



Northern Ireland
Assembly

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Chairperson, Committee for Agriculture, Environment
and Rural Affairs

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Dear Lord Teverson

ISSUES AND CONCERNS WITH THE PROTOCOL

Thank you for the opportunity to meet with the Members of the EU Sub Committee on 25 June 2020. It was provided us the opportunity to discuss a number of pressing issues in relation to the Protocol that are of great concern to both AERA Committee Members as well as your own Members.

It was agreed at that meeting that the AERA Committee would write to you to advise what our key issues and concerns with the Protocol are. As a Committee we met last week and agreed that it is vitally important that there is no impediment to trade and the following issues should be highlighted to the EU Sub Committee:

EU Approval of Ports and Airports as Border Control Posts

The Committee is aware of the need for ports and airports to submit detailed applications to the EU in order to get approval to be designated as a Border Control Post. These are needed to check goods arriving from GB to this jurisdiction. The applications must take account of issues such as the ability to handle the volume of checks and the various categories of goods that will be handled. This will likely necessitate the enhancement of existing facilities and an increase in staff resource to ensure that the ports/airports have the capability to operate efficiently and effectively as a Border Control Post. The AERA Committee have concerns that there is no clarity on the number and type of checks required, on the type of goods that will be designated, on the levels of additional staff at ports/airports to deal with additional volume of work and whether those additional staff require specific or specialised skills to fulfil their roles. This lack of clarity requires to be urgently addressed by the Joint Committee.

Designation of Goods at Risk

One such issue is that of designation of goods. The Committee has concerns in respect of the apparent difference in approach that will be taken by the UK and the EU regarding the designation of goods coming through ports and airports that will be designated “at risk”.

Arbitration

The Committee has concerns regarding the lack of clarity around the role of the arbitration process on goods at risk.

Provision of information and practical guidance to business

The Committee has received correspondence from a number of stakeholders outlining concerns regarding the lack of detailed information to assist them with making preparations for the 31 December 2020 deadline. Furthermore, they have stated that the Covid-19 pandemic has reduced their capacity and time to meet the deadline.

Volume of work to be carried out by Departments, Committees and the Assembly

The Committee has been briefed by the Minister of Agriculture, Environment and Rural Affairs and his officials on the volume of work that is required in order to implement the Protocol by the end of the transition period. The Department has shared information on what it considers necessary to deliver a Minimum Viable Product (MPV) by 31st December 2020. Much of that MPV will require legislation to be made in the NI Assembly alongside working with UKG Departments on SIs, which have devolved aspects, as well as Common Frameworks. Both the Minister and the Committee have major concerns around capacity to deal with the volume of work and with the risk inherent in the scrutiny of such work in a rushed manner.

Unanswered questions on the flow of goods north/south, east/west and vice versa

The Committee would seek clarification on the role of HMRC and whether or not it can perform its function fully and robustly without having a physical presence at ports/airports. Furthermore, the Committee would seek answers regarding what SPS checks will be carried out, the cost of those checks and the resources that will be required, as well what contribution to budget will HM Treasury provide to enable all the necessary actions to complete.

Openness, transparency and accessibility of the Joint Committee

The Committee is disappointed and concerned about the lack of openness, transparency and accessibility by the Joint Committee. There is a distinct lack of ability to feed into any decision making process and this leads the Committee to feel cut-off from any decisions which ultimately will impact on us, and feel that our voice needs to be heard.

Impact on the Protocol and Free Trade versus a no Trade Deal with the EU

The Committee recognises that whatever deal is agreed between the UK and EU, there will be a significant impact on the Protocol and how it operates. Should a Free Trade deal be reached then the large parts of the Protocol will become obsolete. The Committee would seek clarification regarding this type of scenario and what it could mean for here.

Legislation for unfettered access

The Command Paper makes it clear that unfettered access of goods from NI to GB requires legislation and but there is a lack of detail around what that legislation will be, when it will be made, by which procedure and what the role for the NI Assembly will be. The Committee would seek clarification on these issues.

I hope that this letter expresses some of the concerns of the Committee. You may also wish to note that, in terms of the role of the AERA Committee in scrutiny of the legislation and Common Frameworks required for implementing the MVP, we have written to the DAERA Minister. We have asked for detailed information on the scheduling and volume of legislation and frameworks that are required to be considered by the Committee and the Assembly. We have also requested that the Department and Committee work together to smooth what DAERA have referred as the 'bumpy ride'; and requested, from September, weekly updates on the EU Exit Preparedness Plan.

Yours Sincerely



Declan McAleer

