Northern Ireland Assembly

Windsor Framework Democratic Scrutiny Committee

OFFICIAL REPORT (Hansard)

COM/2023/258 Proposal for a Regulation establishing the Union Customs Code and the European Union Customs Authority and repealing Regulation (EU) No 952/2013:
Office of the Northern Ireland Executive in Brussels

6 November 2025

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COM/2023/258 Proposal for a Regulation establishing the Union Customs Code and the European Union Customs Authority and repealing Regulation (EU) No 952/2013: Office of the Northern Ireland Executive in Brussels

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Members present for all or part of the proceedings:
Mrs Ciara Ferguson (Chairperson)
Mr David Brooks (Deputy Chairperson)
Dr Steve Aiken
Mr Jonathan Buckley
Mr Declan Kearney
Mr Peter Martin
Ms Kate Nicholl
Ms Emma Sheerin
Mr Eóin Tennyson

Witnesses:
Ms Nuala McNamee — Office of the Northern Ireland Executive in Brussels

The Chairperson (Ms Ferguson): I welcome Nuala McNamee, who is deputy director of EU institutions. She is attending remotely. You are very welcome, Nuala. It is great to see you. When you are ready, you can begin briefing the Committee. Thank you.

Ms Nuala McNamee (Office of the Northern Ireland Executive in Brussels): Thank you very much for inviting me. I will start by echoing the Chair's comments about the scope of this proposal. In response to the invitation to provide a briefing on the proposal for a regulation establishing the Union Customs Code (UCC) and European Union Customs Authority we pointed out that customs is an excepted matter and that the lead Department in Northern Ireland is the Department for the Economy, so I will restrict what I say to the processes that are happening in the EU.

The European Commission published its customs reform package on 17 May, which includes the proposal for a regulation establishing the customs union and the European Union Customs Authority. That is part of the ordinary legislative procedure and will need to be agreed between the EU member states and the Council of the European Union as well as by MEPs in the European Parliament. The package also includes a proposal for a council regulation, which needs to be agreed only between member states. That council regulation concerns the introduction of a simplified tariff treatment for the distant sale of goods and the elimination of the customs duty relief threshold. The package aims to revise and simplify some of the rules and procedures that govern goods entering and leaving the customs union. It proposes the establishment of an EU Customs Authority and rules, common standards and a governance framework for the establishment of the EU Customs Data Hub.

I will highlight the statement in the EU Commission's explanatory memorandum for the proposal, which says:

> *"The revision of customs legislation set out in this Regulation will not affect the level of the facilitations referred to in Joint Committee Decision No 1/2023."*

That Joint Committee decision lays down the arrangements relating to the Windsor framework.

The Commission's proposal has three main pillars, the first of which is the Customs Data Hub, which enables businesses that want to bring their goods into the EU or to export them from the EU to log all the information relating to their products and supply chains on a single online environment. That aims to provide authorities with a 360-degree overview of supply chains and the movement of goods, while businesses will have the advantage of interacting with a single portal. There is also the proposal that the EU Customs Authority will oversee the data hub in order to improve cooperation between customs, market surveillance and law enforcement authorities at EU and national level. There are also e-commerce reforms, including requiring platforms to charge customs duty and VAT at the point of purchase and abolishing the customs threshold that exempts from customs duty goods that are worth less than €150.

In parallel, the European Parliament and the Council of the EU considered the proposal as it moved through the EU legislative process. The European Parliament adopted its position on 13 March 2024, which was prior to the European elections that took place last year. However, because the position was endorsed in the plenary session, that enabled the Parliament to bring forward to this current parliamentary session the position that it had agreed in March 2024. Therefore, the European Parliament has had its position for quite a while. It broadly supports the European Commission's proposal, but it also highlighted the importance of evaluating the impact on SMEs of integration with existing systems, particularly the EU single window for customs, and of the effective and secure management of information.

The Council position has taken a little longer to agree, because, on 27 June 2025, it adopted a partial mandate for negotiations with the European Parliament. The Council's position includes some amendments to the European Commission's proposal, including clarifying certain customs processes that would make it easier for EU customs authorities to implement it on the ground. The Council considered that it would have been too difficult for SMEs to meet the criteria for the proposed new trusted trader programme called "Trust in Tech" and has, therefore, recommended retaining the existing authorised economic operator programme and having both programmes run in parallel. The existing authorised economic operator scheme, which provides for tailored measures to support SMEs' compliance with the new rules, is already being used by thousands of SMEs to simplify their customs obligation.

Following the European Commission's e-commerce communication in February 2025, the Council of the EU position also introduces a new concept of a handling fee to be collected by customs authorities on small consignments entering the EU through distance selling. The handling fee was introduced only after the Commission proposal was published and after the European Parliament had adopted its position, so it is in the member states' negotiating position. That is still a bit of a work in progress, but the current proposal is for a €2 fee for items for sale that are sent directly to consumers — business to consumer — whereas those that are sent to warehouses first and then on to consumers — business to business to consumer — will be taxed at 50 cent regardless of the item's value. The aim of that proposal is to ensure that any tariff is lower for importers that send products to Europe in bulk instead of in individual parcels because of the cost of customs controls and the waste processing for individual parcels. As I said, that element is still very much under consideration. The Council's mandate means that member states are still discussing some elements of the proposal, including the governance of the EU Customs Authority, a simplified tariff system and the exact design of the handling fee.

The current state of play in the EU is that the co-legislators started their trialogues in July. They have had two political trialogues so far, the last of which took place on 15 October. While those political trialogues have been happening, the European Parliament and the Council have been having regular meetings at a technical level. I understand that two more political trialogues have been scheduled: one in November and another one in December. When it comes to the overall timing, there is a lot of political pressure to reach agreement. You might remember that, at Commissioner Šefčovič's hearing in the European Parliament last year before taking up his new role, he said that he would push to get the proposal agreed in the first half of 2025 and that he aimed to move the establishment of the EU Customs Authority from 2028 to 2026. Obviously, we are now past the first half of 2025, but there is political pressure to get the file agreed quickly. At the same time, it is a complex file, so it is hard to estimate how long the trialogues will take, particularly because some of the elements are still to be agreed in the Council.

What we hear from an industry perspective is similar to the responses to your consultation. There is a mixed response. Generally, industry is concerned about the costs of developing new IT systems to access the data hub, but there is also support for harmonisation across member states. The data hub as a concept has been welcomed, particularly along with the idea of having to provide information only once.

I will finish on the impact of the proposal on Northern Ireland. I reiterate what HMRC and DFE said to the Committee, which was that, until the co-legislators reach agreement, we will not know what will be in the final package. HMRC has advised that the UK Government are closely monitoring the proposal as it evolves through the EU legislation process. The UK Government's explanatory memorandum stated:

> *"The EU has expressed the need for consultation with the UK to take into account potential implications for Northern Ireland."*

Given that Northern Ireland's Departments sit as part of the Windsor framework governance structures between the UK and the EU, we expect to be involved in those structures on issues of relevance to Northern Ireland as part of the regulation.

Thanks very much. Those are my opening comments.

The Chairperson (Ms Ferguson): Thank you, Nuala. I will open the meeting to members, as they might have a few questions. Is that OK?

Ms McNamee: Yes, thank you.

Mr Brooks: Thanks very much, Nuala, for the presentation. I have a few questions that are probably more properly aimed at the Department for the Economy. I have an issue that you may or may not be able to give insight on, and I am happy to accept that either way. The UK Government seem to be pretty confident that the EU will stand over the exemption from custom duty for goods worth under €150 that move between GB and Northern Ireland. On the basis of your knowledge of what is going on out there, do you think that that confidence is well founded? Why do they think that the EU will allow that when that exemption will be removed for other EU states?

Ms McNamee: I agree that that is probably more a matter for HMRC. However, some comfort may be taken from the fact that the explanatory memorandum says that the package will not impact on the Windsor framework facilitations. I do not know whether that is where that confidence comes from, but that question is probably more for HMRC.

Mr Brooks: I accept that, again, that question is probably more properly aimed elsewhere, but I thought that I would ask whether you have any insight on that, given your contacts and so on. Thank you very much, Nuala.

Mr Martin: Thank you, Nuala, for joining us, albeit virtually with a massive crane in the background. I want to clarify something from your oral evidence. I was doing my best to listen, but some of that stuff is so complex. You mentioned a €2 fee: I want to check whether that is a business-to-consumer fee. Assuming that all this goes through, say I bought something from the States and got it to come to Northern Ireland, would that €2 fee apply to me?

Ms McNamee: Again, that is probably something more for HMRC to answer once the package is agreed. The concept is a relatively new addition to the package, and it still needs to be worked out a little, as it is still a subject of conversation between member states. I stress that this has not been agreed, but it proposes that, where the regulation applies, if you order a package directly from a business, you would pay €2, whereas, currently, if you order it through a business and then send it to another business for onward distribution, the cost would be 50 cent.

Mr Martin: That is helpful, Nuala. I am not trying to lead you down a path in any way. From your evidence, it seems that it is early days, given all the caveats, and I accept that. That is fine. If the proposal is included and passed, consumers in Northern Ireland who bought stuff directly from businesses outside the EU would have that charge as an additional cost to them: is that correct?

Ms McNamee: Potentially, but I would leave it to HMRC and DFE to do the analysis of how that would apply to Northern Ireland.

Mr Martin: Brilliant. Thank you, Nuala. That is very kind.

The Chairperson (Ms Ferguson): I have no other members wishing to ask a question.

Mr Brooks: I think that Steve wants in.

Dr Aiken: Yes, you do, Chair. I have my hand up.

The Chairperson (Ms Ferguson): I apologise. I did not see it.

Mr Martin: It is because your background is yellow.

Dr Aiken: What are you at, Chair?

The Chairperson (Ms Ferguson): I very much apologise. I did not see the hand, Steve. Over to you.

Dr Aiken: I have a couple of technical questions. I understand that the intention is to have the roll-out across the EU on 31 December this year. Has that been delayed indefinitely, or is it still happening? That is my first question.

Ms McNamee: Are you referring to import control system 2 (ICS2)?

Dr Aiken: Yes.

Ms McNamee: That is part of the implementation of the original customs code, whereas this is a new package that will not be implemented until agreement is reached. We are picking up best estimates that the final package will probably not be agreed until the middle of 2026 and that, even then, the roll-out of its various elements will have a lead-in time of several years.

Dr Aiken: The latest thing to come out of the EU on the Union Customs Code rules is this:

> *"Their practical application is addressed in several guidance documents produced in collaboration with Member State and Trade representatives. These rules will ensure a smooth transition from the existing customs legislative regime to the new UCC rules on a gradual basis between 1 May 2016 and 31 December 2025."*

Are you saying that that is not on the table any more?

Ms McNamee: It is, but it is part of the previous customs code, as far as I understand it. Again, that is probably more of a question for HMRC, but that element of those introductions of the ICS2 is not part of this package.

Dr Aiken: Northern Ireland businesses have to be part of the package by the end of this year, do they not?

Ms McNamee: Yes, as far as I understand it. Again, that is not my area, so you would probably be better checking it with the Department for the Economy. As far as I understand it, however, that will apply in Northern Ireland.

Dr Aiken: We hear from businesses that the IT systems are not compatible and are not talking to each other. People are worried about what will happen on 31 December. Are you picking up any of that in the conversations between you and the UK office in Brussels?

Ms McNamee: Yes, our stakeholders have raised those issues, particularly with the Department for the Economy.

Dr Aiken: My next question is more esoteric. I know that discussions are going on in Brussels, which is why I want to talk specifically to the Brussels office. There is the idea of the governance of the Union Customs Code and the customs authority and whom it applies to. Indications that I have had from some of the Norwegian delegation and others is that they struggle with that. They say that, in order to have access to the European single market and other areas, you have to sign up to be governed by the EU Customs Authority. Obviously, we are not in Brussels and cannot go round talking to people, so you are our eyes and ears there, but do you know from your discussions whether there is any indication of the direction of travel on that?

Ms McNamee: For third countries, again, that will be worked out once the text is agreed. Member states are still looking at and agreeing the governance issues between one another. HMRC will look at that when it talks to the European Commission once we know what is in the final text.

Dr Aiken: Just to make sure that we know, the direction of travel is that the European Commission will decide; it will all be signed off on; and the Commission will then tell Britain what the third countries will have to do if they want to be part of the customs union. We do not have a say in it because we are not part of it, do we?

Ms McNamee: There will be engagement through the Windsor framework structures about what will apply and how that will apply as we go along, but, until we know what is in the final texts, the parties cannot really have those discussions.

Dr Aiken: I have a final point for clarity. The protocol, the Windsor framework and the other declarations are quite spread out and diverse and do not necessarily marry up, and some of them are quite technical. At the moment, is the issue that the agreement on the Windsor framework and the protocol was based on the existing customs code and not on the new customs code so there is a concern about how translatable the new customs code is into the protocol and the Windsor framework? Somebody who is much brighter than me — it was an academic who was recently in Brussels — tried to explain the difficulties of it. Apparently, those things are not really compatible.

Ms McNamee: As far as I understand it, any legislation that is listed in the annexes of the Windsor framework should be taken as amended or replaced through the article 13(3a) process. That applies to this package, which will amend and replace the existing Union Customs Code. The processes of scrutiny and the Stormont brake will then come into effect, and there will be discussions between the UK Government and the EU through the governance structures in the Windsor framework about how the proposals will apply if concerns are raised about how well specific legislation amends or replaces what is already there.

Dr Aiken: With your indulgence, Chair and Nuala, my final point, if I can find the exact words for it, is about the idea of the governance of the UK being under the EU Customs Authority and the scope that that has, which is much broader than what was originally laid out in the Lisbon treaty and other treaties. There is a level of concern about that.

Thanks very much for your evidence. Give our best to everybody in Brussels. I hope that it is a bit less grey there than it is here.

The Chairperson (Ms Ferguson): No other members wish to ask questions. On behalf of the Committee, Nuala, we really appreciate your taking time out. It has been great to see you. Thank you very much for fielding some questions that may not have been within your remit. Hopefully, we will see you soon.

Ms McNamee: Great. Thanks for having me.