



Cabinet Office

The UK's Approach to the Northern Ireland Protocol

May 2020

CP226

The UK's Approach to the Northern Ireland Protocol

Presented to Parliament by the Chancellor of the Duchy of Lancaster

By Command of Her Majesty

May 2020

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ISBN 978-1-5286-1928-8

CCS0520558710 05/20

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Foreword

The Northern Ireland Protocol exists to ensure that the progress that the people of Northern Ireland have made in the 22 years since the Belfast (Good Friday) Agreement is secured into the future.

The Belfast Agreement is built on the principle of consent. It was ratified by referenda in both Northern Ireland and Ireland. And the Agreement is crystal clear that any change in the constitutional position of Northern Ireland within the United Kingdom can only come if the majority in Northern Ireland consent to any change.

The vital importance of consent is recognised in the provision for alignment in the Protocol to be disapplied if Northern Ireland's political representatives conclude it is no longer desirable. Embedding that recognition of consent in the Protocol was intrinsic to its acceptance by this Government.

Therefore, for the Protocol to work, it must respect the needs of all Northern Ireland's people, respect the fact that Northern Ireland is an integral part of the customs territory of the United Kingdom and respect the need to bear as lightly as possible on the everyday life of Northern Ireland. Although there will be some new administrative requirements, these processes will be streamlined and simplified to the maximum extent. As the European Commission's own negotiator Michel Barnier spelled out, the Protocol's procedures must be "*as easy as possible, and not too burdensome, in particular for smaller businesses*". The economy of Northern Ireland is heavily dependent on small and medium sized enterprises. Subjecting traders to unnecessary and disproportionate burdens, particularly as we wrestle with the economic consequences of COVID-19, would not serve the interests of the people of Northern Ireland for whom the Protocol was designed.

And the Protocol text itself is explicit that its implementation "*should impact as little as possible on the everyday life of communities*".

In that context it is important for us all to recall that the clear majority of Northern Ireland's trade is with the rest of the United Kingdom. So safeguarding the free flow of goods within the UK's internal market is of critical importance to Northern Ireland's economy.

This Command Paper outlines how the Protocol can be implemented in a way that would protect the interests of the people and economy of Northern Ireland, ensure the effective working of the UK's internal market, provide appropriate protection for the EU Single Market and uphold the rights of all Northern Ireland's citizens.

This paper sets out how we believe the Protocol can be implemented in a flexible, and proportionate way – protecting the interests of both the whole United Kingdom and the

EU. Our proposals will deliver unfettered access for Northern Ireland businesses to the whole of the UK market; ensure there are no tariffs on goods remaining within the UK customs territory; discharge our obligations without the need for any new customs infrastructure in Northern Ireland and, finally, guarantee that Northern Ireland businesses benefit from the lower tariffs we deliver through our new Free Trade Agreements with third countries.

This approach is, in our view, the best route for commanding the broadest possible support across the whole community in Northern Ireland – respecting the myriad ways in which lives and livelihoods are intertwined right across our United Kingdom.

At the heart of our proposals is a consensual, pragmatic approach: one that will best protect the Belfast (Good Friday) Agreement; support businesses and the economy; protect the EU's Single Market; and ensure Northern Ireland benefits most fully from its access to the GB and EU markets and our trade deals across the world.

Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster

Introduction

1. On 31 January 2020 the United Kingdom (UK) left the European Union (EU) and the Withdrawal Agreement concluded with the EU entered into force. Our trading arrangements at the end of the transition period on 31 December this year will either be based on the Withdrawal Agreement only, or also on a Free Trade Agreement concluded with the EU.
2. This paper sets out the Government's approach to the implementation of the Northern Ireland Protocol ('the Protocol') in the Withdrawal Agreement, including the Unilateral Declaration on Consent made by the UK Government.
3. Our approach will be guided at all times by our overall aims of preserving and strengthening Northern Ireland's place in our United Kingdom, and of protecting the huge gains from the peace process and the Belfast (Good Friday) Agreement 1998 ('the 1998 Agreement'). Protection of the 1998 Agreement is a grave and solemn responsibility for both the UK and Irish Governments as its co-signatories, and indeed both the UK and the EU have affirmed in the Protocol that the Agreement must be protected in all its parts, in the context of implementing the Withdrawal Agreement. The position set out in this paper delivers that important objective.
4. The Protocol was designed as a practical solution to avoiding a hard border on the island of Ireland, whilst ensuring that the UK, including Northern Ireland, could leave the EU as a whole. It necessarily included, therefore, a number of special provisions which apply only in Northern Ireland, for as long as the Protocol is in force. That is why the democratic principle at the heart of the Protocol is so important. The Protocol is not codified as a permanent solution; it is designed to solve a particular set of problems and it can only do this in practice as long as it has the consent of the people of Northern Ireland. That is why it is for the elected institutions in Northern Ireland to decide what happens to the Protocol alignment provisions in a consent vote that can take place every four years, with the first vote taking place in 2024. Only elections in Northern Ireland and the vote of the Assembly will decide the outcome. The implementation of the Protocol must therefore reflect the reality that the alignment provisions may not be in place for ever. The only arrangement that is likely to be enduring is one that is flexible and can adapt.
5. Whilst the Protocol is in force, both the UK and EU must respect and abide by the legal obligations it contains, as well as our other international law obligations. The approach set out in this paper achieves that. The Protocol creates obligations for the EU as well as the UK, and the paramount objective of the protection of the 1998 Agreement will need to be upheld by both parties through flexible and proportionate approaches to implementation. At all times the UK

Government will engage constructively on the basis of this vital overarching objective. We will strive for ways forward which command the broadest possible support across the whole community, and which recognise, as the 1998 Agreement did, that strengthening the economy in Northern Ireland is itself part of building a shared and stable future.

6. We strongly believe that this is the right outcome for both the UK and the EU. A consensual, pragmatic and proportionate approach to Protocol implementation best protects the 1998 Agreement, supports businesses and the economy, and lets Northern Ireland boost its trade through access to both the GB and EU markets and our trade deals around the world. And for the EU, this will also secure the best protection for the Single Market: through a demonstrably fair and practical approach to implementation, which as the Protocol says, *“should impact as little as possible on the everyday life of communities.”*
7. We are grateful for the role played by the First and deputy First Minister, Northern Ireland MPs on a cross-party basis, and business, community and farming groups in Northern Ireland in providing proposals and feedback on our approach.
8. It is important to note that it is the responsibility of the UK Government and UK authorities to give effect to the Protocol in Northern Ireland. Although the Protocol gives effect to certain aspects of EU law in Northern Ireland on a provisional basis - subject to consent - delivery and implementation of its provisions are for the UK (including, where appropriate, devolved Northern Ireland authorities). The Withdrawal Agreement and the Protocol include rules for settling any disagreements between the UK and EU on its interpretation.

Developments since the signature of the Withdrawal Agreement

9. Implementation must also be seen in the context of developments since the Protocol’s signature. Almost three years since the collapse of power sharing, the Northern Ireland Executive and Assembly were restored in January this year. The restoration of the institutions of the 1998 Agreement, after sustained close working and negotiation between the parties in Northern Ireland, and the UK and Irish Governments, was an important step forward for delivering the public services and governance the people of Northern Ireland deserve. It has proved crucial to dealing with the unprecedented response required to COVID-19.
10. The *New Decade, New Approach* agreement recognised the need to implement the Northern Ireland Protocol in a way that works for the restored Executive and Northern Ireland’s businesses. This included a firm commitment from the UK Government to exploring additional flexibilities and sensible practical measures across all aspects of the Protocol to maximise the free flow of trade. It

guarantees that the Northern Ireland Executive will be invited to attend any Withdrawal Agreement Joint Committee or Specialised Committee meetings where Northern Ireland is being discussed and when the Irish Government are in attendance. The UK Government also committed to legislating by 1 January 2021 to guarantee unfettered access for Northern Ireland's businesses to the whole of the UK internal market.

11. Following the entry into force of the Withdrawal Agreement, the structures provided for by that Agreement have begun their work. The first meeting of the Withdrawal Agreement Joint Committee was held remotely on 30 March to launch the work of the Committee and the Specialised Committees, including the Ireland/Northern Ireland Specialised Committee. The Ireland/Northern Ireland Specialised Committee held its inaugural meeting on 30 April. Further to this, we will establish the Joint Consultative Working Group which will act as an important forum for the exchange of information and mutual consultation. The UK Government will also set up a business engagement forum, which will meet regularly to allow Northern Ireland's businesses to put forward proposals and provide feedback on how to maximise the free flow of trade. The Northern Ireland Executive will also be invited to the forum.

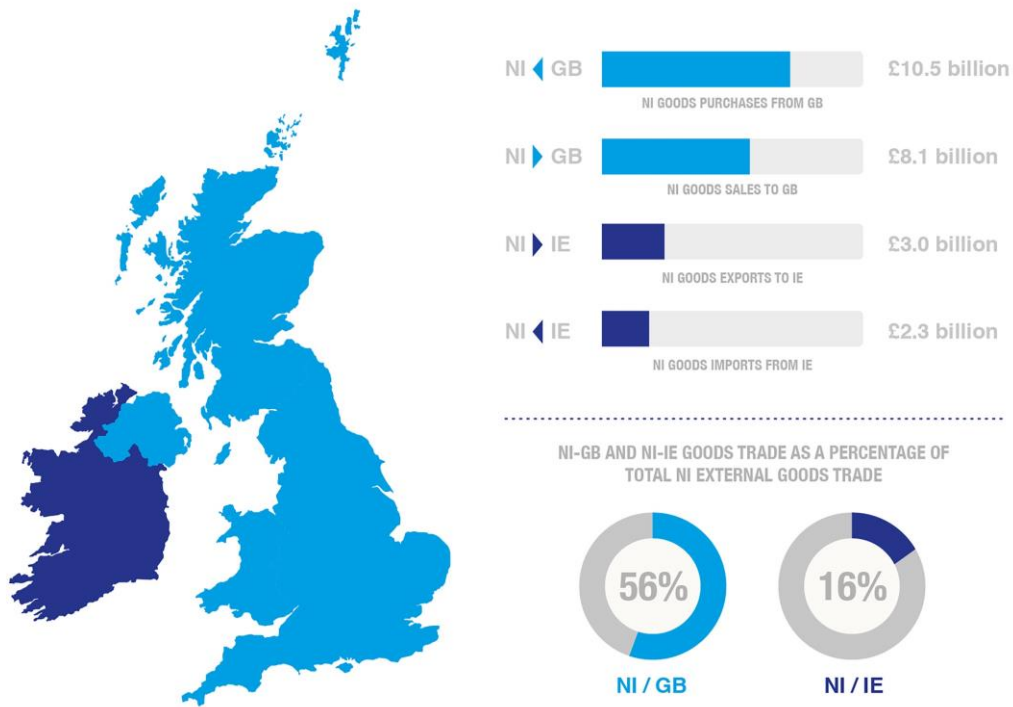
Context: Northern Ireland's economy

12. The 1998 Agreement recognised the importance of "*sustained economic growth and stability in Northern Ireland*" and included specific commitments to promote economic development. Fostering economic growth is a key part of building a shared and stable future and maintaining confidence in the 1998 Agreement institutions - this will be even more important as Northern Ireland works to recover from the global impact of COVID-19. We want to promote new trade and economic investment and preserve existing trade links between Ireland and Northern Ireland. But we must also recognise the crucial importance of trade between Northern Ireland and the rest of the UK. According to the latest available figures, nearly 23,000 NI businesses trade to and from Great Britain.¹ Northern Ireland goods sales to Great Britain are worth £8.1bn, with goods purchases worth £10.5bn. Together that trade comprises 56% of Northern Ireland's total external trade in goods - by far and away its largest market.² That is why it is imperative that we take an appropriate and proportionate approach to such

¹https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/NISRA_Overview_of_NI_Trade_with_GB_2017_0.pdf. Slide 28 on 'Number of traders of goods and services by trade partner, 2017'. N.B. importer/exporter counts with trading partners are not mutually exclusive as a business can trade to multiple destinations. Businesses can also buy and sell to the same partner.

² Sales/exports from Table 1.1, '[Broad Economy Sales and Exports Statistics 2018: Goods and Services Results - data tables 2011 - 2018](#)', NISRA, March 2020 and purchases/imports from '[Northern Ireland Broad Economy Sales and Exports Statistics: Purchases and Imports Statistics 2017 - data tables 2011-2017](#)', NISRA, June 2019. The infographic above reproduces data from these sources.

goods movements. That is the only way in which to support Northern Ireland’s prosperity and the economic development that the 1998 Agreement recognised was essential to a broader transition to a peaceful and shared society.



Scope of the Protocol

13. The Protocol covers a range of areas: human rights, the Common Travel Area, customs and trade, regulation of manufactured goods, the Single Electricity Market, some limited state aid provisions, and VAT and excise. This paper sets out the Government’s thinking in all of these areas. But the core of the Protocol is the provisions on customs and trade. It is these areas which are covered in most detail in what follows.

Protecting Northern Ireland’s place in the UK customs territory

14. Prior to the consent votes in the Northern Ireland Assembly, which will determine the way forward in the longer term, the Government’s priority is to ensure that we deliver the Protocol in a way which protects Northern Ireland’s place in the UK customs territory. Article 4 of the Protocol is clear that Northern Ireland is fully part of the UK’s customs territory.

15. A customs territory generally involves the removal of all internal tariffs, and a common approach to external trade partners. Regulatory regimes can vary within a customs territory but the removal of internal tariffs and associated barriers is generally considered to be fundamental to the nature of a customs territory. This fundamental reality is central to the way the Protocol needs to be implemented, given its clarity that Great Britain and Northern Ireland form one customs territory.
16. The solution for Northern Ireland in the Protocol was designed as a practical way forward to prevent a hard border on the island of Ireland. It is unique in two respects. It enables tariffs to be collected on goods at risk of entering the EU's Single Market at ports of entry, rather than at the land border that is the legal boundary between the UK and EU's customs territories. It also respects the pre-existing status, accepted by all parties, of the island of Ireland as a Single Epidemiological Unit for food and animal health purposes, and provides for wider regulatory alignment on industrial goods on the basis of democratic consent. What the Protocol does not do is create - nor does it include any provision for creating - any kind of international border in the Irish Sea between Great Britain and Northern Ireland. That means its provisions must entail the minimum possible bureaucratic consequences for business and traders, particularly those carrying out their affairs entirely within the UK customs territory. That is all the more true given that the Protocol alignment provisions might only be temporary: implementation must be consistent with the reality that Northern Ireland may choose in as little as four years' time to disapply these provisions.
17. The Government is clear that the UK must function as a single customs territory in practice as we operationalise the Protocol. That means the following:
1. **Trade going from Northern Ireland to the rest of the UK:** this should take place as it does now. There should be no additional process or paperwork and there will be no restrictions on Northern Ireland goods arriving in the rest of the UK - that is, there will be unfettered access, as provided for by the Protocol.
 2. **Trade going from the rest of the UK to Northern Ireland:** we will not levy tariffs on goods remaining within the UK customs territory. Only those goods ultimately entering Ireland or the rest of the EU, or at clear and substantial risk of doing so, will face tariffs.
 3. Although there will be some limited additional process on goods arriving in Northern Ireland, this will be conducted taking account of all flexibilities and discretion, and we will make full use of the concept of de-dramatisation. There will be no new physical customs infrastructure and

we see no need to build any. We will however expand some existing entry points for agrifood goods to provide for proportionate additional controls.

4. **Trade to and from Northern Ireland from third countries:** this will be handled in accordance with these principles and, where the UK has Free Trade Agreements with those countries, Northern Ireland businesses will benefit from preferential tariffs just as the rest of the UK will.

18. We set out below how we will deliver this **four point plan**.

(1) Unfettered access for Northern Ireland's businesses to the rest of the UK

19. The Protocol is clear that nothing in it prevents Northern Ireland business enjoying unfettered access to the rest of the UK internal market. We will ensure this. As set out in *New Decade, New Approach*, we will legislate to guarantee unfettered access for Northern Ireland's businesses to the whole of the UK internal market, and ensure that this legislation is in force for 1 January 2021.

That means:

- No import customs declarations as goods enter the rest of the UK from Northern Ireland;
- No entry summary ('safety and security') declaration as goods enter the rest of the UK from Northern Ireland;
- No tariffs applied to Northern Ireland goods entering the rest of the UK in any circumstances;
- No customs checks;
- No new regulatory checks;
- No additional approvals required for placing goods on the market in the rest of the UK; and
- No requirement to submit export or exit summary declarations for goods leaving Northern Ireland for the rest of the UK.

20. On the latter point, export or exit summary declarations, our view is that it makes no sense for Northern Ireland businesses to be required to complete an export or exit summary declaration as they send goods directly to the rest of the UK. Self-evidently goods being sent away from the Single Market cannot create a back door into it; and any such goods subsequently leaving the UK would be subject to both exit and entry checks anyway en route to their new destination. We believe that this pragmatic approach is a sensible one and should be agreed between the UK and the EU in the Withdrawal Agreement Joint Committee.

21. In short, these arrangements mean no change to how Northern Ireland goods arrive in Great Britain ports compared to today.

22. The only exceptions to these arrangements will be goods falling within the very limited number of procedures relating to specific international obligations binding on the UK and the EU - for example, obligations on the movement of endangered species - and where traders want to use special procedures like duty suspense where we would continue to provide facilitations. We will ensure that the necessary procedures apply only to very minimal volumes of relevant trade necessary to comply with those obligations. For goods affected, the processes put in place in these very specific cases will have negligible implications for trade as a whole. We will provide guidance to the small number of traders affected before the end of the transition period.
23. These arrangements will not cover goods travelling from Ireland or the rest of the EU being exported to Great Britain. The UK's customs and regulatory regime will apply to EU goods and businesses exporting to Great Britain, subject of course to any preferential terms we agree through a Free Trade Agreement.
24. The EU (Withdrawal Agreement) Act 2020 includes provision for the Government to define a qualifying status for goods and businesses in Northern Ireland benefitting from unfettered access. We will engage with businesses and the Northern Ireland Executive on the means for delivering qualifying status as we take this work forward, ensuring that the needs of Northern Ireland businesses are met.

(2) No tariffs on internal UK trade

25. There should be no tariffs on internal UK trade because, as the Protocol acknowledges, the UK is a single customs territory. Tariffs should only be charged if goods are destined for Ireland or the EU Single Market more broadly, or if there is a genuine and substantial risk of them ending up there. If a supplier in Great Britain sends goods to a business for sale in Northern Ireland, then that is internal UK trade. Raw produce from Great Britain for agri-food processing in Northern Ireland which is then sent back to Great Britain is another good example of trade which is internal and has no impact on the EU market. A supermarket delivering to its stores in Northern Ireland poses no 'risk' to the EU market whatsoever, and no tariffs would be owed for such trade.
26. This principle needs to be formalised with the EU within the Withdrawal Agreement Joint Committee. There are various ways of making it work in practice. There are many cases where goods could automatically be classified as internal UK trade, particularly where a business could certify that it was selling its goods in Northern Ireland and not the EU, or where, for example, goods were perishable or it would be uneconomical to try to divert them in to the EU market through Northern Ireland.

27. In any case, to ensure that trade flows freely, the Government will make full use of the provisions in the Protocol giving us the powers to waive and/or reimburse tariffs on goods moving from Great Britain to Northern Ireland, even where they are classified as 'at risk' of entering the EU market.

28. We will have sophisticated data on trade flows for goods entering Northern Ireland and will of course work with the Irish authorities to clamp down on any attempts to exploit these provisions for the purposes of smuggling and serious organised crime more broadly. We are committed to using the latest technology, risk and compliance techniques as part of this. The Government will also work closely with the Northern Ireland Executive and businesses to develop these proposals. We will produce full guidance to business and third parties before the end of the transition period.

(3) *No new customs infrastructure in Northern Ireland*

29. The Protocol means that UK authorities apply EU customs rules to goods entering Northern Ireland. This entails some new administrative process for traders, notably new electronic import declaration requirements, and safety and security information, for goods entering Northern Ireland from the rest of the UK. These are needed to make sure that tariffs are not paid on trade within the UK and that goods going to Ireland pay tariffs when they should. We will ensure these electronic processes are streamlined and simplified to the maximum extent, and we will set out more detailed plans for extensive HMRC support for businesses engaged in them. We will also review these new procedures on an annual basis, and, if they should turn out to impose a disproportionate burden on goods moving wholly within the UK, we will consider how this burden can be reduced further or removed.

30. These rules are administered by the UK authorities, who retain operational responsibility and are able to exercise discretion, including with regard to the risk assessment of goods. It should be noted, for example, that the UK currently checks only 4% of third country movements notified through customs declarations, with under 1% involving physical fiscal checks of the consignments, and clearly goods from the rest of the UK will not present a similar level of risk to third country movements.³

31. There will, of course, be no export declaration, exit declaration, or customs and regulatory clearance for any goods as they leave the rest of the UK for Northern Ireland.

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840653/EXPLAINER_FOR_THE_NEW_IRELAND_NORTHERN_IRELAND_PROTOCOL_AND_THE_POLITICAL_DECLARATION_ON_THE_FUTURE_RELATIONSHIP.pdf

32. The operation of this system will require a careful balance, and any measures must be proportionate and respect both the 1998 Agreement and Northern Ireland's place in the UK's customs territory, as well as the fact that both the UK and EU have recognised in the Protocol that checks and controls at Northern Ireland ports must be avoided as far as possible. We therefore see no need to construct any new bespoke customs infrastructure in Northern Ireland (or in Great Britain ports facing Northern Ireland) in order to meet our obligations under the Protocol. We are mindful that Irish and other EU leaders repeatedly emphasised in the context of a 'no deal' scenario in 2019 that compliance with Single Market and Customs Union acquis for goods did not require any physical infrastructure at the land border. Logically that must also be the case in the context of the agreed solution constituted by the Withdrawal Agreement.

Agri-food

33. The situation is different, as we have always acknowledged from the start, on agri-food movements from Great Britain to Northern Ireland. Some checks will be needed, supported by relevant electronic processes, in line with the island of Ireland's existing status as a Single Epidemiological Unit, building on what already happens at ports like Larne and Belfast. In our proposals published by the Prime Minister on 2 October 2019, and forming part of the basis for the final agreement on the Protocol, the Government proposed that:

“Building on the existing practice established to maintain the Single Epidemiological Unit (SEU) on the island of Ireland, Northern Ireland would align with EU [Sanitary and Phytosanitary] rules, including those relating to the placing on the market of agri-food goods. Agri-food goods entering Northern Ireland from Great Britain would do so via a Border Inspection Post or Designated Point of Entry as required by EU law, building on the provisions that already exist to support the SEU. They would be subject to identity and documentary checks and physical examination by UK authorities as required by the relevant EU rules.”

34. Just as it has since the nineteenth century, it makes sense to protect supply chains and disease-free status on the island of Ireland. The Government is taking this forward with the Northern Ireland Executive. We have accordingly confirmed that we will maintain existing facilities and designations for the purpose of processing arrivals of agri-food goods at Belfast Port, Belfast International Airport, Belfast City Airport and Warrenpoint Port. Expanded infrastructure will be needed at some of these sites for the purpose of agri-food checks and assurance. Working with the Northern Ireland Executive, at a minimum we expect to request additional categories of commodities at Belfast Port, and to designate Larne Port for live animal imports (though checks are already currently carried out anyway at Larne on all livestock entering Northern Ireland from Great

Britain). Subject to further work with the Northern Ireland Executive and delivery partners, further designations may also be required at other existing sites. There will be no construction at points of entry where no plant or animal health checks are currently carried out.

35. The process by which controls are conducted, and their frequency – including the level of physical checks required – will need to be discussed with the EU in the Withdrawal Agreement Joint Committee, within the context of the provision in the Protocol that both parties must use their “*best endeavours*” to avoid controls at Northern Ireland ports as far as possible, and adopt recommendations in the Committee accordingly. We will actively seek to simplify and minimise electronic documentary requirements for this trade.

(4) Northern Ireland benefits from UK trade deals

36. The Protocol ensures that Northern Ireland remains in the UK customs territory. We will negotiate and deliver trade deals on behalf of the whole United Kingdom. International trade will benefit Northern Ireland exporters, whose goods will enjoy the preferential access we negotiate with trading partners around the world, as well as Northern Ireland importers and consumers, who will enjoy access to wider consumer choice. Our position on tariffs set out above will also ensure that any new, lower UK tariffs are charged on goods entering Northern Ireland just as in the rest of the UK, where goods remain in the UK’s customs territory.

Wider issues

37. As noted above, the Protocol also covers a number of additional areas, including regulatory provisions; VAT; state aid; human rights; the Single Electricity Market; and a series of defined negotiating tasks for the Withdrawal Agreement Joint Committee.

Regulation of goods

38. The Government set out in its proposals on 2 October 2019 that “*Northern Ireland would also align with all relevant EU rules relating to the placing on the market of manufactured goods.*” That position was reflected in the final Protocol, which provides for regulatory alignment on industrial goods on the basis of democratic consent.
39. The same authorities and bodies operating today, whether they are based in Northern Ireland or the rest of the UK, will continue to be responsible for approving goods on the Northern Ireland market and enforcing these rules. The EU have previously noted that any regulatory checks required for industrial goods can take place through market surveillance authorities at business

premises or on the market, and do not have to take place at ports.⁴ This would be on the basis of risk assessment, which we will look to carefully utilise, both by taking a pragmatic view of the risk posed by goods from Great Britain, and by lowering their risk profile through increased on-the-market activity. Where Northern Ireland traders gain product approvals and certification for the Northern Ireland market from EU authorities and bodies, the UK will recognise those for the purpose of placing goods on the Great Britain market. Further guidance will be provided for Northern Ireland traders placing certain highly regulated goods on the Great Britain market.

Subsidies

40. The Protocol sets out that EU state aid rules will apply in certain cases where this is relevant to trade between Northern Ireland and the EU. This does not mean that state aid rules will apply to Northern Ireland as they do today. State aid provisions apply only to trade 'subject to the Protocol'. The Protocol is limited in scope to the movement of goods and wholesale electricity markets. Northern Ireland will therefore enjoy new flexibilities with respect to support for its service industries. The Government will provide further information on how these provisions should be operated by public authorities before the end of the transition period.

VAT and excise

41. The Protocol means that Northern Ireland maintains alignment on some administrative processes included within the EU VAT and excise rules for goods. Northern Ireland is, and will remain, part of the UK's VAT and excise system, reflecting the fact that each jurisdiction across Europe already operates separate VAT and excise regimes. HMRC will continue to be responsible for the operation and collection of the revenues, which will not be passed on to the EU. The Protocol notes that implementation will take into account Northern Ireland's integral place in the UK's internal market. The Government is confident that we can use the flexibilities available, in the context of the wider commitments to Northern Ireland's place in the UK internal market, to implement these aspects of the Protocol in a way which minimises new costs and burdens on businesses in Northern Ireland.

42. As regards VAT rates, Northern Ireland remains bound by EU rules, which provide a good deal of flexibility already. There is a specific provision in the Protocol which allows the Government to apply in Northern Ireland VAT

⁴ See, for example, Michel Barnier speech on 10 October 2018: "*For regulatory checks, on industrial goods for instance, these could be carried out by market surveillance authorities.*" https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_18_6089

exemptions and reductions, including zero rating, corresponding to those applicable in Ireland. This means Northern Ireland will benefit in the same way as the rest of the UK from the Government's commitment in the Budget to scrap the 5% rate on sanitary products from 1 January next year.

Rights of individuals

43. Article 2(1) of the Protocol sets out the UK's commitment to ensuring no diminution of rights, safeguards or equality of opportunity as set out in the 1998 Agreement, resulting from the UK's withdrawal from the EU. These commitments have been given effect in UK domestic law in the European Union (Withdrawal Agreement) Act 2020, which establishes a 'dedicated mechanism' for the implementation of these provisions and ensures that individuals can challenge alleged breaches of the commitment set out in Article 2(1) before the domestic courts.
44. The Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI) are empowered through this legislation to monitor, report on and enforce the Article 2(1) commitment. We will ensure that the NIHRC and ECNI have the resources they need to properly carry out their new statutory functions as part of the dedicated mechanism. The Government has also been engaging with a wide range of stakeholders, including human rights and non-governmental organisations, academics and trade unions, in order to ensure that the Article 2(1) commitment is well understood on the ground in Northern Ireland. We will also explore with the European Commission the scope to hold a dedicated session of the Joint Consultative Working Group, including relevant external expertise, to consider the implementation of the 'no diminution' commitment in the Protocol.
45. We have already brought in to force new powers to clarify the NIHRC's ability to bring cases in its own name to challenge the compatibility of legislation with the European Convention on Human Rights. This development has been welcomed by NIHRC and serves to further demonstrate the UK Government's commitment to ensuring the promotion and protection of human rights in Northern Ireland.
46. Although it is not directly related to the Protocol or the Article 2 provision, it is also important to note that we have changed our domestic Immigration Rules to allow the family members of the people of Northern Ireland to apply for immigration status in the UK, through the EU Settlement Scheme, in the same way as eligible family members of Irish citizens. The new immigration status will be available to the family members of all the people of Northern Ireland, no matter whether they hold British or Irish citizenship or both, and no matter how

they identify. This delivers on the commitment made in the *New Decade, New Approach* deal.

Single Electricity Market

47. The provisions in the Protocol provide the legal basis for the Single Electricity Market to continue to operate following the transition period, and will be implemented by the Northern Ireland Executive with support from the UK Government, providing continuity for Northern Ireland consumers.

East-West and North-South cooperation

48. As part of our ongoing commitment to protecting the 1998 Agreement as we implement the Protocol, it is vital that we continue to support East-West and North-South cooperation as envisaged in the Agreement. The Common Travel Area is an excellent and long-standing example of East-West cooperation, which the Protocol acknowledges, and takes into account. The Government is committed to work closely with the Irish Government to explore how to strengthen cooperation and bilateral work over the coming years.

49. We have also committed in Article 11 of the Protocol to maintain the necessary conditions for North-South cooperation. The Government has committed specifically to support and contribute financially to a new PEACE + programme, which is run by the Special EU Programmes Body as a North-South implementation body established under the 1998 Agreement.

Further negotiating tasks for the Withdrawal Agreement Joint Committee

50. The Protocol sets out further negotiating tasks for the Withdrawal Agreement Joint Committee in three additional areas: agricultural subsidies, fisheries and supervision.

Agricultural subsidies

51. The Protocol sets out that agricultural subsidies in Northern Ireland will be exempted from EU state aid rules, subject to an agreement in the Withdrawal Agreement Joint Committee on the maximum ceiling of such subsidies. The Government's position is that this ceiling should maintain the current allocation for supporting the agriculture and fishing industries in Northern Ireland, whilst also providing suitable flexibility to respond to any market uncertainty and disruption.

Fisheries

52. The Protocol recognises that the Withdrawal Agreement Joint Committee needs to complete a technical exercise to ensure that Northern Ireland fishing vessels landing their catch into local ports are exempt from any customs duties. The fishing industry is of great importance to Northern Ireland and we are determined to ensure that fishers from Northern Ireland are not placed at any disadvantage either through customs duties or associated barriers.

Supervision

53. The Protocol requires the Withdrawal Agreement Joint Committee to agree the practical working arrangements for the rights of EU officials under Article 12 to be present during certain activities of UK authorities related to the Protocol.

54. The UK's position is that we are ready to discuss practical working arrangements, which are proportionate and strictly limited to what is required to ensure the proper functioning of the Protocol. In line with both parties' commitments in the Protocol, they should respect the UK's territorial integrity and they should support the aims of the 1998 Agreement. They should also avoid any return to the concept of joint controls, which was proposed by the EU in February 2018 and rejected by successive UK Governments in the negotiations that followed.

55. Accordingly, for the purposes of Article 12 of the Protocol, the UK Government will not agree to a permanent EU presence in Northern Ireland. Such a presence would risk being perceived as a return to joint controls and would be divisive in political and community terms. It is also unnecessary for the Protocol to work properly.

Funding and support

56. The UK Government remains committed to a New Deal for Northern Ireland. That includes appropriate commitments to help boost economic growth and Northern Ireland's competitiveness, and to support infrastructure and connectivity North-South and East-West.

57. In the *New Decade, New Approach* agreement, the Government committed to engage specifically with the Northern Ireland Executive on the unique circumstances of Northern Ireland and the Protocol as part of wider work examining funding options to support preparedness. As part of our initial engagement, the Government has already confirmed in principle agreement to fund the costs of implementing the agri-food requirements set out in this paper, with specific projects requiring business case approval in the normal way. It is also important to note that, whilst we expect tariffs collected for goods transiting

through Northern Ireland to Ireland to be relatively small, all of the money collected for such goods will be retained by the Exchequer, with none of this money going to the EU Budget.

Maximising Northern Ireland's use of new regulatory freedoms

58. The Government is conscious that the Protocol relates only to a small subset of EU rules relating to goods and electricity, and other areas of existing cooperation. Northern Ireland will benefit, along with the whole of the UK, from our new sovereign immigration system; freedom to regulate for the services industries of the future; control of our waters; leaving the Common Agricultural Policy; and no alignment with EU rules on social, broader environmental, consumer or competition law, amongst other aspects of regaining our regulatory independence. The Government is committed to working closely with the Northern Ireland Executive to ensure that we maximise the opportunities for Northern Ireland as we leave the EU and are able to control our own laws to regulate the industries of the future and boost our competitiveness.
59. We are committed to using the new business engagement forum to facilitate and consider all proposals for Northern Ireland to make maximum use of these new freedoms, alongside the guaranteed unfettered access it will have to the markets in the rest of the UK and the EU.

CCS0520558710

978-1-5286-1928-8