



Northern Ireland
Assembly

Research and Information Service Briefing Note

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Agricultural Support and Ireland/Northern Ireland Protocol

1 Background

The Ireland/Northern Ireland Protocol¹ is a key component of the Withdrawal Agreement² negotiated between the UK and EU in October 2019. In effect, the Ireland/Northern Ireland Protocol is the means by which the free movement of goods on the island of Ireland is intended to be secured regardless of whether the UK and EU successfully negotiate a free trade deal.

It should further be noted that whilst the Protocol is a published and agreed document there are issues that will impact upon its implementation which are currently the subject of ongoing negotiation such as the UK and EU efforts to secure a Free Trade Agreement.

With all of this being said, there are a number of 'givens' with regard to the Ireland/Northern Ireland Protocol as follows:

¹[Revised Protocol to the UK-EU Withdrawal Agreement, 17 October 2019](#)

²[Revised UK-EU Withdrawal Agreement, 17 October 2019](#)

- The Protocol and the provisions within it will come into force on 1st January 2021;
- The Protocol remains in place until such time as the Northern Ireland Assembly may vote to rescind it³. In such circumstances this power would only extend to the provisions within Articles 5 to 10;
- The UK-EU Joint Committee has a key and ongoing role in the development, management and review of many of the provisions within the Protocol.

A further exploration of both the Ireland/Northern Ireland Protocol and the role that the UK-EU Joint Committee will play in its operation is provided in the previously published RaISe Briefing Paper NIAR 143-20⁴.

2 Potential Protocol State Aid impacts on local agricultural support

Article 10 within the Protocol sets out the provisions relating to state aid, and is further supplemented by Annex 5 in general terms, and Annex 6 with specific regards to the issue of agricultural support.

In basic terms, as a result of Article 10, EU state aid requirements will continue to apply in Northern Ireland as they relate to EU laws identified in Annex 5 of the Protocol – **it should be noted that these requirements apply to goods but not services. These requirements apply to trade between Northern Ireland and the EU.**

Agricultural support is exempt from the application of EU state aid rules as set out in Annex 5 **but the level in terms of maximum ceiling of support for agricultural production and trade will be subject to approval by the UK-EU Joint Committee.**

The mechanics of this process are set out in Annex 6 of the Protocol and include the following steps:

- The Joint Committee is responsible for determining the initial maximum exempted overall annual level of agricultural support and the initial minimum percentage referred to in Article 10(2) – they are to do this taking account of the most recent information available.
- Specific reference is made to the joint committee's decision on both overall annual support and initial minimum percentage being informed by both the UK's future agricultural support scheme, post transition and outside of the EU, and the annual average of the total CAP spending in Northern Ireland over the 2014-20 budget period.
- Having been informed by the UK's future agricultural support scheme, post transition and outside of the EU, and the annual average of the total CAP spending in Northern Ireland over the 2014-20 budget period, the Joint Committee will adjust the

³ Article 18 of the Protocol deals with Democratic Consent in Northern Ireland. Whilst this Article is not explored within this specific paper an overview of the process is included on page 19 of [Implementing Brexit: The Northern Ireland Protocol, Institute for Government, 24 May 2020](#)

⁴ [The Ireland/Northern Ireland Protocol - overview and potential issues, 18 June 2020](#)

level and percentage of support to any variation in the overall amount of support available under the Common Agricultural Policy in the Union in each future Multiannual Financial Framework.

- A failure to either determine the initial level and percentage of agriculture support or to duly adjust the same in relation to the support available under the EU's CAP by the end of the transition period (31st December 2020) or within 1 year of the entry into force of a future EU Multiannual Financial Framework (ie EU budget) will result in the suspension of Article 10(2) until the Joint Committee has determined or adjusted the level and percentage of support.

3 Key observations and questions

- The role that the Joint Committee will play in setting a ceiling for agricultural support here raises serious questions around how competitive local farmers will be, particularly if the Joint Committee limits the scale of support available here as compared to that available in either GB or Ireland (within the EU CAP). Direct payments to farmers are currently critical to the short-term viability, never mind potential growth of many farm businesses here. A key unknown here is the detail around the scale, shape and nature of the UK's future agricultural support scheme.
- How will the Joint Committee actually adjust the level and percentage of agricultural support in Northern Ireland? Will the direction of travel in terms of adjustment always be towards the level and percentage of agricultural support available under the EU's Common Agricultural Policy? In real terms what will this mean for local farmers? Is the new CAP likely to be more generous than the future UK agricultural support scheme?
- The UK Government's paper on their approach to the Northern Ireland Protocol makes it clear that the Government supports maintaining '*...the current allocation for supporting the agriculture and fishing industries in Northern Ireland, whilst also providing suitable flexibility to respond to any market uncertainty and disruption*⁵'. It should, however, be noted that the Government is not in a position to deliver this – it is subject to Joint Committee approval. Whilst the UK Government are part of the Joint Committee, any decision requires consensus between them and their EU counterparts on the Committee. In that context, how likely is the UK Government to deliver on their aspiration?
- Annex 6 of the Protocol, which is meant to set out how the Joint Committee will set the maximum ceiling for agricultural support here, does not clarify how often the Joint Committee will perform this function. Will it be at the commencement of a support programme period such as the current 2014-20 CAP envelope, or will interventions be more regular?
- Annex 6 also makes clear what happens that if the Joint Committee fails to determine the initial level and percentage of agricultural support that will be allowed

⁵[The UK's Approach to the Northern Ireland Protocol, Cabinet Office, May 2020, page 17](#)

here or to adjust the same in light of the future EU CAP budget. The timeframe for this requirement is by either the end of the transition period, or within 1 year of the entry into force of a future EU Multiannual Financial Framework. A failure to do so would see the exemption for agricultural support from state aid rules being suspended, until agreement was reached. What would this actually mean for farmers here if this circumstance occurred? How likely is it to occur?