House of Lords EU Committee – Brexit: UK-Irish relations follow-up

Conclusions of letter sent to Rt Hon Karen Bradley MP, Secretary of State for Northern Ireland, 27 February 2018 on Brexit: UK-Irish relations follow-up

The political challenge of Brexit for Northern Ireland, Ireland and UK-Irish relations

1. The Belfast/Good Friday Agreement established a delicate equilibrium, encapsulated in the power-sharing institutions, and the mechanisms for enhanced North-South and East-West cooperation. It is imperative that Brexit does not weaken this equilibrium or the commitment and confidence of both unionist and nationalist communities in the political process. Political stability in Northern Ireland must not be allowed to become ‘collateral damage’ of Brexit. We welcome your statement to the House of Commons on 20 February reasserting the Government’s commitment to upholding the Belfast/Good Friday Agreement. We call on the Government to continue to stress its unreserved commitment to upholding the Agreement in its entirety. All sides, including the UK and Irish Governments, the EU, and the political parties in Northern Ireland, must work together to ensure that solutions are identified that all sides can accept.

The economic implications of Brexit for Northern Ireland and Ireland

2. A number of witnesses on both sides of the border foresaw economic opportunities arising from Brexit, in particular in the Northern Ireland context, to meet latent UK demand. However, the view of the majority of our witnesses remains that the disadvantages of Brexit far outweighed the opportunities, both for Northern Ireland and Ireland. Witnesses emphasised the negative impact of both tariff and, in particular, non-tariff barriers to effective trade relationships, both North-South and East-West. Brexit is likely to have a particularly damaging impact on the border regions, which anticipate slower future growth as a result. Uncertainty arising from Brexit has already had a negative impact on investment decisions in these regions.

3. Given that border regions already face a significant challenge in increasing historically lower levels of growth, what steps will the Government take to mitigate the effect on those communities that will be most negatively affected by Brexit? How will you work with the Irish Government and the EU to ensure that the economies of the border regions, in particular, do not suffer as a result of Brexit?

The scale and nature of cross-border trade and economic activity
4. We note that Great Britain is the largest market for trade both for Northern Ireland and the Republic of Ireland. It is therefore imperative for businesses, employees and consumers in Northern Ireland, Ireland and Great Britain alike that there are no new impediments to trade across the Irish Sea as a result of Brexit.

5. While smaller in volume than trade across the Irish Sea, cross-border trade and movement of goods on the island of Ireland, in particular (but by no means exclusively) in the agri-food sector, is also significant. We were struck from our conversations with business representatives across a range of sectors by the complexity of the cross-border supply chains, which may become unviable if new tariff or non-tariff barriers are erected. North-South trade links will not be able to prosper at the expense of East-West ties, and vice versa. A Brexit outcome which hinders the complex, interdependent and interconnected trade links and supply chains across these islands would have serious economic consequences.

The wider impact on cross-border cooperation

6. We are concerned by the Chief Constable of the Police Service of Northern Ireland’s evidence that there is no more clarity today on how the Government will address police and security issues than there was in the immediate aftermath of the referendum. How does the Government plan to manage UK-Irish extradition and sharing of information, evidence and biometric data post-Brexit? What consultation has the Government had with the Irish Government (or the EU 27) on this matter? On what timetable will these issues be resolved?

Healthcare cooperation

7. We were pleased to have the opportunity to visit the impressive radiology and cancer treatment facilities at Altnagelvin Hospital, and to hear first-hand from clinicians and practitioners about the positive impact that this service has had on the lives of citizens on both sides of the border. It is imperative that such cooperation is not undermined or threatened by Brexit, but that both Governments, and the Northern Ireland Executive, remain committed to their maintenance to the benefit of their citizens.

8. We draw your attention to our forthcoming report on Brexit: reciprocal healthcare, and look forward to the Government’s response to that report.

Energy sector cooperation

9. In its August 2017 position paper, the UK Government acknowledged the strategic importance to Northern Ireland and Ireland of maintaining affordable, secure and sustainable supplies of electricity and gas for businesses and domestic consumers, and its support for the continuation of the single electricity market on the island of Ireland, and of efficient electricity and gas interconnection between the island of Ireland and Great Britain. We welcome
this acknowledgement, and draw your attention to our recent report on Brexit: energy security. I look forward to the Government’s response to that report, and in particular to our recommendations on the island of Ireland.

The December Joint Report

10. The December Joint Report was a significant step forward in dealing with the implications of Brexit for Northern Ireland and Ireland. Nevertheless, we note the widespread view that there is at best a tension, and at worst an outright contradiction, between the commitments set out in the document that the UK will leave the Single Market and customs union, that a hard border on the island of Ireland will be avoided, and that there will be no new regulatory barriers between Northern Ireland and the rest of the UK.

11. While we accept that a degree of constructive ambiguity can be helpful during a negotiation, we are particularly concerned at the significant difference in interpretation between the UK Government on the one hand, and the Irish Government and the EU on the other, of the meaning of the so-called ‘backstop’ commitment to full alignment. Can you clarify the Government’s understanding of the extent to which, and in which sectors, regulatory alignment will be required under this backstop option? Is it limited to the six areas of North-South cooperation that the Secretary of State has identified, or does it extend to the 142 (or more) areas of cross-border activity identified by the Government and EU in their mapping exercise? Will you share the findings of this mapping exercise, and details of the 142 (or more) areas of cross-border activity that could be affected by Brexit that have been identified?

12. Given the ongoing work to convert the Joint Report into a legal text, and the imminent publication of the European Commission’s first draft text, such significant differences of interpretation need to be settled now. If they are not, not only will the fundamental issues relating to Brexit and the Irish border remain unresolved, but there is a danger that mutual trust between the negotiating parties will be undermined at a crucial stage of the Brexit negotiations.

13. At the same time, we are encouraged by the evidence we heard that all sides, including the UK and Irish Governments, the EU, and both the unionist and nationalist political parties in Northern Ireland, are committed to ensuring that there is no hard border on the island of Ireland. We also welcome paragraph 50 of the Joint Agreement, which acknowledges the political and economic imperative of ensuring that there are no regulatory barriers between Northern Ireland and the rest of the UK. The avoidance of a hard border on the island of Ireland cannot be at the expense of new barriers between Northern Ireland and the rest of the UK.

14. The challenge now is for all parties to work together to translate apparently contradictory political commitments into a feasible solution which will satisfy all sides.
The Government’s position paper on Northern Ireland and Ireland, and ‘technological solutions’

15. Robin Walker MP told us that the Government did not envisage any physical infrastructure at the border, and instead planned to use technology to facilitate the frictionless movement of goods. While we welcome the Government’s commitment to avoid any physical infrastructure at the border, this begs the question of what the alternative would be, and how feasible it would be.

16. The evidence we have received suggests that there is potential in the longer term to develop technological solutions, not only at the UK-Irish border, but at all UK-EU borders, so as to streamline the cross-border movement of goods. We therefore do not dismiss the Government’s proposals out of hand. Indeed, it is incumbent on all sides, including the UK Government, the Irish Government and the EU, to examine whether technology can help mitigate the issues that Brexit gives rise to, in the context of the Irish border in particular, but also more widely.

17. Nevertheless, there is a need for realism. We note that, while customs processes have been streamlined and made more efficient, the EU external border, for instance with Switzerland and Norway, retains a physical manifestation. The evidence we received from Swiss and Norwegian customs authorities indicates that many technological developments are a long-term aspiration. We therefore see little prospect that the technology required entirely to resolve the Irish border issue could become operational under the timetable for Brexit currently envisaged. Any new declaration requirements would create costs for businesses, and, if applied to them, would be particularly burdensome for SMEs. In any case, such solutions can only mitigate, not eliminate, the system of controls that will be necessary if the UK leaves the Single Market and customs union.

18. There is also a distinction between identifying solutions that are theoretically possible and applying them to a 300-mile border with hundreds of formal and informal crossings, and the existence of which is politically divisive. Any physical infrastructure at the border would be politically contentious and, in the view of the PSNI, a security risk.

19. Thus, notwithstanding the proposals set out in the Government’s position paper, and reiterated by Mr Walker, we remain concerned at the lack of detail as to how technological solutions would work, and the lack of time available to implement them. We also doubt, on the basis of the Swiss experience, that such solutions would be acceptable to the EU. We therefore conclude that, while proposals for technological solutions, trusted trader schemes and small firm exemptions may be helpful by way of mitigation in the long term, they can only ever be a partial solution to the issues raised by Brexit. A fundamental solution is urgently required, but, given that the Government has ruled out continued membership of the Single Market and customs union, it is difficult to see what that solution would be.
EU funding, the Common Travel Area and citizens’ rights

20. **We welcome the progress that has been made in negotiations so far to ensure that the rights of British and Irish citizens under the Common Travel Area are maintained post-Brexit, and that EU funding remains available for cross-border projects. Nevertheless, there remains uncertainty about how these issues will be practically resolved. We therefore urge the Government, in concert with the EU negotiators, to seek to bring legal clarity to these issues as soon as possible.**

Conclusion

21. **The December Joint Report was a welcome step towards identifying solutions to some of the issues that Brexit raises for Northern Ireland, Ireland and UK-Irish relations. Yet the inherent tensions within the Joint Report are still to be resolved. The continued lack of detail and clarity about how such issues as the cross-border movement of goods and police and security cooperation will be affected by Brexit is a widespread and mounting concern.**

22. This in turn is creating uncertainty for businesses, employees, communities, and service providers including the police, energy providers and healthcare professionals. We were particularly struck by the concerns of those living and working at or near the border.

23. **Brexit has also heightened political tensions and divisions, in Northern Ireland, between North and South, and between the UK and Irish Governments. These should not, however, be overstated: there is much common ground, notably the wish to avoid the imposition of barriers to trade and to maintain cross-border cooperation both North-South and East-West. In the febrile atmosphere of the Brexit negotiations, there is an overriding need for cool heads, to identify solutions that all sides can accept.**

24. **We reiterate the conclusion of our first report: closer UK-Irish relations and stability in Northern Ireland are too important to be put at risk, as collateral damage of the Brexit decision. In an era of blossoming bilateral relationships, after long years of mistrust and misunderstanding, we urge the Government to be sensitive to the implications of its actions for the people and communities of Ireland, North and South. Anything less would diminish the efforts of all those who have worked so hard for peace and good relations across these islands.**