



Brexit & Future EU

An Ibec campaign

Ibec Tracker on Protocol on Ireland / Northern Ireland

22 December 2020

Ibec has developed this tracker to assist business leaders to follow developments on the Protocol on Ireland/Northern Ireland (“the Protocol”). On 17 December 2020, the EU-UK Joint Committee agreed all the required formal decisions related to the implementation of the Withdrawal Agreement, including the Protocol. This tracker looks in detail at the various elements agreed. It will be updated as the agreed arrangements are implemented, outstanding issues progressed and arising difficulties are addressed.

Background

The Protocol is critical to post-Brexit continuity, stability and security of business on the island of Ireland. It is the mechanism agreed between the EU and the UK to protect the all island economy, the Good Friday Agreement, and the integrity of the EU single market. Its unique arrangements are designed to avoid a physical border on the island of Ireland. Part of the Withdrawal Agreement, it has been ratified by the EU and UK meaning it is a legally binding international treaty. The Protocol applies exclusively to the island of Ireland and will come into force at the end of the transition period, i.e. from 1 January 2021, whether an EU-UK future relationship agreement is reached or not.

As per the Withdrawal Agreement, the EU and the UK established a Joint Committee with responsibility for its overall implementation and application. Under the joint chairmanship of Commission Vice-President Maroš Šefčovič and Chancellor of the Duchy of Lancaster, the Rt Hon Michael Gove, the Joint Committee has formally met six times, on 30 March, 12 June, exceptionally on 10 September, on 28 September, 19 October, and 17 December 2020. During the first meeting, the six Specialised Committees on the key areas for the implementation of the Withdrawal Agreement were launched: Citizens’ Rights; Other Separation Provisions; Protocol on Ireland/Northern Ireland; Protocol on the Sovereign Base Areas in Cyprus; Protocol on Gibraltar; and Financial Provisions.

The Specialised Committee on the Implementation of the Ireland / Northern Ireland Protocol has met four times, on 30 April, 16 July, 9 October, and 5 November 2020. The focus of work concerns the main elements of the Protocol:

- > Continued alignment of NI to a limited set of EU rules, notably related to goods, and to avoid customs checks and controls on the island of Ireland;
- > Necessary checks and controls on goods entering NI from GB, such as Border Inspection Posts to conduct sanitary and phyto-sanitary (“SPS”) controls;
- > Application of EU customs duties to goods entering NI unless they are not at risk of entering the EU’s single market.

The Protocol will become applicable at the end of the transition period and therefore must be implemented from 1 January 2021. As it is in place to protect the Good Friday Agreement it is intended to be a stable and lasting solution that will apply alongside any agreement on the future relationship between the EU and UK.

The detailed arrangements, now agreed, must be made operational in such a manner as to honour the principles and intention of the Protocol. Furthermore, the outcome of the four-year review of the Protocol should not be predetermined, notwithstanding the UK Command Paper appearing to suggest the possibility of it being ‘disapplied’ by the Northern Ireland Assembly.

Implementing the Protocol is a unique and unprecedented challenge. Even with the Protocol and a comprehensive trade agreement, there will be an impact on business operations on the island of Ireland. It is a 'living framework' that will evolve over time starting on 1 January 2021. As it does, Ibec will closely monitor its operation and performance on behalf of business and respond to problems impacting on our members with the Irish Government through our Brussels office and remain close to the work of the Joint Committee and its Specialised Committee along with the Joint Committee Working Group.

In playing its part to support the practical and effective implementation of the Protocol in all its parts, Ibec will be particularly cognisant of both protecting the integrity of the operation of the EU single market on this island and the vote to take place in the Northern Ireland Assembly in 2025 on the retention, or otherwise, of the parts of the Protocol that relate to the movement of goods.

This tracker provides information on the Protocol through a dedicated section on issues relating to the movement of goods and a general section addressing broader and overarching items:

1. Movement of goods:

- > Operations;
- > Rules of origin;
- > Labelling;
- > UK duty reimbursement scheme;
- > Transit requirements for the UK landbridge;
- > Oversight of the EU Union Customs Code in Northern Ireland;
- > Joint Committee decision on 'goods at risk' of entering the EU single market;
- > Requirements and solutions for specific goods and/or traders.

2. Governance and general cooperation:

- > Governance of the Protocol;
- > North-South cooperation;
- > Common travel area (CTA);
- > Fraud and illegal activity;
- > UK state aid in relation to agricultural goods;
- > Fisheries.

Latest developments

On 17 December, the EU-UK Joint Committee agreed all the required formal decisions related to the implementation of the Withdrawal Agreement, including the Protocol. This follows the political agreement in principle reached by co-chairs Commission Vice-President Maroš Šefčovič and Chancellor of the Duchy of Lancaster Michael Gove on 8 December, and ensures that the Protocol will be operational as of 1 January 2021 regardless of whether a future relationship agreement is reached.

The political agreement includes resolutions on the decisions under the responsibility of the Joint Committee including: the EU's presence in Northern Ireland, when UK authorities implement checks and controls, determining criteria for GB-NI goods to be considered "not at risk" of entering the EU, the exemption of agricultural and fish subsidies from State aid rules, the finalisation of the list of chairpersons of the arbitration panel for the dispute settlement mechanism so that the arbitration panel can start operating as of next year, as well as the correction of errors and omissions in Annex 2 of the Protocol.

In addition, the agreement in principle covers specific measures to undertake required checks on animals, plants and derived products at Border Control Posts/Entry Points, export declarations, the supply of medicines, the supply of chilled meats, and other food products to supermarkets, and the application of EU State aid rules to Northern Ireland.

The agreement follows substantive progress on a range of issues in the most recent meetings of the Specialised Committee on the implementation of the Protocol on Ireland / Northern Ireland via video conference on 5 November and the EU-UK Joint Committee on 19 October.

In view of this agreement, the UK has withdrawn the offending clauses of the UK Internal Market Bill, Sections 44, 45 and 47, which would by the UK Government's own admission have broken their legally binding commitments under the Protocol, and will not introduce similar provisions in the Taxation Bill. Accordingly, it is believed that the Commission's infringement proceedings against the UK Government will be withdrawn.

UK Government Command Paper

On 10 December 2020, the UK Government published a Command Paper on the Protocol, setting out the details of the agreement reached between the EU and UK, alongside three Joint Decisions and five Unilateral Declarations to be made by the EU and the UK. It is important to note that unlike Joint Decisions, these 'Unilateral Declarations' do not have an equivalent status of being legally binding, but rather reflect the EU and UK's shared understanding.

As previously outlined in the UK Government's 'Northern Ireland Command Paper' (May 2020), the UK Government has focussed on achieving an agreement which means that the Protocol will be implemented in a way that protects the economy of Northern Ireland and its place in the UK Internal Market, including:

- a) Unfettered access for Northern Ireland's businesses to the rest of the UK;
- b) No tariffs on internal UK trade; and
- c) Northern Ireland benefits from UK trade deals.

The UK Government Command Paper confirms the following:

- **Qualifying NI goods definition to be tightened in 2021:** Until 30 June 2021, any good physically present in NI can potentially qualify as a NI good for movement to GB. This will be tightened to only benefit businesses established in NI from 1 July 2021. Thereafter, protections for qualifying businesses on arrival in GB will apply when goods are moved via NI and Ireland. Non-NI traders moving “non-qualifying goods” will be subject to third country customs and agri-food checks when these are implemented.
- **Single Electricity Market:** NI will benefit from the Single Electricity Market but is free to regulate its own retail market and rules.

Specific details of the EU-UK agreement on the implementation of the Protocol

On 18 December, the EU and the UK confirmed the specific details of the Joint Committee agreement. The Joint Committee adopted four decisions on the Protocol:

- **Practical arrangements for the EU presence in Northern Ireland:** The agreement means that EU representatives will have the necessary access to ensure that the Protocol is correctly implemented by UK authorities in NI, thereby protecting the integrity of the EU single market, including presence “*at all places where goods and animals enter or exit NI through ports or airports*” and continuous, real-time access to UK IT systems and databases.
- **Goods “not at risk” of entering the EU’s single market:** Goods which can be shown to remain in Northern Ireland will not be subject to tariffs. Only goods destined for the EU, or where there is uncertainty or genuine risk of onward movement, tariffs will be charged (if applicable). This will be administered through the new ‘UK Trader Scheme’, allowing authorised businesses to undertake that GB-NI goods are “not at risk” of moving to the EU. It will be only open to businesses established in NI, or businesses who meet closely linked criteria.
- **Exemption of NI agricultural and fish subsidies from EU State aid rules** up to a maximum ceiling of c.€420m of agricultural support and for c.€18m for fisheries over a five-year period.
- **Correction of some errors and omissions** in Annex 2.

In addition, the EU and the UK took a series of Unilateral Declarations to reflect their mutual understanding on issues where it was deemed legally inappropriate to take a Joint Decision, including on:

- **Border Control Posts specifically for checks on animals, plants and derived products:** The system will be based on electronic checking as far as possible; “identity checks” focused on a simple check of the seal of a truck; and physical checks “based on risk assessments and reflecting the full range of flexibilities provided in legislation”. In practice, physical checks on retail goods can be reduced “to close to zero”.
- **Export declarations:** Export or exit declarations will not be required for most goods for internal UK movements, except 14 categories of trade linked to international obligations (e.g., endangered species).
- **Supply of medicines:** A phased process for implementing medicines regulation in NI until 31 December 2021. From 1 January 2021 NI will follow the EU acquis for medicines, moving a medicine from GB to NI will essentially be the same procedure as moving medicines to the EU²⁷. From a practical perspective not much will change over the next 12 months.
- **Supply of chilled meats, and other food products to supermarkets:**
 - **Retail:** Authorised traders (e.g., supermarkets and their suppliers) will have a grace period until 1 April 2021 from official health certification for products of animal origin, composite products, food and feed of non-animal origin and plants and plant products. During this period, UK and

EU rules remain aligned prior to the introduction of a new EU rules relating to animal health on 21 April. It is important to note that this 3-month grace period only applies to health certificates and does not relate to customs declarations and safety and security declarations, which will be required.

- **Meat:** Chilled meats can continue to move between GB and NI until 30 June 2021, subject to appropriate certificates and channelling procedures. This will provide time for NI businesses to make more permanent arrangements. Implicitly, this also means chilled meats can move from IE-GB. Beyond that date an Free Trade Agreement (FTA) with specific measures on SPS would be needed.
- **Application of EU State aid rules in NI:** EU state aid rules will not apply to NI as today but will be limited to movement of goods and wholesale electricity markets, and concern only measures that affect NI-EU trade. State aid provisions in the Protocol will only apply to GB businesses who have a very direct link to NI.

Next steps

The EU-UK Joint Committee under the Withdrawal Agreement will continue to meet quarterly in 2021, including to assess the implementation of the Protocol, among other items. In support, the Joint Consultative Working Group will meet regularly to address issues at a technical level.

It is also anticipated that work will commence on those limited parts of the Protocol that have not yet been progressed, such as on Article 11 to maintain the conditions for North/South Cooperation on the island of Ireland.

Issue	Description	Outcome
1. Movement of goods		
EU-NI and NI-EU (including IE-NI and NI-IE)		
	<p>The Protocol is the mechanism agreed between the EU and the UK to protect the all-island economy, the Good Friday Agreement, and the integrity of the EU single market (SM). It is designed to avoid a hard border on the island of Ireland in the context of Brexit.</p>	<p>As part of the Withdrawal Agreement, it has been ratified by the EU and UK meaning it has been a legally binding international treaty since 31 January 2020. The Protocol applies exclusively to the island of Ireland and will come into force at the end of the transition period, i.e., from 1 January 2021, whether an EU-UK FTA is agreed or not.</p> <p>The Protocol ensures that there will be no customs formalities for trade in goods between Ireland and Northern Ireland. In this respect, the movement and trade in goods between the island of Ireland, including Ireland and Northern Ireland, and the EU may continue from 1 January 2021 under the present conditions.</p> <p>Under Article 18 on democratic consent, before the end of 2025, the UK must provide the opportunity for democratic consent in NI to be affirmed to allow the continued application of the Protocol in the form of a vote by the Northern Ireland Assembly.</p>
NI-GB		
General	<p>The UK committed to ensuring “unfettered access” for moving NI goods to GB. However, requirements may be needed to ensure the integrity of the EU single market and the operability of the Protocol.</p>	<p>On 17 December, the EU and UK reached an agreement on the Protocol, including with respect for the movement of goods.</p>
NI Qualifying goods	<p>For NI to GB trade in goods, the UK Government has introduced a definition for “qualifying NI goods” which will ensure “unfettered access” for goods physically present in NI to GB from 1 January 2021. This definition will be tightened after 30 June 2021 to only benefit businesses established in NI.</p> <p>The UK Government has confirmed that these protections for qualifying businesses on arrival in GB will apply whether goods are moved directly to GB or indirectly via Ireland. Non-NI traders moving “non-qualifying goods” will be subject to the UK’s full process for third country customs and agri-food checks when these are implemented.</p> <p>In addition, specific arrangements for NI agri-food trade will be introduced to give clearer qualification requirements to safeguard the sector’s reputation, while ensuring that these do not impose any additional burdens for manufacturers or other traders using NI ports. At the time of writing, details of what this will mean in practice for Northern Irish companies have yet to be provided.</p> <p>Irrespective of the above, some “qualifying” goods will be subject to customs and agri-food checks where human, animal or environmental health checks are required.</p>	

Issue	Description	Outcome
Export declarations	<p>Under EU customs law applicable in NI, any goods leaving NI would need to be accompanied by an exit summary declaration. However, the agreement confirms via a unilateral UK Declaration that the Protocol does not require export or exit declarations for NI-GB trade. Instead, the EU and the UK will ensure reciprocal access to relevant data on such movements.</p> <p>Irrespective of this, 14 categories of trade subject to international obligations (e.g., endangered species) will have specific obligations. In this regard, standard export procedures will apply where goods are under a certain procedure, subject to restrictions or the EU export procedure or do not exceed EUR 3,000 in value and are packed or loaded for export shipment within the Union.</p>	
VAT	<p>The Protocol means that NI maintains alignment with the EU VAT rules for goods, including on goods moving to, from and within NI. However, Northern Ireland will remain part of the UK's VAT system and UK VAT rules related to transactions in services will apply across the whole of the UK. HMRC will continue to be responsible for the operation of VAT and collection of revenues in NI.</p> <p>There will be no requirement for a new VAT registration for sales of goods in NI. The EU and the UK have agreed a process for identifying NI traders for VAT purposes for which detailed guidance has been published.</p>	
GB-NI	<p>The UK committed to ensuring a limitation of tariffs for GB to NI trade. However, requirements may be needed to ensure the integrity of the single market and the operability of the Protocol.</p>	<p>On 17 December, the EU and UK reached an agreement on the Protocol, including with respect for the movement of goods.</p>

Issue	Description	Outcome
<p>Goods at risk of entering the EU single market (tariffs)</p>	<p>On 17 December, the EU and UK announced that the criteria for considering goods traded from GB to NI which are not at risk of subsequently entering the EU had been agreed. The agreement will mean that goods which can be shown to remain in NI will not be subject to tariffs. It will only be goods destined for the EU, or where there is uncertainty or genuine risk of onward movement, where tariffs will be charged. In practice, this means that tariffs will not be paid on GB-NI for most goods, irrespective of the outcome of EU-UK future relationship negotiations.</p> <p>The tariffs arrangements within the agreement will be administered through the new UK Trader Scheme which will allow authorised businesses to undertake that the goods they are moving into NI are “not at risk” of onward movement to the EU, and therefore not liable to EU tariffs. The scheme will be focused on goods being sold to, or provided for final use by end consumers located in NI or, for internal UK trade, elsewhere in the UK. The scheme will be open only to businesses established in NI or businesses who meet certain closely linked criteria. It will not be available to businesses established only in the EU.</p> <p>If the EU and UK reach a future relationship agreement, the agreement would still mean that NI businesses using the UK Trader Scheme would not need to complete origin certification.</p> <p>The agreement includes that some sectors will be exempt from the Protocol’s default commercial processing definition and therefore can qualify to be not considered “at risk”. This includes food for sale to end consumers in NI as well as construction, direct health and care provision, not for profit activities in NI, and processing carried out by importers of animal feed for final use at their premises in NI.</p> <p>The UK Government has confirmed that its Trader Scheme will enable goods to be routed from GB through Irish ports to NI without being liable for tariffs, provided these movements are done under transit procedures and goods are under customs supervision until cleared in NI.</p>	
<p>Fraud or illegal activity</p>	<p>In relation to GB to NI movements, under Article 9 of the Joint Decision of the Joint Committee on the determination of goods not at risk, an overall emergency brake mechanism is possible in 2024 in the event of significant diversion of trade, or fraud or other illegal activities. See the dedicated section on fraud and illegal activity for further information.</p>	
<p>Rules of origin</p>	<p>Northern Ireland remains in the customs territory of the UK and will no longer benefit from EU FTAs. Products from Northern Ireland or with NI inputs can circulate freely on the EU single market but they do not have EU origin.</p>	<p>The rules of origin for exports to the UK must be negotiated under the broader EU-UK FTA process however the Protocol guarantees unfettered access for NI goods to Great Britain.</p> <p>Companies should review existing supply chains and EU FTAs to understand the impact of using non-EU (Northern Irish) inputs on their ability to claim preferential tariffs under EU FTAs.</p> <p>NI goods will benefit from preferential tariffs under UK FTAs.</p> <p>The UK has confirmed that they intend to recognise EU material as originating in all their continuity trade agreements.</p>

Issue	Description	Outcome
Labelling	The Protocol sets out rules for labelling in cases where indication of member state is required by EU law e.g., origin.	<p>In its Policy Paper on the UK Internal Market (16 July), the UK confirmed it would implement a mutual recognition system within the UK internal market. This will also account for goods originating in Northern Ireland, which must comply with the arrangements agreed under the Protocol.</p> <p>Where origin must be indicated in markings and labelling, Northern Ireland shall be indicated as “UK(NI)” or “United Kingdom (Northern Ireland)”. Where a number is required, a distinguishable numeric code will be set by the UK.</p> <p>Further guidance has been published by the UK Government in advance of the end of the transition period, including a requirement for some goods to be labelled as for sale in Northern Ireland exclusively to avoid subsequent sale in the EU single market, including Ireland.</p> <p>On 12 October, the UK Government issued updated guidance for food and drink labelling and health and ID marks. The notices outline that the UK government will allow for an adjustment period for labelling changes to be made to products placed on the market in Great Britain until the 30 September 2022.</p>
UK duty reimbursement scheme	The UK will introduce a reimbursement scheme for duties paid on goods entering NI by direct transport in certain scenarios. For example, where goods subsequently are proven not to have entered the EU single market. Other charges, such as VAT, excise etc., will still be payable.	<p>The UK Government will operate a reimbursement scheme for GB-NI goods which will be subject to tariffs, but which can subsequently be shown to have remained in the UK customs territory.</p> <p>This scheme will be separate to the UK Trader Scheme which aims to ensure that traders do not pay tariffs on the movement of GB-NI goods where those goods will remain in the UK’s customs territory in the first instance.</p>

Issue	Description	Outcome
Transit requirements for the UK landbridge	The Protocol includes a commitment from the UK to facilitate the 'efficient and timely transit through its territory of goods moving from Ireland to another (EU) Member State or to a third country, and vice versa'.	<p>The agreement on the Protocol means that unfettered access will apply to goods under transit from Northern Ireland to the EU via Great Britain.</p> <p>At the fourth meeting of the Specialised Committee, the UK stated that agreement had been reached on the process for transit procedures to be available in NI and operate consistently with the Common Transit Convention. The UK Government has issued specific guidance on this item.</p> <p>The UK Government has confirmed that its Trader Scheme will enable goods to be routed from GB through Irish ports to NI without being liable for tariffs, provided these movements are done under transit procedures and goods are under customs supervision until cleared in NI.</p> <p>The transit requirements for use of Great Britain as an intermediary landbridge for moving goods from Ireland to another EU Member State have not yet been agreed. While this item is provided for in the Protocol, its exact operation remains subject to the outcomes of the ongoing negotiations on the future relationship.</p>
Oversight of the EU Union Customs Code in Northern Ireland	Northern Ireland remains in the customs territory of the UK. The EU Customs Code will be applied de facto in Northern Ireland by UK authorities with oversight from EU officials.	<p>On 17 December, the EU and UK announced that an agreement had been reached on the practical arrangements regarding the EU's presence in Northern Ireland when UK authorities implement checks and controls under the Protocol.</p> <p>As per Article 12 of the Protocol, the agreement will enable the EU to effectively exercise its right to be present during any activities of the UK authorities related to, amongst other things, the implementation and application of the customs provisions of the Protocol. In line with this, it is understood that EU officials will not have a permanent office or embassy, but rather technical representation only. EU officials from Member States will also rotate on mission in Northern Ireland but will be able to access databases remotely as there will be reciprocal access to IT systems.</p>

**Joint
Committee
decision on
'goods at risk'
of entering the
EU SM**

The Joint Committee, co-chaired by the EU and the UK, has established the criteria for considering which goods brought into Northern Ireland from outside of the EU, including Great Britain, are not at risk of subsequently entering the EU. According to the Protocol, this must account for:

- a) the final destination and use of the good;
- b) the nature and value of the good;
- c) the nature of the movement; and
- d) the incentive for undeclared onward movement into the EU, in particular incentives resulting from the duties payable.

The Protocol states that a good will be considered to not be at risk provided it will not be subject to commercial processing in Northern Ireland.

Duties will be payable on goods entering Northern Ireland by direct transport from another part of the UK if those goods are at risk of entering the EU single market. Import procedures will still be required as well as payment of other charges (VAT, excise).

On 17 December, the EU and UK announced that the criteria for considering goods traded from GB to NI which are not at risk of subsequently entering the EU had been agreed. This item had been delayed by a lack of progress on fundamental items and had become political.

The agreement will mean that goods which can be shown to remain in NI will not be subject to tariffs. It will only be goods destined for the EU, or where there is uncertainty or genuine risk of onward movement, where tariffs will be charged. In practice, this means that tariffs will not be paid on GB-NI for most goods, irrespective of the outcome of EU-UK future relationship negotiations.

The tariffs arrangements within the agreement will be administered through the new UK Trader Scheme which will allow authorised businesses to undertake that the goods they are moving into NI are “not at risk” of onward movement to the EU, and therefore not liable to EU tariffs. The scheme will be focused on goods being sold to, or provided for final use by, end consumers located in NI or, for internal UK trade, elsewhere in the UK. The scheme will be open only to businesses established in NI, or businesses who meet certain closely linked criteria. It will not be available to businesses established only in the EU.

If the EU and UK reach a future relationship agreement, the agreement in principle would still mean that NI businesses using the UK Trader Scheme would not need to complete origin certification.

The agreement includes that some sectors will be exempt from the Protocol’s default commercial processing definition and therefore can qualify to be not considered “at risk”. This includes food for sale to end consumers in the UK; as well as construction, direct health and care provision, not for profit activities in NI, and processing carried out by importers of animal feed for final use at their premises in NI.

The UK Government has confirmed that its Trader Scheme will enable goods to be routed from GB through Irish ports to NI without being liable for tariffs, provided these movements are done under transit procedures and goods are under customs supervision until cleared in NI.

In relation to GB to NI movements, under Article 9 of the Joint Decision of the Withdrawal Agreement Joint Committee on the determination of goods not at risk, an overall emergency brake mechanism is possible in 2024 in the event of significant diversion of trade, or fraud or other illegal activities. See the dedicated section on fraud and illegal activity for further information.

Requirements and solutions for specific goods and/or traders

The Joint Committee has agreed to requirements and solutions for certain specialised goods to facilitate their transit.

On 17 December, the EU and UK reached an agreement on the implementation of the Protocol, including solutions for specific goods and/or traders.

The UK Government Command Paper outlines that **authorised traders, such as supermarkets and their trusted suppliers**, will benefit from a grace period until 1 April 2021, from official health certification for products of animal origin, composite products, food and feed of non-animal origin and plants and plant products, provided they are:

- packaged for end consumers and bear a label reading *“These products from the United Kingdom may not be marketed outside Northern Ireland”*;
- destined solely for sale to end consumers in supermarkets located in Northern Ireland;
- accompanied by a simplified official certificate globally stating the products meet all the import requirements of EU legislation;
- entering Northern Ireland through a designated place, where they are submitted to a systematic documentary check and to a risk-based identity check on a selection of items in the means of transport; and
- monitored through a channelling procedure applicable from the designated place to the destination supermarket in Northern Ireland.

The arrangements are based on the fact that UK and EU rules will be aligned during this period, prior to the introduction of a new package of EU rules relating to animal health on 21 April 2021.

Chilled meats can continue to move between GB to NI until 1 July 2021, subject to appropriate certificates and channelling procedures, provided they are:

- sold exclusively to end consumers in supermarkets located in Northern Ireland;
- accompanied by official certificates issued by the UK competent authorities; and
- packed for end consumers, and they bear a label reading *“These products from the United Kingdom may not be sold outside Northern Ireland”*.

The UK Unilateral Declaration confirmed that during this period the UK will remain fully aligned to Union law applicable to meat products and listed in Annex 2 to the Protocol.

In respect of appropriate checks and controls on agrifood goods, the system will be based on electronic checking as far as possible; “identity checks” focused on a simple check of the seal of a truck; and physical checks managed at a local level based on risk assessments and reflecting the full

Issue	Description	Outcome
		<p>range of flexibilities provided in legislation. In practice, this means that physical checks on retail packs and supermarket goods can be reduced to zero, or close to zero, on a risk assessed basis.</p> <p>Beyond that detailed above, an FTA with specific measures on SPS would be needed. If specific measures are not agreed, then the temporary measures would end on the dates listed and full EU agri-food controls will apply.</p>

2. Governance and general cooperation

<p>Governance of the Protocol</p>	<p>The Withdrawal Agreement established a Joint Committee for oversight of the withdrawal agreement including the Protocol and a dedicated Specialised Committee to facilitate the implementation and application of the Protocol, advising the Joint Committee. A Joint Consultative Working Group was also established by the Protocol and will meet once a month working on the day-to-day, technical implementation of the Protocol. All these groups are comprised of representatives of the EU and the UK.</p>	<p>The Joint Committee and several Specialised Committees, including one on the Ireland / Northern Ireland Protocol, were established and have been meeting regularly.</p> <p>The EU-UK Joint Committee under the Withdrawal Agreement will continue to meet quarterly in 2021, including to assess the implementation of the Protocol, among other items. In support, the Joint Consultative Working Group will meet regularly to address issues at a technical level and will have a more significant role in ensuring the implementation of the Protocol.</p>
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Issue	Description	Outcome
<p>North-South cooperation</p>	<p>The Protocol must be implemented in a way that protects North-South cooperation in areas such as broadcasting, energy, telecommunications, environment, and education. The UK and Ireland can continue to make new arrangements that build on the Good Friday Agreement.</p>	<p>At the time of writing, no impediments to North-South cooperation by the implementation of the Protocol have been identified. However, it is understood that detailed work has not yet begun on the implementation of this Article but should do so in 2021.</p> <p>However, the Joint Committee has agreed arrangements to enable the continued operation of the island's Single Electricity Market. These arrangements include that NI will be free to regulate its own retail market and rules for consumers as it sees fit. The UK Government Command Paper notes that <i>“both sides have agreed to a focused, proportionate scope of the applicable rules”</i>. In practice, this should lead to no changes for businesses.</p> <p>In relation to medicines, the UK Government has published guidance regarding protections to the supply of medicines already on the market in Great Britain moving to Northern Ireland from 1 January 2021.</p> <p>In the long term, the Protocol means NI must align with EU regulatory requirements including with regards to batch testing, regulatory importation requirements and the Falsified Medicines Directive. In order to ensure this operates smoothly, the EU and the UK have agreed to a phased process for implementing medicines regulation in NI up to 31 December 2021. Where relevant, these arrangements will also apply to the supply of veterinary medicines and investigational medicinal products.</p>
<p>Common travel area (CTA)</p>	<p>The Protocol protects the CTA and ensures that Ireland and the UK can continue to make bilateral arrangements on the movement of citizens. The CTA gives certain rights to citizens of the UK and Ireland, e.g., access to social benefits, education, employment, healthcare, and social housing supports, the right to vote in certain elections.</p>	<p>At the time of writing, no impediments to the CTA by the implementation of the Protocol have been identified EU citizens other than those who are Irish are not covered by the CTA and so will not enjoy the same treatment by the UK. The new UK Immigration regime will also create barriers for NI firms to recruit and retain EU workers.</p> <p>In relation to the free movement of people between the UK and Ireland, the agreement in principle includes provisions on the rights of individuals. The UK Government's Command Paper notes express commitment to ensuring no diminution of rights, safeguards or equality of opportunity as set out in the Good Friday Agreement, result from the UK's withdrawal from the EU. The UK Government has made legislative changes to give this effect.</p>

Issue	Description	Outcome
Fraud and illegal activity	<p>Both sides commit to counter fraud and any illegal activity affecting their financial interests.</p>	<p>On 17 December, the EU and UK that an agreement had been reached on the practical arrangements regarding the EU's presence in Northern Ireland when UK authorities implement checks and controls under the Protocol.</p> <p>As per Article 12 of the Protocol, the agreement will enable the EU to effectively exercise its right to be present during any activities of the UK authorities related to the implementation and application of the customs provisions of the Protocol. This includes actively monitoring instances of fraud or illegal activity either from GB to NI or NI to the EU.</p> <p>In line with this, it is understood that EU officials will not have a permanent office or embassy, but rather technical representation only. EU officials from Member States will also rotate on mission in NI but will be able to access databases remotely as there will be reciprocal access to IT systems.</p> <p>In relation to GB to NI movements, under Article 9 of the Joint Decision of the Withdrawal Agreement Joint Committee on the determination of goods not at risk, an overall emergency brake mechanism is possible in 2024 in the event of significant diversion of trade, or fraud or other illegal activities, and on the basis that replacement arrangements protecting Northern Ireland's place in the UK customs territory are then put in place. If either party considers there is significant diversion of trade, or fraud or other illegal activities, they can present this to the Joint Committee by 1 August 2023, and the Parties shall use their best endeavours to find a mutually satisfactory resolution. If the Parties do not find a mutually satisfactory resolution, the relevant provisions will cease to apply from 1 August 2024, unless the Joint Committee decides before 1 April 2024 to continue their application.</p> <p>The UK Trader Scheme for GB-NI movements, includes a series of safeguards designed to prevent abuse.</p>

Issue	Description	Outcome
UK state aid, including relation to agricultural goods	The UK will apply EU state aid rules where potential interventions might impact trade between Northern Ireland and the EU. The UK can provide support for the production of and trade in agricultural products under certain conditions.	<p>The Protocol includes that EU state aid rules will apply to NI in certain cases where this is relevant to trade with the EU. The agreement reached on 17 December ensures that the application of EU state aid rules in NI will be limited in scope to the movement of goods and wholesale electricity markets and reaffirms that it will concern only measures that “affect trade” between NI and the EU.</p> <p>In this respect, the UK adopted a Unilateral Declaration outlining that state aid breaches <i>“cannot be merely hypothetical, presumed, or without a genuine and direct link to Northern Ireland. It must be established why the measure is liable to have such an effect on trade between Northern Ireland and the Union, based on the real foreseeable effects of the measure.”</i></p> <p>The UK Government confirmed in its Command Paper that the possibility that the Protocol could be interpreted to enable unfair “reach back” of rules to subsidies given to companies in GB has been addressed. The agreement confirms that:</p> <ul style="list-style-type: none"> a) for an aid measure to have an effect on trade between NI and the EU, and for the state aid provisions in the Protocol to apply, there must be a “genuine and direct link” to NI; b) NI’s integral place in the UK internal market must be taken into account; and c) the potential effects of an aid measure on trade between NI and the EU must be real and foreseeable. <p>In relation to agricultural and fisheries subsidies, the Protocol sets out that in NI a certain amount will be exempted from EU state aid rules. The Joint Committee has agreed on the maximum ceiling of exemptions from EU state aid rules which provides for a baseline of c.€420m of agricultural support and for c.€18m for fisheries over a five-year period.</p>
Fisheries	The Joint Committee will set out the conditions, including quantitative, under which certain fish products can be landed duty free in Northern Ireland.	<p>The conditions have not yet been clarified. An agreement on Fisheries is a contentious area of the broader EU-UK negotiations and will likely be clarified only once the EU and UK reach a future relationship agreement.</p> <p>At the time of writing, UK officials had expressed that this item was close to agreement towards a formal Joint Committee decision.</p>



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