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Food & Rural Affairs

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Lord Teverson
Chair of the EU Environment Sub-Committee
House of Lords
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Dear Lord Teverson

Thank you for your letter of 16 September 2020 regarding agri-food and the Northern Ireland Protocol ('the Protocol').

As a Government, we always strive to be as open as we can with Parliament including by responding transparently to Select Committee inquiries and correspondence.

Implementation of the Northern Ireland Protocol is a dynamic process given that negotiations are ongoing under the auspices of the Joint Committee. We are also continuing to consult with our colleagues in the Devolved Administrations and businesses to ensure the best possible policy and delivery outcomes, and these can only be confirmed once finalised.

We will continue to work with the EU to resolve all outstanding issues with the Protocol – that is our overriding priority. However, as a responsible Government, we cannot allow the UK's internal market to inadvertently be compromised by unintended consequences. That's why we are taking limited and reasonable steps to create a safety net to ensure the Government is always able to deliver on its commitments. The UK Internal Market (UKIM) Bill and the Finance Bill are the last opportunities the UK Government has to provide clarity in UK domestic law. If we don't take these steps, we face the prospect of legal confusion at the end of the year and potentially extremely damaging defaults.

I have addressed the further points highlighted in your letter in the annex below.

I am copying this letter to the Chancellor of the Duchy of Lancaster, the Secretaries of State for Northern Ireland and International Trade, the Chief Executive of Her Majesty's Revenue and Customs, and the Committee on the Future Relationship with the European Union.

RT HON GEORGE EUSTICE MP

Annex: Questions and recommendations made throughout the letter requiring a response

The best-case scenario, and the importance of an UK-EU free trade agreement (questions 3, 7, 8, 21)

1. We urge the Government to consider the likely impacts on Northern Ireland businesses and consumers of the increased levels of checks and controls that will be required as a consequence, if the UK-EU future relationship negotiations are not successful.

Response

It remains our goal to reach an agreement and we will continue to work hard to do so. However, as a responsible government we continue to make extensive preparations for a wide range of scenarios, including the reasonable worst case.

Our Command Paper has outlined how the limited additional processes required by the Protocol can be implemented in a flexible and proportionate way to protect the interests of people and businesses in NI, of the whole UK, and the EU. We have set out further guidance on what the Protocol means for moving goods into and out of Northern Ireland. We have set out how the Northern Ireland Protocol can be implemented in a way that protects the economy of Northern Ireland and upholds the rights of all its citizens. This includes £650million package of investment to help traders in Northern Ireland, and support peace, prosperity and reconciliation projects on the island of Ireland.

Timing and business readiness (questions 4-6)

2. Your letter does not acknowledge the challenging timetable to implement the Protocol. It does not reflect on the possibility of staggering the introduction of checks and controls, nor does it respond directly to our questions on the time needed for businesses to recruit staff or develop IT systems. Your reply also does not acknowledge the impact of COVID-19 on the ability of businesses to prepare and consumers to cope with potential price rises. We would be grateful if you would address these issues directly.

Response

On 31 December 2020, the transition period will end and there will be a guaranteed series of changes and opportunities for which business and the government need to prepare. Many of these changes will be required regardless of the agreement we reach with the European Union on our future trade relationship because the UK will be leaving the single market and customs union and regaining its political and economic independence.

While many businesses will be developing further the preparations for EU Exit that they began last year, we recognise the impact the pandemic will have had on their ability to plan. The Government has committed to providing extensive support for businesses engaged in new processes under the Protocol, including through the Trader Support Service. Extending the transition would simply prolong the negotiations, prolong business

uncertainty, and delay the moment of control of our borders. The UK remains committed to meeting its legal obligations under the terms of the Protocol and will fully implement the Protocol by the end of the year.

Goods moving from the rest of the UK to Northern Ireland (questions 7-31)

Veterinary capacity for certification

3. Is there a shortfall between the current level of veterinary capacity and the Government's prediction of the level of demand for certification from 1 January 2021, either with or without a UK-EU FTA?

Response

Defra took a number of steps to boost certifier capacity prior to the UK's exit from the European Union. We have now allocated further resource to deliver additional capacity ahead of the end of the Transition Period to ensure as many appropriately qualified certifiers as possible are available at the end of the year. Official Veterinarians (OVs) operate in a private market which we expect to respond to an increase in demand for certification services. However, there is a long-term shortage (approximately 11%) of veterinarians in the UK.

Live animals and most animal product exports must be certified by an Official Veterinarian (OV). OVs hold specific qualifications to certify different types of export consignments. There are currently around 1200 OVs in GB authorised to certify exports of animal products. This has increased from around 600 in February 2019.

Most fish and fishery products are certified for export by Food Competent Certifying Officers (FCCO). Most FCCOs are Environmental Health Officers, employed by Local Authorities. There are currently around 1040 FCCOs in GB. They can also be certified by appropriately qualified OVs.

The role of Certification Support Officer (CSO) was recognised by the Royal College of Veterinary Surgeons (RCVS) Council in November 2018. CSOs can handle several preliminary and administrative tasks to prepare consignments for certification by an OV and free training was provided in 2019/2020 encourage uptake. There are over 100 CSOs authorised to date.

Further funded training for OVs and CSOs will be made available from early October.

Additionally, £540,000 has been allocated for surge capacity veterinarians as short-term support for certification of exports, including at the end of the transition period if localised shortages arise. Deployment options, including to Local Authorities to support FCCO capacity, are being considered.

As part of our previous planning for a potential no deal exit, we provided approximately

£300,000 in funding directly to several Local Authorities to increase certifier capacity.

We recognise the additional pressure placed upon Local Authority resource by the response to COVID19 and are therefore considering other options to provide support.

Border Inspection Posts (BIPs)

4. When do you expect the application processes to be concluded and further information on specific port/airport designations to be provided to businesses trading in sanitary and phytosanitary (SPS) goods?

Response

The UK Chief Veterinary Officer (CVO) has informed DG SANTE (the EU Commission's Directorate-General for Health and Food Safety) of our plans to maintain designations at Belfast Port, Belfast International Airport, Belfast City Airport and Warrenpoint Ports as Border Control Posts (BCP) in Northern Ireland. On 30 June the UK Government applied for new designations at Larne and Foyle ports, and an extension of BCP designations at Belfast and Warrenpoint ports.

Discussions with the EU on these applications have been positive, though these of course remain subject to ongoing discussions.

Applications for the extension of facilities at the Airports are also being prepared for submission by the Department for Agriculture, Environment and Rural Affairs (DAERA) in the Northern Ireland Executive.

Formal approval will be granted once the facilities and resources are in place to meet the requirements of new and extended designations.

Engagement with NI Businesses has commenced (see below).

Further SPS guidance

5. The new SPS requirements described in the guidance are significant. We welcome the fact that the Government is engaging with businesses and other stakeholders on further Government support that could be provided to address the new requirements on SPS goods. We would be grateful for an update on this and on the discussions about the process by which SPS controls will be conducted, and their frequency.

Response

Business and Stakeholders:

On 7 August, the UK government published guidance on the Northern Ireland Protocol for businesses moving goods into and from Northern Ireland. This provides further clarity to businesses following the publication of the Government's Command Paper in May. It confirmed additional details will be outlined in the coming months to support preparations for the end of the transition period.

Along with this guidance, the government made a further announcement specifically on support for traders in Northern Ireland. This announced a major £650m package of investment to help traders in Northern Ireland, and support peace, prosperity and reconciliation projects on the island of Ireland.

At the centre of this package is a new, free-to-use Trader Support Service (TSS) - an end-to-end support service to deal with import and safety and security declarations on behalf of traders. The new service will be available to businesses bringing in goods from Great Britain or the rest of the world, providing guidance as well as dealing with their requirements for moving goods into Northern Ireland.

Furthermore, the UK Government confirmed it will engage with businesses and other stakeholders on support that could be provided to address the new requirements on SPS goods moving from Great Britain to Northern Ireland. Further information on any support will be provided in the light of that engagement.

Discussions with the EU on SPS controls:

Discussions continue with the EU on ensuring that controls on agri-food goods entering Northern Ireland are applied in a pragmatic, proportionate manner which recognises the high standards applied across the UK.

As set out in the published guidance, the UK Government recognises the unique position of traders, such as supermarkets, with stable supply chains, and comprehensive oversight of warehousing and distribution operations, moving pre-packaged products for retail sale solely in Northern Ireland. We are continuing to pursue specific solutions for this type of movement.

Negotiating an SPS chapter

6. We are disappointed that there has not been more progress in negotiating an SPS chapter and equivalence on particular commodities with the EU. What has been the obstacle?

Response

The UK has set out that the trading relationship between the UK and the EU should build upon and go beyond the World Trade Organisation (WTO) SPS Agreement. Across the FTA, there are large areas of convergence in many of the areas and we will keep working to bridge the gaps.

We remain committed to working hard to reach agreement by the middle of October, and we look forward to continuing discussions, as planned.

Divergence in standards and the need for checks and controls

7. You did not commit to publishing an impact of divergence in food standards between the rest of the UK and Northern Ireland, when proposing new standards for England. We remain of the view that it is important that divergence within the UK is minimised to

reduce the need for checks and controls on goods moving from the rest of the UK to Northern Ireland.

Response

Leaving the EU has not changed the FSA's top priority which is to ensure that UK food remains safe and what it says it is. Our high standard of food safety and consumer protection will be maintained. The Food Standards Agency (FSA) will continue to be the competent authority for food and feed safety for England, Wales, and NI, after the end of the transition period and as the Protocol is implemented. Food will be as safe in Great Britain and NI as it is now. As the competent authority for food and feed safety, the FSA will continue to ensure that UK and NI consumers are protected. We are committed to having in place a robust and effective regulatory regime which will mean business can continue as normal.

Customs and tariffs

8. What has the EU's response been to the Government's proposed approach to the definition of 'at risk'? Can you confirm that the Government will not proceed on this issue unilaterally, and will abide by the Protocol which reserves this decision for the Joint Committee?

Response

As confirmed in our previous letter the Government will implement the provision in the Protocol that NI is fully part of the UK's customs territory, by ensuring there are no tariffs on goods remaining within the UK customs territory.

We will continue to work with the EU in the Joint Committee to resolve this and all other outstanding issues with the Protocol – that is our overriding priority. However, as a responsible Government, we cannot allow the UK's internal market to inadvertently be compromised by unintended consequences. That's why we are taking limited and reasonable steps to create a safety net to ensure the Government is always able to deliver on its commitments. The UKIM Bill and the Finance Bill are the last opportunities the UK Government has to provide clarity in UK domestic law. If we don't take these steps, we face the prospect of legal confusion at the end of the year and potentially extremely damaging defaults. These include tariffs on all goods moving from Great Britain to Northern Ireland – a consequence not intended by the Protocol.

9. Your letter did not respond directly to our question about the impact of tariffs applied in the absence of a UK-EU FTA on products being traded from Northern Ireland to Ireland which incorporate components from the rest of the UK. Instead your response referred to the position on goods as they move from Northern Ireland to Ireland, and the position on goods moving from the rest of the UK to Northern Ireland, with Northern Ireland as the final destination. We would appreciate if you would answer this question with respect to products being traded from Northern Ireland to Ireland which incorporate components from the rest of the UK.

Response

Goods moving between Northern Ireland and Ireland will not be subject to tariffs. As we've already said, we will continue to work with the EU in the Joint Committee to resolve outstanding issues with the NI Protocol – including the tariff treatment of goods entering Northern Ireland from Great Britain that then continue into the EU as part of a finished product.

Continuous supply of veterinary medicinal products to Northern Ireland

We understand that there are ongoing discussions on this issue. We would be grateful for an update.

Response

The Government is committed to ensuring the UK remains an attractive place to market veterinary medicines. The Medicines and Medical Devices Bill gives us the power to update our regulations, so the UK, in its entirety, will remain a competitive and attractive market for businesses. It remains our objective to negotiate a future relationship with the EU.

The Government will continue to work closely with the pharmaceutical industry to help ensure UK animal owners continue to have access to the medicines their animals need.

Veterinary Medicines that are currently on the UK market before the end of the Transition Period may continue to be marketed in the UK. Following the end of the Transition Period, the Veterinary Medicines Directorate will provide for applications for new Marketing Authorisations in the UK to be able to be valid in all territories. We do not foresee any availability issues for veterinary medicines in Northern Ireland.

Goods moving from Northern Ireland to the rest of the UK (questions 32-33)

Qualifying status for unfettered access

10. Your letter did not respond to our question as to whether the definition of qualifying status for Northern Ireland goods and businesses that will benefit from unfettered access to the rest of the UK market will take into account all-island supply chains. We would be grateful for a reply on this issue.

Response

We are engaging with businesses and the Northern Ireland Executive on the means for delivering qualifying status, ensuring that the needs of Northern Ireland businesses are met. While this work takes into account all-island supply chains, unfettered access will not cover goods travelling from Ireland or the rest of the EU being exported to Great Britain. The UK's customs and regulatory regime will apply to EU goods and businesses exporting to Great Britain, subject of course to any preferential terms we agree through a Free Trade

Agreement.

The UK internal market proposals, including exit summary declarations

11. We urge the Government to reconsider these Internal Market Bill provisions and to engage with the EU constructively on exit summary declarations.

Response

As we set out in the New Decade, New Approach agreement people and businesses in Northern Ireland will have unfettered access to the whole of the UK. We have always been clear that the Protocol must not place unnecessary burdens on the UK's internal market; and we have clearly ruled out export summary declarations on goods moving from NI to GB, and tariffs on goods remaining within the UK on several occasions.

As explained in our letter we are working hard to resolve outstanding issues with the Protocol through the Joint Committee and will continue to approach these discussions in good faith. We will ensure that the government is always able to deliver on its commitments to the people of Northern Ireland.

12. What assurances are the EU asking for to proceed with the third country listing of the UK, and what assurance has the UK offered?

Response

We very much hope we will reach an agreement on third country listing. Both sides have been clear that they want to work together to facilitate progress. In recent weeks positive technical discussions on third country listing between the EU and UK have taken place and these are set to continue. We cannot allow the UK's internal market to inadvertently be compromised by unintended consequences of the protocol.

The UK's legislation has always automatically enabled the EU to trade with the UK, for very good reasons – we are operating the same rules and will be at the end of the transition period. There is absolutely no food safety or biosecurity reason for the EU not to list the UK in the same way. We will be laying secondary legislation in October to clarify listing procedures in future.

Specific issues for the seafood sector (questions 16, 34-47)

Landing seafood products in Northern Ireland ports

13. When is the decision expected to be reached by the UK-EU Joint Committee regarding exemption from duties?

Response

Article 5.3 of the Protocol mandates the UK-EU Joint Committee to establish the conditions for NI vessels to be exempted from EU duties when landing fish into the customs territory of the Union. This is an area that is intricately linked to wider negotiations

and other aspects of the Protocol. Discussions are ongoing to ensure that this is achieved for NI's fishing industry, which we recognise is a crucial part of the NI economy.

Engagement (questions 1-2, 18, 23, 32, 37-39)

14. Your letter did not respond directly to our question regarding training schemes and awareness-raising campaigns: instead you refer to publishing guidance and ongoing engagement. While the introduction of end-to-end support for certain processes may reduce the need for training, awareness-raising will be important to ensure that businesses are preparing and know what information they should be gathering to submit under the new checks and controls.

Response

The Trader Support Service will start to go live later this month so that businesses can register and begin to receive information about preparing for the end of the transition period. It will help all traders, regardless of size and at no cost, to move their goods between Great Britain and Northern Ireland, and to import goods into Northern Ireland from the Rest of the World in compliance with the NI Protocol.

The Trader Support Scheme will offer Trader education as one of its core services. This service will:

- a) educate businesses on what the Protocol means for them, and the steps they need to take to comply with them (including getting an Economic Operators Registration and Identification (EORI) number)*
- b) support businesses developing processes to accurately provide the trader support service with all the information it needs to submit declarations on their behalf (including information on the 'risk' status of the goods)*
- c) advise businesses on the additional documents/licences that they will need (for example, a permit is needed to import endangered species (CITES) goods).*

The UK Government will also be engaging with businesses and other stakeholders on further Government support that could be provided to address the new requirements on sanitary and phytosanitary (SPS) goods moving from Great Britain to Northern Ireland. Further information on any support will be provided in the light of that engagement.

