NI dairy sector response to the draft Northern Ireland Protocol Bill

Content

Summary

- The Ireland/NI Protocol is working for the NI dairy sector, in that it is allowing trade flows to continue as they did before Brexit.
- The Protocol is not perfect and there are areas where improvements could be made to make it work even better. But what we currently have must not be damaged.
- For the NI dairy sector, having access to the GB market is worth around £400m annually in sales. Having unfettered access to the EU, including the ability to move raw milk from NI to RoI for processing, is worth around £600m per year.
- The Island of Ireland (IoI) dairy value chain has developed over 25 years, and represents the best example of the out-workings of the GFA, with benefits flowing to dairy farming businesses and rural communities throughout the IoI.
- Without this IoI dairy value chain the NI dairy sector would not be able to operate. Annually around 800m litres of milk, about one third of total NI production, moves to RoI for processing. NI does not have sufficient processing capacity to process all the milk produced in NI, so anything that damages or limits the dairy value chain would have serious consequences for the NI dairy sector.
- This is not a criticism of the sector, but, rather, a recognition of the way in which the benefits of the GFA have been leveraged to the benefits of dairy farming businesses and rural communities throughout the IoI.
- The NI Protocol Bill represents a threat to the IoI dairy value chain through the proposal for a Dual Regulatory Regime (DRR), which will open the potential for products used on dairy farms in the production of milk to be imported from GB without having to adhere to EU standards.
- The IoI dairy value chain operates on the basis that NI and RoI milk are produced to the same EU standards, which allows DAERA vets to issue, and DAFM vets to accept, the necessary certification that must be produced for each consignment of milk moving to RoI.
- If any product is used in the production of milk that does not comply with EU standards then DAERA vets could not issue the necessary documentation, and the movement of milk NI to RoI would cease. By way of an example, NI imports around

400K tonnes of grain, annually, from GB. If that grain was not produced to EU standards this Bill would still allow it to enter NI, the consequence of which would be that DAERA vets would not be able to issue the necessary documentation, and the movement of milk NI to GB would stop. The environmental and animal health consequences would be significant.

- And the same would apply for the supply of dairy products to customers in mainland EU, with DAERA vets unable to issue Export Health Certificates, and, as a result, these trade flows would cease.
- The potential of this Bill is to significantly disrupt current trade flows for NI dairy companies, and, if this happens, the prices paid to NI dairy farmers will be negatively impacted, and their sustainability will be jeopardised. If this happens then rural communities will suffer negative economic impact.
- In effect, this Bill would remove NI's unfettered access to the EU, which is a core element of the TCA and Protocol; it would be contrary to the intent of the GFA; and it would create a commercial border on IoI.
- There are 3 broad options for dealing with this threat:-
  - (i) UK and EU agree a solution to one of the core issues for the Protocol, divergence. In the context of SPS standards, some form of alignment or equivalence would be acceptable.
  - (ii) Apply an exemption for the dairy sector in relation to the proposed dual regulatory regime, so that all products that will be used in the dairy supply chain must adhere, and have been produced to EU standards.
  - (iii) Any products that are used in the dairy supply chain, for example grain, and sourced in GB will have to comply with EU standards, otherwise they will have to be sourced elsewhere. Currently around 400,000 tonnes of grain are imported into NI from GB annually.

NI dairy sector response to the draft Northern Ireland Protocol Bill

This paper sets out the NI dairy sector's response to the draft NI Protocol Bill by:-

1. Detailing why is the Ireland/NI Protocol working for the NI dairy sector
2. How it works for the sector
3. Why the Bill a threat to the sector
4. Options for dealing with the threat

Pen picture of NI dairy sector

- Annual milk production – circa 2.5bn litres
- Over 3,200 dairy farming businesses
- 2,200 employed by NI dairy companies
- Value to NI economy, and rural communities in particular, over £1.5bn per year

1. Why is the Ireland/NI Protocol working for the NI dairy sector?
    - The Protocol allows trade flows to continue. It is not perfect and there are elements that should be fixed, such as products manufactured in RoI using NI and RoI milk to have access to EU FTAs and EU Market Support programmes.
    - Trade flows, and their values are summarised in the table below:-

Trade flow	Approximate Value (£)
NI to GB	400 million
NI to EU (incl RoI)	600 million
NI to RoW	250 million
NI	250 million
Total value of NI dairy sector	1.5 billion

Although GB is an important market for NI dairy products, the EU, including RoI is of even greater financial importance, and has added significance which is detailed in the sections below.

- NI does not have sufficient processing capacity to process all of the milk produced in NI. The table below is from a Report by EY that was provided to DAERA in 2020. The bars in purple is monthly milk production during 2020, and the green bars show processing capacity. This clearly shows that on a monthly basis milk production is greater than processing capacity:-

2. How does the current system work, based on the Protocol?

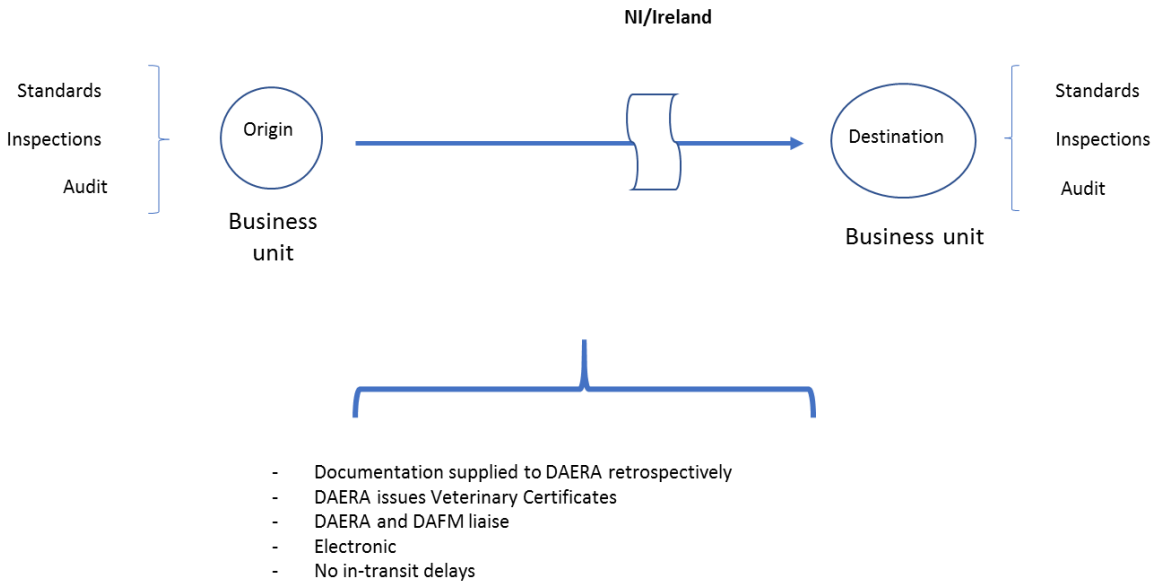
(a) The current documentation and controls for movement of raw milk from NI to RoI are as follows:-

(i) Overview

The current documentation and controls associated with the movement of raw milk from NI to RoI are fit for purpose, simple and minimalist. This is possible only because of the requirement of all MSs to adhere to the same EU Regulations governing food safety, animal health and welfare, and environment (in addition to zero tariffs and no requirement for rules of origin certificates due to membership of the EU Customs Union). In other words, the free movement of raw milk from NI to RoI is predicated on dairy farms in NI and RoI operating and producing raw milk to the same EU standards, based on common EU Regulations and operating as a single epidemiological unit. With the agreement of authorities in NI and RoI, dairy companies in NI sending raw milk to RoI provide a single document, retrospectively, on a monthly basis, to DAERA (Department for Agriculture, Environment and Rural Affairs), giving volume and consignment details. DAERA vets then issue Veterinary Certificates to the processor in RoI who has received the milk, which confirms that the milk has been produced in accordance with EU Regulations and standards. This certificate is used by DAFM (Department for Agriculture, Food and Marine) vets in RoI to sign a further Veterinary Certificate, if, for example, the finished product is to be exported outside the EU. This process and documentation is regularly audited by NI and RoI authorities, as well as EU, and is accepted as providing the necessary transparency and traceability.

The process, and associated documentation for moving milk and dairy products on the island of Ireland can be summarised in the diagram below:

Current process and documentation for moving milk and dairy products on the island of Ireland



(ii) Detailed description

The following is a detailed description of the documentation that is involved in moving raw milk from NI to RoI:

- Raw milk moves from NI to RoI, daily, on routes and at times as required by processors. During summer months, and in the event of plant breakdown, tanker loads of raw milk can be moving from NI to RoI 24/7, with milk being received at processing plants between 5.00am and 11.00pm.
- Within 5 working days of the end of the month the NI dairy processor applies to DAERA for a Veterinary Health Certificate (VHC) - in other words, retrospective application for VHC.

- Each application must provide a range of information, including volume of milk and number of loads.
- As part of their process of issuing a VHC, DAERA can ask the processor for details of each tanker, such as:

- The farms from which the milk was collected
- The volume of milk collected from each farm
- The hygienic quality records for the milk from each farm.

The availability of this data ensures traceability and allows the DAERA vet to sign the VHC.

- Raw milk can be either ex-farm or ex-factory. In both cases the process of issuing a VHC is the same.
- Ex-farm milk that moves to RoI for processing can be from any approved farm within a given milk pool.
- Within 5 working days of receiving an application DAERA provides hard copy VHCs at one of their Divisional Veterinary Offices (DVOs)
- The dairy processor collects these VHCs from the DVO and holds them at the processing plant of destination in RoI
- These VHCs are available for DAFM inspection and used in issuing animal health export certificates for products being sold to third countries (Export Health Certificates).
- The processor keeps the original DAERA VHC and provides DAFM with a copy
- The processor in RoI has the necessary certification (from DAFM) by the 3rd week of the month to allow despatch of product for export to third countries.
- Generally, each haulier has a dedicated pool of farms from which they collect milk in NI.
- There is flexibility to be able to adjust the destination of the milk, at short notice: for example, in the event of plant breakdown
- All hauliers are registered/recognised and audited/inspected by DAERA
- Each farm is GPS located
- Tanker drivers have a milk collection procedure that must be applied at each farm. This includes temperature and organoleptic checks before the milk is uploaded into the tanker, as well as sample collection.
- The volume of milk in the tanker is checked against the weighbridge reading at the processing plant of destination in RoI

- There is no mixing of milk from NI and RoI farms in a tanker load.
- At the processing plant of destination in RoI each tanker is tested for antibiotics and is subjected to a positive release process (i.e. the milk is released for processing only when the test result is known and is negative)
- A sample of milk collected from each farm each day is held by the milk testing lab.
- At the processing plant of destination in RoI each tanker load of milk is assessed organoleptically by the processor's staff before it is released for processing.
- On release, the milk is pumped into an available silo where it is mixed with milk produced in RoI prior to being processed into either an intermediate products (which will require further processing) or a final product that will be sold to customers in RoI, rest of EU, rest of world and UK.

(b) Movement of dairy products to EU customers

- Sales of dairy products to customers in mainland EU are important outlets for NI dairy products, accounting for around 70,000 tonnes of product at a value of around £200m annually. This represents 17% of all NI exports to EU, and, as the largest percentage for any industrial sector in NI (Economic and Social Research Institute, 2020), means that the NI dairy sector has the greatest exposure to any changes in the NI Protocol which would threaten the continuation of this trade.
- These sales volumes and value are composed of intermediate products, such a cheese curd, which are sold to customers for further processing into final products that are sold either within the EU, or exported to third countries; and finished products, such as cheese and UHT cream that are sold to customers in a number of EU countries.
- Each consignment of product, whether intermediate or finished, must be accompanied by an Export Health Certificate signed by a DAERA vet, certifying that the products have been manufactured with milk that has been produced to EU Regulations and standards, and has been manufactured in accordance with EU Regulations.
- A range of supporting documents must be made available to DAERA vets to provide evidence that the milk has been produced in accordance with EU Regulations and standards, and that the manufacturing process has been in compliance with EU Regulations, so that the traceability and quality of milk, together with process quality control can be confirmed prior to signing each Export Health Certificate.

3. Why is this Bill a threat to the sector?
    - It would allow products to enter NI that are not produced to EU standards, and if these were used in the production of milk it would mean that raw milk could not be moved to RoI for processing, and NI dairy products could not be supplied to customers in EU because DAERA vets would not be able to sign the necessary certificates to certify that the milk has been produced in accordance with EU Regulations and standards.
    - In effect, this Bill would remove NI's unfettered access to the EU, which is a core element of the TCA and Protocol; it would be contrary to the intent of the GFA; and it would create a commercial border on IoI.
    - In a situation where a Minister used the powers intended in this Bill and implemented a dual regulatory regime, the out-workings would be as follows:-
        - The publication of this Bill has already created uncertainty for EU customers, who are concerned about the longer term security of supply of dairy products from NI. Implementation would take this concern to another level, and would prompt customers to move to alternative sources of supply.
        - Annually some 800 million litres of milk are moved off NI dairy farms to RoI for processing. If this movement of milk stopped at short notice (see below where it is indicated that the NI dairy sector would require 3 years and investment of up to £250m to process all the milk produces), this milk would not be collected off farms, which would create a major challenge to avoid causing environmental damage.
        - In this scenario farmers would have to continue milking their cows and disposing of the milk, but this would not be sustainable and, ultimately, perfectly healthy animals would have to be slaughtered. This will pose significant ethical issues of a highly nutritious product having to be destroyed, and healthy cows being slaughtered, particularly at a time when food security is a priority.
        - Farmer milk prices would crash and dairy farming businesses would not be viable or sustainable. This would result in significant economic harm to rural communities, which are the primary beneficiaries of the £1.5bn contributed by the dairy sector to the NI economy.

- The IoI dairy value chain operates on the basis of adherence to EU standards for both dairy farming and dairy processing businesses, which means that raw milk does not need to be segregated, either at farm or processing levels. Segregation would be virtually impossible to achieve, and, even if achievable, would render the NI dairy sector uncompetitive:-
  - At farm level, depending on the time of year, milk from 5 to 10 farms can be collected by a single tanker and the milk mixed in the tanker. To segregate farms on the basis of their production standards being either UK or EU based would add significant time and cost to the collection of milk: additional tankers and drivers would be required; and collection routes would be less efficient.
  - At processor level, segregation would require additional storage facilities, separate production lines, and, assuming production is based on common production equipment, additional cleaning costs between production runs, and separate packaging.
- Given that the dairy sector works off small margins – typically 3% to 4% - the sector is dependant on efficiencies that come through, amongst other things, economies of scale. Having to segregate milk, whether at farm or processing levels, would reduce efficiencies, minimise economies of scale, and reduce margins. Inevitably this would push the NI dairy sector, which has a history of growth, into negative growth with implications for employment throughout the supply chain.
- Nor is it feasible to consider investment to enable all the milk produced in NI to be processed in NI:-
  (i) The time scale for bringing additional capacity to operation would be upwards of 3 years.
  (ii) The cost would be of the order of £200m to £250m at current costs. Given the low level of margin to which the industry operates, there would need to be government assistance at levels significantly above what is currently available.
  (iii) As indicated above, EU customers are already concerned about longer term availability of dairy products from NI, as a consequence of the publication of this draft Bill. Given the time required for any investment to mitigate the loss of the option to move raw milk from NI

to RoI, by the time the investment could be operationalised the current customer base would have been decimated and achieving an acceptable return on the investment would be very difficult to justify.

(iv) Investment in the IoI dairy value chain has deliver added value for dairy farmers by investing in a range of products that are in demand in 80 countries globally. This investment has also improved competitiveness by achieving economies of scale. Investment to add additional processing capacity in NI would not be able to replicate these two advantages, and, therefore, the sector would be worse off despite significant investment.

4. Options for dealing with the threat

There are 3 possible broad options for dealing with the threats posed by the Bill, the first two of which are in the gift of UK Government, and the third which will be actions the sector will have to take to protect its current trade flows on the IoI and the wider EU:-

(iv) UK and EU agree a solution to one of the core issues for the Protocol, i.e. divergence. In the context of SPS standards, some form of alignment or equivalence would be acceptable.

(v) Apply an exemption for the dairy sector in relation to the proposed dual regulatory regime, so that all products that will be used in the dairy supply chain must adhere, and have been produced to EU standards.

(vi) Any products that are used in the dairy supply chain, for example grain, and sourced in GB will have to comply with EU standards, otherwise they will have to be sourced elsewhere. Currently around 400,000 tonnes of grain are imported into NI from GB annually.