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Dear Alex,

Thank you for the opportunity to respond to the Alternative Arrangements Commission's consultation on its interim report 'Alternative Arrangements for the Irish Border'. Resolving the impasse in parliament over the Withdrawal Agreement is clearly paramount and only compromise will make that possible – compromise by both UK MPs and by the EU. Compromise is made possible by open dialogue and honest acknowledgement of constraints, so I welcome the constructive approach the Alternative Arrangements Commission has taken towards finding a solution to this thorny issue.

**The CBI's long-held view on the backstop is very clear.**

**1. Protecting all-island supply chains and business models on the island of Ireland is essential.**

Over the years, companies of every size and shape have structured themselves on the basis of the UK and Ireland having, in effect, a single market. Multinational businesses often treat the UK and Ireland as a single market, with subsidiaries, branches and governance strategies set up to reflect that thinking. Additionally, many companies based in both Northern Ireland and the Republic of Ireland have "all-island" strategies, with their structures established to allow a single point of management for both sides of the border. Many Northern Ireland businesses are organised in all-island supply chains, with chains of production, inputs and outputs stretching from Cork to Coleraine. Minimising disruption to these business models is vital to delivering a Brexit that can hold any legitimacy in Northern Ireland. However, it is important to remember that Northern Ireland sends 64% of its goods to Great Britain worth £11bn – making a Brexit solution that protects free North-South and East-West trade business' clear preference.

**2. CBI members in Northern Ireland, and the business community in the region as a whole, broadly support the backstop.**

While the backstop contains challenges, there is no solution to the issue of the Irish Border that does not, either politically, economically, democratically and/or practically. But the backstop has many advantages: delivering a low-burden solution through high alignment, which fulfils the primary objective of avoiding barriers to East-West and North-West movements. Indeed, 76% of Northern Irish CBI members see the backstop as an opportunity, and 80% prefer the backstop to no deal. While businesses understand the political difficulties pertaining to the backstop, it is important policymakers recall that those concerns are not on the whole shared by the business community most closely affected by it.

**3. A customs union and deep regulatory alignment for goods are the only way to truly achieve frictionless trade.**

Business' first priority since the referendum has been securing deep trading links with our closest and most important economic partner in order to make a success of Brexit. A majority of CBI members are clear that both a customs union between the UK

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and EU and regulatory alignment are necessary to securing frictionless trade, with 18 of 23 sectors of the economy favouring regulatory alignment. While this would place constraints on the UK's ability to strike free trade agreements independently, the economic cost-benefit analysis is stark: the National Institute of Economic and Social Research estimated that the increases to UK trade from concluding FTAs with the USA, Canada, Australia and New Zealand combined are less than 3% of current total trade in goods and services. Meanwhile, the estimated trade increase from concluding FTAs with the BRIC (Brazil, Russia, India, Indonesia, China and South Africa) countries combined is even smaller, at just over 2%. In contrast, evidence shows that leaving the single market would lead to a long-term reduction in total UK trade of between 22% and 30%.

The focus for attracting FDI and increasing exports in a customs union scenario would have to be the plethora of ways to create Global Britain beyond FTAs, which is eminently possible. Germany, for example, trades 4.7 times more with China than the UK does from within the same Customs Union.

The CBI's view on the Irish border, the backstop and our future relationship with the EU – which is the context in which the CBI views proposals on alternative arrangements - has been developed through deep and consistent consultation. That includes with CBI members in Northern Ireland, ranging from the largest to the smallest operators; the CBI's 100-strong Customs Working Group, representing every aspect of the supply chain and distribution network; and the CBI's Trade Association experts in ports, shipping, manufacturing, food, retail and more.

Yet these members also want to see no deal avoided. If the political focus on achieving this is through the design of alternative arrangements, it is important they are as practical, realistic and viable from a business perspective as possible.

**The proposals in the Alternative Arrangements Commission's interim report have some very noteworthy elements.**

**1. Seeking to supersede but not remove the backstop is a sensible political step.**

The EU has stated that it will not reopen the Withdrawal Agreement and that it will not replace, remove or renegotiate the Irish backstop. The more manageable ask of re-opening the Withdrawal Agreement but not touching the backstop, as implied by encouraging the UK to "recognise the importance to the people of Ireland and Northern Ireland of retaining such an insurance policy in the Withdrawal Agreement", increases the viability of this proposal by considering the needs of the other side of the negotiating table. This has done much for the credibility of the Alternative Arrangements Commission's report and has encouraged businesses and international actors to engage with the subject matter.

**2. Businesses would see a lot of value in a Common Travel Area-related communications campaign.**

The Common Travel Area between the UK and Ireland is of huge importance to firms. Not only does it support movement for work purposes that can be as simple as crossing the Irish border for work in the morning, or hopping on a plane for a meeting in England yet being back by dinner time without significant barrier. It has also encouraged many citizens to take up residency in their neighbouring jurisdiction for work, study or retirement purposes. According to Ireland's 2016 Census, the number of people born in the UK and living in Ireland is 277,200 with 57,000 of these UK citizens coming from Northern Ireland. As a result, UK citizens in Ireland make up 5.6% of its population, 8% of its workforce, and 10% of students. Of the 57,000 Northern Ireland citizens living in Ireland in 2016, 47% (27,000) are living in counties along the border. According to the 2011 Northern Ireland Census, 38,000 residents were born in Ireland and they are also concentrated close to the land border.

The Alternative Arrangements Commission's interim report rightly identifies concerns from citizens on the island of Ireland as to the impact of leaving the EU on the provisions of the Common Travel Area – moving between the British and Irish isles and citizenship rights. This consternation is not unlike that experienced by EU citizens in the UK, and is similarly more of an issue of perception than policy. The CBI has some concerns about entirely overhauling the

legal provisions underpinning the CTA at a time of more than sufficient uncertainty and instability. However, a joint Northern Ireland-Republic of Ireland issuing of guidance and clarification through an ambitious communications campaign, with the objective of providing reassurance, would certainly be a positive step.

### **3. Firms agree that, if trusted trader systems are to be a significant part of the new customs system, reform is needed.**

Companies understand the importance of having trusted trader schemes in place. The current AEO system, as applied in the UK, absolutely has benefits for firms that succeed in applying – however, doing so is prohibitively costly and burdensome even for some of the world's largest manufacturing firms. Firms of all sizes have been dissuaded from gaining accreditation due to the complexity and cost of the application process. Existing holders of AEO also recognise the administrative burden involved in accreditation, with companies re-counting lengthy processes to seek re-validation. One business, for instance, has described having to provide the same information to authorisers on multiple occasions, devoting far more resource than initially expected, with the process lasting over two years. At the same time, many companies fail to see the benefits of holding AEO status, and some firms who currently hold it have yet to see a return on investment. Consequently, of the UK's 326,000 businesses trading internationally, just 608 are currently AEO accredited. Similarly, the Republic of Ireland has only 190 AEO accredited businesses. This is far below the number of companies registered across other EU Member States, such as Germany (6460), the Netherlands (1554), and France (1692).

A new trusted trader scheme, if it is to be adopted as universally as imagined by the Alternative Arrangements Commission, accreditation and revalidation processes must be streamlined to ensure that they involve less cost and complexity for companies. Business would like to see improvements made to the HMRC support available to companies seeking accreditation, such as the inclusion of template forms and face-to-face guidance. However, it should be noted that businesses have concerns that any simplifications to this process might inhibit mutual recognition of the UK's new trusted trader scheme with the EU's AEO or US C-TPAT and other AEO programmes globally.

### **4. Focusing on regulatory solutions rather than technical solutions for Sanitary and Phytosanitary measures is the right approach.**

The particularly stringent requirements for exporting agri-food products, the reliance of the Northern Irish economy on its agri-food industry, and the perishable nature of the goods involved, creates the potential for a perfect storm. Creating barriers as high as those imposed by the EU's third-country SPS regime at the Irish border or on the Irish sea would have significant practical and financial consequences for Northern Irish firms. Some of the value of buying locally for retailers is the extended sell by dates provided for by rapid delivery from farm to fork. That value is realised by allowing food companies to sell at higher prices for longer sell by dates, and indeed the ability to sell at all to some higher-end retailers. The retail industry relies just as much on just-in-time deliveries as the automotive or aerospace sectors, with delivery windows as tight as 45 minutes in length. For example, one retailer the CBI spoke to moves 40+ trailer loads each day from Scotland to Northern Ireland to service its NI firms with goods which cannot be sourced. There is currently no friction on this route - no customs, no SPS checks, no VAT administration - and they work to a just-in-time one hour window to land goods into stores on schedule for next day trading.

As such, firms believe that additional SPS checks should be avoided – and this is only possible through alignment between regimes. On this basis, CBI members support convergence between SPS regulations between not just Northern Ireland and the Republic of Ireland, but as far as possible between the UK and the EU.

### **5. Recognising the ramifications of diverging from EU regulations on manufactured goods is essential.**

Much of the debate around the future trading arrangements has been focused on customs, but approximately 60-70% of the barriers to trade firms experience are non-tariff barriers falling outside those provided for in a customs union. The CBI consulted with its members in every sector to understand their views on post-Brexit regulation, and their views were clear. As the UK leaves the EU, there are opportunities for rule changes – for example in agriculture and tourism – and ways of regulating better within current frameworks – such as in

procurement for defence and construction. However, these opportunities are limited and are vastly outweighed by the costs that will be incurred if the UK's rules change so much that it reduces smooth access to the EU's market. Where rules are fundamental to the trade or transport of goods, the UK and EU must negotiate not just alignment of rules, but ongoing convergence – where rules remain in lock-step over time and are recognised as so in order to allow the simple trade of goods and services. In few places was this view as fervently held as in Northern Ireland, where divergence will create barriers within all-island companies.

#### **6. Steps to ensure that services professionals can continue to ply their trade across the border without disruption are very sensible.**

There are many service providers that cross the border each day with tools and equipment required to fulfil their jobs. Exemptions from customs registrations to allow these pieces of equipment to pass unfettered will be important. However, small services providers do not travel with equipment alone – but accompanied by supplies that they may or may not use on any given day to install and repair items such as machinery or plumbing. For example, one CBI member that repairs medical devices ships in parts for broken equipment from Europe, for delivery by courier to drop boxes by the homes of their engineers within 24 hours. The engineers pick up the parts in the morning, and drive in their cars to hospitals on both sides of the border in order to repair the equipment that same day – sometimes crossing multiple times, to hospitals on both sides of the border. This is a very time-sensitive and time-constrained process. Consideration must therefore be taken into account of the complexity of service suppliers not just as skilled professionals, but as often playing the role of the logistics provider as well in the transport of the goods they service.

#### **However, there are also a number of challenges contained within the proposals made in the Alternative Arrangement Commission's interim report that would need to be developed and resolved.**

##### **1. The burden of these proposals for businesses would be heavy.**

While the proposals would, in theory, avoid burdens at the border – they create major additional complexity and cost for businesses in comparison to the backstop or to a customs union.

There is still a need for customs data, for example, which has to be maintained and is legally required to be accurate. This will place a burden on small traders in particular, which have never had to do this before, but also will impact on larger importers and exporters. There will also be a burden in terms of compliance. Customs data has to be correct and it is a legal offence to provide inaccurate data. This could have implications for all traders who make cross border transactions and could be hit with financial penalties for submitting inaccurate data on a customs declaration.

Applications for trusted trader schemes are also burdensome, while reliance on Transit is costly as a guarantee is required from a bank. This caused significant levels of concern by CBI members, as the bank will consider this guarantee a cost and will charge a rate on the level of security given and will reduce the working capital available to firms, with a potentially high-risk element as any undischarged transit movements could require the trader to be held responsible for non-secured debts arising from irregularities. Some CBI members indicated the amount of cash tied up by Transit procedures could be as much as £75,000 per lorry in exceptional cases. This is in addition to direct costs associated with the constant review and management of goods under the Transit procedure.

While the Alternative Arrangement Commission's proposals for some form of recompense for adjustment are welcome, most of these costs are ongoing: either requiring additional costs or processes for each transaction or requiring regular re-application. By way of example of this burden, one Northern Irish food distributor believes that if full SPS checks are required, 35 vets will be required on a daily basis to certify the food it sends south, with something as simple as an egg and bacon sandwich requiring two certificates, one for the bacon, one for the egg. It would be advisable for economic impact assessments of these proposals to be produced, including estimates of the number of veterinarians required to deliver these checks and the value of securities that could be tied up in crossings through the Dublin-Holyhead land bridge on any given day.

**2. There is a real risk of disruption to supply chains because of the delays imposed by new requirements.**

Indirect costs for businesses will come in the form of adding additional lead time to orders – required by procedures that need pre-notification or reliance on timely completion of documentation by officials or veterinarian – which reduces the competitiveness of firms that may previously have offered customers same- or next-day provision of goods.

For large traders, while it likely would be possible to implement these proposals, it would reduce their competitiveness and the attractiveness of operating within Northern Ireland. These proposals would require firms to divert resource to new, entirely unproductive jobs with individuals employed ensuring the business meets new regulatory requirements, replacing jobs that create productive growth such as in innovation and business development. Smaller traders are struggling to understand how many of these new processes would apply to them in reality, and would need to be consulted carefully as they are developed.

**3. Firms have genuine concerns about smuggling across the Irish border, which need to be taken seriously.**

The interim report states that smuggling is a fact of life and sets the goal of ensuring that “current levels of smuggling do not increase to unacceptable levels”. The definition of “unacceptable levels” is important in the context of Northern Ireland – firstly and most obviously because the proceeds of smuggling in Northern Ireland are used to fuel crime within communities. Secondly, because as the burdens of trade increase so too does the likelihood of smuggling and the benefits for smugglers, putting legitimate firms at a greater and greater competitive disadvantage – for example, with NIFDA estimating that a 28t lorry can expect to have a tariff differential North-South of £70,000 for beef or £52,000 for cheese and butter. Third, there is particular concern from some industries facing differential tariffs as the UK exits the EU that trade remedies will not be adequately enforced, and that the consequences for domestic manufacturers will not be noticed until too late. Fourth, because of the impact of smuggling on the reputation of Northern Irish standards and food in particular as of the highest quality.

**4. There must be realism about the time required to make changes to the customs system, particularly at the Irish border which requires so many unique adjustments.**

The solution that is finally agreed on customs and the border will require significant adjustments – the breadth of the proposals laid out by the Alternative Arrangement Commission’s interim report makes clear the complexity, number and range of changes required. Those changes must first be made by the authorities – in this case, not only in the UK but in the EU and the Republic of Ireland as well. The changes must be legislative, regulatory, and to public authority systems. Only once the requirements for businesses are settled upon by public authorities like HMRC can logistic providers and economic operators begin to make changes themselves. The movement to update the current UK customs declaration system CHIEF to CDS demonstrates how difficult this is: the update was meant to be implemented by January 2019 and has stalled, incomplete because of practical difficulties faced in the process, which began in October 2013 when the EU introduced the Union Customs Code.

The three years provided for within current plans is inevitably going to be insufficient for firms to make adjustments. For example, it takes around a year at present to apply and receive AEO status. Logistics companies state it takes at least 12 months for businesses to align their systems to new technologies, while customs officials take 6 months to train.

**5. The reality of the economic situation in Northern Ireland must be taken into account when considering the scale of changes facing the region.**

Although talks are continuing on restoring Stormont, in a practical sense there exists a political vacuum which is stifling investment and exacerbating indecision and uncertainty in Northern Ireland. Economic inactivity and low productivity – which is 16% lower in Northern Ireland than in the rest of UK – is chronic, although unemployment is at its lowest rate in 40 years at 2.9%, with the number of EU migrants working in the region having fallen by over 25% since the referendum, leading to a tight labour market. Two major banks that operate at a regional level are projecting deflated economic performance in the years ahead, with Danske Bank project a suppressed economic growth of 1% in 2019 and 1.3% in 2020; down from the typical range of

1.7% to 2.3%. This is the economic backdrop that must be considered by decision makers approaching significant changes in every sector of the Irish economy, as this interim report does propose.

The above conclusions have been drawn from very rapid consultation with CBI members that are both whole-UK customs experts and Northern Irish operators. There has not been sufficient time to interrogate every aspect of the report – including rules of origin (which become increasingly significant as the UK signs new trade deals) or the proposed economic zones. However, the CBI and its members would be very happy to work further with the Alternative Arrangements Commission to explore other aspects of the report and its efforts as they develop.

My thanks again for the opportunity.

Sincerely,

Josh Hardie  
CBI Deputy-Director General

cc. Rt Hon Nicky Morgan MP, Rt Hon Greg Hands MP