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Vice-President Maroš Šefčovič  
European Commission  
By email only

2 February 2021

Dear Maroš,

### **NEXT STEPS ON THE NORTHERN IRELAND PROTOCOL**

Thank you for our discussions over the weekend on the Northern Ireland Protocol. I appreciated your constructive approach and clear desire to improve the situation on the ground.

As we discussed, I am writing to set out the rapid action that I believe is now required.

As I indicated on our call, I think it is important first to report the overwhelming reaction there has been in Northern Ireland, and across these islands, at the events of Friday. I had expected a strong response, but the reaction was even more negative than I had anticipated. Across all political parties, civic society and business organisations in Northern Ireland there was a sense of shock and anger. The feelings of disappointment were particularly acute given the concerns that had already arisen about the practical operation of the Protocol and its economic and societal effects. The real concern that all citizens and businesses have about their health and livelihoods at this very difficult time during the pandemic only deepened anxiety. Our next steps must reflect and deal with this reality, and I know we will be able to do so in the collaborative way in which we conducted negotiations last year.

#### **Implications of Commission actions**

We draw two particular conclusions from the publication of Commission Implementing Regulation (EU) 2021/111 on 29 January. First, that the Commission was ready to impose customs processes on goods crossing the border between Ireland and Northern Ireland within hours. Second, that the Commission activated, however briefly, Article 16 of the Protocol. This Article exists for good reason. But it is meant to be invoked after due process, as set out in the Protocol: where either party *“is considering taking safeguard measures under Article 16(1) of this Protocol, it shall, without delay, notify the Union or the United Kingdom, as the case may be, through the Joint Committee and shall provide all relevant information.”* The requirement to notify without delay applies even where there are exceptional circumstances requiring immediate action.

Despite these clear provisions of the Protocol, the UK found out about this measure only through publication of the Regulation and subsequent media coverage (as, we understand, did the Irish Government). The fact that the Regulation was subsequently withdrawn and then reformulated does not change these realities, which have been well noted in Northern Ireland and beyond, and which have profoundly undermined the operation of the Protocol and cross-community confidence in it.

## **Next steps**

There is now a revised regulation in place, Regulation (EU) 2021/111. We were not consulted on this Regulation either. The UK Government's assessment is that this Regulation places no restrictions or new processes of any kind on movements of vaccine from Northern Ireland to Great Britain, in accordance with Article 6 of the Protocol (as well as no restrictions from the European Union to Northern Ireland).

Given the extent of the concern in Northern Ireland, and the notable caveats made in the Commission's statement on Friday evening announcing the withdrawal of Article 16, I would also be grateful for your reassurance that the EU will not seek to introduce any further measures that would restrict or prohibit the movement of any vaccines or medicines in to Northern Ireland.

More broadly, we must now rebuild trust and confidence in Northern Ireland, in a calm but effective manner. The need to restore confidence and protect the Belfast 'Good Friday' Agreement is urgent.

We are both well aware that there are a number of pressing problems with the operation of the Protocol that need to be addressed and we must do so this week.

The Protocol is clear that it should impact as little as possible on the everyday life of communities. With this in mind, the UK Government therefore believes that we should reach agreement this week on the following proposals. These are the minimum set of steps necessary to stabilise the situation and reassure all parties in Northern Ireland.

1. The ***arrangements that currently apply to supermarkets and their suppliers must be extended until at least 1 January 2023***. The eligibility for these arrangements must also be adapted so that all relevant local businesses and services are able to be included as authorised traders. This must be accompanied by a commitment to rapid work on a proportionate, risk based long-term solution that recognises the very low risk nature of retail movements by trusted traders.
2. A ***permanent solution should be put in place for those chilled meat products moving GB-NI that are otherwise prohibited***. If this in practice requires further time and engagement, then a temporary solution must be in place until ***at least 1 January 2023***.
3. The ***temporary arrangements that are currently in place for parcels, including for Royal Mail Group, moving from Great Britain to Northern Ireland must remain in place until at least 1 January 2023*** to allow for time for a light-touch permanent solution for parcels destined for consumers to be properly codified. It is

also important that the regulatory barriers which retailers have indicated are preventing deliveries to individual consumers residing in Northern Ireland (for example for delivering organic foods or plant material) must also be set aside for that period at least, given that these deliveries to citizens clearly have no relevance whatsoever to the EU Single Market. Further consideration will be needed on when to introduce requirements for parcels destined for businesses.

4. The **arrangements on medicines agreed last December should be extended for a further year at least to 1 January 2023**. We must also immediately resolve for Northern Ireland patients all outstanding practical issues on medicines; and set out a long-term approach that will ensure no barriers of any kind to the movement of medicines into Northern Ireland.
5. To address the risk of anomalies caused by the unilateral legislation introduced by the Commission last year on EU import quotas, including Tariff Rate Quotas (TRQs), and the continued absence of an appropriate expansion of UK-EU quotas in the specific case of steel movements to take account of the unique circumstances of Northern Ireland, the **United Kingdom will set out solutions to enable goods to move tariff-free in line with product-specific quotas**, including for movements of steel into Northern Ireland from the Rest of the World and Great Britain. We have previously expressed our serious concern at the unilateral imposition of this TRQ legislation last year by the EU, and reserve our position on its application.
6. Respecting the unique circumstances of the island of Ireland, the Commission should authorise the Irish Government under the terms of Article 4(1) of Council Decision 2020/135 to negotiate **a bilateral arrangement that comprehensively addresses the barriers that are imposed on pet travel between Great Britain, Northern Ireland and Ireland**.

In addition, we should look as a matter of urgency at those autonomous processes subject to ongoing consideration in a broader UK-EU context, but where the unique circumstances in Northern Ireland and on the island of Ireland may not have been fully considered. **This particularly applies to the movements of seed potatoes and other plants and plant products, as well as the mutual recognition of professional qualifications.**

The issues above do not represent the complete list of flexibilities that are required on the Protocol. Working with the Northern Ireland Executive, the UK Government has compiled a wider list of issues that will be provided separately, covering more specific but nonetheless very important issues. While there is more time to address these issues, we will need to take forward a comprehensive work programme to resolve all these difficulties.

I must make clear that the UK Government seeks urgent resolution of these problems in the context of our obligations to seek commonly acceptable solutions, and recognising the pressing need to restore confidence among people in Northern Ireland that the Belfast 'Good Friday' Agreement is being respected in all its dimensions. If it is not possible to agree a way forward in the way we propose, then the UK will consider using all instruments at its disposal.

In all cases, what is now required is political, not technical, solutions. A primarily technical approach led to what I know you agree was a grave error on 29 January. Northern Ireland would not be where it is today if the negotiations leading to the 1998 Agreement had been done on a technical and legalistic basis. What is required now is an urgent reset to put the Belfast 'Good Friday' Agreement, the people of Northern Ireland, and indeed the island of Ireland, first. I know you appreciate the seriousness of the situation and I am grateful for your constructive and pragmatic approach to these questions.

I am copying this letter to the First Minister and deputy First Minister of Northern Ireland.

**With every good wish,**

A handwritten signature in black ink that reads "Michael Gove". The signature is written in a cursive, flowing style.

**Rt Hon Michael Gove MP  
Chancellor of the Duchy of Lancaster  
and Minister for the Cabinet Office**