

## **Northern Ireland Protocol**

1. The Cabinet Office has just published a detailed Command Paper outlining how they will meet the three commitments the Prime Minister gave to Northern Ireland earlier in 2020.
2. The commitments made are:-
  - a. Northern Ireland businesses must have unfettered access to the rest of the UK market.
  - b. Trade from Great Britain to Northern Ireland which remained in the UK customs territory should not be subject to tariffs; and Northern Ireland benefit from the Free Trade Agreements we strike with third countries - protecting Northern Ireland's place in the UK customs territory.
  - c. The additional processes on goods arriving in Northern Ireland must take account of all flexibilities and discretion - ensuring a smooth flow of trade with no need for new physical customs infrastructure.

## **Ensuring unfettered access for Northern Ireland businesses to the UK market**

1. From 1 January 2021, the first of two phases of unfettered access will apply to goods in free circulation in Northern Ireland. It will be supported by anti-avoidance provisions to tackle any EU businesses who seek to route their goods through Northern Ireland to avoid the UK's customs regime. Purchasers from Great Britain who buy Northern Ireland goods will not be liable for tariffs, whether they move goods directly or via Ireland.
2. Only genuine Northern Ireland businesses will be able to benefit from unfettered access. The second phase of the unfettered access regime will be brought in during the second half of 2021. It will focus its benefits on those businesses established in Northern Ireland and will identify "qualifying" traders as they 'check in' in the usual way at ports and airports. The system will be light-touch - with many traders auto-enrolled in the scheme - while still ensuring that goods are free of checks, controls or tariffs when moving from Northern Ireland to Great Britain.
3. Protections for qualifying businesses on arrival in Great Britain will apply whether goods are moved directly to Great Britain or indirectly via Ireland - meaning unfettered access whether goods leave Belfast for Cairnryan, or Dublin for Holyhead.
4. Unfettered access also requires the removal of the requirement for export declarations for Northern Ireland businesses moving goods from Northern Ireland to Great Britain. This will mean a seamless flow of goods will be maintained from Northern Ireland to its most critical market in Great Britain, while maintaining capacity for effective enforcement and tackling smuggling.
5. For Northern Ireland to Great Britain movements 14 areas have been identified that will not enjoy unfettered access as these are underpinned by specific international obligations. These concern only very limited categories of trade - such as those involving endangered species - and will have negligible implications for trade as a whole.

## **No tariffs on internal UK trade**

1. Only those goods at risk of entering the EU's Single Market (i.e. not those remaining in Northern Ireland) should have to pay EU tariffs. An agreement in principle will mean that goods which can be shown to remain in Northern Ireland and the UK's customs territory will not be subject to tariffs. It will only be goods destined for the EU, or where there is uncertainty or genuine risk of onward movement, where tariffs will be charged.
2. The tariffs arrangements within the agreement in principle will be administered through a new UK Trader Scheme that will allow authorised businesses to undertake that the goods they are moving into Northern Ireland are "not at risk" of onward movement to the EU, and therefore not liable to EU tariffs. The scheme will include safeguards to ensure that it is not available to those with serious criminal records or existing compliance issues. The scheme will be focused on goods being sold to, or provided for final use by, end consumers located in Northern Ireland or, for internal UK trade, elsewhere in the UK. The scheme will be open only to businesses established in Northern Ireland, or businesses who meet certain closely linked criteria. It will not be available to businesses established only in the EU.
3. In the event that a Free Trade Agreement is concluded, this standalone agreement in principle will remain important for goods moving into Northern Ireland. It would mean that Northern Ireland businesses using the UK Trader Scheme would not need to complete origin certification; and if goods could not qualify for tariff-free trade under a Free Trade Agreement's Rules of Origin requirements, they could still be traded tariff-free under this deal by those businesses within the scheme.
4. The agreement in principle provides for critical new flexibilities in respect of commercial processing. A series of sectors will be exempt from the default commercial processing definition and can qualify to be not considered "at risk". This includes food for sale to end consumers in the UK; as well as construction, direct health and care provision, and not for profit activities in Northern Ireland. Processing carried out by importers of animal feed for final use at their premises in Northern Ireland will also be covered by this exemption.
5. Importantly, the UK Trader Scheme will enable goods to be routed from Great Britain through Irish ports to Northern Ireland without being liable for tariffs, within certain provisos. This will support time sensitive routes for Northern Ireland businesses.
6. The scheme includes a series of safeguards designed to prevent abuse, and an overall emergency brake mechanism in 2024 in the event of significant diversion of trade, or fraud or other illegal activities, and on the basis that replacement arrangements protecting Northern Ireland's place in the UK customs territory are then put in place.
7. For cases not covered by the scheme a reimbursement scheme for goods that attract a tariff, but which can subsequently be shown to have remained in the UK customs territory, will be established.

## **Supporting trade from Great Britain to Northern Ireland**

1. Agreement in principle has been reached on the means to determine which goods are liable for tariffs, so that internal UK trade can remain tariff-free. The Protocol also requires that any other checks and controls are avoided as far as possible, in order to protect trade within the United Kingdom. There is some detail as to what this will mean in practice: -

- Protecting the special status of agri-food movements from Great Britain to Northern Ireland will mean that some limited processes on sanitary and phytosanitary (SPS) movements into Northern Ireland will be necessary.
- Supermarkets and their trusted suppliers, will benefit from a grace period, through to 01 April 2021, from official certification for products of animal origin, composite products, food and feed of non-animal origin and plants and plant products. The UK Government and DAERA identify traders prior to 31 December so they can benefit from the grace period. The Government will not discriminate against smaller suppliers or between different companies in implementing these practical measures. Monitoring and conditions will be attached to these arrangements to ensure there is no abuse or leakage of goods away from Northern Ireland.
- Restrictions and prohibitions placed on certain types of chilled meats, such as sausages, from Great Britain to Northern Ireland will be set aside with these goods continuing to move between Great Britain and Northern Ireland throughout the first half of next year, subject to appropriate certificates and channelling procedures.
- Practical arrangements in respect of appropriate checks and controls on agri food goods at ports will be based as far as possible on:-
  - Documentation on electronic checking;
  - “Identity checks” focused on a simple check of the seal of a truck; and
  - Physical checks managed at a local level based on risk assessments and reflecting the full range of flexibilities provided in legislation.

In practice, this means that physical checks on retail packs and supermarket goods can be reduced to zero, or close to zero, on a risk assessed basis.