



Northern Ireland
Assembly

Committee for The Executive Office

OFFICIAL REPORT (Hansard)

Brexit Issues: The Executive Office

27 May 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colin McGrath (Chairperson)
Mr Doug Beattie (Deputy Chairperson)
Ms Martina Anderson
Mr Trevor Clarke
Mr Trevor Lunn
Mr George Robinson
Mr Pat Sheehan
Ms Emma Sheerin
Mr Christopher Stalford

Witnesses:

Mrs Lorraine Lynas	The Executive Office
Dr Andrew McCormick	The Executive Office
Ms Lynsey Moore	The Executive Office

The Chairperson (Mr McGrath): The departmental officials joining us are Andrew McCormick, director-general of international relations of the Executive Office; Lorraine Lynas, deputy director of EU future relations; and Lynsey Moore, director of European division and head of the Office of the Northern Ireland Executive in Brussels. It is great that you are all on board. Just to let you know, the session is being recorded by Hansard, and the transcript will be published on the Committee web page. As usual, I will pass over to you to give us a presentation, and we will follow up with questions. Is that OK, Andrew?

Dr Andrew McCormick (The Executive Office): That is absolutely fine. Thank you for the opportunity to be with you again, even in this format. We will do our best to address the questions and issues that are of most interest, and we will be as helpful as we can in talking to you about this. We will maybe just recap on a few things that have happened since we last talked to you by phone and then follow on from the session that the junior Ministers had a couple of weeks ago.

I want to focus on the Joint Committee, the Specialised Committee and how all those things have been working out. However, the most important recent development is the command paper published on 20 May, setting out the UK Government's approach to implementation of the protocol, which is an important step forward.

Everyone is very conscious of the time constraints. We have a situation where the Government in London are saying clearly that they will not seek an extension of the transition period. That seems to be a firm position. That means that having things in place, having a state of readiness achieved by the end of the calendar year, is important.

We talked last time about the small number of scenarios we have to plan for, either a fully fledged free trade agreement alongside the protocol or the final departure of the UK from the EU in economic terms with no trade deal and how that stands with the protocol.

Those are still live issues, but the key development is looking at how the protocol is implemented, easy to support from all points of view, and this is something that, I am confident, will be backed by all Ministers: minimising the impact of the protocol, minimising the economic and regulatory burdens on businesses. That is clearly the purpose and nature of the way it is being approached. There are areas where that is still subject to agreement between the UK and the EU. Certainly, there is every reason for us to look to secure maximum flexibility, minimise friction and achieve as good an outcome as possible. There is a major interaction between the future relationship negotiations between the UK and the EU and the UK's relationships, negotiations and trade deals with the rest of the world. There is a set of outstanding negotiation issues still to be resolved. Alongside that, there is work to be done in the realm of implementation and in the realm of legislation. Again, I am happy to come back to that in more detail as we go through the session.

We then have the negotiation rounds. The last round before the review point in June will be next week. There was a round of negotiations two weeks ago, finishing on 15 May. Our information is that that round of negotiations covered all 11 of the so-called negotiating chapters — the different dossiers that are being examined — and the large delegations from both sides were looking at areas of convergence and divergence in the respective negotiating positions. That is all moving on.

The UK legal texts have now been published. We and colleagues across Departments are looking at that text from our respective policy responsibilities. We know that there are significant divergences. The statements made by the two chief negotiators — David Frost on the UK side and Michel Barnier on the EU side — show that there is divergence on the governance of the whole arrangement. That is one key difficulty. There is also the question of open and fair competition or level playing field — you choose your term of art as you wish — and the issues of fisheries and internal security. Those are definitely areas where progress is limited, and that is understandable.

There was a meeting of the Joint Ministerial Committee on EU Negotiations (JMC (EN)) last week. The four Executive Office Ministers were all dialled into that conversation with the Chancellor of the Duchy of Lancaster, Michael Gove, who was in the Chair, other UK Government Ministers, including the territorial Secretaries of State, and Ministers from the Scottish and Welsh Governments. That was the first JMC (EN) since 28 January. There has been more frequent ministerial engagement between our Ministers and, especially, the Paymaster General, Penny Mordaunt. The agenda for last week's meeting focused on the negotiations. There was an update from David Frost on the negotiations. There was some discussion on preparedness and how we organise across the four UK jurisdictions to ensure governmental readiness and assist with business readiness. There are major issues there, of course. The implementation of the protocol sits as a task within that; it is one of several big themes as regards making arrangements that will work. At last week's meeting of the JMC (EN), there was also a brief update on the review of intergovernmental relations, which is outstanding.

Looking ahead to June, there will be further meetings of the Specialised Committee and the Joint Committee. We do not have timings or proposals for those yet, but there is obviously a range of issues of principle about implementation to be discussed. Some of the points in the UK Government paper were, in effect, proposals that ultimately need to be considered in the Joint Committee, because it is the prerogative of both sides to take forward issues in relation to implementation. That is a legitimate part of the ongoing discussions. There is then a need to resolve the four specified decision points. The Joint Committee needs to resolve those issues in relation to application of the protocol.

The first of those, in article 5 of the protocol, relates to customs. The point is that tariffs are not payable on goods entering Northern Ireland if they are considered not to be at risk of moving into the EU. Obviously, it is in our economic interest to maximise that because that delivers the minimum possible friction. The reason it is there is that, for some categories of goods, especially where manufacturers in Northern Ireland add value to a product and then export it, if they export it into the EU, by definition, that is the kind of thing that would be at risk of compromising the single market. The clause is necessary, but there is detail to be worked out and every reason to look to maximise the exemptions from tariffs. Of course, that is where the question of the interaction with the wider trade negotiations matters, because, if a zero-tariff, zero-quota deal is achieved, that minimises that problem in the first place anyway. That is one big topic and one where, obviously, it is important that there is good representation of the Northern Ireland perspective ahead of further meetings that need to take place in the weeks and months ahead.

The second of the four topics is about fishery and aquaculture products and the scope for product that is landed by fisheries in Northern Ireland to be exempt from customs. Again, there is detail to be worked out on that in article 5(3) of the protocol.

The third area is agricultural support. Article 10 of the protocol says that there is a need for a decision on the maximum overall annual level of agricultural support that would be exempt from state aid controls. That is all about ensuring fair treatment of the agriculture sector here compared with that in the South and the wider EU. It is looking for something that is fair and reasonable, but there is detail to be worked out, as that was one of the things that it was not possible to resolve in the negotiations back in October.

The fourth one — article 12 — which we have talked about before, is really about oversight and governance of how the protocol will be implemented and how it gives some access for Commission officials to oversee what is going on. That is what is provided for, but it needs to be worked out in detail and is very much a matter between London and Brussels.

Those issues are progressing. There is detailed work going on on them. There is a need for us to represent properly the Northern Ireland view on those things. There will be further meetings with the Specialised Committee and the Joint Committee soon. How quickly those four issues can be resolved is not yet totally clear.

In parallel with that, there is a further round of negotiations next week leading to a high-level stocktake meeting later in June where there will be an assessment of progress and a decision taken on what will go on, how to go forward and how to structure further steps, or, in extremis, there could be a problem at that stage. I think the expectation is that there will be further detailed negotiations, and that is where it is all going.

There are a few areas where, I know, you have sought further information, and some of those will come through. Lorraine will keep me right about exactly where different things stand. If answers to some of your written questions are about to come through, it would be prudent not to pre-empt those in discussion this afternoon. We will try to be as helpful as we can and take your questions and comments on what I have said by way of introduction and the other areas where, I know, members have a keen interest.

I hope that was of some help in setting the scene, Chair.

The Chairperson (Mr McGrath): OK. Thank you, Andrew, for that. I will start off. I want to preface this remark by saying that I appreciate and understand that it is not your fault, but, generally, with an update, it is hoped that one will have new information or get an update on existing information. I have to say that, having listened to the presentation thus far, I do not feel that I have heard anything new. I do not feel that there is any update or anything extra. Whilst that is certainly not your fault or issue, it is important that we communicate with the Department again to say that the purpose of a scrutiny Committee is to scrutinise, so it must give us something to scrutinise. It concerns me that we are, effectively, at a cliff edge in that the process of Brexit is looming in a month — it starts on Monday — and there are still structures in the architecture of the negotiations that have not even met. That causes concern, because the purpose of various groups in the architecture — I am talking, for example, about the joint consultative working group — is to scope out from sectors their thoughts, views, expectations and hopes. If it has not met, those views and thoughts cannot be put as part of negotiations at the stocktaking exercise in June to decide whether we are at the point where we can have some form of meaningful process that will conclude on 31 December for people, going forward.

Moving to some specific questions, we had asked that the Committee get advance notice of agendas and issues that Ministers planned to raise at JMC meetings. Is that something that the Department cannot provide us with?

Dr McCormick: Last week, the arrangement was pretty fluid and not confirmed until a short time before the meeting happened. There was probably just a bit of a hangover from the current limitations on working arrangements. I say that only by way of context; I am not sure if there is any more that I can say about that. There has been better practice in some of the other jurisdictions in providing advance notice. We need to see what is possible. Lorraine may have more to add.

Mrs Lorraine Lynas (The Executive Office): Previously, JMC (EN) had a schedule of meetings. We knew roughly when they were going to happen, and we had more certainty around them. There had

been a lot of *[Inaudible]* from the last meeting on the 28th. This one was put in the diary quickly. It was done virtually, which meant that, even up to 24 hours before it, we were not sure if everybody could attend. We are happy to work with the Committee on how you would like to be kept informed of meetings as we move forward and the best way of doing that. When people travelled to meetings, there needed to be more certainty about the meeting in advance; the virtual format makes them a lot more agile. However, we are happy to take your suggestions on how you would like to be informed. The agenda is *[Inaudible]* by Ministers, and it was approved within 24 hours of the meeting. It is about how we work with you.

The Chairperson (Mr McGrath): Thank you for that. Preparedness — *[Interruption.]*

Dr McCormick: You are quite faint. *[Inaudible.]* Is it possible to get better sound, please? Sorry.

The Chairperson (Mr McGrath): I was not speaking at that stage, so I hope that that is what it was. Can you hear me OK now?

Dr McCormick: You are still quite faint, I am afraid.

The Chairperson (Mr McGrath): Can you hear me, or is it just faint?

Dr McCormick: I can just about hear you.

The Chairperson (Mr McGrath): I will speak as loudly as I can.

Dr McCormick: Apologies.

The Chairperson (Mr McGrath): You are OK; that is fine.

Preparedness for the end of the transition period was discussed at the meeting. What stage are the Executive at in the preparations for a no deal?

Dr McCormick: There is further work needed, and it needs to be brought forward for detailed discussion. As you said, it was discussed at the JMC (EN) meeting. There is a recognition that the detailed work that has begun in Whitehall in the UK government system needs to be extended to be more inclusive of ourselves and the other two devolved Administrations. There is a range of projects and work streams going on. We need to get more deeply involved in that. We need to say at every stage to London, Edinburgh and Cardiff that our position will be different because the protocol will be there, so that always means that things that they might assume and even plan for that are reasonable in their own terms might have a twist or an angle that is different for us.

We really need to be on top of this game. It is now, increasingly, a top priority. I emphasise that there is a need for preparedness to be effective, whatever happens. There is the range of practical scenarios that we talked about last time. We need to consider what happens if there is no negotiated outcome, no trade deal. One set of assumptions would apply in that context. You would make assumptions about how goods would flow, for example. The crucial one that will affect everything is the way in which goods will move across the short straits between England and France and the Low Countries. That is the fundamental supply line for everything, and, if there is disruption on that large group of routes, that will affect everything. There is a set of planning assumptions in there to be worked out. For example, what would be a reasonable assumption about how lorries will move back and forward in both directions? That is as big a determining factor as any in all of this, and we need to look at that in working it all through. That is in what is called a "non-negotiated outcome", where there is nothing over and above the withdrawal agreement, including the protocol. If there is a free trade agreement, there would still be a range of things for us to prepare for. The existence or non-existence of a free trade deal does not make an awful lot of difference to what we require, for example, on the sanitary and phytosanitary (SPS) side for Northern Ireland. That is a separate part of the protocol. It stands anyway and will need to be addressed. There is a lot of preparation to be done on that, whatever the scenario. Preparedness is not just about preparing for no deal; it is about preparing for any outcome.

There is a lot of work to be done anyway. The vital thing — I think that the First Minister said this quite strongly in one of the interviews — is that the thing that we need most is clarity for business. That means clarity on what regulatory regime it will have to comply with, how it will work, what that will

mean for VAT and for the operational side of all that, especially for the agri-food sector. That work will need to be done, whatever happens. We are not talking about a contingency planning process, as we were last year for the risk of no deal. There will be an outcome. Either way, lots of things will change, and, either way, businesses need clarity. On a "glass half full" basis, the protocol paper last week was a very important step towards that clarity. It does not give sufficient detail. There are a lot of things still to be resolved, but it is a very important step in the direction of clarity and resolution and brings us to a place where we can say to businesses, "Here is a checklist of the things that will apply. Here are all the things that will change and make the position on 1 January 2021 different from that on 31 December 2020", and help them with guidance to be ready. In some cases, they will make their own business decisions, so there will be things where future planning and investment will depend on their assessment of what it means, which is why it is so vital to get to a stage where we communicate clearly and minimise the frictions. That is why some of the outstanding issues that need to be negotiated are incredibly urgent now, so that we can make progress, get to a place as soon as is conceivably possible where the message to business is, "Now it is clear. Here is what will apply, and here is how it will all work". That is the goal that we have to get to, whether that is through a very extensive free trade agreement plus the protocol or just the protocol.

The Chairperson (Mr McGrath): Just to interrogate you a little further, Andrew, you said that preparations were under way in Whitehall and that we needed to get involved in them. Has Whitehall not been reaching out to the devolved Administrations about that to say, "There is a chance that this could be a no deal, and here are the preparations that we have to make"? Is that just something that we might need to get involved in, given that we are one month away from that decision and seven months away from its implementation?

Dr McCormick: Yes. The invitation is there from Whitehall to get involved. That is happening. Again, the factual reality is that a lot of the people who were involved in the planning for transition and the implementation of the withdrawal agreement were diverted to COVID. Quite a few people are still diverted to COVID. That is just a factual reality. It is getting better as we move onto a bit more of a plateau on the COVID side.

It is totally understandable that the focus of attention on people whose job it is to do operational planning was on very short-term and critical operational planning over the last 10 weeks or so. It has been in the last — what? — 10 days or so that we have begun to see them opening this up. In good faith, that is what they are doing; there is no criticism. I share your concern that time is short and we need to get into this urgently. There is also, obviously, a big difficulty in the form of COVID.

The Chairperson (Mr McGrath): Is it your assessment that, as a result of coronavirus, which is nobody's fault, if we can put it in those terms, the Department is not prepared to implement a no-deal scenario?

Dr McCormick: Undeniably, less attention has been paid and less preparation has been done than would be the case had the virus not come along. That is an obvious fact, but there is significant time still available to clarify that it is very important to get that initial statement of clarity on the intended approach to implementing the protocol. That was probably our biggest concern up to last week, so it is very important that that happened. There is a lot more detail required — there is no denying that — but it is a very important step in the right direction.

The Chairperson (Mr McGrath): There was a document called 'The UK's Approach to the Northern Ireland Protocol' that the Executive had considerable input to. Is that input available for us to scrutinise?

Dr McCormick: I do not recognise the word "considerable" in that context, but paragraph 7 of the document acknowledges helpful input from Ministers, the MPs and the business community. Certainly, significant representations have been made, including correspondence from Ministers pressing the point about, for example, unfettered access. There certainly have been representations made, but it is not that there was extensive policy debate where the UK shared possible proposals and got reactions from Ministers. That did not happen, and no one is claiming that it happened. There were important representations made. We have talked before about the Executive's determination to represent their position with strength. Yes, there were proposals. In particular, there were proposals from Ministers on unfettered access and from the business community on quite a few aspects of the protocol. It has done exceptionally good work and given some feedback. However, it has been quite limited. Now, there is a significant opportunity to move on. We need to change gear and make this a much more substantive engagement.

The Chairperson (Mr McGrath): I apologise. It was I who used the word "considerable". Given that we face one of the biggest changes to constitutional, cultural and trading arrangements on the island of Ireland in a generation, I would have thought that requests from elected representatives would have been considerable, and it is somewhat disappointing to hear that it was not.

My final question is whether there has been any discussion in the Executive Office on asking for a delay in the implementation of Brexit, given that, as you mentioned, the focus has not been on Brexit because of coronavirus?

Dr McCormick: There is discussion and there are opinions, but there is no formal position on that.

The Chairperson (Mr McGrath): Thank you very much, Andrew.

Mr Beattie: Andrew, Lorraine and Lynsey, I hope that you can hear me. Thank you for your presentation, Andrew. Without a shadow of a doubt, there are many strands to go through in the process. We are disentangling ourselves from the EU and putting in structures to make life work between us all. I thank you for the considerable work that you are all doing in that regard. I have only two questions. One is very pointed; the other is about getting a general sense of things.

Whether there is agreement or not, can I get confirmation that the Northern Ireland Civil Service is planning solely on the principle of unfettered access to the GB market and that there are no other planning considerations or courses of action?

Dr McCormick: We are looking at arrangements. In the total picture, there are two broad scenarios for what will apply at the end of the year. There might be a bit of light and shade, a bit of grey between the two, but one extreme is a non-negotiated outcome, in which case the protocol applies and there is only the withdrawal agreement, which covers citizens' rights, the financial contribution and the Northern Ireland protocol. The other scenario is a free trade deal. The best case would be if the UK had secured everything that was stated in its mandate or approach document published in February on what it was looking for in the negotiations. Unfettered access applies in both those scenarios because it is a dimension of the protocol. It is a manifestation of the clear agreement in October that Northern Ireland remains part of the UK customs territory and UK internal market. The UK Government promised in 'New Decade, New Approach' to legislate to guarantee unfettered access. That promise was repeated in last week's document.

There is a clear need to move on from promising to detailed implementation. What will that legislation do? How will it interact with the regulatory discretion that exists for the devolved Administrations? It is not purely a matter for London; Edinburgh and Cardiff have an interest as well. However, the principle is there. The promise of unfettered access applies. Yes, absolutely, we are planning on that basis. There are still wrinkles even in that. The UK had to acknowledge, last October, that there was one constraint on unfettered access, which was the international obligation in relation to exit declarations. That came out in Parliament in October last, but last week's document states that the UK sees no reason for that procedure to be required, given that goods are moving from one part of the UK to another. The UK Government's position is that there is no need for those declarations, which would be the only actual bureaucratic manifestation that would oppose unfettered access. It is a central planning assumption. It needs to be delivered. It has been promised, but getting into the detail of it is important.

When it comes to where our attention and energy have to go, I am not sure that there is much more that we can do about that other than to keep pressing the UK Government to be specific about what they say, what they mean and how this can be made effective. There is more to be done. The movement of goods in the other direction — from GB to NI — involves more detail and complexity. The protocol presents big challenges that need to be addressed.

Have I picked up your question correctly?

Mr Beattie: You have, Andrew, absolutely. What you said is really important to business. Business needs to know in no uncertain terms that, whether there is an agreement or not, there will be unfettered access. You laid that out pretty well.

You drifted into my second, more general question. I know that there are more grey areas about goods coming from GB to Northern Ireland. Can you give us a sense of the points of access to those? Michael Gove said that there would be no new customs infrastructure. Can you give us a sense of

what we will be talking about and looking at when it comes to checking goods coming from GB to Northern Ireland?

Dr McCormick: It is important to separate two distinct dimensions of that: the customs and tariffs that would apply to all categories of goods and then the specific provisions that apply to agri-food and products of animal origin — everything that is subject to the SPS regime. On the first of those, the relevant bits of the protocol are the first few paragraphs of article 5. The key concept — it was emphasised strongly in the UK Government's document last week — is this: for goods coming from GB and staying in Northern Ireland — for example, going straight on to supermarket shelves or straight into retail — there is no issue for Europe to worry about as there is no risk to the single market. Where there is a legitimate concern from a European point of view — it is why that clause is in the protocol — is that, if the door between GB and NI is wide open and the land border is totally open with no checks or controls there at all, what will stop people exploiting that and diverting the flow of goods in a way that would undermine the integrity of the single market? That is the origin of the concern.

The first point to make on that is that — this is the benefit of being relatively small — in global economic terms, the scale of the issue is not that big. The fact that a very large proportion of the goods that come into Belfast port, Larne or wherever are sold and consumed within the region minimises the risk. Every effort needs to be put into demonstrating the way in which the market works and ensuring, therefore, the minimal application of that issue — that the "at risk" goods category is kept to a negotiable minimum. That is the objective.

The provision is that, if there is a tariff differential, article 5(1) of the protocol will create an obligation for EU tariffs to apply where there is a risk of the goods going into the EU through Northern Ireland. That is why the negotiations on tariffs will matter so much in the mainstream trade negotiations and why, if we were to end up with a non-negotiated outcome, the normal most favoured nation (MFN) tariffs would apply in both directions, which is when we would start to have more of an issue. That is why, from a regional and protocol point of view, getting a good deal in the main negotiations would be a highly desirable outcome.

That is the first category. It is about customs, tariffs and the totality of goods. As you said, the UK has stated that it can fulfil its obligations on information flows without customs infrastructure. The underlying point remains that customs information will be required. There will be an obligation to provide information, but, if that can be provided solely by digital means, that is a very positive thing to look for, immediately or as soon as possible.

On SPS, the considerations are a bit different because the issue there is not tariffs or customs. SPS controls exist to protect human, animal and plant health and to respect, as the UK Government's paper stated last week, the long-standing integrity of the island as a single epidemiological unit, which goes back to the 19th century. Some controls have always been in place for that reason. When we used to fly in aeroplanes — remember those days? — there would be an announcement, "If you have been on a farm in Great Britain, please report to the Department of Agriculture import inspector". That regime is familiar. It will need to be expanded materially because of the need to ensure the proper protection of the SPS regime, but it is still a matter of managing that sensibly and with a clear objective, as the UK paper says and as everyone else would say, to minimise the impact of the controls. The controls need to be there, they need to be effective, and they need to work. There is no doubt or debate about the need for controls; the question is whether they can be minimised and made as low-key as possible. In every situation on every other external boundary of the EU, a consideration of how checks should be applied will look at circumstantial risk: what is the actual threat? If there is no actual threat, the degree of checking can be much lower. If there is concern that a neighbouring country, for example, has lax controls on some area of risk that might lead to disease entering the EU and spreading, everyone would want that to be prevented.

It is vital for our agriculture sector to maintain its excellent reputation for plant and animal health. Part of our marketing strength depends on the high-quality reputation of the excellent work on food security that is done in Northern Ireland. There is every reason to want to protect our economic interests in those terms and, therefore, to be secure. However, if the risk is low, the level of checking can be low. Exactly how it applies needs to be negotiated. Different trade deals involve different degrees and different percentages of physical checking. Documentary checks are needed. Documentary evidence is needed so that people know what is coming in. Stuff that is going onto supermarket shelves will be processed and will be fundamentally safe. Even though they are agri-food products and products of animal origin, the degree of risk may be very low for a lot of products, and the controls should be totally proportionate to that.

There are quite specific requirements in relation to live animals. That is, as a matter of fact, part of how the status quo works. At present, there are controls on live animals entering Northern Ireland. There will be a need to align those precisely with the new regulatory regime. However, that is not a big change in the real world.

These are all matters of working out the practical realities with the clear objective of making sure that the flow of goods is as smooth and as frictionless as possible and that checks are only what is absolutely necessary. Of course, a degree of that depends on what the EU is prepared to accept, because it will only accept something that provides it with the confidence and security that it needs. There is stuff to be negotiated, but there is every reason to believe that it can be practical and sensible, recognising that, if it is risk-based, lots of things in the real world will be very low-risk and, therefore, the checks should be quite low-key.

I am conscious that that is a long answer, but I hope that it is of some help. I am happy to go further on any points.

Mr Beattie: Andrew, it does help. That was a detailed answer, and I thank you for it. I do not have another question, but I will say to you that there are some slightly conflicting views on this. Two weeks ago, the information that we got from the junior Ministers was slightly different. There was a sense that we were being told that new customs posts would be set up. That is the sense that we got, but you have just painted a very different picture.

Dr McCormick: I do not think that there is a tension there. What is needed to make the SPS checks effective is what are called "border control posts". OK, the word is not appropriate for our context because it is not a border, but the functionality is still needed, and there is an obligation under the SPS parts of the protocol to make sure that there are appropriate control posts dealing with the entry of agri-food products, everything associated with SPS checks. I think that that is what Minister Kearney was talking about, and it is what I am talking about. There is no inconsistency. What was new in the UK paper last week was the commitment to avoid customs infrastructure. That is a UK proposal, and it is highly desirable from our point of view. That is why I make the distinction between customs, which has one set of constraints and regulations, and SPS. I do not think that there is a difference there at all.

Mr Beattie: Andrew, I do not think that I was saying that there was a friction or a difference between you. If you think that that was what I was trying to imply, it was not. There might have been a terminology issue. With one, we are talking about points of access; with the other, we are talking about customs points. In regard to customs, there will not be any new infrastructure.

You have been very patient with me. Thank you very much.

The Chairperson (Mr McGrath): I will move to other members. I am conscious that it has taken us nearly 55 minutes to get through the Chair and Deputy Chair's questions. Andrew, I ask for your support in keeping the answers as concise as possible. That would be really appreciated. Thank you.

Ms Anderson: As someone who once described herself as being "Brexhausted", I do not think that brevity and Brexit go in the same sentence.

After you were last here, on 29 April, we received the EU technical note the next day. On 13 May, as mentioned, the two junior Ministers came here. I was clear about what Declan Kearney said about the border control posts being needed for SPS, and I can see in the paper from the British Government that they want to avoid customs infrastructure. The paper that was released by the British Government was nearly a rally to the flag. It is heavy on rhetoric and light on fundamental detail. It is quite aspirational in some respects, given that we are dealing with an international agreement that has been signed off, and we know the implications of that.

Sinn Féin does not share the view of the British Government on the free trade agreements that they want to take forward and present as advantageous to people in the sectors in the North. Goods coming in under those free trade agreements, for instance, will no longer have to comply with the safety standards of the EU, whether on environment, employment or consumer protection. I want that on the record. From reading the paper, I think that there was a light-bulb moment in relation to the repercussions of Brexit starting to be accepted when, unfortunately, it is too late. In the paper, you can see the burden on business around declaration and the significant extra cost to business.

Just as an aside, I was at a Committee for Infrastructure meeting this morning. The haulage sector is struggling big time because of COVID-19 and cannot cope with the prospect of what is coming at it in seven months' time. Whether there is a deal or no deal, there is a lack of preparation in place, and that sector has been clearly calling for an extension of the transition period.

We heard from Michel Barnier today that the EU is willing to look at a two- to three-year transition period. In the context of COVID-19 and where the business community is currently, lots of support is starting to emerge for that call for an extension.

Given the discharge of the protocol, in the context of, perhaps, avoiding customs infrastructure, which is fine, through expansion, if there is not to be an extension, I saw in the paper technical solutions that, I thought, had been put to bed or gone into the bin. Let us hope that some can be found. We know that they do not exist currently, but they are starting to re-emerge.

The EU says that putting the necessary infrastructure in place, whether it is new or an extension of what is already there, needs to start immediately and that, whether it is the border control posts for SPS or something else, that work needs to be done. Where are we with that? I am also conscious that the technical note that came out on 30 April outlined issues that needed to be dealt with. One was that there needed to be an IT system put in place so that the system here in the North could plug into the EU system. *[Interruption.]* There you are: that was my watch saying that it does not understand me.

The Chairperson (Mr McGrath): It is not a good omen.

Ms Anderson: It probably does not understand the British Government's technical note either.

Anyway, the technical note said that the IT system needed to be in place by 1 June, which is Monday. Where are we with regard to the technical note?

It also said that a dedicated mechanism needed to be put in place to protect the Good Friday Agreement rights and the six EU equality directives, as outlined in the protocol. I would like to get a sense of where that is. The more of the procedures that can be correctly dealt with, the better. "Supercalifragilisticexpialidocious" was how one MP described the technical arrangements that would be put in place. "Call it what you want", he said. There are none, as we know. I am concerned about the burden that will be placed on businesses, given that they are looking at the clock ticking down the seven months that remain. Whether or not there is a deal at the end of this — I hope that there is — there are things that need to be put in place for businesses around custom declarations and other matters that they need to see happening so that they can start to plan and prepare. There is no evidence that that is taking place, so, businesses are apoplectic. I am sure that you are being lobbied, as we all are, because businesses know the consequences of what Brexiteers have done to them and the implications of the Brexit mess. Businesses are extremely worried about what will come at them should there be no extension to the transition. I want to get a sense from you of what is happening now to prepare for what, we know, needs to happen in the implementation of the protocol.

Dr McCormick: Just to recap on what I said earlier, the work on preparedness is coming into focus as an urgent, top priority. It needs to be considered in more detail at Executive level. We need much better access to the work streams and projects that are already under way in Whitehall. That was discussed and some things promised at JMC (EN) last week. You are absolutely right about the issues around information systems. There is an urgency about getting those into place and in a fit-for-purpose state. We take all those points as extremely serious parts of how this moves forward and why we need to mobilise and energise the work of implementing the aspects on SPS, including the effectiveness of the control posts that are needed in relation to access for goods, and making sure that it is done in the right and appropriate way.

Customs and tariffs are matters for Her Majesty's Revenue and Customs (HMRC), not the devolved Administration, although part of our role and the clear view from Ministers is to get as soon as possible to as clear and straightforward a way of handling it as possible. There is every reason to share the concerns, but then it is also a matter of making sure that the work is mobilised and organised.

Ms Anderson: Will the work be under way for the database system on Monday? Will we see, at least, the work starting on that? That is the deadline that was given in the technical note by the EU.

Dr McCormick: I will try to find the reference in the technical note on my computer as we talk. I do not see that particular point. I will check that point out and get back to you, Martina, through the Chair.

Ms Anderson: It is on the implementation. Sure, you can check that out and get back to us.

Mr Lunn: Hello, Andrew. Can you hear me OK?

Dr McCormick: Go ahead, Trevor.

Mr Lunn: I have just a couple of quick ones. I am a bit confused, once again, about the fisheries situation. I look at the technical note, and there is a lot of talk about UK or third-country fishing vessels. Northern Ireland and UK vessels appear to be third-country vessels for the purposes of the protocol. I then look at the respective positions of the UK and Europe in a different document that we have, and there is such a clear difference there that you wonder how the bridge could ever be crossed. It seems to me, in simple terms, that the EU wants to have minimal change — let us put it that way — to the current access arrangements for European fishery boats and the British Government want to have minimal access for EU fishery boats from the end of the transition period. Can you shed any light on that? Is any progress being made?

Dr McCormick: There is a genuine difficulty at the highest levels in the negotiations. Fisheries is one of the big sticking points in the main negotiations, where, as you laid out, there are contradictory positions between the EU wanting a lot of continuity from the status quo and the UK talking strongly about the importance of respecting its new independence. At that macro level in the negotiations it is a major element. Again, within the different approaches being taken by the EU and UK, there may be scope for a fisheries agreement. If things were going better, you would be looking at a fisheries agreement alongside a mainstream trade agreement.

On top of that, we have the unique aspect in article 5(3) of the protocol, which recognises the need to address how certain fishery and aquaculture products that are landed in Northern Ireland by UK vessels are treated for customs. That is a specific area where, obviously, we would want to maximise the exemption. There is a reference to the possibility of an exemption. That is one of the four decisions that lie ahead for the Joint Committee to resolve as something that was not settled in October. There are at least those two layers that are quite complicated in their own right. When you bring them together, you get a complex combination of issues. That needs to be untangled. The negotiation process will move them on, because fisheries at large is a big and current topic. The specific article 5(3) issue is being worked on, primarily by DAERA and DEFRA in London. That is a long way of saying that I share your sense of how complicated it is.

Mr Lunn: I know that I am mixing up the macro and the micro, but thanks for what you said.

There is a line in the current positions that states unequivocally that, as far as Europe is concerned, there will be no free trade agreement without a fisheries agreement. That one line just sums it all up. We are getting close to the wire.

Dr McCormick: There is still negotiation. Until things move on, you never know where things will land.

Mr Lunn: Fair enough. Just one more, then. I read the technical note on implementation from 30 April. There is a theme that runs through a number of the sections. It states:

"the Commission urges the United Kingdom to enter into technical implementation discussions ... immediately."

That was 30 April. That applies under rights, the single market, state aid, next steps and possibly a couple more. What level of activity has there been between 30 April and today that would give us hope that things are actually happening?

Dr McCormick: I cannot claim to be fully sighted on that. I would not expect to be fully sighted, because a lot of the aspects of the work at a technical level are in fields that are not devolved and are matters for HMRC, the Treasury in London or other parts of the UK machine. I can infer that there is a fair bit of discussion going on, but we are not sighted and would not expect to be sighted on that. We are most directly involved in the realm of the SPS controls, because that is where a lot of the responsibilities fall to DAERA. There is a need to push that further, and certainly we have a responsibility to represent the interests of the business community in Northern Ireland. That is part of what we seek to do. Sorry, that is not much of an answer, Trevor.

Mr Lunn: It is pretty much the answer I expected.

Dr McCormick: There is every reason for us to keep pushing these things.

Mr Lunn: Are we involved in the macro discussions that will affect the situation in Northern Ireland? Do we have access? Do we even have non-speaking rights in those discussions? What is the level of input?

Dr McCormick: When it comes to the formal level, yes. There are speaking rights at the Joint Committee and the Specialised Committee. Those are absolutely clear. Ministers Kearney and Lyons were invited and had the opportunity to contribute at the Joint Committee on 30 March, and I had a full opportunity as well at the Specialised Committee. Those are genuine opportunities. The point is that neither of those meetings were yet at the level of substance where it was necessary to represent a view, because there was no proposal for resolution on the table. That is coming.

In the mainstream negotiations, we are in a much more limited context. We have some briefing and debriefing on what is going on but no actual direct access to the mainstream negotiations.

Mr Lunn: Thanks, Andrew.

Mr Stalford: Can you hear me OK?

Dr McCormick: Yes, go ahead.

Mr Stalford: That is grand. Paragraph 30 of the UK Government's document that was published says that:

"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."

If you are talking about stuff going from Northern Ireland to Great Britain, less than 1% is being checked: is that right?

Dr McCormick: That is what it appears to say, yes.

Mr Stalford: On SPS, obviously, I have never served on the Agriculture, Environment and Rural Affairs Committee and do not represent a rural constituency — I think we have one farmer in South Belfast — but are all live animal movements checked?

Dr McCormick: Paragraph 30 is in the context of customs and fiscal checks.

Mr Stalford: Yes, I know. I am moving on.

Dr McCormick: The agri-food section is from 33 onwards.

Mr Stalford: Yes, I am moving from customs to agri-food.

Are all live animals currently checked, for example, if they are going from Larne to Scotland?

Dr McCormick: I am not sure what happens in that direction. I know there are definitely checks on live animals entering at Larne, as part of the status quo. I am less familiar with the other direction. Lorraine or Lynsey may have something on that.

Mr Stalford: OK. At the macro level that Trevor was talking about, the current UK net contribution to the EU is £11 billion a year.

Dr McCormick: Sorry, I am not hearing you very well.

Mr Stalford: Sorry. I am asking: at the macro level, the overall UK —.

Dr McCormick: Yes. *[Inaudible]* matter of fact.

Mr Stalford: And, during any extension, we would continue to pay at that rate.

Dr McCormick: My understanding is that, in the scenario of an extension, the financial contribution would be negotiable. I am not sure that you can extrapolate from membership into what would be the unique scenario of a departing member state that would not be participating in at least some — quite a lot — of the financial instruments that are covered in the mainstream European financial system. In the scenario of an extension, there would be a financial contribution, but it would not necessarily be purely a roll-forward of the status quo.

Mr Stalford: Given how flexible it has been, I am sure that the EU will be reasonable with us.

Dr McCormick: That is above my pay grade.

Mr Stalford: That is an opinion; you do not have to answer that.

Can you talk to me about contact between Northern Ireland and Whitehall and then between Whitehall and Brussels, away from the showpiece negotiation sessions? What is the Executive Office's level of contact with Whitehall on these issues? Can you give us an insight into how often the conversations take place between Whitehall and Brussels?

Dr McCormick: The practical fact is that an awful lot of attention in the last few weeks was on getting last week's document organised and published, and that is where the energy was. There is a new phase now, and our hope and expectation is that that takes us into a different place where there can be more detailed and fuller engagement. That is our aspiration, and I hope it comes to pass, because it is important if we are looking ahead. We have got good working relationships with the people in the Cabinet Office and the Northern Ireland Office. It is a good set of relationships. It definitely needs to move forward now into a much more detailed engagement, insofar as there are matters that are within or affect the devolved range of responsibilities.

Lots to be done there, lots to pursue. However, just as a matter of fact, the nature of life has been heavily focused on last week's document in recent weeks.

Mr Stalford: The reason I ask is that it is important that people do not fall into the trap of believing simply that the negotiating sessions that last for two days in front of the media are the full extent of the contact that takes place. We all know how these things work. Sherpas work things out beforehand.

Dr McCormick: That is absolutely right. The informal detailed exchanges are the ones that will matter. We recognise that we have limited access, but it is still very important that we do the best that we can in those areas.

Mr Stalford: Just to be clear, it is only at the macro level that it is envisaged by both sides that the arrangements will be temporary and that best endeavours will be used on both sides to arrive at technical solutions. Is that a correct statement of the position?

Dr McCormick: As you say, there is a reference to best endeavours in article 6 of the protocol. That is clear. The withdrawal agreement itself refers to the potential for it to be superseded in whole or in part. Those words are clearly in the agreements. What matters, looking ahead, is how the fundamental requirements that govern the negotiations are fulfilled. Therefore, what happens in the longer term will depend on how things work out in practical terms and both the nature of the free trade agreement and how implementation takes place.

Lorraine and Lynsey may want to come in on those wider perspectives.

Mrs Lynas: I just want to add to the point about our engagement with Whitehall and, perhaps, elaborate a bit on the role of TEO in that. We work directly with the Cabinet Office, facilitating discussions between Northern Ireland Civil Service (NICS) Departments and their counterpart Departments at which some representatives *[Inaudible]* might also be in the room. The extent to which the discussions go into the wider issues of landing zones and the negotiations *[Inaudible.]* The

sessions are good in providing additional clarity, even now, since we have the legal text, looking at how we might further those. There is good working-level relationships with officials, but it is that extra bit, as Andrew said: the negotiations themselves and the political space that they will be in.

Mr Stalford: OK.

The Chairperson (Mr McGrath): Thank you. I will move to the members on the phone. I will go through them in the order that they joined the conversation at the start of the meeting.

Pat, have you any questions that you would like to ask of the panel?

Mr Sheehan: No. I am OK. Any points I had have been covered, thank you.

The Chairperson (Mr McGrath): George, have you any questions?

Mr Robinson: I am OK at the moment. Thank you.

The Chairperson (Mr McGrath): Excellent. Emma, would you like to ask a question?

Ms Sheerin: I wanted to ask whether we have a calculation — I know that there have been some estimates — of how much the North will lose in funding from the EU. Obviously, it will include the CAP, the rural development programme and all those things. Do we have a figure yet for what the net loss will be?

Mrs Lynas: That was part of the answer to one of the Committee's questions. Going back to that, the figures on the structural funds, which are in the public domain, are that the European regional development fund is worth €313·2 million, the common agricultural policy — this is pillar 2, so it excludes the basic payment — is €228·4 million, and the European social fund is €210 million. There would obviously be CAP pillar 1 on top of that. That information is to come back to the Committee very soon.

The Chairperson (Mr McGrath): Are you happy enough, Emma, or do you want to ask a supplementary?

Ms Sheerin: Well, I am not happy with what we are hearing, but, no, thanks for that.

The Chairperson (Mr McGrath): Finally, Trevor Clarke, are you still there? Do you have a question?

Mr Clarke: Thank you, Chair, and thank you, Andrew and your team for the presentation. There is a concern, particularly in my constituency, that, if Northern Ireland remains in the EU customs union after the transition period, Belfast International Airport will be disadvantaged by passengers being able to access duty-free and tax-free sales in other airports on EU routes. Has there been any discussion with the Government, with local Departments making representations on what Northern Ireland will lose from that?

Dr McCormick: Trevor, I do not have an answer to that just now, unless my colleagues can help. I know that there has been some thought and correspondence on it.

Mrs Lynas: Customs and excise is an excepted matter that sits within UK Government responsibility. It is fair to say that an economic impact assessment would have to feed into any decision to change policy, but there have been no discussions on that, as far as I am aware.

Mr Clarke: I accept that it is a reserved matter, but, given that Northern Ireland has the International Airport and sits outside the mainland of the UK, I presume that we will be disadvantaged. Is it something that you are flagging up or will flag up?

Mrs Lynas: There are no plans at the minute. I am aware that we have had some correspondence on it, but there are no plans at — *[Inaudible.]*

Mr Clarke: Sorry, you have no plans?

Dr McCormick: It is one that we need to look into further, Trevor, and come back to you more properly with a fuller answer. You have hit on one of the unique and maybe, I am not sure, not totally foreseen consequences of the unique arrangements whereby we will be part of the UK customs territory in law but have a range of obligations to the EU as a result of the protocol. In working out precisely how that would be applied and how it would impact on something specific like duty-free, Trevor, I would like to look more properly at exactly how that is applied and come back to you with a better answer, if you do not mind. Sorry for ducking it now, but you have a fair point.

Mr Clarke: You know that I will not let you duck it.

Dr McCormick: It is an important point to probe, and I would be astonished if Belfast International Airport is not pushing that very actively, as you would expect it to.

Mr Clarke: I would expect it to, but I would also expect the likes of your Department to push it.

Dr McCormick: Sure.

Mr Clarke: Belfast International Airport can only push it through political representation. It is not at the table to make representation directly on its own behalf. It worries me that it is not being considered. Belfast International Airport has always been disadvantaged by some of the offerings at Dublin Airport, given the influence of the Irish Government on that airport. I would like to see a case made for Belfast International, because we need to be on an equal footing with other airports on this island.

Dr McCormick: Strong points. Let us look into the detail and come back to you.

Mr Clarke: OK.

Ms Anderson: There is a solution: end partition.

The Chairperson (Mr McGrath): Christopher, you wanted an extra supplementary on something that was asked.

Mr Stalford: Yes. Due to the fact that we will no longer be obliged, under certain EU regulations, we now have greater scope for the development of free ports. The Chancellor of the Exchequer literally wrote the book on free ports and their benefits. This is related to our exit from the European Union. What discussion has there been about the development of free ports? My understanding is that the Government intend to create 10 around the United Kingdom. Has the Executive Office come to a position on (a) whether we want one for Northern Ireland and (b) where should it be? I think that it should be in Belfast, but I know that other people disagree. Would you talk about that for me?

Dr McCormick: That is primarily an economic policy issue for the Department for the Economy.

Mr Stalford: Yes.

Dr McCormick: We have had some brief discussions. It is not something that I have been involved in in any great detail. There is certainly that view, and, as you said, it is something that Chancellor Sunak has personally been very active on, going back to the time before he was in government. There is a lot of interest in looking at it from a Belfast point of view and a north-west point of view. The policy analysis and advice on the values and merits of the idea and the way to respond to the UK Government consultation that is under way needs to be considered primarily by Economy, although there are probably elements that would affect other Departments. Therefore, it should become an issue that the Executive and the Committee might want to consider further. It is an interesting policy development.

Mr Stalford: We should ask —

Dr McCormick: It is not our specialist subject, I am afraid.

Mr Stalford: We should ask for two: one for the north-west and one for Belfast. Then, everyone is happy.

The Chairperson (Mr McGrath): I thought that we were going to go for a counterbalance and make Foyle the port.

Ms Anderson: I do not want to be associated with anything involving tax evasion or tax avoidance. We have heard enough about what that has done across the world, and we know that free ports have contributed to all of that. I caution against rushing to embrace that concept. Much more needs to be done. It does not surprise me that a member of the British Government — a Cabinet of millionaires — would write a book on that.

Mr Stalford: God forbid you should create opportunity for your constituents.

The Chairperson (Mr McGrath): Fortunately, as this is not in the remit of our Committee, we will conclude our conversations there.

Members, thank you very much, and thank you, panel, for your answers. Lorraine and Lynsey, I appreciate that we did not hear too much from you, but thank you for joining us. Andrew, thank you for your answers. It is a complex issue, and we appreciate the full answers that you have given. No doubt, we will have you back again some time soon for more questions. Thank you very much.