



<b>Subject:</b>	NI Protocol
<b>Date:</b>	12 August 2021
<b>Reporting Officer:</b>	John Walsh, City Solicitor / Director of Legal & Civic Services
<b>Contact Officer:</b>	Nora Largey, Divisional Solicitor

### Restricted Reports

Is this report restricted?

Yes

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No

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If Yes, when will the report become unrestricted?

After Committee Decision

After Council Decision

Some time in the future

Never

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### Call-in

Is the decision eligible for Call-in?

Yes

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No

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<b>1.0</b>	<b>Purpose of report or summary of main issues</b>
1.1	To update members following a briefing given by the Minister of State for N Ireland, Robin Walker, on the British Government position on the NI Protocol and future negotiations with the EU.
<b>2.0</b>	<b>Recommendations</b>
2.1	The Members of the Committee are requested to recommend that, in accordance with the Council decision of 4th May 2021, the Chief Executive exercise her delegated authority to note the contents of the report and the Command Paper which is attached as Appendix 1.

3.0	<b>Main report</b>
3.1	<p><b><u>Background</u></b></p> <p>The British Government has taken the view that the NI Protocol is not working in its current form and has indicated that it wishes to work in partnership with the EU to make significant changes which it asserts will deliver more effectively on the core objectives of that agreement. The asserted basis for a revised arrangement is to enable goods to circulate more freely within the UK customs territory whilst ensuring compliance in respect of standards for those goods that are destined for the EU. The Government contend that this can be achieved without infrastructure or checks between N Ireland and the Republic of Ireland and thus measures would remain consistent with the Good Friday Agreement.</p>
3.2	<p><b><u>Key Issues</u></b></p> <p>The Government contends that the NI Protocol is not functioning as it should to the extent that it would warrant triggering Article 16. The command paper sets out that the view that the Protocol has had profound impacts economically, socially, politically and commercially, noting that these are felt in the context of the current grace period with mitigations in place. To address these issues the paper sets out a position advocating for significant changes to be made to the Protocol that would achieve ‘a new balance’.</p> <p>The proposals principally focus on trade arrangements, thus there are no changes sought in the status of the Common Travel Area, the Single Electricity Market or Human Rights.</p> <p>The key elements of the Command Paper are;</p> <ol style="list-style-type: none"> <li>1. A new system of trader declarations regarding goods moving from the UK to Northern Ireland with registration required and transparency of supply chains. The UK would undertake to enforce such a scheme.</li> <li>2. The system referred to at 1 would apply to sanitary and phytosanitary (agri-food) goods with the UK undertaking to enforce a requirement for such goods to comply with EU standards if destined for the Republic of Ireland.</li> <li>3. The current system dealing with live animals would be retained on the basis that they pose a greater risk.</li> <li>4. A regime would be created for biosecurity in terms of the movement of certain plants but excepting seeds and plants destined for garden centres.</li> </ol>

	<p>5. Greater flexibility in setting VAT and excise rates with safeguards that will prevent significant divergence on the island of Ireland.</p> <p>6. A dual regulatory regime as regards product safety enabling goods compliant with either UK or EU standards to circulate in N Ireland. The UK would undertake to put in place legislation to provide for penalties on UK traders placing non-compliant goods on the EU market.</p> <p>7. The Command paper takes the view that governance arrangements on the operation of the Protocol are inadequate. It proposes that these are reworked. In particular it takes the view that jurisdiction of the EU and the Court of Justice are unconstitutional and at odds with international law. It is proposed that an alternative treaty arrangement is put in place for dispute resolution.</p>
3.3	<p><u>Recommendations:</u></p> <p>Members are asked to note the report.</p>
3.4	<p><u>Financial &amp; Resource Implications</u></p> <p>None</p>
3.5	<p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>Not Applicable</p>
4.0	<p><b>Appendices – Documents Attached</b></p> <p>Command Paper NI Protocol-the way forward</p>