

Northern Ireland Business Brexit Working Group – Written evidence (IIO0036)

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 over 85% of Northern Ireland business 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. This submission is made in collaboration with Professor Katy Hayward (Queen's University Belfast & UK in a Changing Europe), who has worked in a personal capacity to develop the research and evidence-based analysis of the NIBBWG.
- 1.4. It is worth noting at this point that NI business representative organisations are the only group who enjoy the trust of a majority of people to 'manage the interests of NI' when it comes to the Protocol, according to a recent opinion poll ([LucidTalk for Queen's University](#)). We enjoy levels of public trust that are at least twice that of any other stakeholder group, including the NI civil service, and ten times that of the UK Government and Whitehall. We are trusted people from all political viewpoints, including Leave and Remain.
- 1.5. In early June, the NI Business Brexit Working Group wrote to Lord Frost and Vice-President Šefčovič as co-chairs of the Joint Committee. This written evidence summarises our key issues and asks, as well as the grounds for these requests, which were agreed across our 17 member bodies.

2. Current situation

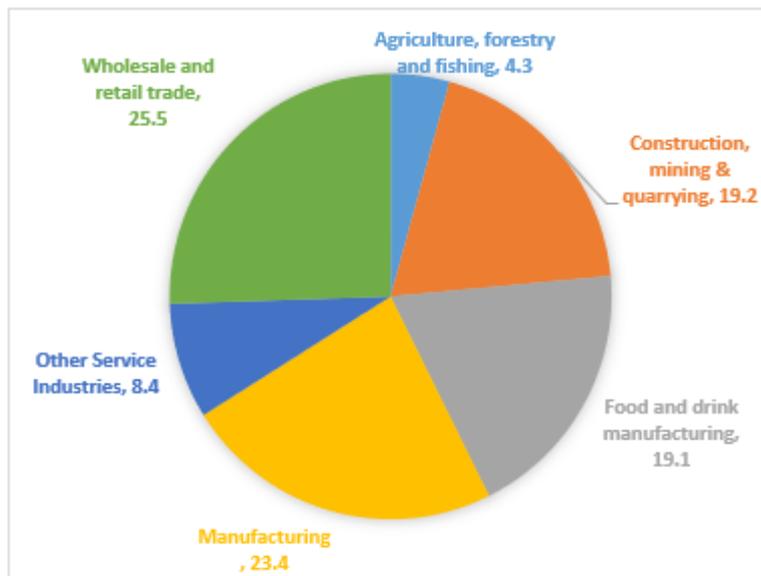
- 2.1. We are heartened by the increased level of engagement from the UKG and EU that we have had in the past few weeks. Nonetheless, we need to see that our faith in this process is validated by the delivery of solutions. We need to see that not only are we being listened to and understood, but that both the UK and EU are willing to work together to deal with the impact. We are clear that, in accordance with the Protocol, most of the issues raised can only be addressed sustainably through joint UK-EU agreement and action.

- 2.2. 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 application of the Protocol should 'impact as little as possible on the everyday life of communities', as set out in the Preamble, realised.
- 2.3. We still continue to experience challenges that the end of the transition period on 1 January 2021 brought to the NI business community. The requests that we have been making from the UKG and EU with respect to the Protocol have changed little since we first made representations on the subject in December 2019.
- 2.4. 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.
- 2.5. The current instability does not allow businesses to plan, nor to garner investment for the future. This year's political, social and economic instability could be the foundation for five years of economic stagnation or worse. There is a strong sense of urgency to our requests.
- 2.6. The urgent need for action comes not only from the 'ticking clock' over the grace periods nor from the socio-political tensions. It also comes from the fact that, in many cases where additional costs are being experienced as a consequence of the Protocol, businesses have not yet passed these costs onto the NI consumer. What is more, the conditions of lockdown (e.g. closed hospitality sector) has meant that the Protocol's implementation has not yet been experienced in circumstances typical to the full operation of the NI economy.

3. Evidence informing our requests

- 3.1. In addition to evidence and representations made to the representative organisations that constitute the NIBBWG, we conducted a small survey in March (9 March – 31 March 2021) to assess the type of adjustments that businesses have had to make since the end of the transition period, and the consequences of these changes. The response rate was low (n=47) but the data is robust enough for us to identify certain issues of common concern.
- 3.2. We received responses from a cross-section of the private sector in N. Ireland (see Figure 1). 53% of the respondents are NI-owned companies, with a quarter being GB-owned. ½ of our respondents were large companies (249+ employees) and ¼ were medium-sized companies (50-249 employees).

Fig.1. Respondents by sector to the NIBBWG survey (March 2021)



3.3. Less than one fifth of our respondents say that they were unprepared for the administrative requirements that would be needed at the end of the transition period on 31st December. This suggests that difficulties encountered by our respondents are unlikely to be due to a lack of preparation or awareness on their part.

3.4. The survey asked what difficulties had been experienced in relation to the Ireland/Northern Ireland Protocol and Brexit, particularly in 'trade'

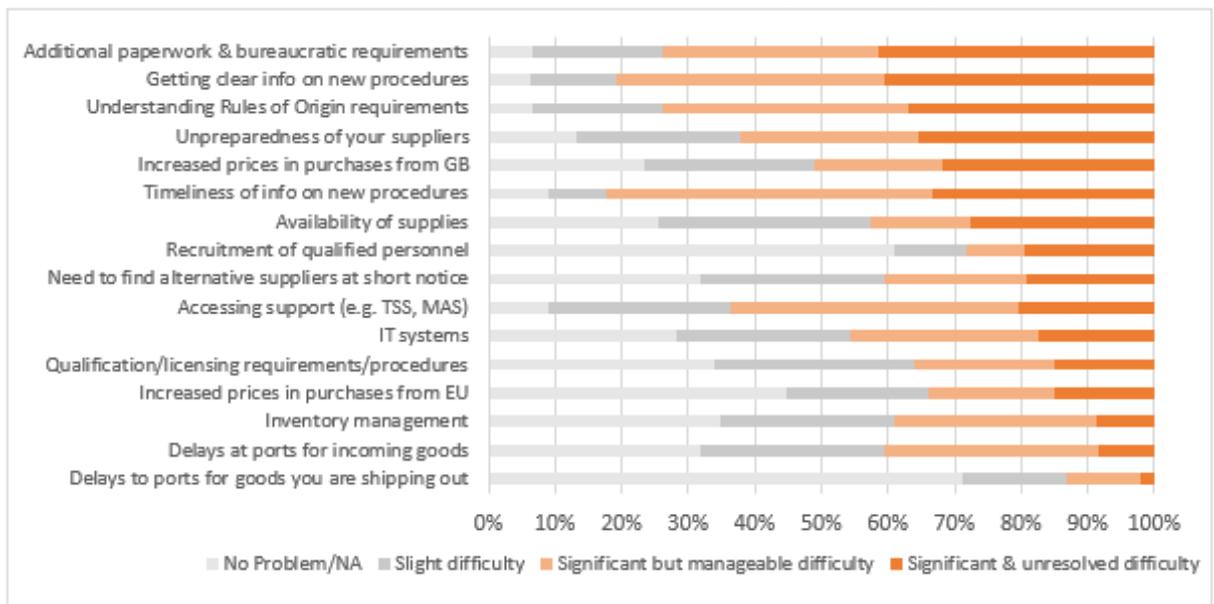


Fig.2. Protocol-related difficulties experienced by NIBBWWG survey respondents

with GB since 1 January. The most significant difficulties encountered by most respondents which they were still struggling to resolve were the additional paperwork and bureaucratic requirements, the lack of timely, detailed and clear information on new procedures, and understanding the Rules of Origin requirements. The lack of preparation for 1 January on the part of suppliers (mainly in GB), and problems accessing support had also caused problems.

Fig.2. Protocol-related difficulties experienced by NIBBWWG survey respondents

4. Consequences of the end of the transition period

- 4.1. Our survey asked the approximate percentage increase in the cost of a business's main product as result of additional costs incurred by the business (if any) since 1 January that are associated (directly or indirectly) with compliance with the Protocol. The effect, of course, depends on the type and size of company, but these results show that the most common additional cost has come in the form of staff time, followed by haulier fees and agents' fees (e.g. freight forwarders). One medium-sized NI-owned company put increased staff time resulting from Brexit at around £3,000 per month, plus one-off advisors' fees at £130k.
- 4.2. The nature and extent of additional costs varied 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. Several respondents report that the new requirements since the end of the transition period have seen an addition of over 20% to the cost of their main product.
- 4.3. Two forms of additional costs that a number of respondents say are considerable and had not been anticipated are the tariff costs for EU origin goods routing through GB distribution hubs and the import duties on goods for businesses without fixed premises in NI.
- 4.4. A consistent message from our respondents is that "Cost will need to be recovered from increasing of sales price". One large agri-food company stated: "the costs will be absorbed by business in short term - they have also not yet been passed to customer"; another large NI retailer said: "We will unfortunately be left with no alternative but to pass the costs onto our customers". A large food manufacturing company says "c.400k spend to be recovered from customers, suppliers and consumers". A medium sized wholesaler said: "We will have to increase costs to Customers and may drop certain product ranges as too complicated and expensive to bring to NI".
- 4.5. GB-based companies have their own particular difficulties with respect to NI. One medium-sized GB-based retailer spelled out the consequences of duties on 'at risk' goods: "If import duties are imposed (because of lack of fixed NI premises)... unless NI customers paid an NI surcharge compared to mainland GB, we would consider stopping sales to NI."
- 4.6. A number of respondents express concern about the consequences of these costs making their business uncompetitive, including as compared to GB-based companies who don't have similar costs or to. Others spell out fears about becoming unprofitable, when, for example, external sales prices are fixed, or if demand falls as a consequence of rising prices.
- 4.7. Our survey asked what would make the most positive difference to enable the business to successfully adapt to the new conditions of Brexit and the Protocol. There are several themes that come through in the responses but, unsurprisingly, the overriding theme is about making GB to NI movement smoother. We elaborate below what we have collectively identified and agreed to be the priority goals to achieve these objectives.

5. What NI business requires in broad terms

- 5.1. *Stability*: Instability works against creating the conditions for prosperity and investment. While there was a unilateral extension to the grace periods, we need the EU to acquiesce to that extension to give necessary 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. *Certainty*: A long term workable solution is one that is done *with* business not *to* business. 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.
- 5.3. *Simplicity*: The first demand of our survey respondents is reducing and simplifying the 'paperwork' and administrative burden. This can happen both in terms of the controls needed but also the actual efficiency of the means by which the data is collected. 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.
- 5.4. *Affordability*: As both the EU and UK have said in recent weeks trading arrangements must create the least possible disruption to communities in Northern Ireland. That mean the costs of new processes must be kept to a minimum to allow us to continue to give NI households the choice and affordability they need.
- 5.5. *Clarity*: 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. One survey respondent asks for "clarity on the long term sustainable arrangements and time to put the necessary processes in place".

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.

- 6.2.1. There have been no veterinary controls for trade in animals and animal products between Switzerland and EU since 2009, although Border Control Posts do check shipments from non-EU countries going to Switzerland. It is notable that some divergence remains possible, i.e. due to a WTO case won against the EU for its ban on hormone beef, there is a carve-out in Switzerland's agreement with the EU. However, the requirements put on exporters of hormone beef to Switzerland are arduous and these imports remain low in number, not least because there is low demand for the cheaper product because of the highly subsidised local Swiss agri-food sector.
- 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 come 1st October will be impossible for some food suppliers GB-NI as their supply chain is built around items that need to be declared and 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:* We need an urgent solution to 'goods at risk' as this is now becoming a barrier to trade that puts some businesses in an unsustainable position. The definition of "at risk" is too wide and has significant cashflow implications for NI businesses, particularly for manufacturers. This is relating, of course, to Customs Union requirements. One survey respondent states that there is a "need to look at and understand the specific circumstances and mitigating controls of each business".
- 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. We can anticipate further GB-based companies no longer supplying the NI market.
- 6.6. *Rules of Origin:* This continues to be an area of confusion and our 'ask' is for clarity and a more simple 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.
- 6.8. *Continued improvement in the platforms for submitting data:* A number of our survey respondents complain about their experience of making declarations. One states: "Current system, as well as being burdensome, is also done on a very badly designed and clunky system." There are several complaints about the TSS in particular, including roll-out, design, and lacking an option to easily identify returns.

- 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 requirement for a declaration to be submitted per business to consumer (B2C) parcels into NI from GB via the Customs Declaration System come 1st October raises many concerns. These are packages sold online by UK businesses to UK residents who happen to live in Northern Ireland. These relate to CDS readiness, plus issues relating to time and costs. Even with a high level of automation the broker will still require human intervention to verify, transmit and resolve any issues with the declaration. It is important to note that these packages will not attract any duty/taxes because they are not seen as "at risk" of moving into the Republic of Ireland. Therefore, if a declaration is required, we would like to see a bulking procedure that simply allows B2C packages to be declared together in one customs entry.
- 6.11. *Rebate scheme:* There are as yet still no details on the rebate scheme for goods at risk which is allowed under the Protocol. 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 not happened formally and we would like this to be taken forward as a matter of urgency. These meetings need to be regular and substantive.

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. There is a need to remove as much of the pressure as possible that is building in Northern Ireland. A relatively simple answer is to give immediate deliverables that show concerns are being recognised and listened to, while working on long term sustainable solutions together that give stability, certainty, simplicity and affordability.
 - 7.4. There were also positive findings from the NIBBWG survey. Although the majority of our survey respondents had not made any definite plans, most had considered opportunities arising from NI's unique status under the Protocol. Half of our respondents saw potential opportunities with respect to the Republic of Ireland, and more than a third for local, GB and EU/EEA markets. This shows that 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. That window is narrowing at a rapid rate. The Northern Ireland business community has made best endeavours to make the new trading arrangements work and will continue to do so; but we need support and flexibility from both the EU and UKG.

15 June 2021