DÁIL ÉIREANN

ROGHCHOISTE SPEISIALTA AN TSEANAID UM AN RÍOCHT AONTAITHE DO THARRAINGT SIAR AS AN AONTACH EORPACH

SEANAD SPECIAL COMMITTEE ON THE WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION

Dé Máirt, 9 Feabhra 2021

Tuesday, 9 February 2021

Tháinig an Comhchoiste le chéile ag 4 p.m.

The Joint Committee met at 4 p.m.

Comhaltaí a bhí i láthair / Members present:

Seanadóirí / Senators	
Frances Black,	
Malcolm Byrne,	
Robbie Gallagher,	
Tim Lombard,	
Michael McDowell,	
Joe O'Reilly,	
Niall Ó Donnghaile,	
Mark Wall.	

Seanadóir / Senator Lisa Chambers sa Chathaoir / in the Chair.

The select committee met in private session until 4.03 p.m.

Business of Select Committee

Chairman: I propose the adoption of the draft minutes of our public meeting of 2 February, our engagement with the Executive Office of the Northern Ireland Assembly. Is that agreed? Agreed.

EU-UK Trade and Cooperation Agreement: IBEC and Food Drink Ireland

Chairman: As always with meetings where we are joining remotely, we will bear with one another because there can be technical difficulties. So far, however, things have been running smoothly.

On behalf of the committee, I welcome Dr. Pat Ivory and Mr. Neil Willoughby from IBEC to today's meeting. In the second half of the meeting, Mr. Paul Kelly from Food Drink Ireland's food and drink sector will participate. As we are all aware, Brexit has had serious implications for the Irish economy and the business sector. Today's agenda involves a discussion on the impacts of the implementation of the trade agreement between the EU and the UK on the business sector as a whole and, in particular, the food and drink sector.

I remind witnesses that they are protected by absolute privilege in respect of the evidence that they give to the committee. However, if they are directed by it to cease giving evidence in respect of 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 subject matter of these proceedings is to be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable.

I remind members of the long-standing parliamentary practice to the effect that they should not comment on or make charges against a person outside of the House or an official either by name or in such a way as to make him or her identifiable. I ask members to mute their devices if they are not contributing and to keep their mobile phones turned off or on silent mode.

I remind members that they are only allowed to participate in this meeting if they are physically located on the Leinster House campus. This requirement applies to Members of the Oireachtas only. I ask that all committee members, prior to making their contributions to the meeting, confirm that they are on the grounds of the Leinster House campus. Participants in the meeting from a location outside the parliamentary precincts are asked to the note that the constitutional protection afforded to those participating from within the parliamentary precincts does not extend to them. No clear guidance can be given on whether, or the extent to which, their participation is covered by absolute privilege of a statutory nature. Therefore, if they are directed by the Chair to cease giving evidence in respect of a particular matter, they must respect that direction.

I call Dr. Ivory to make his opening statement to the committee, and I thank him for participating in this meeting.

Dr. Pat Ivory: I thank the committee for this opportunity to set out the views and concerns of business on the EU-UK Trade and Cooperation Agreement and the protocol on Ireland and Northern Ireland following the coming into effect of the UK's full economic departure from the EU on 1 January.

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

In 2020 and continuing this year, IBEC has held an extensive series of virtual briefings to provide practical guidance to our members to help companies prepare for the significant challenges that Brexit presents. These briefings cover a range of critical issues for business, including dedicated sessions on customs, trade and VAT preparations, international data transfers, business readiness, the UK land bridge and direct routes to the Continent, and the all-island economy. In support, the campaign has collaborated closely with key stakeholders and decision-makers in Dublin, London and Brussels, including the Revenue Commissioners, the Departments of Transport, Enterprise, Trade and Employment, Foreign Affairs, and Agriculture, Food and the Marine, the Data Protection Commission, the UK Government and the European Commission. Recently, we hosted a member briefing with the Commission's task force for relations with the UK and its colleagues in relevant Directorates General. More than 3,000 individual member companies have engaged with our sessions in this period. IBEC has also provided regular briefings for our industry sector associations and worked closely with our colleagues on initiatives to help our members in the most impacted areas prepare. One of my colleagues, Mr. Paul Kelly, director of Food Drink Ireland, will also provide a briefing to the committee today.

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

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

The completion of the EU-UK TCA was welcomed by IBEC and Irish business compared with the consequences of a no deal scenario. After nearly 50 years of co-operation within the EU, the negotiations were always going to be prolonged and difficult. In this context, the TCA, however imperfect, must be welcomed as a strong platform for a future positive economic relationship between the EU and the UK. Regardless of its scale, which is very significant and which includes an unprecedented no tariffs or tariff quotas for bilateral trade in goods, the impact on supply chains and east-west trade is seismic. However, we all must recognise that, unlike traditional free trade agreements, this is not about bringing two parties closer together but rather about dealing with divergence as two parties move apart as the UK exits the EU Single Market and the customs union.

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

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

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

On 17 December, the EU and the UK reached a pragmatic, flexible and critical agreement on the implementation of the protocol following a protracted period of difficult negotiations because of the UK's threat to renege on its commitment in international law via the United Kingdom Internal Market Act. The protocol, we must remind ourselves, is a creative solution to a series of mutually exclusive problems to facilitate the UK's departure from the EU while at the same time ensuring peace and prosperity on the island of Ireland by protecting the Good Friday Agreement, the integrity of the EU Single Market and our shared island economy. It is the agreed solution to meet these non-negotiable objectives and must be supported and advanced on a continuous basis.

The protocol is already playing a key role with regard to supporting the business operations of all-island supply chains in areas such as dairy and drinks, for example, and the whiskey sector, which is a very positive outcome of the agreement for those important exporting sectors.

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

We welcome the dialogue between the EU-UK co-chairs of the joint committee, Maroš Šefčovič and Michael Gove, towards addressing outstanding issues and wish to underline that this is the time for mutual effort to solidify the protocol with peace and stability as the core objectives. We hope that some progress can be made in that regard in the meeting of the joint committee for implementation of the protocol this week.

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

Despite the best efforts of Irish business and the authorities, the challenge is huge to be fully ready for the profound, overnight changes that the end of the transition period has brought. To immediately adjust in a short timeframe to a radically new trading and economic relationship with one of our closest trading partners is neither possible nor realistic, particularly for companies in the most exposed sectors. The avoidance of tariffs and quotas is welcome, but it does not avoid the customs and regulatory barriers which have caused major trade and economic disruption. IBEC's work to support our members will continue and we look forward to continuing our positive and constructive engagement with Government, the EU institutions and our business partners in the EU and the UK. We welcome the significant Government supports and the EU Brexit adjustment reserve, of which Ireland will receive the highest allocation, and we note that the Government needs to bear the ensuing uncertainty in mind and ensure that adequate and agile supports are available to business as the practical consequences of Brexit become apparent. These supports must prioritise and be quickly available to the worst affected sectors to offset the economic consequences of the UK's exit from the European Union. I thank committee members for their time and attention and I look forward to answering their questions.

Chairman: I thank Dr. Ivory for that comprehensive opening statement. We appreciate it. I ask members to confirm at the outset of their contribution that they are on the Leinster House campus before asking their questions. I ask them also to use the raised hand function so I can see on the screen who is looking to come in.

Senator Malcolm Byrne: I thank Dr. Ivory for his presentation. I also thank Mr. Willoughby and IBEC more generally for the information that is given to business and to Members of the Oireachtas around the impact on business. I was glad that Dr. Ivory mentioned the importance of getting arrangements concerning the free flow of data. I have concerns that if there is not a clear data regime in place in the UK, that will have long-term implications here, particularly for the services sector. Dr. Ivory might talk a bit more on that.

I will throw out a couple of questions which are looking into the future and at what will happen with business. I am from Wexford and Rosslare has experienced a long-overdue boom in traffic as a result of Brexit. Will Dr. Ivory comment on the infrastructure at our ports that we need to develop to ensure we can further realise the potential of those ports, particularly Rosslare? Will he talk about IBEC's plans for marketing Ireland? As an English-speaking, pro-European member of the European Union, we will be an attractive destination, particularly for services but for foreign direct investment generally. Will Dr. Ivory outline how IBEC will help to promote that and what Government should do? Dr. Ivory did not mention skills. In relation to customs and so on, are there identifiable skills shortages as a result of Brexit that Government should address? Are there such shortages on the part of business?

I will talk about the importance of international trade agreements. In a post-Brexit scenario, it is increasingly important for the EU to further develop as many trade agreements as we can, including, in my view, the Comprehensive Economic Trade Agreement, CETA, with Canada. Will Dr. Ivory comment on why those trade agreements are important?

Dr. Pat Ivory: I thank Senator Byrne. It is nice to see him again. Data adequacy is an area we are putting a lot of attention on. We have had a number of engagements with the Data Protection Commissioner and with the European Union on the importance of establishing a data adequacy agreement and getting it in place as quickly as possible. We had a meeting this week with the EU's Task Force for Relations with the United Kingdom and it confirmed that it is in the process of completing the review for that data adequacy decision. It is a significant positive that the UK, because of its membership of the EU up to the end of last year, has a data protection regime in line with that of other EU member states. We feel that data flows are critical, not only for the technology sector but for all parts of Irish business. Irish business and international business in Ireland could not operate without the ability of data to flow across borders. That is something we are committed to. On the Senator's questions regarding ports and further port infrastructure development, one thing that has been welcomed by business is the range of routes now available for transport directly to the Continent. Rosslare has been instrumental in introducing some of those new routes, including the Rosslare-Dunkirk route. Other roll-on roll-off services have also been developed by Rosslare Europort. These are important additions. While the land bridge will continue to be important for a lot of business, we have also seen increased demand for new alternative routes and that has been very apparent from the early weeks of the implementation of the agreement.

On the plans for the marketing of Ireland, IBEC has been developing an international and global outreach in recent years. We do a lot of joint work with partners in the United States. We make sure that is part of our plans every year and it will be this year as well. We have also worked closely with other European business federations to build strategic partnerships as the UK leaves the European Union. We are now the only English-speaking member of the EU so that has to be a selling point. We also have a business model of substance which is in line with the guidelines of the OECD. It attracts foreign direct investment and we intend that model to continue to develop and attract such investment. That is good for Irish business, Irish workers and the Irish consumer. That is a big part of our strategy going forward.

On skills and identifiable shortages, it is apparent in the area of trade and customs that the skills available are limited. There will be a need for more people to be involved in this area, particularly as the year progresses. On the import side, we are already facing those challenges. We will face them in greater degree on the export side from 1 April and then again from July, when the UK introduces its own administrative customs controls, which have been paused for the time being. They will introduce new controls as the year goes on and those kinds of skills will be needed. In that regard, the support the Government has offered, that is, the €9,000 grant or €4,500 if it is on a part-time basis, is something we have encouraged our members to look at to support the building of customs capabilities within customs agents and trading companies.

On the importance of other trade agreements, we are committed to that objective. The Senator mentioned CETA, which is an important agreement and has been provisionally applied. It is still to be ratified in Ireland and it has been ratified, I think, by 13 other countries. We are very much in favour of its ratification and believe it offers fantastic opportunities for Irish and Canadian business. We have been working in partnership with the Canadian Chamber of Commerce to highlight the importance of the agreement. Mr. Danny McCoy had an opinion piece recently with the Canadian chamber to highlight what CETA has to offer for businesses both in Ireland and in Canada.

Senator Niall Ó Donnghaile: I apologise to the witnesses for missing the initial part of the presentation. Unsurprisingly, my question is about the engagements that IBEC has had either towards the end of the transition period and subsequently, given some of the issues that the witnesses referred to and the kinks that became apparent in the new year. What engagement has the organisation had with counterparts and other stakeholders in the North to discuss harnessing and developing the all-Ireland economy? I am very clear in my opposition to Brexit but at the heart of the protocol and withdrawal agreement, as the witnesses correctly state, is the protection of the all-island economy, our peace process and citizens' rights.

Within that context, what are their views and what engagements or work has been ongoing to look beyond these initial teething problems that we are all conscious of and trying our best to address? Looking beyond this, how can we grow, develop and benefit from the all-Ireland economy?

Dr. Pat Ivory: I thank the Senator. The protocol and the implementation of the Ireland and Northern Ireland protocol - it is important to remember it is for Ireland and Northern Ireland - is a critical part of the withdrawal agreement, as I mentioned in my opening address. We have regular and frequent contact with our business partners in Northern Ireland, and the IBEC-CBI joint business council meets on a regular basis and is very committed to developing business on a shared island basis.

IBEC has also had much contact with the British Embassy and the UK mission to the EU to understand the UK's challenges and views relating to both the implementation of the protocol and the implementation of the EU-UK trade and co-operation agreement. We have run a number of sessions both jointly with other business partners in Ireland and we had one just a couple of weeks ago with the key negotiators on the UK side of the trade and co-operation agreement and the Ireland and Northern Ireland protocol. That was open to our membership and we had a very good level of engagement. This is something that is very much a part of what we believe should be progressed on a business front to further develop the opportunities while dealing with the challenges that this agreement and the protocol will throw up for business.

We are also working in partnership with organisations within the UK, including the CBI. We also work with Make UK, the major manufacturing group within the UK, which has very close links with manufacturing in Northern Ireland. Mr. Willoughby can give some results published today from the Northern Ireland manufacturing side.

Mr. Neil Willoughby: Just today, Manufacturing NI released the results of a survey of more than 350 of its companies. While noting clearly throughout that there are some challenges with the opening weeks of the protocol's operation, there is overwhelming support for the protocol and efforts to make it work. There is already some acknowledgement that in the first couple of weeks it has worked. It is great to have that acknowledgement from Northern Ireland business that on a Great Britain to Northern Ireland basis it is working quite well.

I should highlight that the protocol only deals with the physical, so there are certainly some challenges for trade and services of which we must be aware. As Senator Byrne noted, there is the question of data flows and this will be a particular issue if, beyond July, there is no data adequacy decision and there would effectively be a data border between North and South on this island.

We confirmed another matter yesterday in discussion with the European Commission task force. This is the mutual recognition of professional qualifications. It is not included in the trade and co-operation agreement and we had confirmation yesterday that even that protection to work, live or study fully in either jurisdiction does not give the automatic right for professional qualifications to be recognised. It is something the Irish and British Governments need to work on together and there must be more capacity in general for the protocol in Ireland and Northern Ireland to be actualised. We must recognise that there must be a substantive amount of work to make the legal guarantees in the protocol actualised. We are highlighting these examples of data and professional qualifications.

Senator Niall Ó Donnghaile: Could Mr. Willoughby furnish the committee with some detail around the professional qualification question? It is something that would be of use to the committee and it could explore the question and, I hope, assist in resolving it.

On Dr. Ivory's points, I am not surprised by the reference to the Manufacturing NI survey. If this is an unfair question, please tell me, as it could be work in progress. It is encouraging to hear of the level of engagement between the various groups, organisations and stakeholders. Is IBEC at a point, or does it intend to get to a point, where, for example, it could inform the groups it represents and lobbies on behalf of about some of the opportunities? Is there a bespoke set of information guidelines or reports indicating the economic benefits to members' businesses or companies of working on an all-Ireland basis and, through the protocol that has been mentioned, between both islands? It might be early doors for that but I wonder if it is something that IBEC could consider. As opposed to simply engaging stakeholders, how does it go to the practical element of informing members North and South of the benefits of all-Ireland co-operation?

Dr. Pat Ivory: IBEC works in collaboration with CBI in Northern Ireland to highlight the opportunities of a shared island. We produced a report entitled, Business on a Connected Island, and that highlights the infrastructure gaps and what needs to be done to bridge some of those. It also highlights the sectors, including those I mentioned with respect to the protocol, such as the dairy processing sector. One of the real positives of the protocol is that Northern Ireland and southern Ireland milk can continue to be processed by the same co-operatives and still be part of the offering. It is a key point.

We are also looking at whether the export side can be developed. We will have conversations with the European Commission and the authorities in Ireland on that ambition. There are opportunities to do that. The Senator quite correctly said that it is the early days of the implementation of this agreement on the trade and co-operation side, but there are specific mechanisms within the Northern Ireland protocol such as, for example, Article 11 on co-operation and so forth, which will be important in the future. The protocol offers good governance structures and good structures for both administrations in Ireland and the UK to work together. We want a deep engagement with business on both sides of the Border on how that is progressed forward.

Mr. Willoughby might wish to respond on the professional qualifications.

Mr. Neil Willoughby: We had confirmation yesterday that, effectively, the recognition of professional qualifications is governed under the TCA rather than under the protocol. That means there is a limitation in the fact that the Irish and British Governments cannot have a bilateral, catch-all, comprehensive agreement whereby all British qualifications may be recognised in Ireland and *vice versa*. Where that creates a problem, it will have to be done on a sector-by-sector basis. Each professional body will have to do that separately, and we are in a situation where that can be highly fragmented. Our expectation prior to this, along with our partners in the joint business council, CBI Northern Ireland, was that this would be facilitated under the protections in the protocol and the protections to the common travel area. It is something we raised yesterday with the Commission and we are hoping to follow up on it in the coming days and weeks to understand how it can be done in a more co-ordinated fashion, given the protection that exists under the protocol. That is the most information I have at present, but I am happy to follow up with more information.

Chairman: That is a very interesting point Mr. Willoughby has brought to our attention. I am sure we will explore that further. As always with these meetings, time tends to get away from us so as we move into the final quarter of the meeting, I will take two members together before referring back to the witnesses. The next speakers are Senators Black and Joe O'Reilly.

Senator Frances Black: I will be brief. I thank the witnesses for their presentations. I have a couple of questions relating to Border communities. From the witnesses' perspective on Border communities and the 30,000 frontier workers who cross the Border weekly, what impact has Brexit had on IBEC's trade associations in Border communities and the North? What unique challenges face micro, small and medium enterprises in those communities and the North?

Senator Joe O'Reilly: I assure you, Chairperson, that I am also in Leinster House. I understand we must confirm that. Can the Chairperson hear me?

Chairman: Yes, Senator, you can go ahead.

Senator Joe O'Reilly: Obviously, I share the concerns about the Border communities raised by Senator Black and the concerns about qualifications raised by Senator Ó Donnghaile. That said, I wish to raise two specific questions very briefly. I was approached by some niche food importers for specific ethnic smaller communities. They told me that the documentation coming through for customs is too slow. I am interested to hear the views of the two gentlemen from IBEC. There is the difficulty that I did not hear Mr. Kelly at the beginning. Are the requisite documents to facilitate the movement of goods flowing quickly and with efficiency? They would have to be almost ahead of trade, as it were. Is there a basis for the anecdotes being raised with me? Hopefully, there is not.

Second, we all have parliamentary party meetings tomorrow evening and I would like to attend mine with clarity about one matter. I thank Mr. Ivory and Mr. Kelly for their presentations and I thank the Chairperson for this opportunity. Am I getting an impression, because it was discussed last week and I wish to raise it again, that Mr. Ivory and Mr. Kelly are saying to us that the protocol is settling down after the Commission's approval, that we are back on an even-enough keel, that it is levelling out now and they do not anticipate a further challenge to the protocol? Are things stabilising in that regard? Perhaps they can give us a brief on that. All of us should know that before tomorrow evening, so we can raise a problem, if there is one, in our respective political parties.

Dr. Pat Ivory: With regard to Border communities, the protocol is a great benefit to them and enables the flow of people across the Border. Business can continue to be done, North and South. On the whole, the protocol is a major bonus for Border communities. However, there is sometimes a confusion between the conditions of the protocol and the conditions of the EU-UK Trade and Cooperation Agreement. That is presenting problems for business in the North as well as in the South in complying with all the conditions of the TCA. We are only beginning to understand those conditions fully, for example, conditions on rules of origin, and other issues on the services side such as mutual recognition of professional qualifications, which we have discussed. The protocol can be a big help, but businesses in the Border communities are still going to face customs procedures in trading product between the EU and the UK in the same way as businesses in the South will, so it is a challenge. One of the issues we have spoken about, the data adequacy, will have a particular significance for frontier workers and workers going back and forth across the Border. There is no doubt that it is a changed environment for everybody, so there are challenges for all communities and particularly for an SME in the Border counties, where business is already tough in many respects and there are many challenges.

Regarding the food importers and declarations and documents, that is an area where there have been teething problems for businesses across a range of sectors. The challenge for the authorities and the automated import system of the authorities is that the volume of declarations they have to deal with is huge. That has caused some glitches in the system and we have been working closely with the Revenue Commissioners to try to help resolve them. The Revenue Commissioners have been very good in issuing simplification notifications. There was also a statement yesterday that they recognised that the system has been going down under the volume of traffic and that this has to be addressed and agreed. We believe that is a good thing. We have close daily and weekly contact with the Revenue Commissioners and the agencies in trying to address people's issues and problems, and the response has been very good. When we contact the authorities there has been a willingness to try to solve individual issues. Sometimes companies can feel that the documents are being delayed for bureaucratic reasons. It can also transpire that it is important that all of the information provided on these online customs declarations is absolutely correct. Even small errors can result in delays. It is a matter of businesses and the authorities working together to iron out these particular issues.

Senator Michael McDowell: I confirm I am in Leinster House. I apologise for arriving late to the meeting. I have some very short questions and instead of food they relate to drink. Is there any progress on minimum unit pricing on a North-South agreed basis? Are there difficulties in respect of proposals for health warning labels on alcohol products? Will this affect cross-Border trade?

Senator Joe O'Reilly: Perhaps the gentlemen will answer my question. They may have answered it before I joined the meeting. Do they feel the issue with regard to the protocol has settled down and that it is stabilising and there is no problem now? It would be great to hear a positive answer but if it is not positive, we should know that.

Dr. Pat Ivory: I will not attempt to answer the detail of the issues raised by Senator McDowell on minimum unit pricing and health declarations. It is not an area on which I claim to have expertise. I will be very happy to come back to him with a response from our colleagues in IBEC who are dealing with these particular issues. I would not like to comment on them without proper information.

Senator Michael McDowell: I understand.

Dr. Pat Ivory: There was no intention not to address the particular issue of the protocol; it had just slipped my mind. Certainly recent weeks have been a challenging period. We know Michael Gove has written to the EU with a list of requests. We know the Union is considering these requests with regard to the protocol and, in particular, with regard to the extension of some of the grace periods in the EU-UK Trade and Cooperation Agreement.

In my opening statement, I referred to a meeting of the joint committee on the implementation of the protocol, which is chaired by Maroš Šefčovič and Michael Gove, that will take place this week. We hope some progress can be made there. The protocol is a very valuable agreement and its importance cannot be overstated with regard to what it delivers for the shared island economy. I have mentioned some of these areas, including dairy processing and the drinks sector, particularly the whiskey sector.

It is very important that we recognise that it underpins the Good Friday Agreement and peace and prosperity on a shared island basis. We need to return to this profound fundamental and very complex issue, which the protocol has addressed and has, after a number of years of negotiation, delivered. It is not something that can be taken for granted at any stage or moment in time. All we can say is an issue arose with regard to Article 16. This has been addressed and the article has not been applied. Nevertheless, there needs to be further discussion between the UK and EU to deal with some of the fallout from this and to explain what is within the protocol and the issues that are part of the EU-UK Trade and Cooperation Agreement. IBEC is 100% committed to continuing to work with our business partners in the North, the UK and Europe to ensure the protocol continues to deliver the very important and key aspects that it does at present.

Chairman: We are coming close to the end of our meeting and I have some questions myself, now that all of the committee members have made their contributions. Last week, we met the Northern Ireland Executive committee to discuss the all-island implications of Brexit. Clearly, the protocol was quite topical last week and it still is. I listened to Dr. Ivory's opening statement and his comments to Senator O'Reilly in which he stressed the importance of the protocol and the committee certainly agrees with him on this. I have concerns about the consent mechanism and the vote that is to take place in four years. The Commission initiating Article 16 was hugely damaging. We were barely off the ground and this happened. The political significance on the island is huge and I am not sure the Commission fully grasps how big it is. It has now become a green versus orange issue. It will become an election issue in the North. I do not know whether Dr. Ivory agrees that the business community will have to take a position on it quite early on to stress the importance of the protocol to the all-island economy. Is he concerned from a business perspective about the vote that is to take place in four years and the narrative? Last week, during an engagement with a media outlet from the North, I was asked whether we should renegotiate the protocol. I made the point that the protocol came at the end of four years of negotiations. The conversation on whether we should renegotiate the protocol is really dangerous. I would welcome Dr. Ivory's views on this.

Practically how is the rule of origin impacting on businesses in Ireland? This issue reared its head when the story that Percy Pigs might go up in price hit the headlines. When it becomes a reality for consumers, that is when we begin to take notice a little bit more. From a business perspective, how tricky is the rule of origin issue? Are we close to resolving it?

Dr. Ivory mentioned the increase in the cost of transport. We will have the transport sector before the committee next week, including representatives from the haulage industry and the ports. How big of an impact has the increased cost of transport had on business? I am sure IBEC is still probably assessing this damage given that it is early days.

Dr. Pat Ivory: With regard to the protocol and the four-year review, it is important that the protocol is given time to be fully implemented and that the value of the implementation of the protocol is properly appreciated. This is something we want to continue to highlight. It is just over a month since we had implementation of the protocol and the trade and co-operation agreement. It is too early to do any assessment as to the full impact of either of the agreements. I understand completely the concerns the Chair has raised and it is important that business highlights where the protocol is delivering for the shared island economy. In that context we mentioned dairy processing, drinks processing and the trade area. We have also mentioned the Manufacturing Northern Ireland survey and the views of the manufacturing sector in Northern Ireland. IBEC will continue to work with our partners, CBI Northern Ireland, to ensure that, from a business perspective, we are not found wanting in terms of highlighting what the protocol actually delivers for business, for workers and for consumers on the shared island.

The rules of origin area is a real challenge and a bigger one than anybody could have completely planned for. We only saw the full details of the agreement at the end of December. The impact of the rules of origin on trade which moves through the UK is complex. The customs procedures of getting over a product not being seen as entering and having free circulation in the British market, and therefore being subject to tariffs, are quite costly and complex. This is an issue which is not yet resolved.

There has been some progress in terms of some good guidance and clarification from the European Commission, DG TAXUD, Directorate-General for Taxation and Customs Union and the Revenue Commissioners. We are still assessing the costs and complexities of this, however. There is the reality that, in some instances, businesses will take other options and may look at direct routes. They may look at avoiding the kind of customs procedures and rules of origin that arise by transporting their product direct from continental Europe to Ireland, such as using the Rosslare-Dunkirk route for example.

It is a highly technical and challenging issue. We continue to be concerned and work hard on it. We continue to have discussions with the Department of Enterprise, Trade and Employment on particular sectors, such as the bread bakers sector and the impact of rules of origin for it and whether some level of grace period or derogation could be given to sectors to look at other options, supply chains, etc.

There is the increased cost of transport. It is clear that this was an issue for which companies prepared. We know a number of our members put substantial budgets in place to deal with the increased costs of customs and transport. Equally we know that, for SMEs in particular, these costs will be more difficult to overcome. It is early days. Hopefully, as the systems become smoother and some of the problems of the early weeks are ironed out, some of the costs of meeting the customs procedures, as well as the transfer costs involved, will actually decline and there will be a smoother movement of trade to our ports.

I would not like, however, to give the impression that after one month we are there. We are not. This is going to be a long year in addressing both the issues on the import side and then, from April and July, the export side. There is a lot more work to be done.

Chairman: I thank Dr. Ivory. He is right. It is early days and we have a long way to go yet. We are still collecting that information to see just what the impact is. We are probably going to have to live through it first before we can really see where we are at. That brings to a close our first session with IBEC. On behalf of the committee, I thank Dr. Pat Ivory and Mr. Neil Willoughby for their attendance which was much appreciated. It was great to have them here this afternoon. We got much from the session and they have given us much to mull over when we prepare our report in a number of months. We will keep in touch.

Sitting suspended at 5.05 p.m. and resumed at 5.08 p.m.

Chairman: I welcome Mr. Paul Kelly, Food Drink Ireland, IBEC, to discuss the impact of Brexit, in particular on the food and drink sector which has been one of the most impacted sectors. I thank him for being with us this afternoon. We had a really good engagement with Dr. Pat Ivory and Mr. Neil Willoughby and we are looking forward to the second session with him.

Witnesses are protected by absolute privilege in respect of the evidence they give 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 nor make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

I invite Mr. Kelly to make his opening statement.

Mr. Paul Kelly: I thank the Chair and members. Food Drink Ireland welcomes the opportunity to appear before the special select committee to discuss the EU-UK Trade and Cooperation Agreement, TCA. I will address the initial experience of the industry in the first six weeks of the agreement, some specific issues that have arisen or will arise and the measures that we think are needed.

FDI has welcomed the agreement reached between the EU and the UK as disastrous tariffs have largely been avoided but the agreement reached is still very much a hard Brexit. The UK has left the Single Market and the customs union and this has introduced a number of barriers to trade with Great Britain, in particular. Food and drink companies face substantial non-tariff barriers to trade between Ireland and Great Britain with customs, SPS, sanitary and phytosanitary, and other food safety requirements. This is happening when the sector also faces the twin challenge of the Covid-19 pandemic.

Looking first at imports, movement of shipments through the ports continues to improve but there are still teething problems, although lessening, with both SPS and customs controls. We and our members continue to communicate these problems to the authorities as they arise and they are dealt with accordingly. Dr. Pat Ivory talked about that in the last session. As stockpiles decline and we move into traditionally higher volume months, there is the potential for more delays. It points to the need to quickly resolve teething problems and for businesses to continue to adapt to the new administrative arrangements.

Exports to Great Britain have been working reasonably well. Companies were largely prepared for the new customs formalities which came into effect from 1 January. However, east-west trade flows have been impacted by difficulties for backloads from Britain, which has materialised as a major problem, leading to shortage of trailers, delays and increasing costs of transport as many trucks return empty to Ireland.

A big concern with Brexit is our reliance on the UK land bridge for trade with continental Europe. Capacity and frequency of direct sailings to the Continent has been increased. Further capacity is needed however, as the welcomed new capacity is well below the volume of traffic that has been using the land bridge. Exporters are still using the UK land bridge by necessity, focusing in the early weeks on transit through the UK to Holland, in other words, taking the east of England route, but exporters are also now trying the Dover-Calais route. Additional processes are required, some delays are experienced and additional costs are associated with the paperwork and the transit guarantee facilities which are being incurred. The land bridge will continue to be an important route to market for Irish food and drink exporters.

The rules of origin in the TCA are severely disadvantaging the food and drink sector, and Irish consumers. Here are three examples. First, there is no industrial milling capacity in the Republic of Ireland and all flour for the plant bakeries is imported. The majority of that comes from Britain. The specification for much of the flour we import has a Canadian wheat content in excess of 15%. This exceeds the tolerance level in the rules of origin and the full tariff of €172 per tonne is imposed, which is equivalent to a 50% price increase on a tonne of flour. FDI and the bakery sector are seeking a derogation for a period of time on the basis of the unique position of Ireland in not having an alternative supply as there is no industrial milling capacity in Ireland.

Second, many companies have evolved supply chains that stretch to the Continent and utilise British distribution hubs to serve the Irish market. This model reflects the most cost-effective way for many companies to serve the small and physically distant Irish market, but under the rules of origin, they now face paying a full tariff on goods despite them originating in the EU. To date some of the more immediate solutions, such as returned goods relief, are complex and costly to administer. Simplifications are needed to allow this relief to be used on a more systematic basis.

My final example would be dairy products which are processed from the mixed North-South milk pool. They will not be able to avail of the preferential tariffs in the many free trade agreements that the EU has negotiated with third countries. Additionally, there are doubts over their ability to access a number of the Common Market tools, such as private storage aid and intervention. Spirits will be similarly affected as regards free trade agreements.

One area of transport-logistics that has been severely hampered is groupage transport. Shared loads, with multiple pick-ups or drop-offs, which are important to operators both large and medium or small, have become an important part of an efficient and cost-effective delivery system from Ireland to other markets. However, experience to date is that groupage transport is severely challenged by the new post-Brexit procedures.

We are also equally focused on the forthcoming challenges for our food exports to Britain as the second phase of the UK's border operating model takes effect from 1 April. Irish exporters will face a new sanitary and phytosanitary, SPS, regime for products of animal origin such as meat and dairy with veterinary certification requirements, additional administration requirements and additional costs. From 1 July, when the third phase of the border operating model kicks in, Irish agrifood exports consignments will have to enter the UK through ports with border control post facilities and will be open to SPS controls - identification and documentary checks and physical examinations. This step presents further potential for disruption to logistics.

In the months ahead a big concern is regulatory divergence. As early as April we will see changes in European legislation in areas such as certification - changes that UK probably will not adopt or adopt completely. As these grow more frequent there needs to be an awareness of the closeness of the Irish and UK markets in terms of issues such as distribution systems and common packaging and the unique difficulties that will therefore be faced by Irish producers and suppliers. The scope for divergence in regulation and standards potentially increases further in the medium to long term, especially as the UK completes trade deals with other global partners. This presents a significant new competitive threat for our food exports to the UK.

A trade specialised committee on SPS measures is provided for in the TCA. Part of the remit of the committee is for the EU and UK to review the SPS regime. We believe it should be established quickly as it is the main route to achieve SPS easements and mitigate delays, administrative burdens and costs. However, it is subject to both the EU and the UK engaging and reaching agreement on this issue.

As we look to the future, in addition to resolving the issues I have outlined, our priorities must be to maintain our valuable UK market position and continue to diversify our exports to the rest of the EU and further afield. Last week's announcement by Government of the capital investment programme for food processing is welcome. It will need to be supplemented by a lot more funding, both from Ireland's €1 billion allocation from the Brexit adjustment reserve and from budget 2021's recovery fund. This is needed for a number of measures: a wage subsidy scheme for Brexit impacted firms; an extension in state aid support; the budget 2021 recovery fund to be extended beyond 2021; investment aid to support competitiveness; market diversification supports; and a State-backed export credit insurance scheme.

I thank the committee again for the invitation to appear before it today and I look forward to answering the members' questions.

Chairman: I thank Mr. Kelly for his comprehensive opening statement and the many issues he has outlined. There are a number of members offering. I call Senator O'Reilly.

Senator Joe O'Reilly: I thank Mr. Kelly for the comprehensive and excellent presentation. I have a specific question. I did not fully understand Mr. Kelly. Am I correct that Mr. Kelly is saying that, as it stands, there is a €170 tariff on each tonne of flour coming into the country? If I understood him correctly, Mr. Kelly stated that we do not have domestic flour and we import all our flour and that there would be a €170 per tonne tariff on it if we could not get a derogation. That would surely have significant implications for the price of bread, which is a fairly basic requirement. Maybe Mr. Kelly would elaborate for those of us who do not fully grasp this. He might explain how that will work out and whether derogation would be got from it. That has significant implications.

I come from a Border county. Could Mr. Kelly elaborate on what he stated about the milk? There is significant interplay in respect of milk between Cavan and Monaghan and the North. For example, more than half of the milk Lakeland Dairies in Bailieborough sources is from

Northern Ireland. That experience would be repeated along the Border. Did Mr. Kelly say there were difficulties around that milk and that the food processing of baby powder, drinks or whatever is processed from the milk and butter in those areas will in some way be at a disadvantage in terms of pricing and the supports it would get? Would Mr. Kelly elaborate on that as well?

Mr. Paul Kelly: I thank Senator O'Reilly. First, looking at the flour issue, the Senator is correct. There is no industrial milling capacity in the Republic of Ireland. There is one mill but it is largely doing consumer packs. For the big bulk tankers that are required to deliver to the main bakeries around the country, it all has to come in from outside Ireland.

There are two mills in Belfast. They would supply a significant amount of flour to the South. Obviously, under the protocol, no tariffs apply. That is all fine. There is not much scope for additional supplies from them. They are running at capacity.

The majority of our flour comes from Britain, and a small amount comes from the Continent. Obviously, that which comes from the Continent will not face the tariffs.

The problem is the particular specification for flour. The likes of sliced pans, in the main, require a lot of high-protein Canadian wheat. The tolerance levels in the rules of origin essentially mean that one can have non-originating raw materials up to a maximum of 15%. "Non-originating" means they come from outside either the EU or the UK. In this case, they come from Canada. If one exceeds that 15% tolerance, one loses the preferential tariff access, in other words, the full tariff applies. In the case of flour, the tariff is €172 per tonne. It is one of those rules of origin issues. The unique circumstances in Ireland are that we simply do not have a domestic alternative in terms of milling capacity for flour, and to source from the Continent, we run up against two problems. One is costs, which are anywhere between €800 and €1,000 extra for each tanker-trailer to be brought from the Continent, as opposed to bringing it from Britain. Second, everybody will know that if they go into a bakery or the bakery section of a supermarket in Germany or France, it is quite different to what is seen here in Ireland. The flour that is produced there is made, naturally enough, for the specifications of the bakeries in those countries, so getting the exact flour specification we require here is very difficult. Therefore, we are looking for a derogation for a period of time so our supply chains can be reconfigured. What we would ultimately like is for the unique circumstances to be recognised to allow us to continue to source the flour we are sourcing, without the impact of the tariff.

As I said, it is equivalent to roughly 50% of the cost of flour in the first place. The ESRI was commissioned to do some work by the Competition and Consumer Protection Commission back in 2018 and it estimated that, in the event of a full tariff on cereals and breads, this would equate to about 9% on consumer prices. That is roughly what we are talking about.

On the second point in regard to milk, I would preface my remarks by saying that dairy, in particular, is a classic example of the all-island or all-Ireland economy because of the mixed milk pool we have. By and large, the protocol is working and it is allowing processing to continue very efficiently. Approximately 9%, or 800 million litres, of the milk processed in the South comes from Northern Ireland, so it is a significant component and, obviously, for the processors close to the Border, the percentage is much higher. There is no particular issue when the product is being sold in the UK or in the rest of the EU, or domestically here in Ireland. The concerns we have are twofold. Under the rules of origin in other free trade agreements, if one meets the rules of origin, preferential tariff status applies and, typically, that means there are no tariffs and one can sell tariff-free into those countries that the EU has a free trade agreement with. Unfortunately, the way those free trade agreements are written currently means mixed milk is considered to be non-originating, so it will not be able to avail of those preferential tariff agreements in those free trade agreements. On the other hand, for other markets where the EU does not have a free trade agreement, for example, China, there is no issue *per se* because a tariff generally applies. That will apply regardless because there are no rules of origin because there is no free trade agreement.

The second point is that we are now discovering that although the European Union has market management tools to deal with difficult times, such as private storage aid and intervention relief, it looks like mixed milk will be problematic in that context as well.

What we are seeking in both instances is that all of that mixed milk would be considered to be wholly obtained from the Single Market. In our view, that is no different to the way Northern Ireland was treated within the protocol as regards being part of the Single Market in the first place.

Senator Niall Ó Donnghaile: I thank Mr. Kelly for his very comprehensive presentation. I want to home in on the issue of the all-Ireland market and dynamic. I add a caveat by saying this example is very anecdotal and very modest. However, certainly in my own experience of shopping at home in Belfast, I have noticed a change in some of the produce that is on the shelves. For example, I am seeing a bit more of the guaranteed Irish logo. I wonder about the reorientation of supplies, North and South, and the opportunities that Mr. Kelly would foresee for companies in the South to provide to suppliers and supermarkets in the North that they would not have provided to previously. I wonder if companies are being made aware of the potential in that reorientation. I understand it is not as large a market as some others. However, with the changing nature of the dynamic as a result of Brexit and, as Mr. Kelly said, with all of the out-workings of the protocol and the withdrawal agreement, it might be something that can be built on in the future. While all of that is modest and anecdotal at this stage, is this something Mr. Kelly's organisation, or those it represents, have noticed? Is it something they would be encouraging producers and suppliers to do?

Mr. Paul Kelly: Food companies are commercial businesses and if they sniff out any opportunity, they will be chasing it down pretty quickly. Walking around many supermarkets in the North over the years, we see quite an amount of Irish produce there and, obviously, we see many products which we would not see down South. There would be more UK products. There are certainly opportunities but, to go back to some of the points from the previous session, some of the final outcomes of the joint committee on 17 December simply did not provide time for companies to prepare, whether that is companies in Northern Ireland or their pre-existing suppliers from Britain. We can see why some of those grace periods are needed but, where we have certain supply difficulties, that does create supply opportunities for other companies as well.

Companies will be looking at all markets. Perhaps southern companies will be looking with some trepidation at 1 April and the introduction of a lot more non-tariff barriers, given what they see happening in Dublin, Belfast and the other ports currently is going to start facing them from 1 April as well. Where opportunities arise, they will not be slow in following up and seeing whether they can be capitalised upon.

Senator Malcolm Byrne: I thank Mr. Kelly for his presentation. I echo the concerns of Senator O'Reilly and Mr. Kelly around the issue of flour. In the context of our own report, this is a serious issue. Stafford Bakeries, based in Wexford, is one of the largest bread manufacturers in the south east and, indeed, in the country, and it has raised this as a concern with me. If we allow a situation where bread and bread product prices increase by the order of 9%, as Mr.

Kelly suggested, that has a knock-on inflationary impact, given the significant role that bread and bread products play in the basket of goods. I ask that we look at this. I would stress that, even in the short term, we try to get clarity around that derogation and that, as a committee, we would push for that.

Related to that, in the long run, given what is likely to happen, or if worst-case scenario difficulties were to happen in terms of supply from Britain, does Mr. Kelly think there is the possibility of the establishment of an industrial mill or that, in other words, we could try to produce flour domestically? Would that be economically viable?

Mr. Kelly mentioned market diversification, export supports and the export credit guarantee scheme. He might briefly outline how he would envisage they might operate.

Mr. Paul Kelly: On consumer prices, both the flour issue and the distribution hubs issue, as it is sometimes referred to in the context of rules of origin, have the potential to seriously impact consumer pricing. That tariff will have to be absorbed at various points along the supply chain from the producer the whole way to the consumer. How that will ultimately pan out will be a matter for producers and retailers in terms of the extent to which they can absorb or pass on that cost.

The alternatives being proposed, such as reconfiguring supply chains, distribution centres and all the rest, can be done. All of these problems can be solved provided enough money is thrown at them. The concern is that food, ultimately, is a staple. It hits the pocket of the consumer quite quickly if costs are imposed in the system. It is largely a low-margin business. There is not much room for manoeuvre at various points along the supply chain from farmer to food company or even retailers. They all tend to work off relatively tight margins. We will see some degree of reconfiguration of supply chains over time. One of the things that companies are looking for is time. If things have to change, how will they change and be paid for? That takes time. There is sometimes a narrative that companies had their heads in the sand and did not prepare for a lot of the rules of origin issues. We have worked with a lot of companies on this since the end of 2016. They have put huge time and investment into this in very sophisticated ways. They considered all of the scenarios.

In respect of the imposition of tariffs, they examined things like inward and outward processing relief. They had to make major changes to comply with EU food law. Many companies which import from the UK and Ireland are required to have an EU address on the food package. A lot of them had UK addresses. All of that had to be changed. That takes many months because packaging, stock and so on had to be changed. Companies worked on this for a long time but were very much blindsided by a number of the rules of origin issues. Ultimately, there will be an impact on the consumer unless some leeway is given.

The bottom line for us in respect of the lack of milling capacity in Ireland or the distribution issue is that we are a small island with a relatively small market of 5 to 7 million people in total, off another island and continental Europe. We are geographically distant and numerically quite small. They are the realities that need to be taken account of when considering things like supply chains. That is why the supply chains which have evolved largely use distribution hubs in the middle of England, and why over the years there has been consolidation in the milling sector and a number of mills in Ireland have closed.

There may well be an opportunity for a new mill in Ireland, but it is worth bearing in mind that the particular flour types which are required to produce the bread that consumers want in

Ireland will still require a lot of flour to be imported from outside of Ireland because it will need to have a higher protein content. That is a point of consideration to bear in mind.

One major issue is the impact on Union citizens and businesses. We face the crazy situation with regard to bread that a UK bakery could produce it using the same flour we discussed over the past two minutes and sell it in Ireland without attracting a tariff, whereas an Irish bakery will have to import flour on which a tariff will apply and will be at a competitive disadvantage as a result. Similarly, a French yoghurt producer which brings a load of yoghurt into a distribution hub in Britain, breaks it down and builds it back up again as an order and then sends it to Ireland will face a tariff, whereas a UK yoghurt producer selling into Ireland will not face a tariff. Union citizens and producers are being disadvantaged.

On export credit insurance, there is currently a state aid derogation which has been extended a number of times. It is one of the state aid measures the Commission introduced in response to the pandemic. It brought in the export credit insurance derogation because, as it stated very plainly, there is not sufficient private market capacity. The state has to step in. In most European countries the state has stepped in and provided state backed export credit insurance. Ireland is an outlier at this stage, which is extremely disappointing. It is particularly disappointing for agrifood and drink because we account for the majority of the indigenous manufactured exports. Therefore, we will be the biggest users of export credit insurance.

The problem is that if we are competing for business in, for example, Germany with a Dutch or Danish food company, such companies will have a competitive advantage because they have access to state backed export credit insurance in their countries. We do not, and this will be taken into account in terms of how we pitch for business.

Chairman: I thank Mr. Kelly. I very much appreciate his bluntness in saying it as it is. It has been very refreshing. When he said we are geographically distant and numerically small, that was a nice way of putting it. We punch above our weight, but we also need to recognise that there are limitations. He hit the nail on the head in his remarks.

I apologise for fixating on the issue of flour, which other members have raised. It would have a significant impact on every citizen if the price went up by 9%. Why have we not seen that price increase to date? Is it the case that there is a stockpile? If a derogation is not received, when does Mr. Kelly expect it to impact on the price consumers pay?

He made a point on regulatory diversions and said he had concerns that would happen quite soon and become an ever-increasing problem. This was the conversation over the past four years around the potential for this to happen. In a lot of instances, it was almost brushed aside as something the UK would not do, and even if it could it would not reduce standards or diverge in terms of regulations because it is of benefit to stay aligned even if it does not have to.

Where is that concern coming from in terms of the food and drink sector? Why does Mr. Kelly fear that will happen soon and will become an increasing problem? Is there anything we can do about it? What are the solutions? What should the Government look to do? We will include some of that in our report for the relevant Ministers.

There were a lot of conversations before the end of the transition period about the fact that there was a lot of capacity at ports to travel directly to continental Europe, in terms of roll on-roll off or lift on-lift off, and that there was plenty of opportunity to shift from the land bridge to direct access to continental Europe. Mr. Kelly stated there is no capacity to do that and a lot of exporters are using the land bridge because they have no other choice. Could he give us an idea of the size of the deficit? Is there a lot of demand for extra services? What do we need to do to ensure that any exporter or importer that wishes to stop using the land bridge can get direct access to Europe?

One of the constraints of direct access to continental Europe is goods that are perishable or have a short shelf life. Is there still a difficulty? The travel time is much increased once the land bridge is bypassed and people go straight to continental Europe. It is a slower process.

How are businesses doing? How are they coping? It is early days yet; we are just over a month into a completely new trading environment. Dr. Ivory made the point that adjusting to a new trading environment does not happen overnight. It takes time and we have just started on a long road. As a representative body for businesses in the country, how are Mr. Kelly's members doing?

As a committee, we are assessing the current supports available today from Government for business. Are they adequate? Are they working? Are they effective? Do they need to be adjusted in any way, or are additional new supports required that are currently not in place? I hope that is not too much. Those are my thoughts and questions on what Mr. Kelly has said.

Mr. Paul Kelly: I will go through the questions in sequence. Ultimately, any price increase will be a matter for individual companies, so I cannot comment directly on that. What I can say is that even though consumer packs of flour have a relatively long shelf life, the type of flour which is used in industrial processing has a much shorter shelf life. Companies will generally try to use it within around two weeks of it being milled. I just want to give the Chair an idea of the flow of the production process. Also, when that is combined with the silo storage capacity that each of the bakeries have, which generally does not run to much more than a number of days, it can be seen that it is quite an immediate problem for the companies. The impact is being felt by them already. I will make a more general point to which I will return at the end. On the impact from a time perspective, there is a spectrum across the industry, and it is very much determined by the shelf life of the products. Much of the fresh meat and dairy products are impacted literally from day one, whereas for other companies, where they have been able to stockpile because of the longer shelf lives, they will feel the impact in the weeks and months ahead.

On the second point, in respect of regulatory divergence, some very good work has been commissioned by the Department of Enterprise, Trade and Employment from Copenhagen Economics over recent years. There has been some really good analysis of the different Brexit scenarios. It was updated at various stages. One of the scenarios looked at relatively recently - I suppose it would have been last year - was the trade costs under a bare bones FTA, which essentially is what we have. This was then broken down further, and looked at it with no regulatory divergence and with regulatory divergence. They were looking at an increase in trade costs of around 4% to 5% for a FTA with no regulatory divergence, and an increase of approximately 14% for a bare bones FTA with regulatory divergence. What can really be said, considering the pronouncements of the UK in particular, and with the move outside of the Single Market, is that we are talking automatically about regulatory divergence.

Regulatory divergence will happen in two ways. There is the normal, ongoing dynamic of legislative change, and the work that the members, as Senators and legislators, are involved in every day. We can see that, particularly at the European level, where so many pieces of legislation are programmed in terms of the fact that they are due a change for some reason, whether it is a review, a certain number of years have passed, or new pieces of legislation are required to implement particular policies. It is happening on an ongoing basis. In our area alone,for example, we can see very specific changes that are due to happen related to certification for composite products in April 2021. A huge amount of work is going on as part of the farm to fork strategy which will see major changes to labelling over the next two to three years. They are just some specific examples. The UK is also stating that there are some particular areas that it will and wants to diverge on. There are other areas where it will simply look at the new pieces of European legislation being produced and decide that it is not interested in transposing that legislation, as it would have done previously. Therefore, divergence can happen very quickly.

What does that mean for businesses? It means a few things. First, there are additional resources required to keep on top of everything, because now businesses are serving two distinctly different markets from a regulatory perspective. When it comes to things like packaging, it can result in major headaches for businesses, because until now, by virtue of the common language, Ireland and the UK were treated as one market for packaging purposes for many companies. This helped from a scale point of view. If we see changes, as we no doubt will, to labelling requirements, for example, two different production runs will be required. Again, much of the time it comes back to issues like the small market that is geographically distant. Where does a business serve the Irish market from? Does it serve it from the Continent or by running an additional production line in the UK? All of these things introduce cost and complexity into the market. It is something that we will need to keep a close eye on.

There are more fundamental policy issues around other areas, such as plastics and pesticides. Those are just two examples that come to mind. We may see different approaches being taken by the EU on one side, and the UK on the other. We will need to balance those. They may create unintended consequences in terms of our ability to serve markets or to use ingredients from the other market.

On the question of the impact on businesses, it is really too early to say. Most of our engagement with the members has been around those teething problems and issues, particularly on the import side. Companies are most focused on getting their product into market and meeting their commitments to retailers and food service businesses, where they are open. As I have highlighted in my opening statement, what is important in respect of the issue of the impact on exporters, the big crunch dates will be 1 April and 1 July 2021, when many of the non-tariff barriers that importers are currently facing will start to impact on exporters as well, and those exporting to Britain in particular.

Related to that is the stockpiling issue. Many companies still have stockpiles. Those stockpiles are being run down, particularly for the longer shelf life products. As those stockpiles start to run down and the volumes increase even further for imports, we will see more issues arise for the companies. However, at this particular moment in time, many of the issues are operational in nature, and the companies are very much focused on keeping those supply chains going.

On the Chair's last point in respect of supports for business, as I mentioned in my opening comments, the capital investment programme for primary meat and dairy is welcome. The companies will be working on their applications for that. All the measures really should be predicated on two things. The first is maintaining our market position in Britain. As it stands at the moment, our exports can be divided into three, with roughly one third going to the UK, one third going to the EU-26, and one third going to third countries. The ratios differ depending on whether it concerns meat, dairy, alcohol or prepared consumer foods. We have valuable positions in all three markets, so it is most important that we manage to maintain our UK market position and potentially grow it. However, 90% of our growth in recent years has been in respect of exports to the rest of the EU and to third countries. The measures to both maintain and improve our competitiveness and our ability to produce new products and diversify into those markets, are going to be key.

Chairman: On the question of the land bridge and the capacity issue-----

Mr. Paul Kelly: Sorry, I forgot about that question. We have been very consistent in what we have said. Going back many months and into last year, we expressed many concerns and did not accept the view that there was sufficient capacity on the direct routes, particularly for agri-food, where we required accompanied roll on-roll off. Certainly, there was a lot of capacity for the load on-load off of containers, and unaccompanied roll on-roll off, which takes place where the trailered unit is taken onto the ferry and taken off on the other side. However, at the same time, despite our concerns, we were told that the market would be able to respond quickly. That does seem to have been the case since the turn of the year. We have seen a substantial increase in capacity. We still have a concern that more capacity is needed but, in a sense, it is going to be for the market to respond to that need and to provide that capacity. It has been heartening to see the speed at which it has responded to that. However, there are a couple of points to be made. The land bridge still remains essential. It is the quickest route to market. There are many concerns, particularly about Calais. It will be some months before those concerns are fully allayed, if they are completely allayed. Second, by taking the land bridge, a huge amount of sanitary and phytosanitary, SPS, and customs administration measures must be put in place. Those are, by and large, permanent. They are part of the outcome of the decision of the UK to leave the customs union and the Single Market. Companies are using some alternative land bridge routes, particularly east of England, to Holland and so on. Again, the journey times are longer there but it may be more beneficial depending on which markets in continental Europe one wants to hit. We will need a combination of the land bridge and more direct route capacity. It is hard to see the ratio that will form but it needs to be a priority issue because ultimately it boils down to the ability of Irish food companies to serve their customers on the continent in a consistent and timely fashion. It is an easy thing to say but that requires a number of options to be available to those companies.

Chairman: I thank Mr. Kelly for that very comprehensive reply. He has dealt with many of the members' issues. We are nearing the end of the meeting, which is limited to two hours because of public health restrictions. On behalf of the committee, I thank Mr. Kelly for making himself available this afternoon. It has been a really interesting engagement. He has given us a lot to think about. Some key issues are quite imminent and need to be resolved but I am heartened to hear that the market has responded with extra ferry links. It is good to hear that progress has been made. There seems to be good dialogue across all sectors to try to improve on this. As Mr. Kelly and others have noted, it is early days, and we need to assess as we go how things are working out. Government supports are required and will be required for some time. As Mr. Kelly said, food is essential and it is not something we can play around with. There is a lot for the committee to consider in its report in coming months.

The select committee adjourned at 5.53 p.m. until 3 p.m. on Monday, 15 February 2021.