

Northern Ireland Business Brexit Working Group – Written evidence (FUI0025)

Written evidence submitted to the House of Lords European Affairs Sub-Committee on the Protocol on Ireland/Northern Ireland, 7 June 2022

Submission from the Northern Ireland Business Brexit Working Group

1. Who we are?

- 1.1. The Northern Ireland Business Brexit Working Group (NIBBWG) was formed in December 2019 in response to the passage of the Withdrawal Agreement Bill to highlight the concerns of the c. 85% of Northern Ireland businesses that it represents. Since then, it has made representation to the UK Government, the NI Executive, the EU and the Irish Government. It has also produced research and analysis on the needs and concerns of the business community with regard to leaving the EU.
- 1.2. The NIBBWG includes Confederation of British Industry NI, Dairy Council for Northern Ireland, Federation of Small Businesses Northern Ireland, Hospitality Ulster, Institute of Directors NI, KPMG, Logistics UK, Manufacturing NI, Mineral Products Association NI, NI Food and Drink Association, NI Grain Trade Association, NI Meat Exporters' Association, NI Poultry Industry Federation, NIE Networks, Northern Ireland Retail Consortium, Northern Ireland Chamber of Commerce, Ulster Farmers' Union.
- 1.3. It is worth noting at this point that NI business representative organisations are the only group who consistently enjoy the trust of a majority of people to 'manage the interests of NI' when it comes to the Protocol, according to the time series 'Testing the Temperature' polls of 2021/22. We enjoy levels of public trust that are steadily growing, and which are at least twice that of any other stakeholder group, including the NI civil service, and fifteen times that of the UK Government.¹
- 1.4. The NI Business Brexit Working Group have worked closely with the co-chairs of the Joint Committee and their technical teams. This written evidence summarises our key issues and asks.

2. Current situation

- 2.1. We want to ensure that trading arrangements can work to benefit business and communities across Northern Ireland, now and in the future. We also want to see the common determination of the UK and EU that the

¹ Testing the Temperature polls for the Post-Brexit Governance NI project, QUB conducted by LucidTalk. Available from: <https://www.qub.ac.uk/sites/post-brexit-governance-ni/ProjectPublications/OpinionPolling/TestingTheTemperature4/>

application of the Protocol should 'impact as little as possible on the everyday life of communities in Ireland and Northern Ireland', as set out in the Preamble, realised.

- 2.2. Whilst we were heartened by increased levels of engagement between the UK and the EU in the second half of 2021 and at the beginning of 2022, we are frustrated at both the pace and the delivery from these discussions since February 2022.
- 2.3. We still continue to do our best to make the Protocol work as the legal agreement that has been negotiated and ratified by both the UK and EU, but if solutions are not forthcoming, multiple pressures will increase on businesses, as tensions grow UK-EU and within NI.
- 2.4. The current instability does not allow businesses to plan, nor to garner investment for the future nor allow for our local administration to deal with the challenges of both the cost of living and the cost of doing business crisis nor tackle issues which indirectly impact on business such as rebuilding our health services post-Covid.
- 2.5. It should be remembered that the Protocol is successfully delivering on one of its main objectives – the avoidance of a hard border on the island of Ireland – and this is bringing significant economic benefit to the NI economy.
- 2.6. However, the promised lack of friction on the Irish Sea is not the experience of many traders (even in the context of the unilateral and open-ended extension of grace periods by HMG). This is being particularly difficult for a minority but significantly important group of smaller traders
- 2.7. Proposals by HMG to potentially set aside some of the Protocol in UK law should not be to the detriment of the parts of the Protocol which are successfully delivering the shared objectives of both the UK and the EU.
- 2.8. The Protocol benefits Northern Ireland in allowing the free movement of goods with the EU, without the requirement for customs administration, or tariffs. We would not want this to be put at risk as a consequence of attempts by HMG to deal with frictions on the Irish Sea.
- 2.9. We have made it clear to HMG that anything other than a successfully negotiated outcome for traders in NI would be sub-optimal.

3. Evidence informing our requests

- 3.1. After almost 18 months of operation of the Protocol, we are beginning to see some evidence emerge of its impact on the NI economy and the settled views of traders. It should be noted that official UK data (via survey work) on the trade to and from NI with GB for 2021 will not be available until later in 2022.

- 3.2. Surveying from NI business representative groups continues to show substantial support for the Protocol being reformed and delivered with a lighter touch.
- 3.3. From Manufacturing NI's Protocol Tracker (conducted through 2021 and again after Q1 in 2022), shows an improving position with the following headlines:²
 - 3.3.1. It is not the Protocol but the availability of labour which is most exercising firms. The Protocol ranked 4th of 4 options in terms of current concerns.
 - 3.3.2. Almost half respondents say they are now on top of issues after an initial disruption in early 2021.
 - 3.3.3. Fewer than 1 in 4 continue to struggle with the processes in the Irish Sea. This figure is down from 40% six months ago.
 - 3.3.4. Just over half respondents report a negative impact from the Protocol in 2021; this is down from 77% in April 2021
 - 3.3.5. 1 in 4 reported a positive impact (up from 1 in 6 in 2021) from the Protocol.
 - 3.3.6. GB supplier readiness and willingness remains the big issue but this is improving. 1 in 7 now report their GB suppliers are still unwilling to send to NI; this is fewer than was the case in 2021 (where it was around 1 in 5).
 - 3.3.7. Almost 40% say it is 'business as usual' with their GB supplier but the preparedness of GB suppliers remains the biggest challenge (for 36%) which has not yet been fully addressed by the Government.
 - 3.3.8. GB sales appear to have fully recovered after the confusion at the beginning of 2021
 - 3.3.9. After initial disruption, EU supply chains to/from respondents have almost fully recovered. 1 in 4 report an increase in sales with the EU.
 - 3.3.10. Finally, there's a big move towards grasping the opportunities of the Protocol amongst manufacturers (external goods traders).

² Manufacturing NI/Tughans survey conducted by Perceptive Insight (April 2022). Available from: <https://www.manufacturingni.org/wp-content/uploads/2022/04/Manufacturing-NI-Report-25April22.pdf>

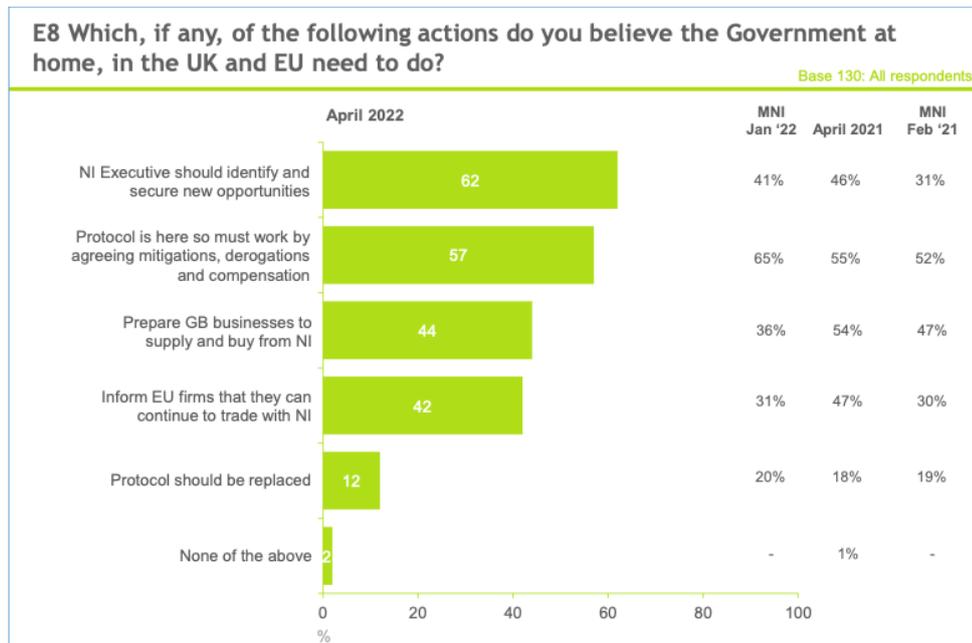


Figure i. Responses to multiple choice question on actions sought from government on the Protocol. Source: Manufacturing NI survey, April 2022.

3.4. The Northern Ireland Chamber of Commerce and Industry’s Quarterly Economic Survey for Quarter One of 2022³ has also revealed:

- 3.4.1. The adjustment to new trading arrangements has been challenging for many businesses trading externally, although that appears to be improving. In Q1 22 65% said that they had adapted to the new trading arrangements (up from 52% in Q2 21) while 29% are finding trading conditions challenging (down from 37% in Q2 21).
- 3.4.2. A smaller share of businesses are finding the new trading arrangements extremely challenging (8% vs.15% Q4 21).
- 3.4.3. In terms of dealing with the new arrangements since EU Exit and the introduction of the Protocol, around half of businesses surveyed (48%) have had to use existing/new staff resources and/or pay for external support to deal with new trading arrangements.
- 3.4.4. One in three (36%) have had to divert internal resources to specifically to deal with the new rules and paperwork involved.

3.5. The NIESR report monthly on an assessment of regional CPI inflation rates. Northern Ireland has moved from being consistently above the U.K. average and amongst the highest inflation regions to consistently being below the UK average and amongst the regions with the lowest inflation.⁴

³ Northern Ireland Chamber of Commerce and Industry, Quarterly Economic Survey Report, Q1 2022. Available from: <https://www.northernirelandchamber.com/wp-content/uploads/2022/03/22107G-QES-Report-Q4-2021-FINAL.pdf>

⁴ National Institute of Economic and Social Research CPI tracker, March 2022. Available from: <https://www.niesr.ac.uk/wp-content/uploads/2022/03/NIESR-CPI-Tracker-March-23-2022-FINAL.pdf>

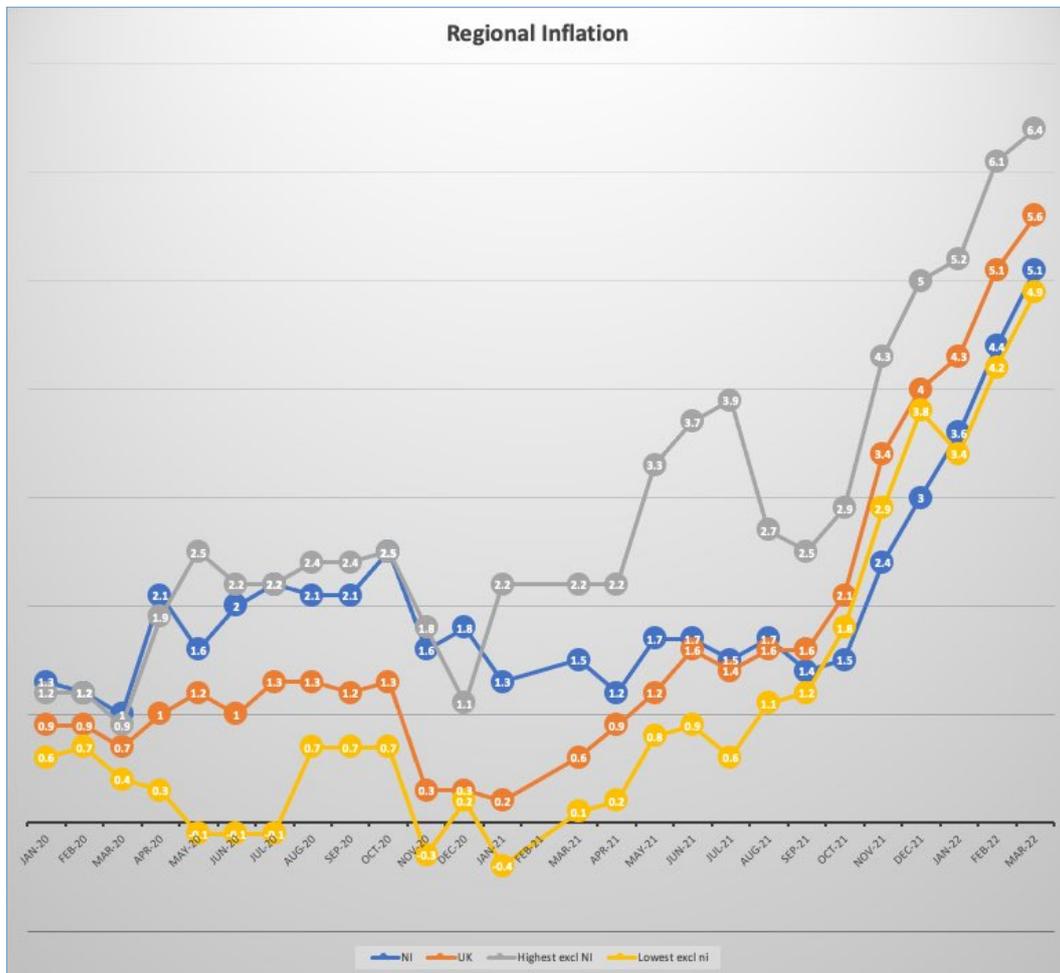


Figure ii. Regional inflation figures comparing NI to UK average. Source: NIESR CPI tracker.

- 3.6. A Kantur report commissioned by the NI Department for the Economy suggests in December 2021 that grocery prices in NI were 8% cheaper than in GB.⁵
- 3.7. On top of the growth of goods exports to Ireland in 2021 increasing by 61%, “Sales from Northern Ireland into the Republic increased by €294m (34%) to €1.2bn in the first three months of the year, compared to the same time in 2021. Exports to here from south of the border were €1.1bn, an increase of €368m (49%) on the same period in 2021.”⁶
- 3.8. The NI Statistics and Research Agency published a helpful report on the shape of trade in to and from NI on 18 May. Of note are the tables on the value, number and size of firms who buy and sell to and from GB, Ireland, the EU and the Rest of the World.⁷

⁵ Belfast Telegraph, 6 May 2022: <https://www.belfasttelegraph.co.uk/news/northern-ireland/jeffrey-donaldson-unveiled-report-shows-grocery-prices-in-ni-are-on-average-lower-than-gb-41621678.html>

⁶ Belfast Telegraph, 23 May 2022: <https://www.belfasttelegraph.co.uk/business/northern-ireland/soaring-energy-prices-now-a-huge-headache-for-companies-41677367.html>

⁷NI Statistics and Research Agency, May 2022. Available from: <https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/Overview-of-NI-Trade-May-2022.pdf>



Figure iii. NI trade 2020/21. Source: NISRA, May 2022.

3.9. FSB NI is currently concluding a survey of its members to map the extent of business types that are particularly negatively affected by the current operation of the Protocol. Much of the "significant minority" of firms in this category are SMEs that may not have the financial nor human resources to deal with the additional challenges in ways that may be open to larger businesses. This piece of work, inclusive of illustrative case studies, will be reported in the coming weeks.

4. Consequences of the end of the transition period

- 4.1. The nature and extent of additional costs vary by sector and size of company, but it is clear that many of the costs experienced by businesses are not inconsiderable, particularly in the agri-food sector.
- 4.2. Whilst it may be the view from the EU in particular that the current negotiations could result in the ending of the grace periods and replacing some formalities with more light touch administration, it is our view that the Protocol as currently operated (with grace periods) should be considered as the starting point.
- 4.3. This should be about lowering this ceiling rather than potentially raising the floor.

5. What NI business requires in broad terms

- 5.1. Our view remains consistent from 2021. We repeat the six principles that need to be prioritised in the UK-EU approach to the trading arrangements under the Protocol.
- 5.2. *Stability*: Instability works against creating the conditions for prosperity and investment.
 - 5.2.1. While the EU has 'taken note' of the unilateral indefinite extension of the grace periods, we need the EU to acquiesce to that extension to give improved stability to NI businesses and those who supply Northern Ireland, not least to prepare and adjust adequately for the end of those grace periods with least disruption for NI consumers and employees.
 - 5.2.2. It should also be noted that grace periods do not protect businesses from divergence. For example goods moved to NI under STAMNI scheme must meet EU import standards. The more UK/EU standards diverge, the greater the difficulties posed for NI business.
- 5.3. *Certainty*: A long term workable solution is one that is done *with* business not *to* business.
 - 5.3.1. We need the EU and the UKG to work with our technical experts to design a system that works for business and the people of Northern Ireland. That includes on issues such as the island-of-Ireland-economy and quotas.
- 5.4. *Simplicity*: Reducing and simplifying the 'paperwork' and administrative burden is critical.
 - 5.4.1. This can happen both in terms of the controls needed but also the actual efficiency of the means by which the data is collected.
 - 5.4.2. Adopting digitisation to deliver auditable and certified supply chains as part of a modern, simplified and verifiable Trusted Trader agreement is essential. This needs to be proportionate to the low level of risk that UK retail goods coming into Northern Ireland might pose to the EU Single Market, due to the dead-end-host principle.
- 5.5. *Affordability*: As both the EU and UK have said, trading arrangements must create the least possible disruption to communities in Northern Ireland. That mean the costs of any processes must be kept to a minimum to allow us to continue to give NI households and businesses the choice and affordability they need.
- 5.6. *Education*: Communication and clarity is required from both the UK and EU about what is required for businesses to conduct their trade in compliance with the law. This is needed to be conveyed to GB businesses as well as NI ones.
- 5.7. *Representation*: The UK and EU should be engaging on a tripartite basis with business and its technical and administrative experts to: (i) audit where we are now, (ii) provide a firm and shared foundation for

reignited negotiations, (iii) overcome confusion, mistranslation and suspicion, and (iv) test to ensure that proposals are workable and durable.

6. What we specifically request

- 6.1. *Enhanced Trusted Trader Scheme:* The certified and auditable supply chain should facilitate a “green channel” at ports, based upon the low risk level of goods entering Northern Ireland; and we need it to encompass as wide as possible a group of goods and traders from food to non-food, electronics and clothing. This will not only keep prices down for NI households (who have half of the discretionary income of households in Great Britain) but will reduce time spent at ports for traders and will release capacity amongst officials to deal with wider customs issues.
- 6.2. *A Veterinary Agreement:* A veterinary agreement could remove up to 80% of checks and documentation that would otherwise be needed. It will support the agri-food and retail industries as well as farming and will keep prices low and choice high for NI families. We realise there are divergent opinions on the precise contents of such an agreement but, even a time-limited agreement would assist us in the short and medium term and provide some relief to the current pressures – both in terms of trade and wider society and politics.
- 6.3. *Adjust rules on notice for food supply:* Having to submit information to Traces and, potentially, GB systems 24 hours in advance of shipment will be impossible for some GB-NI food suppliers as their supply chain is built around items that they need to declare which are picked, packed and shipped on the same day. They would not be able to complete all of the detailed information required 24 hours in advance of dispatch in case the manifest was incorrect due to lack of availability.
- 6.4. *'At Risk' definition:* The definition of “at risk” is too wide and has significant cashflow implications for NI businesses, particularly for manufacturers and wholesalers.
- 6.5. *Establishment:* We need to extend and embed the UK Trader Scheme easement for those businesses with “no fixed place of business in NI”, so GB-based businesses can continue to declare goods ‘not at risk’. If this does not happen, there will be immediate and wide-ranging supply issues.
- 6.6. *Rules of Origin:* This continues to be an area of confusion and our ‘ask’ is for clarity and a simpler approach that can be easily understood and delivered upon from the largest to the smallest trader.
- 6.7. *Supplementary Declarations:* The work associated with this return continues to be onerous and information is not readily available. We would request a process review and for other viable alternatives to be considered, which would reduce needless bureaucracy for traders. Indeed,

for goods not at risk (remaining in the UK customs territory) supplementary declarations are a purely bureaucratic activity of no value, given the entry summary declarations and trader declarations provide all the information at point of entry to make the goods at risk decision.

It should be noted that the EU say these are not required but the UK are insisting on them. This is one area in particular where a tripartite meeting with business could quickly provide clarity.

- 6.8. *Continued improvement in the platforms for submitting data:* There is a need to improve and where possible automate the processes involved to remove repetitiveness.
- 6.9. *Extend use of technology:* EU legislation states that identity checks of trailers containing SPS products must be done by a person rather than any automated system. This requires all SPS loads to undergo an inspection at the Border Control Post upon arrival into NI. If the UK and EU could agree to the introduction of an automated seal check system, this would improve the efficiency and processing of SPS consignments from GB into NI.
- 6.10. *Parcels:* The current easement on parcels should be made permanent now for Business to Consumer (B2C) deliveries and a proper study undertaken of international movements and engagement with business to ensure that any requirements on B2B parcels do not add to the burden on business. One trader tells us that should the current easement be removed then this would increase the administration by a factor of 7.
- 6.11. *Rebate scheme:* The UK Government committed to reimburse 'at risk' tariffs (as permitted under the Protocol) which may have been paid by NI traders where goods are subsequently proven to have remained in NI or sent to GB. This was committed by July 2021 but as yet no rebate has been opened for NI businesses. It is essential that this is delivered urgently to protect businesses from unaffordable cash flow implications given the current broad reach of the at-risk rules.
- 6.12. *A Business Consultative Group:* When we met with the Chancellor of the Duchy of Lancaster, Michael Gove and Vice-President Šefčovič in February 2021, it was agreed that a business consultative group would be formed so that we could have a direct conduit into both the EU and UK. This has still not happened. These meetings need to be regular and substantive and should begin urgently.
- 6.13. *Divergence:* There remains no suitable nor available process to manage divergence in relations to NI. An urgent resolution to this is required before either the UK or the EU diverge further leaving NI traders unaware of challenges or even locked out of markets, and potentially disrupting the movement of goods GB to NI.

7. Looking ahead

- 7.1. Some of our requests require further action on the part of the UK Government. Others need joint decisions by the UK-EU Joint Committee. According to Article 6(2) of the Protocol, the Joint Committee it is to review the facilitation of trade within the United Kingdom and both the UK and EU are to use their 'best endeavours to facilitate the trade between Northern Ireland and other parts of the United Kingdom'. The Joint Committee is to 'adopt appropriate recommendations with a view to avoiding controls at the ports and airports of Northern Ireland to the extent possible'. We believe that the requests we make can be realised in accordance with the respective regulatory regimes of the UK and EU, but also in line with the objectives and integrity of the Protocol as a legal agreement.
- 7.2. The Joint Committee has a further five particular areas of responsibility that are relevant here: defining 'at risk' goods; the operation of the UK Trader Scheme; the application of VAT and Excise rules; agricultural support scheme limits (Annex 6); and working arrangements for EU presence in NI (Article 12). All these point to the breadth and significance of the future decisions of the Joint Committee for Northern Ireland – and to the fact that the UK and EU have scope to together make adjustments to the impact of the Protocol.
- 7.3. As proven by moves to resolve the movement of human medicines issues (an outcome which industry says works) there is a need to provide immediate deliverables from negotiations would show that concerns are being recognised and addressed, while working on long term sustainable solutions together that give stability, certainty, simplicity and affordability.
- 7.4. The Protocol could contribute to the long-term prosperity of NI. The challenge would be finding the conditions of stability and competitiveness that would enable businesses to turn those 'potential' opportunities into a reality.
- 7.5. There is an opportunity here for both the UK and EU to minimise the negative and enhance the positive consequences of the Protocol for Northern Ireland, but we need support and flexibility from both the EU and UKG.
- 7.6. The UK Government is set to introduce a Bill which may provide powers for the UK to disapply many parts of the Protocol. Some speculation of what may appear in the Bill is circulating and we will review and provide an analysis when the Bill is laid. However, it remains our view that anything other than a negotiated outcome is sub-optimal and that the UK and EU should use the time during the Bill's passage to negotiate and find agreement.
- 7.7. Proposals appear to include areas of little dispute but others such as a proposed dual regulatory regime would work for some, for instance

retailers, but not others, particularly agri-food, and could cause both the agreed objectives of the Protocol fail and an existential issue for some sectors. It is clear that a 'one size fits all' is not possible. It is therefore important that the Committee scrutinise this potential Bill, its likelihood of success and the impact of its introduction in to UK law.

7.8. Finally, although non-exhaustive, we have five key asks to break the deadlock:

- 7.8.1. An SPS landing zone that brings together workable trusted trader arrangements with a bespoke veterinary agreement and a wider mechanism to manage divergence for all goods, to protect access to choice and affordability for the NI consumer in particular*
- 7.8.2. A radical reduction in customs bureaucracy for goods not at risk of entering the EU single market, regardless of sector.*
- 7.8.3. Meaningful representation with embedded Northern Ireland civic representation, and expert panel support, as a participant in the appropriate governance structures in relation to laws and policies impacting on trade.*
- 7.8.4. Formal review mechanisms, including periodic monitoring of the operation of the "at risk" test, economic impact assessments on regulatory challenges, and any mitigations and/or compensations needed to support and protect NI trade.*
- 7.8.5. An unlocked competitive advantage that truly delivers on the unique dual market access to both the GB and EU markets.*

8 June 2022