



Northern Ireland  
Assembly

Committee for The Executive Office

# OFFICIAL REPORT (Hansard)

Brexit: TEO Briefing

16 December 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

**Witnesses:**

Dr Andrew McCormick	The Executive Office
Ms Lynsey Moore	The Executive Office
Mr Tom Reid	The Executive Office

**The Chairperson (Mr McGrath):** I welcome Andrew McCormick, the director general of international relations at the Executive Office, and Tom Reid, who is director of EU relations and is taking full advantage of being in the room. We lost you the last time when you appeared by StarLeaf. We are also joined by Lynsey Moore, who is in the audience. Hopefully, we will get Lynsey moved up into the spotlight. Lynsey is the director of the European division and head of the office of the Northern Ireland Executive in Brussels. As ever, the session is being recorded, and Hansard will provide a transcript.

I will pass over to Andrew to give us an update of things that have happened in the past week, and then we can open up to questions from members.

**Dr Andrew McCormick (The Executive Office):** Thanks for the opportunity to be here at a very interesting stage of the process. I do not have a lot to say about the main negotiations. You can see the tweets, read-outs and different bits of briefing as well as I can and draw your own conclusions. There is still a strong possibility of a deal despite all the steps that are being taken and the long journey that we have been on, but it certainly makes managing the new year challenging, given that the uncertainty has lasted a lot longer than was expected. There will be a lot of adaptation to do, whatever happens, one way or the other.

I will not say much but will focus on the thing that is of most concern to the Committee. Obviously, a lot was decided last week. There was important agreement between the co-chairs of the Joint Committee, and that will go for formal ratification at the Joint Committee meeting tomorrow. The decisions on the protocol give some very important clarifications on the way that it will operate. We have been debating and discussing those issues ever since the protocol was agreed in October last year and ratified in January.

There is a lot to be looked at there and a lot of detail to be worked through in order to balance the necessary and vital interests, from our point of view, on the movement of goods in both directions across the Irish Sea and how that reconciles with the obligations under the protocol. There is a way forward on all that, but it is quite complicated.

I will summarise briefly the areas where there have been decisions. The draft decisions were published by the UK Government last Thursday night. They cover several, but not all, decisions that are specified in the protocol for the Joint Committee, as in, a decision on at-risk goods and the definition of what that means in practical terms. That has moved on. There was the question of the ceiling on subsidies for agriculture and fisheries that would be acceptable under EU state aid. That has been resolved and is probably one of the more straightforward ones. Accommodation has been found on Commission presence, and there has been a low-key pragmatic solution to that one.

The fourth decision that is specified in the protocol relates to fish landing, so that means the conditions that would apply to ensure that when vessels that are registered here land in their home port they are not liable for tariffs. There is detail to be worked out on that still, and it is probably linked to the wider, high-level discussions on fisheries, that being such a major part of the main negotiations.

Those are the specified decisions, as it were. On top of that, as we discussed before in the Committee, the other issues relate to the detail on movement of agri-food products from GB to NI, so important ways forward and pathways were agreed on export health certificates. They are a massive concern for the sector, which includes agri-food importers and retailers. That was a way forward that was agreed, especially for the vital issue of supermarket consignments. There was also a way forward agreed on the complex issues in meat products and chilled meat products that emerged and that needed to be resolved. There is a pathway forward on that, with a time-limited derogation.

There are also the two issues that were at the heart of the Internal Market Bill. There has been a way forward agreed on exit declarations. The UK Government have committed to providing the essential information that is relevant to those in a different way, hence minimising the obligations on traders — the people who are moving goods. That is a big step forward. There is also a narrower definition of the issues relating to state aid, and that helped us through the state aid issue and the so-called reach-back provisions that were controversial in the Internal Market Bill.

All that was achieved in time for the Government not to need to proceed with some of the controversial clauses in the Internal Market Bill and the taxation Bill. That was an important and necessary step in the negotiations, but the negotiations on the main free trade agreement (FTA) and all related issues continue. Some of those affect vital interests here in areas such as North/South transport, data flow and all the other top issues that are of concern as we get ready. Getting ready is now the issue, as is turning those decisions into something with the maximum clarity possible for businesses in order to allow them to move forward.

Those are the main events. If we went back another week, I would have a spiel that is just as long, but, hopefully, that is enough to get the ball rolling.

**The Chairperson (Mr McGrath):** Thank you very much for that. Obviously, it is a landscape that has changed and that changes regularly. We appreciate the difficulty that there can be in providing updates. If we look at the number of achievements from last week, we see that there has been no real achievement; they have come up with those decisions about two weeks before they are required. I am sure that the achievements that were made last week between the two sides will not be felt as achievements by the businesses and communities that are going to be impacted, because it would have been better if they had known about them four or five months ago rather than just a few weeks before they are required. However, such is the process of negotiations. Often, they go to the wire. I appreciate and accept that there are still a lot of difficulties for businesses. Any uncertainty that is removed is helpful.

I have one question on process before I go on to a question of more substance. A future trade agreement has not been agreed. If that was sorted out this week, for example, what sort of process would we be looking at trying to implement? The end of the transition period is two weeks on Friday. What sort of requirement will there be to ratify any of that? Will there be any impact on the Assembly, as the two weeks are Christmas-based weeks? Will there be a requirement for things to be done, or can they wait until January?

**Dr McCormick:** Proper and effective implementation would require ratification on both sides, which is as simple as needs be for those on the UK side because they can take a Bill through Parliament very

quickly. A few days can be sufficient when necessary, as we know well from the various ups and downs of provisions for Northern Ireland talks. Westminster can go through the stages very quickly. As we speak, that is still possible. If there was a deal and a need to take a Bill through Parliament, that could be done.

On the European side, the questions are on what is ultimately required in practical terms. Any agreement would have to be confirmed by the member states and the European Council. That is the fundamental necessity and why the process continues, in that sense. The negotiators have a very clear responsibility to the mandate from the Council, as in the member states. That stands and is still working out.

Dealing with the issue will be the role of the Parliament. There is a convention that something like this would be subject to ratification; it would go to a number of committees in the Parliament and would be subject to a vote. It is almost impossible, and I say "almost", because when the will is there, sometimes anything can be made possible. We will see what happens on that. Lynsey might want to come in on this point because it is a very important element of how this works out.

We have had some direct contact with MEPs. Back in September, they were saying, "Oh, it really needs to be sorted in October to allow for the legal text to be translated, understood and considered by Committees and for reports from the Committees." That would have been a good conventional process, but it has clearly been squeezed. There is a lot of speculation about different ways that this could proceed. From the point of view of good government, certainty and clarity are needed. Certainty is needed about what the law is, what law applies and how that works out. Coming back to this side of the English Channel, the question would be asked about whether there is anything in devolved competence, but, again, there is no time for an Assembly process, even if that was essential. Lynsey can add to the European Council or European Parliament process.

**Ms Lynsey Moore (The Executive Office):** Thanks, Andrew. As Andrew said, our understanding is that it could provisionally enter into force if there was agreement with the Council, but, of course, the Parliament will want to have its chance to scrutinise it in committees. A number of committees will be interested in this; obviously, the committees that deal with trade, the internal market, and external and constitutional affairs. There are quite a few interested parties. Even if there was agreement, whether it would be possible to have all that done is an issue. They would have to call an ad hoc plenary to do that, and that is quite tight. The Parliament has indicated that it will be willing to do that early in the new year.

You mentioned the lateness of decisions in general. We are very much bypassing all those deadlines that the institutions felt were necessary in order to have this all in place for 1 January. We are a little bit in uncharted territories, it is fair to say, but I know that there is a willingness from the institutions to try to facilitate it as much as they can.

**The Chairperson (Mr McGrath):** Without picking at words, does dealing with it as "best they can" mean that, if it was ratified or agreed by the Council but then had to go to the European Parliament to be put through there, it is not officially in action until they have completed that process? If that is the case, what would happen to trade and businesses? What would they do if it took until the third week of January? What would happen in those three weeks in January, or are those the uncharted waters that you are talking about?

**Dr McCormick:** I am not sure about that, but the key thing would be a provisional application — by that I mean a legal application — that would therefore mean that people are conforming with what is said on that agreement. It would be very unfortunate and is to be greatly avoided to have businesses behaving for, say, three weeks as though there is no deal and then for a deal to take effect only after formal ratification. It would be far better to have the continuity and the essence of a provisional application. It would make that legally defensible and a basis from which people can comply with legal obligations. Getting clarity on this is really important in the next week or so.

**Ms Moore:** My comment on "uncharted waters" was about the institutional procedure rather than the application of the agreement. As Andrew just pointed out, it will be provisionally applied.

**The Chairperson (Mr McGrath):** In response to a question on Monday, I think, the Economy Minister suggested that there would be very little impact on the run of finances as a result of Brexit. However, today at the Economy Committee, she highlighted that there might be about £70 million of funding that will not be there after Brexit. We did some work with the councils in order to listen to them about the

pressures that they might face. There is significant concern in a number of sectors that finance that was available may not be in the future. Hopefully, that is still in the territory of "may not" and will be replicated, but there is no assurance about that. Has an audit been done across the Northern Ireland Civil Service to pinpoint exactly which funds come from where as European funds, when they will dry up, what the replacement will be and what the ramifications will be if there is no replacement funding? If so, could that be made available to the Committee so that we can see what the impact of Brexit will be financially?

**Dr McCormick:** No, that is a very important line of analysis. Things are not certain at this point in time. The previous undertaking was to have continuity and to replace European funds, and that was said at an earlier stage. The outworking of that and the way that it has been handled by the UK Government means that there is still more to come and to be said on that. Some of that will lie with the Department of Finance in its work on the main Budget and how that plays out, which is a main topic for ministerial consideration at this stage of the year, and there is also PEACE PLUS as an agreed element of what this was looking at.

I do not have much to add to what you have heard before at this stage. There is still work to be done to be absolutely clear on any comparison of what happened before and after. The anxiety is that the previously promised continuity funding will not be fulfilled, and that is probably what Minister Dodds was concerned about. It is a point that I am familiar with her making in other contexts. Lynsey probably has some insight into and detail on that.

**Ms Moore:** Last week, Department of Finance colleagues provided some briefing on that. As Andrew said, they have been looking across all the different funds where Northern Ireland has received EU funding over the years. It is complex, because the funds come to us in different ways. Some of them come directly and some come to organisations in Northern Ireland that have bid in what we call competitive funding pots in the EU. We have looked at that across the board to see where the gap will be. As I said, Department of Finance colleagues have that information, and it would have been the basis of some of the briefing they gave to the Committee last week.

It is important that we get some clarity about the PEACE PLUS programme, and I know that that was raised at Committee last week. However, we are still waiting for confirmation of what programmes the UK will sign up to as part of the future relationship agreement, and it is primarily focusing on Horizon 2020, or Horizon Europe, which will replace it, and the ERASMUS programme. There have been some indications that the UK may not join the ERASMUS programme. As Andrew said, coming from that will be a conversation with the UK Government about how they propose to replace it. Both the Horizon 2020 and ERASMUS programmes are used by universities, particularly in Northern Ireland, but local government and other higher education institutions access quite a lot of their funding as well.

**The Chairperson (Mr McGrath):** Lynsey, as somebody who has availed themselves of many ERASMUS+ and of YouthAction programmes before that, can I ask whether that is a cliff edge, with the result that, if the UK decides not to sign up to that on 1 January, people cannot apply to the schemes, or do we get to the end of the round before we have to opt out of them? I know that they used to run them on six- or seven-year rounds.

**Ms Moore:** Some of the ERASMUS places tend to run over one year, and some of the other programmes run over five or seven years. I know that arrangements were made for ERASMUS to continue for the current year. That started this year, and it might continue into next year. However, that means that people will not be able to access it from next year on, whenever the year starts in 2021.

The UK is looking at a domestic replacement for those schemes. I do not have a lot of detail on that. My Department for the Economy colleagues are looking at it, and it is being explored.

**The Chairperson (Mr McGrath):** Delivering a programme that allows a group of young people to go to Finland or Lapland and replacing it with one that allows them to go to Essex does not sound as exciting for them, although I am not saying much against Essex. I hope that we might be able to get ourselves involved in a programme that allows us to look a bit broader than England, Scotland and Wales.

**Ms Moore:** That UK-funded programme might look at international exchanges.

**The Chairperson (Mr McGrath):** Brilliant. That is good to hear.

**Mr Beattie:** The situation is fast-moving, is it not? You prepare for one thing, and, all of a sudden, something else happens. I feel for you in that regard. We are in the same business of trying to catch up and keep up to pace with this business. It is moving at pace. Can I just drop into the weeds on a couple of issues, Andrew, if you do not mind? These might already be out there, but I am just trying to clarify them.

As of 1 January, how do we stand on animal and veterinary products, such as medications and stuff? Do we in Northern Ireland have to abide by EU regulations on veterinary medications?

**Dr McCormick:** There is a 12-month adjustment period for human and veterinary medicines. That is one of the things that was announced last Thursday night. There is a draft decision on that that is subject to formal approval at the Joint Committee and the European Council. However, it is favourable and helpful. It allows time for adjustment. Ultimately, there will be a need to comply with the regulatory obligations that arise under the protocol, but there is a 12-month adjustment period.

Our main engagement on that issue has been on human medicines with the Department of Health and the Chief Pharmaceutical Officer. We have had important discussions and engagement with the Department of Health here, the Department of Health and Social Care (DHSC) and the Medicines and Healthcare products Regulatory Agency (MHRA), which is the regulatory authority for the UK. That has been working very well, but the same derogation — the same adjustment period — applies to veterinary medicines as well.

There will be time to adjust. Once that period ends, the protocol requires continued alignment, as it does in so many things, with the regulatory regime, but this means that any adjustments that are needed in how goods move or the obligations on labelling are all dealt with. There is time to make that adjustment. That issue is relatively low on our anxiety list.

**Mr Beattie:** I get that. You are saying that there is a period of bedding in that gives us until January 2022. Is that for human medicines as well?

**Dr McCormick:** Yes.

**Mr Beattie:** How does that work with the COVID vaccine? What happens if we purchase a COVID vaccine, say the Oxford vaccine, which is cleared by the UK standards agency, and we start to apply it in Northern Ireland and the programme is such that it runs on beyond that one year? Are we saying that, come January 2022, if that programme has not finished and the EU has not agreed the Oxford vaccine, it would have to stop being used?

**Dr McCormick:** I doubt that that situation will arise because there will be such a need for the regulatory regimes to stay in step. We have seen with the Pfizer vaccine that, although regulatory approval in the UK and the EU has not moved at an identical pace, it is moving, broadly, in the same time frame. I just do not think that that issue will arise. Perhaps colleagues have something to add to that, but I do not think that there is any risk of that at all.

**Mr Beattie:** That is fine. I was just trying to tie down whether there could be a cliff edge for that. I absolutely get that we have to abide by the EU rules come January 2022.

**Dr McCormick:** In that case, yes.

**Mr Beattie:** That is for human medicines as well as veterinary products.

Something else that is in the weeds is the movement of parcels into Northern Ireland. There is nothing there. What is the outcome for that? The protocol refers to "a pragmatic approach". What pragmatic approach are we talking about?

**Dr McCormick:** That was one of the things in the announcement last Thursday night that is still to be resolved. There is great sensitivity about market competition, so there is a need to look at something that is as fair as possible from all perspectives in the way in which goods move between, ultimately, suppliers and consumers. The way the parcel market works is an expanding aspect of business.

**Mr Beattie:** It is huge.

**Dr McCormick:** It is important that, as well as seeking something that facilitates access, is easy and straightforward for consumers and avoids excess cost, you do not have something that distorts competition. All those considerations come into the question of what the best landing point is and how that would work out. However, as a matter of fact, that is not settled; further resolution is required. I do not know whether Tom or Lynsey want to add anything to that, but that is not yet resolved.

**Mr Tom Reid (The Executive Office):** The only thing that I would add is that it is another one of those areas where the devil is in the detail, in a sense. My understanding is that HMRC is engaging with parcel companies on developing guidance. It goes back to a point that Andrew made that the intention is very much to streamline it as much as possible in order to minimise the impact on consumers. However, as yet, we have not seen the guidance or the outworking of those discussions.

**Mr Beattie:** What is the concern? I guess it is that parcels in GB with contents that do not comply with EU regulations could be posted to Northern Ireland. Is that the issue, in basic terms?

**Dr McCormick:** We are not in the agri-food space; there is not that much of that category of good coming in. It is more about a distortion of trade. If the main regulatory regime has a proper balance and solves the at-risk goods issue at the highest level, it means that a very large proportion of goods coming in by freight will be exempt from tariffs. Therefore, you would expect the vast majority of what comes by parcel post, even in a no-deal scenario, to be straightforward.

There is a genuine point to be considered, which is that if you create an additional incentive to do things by that route as opposed to the other routes and it becomes a distortion of competition, that is questionable. I am not saying that it leads you to any particular obvious conclusion; it may be that the simplest conclusion is to avoid any additional bureaucracy, but it is not straightforward because the volume of what is going on in that part of the market is now so significant. It is, as you said, in the weeds, but a lot of detail is there. One way to put it is that there is money to be made in the weeds.

**Mr Beattie:** There certainly is. Am I right in saying — it our affects constituents; it affects the people whom we represent, and that is why it is important to talk about it — that, on the issue of parcels, there is no delaying that? It needs to be resolved by 1 January. Is that what we are saying?

**Dr McCormick:** That is right. There needs to be clear —.

**Mr Beattie:** What is the worst-case scenario if it is not resolved come 1 January?

**Dr McCormick:** The default is an application for there to be a customs declaration on every parcel. I have bought a few things from Amazon that have come from Switzerland, for example, and what you get on the parcel is a customs declaration as part of the label. For non-EU goods coming in already, it is relatively straightforward. The question will be this: does it add a cost that distorts the market? That needs to be explored very quickly.

**Mr Beattie:** You are absolutely right: the declaration is just part of the parcelling. It is not a huge ask, but it becomes a huge issue when people do not know about it come January, so parcels that do not have the declaration suddenly do not make it between A and B — between GB and Northern Ireland.

**Dr McCormick:** Again, that is only one of many areas in which a lot of adjustment has to be made. The one thing that is certain is that lots of things will not be quite ready, and some things will not be ready at all, so there will be lot of adjustments to make in January. That is just how it works out. The important thing is to keep things as steady and as normal as possible. All the authorities recognise that the right thing to do is keep things flowing, keep things steady, and keep people trading and proceeding, while making sure that the obligations are clarified and that enforcement is done in a sensible, graduated way — not a draconian way — from 1 January, and recognising that there is an awful lot of market adjustment required.

Clearly, material distortion will need to be avoided where there are either new directions of trade or new ways of working that are not legitimate. Part of our task is to get clarity on the obligations and how people comply with them and make that as clear and as straightforward as possible. A lot of that is with DFE and HMRC. The parcel point is a UK Government responsibility.

**Mr Beattie:** You are right, Andrew. I am deliberately in the weeds, by the way, because what is in the weeds is what affects our constituents the most.

**Dr McCormick:** Oh yes. You are absolutely right.

**Mr Beattie:** The real concern is that it is now 16 December and that, come 1 January, people will not know what to do about sending parcels. That is where it affects people at the lowest level. That is why I mention it. Thank you. It shows that there is an issue.

This is the last issue that I want to raise, and I want to understand it as best I can, because it has been discussed. We understand the principle of EU supervision at our ports, and that it is being put in place. There will be lots of people unhappy about that. I am not particularly happy about it, but it is there. We need to make these things work, because we need to make Northern Ireland work. I want to make Northern Ireland work within the United Kingdom.

What do we know about that, Andrew? I am being told that EU officials will be there on a rotation basis. Is there any detail on how it is intended to work? I am not trying to get into a contentious issue, but, given the sensitivities of Northern Ireland, there is a contentious issue, and that contentious issue is, as you know, whether UK officials will be monitored by Irish officials in Northern Ireland. That is where the contention comes in. I am not trying to create a contentious issue, but people will want to know. Do we know any details about whether there will be a rotation or how they will do it? Are they looking at those sensitivities to ease people's minds?

**Dr McCormick:** There is genuine awareness of the sensitivity of the issue. That was part of what was explored in discussions with Vice-President Šefčovič and the Chancellor of the Duchy of Lancaster. There is an awareness of what it looks like and feels like. Part of the answer is having a low-key presence. I do not know the detail of how the staff will be deployed. Again, there will be a balance to be struck between continuity, where people are familiar with what is happening and are sensitive to it, and fresh eyes. There is always a proper balance to be struck in any administrative context. They will have access to databases, so not everything needs to be done by their being physically present. There is presence, but there is also access to information so that there can be clarity about what is going on.

It is important to say that this is on behalf of the EU as a whole, not on behalf of any individual member state. It is about whatever may be convenient in the island in that sense. This is clearly what was agreed fundamentally. There is a clear agreement in article 12 of the protocol that this would happen, and it has taken a bit of work to get a right and acceptable resolution.

The other member states would say that this is the only place on the entire periphery of the EU where entry into the territory is a factor and, because there is nothing at the land border, anything coming in here has automatic, free, totally unrestricted access across the island. Therefore, to entirely trust a third country — the UK — to look after all of that is a very big ask from their point of view.

We have said in the discussions with the Commission that it should be aware of those sensitivities, and Michael Gove and his officials have said how sensitive this is in negotiating what is now resolved as the way forward. The Commission responded that it has sensitivities too. It is about access to the market, if you look at food being an issue and all that is sensitive about food safety and issues of distortion of the single market. That is incredibly sensitive from the point of view of Italians, Poles or any of the member states.

The Commission tells its members to make sure that they do not cede so much that they risk access to its market. Sensitivities on both sides are why it took time to resolve this. However, it was announced last Thursday that there is a decision for formal adoption at the Joint Committee. The workings of the decision have already been published.

**Mr Beattie:** I echo that. I do not apologise for being biased. I am concerned about Northern Ireland, the perception of Northern Ireland and how Northern Ireland will work. I have said already that we need to work to make Northern Ireland work within the United Kingdom, and that is why I am biased on this. That light touch is really important, and it really important that we point it out. People may disagree, but EU officials walking about in high-vis vests with the EU logo will be too much for some people. There are ways of making sure that they can do their jobs and do them right and do them well while having a light touch. I have kept for you long enough. Sorry to get into the weeds. Thank you.

**Dr McCormick:** That is where the work is.

**The Chairperson (Mr McGrath):** There and my garden are the two places where you will find weeds, but that is another conversation.

**Ms Anderson:** Andrew, thank you for that overview. From listening to you, Doug, I can imagine what it must be like for your constituents and for you because I know that you voted to remain. We hear the phrase, "We are where we are", but I do not accept that because we do not have to be here. Officials at the Infrastructure Committee today said that, for them, 1 January was only the start of the Brexit problems for our Departments because it is a mess. Unfortunately, as a consequence of it, there was going to be a border somewhere, and anyone who had not thought that through had not really interrogated those who advocated leave. We fought hard to ensure that the border would not be on the island of Ireland. There was already a border in the Irish Sea, but now there will be a hardening of it.

I listened to what you said and read the information that was presented today. There are three months for SPS, a six-month delay for chilled meat, and 12 months for medicine, which Doug asked about. Those are only periods for an extension of the transition. Even though they said that there would not be an extension of the transition, there is an extension for those matters. What happens after the three-, six-, 12-month period?

**Dr McCormick:** Each is different in how it plays out. For the three-month grace period, "pathway to compliance" is a phrase that has been used, and it is a good phrase. It recognises that this is a large change with a significant volume of expert health certificates required for supermarket consignments. For that category of goods, which are fundamental to the flow of retail product for here, that is an enormous number for the supermarkets, the authorising authorities that have to sign off on those certificates, and the processors in DAERA as they operate the controls on SPS goods.

It takes time to adjust. Three months is quite a short period and very challenging. On the other hand, this is a known issue. I am sure that the Committee, and other Committees, has had business representatives, from springtime if not before, saying, "We see this requirement. It is a cost and a major inhibition to trade."

The expert health certificate was known and well understood, and it has taken time to adjust, but after it is over, there needs to be compliance. In other words, all the relevant goods arriving at the ports of departure on the other side of the water need to arrive with the right certification as April begins. That is when it starts to be a necessary requirement.

The form that that takes is a statement by the UK of how that will operate, the fact that the Commission noted that that was what the UK said it would do, and recognising that as an implicitly acceptable way forward towards compliance.

Meat products —.

**Ms Anderson:** That would be compliance with the EU?

**Dr McCormick:** The obligation to be complied with is for everything arriving to have an expert health certificate in compliance with the acquis. That is what needs — .

**Ms Anderson:** Picking upon Doug's point —.

**Dr McCormick:** That has been known from the signing of the protocol. It was known that it was there.

**Ms Anderson:** I accept that, but I am picking up on something that Doug said, because it is about people understanding what will happen in three months' time, regardless of your stance on Brexit. People need to know that, in three months' time, there will be regulatory divergence from Britain on some of these matters. So, if it is regulatory compliance with the EU's acquis, it is regulatory compliance with EU law.

**Dr McCormick:** The requirement for a certificate applies irrespective of whether the UK exercises its rights to diverge. Divergence is a matter for the GB authorities in the future. The extent to which they exercise that is entirely for them.

**Ms Anderson:** We know from the leaked papers that they intend to do that.

**Dr McCormick:** It will depend on what they sign up to in the FTA. It is still possible that there could be an agreement in the main negotiations where, effectively, the degree of divergence on SPS-relevant products may be relatively small. The UK Government have always declared their commitment to maintaining high standards.

Of course, you then get into the debate about what they want to do in the trade agreements that they make with the rest of the world, the US, for example. All that debate comes in. Part of the point is that the certification obligation will apply to goods coming here whether or not there is divergence.

If there is divergence, the certificate will have to confirm that the products entering here are compliant with the EU regulatory regime. That would be an extra layer of obligation if GB diverges. Conceivably, that may not happen at all under an FTA; equally, it may happen slowly or it may happen radically. That is unknown. What is certain is that, even if there is no divergence, certificates will be required on that range of products.

Is it OK to move on to the other two that you mentioned?

**Ms Anderson:** Yes.

**Dr McCormick:** On meat products, there is, again, a unilateral declaration by the United Kingdom of what it will do, including providing a new form of certification for those products. Part of the reason for that is that they are so-called prohibitive and restrictive products. There is a prohibition on that range of products entering the EU to protect the market from unsatisfactory products coming in from third countries. That is a sensitive issue for other members states looking at their neighbours, and it was not one that they were at all comfortable with, given the potential risk of precedent.

That is why that was difficult to negotiate. I think that you said that we should have been here earlier. The fact is that some of the things were genuinely difficult to negotiate, because, and I go back to the point, there were great sensitivities for the member states. Securing those derogations and adaptation periods was important, but not easy, to secure.

The documents are silent about what happens after six months. They do not say that it may be extended or that it cannot be extended.

**Ms Anderson:** In practice, we might end up with a further extension to the six months.

**Dr McCormick:** The documents do not say anything either way. From what I know about the process, that would not be straightforward. Secretary of State Lewis has indicated the possibility of extension. If that is negotiable and makes things possible for the longer term, it is to be desired, because it would make life easier.

That is not just an issue for us; it is also an issue for GB producers selling to the EU market. If they want to sell sausages or chilled mince from England or Wales into France or Germany, that is currently prohibited, and they do not have a six-month grace period. We have because it is part of one country and is moving between GB and NI. That is how it looks. It is a very sensitive and difficult issue, but the documents are silent —.

**Ms Anderson:** The three months, the six months and the 12 months are applicable here only. Although we have been arguing for an extension for everywhere, almost like with the protocol, we have exceptional circumstances here. The six months is applicable here only.

**Dr McCormick:** Yes. That is something that applies as part of the agreement on the protocol.

**Ms Anderson:** That is OK. What about the 12 months for medicines?

**Dr McCormick:** Again, after that time, the EU regulatory regime would apply. However, there is time to adjust to it, as it affects how medicines move and how the market operates.

**Ms Anderson:** I wrote something down as you were speaking. You talked about the movement of goods in both directions, but my understanding of the protocol is that there is unfettered access in one direction only.

**Dr McCormick:** That is correct. Yes.

**Ms Anderson:** I listened to a Member in the House on Monday or Tuesday claiming that there would be unfettered access in both directions. For all other Members who may not get into the weeds as this Committee has to and understand it, it is good for us to share that with our colleagues.

Some people are saying that the Trader Support Service and the movement assistance scheme (MAS) are quite complicated and that they fear that they may not get clarity on them. Will they assist with some kind of movement from Britain to here?

**Dr McCormick:** Yes.

**Ms Anderson:** The unfettered access that we have clearly is from here into the biggest market: the EU market.

**Dr McCormick:** Well, no; the phrase "unfettered access" is normally used in relation to the protocol and, indeed, even in New Decade, New Approach. The term "unfettered access" was only ever used in relation in Northern Ireland into GB.

**Ms Anderson:** From here to Britain and here to Europe.

**Dr McCormick:** It is not even necessary to say it in relation to the land border because the protocol guarantees no inhibition. I have heard a bit of anxiety when people ask, "What do I need to do to move goods into the South?", and the answer is nothing.

**Ms Anderson:** It is important for people to hear that.

**Dr McCormick:** We do not even talk about unfettered access because it is so obviously unfettered. In a way, that is the whole point of the protocol.

**Ms Anderson:** The status quo.

**Dr McCormick:** That is, of course, a significant market advantage. Any time that I have talked to Edinburgh, they say, "We would like that too". Many traders across the water would like to have that access to EU markets. In a way, the trade negotiations are all about the conditions for GB to have access to sell into the single market and to get a zero-quota, zero-tariff trade deal. They are having to go through an intense year of negotiations, but we have got it in the protocol, guaranteed and secure. That is definite.

What is also occasionally mentioned is a reference to unfettered access from GB to NI. That phrase is never used in the protocol, nor was it ever used in New Decade, New Approach. Again, it is not a matter for me to comment on; it is just a matter of fact that there will be — and we have always known that there would be — a degree of checking. The more recent presentations in, say, the command paper in May, or further papers recently, emphasise that there were some elements of checking, even in the status quo before EU membership because of the nature of the island as a single epidemiological unit.

There are certainly more checks than before and the sensitivity is known and understood. It is something that we talk about with colleagues in Brussels, who recognise that it is politically sensitive. However, it is the solution that was agreed, and we have to make it work pragmatically in as low-key a way as possible, minimising the cost. The Trader Support Service, which deals with customs, and the MAS, which was announced last week, which helps with SPS checks, facilitate and take cost away from traders to help things to move. It is not unfettered access, because there is a need to protect the single market. That is the EU's position. However, it is as smooth as it can be in the circumstances.

**Mr Reid:** It is important to emphasise that point, Martina. As Andrew said, it is about minimising the impact and making it as streamlined as possible while recognising that there is a need for checks.

**Ms Anderson:** Yes; that is what we all want. That is what business and everyone wants.

I want to ask about the figure of £70 million that would be lost; it was mentioned this morning. That does not match what we were told last week. The officials from the Finance Department — Lynsey

may know a little bit more about it — mentioned that £750 million in structural funds comes here. Maybe Minister Dodds meant £70 million a year or every couple of months. I do not know what she was referring to when she said £70 million, because there would not be £70 million in a tranche of £3.6 billion, given that farmers have already been told that there will be a £34 million loss over a three-year period. Whilst they had been guaranteed that the money would stay the same, they are now being told that that is no longer the case.

The Finance Department officials told us that there was £750 million in structural funds and that the British Government have set aside £220 million — but that is for England, Scotland, Wales and here. I suspect that the loss is a lot more than £70 million, given the calculation that we got last week. From the information that we have so far, limited as it is, it seems to be more than that, Lynsey.

**Ms Moore:** I had to do some quick maths while you were asking me that question. The £750 million is over seven years, so I can confirm that.

**Ms Anderson:** £107 million a year.

**Ms Moore:** I do not have that figure from the Department for the Economy yet. It might be focusing on things that will come under the Economy Minister's portfolio, and we would have to check that with them.

The Department of Finance will have those figures more readily to hand than we do today, I am afraid, because we have focused more on the Joint Committee decisions. It is the case that some figures are known. We can talk about the figures that we know about that we have historically received and which we are dealing with during this financial period from the EU.

There are figures from the UK Government with regard to the shared prosperity fund and PEACE PLUS. We have to look at all of those to see where the £70 million figure comes from. A very rough ready reckoner is that you could take the £750 million and divide it by seven and take off what you think you might get from the shared prosperity fund and it might bring you to roughly that figure. However, I would have to check.

We should not in any way, underplay the challenges of not having to try to navigate how the funding would be replaced, and that is something that our colleagues in Finance are very focused on.

**Ms Anderson:** Lynsey, that £750 million is only structural funds. We know that there are dedicated funds coming to the North from the £3.6 billion available. The £70 million may be only for the Department for the Economy. It would be helpful for the Committee if we had a handle on exactly what the projected figure is.

**Dr McCormick:** Sure.

**Ms Anderson:** We are 15 days away. This is our last Committee meeting before 1 January. By the time we come back it will be over. Hopefully, there will be a future relationship, but, however that works out, we know that we will not get access to the EU in the same way as the funding streams. Part of us will be in the EU in the custom union, whilst part will be in the single market — it is a hokey-cokey arrangement. However, we know that when it comes to funding that, whether it is for farmers or groups and organisations that have the European social fund or the European regional development fund, there will be a loss. It would be good for us to have that unpacked for us for when we come back in January.

**Dr McCormick:** Sure. We can unpack the structural funds. There is agricultural funding that happens post-CAP.

**Ms Anderson:** There are two rural development funds.

**Dr McCormick:** Yes, absolutely, and the —

**Ms Anderson:** Massive funds.

**Dr McCormick:** — competitive funds for EU programmes that require further negotiations. I know that conversations with DFE officials have focused on their concerns on the loss of research funding, which is very important to Invest Northern Ireland, and the European social fund.

The Department for the Economy was leading on both of those during my time there. If those are not replaced properly, there are very serious issues that will play into the work going on in the Department of Finance on the main Budget. There are central issues there that are very important, but we will get you a breakdown.

**Ms Anderson:** It is a pity, because, the Minister for the Economy, when she was a Brexiteer in Europe, should have known the implications that this would have.

**The Chairperson (Mr McGrath):** On Monday, it started at zero, and it is £70 million today. By the time we get to 1 January, that figure could have considerably increased.

**Ms Anderson:** Thank you for that, Andrew.

**The Chairperson (Mr McGrath):** I will progress on, as I am conscious that we are about 25 minutes overtime, and we have another presentation. That is not directed at you, Trevor, but you are next to ask questions. If the panel can try to condense their replies because we have people waiting to join in. At this stage, I have no indications from anybody on StarLeaf by way of raising their hands. I am therefore assuming that Trevor will have the last question.

**Mr Lunn:** I can have all their time as well, then. I will not take long; I never do. Andrew, we seem to have gone from pessimism to optimism quite seamlessly in the last week or two, and that is good. I listed to Mr Gove the other day making a statement about the protocol and the clarifications, and that is excellent, as far as it goes.

The only words that concerned me, and he used them over and over again, were, "in principle". Could the Northern Ireland protocol still be derailed by a no-deal outcome or is it now set in stone, and thus we can rely on most of what was in his statement?

**Dr McCormick:** The original protocol was ratified as part of the withdrawal agreement, so, in that sense, it was firm from January. Assuming that confirmation is still subject to a formal sign-off in the Joint Committee, what was published last Thursday night was described as draft decisions, but my understanding is that they are holding firm solidly. I am not aware of a word of what will go forward for ratification having changed from what was published on Thursday night, and it should be approved very soon.

Those things have been through all the approval processes on the European side. They have been through what is called an A point at a Council meeting. Perhaps tomorrow morning, we are expecting them to be formally approved, and they will therefore become operable, whatever happens in the main trade negotiations. In fact, the decision on at-risk goods was very much related to that.

If there is an FTA, the question of tariffs on goods that are at so-called risk of entering the single market goes away. There will still be customs complications even if there is an FTA, but the tariffs would be removed. In fact, part of the reason that there was an obligation to negotiate that under the Joint Committee was in case there was not a deal. Those bits are therefore secure. There is no mechanism by which they can be overturned, and the UK's withdrawal of the relevant clauses in the Internal Market Bill and the decision not to proceed with the clause in the taxation bill mean that that domestic law tension is gone. I should have just said yes, Chairman. Sorry.

**The Chairperson (Mr McGrath):** You are learning.

**Dr McCormick:** Committee work for slow learners.

**Mr Lunn:** Do not call me a slow learner. *[Laughter.]* I accept all of that. I am glad that you explained it, because that is what I wanted you to do.

After the clarification, the question of supermarkets has come up once or twice in the past week. The wording of Mr Gove's statement and the written stuff in front of us refers to "authorised traders, like supermarkets". I think that that is OK, but it raised a hair or two, because smaller food retailers in

Northern Ireland thought that they might be in a different category. Tesco and so on bring in their stuff themselves. The bigger supermarkets have their own supply chains. The smaller ones use wholesalers over here such as Musgrave MarketPlace, which imports the stuff and then distributes it. Can we take it that the same rules will apply to wholesale food importers here as will apply to retail food importers?

**Dr McCormick:** The document states that this is restricted to:

*"food suppliers for supermarkets which are approved by the UK authorities after demonstrating that they meet a range of trust criteria."*

That is the wording. There are then specified steps about labelling It states:

*"may not be marketed outside Northern Ireland"*

and:

*"solely for sale to end consumers".*

It is a question of getting on to that list and interpreting those who are moving the goods in a sensible, pragmatic way. There is current work in progress to make sure that that facilitates the flow of food as much as possible. We have to be hopeful that that will maximise supply and make sure that the flow of goods is as normal as possible. Those words are from the document published on Thursday night, which is called 'Draft unilateral declarations by the United Kingdom of Great Britain and Northern Ireland and the European Union in the Withdrawal Agreement Joint Committee on official certifications'. That is the important categorisation there. It refers to a list to be approved by the UK authorities, so that should be as positive as possible.

**Mr Lunn:** On the last point, Doug mentioned the parcel post situation with Amazon, I, like you, get plant products from Amazon — a lot of people do — as well as from Suttons and other garden centres across the water. I presume, at the moment, that, because of the risk involved, a level of certification must be required, even if those plant products are coming through the post rather than through the docks. Can I take it that there should not be any real change to the supply of live plants, bulbs or seeds from GB into Northern Ireland? Will it still be much the same arrangement?

**Dr McCormick:** In a previous session, I think that we talked about the outstanding issue of the need for the confirmation of equivalence: for the UK to be designated as a so-called equivalent third country. There are therefore legal steps that are still to be taken, but that should take care of some of the points that you have made, at least about seeds. I hesitate to say that about plants, unless Tom or Lynsey has a clearer point to make about them, but I think that they might still be in the work-in-progress category.

**Mr Reid:** I think that that is still a work in progress, unless Lynsey is able to add anything.

**Dr McCormick:** Lynsey is nodding.

**Mr Reid:** It is the same situation in that it comes down to the third-country designation.

**Mr Lunn:** To tell you the truth, I would rather buy them locally, I bought 15 strawberry plants from Amazon the other day, and 13 of them died. Anyway, that is by the way.

**Dr McCormick:** Alternative suppliers are available. *[Laughter.]*

**The Chairperson (Mr McGrath):** Exactly. Between your plants, Doug's weeds and your getting things from Switzerland, we are doing quite well with our parcels.

**Ms Moore:** Shop local. *[Laughter.]*

**The Chairperson (Mr McGrath):** Yes, shop local.

**Dr McCormick:** It is a global village.

**Mr Lunn:** That is the end of my questions, Chair.

**The Chairperson (Mr McGrath):** Excellent.

**Mr Lunn:** Thank you for the opportunity. I had five minutes.

**Mr Sheehan:** I have missed quite a bit this afternoon because of technical difficulties. I am not sure what the problem is, but, in any event, I will continue.

Can you give us some detail on the agreement around EU customs personnel, please, Andrew?

**Dr McCormick:** The detail on that one is also on the UK Government website. The draft decision on article 12.2 of the protocol sets out the way in which EU representatives would exercise their supervision role. It is a low-key presence, with, at most, a couple of dozen individuals, and they will never carry out the checking responsibility. Instead, their role is to supervise. It will be DAERA staff who will have the main responsibility for making sure that the regulatory regime is followed. That then needs to be monitored to ensure that it is being done in a satisfactory manner. Sorry if you missed this, Pat, but I was saying earlier that there is a sensitivity from the member states about ensuring that this is done well in order to protect to protect their interests, but what has been established is that it is something that also has regard to the great sensitivity of having EU staff operating after we have left the EU, as such. There is a working solution. The detail is available on the UK Government website as a draft decision, and that decision is likely to be adopted formally very soon. Is that OK? I can come back —.

**Mr Sheehan:** Where will those staff be based, Andrew, when they are not on duty?

**Dr McCormick:** I do not think that there is an answer to that. Given that they will need to operate at the various point of entry — Larne, Belfast, Warrenpoint etc — they will need to be able to function in a normal working way when relevant consignments are arriving. Any time therefore that boats are arriving, they need to be able to be there. That then takes you on to the need for them to be facilitated. What there is not going to be is an office with a flag and a prominent Commission presence. There will be pragmatic, operational ways of working: desks to sit at, a space to work and ways in which to meet and engage with the DAERA staff. It is as low-key as can be imagined. Lynsey or Tom, do you want to add to that?

**Mr Reid:** Andrew, that is that key point. It is as low-key as it can be, whilst ensuring that staff have access to facilities in order to undertake the job.

**Mr Sheehan:** Thanks for that.

**The Chairperson (Mr McGrath):** Thank you, Pat.

That is the end of questions. Thank you very much. I appreciate that we have kept you a little longer than expected, but this is our last meeting of the year. Obviously, things will have changed somewhat by the time that we speak again in the new year. I wish you all a happy Christmas and, as best we can, a happy new year.

**Dr McCormick:** Thank you. Merry Christmas to all.

**The Chairperson (Mr McGrath):** Thanks to you, Lynsey. You have been with us a fair bit during the year.

**Ms Moore:** Yes, I should get a special mention for appearances this year. *[Laughter.]*

**The Chairperson (Mr McGrath):** You have done well. We will take a break of two minutes to prepare the tables for our next guests.