

## **Department for the Economy Cover Note**

### **The Irish Land Border: Existing and Potential Customs Facilitations for Sensitive Goods and Products in a No-Deal Scenario**

1. The Department for the Economy commissioned research into customs facilitations that are available in a no-deal scenario as part of the Department's no deal planning. The aim of the research is to identify the facilitations available to businesses trading across the land border in a no deal context, and to identify whether there is any assistance the Department or its arms-length-bodies can offer businesses in a no-deal scenario.
2. The report also provides a useful summary of UK Government's options in a no deal context, including the use of exemptions and waivers under the World Trade Organization's General Agreement on Tariffs and Trade (GATT). The report also summarises options that UK Government and the EU could jointly adopt in a no deal context.
3. The report is based on a no-deal scenario, i.e. there is no transitional agreement between the UK and EU and thus no arrangements to maintain an open border. As such, the report focusses on those customs facilitations that are currently available under EU legislation for businesses rather than on what facilitations could be possible with legislative change, as these would require political agreement.
4. The report's authors are lawyers specialising in EU customs and international trade law. As such the report does not discuss political or security issues, but rather focusses on the legal issues involved in cross-border trade in goods.
5. The report is not an exhaustive examination of all customs facilitations, but on those the authors believe are most relevant to trade across the land border and particularly those relevant to trade in high tariff products where facilities for relief from tariffs would be most necessary.
6. The report also examines regulatory conditions and issues involved in the cross-border trade of sensitive goods and products, such as milk and dairy products.

### **Summary**

7. Overall the report is a sobering reflection of the limited room for manoeuvre for businesses and government in a no deal context. In particular, it confirms the Northern Ireland Civil Service's concern about the impact of EU tariffs on food exports to Ireland, and the ability of micro- and small enterprises with no experience in customs procedures and operations to continue to export to Ireland.
8. Cross border trade is significant to the Northern Ireland economy. In 2017, over 90% of NI businesses that exported to the EU were trading across the land border. The total value of this trade was £3.9bn, which represented 38% of all exports and 18% of external sales (which include sales to GB). In 2016, imports from Ireland

totalled £2.3bn which represented 34% of all imports and 11% of external purchases.

9. This trade flow is also very important to small business in the NI economy. Over 80% of micro-enterprises (enterprises employing fewer than 10 people) in NI who export, only export to RoI. 70% of small businesses (enterprises employing between 10 and 49 people) who export, only do so to RoI. 94% of all NI businesses exporting to Ireland were micro- or small enterprises. Many aspects of these business relationships have the characteristics of local trade in local markets.
10. In describing the facilitations available, the report also considers whether SMEs would be able to take advantage of these. These facilitations include, for example, reduced comprehensive guarantees, which SMEs may find it difficult to obtain due to a lack of administrative or organisational capacity to satisfy the necessary criteria, and simplified declarations, where SMEs may benefit if they are using these occasionally, but will find it difficult to qualify for if the authorisation is for regular use.
11. The prevalence of cross border trade is most notable in the agri-food sector. In 2018, Northern Ireland exports of 'Food and Live Animals' to Ireland was valued at £1bn and represented 32% of all goods exported from NI to Ireland in that year. Customs facilitations for this sector are more restrictive than in others. As such, while customs procedures such as inward processing can be considered, applications generally take several months and so could not be used immediately in a no-deal scenario. Furthermore, businesses trading in agri-food products face higher regulatory hurdles than those in other sectors, e.g. sanitary and phytosanitary requirements and border inspections.
12. The report also notes that many of the facilitations available within existing rules presuppose infrastructure at (or near) the border. Notwithstanding the UK Government's no deal land border policy, which is intended to implement its commitment to avoiding border infrastructure, these findings confirm the challenges of a no deal exit.

## **Conclusion**

13. The report provides further evidence of the difficulties that would arise in continuing status quo trade between NI and Ireland in a no deal context and of the consequent risk to the NI economy.
14. The Department will use the report as part of its ongoing EU Exit planning and share the report with interested stakeholders to assist in their planning.