

Rt Hon Greg Hands MP
Co-Chair
Alternative Arrangements Commission
Prosperity UK
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RE: Consultation on the Interim Report for Alternative Arrangements for the UK - Irish Border

Dear Greg,

Thank you for meeting with us as part of your consultation with the Alternative Arrangements Commission. We welcome the input and engagement from the Commission, including taking the time to meet businesses and communities in Northern Ireland, who are likely to be most impacted by the Brexit outcome. We hope these engagements have deepened your understanding of Northern Ireland's unique position within the Brexit debate and reiterated how crucial it is that a positive resolution is reached.

We note and acknowledge aims of the Commission:

"The Commission is committed to Alternative Arrangements for the UK – Irish Border that can be delivered in a timely fashion and without the presence of physical infrastructure at the frontier, while protecting the Belfast/ Good Friday Agreement. Lastly, Alternative Arrangements must ensure the UK retains an independent trade and regulatory policy."

The Federation of Small Businesses

FSB exists to protect and promote the interests of small and medium sized businesses, and self-employed people. With around 170,000 members, including 6,000 members in Northern Ireland, it is the largest business organisation in the UK.

Over 99% of businesses in Northern Ireland are SMEs, and a 'no deal' scenario would be deeply disruptive for many, in particular those who trade across the border, or have integrated cross-border supply chains. While recognising imperfections, FSB Northern Ireland (FSB NI) supported the 'Withdrawal Agreement', including the 'backstop', recognising it as a suitable means of removing uncertainty and ensuring frictionless trade can continue regardless of the overall nature of the UK-EU future relationship.

We welcome that the Commission has stated that it is not seeking to remove the backstop from the Withdrawal Agreement, but rather examining 'Alternative Arrangements' so that the insurance policy, backstop, does not need to be invoked.

FSB is pragmatic about the means to ensure trade remains frictionless, and therefore has engaged with the work of the Commission in an open minded way.

Clarifications

Rules of Origin

On page 134 of the report it states:

“(a). Certificate of Origin

We understand the FSBNI has canvassed its members on the need to file origin certifications through the Chamber of Commerce, and they have indicated that they are broadly willing to accept the burden, although of course they would prefer for it to be minimised.”

As a point of clarification, while it is true that, when consulted, members who already export beyond the EU were relaxed about additional need for certification, this was not the case for members who trade solely with Republic of Ireland, and who would find additional administration highly unwelcome, particularly for cross-border activity which is viewed as ‘local trade’.

Enhanced Economic Zone (EEZ)

We welcome reference to the FSB NI proposal. We wish to reiterate that the EEZ is based on the assumption there will be a Withdrawal Agreement, including a backstop, and does not represent a total solution for the border issue, but rather something which can be advantageous as part of Northern Ireland’s future state.

We would ask that you amend your report to reflect these points of clarification, and we are happy to answer further questions and assist in clarifying the proposal further, if useful.

The Interim Report proposes cross-border Special Economic Zones in Derry/Donegal and Newry/Dundalk - we acknowledge that this has the potential to stimulate local economic activity. However, these may be better introduced over a longer time frame, once the wider mechanisms of ensuring a frictionless border are well established, rather than as a solution for the border issue itself.

Overall

FSB Northern Ireland is of a view that many of the proposals in the report are feasible, a number of which are in line with evolving trade and border practices, though these could lead to additional costs and administrative burdens.

While this report clearly brings the debate and evidence base forward, we are unsure whether this series of cascading, phased solutions will solve the issue of finding viable Alternative Arrangements on the NI-RoI border.

From the EU perspective, we understand ‘viable’ to mean at a level of equivalence to conditions created by the proposed backstop. We are not entirely certain what ‘viable’ does, or will mean, to the UK Government, future Prime Minister, or other influential UK actors.

FSB NI advocates a trading environment that allows small businesses to achieve their ambitions. In this sense, we see the need to ensure that present conditions are maintained. From a business perspective, the more time available for businesses to plan, the less chance of a negative trading environment. For small businesses, this is imperative, particularly in Northern Ireland.

Furthermore, the benefit of ‘insurance’ in the form of the proposed backstop, is that it would allow for relative maintenance of the current trading environment, without the need for cascading solutions in such a short time frame. It provides a foundation upon which to build and gradually phase in Alternative Arrangements.

FSB NI very much welcomes face-to-face engagement with the Commission, and reiterates our welcome of the pragmatism shown. Below we make some short recommendations to the Interim Report, and hope for future engagement as negotiations move forward.

Recommendations

No additional checks

The wording of the December 2017 ‘Joint Report’ outlined a UK-EU commitment on ‘no physical infrastructure or related checks and controls’ in relation to Northern Ireland. It appears the working assumption in the report is that no additional checks will occur ‘at the NI – RoI border.’ While noting the practical reality of Brexit, FSB NI recommends:

- That the report highlights this challenge
- The AAC ask both the UK and EU to clarify their position on this point in the Joint Report and in subsequent documents and legislation.

Clarity on these matters would allow for a clearer assessment of the viability of some proposals.

Timeframes

Given the AAC have proposed that mechanisms will be cascaded and phased, it is helpful that the report outlines how arrangements may change over time (e.g. SPS governance). FSB NI recommends the report should:

- Clarify commencement of the proposed timeframes (e.g. from the day of EU Withdrawal)
- Outline why Alternative Arrangements should be in place/achievable in two to three years
- Include possibility of extending the timeframes
- Place proposed steps in a more detailed timeline.

Good will and pragmatism

FSB NI notes the call for political will in order to allow for progress with a range of options outlined in the report. In being objective, it *may* be interpreted that the proposed arrangements do not meet a sufficient threshold to align with conditions created in a ‘backstop’ environment. Given that the EU appears to be clear and precise in defining its positions on the Single Market, FSB recommends:

- That in order to assist Members of Parliament further, the report outlines in more detail where derogation, flexibility and/or ‘political will’ would be required in relation to EU law

We hope our clarifications, observations and comments are helpful and look forward to continued engagement with the Commission as you progress with your valuable work.

Yours sincerely,

FSB NI Policy Chair,

Tina McKenzie.