

## **Predictable uncertainty: The first six weeks under the Protocol on Ireland/Northern Ireland**

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It is fair to say that if anything was going to dominate the media and public debate in Northern Ireland in January 2021, it was Brexit and Covid-19. The impact of each could be summarised under the one word: 'uncertainty'. Taken together, it was inevitable that the New Year would bring disruption and unease. After months of suspense, key decisions about the operation of the [Protocol on Ireland/Northern Ireland](#) (ratified as part of the UK-EU [Withdrawal Agreement](#) nearly a year previously) were only formalised on [17 December](#) by the Joint Committee charged with overseeing its implementation. And the new UK-EU relationship was only [agreed](#) on Christmas Eve. The UK Government's decision in June not to extend the transition period meant that there was literally a matter of days for everyone to get ready for the most significant constitutional, economic and political change for generations.

### **Changes across the sea borders**

In the first week of January, the combination of Brexit and the coronavirus pandemic – together with the roll-out of the new regime over the Christmas period – caused some retailers in Northern Ireland to experience [supply delays](#) and [the shelves of at least one major UK supermarket chain](#) became noticeably empty. Some [hauliers warned](#) they were being overwhelmed by the new paperwork, while staff carrying out the new checks were recruited [nail-bitingly close to the deadline](#). The impact of the regulatory as well as the customs rules that now applied on GB to NI movement of goods was reflected in the difficulties relating to the so-called '5 P's': [pets](#), parcels, plants, [plant products](#) and (seed) potatoes. There was also some small amount of disruption in the other direction, as, due to EU restrictions on the sales of endangered fish to third countries, [Lough Neagh eels could no longer be sold into GB](#). Although the decisions of December 2020 provided some temporary easements for some of the most burdensome requirements (e.g. the need for full Export Health Certificates), by mid-January business leaders were [already warning](#) that a workable solution would need to be found after the expiration of those grace periods. An interesting comparison was made with Ireland. British supermarkets which exported to the

Republic of Ireland had found the [system was 'unworkable'](#) as far as their supply chains were concerned; they were keen to find an alternative to the EU/UK rules for GB/NI.

Indeed, there were considerable difficulties in GB-ROI movement of goods, not least of which in the [waiting times and facilities](#) in Dublin Port. It was reported that [freight volumes between the UK and Dublin port were down 50%](#) on this time last year. At the same time, adjustments and solutions were being rapidly found. There was a [500% increase in freight traffic from Rosslare direct to the continent](#) 'as more businesses chose direct ferries with mainland Europe to avoid Brexit checks with Britain'. The end of January saw [problems arising for NI-registered vessels offloading at Irish ports](#). The following week, it was reported that Dublin had designated [extra ports to receive fishermen from Northern Ireland](#). In response to such challenges, the Irish Revenue Commissioners allowed traders and hauliers [temporary exemption](#) from the full application of the Union Customs Code in order to keep goods moving from GB. There was also considerable problem-solving going on in Northern Ireland for some problematic issues (e.g. [groupage](#)). But it was becoming clear that something more than time and familiarity with the new rules would be needed to address the consequences of Brexit and the Protocol in the longer term.

According to the Ulster Bank purchasing managers' index, [Brexit contributed to an increase in costs and associated slump in business activity](#) in January. Against this background, the 'teething problems' of the new arrangements and the systems designed to manage them were costly ones. The government's flagship initiative to help businesses manage the Protocol, the Trader Support Service, was [criticised](#) as 'simply not good enough'. There were also consistent [calls for the extension of grace periods and protection of business](#). Manufacturing NI launched their [first quarterly tracking report](#) which found that, despite the disruption, most manufacturers in NI wanted the Protocol to work and called for stability, investment, and simplification to enable this. One upside of the new friction on GB-NI movement was the new [opportunities for NI producers](#) to fill the gaps. And InvestNI initiated a campaign to promote the [unique benefits for businesses](#) being located in Northern Ireland for unfettered access to both the GB and EU markets. Overall, the repeated request from business was that politicians try to create the conditions for much-needed certainty in a rapidly-changed environment.

### **Political flux**

On 1st January, Secretary of State for NI [Brandon Lewis tweeted that 'there is no Irish Sea border'](#) - a claim which [did not help](#) to bring clarity to an already-confusing situation. The First Minister [Arlene Foster](#) also seemed keen to de-dramatise the matter. At around the same time, Economy Minister [Diane Dodds wrote an open letter to Michael Gove](#) calling for 'urgent action to be taken' against the weight of increased bureaucracy. Meanwhile, unionist MPs and MLAs called on the government to [activate Article 16](#) of the Protocol, i.e. safeguard measures. The sense that the Protocol was a live issue of concern for unionists in particular steadily grew. Following [reports of threats](#) through graffiti and social media, some border post staff [were briefly withdrawn from work](#)

[but were reinstated a week later](#). Even though the PSNI stated there was 'no evidence of credible threats', the episode did show the UK and EU how quickly tensions can rise in Northern Ireland and the sensitivity needed to handle the Protocol as a political concern.

This was made all the worse on 29 January as news broke of the EU Commission's plan to [invoke Article 16 of the Protocol](#). Acting in part in response to the EU's own internal tensions around vaccine procurement, the Commission proposal was intended to prevent the vaccine from entering GB via Northern Ireland from across the Irish border. There was a hasty reversal following vehement alarm and criticism, not least from the [Irish government](#). Commission President [Ursula von der Leyen apologised for 'the mistake'](#) but severe damage had been caused to UK-EU trust and to the reputation of the Protocol. At the beginning of February, the DUP produced a 5 point plan to 'free' [Northern Ireland from the Protocol](#). One planned tactic was for it to refuse full participation in north/south bodies in meetings related to the Protocol. Another tactic was the use of an e-petition which gained the necessary 100k signatures in under 36 hours required to trigger a debate in the House of Commons (which occurred on 22 February). Unionist concerns about the consequences of the Protocol for Northern Ireland's place in the UK and the equality of British citizens across it comes in a context of growing 'heat' in the debate about the future of the Union – yet another element of 'unpredictability' in 2021. On 23 January, the Sunday Times ran the results of a number of polls across the UK showing strength of [support for referendums on Scottish independence and Irish unification within the next 5 years](#). Whilst political parties disagree about the validity of such polls, academics have urged [caution](#) in interpreting their significance.

### **Changes across the land border**

Although the border across the island of Ireland is now the external border of the EU, the fact that the Protocol allows free movement of goods across it does avoid a hard Irish border. However, Brexit does have implications for other types of movement across and around it. Mobile phone roaming charges for crossing the border are now in the hands of [the mobile operators](#), some of whom have more generous plans than others. Another impact of Brexit is in Northern Ireland's access to EU funding. In late January [€1bn of funding for the next iteration of the Peace programme \(2021 – 2027\)](#) was announced, half of which to come from the British government, with the other half divided between the NI Executive, the Irish Government, and the European Commission. Additional funding for cross-border infrastructure projects will come from the Irish Government as part of the [Shared Island initiative](#), as in the Sligo/Enniskillen Greenway. Another significant feature in north-south cooperation is healthcare. At the end of January it was revealed that [patients travelling to NI for life-changing eye and hip treatments were now doing so without the guarantee of reimbursement](#) as a bilateral Brexit health agreement was still to be legally activated. [Frontier Worker Permits](#) are now required for non-Irish EU/EEA workers living south of the border but working north of it. New frontier workers will have to satisfy the [points-based immigration system](#) recently passed by the UK Parliament. There is a sense that this is but the beginning of a new border regime north/south and east/west.

All in all, as might have been predicted, the first weeks of the Protocol have brought disruption on many fronts. What has not changed is the importance of the ongoing UK-EU relationship. On 3rd February, [Michael Gove wrote to EU counterpart Maroš Šefčovič](#) to call for extensions to the various grace periods until 2023 and to find a permanent alternative to restrictions on some agricultural products. His co-chair's [reply](#) was to draw attention back to the UK's responsibilities and promises, and to downplay expectations of major concessions. At the national level, Prime Minister Boris Johnson said he was willing [to override parts of the Protocol and possibly trigger Article 16](#) in order to remove barriers in the Irish Sea, while Tánaiste Simon Coveney remained [adamant that the Protocol is the only show in town](#). Six weeks into 'proper Brexit' and the implementation of the Protocol, it is clear that we are just at the beginning of a new context and dynamics for the UK/EU, east/west and north/south relationships.