



HM Government

# THE WINDSOR FRAMEWORK:

## A new way forward

CP 806



# **The Windsor Framework: a new way forward**

Presented to Parliament  
by the Prime Minister and Minister for the Union  
by Command of His Majesty

February 2023

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## SUMMARY

- a. The Northern Ireland Protocol has been the source of acute political, economic and societal difficulties in the two years since it has been operating. The prospect of rigorous implementation of the Protocol has been regarded by communities and businesses in Northern Ireland as unworkable without lasting economic and political damage. The Protocol has already led to significant disruption in the links between Great Britain and Northern Ireland that are integral to its place in our Union and the UK's internal market. The Government recognises that the unionist community has felt that their aspirations, identity and economic rights under the Belfast (Good Friday) Agreement have been undermined, with the sense that the East-West dimension of that Agreement has been downgraded. Concerns have been raised about the implications of these arrangements for democratic governance and Northern Ireland's place in our Union, in line with the specific provisions of the Acts of Union and the Belfast (Good Friday) Agreement. This has seen power-sharing collapse, and has undermined trade between Northern Ireland and what is by far its most important market.
- b. As the sovereign Government in Northern Ireland, the UK Government has political and constitutional responsibilities under the Belfast (Good Friday) Agreement to address these concerns. As a co-signatory of the 1998 Agreement, the UK Government has an additional responsibility to give equal weight to all three strands supporting it. As such, the Government has intensively pursued the changes necessary to find new arrangements that safeguard the 1998 Agreement in all its parts, and uphold Northern Ireland's integral place in the United Kingdom.
- c. These efforts, and the negotiations that have followed, have concluded with the new arrangements we set out in this Command Paper, which will apply in place of those in the original Protocol. This Windsor Framework ('the agreement') fundamentally amends the text and provisions of the original Protocol to uphold Northern Ireland's integral place in the United Kingdom, address the democratic deficit and set out a new way forward.
- d. The agreement delivers a form of dual regulation that will work for business and consumers in Northern Ireland, based on the restoration of Northern Ireland's place in the UK internal market, and reflecting that by far the greatest portion of Northern Ireland's economic life will continue to be based on trade within the United Kingdom. As a result over 1,700 pages of EU law - with accompanying European Court of Justice (ECJ) jurisdiction - are disapplied, meaning that core UK trade is based on core UK internal market rules, whether citizens and businesses are based in Belfast or Birmingham. This will ensure, for example, that the same UK food safety laws apply for retail goods moved into Northern Ireland; that VAT and excise rates apply UK-wide; and that medicines licensing will always be undertaken by the UK regulator for patients in Northern Ireland - without jeopardising access for Northern Ireland pharmaceutical firms to the EU market.
- e. This agreement, and the unilateral commitments from the Government that also accompany it, protect the economic rights of the people of Northern Ireland and respect for the aspirations and identity of all communities, as is the responsibility of the sovereign Government under the Belfast (Good Friday) Agreement.

And it restores the delicate balance inherent in that Agreement, recognising the interlocking and interdependent nature of all three strands which the old Protocol had disturbed.

- f. This agreement restores the balance of the Belfast (Good Friday) Agreement by fundamentally recasting arrangements in three key areas: **restoring the smooth flow of trade within the UK internal market** by removing the burdens that have disrupted East-West trade; **safeguarding Northern Ireland's place in the Union** by addressing practical problems affecting the availability of goods from Great Britain, and the ability of Northern Ireland to benefit from UK-wide tax and spend policies; and **addressing the democratic deficit** that was otherwise at the heart of the old Protocol.
- g. **To restore the smooth flow of trade within the UK internal market**, the new arrangements in this agreement set out concrete legal changes to remove red tape and checks for internal UK trade. While goods going to the EU will remain subject to full EU law checks and controls, bespoke arrangements, under a new UK internal market scheme, will scrap all unnecessary red tape for internal UK movements - including burdensome 'third country' processes such as officially-signed certificates for individual food products and customs declarations for consumer parcels. In their place will be new data-sharing arrangements to monitor and manage risks, with internal UK traders able to move goods without tariffs, on the basis of ordinary commercial information, and without physical checks unless there is a specific risk or intelligence basis, such as to prevent smuggling or other criminality.
- h. **To safeguard Northern Ireland's place in the Union**, the agreement provides legally binding, permanent solutions to a wide range of practical problems raised by citizens, businesses and politicians in Northern Ireland. Products that were banned - such as seed potatoes, sausages, and British trees - will move again easily. Onerous requirements on pet travel have been removed. Plants and seeds for garden centres will move using the same arrangements as they do elsewhere within the UK internal market. VAT on energy-saving materials, such as solar panels and heat pumps, will be cut and changes to alcohol duties later this year will now be able to apply UK-wide, including the new draught relief for beer in pubs. And the deal secures a UK-wide regime for the approval and supply of medicines, removing any role for the European Medicines Agency and ensuring that medicines are available at the same time and on the same basis right across the United Kingdom.
- i. Most importantly, **to address the democratic deficit** the agreement marks a definitive break from the legal and political framework that underpinned the old Protocol, with treaty change that provides a new underpinning of democratic oversight in line with the principles of the Belfast (Good Friday) Agreement. While the original Protocol ensured that any application of EU rules, and ECJ oversight, was subject to ongoing democratic consent, that was insufficient on its own to address concerns about the role of EU courts, as well as how to respect and protect the voice and interests of all communities in Northern Ireland. This agreement rectifies that by changing and rewriting the core dynamic alignment legal text as it stood in the old Protocol - entrenching democratic oversight and ending the prospect of damaging new goods rules being imposed on Northern Ireland.

A new Stormont Brake will apply to new or amended EU goods rules that would have a significant impact on the day-to-day lives of businesses and citizens - a trigger which will operate in line with the normal operation of cross-community safeguards in Northern Ireland, fully in line with the spirit and practice of the Belfast (Good Friday) Agreement. And once pulled, that Brake will give the UK Government the sovereign power to veto the new EU rule from ever applying in Northern Ireland. That veto can only be challenged through independent arbitration mechanisms, not the ECJ - removing the ultimate authority of the ECJ in areas in which it would affect day-to-day lives. The result is that EU laws will apply only where strictly necessary to provide privileged access to the whole of the EU market under a new legal framework of democratic consent and control. And we will underpin this new framework through amendments to the Northern Ireland Act 1998 to provide constitutional and democratic guarantees for the people of Northern Ireland.

- j. With this new agreement, the Government fully preserves its longstanding commitments to ensure Northern Ireland's businesses have full unconditional and unfettered access to their most important market in Great Britain, while maintaining their privileged access to the whole of the EU market. But it also recognises the important responsibilities that come with that delicate balance, including the compromises made by the EU in respect to how it protects its internal market. Inherent in this new way forward is the prospect of significant divergence between the two distinct economies on the island of Ireland - from food and drink to plants and pets, building on the existing differences in every area of economic and political life such as services, migration, currency and taxation. This will require increased market surveillance North-South in some instances to ensure that there is no abuse of these arrangements to move goods across the international border from Northern Ireland into Ireland, and new requirements on Ireland and other EU Member States to ensure that sensitive products such as food are not moved illegally across that international border. The Government also recognises the separate responsibility to strengthen our own protections for the UK internal market - using the full remit of the Office for the Internal Market, and sharing trade data to ensure that it can monitor and provide assurance that future regulatory changes minimise trade diversion or the creation of new regulatory barriers within the UK internal market.
- k. These are far-reaching, distinct and novel arrangements, establishing a new framework in place of that in the original Protocol and addressing the full range of issues it caused, safeguarding both economic and democratic principles in Northern Ireland. In so doing, for the first time this agreement involves the EU specifically disapplying rules fundamental to goods movements, *and* allowing future rules to be vetoed following the Stormont Brake, without disrupting internal UK trade or jeopardising access for Northern Ireland's firms to the EU market.
- l. Overall the agreement delivers on the core objectives that the Government set out previously in the Command Paper of July 2021 and the Northern Ireland Protocol Bill in June 2022, such that it is no longer necessary to proceed with the Bill. In tandem, the EU will no longer proceed with the seven separate legal challenges it had brought against the UK in relation to the Protocol. These changes ensure that Northern Ireland's place in the United Kingdom is fully respected, as expressed through the Acts of Union and the Belfast (Good Friday) Agreement in their modern contexts.

- m. In total this package delivers on the promises of Brexit while preserving the hard-won gains of the past 25 years in Northern Ireland - bringing certainty and providing the basis for a more sustainable and prosperous road ahead for Northern Ireland and the whole United Kingdom.

## INTRODUCTION

1. The UK Government has long recognised the need to take account of Northern Ireland's unique circumstances, and to protect all dimensions of the Belfast (Good Friday) Agreement. That means avoiding a hard border on the island of Ireland and supporting North-South cooperation - including respecting the longstanding single epidemiological area on the island of Ireland and arrangements that existed long before Brexit. But crucially it also means upholding Northern Ireland's integral place in the United Kingdom and its internal market - on which so many lives and livelihoods depend - in line with the principle of consent.
2. However, this balance has been damaged through the Northern Ireland Protocol since it took effect in 2021. A hard border between Northern Ireland and Ireland has been avoided. The EU Single Market has been protected. But there have been ongoing social, political and economic difficulties arising from its impact on East-West trade, which is the principal arterial route of Northern Ireland's economy. While Great Britain is Northern Ireland's largest market by a distance, the flow and availability of goods from Great Britain to Northern Ireland has been disrupted due to the application of EU customs and agrifood rules. Movements of plants, seed potatoes and other everyday goods have faced significant new costs or been banned entirely. These restrictions risked being significantly exacerbated by the prospect of 'rigorous' implementation. Even more fundamental frictions for the movement of pets, parcels and food have been avoided only through the application of a series of grace periods and easements - which have in turn been subject to legal challenges from the EU. There have been threats to the full availability of essential medicines. Overall the situation has led to deep uncertainty for businesses and citizens, contributing to an understandable sense of concern that the links between Great Britain and Northern Ireland have been undermined.
3. Over the last 18 months, therefore, the Government has sought to address these issues in a sustainable, comprehensive way that can fully preserve the balance of the Belfast (Good Friday) Agreement - seeking the basis for a productive future relationship between the UK and EU, working in partnership to deal with a range of global challenges. Despite a range of intensive technical discussions, and several periods of progress, those solutions proved elusive. But building on the careful work of negotiations in 2021 and 2022, sustained discussions over recent months have found the basis for a new way forward.
4. This new approach, set out in the Windsor Framework, restores the balance needed to uphold the Belfast (Good Friday) Agreement in all its dimensions. It puts in place a new legal and constitutional framework, changing the text of the treaty and scrapping a range of EU rules. The agreement:
  - **Restores the smooth flow of trade within the UK internal market** - by removing unnecessary red tape and checks for goods moving and remaining within the UK market;



- **Safeguards Northern Ireland's place in the Union** - disapplying swathes of EU law and restoring UK rules in their place to fix everyday problems in areas from food safety and medicines supply to alcohol duty rules;
  - **Addresses the democratic deficit** - enabling, through a new Stormont Brake, votes in Stormont to lead to a UK veto on new rules, embedded in new text at the heart of the treaty, to provide democratic oversight and cross-community safeguards in Northern Ireland.
5. At the same time it fully preserves access for Northern Ireland businesses to the EU market, alongside their full unfettered access to the whole UK market, ensuring a unique set of opportunities for businesses and citizens in Northern Ireland. The agreement therefore provides a new basis for future stability and prosperity in Northern Ireland, as we look ahead to the 25th anniversary of the Belfast (Good Friday) Agreement.

### The Windsor Framework

6. Alongside this Command Paper we have published the full range of legal texts that underpin this new agreement. These solutions put arrangements in Northern Ireland on an entirely new footing, with far-reaching changes to the old Protocol to provide lasting certainty and stability for citizens and businesses in Northern Ireland. Consequently the Protocol is put into a new legal and constitutional framework, in place of the previous arrangements and the underlying issues they caused.
7. This includes a series of changes to the treaty itself, in line with what the Government has consistently argued is the only way to deal with the issues caused by the old Protocol, and which many people had said could not be delivered:
- To secure the smooth flow of internal UK trade, we have inserted new text into Article 6(2) of the Protocol to lock in a commitment by both sides to establish and maintain specific arrangements for internal UK trade - which is subject to arbitration, rather than the jurisdiction of the ECJ.
  - To provide a new basis for VAT and excise arrangements, including - but not restricted to - Northern Ireland's ability to benefit from UK-wide changes on alcohol duty and energy-saving materials, the deal directly amends the scope of the old Protocol text.
  - And to redress the democratic deficit, the Stormont Brake is embedded at the heart of the treaty, reopening and rewriting the dynamic alignment provision in Article 13, so that it provides a firm guarantee of democratic oversight, and a sovereign veto for the United Kingdom on damaging new goods rules.
8. Alongside those treaty amendments are a range of other legally binding changes to establish this new agreement. These include amendments to core areas of EU law on goods movements and agrifood; legally binding Joint Committee Decisions to put in place elements of the new green lane and make the treaty changes above; and further declarations by the UK and EU, with effect in international law, to entrench unfettered access and other important protections. Together these remove more than 1,700 pages of EU rules and restore UK rules in their place. They scrap the application of EU rules fundamental to the regulation of goods movements to restore Northern Ireland's place in the UK internal market. They allow future rules to be vetoed through the Stormont Brake. And they do so without disrupting East-West trade or jeopardising access for Northern Ireland firms to the EU market.

## RESTORING THE SMOOTH FLOW OF TRADE WITHIN THE UK INTERNAL MARKET

9. One of the principal problems with the original Protocol was its treatment of the movement of goods from Great Britain to Northern Ireland. While it provided a framework within which goods could move tariff-free, otherwise they were treated as if moving across an international border. For customs purposes, this meant the full requirement for multiple declarations, checks and in some cases rules of origin requirements. On agrifood, each individual product required costly, officially-signed and highly detailed certificates, and extensive checks, with associated delays and charges.
10. The agreement puts in place a full set of new arrangements, through a new UK internal market system (or green lane) for internal trade. This will mean that goods being sold in Northern Ireland will be freed of unnecessary paperwork, checks and duties, using only ordinary commercial information rather than customs processes or complex certification requirements for agrifood. In contrast, trade moving into the EU will be subject to normal third country processes and requirements. These new arrangements will be underpinned by new data-sharing arrangements, using commercial data and technology to monitor trade flows, rather than relying on international customs procedures that were inappropriate for UK internal market movements. In the process we have removed the border in the Irish Sea for internal UK trade, protecting Northern Ireland's integral place in the UK internal market.

### Goods movements

11. The agreement establishes a new UK internal trade scheme based on commercial data-sharing, not international customs processes, for the movement of goods. This new scheme will significantly expand the range of businesses who can benefit; end the requirement for traders to provide customs commodity codes for each movement; scrap burdensome supplementary declarations; and ensure that businesses can therefore move their goods using the same type of commercial information as they already hold when moving goods to the Isle of Wight. Traders already using the UK Trader Scheme will, if they wish, be auto-enrolled in the new internal market scheme, and it will be straightforward for new traders to sign up.
12. To ensure that we properly protect internal UK trade, the agreement significantly expands the number of businesses able to be classed as internal UK traders and move goods as 'not at risk' of entering the EU through three important changes:
  - First, businesses throughout the United Kingdom will now be eligible - moving away from the previous restrictions that required a physical premises in Northern Ireland.
  - Secondly, we will increase the turnover threshold below which companies involved in processing can move goods under the scheme which they can show stay in Northern Ireland - quadrupled from the current £500,000 limit up to £2m, meaning four-fifths of manufacturing and processing companies in Northern Ireland who trade with Great Britain will automatically be in scope.
  - Thirdly, even if firms are above that threshold, they will be eligible to move goods under the scheme if those goods are for use in the animal feed, healthcare, construction and not-for-profit sectors. They will be able to do this even as intermediaries or if they sell on the eventual product, in a significant improvement to the existing arrangements. Inputs into food production will continue to benefit from inclusion in the 'not at risk' definition.

13. For those in the scheme who can show that their goods will stay in Northern Ireland, we will provide a radically simplified process for goods movements, underpinned by the existing Trader Support Service (TSS). To do this the system will draw on existing data that businesses already hold and provide about the type of goods they are moving, allowing goods to move seamlessly East-West:
- The movements will use ordinary commercial data, with information provided to TSS based on data from sales invoices and transport contracts;
  - There will therefore be no requirement to provide the burdensome customs commodity code for every movement;
  - Goods will automatically be treated as internal UK movements for tariff purposes, with no rules of origin requirements;
  - There will be no customs checks, except for risk-based and intelligence-led operations targeting criminality and smuggling; and
  - Once a good has moved, there is no further process involved - scrapping the requirement for businesses to provide the hugely burdensome, 80-field supplementary declaration, for every single goods movement, after goods had arrived in Northern Ireland.
14. These new arrangements for the smooth flow of trade within the UK internal market are underpinned by data-sharing and technology. This will ensure that there is real-time data on goods movements to support risk analysis, removing the need for the extensive bureaucracy and checks that will continue to apply for goods moving on into the EU.
15. In putting these arrangements in place, we have also been able to address a range of issues that also added frictions or costs into internal UK trade:
- We have safeguarded tariff-free movements of all types of steel into Northern Ireland - dealing with the problems that emerged in the summer of 2022 and providing certainty and stability for the sector.
  - We have established a forward process for ensuring that Northern Ireland's firms can access other goods subject to Tariff Rate Quotas in the future, dealing with the unique disadvantages under the existing system.
  - And where traders cannot be certain of the end destination of their goods when first moving them into Northern Ireland, in the coming months we will establish a new, comprehensive tariff reimbursement scheme for those who can show the goods were ultimately not destined for the EU - delivering on a key priority for businesses and trade organisations.
16. Though there are already legal protections for goods moving from Northern Ireland to Great Britain to be placed on the UK market in all circumstances, the original Protocol called for export declarations on all those movements, and a subsequent agreement between the UK and EU in 2020 looked to provide "equivalent information" in their place. But each of these proposed arrangements risked significant and unacceptable frictions for trade; had not been given effect in practice; and had in turn been a source of dispute between the UK and EU. This agreement resolves those issues by removing any requirement to provide export declarations, or any equivalent information, for businesses moving goods from Northern Ireland to Great Britain. This assures unfettered access for Northern Ireland's businesses to the UK market on a permanent basis, with controls applied only where strictly necessary to manage our international obligations, such as for movements of endangered species.

17. This provides a permanent guarantee of free movement for this critical trade within the UK internal market, giving certainty to business and avoiding any new burdens. To underscore this protection, the Government will legislate to reinstate provisions in the UK Internal Market Act, dropped during the Bill's original passage in 2020, to provide protection in law against export procedures, and will do so now in full compliance with international law and our own constitutional order.

## **Agrifood**

18. The original Protocol applied the same burdens on agrifood trade between Cairnryan and Larne as between Holyhead and Dublin. That meant that as many as 500 officially-signed certificates, costing up to £150 per certificate and requiring hours of preparation, needed to be produced for a single supermarket lorry. The original Protocol also mandated a set proportion of physical checks - from 15% for dairy, to 30% for red meat, fish and poultry, and even 100% for some fruit and vegetables - which could involve hours of checks and even laboratory testing. A range of foods - from sausages to seasoned lamb joints - would have been banned completely, with no scope to even transport these goods to Northern Ireland. The full extent of these burdens has been avoided so far, but only through temporary grace periods applied by the UK - with the EU taking legal action in response.

19. Whilst the UK acknowledges that the grace period arrangements have worked to safeguard food supplies, they are not a basis for long-term trade. And there are important practical drawbacks in their operation. No new businesses can benefit from the grace periods, excluding businesses like caterers and those supplying schools and hospitals; all chilled meats such as sausages have to be accompanied by costly veterinary certificates; and the arrangements are based solely on EU standards, meaning they are vulnerable to the effect of divergence over time.

20. Through this agreement, we have secured a new sustainable, long-term legal framework for agrifood retail trade into Northern Ireland:

- All traders moving agrifood goods for the final consumer in Northern Ireland can become members of the UK-run scheme - including retailers, wholesalers, caterers and those providing food to public institutions like schools and hospitals.
- Bans on British products such as sausages entering Northern Ireland will be scrapped permanently: with those goods available on the shelves in Great Britain again able to move smoothly to Northern Ireland.
- The threat of up to 500 certificates for a single truck will be replaced with a single document confirming that goods are staying in Northern Ireland and are moved in line with the terms of our internal market scheme.
- That document will be electronically and remotely processed, without being physically checked. There will be no need for official veterinarians or plant inspectors on site in supermarket distribution centres or costly 'attestation' supporting documentation for products, with proportionate arrangements for competent authority oversight based on risk and intelligence.
- The scheme will not be limited solely to goods from Great Britain or the EU. Goods from across the world can be moved in the scheme, either where they are processed in the UK, where they meet UK public health standards and pose no disease risks, or, where there are potential disease risks for products moved from the rest of the world, where the UK has chosen to take the same approach to protecting against the same pests and diseases.

- The solution on physical checks will match the UK's proposals in July 2021, with no arbitrary or set physical checks, and interventions based only on risk and intelligence decisions made by UK authorities, to deal with smuggling, criminality, abuse or specific risks to animal, plant or public health.

21. To deliver these arrangements the agreement codifies in legal text a unique arrangement in which UK public health and safety standards will apply for all retail food and drink in the UK internal market. UK standards will also apply more broadly for this trade, covering rules on public health, marketing, organics, labelling, genetic modification, and drinks such as wines, spirits and mineral waters. Overall, it will remove more than 60 EU food and drink rules in the original Protocol covering well over 1,000 pages of law. Where relevant, these goods will still need to meet EU standards on animal and plant health diseases. But the Government already has, and will always continue to have, protections in place to guard against those same diseases - such as foot and mouth, African Swine Fever and BSE - right across the United Kingdom. This arrangement also conforms with our long-standing recognition of the special need to protect the biosecurity of the island of Ireland, preventing animal and plant disease. This is, in effect, a dual-regulatory solution that will protect choice for consumers whilst also working for businesses in Northern Ireland.

22. The new agreement therefore addresses an important weakness of the old Protocol (and indeed the grace period), which mandates that all goods must be produced to EU, not UK, standards. As a result, for example, we have already seen food products such as cakes containing titanium dioxide be removed from sale by supermarkets in Northern Ireland because of EU prohibitions. Whilst the extent of divergence has been limited to date, over time this has the potential to increase. This agreement locks in a durable internal UK market system for the long-term, providing resilience against future UK-EU rule changes in areas like food safety, organics requirements and marketing standards - including labelling and production rules for goods like wine. This will deal with the impacts of regulatory divergence for internal UK agrifood retail trade. This preserves and protects our internal market in the area perhaps most important to Great Britain - Northern Ireland trade, with more than 75% of food sold in Northern Ireland's supermarkets estimated to come from Great Britain. This agreement will ensure that Northern Ireland remains deeply integrated into the UK's food supply chain and our associated regulations and court oversight.

23. At the same time, the deal recognises the importance of protecting the single epidemiological area on the island of Ireland, as has existed for many years.

- The UK will provide written guarantees through the Chief Veterinary Officer that the operation of the scheme does not pose disease and health risks to the island of Ireland or the EU more broadly.
- The scheme will be operated with appropriate safeguards, such as lorries locked with seals by operators.
- A subset of high-risk products such as meat, dairy and other composite products will be labelled at a product-level on a phased basis through to 2025, in line with the proposals we set out in our July 2021 Command Paper. Those labelling requirements will first be introduced on meat and fresh dairy from October 2023, with the Government providing transitional reimbursement funding during this first phase.

From October 2024 these requirements will be extended to include all other dairy products, such as UHT milk and butter, and would be proposed to apply UK-wide from that point, in consultation with the Scottish and Welsh Governments. From July 2025, composite products, fruit, vegetables and fish will also be labelled on a UK-wide basis.

- As the phased labelling requirements come on-stream, we will dramatically scale back the visual identification process operated under the grace periods, in which 100% of lorries are subject to a visual inspection process to guard against smuggling. Though this process has not caused significant disruption, such universal requirements are not appropriate or necessary for UK internal market movements, so these processes will reduce by 90% from 2023, and by 95% from 2025 when labelling requirements are fully in place.
- And we have ensured that these arrangements are futureproofed, with the ability to update and change these safeguards, including labelling requirements, where new technological solutions can support meeting the same objectives in more efficient ways.

## Parcels

24. This agreement also reflects the significant importance of parcel deliveries for day-to-day lives in Northern Ireland. Under the old Protocol every single consumer parcel movement would have, if not for a unilateral UK grace period, required a full customs declaration, risking widespread disruption and costs for people across Northern Ireland reliant on those deliveries, and increasing the withdrawal of services from firms in Great Britain.
25. Under the agreement, we have safeguarded these movements and maintained business as usual for Northern Ireland consumers, through the unprecedented removal of requirements under the EU's customs code. That means for parcels sent to friends and family in Northern Ireland, the process will be exactly as it is today, with no requirements on either the sender or recipient of any kind. For crucial e-commerce movements from businesses to consumers, the agreement scraps the requirements for customs declarations, pre-notification, presentation of goods to customs authorities and the range of burdensome requirements that applied under the old Protocol. Instead, the UK has agreed that authorised parcel operators will manage a process of sharing data, in batches, to monitor and manage any risks of smuggling into the EU market. This will mean Northern Ireland citizens will uniquely be able to receive parcels from both the UK and EU without burdens. Importantly, this new approach will apply even to goods otherwise classified as prohibited or restricted under EU rules (though domestic UK law prohibitions and normal carrier terms and conditions will still apply). To do this, we have changed the legal definition of goods classified as 'not at risk' of entering the EU to ensure that consumer parcel deliveries are always classified as goods destined to stay within the UK.
26. Meanwhile for movements between businesses, we will ensure the same internal market scheme set out above for freight movements is available. This will avoid tariffs and rules of origin requirements, and restore the integrity of the UK internal market (along with the assistance that the TSS can provide).
27. These arrangements will be in place from October 2024, giving businesses and parcel operators due time to prepare for their operation.

## **SAFEGUARDING NORTHERN IRELAND'S PLACE IN THE UNION**

28. The issues with the old Protocol did not, though, solely concern trade frictions on the movement of goods. It disrupted trade between Northern Ireland and its most important market in Great Britain; reduced the availability of goods; and treated Northern Ireland differently to the rest of the United Kingdom in areas at the heart of lives and livelihoods - whether tax and health services, the movement of people with their pets, or the ability to get plants and seeds at a local garden centre. For many individual citizens and businesses, the application of the old Protocol felt as if it was pushing Northern Ireland and Great Britain apart, contrary to its integral place in our Union. At the same time it had no mechanisms to manage any future changes in UK and EU rules. That is addressed within the new agreement, with a new framework which delivers solutions that will protect choice for consumers whilst also working for businesses in Northern Ireland.
29. In doing so we have listened carefully to traders in Northern Ireland on the best way forward: recognising that we need to safeguard the UK internal market and the availability of critical goods; while avoiding duplication for traders and preserving market access benefits for Northern Ireland's crucial agricultural and manufacturing sectors. The agreement therefore establishes new arrangements in which UK, not EU, standards and regulations apply for essential retail trade and tax - disapplying over 1,700 pages of EU law in the process, and the ECJ oversight which comes with it - whilst also preserving full and unrestricted access for Northern Ireland businesses to both their most important market in Great Britain and the whole of the EU Single Market. This is unprecedented: the disapplication of core parts of the EU customs code and SPS rules for internal UK trade, as above, combined with the changes we have secured in carving out EU VAT, excise and medicines rules, has never before been achieved for any region or country that has also secured full access to the EU market.

### **VAT and excise**

30. Under the old Protocol, EU VAT and excise rules apply in Northern Ireland, strictly in relation to goods, in order to avoid a hard border in Northern Ireland. While UK authorities have ensured that this has avoided burdens on East-West movements in practice, those rules have prevented the Government from applying VAT and excise changes UK-wide, with future EU rule changes likely to increase that divergence further.
31. To address this, the agreement secures substantive, legally binding changes in the new arrangements, ensuring that Northern Ireland will benefit from the same VAT and alcohol taxes as apply in the rest of the United Kingdom. It specifically amends the legal text of the treaty to provide these critical freedoms and to lock in flexibility for the future. Under these arrangements, the Government will restore the integrity of the UK internal market and UK VAT and excise area.
- This will mean that straight away, through changes to Annex 3 of the original Protocol, the Government can bring forward legislation to ensure that Northern Ireland will be able to apply zero rates of VAT to the installation of energy-saving materials such as heat pumps and solar panels - rectifying the disparity between Great Britain and Northern Ireland.

- And it ensures that reforms to alcohol duties, due to take effect this summer, will apply right across the UK from the outset - meaning cheaper pints in pubs and a clearer set of duties overall.

32. The agreement also makes further changes to permanently protect Northern Ireland's place in the UK's VAT area:

- It removes the limit on the number of reduced and zero rates in Northern Ireland, ensuring parity across the United Kingdom.
- It delivers full flexibility on rates in the future, by establishing new categories that can be applied for VAT purposes where goods are consumed in Northern Ireland.
- It protects Northern Ireland's second-hand car market into the future with a new scheme to take effect from 1 May 2023, ending two years of uncertainty for traders and consumers.
- It exempts Northern Ireland businesses from a range of bureaucratic EU rules: saving 2,000 Northern Ireland businesses from needing to register for VAT under a 2025 EU Directive; and avoiding a range of other new burdens on SMEs, and divergence with Great Britain.
- And it establishes a brand new mechanism, first proposed in the UK's 2021 Command Paper, enabling the UK and EU to look at future EU rule changes and make further legally binding changes to resolve any distortive impacts that new EU red tape could cause.

33. Overall these changes to the text of the original Protocol guarantee Northern Ireland's position within the UK's VAT and excise area, while still maintaining frictionless arrangements for those businesses trading with the EU - granting Northern Ireland businesses the ability to benefit from new UK changes, and ensuring that Northern Ireland households can benefit from the UK's Brexit freedoms.

## Medicines

34. The original Protocol applied all EU rules and authorisation requirements for medicines, notwithstanding that medicine supply is an essential state function. This meant that for novel medicines, including innovative cancer drugs, it was the European Medicines Agency (EMA), not the UK's Medicines and Healthcare products Regulatory Agency (MHRA), which approved medicines for the Northern Ireland market. This failed to recognise or accommodate for the fact that the overwhelming flow of medicines to Northern Ireland is from Great Britain, with medicines provided for the UK market as a whole.

35. The EU made a series of changes to its rules last year to address some of these issues, addressing regulatory requirements which prevented medicines flows and supporting the MHRA's continued ability to authorise generic drugs under a single licence for the whole United Kingdom. This, combined with the UK's own Northern Ireland Medicines Authorisation Route (NIMAR), has ensured that medicines have continued to flow uninterrupted into Northern Ireland. But these arrangements were not a complete solution for the long-term and did not address the EMA's role in licensing novel medicines, leaving Northern Ireland exposed to divergence as UK and EU rules changed into the future.



This uncertainty, as well as the requirement for Northern Ireland drugs to meet various EU labelling requirements, risked discontinuations if firms were unwilling to maintain two sets of labels and packs for Great Britain and Northern Ireland. This was not a sustainable way forward, and has been addressed by this deal.

36. Under the agreement, we have listened to the needs of industry and the healthcare sector and secured an unprecedented settlement that provides a comprehensive carve-out from EU rules: fully safeguarding the supply of medicines from Great Britain into Northern Ireland, and once again asserting the primacy of UK regulation. As a result, it will be for the MHRA to approve all drugs for the whole UK market. This will enable all types of medicines to be supplied in single packs, within UK supply chains, with a single licence for the whole UK. This will provide a long-term, durable basis for medicines supplies into Northern Ireland.

- Specifically, the whole of the Falsified Medicines Directive has been disapplied for medicines supplied to Northern Ireland, ending the unnecessary situation in which - even with grace periods - wholesalers and pharmacies in Northern Ireland were expected to keep barcode scanners to check individual labels.
- And for the provision of innovative drugs to patients, Northern Ireland will be reintegrated back into a UK-only regulatory environment, with the European Medicines Agency removed from having any role.
- This responds to the overwhelming calls from industry for stability and certainty, and can give reassurance to patients and clinicians in Northern Ireland well into the future.

37. At the same time, the agreement safeguards frictionless access to the EU market for world-leading Northern Ireland pharmaceutical and medical technology firms. This pragmatic dual-regulatory system protects business, patients and healthcare services, and reflects that it is an essential state function to maintain and oversee the supply of medicines within the whole United Kingdom.

### **Plants, seeds, machinery and trees**

38. The Protocol put a series of certification requirements, checks and prohibitions in place for plants and plant products. This has meant £150 certificates for individual movements, with many products such as seed potatoes and apple trees unable to move under any circumstances. This did not reflect any real-world biosecurity risk and had real impacts on longstanding flows to Northern Ireland gardeners, farmers, garden centres and environmental projects. This has been addressed comprehensively through the deal.

39. As a result of this agreement, plants and seeds staying in Northern Ireland will move from Great Britain on a virtually identical basis to those moving elsewhere within the UK:

- Instead of full EU certification, all plants and seeds will move under the existing UK-wide plant passport scheme, in line with traders throughout the UK. That means rather than paying £150 per movement into Northern Ireland, growers and businesses can pay £120 a year to be part of the UK scheme, as they did before the Protocol came into force.
- Previously banned seed potatoes will once again be available from other parts of the UK while remaining prohibited in Ireland.

- We have also paved the way to remove bans on 11 native British and other commercially important plant species by the next planting season, as industry has called for - including those trees that were prevented from moving to mark the Queen's Platinum Jubilee. This will unlock tree and shrub movements between the UK and EU overall.
- And we will remove needless certification requirements for used agricultural and forestry machinery, with the only requirement now being a single, self-applied label to indicate the machinery will not move into the EU.

40. This will put Northern Ireland back on a level playing field with growers, gardeners, farmers and others right across the UK, allowing long-established trading patterns to resume.

## **Subsidy control**

41. Under the original Protocol, EU state aid rules are applied in cases where there is any aid provided to companies that could 'affect trade' in goods and electricity between Northern Ireland and the EU. While intended to apply narrowly, the potential breadth of the wording has risked 'reach back' - the much broader application of those rules in cases where there is only a theoretical or highly tangential link between aid to a company in Great Britain and potential trade on the island of Ireland. Although this has not prevented the Government providing essential support to Northern Ireland through the pandemic and energy crisis, it has created a broader concern that there may be underlying 'chilling effects' on businesses or public authorities, discouraging investment or causing them to reduce trade with Northern Ireland.

42. This agreement removes that risk, further constraining the limited circumstances in which the initial concept of the old Protocol applies to subsidies, preserving the functioning of the UK internal market:

- It imposes a stringent set of tests to ensure that there must be a proven real, genuine and material link to Northern Ireland's trade with the EU for any proposed aid to even be in scope. This rules out all but the largest subsidies and those where firms have no material presence in the Northern Ireland market, keeping the overwhelming majority of subsidies to companies in Great Britain solely under the UK's own subsidy control regime at a stroke.
- This confines the application of existing Protocol rules to cases where there is a genuine, material effect on trade between Northern Ireland and the EU - recognising, as we always have done, that the Protocol should apply only in limited circumstances where necessary to avoid trade distortions.
- And even for those cases where it does apply, in practice there will remain a host of exemptions which allow aid to be granted without any need for notification or approval - covering more than 98% of Northern Ireland subsidies in practice based on past trends.
- The agreement also retains the important flexibilities available to traders in Northern Ireland - including uniquely generous agricultural subsidy arrangements where Northern Ireland is fully outside the Common Agricultural Policy, with the Northern Ireland Executive empowered to design schemes that work best for Northern Ireland subject only to basic underlying World Trade Organisation rules.

43. This addresses the risks of 'reach back' and chilling effects on trade between Great Britain and Northern Ireland, providing more certainty for both beneficiaries and aid granters in Great Britain, and supporting trade within the UK internal market with Northern Ireland. This deals with any concerns around the operation of Protocol rules in real-world terms, ensuring that the Trade and Cooperation Agreement (TCA) serves as the overall framework governing subsidy control issues between the UK and EU, as we have always argued should be the case.

## **Pets**

44. Under the old Protocol each movement of a pet into Northern Ireland would have required an individual certificate and new, needless rabies jabs and other treatments for animals, despite Great Britain being rabies-free for more than a century. While these requirements have been pragmatically enforced, many pet owners have felt bound to seek out these expensive treatments to the detriment of animal welfare.

45. This agreement ends any uncertainty, removing costly, harmful and unnecessary processes for pet movements into Northern Ireland, - allowing pet movements to continue easily and recognising the United Kingdom's rabies- and tapeworm-free status.

- For Northern Ireland pet owners, there will be no new requirements of any kind. Pet owners can come and go from Great Britain without ever having to think about any paperwork or process. Northern Ireland pet owners will of course continue to be able to move their pet to Ireland and the rest of the EU with an EU pet passport, though unlike internal Great Britain-Northern Ireland movements this will continue to include a requirement for rabies vaccinations.
- For pet owners visiting Northern Ireland from Great Britain but not travelling on to Ireland, the only requirement will be to confirm that the pet is microchipped and will not move into the EU (where the same certificate and health requirements will remain). This will be in the form of a travel document issued for the lifetime of a pet, available online and electronically in a matter of minutes; or an equally seamless process built into the booking process for a flight or ferry.
- This avoids cumbersome bureaucracy and unnecessary checks, meaning efforts can be focused on real-world welfare, disease or smuggling risks.
- And it answers the concerns of pet owners and associations in full, ensuring that pet movements can continue easily as they did prior to Brexit.

46. We will work with ferry companies to ensure that their online guidance reflects these new arrangements and gives travellers confidence to travel once again with their pets. Also as part of these arrangements EU Member States, including Ireland, will be required to ensure appropriate deterrence for pet owners moving animals into Ireland from Great Britain via Northern Ireland in contravention of the terms above. The operation of checks North-South on the island of Ireland will, though, as with Great Britain-Northern Ireland movements, operate on a risk and intelligence-led basis.

## **Veterinary medicines**

47. The original Protocol also required a range of onerous authorisations and movement conditions for veterinary medicines entering Northern Ireland. These failed to take account of the overwhelming reliance of Northern Ireland on veterinary medicines from Great Britain, putting more than half of product lines at risk. As part of the agreement, we have put in place a grace period arrangement until the end of 2025 which enables veterinary medicines authorised or approved in the UK, or which are moved via Great Britain, to continue to be placed on the market in Northern Ireland. This safeguards those supplies, while providing time to establish a long-term solution which maintains the uninterrupted flow of veterinary medicines into Northern Ireland from Great Britain as is the case now. In so doing the Government is clear that the only practical solution will be a solution, as with human medicines, to guarantee the existing and long-established flows of trade between Great Britain and Northern Ireland on which so many people and businesses rely.

## **Supporting the UK internal market for the long term**

48. Taken together, the agreement puts a fundamentally new framework in place of that in the old Protocol, with new arrangements which ensure unique UK internal market arrangements instead of the strict application of the EU regime. This has an important read across to the overall governance and durability of the arrangements.

- In the areas of food and drink safety, for example, it will be laws passed in the United Kingdom, or case law set by UK courts, not the ECJ, which will determine the rules that apply for the critical flow of trade from Great Britain that is the predominant source of grocery retail supplies.
- Similarly, in relation to VAT and excise, Budget measures announced by the Chancellor will apply UK-wide in the future, including to Northern Ireland.

49. Northern Ireland consumers would consequently be automatically protected and part of the UK's internal market for their everyday life, whether saving money on a pint of beer, buying Cumberland sausages in a supermarket or visiting a garden centre for seeds and plants. In all these cases, the same consumer just across the border in Ireland would face a different set of rules and a different set of products on shelves, in pubs or at a garden centre - with different and significantly more onerous requirements to procure them. Critically the experience of the Northern Ireland consumer would be protected irrespective of future developments in EU law, or the case law of the ECJ.

50. These protections are also not static, with specific recognition in the agreement of the need to monitor, and as necessary adapt to, other changes in the future to continue to protect the UK internal market.

- Where future EU rule changes could have damaging impacts, we have provided the Northern Ireland Assembly with a comprehensive new mechanism, the Stormont Brake, that is set out below.
- As VAT and excise rules are changed, as noted above there will also be a dedicated coordination mechanism for the UK and EU to consider their impact on the functioning of the UK VAT and excise area, with new powers to make changes to avoid new burdens;

- There is also an important mechanism for considering future UK rule changes, to ensure that their interaction with the Protocol does not inadvertently lead to any new regulatory barriers. Through a new Special Goods Body, there is the opportunity for early engagement on new rules, with the ability to find appropriate solutions through the Joint Committee.

51. Overall, the agreement provides a new framework which can give reassurance now and into the future that it will operate consistently with Northern Ireland's central place in the UK market, on an equal footing with counterparts in England, Scotland and Wales.

52. As well as examining future changes with the EU, we also recognise, as we have done since 2020, that the Government needs to ensure that we monitor and tackle risks of regulatory divergence within the UK internal market. We will therefore accompany the agreement with a series of protections within the UK's regulatory system to avoid new regulatory barriers:

- First, the Office of the Internal Market (OIM) will specifically monitor any impacts for Northern Ireland arising from relevant future regulatory changes.
- Secondly, we will commit that, in cases where Northern Ireland authorities (whether as an Executive or as individual departments) request that the OIM specifically investigates concerns around any future UK regulatory change, we will provide a full response to any OIM report on the concerns raised, taking into account the real-world impacts that the OIM identifies.
- Thirdly, we will ensure that appropriate authorities throughout the UK are clear as to how they should uphold their existing duties to pay special regard to the need to protect the UK internal market, as set out in section 46 of the UK Internal Market Act 2020. We will issue new guidance to underscore the need for ongoing vigilance, proper analysis of the impacts of their activities, and proactive steps to avoid new barriers to Great Britain-Northern Ireland trade and protect unfettered access to the whole UK market for Northern Ireland's firms.

### **Protecting the EU market in this new framework**

53. Overall, this agreement establishes a new and radically different set of arrangements that deal with the issues caused by the old Protocol and protect the smooth flow, and availability, of goods between Great Britain and Northern Ireland. This is critical to ensuring that Northern Ireland consumers and businesses benefit fully from Northern Ireland's integral place in the UK's internal market, while guaranteeing maximum market access for Northern Ireland's businesses. The agreement therefore marks a decisive break from the previous argument made by some external commentators that the political concept of an 'all island economy' must be prioritised over Northern Ireland's place in the UK's own internal market, on which so much of Northern Ireland's prosperity depends.

54. As a result, there is now considerable underlying regulatory divergence North and South:

- The majority of retail shops in Northern Ireland will sell a large range of consumer goods and foods which cannot be sold outside Northern Ireland - goods which cannot be transported over the international land border with Ireland and the EU, and which may indeed be banned entirely in Ireland (including staples such as Lincolnshire sausages).

- The legal changes to the Protocol also mean that VAT and excise rules have the potential to diverge much further across the land border, subject to sovereign decisions made by the UK Government. Alcohol duty structures will differ fundamentally between North and South. There will also be a range of products potentially zero-rated or reduced-rated in Northern Ireland that go well beyond those in Ireland.
- And our new internal trade schemes will also mean there are goods moved under an unprecedented set of facilitations that apply only because the goods will be used or consumed in Northern Ireland.

55. The Government recognises that these changes do create a different legal and practical context on the island of Ireland, with substantial and likely increasing divergence between Northern Ireland and Ireland over time - building, of course on the in-built capacity for divergence in the vast majority of areas outside the Protocol including environmental law, professional qualifications, employment law, procurement, immigration, banking, data, and a wide range of services and other rules. As such, the UK Government and the European Commission have agreed that the nature of these new arrangements requires enhanced market surveillance North-South, with a declaration from the Government committing to deepen on-the-market monitoring and enforcement in Northern Ireland, as well as to strengthen cooperation with the Irish Government to avoid any risks to the Single Market. Our approach will be to manage this sensitively with sensible practical arrangements, focused on maintaining market access for Northern Ireland while protecting the UK and EU internal markets. As the agreement makes clear, this will not involve new checks or controls at the international border between Northern Ireland and Ireland, but will use data-sharing and risk analysis to target those who may seek to abuse these arrangements which guarantee the smooth flow of goods within the UK internal market.

## **ADDRESSING THE DEMOCRATIC DEFICIT**

### **The application of EU rules in Northern Ireland**

56. The old Protocol applied a range of EU goods rules in order to avoid a hard border and provide access to the EU market. It did so subject to ongoing democratic consent for those arrangements, which was the basis on which the Government signed, and Parliament ratified, the 2019 Withdrawal Agreement. That already stripped EU rules from a series of key areas: with the full freedom to regulate for the services industries of the future; to control United Kingdom waters; to remain outside of the Common Agricultural Policy permanently; and to avoid alignment on social, broader environmental, consumer or competition law.

57. But as has been demonstrated in practice, the Protocol has failed to balance all aspects of the Belfast (Good Friday) Agreement, leading to a disproportionate set of burdens that impacted on Northern Ireland's role within the UK internal market. That was not the basis from which any unique arrangements in Northern Ireland could command broad support from right across the community. With the agreement we have upheld Northern Ireland's place in the UK internal market and stopped damaging new goods rules being imposed on Northern Ireland with no say:

- It removes 1,700 pages of EU law, and takes with it any ECJ interpretation and oversight in those areas. That includes the new legal framework we have secured for agrifood retail trade moving into Northern Ireland; on the supply of medicines across the UK; and the new freedoms to set VAT and excise rates. It is now for the UK to decide, and for UK courts to interpret, the rules in those areas.
- It establishes unique new arrangements on goods movements to protect internal UK trade - removing unnecessary EU red tape and the oversight over it - with change to the text of the treaty itself to underpin both sides' commitment to them.
- It therefore narrows the range of EU rules applicable in Northern Ireland - to less than 3% overall by the EU's own calculations. The rules that do apply are there solely, and only as strictly necessary, in order to maintain the unique ability for Northern Ireland firms to sell their goods into the EU market.
- Critically, those rules apply only for as long as those arrangements command democratic consent in Northern Ireland. And as we set out below, we have also introduced a further safeguard of democratic control through the Stormont Brake.
- In the much more limited circumstances in which EU rules do continue to apply, both the UK and EU are clear that we should look to use political routes to seek to resolve issues before restoring to formal dispute settlement.
- Both the UK and EU have been clear in the Political Declaration accompanying the agreement that the Protocol, as amended, will be subject to the general principles of public international law as set out under the Vienna Convention on the Law of Treaties. This underlines that the fundamental underpinning of this arrangement is in international law, not EU law and the EU institutions.
- And none of these provisions will get in the way of the United Kingdom continuing to be able to strike new Free Trade Agreements with third countries, including ongoing discussions for the UK to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

58. In order to maintain maximum market access for Northern Ireland traders, those rules which do apply on goods are applied to goods produced in Northern Ireland. But this reflects what we have heard time and again is the balance businesses want in order to prosper:

- First and most importantly, companies producing for their most important market in Great Britain will retain completely unfettered access. That means a permanent guarantee of being able to place goods on the UK market in all scenarios - meaning no forms, checks, controls, or tariffs, or any barriers to the market whatsoever, whatever the future form of regulations.
- Secondly, there are many areas of goods rules within the scope of the old Protocol where no international or EU standards apply - in retail sectors like jewellery, clothes, homeware, footwear and furniture, covering a quarter of Northern Ireland manufacturers. In those cases UK national rules set the standards for goods on the market in Northern Ireland. That means across significant sectors of Northern Ireland's economy, businesses already make goods to the same standards whether in Carlisle or Craigavon, and that will continue under this deal.

- Thirdly, elsewhere in manufacturing, it is international standards which apply in practice, with commitments from the UK and EU in the TCA to maintain them. Indeed of the nearly 3,600 international goods standards in place, there are differences between the UK and EU in only 11 of them (0.3% of standards overall). These reflect minor differences in practice, where the UK has applied higher standards (which Northern Ireland traders can still choose to meet).
- Fourthly, in agrifood, the rules in place reflect longstanding arrangements. They protect the integrated supply chains on which many industries rely, wherever they sell their goods - including sectors critical to the Northern Ireland agrifood economy like dairy and meat processing, for whom any disruption would be deeply damaging. But through this agreement they now do so within a dual regime - with retail trade into Northern Ireland able to use UK food safety standards and flow smoothly; Northern Ireland farmers outside of the Common Agricultural Policy; and the Northern Ireland Executive given the flexibility to decide its own approach locally on agricultural subsidies.
- This dual regime is also consistent with existing devolution arrangements, which mean it is entirely possible constitutionally to have different standards across the UK. Those differences are accommodated through the market access principle in the UK Internal Market Act 2020, enabling goods made in one market to be sold in another, even if rules differ across the different nations. That principle will be protected and strengthened under this deal - if England, for example, changed food health standards in relation to a particular product, then that product could be sold in shops in Wales, Scotland and Northern Ireland. And if the Northern Ireland Assembly chose to adopt a new EU regulation on food health standards - in line with the new democratic safeguards written into the treaty as set out below - then producers could still sell that good across the UK because of the unfettered access guarantees that UK law already secures.

59. This is a pragmatic form of dual-regulation - resolving real-world barriers, and recognising UK standards in critical areas like agrifood retail trade and medicines supplies; while protecting the market access, and longstanding arrangements, of Northern Ireland producers. That restores the balance we have always been clear needs to be at the heart of any settlement, and remains subject to the fundamentally important principle that must underpin any arrangements for Northern Ireland: democratic consent, as provided for in the old Protocol.

### **The Stormont Brake**

60. We recognise, however, that the consent mechanism is not sufficient in and of itself to tackle the democratic deficit challenge in Northern Ireland, or to provide an answer to how to build support that is as broad across the community as possible. The consent vote happens only every four or eight years, and cannot by its nature provide for democratic oversight of individual laws. The vote also operates on the basis of a majority of Members of the Legislative Assembly (MLAs) in the Northern Ireland Assembly, relying on the votes cast by a majority of people in Northern Ireland in the most recent electoral mandate. Whilst this democratic basis is entirely consistent with the Belfast (Good Friday) Agreement, the Government recognises that there is an unanswered question about how to provide a say to MLAs in a scenario in which a cross-community consensus has not been achieved.



The consent mechanism is clear that our objective is to achieve as broad a consensus across all communities as is possible.

61. To address these key challenges, the new agreement establishes a powerful new democratic safeguard - a Stormont Brake - rooted in the principles of the Belfast (Good Friday) Agreement, where those goods rules applied in Northern Ireland are amended or replaced. Under the Protocol as it stands, those rules are applied automatically under Article 13(3). But the Stormont Brake will change that, giving the institutions, once restored, a genuine and powerful role in the decision on whether or not significant new goods rules impacting on everyday life in Northern Ireland should apply. This is more than simply a say in the rules that are made: the Brake would enable a sovereign UK Government decision to veto the application of a new rule - and the accompanying ECJ interpretation and oversight - to Northern Ireland permanently.
62. The Stormont Brake will apply to changes to EU customs, goods, and agriculture rules within the scope of the original Protocol<sup>1</sup>, with a specific process to follow to trigger it:
- When the institutions are restored, the trigger for the Brake will operate on the same basis as a separate 'Petition of Concern' within the Belfast (Good Friday) Agreement, as updated by the *New Decade, New Approach* Agreement in 2020, allowing a concern to be raised based on 30 MLAs from two or more parties coming together to sign a petition.
  - The UK Government will consult with the local parties to ensure that a proper scrutiny process is established for a restored Assembly, with support from the UK Government, and MLAs operating a structured process to consider the potential impacts and their response. We will consult with the parties in Northern Ireland on how to codify domestically this defined process of scrutiny, consultation with businesses and others affected by the EU act in question, as well as providing time to identify any other routes to resolution, ensuring that the Brake is only deployed as the last mechanism available to deal with the concerns.
  - The Brake will not be available for trivial reasons: there must be something 'significantly' different about a new rule, whether in its content or scope, and MLAs will need to show that the rule has a 'significant impact specific to everyday life' that is liable to persist.
  - The Brake will be available to MLAs to apply to specific elements of new goods rules changes or to the entirety of a new law. Even if only a limited part of an EU Directive or Regulation is changed, the Brake can still be used if the new content of the rules are significant and the impact will be damaging.
63. Once the UK notifies the EU that the Brake has been triggered, the rule in question is suspended automatically from coming into effect. It can then only be subsequently applied in Northern Ireland if the UK and EU both agree to that jointly in the Joint Committee. This would give the UK an unequivocal veto - enabling the rule to be permanently disapplied - within the Joint Committee. This new safeguard in the treaty is not subject to ECJ oversight, and any dispute on this issue would be resolved through subsequent independent arbitration according to international, not EU, law.

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<sup>1</sup> The only exception to this is a very small number of instruments, such as EU-third country agreements or anti-fraud cooperation where the concept of a veto is technically unworkable or otherwise not applicable.

64. This provides a permanent, cross-community based safeguard in the treaty to address the democratic deficit. This goes beyond the arrangements set out in the Northern Ireland Protocol Bill, which applied permanent dynamic EU law alignment to all 'red lane' trade at risk of entering the EU. While that would have maintained access for firms accessing the EU market, it would have left no democratic safeguard available to the institutions in Northern Ireland or indeed to the UK Government for those rules. The regime in the Bill would have therefore left ongoing risks to the integrity of the UK internal market, given that these procedures and checks are being applied at Northern Ireland ports and many Northern Ireland-based businesses would choose to use this route to provide flexibility on where they subsequently sent goods. This agreement goes further: any rule in scope can be subject to permanent disapplication in Northern Ireland where the conditions are met.
65. The Government recognises that, in addition to triggering the Brake initially and ensuring the potential application of a new rule is suspended, MLAs in Stormont will want to ensure that their concerns are reflected in the subsequent decision taken by the UK Government in the UK-EU Joint Committee on whether to permanently veto the new law. We will legislate for new statutory provisions in the Northern Ireland Act 1998 to codify protections for this scenario. We will, of course, discuss our new legislative proposals with the political parties in Northern Ireland. The Government's proposal, for discussion with the parties, is that a rule could not be added to the new Agreement in the absence of a cross-community vote in support from the Northern Ireland Assembly, unless the Government could demonstrate that there were exceptional circumstances to justify it, or show that the measure would not lead to new regulatory borders between Great Britain and Northern Ireland.
66. It is important to note that the permanent disapplication of the rules would mean divergence between Northern Ireland and Ireland (and the broader EU), and thus it would be a matter for the EU how to deal with the consequent impact on their market. Recognising this, the EU will have the ability to take 'appropriate remedial measures'.

### **The role of Stormont on proposed new areas of law**

67. Through the Stormont Brake, rules otherwise applied automatically under Article 13(3) would be subject to a UK-EU Joint Committee decision before they could apply in Northern Ireland. That 13(3) process applies to rules that are already within scope of the Protocol that are amended or updated. There is also, though, an existing process - under Article 13(4) of the Protocol - where the EU proposes to add new rules into the Protocol. In those cases, it is already a sovereign decision of the United Kingdom, through the UK-EU Joint Committee, whether the rule in question should apply in Northern Ireland.
68. We recognise, though, that the Northern Ireland Assembly would potentially have just as strong a set of views on those new rules as those covered by the Brake, not least as they could expand the scope of where EU rules apply in Northern Ireland. In bringing forward this agreement we are also committed to providing a proper say for Stormont there too. As such, the proposal that we will put forward for discussion with the parties in Northern Ireland is that the Government would commit to the same constraints, in statute, as proposed under the Stormont Brake.

As there, this would mean that the Government would not be able to proceed to add any new rule under Article 13(4) without cross-community support, unless the Government could demonstrate that there were exceptional circumstances or confirm that the new measure would not create new regulatory borders between Great Britain and Northern Ireland. This will provide a further democratic safeguard for the restored Northern Ireland institutions.

### **New structures for UK-EU cooperation**

69. As well as these new safeguards for the Northern Ireland institutions, the agreement builds out joint UK-EU structures further to anticipate and deal with any other issues that may emerge.

- We have agreed to establish new mechanisms for stakeholder engagement within those structures, including business and civic society groups, to ensure their expertise and insight can inform discussions about how the agreement operates in practice.
- We have established new structured expert groups to allow detailed UK-EU discussion of new rules applied under the Protocol across the full range of issues, including on goods regulation, the Single Electricity Market, customs, agrifood and subsidy control - with new commitments to engage earlier and more intensively to look at the implications of new rules.
- And we have developed specific new mechanisms to look at the potential impacts on the UK internal market of new goods, VAT and excise rules in particular, enabling the Joint Committee to take forward any action as necessary.
- In addition, the UK reaffirms its guarantee that the First and deputy First Minister will have a seat at the table in the UK delegation for any UK-EU Joint Committee meetings which consider matters concerning Northern Ireland - a key request from across the Northern Ireland political spectrum.

70. Both the UK and EU have also jointly declared that they will make full use of these UK-EU structures to deal with issues in operating the agreement. This underscores the shared commitment, as part of this new way forward overall, to resolve issues with the operation of the Protocol through dialogue, rather than hair-trigger recourse to formal dispute proceedings.

### **Safeguarding Northern Ireland's place in the Union in all respects**

71. Taken as a whole, through this agreement we have put the arrangements for Northern Ireland on an entirely new footing: removing the barriers and burdens that gave rise to the perception of an Irish Sea border, and protecting those arrangements from being removed by the ECJ; protecting Northern Ireland's place in the UK internal market now and in the future; scrapping swathes of EU rules to support UK-wide policymaking in key areas of food safety, medicines, taxation and spending; and addressing the democratic deficit that was otherwise at the heart of issues with the original Protocol. In so doing this agreement puts beyond doubt Northern Ireland's place in our precious Union, consistent with the Acts of Union and the Belfast (Good Friday) Agreement.

72. And recognising the concerns that have been raised by the imbalance of the old Protocol, the Government commits to enshrining in domestic law the democratic and constitutional protections set out in this agreement, reflecting Northern Ireland's integral place in the United Kingdom and the full restoration of Northern Ireland's place in our internal market.

## **NEXT STEPS**

73. We have set out above the instruments that make up this package overall. These will be approved at the next meeting of the UK-EU Joint Committee, which we expect to take place next month. After that, the UK and EU will respectively take forward legislative measures to translate the solutions into law in both legal orders, providing the basis for these new arrangements to enter into force.

74. Elsewhere, we will set out further detail, including through guidance to traders, on the forward pathway for these changes to take effect. Some will take effect immediately or once the relevant legislation is in force. Others will require further changes to UK systems or joint work with the EU to provide the necessary underpinning for them to take effect. This will be set out further over the coming weeks, and in particular once the package has been agreed by both sides at a forthcoming Joint Committee. In the meantime we will work with business groups, traders and other operators to set out more detail on these arrangements; help prepare for the changes ahead; and ensure that we have provided clarity and certainty to businesses and citizens on the way forward following this agreement.

75. Following this deal the Government and the EU are both firmly committed to a positive, constructive relationship as partners. It is in both our interests to resolve and move past concerns with the Protocol, to focus instead on our shared priorities in Europe and on the global stage. With the Windsor Framework, the UK and EU have found a sustainable basis on which we can consider those concerns to have been addressed. The Government will therefore not be proceeding with the Northern Ireland Protocol Bill. In turn, the EU will not proceed with the seven separate legal actions it has launched against the United Kingdom - on issues from parcels to pets - reflecting the shared desire for a positive bilateral relationship now and into the future.

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