Committee of Public Accounts
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Alex Chisholm
Civil Service Chief Operating Officer
and Cabinet Office Permanent Secretary

08 February 2021

Dear Mr Chisholm

RE: New arrangements at the UK border

Thank you for your evidence to the Committee on 21 January 2021, alongside your colleague from the Border and Protocol Delivery Group (BPDG) in the Cabinet Office, the Permanent Secretaries of HM Revenue & Customs (HMRC) and the Department for Transport (DfT), and the Director Generals of Border Force and the Europe, International and Constitution Group at the Department for Environment, Food and Rural Affairs (Defra).

In our 23 November 2020 evidence session, we warned that government preparations for the end of the transition period on 31 December 2020 were behind schedule and highlighted areas for government to focus on with urgency. The UK and the EU have since agreed the UK-EU Trade and Co-operation Agreement and an agreement in principle for implementing the Northern Ireland Protocol, providing certainty for government, traders and the border industry about the arrangements to apply at the border.

The Public Accounts Committee has regularly examined government's preparations for EU exit in recent years, and we have repeatedly stated our concerns about the huge challenges involved. We recognise the scale and complexity of the task and the enormous amount of effort from the civil service in many government departments, other public bodies, industry and other stakeholders that have gone into preparing for the new arrangements over several years. The transition period has now ended, and we have not yet seen the significant disruption at the border with lorry queues that had been feared. Nevertheless, the risk of disruption remains as traffic levels increase. Already some sectors and areas have been severely affected by the new arrangements. Significant challenges remain for the government and for the private

sector, both to adjust to the new arrangements in place from 1 January 2021 and to get ready for full controls on imports to the UK due in July 2021.
This letter sets out the key areas that we consider require particular focus now.

Based on the evidence we heard last week, I set out our conclusions and recommendations on these issues and the timescales in which we require responses. These conclusions and recommendations are based on the Committee's view of the National Audit Office's report in November 2020 (https://www.nao.org.uk/report/the-uk-border-preparedness-for-the-end-of-thetransition-period/); the Committee's evidence sessions on 23 November 2020 and 21 January 2021; our exchange of correspondence with the Cabinet Office in December and January; and the Committee's previous work in this area.

Overall preparedness at the GB-EU border

The NAO reported in November that departments had a "reasonable degree of confidence" that most of the systems, infrastructure and staff needed to provide a minimum operating capability would be in place by January 2021. The Cabinet Office subsequently told us that, due to "extraordinary efforts" across government, the necessary preparations were put in place and all the required legislation was passed. We acknowledge the significant efforts of the civil service in preparing for the end of the transition period and especially commend the response to the December 2020 closure of the French-Great British border in response to the new strain of COVID-19 detected in the UK. The Department for Transport told us that this incident represented a huge effort by many people including the Kent Resilience Forum and the Kent Police, as well as many colleagues from across government.

The Cabinet Office told us that arrangements for the end of the transition period had gone pretty smoothly overall but that there had been some 'teething issues' with interactions between UK systems and the French systems. For example, Defra told us there had been issues with the NCTS system handling transit movements from Calais to Boulogne, while HMRC also indicated there had been some technical issues with transit systems. The Border and Protocol Delivery Group (BPDG) acknowledged that businesses have "a very big adjustment to make in operating the new systems and processes" and we note that many businesses have found it difficult to get to grips with the new border arrangements and that these are having a disproportionate impact on some businesses and sectors. BPDG told us that where issues have arisen that are individual and specific to a business, the relevant department has been working with them to resolve them, but in some cases the issue is a more systemic one.

The end of the transition period does not signify the end of preparations and significant challenges remain. As noted by BPDG, so far in January there have not been any major queues forming at UK border ports. However, traffic volumes are still

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lower than would ordinarily be expected at this point in the year, which may be an indication of disruption elsewhere in the system before goods reach ports, or businesses waiting to see what happens. The government warned on 8 January that traffic volumes were then only around 40% of the usual flow for the time of year and at our session on 21 January BPDG told us that volumes had only partially recovered, to 70% of normal volumes. As noted by the Cabinet Office, there is therefore no room for complacency as trade volumes will increase and place further stress on the system. It would also be helpful if there was clarity over the difference between the volume and flow of lorries and of goods (ie how many hauliers are having to travel empty compared with pre Brexit arrangements).

It is worth highlighting the disparity between the witnesses' account of border operations since 1 January 2021 as having gone "relatively smoothly", and the individual experiences of particular traders, businesses and industry sectors that have had difficulties transporting their goods across the border. In government's ongoing monitoring of the new border arrangements we urge it not to lose sight of the pain which some individual businesses and sectors are experiencing as a result.

Recommendation 1: *The government should write to the Committee by the end of February 2021 with a summary of the operational issues in managing the border which have arisen since the end of the Transition Period and how it has resolved them or what plans it has in place to do so.*

<u>The implementation of the Northern Ireland Protocol</u>

In our December 2020 letter we emphasised that we were most concerned about preparations to operate the Northern Ireland Protocol, including the vital importance of providing detailed guidance to traders to allow them to prepare. However, we recognised that preparations were complicated by ongoing negotiations at the Joint Committee. On 8 December the UK and EU reached an agreement regarding the practical operation of the Protocol. This agreement was described by the Cabinet Office as a "big breakthrough", which allowed it to publish the Northern Ireland Protocol Command Paper on 10 December. However the Cabinet Office also accepted that this left little time for businesses to adapt to the new rules and that therefore some issues were expected.

The Cabinet Office told us that there has not been very much disruption in operating the Protocol and that trade flows had "continued effectively". Despite this, it is clear to us that there have been significant impacts for some. For example, we have been told by MPs from Northern Ireland that supermarkets have empty shelves and that there are real problems. We have also seen reports that small and medium food exporters are now unable to group their packages together for export anymore; that some companies such as Marks and Spencer have stopped some deliveries to Northern Ireland; and the new trade barriers are deterring many HGVs from picking up loads in Great Britain and that they are therefore having to return empty,

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increasing the costs to traders. The Cabinet Office accepted that there "absolutely are issues for businesses" adapting to the new sets of rules set out in the Northern Ireland Protocol Command Paper and that there was very little time to do so. During the session however, when asked about specific issues, witnesses told us repeatedly that either issues were minor, and had or were being resolved, or that the issues were exaggerated and that flows of goods had "continued effectively". There is clearly a difference in perspective between government's view and the accounts we are hearing from elsewhere. It is absolutely imperative that departments do everything they can to identify and resolve issues with operating the Protocol as soon as possible.

Departments have already established several measures to support traders. For example, the UK and EU have agreed grace periods from completing some requirements, such as completing the full certification of products of animal origin crossing to Northern Ireland from authorised traders. For circumstances where the new processes do still apply, a HMRC's free Trader Support Service is helping businesses make customs declarations for the first time, while Defra's Movement Assistance Scheme is covering the new costs of moving agri-food commodities. HMRC told us that the Trader Support Service has 700 helpline operators that have already helped process over 50,000 transactions. Defra told us that 84 businesses had registered for the Movement Assistance Scheme and as of 19 January it had completed 2,134 eligible export health certificates and 219 phytosanitary certificates, at an estimated cost of £330,000.

We are concerned about the administrative burden on traders moving goods under the Protocol which will be exacerbated when the various grace periods which have been agreed between the UK and the EU end. We questioned the witnesses about options such as introducing alternative arrangements or extending the grace periods. The Cabinet Office told us that it was focusing on working within the current agreement to make it "operationally as wearable as possible" and that the grace periods could not be extended under current legislation. Defra told us that it was working with the supermarkets and their suppliers daily on swifter, more streamlined arrangements that would allow them to comply at a lower cost and with lower friction. Defra also told us it was undertaking work to put in place sustainable solutions once the grace periods currently in operation in Northern Ireland come to an end.

Recommendation 2: *Departments should continue to monitor the impact of the Northern Ireland Protocol, resolving any operational issues that arise where possible. However, if burdens for traders or barriers to trade cannot be mitigated, then Departments should, as far as possible, develop alternative proposals for discussion at the UK-EU Joint Committee.*

Trader readiness

We have been highlighting the significant challenges of ensuring UK traders are ready for new border controls since 2017. Most recently, in December 2020 we recommended that government step up its engagement with traders in order to determine what additional information or support they may need. Despite our repeated warnings about its importance, government efforts to improve the readiness of traders and hauliers have proven insufficient and many traders and hauliers were consequently unprepared for new border controls.

In its January letter to us the Cabinet Office outlined the range of engagements that HMRC and other departments were holding with stakeholders, including daily calls, trader letters and webinars. The Cabinet Office told us that these efforts have helped to prompt businesses to prepare and that 68% of businesses exporting to the EU now believed they had made, or were making, the necessary preparations to continue exporting. BPDG also told us that so far the general levels of trader readiness, including completing forms and getting a COVID test and a Kent Access Permit, had been higher than expected. We note the contrast of this evidence with that provided by the Federation of Small Businesses, who told us that as at December only 18% of SMEs that believed they would be negatively impacted by the end of the transition period had finished preparing. Even if the true picture of readiness is close to that suggested by the Cabinet Office, this still means that 32% of businesses – some 60,000 – were not ready.

Following the end of the transition period, businesses have been required to understand the implications of the Trade and Cooperation Agreement and the agreement on operation of the Northern Ireland Protocol. The Cabinet Office told us these agreements did not make significant changes to the actual controls that will be operating at the border, but that clauses in the agreements might affect specific businesses. For example, firms will now have to prove that their goods are of UK and EU origin in order to qualify for zero tariff / quota rules. HMRC told us that while they have streamlined the process for certifying origin, there are complex rules about what counts towards locally made products and suppliers have had little time to get used to them. The Cabinet Office accepted that the agreements had been made later than was ideal and that consequently businesses were still getting used to the new arrangements.

One way in which traders can simplify arrangements for moving goods across multiple customs territories is through use of transit arrangements, which enable traders to move goods across customs borders and complete their customs declarations later. HMRC told us traders need to have a financial guarantee against goods going missing in order to use transit arrangements, and that there had been cases recently where the number of guarantees available had run out. It said it had been working with traders to increase the amount available, and also ensure that traders had closed off their guarantees when they had completed transit movements so that the unused guarantee could be released.

Government has recommended that businesses use the services of a customs intermediary and has provided over £80 million to the sector to facilitate the expansion of the customs intermediary market. In November, HMRC told us that research it had commissioned by Ipsos MORI indicated that the intermediary market would have the capacity to fulfil between 76 and 119 million additional declarations per year by January 2021, against the then-current annual capacity of 29 to 39 million. Following the end of the transition period, we have however been aware of accounts of businesses having difficulty finding an intermediary, or being charged higher prices for services. HMRC could not tell us how many businesses were unable to find a customs intermediary they could afford. HMRC told us that it accepted there had been a significant increase in the demand for intermediary services, but intelligence it had received since 1 January suggested that while some intermediaries are full up and turning away prospective clients, others still have capacity. HMRC's advice was that any traders struggling to hire an intermediary should just keep trying and noted it had published a list of customs intermediaries on gov.uk.

Recommendation 3: *Government should review the experiences of businesses in December and January, identify what went well, and what issues specific business sectors and hauliers found particularly challenging. It should use this learning to target its engagement and develop support measures to ensure maximum readiness for July*.

Recommendation 4: *HMRC should write to the Committee by the end of February 2021 setting out the evidence it has on the capacity, quality and cost of intermediary services. HMRC should also monitor the market to ensure that costs of services do not rise and thereby deter smaller businesses from trading.*

The movement of agri-foods

Complying with new border processes has been particularly difficult for businesses exporting perishable goods such as seafood to the EU, due to the new Sanitary and Phytosanitary (SPS) checks and Export Health Certificates (EHCs) required at the border. Defra told us of specific issues with goods which require SPS checks, where there have been delays clearing customs at French Border Control Posts and also in the UK, where hauliers have not had all the required paperwork complete. In response Defra assured us that step-by-step guidance incorporating the lessons from recent experiences will be available soon. While we welcome this development, we question why this guidance was not made available to traders earlier.

Defra also reported an issue around groupage whereby traders were previously able to transport multiple consignments of different goods in a single HGV. This procedure is now more difficult because EHCs are needed for each individual consignment, and we understand that this has proven a significant additional burden for SMEs looking to export their products quickly. Defra told us that a solution had been found to this groupage issue that works for suppliers and certifiers. The solution is currently being tested and if successful, Defra will issue new guidance.

The fishing industry has been particularly adversely affected by the changes to processes due to the perishability of their goods. Indeed, this is such a problem that there have been reports that some Scottish trawlers are landing in Denmark and offloading fish there to avoid the new burdens of conducting trade with the UK. In response to the issues facing the fishing industry, on 19 January the government announced that it will provide up to £23 million to SMEs in the fishing industry, as long as they can prove they have suffered a loss as a result of new arrangements. Defra told us that individual businesses can claim up to £100,000 and it would confirm the eligibility criteria in due course and aim to pay out to claimants in around six weeks. While we welcome this support, we are concerned about the risk that payments may not be made in time to help businesses experiencing real difficulties now and that £100,000 may not be sufficient to cover the losses that some businesses are experiencing. We are also concerned that some in the fishing industry who have taken the decision not to continue fishing because they cannot export their catch may find it difficult to prove they have suffered a genuine loss.

Recommendation 5: *Defra should write to the Committee by the end of February 2021 to set out the details of the £23m support to the fishing industry, including the rationale for the £100k limit; how it has determined the eligibility requirements for applications; and how long it is taking to pay claims.*

Recommendation 6: *Government should work urgently with the industry sectors which have been significantly affected by new border requirements to resolve the issues they are facing and to determine whether they require financial or other support while issues are resolved to the extent possible.*

The additional costs from new border controls

In December we warned that complying with new border arrangements will increase the administrative costs for international traders. In addition to the cost of completing customs declarations, examples of costs include the cost of completing export health certificates (EHCs); using both CDS or CHIEF to make customs declarations; and registering for new IT systems (e.g. chemical businesses have to re-register on the UK REACH system). We recommended that government should identify the additional costs that the businesses community and border stakeholders face as a result of new border requirements from 1 January 2021, to help identify where additional support might be required.

In its response, the Cabinet Office pointed us to HMRC's 2019 impact assessment of the costs to businesses of completing customs declarations, which estimated the administrative cost of completing them at £7.5 billion per year for UK businesses. HMRC told us in January that this is the latest estimate and it has not been updated. We note that this assessment is not a complete assessment of the additional costs from new border arrangements. For example, it does not include the costs of completing SPS checks and acquiring EHCs, nor does it estimate the costs of the new requirements that have arisen as a result of the Trade and Cooperation Agreement. These costs can be substantial, particularly for small businesses. The Federation of Small Business told us that on top of having to prove the origin of their products in order to qualify for preferential treatment, smaller firms now have to: obtain other documents such as ATA Carnets; buy specialist software to interact with HMRC's systems; subscribe to the Management Support System (MSS); pay a customs intermediary; and provide financial guarantees to make use of certain customs easements or reliefs.

The Cabinet Office told us that there has not been an overall assessment of the impact on businesses of new arrangements, nor any estimate made of the value of exports that may have been lost. The Cabinet Office considers that given that the new arrangements have only been in place three weeks, it would want to delay starting any assessment until any initial issues had settled down and businesses had got used to the new arrangements. This would also provide some time for trusted trader schemes to be implemented, which may help reduce the administrative costs for businesses.

Consumers who have purchased goods from the EU have also been faced with new and unexpected charges. HMRC told us that there were three reasons for this. First, consumers are paying the same rate of VAT as before, but the responsibility for paying VAT has shifted from the supplier to the purchaser which makes it look as if prices have increased. Second, customs duties may now be due for goods imported to the UK from the EU but are not of EU origin. And third, delivery companies now have to comply with new regulations and may pass any administrative costs on to consumers through additional charges. We are concerned that these additional costs may not be transparent to consumers.

Recommendation 7: *In order to seek to minimise the costs to business as far as possible, government should: i) undertake a comprehensive exercise to identify and quantify the additional costs the businesses community and border stakeholders face as a result of new border requirements from 1 January 2021; and ii) look for all opportunities to reduce costs and administrative burden to traders including working quickly to develop and agree a trusted trader scheme with the EU.*

Recommendation 8: *Government should encourage the business community to be transparent about the VAT and customs duty costs which consumers will face when importing some goods from the EU; and include this aspect in government's ongoing communications about the impact of the UK exiting the EU.*

Government spending on the border and EU exit

In its November 2020 report, the NAO noted that the increasing time pressure and risks in advance of the end of the transition period meant that the government was committing a lot of money to progress preparations in areas, such as port infrastructure and customs intermediaries, which would traditionally be provided by the private sector. It concluded that the unique situation in which departments were operating made some element of additional spending inevitable, and it was right that the government did what was appropriate to mitigate the risks but that, despite the funding being committed by government, there remained significant uncertainty about whether preparations would be complete in time, and the impact if they were not.

The government continues to invest in a range of measures to introduce import controls and to mitigate the impact of changes to customs and regulatory requirements and provide support to particular sectors. For example Defra told us that, in addition to the £23 million fund to support SME fish and seafood exporters who can show genuine losses resulting from disruption, it had promised £100 million for broader help with modernising fishing fleets and the fish-processing industry, and £32 million to replace the EU funding that the industry has benefited from in the past. The government is also spending money to support traders moving goods into Northern Ireland under the Northern Ireland Protocol. In August 2020 it announced that it was spending £200 million on a Trader Support Service to support businesses engaged in new processes under the Northern Ireland Protocol, and in December 2020 announced that it was also putting in place a Movement Assistance Scheme to provide help with moving agri-foods to Northern Ireland. We asked Defra about its projections of the cost of the scheme and how long it envisioned that it would continue. Defra told us that it was not certain what the long-term cost would be. It was also unable to give us an answer about exactly how long the scheme would be in place but said that it certainly would be in place for the next few months.

We agree that it is right for the government to spend money to mitigate significant risks and, we support the government's decision to provide financial support to industries and areas which are particularly affected by EU exit. However, we are concerned that there has been insufficient planning for the potential impact on businesses and specific sectors; the level of support which may be required; which sectors will be included; how this support may be provided; and how and when support will be phased out or withdrawn. Traders and the border industry need transparency and certainty about the level and duration of funding they will receive

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from government. This would help them to adapt to the UK's new trading arrangements with the EU and amend their business models as appropriate.

Recommendation 9: *Government should draw together a high-level summary of costs of EU exit preparations, additional funding commitments and ongoing support measures relating to EU exit, and set out how it is maintaining central oversight of this spending across departments.*

Recommendation 10: *To increase certainty for businesses Departments should: i) examine the support measures and waivers that currently apply; ii) identify what is needed short term and longer-term; iii) develop a transparent plan to phase them out and provide alternative solutions, extend them, or improve them; and set out when and how it will communicate this in a timely way to industry.*

Fiscal compliance and risk

The NAO has previously reported that, in its preparations for a no-deal exit, the government decided to initially prioritise security and safety; flow of people and goods; and then compliance activity, including the collection of revenue. HMRC confirmed that the government had made a clear choice that ensuring the smooth movement of goods into the UK would be prioritised over fiscal protection and that it would be running some compliance risks as a result. Phasing in controls to the UK and consequently deferring for 6 months the requirement for firms to complete customs declarations for goods being brought into the UK has significant fiscal consequences. In November, the Office of Budget Responsibility forecast that in 2021-22 non-compliance could lead to customs duty collected being £200 million lower than it should be, while the VAT gap could increase by £600 million.

HMRC told us it expects levels of non-compliance would decrease after the first year, nevertheless these are significant amounts of money that is potentially lost to the Exchequer. HMRC told us that had it had taken some steps to mitigate these risks, including requiring high-risk traders and importers of controlled excise goods to the UK to complete customs declarations from 1 January 2021. HMRC also told us that its assessment of these new risks will help inform its decisions about where to deploy its enforcement and compliance resources. However, it conceded that measures such as allowing firms to defer completing customs declarations for 6 months will increase the risk of non-compliance this year. This is because it will be harder to collect duties owed when there are delays in HMRC receiving information on imports to the UK. For example, it will be harder to detect when goods have been misclassified or undervalued, or harder to collect revenues from businesses if they go subsequently go into administration.

Recommendation 11: *HMRC should ensure that its compliance strategy minimises* *fiscal risk to the fullest extent possible until the introduction of full import controls and that it is monitoring any new fiscal risks emerging. Once import controls are in place, HMRC should ensure it is able to use the new data it is collecting on the movement of goods to target its compliance activity appropriately and improve its compliance approach over time*.

The introduction of import controls

Government, traders and the border industry will all face new challenges when the government introduces further import controls in April and July 2021. The NAO reported in November 2020 that 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 on time. We heard from Border Force that they were confident that they would be able to reach the approximately 2,000 additional staff required to introduce full import controls by July and from BPDG that ports would be able to make the necessary infrastructure changes, such as introducing Border Control Posts, by July. In October 2020 the government launched a £200 million Port Infrastructure Fund for which ports could bid for grants to build some of the infrastructure required. BPDG told us that it had offered grants to 41 ports. It had signed agreements with ten of these ports and was finalising arrangements with the others. BPDG also told us that it had given ports some flexibility around the scope of what they are building, such as a smaller scope where they have been given a reduced amount compared with what they originally bid for, as the only requirement is to have compliant facilities in place to do the necessary checks.

HMRC told us that, it continued to focus on supporting customers alongside planning for the next phase of changes over the coming months. Defra told us that its biggest immediate concern was making sure it was working closely with traders and addressing issues as promptly as possible, but that, in terms of future controls, its concern related to trader readiness for new inward checks in April and July. Defra noted that the issue related to readiness of EU traders as much as UK traders and that it was a group which were harder to reach. We also note that there will be additional challenges for traders to address when the 12-month easement on certification by suppliers to support rules or origin requirements expires at the end of 2021 and urge the government not to lose sight of the additional support that traders may need to prepare for this.

Recommendation 12: *Departments should write to the Committee by the end of February 2021 setting out progress with introducing new import controls in April and July 2021, including the lessons that they have learned from their preparations for the end of the transition period, and any major risks and issues to be resolved.*

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We would appreciate a response to the relevant recommendations by the end of February 2021, and a fuller response to all our recommendations by the end of May 2021. My Committee continues to have a strong interest in how the government is managing the ongoing impact of the UK exiting the EU and I anticipate that we will wish to return to these issues in the future.

I am copying this letter to the Permanent Secretaries of HMRC, Defra, DfT and the Home Office. I am also copying this letter to the Comptroller & Auditor General and to the Treasury Officer of Accounts. A copy will be published on our website.

Yours sincerely,

Meg Hillier

MEG HILLIER MP
CHAIR OF THE COMMITTEE OF PUBLIC ACCOUNTS