



Northern Ireland
Assembly

Committee for The Executive Office

OFFICIAL REPORT (Hansard)

Brexit Issues:

Mr Declan Kearney MLA and Mr Gordon Lyons MLA,
Junior Ministers, Executive Office

27 January 2021

NORTHERN IRELAND ASSEMBLY

Committee for The Executive Office

Brexit Issues:

Mr Declan Kearney MLA and Mr Gordon Lyons MLA,
Junior Ministers, Executive Office

27 January 2021

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
Ms Emma Sheerin

Witnesses:

Mr Kearney	Junior Minister
Mr Lyons	Junior Minister

The Chairperson (Mr McGrath): Do you want to make a start, Gordon? Declan will hopefully be able to join us.

Mr Lyons (Junior Minister, The Executive Office): Yes, I am more than happy to do that, Mr Chairman. I thank everybody again for the invitation. It is good to be with you today. In particular, I echo your comments, Mr Chairman, about Holocaust Memorial Day. One of the first public engagements that Declan Kearney and I were involved in after we were appointed to our positions last year was to go to the event at Belfast City Hall. It was very poignant. It is important that we remember what took place, never forget the horrors of that time and continue to learn lessons from then.

Mr Chairman, can I just confirm that you can hear me OK?

The Chairperson (Mr McGrath): Yes.

Mr Lyons: The sound is OK. Lovely.

I welcome the opportunity to provide you with an update on EU exit matters. Since we last briefed the Committee, the transition period has come to an end and we have moved on to having an operational and implementation focus. In December, work on EU exit intensified, with key decisions and agreement on both the operation of the protocol and the future relationship with the EU concluding. The lateness of both agreements, however, has meant that there has been little time for businesses

and citizens to prepare. That has been a significant challenge, particularly for our work on operational readiness, which, hopefully, Minister Kearney will touch on when *[Inaudible.]*

The Chairperson (Mr McGrath): We appear to have lost Gordon. He is probably in the good realm of the excellent broadband facilities that there are between Parliament Buildings and Stormont Castle. I see that he is back in the audience. Hopefully, we can get him moved back into the spotlight.

There we go. He is in the spotlight, but I just do not see him. Either he is gone again, or my earphones are not working. He is back. There we go.

Mr Lyons: The connection failed. Apologies.

The Chairperson (Mr McGrath): That is OK.

Mr Lyons: I am not sure how much you got of that. I was referring to the Trade and Cooperation Agreement (TCA). In reality, the text of the TCA is complex. Policy officials and legal advisers across Departments continue to scrutinise the detail of it, engaging closely with their counterparts in Scotland and Wales and with UK Government officials. For the Executive, it is a particularly complex exercise, given the interactions between the Trade and Cooperation Agreement and the protocol, which require specific assessment. It is early days in the process, but we will make sure that the Committee is kept updated on that important area.

The Chairperson (Mr McGrath): Gordon, may I just pause you there? We have Declan in the audience. I ask that we move him into the spotlight and give him a second to come on board.

Mr Lyons: Of course, Chair.

The Chairperson (Mr McGrath): I think that he is joining us by telephone rather than over video. Can you hear us, Declan?

Mr Kearney (Junior Minister, The Executive Office): I can, Colin. Apologies for the technical difficulties. My keyboard seems to be playing up.

The Chairperson (Mr McGrath): No problem. That is grand.

We will go back to you, Gordon, and you can present as you had planned.

Mr Lyons: OK. In taking that work forward, our key objective remains the same: securing the best possible outcome for our people and businesses. Ensuring that we are on a firm foundation not only now but in the following months and years will be key to that. In the lead-up to the end of the transition period, there was significant engagement at ministerial and official level. As the Committee will be aware, that work and engagement continue. In that regard, I take the opportunity to highlight some other key meetings and decisions that have taken place over the past few weeks and provide you with a high-level *[Inaudible.]* Two meetings of the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) took place in December, allowing us to keep updated on progress in the negotiations and to make sure that our concerns were highlighted. In all our engagement on the negotiations, we stressed that every effort should be made to reach a future relationship agreement with the EU that takes account of the interdependencies and interactions with the protocol and reflects the social, economic and environmental interests of our citizens and businesses. In addition, the First Minister and the deputy First Minister represented the Executive at the Joint Committee meeting on 17 December 2020, at which decisions on at-risk goods, agriculture and fisheries subsidies and EU supervision were formally approved. *[Inaudible]* unilateral declaration on export declarations to simplify processes for businesses moving goods from NI to GB, and the EU submitted a unilateral declaration to allow a grace period of six months on the import of chilled meat products, a grace period of three months on official certification and a grace period of one year on human and veterinary medicines. Those measures have proven important in supporting the operability of the protocol from 1 January. They have, however, been provided to allow businesses to adapt and prepare for the new requirements, and it is essential that we and particularly our traders take full advantage of that as we prepare for the end of those grace periods.

I turn now to other aspects of EU exit. I understand that the Committee received a briefing on 13 January on the progress of the common frameworks programme. Additionally, the United Kingdom

Internal Market Act came into operation on 31 December, and work is ongoing across Departments to clarify its provisions and understand its application and, in particular, its interaction with the common frameworks programme.

Finally, before I hand over to Minister Kearney, I will say that we understand that you received a series of briefings from officials, the Human Rights Commission (HRC) and the Equality Commission on preparations for exit from the EU. As you know, the Equality Commission is sponsored by the Executive Office, and I understand that the commission has recruited and put in place a team to deal with the dedicated *[Inaudible.]* Funding has been secured for that until March 2023, and the Northern Ireland Office has made it clear that the commitment set out in article 2 of the protocol is enduring. We therefore fully expect the dedicated mechanism to exist beyond 2022-23, and future funding levels will be discussed with Her Majesty's Treasury (HMT) at the appropriate time.

Mr Chairman, I hope that that has been helpful. I will pass over to Minister Kearney for him to give further updates.

Mr Kearney: Thank you, Gordon. Once again, Colin, I apologise for my inability to appear on-screen. It is a very unsatisfactory arrangement. I spent about 35 minutes trying to work with a keyboard that seems to be faulty.

I will proceed with my presentation. Thanks to you and the Committee for the opportunity to provide this update. I will cover our operational readiness coming up to the end of the transition period and provide some detail on ongoing work to address the current operational issues.

At ministerial level, the Executive have continued to take part in the Westminster Government's Exit Operations (XO) Committee meetings, which have been taking place almost daily since the end of the transition period. They provide an opportunity for the Executive to highlight the need to address ongoing operational issues as soon as possible. In advance of the end of the transition period, significant work was taken forward across Departments with a specific focus on day-one readiness. An important part of that preparation included fulfilling the Executive's obligations under the protocol on sanitary and phytosanitary (SPS) checks and on engaging with local businesses to help mitigate high-impact issues and risks. While significant progress was made on operational readiness and business preparedness following the end of the transition period, there remain some operational issues that have the potential to impact significantly on our economy and on our people. In the light of that, work is progressing across Departments to resolve immediate issues, whilst preparing for the end of the grace periods.

The nature of the issues means that that also involves close engagement with Westminster, Irish Government officials and businesses. Since 1 January, trade bodies and individual businesses have highlighted initial challenges and difficulties in adjusting to the new requirements. That is particularly so for the movement of goods following the end of the transition period, with reported disruption and short-term reductions in the availability of some product lines in shops, particularly fresh produce. That is not unique to us, however, as similar challenges are being reported in Britain.

Although the movement of goods through ports here has been relatively smooth, particular challenges have been identified by hauliers and traders in the movement of goods into the North from Britain via Dublin port. The underlying issue with Dublin port and the wider movement of goods between Britain and here remains the lack of preparedness of British companies for the additional paperwork and processes that are required as a result of the protocol, as well as the impact of EU exit on groupage issues. To address British-based companies' lack of preparedness, our officials have been engaging closely with colleagues in London and Dublin. In response, additional guidance and support has been developed by the Trader Support Service (TSS) for transit from Britain, with further guidance and support currently being developed for transit to Britain through Dublin. The TSS is also increasing reach-out, which includes seminars to increase the awareness and compliance of businesses across the water. Similarly, to assist in the movement of goods through Dublin port, the Irish Government have implemented a temporary arrangement for the notification of goods. While that will hopefully help in the short term, the easement is provided on condition that traders work with the Irish Revenue to upskill and ensure future compliance.

As I mentioned, groupage has also been a challenging area. Prior to 1 January, many goods, particularly agri-food goods, were transported as part of mixed loads, often referred to as "groupage". Groupage worked well in the context of the EU single market and helped drive efficiencies for our hauliers, who operate to tight margins and turnaround times. Exit from the EU has introduced significant constraints on that. It presents a major challenge for all our hauliers, but it particularly

affects the smaller companies that are not benefiting from the grace period that was stipulated for supermarkets. Officials have been engaging with Westminster and businesses to identify and trial a number of options. We expect guidance on groupage to be published once the outcome of the trials is known.

A three-month grace period is in place for supermarkets, which means that they do not have to provide export health certificates (EHCs) for products of animal origin until 1 April 2021. The grace period has worked well, but, given the volumes of produce being handled by supermarkets, it is vital that we ensure that they are ready for the end of the grace period. As members know, there is also a six-month grace period for prohibited and restricted goods, such as chilled meat products. Although that seems to be a relatively long time, we plan on taking a proactive approach to that grace period, as it is important that the supply of those products be maintained.

The expiry of the grace period will likely lead to increased challenges if we do not resolve the current issues now. Equally, it is important that businesses be encouraged and supported to move to compliance. Concerns remain about the ability and capacity in Britain to issue export health certificates, as the system will have to be fully operational before the end of the current grace period. We have raised that issue at XO Committee meetings, which I mentioned earlier, and we have been seeking assurances that there is sufficient veterinary capacity to meet the certification needs of the supermarkets that supply us.

The issue of VAT on used cars was in the news when we last briefed the Committee. We pressed the British Government on several occasions for a resolution to the issue of the VAT margin for second-hand cars, and we welcome the guidance that they issued on 14 January, which seems to have resolved the matter.

There remain a number of important matters to be resolved, including export health certificates for live animals and the import of seed potatoes. If solutions are not found, it could adversely affect our economy. We continue to press Westminster for resolution and the introduction of workable solutions. That having been said, progress is being made in putting in place interim and longer-term solutions in important areas such as new guidance on parcels, including a three-month grace period. That has clarified the position, and we expect Westminster to publish further guidance soon.

We are happy to take any questions or observations that the Committee may have, Colin, and I hope that that presentation came across clearly for all members.

The Chairperson (Mr McGrath): Thank you, Minister Kearney and Minister Lyons, for your presentation. There was a moment there when we thought that we had lost Minister Lyons again, but he is back in the spotlight.

We will move to questions and see whether we can work like this. Hopefully, it will work as it would if we were all in the room. I apologise if some of the questions have been touched on already in the presentation, but the sound was moving in and out.

There has been much discussion about the problems with the flow of goods back and forth between GB and NI. At times, it gets a little tiresome to hear that it is the fault of the protocol. Do you accept that there were no problems with the flow of goods before Brexit or before the end of the transition period? Do you accept that the problems are caused by Brexit, not the protocol? It seems a bit naive. It is like blaming the bull in the china shop for all the breakages without thinking about how it got in there in the first place.

Mr Lyons: Mr Chairman, you will not be surprised to hear that I take a different view from you. The problems that we are experiencing now are of course a result of the protocol. We do not have those issues between England and Wales or between England and Scotland. The reason that we are having problems right now between Great Britain and Northern Ireland is as a result of the protocol and the additional burdens that have been put in place, the different requirements for declarations and the checks that need to take place. We have long warned about that. We said that there were implications for putting a regulatory border down the Irish Sea in that way, so this should not come as a shock or surprise to anyone. We warned about it in the past, and the protocol is not a good outcome in any way, shape or form for Northern Ireland. I have had many meetings as an Executive Office Minister and as a constituency representative. There have been problems and concerns raised with me, and they are a result of the protocol, not the decision of the UK to leave the European Union.

In the first instance, I want to make sure that I do everything that I can to make sure that we mitigate the worst impacts of the protocol. That is why we, as Declan said, have been involved in frequent — in fact, daily — conversations with the Government through the XO Committee meetings. It is at those meetings that we raise questions on all sorts of issues, such as groupage, export health certificates, seed potatoes, pet passports, parcels, second-hand cars and steel. That is what we have been spending our month doing: making sure that we find a way around all of this. Those issues are not happening in the rest of the UK; they are happening between Northern Ireland and Great Britain as a direct result of the protocol.

Mr Kearney: I am happy to come in, if you wish, Colin.

The Chairperson (Mr McGrath): Yes. Go ahead.

Mr Kearney: First, Gordon and I have invested considerable time since the beginning of the year in highlighting those issues and trying to find workable resolutions to the problems that have been featuring. We have stayed closely in contact with our business sector, taking on board its information and suggestions about what needs to be done and then making the appropriate representations. The fact of the matter is that the protocol exists because of Brexit. In that sense, I point you to the fact that opportunities were offered to the British Government by the European Commission for extensions to the transition period to ensure that all the necessary issues were anticipated and resolved well in advance of the end of the transition period. As you will recall, the British Government chose not to seek leave to extend the transition period. When we talk about the difficulties that we have witnessed over the past few weeks, it bears reminding ourselves that we did not get the benefit of a potential extension to the transition period when it was available.

Secondly, we now have two grace periods built into the arrangements. One will expire at the end of March/beginning of April and the other at the end of June/beginning of July. Those are watermarks. We need to ensure that the periods of grace that have been provided allow the challenges that apply during them to be resolved. Otherwise, we will potentially find ourselves hitting other significant difficulties at the end of the grace periods. The British Government therefore need to pay close attention to the issues that we have been highlighting and to the negative repercussions that will potentially arise at the end of the two grace periods if all the relevant issues have not been addressed.

Michel Barnier was interviewed last week. In a very clear interview, he said that "Brexit means Brexit" and that these are the new trading realities that we all have to live with. What we see are the consequences of new trading realities, with the North having been taken out of the European Union as a result of the EU exit decision.

The Chairperson (Mr McGrath): OK. I welcome the constructive approach that you are both taking in trying to address the key concerns with the protocol to be able to get workable solutions. Minister Lyons, it would be helpful if you were to send that memo around your party colleagues. Minister Kearney, you do not need to send that memo.

I will move on to support for business. What concrete support have you provided for businesses here? Can you also provide an update on the interaction with the British Government on the support that they provide to businesses there that are having difficulties? Looking at those difficulties, as you referenced, there is a three-month grace period for simplified procedures, a six-month grace period for chilled goods and a one-year grace period for pharmaceutical products. What is being done today — right now — to prepare for the end of the three-month, six-month and 12-month cliff edges so that we do not have problems then?

Mr Kearney: Gordon, would you like to go first, or shall I?

Mr Lyons: You can go ahead, Declan. I will come in afterwards.

Mr Kearney: Sure. There has been intensive engagement with our business community on bottoming out the operational issues that have arisen. For example, on 13 January, we attended a meeting with a cross section of our business organisations, including the hauliers, key producers and those who have significant responsibilities for ensuring that goods produced and manufactured in the North are successfully exported to Britain and beyond. I found that to be a constructive meeting on a number of the key pinch points that were being highlighted at that time. Groupage was very clearly spelt out. As a direct result, we took away those groupage issues, and we have made significant progress in trying to iron those issues out. I indicated that we are hoping for some announcement on that. Trialling is being

carried out, but a fair bit of work has been done between the respective Departments to find workable solutions for the Department for Environment, Food and Rural Affairs (DEFRA) in Britain and DAERA in the North.

Another significant issue that came up was the concern expressed by some on that call about the support health attestations that are required to be signed off. That is a cost that can arise for businesses here, so we took that point back into those XO meetings and asked that work be carried out on that issue. That would have a repercussive cost for businesses here to have it absorbed within what is known as the "Movement Assistance Scheme", which applies and has been absorbing costs arising for goods flowing from Britain into the North. Arguably, if that is not addressed, it could pass on costs to consumers.

We have an interdepartmental working group on EU exit. It has now been subsumed by what is described as a "senior users group", which is working in a practical way, day by day, to ensure that workable and sustainable solutions are found and, where they are not, the necessary issues are communicated to colleagues in Britain and Dublin.

The degree to which local businesses have been supported is a result of the time that the Executive and officials have spent in fairly close contact, listening carefully to the issues that they anticipated. The real dilemma has been the fact that the British Government have not invested the same energy or focus in preparing British-based businesses that export to the North to ensure that they understand the new regulations. That contradiction has come to the fore. There has been significant preparation on this side on very specific practical operational issues, and that continues, but there has been a failure from the outset to ensure that British-based businesses are adequately prepared in the same way.

Mr Lyons: There are two issues to highlight. The first is support. Declan is right insofar as the businesses in GB were not as well prepared, and a lot of that comes down to the Trader Support Service. Many businesses in Northern Ireland were signed up to that and were aware of the new burdens that had been placed on them as a result of the protocol. That was not always the case for businesses in GB. We highlighted that issue at the very start of this month during our daily XO calls, and the Government have recognised that and have now committed to do more to help business preparedness in GB. That is a really important step that has been taken to help with some of the problems that have come as a result of this.

Our second major concern is the end of the grace period. That is the biggest concern right now. We have met people from key sectors in recent weeks, and there is huge concern about their ability to deal with the new processes that will be in place. Hospitality is trading very little right now, and, when it comes to the end of the grace period, if hospitality gets up and running again in any significant way, the people in that industry foresee that there will be problems and difficulties there. Hauliers have said that, if customs declarations will be needed when the parcel grace period comes to an end, they would not have the capacity to deal with that at the minute. The best way that we can support business at the minute is by making representations to the Government and to the EU to make them aware of the problems that we face as a result of this and the solutions that could help us. The most important job that we have as Ministers right now is to make people in positions of responsibility in government aware of the actions that they can take.

The Chairperson (Mr McGrath): That leads into my final question, Gordon. When the First Minister and deputy First Minister were with us, the First Minister specifically referred, several times, to the fact that Northern Ireland had "observer status" at the Joint Committee. I think that, under 'New Decade, New Approach' (NDNA), there might have been a suggestion that, when it came to matters that relate to the protocol, we would certainly have a bit more than observer status to be able to articulate the problems [*Inaudible*] and to try to find solutions to them. What is your understanding of the difference between that observer status and actually being able to raise issues and problems and ensure that they are raised?

Mr Lyons: That may be a bit of a technicality with regard to the word "observer". It is the case — I think that we have briefed the Committee on this previously — that we have been part of those meetings on behalf of the First Minister and deputy First Minister. It is certainly not the case that we are spectators and that we sit there and just listen. In all those meetings, when Northern Ireland issues have been on the agenda, not only have we been there, we have been invited to comment. That has been a good avenue by which we can make our concerns and views known. The First Minister and deputy First Minister have certainly taken those opportunities to express our concerns and the actions

that, we believe, need to be taken. It is my understanding and expectation that that will continue and that we will be able to continue to contribute to those meetings. It is not just the vice president of the European Commission and the Chancellor of the Duchy of Lancaster who contribute to those meetings; others are brought in. We are part of that. It is exceptionally important that we continue to have the ability to do that.

The Chairperson (Mr McGrath): That is good. I am happy enough, with that answer, to move on. Unless, Declan, you have anything that you want to add, I will go to Doug Beattie now and get a question from him. It will take just a few seconds —.

Mr Kearney: I will add a quick supplementary comment to what Gordon said, Colin. A series of new institutional mechanisms will have to be put in place to ensure governance and operational oversight in relation to how we move forward in the coming period. One of the provisions references the space for civic society, business organisations, producers and manufacturers to have direct input to those mechanisms. We have already made the case directly at the XO Committee that that should be provided for and that our officials and Ministers should be given full access to all those mechanisms to ensure that our interests are properly represented.

The Chairperson (Mr McGrath): Thank you. If the communications team can move Doug into the spotlight, we will go to him and get his question. Over to you, Doug.

Mr Beattie: Thank you, Chair. I hope that you can all hear me. Thank you, Gordon and Declan. Your engagement is always first-class. I am impressed with the work that you put into this. I suppose that the Northern Ireland protocol and Irish Sea border will always be divisive. People will have different views on that. I accept that. I will work with them. It was always going to be difficult when you scythed off part of a nation and said that it would be something different. However, that is a long story.

Can I have a sitrep on where we are with regard to the Joint Consultative Working Group and the Specialised Committee?

Mr Kearney: Yes, Doug. Would you like me to come in on that point? Colin, shall I?

The Chairperson (Mr McGrath): Yes, Declan.

Mr Kearney: It flows from the last point that I was making on the new institutional mechanisms, Doug. The Joint Consultative Working Group will now have to come into its own because it had a very practical, operational remit designated to it. The Executive will sit on that body. The need for that to be supplemented by ensuring that our interests are properly represented on the other institutional mechanisms and governance mechanisms that need to come into play under the terms of the protocol and as relevant to the withdrawal agreement all now come in to focus.

Mr Beattie: Gordon, do you want to add anything to that?

Mr Lyons: No. That sets it out. It is clearly set out in NDNA and the legislation that Northern Ireland Executive Ministers have an interest in the ongoing governance of the Northern Ireland protocol and that officials will be invited as part of the UK delegation on the Joint Consultative Working Group. We have our place on that and will take part in it whenever those opportunities arise. As we have said, there are plenty of issues for us to raise.

Mr Beattie: We are coming up to a month into this. There is a long way to go, but I do not get a sense that the Joint Consultative Working Group or the Specialised Committee are coming up with solutions to the problems that are being created. I am not seeing any real solutions. That is not a dig at you, Gordon, or at Declan; I just do not get that sense that they are there now with a footprint in creating solutions. How far away will they be before they start creating solutions to the problems that we have?

Mr Kearney: That is a valid point to raise, Doug. The reality is that a curtain of bureaucracy has been created in terms of trade between Britain and the EU and between the island of Ireland and Britain on an east-west and west-east basis. Truth be told, no one really knows what the mid- to longer-term consequences of that will be. There is a need for a strategic focus and emphasis to be brought to bottoming out those issues to ensure, as I indicated, that we do not find ourselves at a cliff edge at the end of the first or second grace period. That is really important. At this point, our focus has been absorbed by the daily Exit Operations meetings. They have been useful insofar as they give us the

ability to make representations and find tactical fixes — immediate or practical resolutions — to some of the initial pinch points, but there are broader strategic issues that will flow from the operation of the protocol relative to the withdrawal agreement and what that means in specific terms and in a very practical sense for supply chains operating effectively between Britain and Ireland. It is about ensuring that our service sector, for example, does not become in any way diminished in its ability to work on an all-island, cross-border basis or into the EU.

Mr Lyons: We have committed to informing the Committee about when meetings of the Joint and Specialised Committees have taken place and our involvement in them. We are happy to do the same with the Joint Consultative Working Group so that you are kept informed of those as well.

Mr Beattie: Thank you both.

People may think that we have had lots of time to deal with this, but I raised this point before and I will say it so that you are absolutely alive to it. The European Medicines Agency (EMA) are the European people who decide which medicines are allowed and which are not. It will make the decision on the Oxford AstraZeneca vaccine on Friday. What happens if it says no? What happens if it does not commission it on Friday? What happens in 12 months' time if it is not commissioned in the EU and we, in Northern Ireland, are so reliant on it? Are people alive to that issue as we speak?

Mr Kearney: I will come in on that. Sorry for the delay. I do not have eyes-on here.

We had difficulty at the end of last week, when medicines being brought into Dublin from Britain were held up. They were meant to be moved on to the City Hospital in Belfast and to Altnagelvin in Derry. Thankfully, that problem got resolved, but we are very attuned into the fact that the implications that we now live with are very widespread. When we talk about COVID and our approach to ensuring that we have effective strategies for dealing with the pandemic — vaccinations are clearly front and centre to that — it is absolutely essential that we are not in any way limited in our ability to access those new vaccines coming on stream.

The Chairperson (Mr McGrath): Gordon, do you have anything to add to that?

Mr Lyons: No.

Mr Beattie: Thank you guys.

The Chairperson (Mr McGrath): Will communications bring Martina Anderson into the spotlight, please?

Ms Anderson: Thank you, Ministers, for your presentations. Gordon, you will not be surprised to hear that I do not agree with you. Blaming the protocol for the mess of Brexit lacks credibility, but you and I will agree to disagree on that one.

I was listening to what you said about the two unilateral declarations — one from the EU and the other from the British Government — that were both agreed in December and, thankfully, offered us a grace period. I would like to ask you about full compliance following the grace period. We had an Infrastructure meeting with hauliers and traders, and they are looking for a derogation and an extension to the grace period. As we all know, the British Government have unilaterally declared that they prohibit themselves from asking for an extension. It goes back to what you both said about day-one readiness. I am concerned that businesses may not be taking the opportunity to use the grace period wisely. Building on the work that both of you have done, will you talk to us about how businesses are being prepared and encouraged not to waste the opportunity of the grace period to make sure that they are prepared for 1 April, 1 July and, then, next year?

Mr Lyons: With regard to your opening comments, it is absolutely the case that we will not see eye to eye on this issue, and I think that it is fair to say that we do not see eye to eye on most things. I do not believe that the protocol was ever the inevitable consequence of Brexit. There was a lot of talk for some time about the importance of protecting the Good Friday/Belfast Agreement, but the protocol rips that to shreds and has done a huge amount of damage to that agreement that so many people said would be protected.

It has done damage in two main ways. First, it changes the status of Northern Ireland without the consent of its people as regards Northern Ireland's place in the United Kingdom and in the United Kingdom's market. Secondly, as we have seen over the last number of days, there is the way in which safeguards that were built in, which, many would have argued, were a core component of the Belfast Agreement, have been taken away on this issue. It was never the case that the protocol was the inevitable consequence of Brexit. It has done damage to the Good Friday Agreement that so many people say they support.

Grace periods are welcome while they are here, but, regardless of how long they go on for, it still leaves us in an exceptionally difficult place once they end. As hauliers, businesses and interested sectors have told us, it will cause huge difficulty when those come to an end. We need to look for alternative solutions. We need to highlight the concerns to our Government, as we have been doing. At the same time, conversations are needed with the European Union about the difficulty of implementing these and the problems that will come as a result of their being put into place. These are not concerns that I am making up or pulling out of the air; they are what we got directly from those who will be most affected by them.

I understand that the EU will say that it wants to protect its single market, but we want to protect our trading relationship with the rest of the UK. Common sense needs to be shown when it comes to goods that are coming from Great Britain into Northern Ireland and have no risk of entering the EU. We need to see an awful lot more flexibility and a change in approach. I am sure that Declan has a view on this as well.

Mr Kearney: Thanks, Gordon. We can best describe where we are as new and uncharted territory. We have the shape of the withdrawal agreement. We need to ensure that the protocol is fully implemented. As a result of the Trade and Cooperation Agreement, there is still a fair bit of work to be sized up by our officials to work out what the consequences of it all will be. Regular intensive engagement with the British Government and their officials and with the Irish Government and key Irish officials is essential. Beyond that, we have to stay closely engaged with the European Commission. The European Commission was highly sensitive to all the relevant issues that affect us in this regional economy and of the implications of withdrawal for the operation and functionality of the island economy. We need to remain engaged with all the relevant stakeholders and players. In the event that the British Government can be persuaded, if we have not made up the necessary ground, to seek extensions to the grace period — I do not know how likely or probable that is — the access is available for that to be carried through.

I detect an appreciation of the complexity that needs to be navigated among Ministers and officials on the British Government side who are at the coalface of dealing with the immediate readiness and short- to mid-term operational issues. My fear is that others in the British Cabinet may simply see this as, "Deal done. Job done. Let us move on", in an irresponsible way that pays scant regard to the bits that have to be picked up as a direct result of withdrawal having been finalised. To that extent, it is incumbent on all of us, all the parties in our Executive and the Chamber, regardless of our differences over the calamity of Brexit being foisted upon us, to work together to ensure that we protect supply chains, protect the all-island supply chains and ensure that trade moves back and forward between Britain and Ireland in as seamless a way as possible.

Colin, I do not have time to do it now — I could do so, but I am conscious that time is pressing on — but it would probably be useful for the Committee to receive an update on and an assessment of how our officials grade achievement at this point relative to the key priorities that were set down by the Executive on the basis of the needs of manufacturers, producers, local businesses and our regional economy. The assessment of achievement is useful because it indicates clearly where a fair bit of progress was made or where we ensured that our priorities were completely fulfilled, where they were partially fulfilled or where we have situations on matters such as on rules of origin, which are integral to trying to get a zero-tariff, zero-quota system in place, where our priorities have not been achieved. It is a mixed bag of achievements, semi-achievements and no achievements at all, but it informs us all from a political and public policy perspective, and that could be followed through by the Committee via our officials.

Ms Anderson: Chair, I know that you will not want me to open the constitutional question because that is where the consent principle is firmly rooted in the Good Friday Agreement. Gordon, you and I may agree and disagree on things, but on the things on which we disagree, we can do so respectfully.

Declan, you mentioned new and uncharted territory. I am very conscious of Brexiteers who ran the Vote Leave campaign, such as Jacob Rees-Mogg, who, as soon as the trade agreement was signed,

moved his businesses out of Britain and into the South of Ireland so that they could be closer to operating in the EU. Businesspeople, even those like Jacob Rees-Mogg, are very pragmatic in making their decisions.

I am thinking about Rosslare and the sixfold increase in business traffic flow there over the past few weeks. Some supermarket chains are bypassing Britain's land bridge and bringing in fruit and vegetables directly from the Continent via Rosslare. Is that part of the preparation work with traders so that they can see where they can get their supply chains? Is the interdepartmental working group looking at, for instance, how that could strengthen the all-Ireland economy? I hope that it does, and I want the east-west economy to work as well as it can, if not better. I would like to know whether the opportunity presented by Rosslare is being looked at and whether traders and hauliers are being directed towards it as a possible solution to some of the problems.

Mr Lyons: Martina, I can speak only to the representations that we have received from businesses, which want easier access between GB and NI. That is what they have lost, and that is what they are trying to get back. That is what is best for consumers and for them in getting their products in.

We have always had opportunities to source goods from other routes, but that is not the problem; the problem is the barriers that have been put up in the regulatory border in the Irish Sea. More than anything else, businesses want to see those being eased and to go back to the position that we had. That is what we should be trying to do to help them. I do not want to rehearse old arguments, but it is clear where we do the majority of our trade: it is GB-to-NI and vice versa. We should not turn our backs on that market and try to source things from elsewhere when the easiest thing would be to make sure that we have that ease of trade between GB and NI. Those are certainly the representations that we get at this time.

Ms Anderson: Perhaps the two junior Ministers do not have it in front of them, but could we get an update on the Shared Prosperity Fund? We heard from the 11 councils and know that millions and millions of pounds of European funding will be lost as a consequence of being taken out of the EU. We were told that the British Government would replace that fund. Those councils are looking for it to be replaced. We heard from the Finance Minister that it will be a standstill Budget. We also heard from the Minister for the Economy that £70 million will be lost. The Department of Finance tells us that it will be the same for other Departments. The Trans-European Transport Network (TEN-T) will be lost to the Department for Infrastructure. Can we get an update on how we will deal with the loss of what amounts, over seven years, to a tranche of €3.5 billion of European funding?

Mr Lyons: Obviously, I do not have all those figures to hand. However, working with the Department of Finance, we can get you some information on that. Rather than take up time now, we will sign that off and get it through to the Committee, Mr Chairman.

Ms Anderson: Thank you.

The Chairperson (Mr McGrath): That will be appreciated.

Mr Clarke: I want to pick up on what Minister Lyons said in response to Martina about the Rosslare route. He was being diplomatic, to be fair. He was right to say that hauliers want the barriers removed, but what Martina forgot or omitted to say is that, while Rosslare may be up sixfold now, hauliers say that it is more expensive, takes longer and is unreliable because of weather conditions. If Martina is happy that Northern Ireland gets its supplies through Rosslare, which will be interrupted in bad weather, that is an issue for her. However, I agree with what Minister Lyons said in response to that, except that that element was omitted.

There seems to be a divergence of opinion about what Michelle O'Neill said on Monday about the Executive supporting the "rigorous implementation" of the protocol. Is that the joint position of the First Minister and deputy First Minister?

Mr Lyons: I will answer your first point. It is absolutely right that you make those arguments. It goes back to consumer choice and consumer cost. They are both impacted by losing ease of access across the Irish Sea. I completely agree with you.

With regard to your comments on what the deputy First Minister said at Question Time on Monday, I believe that the deputy First Minister misspoke. It is clear that it is not the Executive's position that we

support the "rigorous implementation" of the protocol: that is the party political position of the Alliance Party, Sinn Féin and the SDLP.

I prefer the approach that the Government took in the paper that they produced following the conclusion of the agreement at the end of December. They say that they seek to implement the protocol "in a flexible, proportionate ... way". They also talk about a "pragmatic approach", "consensual" and "proportionate". The protocol talks about its being implemented in such a way that it impacts:

"as little as possible on the everyday life of communities"

in Northern Ireland.

You have to look at our record over the past month in particular. We are looking for flexibility. While the protocol is here — I hope that it is not always here — we will strive not to implement it rigorously but to get the necessary mitigations to protect consumers, businesses and jobs. With some of the matters that we have taken to the Government about the problems that we are experiencing and the changes that we want to see, it is very much my view that we need that pragmatic approach.

In the meetings that we have had with hauliers and business groups, the words that came up time and again were, "We need flexibility" and "We need pragmatism". If we are really concerned about protecting our people and businesses, consumers and consumer choice, we need to take that approach while the protocol is in place.

I confirm that the deputy First Minister did not articulate an Executive position. I hope that that is helpful.

Mr Clarke: That is useful, and I understand the idea of flexibility.

Ministers, will you comment on Brandon Lewis's remark that our supermarkets have been empty more because of coronavirus than Brexit? Clearly, that is not the experience of many retailers, who have said quite the contrary. Do you believe that Brandon Lewis is an honest broker in this?

Mr Lyons: At the start, it may have been due to the problems pre Christmas in Calais, and perhaps that had some impact. However, there is a lack of choice in our supermarkets. We do not have food shortages and are not running out of food, but there is a lack of choice. There is huge concern among many people in Northern Ireland. Trevor, you will have seen, as a constituency representative and as someone who maybe does the shopping, that previously available products are not available now. It is inevitable that that would have happened.

Another concern is the fact that we have been told that 30% to 40% fewer loads are returning to Northern Ireland. Everything is being shipped out from Northern Ireland to Great Britain, but it is not coming back in the same measure. That causes huge problems for our hauliers, and, inevitably, some of that will factor in to our supermarkets. We talk to the Secretary of State frequently and put those points across. Certainly, in our XO meetings, he has been helpful. He and Robin Walker, who attend on behalf of the NIO, have been supportive of some of the issues that we have raised. However, the protocol is causing problems, and there is sometimes a lack of willingness to recognise that it is causing long-term problems and that they are not just teething problems.

Mr Kearney: I will just come in on that, Trevor. I do not think that there is any value in going down the rabbit hole of differences of opinion on the Executive. In this Committee, the Executive and the Chamber, they are all well enough rehearsed. There is a fundamental difference of opinion. The majority of parties and MLAs see the necessity for the protocol to be implemented and were opposed to the very idea of Brexit from the outset.

That said, we have to be pragmatic. It is essential that we protect supply chains and avoid costs being imposed on our consumers that arise from the change and the economic and commercial trading environment in which we find ourselves. The protocol is the least worst option in the circumstances, but, as I said, the British Government negotiated Brexit, the withdrawal agreement and the protocol. They did it with their eyes wide open. If, perhaps, a more enlightened approach had been taken by some members of the British Cabinet at the time towards the backstop negotiated with Theresa May, we would not be looking at the curtains of bureaucracy, as I mentioned, that apply to trade between

Britain and the EU and for trade between this island and Britain, with all the implications for trading on an east-west and west-east basis. Our job is to deal with the situation in which we now find ourselves.

Picking up on your question on Brandon Lewis, I think that was a bad negotiation, and I agree with Gordon's assessment. As I mentioned, the truth is that some in the British Cabinet and the British government system now recognise the shape of what the withdrawal agreement means not only for businesses here but for businesses in Britain. 'The Guardian' reported at the weekend that British businesses that export to mainland Europe are now being encouraged by British government trade advisers to set up separate companies inside the EU in order to get round the extra charges, bureaucracy, paperwork and taxes that arise from Brexit. Those are small businesses that were informed about that by advisers working for the Department for International Trade. That speaks volumes about the situation in which we find ourselves.

While there are differences between all of us, we have to find common ground, which must be to protect and maximise supply chains, ensure that costs are not thrown on to consumers and customers living in this region or across the island and that we make the best of a bad situation that has been foisted on us by some elements of the British Government who carried out a reckless negotiation and are now riding off into the sunset while other members of the British Government, in fact, recognise the real-time, real-world practical difficulties that have been created.

Mr Clarke: I hear what you say, Declan, and I accept that we can be on different sides in all these things. Equally, we are on different sides on the Belfast Agreement: you were on one side, and I was on the other. How, then, would you respond to the NIO if it confirmed that it had tweaked the Belfast Agreement to allow the protocol to work?

Mr Kearney: When it comes to the management of our peace and political processes in the North, I have absolutely no faith in this Tory Government. Since they came to power in, I think, 2010, they have been a net contributor to so much of the political instability that we have had over that 10-year period, which, in my view, has been unnecessarily exacerbated by the approach that was taken to Brexit, from the decision, the negotiations on the backstop through to the protocol. The reality is that they passed the Internal Market Act, and Brandon Lewis was the cheerleader for that position, on the basis that, if necessary, they were prepared to breach international law. That has a direct repercussion for the Good Friday Agreement. That was implicit and explicit in what he meant.

Frankly speaking, we are far better governing ourselves. Even though we have a division of political opinion, we are far better governing ourselves and taking our own counsel on how all those political and economic issues are taken forward without bad advice or, for that matter, nefarious interference on behalf of certain British Ministers or other sections of the British state.

Mr Clarke: I hear what you say, Declan, but, on the one hand, you criticise them for being prepared to break one agreement, but, on the other hand, on the Belfast Agreement, which you signed up to and supported and I did not, you seem to be silent on the fact that they tweaked that to get this wonderful protocol, as many of you see it. We have a different opinion on that, but it is interesting that, on the one hand, you say that they were going to break international law, but, on the other hand, it is OK because they can tweak the Belfast Agreement to allow this protocol to work, which is, ultimately, damaging Northern Ireland.

The Chairperson (Mr McGrath): I will intervene, Declan, because there was no question there. It was a statement, and it was Trevor's fourth go. We are moving on and are about 25 minutes over time. We still have to hear from Fiona Ryan, and I do not want to detain her for any longer than we have to.

Ms Sheerin: Hint duly noted about timekeeping and the amount of time that has been spent thus far.

Thanks to both Ministers for the presentation; we have had a lengthy conversation. We can get bogged down in the detail of the protocol, Brexit and who is at fault. At this point, anyone who is focusing on the protocol as being the cause of our woes here is like burning your house to the ground and then complaining about the damage caused by water from fire extinguishers. If it were not for Brexit, there would not be a protocol. We can get bogged down in that and the fact that the North did not vote to leave the EU, or we can have a conversation on what we will do here to make the best of a bad situation.

To that end, I want to ask the Ministers what conversations have been held with the business community and the people who are involved in securing supply chains here. I note that, during the

presentation from the joint First Ministers, Arlene Foster referred to the opportunity that had arisen. The big example in the first week or two after Brexit was what Sainsbury's did in the North. It previously imported all its milk from England, which, to me, is bizarre, given that Ireland relies massively on agriculture. Sixty years back, pretty much every rural household in Ireland had a cow or was able to produce milk, yet we are now in a position where we import milk. The Henderson Group was getting business from that, because Sainsbury's changed supplier. There will be examples of that across the board. I spoke to an egg producer during the week who told me that we do not have any day-old chicks in Ireland. All the day-old chicks that are used for egg production across the island of Ireland are imported from England. Again, that is another bizarre reality. We need to look in the North, or North and South, for solutions to those problems. Transporting such things raises questions — taking the politics out of it — about energy usage and efficiency. Obviously, we will always have to import bananas and passion fruit, given our climate in this place, but we need to look at solutions on the island, because that would be more cost-effective and all the rest of it. What conversations have been held at that level, and what progress has been made?

Mr Kearney: I will be brief. That is one of the strategic conversations that we need to take forward in the time ahead. I revert to my point about needing a clear focus on protecting the resilience of our supply chains and ensuring that they work for us. We need to take a pragmatic approach to ensure that business is not endangered and we do not end up making life more difficult for consumers and customers and taking more money out of their pocket. It puts a focus on how we develop a greater level of effective supply chains on an all-island basis. In the heel of the hunt, this is about ensuring that our regional economy is not adversely affected and we have access to the supply chains that we need on an east-west, west-east and North/South basis, with the minimum disruption and difficulty.

To that extent, we will, as I said, have to remain closely engaged in discussions with the European Commission. By the same token, just as we have reasonably effectively made an impression on some of the more pragmatic and workmanlike elements and solution-focused individuals in the British Government daily through the XO, we will need to have some real-world conversations with the Irish Government about what all-island supply chains look like in terms of being upscaled in the time ahead. I see that on the basis of economies of scale, making sure that consumers have choice and that they are getting best value for money in the process.

Mr Lyons: I will come in on that. Emma could not resist the temptation to say a few words on the protocol, so I will also not be able to resist the temptation to say again that I fundamentally disagree, and I want it firmly placed on the record that I do not believe that the protocol was an inevitable consequence of Brexit. It was called for and agitated for, and now people are asking for its rigorous implementation. That would be to the detriment of people in Northern Ireland. Alternatives to deal with the changing relationships were identified and could have been implemented in a way that would be causing far fewer problems than we now have with the protocol. However, I do not believe that I will convince Emma or others on the call about that today.

To answer Emma's specific question, we certainly have an awful lot of interaction with and listen to businesses. I hope that that has come across in what we have said today. We are always trying to help businesses in that way. I want to get rid of that friction between Great Britain and Northern Ireland so that there can be an easier flow of trade than there is now. Northern Ireland has some of the best milk and dairy products in the world, and I would be happy and pleased to see more people using the local produce that we have supplied. I am not sure whether "Free cows for everybody" is now a Sinn Féin policy, trying to go back to what we had across rural Ulster a number of years ago. We want to help our local suppliers. I encourage people to do that and to support our local farmers, but we should not allow that to stop us wanting to make sure that we have free trade and consumer choice with our biggest market.

That is me, Mr Chairman. I cannot hear you.

The Chairperson (Mr McGrath): Emma, do you have anything further?

Ms Sheerin: No. It is not, "Free cows for everyone" [*Inaudible.*]

The Chairperson (Mr McGrath): I am glad to hear that. I am looking out on to a very small back garden, and I do not think that I have enough room for a cow.

Minister, we do not always disagree. I do not think that the protocol was an inevitable outworking of Brexit. There were many other options *[Inaudible]* voting them down. Probably, those other options would have been much more palatable than the situation that we find ourselves in.

Gentlemen, thank you for your time. We have kept you a little longer than expected, due to the technical difficulties at the start of the meeting. Participation in these meetings is not always easy. Minister Kearney, we appreciate your making sacrifices to be with us. Minister Lyons, it looked for a while as though you were going to be on your own for the whole session, which would have been difficult. Thank you, and we will see you both soon.

Mr Kearney: You will, Colin. *[Inaudible.]* Apologies for the technical difficulties at the outset. I hope that they did not adversely impact on the quality or flow of the presentation or on the discussion that we had afterwards.

The Chairperson (Mr McGrath): No, it was grand.