Seanad Special Select Committee on the Withdrawal of the UK from the EU
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The Impact of the implementation of the EU-UK trade deal on the business sector

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Dear Chairperson and Senators,

Thank you to the members of the Committee for this opportunity to set out the views and concerns of business on the EU-UK Trade and Cooperation Agreement and the Protocol on Ireland / Northern Ireland following the coming into effect of the UK's full economic departure from the EU on 1 January 2021.

As Ireland's largest business organisation, we have been working intensively to support member companies since the UK referendum on 23 June 2016 as they manage ongoing uncertainty and have continually planned for known and unknown disruptions resulting from Brexit. As far back as 2017 Ibec published our first guide and tool kit for business to address the decision of the UK to leave the EU. The central priority of our campaign continues to be to provide members with clear and actionable guidance to address these challenges, focussing on four central themes of trade in goods, trade in services, the shared island economy, and the labour market.

In 2020 and continuing this year, Ibec has held an extensive series of virtual briefings to provide practical guidance to members to help companies prepare for the enormous challenges that Brexit presents. These briefings cover a range of critical issues for business, including dedicated sessions on customs, trade and VAT preparations, international data transfers, business readiness, the UK landbridge and direct routes to the European continent, and the all-island economy. In support, the campaign has collaborated closely with key stakeholders and decision makers in Dublin, London, and Brussels, including the Revenue Commissioners, the Department of Transport, the Department of Enterprise, Trade and Employment, the Data Protection Commission, the Department of Foreign Affairs, the UK Government, and the European Commission, most recently hosting a member briefing session with the Commission Task Force for Relations with the UK and their colleagues in relevant Directorate Generals. More than 3,000 individual members have engaged with our sessions in this period. Ibec has also provided regular briefings for our industry sector associations and worked closely with our colleagues on initiatives to help members prepare in the most impacted areas. One of my colleagues Paul Kelly, Director of Food and Drink Ireland (FDI) will also provide a briefing to this Committee today.

The promised transition period for business was eroded by protracted negotiations, leaving little time for business to adjust to the new trading arrangements finally agreed on 24th December and signed by the European Commission and Council Presidents and the UK Prime Minister only the day before the transition ended 31st December 2020. Even now, the TCA remains to be formally approved by the European Parliament following its scrutiny.

The trading conditions for Irish business with our nearest neighbour are now very different, involving complex customs procedures and more costly transport options, which are posing daily difficulties to our members as they, together with the customs officials, adjust to new processes for trading with Britain and digest the specificities of the EU-UK TCA. There have been and continue to be "teething problems" with customs controls on which we are in regular dialogue with the Revenue Commissioners. In the coming months we expect challenges to continue as trade volumes rise as stockpiles run out and Covid-19 measures lighten, notwithstanding the UK gradually introducing full customs controls over the coming months.

The completion of EU-UK TCA was welcomed by Ibec and Irish business compared to the consequences of a 'no deal' scenario. After nearly 50 years of cooperation within the EU, the negotiations were always going to be prolonged and difficult. In this context, the TCA, however imperfect, must be welcomed as a strong platform for a future positive economic relationship between the EU and the UK. Regardless of its scale, which includes an unprecedented no tariffs nor tariff quotas for bilateral trade in goods, the impact on supply chains and east-west trade is seismic. However, we all must recognise that unlike traditional free trade agreements (FTAs) this is not about bringing two parties closer together but rather about dealing with divergence as two parties move apart as the UK exits the EU single market and customs union.

As has been well noted in recent weeks, the Rules of Origin provisions in the TCA are problematic for Irish business, including a requirement for tariffs to be paid on goods of EU origin which have entered free circulation in Britain or costly and complex customs procedures to avoid goods entering free circulation. These provisions are not without reason, rather they are a direct consequence of the UK's will for a very different relationship with the EU and its decision to leave the EU Single Market and Customs Union. However, for Irish businesses which rely on the British market, the UK landbridge, or British suppliers, these changes are fundamental and for some, existential.

In relation to trade in services, the UK's commitment to stopping the free movement of people with the EU has resulted in the anticipated restrictive, fragmented, and complex relationship. Here, I must underline that there will be impacts for the island as Northern Ireland is a third country of the EU for services. It is welcome that the EU and the UK agreed to market access, national treatment, and a most-favoured nation (MFN) clause, among other aspects. However, a stronger relationship on services cannot be attained without the foundation of the free movement of people. In the context of the Common Travel Area is a real positive for Irish and UK citizens. However, this limited agreement does not cover other EU citizens and poses challenges to critical issues for people and businesses such as the mutual recognition of professional qualifications. We recognise and welcome the EU's pragmatic approach, including providing a temporary mechanism to permit the free flow of data for four months, extendable to six, while it works to finalise a unilateral data adequacy decision. The importance of rapidly agreeing longer term arrangements to facilitate data flows cannot be overstated as the environment for business undergoes even more digital transformation.

These are simply a few examples of the difficulties facing Irish business because of the UK's decision to depart the EU Single Market and Customs Union. We welcome the ambition of the EU and the UK to reach a TCA that achieves as close as possible a relationship given the UK's restrictive red lines. However, we also recognise that principles to ensure 'a level playing field' and governance structures were extremely challenging issues to agree and despite the positive elements of the deal, we must put it in context that it still constitutes a relatively "hard" Brexit. We urge the Irish Government, the UK Government, and the EU authorities to therefore work collectively with business to support our supply chains in adapting to entirely different trading conditions with the UK.

On 17 December, the EU and the UK reached a pragmatic, flexible and critical agreement on the implementation of the Protocol following a protracted period of difficult negotiations because of the UK's threat to renege on its commitment in international law via the UK Internal Market Bill.

The Protocol, we must remind ourselves, is a creative solution to a series of mutually exclusive problems to facilitate the UK's departure from the EU while at the same time ensuring peace and prosperity on the island of Ireland by protecting the Good Friday Agreement, the integrity of the EU single market, and our shared island economy. It is the agreed solution to meet these non-negotiable objectives and must be supported and advanced on a continuous basis.

The European Commission's short-lived proposal to activate the Article 16 safeguard clauses of the Protocol was at best regrettable. However, we welcome that this misjudged error was swiftly corrected and Article 16 in fact was not triggered, and the Commission has since iterated and demonstrated its steadfast commitment to respecting the Protocol in full and in close cooperation with its partners in Ireland, Britain, and Northern Ireland.

We welcome the dialogue between the EU-UK co-chairs of the Joint Committee – Maroš Šefčovič and Michael Gove towards addressing outstanding issues and wish to underline that this is the time for mutual effort to solidify the Protocol with peace and stability as the core objectives.

Irish businesses, from multinational corporations (MNCs) to SMEs, have worked diligently to prepare and adjust as much possible to the new trading relationship. However, it must be acknowledged and understood that business has been preparing in uniquely challenging circumstances. The dual threat of the continued, extraordinary trading complications caused by Brexit combined with the evolving consequences of Covid-19. Compounding this is the reality that clarity on the rules which apply to businesses trading with Britain continue to ebb and be understood due to the sheer complexity and scale of the changes.

Despite the best efforts of Irish business and the authorities, the challenge is huge to be fully ready for the profound, overnight changes that the end of the transition period has brought. To immediately adjust in a short timeframe to a radically new trading and economic relationship with one of our closest trading partners is neither possible nor realistic, particularly for companies in the most exposed sectors. The avoidance of tariffs and quotas is welcome, but it does not avoid the customs and regulatory barriers which have caused major trade and economic disruption.

Ibec's work to support our members will continue and we look forward to continuing our positive and constructive engagements Government, the EU institutions and our business partners in the EU and UK. We welcome the significant Government supports and the EU Brexit Adjustment Reserve, of which Ireland will receive the highest allocation, and note that Government needs to bear the ensuing uncertainty in mind and ensure that adequate and agile supports are available to business as the practical consequences of Brexit become apparent. These supports must prioritise and be quickly available to the worst affected sectors to offset the economic consequences of Brexit.

Thank you for your time and attention. I look forward to answering your questions.