Written evidence submitted by the Northern Ireland Retail Consortium (FRE0070)

1 About the Northern Ireland Retail Consortium

The NIRC's purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future.

Retail is an exciting, dynamic and diverse industry which is going through a period of profound change. Technology is transforming how people shop; costs are increasing; and growth in consumer spending is slow.

The NIRC is committed to ensuring the industry thrives through this period of transformation. We tell the story of retail, work with our members to drive positive change and use our expertise and influence to create an economic and policy environment that enables retail businesses to thrive and consumers to benefit. Our membership here in Northern Ireland and across the UK comprises businesses delivering £180bn of retail sales and employing over one and half million employees.

In addition to publishing leading indicators on NI footfall and shop vacancies, our policy positions are informed by our membership and determined by the NIRC's Board.

2 Introduction

The NIRC's goal in our A Fair Brexit for Consumers project has to support the Government in ensuring a fair deal for consumers while we leave the EU. We believe that promoting the interests of consumers – and we are all consumers – will lead to the fairest settlement for our country as a whole. We argued for neither a hard nor a soft Brexit but believe our efforts should concentrate on mapping out what the concerns are for our industry and for the Northern Ireland consumer and how we can support Government to deal with them.

The retail industry is uniquely placed, to understand the needs of our shoppers and the many industries that we sustain and support to grow in everything from our supply chain to construction and from shop fitting to service industries. We take our responsibilities seriously and we want to share with you the breadth of our experience and work on this issue. Goods for retail shelves account for 70% of the value of goods that cross from Scotland to Northern Ireland so we have an obvious interest in GB-NI traffic. However retailers also buy £2.6 billion of Northern Ireland agri-food every year and around £1.9 billion is bound for Great Britain so it is imperative that trade flows easily in both ways.

3 Our Position on Brexit:

From the outset the NIRC did not take an ideological stance on leaving the EU. Rather we have tried to be the arbiter of common sense looking at both the challenges and the opportunities while focussing our energies on what the optimal outcomes for Northern Ireland consumers would be.

4 About the Retail Industry in Northern Ireland

- Retailers buy over £2.6bn of Northern Ireland Agri-food but only a quarter is used in NI.
- Northern Ireland's largest private sector employers with around 100,000 employed
- Thousands of more jobs sustained in agri-food, store fit-out, service and construction.
- One in every eight households has someone who works in retail.
- Northern Ireland is the most volatile retail market in the UK with the highest shop vacancy rate and the most erratic footfall. Currently our vacancy rate is 5% worse than the national average but at its worst one in five of our shops lay empty.
- About 70% of the value of Scotland to Northern Ireland commercial freight is destined for our shelves

5 About the Northern Ireland Consumer

There are significant differences in the situation of the Northern Ireland consumer and our counterparts in Great Britain. The pressures that the Northern Ireland consumer finds themselves under will only be disproportionately exacerbated by any price rises due to Brexit.

- NI average wages are the lowest of any region across the UK.[1]
- NI households have around half of the discretionary income of GB households
- NI adults have the most unsecured debt of all the UK regions [2]
- 1 in 5 of NI adults are over-indebted. This is higher than any other UK region.
- 10% of NI adults are 'in difficulty' financially and a further 29% of NI adults are 'surviving'.
- Even though they have the lowest income, NI household spend is one of the highest proportionally in the UK[3]
- Fuel costs and even car insurance is already higher for the NI consumer.[4]
- Consumer spending accounts for 65%of the UK's GDP, and 73% of Northern Ireland's GDP. [5]
- Household consumption will account for 67% of GDP growth in the UK over the next 6 years. Therefore, any slowdown in consumer spending or reduction in consumer

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1 Office of National Statistics
2 Financial Conduct Authority, The Financial Lives Survey 2017
3 Castle Trust
4 Confused.com
5 Consumption Led Growth in an Era of Squeezed Incomes, Ulster University, 2017

confidence will represent a significant risk to the UK's and Northern Ireland's future economic growth.

6. What this Paper Will Seek to Address

As per the Committee's call for evidence this paper will address

Interpretation

- As a baseline, what customs and regulatory procedures do you understand will have to be in place for goods moving east to west? What scope is there for the JC to agree derogations or a loosening of the requirements?
- How should the Joint Committee define an 'at risk' good? What criteria might it use? What would a permissive approach look like, versus a stricter interpretation? What would be the consequences of these differing approaches for the NI and all- island economies?
- What is your understanding of the term 'unfettered access' as it applies to goods moving from NI to GB? What checks may be needed on such goods? What risks might unfettered access pose to the UK internal market and trade policy, and NI and UK economies?
- Might there be different arrangements for different sectors of the economy - for example how would the protocol apply to fish caught by boats based in NI or lorries bringing goods from GB to NI supermarkets
- How might different types of future relationship between the UK and EU affect how the Protocol operates? If the UK diverges significantly from EU regulations would this lead to a hardening of the border in the Irish sea? What happens if no future relationship agreement is reached? How might the Protocol interact with future trade deals between the UK and third countries?
- What would happen if the UK and EU do not agree on how the Protocol should work? If this were to happen, what are the UK's obligations under the Withdrawal Agreement and UK domestic law? How might these obligations be enforced?

Implementation

- How much do we know about how the Protocol will operate in practice? What remains unclear?
- What information will NI businesses and other stakeholders need in order to operate under the Protocol? When will they need this information in order to properly prepare? What would be the consequences if this time is not available? What financial support has been offered by the UK Government/NI Executive to help NI businesses prepare?
- What steps may be needed to implement the Protocol, for example: new infrastructure and staff? Whose responsibility will it be to take these steps? How much progress has been made so far? How are preparations being affected by the Covid 19 pandemic?
- To what extent have NI stakeholders been consulted by the UK Government about the operation of the Protocol? Have they been listened to? What role would you expect NI stakeholders to play in the Specialised Committee on Northern Ireland and its working groups?

- To what extent does the Protocol maintain the UK internal market and the all-island economy? What challenges might businesses in NI face as a result of the Protocol? Which sectors of the Northern Irish economy and types of businesses may be most affected?

It will also seek to explain the concerns and questions that have been expressed by our membership.

6.1 Context in which this paper must be considered.

This paper must be considered in tandem with the submission by the Northern Ireland Business Brexit Working Group. This paper delves deep into the singular effects to the NI consumer and our industry while the NIBBWG paper compliments this paper by looking at wider supply chains and goes into more detail regarding NI- GB / GB-NI supplychain.

It must also be considered that the retailers who make up our membership are experts in EU processes and regulations. The questions they have prove that this is not a straight forward nor clear process. We need the UK government to work with us to shape a system that is robust and not crippling for retailers and consumers. The level of engagement that we have had with the government over this past few months has been disappointing to say the least. We need them to speak to our members, our technical experts to ensure that at the end of the transition period we have a system fit for purpose.

7. Interpretation

7.1 As a baseline, what customs and regulatory procedures do you understand will have to be in place for goods moving east to west? What scope is there for the JC to agree derogations or a loosening of the requirements?

Taking the Protocol as the current baseline - customs declarations, entry and exit summary declarations, paperwork and some physical checks on sanitary and phytosanitary (SPS) requirements, other product controls, VAT and excise control processes will be required to be carried out. Additional processes on whether the goods are liable for EU tariffs or not will be required through a proof of destination certificate or other approved certificate.

We presume that safety and security permits will not be required on GB-NI movements.

In terms of the Protocol, the Joint Committee has the competence to define the categories of goods which are “at risk of entry to the Single Market” principally across the Irish land border, but not to renegotiate other areas already agreed within the text of the Protocol. In practice, the Joint Committee could decide to exempt certain goods and/or goods going to certain suppliers in NI as not at risk of going into the Single Market.

The Specialised Committee (SC) and Joint Working Group (JWP) function under the Joint Committee. The role of the SC is to facilitate (in conjunction with advice given by the JWP) how the Protocol text can be implemented in terms of functional processes. Derogations may be provided depending on the outcome of the negotiations. If the two sides were to negotiate a safety and security agreement, the requirement to make entry and exit summary declarations could be waived. If the two sides negotiated a veterinary agreement then the incidence of physical SPS checks could be lowered, and simplified forms or pre-lodging electronically of SPS paperwork could be arranged.

7.2 How should the Joint Committee define an 'at risk' good? What criteria might it use? What would a permissive approach look like, versus a stricter interpretation? What would be the consequences of these differing approaches for the NI and all- island economies?

Defining an at risk good could be done with reference to types of goods, if complete clarity as to their ultimate consumption chains is known, and products of that type are not processed or consumed within the Single Market. Alternatively greater focus could be had on the consumption or processing chains of those particular items and the particular importer or retailers. If certain products or certain supply lines were not at risk of entering the Single Market they could be classified in that way and made exempt from the "pay and rebate" system in relation to EU tariffs at the NI border. A permissive approach along those lines would reduce red tape and bolster cashflow of those retailers which operate in GB and NI. A stricter approach without exemptions for particular importers or supply lines would involve additional compliance costs and cashflow consequences which could make those supply lines unviable for the NIconsumer.

7.3 What is your understanding of the term 'unfettered access' as it applies to goods moving from NI to GB? What checks may be needed on such goods? What risks might unfettered access pose to the UK internal market and trade policy, and NI and UK economies?

Goods being able to move into the GB market for consumption or further processing without onerous red tape or uncompetitive compliance costs. It is uncertain what checks may require to be performed on goods coming inbound to GB from NI. Exit summary declarations would have to be made in respect of goods leaving NI but it is not certain whether the UK would be required to check for these on arrival in GB. There is the potential that NI goods could therefore have different inputs or be produced to different (perhaps lower) costs than GB goods. There could therefore be distortions in the operation of the UK internal market.

7.4 Might there be different arrangements for different sectors of the economy - for example how would the protocol apply to fish caught by boats based in NI or lorries bringing goods from GB to NI supermarkets.

The key determinant would be who ultimately is the consumer or whether further processing of goods would occur in the Republic of Ireland. If the goods are purchased and consumed in Northern Ireland and do not undergo commercial processing in the Republic of Ireland, then the goods can be exempted from having EU tariffs levied at the NI border in terms of the Protocol. If retailers for example only moved goods from GB to NI which were not to form onwards supply chain to consumers in the Republic of Ireland or undergo further processing there, they could be exempted from the tariffs element of the Protocol. The same rationale could apply to fish landed by NI boats at NI ports.

7.5 How might different types of future relationship between the UK and EU affect how the Protocol operates? If the UK diverges significantly from EU regulations would this lead to a hardening of the border in the Irish sea? What happens if no future relationship agreement is reached? How might the Protocol interact with future trade deals between the UK and third countries?

The Protocol is intended to be the legal baseline on border and official controls that will operate with the consent of the Northern Ireland Assembly. Other measures could be agreed by the UK and EU negotiators which could build upon that baseline – for example, if a New Zealand-style veterinary agreement were agreed between the parties that would not eliminate the requirement for documentary checks for sanitary and phytosanitary (SPS) purposes on arrival in NI from GB but it could reduce the incidence of physical SPS checks down to between 1-4% of items. Without that physical checks of products of animal origin (POAO) items would be expected to be around 10% - the legal baseline applicable by EU law to third country POAO imports without special arrangements or agreements. Alternatively, the EU and UK could have agreed a single SPS zone covering GB, NI, the EU (and potentially also Norway and Switzerland too) requiring no SPS checks at all between GB to NI but the red lines adopted ruled out that possibility. The UK Government (or the Welsh Government, or the Scottish Government in due course) could diverge in food regulation from the day 1 rules carried forward at the expiry of the transition period, but it would not affect the requirements if no agreement – either within an UK-EU FTA or a separate UK-EU veterinary agreement – were reached. If there were such an agreement and divergence occurred thereafter rendering GB rules outwith the terms of equivalence underpinning the agreement, that could alter the percentage of physical SPS checks required on GB to NI POAO movements.

In terms of future trade agreements reached between the UK and other FTA partners, where the tariff arrangements differ from the EU's, then the UK or UK-negotiated tariffs will apply in Northern Ireland through a rebate mechanism. The precise procedures around this are yet to be fully determined in the Specialised Committee. One means of doing so would be to ignore any small variations in tariffs between the EU tariffs and the UK Global Tariffs or UK-negotiated tariffs applicable. If that were combined with the rule exempting goods ultimately consumed in NI not being subject to EU tariffs, that could exempt companies from the need to pay the EU tariff when crossing the NI border on arrival from GB and having to claim the difference between that and the UK rate back in rebates from the UK Government. It is unclear how rules of origin might operate in UK negotiated FTAs to include or exclude NI content depending on the goods involved and any consequential changes in GB legislation.

Where major divergences in product or food legislation arose from UK-negotiated FTAs compared with the EU rules written into the Protocol, eg. in relation to GMO, Pathogen Reduction Treatments, or hormone treated produce, then those products or products containing them would not be able to be sold in NI.

7.6 What would happen if the UK and EU do not agree on how the Protocol should work? If this were to happen, what are the UK's obligations under the Withdrawal Agreement and UK domestic law? How might these obligations be enforced?

Article 169 of the Withdrawal Agreement outlines the process for resolution of a dispute between the EU and the UK regarding the application and implementation of its terms. An arbitration procedure is given effect to by Article 170. Article 174 provides that where a dispute arises based on competing views on the interpretation of EU Law, then this must be referred to the CJEU for a ruling which is binding on the arbitration panel. If either party does not comply with a ruling from the arbitration body then finescan be issued.

Article 12 of the Protocol provides it is the responsibility of the UK Government to implement and apply those EU law provisions which are applicable through the Protocol. Article 6 (2) of the Protocol places upon the joint committee an obligation to keep this paragraph under review and to adopt decisions to avoid controls and checks at ports in Northern Ireland to the extent possible.

Once the Protocol becomes operational, Article 16 of and Annex 7 to the Protocol provides for safeguard measures being capable of taken by either party as a last resort to avoid serious societal, economic or environmental difficulties with reference to their scope and duration in order to remedy such situations. Rebalancing measures may be taken by the other side.

8. Implementation

8.1 How much do we know about how the Protocol will operate in practice? What remains unclear?

We know those legislative acts which will have to be given effect to in Northern Ireland, covering rights, trade in goods, products, food, customs, VAT and excise. What is not defined as yet are the processes and mechanisms by which they will be delivered, viz. how many Border Control Posts will there be in Northern Ireland, where they will be located and which official controls will be conducted there. How will checks on the market of non-POAO be conducted? How will differentiating between the services component of a good (to be governed by UK law) and the physical good itself (to be governed by EU law) operate in practice. Which checks would be required for VAT and where and how would they be conducted? How will consumers pay any additional VAT required from imports from GB in terms of handling charges and transit costs? How will entry summary declarations for goods from GB be checked and where? Will exit summary declarations on goods sent from NI to GB need to be checked, and if so, how and where?

8.2 What information will NI businesses and other stakeholders need in order to operate under the Protocol? When will they need this information in order to properly prepare?

The information on procedures, processes, costs and official paperwork to be used on GB to NI and NI to GB movements is needed as soon as possible if the transition period is to expire on 1 January 2021 and the Protocol comes into operation then. How staff will operate company databases and processes and receive the necessary training to equip them to do this, and how this will interact with the new databases required at official level to operate the new controls environment needs to be resolved as soon as possible.

8.3 What would be the consequences if this time is not available? What financial support has been offered by the UK Government/NI Executive to help NI businesses prepare?

Then the Protocol could not be reliably operated in full as intended by both parties. We are unaware of any specific adjustment funding as yet.

8.4 What steps may be needed to implement the Protocol, for example: new infrastructure and staff? Whose responsibility will it be to take these steps? How much progress has been made so far? How are preparations being affected by the Covid 19 pandemic?

Requisite new infrastructure and staffing would be required at NI ports, in particular for official controls on POAO, customs, VAT and excise processes.

8.5 To what extent have NI stakeholders been consulted by the UK Government about the operation of the Protocol? Have they been listened to? What role would you expect NI stakeholders

to play in the Specialised Committee on Northern Ireland and its workinggroups?

As the voices of consumers and industries applying and being subject to these controls on a daily basis in respect of goods from outside the EU we have knowledge and experience on compliance and supply chains which should be drawn upon by the Specialised Committee and the Joint Consultative Working Group. Our views should be sought and taken on board prior to meetings of the Specialised Committee.

8.6 To what extent does the Protocol maintain the UK internal market and the all- island economy? What challenges might businesses in NI face as a result of the Protocol? Which sectors of the Northern Irish economy and types of businesses may be most affected?

In terms of the all-island economy there will be similar rules and enforcement on agri- food products, VAT, and excise, even if the rates applicable may differ in NI from those in the Republic of Ireland. There will be a tariff border across the island of Ireland by virtue of being in de jure different customs territories. Although goods from GB will be allowed to circulate in NI if they comply with the standards, specifications and technical rules given effect to by the Protocol there will be substantially higher compliance costs compared with the current UK internal market now. In terms of goods moving from NI to GB there is the possibility that fewer border checks and controls may take place as a result of unilateral UK Government measures but compliance costs upon dispatch from NI will still be higher than currently, by virtue of the new requirements on exit summary declarations stemming from the Union Customs Code when the UK ceases to be treated as a part of the EU customs territory by virtue of the Withdrawal Agreement and the expiry of the transition period.

8. Our Thoughts on the Withdrawal agreement:

8.1 Summary of points:

- This deal is better than no deal and does provide some much needed certainty
- We have always argued that is necessary for unfettered access to both the EU and GB markets to allow us to continue to provide NI and GB households with choice and affordability.
- We will need support from government to continue to provide choice and affordability to NIconsumers.
- We will need to have access to the Joint Committee that adjudicates on what is and isn't "at risk" goods to help them make informed decisions. This has not happened yet.
- Declarations, tariffs, administration and delays all have costs.
- Retail is a low profit high volume industry and has little or no capacity to absorb cost rises.
- The NI consumer similarly does not have the ability to absorb cost rises.
- Our industry will need significant support to implement the new changes to the customs and checksregime.
- Any of these new changes will take time to embed.
- A lot of these issues will have an answer once we have the FTA with the EU but there are concerns whether or not this can be achieved within the timeframe

especially given the current Covid-19 emergency.

- There is a chance for the UK to mitigate some of these measures unilaterally and through the future trade deal with the EU.
- Obviously they have never had to consider any barriers to trade so these systems have been developed assuming products can move quickly from A to B to ensure consistent service throughout the UK.
- It is difficult for us to anticipate what friction will look like at the border but we have some experience of the problems we might expect during outbreaks of animal disease on the mainland which did cause significant problems for food retailers.
- Government should ensure it co-ordinates discussions with industry to achieve this. We would recommend DEFRA takes the lead to resolve any issues on food transport as it already has expertise from its work with us on retail exports .
- We need to look at schemes to mitigate the need for checks such as AEO and trusted trader but such schemes take time to implement.
- It will be hugely difficult to bring in all of the changes and new systems needed by Jan 2021.

8.2 Customs/Tariffs

Tariffs, the payment of tariffs and the reclaiming of tariffs is of huge concern.

The following *(in italics)* is an extract from the Institute of Government paper on the NI Protocol outlining rules which we understand will come into effect if there is a 'No Deal' or if there is no agreement after negotiations during the Transitional Period:

For Northern Ireland–Republic of Ireland trade, the EU's Union Customs Code (customs rules) apply and there would be no tariffs or restrictions.

Goods moving directly from Great Britain into Northern Ireland won't be subject to a tariff unless the good is "at risk" of being moved into the EU afterwards. Likewise, goods from third countries entering Northern Ireland will be subject to the UK tariff, unless they are 'at risk' of being moved to the EU.

For goods deemed "at risk", the EU tariff will be applied. If the UK tariff is lower, and those goods are proved to have stayed in Northern Ireland, the UK can reimburse traders.

The Joint Committee will establish further conditions under which goods coming into Northern Ireland from Great Britain would have to pay the EU tariff.

8.2.a Preference – no mutual recognition

Preferential origin will not be recognised when shops transfer stock to NI. Preferential duty rates are a key feature of apparel and footwear businesses, however despite the UK's commitment to continue a similar preference regime as the EU, the preference status of the goods will not be recognised when the goods enter NI, resulting in the full rate of duty being paid upon entry in to NI (eg - duty of 17% being applied on textile upper footwear from Cambodia, whereas the preferential duty rate is 0%). This applies whether the goods are retained in NI and duty refunded or shipped onwards to the Republic. The preferential status is lost as there is no mutual recognition of the UK and EU preference regimes and the EU's Non-Manipulation Rules prohibits the application of preference where goods shipped via a DC in a third country (unless the EU importer was the original origin country exporter – this is not so for most traders).

8.2.b At Risk Goods Implications

"At risk" goods are defined as those which can be transported into Northern Ireland and then moved on into Southern Ireland without any EU import duties being accounted for.

The proposals suggest "at risk" goods will be subject to EU duties when sent from the UK to Northern Ireland but that a "refund" may be achieved where it can be proved that the goods remained in Northern Ireland. There are a huge amounts of unknowns for business that need answered as soon as possible including:

1. What goods are "at risk" – this needed to defined very quickly in the withdrawal process – but there is no defined timeline identified at present.
2. How will "refunds" be effectively processed to reduce any cashflow or absolute costs to the business ?
3. Will there be a timeline for processing refunds for thewhich the Government could be held to account for ?
4. What practical evidence will have to be provided to prove goods have remained in NI if they are deemed "at risk" and what administration costs will be associated with this ?
5. What will the dispute resolution process be for rejected / queried refunds ?

Questions from Northern Ireland Retail Consortium Member:

- If a NI retailer, sells stock sourced from GB that is deemed not to be 'at risk' and subsequently finds its way to the ROI in measurable quantities, what is likely to be the response from the Customs authorities on both sides of the border?

- There has been much talk of possible 'Trusted Trader Status'. What constitutes that status and how would that for companies who may have branches that service one jurisdiction on the island of Ireland while another branch of the same business supplies NIonly.

- Does a business to customer transaction from a GB business to an NI customer qualify asnon-risk?

- Under the new system it is said that duty should be paid by an NI business, what determines an NIbusiness?

Goods from...	...going via...	...ending up in	What duty is paid, and where?
rUK	Northern Ireland	Northern Ireland	EU rate, by NI business

- If our customers have to pay, how is this done? What is the reclaim process and what are the timescales for refunds? This creates a really bad customer experience and is something we would want to avoid. i.e. the consumer becomes the importer.

- Would GB businesses have to pay duty on consumers behalf? This would them become a cashflow issue. Can GB businesses pay & reclaim it if we are not deemed to be an NI business? Do we need to register in NI?

- With the need to submit a declaration to formalise the payment of duty, will this additional process will create delays to the supply chain?

- Does there need to be consideration for goods removed fromcustoms warehouses in the UK and customer returns back to the mainland?

There had been food deflation for over five years until last year and with the competition in the retail market place margins are lower now for retailers than they have ever been. This means that retailers have little capacity to be able to absorb any higher costs due to tariffs and they will have to be passed on to the consumer.

With median full-time weekly earnings in Northern Ireland almost 10% lower than the UK median and NI households having half of the discretionary weekly income of GB counterparts indicates that Northern Ireland consumers will have reduced resilience to any price increases post-Brexit.

8.3 Non-Tariff Barriers and SPS checks

While much of the debate around the UK's future trading relationships with the European Union has focused on the impact of possible tariffs, the additional checks and controls (so called non-tariff barriers) applied to goods imported into the UK from the EU if the UK leaves the customs union and single market, could be just as damaging to businesses and consumers as tariffs.

At present, when goods enter the European Union from outside member countries they are subject to checks and controls. There are 405 of these controls in total, with fresh beef facing 22 of these measures, strawberries 28 and pharmaceutical products 44 (Table 1). These are in place to ensure that products do not contain pathogens, contaminants or residues that are a risk to human health; that they comply with rules of origin and that the correct levels of taxation are levied.

As part of the EU customs union and single market we are not currently subject to any of these controls. However, it is not clear under the new regime what checks will be needed.

In the case of some meat imports, compliance with these measures could mean each shipment undergoing a veterinary inspection to obtain a certificate before export, followed by a submission of documentation (relating to veterinary health and origins of produce) to UK authorities, which will then have to be verified, before an appointment is booked for physical inspection of products on arrival.

While not every import will be subject to this level of control, the increase in the administration for most shipments of goods will be significant. Products will also be at risk of substantial delays if border posts struggle to cope with the numbers.

These additional controls will not come without a cost.

Compliance with EU regulation for all products crossing the Irish Sea border into NI: again, under current business models this would be at store pick level where each pick would incorporate a vast number of products requiring certification including medicines, medical devices, POAO. We currently have over 600 product lines; for each we will have to establish a commodity code in accordance with the EU Tariff in order to identify any regulatory requirements. Some retailers do not currently hold this information as we do not export to destinations where this information is required.

8.3.a Compliance with Agri-Food Regulation

This is our biggest area of concern by far. The Govt's own impact assessment is clear that GB businesses will face additional compliance costs when moving agri-food products into Northern Ireland, such as Export Health Certificates (EHCs), pre-notification to Border Inspection Posts and veterinary checks for Product of Animal Origin goods. The compliance, administrative, logistical and financial impact is likely to be significant on any retailer moving agri-food products from GB to NI. For example

- Currently the cost for Export Health Certificates in GB is £200 and there could be hundreds of those needed for one mixed load consignment going to Northern Ireland.
- All of these checks cause delays and the Freight Transport Association estimates that every minute that a lorry is delayed costs over £1.
- All of these checks will need new investment in new systems, staff and manhours to complete the paper work which further makes business with Northern Ireland less profitable.

8.3.b Non-tariff barriers and the just in time supply chain

If a lorry is 20 mins late because of a delay, it doesn't mean that goods are just 20 minutes reaching a store. If it means them missing the GB-NI ferry it is 3-6 hours late and if that means they miss the picking time allotted for stores then it means a delay of 24 hours or more in getting goods to stores. Stores in Belfast and Ballymena already have 12-18 hours shelf-live than stores in Birmingham or Brighton because of their geographical location and any further delays are unacceptable. This is particularly important for fresh goods such as soft fruit which will already have a short shelf-live. Gaps on shelves also have a behavioural effect on consumers as we have seen in the past few weeks during the Covid-19 emergency. Even if we have robust supply chains in GB, if goods do not appear readily on shelve in Northern Ireland then it can cause a run on products that are though to be in short supply.

Questions

- How will the Single Market Checks be applied between GB and NI-In particular-Products of Animal Origin?

- Will Export health Checks be carried out at Factories & Warehouses and then further checks at the ports?

- If so will the Ports have the capacity to deal with such checks?

8.4 Labelling

The NI agri-food market and retailers who buy food from them currently use one set of labels for both the RoI and UK markets. Will there now be a need for a separate NI goods label and will the UK national labelling regime change post-transition? And will it mean that there will be changes needed if there are different country of origin for ingredients for example using both NI and RoI Beef in a cottage pie.

- Are there any implications for Food labelling for supplies going North to South in Ireland or between GB and NI?

8.5 Postage, deliveries and internet sales.

Inter-net sales to NI consumers

Current internet sales model for sales to UK customers (and current EU ones), will not work for NI customers if the parcels are subject to a customs declaration upon entry in to NI: the agent's fee for submitting the declaration for one parcel will make this service un-economical. There would be alternatives, however these will increase cost and decrease the level of service – the NI consumer will be treated differently from a GB one.

Questions:

- What will happen to post from NI coming into the UK (if UK is considered to be outside the customs union and NI part of).
- Will customs labels be required for all NI post coming to the UK? Would customs labels still be require for post going to the EEA?
- Customer in NI has ordered on line (on a UK website) and it is shipped across using own store delivery lorry (as customer will pick up in store). What will be needed for import and Export?
- Who is the importer when a customer buys from a GB retailer to Northern Ireland? now? And does the customer have to pay duties and taxes? And can they claim it back?
- How do returns work? Both from Customer wants to return to UK distribution centres or store returns to UK distribution centres?

8.6 Costs for Consumers

Costs for declarations, checks and administration will ultimately be price inflationary as the cost of supplying the goods into Northern Ireland goes up.

Export documentation costs are linked closely to the number of different commodities transported. The requirement for additional export documentation for transportation of goods into NI is likely to result in small value commodity importations being restricted due to the additional cost of bringing them into NI and a concentration on the high volume, single commodity code product.

The cumulative impact is increased costs and lower profitability for retailers operating in NI, as well as potential supply chain disruption and reduced incentives for investment.

8.7 VAT

VAT has long been a concern of members and was one of the wins we were able to get in the previous withdrawal agreement that we would be part of the EU and the UK VAT systems and regimes. The situation is not as clear under this Northern Ireland protocol.

The NIP requires application of EU VAT law, one of the key areas being the application of 0% VAT rates by the UK and Eire for food and Children's clothing & footwear. The loss of all or part of the 0% rate would increase costs for NI customers.

This could arise by:

- A change in definition of the categories to bring in-line with IE, noting that this issue will be within the EU jurisdiction;
- Current EU law limits a minimal Vat rate to 5%, with only IE and UK applying 0% for these categories (also Malta food) under an earlier dispensation. Without UK support, IE may face pressure to give up its 0%, which would apply to NI.

- There is also a question over the 20% UK rate vs the 23% rate in RoI. Does it mean that NI consumers now have to pay 3% more on VAT rateable food and drink items than GB counterparts.

7.8.a Tax compliance costs and associated burdens:

The following will require additional admin time to prepare, third-party costs in filing, additional admin and professional costs in fielding Tax Office queries

- Possible additional VAT return required for NI, given requirement of NIP for NIVAT revenues to be retained in NI. This requires additional admin time and third party compliance costs.
- Compiling and submission of customs declarations – significant system changes and cost re agent's declarationfees

8.8.b VAT Alignment.

- Alignment of Irish VAT rates has not been clearly defined thusfar.
- An alignment of the standard rates in Ireland to the Southern Irish rate of 23% would clearly result in price inflation in NI.

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If NI forced to align its reduced rates with those of Southern Ireland, the knock effects would be :

A. Price inflation eg news in SI – 9% vs UK – 0%, biscuits / cakes in SI – 13.5% vs UK – 0%
B. System integration costs of aligning VAT rates would be significant as the business would be forced to create a new "VAT region" for Northern Ireland to correctly report the differential VAT rates between NI and the UK.

C. Reporting costs would be incurred as there would be a requirement to separately identify the two different VAT treatments (NI and UK) making up the consolidated VAT returns in theUK.

D. We also believe there may be knock on effects associated with phase 2 of the Making Tax Digital requirements in the UK which are due for implementation in 2020, but these have yet to be fully understood / assessed.

Questions:

- VAT will this need to align to Southern Ireland who is also part of customs union rather than UK? SI currently pay 2 different VAT % one for services and another for goods. This would lead to changes to the Horizon to manage two different VAT set ups for services such as Parcel Force.
- Could this also lead to different service times?
- The VAT levels are very different between R of I and UK so how will the VAT system operate.
- With VAT levels in NI being different to RoI does that mean we in NI will have to mirror the RoI VAT levels to keep an open border and does that mean that items will be come more expensive in NI compared to the rest of the UK. E.g. RoI VAT on no exempt food items such as crisps is 23% whereas it is 20% in then UK.

9. Effects of the Covid-19 Crisis

The current Covid-19 emergency had shown both the importance and the fragility of just in time supply chains to the economy and households in Northern Ireland. Small delays or changes can have huge effects no only on the robustness of supplies but also on consumer behaviour which can drive shortages if not managed properly.

There for it is imperative that the Government deliver on its promises of unfettered access GB-NI andNI-GB

July 2020

Committee on the Future Relationship with the European Union

House of Commons, London, SWIA OAA
Email: freucom@parliament.uk Website: www.parliament.uk/freucom

01 May 2020

Aodhan Connolly
Director
British Retail Consortium Northern Ireland

Dear Mr Connolly,

The House of Commons Committee on the Future Relationship with the European Union is inquiring into the progress of the negotiations between the UK and the EU. Under normal circumstances, the Committee holds regular oral evidence sessions in Westminster. However, measures to prevent the spread of the coronavirus make this difficult.

The Committee is keen to gather as much evidence as possible to inform its deliberations so I am writing to you to ask whether you would be willing to help us with our work by making a written submission. We welcome general responses to our call for evidence, which was published on 4 March. We also hope that you would be willing to answer some of the more specific questions set out below on issues that fall within your area of expertise. Such submissions need not address every bullet point and can include other matters that you think are relevant to the negotiations and should be drawn to the attention of the Committee.

Interpretation

- As a baseline, what customs and regulatory procedures do you understand will have to be in place for goods moving east to west? What scope is there for the JC to agree derogations or a loosening of the requirements?
- How should the Joint Committee define an 'at risk' good? What criteria might it use? What would a permissive approach look like, versus a stricter interpretation? What would be the consequences of these differing approaches for the NI and all-island economies?
- What is your understanding of the term 'unfettered access' as it applies to goods moving from NI to GB? What checks may be needed on such goods? What risks might unfettered access pose to the UK internal market and trade policy, and NI and UK economies?
- Might there be different arrangements for different sectors of the economy - for example how would the protocol apply to fish caught by boats based in NI or lorries bringing goods from GB to NI supermarkets
- How might different types of future relationship between the UK and EU affect how the Protocol operates? If the UK diverges significantly from EU regulations would this lead to a hardening of the border in the Irish sea? What happens if no future relationship agreement is reached? How might the Protocol interact with future trade deals between the UK and third countries?
- What would happen if the UK and EU do not agree on how the Protocol should work? If this were to happen, what are the UK's obligations under the Withdrawal Agreement and UK domestic law? How might these obligations be enforced?

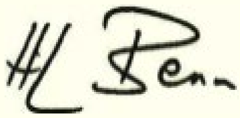
Implementation

- How much do we know about how the Protocol will operate in practice? What remains unclear?
- What information will NI businesses and other stakeholders need in order to operate under the Protocol? When will they need this information in order to properly prepare? What would be the consequences if this time is not available? What financial support has been offered by the UK Government/NI Executive to help NI businesses prepare?
- What steps may be needed to implement the Protocol, for example: new infrastructure and staff? Whose responsibility will it be to take these steps? How much progress has been made so far? How are preparations being affected by the Covid 19 pandemic?

- To what extent have NI stakeholders been consulted by the UK Government about the operation of the Protocol? Have they been listened to? What role would you expect NI stakeholders to play in the Specialised Committee on Northern Ireland and its working groups?
- To what extent does the Protocol maintain the UK internal market and the all-island economy? What challenges might businesses in NI face as a result of the Protocol? Which sectors of the Northern Irish economy and types of businesses may be most affected?

The Committee staff will be happy to discuss the inquiry, any issues raised, or the process for submitting written evidence. You can contact them at freu@parliament.uk.

Yours sincerely,



Hilary Benn
Chair of the Committee