Northern Ireland Grain Trade Association (NIGTA) – Written evidence (NIP0004)

Northern Ireland Brexit Protocol

Impacts and Opportunities – Clarification sought

8th June 2020

The Northern Ireland Grain Trade Association represents businesses engaged in the importation of feed materials and the manufacture of feed supplements and compound feeds for farmed livestock. Approximately 2.6 million tonnes of feed and feed materials are distributed to Northern Ireland farms with a further 150k tonnes supplied into the Republic of Ireland (ROI) each year.

Setting the scene.

As a result of the Withdrawal agreement and the Northern Ireland Protocol being negotiated in advance of a Free Trade Agreement many issues remain to be clarified around potential barriers to trade following UK divergence from the European Union standards and tariffs.

While these are major issues for Northern Ireland, they will also significantly impact the rest of the UK. Divergence in Sanitary Phytosanitary Standards (SPS) for example will create the same problems for products such as wheat from the UK being exported to NI as for material exported to EU and thus minimising divergence is as important to UK exporters as to NI importers.

Therefore many challenges need to be addressed by the NI protocol – customs clearance and SPS compliance will apply equally for all GB exports to Europe as for NI and we need a solution which can benefit (or minimise the damage to) the whole of the UK.

The trade estimates between 300k tonnes and 500k tonnes of agri-feed ingredients are imported from Great Britain to Northern Ireland per annum, including feed wheat, barley, milling wheat, rapemeal, grain distillers (corn and wheat) and wheatfeed pellets. Between 600k to 1million tonnes come from Europe and roughly 1.5 million tonnes are imported from 3rd Country. Annual imports vary from 2.5 - 3.0 million tonnes annually.

For the purposes of this paper it is assumed that no UK/EU Free Trade Agreement is in place before the end of the transition period, however it is widely acknowledged the benefit of such a Free Trade Agreement which would significantly reduce some of the complexities highlighted within.

Details of origins of goods imported to NI

	Great Britain	Europe	3rd Country
Wheat	Yes	Yes	Yes
Maize / Corn		Yes	Yes
Barley	Yes	Yes	
Soya Meal		Yes	Yes
Soya Hulls			Yes
Grain Distillers	Yes	Yes	Yes
Corn Gluten			Yes
Rapemeal	Yes	Yes	Yes
Sugarbeet		Yes	Yes
Wheatfeed Pellets	Yes	Yes	Yes
Palm Kernel			Yes
Milling Wheat	Yes	Yes	Yes
Soya Bean Oil	Yes	Yes	Yes
Crude Palm Oil			Yes
Mixed Soft Acid Oils	Yes	Yes	
Palm Fatty Acid Distillate		Yes	Yes

**note all above can be transhipped from Europe, with Rotterdam a significant port for 3rd country first point of entry of goods to Europe for onward passage to other member states which has historically included the United Kingdom and* *specifically Northern Ireland*

Northern Ireland feed compounders manufacture 2.5 million tonnes of compound feeds with a further 215k tonnes of unprocessed feed materials supplied direct to the provinces livestock farmers.

Feed production for the different livestock sectors is detailed below.

Pork - Compound feed produced for pigs amounts to 240k tonnes for the NI market with a further 70k tonnes exported to the border counties of ROI. These rations will comprise around 50% wheat and Barley.

Poultry meat - The NI poultry industry consumes 850k tonnes compound feed with a further 20k tonnes exported to ROI. Wheat tends to be the major ingredient in poultry diets.

Red meat - Cattle reared for beef production in NI will consume 400k tonnes of feed per annum with a further 15k tonnes approximately exported into ROI. These rations will largely comprise materials of 3rd country origin.

Milk Production - NI Dairy herds consume close to 1 million tonnes of feed and feed materials with a further 35k tonnes exported to ROI. This includes feed used in the rearing of young stock.

NI exports to GB, Europe and 3rd Country

The Northern Ireland Protocol offers an opportunity for Northern Ireland to enjoy trade within both Europe and Great Britain with unfettered export access to these regions. However the practical application of the protocol will determine if true unfettered access can be achieved, or if hidden administrative, and cost barriers prevent full roll-out as the UK Government intended. This is important to the Feed Trade in Northern Ireland because circa 75% of our customer's meat and dairy produce goes to GB. Anything that damages our customer's ability to compete in the UK market place in turn damages our business.

Clarification is sought by manufacturers of specialist feeds and additives (1 business) who currently export globally on the basis of EU trade agreements. Can trade continue on these terms and arrangements and is it affected by new trade deals between the UK and countries outside the EU ?. For example, the UK Government has signed an agreement with CARIFORUM which includes Jamaica. This agreement maintains the effects of the EU-CARIFORUM agreement and could ensure that trade continues with minimal disruption (ie minimal changes to tariffs and quotas) from 1 January 2021. The use of the word 'could' can be ambiguous and where clarification would be welcomed. Can NI's default position be aligned to existing EU rules (through the NI Protocol's regulatory alignment with the EU)?

GB Exports to N Ireland

Within the UK's Approach to the Northern Ireland Protocol, various notes are made on goods remaining within the UK territory versus those substantially at risk of being traded into the EU.

The Northern Ireland livestock sector needs unfettered access to UK wheat, barley etc to remain competitive. It is estimated at least 80% of imported barley in Northern Ireland originates in GB, and in 2019 approximately 50% of wheat imports were from GB. However this can be as high as 100% in a strong UK grain production year as GB is geographically best located to supply NI. It is anticipated that UK grain growers will want to retain NI as a strategic export market for their production. Current trade flows would see 150k tonnes of compound feed produced in NI and potentially incorporating grains from the UK delivered to farms in ROI. Tariffs applied to this trade would render the product uncompetitive and could result in supply problems for intensive livestock units in the border counties of ROI.

The potential impact on NI trade under EU or UK tariffs is detailed below.

				EU tariff	UK Tariff	
			Soya Hulls	1.60%	0	75,563
	£181,351	£0	assumes £150/mt			
Maize	€ 10	0	624,389	£5,646,648	£0	
Wheat	€ 95	£79	561,727	£46,403,535	£44,376,433	
Barley	€ 93	£77	168,043	£13,589,564	£12,939,311	
Wheatfeed	€ 44	£36	91,737	£3,509,937	£3,302,532	
				£69,331,036	£60,618,276	

We understand within the protocol there is likely to be additional SPS checks at the ports, customs declarations and paperwork for imported GB products. The UK's economic impact assessment of the withdrawal bill sets out what a no deal looks like in respect of SPS assessment below, an outcome that would be very damaging to GB to NI trade flows, including for premix companies trading into NI.

Table 8: Animal and Food Products Subject to SPS checks and the frequency of these checks

Product	Description	% subject to document & identity checks	% subject to physical checks[89]
Products of Animal Origin - Category I	Inc. fresh meat and fish, eggs	100%	20%
Products of Animal Origin - Category II	Inc. poultry game milk, egg products	100%	50%
Products of Animal Origin - Category III	Inc. semen, embryos, gelatin	100%	5.5%* *(between 1-10%)
Live Animals	Inc. cattle, sheep	100%	100%
High-risk Plants & Plant Products	Inc. certain fruit & veg	100%	100%
Food & Feed Not of Animal Origin (high risk)		100%	100%

<u>GB to NI Points for clarification –</u>

A. Can it be confirmed that within the protocol GB goods can be imported without tariff application? Or must EU 3rd country tariffs be paid (assuming no FTA) and recovered from the UK Treasury ? As can be seen above estimates indicate this could potentially cost Northern Ireland in the region of £60 million for cereal products so clarity must be provided soon (basis DEARA stats on wheat and barley with EU 3rd Country tariffs applied). If the monies are to be reclaimed as per the latter of the two models it is estimated the timescale from payment upon import to recovery from Revenue is at least 3 months, taking into account stock periods, invoicing of forward sales through to making a claim. This in turn creates a working capital burden for the sector of circa £15 million at any given time. Could duty deferment be considered, without the need for a bank guarantee to support business cash flow ?

B. NI imports must meet EU SPS rules and preparations are being made for border checks to be made. On feed ingredient importation these must remain at the quay side or within port stores, as import parcels range from 1000 tonnes to 60,000 tonnes of cargo in a single drop. SPS alignment is essential to support the free flow of GB goods to NI - Can the UK commit to delivering a period of SPS alignment to EU, to maintain UK access to NI and EU for exports, while the Arable sector adapts to any divergences planned for wheat exports or on a wider basis for protection of the red meat/poultry industries ? Such a period of alignment would also be welcomed in respect of movement of Products of Animal Origin

(**POAO**) from GB to NI in terms of customs controls and veterinary checks required by EU legislation.

C. The implementation of an effective Irish sea border for GB goods entering NI will increase importation activity to a level equivalent with 3rd Country. Based on the 2019 volumes it is estimated this will represent a 33% increase for the NI feed trade, and could in future be higher if for example NI becomes the main market for UK wheat. Is consideration being given to financial support for the Devolved executive to offset these additional costs of importation of GB goods into NI ? It is anticipated that physical checks and resulting delays, increased customs paperwork and related activities and Investment eg training and IT will bring a burden to NI business of £20-£50 for customs per consignment and £200 per export health certificate. These business transaction and set-up costs risk reducing GB access to the NI market, bearing in mind the GB goods will carry these cost burdens when being sold into NI whereas EU imports will not.

EU Exports to N Ireland

It is our understanding within the Protocol that Northern Ireland is to operate as within the European Union with goods considered in free circulation. As a result there will be no duties payable on goods moving in or out of Northern Ireland from/to European member states.

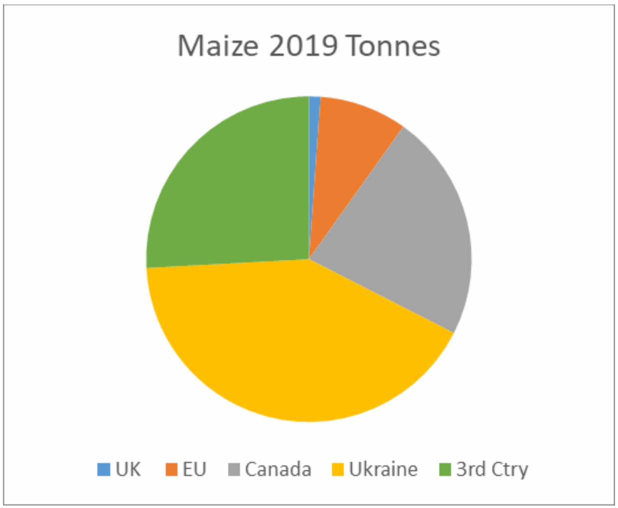
Can this assumption be confirmed for direct parcels moving -

1. by road across the land border (eg Dublin to Belfast)
2. by ship through the ports ?

Clarification has been requested by manufacturers of specialist feeds and feed supplements in relation to imports from other EU member states into NI. Do the same principles and rules apply for ingredients coming from France, Germany and other EU nations' as for imports from ROI. They have specific concerns around duties on milk powders/by products used in animal feeds.

3rd Country Exports to N Ireland

1.5 million tonnes of goods imported to Northern Ireland are 3rd Country. Most animal feed ingredients are zero tariff within the EU schedule and the UK GTS. Those which differ include maize, soya hulls, soya bean oil and palm oil. Those which have been translated to sterling from Euros for example wheat, barley, and wheatfeed have been calculated on a £:€1.20 exchange rate, today at writing this offers a small beneficial tariff difference to the UK importer over the EU importer compared to current exchange rates of €1.15, this spread may widen if sterling weakens further or equally become disadvantageous compared to the EU tariff if sterling was to strengthen. Maize will have the largest differential impact for the NI user. Trade estimates for 2019 imports indicate 90% of maize imported to Northern Ireland was third country, - 25% Canadian availing of the EU-Canadian FTA, 40% Ukrainian availing of 1.2million tonne EU TRQ and 25% other 3rd country availing of the other smaller 3rd Country TRQ.

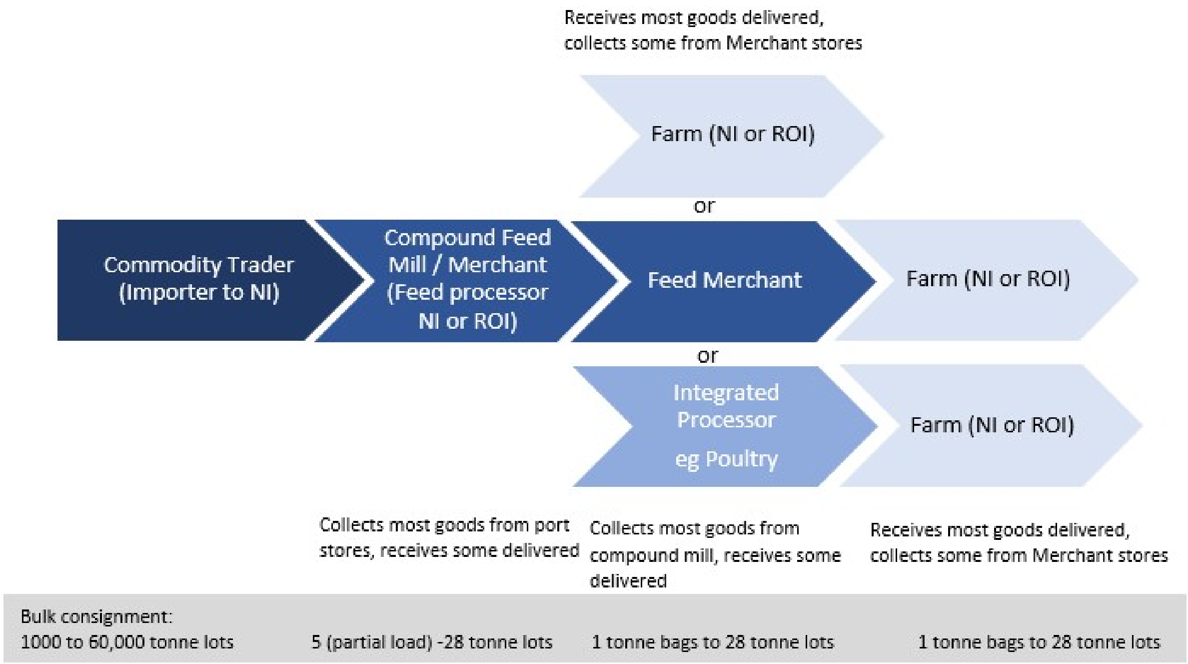


3rd Country to NI

Points for clarification –

D. We understand under the protocol that EU 3rd Country tariffs apply to goods entering NI from 3rd Country. However we also understand where the UK GTS offers an advantageous differential and where goods are to remain in NI that NI businesses may seek to reclaim the tariff differential. Has the concept of 'goods substantially at risk' and recovery of tariffs for those not substantially at risk, ie remaining in Northern Ireland been defined ? This is particularly relevant to the example above for maize where the UK is applying a zero tariff which could at current levy levels on imports of 700k tonnes be a prohibitive cost compared to GB of £6million. The use of maize in animal feed has grown in recent years as global production increases offsetting wheat production issues. Continuing to access this at the same competitive levels as GB, is essential to prevent trade distortion especially as NI does not benefit from the indigenous supply of wheat which GB does.

E. Urgent clarity is required as to whom will reclaim the rebates between EU paid tariff and UK tariff for 3rd country or between EU paid tariff and zero for GB goods remaining in NI, if there is a tariff rate differential ? Is it the importer ? What is the proof required of goods remaining in NI ? The trade flow of feed ingredients is complex – it is not clear yet where 'consumption in NI' would be considered determined? Full traceability is available however as shown in the diagram below the 2.5million tonne market can be subdivided into lots as small as 1 tonne at a farm level. It will be impractical to implement a track and trace system the full way throughout the chain for a vessel consignment, with diminished experience of customs administration further along the supply chain. Mass balance needs to be considered. Even so the risk is high that claim processes are unwieldy and minimised rather than optimised. This adds costs to NI agri-food production and in doing so reduces demand for GB and 3rd country goods. Determination of 'used in NI' should stop at the primary or secondary level (importer or compounder/feed merchant level), rights of reclaim must be transferable and consideration to a VAT type simplified invoicing and book keeping scheme should be considered.



F. EU TRQs are generally purchased by large grain trading houses to arbitrage their total European book. Often goods arriving in Northern Ireland have benefitted from the reduced tariff calculation but the paperwork is handled mainly through head offices in Rotterdam. Therefore whilst TRQ usage cannot be traced to Northern Ireland trade has to date benefitted from this tariff reduction system. Can 3rd country goods entering NI utilise European TRQs, eg Ukrainian Corn, Russian Wheat? Is this dependent upon the goods being destined for an EU member state or can they apply to goods remaining in Northern Ireland ? Can a NI business apply for them ? Can a European enterprise apply for them for delivery in NI eg via Belfast Port ? This will ensure NI is not trading at a disadvantage to an EU member state such as Ireland for the trade of finished agri-food products.
The table below shows the tariff regime proposed by the UK in the recently published Global Tariff Schedule (UK GTS) or MFN schedule (19th May 2020) versus those existing in the EU.

Tariffs	EU		UK
Soya Hulls	1.60%		0
Maize	€ 10		0
Wheat	€ 95		£79
Barley	€ 93		£77
Wheatfeed	€ 44		£36
Soya Bean Oil	3.20%		2.00%
Crude Palm Oil	3.80%		2.00%

**Note EU Maize tariff is a floating tariff referencing a US maize price, freight, €/$ exchange rates etc – this paper references the current tariff of €10.40 at the time of writing. It is acknowledged this could be higher or lower depending upon the reference markets, and that a further discount of €2 applies if originating from the Eastern Seaboard*

Under the UK GTS and in the absence of an EU/UK FTA the potential initial duty liability of accessing European Barley and Wheat for Northern Ireland could be as high as £57 million, so confirmation of this assumption is essential.

Other complexities to consider

H) If the UK waive the duty on goods that remain in NI will this breach EU state aid rules ?
The UK has to apply to EU for the setting aside of those rules - has this been progressed and how sure are we it is comprehensive enough to cover all eventualities – has the scope of the application been tested with business ?

I) Can an NI business selling goods within NI for consumption in NI which has received goods transhipped from Europe in free circulation (fully EU duty paid) such as Soya Hulls, Maize, Soya Bean Oil or Crude Palm Oil then reclaim the duty to avail of the UK Global Tariff ?

J) Can customs clearance double burden (EU and UK customs clearance into NI) be avoided for goods arrival into NI if already cleared into Europe and come directly into NI (for example transhipment via Rotterdam to Belfast, or multi - port drops in natural rotation ie Dublin (customs clear full cargo into Europe) and then Belfast ?

K) Will NI business be able to use UK TRQs negotiated in its FTAs /UK Erga omnes TRQs for goods brought into NI for use in NI, for example the proportions allocated by Europe from the EU TRQ or for example within a future US trade deal ? This would prevent NI is trading at a disadvantage to GB on finished agri-food products where feed is a key input.

L) How is NI marketplace to be represented in new UK trade agreements and discussions such as with the USA in respect of
   a. Imports to NI ?
   b. Exports from NI ?

M) The NI Agri-food sector is particularly concerned about the potentially destructive influence in UK agri-food of new FTAs including the US to, for example, the red meat or poultry sector. What engagement does the UK plan to have with NI in future on the particular influence to the NI market ? Can NI be afforded a direct link to the EU on such policy and will UK support NI having a voice within EU on these matters ?

N) In contrast Article 5 states all goods are at risk unless the Specialist Committee ringfences them as not being so. Thus questions arising are
   1) Is there a percentage of volume considered de minimis by the Committee ? For example DAERA statistics show in 2019 152k tonnes of animal feed was delivered outside of Northern Ireland (exported) of a total compound and straight feed market of 2.7 million tonnes equating to 6%. This feed would include a range of feed ingredients including grains, oilseeds and grain by-products.
   2) Is there a value considered de minimis, for example the Soya Hulls product with a 1.6% tariff, on an import price of £150 equate to £2.40 – the value of which would not justify the haulage out of NI into the EU ?

General Concerns

O) The protocol commits to the Specialised Committee appointing an expert group – how will business be represented on this group ? The complexities of the intricate trade between NI, GB and Ireland are not easily understood and business representatives have a sincere motivation to find practical solutions within the protocol.

P) At what point can certainty and clarification be provided on those goods which are eligible for the waiver – the feed trade is particularly concerned around feed supplements and premixes that may be "processed" into animal feed products (where products destined for processing are unlikely to be eligible for waiver). GB manufactured supplements could lose access/competitiveness to the NI feed compound industry if EU tariffs are applied – will this be dealt with within the FTA with EU and if not how will the UK prepare to lose access to this ?

Q) Can the issue of cabotage be dealt with within the protocol to allow for unfettered haulage access between NI and 1. GB and 2. EU members states, including but not limited to Ireland. Any cabotage restrictions present an otherwise unintended restriction upon trade such as the grain trade with every tonne of feed ingredient hauled at least 4 times – origin or port to feed mill, feed mill to farm, consumed by species and species moved for processing, product moved from processor to retail ?

R) The UK GTS has not dealt with the issue of TRQ, at what point does the UK intend to clarify the TRQs it is granting against the tariff schedule ?

S) What consideration is now being given to the FTA timescales – how does the UK see these delayed with the global economic impact of Covid ?

T) NI business needs guidance to manage the new thinking around these issues. The protocol indicates NI must operate by European rules, yet the UK Command paper is clear NI will be guided by UK. UK has rejected the concept of an EU office in Northern Ireland – in its absence what provision will there be for NI business to avail of a technical reference point, to help them understand EU rules and enable them to manage trade challenges. Will this be devolved to Stormont ? Which UK department NIO, DEFRA or BEIS ? Can this be set-up and operational during the transition period to support NI business to prepare