



House of Commons  
Committee on the Future  
Relationship with the European  
Union

---

**Preparing for the end  
of the Transition Period**

---

**Third Report of Session 2019–21**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 17 December 2020*

## Committee on the Future Relationship with the European Union

The Committee on the Future Relationship with the European Union is appointed by the House of Commons to examine matters relating to the negotiations on the future relationship with the European Union.

### Current membership

[Hilary Benn MP](#) (*Labour, Leeds Central*) (Chair)

[Lee Anderson MP](#) (*Conservative, Ashfield*)

[Mr Peter Bone MP](#) (*Conservative, Wellingborough*)

[Joanna Cherry QC MP](#) (*Scottish National Party, Edinburgh South West*)

[Sir Christopher Chope MP](#) (*Conservative, Christchurch*)

[Mark Eastwood MP](#) (*Conservative, Dewsbury*)

[Florence Eshalomi MP](#) (*Labour, Vauxhall*)

[Sally-Ann Hart MP](#) (*Conservative, Hastings and Rye*)

[Antony Higginbotham MP](#) (*Conservative, Burnley*)

[Dr Rupa Huq MP](#) (*Labour, Ealing Central and Acton*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Seema Malhotra MP](#) (*Labour, Feltham and Heston*)

[Nigel Mills MP](#) (*Conservative, Amber Valley*)

[Nicola Richards MP](#) (*Conservative, West Bromwich East*)

[Gary Sambrook MP](#) (*Conservative, Birmingham, Northfield*)

[Mr Barry Sheerman MP](#) (*Labour, Huddersfield*)

[Jane Stevenson MP](#) (*Conservative, Wolverhampton North East*)

[Wes Streeting MP](#) (*Labour, Ilford North*)

[Matt Vickers MP](#) (*Conservative, Stockton South*)

[Dr Jamie Wallis MP](#) (*Conservative, Bridgend*)

[Dr Philippa Whitford MP](#) (*Scottish National Party, Central Ayrshire*)

The following Members are former members of the Committee:

[Mark Fletcher MP](#) (*Conservative, Bolsover*); [Matthew Pennycook MP](#) (*Greenwich and Woolwich*)

### Powers

The powers of the Committee are set out in House of Commons Standing Orders, principally under a Temporary Standing Order of 16 January 2020 (amended on 2 March 2020). These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

© Parliamentary Copyright House of Commons 2020. This publication may be reproduced under the terms of the Open Parliament Licence, which is published at [www.parliament.uk/copyright](http://www.parliament.uk/copyright).

Committee reports are published on the [Committee's website](#) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### **Committee staff**

The current staff of the Committee are Jonathan Arkless (Committee Specialist), Henry Ayi-Hyde (Committee Operations Officer), Gordon Clarke (Committee Clerk), Mark Earl and Hannah Finer (Committee Operations Managers), Dr Ariella Huff (Senior Committee Specialist), Duma Langton and Julian Mazowiecki (Committee Specialists), Fraser McIntosh (Specialist Assistant), Zac Mead (Second Clerk) and Ben Shave (Media and Communications Officer).

### **Contacts**

All correspondence should be addressed to the Clerk of the Committee on the Future Relationship with the European Union, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 0207 219 4826; the Committee's email address is [freucom@parliament.uk](mailto:freucom@parliament.uk).

You can follow the Committee on Twitter using [@CommonsFREU](#).



# Contents

---

<b>Conclusions and recommendations</b>	<b>3</b>
<b>1 Introduction</b>	<b>6</b>
<b>2 Trade in goods</b>	<b>7</b>
The Border	7
Exporting to the EU	7
Infrastructure	8
IT systems	12
Importing from the EU	15
Staffing	17
Customs agents	17
Vets	18
Business readiness	19
Informing businesses and traders	19
Preparing for new border processes	20
<b>3 Policing and law enforcement cooperation</b>	<b>22</b>
<b>4 Ireland/Northern Ireland Protocol</b>	<b>26</b>
<b>Formal minutes</b>	<b>32</b>
<b>Witnesses</b>	<b>33</b>
<b>Published written evidence</b>	<b>36</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>40</b>



## Conclusions and recommendations

---

1. We note the work the Government has done to develop the Border Operating Model and the steps it has taken to build some of the physical infrastructure needed for the Border Operating Model to work. This has been a complex undertaking requiring careful coordination and collaboration across departments and with local government, the devolved administrations, businesses and traders, and the logistics sector. The new infrastructure and accompanying traffic management plans are needed from 1 January 2021 whether there is an agreement on the UK's future relationship with the EU or not. We are concerned that some decisions on infrastructure have been taken too late, such as where the inland facilities for Holyhead and Cairnryan will be located and decisions on bids to the Port Infrastructure Fund to enable ports to carry out the necessary building work. We are also concerned about the overall state of readiness. It is important that the Government engages fully with the devolved governments and has robust contingency plans to deal with whatever happens after 1 January. We welcome the European Commission's proposals on 10 December 2020, in the event of no deal, for temporary rules on road freight and road passenger transport provided the UK reciprocates, and we urge the UK Government to do so. (Paragraph 18)
2. Complex, large IT systems are always difficult to deliver, and getting Government IT systems ready for the end of the transition period was always going to be challenging. The need to develop some new systems has complicated matters. The Protocol on Ireland/Northern Ireland creates additional complexity; for example, it will require the use of the new Customs Declaration Service because it can handle two different tariff codes for the same product. We note that there is a reasonably high level of confidence that the changes the Government needed to make will be made on time, but we are concerned that some of these changes are coming so close to the end of the transition period that business and traders will not have had enough time to update their own in-house systems. They work with more than just the UK Government's systems; they must be trained on and work with IT systems at ports and with those of the countries they are exporting to or importing from. We are aware that it will take time to train users on both the Government systems and changes to any in-house systems; this training is vital if the whole system for moving goods is to work. Late delivery of IT systems makes it difficult for this to take place before the end of the transition period. We are also concerned that there has not been enough time to test how well all the systems work together. The Government should have a plan in place now so that it can act early in the New Year to deal with any problems. We will watch to see how the situation develops in the first few weeks of January. (Paragraph 26)
3. The Government was right to phase in import procedures on goods arriving from the EU and, given our earlier recommendation on the UK reciprocating on the European Commission's proposed no deal contingency measures on road freight and road passenger transport, we urge the EU to reciprocate on the phasing in of import procedures on goods in order to give businesses more time to adapt to the outcome of the very late running negotiations. Nevertheless, full implementation is now only a few months away and, as the last year has proved, new and unexpected

challenges may well emerge. The Government must ensure that necessary systems and infrastructure are in place, and businesses are informed of the changes they must make, as soon as possible to ensure that the extra time is not wasted. (Paragraph 33)

4. Effective operation of the new Border Operating Model depends on more than IT systems and physical infrastructure. It needs people. Outside the Single Market and Customs Union, businesses and traders will be reliant on customs intermediaries to help them get their paperwork right. It will be impossible to comply with the requirements on plant and animal health, and food and feed safety without the vets and other professionals who are needed to carry out checks and certify goods. We are very concerned that any delays that arise because we have not got the right people in the right place at the right time will make it harder for UK businesses to trade with our European neighbours. The Government must stand ready to address any shortages in personnel that cause delays once the transition period has ended, i.e. in just over two weeks' time. (Paragraph 38)
5. While we welcome the Government's attempts to communicate to businesses the changes that will take place on 1 January, results appear patchy at best. Little time now remains and, in making their preparations, businesses continue to be held back by restrictions imposed to control the spread of Covid-19, a lack of detailed guidance and continued uncertainty over the final terms of the UK-EU future relationship. (Paragraph 48)
6. Cooperation on law enforcement and policing is an important part of the UK's future relationship with the EU and the loss of access to certain databases and sources of information that we have made great use of is a cause of concern. While it remains to be seen how close any agreement will be, there will need to be provisions in place on day one to ensure that the UK border is secure and safe. The Government, police, and agencies, such as the National Crime Agency, have clearly anticipated what tools they are unlikely to have at their disposal after the end of the transition period and designed alternatives where possible but it is not clear if those alternatives will be in place on 1 January 2021. For example, it is unlikely that there will be an EU-UK Surrender Agreement ready to replace the European Arrest Warrant and it is not certain that there will be a data adequacy decision for law enforcement purposes in place. The fall-back systems for exchanging data are slower and more cumbersome. The Government needs to monitor carefully the time it takes for the alternatives to bed in and prove their effectiveness. (Paragraph 58)
7. The UK has a 300-mile land border with an EU member state on the island of Ireland. The Police Service of Northern Ireland and An Garda Síochána have developed ways of sharing information and intelligence which is important for countering cross-border crime. The UK must explore all possibilities available, including the possibility of bilateral arrangements, in order that law enforcement agencies in Northern Ireland and Ireland can continue to cooperate in this way on 1 January 2021. (Paragraph 59)
8. We welcome that formal agreement has been reached in the Joint Committee on how the Ireland/Northern Ireland Protocol will work in practice. We urge HMRC to intensify its working relations with the Irish Revenue Commissioners and other relevant authorities to ensure consistency in application of the agreed processes and

avoid further disputes in future on their interpretation. The new arrangements will affect GB businesses and hauliers involved in moving goods, particularly agrifoods, to Northern Ireland, as well as the ports of Holyhead in Wales and Cairnryan in Scotland. The UK Government should work closely with the Devolved Governments and put contingencies in place to minimise traffic disruption near to the sites of the affected GB ports. (Paragraph 73)

9. It has been disappointing that the Joint Committee's decisions have been so long delayed; the citizens of Northern Ireland deserved to know far sooner the terms of trade within their own country. Even with the pragmatic solution the UK and EU have reached, the early months of the Protocol are likely to be difficult. Some challenges have been avoided and some postponed for a few months, but not all, and very little time remains for Northern Irish businesses and civil servants to meet them. To make things work will require continuing flexibility, creativity and generosity of spirit from all parties over the coming months and years. (Paragraph 74)

# 1 Introduction

---

1. After leaving the European Union on 31 January 2020, the United Kingdom entered an eleven-month transition period, as set out in the Withdrawal Agreement. During the transition, EU law has continued to apply to the UK but without UK participation in EU decision-making.<sup>1</sup> This has allowed businesses trading between the UK and EU to continue to operate under familiar arrangements while they prepare for the new arrangements that come into effect at the end of the year. The Withdrawal Agreement allowed the transition period to be extended for up to two years, if the two parties agreed. The option to extend was not taken and both the Government and businesses will need to be ready for new trading arrangements on 1 January 2021.<sup>2</sup>

2. While the outcome of the UK-EU future relationship negotiations remains unknown, it has been clear for quite some time that the UK will be leaving the single market and the customs union. In July 2020, Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster, told the House of Commons:

Regardless of the outcome of negotiations with the EU over our future relationship, whether or not we have a Canada-style deal or an Australian model, we will be leaving the single market and the customs union.<sup>3</sup>

This means that a customs and regulatory border will be erected between the UK and the EU on 1 January 2021. Physical and IT infrastructure will be required to ensure the border's smooth operation as new processes are put in place. The Government has taken steps to prepare: developing new IT systems and modifying existing ones, building new infrastructure and recruiting, and incentivising the recruitment of, new staff in the public and private sectors. It has also put in place interim measures in some areas to make things easier for businesses in the short term. We will consider the efficacy of some of the measures in this Report. EU member states have been making similar preparations.

3. While the Government must make sure it is prepared, it also has a wider responsibility to businesses and communities across the UK to ensure the transition to the new relationship is as smooth and seamless as possible. It is incumbent on the Government to explain fully the implications of the new trading relationship for businesses, and to prepare them to navigate the new customs infrastructure and regulatory arrangements. We will explore these issues in Chapter 2.

4. The relationship between the UK and the EU is about more than just trade. For many years, the UK has been a part of, and made considerable contribution to, the EU framework for cooperation on policing and security. From the 1 January 2021 the UK will be a third country outside this framework, with implications, among others, for policing the UK border. We will examine these in more detail in Chapter 3.

5. Alongside preparations for this new relationship, the Government has also had to deal with the implementation of the NI Protocol and unresolved issues around its interpretation. We will examine this process in more detail in Chapter 4.

---

1 For a detailed analysis of UK's position within the transition period see: [Brexit next steps: The transition period](#), Insight, House of Commons Library, 31 January 2020

2 European Commission, [EU-UK Statement following the High Level Meeting](#), 15 June 2020

3 HC Deb, 13 July 2020, [col 1268](#)

## 2 Trade in goods

---

### The Border

#### *Exporting to the EU*

6. From 1 January 2021 the EU is expected to apply the Union Customs Code and implement all the required checks at the GB-EU border and, so far, there have been no legislative proposals to suggest otherwise.<sup>4</sup> As Michel Barnier, the EU's chief negotiator, told us in June:

Whatever happens, there will be a change. It will not be business as usual, whatever happens. This change is created by Brexit, so I suggest—that this is what we will be doing on the EU side—that we need to step up our preparations for the change which, whatever happens, is going to come about on 1 January 2021, in particular in terms of checks on goods going from one side to the other.<sup>5</sup>

7. This is because the UK will be a third country outside the EU's single market and customs union, just as the EU and its member states will be outside the UK's internal market and customs rules. Irrespective of what happens in the negotiations on the UK's future relationship with the EU, UK businesses and traders who want to export goods into the EU customs union will need:

- an Economic Operators Registration & Identification (EORI) number;
- the commodity code for the goods they are exporting - this identifies how much duty to pay and if they need an import licence;
- to declare the imports to EU customs (Entry Summary Declaration) - most businesses hire someone to deal with customs and to transport their goods from overseas;
- to pay VAT and duty—they will need to work out the value of the goods.<sup>6</sup>

8. The checks at the EU border concern:

- Customs declarations – UK export declarations and EU import declarations.
- Custom duties (tariffs) and VAT – if applicable, tariffs and import VAT will be payable at the time of import, unless traders are eligible to defer payments.
- Safety and security declarations – a UK exit summary declaration (or combined fiscal and safety and security declaration) and EU entry summary declaration will be needed.

---

4 European Commission, [Getting ready for changes, Communication on readiness at the end of the transition period between the European Union and the United Kingdom](#), 9 July 2020

5 [Q390](#)

6 HMG, ["Starting to import"](#), accessed 11 December 2020. See also HC Deb, 13 July 2020, [Col 1269](#)

- Checks required by international conventions – some goods are more likely to be associated with smuggling or organised crime and so are subject to additional border requirements, outlined in international agreements.
- Sanitary and phytosanitary (SPS) checks – live animals, products of animal origin and some plants and other agri-food products will have to enter the EU via Border Control Posts, where they will be subject to additional checks to ensure they comply with food safety and biosecurity regulations.<sup>7</sup> A UK Export Health Certificate will also be required.
- Excise goods – such as on tobacco and alcohol, which will be subject to the rules applied by the importing EU member state.
- Other controlled goods – potentially hazardous goods, such as chemicals, firearms, nuclear material and pharmaceuticals are also subject to additional formalities, including certification and physical inspections.<sup>8</sup>

9. Although the EU is expected to apply all the required checks under the Union Customs Code, the European Commission has proposed unilateral contingency measures for road connectivity if there is no agreement on the future relationship. Along with measures concerning aviation and fisheries, on 10 December the European Commission adopted a proposal for a Regulation covering basic connectivity with regard to both road freight and road passenger transport for six months after the end of the transition period, so long as the UK Government makes reciprocal arrangements for EU hauliers in the UK.<sup>9</sup> The European Commission has offered this with the intention of easing road traffic flows across the border. The European Commission has also stated it will work with member states to ensure that any possible future national contingency measures “do not fragment or undermine the Single Market”.<sup>10</sup>

## Infrastructure

10. In July 2020, the Government published its Border Operating Model (BOM), giving details on the processes for moving goods between the GB and the EU after transition.<sup>11</sup> It included information on the infrastructure needed at ports, airports and railway terminals, and Government support to ensure the infrastructure is in place. Where

---

7 Checks can include:

- Documentary checks which verify the veterinary certificates and documents accompanying the consignment;
- Identity checks which check to ensure products in vehicle match those described in documents. This will mean physical inspection of vehicle to check seal numbers; and
- Physical checks. Here the consignment is physically inspected, and this can include examining the packaging, checking temperatures, sending samples for to a lab analysis, or even smelling or tasting a product.

*What if there's no Brexit deal?*, Briefing Paper No. 08397, House of Commons Library, 8 February 2019

8 Institute for Government, “UK–EU future relationship: the GB–EU border”, accessed 27 November 2020

9 European Commission, [Relations with the UK: Commission proposes targeted contingency measures to prepare for possible “no-deal” scenario](#), 10 December 2020

10 European Commission, [Communication on targeted contingency measures in the absence of an agreement with the United Kingdom on a future partnership](#), 10 December 2020

11 Border and Protocol Delivery Group, [The Border with the European Union: Importing and Exporting Goods](#), July 2020, updated October 2020, para 0.5

physical space was not available at the port, these would be built inland. The UK is phasing import controls over six months and so some physical structures and resources may not be needed until July 2021.

11. However, the BOM states that there will be infrastructure needed for January 2021, for certain compliance checks and issuing of documents relating to the Common Transit Convention, Carnet processes for temporary import/exports,<sup>12</sup> CITES<sup>13</sup> permits procedures, and “Traffic management processes—lorry holding capacity for use in the event of disruption”.<sup>14</sup> Inland sites to be ready for 1 January 2021 include Ebbsfleet, Sevington and Waterbrook (both near Ashford), in Kent; North Weald, Essex; Warrington, Cheshire; and Birmingham airport. There are also plans to use Manston airport, in Kent, as a “back-up lorry holding facility” in the event of traffic disruption.<sup>15</sup> The UK Government is working with the Welsh and Scottish governments to confirm the infrastructure requirements for Wales and Scotland. However, when representatives of the Scottish and Welsh Governments gave evidence on 15 September 2020, Mike Russell MSP, Cabinet Secretary for the Constitution, Europe and External Affairs, Scottish Government, told us that there had been no preparation put in by the UK Government at Cairnryan. He said that it had been impossible to get any information that would allow the Scottish Government to make sensible decisions and to see investment take place.<sup>16</sup> Jeremy Miles MS, Counsel General and Minister for European Transition, Welsh Government, told us that in respect of Holyhead the Welsh Government were still awaiting the information they needed about traffic modelling across the UK and the most recent reasonable worst case scenario.<sup>17</sup>

12. As to whether the sites will be ready in time, on 23 November 2020, Duncan Buchanan, Director of Policy for England and Wales, Road Haulage Association, said that he understood that Sevington will be ready, although he offered a note of caution because “we are entering December and a lot of things could happen to knock that off. It also depends on what you mean by ready.”<sup>18</sup> Mr Buchanan continued

There is another aspect about some of these sites. It is not completely clear how the customs processes will operate at the sites. Bear in mind that we are six weeks away from this actually happening. We should not be in a situation where there is lack of clarity about who will be doing what at the sites. That is not a sustainable position for very much longer. We need clarity

- 
- 12 The ATA Carnet is an international customs document that can be used by private travellers and businesses to temporarily move non-perishable goods between countries without the payment of customs charges.
- 13 CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.
- 14 Border and Protocol Delivery Group, [The Border with the European Union: Importing and Exporting Goods](#), July 2020, updated October 2020, para 0.5
- 15 Border and Protocol Delivery Group, [The Border with the European Union: Importing and Exporting Goods](#), July 2020, updated October 2020, para 0.5. See the Department for Transport and HMRC website: [Inland Border Facilities](#) which gives details “for delivering inland border facilities to provide customs and transit checks required for hauliers from 1 January 2021”.
- 16 [Q756](#)
- 17 [Q761](#)
- 18 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q7](#)

about who will be working at the sites, what functions are going to be taken at each of the sites and what you do when something goes wrong. As sure as anything, things are going to go wrong.<sup>19</sup>

Tim Reardon, Head of EU Exit at the Port of Dover, said that it was important that there was “an array of sites across that network, not one or two in a couple of locations” to provide resilience in case one is unreachable on a particular day, that “Those sites are needed and they are needed soon”, and that

It is also important that every site is capable of handling every lorry, regardless of what is in it, and that hauliers are free to direct their vehicles to attend whichever site is convenient for the journey they are on. Clearly, one of the most important ways to avoid increasing congestion is to enable lorries to be attended to where they already are, rather than requiring them to drive even further on the road network to attend a site that is a significant diversion from their existing journey.<sup>20</sup>

In order to reduce the number of unprepared lorries entering Kent the Government has introduced the ‘check an HGV is ready to cross the border’ service (see section on IT below).<sup>21</sup> This allows hauliers planning to cross the Short Straits to apply for a Kent Access Permit, without which they should not enter the county.

13. Apart from facilities to carry out compliance checks, the locations are part of the traffic management proposals to try and reduce pressure on the Port of Dover and Eurotunnel. Nick Harris, Operations Executive Director, Highways England, explained the plan for Kent if traffic started to build outside Dover and Eurotunnel, Operation Brock on the M20, diverting traffic towards Manston, and then:

The final phase, which gives us additional holding capacity, will be to use Manston and Sevington as holding areas for freight, Manston for Dover-bound traffic and Sevington for Eurotunnel-bound traffic. In total, that gives us capacity for more than 8,000 trucks across all those elements.<sup>22</sup>

14. Some of this planning relates to pre-existing plans to manage traffic in Kent because it has experience of temporary disruptions, including bad weather in the channel, high winds, and technical failures on the vessels.<sup>23</sup> Tim Reardon, Port of Dover, said:

The issue as we look ahead to next year is a change to border processes that makes getting lorries through the port and out of the country more complex than it is now. The key challenge is to ensure that all vehicles, by the time they arrive at the border, have all the documentation and have

19 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q7](#)

20 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q7](#)

21 Border and Protocol Delivery Group, [The Border with the European Union: Importing and Exporting Goods](#), July 2020, updated October 2020, 4.1.7 The Check an HGV is Ready to Cross the Border Service (formerly referred to as Smart Freight)

22 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q1](#). The UK carried out a live test of part of its Operation Brock plans on 11 December 2020. [Live test of EU exit contingency plans on M20 in Kent](#), 3 December 2020

23 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q1](#)

made all the declarations they need to get through the border, and therefore do not create any disruption or congestion that might cause the activation of any of the existing traffic management processes.<sup>24</sup>

15. In addition, there will be a route—called “fish and chicks”—where hauliers carrying consignments of live/fresh fish and day-old chicks for export, can pick up a permit at Ebbsfleet in order to be prioritised to the port if there are queues near Dover.<sup>25</sup> The fish and chicks haulier would still need a Kent Access Permit.<sup>26</sup>

16. As part of its preparations for the end of transition, the Government announced £470 million to fund the infrastructure necessary for new customs procedures. This included a £200 million Port Infrastructure Fund, in order that ports with the space to build new border infrastructure on site, can handle new customs requirements under the new BOM.<sup>27</sup> In answer to a question about the Port Infrastructure Fund on 16 November 2020, Tim Morris, Chief Executive, UK Major Ports Group, said

The short answer is that it is too early to tell. The bids have gone in from the ports for the port infrastructure element of the fund, which was £200 million of the £470 million. We do not yet know whether they have been successful in their bids, and to what extent they have been successful, let alone laying concrete or putting spades into the ground. We cannot tell yet. An area of significant concern is the fact that we already know that that element of the fund is significantly oversubscribed. More ports have put in bids to a higher financial amount than the facility that is there.<sup>28</sup>

17. Tim Reardon, from the Port of Dover, said on 23 November that Dover had not received a response to their bid to the Port Infrastructure Fund. The bid was for infrastructure to accommodate changes to French passport and French customs controls as of 1 January 2021, and to enable a lorry to physically leave the port if it is rejected for either.<sup>29</sup> He said

The sooner we receive funding from the Government to start building, the sooner the infrastructure will be ready. Clearly, major civil works will not be ready for 1 January next year, nor even for 1 July in the summer, but the sooner we receive the funding, the sooner the work can start and the sooner it will be finished.<sup>30</sup>

The National Audit Office (NAO) pointed out that it was difficult to know where to place resources until there was clarity on the number and location of inland sites and ports that need additional facilities, and that this is partly dependent on which ports have been

24 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q1](#)

25 [Q953](#)

26 See also Department for Transport, [Enforcing Operation Brock in 2021: government response to consultation on proposed legislative amendments](#), 22 October 2020

27 Cabinet Office and Department for Transport, [£200 million Port Infrastructure Fund opens for bids](#), 2 October 2020. The original announcement said the deadline for applications was 30 October 2020 and with “successful bids announced shortly after”.

28 Oral evidence taken before the House of Lords EU Goods Sub-Committee on Monday 16 November 2020, HL (2019–21), [Q7](#)

29 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q6](#)

30 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q6](#)

awarded funds from the Port Infrastructure Fund. On 16 December 2020, it was reported that the £200 million Port Infrastructure Fund had been oversubscribed by bids totalling £450 million. This could mean some ports receive much less than they considered necessary and leaves little time to seek funding from elsewhere.<sup>31</sup>

18. We note the work the Government has done to develop the Border Operating Model and the steps it has taken to build some of the physical infrastructure needed for the Border Operating Model to work. This has been a complex undertaking requiring careful coordination and collaboration across departments and with local government, the devolved administrations, businesses and traders, and the logistics sector. The new infrastructure and accompanying traffic management plans are needed from 1 January 2021 whether there is an agreement on the UK’s future relationship with the EU or not. We are concerned that some decisions on infrastructure have been taken too late, such as where the inland facilities for Holyhead and Cairnryan will be located and decisions on bids to the Port Infrastructure Fund to enable ports to carry out the necessary building work. We are also concerned about the overall state of readiness. It is important that the Government engages fully with the devolved governments and has robust contingency plans to deal with whatever happens after 1 January. We welcome the European Commission’s proposals on 10 December 2020, in the event of no deal, for temporary rules on road freight and road passenger transport provided the UK reciprocates, and we urge the UK Government to do so.

**IT systems**

19. Leaving the transition period will require existing IT systems to be upgraded and new IT systems to be developed. According to the NAO, those required for 1 January comprise:<sup>32</sup>

January 2021			
IT Systems	<p><b>CHIEF system upgrades</b> The Customs Handling of Import and Export Freight (CHIEF) system is used by traders to submit customs declarations to HM Revenue &amp; Customs (HMRC).</p>	<p><b>NCTS</b> A New Computerised Transit System (NCTS) to facilitate transit movements under the Common Travel Convention (CTC).</p>	<p><b>GVMS phase 1</b> The new Goods Vehicle Movement Service (GVMS) from January 2021 will provide Office of Transit (OOT) functionality to support transit movements.</p>
	<p><b>EMCS</b> The Excise Movement and Control System (EMCS) records duty suspended movements of excise goods.</p>	<p><b>S&amp;S GB</b> The new safety and security system (S&amp;S GB) will allow traders to submit safety and security declarations for imports to the UK.</p>	<p><b>Check an HGV</b> A new traffic management application that informs heavy goods vehicle drivers if they are border ready.</p>
	<p><b>IPAFFS</b> Import of Products, Animals, Food and Feed System (IPAFFS) developed to monitor and control the import of these goods from the EU and rest of world countries.</p>	<p><b>EHCO</b> Export Health Certificates Online. An IT system to record Export Health Certificates.</p>	<p><b>PEACH and e-Domero</b> Legacy systems for applying for plant and food health certificates and services.</p>
	<p><b>ALVS</b> Automatic Licence Verification System (ALVS) that will link CHIEF and IPAFFS, enabling port health authorities and Animal Plant and Health Agency (APHA) to communicate the results of biosecurity and food safety checks to HMRC.</p>		<p><b>Tariff Application Platform (TAP)</b> A system that transmits the Department for International Trade’s (DIT’s) tariff data to HMRC for the calculation of duties due at the border.</p>

31 Financial Times, [UK rejects Dover funding bid for more French passport booths](#), 16 December 2020

32 National Audit Office, [The UK border: preparedness for the end of the transition period](#), [HC \(2019–21\) 371](#), 6 November 2020

20. Our witnesses were particularly interested in the Goods Vehicle Movement System (GVMS), and the ‘check an HGV is ready to cross the border’ service. Robert Hardy, Founder of Customs Clearance Consortium, was enthusiastic about the possibilities of the GVMS, stating:

I love it. It is really necessary, because it almost takes the driver and this wad of paperwork, with movement reference numbers, out of the frame. If he has a GMR, a Goods Movement Reference, created by the GVMS system, then he is good to go, basically, or at least he is good to go on one side of the border.<sup>33</sup>

However, as Dr Anna Jerzewska, Director of the Trade & Borders consultancy, noted:

The number of IT systems that need to be ready by 1 January in one way or another is quite concerning.<sup>34</sup>

21. Elizabeth de Jong, Director of Policy at Logistics UK, explained that the ‘check an HGV is ready to cross the border’ service (formerly known as the Smart Freight Service) was

... a self-declaration system. It is a series of simple questions for the driver. It is very important that they fill these in and they are confident they then have the paperwork in order to self-declare that they do [ ... ] When you have filled it in, you will be either amber, red or green. Green means you can have an access permit should you be going to Kent, for example. That will allow you to be able to travel to the border without being stopped.<sup>35</sup>

22. Hauliers without a Kent Access Permit face a £300 fine. Using Driver and Vehicle Standards Agency data, matched with that from ANPR<sup>36</sup> cameras on the M20 and the M2, the police and Driver and Vehicle Standards Agency enforcement officers will be able to identify those hauliers without a Kent Access Permit, and pull them over at strategic points in the network. Claire Nix, Strategic Commander, Operation Blythe (EU transition), Kent Police, said that “any enforcement will be done proportionately”.<sup>37</sup> The Government is also developing contingency measures in the event that the ‘check an HGV is ready to cross the border’ service is unavailable, e.g. “due to post-deployment IT failure”.<sup>38</sup>

23. The successor to the HMRC CHIEF (Customs Handling of Import and Export Freight) system, called CDS (Customs Declaration Service), has been going through development in order to manage the expansion from 60 million declarations a year to an estimated 270 million declarations a year. As CDS is scaled up to be able to manage

---

33 [Q656](#). We note that the Customs Clearance Consortium is part of the consortium that bid successfully to deliver the Trader Support Service, see: HMG, [Support service for Northern Ireland trade goes live](#), 28 September 2020

34 [Q668](#)

35 [Qq928–929](#). Ms de Jong said the ‘check an HGV is ready to cross the border’ service “asks for things like your vehicle registration number, the country of arrival in the EU so that any country-specific requirements can be considered, and the date of your intended departure. It then asks you questions about the documents that are being carried with the goods from a list of options and scenarios”.

36 Automatic Number Plate Recognition (ANPR) technology is used to help detect, deter and disrupt criminality at a local, force, regional and national level.

37 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q4](#)

38 Department for Transport, [Enforcing Operation Brock in 2021: government response to consultation on proposed legislative amendments](#), 22 October 2020

the increased volume, HMRC now plans to run CHIEF for Great Britain customs from January 2021, and CDS as its customs system for Northern Ireland.<sup>39</sup> Many traders use commercial software that then interacts with the HMRC systems. On 11 November 2020, Stephen Bartlett, Chairman, Association of Freight Software Suppliers, told us:

We have been expressing our concerns to HMRC for some time now about the readiness for CDS for the beginning of next year. CDS will be the de facto system for all shipments to Northern Ireland. The problem we have is that a number of the changes and additions to functionality that we need to make it a workable system are being delivered to us by the end of November and the beginning of December. That gives us little to no time to test these interfaces and test that the system works, and even less time to actually deploy this and roll it out to all our customers. We are very worried because it is very much an unproven system.<sup>40</sup>

24. Government ministers and civil servants appear increasingly confident that these systems will be in place by 1 January. Alex Chisholm, Permanent Secretary at the Cabinet Office, told the Public Accounts Committee on 23 November that:

all the areas within the Government’s own responsibility that had been at red have now moved to amber, which means we think we will be ready for the end of the year. That applies not only to IT systems, [ ... ] but to those key bits of infrastructure that, even a month ago, or when the NAO were doing their work, there were three cases where in our view inland sites might not have been ready by 1 January but, due to great efforts, we are now confident that they will be.<sup>41</sup>

25. This is in contrast to the NAO warning last month that “there is little time for ports and other third parties to integrate their systems and processes with new or changed government systems, and contingency plans may need to be invoked in some areas”.<sup>42</sup> Ian Davies, head of UK port authorities for Stena Line Ports UK, which includes Holyhead, said

All ports and ferry companies on the Irish sea—we have a choice of operating model—operate the preboarding notification system, so at least we have the same system, but as yet of course those systems are not fully developed, are not fully integrated into the ferry companies’ check-in systems and have not been tested, so we are reliant on speed of development and integration. We feel that we are on track, but we are in the hands of the development. As a ferry and a port operator, we are looking at not only the UK systems, but we are having to look at the Irish and Dutch systems, to make sure we get integration into those as well. So from an IT resource, that is quite a drain on our business and, as yet, we have been unable to check those systems.<sup>43</sup>

39 National Audit Office, *The UK border: preparedness for the end of the transition period*, [HC \(2019–21\) 371](#), 6 November 2020

40 [Q930](#)

41 Oral evidence taken before the Commons Public Accounts Committee on 23 November 2020, HC (2019–21) 691, [Q40](#)

42 National Audit Office, *The UK border: preparedness for the end of the transition period*, [HC \(2019–21\) 371](#), 6 November 2020

43 Oral evidence taken before the Welsh Affairs Committee on 1 October 2020, HC (2019–21) 176, [Q81](#)

26. **Complex, large IT systems are always difficult to deliver, and getting Government IT systems ready for the end of the transition period was always going to be challenging. The need to develop some new systems has complicated matters. The Protocol on Ireland/Northern Ireland creates additional complexity; for example, it will require the use of the new Customs Declaration Service because it can handle two different tariff codes for the same product. We note that there is a reasonably high level of confidence that the changes the Government needed to make will be made on time, but we are concerned that some of these changes are coming so close to the end of the transition period that business and traders will not have had enough time to update their own in-house systems. They work with more than just the UK Government’s systems; they must be trained on and work with IT systems at ports and with those of the countries they are exporting to or importing from. We are aware that it will take time to train users on both the Government systems and changes to any in-house systems; this training is vital if the whole system for moving goods is to work. Late delivery of IT systems makes it difficult for this to take place before the end of the transition period. We are also concerned that there has not been enough time to test how well all the systems work together. The Government should have a plan in place now so that it can act early in the New Year to deal with any problems. We will watch to see how the situation develops in the first few weeks of January.**

### ***Importing from the EU***

27. On 12 June 2020, the UK Government announced that, as the UK would have the autonomy to introduce new border controls and procedures from 1 January 2021, it would do so in three stages. We welcomed this announcement in our previous Report. The Government said that it recognised the impact that Covid-19 had had on businesses’ ability to prepare, and that this “flexible and pragmatic approach will give industry extra time to make necessary arrangements.”<sup>44</sup> The full range of checks will be in place by the end of June 2021.<sup>45</sup>

28. The phased approach will allow extra time for the construction of any infrastructure needed for the UK to carry out the necessary import procedures, bearing in mind that there is not enough space at Dover for such checks.<sup>46</sup> On 16 November 2020, Tim Morris, Chief Executive, UK Major Ports Group, said that

Where expanded facilities are necessary, the short answer is that we do not quite know yet whether the infrastructure will be ready in time.<sup>47</sup>

He said that the Government was expected to respond to bids to Port Infrastructure Fund bids at “the end of this month or the start of December” which would leave six and a bit months to actually build the border infrastructure, and he noted that “The last substantial Border Control Post that was built in the UK took about 11 months”.<sup>48</sup>

44 HMG, [Government accelerates border planning for the end of the Transition Period](#), 12 June 2020

45 This will include customs compliance checks, market surveillance checks on consumer products, Transit (CTC) processes and checks, Sanitary and Phytosanitary (SPS) compliance including documentary and physical checks on animals, products of animal origin, plants, plant products and some foods, and functions to comply with CITES convention. SPS checks need to be carried out at Border Control Posts

46 [Q437](#)

47 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q5](#)

48 Oral evidence taken before the House of Lords EU Goods Sub-committee on 23 November 2020, HL (2019–21), [Q5](#)

29. After Dover, the port of Holyhead is the UK's second busiest ro-ro ferry port though which 1,200 lorries pass each day.<sup>49</sup> This includes goods from the Republic of Ireland for GB market and some to use the land-bridge to continental Europe, but also goods moving to and from Northern Ireland.<sup>50</sup> On the 1 October 2020, Ian Davies, Head of UK Port Authorities for Stena Line, said that “there is insufficient land to have all the required facilities at Holyhead port, so an inland facility is required” for goods to be checked,” but as yet those facilities do not exist and the site does not exist.”<sup>51</sup> In its recent Report on Brexit and trade: implications for Wales, the Welsh Affairs Committee said:

We are deeply concerned that, so close to the end of the transition period, and with not much time left until the staggered controls take effect in July 2021, the decisions on the location of the inland facility for Holyhead Port and the equivalent facilities in South-west Wales has yet to be taken. Even with expedited planning permission, this leaves little time to build, and properly equip, sites which will need to be ready for potentially thousands of checks and processes per day. There is a significant risk that neither North nor South-west Wales will have appropriate inland facilities ready for July 2021, raising important questions about the level of contingency planning that is in place for such an eventuality.<sup>52</sup>

30. In a Report published on 6 November 2020, the NAO said:

The Government is planning to implement full import controls by July 2021 but there is uncertainty over where the infrastructure and resources will be located, and if they will be ready in time.<sup>53</sup>

31. The UK is phasing in new SPS procedures on imports from the EU in three stages.<sup>54</sup> This may mean little will change at the border on 1 January—physical checks on all high risk live animals and plants will be carried out at the point of destination or other approved premises—but by July 2021, live animals from the EU will be subject to new import controls—including requirement for health certification, import pre-notification, and entry via an established point of entry with an appropriate Border Control Post.<sup>55</sup>

32. Holyhead has estimated that there could be “between 88,000 and 200,000 SPS checks for goods travelling through Holyhead” but that would depend on the trade agreement with the EU.<sup>56</sup> That is not to say that the UK is necessarily fully prepared for changes that will take place on 1 April and 1 July, only that there is still more time for those preparations to be made.

**33. The Government was right to phase in import procedures on goods arriving from the EU and, given our earlier recommendation on the UK reciprocating on the**

49 [Q765. “Brexit: Hauliers fear ‘mayhem’ at Holyhead port”](#), BBC News, 24 November 2020

50 Oral evidence taken before the Welsh Affairs Committee on 1 October 2020, HC (2019–21) 176, [Q90](#)

51 Oral evidence taken before the Welsh Affairs Committee on 1 October 2020, HC (2019–21) 176, [Q90](#), [Q109](#)

52 Welsh Affairs, Fifth Report of Session 2019–21, [Brexit and trade: implications for Wales](#), HC 176

53 National Audit Office, *The UK border: preparedness for the end of the transition period*, [HC \(2019–21\) 371](#), 6 November 2020

54 Border and Protocol Delivery Group, [The Border with the European Union: Importing and Exporting Goods](#), July 2020, updated October 2020

55 Cabinet Office, [Government accelerates border planning for the end of the Transition Period](#), 12 June 2020; Border and Protocol Delivery Group, [The Border with the European Union: Importing and Exporting Goods](#), July 2020, updated October 2020, para 3.2.3

56 Oral evidence taken before the Welsh Affairs Committee on 1 October 2020, HC (2019–21) 176, [Q90](#)

European Commission’s proposed no deal contingency measures on road freight and road passenger transport, we urge the EU to reciprocate on the phasing in of import procedures on goods in order to give businesses more time to adapt to the outcome of the very late running negotiations. Nevertheless, full implementation is now only a few months away and, as the last year has proved, new and unexpected challenges may well emerge. The Government must ensure that necessary systems and infrastructure are in place, and businesses are informed of the changes they must make, as soon as possible to ensure that the extra time is not wasted.

## Staffing

### Customs agents

34. Leaving the transition period will mean more customs paperwork for UK businesses. HMRC has estimated that 200 million additional declarations will be required each year, on top of 50 million that are currently made.<sup>57</sup> This will add costs to businesses: Mr Hardy estimated the average cost of a customs declaration at £30.<sup>58</sup> Rough industry calculations have suggested that 50,000 new private sector customs agents will be needed to help businesses process these declarations, a figure Mr Gove told us was a “guestimate”.<sup>59</sup> Katherine Green, Director-General for Borders and Trade at HMRC, told the Treasury Committee that it was not a number HMRC “use or recognise” and while more agents were needed it was “not necessarily just about recruitment; this is about innovation and the use of technology”.<sup>60</sup> Logistics UK said the true figure may be closer to 35,000, although that number could be further reduced by the use of technology.<sup>61</sup> That is still a challenging target as we were told only 15,000 or so were in role a year ago, meaning even the most conservative estimates require a tripling of overall capacity.<sup>62</sup> When the British International Freight Association, a trade body, surveyed its members in September, it found 64 % were not confident they would have enough staff to meet demand.<sup>63</sup> This month Mr Gove told the House that “the latest survey by HMRC shows that there has been a fourfold increase in capacity”, although we note this is not a fourfold increase in staffing, but in “declaration processing capacity” based on industry estimates of demand.<sup>64</sup>

35. The Government has made £84 million in grants available to businesses to recruit and train new agents and invest in new IT equipment: the latest and largest tranche of funding—£50 million—opened to applications in late July.<sup>65</sup> Much of this funding appears to have been distributed, although, in October, Lord Agnew, a minister in the Cabinet Office and Treasury, said it was not “enough” and exhorted businesses to move

57 National Audit Office, *The Customs Declaration Service: a progress update*, [HC \(2017–19\) 1124](#), 28 June 2018

58 Customs Clearance Consortium ([FRE0011](#))

59 [Q1194](#); [Q428](#); Dr Lars Karlsson ([FR0020](#)); [Q992](#). In February, Mr Gove was asked whether it was feasible to train 50,000 new customs officers in under six months. He replied: “Yes, it is, and the Government stand behind that”, see: HC Deb, 27 February 2020, [col 484](#)

60 Oral evidence taken before the Treasury Committee on 13 October 2020, HC (2019–21) 776, [Q172](#)

61 [Q428](#); [Q992](#); Custom Clearance Consortium ([FRE0011](#))

62 [Q992](#)

63 BIFA, [Freight Forwarders Express Reservations on Brexit Preparedness](#), 14 September 2020

64 HC Deb, 10 October 2020, [col 852](#) Treasury; HMRC, [Research into the customs intermediaries sector: Wave 1 Report](#), 23 November 2020, p12

65 HMG, [£16 million funding boost to support thousands more customs experts](#), 3 September 2019; HMG, [Applications open for £50 million funding to boost UK customs intermediaries](#), 29 July 2020

faster.<sup>66</sup> Richard Burnett, Chief Executive of the Road Haulage Association, told us limits on state aid had caused problems for some firms, something Lord Agnew acknowledged.<sup>67</sup> More generally, Mr Burnett said firms may find it hard to justify expansion at a time when global trade volumes were suppressed due to the pandemic and many of their existing staff were on furlough.<sup>68</sup>

36. A wider concern was whether more staff would solve the problem.<sup>69</sup> Mr Hardy said:

training worries me. There is some very good customs training through the UK Customs Academy [ ... ] but buying a cookbook does not make you a Michelin-starred chef. It just means you have a cookbook.<sup>70</sup>

Dr Jerzewska explained:

it takes years to train them properly. [ ... ] Customs classification is such a complex issue. How do you prevent errors from taking place even on this very initial level within the first six months?<sup>71</sup>

Although other witnesses were more optimistic there would be plenty of roles that new recruits could perform.<sup>72</sup>

## Vets

37. From 1 January UK exporters to the EU will require an Export Health Certificate (EHC) signed by an Official Veterinarian to transport animals, germplasm and products of animal origin.<sup>73</sup> Aodhán Connolly, Director of the Northern Ireland Retail Consortium, told us Export Health Certificates could cost between £56 and £200 per item.<sup>74</sup> This includes meat, milk and pet food as well as composite products like pizzas and quiches. Composite products are particularly complex and may require multiple EHCs. For example, a cheese and ham sandwich will require a certificate for both the cheese and ham to provide an audit trail of each individual ingredient. The British Veterinary Association told us they had concerns over insufficient capacity within the profession; the Migration Advisory Committee noted the vacancy rate had been increasing in recent years.<sup>75</sup> The Government has provided £300,000 to support training and has reduced the number of vets needed by authorising ‘certified support officers’ to complete some paperwork, although it is still making contingency plans for state-employed vets to step in if necessary.<sup>76</sup>

## 38. Effective operation of the new Border Operating Model depends on more than IT systems and physical infrastructure. It needs people. Outside the Single Market

66 Oral evidence taken before the Treasury Committee on 13 October 2020, HC (2019–21) 776, [Q170](#). There has been some reporting and anecdotal evidence to suggest some funding has been used to poach experienced customs agents rather than new staff, see: FT, [Trained UK border staff being poached with government grant funds](#), 26 October 2020; [Q995](#)

67 [Q649](#); Oral evidence taken before the Treasury Committee on 13 October 2020, HC (2019–21) 776, [Q170](#)

68 [Q649](#); Custom Clearance Consortium ([FRE0011](#))

69 BIFA, [Freight forwarders pin hopes on a trade deal](#), 12 June 2020; [Q649](#)

70 [Q667](#)

71 [Q660](#)

72 [Q997](#)

73 This issue has particular relevance for goods moving from GB to NI which we will explore later in the Report.

74 [Q1025](#)

75 British Veterinary Association ([FRE0078](#))

76 Oral evidence taken before the Environment, Food and Rural Affairs Committee on 22 September 2020, HC (2019–21) [261](#)

and Customs Union, businesses and traders will be reliant on customs intermediaries to help them get their paperwork right. It will be impossible to comply with the requirements on plant and animal health, and food and feed safety without the vets and other professionals who are needed to carry out checks and certify goods. We are very concerned that any delays that arise because we have not got the right people in the right place at the right time will make it harder for UK businesses to trade with our European neighbours. The Government must stand ready to address any shortages in personnel that cause delays once the transition period has ended, i.e. in just over two weeks' time.

## Business readiness

### *Informing businesses and traders*

39. In our first Report, we said that the Government's objective should be to deliver certainty, stability, and predictability for businesses as the UK prepared to leave the transition period. A key part of this is communicating to businesses the changes that are to take place, and the steps they need to take. To this end the Government has launched a series of campaigns: July's "Check, Change, Go"; September's "The UK's New Start" and "Keep Business Moving", and October's "Time is running out".<sup>77</sup> HMRC has also written to the 200,000 VAT-registered businesses that trade with the EU and published a new Hauliers Handbook, although this was not released until mid-November and further iterations will likely be required if and when the terms of the future UK/EU relationship have been agreed.<sup>78</sup>

40. Some witnesses expressed concerns about the efficacy of these campaigns.<sup>79</sup> In September Mr Burnett said that the "campaign is not driving people to urgently look at the processes they need to pick up. [ ... ] The customs brokers I am talking to are saying that there is certainly a sense of denial at the moment".<sup>80</sup> He later stressed the importance of reaching foreign hauliers: "probably 85% of the European haulage market".<sup>81</sup> A frequent criticism was that guidance lacked detail.<sup>82</sup> Last month, Elizabeth de Jong, Director of Policy at Logistics UK, told us:

The information in it is around, "Something is happening at the end of the year and you need to be ready for it, and it may be too late," but it does not have a call to action. The information that we need to be ready is very specific information—operational information—and it needs to be clear and in language for people who work in quite regulated environments.<sup>83</sup>

---

77 HMG, [Major new campaign to prepare UK for end of the transition period](#), 13 July 2020; HMG, [UK goes direct to EU businesses with new campaign](#), 7 September 2020; HMG, [Time is running out for businesses to prepare](#), 18 October 2020; HMG, [Transporting goods between Great Britain and the EU from 1 January 2021: guidance for hauliers and commercial drivers](#), 18 November 2020

78 HMG, Correspondence, [Letters to businesses about new trade arrangements with the EU from 1 January 2021](#); HMG, [Government steps up plans to keep trade flowing](#), 22 October 2020; Oral evidence taken before the Public Accounts Committee on 8 October 2020, HC (2019–21) 682, [Q23](#)

79 [Q460](#)

80 [Q691](#)

81 Oral evidence taken before the Transport Committee on 14 October 2020, HC (2019–21) 875, [Q3](#)

82 [Qq693](#); [Qq 946–949](#)

83 [Q946](#)

### Preparing for new border processes

41. Any lack of business readiness poses a particular and immediate problem at the border, despite the UK’s decision to stagger the introduction of some new import checks. The NAO has warned that:

There is likely to be significant disruption at the border from 1 January 2021 as many traders and third parties will not be ready for new EU controls.<sup>84</sup>

42. This accords with the evidence that we have taken, much of which characterises the lack of preparedness as the key risk for the smooth operation of the border from 1 January 2021. The CBI told us that:

At the practical level, for individual firms, preparing for the end of transition has become much more difficult. The medium-term economic effects of coronavirus mean businesses will be dealing with the consequences of the pandemic into the end of the year, coinciding with the crucial period in which they will need to begin implementing for the UK’s new trading relationship with the EU in 2021.<sup>85</sup>

43. On 11 November, Elizabeth de Jong told us that:

there is a high risk. Earlier I spoke about the need for the driver to have the right paperwork and know what checks are required. Fundamentally, if that is not correct, then we will have the queues. In order to deliver that, we need the traders to deliver all the border documentation through all the new systems, we need the border industry to be ready, and we need the contingency arrangements—the systems information and the infrastructure—in order to prevent those queues. That is going to be very difficult.<sup>86</sup>

44. In September Mr Hardy told the Committee:

My biggest fear [ ... ] and the fear of the Border and Protocol Delivery Group since day one is exports [ ... ] The biggest absolute fear is that a truck is sent to Calais and they send it back.[ ... ] The tools are there to get it right. The car park in Kent is because we have not got it right. It is of our making. If something arrives in Kent and it is not prepared, it is because we have not prepared it. It is nothing to do with the EU. This is our problem to solve and it has always been our problem to solve.<sup>87</sup>

45. Delays already take place at the EU’s other external borders. In evidence in 2018, the Committee on Exiting the EU was told that lorries can queue at the EU’s border with Turkey for 30 hours or even “a couple of days”.<sup>88</sup> The Government has also acknowledged that business preparedness remains a critical problem. This concern is reflected in the Government’s Reasonable Worst Case Scenario for the post-transition border, published

84 National Audit Office, *The UK border: preparedness for the end of the transition period*, [HC \(2019–21\) 371](#), 6 November 2020

85 CBI ([FRE0029](#))

86 [Q1000](#)

87 [Q656](#)

88 Oral evidence taken before the Committee on Exiting the EU on 21 February 2018, HC (2017–19) 372, [Q1065](#) and [Q1095](#)

in September. Under this scenario, 40–70 percent of trucks travelling to the EU would not be ready for new border controls, including 30–50 percent of trucks crossings via Dover or the Eurotunnel. This could reduce flow rate to 60–80 percent of normal levels and lead to “queues of ~7,000 port bound trucks in Kent and associated maximum delays of up to two days”.<sup>89</sup> The Report notes:

Disruption could be lower in the initial days of January but we would expect sustained disruption to worsen over the first two weeks as freight demand builds. There could be a significant drop in disruption and improvement in flow capacity within the first three months as fewer unready HGVs arrive at the border, although Schengen passport controls at the juxtaposed controls could continue to cause disruption until the French relax checks or add more capacity to undertake checks.<sup>90</sup>

46. On 8 October Emma Churchill, Director-General of the Border and Protocol Delivery Group at the Cabinet Office, told the Public Accounts Committee that “the critical factor is trader readiness [ ... ] that is the single key factor as to whether we might see a disruption at the short straits.”<sup>91</sup> In the same session, Jess Glover, Director General for the Transition at the Cabinet Office, said: “step one in getting ready is the understanding that you need to get ready. Right now [ ... ] a third of businesses do not even understand that they need to get ready.”<sup>92</sup> Lord Agnew was blunter, however, warning businesses they risked ruin if they didn’t abandon their

head-in-the-sand approach [ ... ] compounded by what I would call the “quadruple whammy” of two false alarms, so two extensions at the very last minute, followed by Covid and, now, the recession.<sup>93</sup>

47. Most recently, on 23 November, Alex Chisholm, Permanent Secretary at the Cabinet Office, told the Public Accounts Committee that

It is also not surprising to me that, given there is a need for hundreds of thousands of other organisations—particularly in business—to make some changes, some of those have not yet completed their own preparations. But we are doing everything we possibly can as a Government to try to set out what it is that people need to do to be ready and to provide very active support to encourage and enable them to do so.<sup>94</sup>

**48. While we welcome the Government’s attempts to communicate to businesses the changes that will take place on 1 January, results appear patchy at best. Little time now remains and, in making their preparations, businesses continue to be held back by restrictions imposed to control the spread of Covid-19, a lack of detailed guidance and continued uncertainty over the final terms of the UK-EU future relationship.**

---

89 Cabinet Office, [Reasonable Worst Case Scenario for borders at the end of the transition period on 31 December 2020](#), 23 September 2020

90 Cabinet Office, [Reasonable Worst Case Scenario for borders at the end of the transition period on 31 December 2020](#), 23 September 2020

91 Oral evidence taken before the Public Accounts Committee on 8 October 2020, HC (2019–21) 682, [Q7](#)

92 Oral evidence taken before the Public Accounts Committee on 8 October 2020, HC (2019–21) 682, [Q8](#)

93 Oral evidence taken before the Treasury Committee on 13 October 2020, HC (2019–21) 776, [Q90](#)

94 Oral evidence taken before the Public Accounts Committee on 23 November 2020, HC (2019–21) 691, [Q38](#)

### 3 Policing and law enforcement cooperation

49. The future relationship negotiations have not just been about a trading relationship. A very important element of the future relationship and in preparations for a secure border relates to how the UK will have some form of law enforcement and judicial cooperation in three main areas: access to EU databases and the ability to exchange data relating to fighting crime (including the Schengen Information System (SIS) II, Prüm and ECRIS), a relationship with EU wide bodies such as Europol and Eurojust, and some form of replacement for the European Arrest Warrant.<sup>95</sup>

50. Both sides had red lines that put constraints on how close this relationship could be: the EU has said it would be determined by precedent for a third country that is outside Schengen. The UK has insisted on there being no role for the Court of Justice of the EU (CJEU) and had not wanted to include a commitment to the protection of fundamental rights in the agreement, and from the start said it would not seek to be part of the European Arrest Warrant. It has requested a data adequacy decision for the purpose of law enforcement, in addition to the general data adequacy decision under the General Data Protection Regulation (GDPR). The National Crime Agency (NCA) has said

If the European Commission do not award Data Adequacy before the end of the Transition Period there would be a direct impact on all UK Law Enforcement agencies to facilitate efficiently inward information transfers from the EU and we would be reliant on MS authorities applying the alternative tests to transfer data to the UK, such as appropriate safeguards. These alternatives are less efficient, and would require additional demonstration by UK law enforcement of the standards that are in place before the data is transferred.<sup>96</sup>

While technically outside and separate to the negotiations, it was hoped that a decision on data adequacy from the EU would be granted before the end of 2020. This has not so far happened.

51. Given these parameters, and the likely outcomes, the UK has made preparations in anticipation of not having the same level of access or cooperation with EU-wide tools for law enforcement. The National Police Chiefs Council (NPCC) has established an International Crime Coordination Centre (ICCC), in order to provide advice and identify tools available for police forces to tackle international criminality, and is working with Government and other operational partners to “identify and ensure a range of contingency measures are in place when the UK officially leaves the EU.”<sup>97</sup> Martin Hewitt, Chair of the National Police Chiefs’ Council, has said

95 [Qq67–68](#), [Qq374–375](#), [Q407](#), Helena Farrand Carrapico ([FRE0040](#)), Valsamis Mitsilegas ([FRE0041](#)), Steve Peers ([FRE0042](#)),

96 [National Crime Agency letter to the Home Affairs Committee](#), 5 November 2020

97 [National Police Chiefs Centre, International Crime Coordination Centre](#), accessed 15 December 2020

As an overarching principle, the loss of some or all of the tools will mean that, even with contingencies in place, the fallback systems will be slower, provide less visibility of information/intelligence and make joined up working with European partners more cumbersome.<sup>98</sup>

52. The National Crime Agency has increased its work with Interpol in order to try to compensate for the loss of access to the SIS II real time data, although Interpol notices are not automatically integrated with the Police National Computer as SIS II data is. The NCA has recruited 60 additional officers to manage the manual inputting required to make sure Interpol notices are routinely circulated, and to review current SIS II Alerts to determine which could also be circulated via Interpol. On 9 December 2020, the National Audit Office reported that the Home Office plans to remove all SIS data from all its systems on 31 December 2020, and that “the implications of replacing this key data source for the programme’s stakeholders are yet to be worked through.”<sup>99</sup>

53. In a letter to the Home Affairs Committee, the NCA said UK law enforcement makes “extensive use of Europol’s significant and unique capabilities” and that the UK makes “widespread operational use of Europol analytical and coordination services across all serious and organised crime threat areas”.<sup>100</sup> The NCA believe that if there is a security agreement then this should allow the UK to continue to post Liaison Officers to Europol and enable information exchange through a UK Liaison Bureau. However, it would no longer be able to second national experts to Europol and will no longer attend the Europol Management Board, so “can no longer exert influence over the future focus and prioritisation of threats within the agency”.<sup>101</sup> It is not clear what level of access the UK could have to the Europol databases such as the Europol Information System and the Secure Information Exchange Network Application (SIENA).<sup>102</sup>

54. The UK and the EU have agreed to negotiate a surrender agreement similar to the one that Norway/Iceland has with the EU, to replace the European Arrest Warrant.<sup>103</sup> This has been described by the PSNI Chief Constable as the “least worst option”<sup>104</sup> and by the National Police Chiefs Council (NPCC) as preferable to the alternative of falling back on the 1957 Council of Europe Convention on extradition.<sup>105</sup> Under the Norway/Iceland Surrender Agreement, several EU member states have said they would not extradite their own nationals to Norway or Iceland,<sup>106</sup> which is not the case under the European Arrest Warrant<sup>107</sup> and Germany, Austria and Slovenia have already indicated they will not

98 [National Police Chiefs’ Council letter to the Home Affairs Committee](#), 11 November 2020

99 National Audit Office, [Digital Services at the Border](#), 9 December 2020, para 3.2

100 [National Crime Agency letter to the Home Affairs Committee](#), 5 November 2020

101 [National Crime Agency letter to the Home Affairs Committee](#), 5 November 2020

102 Camino Mortera-Martinez, “[Brexit and police and judicial co-operation: Too little, too late?](#)”, Centre for European Reform, 9 November 2020; [Europol Information Exchange](#), accessed 15 December 2020

103 HMG, [The Future Relationship with the EU: the UK’s Approach to Negotiations](#), [CP 211](#), February 2020, para 51; Professor Steve Peers ([FRE0042](#))

104 Oral evidence taken before the Northern Ireland Affairs Committee on 4 November 2020, HC (2019–21) 766, [Q82](#)

105 Oral evidence taken before the Northern Ireland Affairs Committee on 4 November 2020, HC (2019–21) 766, [Q60](#). See also Camino Mortera-Martinez, “[Brexit and police and judicial co-operation: Too little, too late?](#)”, Centre for European Reform, 9 November 2020

106 Crown Prosecution Service ([FRE0066](#)). Austria, Czech Republic, France, Germany, Slovakia, and Slovenia have declared an absolute bar on extradition to Norway. Others have declared conditional nationality bars where “an own national will be surrendered, but only if there is a guarantee that they will be returned to the member state to serve a sentence if convicted.” Article 185 of the [Withdrawal Agreement](#) already allows EU member states the option of not surrender their nationals to the UK during transition.

107 [National Police Chiefs’ Council letter to the Home Affairs Committee](#), 11 November 2020

extradite their own nationals to the UK.<sup>108</sup> The UK needs to plan for other EU countries to have similar restrictions for extraditing their nationals to the UK. Dr Amanda Kramer, School of Law, Queen’s University Belfast, has said that while there is “a relatively high likelihood” of an arrangement being in place at some point “I would not be optimistic that this would come into place by the time that Brexit takes place”. She said it could be quicker than the negotiation for Iceland and Norway, but there are “significant issues” to resolve and “That could take quite a bit of time.”<sup>109</sup>

55. There are particular concerns about maintaining good law enforcement cooperation between the UK and Ireland. Simon Byrne, Chief Constable, PSNI, said that, while criminals exploiting the border is not new, he feared that the Common Travel Area (CTA) could provide a “soft underbelly” for people wishing to exploit it for smuggling drugs, firearms, people, contraband, or “to exploit tariffs [ ... ] depending on where that ends up.”<sup>110</sup> A major concern is the ability to continue to exchange data cross border. Simon Byrne described data access without a data adequacy decision as:

a difficult situation where we do not get full access to the current tools and intelligence flows, I have described it as imagining a world where you are going from Wi-Fi to a modem; in other words, you will still have connectivity but it will take a lot longer.<sup>111</sup>

56. Another concern is the space filled by the European Arrest Warrant. If there is no substitute in place and the relationship reverts back to that under the 1957 Council of Europe Convention on extradition which will lengthen the time it takes to extradite people, and where extradition was a political decision rather than a judicial one as it is under the EAW.<sup>112</sup>

57. In addition to the alternatives to EU side mechanisms that could be lost, the PSNI are looking at developing a crime centre, where relevant agencies are brought together “under one roof to get almost like a force-multiplier effect of our intelligence, our experience and our tactics”<sup>113</sup> Regarding cooperation with police in Ireland, Simon Byrne, Chief Constable, PSNI, has said that he hoped something like the Joint Investigation Team, which is a Europol initiative, could be negotiated between two countries.<sup>114</sup> Assistant Chief Constable Mark McEwan, Lead for EU Exit, PSNI, said “We have a long-established relationship with An Garda Síochána and that operates at a number of levels” including very close local arrangements allow for day-to-day cooperation. He said this allowed the PSNI “to build relationships and develop faster-flowing information and intelligence

---

108 Crown Prosecution Service ([FRE0066](#))

109 Oral evidence taken before the House of Lords EU Security and Justice Sub-Committee on 17 November 2020, HL (2019–21), [Q40](#)

110 Oral evidence taken before the Northern Ireland Affairs Committee on 4 November 2020, HC (2019–21) 766, [Q5](#). See also oral evidence taken before the House of Lords EU Security and Justice Sub-Committee on 17 November 2020, HL (2019–21), [Q32](#)

111 Oral evidence taken before the Northern Ireland Affairs Committee on 4 November 2020, HC (2019–21) 766, [Q60](#)

112 Oral evidence taken before the House of Lords EU Security and Justice Sub-Committee on 17 November 2020, HL (2019–21), [Q29](#), [Q40](#)

113 Oral evidence taken before the Northern Ireland Affairs Committee on 4 November 2020, HC (2019–21) 766, [Q55](#)

114 Oral evidence taken before the Northern Ireland Affairs Committee on 4 November 2020, HC (2019–21) 766, [Q70](#)

flows with our colleagues in the Garda.”<sup>115</sup> Assistant Chief Constable McEwan said this is particularly important in the border area, where there are communities “living their daily lives on both sides of the border” and that it was important to support those communities:

We need to do everything we can to support them and to ensure we are able to maintain the likes of that information-sharing around missing persons and other community safety things that impact on people’s lives, as well as the organised crime aspects.<sup>116</sup>

When asked about the sharing information with counterparts in Ireland if there is no data adequacy decision in place by 1 January, Robin Walker, Minister of State, Northern Ireland Office, said:

The first point is that we want to get a data adequacy agreement working in both directions that will allow that in the most effective way. If you were to envisage a scenario where that was not possible, we would then have to look at what we might be able to do on a bilateral level to facilitate arrangements to have conversations under the information sharing that takes place under the CTA Forum, etc.<sup>117</sup>

**58. Cooperation on law enforcement and policing is an important part of the UK’s future relationship with the EU and the loss of access to certain databases and sources of information that we have made great use of is a cause of concern. While it remains to be seen how close any agreement will be, there will need to be provisions in place on day one to ensure that the UK border is secure and safe. The Government, police, and agencies, such as the National Crime Agency, have clearly anticipated what tools they are unlikely to have at their disposal after the end of the transition period and designed alternatives where possible but it is not clear if those alternatives will be in place on 1 January 2021. For example, it is unlikely that there will be an EU-UK Surrender Agreement ready to replace the European Arrest Warrant and it is not certain that there will be a data adequacy decision for law enforcement purposes in place. The fall-back systems for exchanging data are slower and more cumbersome. The Government needs to monitor carefully the time it takes for the alternatives to bed in and prove their effectiveness.**

**59. The UK has a 300-mile land border with an EU member state on the island of Ireland. The Police Service of Northern Ireland and An Garda Síochána have developed ways of sharing information and intelligence which is important for countering cross-border crime. The UK must explore all possibilities available, including the possibility of bilateral arrangements, in order that law enforcement agencies in Northern Ireland and Ireland can continue to cooperate in this way on 1 January 2021.**

115 Oral evidence taken before the House of Lords EU Security and Justice Sub-Committee on 17 November 2020, HL (2019–21), [Qq28–29](#)

116 Oral evidence taken before the House of Lords EU Security and Justice Sub-Committee on 17 November 2020, HL (2019–21), [Q28](#)

117 Oral evidence taken before the Northern Ireland Affairs Committee on 25 November 2020, HC (2019–21) 766, [Qq186–187](#)

## 4 Ireland/Northern Ireland Protocol

60. The Ireland/Northern Ireland Protocol will apply indefinitely, subject to continuing Assembly assent.<sup>118</sup> Under its provisions, Northern Ireland will continue to follow some EU rules, notably on goods, VAT and state aid. This will mean more paperwork and checks for goods arriving from Great Britain, particularly agrifood products. Northern Ireland will still be part of the UK's customs territory; however, the EU's customs duties will be payable on goods arriving from Great Britain unless these goods are not at risk of entering the EU.<sup>119</sup> This much has been clear for over a year. Yet, as Dr Anna Jerzewska, Director of the Trade & Borders consultancy, explained:

the Northern Ireland protocol is a very good example of the difference between reaching a high-level deal, in terms of a political agreement in theory, and implementing this deal in practice and making sure everyone is ready to do what they need to do to get this deal implemented.<sup>120</sup>

61. Over the last year, there have been two sources of delay. The first is the uncertainty that arises from slow decision making of the Withdrawal Agreement Joint Committee, the body co-chaired by the UK and EU that oversees the implementation and application of the treaty. As Colin Murray and Dr Clare Rice of Newcastle University explained:

Much of the detailed thinking about how the measures outlined in the Protocol will work in practice has been passed to the Joint Committee. This was a pragmatic decision at the time of the Withdrawal Agreement; pushing some of these difficult questions onto a future technocratic body enabled the deal to be concluded and ratified.<sup>121</sup>

Important details about the Protocol left to be decided by the Joint Committee included the criteria for determining goods to be not 'at risk'.<sup>122</sup> It was clear that until decisions were taken, and detailed guidance could be published, it would be difficult for businesses and communities to prepare.

62. The future relationship between the UK and the EU was also expected to affect how the Protocol operates: the more comprehensive a deal, the fewer checks would be needed. Uncertainty over the deal's provisions, while inevitable, has been a second source of uncertainty. As the Northern Ireland Retail Consortium said:

The Protocol is intended to be the legal baseline [ ... ] If the two sides were to negotiate a safety and security agreement, the requirement to make entry and exit summary declarations could be waived. If the two sides negotiated

118 For details of the democratic consent process, see: The Protocol on Ireland/Northern Ireland (Democratic Consent Process) (EU Exit) Regulations 2020 ([SI 2020/1500](#))

119 For a detailed review of the Protocol, see: House of Lords, The Protocol on Ireland/Northern Ireland, Ninth Report of Session 2019–21, [HL Paper 61](#). We intend to explore options for ongoing scrutiny of the Protocol in a future Report.

120 [Q354](#)

121 Colin Murray and Clare Rice ([FRE0018](#)) paras 33–36

122 The Joint Committee was also tasked with decisions about EU supervision of the Protocol's implementation, agricultural subsidies and fisheries customs exemptions. The Protocol sets out several factors to be considered by the Joint Committee in defining an at risk good including the likelihood of it being subject to commercial processing, and the nature, value and destination of the good. For further discussion of at risk goods, see: UKTPO, [Determining goods at risk](#), 14 January 2020; CER, [How to implement the Northern Ireland Protocol](#), 14 May 2020.

a veterinary agreement then the incidence of physical SPS checks could be lowered, and simplified forms or pre-lodging electronically of SPS paperwork could be arranged.<sup>123</sup>

Conversely, Professors David Phinnemore and Katy Hayward of Queen’s University Belfast told us that the more the UK diverges from EU regulations the more controls will be needed on goods arriving from Great Britain to protect the EU’s single market.<sup>124</sup>

63. While technically separate the two sets of talks appeared to have become intertwined. Aodhán Connolly, the Northern Ireland Retail Consortium’s Director, told us:

The big problem here is the politics of the FTA; although they are supposed to be separate but parallel negotiations, there has been a crossover. The machinations over the FTA have slowed up those deliberations in the Joint Committee.<sup>125</sup>

More fundamentally, the EU made clear, as we noted in our last Report, that timely implementation of the Protocol is a prerequisite for any deal. This position was re-emphasised following the Government’s introduction of the UK Internal Market Bill, which included clauses on NI to GB trade and state aid that ran counter to the provisions of the Withdrawal Agreement.<sup>126</sup> Mr Gove told us this was a “safety net” to protect Northern Irish business and citizens.<sup>127</sup> In October, the EU launched infringement proceedings for breach of the Withdrawal Agreement, giving the UK a month to respond. This deadline was not met.

64. The Covid-19 pandemic has caused significant disruption across Northern Ireland, and this has reduced the capacity of business and government to prepare for the end of the transition period. Stephen Kelly, Chief Executive of Manufacturing NI, told us that “at best 9%” of businesses were ready for the end of the transition. He continued:

The business community [ ... ] has been dealing with the coronavirus pandemic. That is sucking up all the capability, capacity and capital [ ... ] Attentions are focused on a rescue mission in terms of their businesses and the jobs that depend upon them rather than focused on what comes on 1 January.<sup>128</sup>

He said that in his experience, the Government had also faced similar problems:

in the first half of the year, the people that we would have dealt with in terms of implementing the protocol have been moved off and on to coronavirus issues. That meant that we have lost two or three months at the beginning of this year and everyone is trying to play catch-up at this point in time.<sup>129</sup>

65. Protracted wrangling over how the Protocol should be interpreted has worsened these problems. Last month, Dr Denis McMahon, the civil servant responsible for

---

123 Northern Ireland Retail Consortium ([FRE0070](#))

124 Dr Katy Hayward and David Phinnemore ([FRE0023](#))

125 [Q1020](#)

126 [United Kingdom Internal Market Bill](#), [Bill 234 (2019–21)]; [Q787](#)

127 [Q1163](#)

128 [Q1011](#)

129 [Q1044](#)

implementing new Sanitary and phytosanitary checks at Northern Irish ports told an Assembly Committee that his department still lacked “clarity” about what procedures it would have to put in place. He said:

a range of issues from the beginning has had the potential to derail the work schedule necessary [ ... ] for example, physical constraints at the sites, IT issues, the response of the market and transport considerations. Even without such issues, the deadline was almost impossible [ ... ] for reasons outside the control of DAERA, none of us has been granted the time necessary to reflect fully the outcomes of the negotiations or to take forward this complex programme in the way that we would need to. [ ... ] We have, therefore, had to make some very significant assumptions. That is the nature of the space that we are in. The unknowns are such that we cannot be ready for all eventualities.<sup>130</sup>

66. In the spring we wrote to Northern Ireland business groups about the implementation of the Protocol. They told us they needed clarity about its outworkings as soon as possible so their members had enough time to prepare for new trading conditions.<sup>131</sup> Yet, last month, representatives of Northern Ireland retailers, manufacturers and farmers told us that many unanswered questions remained.<sup>132</sup> Victor Chestnutt, President of the Ulster Farmers Union, said

the uncertainty is the thing that is exercising us the most [ ... ] It feels like we are going forward with both hands tied behind our back and a blindfold on.<sup>133</sup>

67. Our witnesses identified several areas where they needed clarity:

- The nature and frequency of checks on agrifood goods moving from GB to NI, when export health certificates (EHCs) will be required, especially in relation to supermarket loads, and whether some items, such as unfrozen meat and seed potatoes could be moved across the Irish Sea at all.<sup>134</sup>
- How tariffs will be charged on ‘at risk goods, assuming a working definition was agreed, and how a proposed rebate system would be administered.<sup>135</sup> Mr Kelly said his organisation had “had no conversations with anyone, either in the UK or the EU” about how ‘at risk’ might be defined and had seen no progress “whatsoever” towards the establishment of a rebate system.<sup>136</sup>
- Whether new IT systems would be place in time, and, just as important, when businesses would have all the information they needed to interact with these

130 [Oral evidence taken before the Northern Ireland Assembly Committee for Agriculture, Environment and Rural Affairs](#), 5 November 2020,

131 FSB NI ([FRE0016](#)); FTA NI ([FRE0015](#)); Northern Ireland Retail Consortium ([FRE0070](#))

132 [Q1014](#)

133 [Qq1004 & 1007](#)

134 [Qq1005, 1017, 1020 & 1025–1028](#). For rates of physical and documentary EU SPS checks on third country agrifood goods, see: European Commission, [Implementing Regulation \(EU\) 2019/2129](#), 25 November 2019. As we noted in paragraph 37, Mr Connolly told us that a supermarket load could require up to 400 different EHCs with each one costing between £56 and £200.

135 [Q1007](#)

136 [Qq1009, 1015, 1020–1021 & 1042–1044](#)

systems.<sup>137</sup> Mr Connolly said that businesses now had at best six weeks to put in place changes they would normally make over several years and it was not clear what back up plans were in place if things went wrong.<sup>138</sup>

- What additional support may be available to NI businesses. Our witnesses praised the trader support service, although they worried if would be ready in time and whether enough had been done to get businesses up to speed.<sup>139</sup> Mr Chestnutt questioned when details of a promised agri-food movement assistance scheme would be published.<sup>140</sup>

Witnesses also expressed concerns about access to both UK and EU trade deals with third countries, continuing uncertainty about product labelling and VAT.<sup>141</sup>

68. Summarising our discussion, Mr Kelly said:

If there was one message for the Committee to understand today it is that Northern Ireland’s business community will not be ready for 1 January. Quite simply, it does not have the detail nor the time required. With all the will in the world, we will not get there in six weeks[ ... ] The beginning of the year is going to be really ugly [ ... ] We hope that the UK and the EU can show the flexibility required, knowing that we have made every effort that we can.<sup>142</sup>

Mr Connolly agreed, stressing that businesses needed some kind of implementation period to “to make sure that there are no balls in the air that fall down”.<sup>143</sup>

69. Last month Arlene Foster MLA and Michelle O’Neill MLA, Northern Ireland’s First and deputy First Minister, wrote to Vice President Maroš Šefčovič, the EU’s senior representative on the Joint Committee. They stated:

The Protocol includes a statement of determination “that the application of this Protocol should impact as little as possible on the everyday life of communities in both Ireland and Northern Ireland” [ ... ] Hence we would ask you to recognise how important it is that the current consideration of the detail of how the Protocol will be applied takes our unique context into account.

[ ... ] We look forward to urgent resolution of these issues, as businesses here need clarity as soon as possible on the precise detail of the changes that will affect them [ ... ] Some of these issues will be easier to implement in the context of a free trade agreement, but urgent action to resolve the issues in the Protocol need not and should not be dependent on that process.<sup>144</sup>

---

137 [Q1007](#)

138 [Qq1045–1047](#)

139 [Qq 1013–1014, 1020 & 1058](#)

140 [Qq1005 & 1027](#)

141 [Qq1006–1007, 1015, 1050–1052, 1055 & 1062](#)

142 [Qq1008 & 1023](#). We note that many of these questions were addressed, if not all conclusively answered, by representatives of Cabinet Office and HMRC before the Northern Ireland Affairs Committee, see: Oral evidence taken before the Northern Ireland Affairs Committee on 2 October 2020, HC (2019–21) [767](#)

143 [Qq 1032 & 1045](#)

144 A copy of the letter was leaked to the broadcaster RTE: [Letter from the First Minister and Deputy First Minister to the Vice President of the European Commission, 5 November 2020](#)

70. Earlier this month, progress was made. Agreement in principle was reached on all matters concerning the Protocol, with the Government agreeing to remove those clauses from the UK Internal Market Bill to which the EU objected.<sup>145</sup> Draft Joint Committee decisions were published, alongside several draft unilateral declarations.<sup>146</sup> The Joint Committee formally adopted these decisions at its fifth meeting on 17 December 2020.<sup>147</sup>

71. Following the announcement, Mr Gove told the House:

This deal [removes] export declarations for Northern Ireland goods moving from Northern Ireland to Great Britain [ ... ] Northern Ireland businesses selling to consumers or using goods in Northern Ireland will be free of all tariffs [ ... ] whether we have a free trade agreement with the EU or not.

[ ... ] we have been talking to traders, supermarkets in particular, to make sure that they are ready for any export health certificate requirements [ ... ] they requested a grace period [ ... ] We have managed to secure three months, which is sufficient time, we understand, to ensure that supermarkets are ready. On the chilled meat provision, it is the case that we have secured a six-month period during which there will be absolutely no change [ ... ] we have time for reciprocal agreements between the UK and the EU on agrifood, which can be discussed in the months ahead.<sup>148</sup>

72. Later in the week, the Government published a command paper setting out how the Protocol would work, including details of a UK Trader Scheme—allowing authorised businesses to undertake that goods moving into Northern Ireland are “not at risk” of onward movement to the EU—and a Movement Assistance Scheme for agri-food traders.<sup>149</sup> Government funding was also announced to help supermarkets and other businesses to adapt to the new trading environment.<sup>150</sup>

**73. We welcome that formal agreement has been reached in the Joint Committee on how the Ireland/Northern Ireland Protocol will work in practice. We urge HMRC to intensify its working relations with the Irish Revenue Commissioners and other relevant authorities to ensure consistency in application of the agreed processes and avoid further disputes in future on their interpretation. The new arrangements will affect GB businesses and hauliers involved in moving goods, particularly agrifoods, to Northern Ireland, as well as the ports of Holyhead in Wales and Cairnryan in Scotland. The UK Government should work closely with the Devolved Governments and put contingencies in place to minimise traffic disruption near to the sites of the affected GB ports.**

**74. It has been disappointing that the Joint Committee’s decisions have been so long delayed; the citizens of Northern Ireland deserved to know far sooner the terms of**

145 HMG and European Commission, [EU-UK Joint Committee statement on implementation of the Withdrawal Agreement](#), 8 December 2020

146 HMG, “[The Northern Ireland Protocol](#)”, accessed 10 December 2020

147 European Commission, [Brexit: Withdrawal Agreement to be fully operational on 1 January 2021](#), 17 December 2020

148 HC Deb, 9 December 2020, [cols 847–849 & 854](#)

149 HMG, [The Northern Ireland Protocol](#), [CP346](#), 10 December 2020. Different provisions apply for goods subject to commercial processing although “a series of sectors will be exempt from the default commercial processing definition and therefore can qualify to be not considered “at risk”.

150 HMG, [UK Government provides £400m package for Northern Ireland in post Transition deal](#), 10 December 2020

**trade within their own country. Even with the pragmatic solution the UK and EU have reached, the early months of the Protocol are likely to be difficult. Some challenges have been avoided and some postponed for a few months, but not all, and very little time remains for Northern Irish businesses and civil servants to meet them. To make things work will require continuing flexibility, creativity and generosity of spirit from all parties over the coming months and years.**

# Formal minutes

---

**Thursday 17 December 2020**

MORNING SITTING

Virtual meeting

Members present:

Hilary Benn, in the Chair

Mr Peter Bone	Nicola Richards
Joanna Cherry QC	Mr Barry Sheerman
Sally-Ann Hart	Jane Stevenson
Antony Higginbotham	Dr Philippa Whitford
Nigel Mills	

Draft Report (*Preparing for the end of the Transition Period*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 74 read and agreed to.

*Resolved*, That the Report be the Third Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned till this day at 2.00 pm

## Witnesses

---

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 11 March 2020

**The Rt Hon Michael Gove MP**, Chancellor of the Duchy of Lancaster, Cabinet Office [Q1–79](#)

### Tuesday 17 March 2020

**Stephen Booth**, Head of the Britain in the World Project, Policy Exchange; **Christophe Bondy**, Partner, International Trade and Investment Law group of Steptoe & Johnson LLP, London; **Professor Anand Menon**, Professor of European Politics and Foreign Affairs, Kings College London [Q80–137](#)

### Monday 27 April 2020

**The Rt Hon Michael Gove MP**, Chancellor of the Duchy of Lancaster, Cabinet Office [Q138–232](#)

### Wednesday 27 May 2020

**The Rt Hon Michael Gove MP**, Chancellor of the Duchy of Lancaster, Cabinet Office; **David Frost**, Prime Minister's Europe Adviser and Chief Negotiator of Task Force Europe, Cabinet Office [Q233–335](#)

### Tuesday 8 June 2020

**Michel Barnier**, Head of Task Force for Relations with the United Kingdom, European Commission [Q389–419](#)

### Wednesday 10 June 2020

**Professor Catherine Barnard**, Professor of European Union and Labour Law, University of Cambridge; **Dr Anna Jerzewska**, Independent Customs and Trade Consultant; **Sam Lowe**, Senior Research Fellow, Centre for European Reform [Q336–388](#)

### Tuesday 23 June 2020

**Dr Lars Karlsson**, President, KGH Border Services; **Tim Reardon**, Port of Dover, Head of EU Exit; **Alex Veitch**, Head of International Policy, Freight Transport Association [Q420–470](#)

### Tuesday 30 June 2020

**Jane Golding**, Co-Chair, British in Europe; **Kalba Meadows**, Steering Committee Member, British in Europe; **Michael Harris**, Steering Committee Member, British in Europe [Q471–514](#)

### Tuesday 7 July 2020

**Luke Piper**, Head of Policy, the3million; **Barbara Drozdowicz**, Chief Executive Officer, East European Resource Centre; **Dr Kuba Jablonowski**, Research Associate, the3million

[Q515–558](#)

### Tuesday 14 July 2020

**Richard Martin**, Deputy Assistant Commissioner and Brexit Lead, National Police Chiefs' Council; **Professor Steve Peers**, Professor of Law, University of Essex; **Professor Valsamis Mitsilegas**, Professor of European Criminal Law, Queen Mary University of London

[Q559–609](#)

### Tuesday 21 July 2020

**Professor Richard G Whitman**, Director of the Global Europe Centre and Professor of Politics and International Relations, University of Kent; **Mikaela Gavas**, Co-Director of Development Cooperation in Europe and Senior Policy Fellow, Centre for Global Development; **Professor Malcolm Chalmers**, Deputy Director-General, The Royal United Services Institute

[Q610–646](#)

### Wednesday 9 September 2020

**Richard Burnett**, Chief Executive, Road Haulage Association; **Robert Hardy**, Operations Director, Customs Clearance Consortium; **Dr Anna Jerzewska**, Independent Customs and Trade Consultant

[Q647–713](#)

### Tuesday 15 September 2020

**Michael Russell MSP**, Cabinet Secretary for the Constitution, Europe and External Affairs, Scottish Government; **Jeremy Miles MS**, Counsel General and Minister for European Transition, Welsh Government

[Q714–785](#)

### Wednesday 23 September 2020

**Professor Catherine Barnard**, Professor of European Union and Labour Law, University of Cambridge; **Shanker Singham**, Chief Executive Officer, Competere; **Georgina Wright**, Senior Researcher, Institute for Government

[Q786–825](#)

### Wednesday 30 September 2020

**Paul Everitt**, Chief Executive, ADS Group Ltd; **Neil Hollis**, Regulatory Affairs Manager, BASF; **Dr Richard Torbett**, Chief Executive, Association of the British Pharmaceutical Industry

[Q826–876](#)

### Wednesday 7 October 2020

**The Rt Hon Michael Gove MP**, Chancellor of the Duchy of Lancaster, Cabinet Office; **Lord Frost CMG**, Prime Minister's Europe Adviser and Chief Negotiator of Task Force Europe

[Q1144–1205](#)

**Wednesday 21 October 2020**

**Conor Lawlor**, Director, Brexit; Capital Markets & Wholesale, UK Finance; **Neil Ross**, Policy Manager, Digital Economy, TechUK; **Andrew Gray**, Global Head of Brexit for Financial Services, PwC UK

[Q877–922](#)

**Wednesday 11 November 2020**

**Steve Bartlett**, Chairman, Association of Freight Software Suppliers (AFSS); **Elizabeth de Jong**, Director of Policy, Logistics UK; **Councillor Kevin Bentley**, Essex County Council and Chair of the LGA's Brexit Task Force

[Q923–1003](#)

**Wednesday 18 November 2020**

**Aodhán Connolly**, Director, Northern Ireland Retail Consortium; **Stephen Kelly**, Chief Executive, Manufacturing Northern Ireland; **Victor Chestnutt**, President, Ulster Farmers' Union

[Q1004–1061](#)

## Published written evidence

---

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

FRE numbers are generated by the evidence processing system and so may not be complete.

- 1 180daysvisa-free.org ([FRE0038](#))
- 2 180daysvisafree.org ([FRE0022](#))
- 3 180daysvisafree.org ([FRE0056](#))
- 4 ABTA – The Travel Association ([FRE0105](#))
- 5 ABTA – The Travel Association ([FRE0021](#))
- 6 Advertising Association ([FRE0071](#))
- 7 Airport Operators Association ([FRE0030](#))
- 8 Ambassador of Austria to the United Kingdom ([FRE0115](#))
- 9 Ambassador of Belgium to the United Kingdom ([FRE0137](#))
- 10 Ambassador of Bulgaria to the United Kingdom ([FRE0116](#))
- 11 Ambassador of Croatia to the United Kingdom ([FRE0117](#))
- 12 Ambassador of Cyprus to the United Kingdom ([FRE0118](#))
- 13 Ambassador of Denmark to the United Kingdom ([FRE0120](#))
- 14 Ambassador of Estonia to the United Kingdom ([FRE0121](#))
- 15 Ambassador of Finland to the United Kingdom ([FRE0122](#))
- 16 Ambassador of France to the United Kingdom ([FRE0135](#))
- 17 Ambassador of Germany to the United Kingdom ([FRE0123](#))
- 18 Ambassador of Greece to the United Kingdom ([FRE0124](#))
- 19 Ambassador of Hungary to the United Kingdom ([FRE0125](#))
- 20 Ambassador of Ireland to the United Kingdom ([FRE0140](#))
- 21 Ambassador of Latvia to the United Kingdom ([FRE0126](#))
- 22 Ambassador of Lithuania to the United Kingdom ([FRE0127](#))
- 23 Ambassador of Malta to the United Kingdom ([FRE0136](#))
- 24 Ambassador of Poland to the United Kingdom ([FRE0128](#))
- 25 Ambassador of Portugal to the United Kingdom ([FRE0129](#))
- 26 Ambassador of Romania to the United Kingdom ([FRE0130](#))
- 27 Ambassador of Slovakia to the United Kingdom ([FRE0131](#))
- 28 Ambassador of Slovenia to the United Kingdom ([FRE0132](#))
- 29 Ambassador of Spain to the United Kingdom ([FRE0133](#))
- 30 Ambassador of Sweden to the United Kingdom ([FRE0134](#))
- 31 Ambassador of the Czech Republic to the United Kingdom ([FRE0119](#))
- 32 Association for Innovation, Research and Technology (AIRTO) ([FRE0111](#))
- 33 Association of British Insurers ([FRE0047](#))
- 34 The Association of the British Pharmaceutical Industry (ABPI) ([FRE0102](#))
- 35 Aston Chemicals Ltd ([FRE0143](#))

- 36 Aston Chemicals Ltd ([FRE0144](#))
- 37 The Bar Council (Relationship Working Group Bar Council Future Relationship Working Group) ([FRE0049](#))
- 38 Barnes, Professor Richard (Associate Dean for Research, University of Hull) ([FRE0069](#))
- 39 BASF Group ([FRE0100](#))
- 40 Bore, Marian ([FRE0061](#))
- 41 Breinlich, Professor Holger (Professor of Economics, University of Surrey) ([FRE0067](#))
- 42 Brian, Dr Jill ([FRE0080](#))
- 43 Bristol Myers Squibb (BMS) ([FRE0141](#))
- 44 British Council ([FRE0110](#))
- 45 British Food Importers and Distributors Association ([FRE0091](#))
- 46 British in Europe ([FRE0014](#))
- 47 British Medical Association (BMA) ([FRE0084](#))
- 48 British Red Cross ([FRE0046](#))
- 49 The British Retail Consortium ([FRE0028](#))
- 50 British Veterinary Association ([FRE0078](#))
- 51 Brooke, R ([FRE0059](#))
- 52 Campaign for Science and Engineering ([FRE0094](#))
- 53 Canada Europe Roundtable for Business ([FRE0053](#))
- 54 Chartered Institute of Patent Attorneys ([FRE0068](#))
- 55 Chartered Institute of Taxation ([FRE0043](#))
- 56 Chartered Institute of Trade Mark Attorneys (CITMA) ([FRE0057](#))
- 57 The Chemical Industries Association (CIA) ([FRE0139](#))
- 58 Communities Inshore Fisheries Alliance ([FRE0045](#))
- 59 Confederation of British Industry (CBI) ([FRE0029](#))
- 60 Crown Prosecution Service ([FRE0066](#))
- 61 Customs Clearance Consortium ([FRE0011](#))
- 62 Dawar, Dr Kamala (Senior Lecturer in Commercial Law, University of Sussex) ([FRE0009](#))
- 63 DBA – The Barge Association ([FRE0072](#))
- 64 Erasmus Student Network UK ([FRE0104](#))
- 65 European Policy Centre ([FRE0007](#))
- 66 Farrand Carrapico, Dr Helena (Associate Professor in Criminology and International Relations, Northumbria University) ([FRE0040](#))
- 67 Fashion Roundtable ([FRE0052](#))
- 68 Faull, Sir Jonathan ([FRE0004](#))
- 69 Federation of Small Business Northern Ireland ([FRE0016](#))
- 70 Ferran, Professor Eilís (University of Cambridge) ([FRE0107](#))
- 71 Food and Drink Federation (FDF) ([FRE0106](#))
- 72 The Freight Transport Association ([FRE0015](#))
- 73 Garner, Oliver ([FRE0017](#))

- 74 Glencross, Dr Andrew, Aston University ([FRE0039](#))
- 75 Global Britain Programme, Henry Jackson Society ([FRE0064](#))
- 76 Greener UK, and ClientEarth ([FRE0113](#))
- 77 Hayward, Dr Katy (Professor of Political Sociology, Queen's University Belfast) ([FRE0023](#))
- 78 Henig, Mr David (Director of the UK Trade Policy Project) ([FRE0062](#))
- 79 Honda Motor Europe ([FRE0050](#))
- 80 Information Commissioner's Office ([FRE0079](#))
- 81 Institute of Chartered Accountants in England and Wales ([FRE0086](#))
- 82 Department for International Development ([FRE0087](#))
- 83 Investment Association ([FRE0095](#))
- 84 Jerzewska, Dr Anna ([FRE0024](#))
- 85 Jones, Matthew ([FRE0096](#))
- 86 Karlsson, Dr Lars (Customs Services KGH) ([FRE0020](#))
- 87 Kent County Council ([FRE0148](#))
- 88 Kings College London ([FRE0008](#))
- 89 The Law Society of England and Wales ([FRE0081](#))
- 90 The Law Society of England and Wales ([FRE0054](#))
- 91 The Law Society of England and Wales ([FRE0013](#))
- 92 Local Government Association ([FRE0098](#))
- 93 Lydgate, Dr Emily (Senior Lecturer, Sussex Law School University of Sussex) ([FRE0027](#))
- 94 Make UK ([FRE0006](#))
- 95 Maritime UK ([FRE0026](#))
- 96 McCann, Professor Philip (Professor of Urban and Regional Economics, University of Sheffield) ([FRE0089](#))
- 97 McEwen, Professor Nicola (Centre on Constitutional Change) ([FRE0035](#))
- 98 Mitsilegas, Professor Valsamis (Deputy Dean for Global Engagement (Europe), Queen Mary University of London) ([FRE0041](#))
- 99 Murray, Colin ([FRE0018](#))
- 100 Musicians' Union ([FRE0093](#))
- 101 National Farmers' Union ([FRE0082](#))
- 102 The National Federation of Fishermen's Organisations ([FRE0031](#))
- 103 National Grid Electricity System Operator ([FRE0073](#))
- 104 National Grid Group ([FRE0083](#))
- 105 National Police Chiefs Council ([FRE0058](#))
- 106 Northern Ireland Retail Consortium ([FRE0145](#))
- 107 Northern Ireland Retail Consortium ([FRE0142](#))
- 108 Northern Ireland Retail Consortium ([FRE0070](#))
- 109 Nuclear Industry Association ([FRE0077](#))
- 110 Office of the City Remembrancer ([FRE0146](#))
- 111 Ofgem ([FRE0076](#))

- 112 Peers, Professor Steve (Professor of Law, University of Essex) ([FRE0042](#))
- 113 Peretz, Mr George ([FRE0037](#))
- 114 Phinnemore, Professor David (Professor of European Politics Dean of Education Faculty of Arts, Humanities and Social Sciences, Queen's University Belfast) ([FRE0023](#))
- 115 The Police Service of Northern Ireland ([FRE0055](#))
- 116 Price Waterhouse Coopers LLP ([FRE0112](#))
- 117 Provision Trade Federation ([FRE0032](#))
- 118 Raess, Dr Damian (Assistant Professor in Political, World Trade Institute University of Bern) ([FRE0036](#))
- 119 Rice, Dr Clare ([FRE0018](#))
- 120 Road Haulage Association Ltd ([FRE0044](#))
- 121 Royal Institute of British Architects ([FRE0088](#))
- 122 Saha, Syamantak ([FRE0147](#))
- 123 Scottish Centre on European Relations ([FRE0025](#))
- 124 Scottish Fisherman's Federation ([FRE0034](#))
- 125 Scottish Government (Michael Russell MSP, Cabinet Secretary for Constitution, Europe and External Affairs) ([FRE0114](#))
- 126 Schilling de Carvalho, Pedro (University of Cambridge) ([FRE0107](#))
- 127 Seraphus Solicitors ([FRE0010](#))
- 128 Singham, Mr Shanker ([FRE0003](#))
- 129 Smith, Professor Fiona (Professor in International Economic Law, University of Leeds) ([FRE0103](#))
- 130 Starling, Michael ([FRE0060](#))
- 131 TechUK ([FRE0138](#))
- 132 the3million ([FRE0048](#))
- 133 TheCityUK ([FRE0108](#))
- 134 UK Chamber of Shipping ([FRE0012](#))
- 135 UK Finance ([FRE0109](#))
- 136 UK Intellectual Property Office ([FRE0065](#))
- 137 UK Seafood Industry Alliance ([FRE0033](#))
- 138 UK Trade Policy Observatory ([FRE0063](#))
- 139 Ulster Farmers' Union ([FRE0090](#))
- 140 Universities UK ([FRE0099](#))
- 141 Usherwood, Professor Simon ([FRE0005](#))
- 142 Wellcome ([FRE0092](#))
- 143 Welsh Government ([FRE0085](#))

## List of Reports from the Committee during the current Parliament

---

All publications from the Committee are available on the publications page of the Committee's website.

### Session 2019–21

<b>Number</b>	<b>Title</b>	<b>Reference</b>
1st	The need for progress in the negotiations	HC 458
2nd	Implementing the Withdrawal Agreement: citizens' rights	HC 849