

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

### JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

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*Déardaoin, 25 Bealtaine 2017*

*Thursday, 25 May 2017*

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Tháinig an Comhchoiste le chéile ag 10 a.m.

The Joint Committee met at 10 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Pearse Doherty,	Paddy Burke,
Michael McGrath,	Rose Conway-Walsh,
Sean Sherlock.	Gerry Horkan.

I láthair / In attendance: Deputy Declan Breathnach.

Teachta / Deputy John McGuinness sa Chathaoir / in the Chair.

## **Business of Joint Committee**

**Chairman:** We will go into private session.

*The joint committee went in private session at 10.07 a.m. and resumed in public session at 10.13 a.m.*

### **Brexit - Recent Developments and Future Negotiations: Discussion (Resumed)**

**Chairman:** We will go into public session to resume our consideration of Brexit and will consider matters relating to customs, trade and tariffs. I welcome Mr. Niall Cody and his colleagues to the meeting along with Mr. Brian Keegan, director of public policy and tax at Chartered Accountants Ireland, and Ms Carol Lynch, partner at BDO Ireland.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. I ask all those present to switch off their mobile phones and to make sure they are removed from the desk. I invite Mr. Cody to make his opening statement.

**Mr. Niall Cody:** I thank the Chairman for giving me the opportunity to make this short opening statement. As the committee's invitation specifically refers to Brexit and customs, I will focus on giving a brief overview of Revenue's role and work under way. I am accompanied today by Mr. Tony Buckley, who is the assistant secretary responsible for customs and by Mr. Michael Colgan, who heads the Revenue Brexit unit.

Revenue's role is to serve the community by fairly and efficiently collecting taxes and duties and implementing customs controls. In respect of Brexit, Revenue is participating in the interdepartmental work co-ordinated by the Departments of the Taoiseach and Foreign Affairs and Trade and we work very closely with the Department of Finance, which determines fiscal policy. Revenue's focus is on the fair and efficient implementation of possible tax and customs outcomes post-Brexit. As members know, negotiations between the EU and the UK are in their opening phase. The outcome and practical implications for trade and industry will not be known for some time. To be clear, therefore, and contrary to recent media reports, Revenue is not negotiating with Her Majesty's Revenue & Customs, HMRC, on post-Brexit arrangements and Revenue is not looking for sites for customs posts.

In the context of Revenue's overall role and responsibilities, we are engaged in assessing the potential impact of Brexit for Irish traders. Our role involves the data-based assessment of the potential practical impacts of Brexit. While we do not prejudge the outcome of the political ne-

gotiations, for practical reasons our planning is based on the full range of possibilities, including the possibility that customs controls or processes will apply between Ireland and the UK. Our data indicate that some 12,000 businesses in Ireland export to the UK, as well as the existence of more than 60,000 importers. In addition, an unknown number of businesses regularly move goods in transit across Northern Ireland and across the UK. Most of these businesses are unfamiliar with customs procedures because, at present, customs controls do not apply to such movements. Through the customs consultative committee and in our meetings with representative bodies, we are listening to the concerns of these businesses and traders. While it is not possible at this stage to provide detailed guidance, we are advising these traders and transport operators making long-term plans to assume that customs procedures of some form will apply post-Brexit. As soon as we have a reasonable sense of what is needed, we will provide clear, relevant and appropriate information to support business and trade.

Under EU treaties, customs policy is a competence of the Commission. The law governing customs, the Union customs code, was introduced in 2016. The administration of controls is a matter for national administrations provided that the systems in use satisfactorily address any risk to the EU. At present, we are ranked second in the EU for ease of customs procedures so we have a track record of minimising the customs burden. To put this in some context, Revenue processes approximately 1.4 million customs declarations every year. Of these, 53% are imports, while 47% are exports. There are approximately 57,000 transit arrangements. Exports are generally checked only for safety and security reasons and in 2016, less than 0.5% of export declarations were checked. Customs checks mainly apply to imports. In 2016, 6% of import declarations were checked and less than 2% were physically checked. The vast majority of these checks were carried out in approved warehouses and other premises with a very small number at a port or airport. The low level of import checks is the result of pre-authorisation of traders, advance lodgement of declarations and an extensive system of post-clearance checks, including customs audit, which are carried out at traders' premises. Authorised economic operators, AEOs, have a special status in the system and under agreed protocols are allowed to operate greatly simplified customs procedures. There are currently 133 AEOs, which account for 82% of all imports and 89% of exports. It will be very important that the bulk of trade continues to be through AEOs after Brexit.

The new customs code opens the possibility for smaller traders to receive this authorisation and we expect the number of AEOs to rise sharply, perhaps by a factor of ten, with the addition of a wide range of traders, including smaller businesses. The Union customs code envisages the development of paperless customs systems, managed entirely on the basis of electronic processing. Revenue's objective is to facilitate trade by maximising the free flow of goods. We are aiming to have the most advanced systems possible and we will continue to maximise the simplification provided for within the Union customs code.

It is clear that managing the volume of trade will be one of the biggest challenges post-Brexit. Approximately 1 million roll-on roll-off units arrive at our ports each year, over 90% of them from the United Kingdom. Traffic with Northern Ireland is also significant, with approximately 1 million HGVs and 1.3 million LGVs moving in each direction annually. We are looking at the latest technology to provide us with a system that can clear goods in seconds and facilitate their free flow.

Clearly, the operation of customs post-Brexit and the resulting impact on business will be defined to a great extent by the terms of the Brexit agreement. Apart from tariffs or other restrictions that may apply, the implementation of customs procedures alone will create an ad-

ditional cost to Irish business, affecting some sectors more than others. Revenue's challenge and focus are to minimise the cost and facilitate trade by providing efficient solutions, tailored to the needs of business sectors and by supporting business with clear and timely information, advice and guidance.

I will summarise for the committee what Revenue is doing in preparation for Brexit. We are studying the implications and assessing the options provided for under the new Union customs code; we are identifying key issues to the Article 50 task force through the communication channels managed by the Departments of the Taoiseach and Foreign Affairs and Trade; we are working on scaling up our customs IT infrastructure to ensure we can deal with the anticipated increase in customs declarations; and we have deployed additional staff to prepare for Brexit and will scale up this resource allocation as necessary.

To summarise what we are not doing, Revenue is not prejudging the outcome of the negotiations, which is a political matter, nor are we negotiating with HM Revenue & Customs, HMRC, on post-Brexit arrangements, and we are not looking for sites for customs posts. I will try to answer any questions members may wish to ask.

**Chairman:** I thank Mr. Cody. I call Mr. Keegan.

**Mr. Brian Keegan:** I thank the Chairman for the opportunity to contribute to the committee's work.

Our familiarity with the benefits of the EU Single Market and the customs union, fully operational since 1 January 1993, is such that most of us now take these benefits for granted. Citizens and businesses alike have forgotten about the constraints of tariffs and customs obligations between this country and the UK; indeed, many of our citizens have never known them.

There are two elements to a customs union – the removal of tariffs between countries, and the creation of a common external tariff. Many of the potential difficulties we will encounter post-Brexit relate to the latter, that is, to our obligations as one of the remaining 27 EU member states to police the EU customs union borders.

I regret to say we must now speak of these difficulties with growing certainty that they will emerge. Perhaps the clearest indication amid all the uncertainty of Brexit is that the future relationship between the EU and the UK will involve the UK's departure from the customs union, provided there is no change in the UK Government after the election on 8 June. Indeed, the ruling Conservative Party election manifesto signals an intention to engage with the World Trade Organization in fixing external tariffs post-Brexit.

As an all-island of Ireland body, Chartered Accountants Ireland recently surveyed members in business, working both North and South of the Border, to gauge their readiness for the reintroduction of tariffs between Ireland and the UK. The businesses we spoke to were concerned about the higher prices which the reintroduction of tariffs will entail. By definition, tariffs are protectionist. The whole idea of a customs union is to promote the commercial interests of Union members at the expense of those outside of it.

We also found that Irish business was concerned about other aspects of the reintroduction of tariffs, including the paperwork, payment and policing. Businesses reported little clarity on how customs arrangements might operate following the termination of the Article 50 period. Relatively few understood that the enforcement of border controls for the customs union, however implemented, needed to be separated from political promises of future trade agreements

between the UK and the EU, and between the UK and the rest of the world.

Many businesses in Ireland lost or downgraded their customs expertise after 1992 on the introduction of the Single Market. There were suggestions that delays in clearing customs could for practical purposes eliminate cross-Border trade between the North and the South. Every effort should be made to sustain the advantages of a common transit area. This would enable goods to be shipped from Ireland to mainland Europe via the UK without customs penalties. I want to clarify that the focus of that particular study was on the movement of dutiable goods. The implications of Border controls and road closures on people, as had been a feature of the Border for so many years of our history, were not considered in the context of that study.

Ireland will be obliged to put in place a customs system with the UK which will preserve the integrity of the customs union. The creation of a system of customs paperwork, payment and policing that does the least harm to Irish business can be designed and implemented by the Revenue Commissioners, working in co-operation with the UK tax authority, HM Revenue & Customs, and operating with the approval of the EU institutions.

That is not a trivial task. Commissioner Irwin, Mr. Cody's colleague, signalled to this committee only last week that the introduction of customs controls post-Brexit would result in a tenfold increase in the volume of customs administration. If the matter were one of a simple increase in volume, we could all cope. The real challenge is to facilitate customs administration for the many businesses exclusively importing from or exporting to the UK, which have to deal with customs obligations for the first time. For them, this is tantamount to the introduction of a new tax. My organisation, Chartered Accountants Ireland, is willing to work with such businesses and with the Revenue authorities in meeting customs obligations.

To further complicate the matter, I do not need to remind members of this committee that Brexit is largely unprecedented. Because the nature of the land border to be created for customs is virtually unique, Ireland will be under intense scrutiny from our EU partners to get our customs controls with the UK both watertight and legally valid. Nor do we have much time. It may be possible to establish transitional customs arrangements with the UK, but we believe transitional arrangements are unlikely in the absence of agreement on the stated EU priorities in the Brexit negotiations published earlier this week on areas such as citizens' rights and existing EU budgetary commitments. That is why the committee having this debate even before formal Brexit negotiations between the EU and the UK commence is particularly timely and appropriate. I look forward to participating in this morning's discussion with the Chairman and his colleagues.

**Chairman:** I thank Mr. Keegan. I call Ms Lynch.

**Ms Carol Lynch:** I thank the Chairman for the opportunity to contribute to the committee's work. I will base my input on the customs requirements and regulations which will impact on Ireland should the UK leave the customs union in 2019. These comments are based on the provisions set out by the Union customs code, UCC, and delegated and implementing regulations, as amended.

The original customs code established the integration of customs procedures across member states of the European Union following the implementation of the Single Market. The new Union customs code continues to solidify that, in that it lays out common risk criteria and standards which must be followed in order to facilitate legitimate trade and fight against fraud.

Paragraph 19 of the UCC establishes this quite clearly when it states that use of information and communication technologies should be accompanied by harmonised and standardised application of customs controls by the member states to ensure an equivalent level of customs control throughout the Union so as not to give rise to anti-competitive behaviour at the various Union entry and exit points.

Thus, the customs control of imports into and out of the EU is delegated to the customs authorities to ensure all controls at all borders are applied equally. The UCC reinforces that by stating: “The completion of the internal market, the reduction of barriers to international trade and investment and the reinforced need to ensure security and safety at the external borders of the Union have transformed the role of customs authorities giving them a leading role within the supply chain and, in their monitoring and management of international trade, making them a catalyst to the competitiveness of countries and companies”. The reason I reference that is that the customs code legislation is directly applicable in Ireland as in all other member states and therefore the leeway for customs in implementing alternative rules to those set out by the UCC is limited.

The customs code requires, first, the implementation of the customs tariff. This means that all goods being imported into or exported out of the EU are subject to the same duty rate and controls on import and export. Second, it requires the identical application of customs trade legislation as set out by the UCC. This means that when goods clear customs in any member state, they are able to move freely within the EU and are not subject to customs controls in other member states.

Once the UK leaves the EU customs union, for customs purposes it will be a non-EU or third country. As a non-EU country operating outside the customs tariff and the Union customs code, it is therefore difficult to see how, at this point, the UK would not be subject to the same import and export controls as any other non-EU country. This was reiterated last week by Mr. Michel Barnier when he stated:

Because we are part of the EU, businesses can trade goods without customs duties and documentation requirements are very simple ... [But this is what a member state enjoys] and this is what a member state loses when it leaves the Union.

Customs controls require the following process. An import declaration must be lodged with customs for all imports into the EU and an export declaration for all exports out of the EU. This declaration requires 54 boxes of information from details of the consignor to the consignee, the product details and tariff details, values, country of origin information, weights and packaging information and terms of trade. In terms of lodging customs declarations, there are two options. A company can employ a clearance agent to act as its representative or it can request authorisation to lodge these declarations itself. Most goods are cleared for import or export instantly, but about 8% will be subject to checks by customs. This is required by harmonised risk management rules. Importers and exporters can be subject to post-clearance audit checks by customs any time within the following three years. When goods are imported, however, duty and import VAT is payable on arrival unless a deferred payment authorisation is agreed with customs. This allows for payment of duty and import VAT to be deferred to the 15th of the month following entry. This facility is, however, subject to a provision of a bank guarantee.

All of those conditions apply to trade with any non-EU country such as, for example, the US. The implication of this for Irish industry is significant. First, there will be a requirement to lodge customs declarations on all imports from and exports to the UK. It is to be assumed the

same requirement will be implemented in the UK. There is a necessary cost for this, either in the payment of a clearance agent or the recruitment of staff in addition to logistics-related costs. A reasonable estimate would be €100 per movement. Second, there is a significant learning curve to ensure declarations lodged with customs are correct to ensure compliance, minimise risk of delays and avoid additional charges. This can be achieved, but will involve investing time and effort in upskilling. At the same time, we do need to take on board that this is completely achievable and many Irish companies engage in this non-EU trade without difficulty every day.

Third, for the agrifood industry in particular, it is critical that delays at borders are minimised and every simplification allowed by the customs code is provided to Irish businesses to enable them to streamline their customs processes. Fourth, there are cashflow considerations to build into any future business model. Finally, depending on whether a free trade agreement is concluded, there may be customs tariffs. These tariffs average at 5% but can range from 0% to 20% depending on the industry. In addition, for companies trading in agricultural and food products, there are additional agricultural levies to consider. In this context, it is critical that Irish businesses are educated to the duty-saving opportunities provided for in the customs code, which will reduce duty costs on goods for import and re-export, for example.

In BDO, we have carried out an optimism index in which we found that Brexit is having an impact on business confidence, with first quarter projections at their weakest since 2013. Of particular concern is that we found that only 4% of Irish companies have sought external advice and support on the implications of Brexit and just one in 20 firms have a plan in place to deal with a potential customs Border with the North following the Brexit vote. We are therefore advising our clients that it is critical at this point to start the preparatory work in getting ready for Brexit. This is to ensure that companies have the information available to complete declarations, have built in the additional costs and potential delays at border crossings and have accounted for the potential risk of tariffs. In addition, a particular focus is on ensuring companies are established to move their goods as seamlessly as possible across the Northern Ireland Border. Again, the only way to achieve this will be by preparing and developing their customs capabilities to ensure they can take advantage of any simplifications Revenue introduces, as well as ensuring they qualify for all duty-saving procedures provided for by customs.

It is clear from our work that Brexit presents challenges and opportunities for companies operating in Ireland. Our key message is that planning is key in order that our clients continue to be able to access the lucrative UK market.

**Chairman:** I thank Ms Lynch. I call Senator Conway-Walsh.

**Senator Rose Conway-Walsh:** I was just getting Deputy Doherty's attention. He is going before me.

**Deputy Pearse Doherty:** Gabh mo leithscéal. I welcome the witnesses to the committee. I thank them for their presentations. I will begin with Mr. Cody. We had a discussion last week with Mr. Liam Irwin about potential customs posts and I put a question to him. I am sure Mr. Cody has read the transcripts and followed the discussion and will be aware of some of the issues I raised. I put in a freedom of information request to the Revenue. It was an information request for records concerning the establishment of possible customs posts along the Border - not on the Border, but along the Border. I was told that Revenue had 31 such documents. Some of them were articles. For example, the *Irish Examiner* had an article in which Ministers were quoted. There are other documents that talked about potential posts along the Border. The oth-

er documents are, for example, briefings on the matter to the Department of Foreign Affairs and Trade, the Minister for Finance and the Department of the Taoiseach, PowerPoint presentations, briefing material, a note to the Department of Transport, Tourism and Sport, a presentation on customs and internal discussion documents. There are 31 documents in total, a handful of which are newspaper articles in the public domain. Is there any valid reason these documents, which, as I said, must have some reference to establishing customs posts along the Border, are not being provided to the Oireachtas finance committee that is discussing this matter?

**Mr. Niall Cody:** There is a freedom of information process by which documents that are part of the deliberative process and part of the analysis of Government services are excluded from release. We are engaged in a process of studying what are the options and possibilities. We started this before the referendum vote. If we went back nine months and the Deputy asked me what is going to happen, we would have looked at what the situation was pre-1992. We would have said that the likelihood is that there would have to be customs posts, because it was at that point a very early stage of the deliberation. The EU customs code was legally adopted last July. There is to be four-year and five-year IT development across Europe. There are simplifications contained in the EU customs code that allows us to do things radically differently. However, if the Deputy asked us back then, we would not have had our preparatory work done. The papers and the deliberation are not a final conclusion. The Deputy is very aware that the problem with releasing a document that Revenue has looked at is that it can then turn into a headline stating that Revenue is planning for and opening customs posts. Under FOI legislation, there is a reason documents are not produced and there is a reason there are exemptions.

**Deputy Pearse Doherty:** I appreciate that.

**Mr. Niall Cody:** We fully implement the FOI legislation and are very open to producing documents. However, there are some times in a deliberative process at which an early release of a document will actually do damage. It will do damage to the interests of the Deputy's constituents and the citizens of the State. It is for a reason. I will-----

**Deputy Pearse Doherty:** I understand the point the witness is making-----

**Mr. Niall Cody:** I will endeavour to answer every question that the Deputy puts to me at this committee. The Revenue Commissioners have a long track record of appearing before this committee and other Oireachtas committees and giving full declarations. However, if a paper produced by a medium-ranking Revenue official as part of aiding the larger work is released, it could start to suggest something else. As an example of what can happen, on foot of the discussion the last day, I received correspondence from people offering me sites for sale. I am looking-----

**Deputy Sean Sherlock:** They are very industrious up around the Border.

**Mr. Niall Cody:** No price was put on it but I will reply by looking for the tax clearance certificate to start with. To be serious, this is what happens and to get to the core of the point, we are not planning customs posts.

**Deputy Pearse Doherty:** I want to go back to the core of the question. I appreciate everything the witness has said and I appreciate the rationale with which we are familiar in terms of the freedom of information legislation. I am not questioning the adjudication on the FOI legislation. I did not appeal it because I understand the rationale. The point I am making is that this is a finance committee of the Oireachtas and we are dealing with this issue. We are



having our own deliberations and conducting our own scrutiny. I put it to Mr. Cody that dozens of documents were produced, some at the end of October 2016 and some only a matter of weeks ago. I cannot imagine that they were produced by low-ranking officials because they have been sent on as presentations to Government Departments and Ministers but Revenue is keeping this committee in the dark with regard to the nature of those documents. We are having a discussion here without all of the required information because Revenue believes it could possibly be harmful for Members of the Oireachtas, who are scrutinising these issues, to have the full information. Why is it that we, as Oireachtas Members, would not be provided with these presentations?

**Mr. Niall Cody:** The FOI legislation provides the framework-----

**Deputy Pearse Doherty:** I am not talking about the FOI legislation. Revenue has the ability, if it so wishes, to provide the information to this committee.

**Mr. Niall Cody:** We are providing information to the Departments of the Taoiseach and Foreign Affairs and Trade to inform their negotiations and discussions with the task force. We are providing input for the political space. We are not-----

**Deputy Pearse Doherty:** Why will Revenue not provide the draft PowerPoint presentation, the draft briefing, the briefing note for the Minister for Finance and the briefing note for the Department of Transport, Tourism and Sport? Why will Revenue not provide those documents to this committee when we are trying to get a handle on what the customs scenario could look like, post-Brexit?

**Mr. Niall Cody:** We would have no difficulty with providing most of the information because most of it comprises economic statistics around the process. I can look at providing particular aspects of the papers. The statistics are probably already in the public domain. We can certainly put a package together for the committee but one of the challenges we face, which will continue over the next number of years, is that we do not know the nature of the final agreement between the European Commission, the EU and the UK. We are trying to influence that process. We are trying to support the Departments of An Taoiseach, Foreign Affairs and Trade, and Finance with our analysis of some aspects but this will ultimately have to be agreed with the European Commission and it would not be helpful to lay it bare at this stage. There are certain issues that are particularly difficult. If one were to ask the European Commission's tax and customs authorities about what the scale of the simplification could be - at the right time, with suitable clarity - one may get the answer that one wants. However, if one asks a question baldly like "what is the treatment?", one may be told nothing. One can get cornered. I assure the Deputy that our efforts are aimed at ensuring that the free flow of trade on this island and support for Irish businesses in carrying on their activities is continued.

We have a track record of delivering. We have to analyse what is possible and then we have to look at innovative IT solutions. We are not second in terms of the ease of our customs procedures in the EU by accident. That required a lot of work. If we started some of that process before we had it fully worked out, that would be problematic. The difficulty with these types of arrangements is that they are ultimately within a goldfish bowl. They are very visible and sometimes we need the freedom to do the preparatory work until we have conclusions. We have no problem with coming before this committee at any time to talk about these matters when we have fully worked out our position.

Two of the presentations-----

**Deputy Pearse Doherty:** Let us tease out some of the contingency issues. This committee is very conscious of the fact that this is contingency planning and if Revenue was not engaged in such planning, I would be the first to criticise it. I have huge regard for the office of the Revenue Commissioners and how it has operated over a substantial period of time. We heard last week from Mr. Irwin about trade facilitation or customs posts. In his opening statement today, Mr. Cody said that 6% of import declarations were checked and less than 2% were physically checked in 2016. These checks were carried out in approved warehouses, ports or airports. Obviously, in the context of Brexit, on the island of Ireland there are many routes for import and export. We have had a discussion about the Border, and I am not going to split hairs about whether we are talking about “on” the Border or 15 km away from the Border. If we have to conduct the checks, as was suggested by Ms Lynch, where will they take place? I am trying to think about this from the perspective of my own county of Donegal, for example. There are numerous Border crossings in Donegal. Does the contingency planning provide that there would be one warehouse per county or three warehouses, for example? If people are being diverted to warehouses, that could be a huge imposition. If I am crossing the Border at Derry as opposed to Pettigo, for example, and have to travel 30 km to the Donegal warehouse because I am part of the 2% or 6% that is being checked, I could lose one or two hours in terms of transit time and there would be additional fuel costs too. What are we thinking about here? Are we thinking about multiple warehouses in each county along the Border or is it one facility per county?

**Mr. Niall Cody:** This is one of the interesting areas when one looks at how our thoughts are developing. If the Deputy had asked me that question nine months ago, I probably would have visualised a map with the necessities because this is how it worked prior to the Single Market. Now, however, the way the customs code works is that it provides for simplified procedures, authorised economic operators and the checking is done for goods at the destination point. It is not brought somewhere to have the check carried out. When we talk about approved warehouses, we are talking about logistics operations that support the transport of the goods. The goods go to their destination and we can facilitate that if it is an approved warehouse, by having a Revenue presence to carry out the physical examination of the goods.

**Deputy Pearse Doherty:** Let us take the example of a fruit and vegetable company in Derry that is selling to a company in Gweedore. Is it that Revenue officials will be at the company in Gweedore to-----

**Mr. Niall Cody:** It is unlikely that goods of that type would be selected for physical examination, particularly if the destination was an approved operator. That is why we want to facilitate smaller entities in getting authorised status. If an entity has authorised status, the likelihood is that it is not going to be selected because it has an ongoing relationship with Revenue. If the Deputy was the exporter from Derry and I was the importer and we were authorised, we would have an ongoing relationship with Revenue in which we would carry out post-clearance checks and Revenue would be very unlikely to select those consignments for goods checking.

In terms of the 6% for document checking, as Ms Lynch has pointed out, the entry would be entered and then it would be selected for a document check. The importer would be required to provide the supporting documentation, the invoice, bill of lading, licence and so forth. One of the things we are really interested in exploring is how we can move documentation checking to a digital platform. Prior to 1992 when we dealt with cross-Border customs we had the Automated Entry Processing, AEP, system, which was an advanced electronic system. Now we routinely get records and invoices from businesses for VAT, audit and checking submitted online through our Revenue systems. What we are interested in doing now is exploring the idea

that we could upload the documentation check. In terms of the sophistication that we want to achieve, we want to remove the requirement for a business to divert. There are 13 main routes across the Border, as the Deputy knows better than I. Very soon after we began considering this issue nine months ago, we concluded that the diversion and impact of having to call to a designated Revenue customs post does not make sense and the volumes would not justify it. Therefore, alternative solutions are needed. The authorised economic operators that-----

**Deputy Pearse Doherty:** Could the Deputy square the circle for me? It was only-----

**Chairman:** The Deputy has used his allocated time.

**Deputy Pearse Doherty:** I have only one question following this one. One week ago, not nine months ago, a Revenue official gave evidence to this committee regarding trade facilitation posts which would be between 10 km and 15 km from the Border to which 6% of haulage would or could be diverted. There would be documentation checks and also possible physical checks, along with possible random patrols along the Border to divert people to these posts. That evidence was given a week ago. Has the thinking of the Revenue dramatically changed in the past seven days in this regard or are these type of facilities still being considered in terms of contingency planning?

**Mr. Niall Cody:** It is not the case that we said nine days ago that we are going to do one thing and we are now suddenly doing something else. Commissioner Irwin was discussing one of the contingency possibilities but as we look at the issues and the discussion surrounding the issues, the likelihood is that there will not be any additional customs posts. However, there are a range of Revenue offices in which production of any documentation can be completed. There are such offices in Louth, Monaghan and Donegal. Because not everybody will be able to upload online, there will be a facility whereby a trader can produce the required documents. One challenge we face is to ensure that one is told early in one's travel of the requirement to produce those documents. The earlier they are presented, the earlier one can be told that Revenue may need to examine it. There are Revenue offices across the country and the facility to produce documentation at one's nearest office.

**Deputy Pearse Doherty:** However, one cannot park a HGV or an LGV outside the Revenue offices to carry out the physical checks which Mr. Irwin was discussing.

**Mr. Niall Cody:** We do not envisage physical checks taking place at Revenue offices. Currently, 2% of goods are selected for physical checks. There is a series of rules and risk indicators involved in being selected. As our two colleagues mentioned, many of these rules concern protecting the customs union and the Single Market. Some of them concern perceived dumping by other countries. Certain indicators are looked for. From a customs point of view, it is very unlikely that there will be anything approaching 2% referral for physical goods in regard to the type of goods that move between the North and the South. We have considered the analysis of the figures. Much of what is transported in both directions is construction material. There is also agrifood produce. Something that will distort the EU market will not be sourced from Northern Ireland into the South. I saw on the six o'clock news that RTE reported from the border between Norway and Sweden, which has very sophisticated bays for HGVs to pull into on both sides of the border. I do not see that being the case here. The discussion at the previous committee meeting on this issue prompted us to think further about it. We did not change anything because of the discussion. However, having thought about it and begun to analyse the numbers, I am almost 100% certain that we will not be providing new trade facilitation bays in whatever part of Donegal, Monaghan or Cavan.

**Deputy Michael McGrath:** I welcome today's witnesses and thank them for their insightful opening statements. Ms Lynch took us through the practicalities in terms of customs controls and laid out six different steps involved. She said that a reasonable estimate of the cost involved is €100 per movement. Is that the cost to the business or to the State and the Revenue?

**Ms Carol Lynch:** That is the cost to the business. It involves payment of a clearance agent to lodge the documentation and potential additional transport costs such as additional fuel and potential drivers. Businesses can lodge the import and export declaration themselves but most Irish companies pay a clearance agent to do so.

**Deputy Michael McGrath:** It is a cost to the business. In his presentation, Mr. Cody set out some statistics in regard to the volume of trade. Cross-Border traffic comprises approximately 1 million HGVs and 1.3 million LGVs, giving a total of 2.3 million movements. If €100 were paid for each of those movements, there would be additional costs of €230 million in respect of cross-Border trade movements. In terms of imports, Mr. Cody said that approximately 1 million roll-on roll-off units, 90% of which come from the UK, arrive at our ports each year. There would be an additional €90 million cost for imports in regard to the €100 average payment. There is presumably a higher volume of roll-on roll-off exports to the UK as Ireland has a trade surplus with the UK. I do not know if specific data is available but presumably the additional costs for exports is higher. In total, there are several hundred million euro of additional costs which will be imposed on businesses as a result of compliance. Is that completely separate to the issue of tariffs?

**Ms Carol Lynch:** Yes.

**Deputy Michael McGrath:** This is the administrative cost of complying with the various procedures.

**Ms Carol Lynch:** Yes, because one has to pay an agent to complete the import or export declaration and put it through the system. One hopes that everything is processed in a straightforward manner but there could be documentary checks. The cost may vary depending on the level of trade one is carrying out. A business may be able to negotiate a better rate with an agent if it has a high volume of imports or exports, whereas agents may charge more to deal with a one-off, high-value item. A sum of €50 is a reasonable average per declaration.

**Deputy Michael McGrath:** Would that apply if a company is an importer or if it is an exporter? In terms of a company based in Ireland, for example.

**Ms Carol Lynch:** Agents generally charge the same amount regardless of whether it is an export or import. It is a completion of the documentation on behalf of a business.

**Deputy Michael McGrath:** Does Mr. Cody have a figure for the number of roll-on roll-off units which go through Irish ports and are exporting to the UK? The figure of approximately 1 million units in that regard has been given in his presentation. Is the figure for exports available?

**Mr. Niall Cody:** I have figures for the total freight at ports. Roll-on roll-off comprises 13 million tonnes, 86.4% of which is bound for the UK. Lo-lo, or load-on load-off, comprises 7 million tonnes, 14 % of which is bound for the UK. Bulk tonnage is almost 30 million tonnes, 23 % of which is bound for the UK. We have-----

**Deputy Michael McGrath:** Does the witness only have figures in terms of tonnage rather

than the number of movements?

**Mr. Niall Cody:** That is correct.

**Deputy Michael McGrath:** What is the ratio of exports of goods to imports of goods in regard to trade with the UK?

**Mr. Niall Cody:** The total value of imports in 2015 from the UK was €16.9 billion while the total value of exports in that period was €13.8 billion. The figures in respect of Northern Ireland are €1 billion and €1.7 billion.

**Deputy Michael McGrath:** The value of goods exported was less than that of goods imported.

**Mr. Niall Cody:** That is correct. That is because our trade surplus is due to services. Of total imports, which are approximately €70 billion, €18 billion came from Northern Ireland and Great Britain.

**Deputy Michael McGrath:** I am just trying to get a sense of the overall cost involved. In respect of cross-Border trade, we are looking at a figure of about €230 million. For imports from the United Kingdom, we are looking at an extra €90 million, which brings the figure up to €320 million. We are looking at a figure of about €80 million for exports. That adds up to about €400 million in compliance costs for businesses involved in trade with the United Kingdom.

**Mr. Niall Cody:** The complicating factor, about which the Revenue Commissioner, Mr. Irwin, talked the last day, is the huge increase in volume as opposed to value. Low-value, small transactions make up a lot of the volume. Post-Brexit, much of the challenge will lie with these small e-commerce and low-value transactions which will be handled by the major express carriers. It is not as straightforward as multiplying the number by 50 or 100. Many of them are totally different cost factors.

**Mr. Brian Keegan:** It is a very useful exercise to try to quantify what the compliance costs will be. However, we also have to consider who is actually going to carry them. The vast majority of customs transactions, by definition, are handled by multinationals exporting to or importing from outside the European Union. The €400 million back-of-an-envelope calculation we have just made will impact on the smaller industries that are currently only dealing with EU and UK customers. They are the clients Enterprise Ireland is trying to support, for example. It is not just a question of the quantum of the client's costs but also of where they are going to land.

**Deputy Michael McGrath:** I appreciate that. The only reason I sought to extrapolate the figure was that it was the first time I had seen an estimate of the cost per movement.

**Ms Carol Lynch:** To clarify, the import or export clearance charge levied by an agent for the service is generally made on a per invoice basis. As my colleagues said, the value of the trade crossing the Border is not necessarily multiplied upwards. It really depends on the number of containers and whether it is groupage, whether there is one container per invoice or whether one container contains deliveries for several customers. We need to drill down into the figures to get a more accurate picture.

**Deputy Michael McGrath:** If we take that into account, it could be significantly less.

**Ms Carol Lynch:** It could be.

**Deputy Michael McGrath:** If the United Kingdom leaves the customs union in March 2019 and there is no transitional trade deal in place, what will firms be looking at by way of tariffs? Ms Lynch touched on the matter in her presentation.

**Ms Carol Lynch:** If there is no deal, we are talking about the United Kingdom trading with the European Union in the way any third country would. It would be equivalent to importing from the United States, Brazil or Russia. Customs tariffs will kick in and be comparable to the standard duty rates that apply to any most favoured nation, MFN, country. For a lot of products, the rate would be 0%, for example, for IT and pharmaceutical products. An average rate of between 3% and 5% would probably apply to most general manufactured goods. In the agrifood sector, however, there are not only tariff rates but also agricultural rates. Therefore, the tariff duty rate could be 18% or 20%, but that figure could be doubled, with the addition of a levy, which is normally applied on a per tonne basis, on beef or milk products, for example. It is very hard to take the euro amount per tonne and turn it into a tariff rate, but a reasonable estimate would be a figure of 30% or 40% by the time all of the charges are added.

**Deputy Michael McGrath:** The survey of firms by Chartered Accountants Ireland found a poor level of awareness of the requirements firms would face in the event of the United Kingdom leaving the customs union. What practical steps does Mr. Keegan think firms need to take to start preparing properly and inform themselves fully of what the obligations are likely to be? How can the State help in that regard?

**Mr. Brian Keegan:** The three areas of concern consistently identified were paperwork, policing and payment. On paperwork, they need to develop an appreciation of what they are actually trading in, with whom they are trading and the tariffs that are likely to apply. They need to develop expertise in how to complete the single administrative documents and deal with the various checks and requirements. They all acknowledge that a lot of their raw materials and exports will be more expensive for the end customer. However, they are equally concerned about the cashflow implications in meeting the customs and VAT costs on their imports. The State needs to help by clarifying for them as fast as possible the most likely shape of future customs requirements for businesses. We also need to identify ways by which we can mitigate the cashflow implications for them. There is not an awful lot that can be done about customs charges. Given that it took the European Union eight years to come up with a set of tariffs in the first place, it seems clear that they are not going to disappear or be modified overnight. There might be something that we can broker with the European Union at nation level on value added tax in order that the immediate, upfront hit on VAT would be less onerous. These are two practical suggestions.

**Deputy Michael McGrath:** Given the volume of online shopping by Irish customers in the United Kingdom and the level of cross-Border shopping, if the United Kingdom is to be a third country, in the absence of another agreement, what thresholds will apply in day-to-day consumer shopping?

**Mr. Niall Cody:** Online shopping will be challenging. Brexit is probably going to change the nature of online shopping in that the model will not make sense. There are VAT rules for goods being delivered from the United Kingdom. They will change and the goods will be treated in the same way as imports from south-east China, for example, through mail centres and all the rest.

**Deputy Michael McGrath:** To clarify, if I go online and buy something from a third country, what VAT and customs rules and thresholds apply?

**Mr. Niall Cody:** For goods coming in through the postal system, there is no VAT payable if the value is under €22. There are no customs charges if the value is under €150. For individuals bringing in goods, the duty free figure is €430 and in arriving by land, €300.

**Deputy Michael McGrath:** In the case of cross-Border shopping, the threshold below which VAT and customs charges would not apply at the point of entry would be €300.

**Mr. Niall Cody:** Yes.

**Deputy Michael McGrath:** What arrangements will be in place if somebody has a car boot full of electronics worth a few thousand euro?

**Mr. Niall Cody:** For now we are focusing on the challenges for trade. There will be a facility for an individual to make a declaration. It is a self-assessment system. That is the case for those coming through airports from outside the European Union. There is the opportunity to declare goods being brought in.

**Deputy Michael McGrath:** There is a self-declaration system.

**Mr. Niall Cody:** Opportunities will be driven far more by currency movements. VAT rates will be more or less the same between Ireland and the United Kingdom, while customs duties will be small on these goods. The likelihood of there being a significant distortion will come down to currency changes, which is already a feature. It will present a challenge. In the context of costs, the customs duties we collected last year amounted to €313 million. It is not really about raising money; it is primarily about control of the market and access to goods. Most customs duties are effectively zero. On total imports of approximately €28 billion, the customs duties amount to €313 million.

**Deputy Michael McGrath:** How will online activity be policed?

**Mr. Niall Cody:** We police it through mail centres and the various couriers when goods are coming in from outside the European Union. How to police multiplications of transactions is one of the challenges at which we will have to look in the context of-----

**Deputy Michael McGrath:** In the absence of an agreement, online purchases from the United Kingdom by Irish people, valued at over €22, will typically attract VAT at the standard rate.

**Mr. Niall Cody:** Yes.

**Deputy Michael McGrath:** Purchases valued at over €150 may involve customs duty; goods may or may not be zero rated.

**Mr. Niall Cody:** They may be zero rated. I am sure everybody present has heard on the radio or read in the media about the person who received a gift through the post from an aunt or uncle in the United States, on the delivery of which the postman requested a VAT or customs duty payment. That is how the system works. Revenue operates the system and, where appropriate, An Post collects the VAT and duties payable on these transactions.

**Chairman:** Would Mr. Keegan like to comment?

**Mr. Brian Keegan:** While I accept Mr. Cody's comments, I would not like anybody to think customs duty is in some way insignificant because the total quantum is not great. We retain as

much in customs duty as we do in the local property tax. It is the same for traders. The idea that customs duty is not terribly onerous because the overall take does not amount to a hill of beans is incorrect.

**Mr. Niall Cody:** I am sorry, but I did not suggest that. The cost of administration is the issue. It is absolutely a cost on business. It would be wrong to think anybody underplays the cost of administration on business and we will be working hard to minimise it. We will also be examining simplifications to reduce it. What I am highlighting is the level of duty collected to give a sense of how much is involved on a significant level of imports. If Mr. Keegan takes that to mean that I believe customs duty is an insignificant cost on business, I can assure him and the committee that Revenue does not see this as an insignificant issue.

**Deputy Michael McGrath:** The €300 million plus figure excludes trade with the United Kingdom. That figure could multiply.

**Mr. Niall Cody:** Yes.

**Mr. Brian Keegan:** I regret the fact that I misunderstood Mr. Cody. I am glad that we have had an opportunity to clarify the point because it is really important.

**Chairman:** There should be no arguing between people on the same side of the room.

**Mr. Niall Cody:** The relationship between Chartered Accountants Ireland and Revenue is usually excellent.

**Deputy Sean Sherlock:** Thus far this has been a very useful exercise for us in terms of the degree of enlightenment on the dynamics at play *vis-à-vis* the customs union, tariffs, the tax code and so on. However, we need to look at the matter in the context of the ongoing political discussions which are an iterative process, notwithstanding the rhetoric and the fact that there is a general election under way in the United Kingdom. This is a very useful exercise for us, particularly in gleaning the level of readiness of individual businesses or sectors for Brexit. Following on from the submissions made by Mr. Keegan and Ms Lynch, it appears that the level of readiness is poor. Ms Lynch has said 4% of Irish companies have sought external advice and support in meeting the implications of Brexit and that only one in 20 firms has a plan in place to deal with a potential customs border with the North following Brexit. Is it possible for businesses to do more? We do not yet know what the final outcome of the political negotiations will be and so there are all sorts of scenario in that regard. For example, there could be a hard Brexit, for which every business has to prepare, but we could also have a political solution, comprising outcomes of a lesser degree, including European economic area status and so on. I am trying to get a sense of what businesses need to do to be more ready. Is there more State organisations such as Enterprise Ireland, IDA Ireland, Revenue, Departments and local enterprise offices, LEOs, could do? In other words, is there more that needs to be done from the State's point of view to assist businesses to be ready for what is inevitable?

**Ms Carol Lynch:** One of the questions we are constantly asked by people involved in industry is, given that we do not know what the final agreement will be, whether there is any point in their preparing for it now. My response always is that there is an awful lot they could do right now. We are 80% sure what the final outcome will be, including that the United Kingdom will not be part of the customs union. Once it withdraws from it, there will be a domino effect. There will be a requirement to make import and export declarations. That is inevitable. To complete the information required, one will need to know the tariff classifications and be able to



determine values, the consignee, the consigner and income terms. Taking the very basic building blocks of tariff classifications which lead to duty rates - even if there is no duty rate - there will still be a need to define the tariff classifications for the purposes of customs security. That in itself will take an awful lot of work. For example, a company with 6,000 part numbers will need to put in a place a mechanism to determine their classifications. Providing that information will be a requirement that will not change. Therefore, people will need to prepare for this in the next two years.

We also know that there will be a requirement to make a customs declaration on imports to and exports from Ireland to the United Kingdom. Therefore, companies will need to review their supply chains. A lot of companies, particularly Irish companies, were set up to trade in the Single Market; therefore, they are used to selling and buying in it. They were not set up with a model that involved trading outside the Single Market. It will be a huge learning curve but two years will give them plenty of time. There is a significant amount of time remaining before anything will kick in, but if companies leave that work until the last six months, they will be under pressure. As I said, when asked by companies what they should do, given that we do not yet know what the final outcome will be, my response is always that we are 80% sure what the end result will be. The only thing we really do not know is whether there will be tariffs, but that issue can be dealt with near the end of the process. Every other piece of work has to be done now.

**Deputy Sean Sherlock:** In essence, if companies are trading into the United Kingdom, they will have to go through a mindset change, a psychological shift. They will have to consider the United Kingdom as a third country.

**Ms Carol Lynch:** Yes. We have significant trade with the United Kingdom and cannot walk away from that market. That would make no sense. What we need to do in the next two years is ensure we will be ready to trade. It is not rocket science. We traded with the United Kingdom on a non-EU basis before we entered the Single Market. A lot of our trade is with the United Kingdom, but we also trade every day with the United States. These are things that can be done, but they will be difficult to do if left until the last minute.

**Deputy Sean Sherlock:** I want to look at the challenges and opportunities. On the point that only 4% of Irish companies have sought external advice, what methodology was used to glean that information? What was the survey range and so on?

**Ms Carol Lynch:** I do not have the exact details with me and will come back to the Deputy on that point. It was a survey carried out by BDO of companies in Ireland and our clients. I can send the optimism index to the Deputy. It includes a number of standard questions for CFOs and CEOs to answer about the readiness of their companies.

**Deputy Sean Sherlock:** Can Ms Lynch give me a sense of the sectors in which the companies in question are operating?

**Ms Carol Lynch:** It was a cross-sector survey. As mentioned by Mr. Keegan, it is important, when examining the implications of Brexit, that we look at the sectors involved. For example, for electronics companies, particularly the large international electronics companies, adding the United Kingdom to the model of international trading will be painful, but it is only a matter of moving them from one box to another. They are already doing much work in that area in any event. However, this could be completely new for agrifood companies, particularly companies that trade with the UK or Northern Ireland. They would need much more training than someone who is already familiar with the business. One needs to drill down on a sector-

specific basis. In addition, many supports are available, including the Enterprise Ireland Brexit readiness programme, the local enterprise offices, the chambers of commerce, the Irish Exporters Association, Chartered Accountants Ireland and Revenue. A huge amount of support is available. The real message that it is important to get across is that businesses need to start preparing now. We know a lot already, and this is the critical point. Businesses should not leave preparation until later. They should take advantage of all the information and support available.

**Deputy Sean Sherlock:** I am just trying to understand the online shopping dynamic. Mr. Cody referred to the postman coming to the door. Again, are we talking in theoretical terms pending the outcome of a final political negotiation? Until that is determined, the position is effectively the *status quo*. I will put it another way. Reading between the lines of the Revenue Commissioners' submission, I believe it provides us with some sort of framework of understanding regarding the challenges that present themselves. However, the Revenue Commissioners' planning, as Mr. Cody said, "is based on the full range of possibilities, including the possibility that customs controls or processes will apply between Ireland and the UK". Has Mr. Cody given us an insight into the full range of possibilities right down to the individual consumer? Are the Revenue Commissioners scenario-planning for the individual consumer, to go back to the postman knocking at the door, right up to the multinational company? That is what we want to get a sense of from today's engagement.

**Mr. Niall Cody:** Regarding the full range of possibilities, obviously, this is a political process and a political agreement if it provides for the UK retaining certain elements of the Single Market or the customs union. The possibilities range from this to the UK having the status of a full third country outside the Single Market and customs union - presumably, if this is by agreement after a transitional arrangement. No sensible agreement would not involve some nature of transitional arrangement for something that will happen in April 2019 or whenever. Systems would not be in place. Considering the systems we will have to implement, the UK will be leaving the Union so it will have to have a full framework in place. If there is to be some form of agreement - and, presumably, there will be - the likelihood is that there will be transitional arrangements. Any transitional arrangement can vary by sector.

**Deputy Sean Sherlock:** However, a transitional arrangement would presumably be put in place post-2019, would it not?

**Mr. Niall Cody:** Yes.

**Deputy Sean Sherlock:** I just wish to be clear about that.

**Mr. Niall Cody:** It would also presumably retain some features of the current arrangements. It is pointless to speculate as to how many elements of any transitional arrangements there will be. When I talk about the impact on e-commerce, I do so on the basis of the end of a transitional arrangement, when the UK will be outside the Union and will be a third country. If an Irish shopper then buys online from a UK-based business, it will be exactly the same as if he or she were buying from a US-based business.

**Deputy Sean Sherlock:** If I, for instance, have an eBay shop and am an online trader operating out of Cork, for the sake of argument, or anywhere else in Ireland, does Mr. Cody anticipate that I would have to get authorised economic operator, AEO, status, or am I misunderstanding the mechanism by which AEOs operate? Mr. Cody says there will have to be an increase in the number of AEOs. Would I be subject to this? More and more business is moving online now. Perhaps I am misunderstanding the nature of AEOs.

**Mr. Niall Cody:** It depends. It is a little like Ms Lynch said. One must decide the best way of doing it. The express carriers are a large part of the process regarding how citizens are shopping online. E-commerce covers business to business, business to consumer, etc. There are many aspects to it. Regarding that basic model of the individual shopping online for clothes or whatever else, the volume of goods going through the postal and parcel post system will multiply because, obviously, much of this is sourced through England. What may well happen also is that businesses will set up their distribution hubs elsewhere. Currently, much of this is sourced through, say, Birmingham or wherever else. Some of those businesses will consider how trade is done with EU citizens. That hub could be in Cork.

**Deputy Sean Sherlock:** Does Mr. Keegan have a perspective on this?

**Mr. Brian Keegan:** The Deputy's point about the iterative nature of the discussions has hit the nail on the head. Since the outcome of the referendum, the direction of Brexit has almost been a slow bicycle race. After the referendum outcome, suddenly nothing really happened until the start of February, when the UK said what Brexit means is that it will leave the customs union. Then we had the formal notification on 29 March. Every time there is such a milestone, I think businesses become more aware. One of the most promising things the EU has done in how it is setting out its stall is committing to transparency in the negotiations. That transparency will, in its own right, help develop public awareness.

To make a very general point, customs unions are not unique to this part of the world. The Southern African Customs Union has been in existence since 1910. The whole purpose of a customs union is to make life difficult for people not in it. No matter what we say, what Revenue can do and what initiatives businesses or any of us can put in place to try to minimise the downside, there must, by definition, be a downside. I think this realisation is growing. The committee's work this morning is making a contribution to that. It is up to all of us to try to keep repeating this message, although not as something to be necessarily afraid of. Opportunities exist but, ultimately, Brexit is a problem and we need to tackle it as a problem.

**Senator Rose Conway-Walsh:** I thank the witnesses for their presentations. This is a little like peeling an onion: we get layer upon layer all the time, but each day it is more informative as things come to mind. I am particularly interested in the transitional arrangements and in why Revenue is not talking directly to Her Majesty's Revenue and Customs in the UK. I ask the witnesses to clarify whether there is a legal impediment to discussions even about a transitional arrangement or the type of scenarios the UK is considering as well.

**Mr. Niall Cody:** We cannot talk to the UK about what arrangements we will put in place post-Brexit.

**Senator Rose Conway-Walsh:** Even just to have the conversations, to build the relationships, to-----

**Mr. Niall Cody:** We have excellent relationships with Her Majesty's Revenue and Customs, HMRC-----

**Senator Rose Conway-Walsh:** Should we not be using those relationships?

**Mr. Niall Cody:** -----and we continue to have ongoing dialogue on a range of issues. I was asked today about negotiations with HMRC in the context of our annual report and I said that we have an excellent relationship with HMRC and are in constant dialogue about practical issues that will arise. That was turned into "we are negotiating with HMRC". My colleagues and

I meet to discuss customs issues, VAT issues and anti-smuggling issues, and this will continue. However, to sit down and ask whether we will have a transitional arrangement to scope out how transit will work does not make any sense until we understand whether the UK will be part of the common transit area. That is the context. I meet my counterpart in HMRC and we talk about some of the challenges we face. We face common challenges in this area. In some ways, as I said earlier, they face more significant challenges in that they will have to provide a legislative framework for what is agreed. Sitting down with HMRC and suggesting trying to work this out before we know what the UK's arrangement will be would not add anything. What we will do is continue engaging with all our counterparts, as we have done. There is nothing to negotiate until we know what game we are playing.

**Senator Rose Conway-Walsh:** So it is a discussion rather than a negotiation. Could Mr. Cody clarify whether there is a legal impediment to negotiations between us and-----

**Mr. Niall Cody:** Yes.

**Senator Rose Conway-Walsh:** -----so we can have discussions but not negotiations?

**Mr. Niall Cody:** The European Union will be negotiating with the United Kingdom in regard to Brexit.

**Senator Rose Conway-Walsh:** We cannot do that as a single member state.

**Mr. Niall Cody:** No. Revenue would not be a party to negotiations of that type anyway. We implement the policy and the law. The Department of Finance would lead on fiscal policy. HM Revenue & Customs is like ourselves in this regard.

**Senator Rose Conway-Walsh:** I completely understand that. Regarding investment in IT infrastructure, is it a matter of discussing with the United Kingdom its current systems? Are we already completely familiar with them? What might the UK systems look like after Brexit or during a transition period?

**Mr. Niall Cody:** Right now, our systems have common features because both of us are members of the European Union and implementing the EU customs code. With the new Union customs code, there is a whole process of IT developments that are common across all countries. The United Kingdom, for example, is in the midst of a redevelopment of its main customs computer system, which is due to be launched in 2019. It was in planning for a considerable period before the United Kingdom knew there would be a Brexit challenge. It is now considering the scalability of its plans to ensure its system can cope.

**Senator Rose Conway-Walsh:** Is Mr. Cody familiar with those? I will not continue with this element any further. I am happy that there are at least discussions on it. Those discussions should continue. I would have more faith in those than on relying on 27 member states to get the best deal for us.

If after Brexit I buy a dress in Belfast for €500, is there a danger that I will be stopped on the way back to Mayo and charged? Will shoppers' cars be stopped or will it just be heavy goods vehicles? How will it be worked out?

**Mr. Niall Cody:** Everything we do is risk based. We will be identifying and targeting risk. The limit currently set out in law in regard to bringing in goods is €300.

**Senator Rose Conway-Walsh:** That is right. What if the dress is worth €400?

**Mr. Niall Cody:** I would imagine that the Senator would make a declaration and pay the appropriate amount as a Member of the Oireachtas.

**Senator Rose Conway-Walsh:** Really? That is for everybody. I need to work this into my budget. Anybody who purchases anything in the North will be expected to make an individual declaration. If he or she does not, he or she will be breaching Revenue rules. Does Mr. Cody believe that is practical?

**Deputy Pearse Doherty:** They are smugglers.

**Senator Rose Conway-Walsh:** They would be smuggling

**Mr. Niall Cody:** This is the nature of the customs union. These are the challenges we will have to examine.

**Senator Rose Conway-Walsh:** My colleague is saying 7% of people are stopped in Norway. I would have a 7% chance of being stopped. There will be many law-breakers here. It will be a huge problem.

**Mr. Brian Keegan:** May I make two observations? Senator Rose Conway-Walsh's observations are particularly pertinent because one of the competencies of the European Union is to set the rates for tariffs. When it comes to policing, however, the individual revenue authorities are left with colossal scope to determine how best to do so. We would think the future relationship between HM Revenue & Customs and my colleagues here will be critical in managing that process. The UK authorities will have to deal with 27 EU member states. We will principally have to deal with a new relationship with one of them. We probably need to get in as early as we can.

It is very bad news for the clothes shop in Belfast. Perhaps, however, it is better news for the shop in Dublin, where shoppers might ultimately buy the dress. That again crystallises the benefit of the Single Market and what the United Kingdom is leaving.

**Senator Rose Conway-Walsh:** What if somebody from the North is buying the dress in Dublin, going the other direction?

**Mr. Niall Cody:** That will depend on the UK rules. Potentially, the UK rules will not be the same. The United Kingdom could set its own threshold, or whatever figure it liked, and it may decide to have no threshold. In my discussion with Deputy Pearse Doherty, I said that if we ask about the nature of the particular rule, a revenue authority or a commission authority will say, "These are the rules". As Mr. Keegan says, our challenge concerns how we implement the rules, how we follow a risk-based approach and how we deploy our scarce resources to tackle serious tax and customs evasion. With regard to the liability on a dress, by comparison with 40,000 litres of laundered fuel, I would imagine that our mobile team in the Border area will probably have a different focus.

**Senator Rose Conway-Walsh:** I would still be breaking the law, regardless. Therefore, I will have my conscience to deal with.

**Mr. Niall Cody:** The Senator will obviously have the opportunity of not breaking the law. We will have simplified procedures.

**Senator Rose Conway-Walsh:** Of course. I just want to present the argument. I do not believe people have fully thought through what exactly this will mean.

I want to get back to the question of special status for the North in the European Union. Does Mr. Keegan's organisation advocate special status for the North within the European Union? How much work is it doing to promote that? It would seem to be the solution to many of our problems, including problems we have discussed today.

**Mr. Brian Keegan:** We have been in existence for over 125 years. We have 4,000 members in Northern Ireland. We are an all-island body and very proud of it. We have to respect very much the democratic overall decision, however much we might wish for it to be otherwise, including in commercial terms. Also, as a representative body, we have to look at the hand we are dealt in terms of how we can deal with the legislation as presented.

Since the focus of today's meeting is on customs, may I make an observation thereon? We have been working with a common customs system with our EU neighbours for many years. It evolved over many years. Our neighbours will not let the Republic of Ireland walk away from commitments under the EU treaties to police that system. Therefore, the reality is that if there were a two-year timeframe, no matter what we might want the United Kingdom to do in terms of customs, it simply would not have time to rewrite a customs system that would suit an all-island approach. Aside altogether from anything else, it is simply not possible. Furthermore, we would have a severe concern that, with the event of Brexit, the remaining 26 EU member states would be looking at us like hawks and saying that since Ireland is still in their club and has the land border with the United Kingdom of Great Britain and Northern Ireland, it has an obligation to the them to police it. What we can practically and pragmatically campaign for is very little other than making Governments, politicians and the various regulatory authorities aware of the concerns of business and what can be done to mitigate them. That is what we are trying to do in the context of-----

**Senator Rose Conway-Walsh:** I disagree with Mr. Keegan's organisation because part of the problem is that while we are looking after the whole club and what it wants for us, it is really a matter of what we want as a nation, country and island. Much more robust negotiations, not only by the Government but also by organisations, including that of Mr. Keegan, are needed to try to influence the policy at this stage. Chartered Accountants Ireland should not just be an administrative body trying to keep everybody happy. We are not going to keep everybody happy.

**Mr. Brian Keegan:** I hope we are not trying to keep everybody happy. I am not aware of any other trade association that has done so much to try to raise awareness of the practical issues faced by businesses trading north and south of the Border, or businesses that effectively use the United Kingdom as a land bridge into Europe using the common transit area. They are going to be severely prejudiced as Mr. Cody said earlier. A great deal of the exports from Northern Ireland to the UK actually come across the Border and go out through Dublin Port or Rosslare.

**Senator Rose Conway-Walsh:** Have we looked at the value of special status for the North to companies island-wide? Have we quantified what the value would be were there to be special status for the North within the EU?

**Mr. Brian Keegan:** That would very much depend on the particular business sector. The most high profile business sector where we have concerns and which we have highlighted in our representations is the agrifood sector. There are undeniable advantages for everybody associated with that sector in having an all-island approach. It strikes me that even though it is not particularly a customs-related issue that tourism, where there is already an all-island approach, would also experience undeniable advantages in that case. Nothing can be done unless we bring into the public arena these kinds of issues and concerns.

With respect to everyone concerned, we talk about the European Union and the UK leaving the Single Market and the four freedoms of movement of goods, people, capital and services. A great deal of the focus has been on the movement of people and a great deal of discussion of borders has been in that context. However, the discussion in relation to goods is relatively recent. We still need to scope out what the issues are. In terms of an all-island approach, if it is possible within the constraints of a timeframe of less than two years and within the constraints of EU law to make arguments and representations, we will do that and are trying to do so now. The documents we have sent to Members of the Oireachtas have also gone to our MEPs, the European Commission and HM Revenue and Customs.

**Senator Rose Conway-Walsh:** There is no time to go into it today, but there will be huge problems around country of origin and accumulation of products.

**Mr. Brian Keegan:** That is correct.

**Senator Rose Conway-Walsh:** It is something we probably need a separate session on. I also have major concerns around the smaller businesses, in particular those in rural Ireland where we do not have broadband or a very *ad hoc* broadband system. There must be real discussions between Revenue and the Department of Communications, Climate Action and Environment as to how these companies can make online declarations and what technological advances need to be made in that regard. Were it to happen tomorrow, a huge number of rural businesses would be put out of business overnight if they were forced to rely on the current technology. Should smaller companies be applying at this point for AEOs and is there a cost involved in that?

**Mr. Niall Cody:** No. Ms Lynch set out very well what companies should do. They should be looking at what features will be impacted by customs if they are trading with the UK and conducting an analysis of that. By their very nature, small companies will have limited engagement with customs but they will probably have one or two customers in Northern Ireland and Great Britain and it is about an analysis of what to do there. In the overall context of supporting business, we have a very strong record of providing as much information and simplification for businesses as possible. We are engaged with the customs consultative committee which has representatives of various trade groups involved in export-import-export. We have now broadened the membership because there will be people who will be engaged in import-export but would not have seen that. We attend seminars also. Our challenge in attending seminars right now is that everyone wants to know what will happen when that is, ultimately, a political negotiation. There is certain work that people can do, however.

Broadband is an absolute challenge for parts of rural Ireland and we are already engaged in a whole lot of online work. Our system is online as much as possible and we are very hopeful that various developments in the broadband strategy will keep helping us to get there.

There are opportunities. The way customs works is that it is primarily carried out by agents at the lower level while the bigger companies have in-house staff. That model is likely to continue and there are probably opportunities for various people in that area. There are opportunities for the simplification process and that agents will step up to the mark on some of that where they are dealing with smaller traders. We will see different pricing models because what will be required of agents will be different when we fully exploit the Union Customs Code.

**Deputy Declan Breathnach:** I thank the Chairman for the opportunity to address the committee. It is the first occasion. I thank the witnesses for the three presentations. Coming from

a Border county, I note that the movement of trade has the potential to change the dynamics not just across the country but in the Border area. I am certainly concerned about how any restriction or slowing down of movement would impact on an all-island basis in particular in relation to the peace process. I will be speaking once and asking a series of questions if that is all right.

It was stated that the Revenue was not looking at any additional sites for customs posts. Obviously, the Revenue still has quite a number of properties along the Border in its ownership. I refer to Carrickcarnon and I am sure there are many other places. Does the Revenue intend to use those sites as part of whatever scenario it is looking at? I respect the fact that we are in a vacuum and that there is a certain uncertainty. I hope the witnesses will not mind me using the pun that we do not have much to declare currently because we are all in that vacuum as to what the solution will be. We spoke to senior officials at European level about Brexit and they were quite sceptical of an IT solution. Can the witnesses comment on that and whether the IT solution referred to as being innovative could work? The word “smuggling” was mentioned once and I mention it a second time. In its most recent report, Grant Thornton indicated clearly that of the order of €4.23 million was lost to the Exchequer annually. Will that increase on the basis of whatever arrangements are put in place?

I have not once but twice in recent times witnessed gardaí, Revenue officials and other arms of the State diverting traffic on the M1 motorway. What is that intended to achieve and is it envisaged that type of thing will continue? There are 38 Border crossings in Louth and I understand that nationally there are of the order of 400. Ireland, as a non-contentious border country, probably has more crossings than there are on the eastern border of Europe. How movement can be controlled is a mystery to me. The issue of food integrity was mentioned. Surely, customs will not be able to control it if there is a British policy of cheap food. I am long enough around the Border to know and perhaps the Revenue should consult more of us there about the potential for disaster, in particular in relation to the movement of livestock and food integrity. All it will take is one piece of steak sold outside the customs union in Newry to end up in Dundalk for us to have a major problem. Can the witnesses comment on that?

**Mr. Niall Cody:** I was not trying to hide anything when I said we were not looking for sites. It was not in the sense that we had plenty of them but rather that we are not looking at that traditional type of customs post. On the scepticism around IT solutions, one always has to be careful about who one is listening to and what the various vested interests and approaches are. As I stated in my opening remarks, the European Commission has competence in regard to customs policy but each administration and country has the responsibility to implement customs control. We are subject to a comprehensive audit programme by EU audit every year, and there is the potential to challenge us if we are not doing things properly. One never gets a clean bill of health from any auditor. We generally have an agreed process of changing and addressing concerns. There is the idea of an IT solution. The EU policy is to go to an IT-based customs process that is totally paperless. The Vice President of the European Commission gave a speech at the European Parliament last week about evaluating customs performance and management as a tool to facilitate trade and fight illicit trade. A key issue is the integration of IT systems, and that is what the development is about.

Members may wonder why I have not spoken about smuggling. In setting any tax or customs system, one must provide the framework for the legitimate business that wants to apply. That is the first thing and it must be in place; it must be as easy to comply with as possible, having regard to the rules. We must also tackle the people who do not abide by the rules, and we have ongoing arrangements and relationships with other agencies in the field. We have gone



through a process in the past five or seven years relating to fuel fraud, smuggling and laundering. I do not need to tell members about some of what goes on. The Grant Thornton report on smuggling had figures that are not compelling as they overstate the position. That is not to say there is no smuggling, and we are very familiar with it. We deal with it week in and week out, and that is why, on occasion, there will be patrols and joint operations to deal with smuggling. There are all sorts of other matters in that area that we will have to deal with.

Food integrity is clearly a major challenge, and the agrifood sector will need careful handling. It is primarily one of the areas that the Department of Agriculture, Food and the Marine will lead on. There is an integrated nature to the supply chain of the agrifood sector, which is probably the biggest sectoral challenge. It is interesting in the context of the task force as this issue is primarily driven by environmental health, so DG SANTE leads in that regard, and we are kind of subcontractors after the event. Nobody underestimates the challenge that Brexit brings but we will be starting from a position of an equivalence of standards. As Mr. Keegan argues, when somebody leaves the club, equivalence changes over time. That is an asset challenge but we will be a support to agriculture in that area.

**Senator Paddy Burke:** I welcome the delegation and from what Mr. Cody and others have said, I know they have picked up many of the issues raised at the last finance committee meeting with the Revenue Commissioners. Much has been said about the all-Ireland approach and the witnesses stated earlier that the UK would have a customs operations with many different countries, with 27 operations for the 27 EU countries. Northern Ireland would be the same as the rest of the UK in that it would have 27 different operations as well. Some goods could come directly from those 27 countries into Northern Ireland. If there is to be an all-Ireland approach, does it not mean the EU regulations would be operated in Northern Ireland? Would that be the case?

**Mr. Niall Cody:** When people speak to the Revenue Commissioners about an all-island approach, it is not an area we are even competent to discuss. That would become part of the input into the political dimension. All we can do is provide the technical analysis of what is the law and the Union customs code. If there are to be arrangements ultimately agreed, we will then respond to that and try to make them work. I know what the Senator is asking but the Revenue Commissioners are not in a position to have a view on something like that. I might have a personal view.

**Senator Paddy Burke:** Surely somebody is going to advise the political systems, including the Government. Politicians might examine some of this but they must get advice as well. The Government would get advice on an all-Ireland approach.

**Mr. Niall Cody:** We can advise Departments who lead on these issues around the Union customs code, how the relationship with a third country and EU country works, as well as any models we can see that may be appropriate. The Government, and specifically the Taoiseach in the keynote speech at the Mansion House, stated that ultimately this is a political process and a political problem that will be solved by politics. It is not primarily a technical or legal matter. That was his statement. We are a technical operation that looks at legislation and implements it. We do not determine the policy. If there is to be an arrangement reached on aspects, it will be a matter for those negotiations.

**Senator Paddy Burke:** A good bit has been said about online trading, which is affecting high street shops. The authorised economic operators were mentioned but does the witness see a role for those with online trading? In New York, for example, lunches are being delivered by

drones and I can envisage a problem with drones being used to facilitate the delivery of goods from across the Border to be dropped in a front garden. If people are able to deliver lunch in New York by drone, I am sure they can deliver little parcels around Ireland as well.

**Mr. Niall Cody:** The methodology of delivering the goods really does not matter. We could have a discussion about how safe a drone would be but if something is delivered by courier or drone, it will not change the nature of the beast. We can consider the challenges of e-commerce, which are ultimately businesses that keep records and pay taxes and duties in the appropriate countries. There are challenges regarding how software moves around but physical goods are delivered and they go through a process, whether it is through the post office or couriers. If, ultimately, drones are flying around dropping the Senator's lunch in Mayo, they will not be the problem.

**Senator Paddy Burke:** Is there a use for bonded warehouses going forward?

**Mr. Niall Cody:** The bonded warehouse is very much a feature of the infrastructure of customs and, particularly, excise. When we talk about approved warehouses, that is that approved warehouse concept. The rules, guarantees and controls are all laid out in law. In a way the excise duty bonded warehouses are still a big feature of the way alcohol and cigarettes are dealt with here. Customs bonded does not have such a high profile because of the Single Market but that will be back.

**Senator Paddy Burke:** Will it be back?

**Mr. Niall Cody:** It has not gone away.

**Chairman:** Has Mr. Cody determined where increases in staff might occur and what the cost to the organisation might be?

**Mr. Niall Cody:** In the context of budget 2017, the Minister supported a business case to provide for an additional headcount in our figures for this year and an additional €2 million for IT development that we might need to scale up our systems. It is not for major changes but to increase capacity. The allocation in budget 2017 was to facilitate the start of that work. Depending on what is the final result, we will continue over the next few years to put the case to the Departments of Finance and Public Expenditure and Reform for the necessary resources to facilitate this.

**Chairman:** How much, generally, is Revenue investing in the analysis of the various scenarios to do with Brexit? If Revenue was doing Brexit today, somebody else would have to do Mr. Cody's job.

**Mr. Niall Cody:** No, I would have had to start earlier.

**Chairman:** That is fine if we are getting more for less.

**Mr. Niall Cody:** I am afraid it would be more for less.

**Chairman:** That would not work.

**Mr. Niall Cody:** No, it would not and that is why at the start we said we needed an additional resource to do the scenario planning first in customs. Mr. Colgan heads up a team of nine people who are dedicated to do contingency-----

**Chairman:** Do the nine people come out of Revenue's current staffing resource?

**Mr. Niall Cody:** We got an additional headcount of 40. We are in a process of recruitment. We are losing many people to retirement and, therefore, we are in an ongoing engagement-----

**Chairman:** Is the Brexit cost to the organisation Mr. Colgan plus nine staff?

**Mr. Niall Cody:** In the customs division. There is Brexit-related work in other divisions but there is no Brexit unit in VAT, for example, because the customs team will be to the forefront and the changes that will happen will be driven first on the customs front. As the Chairman implies, if a percentage of staff go to meetings or talk to Mr. Colgan's team, they will not go to meetings about something else. There are probably another ten or 11 equivalents around the organisation feeding into this.

**Chairman:** So 20 equivalent permanent staff are dedicated to Brexit.

**Mr. Niall Cody:** Right now and that will scale up.

**Chairman:** That is the cost to Revenue as it scales up. It has gone from zero to ten staff and it will increase as demand requires.

**Mr. Niall Cody:** Work is going on in the customs division studying and implementing the Union Customs Code. Approximately 100 people work in the division, including Mr. Colgan and his team, but much of the work of people in the division has a significant Brexit element because they could be studying a simplification in the customs code.

**Chairman:** I am trying to get at the impact on Revenue in the context of staff and scaling up and so on. As we get into Brexit, the organisation has scaled up to ten staff and will continue to scale up. Has Mr. Cody any idea of the numbers?

**Mr. Niall Cody:** No.

**Chairman:** Will it depend on the problems that arise?

**Mr. Niall Cody:** In a policy area such as that covered by Mr. Colgan's team, it gets to a natural size. The legislation is only so big in respect of the work to be done on it but when we get into the operational area such as Brexit plus one - the end of transitional arrangements - there will be staff in operational areas who will have to go-----

**Chairman:** That is what I was coming to. Mr. Cody was making the distinction between chasing the address or chasing the guy who is laundering diesel. Revenue will have to have significant personnel on the ground to deal with all these issues such as the examination and clearance of a truck and so on. The potential cost to Revenue, therefore, is significant.

**Mr. Niall Cody:** The Single Market was introduced on 1 January 1993. Before that, we had significant staff resources based in Dundalk, Rosslare, and Dublin Port. I could list all the entry points and-----

**Chairman:** Revenue does not have to populate those areas and more again.

**Mr. Niall Cody:** Commissioner Irwin talked about the increase in activity the last day because many traders will be brought into the customs sphere.

**Chairman:** If someone is dealing with the clearance of a truck, whether it is groupage or a

single lot from a company, Revenue will have to form a relationship with the company, which requires manpower. The organisation can have all the technology it wants.

**Mr. Niall Cody:** Absolutely.

**Chairman:** It is not the computer that catches people; it is the examination.

**Mr. Niall Cody:** This is the process with the transitional arrangement for however long and depending on the eventual outcome. In support of the Minister of Finance, we said we needed to start planning to build up that process. I recall having a chat with Mr. Colgan and saying, "Here is an interesting job for somebody with more than 40 years' experience in customs" and he said he was thinking of retiring.

**Chairman:** He was thrown in at the deep end.

**Mr. Niall Cody:** I hope the Department of Public Expenditure and Reform is not listening. The figure of 40 was not arrived at as a result of a detailed exercise where we said it will take X number to do that. It was put forward to give us the headroom in our numbers to put experienced people and some inexperienced people in the team to plan the scope-----

**Chairman:** Is there a Brexit line in Revenue's budget for this year?

**Mr. Niall Cody:** We do not have it as a specific item because we are doing it within the customs division framework. Next week, I will appear before the Committee of Public Accounts and I am sure I will be asked.

**Chairman:** The organisation has scaled up and it has its ten staff in, but somebody else has to do Mr. Colgan's job. Are the other nine members of his team coming from within the organisation or are they new recruits?

**Mr. Niall Cody:** We got an increase in our headcount of 40 staff.

**Chairman:** Yes. However, are the ten staff from the system?

**Mr. Niall Cody:** They have been moved into this area. In any area where we face a new challenge, we move people into that section to work on it.

**Chairman:** Let me give an example of a haulier who has a truck going to France via the Border. Mr. Cody has outlined the role of Revenue at the Border. What will happen when this truck crosses into Northern Ireland, travels to England and crosses to France? Could Mr. Cody say how many checks a truck would have to undergo on that journey?

**Mr. Niall Cody:** It would depend on whether the United Kingdom is part of the common transit arrangement. If it were part of the common transit area, there is a facility whereby a truck leaving Dublin can go under the transit arrangement to its final destination in France.

**Chairman:** Would it have been checked once?

**Mr. Niall Cody:** It would probably not have been checked at all.

**Chairman:** Is that a possibility?

**Mr. Niall Cody:** Yes. However, if the United Kingdom transit arrangements do not work, for whatever reason-----

**Chairman:** Is it not in the interests of the United Kingdom to have a transit arrangement in view of the fact that some of the trucks from the North come to Dublin or trucks coming into Wexford travel to the North?

**Mr. Niall Cody:** It is absolutely in the interests of the United Kingdom to have transit arrangements. We imagine the UK will have such arrangements, but one cannot guess.

**Chairman:** I wish to focus on costs and I will put questions to either Ms Lynch or Mr. Keegan. We were trying to work out the transport costs to the exporting company. Earlier, when we were trying to extrapolate the figures, the estimated cost ranged from €320 million to €500 million. The cost to business will be significantly more regardless of what happens. Companies will have to budget for the significant cost of the preparation of documentation - whether in hard copy or electronic form - to export or import goods. That cost must be borne by individual companies. Costs will shoot up. Do the witnesses accept that a figure ranging from €320 million to €500 million is a guesstimate and that the cost could turn out to be significantly higher and that it will depend on whether the outcome of the political discussions is a common travel area or a more awkward arrangement?

**Ms Carol Lynch:** It is a very broad figure. One must look at a company's traffic of goods. If I move, for example, ten shipments of goods across a border in a day, one is talking about costs of €500 for each leg of the journey. If I am transiting to France, however, then I am making a transit arrangement and have met my documentation requirement in Ireland but I will transit the goods right through to France. So there will only be set of costs. In terms of identifying the costs, one must look at the company's supply chain and how many times it will be obliged to cross a border in free circulation and trigger a customs' requirement, whether it will transit its goods or whether it is moving those goods to sell them into the UK or from the UK to Ireland. It is going to vary widely and that is the reason companies need to look at their supply chains in order to be able to determine what will be the potential costs. One can assume there will be additional costs, because that will be inevitable. There will be an additional cost for compliance.

**Chairman:** Let us take the example of a haulier who is servicing the English market. His or her job will be to pick up a load in Kilkenny and complement that load. As a result of the fact that he or she is a groupage operator, he or she will head towards the Border area and try to fill the container so that he or she has a full load of 50 different consignments. The driver has to have the paperwork for those 50 consignments. The burden of the paperwork trail rests with each of the companies from which the driver picked up a consignment. The driver has the burden of ensuring that he will be able to get through customs and has all the correct documentation. Otherwise, the logistics operator or the haulier will incur further costs.

**Ms Carol Lynch:** The way it works at present is that if one is shipping a container of goods, the haulier will pick up consignments from several different companies and transport them onward. Each of the companies involved will either have a clearance agent and the latter will lodge the declaration in advance and will already know whether the goods have been given green, orange or red status. The trucker should be able to just roll the overall consignment on to the ship or deliver it to the airport.

**Chairman:** If there is a problem with one of the consignments in that shipment, however, it will be an issue for the eight or nine other companies with goods in the container.

**Ms Carol Lynch:** At that point, the haulier has to go through customs checks regarding the full contents of the container.

**Chairman:** That will cause trouble for the logistics operator, which will have to be careful about what goods are picked up in order to avoid the possibility of a customs examination.

**Ms Carol Lynch:** That is the reason the haulier tries to group all the AEO products in one container. For example, a large haulage company or freight forwarder will try to get all the AEO products into one container so that it will have AEO status. That is the benefit of being an AEO trader.

**Chairman:** As I listen to the exchanges this morning, the real difficulty is for the small operator, namely, the haulier with just a few trucks. He or she will have to have a number of different consignments and should one of them cause a problem at customs level, the other exporters who have their consignments on his or her truck will suffer a delay in terms of their being delivered to the United Kingdom or France in a timely manner. There is a possibility of losing business when goods are not delivered on time. These are the businesses that are least prepared for Brexit.

**Mr. Brian Keegan:** If I might interject, another issue is that these problems will be front-loaded. If one is looking for customs expertise at present, there are few customs agents relative to the number of exporters here. Much of the expertise migrated and ended up in places such as Rotterdam, where there is significant customs issues beyond the European Union. The level of expertise resident in this country to deal with the vast number of queries that will arise will be an issue.

**Chairman:** How aware is the Government of the issues we are discussing? Is it prepared? Is there a response unit that will assist Revenue or the exporters, not necessarily those who would qualify as EI exporters in terms of size?

**Mr. Brian Keegan:** I can only answer that question with certainty in respect of my colleagues on the right hand side - namely, the officials from the Office of the Revenue Commissioners - on foot of the discussions we have had with them to date. Revenue has an awareness of the issues. I think today's process is absolutely essential because, as I said earlier, this must be an open discussion. It is not the type of technical discussion that should be happening in meeting rooms. Businesses need to become more aware so that they can relay questions to bodies such as ours in order that we might obtain answers for them..

**Chairman:** Who should take responsibility in that regard?

**Mr. Brian Keegan:** Ultimately, no organisation, whether it is a State or commercial organisation like ours, can try to second-guess every contingency or issue. What we do need to happen - it is beginning to happen because we are getting queries almost every day - is for businesses to begin to wake up to the kind of issues that have been ventilated in this room for the past two hours. We will play our part in relaying those queries to Revenue. It certainly would be helpful if, at an early stage, more formal channels of communications could be opened up. In that context, we spoke about agribusiness earlier and it would be of assistance if such channels could be opened up with the Department of Agriculture, Food and the Marine. There is a form for referring these issues, as they arise, to Departments, Government agencies and the political system in order to identify how we might work through them.

**Mr. Niall Cody:** I think there is a great deal of work going on in the various sectors. Our colleagues in the Department of Agriculture, Food and the Marine are engaged very much in discussions with the different sectors. There has been significant involvement across the board.

The challenge is that we are discussing a lot of items on which we do not know the final result. Going back to the grouping example, if one will be collecting from Kilkenny, Dublin and Dundalk to bring goods via the land bridge to France and one will not be letting anything out in the UK, one will be travelling under the transit arrangement and it will be the exact same as if one is supplying under the Single Market. The complicating factor is that right now one would do that and one would not have to consider transit because one would be merely driving across, via ferry, across the land bridge and out the other side. That is why the transit arrangements are important. A matter we are discussing with our colleagues in the other member states is to be clear that Irish goods that go over the land bridge are EU goods and are in free circulation. It is important when they end up in the French, Belgian or Dutch ports that they are received as Irish goods and there is no customs procedure. That is one of the big challenges.

**Chairman:** It is the bit in between.

**Mr. Niall Cody:** In a way, the UK rules, once they are part of the common transit arrangement, will facilitate that move. Their risk, if one goes back to the discussion earlier around smuggling, will be whether goods get diverted on to the UK market and that will be their challenge.

**Chairman:** It may be their challenge, but in answering that challenge it may affect those who are transiting going across that bridge.

**Mr. Niall Cody:** Not if they sign up for the transit arrangement.

**Chairman:** My last question also relates to costs to small businesses. Since e-commerce took on and consumers now buy their goods online, small companies also buy their parts and back-up material online. Such companies do so at the last minute in order to save costs. That will change dramatically now-----

**Mr. Brian Keegan:** If they buy from the UK.

**Chairman:** -----if they buy online and if they buy from the UK, which most of them do. If one is using Amazon UK or something else to buy parts, that will affect them on cost. First, there will be a time factor. They will have to order earlier and they will have to carry the burden of the cost of that longer. They will have the extra costs of getting it in. They would rely on the courier companies to have the facilities to get that through properly, with the collection point of taxes or whatever else there might be. There will be that cost on the SME sector. There will be another cost on the courier company because it must have everything correct and proper. There is an enormous cost here and an enormous risk for the economy-----

**Mr. Brian Keegan:** There is.

**Chairman:** -----and for the future of that SME that relies on quick delivery from the UK to Ireland at present.

**Mr. Niall Cody:** Over time, who knows what will happen around where hubs are based? It will be in the interests of certain large e-commerce suppliers to have a hub in the EU, a hub possibly in Ireland. There are integrated supply chains for large retailers which are impacted which are impacted by all of this in that they see the market as an integrated market. That is something we have not discussed here.

**Chairman:** They come in from the UK to Ireland. They come straight off the ferry in 40

ft. lorries to service their customers or the chain in which they are involved, and all of that will change.

**Mr. Niall Cody:** Absolutely.

**Chairman:** My sense of it is that it has not got down, in any way, shape or form, to that level of the SME. Those are the ones that need to be protected the most because they are reliant on all of this free trade and free movement.

**Mr. Brian Keegan:** That is correct. We have heard a lot of useful statistics today and the ones to note are from Enterprise Ireland, which is looking after the constituency the Chairman is talking about. The clients of Enterprise Ireland trade almost twice as much as any other area in the world and that is the particular grouping that will be the most adversely affected. The larger exporters have economies of scale. They have expertise inhouse. They can scale up. It is, as the Chairman states, the SME sector, which accounts for such a high proportion of jobs in this country which will be the most affected.

**Chairman:** If one takes it down a step further, underneath the Enterprise Ireland client, into smaller companies not supported by Enterprise Ireland, there is a considerable range of companies employing one-to-ten staff that are not geared up for this, that do not understand the costs and that will be seriously affected by this change. That is why I asked about that sense of Government involvement in that information piece that has to be exercised in the context of those companies. Those are the ones that are paying Mr. Cody their taxes, etc. We have to respect them. I do not get a sense of that.

**Mr. Niall Cody:** It comes back to our earlier discussion about the nature of the exit and the transitional arrangement. It is not really achievable to have a fully operational system in place in two years' time to facilitate all that and that is why a transitional arrangement to allow the planning and the process is the likely outcome.

**Chairman:** From 2019 onwards?

**Mr. Niall Cody:** That is the likely outcome. If this was a practical pragmatic arrangement, that is the likely arrangement. However, it is ultimately a political process.

The reality is that whenever it happens, as soon as we have anything definitive to give people, we will be working closely. We have been out talking to our staff. Our staff keep asking us because they deal with businesses every day.

**Chairman:** They are hearing this.

**Mr. Niall Cody:** They are being asked. They ask what will happen. We tell them this is where it is right now until we know more. Certainly, in our engagement with business and our various different fora, we will continue to do that as much as possible. The reality is that if Brexit results in the UK leaving the customs union and the Single Market, the implications are that it will be a third country.

**Chairman:** As a one-time dock clerk who filled out the customs forms and had to walk from Aston Quay down to the Customs House to get the various goods cleared, the only bright side I see in it is that I will have a role after this, perhaps as a consultant, to see them through.

**Senator Paddy Burke:** Is the Chairman not going forward again?



**Chairman:** There are another couple of elections in me.

**Senator Gerry Horkan:** There is obviously a future after Leinster House.

I am sorry I had to step out for a little while but I was listening to the debate. I have a couple of points.

Have the Revenue Commissioners examined the relationship that other EU countries have with third parties, particularly on the eastern European side, for example, Hungary or Poland? I refer to the countries that have borders with non-EU countries. There are plenty of EU countries that are surrounded by countries in the Union or at least in the EEA. Have they looked at what arrangements exist and how they might be adapted or adaptable for Ireland?

**Mr. Niall Cody:** We are in a process in that regard. It is part of the preparation of looking at the various different models. There are various different legal arrangements between countries - whether it is the EEA or Turkey being part of the customs union. Then there is the harder border on the eastern side. In a way, there is no particular model between the eastern flank of the EU and their neighbours that provides the potential to solve these problems. One of the closest relationships in this, because of a long-standing historical relationship, is probably the relationship between Norway and Sweden. That would be highly sophisticated and their relevant officials have authority on each side of the border. That is a real close-----

**Senator Gerry Horkan:** They also have freedom of movement of people and so forth.

**Mr. Niall Cody:** There is a close working relationship. Obviously, Switzerland is surrounded by member states. I probably did not get to mention this earlier but the customs code provides for special arrangements for local trade within a corridor on both sides. We are examining the opportunities there. In the case of Switzerland and France, for example, people are toing and froing about their daily business like they do here, with people working in one country and living in another. We are looking at opportunities in that area. The Chairman asked about the work Michael Colgan's team is doing. It involves making visits. There is also a long standing customs programme within the EU under which we carry out exchange visits to study particular matters and when we examine IT development we work closely together. There is a real opportunity to examine all those aspects, but there is no model in place that deals with a country that has spent a long time in the Single Market and then left. People talk about external frontiers, but every EU country has an external frontier because every one of them has airports. That is the external frontier. However, the land frontier between Northern Ireland and the South is unique within the EU. There is no model of a country leaving with a land frontier of a limited nature, because it is limited to within the island. It is a unique set of circumstances. We will explore and we will put anything we can into that policy arrangement.

**Mr. Brian Keegan:** On that point, the downside of those comparisons is that because there is a heavy onus on those eastern countries within the European Union to maintain the integrity of the customs union I expect they will be very hesitant or resistant to any special dispensations or arrangements which we might wish to broker with the United Kingdom, given that the burden they have to police the system is so heavy.

**Senator Gerry Horkan:** I can see that. It is obvious from Michel Barnier that one cannot be in as good a position after one leaves as when one stays. We can all understand that. If one is part of the system one is part of the system but if one wishes to walk away and take whatever advantages one perceives from leaving, one equally cannot benefit from all the advantages of

being part of it. The witness spoke about 13 main routes across the Border. How many crossings are there, omitting people with fields and barns on both sides of the Border? Are there 300 or 400?

**Mr. Niall Cody:** There are probably a couple of hundred anyway. We are all familiar with driving up there. There are more than 200 crossings. There are 11 national roads, one motorway, a 499 km Border and over 200 crossings.

**Senator Gerry Horkan:** It appears at this stage that the UK is seeking a harder exit - leaving the customs union, getting rid of free movement of people and so forth. There is a significant contradiction in what it is saying in terms of wanting to maintain the common travel area and free movement on the island of Ireland while simultaneously saying it wants a hard Brexit. What have we heard from the UK? It is very hard to square that circle. On the one hand it is saying it wishes to establish its UK border force and enforce everything while simultaneously saying it wishes to keep everything else. Is it looking at it simplistically? Logistically, it would make sense to have the Irish Sea as the border but I do not believe it is willing to go with that and I am not sure the Unionist population would be willing to embrace the concept either. What has been heard on that?

**Mr. Niall Cody:** We touched on this earlier. It is not a competence of the Revenue Commissioners to give the view of what the UK is going to do. Our role is to administer the tax and customs system and to feed input into the policy dimension. I am aware that Mr. Callinan appeared before the committee. He would probably say they are discussions for the political and policy area.

**Senator Gerry Horkan:** However, if there are 200 or 300 points on the 499 km to cross how will the Revenue Commissioners, as a customs authority, ensure that the integrity of the EU is maintained with regard to a third party country while simultaneously allowing people to go back and forth, buy their dresses as Senator Conway-Walsh mentioned and so forth? How can they do both?

**Mr. Niall Cody:** Essentially, the customs union provides for a series of rules, we will provide the framework and then we will apply a risk-based system to tackle non-compliance, as we do across all the taxes and duties we implement. That will be our job.

**Senator Gerry Horkan:** Will somebody who gets on a train in Dublin still be able to travel to Belfast without checks somewhere along the way?

**Mr. Niall Cody:** I certainly expect so.

**Senator Gerry Horkan:** Okay. It is really about the trade and goods rather than the people.

**Mr. Niall Cody:** The risk is around goods. The cross-Border shopping risks really come into play when there are big differentials between prices. Differentials in prices arise due to currency changes or if there is a significant duty differential.

**Senator Gerry Horkan:** Yes.

**Mr. Niall Cody:** We and the UK have similar VAT rates and quite similar excise duty rates. Ireland has cheaper road fuel while the UK has cheaper drink. However, the margins are such that there will be cross-Border shopping but it will not put a hole in the Exchequer receipts. If there are abuses higher up, and we discussed smuggling earlier, they are the challenges we will

25 MAY 2017

have to address. However, we have always had to address them while we have been part of the Single Market, because of excise duty differentials on high volume stuff.

**Senator Gerry Horkan:** I wish the witnesses the best with it. I thank them for their opening statements and their interaction with the committee.

**Chairman:** I also thank the witnesses for their contribution this morning. It was very worthwhile. We have to hear a great more on the issue but this was a positive input into the discussion.

The joint committee adjourned at 12.40 p.m. until 4 p.m. on Tuesday, 30 May 2017.