. We are not where we should be now because, year on year, the amount of freight that we move increases by about 10% to 15%. We are not there yet.

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

Q2 **Baroness Ritchie of Downpatrick:** Thank you, Lord Chair. Conall and Sarah, you are very welcome. How would you summarise the impact on Northern Ireland's trading relations with the rest of the UK, with Ireland, and with the EU as a whole? Secondly, which sectors of the economy have been affected, either positively or negatively?

Sarah Hards: With the UK, as I said, we are sending out more goods from Northern Ireland than receiving, which is a first for us. We can tell that businesses here are taking advantage of the free access to the GB mainland. We found that trade with Ireland has increased, which is great. To be honest, we never really dealt that much with the rest of the EU ourselves. We are very much GB and Ireland-centric as a business. That is our Pallet Network side.

In relation to the retail, we found that some of the retailers we dealt with in GB had large distribution centres in England, and we brought the goods across. A number of them have now opened up distribution centres in Ireland, which is great for the Irish economy; jobs are being created and there is sourcing from local suppliers. However, part of our role as a logistics company is to streamline deliveries and to cut costs. The easiest way to do that was bringing goods in from GB to Northern Ireland and delivering direct to store.

It is actually taking longer for goods to get from the Irish DCs into Northern Irish and Irish stores, which seems very strange, but they have to bring them over and consolidate in GB. They find it easier to do and more cost-effective that way because they are doing one large customs declaration for a trailer instead of different goods, SPS goods, et cetera. It is trying to get that all under one bracket. In the UK, goods moving from Northern Ireland to GB and into Ireland have increased, but there has been a decrease in goods moving from GB to Northern Ireland.

Baroness Ritchie of Downpatrick: Thank you. Conall, as the chief executive of the meat exporters association, could you comment on those various facets?

Conall Donnelly: I do not particularly want to speak for the whole economy. Sarah has a helicopter view of this in some ways, which is very useful. There are other representatives with a remit to speak for the broader economy.

Clearly, some businesses and some sectors are managing the implications of the protocol quite well so far. I would count our sector, and probably to some degree the broader agri-food sector, among them. It is down to the nature of the trade flows. The unfettered access to both the UK and the EU market has been critical. There were very strong preparations, and in 2020 a lot of effort went in to influence the parts that we could influence and to make it workable for us, in terms of speaking to the negotiators and the people on the UK and the EU sides.

There is a lot of history in the agri-food sector of dealing with SPS issues. There is a lot of corporate memory as well of dealing with customs issues pre-1990. We know we are not unique in that. The SPS issues that we would have been dealing with in international trade would have been routine and the sector would have been used to them. Applying them on the Irish Sea is new, but the concept in general is not new. The agri-food sector and the meat sector have coped reasonably well, but that is not to say that there are not issues that need to be resolved.

I am a member of the Northern Ireland Business Brexit Working Group, and I can see from other sectors that there are obviously issues. The retail sector, were it not for the grace periods, would have major challenges. You can see from a logistics point of view some of the challenges that exist around groupage. It is the complexity of those movements that presents the challenges. Sarah's point about readiness on the GB side is critical, particularly early in the process. The lack of readiness of GB trade partners is a major frustration.

Baroness Ritchie of Downpatrick: Thank you.

Q3 **Lord Hannan of Kingsclere:** My question has just been eloquently answered, but perhaps you will allow me to ask a slightly modified form of it. If there was one aspect of the protocol that could be easily changed, if there was one thing where the UK and EU sides came out and said, "We are scrapping this bit of it", or, "We are modifying this", from the point of view of your respective businesses, what would it be? What would be your top ask? Conall, do you want to go first?

Conall Donnelly: In terms of our top asks, I could answer in two ways. I could answer it around some of the technical issues that exist. For example, we are supposed to have unfettered access, but actually we do not. Where we do not have unfettered access is through Dublin Port. That is a major issue. If there was a major ask at the moment, it would probably be about that. The context is critical. We estimate that about 40% of what we sent to Great Britain prior to 2021 was through Dublin Port. The reason for that is that it is the fastest route to the south of England and the Midlands.

Effectively, it is critical for chilled distribution because you are trying to hit a retail depot on time, with very fine margins, and you are carrying meat—a product with a finite life. Timely supply to customers is critical, and Dublin Port is important. Dublin-Holyhead is a very important part of the infrastructure because it saves the driver two hours' journey time,

rather than going over the top (from Belfast or Larne to Cairnryan). It allows them to take a three-hour break on the ferry, and that break then allows them more driving time on the far side.

The introduction of IPAFFS declarations on that route later this year will be a big challenge for our members. One retail packing business alone forecasts that it will have 300-plus IPAFFS declarations required per week on stuff moved from Dublin to Holyhead. Think about that in labour requirements and warehousing when at the minute there are shortages of staff. They are going to have to try to get somebody or maybe a couple of people to work on that from an administrative perspective seven days a week up to 7 or 8'clock at night.

If you are doing groupage, you are going to be carrying loads along with other suppliers who may not have done their homework properly, so you could be held up because there is a problem with someone else's load. There has been an element of that in changing from Dublin to Holyhead. It requires more driver time and puts pressure on the Larne-Cairnryan route. It creates a bit of a choke point there potentially if more traffic goes that way, and it creates higher costs. From the point of view of the south of England, it is more difficult. That all has to fit in with very tight retail depot times, and that is a real challenge if you are coming from Northern Ireland. That would be a key issue.

Another key issue—I will come on to this more—is divergence, which is a major challenge. At the minute, we are looking at technical fixes across a variety of issues, and that is good. There has been reasonably good co-operation thanks to that, but there is the big issue of divergence. Every time we fix something, that is great, but every time there is divergence there is potential for something else needing to be fixed. I would like to come on to the broader point of divergence later, but it is something that needs to be addressed.

Lord Hannan of Kingsclere: Dublin Port. Thank you. Sarah, the same question to you, if you would be so kind.

Sarah Hards: We and our customers can work with the non-SPS goods. We have been doing okay with that. If that had to continue, it is something that we have been coping with well. It is the SPS goods that prove a massive challenge. Even at the moment with the grace period, it is still an awful lot of work and really puts customers off sending SPS goods into the country. They prefer to source them in the island of Ireland, which is great but not always ideal when it comes to contracts they have in place.

The UK trader scheme would need to be further reaching and give some sort of special protection for businesses selling SPS goods so that it is a light-touch scenario, as well as putting in spot-checks to ensure that everything is being complied with and it is safe for sale in the UK only. That is what we are looking at. If we can get any assistance or any loosening of the rules for the SPS goods, that would be a massive help.

Lord Hannan of Kingsclere: Those are two very clear answers. Thank you very much.

Q4 **Baroness O'Loan:** A very significant part of the question I was going to ask has been answered. My question was: what are the main practical issues arising under the protocol that you would identify? You certainly identified very significant issues there. Would you like to add to what you have said already about practical issues?

Sarah Hards: When we are bringing goods across, declarations have to be done almost that afternoon. We do not know what is going on the trailer until about 2 pm, and it is going to ship that night. The declarations are just done on the TSS, which is an okay system. However, many customers prefer a full customs declaration, which cannot be done on TSS; it has to be done via CDS. It puts at least an extra day in the loop, which many of our customers are used to now. However, if they could revert to what it was before, that is really what is required. I am sure there will be a few other things, but I will let Conall have a stab at that one. If I think of anything else, I will come back to you.

Conall Donnelly: There are probably a number of things. We source a lot of raw material from GB. It is the second biggest source of raw material. The greatest is Northern Ireland farmers. We also bring in probably about £150 million to £200 million-worth of product from GB every year. It is critically important. The identity of that product is important because you need British product to sell on a British market where there is strong demand for British beef. The idea that the product's identity is important is something that seems well recognised in the EU, incidentally.

There has been greater administration and greater cost associated with those movements, but, as I said previously, our members have coped very well for a variety of reasons. They are large businesses. They are generally moving full loads of raw material as a single consignment with the same commodity code from one single site to another single site in Northern Ireland and there is no groupage involved, which keeps it reasonably simple. They had prepared well and these businesses have a strong background in dealing with SPS for third country trade, and that all helps. We know that other people have different challenges.

The two things that have helped a lot with that are the trader support service and the movement assistance scheme; very welcome and substantial government funding has gone into those. They have been critical in providing certainty and simplicity, where possible, and affordability. The UK Government commitment on that provision is rolling forward 18 months at a time or something like that, which is not great. It would be good to see an indefinite commitment. It is fundamental to Northern Ireland's participation in the UK internal market that you have these facilitations in place. That would be a really useful thing.

There are a few other issues, some that have been resolved and some that have not. Northern Ireland at the present time cannot directly access

TRQ on third-country product coming into Belfast Port. That is an issue. The way we have got round it is by importing via GB. We need sustainable solutions for these things, and the sustainable solution is to allow us to import directly into Belfast Port. I know, because we have talked about this with both the UK Government and the EU, that there is a recognition that the UK Government do not see it as acceptable. The EU recognises that it is not a sustainable situation. There are potential solutions that have been tabled, and we believe it can be resolved.

An example of something that has been resolved is the whole issue of returned goods. We had an issue early on with Northern Ireland goods that were exported to GB but had to come back, maybe because there was some return issue, potentially quality or because it fell over in the truck or something like that. Those returns were impossible because there was no mechanism for bringing them back in. They were essentially a P&R issue, as they are known. That was resolved quite quietly and effectively between DAERA, Defra and EU counterparts. It just shows that where there is a will there is a way in these things, and working together is better. It was a good example of something that worked. With all these things, we believe there are technical fixes. The point is that where there are technical problems you will generally get a technical solution, but they will continue to emerge unless the big, fundamental issue of divergence is dealt with.

At the minute, my sense is that the question of managing divergence has been skirted around somewhat. You can address today's problems with a practical fix, but divergence means that more problems are going to emerge in the future. With every fix you make, you are building a bridge to make the thing work in the future, but with every divergence that happens you are eroding the foundations of that bridge, if that is a fair analogy, so you need something sustainable to deal with divergence. It is the tension between the UK wanting to have regulatory autonomy and the EU wanting to protect the integrity of the single market at all costs. There must be a recognition that when the UK diverges from the EU it is actually diverging from Northern Ireland. That is a key point. When the EU diverges from the UK, Northern Ireland is caught up in that as well. It can happen both ways.

Baroness O'Loan: Thank you very much. Sarah, do you want to come back at all?

Sarah Hards: Conall mentioned returns. We send goods across to GB for different types of customers. If there is an issue with the product, it is very hard to send it back. There is no commercial invoice for it because no exchange has happened. Even if something is sent in error, for example if it is sent on the wrong trailer that night going over to GB instead of to Dublin, it is very hard to get it back without having to do a customs declaration, which the customer should not have to be responsible for. It is one of those little points that needs looking into in the future.

Baroness O'Loan: Thank you very much. I can see that that is

important for confidence in trade.

Sarah Hards: Yes.

Lord Hain: Sorry to interrupt, but there were two acronyms there. I am merely a humble Lord, and I did not understand what they were. Sarah mentioned TTS—trusted trader scheme. I think we are all aware of that one. What was the CDS, if I heard you correctly? Conall mentioned TR2. I do not know what those are.

Sarah Hards: The CDS is the whole customs system that was used previously for worldwide freight, and it has been revamped. Basically, with the CDS, you can do a full customs declaration, whereas with TSS, the trader support service, you can only do a partial declaration. There may be a full one, but it is not very user-friendly. We tend to use customs agents and brokers for the CDS. If our customers are importing goods into Northern Ireland, they prefer to pay to use the CDS system. It is a full declaration, and their goods are completely customs cleared when they hit the port in Belfast or Larne, and they can go anywhere in the island of Ireland. If there is any duty to be paid—if it is going to ROI—that is done further down the line. It smooths everything out. Goods are not stuck at the port, because payment of VAT and duty can be done up to six weeks later.

Lord Hain: But it is more expensive for you.

Sarah Hards: More expensive, but our customers like it. Instead of spending an awful lot of time doing supplementary declarations through the TSS, it probably saves them time and money in the long run.

The Chair: There was one other acronym.

Lord Hain: TR2, I think I heard.

Conall Donnelly: I think it was TRQ, Lord Hain, which is a tariff rate quota. Certain goods like New Zealand lamb will be subject to tariff, but a certain quantity is allowed into the UK free of tariff. Our ability to access the tariff rate quota is inhibited. That is the background.

Lord Hain: Thank you.

Q5 **Lord Thomas of Gresford:** The message I am getting from you is that you need certainty, simplicity and sustainability. Conall said that although there are technical problems there are generally technical solutions, so you have to work through them very carefully. Trying to be a bit optimistic about the scene, has the protocol had any beneficial impact, or does it present any economic opportunities, either for businesses or for workers you represent, or more generally? Do you see the future bright, dim, or what? Conall, perhaps you could answer first.

Conall Donnelly: I see the future as reasonably bright. We always have to be optimistic in business. From the point of view of the protocol, the greatest benefit is where it leaves us relative to UK and EU counterparts.

It gives us unfettered access to both markets, which means that it presents economic opportunities for processors, but not relative to the past. It is relative to our competitors in other jurisdictions who have lost some market access. In that regard, it is a positive. We have held on to some of the unfettered access that we would not otherwise have had. We see that as a positive outcome. It probably has great potential in some sectors in the broader economy to drive growth, particularly setting up goods manufacturing, distribution hubs and things like that. There is probably some potential in that, all right.

Lord Thomas of Gresford: Coming from Wales, I am very sensitive on the sheep issue and New Zealand lamb and all the rest of it. Is that going to cause you a problem?

Conall Donnelly: Those are the broader trade deals. Yes, we would be nervous about that in terms of volumes. New Zealand at the moment is not currently using all of its available quota into Europe or into the UK, and that is largely because it has other attractive markets. As long as that is the case, and as long as consumers stay reasonably loyal, and retailers in particular stay loyal to UK-origin products, that will benefit the industry.

Lord Thomas of Gresford: Are you saying that New Zealand has closer markets in the Far East?

Conall Donnelly: Yes. In some senses, perhaps more attractive markets as well. These things change, of course. When they have increased access, it always presents a potential risk.

Lord Thomas of Gresford: Thank you. Sarah are you optimistic? Are there beneficial impacts or economic opportunities? What do you think?

Sarah Hards: I am naturally optimistic. I wish I could see the best in everything. Are we in a better position now that Brexit has happened? No. Could we use our special position and access for the greater good? Yes, we could. Are we doing it at the minute? I am not sure.

As you said, we need clarity and confidence. We need to know how the landscape is moving forward for businesses to invest in Northern Ireland, and to make it a hub for processing, manufacturing and distribution, but that will not happen until everything is put in place and we know what it is going to look like over the next few months. I am optimistic that something good will come of this. It is where we are and we have to work with it. We have to get on with it and try to make the most of it, and hopefully the EU and GB Governments can come together and get on with something that is workable for us all.

Lord Thomas of Gresford: Have you experienced a loss of trade with GB, and has it been replaced by increased trade with Ireland?

Sarah Hards: We lost a fairly large retail customer at the beginning of Brexit because there were too many hurdles with their SPS goods coming in. They had a DC in Dublin, and they decided to send it all there in full

loads, so they had a number of declarations per trailer instead of per store. We lost customers straightaway overnight because they could not fathom the cost of veterinary certificates, et cetera. There has been an increase of trade between north and south, I feel, and there is definitely a special bond. Goods moving out to GB have increased. It is GB to NI that has decreased due to lack of education, and people not wanting to educate themselves sometimes. It is too much work to send their goods to Northern Ireland. It is not worth it for them.

Lord Thomas of Gresford: You said lack of education. I understand that to mean that people do not like dealing with new forms and new methods of working. If they were simplified, would that perhaps deal with the problem?

Sarah Hards: Definitely. What both GB and the EU have put forward about simplifying customs declarations for normal goods and for SPS goods is key. That is the only way that it will be workable going forward.

Lord Thomas of Gresford: Thank you very much.

Q6 **Baroness Goudie:** Good afternoon. Thank you very much. So far, I have found this very interesting. My question is to Sarah first and then to Conall. What is your overall assessment of the United Kingdom Government approach in relation to the protocol? Do the government proposals, as set out in the July 2021 Command Paper and subsequently, represent a viable means to address the current position? Secondly, do you perceive any evolution in the Government's position?

Sarah Hards: What was set out was to make Northern Ireland different, to make us exempt; goods moving into Northern Ireland will not move to ROI, ensuring there is duty, and it does not have to be paid, et cetera. The relaxation of the rules for customs declarations is exactly what we need. That is what we would always lobby for moving forward, exactly as they have asked for. The EU then came back and fed more detail into it, which I am totally on board with.

Baroness Goudie: Do you want to go back on that? It makes it very difficult.

Sarah Hards: My understanding of the Command Paper was that Northern Ireland would be exempt from harsh customs declarations and red tape. That works well for us and our customers.

Baroness Goudie: Thank you. Conall?

Conall Donnelly: I suppose the UK Command Paper proposal most relevant to our members is that the UK trader scheme is extended to apply to SPS matters, and the idea of a dual regulatory regime in Northern Ireland. That would mean that the full SPS regime would only be applied to products moving south.

In the context of a sector that is reasonably comfortable with where we are at the moment on the implications of the protocol for product moving

from east to west, what is in the Command Paper probably sounds attractive, until you consider that we import whole carcasses from GB. We break them up and send each cut to the best possible market. Much of that product will return to GB because it is a GB product and British beef is in high demand in the UK market. However, certain cuts are more attractive to sell in Europe, or there is only a market for them in Europe. We need to be able to sell into both markets.

Under current conditions, we have a kind of once-and-done approach to SPS. A GB consignment coming to Northern Ireland requires an export health certificate. It is pre-notified in TRACES and is then subject to the documentary ID and physical checks at the port of entry. When that process is complete, the processor can manufacture that raw material, and has unfettered access to both markets. We would like to retain that.

My reading of the Command Paper is that it would not be a once-and-done approach. Processors would be able to import non-EU compliant product into Northern Ireland, but then they would be required to prove that that product will not enter the EU single market, so you are into extra costs to try to track and trace the product throughout the supply chain. As regards segregation, I think it makes for a more complex trading arrangement.

I suppose the whole logic around the Command Paper is that the UK Government are trying to square the circle between the ambition to diverge from EU rules and their commitment to protect Northern Ireland's place in the UK internal market. I fully get that. I think it goes to the heart of the issue. That challenge is not quite being addressed at the moment. The greater the level of divergence, the greater the stress, whatever the solution is. Whether you have a land border, a sea border or some kind of dual market regime, it is clear that, whatever solutions are put forward, they will have to be acceptable to both the UK and the EU sides. That is the most intractable bit around divergence.

As we see it, unless there is a veterinary agreement, whether it is based on equivalence, dynamic alignment or something else, divergence will always be a major issue for us in Northern Ireland. It has already happened and it will continue to happen. Over time the impact of divergence will accumulate and it will be either active divergences pursued more from the GB side, with a Brexit opportunities Minister where you pursue changes to regulation, or passive divergences with the EU, where the regulations just evolve over time.

Our concern would be that divergence would eventually get to the point where you would struggle to source EU-compliant raw material in GB for processing in Northern Ireland. We think that could happen owing to something as simple as a change to a withdrawal period on an animal medicine, or a change to maximum residue limits on an animal medicine, which could create circumstances where a GB-based vet would be unable to sign an export health certificate.

There are other examples around divergence at the moment. There are the regulatory changes planned for gene-edited plants and the derogation on neonicotinoid pesticides that were banned in the EU. There is the FSA operational transformation programme, where we could end up with a dual regulatory regime for exporters versus domestic traders. That is just within the UK and it has implications for product going to NI.

There are two broad concerns about divergence. One is the ability of our businesses, our members, to secure supplies from GB that are EU compliant. I know the Command Paper would resolve that, but whatever the solution, it has to be acceptable to both sides. There are also the implications for the competitiveness of Northern Ireland businesses in the UK market if GB competitors have access to technologies or systems that are not approved for use in Northern Ireland.

The Command Paper and the EU non-papers show the fundamental difference in approach between the UK and the EU. The UK wants to put EU non-compliant product into the Northern Ireland market and the EU wants all of that risk managed at the ports. As far as we are concerned, some form of SPS veterinary agreement will be required here to resolve the issue by minimising checks, and managing the risk of not being able to import product from GB.

People talk about a New Zealand style agreement and they talk about a Swiss style alignment that would rule out 80% of checks. We are probably going to need something specific to Northern Ireland. We would be anxious to see something like that agreed. Failing that, and this is probably the more urgent piece, at the very least, some consideration should be given to managing divergence, which does not even seem to be on the radar at the moment. Maybe I am wrong, but I cannot see anyone thinking about how to manage divergence.

One thing we think should be considered by both the UK and the EU is that there is some regulation that, if you are going to change any law with respect to goods movements or goods regulations, there is a UK internal market assessment or a Northern Ireland impact assessment, to ensure that consideration is given to the impact on Northern Ireland of any changes. We have already seen regulatory and trade changes where Northern Ireland has effectively been an afterthought. If you can build that in, it would be a start to making sure that Northern Ireland is genuinely protected, which I think everybody wants. I am sorry if I have drifted off the point slightly, but I think it is critical to that piece around the Command Paper.

Baroness Goudie: Sarah, is there anything else you want to say?

Sarah Hards: No, that is fine, thank you.

Baroness Goudie: Thank you, Conall and Sarah.

Q7 **Lord Dodds of Duncairn:** Thank you very much, Conall and Sarah, for your contributions so far. The last point you were making, Conall, about

divergence and considering the impact on Northern Ireland, is very important and, indeed, it is something we have been thinking about in recent weeks. Your views on that are extremely valuable because it is an important issue going forward.

My questions are the corollary of what Lady Goudie was talking about. She was asking about the UK's approach and I want to ask you what your thinking is on the EU proposals that were brought forward last October, and how far they would go to addressing the problems that you have identified. The UK Government position appears to be that there are some improvements, but they do not go far enough in addressing certainly SPS. I would be interested in Conall's view on whether the EU proposals on SPS products require a UK approach based on equivalence, of matching what the EU is doing and its standards. Could we start with you, Conall, and then Sarah?

Conall Donnelly: We certainly took an interest in the EU non-papers. Many of the solutions that were put forward were to problems that were not necessarily ours as such. They were problems associated with retailers and smaller businesses that had fundamental issues with the operation of the protocol mainly because of the complexity of the kinds of movements they were making.

We agree that it is clear that the solutions that the EU put forward are useful with respect to simplification, but there is more work to be done. The Commission was here last month and I have no doubt that it saw that on its visit. My sense would be that it is useful, but from the broader economic point of view there is probably more to be done. The one thing in the non-papers that may be worth mentioning from our perspective is the issue of engagement with NI stakeholders, and formalising and improving the quality of engagement around the specialised committee, the joint committee, the working groups, and all of that.

One issue that we observe from the business community is that we are talking to both sides independently, so each side then takes different things away from the same conversation. It would make more sense to have joint technical meetings with industry. I have no doubt that that would be uncomfortable for some of the officials on both sides, but I think it would be helpful, none the less, because there would be no question of people coming back and taking different things from meetings.

Another point to make on the question of divergence, and I have harped on about it, is that the divergence piece goes to the heart of both sides' approach, and both sides have to recognise that they have a responsibility. I do not really sense that they are owning the responsibility of the impact of divergence. Their respective stances will put pressure on the long-term sustainability of the protocol, and something has to give. There needs to be an agreement that works for both sides, specifically for Northern Ireland business. It also has to work for us.

Lord Dodds of Duncairn: Thank you, Conall. Sarah.

Sarah Hards: I definitely think it is a question of working for both sides. There are almost three sides really—the EU, GB and everyone stuck here in Northern Ireland. It is about trying to get a workable compromise. The EU has suggested an express lane and reducing customs formalities by 50% and getting the just-in-time goods over in the way that used to happen. What we need to see is removal of the red tape to get those goods over as quickly as possible, and have the monitoring here when they arrive at the port. To be part of the UK trusted trader scheme is key, and that is further reaching.

Lord Dodds of Duncairn: The TSS has been mentioned a few times, and how important it is. The Government, as I understand it, are forecast by the end of the financial year to have spent £300 million, and they have hundreds of people working on it, but there is no guarantee that it will continue.

Sarah Hards: The trader support service?

Lord Dodds of Duncairn: Yes, the trader support service. You mentioned people using CDS and that sometimes they prefer that, but without the trader support service, what would be the impact if the Government were to say, “We’re not going to continue. It’s now up to business and so on to bear the costs of all that”?

Sarah Hards: I think for larger businesses CDS works. They have teams of people based all over Europe doing their customs declarations for them. However, smaller and medium-sized businesses really rely on TSS. It is key for them. I know it does a really good job with some of our customers in assisting them with customs declarations, holding their hand through them. There has been an awful lot of funding and I think it was for two years. I think Fujitsu has the contract for it. We are in Q2 now and we have three more quarters, nine months, and that could possibly be gone. I do not think people would have the confidence to use a different system. If it were to disappear overnight, I think the trade would almost disappear overnight as well.

Conall Donnelly: The businesses I represent can be very large businesses, and they too use the TSS. We find it very good to work with. If it is not there, ultimately, for every transaction you will need to engage customs support in the market. With no disrespect, if TSS was removed, this customs broker market is going to have to fill that gap at a cost to industry and it is not necessarily going to add value to the economy. It is just the provision of a service to undertake—let us face it—a bureaucratic process. We would therefore be strongly supportive of the TSS remaining in place. It is really important that it does because, after all, the UK Government made the decision to sign up to the protocol. The UK Government are very clear on the importance of Northern Ireland remaining part of the UK internal market. If they genuinely believe that, there will be indefinite support for the TSS.

The Chair: Thank you. Before I come to Lord Hain, perhaps I could ask one question myself. There has been quite a lot of talk over the last two

or three years about the possibilities of technological change, and technology providing a solution, or at least help in some of the problems that exporters face in both directions, but particularly from GB to NI. Do you see this as being, in your respective fields, a possible solution? Can you see technological change helping things, or is that off the agenda for you? Sarah, would you like to comment?

Sarah Hards: I think the technology is there. As we said, the TSS and the CDS are there. It is just taking the manual side away from that. I know there are businesses working very closely with HMRC and Irish Revenue to smooth things out and try to make it very easy to do large customs declarations quickly and for low cost. I know the technology is being created and improved. Is that what you were looking for?

The Chair: That is the sort of thing. It just seems to me that in the 21st century, when so much is going digital, and there is so much talk about filling in forms, one could be moving to a different form of exporting. I wondered if that was something that seemed relevant to either of you. Conall, do you have any thoughts on that?

Conall Donnelly: Yes, I think there is potential, particularly around the customs piece. Obviously, if technology is to simplify things, international norms in customs processes and regulation also have to keep up with the technology. The two kind of go hand in hand. The technology is no use unless the regulation allows it, and it has to be agreed by both sides (i.e. both governments) in the transaction. Both parties have to agree that the solutions work.

Where it is more difficult is with the SPS, and we had a lot of discussion around this with the Alternative Arrangements Commission a few years back. Unfortunately, technology as yet does not allow you to see into the back of the trailer and remotely scan bar codes, animal ear tags or whatever, so there is a limit to what can be achieved with technology on border checks.

I keep coming back to the same point. If you do not have (or minimise) divergence and you manage whatever divergence there is, in a sensible way and have some kind of overarching veterinary agreement, the three things go hand in hand. You can reduce the need for the level of inspection and market access risks. I think that is where you want to get to because the issues around divergence go beyond border frictions to questions around competitiveness and everything else.

The Chair: Thank you.

Q8 **Lord Hain:** This is a very interesting session. Perhaps I could observe to Conall that the Government's policy is expressly to diverge from the EU. That was the point of their exit policy, so I do not think we can get away from it.

Perhaps I could start with Sarah. In which areas do you see scope for compromise between the EU and the UK, and where do you think it will be most difficult?

Sarah Hards: For non-SPS goods moving into Northern Ireland, the express lane they discussed can, hopefully, be agreed on quite quickly. It is the SPS goods that are going to prove very challenging. I know there is a real push to try to minimise, literally, paperwork, but I know that the EU just feels that it is something that has to be done. We do not move that much SPS product and, as I said, a number of our customers have diverted and sourced it internally here in Ireland. I hope that a majority of the goods we move will be subject to that express lane.

Lord Hain: If you were banging heads together on SPS, how would you do it? I do not mean physically but in policy terms.

Sarah Hards: I do not know. It is very difficult. Conall, do you have any ideas on how to make SPS work?

Conall Donnelly: There is no question but that the UK motivation is to diverge so that it can make the kind of trade deals that are already under way. I would not want you to think me naive, but the point is that divergence is the fundamental problem here. That is the risk the EU sees and is trying to manage. The UK has a fundamentally different way in the Command Paper; that is how it proposes to manage it. There is loads of potential for compromise in technical areas, and probably lots of potential around customs and things like that. SPS is the main challenge.

In business, we are not dogmatic. Dogma is probably the biggest problem on both sides. On one side, the EU talks about economic alignment being necessary. The UK would accept some form of mutual recognition or SPS agreement. There is no question: both sides see the benefit in an SPS agreement, but it probably falls somewhere between equivalence and dynamic alignment in certain areas. I do not know. The positions are so fixed and hard that it is a challenge, but at the end of the day, if you do not confront the issue, eventually it will over time drive more and more intractable problems. We need something sustainable, so ultimately it will have to be confronted.

Lord Hain: On the difference between equivalence and dynamic alignment, if you take a leg of lamb what would you actually do between those two, to bridge them?

Conall Donnelly: The difference between the two is that under dynamic alignment the EU would require UK legislation to keep pace with changes in EU legislation, whereas the alternative (preferred by the UK) is for the UK and the EU to agree that the respective regulatory regimes in both jurisdictions are, effectively, equivalent and mutually recognised. They would recognise each other's standards as equivalent. That is the kind of agreement the UK could sign up to if the EU required economic alignment.

Lord Hain: But what if they were not equivalent?

Conall Donnelly: That is where it has to be agreed. An equivalence agreement is negotiated; there are parameters under which standards

are maintained. That is the kind of relationship that exists between the EU and New Zealand; The relationship between the EU and Switzerland is one more like dynamic alignment. People talk about one or the other being an off-the-peg solution, but they will have to come up with something specific for Northern Ireland. As is often the case for Northern Ireland throughout this process, we need something special. Our view is that it is absolutely necessary to make it work in the long term.

Lord Hain: Thank you.

Baroness Ritchie of Downpatrick: You have been talking about SPS agreements and all the technical issues. What direct discussions and engagement have you had on technical matters with the British Government and the EU in the last three months?

Conall Donnelly: It has been largely through the Business Brexit Working Group. The Commission was here in February and we had discussions with it when it visited. Probably all the different business sectors in Northern Ireland were round the table with the Commission at one time or another over the course of a few days. We would have raised these issues. We have been regularly engaging with officials from HMRC, the Cabinet Office, the EU taskforce, the Foreign Office and NIO officials. There is a great level of engagement at the moment. I have highlighted this issue of divergence with them and I am probably highlighting more today because it is important that it is heard.

Sarah Hards: I have never spoken directly with any government official regarding SPS goods. It would be our customers who engage with officials on that.

Lord Thomas of Gresford: Conall, I am very interested in your suggestion about managing divergence. Is there an existing body where representations can be made from Northern Ireland, the EU and GB and they could all get together and work out how to manage divergence so that everybody understands the position of each party? You referred to the Business Brexit Working Group. How would you physically manage divergence?

Conall Donnelly: The EU non-paper on stakeholder engagement, representation and stuff like that is probably edging towards it. The Business Brexit Working Group is doing very good work. It is a collective of different trade bodies and some of the affected businesses in Northern Ireland. You need officials at the table not just from the EU and the UK Government but from Northern Ireland. That is the type of engagement we need. I think the EU non-paper is taking us towards that type of engagement, if possible. It is very useful to have that engagement when there are officials from both sides in the room and you get down to technical details, because that is where it is important.

On managing divergence, in Northern Ireland when the Government introduce a new policy, they have to make an equality impact assessment. That is one of the things they have to do. There has to be a

rural needs impact assessment. There are legislative requirements that they have to look at equality so that, for example, a new policy or regulation does not disadvantage disabled groups. Why not make it a legislative requirement that, if a new policy is being introduced that would affect goods movements, goods standards or whatever, there is a Northern Ireland impact assessment, or even an internal market impact assessment, because there will be things that will happen from one devolved region to another that could have an impact as well? Something like that would be quite powerful.

Now of course, having undertaken such a mandatory process of examining the impact of a legislative change (divergence) and having identified major issues for the Northern Ireland economy, there is nothing to stop a UK Minister going ahead and pursuing the policy anyway. At the same time, they would at least be armed with the facts and could own the decision and the impact on Northern Ireland's economy or its place in the internal market. That is the type of thing I am thinking about when I talk about managing divergence.

Lord Thomas of Gresford: Thank you. That is very helpful.

Q9 **Lord Empey:** Thank you both very much for your evidence this afternoon. This is a very easy question to close on. What impact is the continuing political uncertainty around the protocol having on the economic climate in Northern Ireland?

Sarah Hards: Uncertainty of any type will always have a negative impact on the economy. To have such political uncertainty around the protocol makes everyone uneasy. It makes suppliers in GB uneasy; it makes anyone who would want to invest in Northern Ireland uneasy. The quicker we can get answers, get this resolved and get processes in place, the quicker we will see improvements in the economy.

Conall Donnelly: The political uncertainty at the minute is certainly not helpful. Uncertainty goes a lot wider than the protocol at the minute. If it was just uncertainty about the protocol it would be one thing, but there are all sorts of political and economic uncertainties. Recent days have probably been the worst since World War II in terms of economic, political and geopolitical uncertainties.

Given events in Ukraine, there has to be recognition about where we are with the security tensions that will arise, and the impact on prices for consumers and the impact on farmers and their costs of production. There are serious cross-cutting issues at the moment and, given their nature, we need the UK and the EU working in partnership. The way things are going, we will have to work in partnership. A good start, albeit with respect to just Northern Ireland, would be to deliver on the need for certainty around the protocol. If we can get an Executive up and running, we need them developing plans to deal with what is coming down the line, because some of it will not be pretty.

Lord Empey: Obviously, we cannot anticipate what will happen with the

Ukrainian situation, but I presume you are referring to the cost of feed as a result of grain that is grown there. That would have a widespread impact, presumably in poultry as well as in your own sector.

Turning back to our situation and what we may or may not be able to control ourselves, I think, Sarah, you mentioned investment, and that this might be preventing us getting investment. Do you have any evidence for that? Is it just a feeling you have or feedback from your customers?

Sarah Hards: We were not sold the protocol in any shape or form; it was kind of thrust upon us. We were told that Northern Ireland would have a special position with unfettered access to both GB and Europe, and we would have a special place in the single market. I do not have evidence about what has or has not been invested, or about new industries coming here. There has been no news on that. I do not think we can realise our special position until we know what kinds of procedures are in place for the movement of goods.

Lord Empey: Conall, do you have any final points?

Conall Donnelly: I agree with Sarah that certainty is key. If businesses have economic certainty, they will invest. There are benefits in the protocol, and if you provide certainty, I think businesses will invest. This is one of the many aspects of uncertainty we have at the moment. There is potential to get it put to bed. If we had that, at least we could move forward.

Lord Empey: Thank you.

The Chair: That was not quite the last question because Lord Godson has a question he would like to put.

Lord Godson: I will keep it admirably concise. I thank the witnesses for their testimony today.

There was an admirably clear report last year, in April 2021, on BBC Northern Ireland where they described the cost. I am particularly interested in the cost or your latest estimates thereof. On BBC Northern Ireland, they said: "Haulage firms estimate that one pallet of goods, which previously would have cost about £100 to ship, now costs an extra £50 to £350 for all the new admin". That was in the early days of the protocol. Could both of you reflect on how that might have changed in the intervening period?

Secondly, the grace period that is being enjoyed in Northern Ireland has been referred to. Were that to come to an end, and agreement not be reached, what would be the cost of it? In other words, are both of your relatively benign views of aspects of the current situation contingent on the fact that there has been a grace period? Were that to come to an end, what would the hard stop mean?

Sarah Hards: A cost of between £100 and £350 may be overegging the pudding. There definitely was an increase of probably 40% to move goods in. The type of pallet that is used has changed. It used to cost £5 for the old type of pallet; now the type of pallet that has to be used probably costs £15. That is a tenner just on the pallet. Then the customs declaration has to be done as well. We have a small team looking after the customs, and we had to employ someone as a compliance manager to look at the Brexit piece, among others.

I would say that the cost has stayed the same for us; there has been no decrease in cost from Q1 or Q2 last year. If there was no grace period, that cost would increase again. You would be looking possibly at double. It is not even just per pallet coming in. The way we work is that we fill the lorry to maximum capacity; we get as much on it as we can, because the most expensive part of the journey is crossing the Irish Sea. It costs £400 to cross the Irish Sea with 26 pallets and it costs £400 to cross with 50 pallets, so the key is to maximise your capacity. Sometimes, we cannot get all of the customs declarations done in time for the goods to come across. Sometimes, there are not enough SPS goods because they want to send them in a dedicated trailer in case they get stopped. All the other goods go across fairly easily, but the SPS goods are always a fly in the ointment, so, if it were to increase, those types of things would happen more often.

Conall Donnelly: I cannot comment on cost increases. I do not recognise those figures, so I cannot comment on them one way or the other.

It is fair to say that, in the red meat processing sector, the grace periods have no impact on us.¹ They do not generally apply to our sector; they apply basically to retail. I suppose we have been operating on the basis of the protocol as it was intended. We are reasonably comfortable and content with the situation as it stands at the moment.

The Chair: Thank you both very much for the evidence you have given this afternoon. It has been very helpful to our inquiry. We are extremely grateful to both of you. I bring this session formally to a close.

¹ Note from witness: With one small exception, we have a derogation that allows us to move third country meat to NI via GB for further processing.