Northern Ireland Office

The Rt Hon Chris Bryant MP

Secretary of State for Northern Ireland

1 Horse Guards Road
London
SW1A 2HQ

Erskine House
20-32 Chichester St
Belfast
BT1 4GF

E: correspondence@nio.gov.uk
www.gov.uk/nio

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Dear Mr Speaker,

CORRESPONDENCE PURSUANT TO SCHEDULE 6B NI ACT 1998

1. Thank you for your letter dated 6 November 2026, and for the swift transmission of the written notification from 34 Members of the Northern Ireland Assembly, which concerns the reform of the Union Customs Code (the "replacing regulation").[1]

2. I am grateful for the consideration of the issues that Members of the Assembly gave in the notification and would also like to express my appreciation in similar terms to the Windsor Framework Democratic Scrutiny Committee and its members for their prompt conduct of the inquiry into the Regulation.

3. The customs framework that applies in Northern Ireland is rightly of significant importance to businesses, consumers and elected representatives.

4. I can confirm that I have considered the notification and the relevant evidence carefully and in depth and have concluded that the criteria to notify the EU that the replacing regulation will be disapplied have not been met in full. Consequently I am unable to accept the notification. This letter sets out the detailed reasons for that conclusion.

5. The criteria for the regulation to be disapplied are set out in Schedule 6B of the Northern Ireland Act 1998, Article 13(3a) of the Windsor Framework and the Unilateral Declaration by the United Kingdom on the Involvement of the institutions of the 1998 Agreement. Taken together, these instruments set criteria which might be broadly categorised as procedural and substantive.

[1]Regulation (EU) 2026/2108 of the European Parliament and of the Council of 16 September 2026 establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013

I. PROCEDURAL TESTS

6. In order to accept the notification, I must be satisfied that the procedural requirements for its use have been met. In summary, these criteria include that:

    a. the notification has been signed by thirty or more MLAs, from more than one political party, none of whom are the Speaker or Deputy Speakers of the Assembly.

    b. the notification had been provided to the Speaker of the Assembly no later than 5 November 2026, and communicated by the Speaker to me by 6 November 2026, and had been published.

    c. the notification has been made as a last resort and in the most exceptional circumstances.

    d. that MLAs have sought prior substantive discussion with the UK Government and within the Northern Ireland Executive to examine all possibilities in relation to the Union act; taken steps to consult businesses, other traders and civic society affected by the relevant Union act; and made all reasonable use of applicable consultation processes provided by the European Union for new Union acts relevant to Northern Ireland.

7. **I have concluded that the criteria in paragraph 6(a) above are met.** The notification was signed by thirty four MLAs comprising a combination of DUP, UUP, TUV and independent MLAs. None of the MLAs serve as Speaker or Deputy Speaker of the Assembly. All MLAs are, in my view, seeking in good faith to operate the Good Friday Agreement institutions: all ministerial positions in the Executive are filled and the Assembly is operating normally.

8. **I have concluded that the criteria in paragraph 6(b) are met.** Your letter informing me of the notification was sent on 6 November 2026 and was published on the same date, within the required deadlines.

9. **I have concluded that the criteria in paragraph 6(c) are met.** I recognise that as both customs and international relations are reserved matters, the mechanisms available to MLAs to address the impacts of those policy areas are limited. With the exception of MLAs' efforts to raise questions with the Government and criticism of the Government's engagement with those questions, no further evidence of other mechanisms to mitigate the claimed impact of the replacing regulation has been provided. Nonetheless, on balance, I consider that the test is met.

10. **I have concluded that the criteria in paragraph 6(d) are met.** I recognise that for these purposes, the engagement and consultation undertaken by the Windsor Framework Democratic Scrutiny Committee is undertaken on behalf of the Assembly as a whole, and the MLAs seeking to disapply the replacing regulation can legitimately rely on this engagement and consultation to fulfil these criteria. The Committee initiated an open consultation with businesses, sought both an explanatory memorandum and further explanations from the UK Government and consulted with relevant Departments of the Northern Ireland Executive. No evidence was indicated of MLA engaging in EU consultation processes for new laws relevant to Northern Ireland. However, in view of the fact that these consultations were most available at the regulation's proposal stage, at a point before the Stormont Brake process was available to MLAs and before the Windsor Framework Democratic Scrutiny Committee was established, I have concluded that MLAs have engaged in all reasonable relevant consultation processes.

II. SUBSTANTIVE TESTS

11. In order to accept the notification, I must also be satisfied that the substantive requirements for its use have been met. In summary, these criteria are that:

    a. the scope and content of the replacing regulation significantly differs in whole or in part from the original regulation; and

    b. the regulation, or relevant part, would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

12. In reaching my determination on these criteria, I have had appropriate regard to the evidence provided to the Windsor Framework Democratic Scrutiny Committee. I have also noted that in many cases, the views on impacts were asserted without significant elaboration or analysis. These factors alone do not affect the importance of considering the evidence provided, but I have taken these limitations into account.

13. **I have concluded that the criteria at paragraph 11(a) above are met in respect of part of the replacing regulation**. The replacing regulation seeks to introduce changes such as establishing a new EU Customs Authority and Data Hub, a new 'Trust and Check' status for traders, and new rules for e-commerce including the introduction of a handling fee in respect of certain parcel movements. I also note that the Government and the EU agree that this charge will not apply in respect of more than 99% of movements to Northern Ireland.

14. **I have concluded that the criteria at paragraph 11(b) are not met.** In doing so, I have considered the arguments and evidence provided in the notification, which I take to be that:

    a. The replacing regulation reaffirms existing barriers to GB-NI trade;

b. The conditions for the use of Article 16 of the Windsor Framework are already met;

c. The new arrangements will be more complex and burdensome;

d. The EU Customs Authority will have a negative impact;

e. The reforms do not account for the specific needs of Northern Ireland;

f. The reforms impose higher penalties; and

g. The reforms expand references to GB as a 'third country'.

15. For the reasons set out below, I do not consider that the substantive conditions set out in Article 13(3a) of the Windsor Framework are met, nor that the notification makes a satisfactory case for that argument.

Increased complexity or burdens

16. The notification claims that the new arrangements will result in increased complexity for businesses, and that in particular the reformed UCC's approach to data handling will result in extended processing times, additional delays, reduced supplier appetite and extra costs that will ultimately be passed to the consumer.

17. I recognise that significant systems change require adaptation by businesses which could have some additional cost. I must also reflect, however, that these adaptations would be staggered over a prolonged period, with implementation of the replacing regulation to be completed in 2034. This provides more time and space for adaptation, and for adaptation to be incorporated with planned or periodic system changes and upgrades.

18. In addition, the notification does not consider the benefits to businesses arising from more streamlined customs processes. The replacing regulation is intended to reduce complexity for businesses rather than increase it. The EU Customs Data Hub is intended to enable information to be provided once and reused where appropriate. Rather than businesses having to submit customs declarations, safety and security declarations and non-customs documentation, such as licences, through separate systems, the Data Hub will provide a single point of entry and allow relevant data to be provided by the different actors across the supply chain that hold it, reducing the burden on individual businesses. The new Trust and Check status will build on existing facilitations and allow the most reliable traders to benefit from simplified procedures and fewer routine interventions in return for greater visibility of their supply chains and internal controls. Together, these changes could reduce administrative and compliance costs for traders and allow customs authorities to focus resources on higher-risk goods and movements.

19. With specific regard to the impact on small businesses, Trust and Check is not required in the vast majority of cases and there would be no new requirements for those businesses which are not in scope. This change is therefore not relevant to the vast majority of SMEs, and none would be required to adopt it.

20. In this context, the notification does not provide evidence or analysis as to how these reforms will create significant impacts that are liable to persist. I recognise that some respondents make the assertion that this may be or will be the case, but without specific analysis of what those respondents will need to do under the reformed system that will be more burdensome or why those requirements will be more burdensome.

The EU Customs Authority (EUCA)

21. The notification expresses concerns that the details of how the EUCA will operate are not yet known, that the EUCA will centralise control and governance of customs, and that NI has no representation in the governance of the Authority. Title XII of the replacing regulation details the role of the EUCA. This includes specific detail on the EUCA's mission, objectives, governance, tasks, structure, data handling arrangements, budget process, staffing arrangements and administrative details. Rather than centralising control away from national customs authorities, the EUCA is intended to support their role, providing a central coordinating capacity for the Customs Union, particularly in relation to EU-wide risk management and crisis response. It will also develop, operate and maintain the new EU customs data hub. However national customs authorities will retain responsibility for enforcement and controls, including where any action is necessary on risks flagged by the EUCA. The nature of EUCA's role will not see it take over significant areas of work currently exercised in NI by HMRC.

22. Northern Ireland will not have the right to appoint a member of the Management Board of the EUCA as a result of the terms of the Withdrawal Agreement. It is therefore correct that, as with other EU bodies, the UK will not have the ability to appoint representatives on par to that of EU member states. There are entirely legitimate concerns that Northern Ireland does not benefit from the same representation as when the UK was an EU Member State. However, this replacing regulation does not change the position in respect of Northern Ireland's representation on EU bodies, nor does it alter or detract from the ways in which Northern Ireland's interests can be considered in UK-EU fora such as the Joint Consultative Working Group established under the Windsor Framework. No evidence is provided that the EU Customs Authority will give rise to a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

Specific Needs of Northern Ireland

23. I do not consider the argument that the replacing regulation's effects fail to reflect the specific needs or circumstances of Northern Ireland to be factually correct. The EU has been clear, including in its original proposal for the reforms, that *"the revision of customs legislation set out in this Regulation will not affect the level of the facilitations [under the Windsor Framework]".*

24. Furthermore, individual elements of the reform will, where appropriate, continue to be discussed between the UK and the European Commission as the detailed arrangements are developed. The Commission has committed to continued meaningful engagement with the UK Government and NI businesses. The benefits of this approach are already evident, with the UK and EU agreeing a Joint Declaration on 10 November that confirms arrangements which will exempt over 99% of NI's parcel movements from the handling fee provided for in the replacing regulation.

25. These constitute two specific examples of how Northern Ireland's specific needs are being reflected in the implementation of the replacing regulation.

Higher penalties

26. The replacement regulation establishes a framework for customs infringements and penalties, which is described as supporting greater consistency in its application across the EU. It does not introduce generally applicable minimum or maximum fines for businesses. The specific percentage-based penalties referred to are for non-compliance in relation to goods sold through distance sales. The notification does not demonstrate a link between changes to penalties for non-compliance with customs procedures and the impact on the everyday life of communities in NI. The vast majority of businesses comply with customs obligations and do not anticipate being subject to penalties for non-compliance and no evidence is provided of a link between the level of penalties for non-compliance in a market and the willingness of compliant businesses to trade within that market. Any impact is likely to be mitigated by the particular flow of goods to Northern Ireland given the vast majority of parcels to NI consumers move from GB under the UK Carrier scheme, which is one of the Windsor Framework facilitations that will be unaffected by the replacing act.

References to Great Britain as a third country

27. I recognise that for many, references to Great Britain as a 'third country' relative to Northern Ireland, compound a sense that Northern Ireland's place within the United Kingdom is being eroded. The Government is sensitive to these concerns and is clear that it does not regard Northern Ireland and Great Britain as 'third countries' relative to each other: the four constituent nations of the United Kingdom are integral parts of the Union of Great Britain and Northern Ireland.

28. Nonetheless, I must also recognise that the concept of 'third countries' in EU regulatory and customs policy is well established and derived from a period before the unique circumstances of Northern Ireland arose following the UK's departure from the EU. The notification itself notes that this terminology is already used in the context of the UK in both a customs context and other contexts. It is not clear that the cited increase in frequency materially affects those who object to it. It is to be expected that the EU will legislate in terms that are familiar, provide legal certainty and reflect the reality of the vast majority of its trading relationships. That terminology does not alter the constitutional status of Northern Ireland, nor its place within the UK's internal market. While I recognise the sensitivities around such terminology, no evidence is provided that such terminology has a significant impact specific to the everyday life of communities in Northern Ireland that is likely to persist.

Impacts if the replacing regulation or parts of it were disapplied

29. I have considered those impacts relative to a scenario in which the replacing regulation or parts of it were disapplied. In considering the impact of the replacing regulation, I have had regard to impacts arising specifically from the application of the replacing regulation itself. Much of the notification concerns MLA's views on the impacts of existing Windsor Framework arrangements. The Government has been clear in its commitment to the Windsor Framework and has set out that the vast majority of goods moving from Great Britain to Northern Ireland move within the UK's internal market system. Nonetheless, I also recognise that some businesses continue to face challenges, and the Government is taking steps to address challenges. These issues, however, do not affect the assessment of the impacts specifically of the replacing legislation. For this reason, I do not consider that the arguments at paragraph 14(a) and (b) above relate to the impacts arising specifically from the replacing regulation. I will consider the other arguments in turn.

30. In correspondence with the Democratic Scrutiny Committee, the Government set out two potential impacts of disapplication of the replacing regulation. First, that Northern Ireland's unique access to the EU market could be at risk, and second, that Northern Ireland would continue to apply the legacy Union Customs Code if the reforms to the code do not apply.

31. The notification contested the benefits of EU market access to Northern Ireland. I disagree with the views set out. Northern Ireland's economy has grown faster than the UK as a whole over the period since the UK left the EU. That trend is evident across multiple sectors, including those dealing in physical goods, such as the manufacturing and agricultural sectors. Similarly, Northern Ireland's exports to the EU have grown considerably faster than the UK as a whole. These points, however, concern policy and political views on the opportunities for Northern Ireland's economy.

32. In line with paragraph 14(2) of Schedule 6B of the Northern Ireland Act 1998, the prospect of remedial measures by the EU is not a relevant consideration in taking this decision. I am mindful that any risk to Northern Ireland's access to the EU's market could arise through the deployment of remedial measures. As such, while I would regard such an outcome as deeply detrimental for policy and political reasons, it has not affected my determination in respect of the notification.

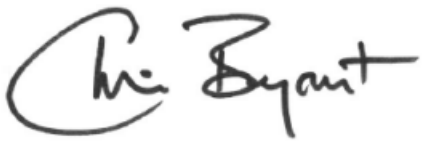
33. The default position should the replacing regulation be disapplied, absent any remedial measures, is relevant, however. Should the Brake be pulled in respect of all or some parts of the new Act, Northern Ireland would not cease to be affected by the Union Customs Code, but rather it should continue to apply equivalent legacy Union Customs Code provisions in any areas that are subject to the Brake, while the EU's system evolves. Because the Government is exploring how customs processes, data and technology could support future customs operations in Great Britain, that would place Northern Ireland potentially in the position of increasing divergence between its applicable customs processes and those in both the EU and Great Britain, with the potential to render trade with Northern Ireland more rather than less complex. This challenge is not addressed in the notification.

III. THE GOVERNMENT'S NEXT STEPS

34. I repeat my thanks to you for your timely communication of the notification, and to MLAs for the detailed consideration that they have given to this matter. The Government will continue to engage with the EU and NI business stakeholders as these reforms are implemented over the coming years, and will continue to advocate strongly for the interests of Northern Ireland. We will also continue to consult on reforms to modernise the UK's customs system.

35. I am also copying this letter to the Chair of the Windsor Framework Democratic Scrutiny Committee, noting the Committee's close interest in the Regulation, and to the Chairs of the Northern Ireland Scrutiny Committee in the House of Lords and the Northern Ireland Affairs Committee in the House of Commons.

Yours sincerely,



THE RT HON CHRIS BRYANT MP
SECRETARY OF STATE FOR NORTHERN IRELAND