



## EUROPEAN UNION COMMITTEE

### Brexit: UK-Irish Relations

### Oral and written evidence

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Bertie Ahern, Former Taoiseach of Ireland 1997-2008 and John Bruton, Former Taoiseach of Ireland 1994-97, and EU Ambassador to the USA, 2004-09 – Oral evidence (QQ 120-137)

**Bertie Ahern, Former Taoiseach of Ireland 1997-2008 and John Bruton, Former Taoiseach of Ireland 1994-97, and EU Ambassador to the USA, 2004-09 – Oral evidence (QQ 120-137)**

Evidence Session No. 12

Heard in Public

Questions 120 – 137

Tuesday 25 October 2016

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Members Present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Brown of Cambridge; Baroness Browning; Lord Green of Hurstpierpoint; Lord Jay of Ewelme; Earl of Kinnoull; Lord Liddle; Baroness Prashar; Lord Selkirk of Douglas; Baroness Suttie; Lord Teverson; Lord Trees; Baroness Verma; Lord Whitty; Baroness Wilcox

### Witnesses

John Bruton, Former Taoiseach of Ireland, 1994-97 and EU Ambassador to the USA, 2004-09; Bertie Ahern, Former Taoiseach of Ireland, 1997-2008.

Q120 **The Chairman:** Good afternoon, my Lords and visitors. I hope that everybody is now accommodated in the gallery. Our Irish visitors will be familiar with the joke about London buses: you wait a long time and then two come along. We are hugely grateful to you, Mr Bruton and Mr Ahern, for coming this afternoon. It is a great honour and privilege for us to have two former Taoisigh—I think that is the right plural—appearing before the Committee. You have both had most distinguished careers and have led your country—I will not say in easier times—to considerable success, which has been very much in the interests of the United Kingdom, as well as in Ireland's, which we welcome.

I do not want to take the Committee's time by itemising your various distinctions, but I will just say that in your several positions as Taoisigh over the years you will have had to deal with the British Government on some of the most sensitive issues of the developing peace process. We are all strongly committed to at least preserving in this new situation the benefits of that process. Secondly, and not least, you will have had hands-on experience, especially in the case of John Bruton, of representing the European Union at the highest level, and both of you will have had experience of dealing with the Council and of understanding the machinery of that not always well-understood institution. As for the feasibility of what we can do, this Committee wants to look at the implications of Brexit issues for both halves of the island of Ireland. I can think of no better pair of interlocutors than John Bruton and Bertie Ahern. You are most welcome this afternoon and we look forward to your evidence very much.

In terms of how we structure this evidence session, perhaps I will invite you in that order to make any initial remarks that you care to, after

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which we have a list of questions that we would like to work through, although we want to make the session as interactive and informal as we reasonably can, for colleagues as well. Perhaps you would like to kick off, John Bruton.

**John Bruton:** My Lords, first, I am very pleased to appear alongside Bertie Ahern. It is probably the first time in either of our careers that we have appeared on the same platform. To my mind, and I was a member of the Dáil at the time, the joint decision of the British and Irish people to join the European Union at the same time transformed the relationship between the two states in the sense that, prior to that, we were in a sort of bilateral unequal relationship, which had all the difficulties that go with any bilateral unequal relationship, whether in a family, between states or between businesses. By joining something that was bigger than either of us, we became equal members in some senses of the European Union. We also dispensed with some of the psychological difficulties that had prevented us from engaging. I have said this publicly a number of times, but the very first time from 1922 to 1973 that a British Prime Minister in office visited Ireland was the year after both of us joined the European Union, when Edward Heath came to Dublin. No previous British Prime Minister in office had met his Irish counterpart in Ireland up to that point. That symbolised the change in relationship and made possible all the things that transpired thereafter, with which both Bertie Ahern and I were involved. I say for myself that we are feeling a great sense of loss at this time, but we have to live with that loss and do the best that we can.

**Bertie Ahern:** Lord Chairman, my Lords, it is a great honour to be here and I thank you for the invitation. It is also a great honour to be here with John Bruton. As he said, normally we share the same Parliament but on opposite sides of the Floor, so it is good to be here together to give a constructive line, I hope, on one issue. I have been lucky enough, like John, to enjoy a long political career of working in the European Union with successive British Governments of all sides. The great thing about that was that it helped to build relationships. As John said, those connections and relationships were not there previously. I got to know many Ministers in the years I was on the social affairs council, as Employment or Labour Minister in our system, on ECOFIN and then on the European Council. It was a real help for us to know one another and to change the relationships. I remember that the first Minister who came over to me was a Minister for Taxation, John Cope. He found it necessary to have about 200 security people to protect him. By the end of the period, there was hardly any security to protect anybody. That was how things evolved, and Europe was a huge part of that.

I have spent a lot of my life, as John has, in negotiating things. The reality is that we are where we are. There is no point in arguing about things of the past. I gave up most of that in my lifetime; it is a futile exercise. We now have to try to establish what we can do. Like everything in life, nothing is insurmountable if you try hard enough—and it will take effort.

I thank the Committee for involving itself in this Brexit UK-Irish relations inquiry. I think that your visit to Dublin and Belfast has been well received. It is considered important that you have given your time and effort to

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examining these issues and to giving people a voice to explore these issues. That will prove to be very helpful in the months ahead.

Q121 **The Chairman:** Thank you. Let me respond to those opening statements by saying that I am very grateful for your sympathetic welcome of our inquiry. We think that it was the most important and pressing quasi-constitutional issue that we should throw light on as a main Committee. As ever—this is my second point—we were extraordinarily well received both in Belfast but also at the Oireachtas. That was partly on the back of what you referred to: the good working relations in the interparliamentary field that we have enjoyed for many years. I hope that we will continue to do so.

I should have said that, as is self-evident, this is a public evidence session. It will be webcast and we will make sure that you get a transcript for correction later, although I hardly anticipate that it will come to that. I will kick off our lines of questioning. Whichever of you wants to come in first, please signify—I am sure that you can work it out between you.

The Secretary of State for Exiting the European Union, David Davis, has identified in evidence to us and elsewhere that UK-Irish issues are one of the more difficult elements to the negotiation. Could you both indicate what you see as the main difficulties that need to be addressed? Perhaps to save time, you might like subsequently to say something about whether it would be desirable to seek to establish a specific bilateral UK-Irish deal, taking account of the uniqueness of the relationship, as a distinctive strand of the Brexit negotiations. Who would like to go first on that?

**John Bruton:** Bertie Ahern will be able to elaborate on this as he was directly involved in the negotiation of it. Access to the European Convention on Human Rights is a vital part of the Good Friday agreement. While there is no suggestion that leaving the European Union would necessarily involve leaving the European Convention on Human Rights, it is a very serious part of the Good Friday agreement, and I think that needs to be brought to the Committee's attention.

Furthermore, the fact that at the moment we are both members of the European Union means that there is effectively no border in terms of a barrier within the island of Ireland. That creates opportunities for people not to feel isolated. A sense of isolation in terms of being disregarded or in a permanent minority lay behind some of the very aggressive tactics that were adopted by republicans and indeed at times by loyalists as well. That sense of isolation is at some risk of being aggravated by the fact that we will no longer be in the same economic union as we are now.

As far as the bilateral discussion is concerned, obviously anything that we do in that regard has to be in accordance with our European Union obligations because we are a continuing member of the European Union. That means in effect that anything to do with trade will be handled essentially by the European Union authorities. In other areas, however, it is quite possible for us to have arrangements with the United Kingdom on a

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bilateral basis, and I have no doubt that we will try to deal with that. I would also say that the economic effect on the Republic of Ireland of Britain leaving is bound to be negative because of the extent of the trade that will be affected by uncertainty or by barriers to some degree or other that are yet to be determined. Some studies have even suggested that the loss to Ireland as a result of Britain leaving the European Union will be even greater than the loss to Britain of it leaving the European Union, but unlike Britain we had no say in the decision. Clearly that creates some negative feelings in Ireland.

**The Chairman:** Thank you. That is very clear.

**Bertie Ahern:** The two-way trade—I think that you are aware of this, but I shall state it again—is worth something like €55 billion, which for us is an enormous figure but maybe not for large countries. I know that some of the articles read it as going two ways, so you can say that it represents 14% of our exports into the United Kingdom, but really that is cloaking it with the multinationals. The reality is that 42%, 43% are indigenous Irish companies, which is around 85% of the employment in the area. The spin is very much in the reality area; it is a huge hit. While we have a very strong ICT sector and strong pharmaceutical, medical appliances and medical supplies sectors, agriculture and related areas are still enormous. The mushroom story has been well publicised because it is easy to understand. John and I have spent our lives trying to improve agricultural exports. They represent 50% of the beef and up to 80% in some categories. The UK market is absolutely crucial to these industries. I have heard people say that you can move on to other markets, but when you are a small indigenous company trying to start up or perhaps you are family or co-op based, it is very hard to do that. Perhaps we will talk about that later.

The idea of having agreement is of course, as John said, totally correct; it has to be EU-based. There are many references in the Good Friday agreement, which is an international agreement. It is set out in strand 2 that the UK and Ireland have the North/South Ministerial Council and the British-Irish Council and that we should work together and even “resolve difficulties at an EU level”. These are very important connections, and I think that our northern colleagues in particular would see this as being vital to how things happen as we go forward. As with the European convention, it is hugely important that we try to deal with these issues together. If we just wait for the whole issue to be dealt with at the European level, some things might well be pushed aside in Brussels. I know that a lot of this will be about the Scottish debate. I wish them well, but we have to talk about our side of it. The reality is that it is very important that the Irish issues are dealt with.

Of course we have to co-ordinate ourselves on our side. It is necessary that we have our own Brexit Minister of State to try to deal with and co-ordinate on these issues. That was evident from the reports I have seen of some of your own meetings last week.

**The Chairman:** Thank you both for that. If I may say so, I am struck by the fact that you see two leaves to this exercise. One is what might be called the cultural and political and the other is the economic, and you do

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not regard them as distinct; they are two sides of the same treaty paper, as it were.

Perhaps I may come back on a couple of issues for comment. One is on the economics side. We heard evidence across Ireland, both in Belfast and in Dublin, about the importance of supply chains. This was not, if I can caricature it, major international companies that were using you as a production base for the whole of Europe; rather, it was encapsulated as all the pigs going north for processing and all the milk going south for processing. That may be a slight exaggeration, although you are nodding; I think you are familiar with that. Would you like, individually or together, to comment on the importance of supply chains to your economy?

**John Bruton:** I totally endorse what you have just said. I understand that 30% of the milk in Northern Ireland is processed south of the border and that a similar proportion or more of the chicken produced south of the border is processed north of the border. More extensively, I understand that if you visit a filling station here in Britain, Northern Ireland or the Republic, the likelihood is that the bread may have been produced in England, the butter may have been produced in the Republic of Ireland and the filling may have come from Northern Ireland. The supply chain of the food industry is exceptionally interconnected. If a free trade agreement covering agriculture is negotiated, there will be no problem with any of this, but if we get into a situation where the common external tariff, which is very high in the case of some food products, has to be imposed, that will require us on our side of the border to introduce customs or controls of some kind to collect that tariff. On the other side of the border or here in the United Kingdom, people will have to certify the origin of the various products that they are putting into the final product to show that it originated in the UK and not in Brazil or somewhere else, or that the UK-Ireland supply chain is not being used to undermine European arrangements by importing those products into Ireland. So the bureaucratic as well as the tariff costs imposed on the food industry supply chains will be substantial. Similar issues arise in respect of the motor car industry, but that is not so relevant to Ireland.

**Bertie Ahern:** The interrelationship is enormous, and I think we all know just how big the multiples are. I recently looked at the figures for Tesco. That one supermarket chain takes a huge amount of our supplies; cheese at over 60% and poultry at 84%. Of course, as John has said, there is a two-way trade in milk with €1.5 billion-worth per annum of goods going north-south. Tariffs would, I think, cripple a huge amount of the industry. The bureaucracy would certainly be enormous, as would the number of people who would have to be involved and the add-on costs of trying to run that kind of system.

My concern is that people will start going elsewhere for markets and it will totally work against the entire multiples industry. That would be a huge loss. We have spent probably our whole history—certainly, groups such as the Kerry Group, which have existed for 40 years—building enormous connections between the island of Ireland and the UK generally. To set up a whole bureaucratic system with high tariffs that crippled the industry would be devastating.



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Q122 **The Chairman:** Thank you for that. My other brief point is to get confirmation from you. We will explore some of the legal issues around the Good Friday agreement in due course. I think you both hinted that there was some concern at the political level about the position of the nationalist, or Catholic, minority population in Northern Ireland. You said there was some sense of separation or something like that. They are not the majority, although they are involved in the power-sharing agreement by definition. They would lose their European citizenship, and while they can still apply for yours they are somewhat “over the border”. That might be a simplistic reflection, but is that the sort of thing that people will have in mind?

**Bertie Ahern:** Yes, it is. The positive effect that 40 years of being joint members of the European Union had on changing the mindset in Northern Ireland cannot be overstated. In many ways that helped the admittedly slow and long process of all the various agreements and efforts. They were all on the one road to get to a position that everyone wanted to get to. Each incremental stage was very important. Our European membership was critical to that; it made the physical connection—a point John made earlier.

Between 1921 and 1974, I think there were only two or three engagements between Taoisigh and Prime Ministers in the whole period. Then all that changed. There were ministerial councils and summits in Dublin—the whole position had changed. People in Northern Ireland on all sides see this as a big loss to the comradeship and personal connection; as with everything in life, the personal relationships are hugely important. There are many people now who are quite pro-European but were not so European when John and I were trying to convince them, but that is life. It is good that they have come to that position, but it is a bit difficult the way it is breaking up at the wrong time.

**John Bruton:** I would just add one thing to what Bertie Ahern is saying. When the UK leaves the European Union, Northern Ireland will be the only territory not in the European Union where every person living there is legally entitled to be a citizen of the European Union, simply by applying for an Irish passport.

**The Chairman:** Which they can do at a Northern Ireland post office.

**John Bruton:** Yes, at the moment. That already suggests that, even when the departure of the UK goes ahead, Northern Ireland has some special standing, which I am sure will be recognised in some way.

Q123 **Lord Jay of Ewelme:** During my Foreign Office career, I think I went to up to 20 European Councils with Prime Ministers from Margaret Thatcher to Tony Blair. As an official dealing with the European Union, it was often extremely frustrating that, as far as the British Prime Minister was concerned, by far the most important part was the meeting with the Taoiseach, under the radar and not recorded. Things have moved on since then; the relationship is different and, as you said, better. Do you think the present structure of relationships between Britain and Ireland—and indeed between Ireland and Northern Ireland—is right for carrying out the rather difficult period of negotiations over the next two to three

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years or however long it takes?

I have one more specific question. I wondered what you thought of the current Taoiseach's decision to establish an all-Ireland civic dialogue on Brexit. How important do you think that will be in the negotiations over the next couple of years?

**Bertie Ahern:** I think it is very important, because it gives people a voice. There has been a big call from most people in Northern Ireland, although not everybody; we know that the DUP under Arlene Foster does not see this as the best idea. However, I do not think there are big disagreements either. The view is that people have been able to express their views. The Taoiseach is trying to come to a collective position on where things are that can be articulated either to Europe or to the Prime Minister and your colleagues. I think there is only good in that arrangement.

On your question about what is the best arrangement, rather than set up another structure, the North/South Ministerial Councils, which reference in their make-up and in international agreements that these issues should be discussed, should be used. Equally, with the British-Irish Council, it is clearly stated—there is a clause in the document, almost as though someone knew what was going to happen, which they did not—that this connection should continue. I think that should be used.

From our side, it will be a difficult set of negotiations and it is probably important that it should be filtered through one Minister of State who deals with the issues. Things will get lost otherwise. If you are the Minister for health or education, it is very hard to stay across these things.

I would not set up something entirely new. I do not think that is necessary.

**John Bruton:** I agree. I think that the forum the Taoiseach has proposed is essentially to give people a sense that they are being listened to, because the sense of shock is quite substantial and people need to know that they can be heard in a structure. But it is voluntary; some will not participate. As has been said, the Good Friday agreement provides for the North/South Ministerial Council and one of its functions under the agreement is explicitly to consider the European Union dimension of relevant matters. Further, it provides that the views expressed in the North/South Ministerial Council can be represented appropriately at relevant EU meetings. Brexit means that it will fall to the Irish Government to represent appropriately whatever is said at the North/South Ministerial Council at EU meetings, because we alone will be at those EU meetings—not that that is the status we would wish to have, but it is the status we will have.

Furthermore, the North/South Ministerial Council has the responsibility to consider agriculture, which will be immensely impacted, and relevant EU programmes that will have an effect on one side of the border or the other.

In strand 3, which is the east-west relationship, there are two institutions. One is the British-Irish Council, which brings together not just the two Governments here but the Governments of Scotland, Wales, the Channel

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Islands, the Isle of Man and Northern Ireland. That entity will probably need to raise its game. It is rather a diffuse chamber and the main players do not always represent themselves at the top level, which they ought to henceforth.

The British-Irish Intergovernmental Conference is also a very important forum and means for the two Governments alone to deal with things. The Good Friday agreement requires them to have regular and frequent meetings on non-devolved matters. I think these meetings will have to be more regular and more frequent, using existing institutions to which no one can raise objections.

Q124 **Lord Jay of Ewelme:** May I follow that up with one further question? The Irish Foreign Minister, Mr Flanagan, suggested recently that the Irish Government should seek “a legal recognition of the unique status of the North and the circumstances on the island” during, or as part of, the Brexit negotiations. What do you think of that suggestion? What exactly does it mean? Also, have you any reflections on the defeat last week of a motion in the Northern Ireland Assembly—it happened while we were in Belfast—endorsing just such a proposal?

**Bertie Ahern:** On the reason for the defeat, again there are different views on what the structure should be. I would not worry about it. There is a clear effort by the First Minister, Arlene Foster, and the Deputy First Minister, Martin McGuinness, to deal with the substantive issues as closely as they can. It would have been nice if everyone had turned up to the Taoiseach’s forum, but I would not worry too much about it.

I do not know whether you can have legal recognition, but I think the Minister for Foreign Affairs is saying that Europe should give due recognition to that fact we are more affected than anyone else. That is borne out by all the statistics you need to look at. There is special reference to it so that the entire discussion cannot take place at just a European level and be ignored.

I strongly hold the view that that does not hold up. I know that in the first instance people said that everything had to be dealt with through Europe, but there is the small matter of an international agreement—the Good Friday agreement—which says different. You cannot stand that down, whether you like it or not. That is the vehicle that allows there to be a relationship. I am not saying that it should take over trade matters or debate on the common agricultural policy; I am not talking about the EU budget after 2020. It is not about those issues, but there should at least be due recognition of the substantial turmoil that this could create for the island of Ireland in so many ways.

**John Bruton:** The European treaties are full of protocols recognising the particular situation of particular territories. You think of the references to the Åland Islands, for example, and there are numerous others in those treaties, which people more legally erudite than me could cite. So there could be recognition of the special position of the island of Ireland. This is really an all-island matter; it is not confined to Northern Ireland or to the Republic. Some recognition of these particular difficulties, in a protocol or declaration, could easily be appended to whatever treaty is finally agreed.

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**Lord Jay of Ewelme:** You would see that as something that should refer to the island of Ireland, rather than to the north.

**John Bruton:** Personally I would prefer a reference to the island of Ireland. References to “the north”, for example, are used by only one community and not by the other. Language is extremely important here to avoid causing people to feel that you are not on their side. If you use “Northern Ireland”, it has one meaning; if you use “Ulster”, it conveys something entirely different. Language is exceptionally important in this matter, so I prefer to stick to official titles and to describe people as they choose to describe themselves, rather than as I might be inclined to describe them from time to time.

**The Chairman:** If I may say so, in our earlier exchange you both expressed concern about the economic impact on the whole of the island of Ireland. That is before you deal, as you will in a moment, with the specific conditions of the Good Friday agreement and the peace process.

Q125 **Lord Green of Hurstpierpoint:** Last week I was in Paris at the invitation of the French Senate to talk about Brexit and all the issues. One of the things that struck us, jointly and severally, is that the French had not really understood the seriousness and significance of the very special problems in the island of Ireland as a result of the Brexit decision. That was underscored for me again yesterday when I was in Berlin, not at the Bundesrat but at a public session on Brexit with a group of policy think-tank types, journalists and others. The same point occurred to me there: they have not understood the significance and seriousness of the problems that Brexit will pose on the island of Ireland. I wonder whether you feel that we collectively, both the Republic and the United Kingdom, should be doing more to make clear to the member states, as Britain goes into negotiations, just how significant an issue this is. They were very focused on Scotland; I had to remind them that, at least in my view—and, I suspect, in yours—the Irish issues are more serious and more complex to sort out as part of the negotiation.

**John Bruton:** I think that feeling in France does no more than reflect the debate that took place in the UK before the referendum. The impact on Ireland was virtually ignored, apart from a few interventions from the Prime Minister. One should not be too critical of the French if they have been following the referendum here and seeing all these references to Scotland and very few to the impact on Ireland. We may find ourselves virtually alone in this, but the reality is that our Government and embassies will have to make 26 separate representations, explaining all the things that Bertie and I have been referring to here—about the Good Friday agreement, interdependence and the common travel area. All those things will have to be explained. We shall have to do that and it would have been easier for us—I have to be frank here—if more thought had been given to this before the referendum was initiated. It would also have been easier if more of this concern had been publicly expressed during the referendum campaign. I spoke at a number of events here in the UK and it seemed to me that people were hearing reference to this for the first time, notwithstanding that there has been so much interaction between the two islands and people on this island are well aware of the negative

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consequences of failing to deal with certain underlying grievances for innocent people here.

**The Chairman:** I think the susurration of laughter around the Committee suggests a certain agreement with your position and comments.

**John Bruton:** I was not sure whether I should say anything.

**The Chairman:** We will not take a formal position on the past, but in defending the Committee we might say that we put our one or two penn'orth into the debate long before the referendum campaign. This has been a concern of ours for some time.

**Lord Green of Hurstpierpoint:** Just to be clear, I certainly did not mean to be critical of the French. I was merely observing that they do not understand enough of the complexities of this line of thought and that it is in the interests of both the Republic of Ireland and the UK to make a moral out of these comments.

**The Chairman:** And they are your neighbours, in fairness.

**Bertie Ahern:** I agree with John. We were both involved in many campaigns and interviews, and unfortunately no matter what we said the interviews were about the broader issues. At least in my case, I found that the analysis always went back to: was there going to be a customs check on the border again, was the free movement of people going to go on? The wider issues seemed always to get lost. Anyway, that is where we are at. Lord Green, you made the point that we should now work collectively on people understanding the problems and dilemmas in the way forward. That is clearly useful because it is a battle—as John said, it is not easy. I have to say that not only in the UK but in Brussels and elsewhere, there is a bit of a feeling that they thought more about Scotland.

I know that there are international news channels, which do very good jobs, but sometimes we lose out in that. We might not have the strength of population to get as much focus, but it is important that we try to do that in the negotiations. Luckily enough, we are only at the start of them. I suppose the first round will be about the parameters of the framework between now and the date when the letter is sent in, and the next round will be the detail, so there is a lot of time. It is hugely important that we deal with that.

**The Chairman:** Thank you for that. We will now get into what you might call the nuts and bolts of the issue.

Q126 **Baroness Prashar:** My questions are about hard and soft borders. As you are probably aware, the Government here have sought to reassure that there will be no return to the hard borders of the past. But given that in reality they will become the EU's external borders, is there any way of maintaining the current soft borders in their entirety?

**Bertie Ahern:** I will give you my view; that is the way I would like it. I am not sure what that terminology of hard and soft borders means—I have to be frank.

**Baroness Prashar:** Rather like hard and soft Brexit.

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**Bertie Ahern:** I am afraid so. It is something that I am beginning to try to understand. I think people say that a hard border equals the past—the hard border that was there during the conflict, when there were towers and huge security. At one stage, there were over 40,000 people on the security pay bill. If that is a hard border, I hope there is nobody in the world who wants to return to it. It is an hour and a half now, thankfully, between the two great cities of Dublin and Belfast. There is a large stretch of a few hundred miles of borders; there are a huge amount of crossroads. It depends which figure you want to believe, but some 40,000 people a day work in the south, so there is huge movement all the time. That is the way I would like it.

Can I quite work out how that will work? If somebody comes up with marvellous technology that can deal with it—I am not brilliant at that, so I am not going to be the one to invent it—I would love to think so. My concern, I have to say, is that if the big issue is immigration, how do you deal with that issue? How can you control the position where if a plane lands in Dublin from somewhere in eastern Europe, all the good people on it are checked through Dublin with their EU passports? Nobody has any reason to stop them with their EU passports. Then they come out, get on a bus and in a little over an hour they are on the other side of the border. How does that fit with all that we have heard on immigration? I am not going to answer that question because I do not want to. I want it the other way but I do see the dilemma, and it is no good us letting on that there is not a huge dilemma.

**John Bruton:** I expect there will continue to be visa-free travel for holidays and that sort of thing between the UK and the rest of the European Union in both directions, so the movement of natives of the UK or Ireland, or other EU countries, will not be interfered with. I expect the issue to be the possibility that landlords or employers may have to report in the UK if the UK chooses to go in that direction.

Having thought about it, for that reason I do not think that we will have passport controls at the border. There are many other ways with advanced technology to keep track of people, if that is what you decide to do here in the UK. I would also point out that in respect of the common travel area we presently have, people who come to the UK and who then go on to Ireland as part of that common travel area are checked when they arrive in the UK, just as people who arrive in Ireland from the United States are checked when they enter the common travel area in Ireland. So there are already external controls that we would be able to continue, in my view, even though the UK may have left the European Union.

On the other hand the issue with goods, and agricultural goods in particular, will be much more difficult. There, if Britain chooses the WTO option—or, having failed to reach an agreement on any better option, finds itself with the WTO option involuntarily—we will be obliged to impose the common external tariff of the European Union on anything coming into the Republic of Ireland from Northern Ireland, or from this island. That will mean much greater expenditure by us of financial resources on customs posts. All the customs control system that we had was dispensed with when we joined the European Union. It will now have to be reconstituted at substantial cost, by virtue of a decision in which we were not involved.

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I hear people saying that the Swedish/Finnish/Norwegian model might provide a solution. I am not familiar with it. I understand that it eliminates duplication in the respective filling-up of customs forms, but part of the price of that is that Finnish customs people can go into Norway and examine premises there to satisfy themselves that they are being told the truth. Given the particular situation on the island of Ireland, I could imagine difficulties with that, shall we say for historical reasons. If people from HM Revenue and Customs come to inspect premises in the Republic, it could be difficult. Likewise, people from the Republic examining premises in east Belfast could be difficult. That is what they have in the Swedish-Norwegian model, which is mentioned from time to time as one that solves all these problems.

That said, whatever is the most advanced technology available to minimise the costs, we should get together and use it. We should pool our resources. There is no point duplicating or triplicating expense. There will be far too much extra expense anyway from this, but let us minimise it to the maximum degree.

**Q127 Baroness Prashar:** You may have seen reports in the *Guardian* that the UK Government are seeking to shift the front-line immigration control to Ireland's ports and airports to avoid introducing a hard border between the north and south. How do you react to that?

**Bertie Ahern:** I think John has dealt with this point and with the difficulties of trying to police it. I find that frankly unbelievable. To put that suggestion forward shows a total lack of understanding of how people think north and south in either tradition. It just would not happen. The technological way would be better, if that can happen.

On the customs issue and its costs—we have already talked about some of the costs—you have to put all the tariffs issues and then all these custom issues in. I have to be frank; I see both sides of the argument in this, I really do. This is not an easy one. I have said what I would like to see, but I also see the difficulties for the British Government. Hopefully, most issues can be negotiated between our wise people on both sides, in the UK and in Europe. But anything other than a negotiated agreement that keeps away from the nightmare—

**Q128 The Chairman:** Thank you. That is a really helpful introduction. I think colleagues will want to come back on some of the details in a moment. Can I just try a general thought with you to see your reaction? Would it be sensible approach to go for a solution that was seen as cost-effective, rather than 100% effective in control, where one was prepared to pay a certain price in imprecision in control of movement of goods, as a way of doing something acceptable?

A possible subtext to that is the specific issue of security. If one is dealing with persons of interest or difficult people, is that handled better by intelligence-sharing than by physical control? I think you will get the drift of what I am aiming at; I would be interested in any comments you have on that. Do you want to go first, Mr Bruton?

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**John Bruton:** In matters to do with trade, we will not have many options if the UK leaves the customs union and finds itself in a WTO relationship with the rest of the European Union. We will have to do 100% of whatever the EU practice is, not 99%.

In respect of other areas where there is no exclusive EU competence, I am sure we will try to use the margin of manoeuvre that we have as a sovereign state within the European Union to minimise the cost to us and our neighbours in Northern Ireland and the UK. As to persons of interest, I do not feel that I can say very much on that.

**Bertie Ahern:** We all know from reading about trade negotiations in recent days just how complex they are and how nailed down they are in their detail, so we are not going to be able to do much about that. We would have to comply. Following a point I made earlier, I just hope that the negotiators on the European side are influenced to try to direct them in a way. But there is not a lot of latitude. Perhaps the free movement of people is a bit easier.

Q129 **Baroness Brown of Cambridge:** I will continue on the same theme. You may feel that you have answered some of this already. Moving to the common travel area, which existed when neither of us was in the EU and when we were both in the EU, how can it exist when only one of us is in the EU? What needs to be done to ensure that it can continue to operate?

**John Bruton:** I thought this would be more difficult to maintain than I now think it will be if it concerns just common travel and not the right to work and so on. Clearly the UK outside the EU will be free to say that it will give Irish people an absolute right to live and work in the United Kingdom, regardless of any other consideration, and I expect we will be in a position to do the same. We will not, however, be in a position to discriminate against a fellow EU member's citizens coming to work in Ireland. Indeed, we have no wish to do that, because many parts of the Irish economy continue to function effectively only because of all the people who have come to Ireland from other parts of the EU. As you know, we have a larger non-Irish-born population as a percentage of our total population than is the case for the non-British-born population here. We have accommodated that very well. I think we will be able to sort that out all right; I do not see the EU making particular difficulties over it. The problem will be with goods and services—commerce.

**Bertie Ahern:** The common travel area has worked even though someone told me at a conference last week that someone in the European Commission had said that the common travel area prior to 1973 was consolidated into the European Union Acts and does not apply. If that is the case—I do not know—we can re-enact it as it used to be. I hope that the negotiation over EU citizens will be resolved; it might be difficult, because people take a tough line on immigration and how people can move around. It might not be that easy. Non-EU citizens may be using Ireland to travel. It is not a big issue today, but it will have to be covered in the negotiations. It is bad enough to create a border where we have customs and tariffs and so on, but you can see the difficulties if we start building it around people in any form. That would be a huge concern for me in relation to a good peace process and how you could start



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undermining that. You do not have to go too far back in our history to know how customs posts were used in the 1950s and 1960s as targets for these issues. I really think that such things must be taken into account in negotiations, but I hope they will not become an issue.

**The Chairman:** I do not want to interpose at length but we have not covered this in another question. We heard evidence last week on cross-border services that we found interesting in relation to planning health provision and enabling people to go to hospital across the border because it is more cost-effective for specialist treatment or emergency treatment. I imagine that is an element that you would both have in mind.

**Bertie Ahern:** I am sure you heard about this last week, but in the north-west a lot of programmes have been developed and devised around education. I think John Bruton and I would argue that over the years, through the Troubles and economic difficulties, the north-west did not get all the resources it required. However, Counties Donegal and Derry—in what they call the Omagh region, or Strabane—are working fairly well together to develop cross-border services for hospitals, preschools, training and all kinds of schemes. Europe has been very generous in funding many of those schemes, so it would be terrible to unravel the things that have been devised over the past 20 or 25 years.

**John Bruton:** The fundamental issue in the provision of services is whether you have compatible regulations and standards governing those services on both sides of the border or Channel. So long as the standards are compatible, there is no problem with services being provided on a cross-border basis, be they hospitals or otherwise. If, however, we get into a situation where there are very different rules with regard to pension provision in Northern Ireland, as part of the UK, from the Republic of Ireland, as part of the European Union, it may make difficulties for cross-border employment because pension entitlements may vary.

Another area is veterinary standards or standards of plant health. If, on leaving the European Union, the UK decides that it will adopt different standards for the safety of food products, plants or whatever, even without a tariff that could interfere with trade. I think the debate here is missing the fact that the EU is really a common rule-making and enforcing system. If you leave that system, you cease to have the assurance that your standards are compatible with the standards applied within it. That will have to be watched carefully. When it comes to the great repeal Act, for example, if the rules that are part of the current EU corpus of law, which applies here in the UK, are being repealed or not re-enacted with exactly the same wording here as it applies in Ireland, you are going to have a lot of very busy lawyers looking for problems here. I expect that it will pose quite a difficulty for this House and for the other House.

**The Chairman:** Thank you. We will note that.

Q130 **Baroness Browning:** I think you may have answered both the questions that I was going to ask, which are really to do with cross-border arrangements in the event that the UK does not remain a member of the customs union. The point was just raised about the single market regulatory measures. Particularly in those practical areas for food—we

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are aware that some food production takes place across both sides of the border in producing a finished product—can you envisage a situation where it is likely that Ireland finds itself in difficulty with the EU regulations if, for instance, the UK's regulations do not change or keep up?

**John Bruton:** In a word, yes.

**Baroness Browning:** It is a problem, is it not?

**John Bruton:** Yes.

**The Chairman:** So we need to watch it. Thank you. I have one little question, which I was hinting at delicately earlier. Would it be a smugglers' charter?

**John Bruton:** I live slightly nearer to the border than Bertie Ahern. My constituency at one point was only, I think, 12 miles from the border. So I do feel qualified and yes is the answer to that question, too.

**Baroness Armstrong of Hill Top:** Can I follow up on something that you have both alluded to? This is one of the things that I had not realised before I was in Dublin and Belfast last week. As I understand it, we are coming to a bit of anxiety with part of the devolution provisions of the Good Friday agreement. For example, you were talking about workers' rights and what the European Union has agreed. In the great repeal Bill, if the competence for those rights comes back to London and they change them before they go back over to Belfast to be devolved, because technically that is a devolved area under the Good Friday agreement, there would have to be an agreement between both sides in the Belfast Assembly either to revert to what they did have or to improve them. Some people have said to us that that is a real issue given how the Good Friday agreement is and what decisions the Government may take about devolution, even if that is meant to be a temporary or transitional thing. What are your views about that?

**Bertie Ahern:** On devolution, it was easy enough when everyone was in Europe because in the vast majority of areas you tended to work off European legislation or directives. I hope that it will not become a problem. An employer may start to argue what their rights were after some directive from Westminster and say that the issue was not devolved any more—that you would have to follow the laws from this House and the other House. I would hate to think that we would get into that.

I am trying to be optimistic about it, but the difficulty is that the whole European legal model is based on directives. Those have been the legal base over many decades, which the UK Government and the Irish Government have signed up to. They may sometimes have been dragged and sometimes been very willing, but that has been the basis of how we have operated our employment and equality laws. I am sure that yesterday's meeting with the devolved Administrations was to try to start teasing out these issues, and that the question they were asking was: are we going to hold everything until whenever the period of non-EU membership comes into play? As we all know here, answers to none of these questions have been attempted or started. I am not saying that they

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should have been by now, but they will be very important questions over the next 18 months or so.

**John Bruton:** I suppose there is a fear that the great repeal Act and what flows from it could represent a recentralisation of power, to the disadvantage of the various devolved Administrations, and that it may not happen in a completely transparent fashion—but that is entirely a matter for the United Kingdom itself. I also agree with what Bertie Ahern has just said: uncertainty is the enemy of commerce, and legal uncertainty is even more its enemy. The extent to which this creates new uncertainties about what the rules are will be quite injurious to us all, so anything that can be done to maximise certainty should be done.

Q131 **Lord Green of Hurstpierpoint:** I want to pursue the question of cross-border trade a bit more and to look at other sectors. We have talked a good deal about agriculture and food processing; there are of course other things traded between the Republic and the UK. In particular, the Republic is a big importer of UK-manufactured goods, so I have two questions. First, are there other sectors that are particularly on the radar screen in Dublin as being sensitive and difficult ones that we need to ensure we focus on, as the British Government move towards formulating their negotiating position? Secondly, if I may, the Japanese put out a detailed memorandum from their Foreign Minister on the potential impact of Brexit on the car industry in this country, because they are of course big investors in that industry. This was a 15-page memorandum. I am not aware of whether any Irish group—a business group or the Government themselves—have done the same in detail for agriculture and food processing. Would it not be a good idea to think about doing that? I am not sure how many people here in the Government, in the department for Brexit or the trade department, have focused on the fact you quoted the fact that, for example, 84% of the poultry sold through Tesco comes from the Republic.

**Bertie Ahern:** I think there are other areas. I am sure that you heard this last week, but just to repeat: apart from agriculture, Northern Ireland still has a very good traditional manufacturing base that supplies into the Republic, so that is obviously an affected area. The other area that we have not really touched on is the number of government agencies and public bodies, along with private sector companies and the farming community, that receive funding from Europe today. Whether that is from the common agricultural policy, ERDF money, European Social Fund money or the European Maritime and Fisheries Fund, it goes to a lot of companies and agencies. If I read correctly the figure quoted to you last week, almost 10% of their economy directly comes from it. That is what happens to that. It is a lot of money. In the debate on the referendum, people said, “Of course, that money will be replaced by the Exchequer”. I am sure, however, that when someone in the Treasury starts to add it up they will realise that it is a problem.

I worry about a lot of these programmes. You could argue that economically the PEACE IV programme is not a great programme that will stand up to the criteria of modern-day economics but it is very important, as are the INTERREG programmes and cross-border programmes. There is

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a whole host of these very important issues. Our friends in the Executive are rightly trying to move Northern Ireland away from being a public sector economy to being a business economy, but that takes time. A lot of these European programmes are helping them in that process—in science, technology, innovation and R&D programmes. I would include them as a concern, along with what we consider to be purely industrial problems.

**John Bruton:** That is right, but it is also important to stress that a lot of work is being done to promote better relations in some of the most deprived communities in Northern Ireland that could be defunded, indirectly or directly, as a result of this. That could be put at risk by the financial retrenchment that may be necessitated.

Bertie has already referred to Northern Ireland farmers and what they could lose, which could be very substantial. We should also perhaps refer to the fact that the fisheries negotiation will be very difficult. Demarcating the fishing rights of the two jurisdictions will pose a lot of problems.

Currently, a lot of the research that is done in British and Irish universities is funded by the European Union, and it is easiest, because of language, for British and Irish universities to co-operate with one another. If Britain is no longer in the European Union, its universities may be excluded from those programmes, which will mean that Irish universities seeking partners for research projects will have to look further afield, which will be a difficulty. It will be nothing, however, to the difficulty that will be experienced by British universities losing this source of funds.

It is also important to say to Lord Green that studies on agriculture were carried out prior to the referendum decision. Teagasc, the Irish research and advisory service for farmers, produced a report earlier this year that is perhaps not as blunt as the Japanese study but contains some pretty interesting and useful information. We will clearly need to do more in this respect.

I would also mention energy. Northern Ireland and the Republic are a single electricity market. We are a single wholesale market and we operate our retail market as a single market voluntarily. That is all done within an EU framework. It will be difficult if different energy regulations apply in Ireland from those that apply in Northern Ireland. Ireland is a net importer of energy from the United Kingdom, but interestingly Northern Ireland is a net importer from the Republic of Ireland. This will be pretty complicated.

Our pharmaceutical industry could also be affected. I do not quite understand this, but I am told that there will be issues about duties, value added tax and so on, which could complicate the situation. Obviously, the European Medicines Agency will not continue to be in the United Kingdom, but I think we are both of the opinion that it should continue to operate in a country where at least the second language is English, if not the first. We might not agree on exactly where in that country it should be located, but we could both agree on that. That will be a disruption; moving any institution that is up and running to another country will slow down all sorts of approval process and the like. It will be quite difficult.

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The Open Skies aviation issue is another matter. The EU Open Skies programme may affect what UK airlines can do in terms of picking up passengers in one EU country and bringing them to another. That has not been much thought about.

**Lord Green of Hurstpierpoint:** The Japanese memorandum was blunt and detailed. I know it was read extensively in the various departments of the UK Government as they started to grapple with what Brexit really means, and it opened a few eyes. I just leave that thought with you.

**John Bruton:** Unfortunately it was after Britain had voted.

Q132 **Baroness Armstrong of Hill Top:** You have both talked a good deal about the Good Friday agreement. I shall ask particular questions about the agreement and the peace process. We were told last week that no one is thinking of going back to violence, but on the other hand there is still fragility in the relationship between the two communities and in the culture. What practical things need to be done to ensure that the Good Friday agreement retains its integrity and is not put at risk?

**Bertie Ahern:** I do not think that anyone, other than a very small group of dangerous people, is contemplating going back to violence. All the issues of the past are in the past. However, there is concern. We have had a stable situation for the better part of 20 years, with the economy developing and investment coming in from other parts of the UK, the Republic of Ireland and around the world. This is all helping the employment position, of course; people are working and people are happier. More people in Northern Ireland are being educated at home, rather than what was happening during the years of the Troubles. As John Bruton said, I do not see that all these uncertainties will lead to disorder or community troubles. However, they do lead to tensions within the Executive and the Assembly and between north and south. I hope that after Easter, when the negotiations start and someone has a framework of what can be resolved, people will talk about things and there will be a constructive debate. It is always better when issues are on the table. But we have to put up with this period over the winter and spring when nearly everything being said by everyone is hypothetical. We should try to move on from that because it is creating tension. The Executive, the Assembly, the Irish Government generally, the political system and the whole island of Ireland are just hoping. Nobody is happy. I do not know anybody who is happy that the United Kingdom is pulling out of Europe. I cannot think of one person. Collectively we know a good few people, but I just do not see them.

I was involved in a voting situation this time last year in Newry. There was a debate in the north and when the machine was given out to everybody, 94% voted that the United Kingdom should stay in. I know that when they got to vote it was not like that. I think that uncertainty is the issue. I really cannot see any violence or related problems in communities. It will be about getting on with the detailed negotiations. We are where we are, unfortunately, and now we have to get on with it. The issues that we have both drawn out—we are talking about just the island of Ireland, but I am sure that you will have got this last week and elsewhere, when you have

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been in other countries—mean that the complexity of this is a nightmare. We might as well face that fact.

**John Bruton:** At the same time, we should not underestimate the damage that negative symbolism can have as a generator of violence. Republican violence, or loyalist violence for that matter, did not arise in Northern Ireland in pursuit of a practical programme or in objection to practical measures that were disliked; it arose from a sense of being disregarded—a sense of symbolic issues being presented in a way that was alien. Therefore, the way in which this is handled and the words that are used, in whatever notices are published about what is to happen, should take account of these sensitivities and avoid negative symbolism. It is also important to say that at least one person, Adrian Ismay, was murdered in terrorist violence this year in Northern Ireland. We should not forget that that has happened, even this year, so we have to be very careful about this. Anyway, that is all I have to say about it.

Q133 **The Chairman:** Thank you for that. Can I pursue what you might call the legal point on this as well? Do you want to give us an appreciation of whether there are any legal consequences of Brexit, given that it is based on the premise that the guarantors are both EU member states? When that prior condition is no longer fulfilled, will it make any difference to either the validity or expression of that agreement? Can it be sorted?

**Bertie Ahern:** You can unpick anything with legal minds, as we all know. There are several references to the EU dimension in the Good Friday agreement; it comes up four or five times, as we both said earlier, so there has to be an understanding. The best way of dealing with these issues would be within the councils between the Governments—the British-Irish council and the North/South Ministerial Council—so that we get a new understanding of them. I do not see them, quite frankly, although there are particular references. With the European Union in mind, one of them—I think it was the North/South Ministerial Council or the British-Irish council—said that the forum should be used where there are differences on EU matters. That was more about where there might be conflicts between the United Kingdom Government and the Irish Government over something at EU level, and how we would handle that at the various councils. We tended, if not always, to work very closely together on most issues down through the years, certainly when both of us were there. I hope that is enough: that they are not creating difficulties but that they cannot be ignored either. There needs to be an understanding of how some of these issues can be dealt with. There is also the point that John Bruton raised at the start about the European Convention on Human Rights. That is an issue which has been raised.

**John Bruton:** The European Convention on Human Rights is, in effect, the written constitution of Northern Ireland as far as the activities of the devolved Administration are concerned. They may not do anything that is in conflict with the European Convention. They are required to have a committee of the Assembly to vet legislation for compliance with that convention, so it is critical. It is not in question in the issue of Britain leaving the European Union, so long as it does not leave the European Convention on Human Rights. I must say that I cannot see within the

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Good Friday agreement any legal impediment or problem, but other more advanced legal minds may find something.

Bertie has referred to the North/South Ministerial Council, the British-Irish council and the British-Irish Intergovernmental Conference. I think these should be seen in part as safety valves for difficulties. The negotiations between Britain and the European Union are going to become quite fraught at various points. People may be inclined to say things on either side of the Channel that would be seen as disobliging on the other side. One of the very good things about the Anglo-Irish agreement, when it first came into existence, was that when some incident occurred the existence of these councils meant that they did not have to say such things on the spur of the moment. They could say, "I am going to bring this matter up at the next meeting of the British-Irish Intergovernmental Conference", or, "I am going to seek a meeting of the British-Irish Intergovernmental Conference to discuss these matters". In that way, you buy time and get into a situation where whichever issue has been a source of difference between London and Dublin, or Dublin and Belfast, it can be discussed somewhere else in a week's time when tempers have cooled. We should use these institutions in that fashion—Bertie was directly involved in framing them—as a means of diminishing the tensions that will inevitably arise.

**The Chairman:** Thank you. We have three questions and up to 15 minutes in which to resolve them, if that is all right with you gentlemen.

Q134 **Lord Whitty:** We have referred to various aspects of EU funding that go to Northern Ireland for agriculture and some cross-border services, et cetera. We were told in Belfast, and indeed in Dublin, that because of the legal heading that it comes under for the EU, some of that funding for cross-border issues such as services for charitable organisations but also for infrastructure would not be available were one of the sides of the border not to be in the EU. For example, on the infrastructure side there is the A5 western corridor. If that is the case, would you see those initiatives as being in jeopardy, or would there be an Irish-British deal, bearing in mind that you would no longer get the EU funds, at least under that heading?

**Bertie Ahern:** I would just mention one that I was deeply involved in, the PEACE IV initiative. I am sure that is the one we are talking about, because I know it is very dear to them. In the present round, the European Union allocated €150 million up until the 2020 period; the total is something close enough to €250 million, as the British Government and the Irish Government pay the remainder. The programme would be fairly, if not totally, ineffective if the EU resources were not there. John Bruton mentioned EU research earlier; again, that has a big fund. The Erasmus programme is very important, as is the Horizon programme. There are a lot of them—I know that some people say they have too many but they are there to play very important roles in parts of the economy. To answer your question, they are all in jeopardy.

**John Bruton:** I think EU funds are going to be scarcer anyway as a result of one of the wealthier countries in the European Union—and one of its bigger contributors—leaving it. I would expect that a change in the status

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of Northern Ireland, from being part of the EU to not being part of the EU, would be bound to affect funding.

**Lord Whitty:** What would the consequences be if they were putting quite a lot of value on these cross-border initiatives improving the relationship between the north and the south, and community relationships?

**John Bruton:** Obviously both Governments are going to have to look at this, because we will have a shared interest in ensuring that the community benefits are achieved to the maximum extent. But both Governments are going to be in a much less good financial position to do this in the absence of EU funds. That is, unfortunately, a reality. It may be one of the reasons why people in Northern Ireland took a different view to people in this island.

Q135 **Lord Teverson:** This is a slightly different question, but you both got to the top of the political and parliamentary process in Ireland and you are both hugely respected statesmen on a European level. Given the fact that you are no longer actively involved in Irish politics, what advice would you give the British Cabinet in how it approaches the negotiations with the other 27?

**John Bruton:** I have thought a lot about that. I think that the debate here in the UK, even within government about what the UK should do in approaching the conduct of the negotiations, has been conducted as if it was all about what is good for the UK. In my view, the best way to get anything done in Europe is to present what is good for you in a fashion that is demonstrably good for the whole of Europe. That obviously requires a lot more imagination. It is very easy to see what is good for yourself; it is sometimes very difficult to know what is in this for Slovenia, or what is good about this for Spain or Lithuania. When the negotiating bid is made in March, or whenever it is made, it should be framed as what Britain wants to do to help the European Union and the United Kingdom to prosper, rather than a series of demands based on what would appeal to people in Peterborough or Sunderland alone.

**Bertie Ahern:** The debate is over, and like every political debate it can create a huge amount of rancour, but now it has gone into a very different plane. I think that the British are the fifth biggest exporter in the world and the second biggest in the EU—perhaps they are tenth in merchandise and second in commercial. They do not have to prove anything about their size or scale. It is a hugely significant country in world terms. In the negotiations, will the UK want to be totally isolated from everybody? Of course it does not. The election is over. There are discussions going on in Europe dealing with the trade agreements with America, with the ASEAN countries and with Mercosur countries. Does the UK really want to negotiate all those on its own? Is there not some way for the EU to be running these negotiations but having a relationship with the UK, and working with it to deal with some of these issues on the world scale? It is not just about Europe; these are world issues.

If the world knows that the EU is negotiating all these things while the UK goes off to negotiate them alone, everyone will be weaker and I do not see much sense in that. I would hope that out of this result, as much as I



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dislike it—we are where we are, as I have said several times—the UK and Europe will now get into a position where, while they might not collectively be all around the table every day of the week as it was, there are clear understandings about where they stand under a broad umbrella. Whether that is about the EU/UK relationship with India, America or wherever, I do not see how it will all work otherwise. The UK does not have to be apologetic about all these things. It is a very strong place, but will your strength be proved by being alone and fighting everyone off or by having relationships in the areas that are appropriate? The only ones who can decide that are the UK Government. Having watched the closeness of the debate, I imagine that would be far more UK people happy with that than with the alternative. I may be wrong.

**The Chairman:** Thank you, we have two final questions. Lord Selkirk is next.

Q136 **Lord Selkirk of Douglas:** I want to express great appreciation to both former Taoisigh for coming to speak to us today. I vividly remember Bertie Ahern speaking to the Scottish Parliament in an address of encouragement to all the new MSPs, among whom I was one, on 20 June 2001. It was very much appreciated then. May I ask a question about the impact of Brexit on cross-border policing and security co-operation? What impact is Brexit likely to have on this co-operation, and how can any negative impacts be mitigated? Will Brexit present any impediment to the sharing of evidence and immigration data, co-operation on extradition, tackling organised crime and terrorism and cross-border investigations and emergencies? That is rather a lot to ask in one question.

**John Bruton:** I chaired the committee on the convention that drafted the Lisbon treaty, which dealt with the issue of justice and security co-operation. The treaty provisions provide an immense resource for co-operation between EU countries on matters such as the European arrest warrant, the establishment of Europol, the sharing and mutual recognition of evidence and the sharing of intelligence—all matters that are very important not just on a cross-border basis but between the UK and Ireland, and between the UK and the rest of the European Union. I think the UK authorities were initially quite suspicious of these provisions and wanted to opt out of them completely. But when they saw how they were actually working, they decided they wanted to opt into some of them.

I expect that even if Britain is leaving the European Union, the rest of the European Union would welcome it opting into much of this. As long as there is relatively free movement—as there will be anyway between the UK and the rest of the EU—we will need strong intelligence co-operation and legal co-operation for the detection and deterrence of crime. My sense is that I would encourage the United Kingdom not to depart from this. There are obviously going to be issues—I am speaking openly—that cause concern if the UK decides that for all purposes it will have nothing to do with the European Court of Justice. That could lead to difficulties in co-operation, because there has to be some final arbiter if there is a dispute in some area like this. For us, the final arbiter is the European Court of Justice.

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So on a case-by-case and sector-by-sector basis, given the importance of dealing with terrorism—in all its forms and the reasons for it—the UK should seek proactively to continue to opt in as much as possible to this. That will obviously be subject to negotiation, but I cannot see much objection from our EU colleagues to the UK continuing to participate in this, because it will be good for all of us.

**Bertie Ahern:** Trying to defeat organised and international crime is, as we all know, a cross-border issue. This is an across-the-world issue, and everybody should be trying to co-operate. So, to answer your question, I hope that everyone would agree with that. But your Ministers at European Council meetings—I was at those for a long time—tended to be fairly negative about all these issues, for reasons that I could not quite understand most of the time. I politely say that if they continue the attitude they had when they were in Europe, I am not too sure that I can guess what it would be like once they were out of it. That would be my concern, I am afraid. I know that there is a major hang-up about the European Court of Justice, but in Europe it is seen as a very positive thing.

Q137 **Earl of Kinnoull:** When the Irish Government published their contingency plan immediately after the referendum, they identified a number of key issues—three in particular. You have already given an effective storm warning on the energy market. Could you flesh out your thoughts on social welfare provision and cross-border health services?

**Bertie Ahern:** On cross-border health, the North/South Ministerial Council has been working to make a lot of progress in that area. I am sure that you heard last week of its success. It is proud of what it has done for cancer services on an all-Ireland basis, which are very good. It has also been co-operating on obstetrics; again, they have made a lot of progress. I hope that things will continue, because they are based on the medical professions and other people working together. But there can be difficulties in other areas, and I am not sure that co-operation might be as strong there. I would hope that the North/South Ministerial Council will still be there and continue to work. I think that John has dealt with energy. What was the third issue you asked about?

**Earl of Kinnoull:** Social welfare.

**Bertie Ahern:** We have taken different views in the social welfare debate over a number of years. We have a large European workforce now and have been fairly committed to following the European codes. That creates some tensions and problems, but we have not had the same difficulties that you have had with reciprocal arrangements. We have reciprocal arrangements that have evolved and developed all the way from 1973. I know that some of them are open to rancour and difference, but to the best of my knowledge we have not opted out of any of the social welfare codes over the last number of years.

**John Bruton:** I would probably agree with what has just been said. There are obviously now far more people from the Republic working in Northern Ireland, and far more people from Northern Ireland working in the Republic, than was the case 20 years ago. That is going to raise issues about social welfare entitlements if and when they get sick or unemployed,

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and all that. We need to work hard at finding practical solutions to any difficulties that arise.

It is also important, when government departments here in London contemplate making any changes to existing EU rules in four, five, six or seven years' time—or whenever the repeal Act is brought into force—to have a requirement that the cross-border Irish impact of any change at all in the community acquis, under the powers of the repeal Act, is one of the considerations to be looked at before any change is made. That way, practical solutions can be found, and the North/South Ministerial Council, or whatever body it is, will have time to find a solution. The last thing I think we would want is some decision made on a particular EU law that makes an awful lot of sense in London but does not make an awful lot of sense in Derry or Newry.

**The Chairman:** Thank you for that. Finally, is there anything we have not touched on today that either of you would want to draw to our attention? If that is a no, I will try to encapsulate this extraordinary range of views, for which we are very grateful. First, it seems to me that one of the messages we ought to reflect on is having the maximum acceptable degree of flexibility to meet the needs of people on both sides of the frontier that we have had historically—the effects of which have, shall we say, been so much mitigated by the European Union, which we will no longer be a member of. Secondly, I make the simple point that when Britain leaves we will probably continue not only to need but to ramp up our bilateral arrangements so that we can talk these things through.

You have been immensely gracious with your time. You have given us huge insights, which will immensely help the deliberations of our Committee. We are very grateful. You will be more than welcome to share any further thoughts with us or, I am sure, to come and see us on a future occasion, as this has now become a double act that we have enjoyed and treasured and for which we are very grateful.

## **Alliance Party, SDLP and Ulster Unionist Party – Oral evidence (QQ 76-84)**

Evidence Session No. 7

Heard in Public

Questions 76 – 84

Monday 17 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty; Baroness Wilcox.

### **Witnesses**

Colum Eastwood, Leader, SDLP; David Ford, Outgoing Leader, Alliance Party; Mike Nesbitt, Leader, Ulster Unionist Party.

Q76 **The Chairman:** Good afternoon, gentlemen. We are now live for the final session of the day, our fifth session, as the Lords EU Select Committee looking at the implication of Brexit issues for the island of Ireland and its constituent parts. We are hugely grateful in what, at party leader level, will be a busy time. I record our appreciation of, and sorrow at, the departure of David from his position in the Alliance Party.

**David Ford:** These two are quite happy, Chairman.

**Colum Eastwood:** I do not know about that.

**Mike Nesbitt:** No, no.

**David Ford:** They were both very gracious.

**The Chairman:** We will have the love-in at the end. We are sometimes cynical about political service and we should not be. The only point I add from our Committee, given we are an appointed rather than an elected House, is that we do not have a democratic mandate, therefore we have an enhanced democratic obligation. We try to look at this as straight as we can. I would like very much, proceeding in the order you appear on my list, to welcome, and to reflect the fact that you are hosts, Mike Nesbitt, leader of the Ulster Unionist Party, Colum Eastwood as leader of the SDLP and David Ford—I am not sure whether you have formally demitted yet.

**David Ford:** I have formally, yes.

**The Chairman:** You are the immediately outgoing leader of the Alliance Party. We are all very familiar with your background and contribution. Unless there is anything in particular you want to say to us first, I think we will kick straight off with the questions.

**Mike Nesbitt:** I think so, yes. We are happy.

Q77 **The Chairman:** I am absolutely happy for you to take this as flexibly as you wish. You may and probably all will wish to make a contribution, or you may want to demit one or come back. Particularly at the political

level, we are anxious to have as much exchange and cut-and-thrust on these issues and your concerns as we can.

If I might start, we know that David Davis as Brexit Secretary—he is fond of saying that he came over here as his first major international assignment—has identified UK-Irish issues and the impact on Northern Ireland in particular as one of the more difficult elements of the upcoming negotiation. Would you like to say briefly what the main difficulties that need to be addressed are, in your view? We can start with Mike and go along the list, and then vary that on a subsequent question.

**Mike Nesbitt:** The most obvious thing is geographical. We currently have a land border with the eurozone, but come Brexit that will be a land border with the European Union. We do not know what that will look like. The implications are potentially massive for us. Of all the nations and regions of the United Kingdom, Brexit is likely to impact on us more than anywhere else, yet for our devolved Assembly and Executive, we appear to be the least prepared. There has been minimal contingency planning. Indeed, since 23 June very little has occurred. The two First Ministers have written to Mrs May. They did so on 10 August. All they managed to do was define five areas of concern, which were as obvious on 10 May or 10 June as they were on 10 August. They included the border, energy and agrifood.

We are not in a good place. We need to define a vision of how Northern Ireland benefits in the new situation. The Executive need what we have described as a war room. In other words, we need to assemble the intellectual capacity and the resource to understand how to maximise our position in the negotiations that are coming. That capacity is out there, but it is not on this estate, where it needs to be. We need to be able to react in live time to developments.

As one example, the Permanent Secretary of the Department of Finance was in front of the Committee for the Executive Office two Wednesdays ago. He said that when the Chancellor took the original position of underwriting only anything that was at letter of offer stage by the Autumn Statement, it put around about €1 billion of local applications for euro funding at risk. The Chancellor then softened his approach and stance at the Conservative Party conference. The Perm Sec's assessment was that that freed up around €900 million of that money. We went from €1 billion at risk to under €100 million at risk with one sentence of one speech. It is critical that we are across all these things in a live sense so we can react in a timely and appropriate manner.

We need to establish the policy options, then pick our priorities. Critically, we need to assess whether those priorities complement or clash with the UK's priorities. Some of them will clash and that is a big problem. For example, agriculture is much more important to Northern Ireland than it will be to the UK Government. If, for example, we are saving £8.5 billion—who knows what that figure will end up at, depending on the negotiations, but even if it was £8.5 billion—and you gave Northern Ireland only the 3% that we would be entitled to under the Barnett formula, that would be enough for only our farmers, to compensate them for the loss of the single farm payment. There would be nothing for the voluntary and community

sector, which relies exclusively on the European Social Fund for training. There would be nothing for our universities. It is very hard to figure out how we will make this into a good thing for Northern Ireland, but that is the political task we have to grasp.

**Colum Eastwood:** The three of us will have slightly different views about where we go, but all of us were on the same side before the referendum and I think we are on the same side when it comes to understanding that this will have a huge impact on people in Northern Ireland. That is why 56% of people here voted to remain, because they understood and could see in a very physical and real way what the impact of possible Brexit would be on us.

I come from a political party that has European Unionism as part of its fundamental make-up. We are very much pro-Europeans. We want to see as much connection and co-operation around the continent as possible. We are deeply concerned about the impact this has. We can talk about the economic impact, trade and the fact that 35,000 people cross the border every single day. I live a mile from that border; I cross it very regularly myself.

From an Irish nationalist perspective, the impact this has on the Good Friday agreement and all that that meant is tremendous. While we always maintain our aspiration, many people in Irish nationalism were prepared to wait for Irish unity. They were prepared to play the long game and let the institutions bed in. I am not suggesting that that has changed hugely, but the conversation has changed. People are now very concerned that the constitutional shock that Brexit will be will have an impact, but we are not sure what that impact will end up looking like. The principle of consent in the Good Friday agreement that the majority of people in Northern Ireland would have to give consent before a constitutional change to the status of Northern Ireland—which is something Irish nationalism had to come to—was fundamental to that agreement. It was very important that Irish nationalism signed up to that. John Hume and others convinced Irish nationalism to do that. This is a huge constitutional change that is happening without our consent.

For us, the Good Friday agreement was about breaking down borders, further integrating across the island and working democratically in the absence of violence or intimidation towards our political aspirations. To take that away—to take the common EU membership we had with the south of Ireland away—has a tremendous destabilising effect on the Northern nationalist psyche. I do not think that that can be overstated. I do not for a second believe that peace is under threat, but I believe that the political direction, and the speed of the political direction, has been upset. We do not know where that goes.

My strong view is that ideally we would remain members of the European Union. I believe that the European Union is a fantastic problem-solving organisation. If you look at where we were not too many decades ago in Europe, this is an organisation and body that is able to solve some of the biggest problems our continent has ever seen. I do not believe it is impossible, but at the very least we need to maintain the four freedoms on this island, because I do not believe for a second that it would be practical

to enforce any kind of border that includes restrictions on people or goods on this island. It would be impossible. The logical outworking of that has an impact as well. I believe the most likely outcome is that border checks will happen in ports and airports on the island of Britain. That needs to be thought through. All these things have constitutional shakes in them. I am not sure that was fully considered by some of the people here who argued for Brexit.

**David Ford:** Mike has given a very useful background to the economic situation. I do not think I disagree with anything of any substance that he said. Colum has outlined some of the political issues, particularly for nationalism, which, while I do not necessarily share every view he said, I recognise as absolute realities for a very significant section of our community. I understand that you are travelling down to Dublin immediately from here. Whether you are on the train or on the road, you will not know when you have crossed the border. I am old enough to remember the days when even private cars had to have little triangular stickers stuck on their windscreen and so on. That is a huge psychological issue that affects everybody, but obviously for those who regard themselves as nationalists it is particularly important.

On the practicalities and differences between Northern Ireland and the rest of the UK, there is the fact that a majority of us—which was a great majority of nationalists and centre-ground people, and a reasonable number of unionists—voted to remain, as opposed to votes in England and Wales, excluding London. That in itself is a difficulty. That is then reflected in the issue of cross-border trade. Last week on the BIPA committee looking at the effect on agriculture and food we had significant evidence of the amount of trade in agriculture and food that is directly cross-border.

**The Chairman:** We have had evidence on that this morning.

**David Ford:** The pigs that travelled north for processing; the cattle that travelled south; the milk that travels in both directions: those are massive issues that are simply not recognised. It is not just agriculture, but that is the most obvious high-level example. Clearly the issue of the common travel area is not dealt with by people simply saying, “The CTA has existed since 1923”, because it has existed only since 1923, when we have either been these islands and nobody else was worried, or we have all been in the EU. The whole issue of immigration and the response in parts of England to immigration will clearly affect that whatever.

We also have environmental factors because of our close proximity to another member state. What England does not have until you get 20 miles away, we have a metre away. There are issues there. In my past role there are very significant issues, as you, Chairman, are well aware, around justice co-operation, which we very nearly lost a couple of years ago.

**The Chairman:** We are very grateful for your input on that.

**David Ford:** The justice and home affairs opt-out could have lost vital things such as the European arrest warrant. We have no understanding of how that will be. Given that somebody can abscond from the courthouse in

Strabane and be outside the jurisdiction of that court in barely a mile, it is a very significant issue as a requirement for cross-border co-operation.

**Q78 The Chairman:** Thank you all for your contributions, which have added up ensemble to a very interesting position. To go a bit further on two questions, given that we know the UK-Irish relationship is unique—I am not asking you to define a final position on that; I am just saying that it is special and that is understood and acknowledged by the Government in Westminster as well—would you feel, individually, that it is desirable to seek to establish a specific bilateral UK-Irish deal as part of the Brexit negotiations? Probably, for reasons that you will find obvious—not least because the Irish Government will, in a sense, be on the other side of the table—it might be presented not quite as a joint agreement, but does there need to be an understanding of what is offered for Brexit as to the nature of the UK-Irish relationship, if only to persuade the other 26 that something has to be done about it? How do you feel about that?

**Colum Eastwood:** It makes sense. No other EU country is affected in the same way as the Irish Republic. There will obviously be constraints on this because Ireland is a member of the European Union and will remain a member whatever happens post Article 50. It will have to be on the other side of the table. One of the things that worries me about these so-called negotiations—I am not sure how much negotiating will be done—is that so many different sets of agreements will have to be reached before the UK can leave with a deal. It will be very difficult to get all that over the line, especially in the allotted two-year period. I have asked for and I think we have received a commitment from the Irish Government that they will at least be our friends around the negotiating table. I am not sure what will happen for the rest of the UK, but they are very much aware, and have been very vocal in their support for and understanding of the issues that people in Northern Ireland face.

**The Chairman:** This is presumably because it is seen as a mutual interest in both parts of the island of Ireland.

**Colum Eastwood:** It is that, and I think they have a duty and genuine concern for people here and the issues we face. There has been some discussion in academic quarters around this: there may well be a need post-Brexit for a conversation around what the constitutional position ends up being—what the relationship between Ireland and the UK ends up looking like—and if that forms some kind of agreement. I am not sure. Right now, we have to focus on protecting the practicalities, which are, in my view, about the four freedoms—the freedom to move and do business around this island. Otherwise, we will create political problems that I do not think we will be able to solve very easily.

**David Ford:** We need a bilateral deal between the UK and Ireland; I am just not sure how we get it. Incidentally, there are people in the Republic who fear that their interests will not necessarily be represented when Brussels negotiates with London, just the same way that people in Northern Ireland fear that London will not be representing their interests either. It clearly is a very significant issue. It is common history and everything else. We do not need to rehearse those points, but it is difficult to see how, in the context of a negotiation between the remaining EU and



the UK, it is possible to have that kind of special relationship, which exists psychologically but may not be given formal recognition. I am not aware of special relationships that the various member states of the EU might have that are in any sense as big as Northern Ireland, although we are only 1.9 million people. We are not 20,000 people in Greenland or Gibraltar; we are a significant part of the whole nation. It becomes very difficult to see how you can resolve that point.

**Mike Nesbitt:** As a Unionist, I wish to persuade everybody who lives in Northern Ireland that they are best served remaining part of the United Kingdom. Part of that would be to try to make the border less obvious and less important. Some time ago, the visionary late Sir George Quigley, a businessman, identified and persuaded people on this side of the border, "Your easiest export market is 60 miles down the road. You don't need to chase around continental Europe. It's obviously there". In Colum's home city, up in Derry, there is a new cancer service. The business model is not to serve the north-west of Northern Ireland; it is Donegal, it is the Republic of Ireland. As you do things like this you make people like Colum more comfortable with the concept of the United Kingdom.

**Colum Eastwood:** This is where we begin to disagree.

**The Chairman:** We will leave you to sort that one out afterwards.

**Baroness Armstrong of Hill Top:** I can understand the differences.

**Mike Nesbitt:** For unionists, the Anglo-Irish agreement of 1985 was a seismic shock imposed above our heads. I am empathetic to the fact that, for Colum, what happened on 23 June is a bit the same. This is English nationalism saying to Colum, "Despite the assurances of the Belfast Good Friday agreement 18 years ago, this is being imposed upon you. You voted to stay, but you're going to have to come out".

We need to work with the Republic in having a common position in negotiating with the 26 because we cannot expect them to understand the exact nature of the relationship between the United Kingdom and the Republic of Ireland socially, economically and politically. Also, while we as an Executive, along with the Welsh and the Scots, will be invited by the Prime Minister to input into negotiating positions, she has also made clear that it will be the UK Government that will then go and negotiate. We can also go in round the back door, as it were, because we have an office of the Northern Irish Executive in Brussels. I am very keen that they start lobbying on the ground in the capital city.

There is also what used to be called the Barroso task force. I am not sure what it has ever achieved, but if ever it was potentially of great value to Northern Ireland, this is that time to try to ensure that the Council, the Commission and the Parliament understand that the UK's priorities might not be in synch with Northern Ireland's priorities. Europe has invested a huge amount of money, time, effort and political capital in peace in Northern Ireland. That is something we should use to our advantage.

**The Chairman:** I will not speak further on this line of questioning, other than to say, by way of comment, that our Committee is, of course, actively engaged in inter-parliamentary exchange, as opposed to inter-executive exchange, which is a distinction that the Government do not

always pick up on. We will no doubt seek, as and when we report, to be very active in making sure the Government report through the democratic process to Parliament and the devolved Assemblies so that we may all be involved in this. I flag that up.

**Q79 Lord Jay of Ewelme:** I think David Ford said that the Irish were concerned that Brussels might negotiate directly with London, as it were leaving them out of it, but is it not very much in London's interest to persuade the other 26 that it is in everybody's interest that an agreement is reached among all 28, even though it is a rather specific one between Ireland and Northern Ireland because of the difficulties involved? Do you think they are doing that or will do that?

**David Ford:** Clearly, an agreement that ended up satisfying all 28 would be great. I am not sure how exactly we would get that. The concern I was trying to express was views from the Republic that the negotiating body will be the EU. The Irish voice in Brussels is relatively small. Even though they have the most significant concerns, they feel they would not be heard alongside the massive continental countries.

**Q80 Baroness Browning:** Is there any structure or process you can identify that has been activated since the result of the referendum that would ultimately allow Northern Ireland to speak with one voice, not only so its voice can be heard, but so that nobody can drive a coach and horses down the middle?

**The Chairman:** To interpose or gloss on that helpful question, Mike said in his introductory remarks that there is a need for dialogue that needs formulating outside this building. We are all conscious of the sensitivities of the political process here, whether for individual parties or members of the Executive. In a way, if it was left to just the politicians it might be difficult, but how are we going to distil an Irish voice, which can go forward loud and clear to the participants in the negotiations? What are the mechanisms for doing so?

**Mike Nesbitt:** I do not think we have a voice or mechanism at the moment. As Colum said, the three parties represented here all campaigned for remain. We now have slightly different positions. Mine is that the days of Brexiteers and remainers are gone. The people have spoken, so we should get on with maximising the advantage. The difficulty with the Executive is you have two parties who are poles apart. We have the DUP, which was for Brexit, and Sinn Féin, which was for remain. When the Secretary of State for Exiting the European Union, Mr Davis, came over to meet the Executive, he had to meet them separately at two meetings. A house divided has no leverage in negotiations. How many times has a politician said to somebody or a group of people, "You clearly haven't got your act together, so come back when you do"?

We are in a terrible position. The UK Government have set up a department with a Secretary of State and Ministers. The Scottish Government have set up an advisory panel. The Welsh are looking at it; Dublin is looking at it. Even the Secretary of State for Northern Ireland has a business advisory group. I am not sure why it is just business, but he has an advisory group. The Ulster Unionist Party has a Brexit advisory

panel, made up of the voluntary sector, agrifood, manufacturing and universities. The only group that does not seem to be putting together processes, plans, resource and intellectual capacity is the Executive.

We now know that the head of the Civil Service, when the then Prime Minister said that we will have an in/out referendum, asked the European unit in the Office of the First Minister and deputy First Minister to look at a paper. Apparently it was never completed and apparently the First Minister never saw it. Lines were given to people manning a phone line for the department of agriculture to use on 24 June. All those lines were drawn up on the premise of a remain vote. It was only early in the morning on 24 June that lines were distributed to reflect the fact we had voted to exit. We do not seem to be anywhere in terms of a plan, a strategy, a vision, a set of mechanisms and having the intellectual capacity in the right place at the right time to push our case.

**Colum Eastwood:** It should not shock anybody that the DUP and Sinn Féin have a different view. I do not criticise them for having different views. It would be ridiculous if they had the exact same view on this. What is shocking is when you hear that they are only beginning to work on contingency plans after the referendum—after the fact. There is a bit of an issue of what “contingency” means, but that is very worrying. The Irish Government have done far more work in advance of the vote than our Government here. That scares me almost to death. We do not expect the Executive to have one view and one voice on every issue, but there are some fundamentals we need to get together on. None of us is in the Executive, but I am happy to work with anybody to try to ensure we get the best possible result for people here. The Irish Government have convened a conversation. I will be involved in that. If our Executive convene a conversation I will also be involved in that if they want me there.

Whatever there is about the 56% and the rest, surely everybody now wants to find the best possible solution. We will have different approaches practically, maybe, but my view is that the maintenance of the four freedoms and access to EU funds should be something we can all agree on. The difficulty is the DUP does not even agree on this internally. Sammy Wilson says one thing; Jeffrey Donaldson says another. We are having a debate today where most DUP members seem to support Sammy’s position. It is very difficult for the rest of us to engage when the DUP seems to be divided in its approach to this. From our perspective, we are ready and willing to get involved in any team-building effort required to get us to a common position.

**David Ford:** As Colum said, it is no surprise that the DUP and Sinn Féin were in a different place up to 23 June; the tragedy is they have not done anything to bring the Executive together. Frankly, we could all make the political point that that is not suggesting that relationships with the EU are unique in the ability of the DUP and Sinn Féin to agree together what needs to be done, but it is an example of an urgent and pressing problem for this region more than for any other part of the UK. Yet, there is no sign that they are working together beyond that letter to the Prime Minister

that was mentioned earlier, which effectively pointed out what the problems are. We know what the problems are, but the Executive have taken no lead in seeking to resolve them, either internally or involving wider society.

**The Chairman:** There is not at the moment an articulated voice being fed into the Executive?

**David Ford:** No. For example, last week, when the BIPA committee looking at the future of the agrifood industry across these islands took evidence in this building, the Department for Agriculture, Environment and Rural Affairs was not represented, although a number of other stakeholders were.

**Mike Nesbitt:** If I may, on Lord Jay's point, we have to assume that in the other 27 member states there is more hostility than friendship likely to come the UK's way, which makes our position with the Republic of Ireland all the more important to argue a solid case. On the border, there is a thought in my mind that is immature and needs to be thought out, but there are a couple of things. As I understand it, the UK Government contribute to the French Government with what is happening in and around Calais. The other thing is, if you were leaving here to get to the States, you could go to Belfast International and fly to Europe. You could, of course, go to a hub like Heathrow. Your other alternative is to go to Dublin and fly direct from there. The big advantage with that is that you clear American customs in the terminal in Dublin Airport, because that piece of land has, in effect, been ceded to the United States. I wonder whether that is a principle that could be rolled out to protect against people using free travel to come to the Republic and then migrate into Northern Ireland to use Northern Ireland as a springboard to access Great Britain.

Q81 **Lord Whitty:** Most of my question has been covered, but it seems to me that the problem of us going back to our Government and saying, "You must take the Northern Ireland dimension more seriously in this negotiation", which I think we would be inclined to do, it that there is no unified voice. If there is not much prospect for a unified voice from the politicians, do you think there is a prospect for one from, for example, industry and business? Do you think discussions with the Irish Republic could kick Northern Ireland into having a more coherent unified voice in this area? Or, as soon as a particular proposition comes on board, are we going to see a retreat or division into the usual sectarian divide? For example, we have seen the quote from Charlie Flanagan, which seems perfectly reasonable when you first look at it, that the new arrangements should seek, "Legal recognition of the unique status of the North". That means that the north would be different from the rest of the United Kingdom. Will that provoke a reaction among some sections of the unionist community? In which case, the freedom for manoeuvre is a bit limited. Is there any way that at least a minimal level of unified view can emerge from Northern Ireland, even if it is not at the top level of the Executive?

**Colum Eastwood:** That is possible, but you know where you are. It is not unusual that we all come to issues from different perspectives, but the

reason why I talk about the border and the need for a special understanding or recognition of Northern Ireland's place is the practical outworkings of all this. If the referendum result was about immigration—in large parts it was—the UK will have to maintain its border. That is a very simplified way of looking at it, but it will have to maintain its border somewhere. I just do not believe it is possible to do it across the island of Ireland, especially when we talk about the freedom of movement of EU nationals. Things can be done by the Irish Government at airports et cetera, but for EU nationals it will be very difficult. I am not sure that the very hard-line Brexiteers would be content if there is a backdoor through Northern Ireland. This creates a problem. Everyone says that we do not want a hard border, including the Prime Minister and the DUP, but nobody is saying what it will actually look like. That is why I believe the outworking of this is the border will end up in ports and airports in Britain. Constitutionally, we are still part of the United Kingdom, but to all intents and purposes this is where this ends up: around freedom of movement of people and access to markets.

**Lord Whitty:** That would be a remarkable outcome, because that would be an international border in the UK, treating the six counties—

**The Chairman:** It might be sensible to get Baroness Browning and Lord Jay to ask their questions together because they are both exploring the border issues.

Q82 **Baroness Browning:** You will be familiar with reports in the *Guardian* that the UK Government are seeking to shift the front line of immigration controls to Ireland's ports and airports—Colum just mentioned that—to avoid a hard border between north and south. If that was put in place, how would it work in practice?

Q83 **Lord Jay of Ewelme:** My linked question is about customs. Assuming for the moment that Brexit means a hard Brexit and therefore we will be outside the customs union, do you think that means there would have to be some kind of hardish border, or can that be resolved by electronic means and some sort of inspection away from borders so you are not getting in the way of the border operating more or less as it does now?

**David Ford:** To start on that point, once you have a border with different tax regimes, you patently cannot control the smugglers by electronic means. You can control honest people by electronic means and by sealing containers and so on. The history of the border on this island is that once there are opportunities there will be people who step into them to evade tax.

**The Chairman:** To interpose, that includes in real time different excise arrangements now?

**David Ford:** Yes.

**Lord Jay of Ewelme:** You have that now?

**David Ford:** Yes, we have that now. When the excise duties on fuel are closer together you might buy on the other side of the border if you were there, but you will not go there. When it becomes significant, sometimes people drive curtain-sided lorries with plastic tanks, which is a slight

health hazard for anybody on the road. That is the inevitability if you have that kind of arrangement. Talking about electronic controls to deal with that is utterly meaningless.

On how you control the border in practice and external things, I do not know how the Irish are supposed to manage the airports in the Republic and ports such as Rosslare and Cork to stop EU citizens coming through there into GB. Let us face it, the concerns are actually about English immigration, not UK immigration. There is very little concern about what happens in this part of the UK/Ireland. I do not see how that is possible in any meaningful way.

To some extent that brings in Lord Whitty's point about whether it is offensive to say that Northern Ireland has a special status. Actually, in 1998, 71% of us voted that there was a special status: that we were in the UK, but on slightly different terms from other parts of the UK. That is accepted now, but remember that those who currently lead this Government were in the 29% minority who did not accept it then. I am not saying that there would not be a reaction to it, because we are not dealing with rational thought about what it means in economic terms. We are talking about the irrational response at times. I am no optimist that the suggestions being made to avoid a hard border are workable for either people or goods.

**Colum Eastwood:** I read the article as well and I have expressed my views to those people who listen in Dublin. I do not know how far down the line they are when it comes to negotiating that arrangement. I do not sense an enormous amount of support in Dublin for the Irish Government taking on the immigration job of the UK Government. I do not understand how that would work when it comes to EU nationals. I just do not understand how that would work in practice, or if there would, in this centenary year, be much interest from the Irish people in doing that. I do not see how it would be possible. The Republic of Ireland is one of the most pro-European countries around. It does not always get it right when it comes to voting on European treaties.

**David Ford:** Not the first time.

**Colum Eastwood:** It gets there eventually, but I do not understand why it would involve itself in that kind of arrangement. That is why I think we are back to what I have been saying all along. This is not some sort of backdoor way into Irish unity for me. This is crazy stuff. There is no good result from Brexit. It is about trying to get the best possible result from a very bad situation.

**Mike Nesbitt:** The decades of the Troubles confirm what Colum posed: you cannot secure the land border between Northern Ireland and the Republic. On free movement of people, the border will inevitably be at the ports and airports of Great Britain, from Cairnryan to Heathrow, which would disadvantage everybody travelling either way, but particularly the citizens of Northern Ireland making their way to the rest of the United Kingdom.

On the movement of goods, electronic just will not cut it, because you can be sure that as we speak there are people on both sides of the border

gaming how they will make a few bob or a few euro out of whatever regime emerges. I am afraid that was the division bell.

**The Chairman:** I understand you have a vote.

**Colum Eastwood:** It is a vote on my proposal to seek special status for Northern Ireland in the event of Brexit—which we are all voting in different ways on, of course.

**David Ford:** I am with you, Colum.

**The Chairman:** It would be unfortunate if you missed it, unless you can reach a pairing agreement among yourselves.

**Colum Eastwood:** We do not have that here, unfortunately.

**Mike Nesbitt:** Would you like us to come back in 10 to 15 minutes?

**The Chairman:** Yes, if we can for a few moments to wrap up. What you said is great. I am sure that you should not miss the vote.

**Colum Eastwood:** I definitely cannot.

*[Sitting suspended for a division in the Assembly]*

Q84 **The Chairman:** Thank you very much for coming back, gentlemen. We will need to wrap up in a few minutes. In the circumstances, I would like to list outstanding areas of interest. You might want to either touch on them by making a single wrap-up comment and/or write to us if you want to say more. First is the industrial impact on particularly sensitive industries; secondly, the impact on the peace process; thirdly, the impact of EU funding on Northern Ireland, with particular reference to infrastructure and cross-border projects; and finally, cross-border police and security co-operation. I realise that David has been a Minister with responsibility for that in the past. You are very welcome to comment on those briefly as we aim to conclude by 4.50 pm or thereabouts, in 10 minutes. The final formal question I put to you is whether there is anything we have left out, or anything in particular that you individually would like to emphasise to us for our attention, and, if necessary, onward transmission in London. Who would like to go first on those?

**Mike Nesbitt:** On security, the European arrest warrant would be a huge concern so we do not have a hiatus between exiting the European Union and bringing in new arrangements. David has already made clear that there is a courthouse a mile from the border. We have lived through the Troubles, where terrorists were brought by the guards up to the border for exchange to the RUC, paperwork was not properly completed and people were walking free. We have to ensure that that does not happen again and that we have full co-operation.

On the other questions, I will shamelessly self-promote as the only party to have produced more than two A4 pages on the implications. We have defined a vision: the plan we need, with the intellectual capacity and all the rest, then 10 key asks—measures by which the public will know how successful the Executive have been. Key among those asks are a step change in skilling up and educating our workforce, and trebling our investment in infrastructure, because we have some key weaknesses in infrastructure. Those two things are what make us attractive to foreign

direct investment, which is what will help us rebalance our economy and be less dependent. What I dislike about the current Executive is when we have a problem the DUP and Sinn Féin get out the begging bowl and head your way to London, down the road to Dublin or both. I would like us to be less dependent on the block grant to generate more of our own wealth so we have the taxes to fund excellence in public services.

The biggest infrastructure issue we have is energy. It is very expensive—we are the second most expensive region in western Europe—but there is also security of supply. If we do not do something soon the lights will start to go out in and around our centenary in 2021. We have an urgent need to invest in energy and more broadly in our infrastructure. Apart from that, I do not think you are missing anything.

**Colum Eastwood:** I might write to you in more detail on some of those issues. The peace process was talked about. I studiously avoid saying that the peace process is under threat because I do not think our peace is under threat. We have to be honest about that. I said that before the referendum and I say it again. The hard work and the hard-won changes that have been agreed on peace and violence are protected because the public will make sure they are protected and so will we.

I do not think you are missing anything. We could talk about the impact on farmers: 84% of farm income comes from Europe and I have no confidence whatever that the British Government—particularly this Government—have any interest in replacing that money. We could talk about all sorts of things, but it is just as important to recognise this message: the impact on the nationalist psyche in Northern Ireland has been tremendous. It will get worse in the event of Brexit. That is my analysis. It is an educated analysis. The effect has been immense. It feels to people from a traditionally nationalist background that we are being cut off from our ability to further integrate, in a democratic and normal way, with our friends across the border. That has a very damaging consequence for people's confidence. Mike and I come from different perspectives on this. Both of us and David want to see Northern Ireland work. I want to be able to democratically convince people that a united Ireland is the right way to go in the long term; Mike wants to convince people that the status quo is the right way to go. We can do all of that without fear or threat, but let me reiterate: this shakes northern nationalism to the core. It just does. If there is anything you hear from me, that is my message.

**David Ford:** Thank you Chairman, with thanks to Stuart for the helpful clerk's note. I will certainly write more to you as soon as possible to follow up some of the points. A brief reference to Colum's points around the peace process: when some of us pointed out during the referendum campaign that most of our co-operation around the peace process had been built on joint membership of the EU, we were accused of saying that if we left the EU that meant we would go back to war. It did not. We were saying that the EU provided the context in which there has been so much political development that has paralleled the peace process.

I will say a few words on justice and security matters. There is no doubt that we were in real danger of losing a significant amount of essential co-operation a couple of years ago. Indeed, we lost some measures. For an



example of why Northern Ireland is special, the Home Office and the Ministry of Justice in Whitehall saw no particular need to maintain recognition of probation arrangements on an international basis. But when the international basis is that somebody lives in Strabane and goes a mile to work in Lifford it is significant to us, yet we could not persuade those who were negotiating on behalf of the UK that that was the kind of issue that was important. There was a magical number that no more than 35 could be opted back in to. We did at least keep the European arrest warrant, but the reality of the EAW is there is currently no legislation in the Republic of Ireland to allow for extradition to the United Kingdom other than under the European arrest warrant. Without wishing to sound too denigrating, if you look at the current political composition of the Dáil and the Seanad, it is not immediately obvious that it would be easy to get what was described to me by a member of the Northern Ireland Select Committee from the House of Commons as “simple good sense” through the Oireachtas if we are seeking to produce alternative legislation on that.

Those are the kind of things that were overwhelmingly ignored. Sadly, an event during the referendum campaign that was to have highlighted that particular point had to be cancelled because it would have been on the day after the murder of Jo Cox. It is an issue that did not get noted and desperately needs to be noted as we look at how we make arrangements for the future.

**The Chairman:** I thank you for those specific comments, and for bringing to the attention of the Committee the continuing problems of Northern Ireland. I emphasise that we understand the importance and how much is at stake on issues that affect this community and may be overlooked in the wider context. All I would say is that this is an open line to us if there are continuing concerns. I hope you will share that with other representatives around here, in the community more widely, and with the Government and the other people you are in contact with so they will be in no doubt as to your concern. Key to all this will be the continuing attention and the maximum amount of communication. You have helped us with that today. I hope you will be able to persist with it as the situation develops. We are very grateful to you.

**Baroness Browning:** Following on from what David Ford just said, there is a sub-committee of this Committee looking at home affairs matters with regard to Brexit. It would be incredibly helpful for that sub-committee, which Lord Jay and I sit on, to have the sort of information you have just given. The fact that the European arrest warrant is the only means through which you can extradite someone from the south to the north certainly has not come up in our discussions. I wonder whether we can invite our colleagues here to submit something.

**The Chairman:** We have heard what was said. Stuart will note that on behalf of the Committee and will communicate it to the chair of the Home Affairs Sub-Committee. On any supplementary material you may have, as I said to you in the margins, I am very grateful for earlier correspondence on the European arrest warrant.

**Lord Jay of Ewelme:** It is not just the European arrest warrant either: on Europol or other home affairs matters generally would be really helpful.

**The Chairman:** In conclusion, because I had finished my peroration, there are real issues here. That is one we are aware of and that I am sure we will wish to focus on, but there may be others on the trade side or more generally. Please feel at any time that you are concerned that you can get in touch with us because we will share your concern almost by definition and in advance. We will do our best to ensure that is listened to. Meanwhile, thank you very much and we conclude the formal session.

Bryan Barry, Acting General Secretary, Irish Farmers' Association and Richard Pym, Chairman, Allied Irish Banks plc – Oral evidence (QQ 112-119)

**Bryan Barry, Acting General Secretary, Irish Farmers' Association and Richard Pym, Chairman, Allied Irish Banks plc – Oral evidence (QQ 112-119)**

Evidence Session No. 11

Heard in Public

Questions 112 – 119

Tuesday 18 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Selkirk of Douglas; Lord Whitty

### Witnesses

Richard Pym, Chairman, Allied Irish Banks, and Bryan Barry, Acting General Secretary, Irish Farmers' Association.

Q112 **The Chairman:** Good afternoon, gentlemen. We are very grateful to you, Richard Pym and Bryan Barry, for coming in. This will be our concluding session in Dublin. We have heard a lot of valuable evidence expressing interest in and concern for the implications of Brexit, not just for the UK but for Northern Ireland, and, more generally, for the Irish Republic, the future of this island and, indirectly, stability in the European Union and the issues involved. It is quite appropriate to end with what are clearly two very substantial sectors: the financial sector, which is characterised by some of the problems that you have had to live with and which are still being wrestled with in the Irish context, and farming and its related outcome. I ought to declare an indirect interest, which may attract Bryan's attention. I am probably one of the relatively few people who have served as a civil servant and been active in the National Farmers' Union in the United Kingdom as a county chairman. So, we have a degree of form together. We would probably all be quite happy to get out of here and get into a tweed suit if the chance arose.

It would be useful to explore both the importance of your sectors and, through you, generically, some of the problems that this economy and the all-Ireland economy are facing as a result of the decision by the British electorate. Richard or Bryan, I do not know whether there is anything you would like to say by way of introduction.

**Richard Pym:** Perhaps I may contextualise where Allied Irish Banks sits in the system. We are one of the two large banks in Ireland. We also have a bank in Northern Ireland and Great Britain. In Northern Ireland we are also a note issuer. I should say that it is the other large bank, not ourselves, which currently occupies your Lordships' previous home in Dublin.

**The Chairman:** I did know that. I should say we have no plans.

**Bryan Barry:** By way of introductory remarks, thank you for this invitation to present the issues for the agrifood sector. They are very significant. We believe we are the most exposed sector. With 40% of our exports destined for the UK market, it is clear that we will be hugely impacted by the outcome of the decision earlier this year to leave the EU. Not only is Ireland the only member state to share a land border with the UK, but we are hugely integrated into the UK in the areas of trade, culture, language, free movement of people and family ties. I would point in the first place to the very short-term issue that has already impacted on our sector, which is the sudden and sustained depreciation of sterling. That is already hitting farmers in their pockets in terms of price back to producers, for example very directly in the beef trade but also in other sectors.

The longer-term issues basically revolve around the trading relationship. Any move away from the EU single market will result effectively in increased trading costs and barriers in some form. Our position would be to minimise those as far as possible if they cannot be avoided. We would be saying that it is extremely important for the Irish agrifood sector that as free as possible market access to the UK is maintained, with the minimisation of any barriers to trade. Beyond that, the other major issue—and there are many issues of complexity—is the free movement of people.

**The Chairman:** Is that important for seasonal agricultural labour here, less so than probably the UK?

**Bryan Barry:** Not for seasonal labour. It is important in the border area where people living and working on different sides regularly travel across it or possibly are farming on both sides. That happens. It is also important as between Ireland and Britain, because, effectively we have had free travel for more than 100 years, since independence and beyond.

**The Chairman:** I wonder whether I can borrow an experience from my time with the National Farmers' Union some 30 years ago. We went to see a senior police officer in my county about a problem we had. He listened with great politeness, reflected for a few seconds and let us sweat on it, and then said, "That is very interesting. Can you tell me what you are going to do about it?" He let us sweat for a little longer and said, "Because when you tell me what you can do about it, I will tell you what I can do to help you". It was not a flippant remark and I have always remembered it. In the spirit of that, it would be helpful, looking at these two sectors, if, severally, you could tell us the kinds of reaction that you can anticipate from your membership, either individually or collectively through your organisations. Going on from that, what kinds of representation are you making through your Government and through other channels available to you?

Distilling that, what is the one thing—if you like your USP—that you need to go for sector by sector that will achieve the majority of what you want? There is no doubt in our mind after the evidence that there are severe difficulties across sectors, two appropriately represented here, but we would like to get a pattern of how, other than saying you wish it had not happened—some people would say that—you react to it and bring the

official world into that attention and frame of mind, and find solutions. Do you want to go first, Richard?

**Richard Pym:** AIB is 35% to 40% of the banking system, so we bank every industry in the country and are therefore a proxy for the economy.

**The Chairman:** For the record, that would be slightly higher than, for example, Lloyds in the UK, would it not?

**Richard Pym:** It is a lot higher. There are two banks that dominate the system. We are smaller in the North. We have a smaller market share. Nevertheless, we are a full-line bank in Northern Ireland. The comments I make will be about the economy.

To answer your question by way of my economic perspective, I start by echoing Barry's comments about the immediate effects being that of sterling devaluation and the uncertainty that deters investment. The immediate problem within the economy is that exporters are stuck and any large-scale investment in anything looking at UK trade will be on hold, and there is a similar effect in the UK at the moment.

When the new trading arrangements take over, the effects will vary by industry. There seems to be a great deal of complacency, if I may use that rather aggressive term, about World Trade Organization terms being just okay and everyone can live with it. I think that is a pretty grotesque simplification. I am no expert in this context, but if you go to the WTO website it is very hard to see what the tariffs are. They are very technical descriptions, but I know there are some agricultural tariffs. One quoted earlier was 60%, but I think some lamb products are over 70%. The effects on German exports to the UK look less significant than those of Ireland, because Ireland would be weighted towards agriculture. A lot of British politicians seem to be talking about German cars being a great negotiating weapon, whereas Volkswagen will suffer tariffs of about 10%. That is less than the recent currency depreciation, so they can take that in their stride. Therefore, Ireland looks like one of the countries that could be worst hit by WTO terms. If that happened, it would be an absolute catastrophe for both countries.

UK exports to Ireland will reduce. I think Ireland is the fifth largest market for UK goods, and Ireland will seek to diversify its sourcing for its manufacturers as imports come in to be remanufactured. We talked about complex supply chains earlier. That will be diversified away from the UK, so the UK will suffer as a result of that reduced trade.

Seventeen per cent of Irish exports now go to the UK. It was 50% on accession in 1973, so Ireland has already reduced and diversified quite significantly, and one would expect that to increase after Britain leaves the European Union.

Having started with that perhaps negative perspective, Ireland enters this process with a very strong economy. Ireland took the austerity medicine and the Irish Government's finances are in very good order, with very low deficits, and, if I may be so bold, they are much better than the United Kingdom's.

**The Chairman:** With some resumption of growth as well.

**Richard Pym:** Even after Brexit, the forecast for next year is GDP growth of over 3%, so Ireland moves into this difficult period in a very strong position. This is not just bluff and bluster; it is genuine. While the national debt might be high because of refinancing of the banking system, I think that for all but one year in the past 20 Ireland has had a primary surplus. This has been a very well-managed country, and I would be relatively optimistic about Ireland in the long term. I do not find many of my friends here sharing that view because they are suffering from short-term difficulties, but long term I would be very optimistic about Ireland because the global businesses that have looked to base themselves in the UK will now see Ireland as a very comfortable base to be in. European market access will be restricted in the UK. The British Prime Minister made some particularly nasty comments about global citizens. I was in New York when she made those remarks. I can tell you there were not many New Yorkers who were thinking of moving to Britain at that point. This is a very attractive and welcoming English-speaking platform that is absolutely anchored in the EU.

Ireland has a brilliant way of attracting foreign direct investment and Allied Irish Banks is delighted to be part of it. We have a team in New York that supports the Irish consulate there, and we get American firms into Ireland. We make it very easy for people in terms of opening accounts, trade finance and working capital. Some of them normally have difficulty opening bank accounts because they may be contract workers; they may not be European Union citizens. We get round all the money-laundering problems and have a very good system to provide them with an open bank account ready to function.

**The Chairman:** Presumably, correspondent banks in the US will refer business on to you.

**Richard Pym:** It is not so much the banks. These are corporations that will be attracted to the Irish consulate, or the Irish consulate will be sourcing it through trade bodies, and then we will work as a team. The Government, regions, universities, banks and everyone else work together in a way the UK would not understand. It is very close and is absolutely focused on getting a factory up and working. It is a superb system. The point I am making is that those companies that would have traded in the UK will be happy here.

The situation in Northern Ireland is very different. The economy starts with being oriented to the public sector and is dependent on transfer payments from the UK. Of course, the future of that will be determined by the ability of the UK Parliament to continue or, as we heard in the previous session, increase that funding. It is also a very large sum of money.

Foreign direct investment will initially be disincentivised, but there will be the attractions of low labour costs that result from a low-valued currency, and of course the UK will be able to compete outside EU state aid rules, but whether that will create a sustainable economy is questionable. You could anticipate increased migration of the economically active in the North to higher-paid jobs in the South, because people born in the North of Ireland have an entitlement to a passport of the Republic of Ireland. Therefore, economic migration would be easy, and remitting a higher-

Bryan Barry, Acting General Secretary, Irish Farmers' Association and Richard Pym, Chairman, Allied Irish Banks plc – Oral evidence (QQ 112-119)

valued euro salary to a lower-valued sterling area would be good for families in the North, but not good for the tax take.

**The Chairman:** That would be the first time it has happened. Did that happen at all?

**Richard Pym:** Traditionally, the UK per capita GDP has been higher expressed in a common currency, but that is now beginning to change round and jobs in the South will be extremely attractive to the economically active. If you look at the structural impacts of it, that could be quite an issue.

**The Chairman:** That is really helpful. Bryan, would you like to come in?

**Bryan Barry:** Probably the first sector to feel the immediate impact of the decision was the livestock sector here, which is a very big one; it is the biggest sector by involvement of the number of farmers. There are 80,000 to 100,000 farmers in one form or another producing cattle. They saw an immediate impact in the two or three weeks after the referendum result on the 24th of 30 cents per kilo. Between then and now, cattle prices have come back from about €4.15 to €3.65. The significance of it is that it brings them below the cost of production.

**The Chairman:** The margin has gone.

**Bryan Barry:** The margin has gone and the time for peak disposal. They were always going to run into some trouble in the autumn because that is the peak disposal period, but the immediate effect of sterling made the situation worse. We would have raised this issue very much with the Government. We are involved in a stakeholders' group in the Department of Agriculture here. We meet with them regularly. We would have presented this and other issues in our lobbying in advance of the Budget, which was last week. There is some recognition of the issues, but there is nothing you can do directly about the exchange rate. Clearly, there is a structural change here. I think the rhetoric at the Tory party conference about the announcement of the triggering of Article 50 contributed to a significant further drop in sterling. It has probably steadied in the past couple of days. The level is about 89.25p today. As we would see it, that may be some rebalancing of the argument in terms of mentioning budget contributions and what we might be prepared to do.

From our point of view, by far the biggest issue is where we end up in the trading relationship. Our first position is that we would want you to be in the single market or to have good access to it. From the rhetoric, it appears at present that, if free movement of labour will not be allowed, Europe will not be prepared to grant access to, or full participation in, the single market. Maybe there will be some level of access but not full participation in the single market. Where do we go from that? That throws up huge implications for us, because the trade flows are very big. Forty per cent of our sector's exports are destined for the UK market.

**The Chairman:** To interpose for a moment, even in the short-term trade the issue is currency as you describe.

**Bryan Barry:** Currency is a massive issue.

**The Chairman:** There are other markets within the European Union to

which you now have access. I appreciate you cannot necessarily move it all overnight, but is there some suggestion that you could find other markets at least to compensate for a shrinking in the size of the British market, or the relative competitiveness of it?

**Bryan Barry:** We can continue to diversify our markets.

**The Chairman:** That is not just in the EU, is it?

**Bryan Barry:** It is not just in the EU, but our tastes in food and so on are much more akin to UK consumer preferences. The things we produce are closer to the same things you produce, and we do a lot of them. The kinds of cuts of beef, breeding and so on that we go for are a lot closer to British consumer preferences. That is why 50% of our beef exports go to the UK. Another good reason 50% go to the UK is that that is the highest-paying market. Sterling has changed this, but we have to see where all that settles. Prices on the continent are more like €3.70 or €3.80, so, even if we could diversify at ease into the continental market, we would be doing so at what would be a lower price until very recently with the impact of sterling. This applies not just to beef but to dairy products. Sixty per cent of our cheese, over €350 million-worth of our pigmeat exports and about 90% of our mushrooms go to the UK.

**The Chairman:** We have been hearing about mushrooms.

**Bryan Barry:** It is a heavily export-dependent sector, and nearly all of it goes to the UK. They have been exposed. Some of those growers had contracts fixed at the end of last year at exchange rates of 72p, 73p or 74p, so they could not take the pressure and have gone under. I understand there is some renegotiation of those contracts, but these operators are on very tight margins and need to get full price recovery for the exchange rate loss effectively from retailers.

Q113 **The Chairman:** I have other questions and would like colleagues to come in, particularly on some of the nuts and bolts of trading and border issues. You represent farmers within the Republic, and there is the Ulster Farmers Union up there. How do you liaise with them? I suspect that some of the pressures, at a slightly different time, may be the same. I think it would be pretty well accepted that there was quite a high incidence of farmers in the North, indeed in GB as well, who voted to leave, for whatever reason, possibly against their economic interests. How is all that playing out now?

**Bryan Barry:** We would have thought it was against the economic interests of farmers in the UK but more particularly for farmers in Northern Ireland. When the IFA—the Irish Farmers' Association—is lobbying in Brussels, in the current situation involving 28 member states, often it is pushing for things that will suit farmers in Northern Ireland that the UK Government, the Westminster Government, are probably not going to lobby or look for. That is simply the way it is. We do have a close relationship with the UFU and other farming unions such as the NFU.

**The Chairman:** They have representation in Brussels as well, do they not?



**Bryan Barry:** They do, and we are on good terms with them. Maybe some of their members had a knee-jerk reaction to difficult times with low milk prices and wanted to give a kick to the establishment. We know from the history of this country and referendums how they work, and the result is not necessarily the answer to the question that is asked. They may have felt, "We can get rid of a lot of regulation". Personally, I do not believe they will be able to get rid of a lot of regulation; we will see. I think a motivating factor was a feeling they could free themselves from some of the bureaucracy associated with Europe, as they would have seen it, but I would be very surprised if much of the regulation and heavy bureaucratisation of agriculture would be relieved in any new scenario. I am not convinced it will be.

Q114 **The Chairman:** I ought to make it clear that we have three former Agriculture Ministers from that department. I refer to my colleagues Baroness Browning and Lord Whitty, so you may get a bit of this, although I am in no sense seeking to confine this conversation to agriculture. You talk about the burden of regulation. I would take it as self-evident but would like you to confirm that there is a very strong case for and interest in a continuing single regime within the island in relation to animal health and welfare and food safety issues? We heard something about tourism earlier, but is it the same sort of perspective in this area?

**Bryan Barry:** Absolutely. We start from where we are and we do not want to depart far from it, if at all. We want to have things as close to the current position as possible. In terms of animal health issues, disease control and all these things, there is very good co-operation. We want that to continue under whatever regime there is, rather than some divergence in approach to standards. It is easier to do that within a single market where the standards are common, but North-South trade flows will be upset. Produce is going for final processing; 350,000 lambs per year go from the North to the South; probably 500,000 pigs go from the South to the North; and about 600 million litres of milk go from the North to the South to be processed there. It is about 10% of our milk processing. Probably a third of northern milk production comes into the South. These trade flows are very important and any disruption to them would be difficult. It could make some of the trades uneconomic.

**Baroness Browning:** It seems to me that, if the UK does not have exactly the same rules, regulations and terms as the South and so the North is different from the South, under EU law Ireland will not be allowed even to engage in such a process.

**Bryan Barry:** Yes.

**Baroness Browning:** That will bring to a halt what is beneficial in the transactions you have just described, both between the North and the South and east-west trade. We understood from a previous hearing that cheese goes to the mainland of Great Britain and comes back.

**The Chairman:** For packaging.

**Baroness Browning:** That simply will not be allowed.

Bryan Barry, Acting General Secretary, Irish Farmers' Association and Richard Pym, Chairman, Allied Irish Banks plc – Oral evidence (QQ 112-119)

**Bryan Barry:** That might not be possible, or under some scenarios there might be a tariff going into Britain and a tariff coming back here, so it would not make any sense.

**Baroness Browning:** There is also the slaughterhouse situation. I visited cutting plants close to the border where animals were slaughtered in one place and cut in another.

**Bryan Barry:** Yes.

**Baroness Browning:** You say you want to see things remain as close as possible. Clearly, Britain has voted to leave. I asked a previous group about the customs union and what they would regard as the next priority below that. They said that mainly it was regulation. Is regulation right up there in terms of the single market?

**Bryan Barry:** It is for us, because the way we see it is that the point of departure from the point of view of the UK is going to be that you inherit all the existing regulations. As part of your exit negotiations, we would like a framework in place for a free trade agreement to come in straightaway covering our sector—it can go as wide as you like, but for agriculture and food it would be extremely important for us—so that it effectively continues the relationship as closely as possible. It needs to be a dynamic free trade agreement whereby there would be some continuing mutual acceptance of standards so that they match and do not become eroded.

**The Chairman:** Obsolete.

**Bryan Barry:** Yes, because then free trade would break down.

**Baroness Browning:** But, surely, the bottom line is that Great Britain and Northern Ireland at that point would have to agree to mirror EU regulation but not necessarily have the same inspection and checking with a default position if those regulations are not kept to—or would they? If you fell foul of new EU laws after that departure point—

**Bryan Barry:** That is why it would need to be a dynamic arrangement—

**Baroness Browning:** Kept up to date.

**Bryan Barry:** —so that there is still some mutual recognition of standards, and, even if standards are moving somewhere, they move together.

**The Chairman:** The word is “equivalence”.

**Bryan Barry:** An equivalence, yes, which I acknowledge is very difficult to achieve, but that would be our objective.

**Baroness Browning:** That would be your optimum—

**Bryan Barry:** That would be our objective, yes.

Q115 **The Chairman:** Can I bring in Richard and ask him two questions from the point of view of the bank? One is agriculture-related and one is not. I take it as self-evident—I am not looking for trouble, as it were, or any exceptional position—that, as you look across the scene you must lend to thousands of Irish farmers, both here and in the North, and so in terms of the success and stability of your own bank and collectively the Irish banking system it is extremely important that this is working well. That is

not a threat; it is just to try to get a perspective on it. The second question is perhaps looking forward. You will be aware there is a lively discussion about passporting and whether this is attainable under the new arrangement, and whether jobs in the financial services sector are likely to be lost from London. What is your perspective on that in terms of Dublin as an alternative centre, which is English-speaking and very much up to date with technology and high skills? If you are going to lose on the one, are you going to make it up on the other, to put it in simple terms?

**Richard Pym:** Going back to agriculture and picking up a point raised before about non-tariff barriers and regulations, if I can call it that, the problem in the future will be that, if another EU country erects non-tariff barriers to UK agricultural products by some subtle changes of regulation that rigs it against British exporters, Irish regulations will have to mirror EU regulations. If this were a matter just between Ireland and the United Kingdom, the relationships are such that that would be very easy to resolve. If it involved the other 26 countries, that would become extremely difficult, and Ireland would have to comply with the rules of the 27. That is the problem going forward. At the minute you have equivalence, but straight after March 2019, or whenever it might be, it starts diverging and becoming extremely difficult.

**The Chairman:** To clarify it, that can be dressed up, if I may put it like that, as a phytosanitary rule or something that is not necessarily objectively justified in order to frustrate British exports. That is what you are arguing.

**Richard Pym:** These are non-tariff barriers, which I am sure will be more important at the end of the day than tariffs.

**The Chairman:** I have the point.

**Richard Pym:** Our lending to the Irish agricultural sector is huge. We have a very strong economic system. I have worked in Ireland for only two years and am not an expert in agriculture, but I see something very resilient. It is based on family farms and on low cost of production, so in the dairy sector you do not have the big agricultural factories of the UK; the rise and fall of milk production depends on how the grass is growing, so it has the ability to sustain survival at low milk prices. You also have a system where you have all the family involved and where in a small farm, say a standard husband and wife unit, both have other part-time jobs. They do the milking in the morning and both go off to work, one in Tesco and one somewhere else, and come back to do the evening milking. Farming is a bit of a hobby as well, but it is deep in the culture. Please tell me if I am talking rubbish at any point here, but it strikes me that this is a very strong economic system. That is why we are very comfortable to lend to some of these families because they have been our customers for 100 years. We have known granddad, dad and all the rest of it. It is a fantastic system.

When it comes to Dublin as a financial centre, it is a good one but the infrastructure is not strong. There is a housing shortage in the Dublin area, and when people come for financial services jobs they tend to want somewhere nice to live as well. Since the general election the Government have a big programme—it is of particular urgency here—of housing

construction, because since 2007 housing construction has dramatically lagged demand and it has not recovered like other sectors.

**The Chairman:** There is a lag to overcome.

**Richard Pym:** Dublin has remained a low-rise city; there are very few high blocks, so one would imagine that in any development of Dublin as a major financial centre—it could never be as big as Frankfurt or Paris—there would have to be quite a lot of infrastructure in the centre to sustain family housing, perhaps apartment blocks and some houses. As to the school system here, there was an article in this morning's *Irish Times* about the international baccalaureate being introduced in one of the Dublin schools. Obviously, bankers moving from London would want the international baccalaureate.

In my discussions in New York and Washington last week everyone was telling me that they had offers from Paris of pop-up international schools. They were being offered exemption from French labour laws. I do not think anyone gave that too much credibility. Similar offers from Frankfurt were believed to a greater extent. It takes only a small diversion of jobs from London to Dublin to have a big economic impact. The total working population of Ireland is 2 million, so 20,000 or 30,000 highly paid financial services jobs coming from London is extremely valuable to the economy.

**The Chairman:** What proportion of uplift would that be? What is the existing employment position, give or take? Do not worry if you do not know the numbers.

**Richard Pym:** I do not know. We employ 10,000 people. If you take Citigroup in Dublin, it now has about 4,000 people. It would probably be the biggest of the American banks. As I talk to other American banks, they are all thinking of either starting or expanding their existing Dublin operations. There was an important policy statement from the Central Bank of Ireland a couple of weeks ago that anyone who wanted to set up in Dublin had to have a substantial operation here. The central bank will not tolerate a system of British brass plates in the city where the operations are in London but the brass plate is in Dublin. Anyone wanting to have an Irish financial licence of some sort will have to bring material employment to the city.

**The Chairman:** To interpose, is there a read-across to the issues about international tax avoidance—Apple, if you like, for shorthand, and so forth—in that there is a wish to capture the activity rather than creating some kind of offshoring activity in finance?

**Richard Pym:** Typically, the jobs in Ireland have traditionally been more operations and back office. There have been some dealers here. Frankly, the decision-makers perhaps prefer the greater number of Michelin-starred restaurants in London, but once those decision-makers can be persuaded that this is a lovely city in which to live and bring up a family perhaps they will come here and the restaurants will follow.

**Baroness Armstrong of Hill Top:** I know one or two decent ones, anyway.

Q116 **Lord Whitty:** I want to raise one point on agricultural trade that Bryan

has not really touched on but has been raised with us before. It seems to me that currency movements are episodic and could have happened without Brexit. More or less equivalence of regulation is going to be necessary for any trade, but it is not in the interests of the British Government to impose substantial tariffs against agricultural produce coming into the country. The pro-Brexit press last week contained headlines about Brexit bringing us cheap food, but is not the real threat to Irish agriculture not that we have high tariffs against Irish and other EU produce but that we have low tariffs in relation to Brazil, Canada and the rest of the world, which operate at much lower prices and at different levels of regulation? Is that not the biggest threat to the Irish special relationship in terms of agricultural supply to the UK?

**Bryan Barry:** That is a massive threat. We would regard that as a serious threat. The Irish Farmers' Association would have been strongly opposed to liberalised trade agreements with, say, the Mercosur countries of South America. There have been strong reasons for that. We believe, with regard to the equivalence of standards, that they are not really equivalent. We think that what they can produce is not produced according to standards that we would regard as strictly equivalent to ours. They have made progress, but they have had serious problems in the past, from foot and mouth disease to no control on internal borders within South America, no proper identification of animals and so on. We were heavily involved in a campaign in the mid-2000s—the noughties—to make sure there were proper and equivalent controls put on South American beef exports.

That is a substantial issue and it depends on what approach the UK Government would take post-Brexit. Would they want to go for the old-style cheap food policy, and in what form? If you want to do a deal with Mercosur, do you want something on the other side of that deal? For example, they will give free access to agricultural products at zero tariffs or significant tariff-rate quotas. I am talking now about Mercosur, but in turn you want access to their markets for something else. Therefore, is it an old-style Mercosur deal or a unilateral reduction of tariffs where you could reduce tariffs across the board and have access for more New Zealand butter and lamb, maybe some beef from Australia, or whatever? Those are all very important to us. We want as far as possible a continuation of the current arrangements. It would not be in our interests for the UK to pursue a cheap food policy.

**Lord Whitty:** The point I make is that one of the philosophies of the Brexitists, a contradictory one, is exactly global liberalisation. If that stream of post-Brexit policy is adopted, it is very serious for EU agriculture as a whole, but particularly Irish agriculture.

**Bryan Barry:** It is.

**The Chairman:** I think it is fair to say that greater liberalisation of trade plus deregulation of the conditions of trade is really a coincidence of issues.

**Bryan Barry:** Yes.

Q117 **Lord Selkirk of Douglas:** Thank you very much indeed for having given extremely interesting guidance. It is not absolutely clear what options are

about to be agreed and how far we have got down that track. You have made it quite clear what the minimum requirement should be for Irish and non-Irish agriculture, but is there anything else you need to say to us about minimum requirements to meet what was acceptable?

**Bryan Barry:** I am not sure I understand what you mean by “minimum requirements”. We would want the minimum change from the current situation. What suits us most is to stick as far as we can with the existing model of trade. Issues would need to be resolved. Where the UK is outside the single market, depending on the nature of access to it, there are existing concessions that we would trace back to UK entry or involvement. New Zealand lamb would be an obvious one, and New Zealand butter to some extent. As for New Zealand lamb, existing imports into the EU run at about 220,000 tonnes per annum. About half of that goes to the UK; the other half goes to the continent, so there would need to be an apportionment of that. Those kinds of arrangements would need to happen. There is the new trade agreement with Canada, which is a similar thing. I think 50,000 tonnes of beef is under a tariff-rate quota there. That would need to be apportioned because that relates to an EU28 situation. Those kinds of things need to be addressed.

**The Chairman:** They will not be easy to negotiate.

**Bryan Barry:** No.

Q118 **Baroness Browning:** On the question of cheap food and the appeal to the public about such a policy, the situation in the UK and probably here as well is that people rely very much on supermarkets to police standards and the way they source food and products and rely on the brand, but there is a huge market out there in the catering industry, particularly in fast foods, that does not necessarily give protection in a free market, for want of a better expression—for example, in relation to anything with a feather on it that has come from the Far East. The majority of Northern Ireland farmers was the one group that voted to leave rather than remain because of the regulations. That has been confirmed in our earlier hearings. It is a protection for their markets. The regulations are perhaps irritating, but it would give them that security.

**Bryan Barry:** But it would be a protection; I absolutely agree. There is no doubt that retailers are more open to public pressure. We would welcome the Groceries Code Adjudicator that you have in place in Britain in moving towards a fairer relationship between suppliers and retailers. I suppose there is regulation behind the entire food service area, but the spotlight is not on it to a great extent. Traceability, origin of product and all that are only rarely disclosed. I think it is disclosed for beef because of European regulations; otherwise, it is not disclosed at all.

**Baroness Browning:** The public want to know, and it is not just people buying at the top of the market. I notice that at home now Lidl has changed its advertising. It markets itself as a low-price supermarket, but its advertising now is running completely on where it sources its products, so it cuts across the price range.

**Bryan Barry:** That is very true. When Lidl and Aldi first came in, you could not recognise any of the products they were bringing in, but now

Bryan Barry, Acting General Secretary, Irish Farmers' Association and Richard Pym, Chairman, Allied Irish Banks plc – Oral evidence (QQ 112-119)

both are flag carriers for Irish produce. If three weeks ago you had been at the ploughing championships, which is a huge farming show run over three days with 280,000 people attending it, the biggest stands there are Lidl's and Aldi's.

**The Chairman:** I have been.

**Bryan Barry:** They are showcasing all their Irish produce. This is the way they have approached it, and it has been seriously successful here because each has about 12% of the retail trade.

Q119 **Baroness Armstrong of Hill Top:** I have two very quick questions to Richard. First, what are the other sectors that you as a bank are involved in that you feel are vulnerable? Secondly, you now know the UK and Ireland very well and the relationship between them. What are the things that you would be urging us to say to the British Government they should be concentrating on in the negotiations?

**Richard Pym:** That is very hard. None of us would want to start from here.

**Baroness Armstrong of Hill Top:** Absolutely. We should not be where we are, but we are.

**Richard Pym:** It is a tragedy that at the time these two nations are as close as they have ever been in their history this has happened. I think the nicest way to put it is that it will put a spanner in the works. I cannot answer what would be the one thing because I think it is much more complex than that. As to the timescale of two years and five months to have all new arrangements, unless your Lordships are willing to work three shifts, I do not see the legislation being completed in the time. What you have to go through is extraordinary.

If I may address the first point, we have talked about trade and tariffs, but there are some other big issues. I went through *Hansard* to read David Davis's presentation last week. One of the many issues was the EU open skies initiative. Extraordinarily, he described this as an area where the UK had a very strong negotiating hand. The idea that EU open skies would in some way be a negotiating hand with trade was something else. The idea that British airspace might be denied to Irish airlines is extraordinary. I am not saying he said that, but if that starts going it will be extremely unpleasant.

The Dublin-London air route is the second busiest international air route in the world. Hong Kong-Taipei is bigger, but other than that Dublin-London is the second air route in the world. It is of huge significance to the Irish Republic and our connections with the rest of the world. I would urge your Lordships to consider that extremely carefully. There are lots of other issues like that, because the United Kingdom and Ireland are wired together. Take for example electricity contingency. We have power sharing across the border. If the UK exerts its sovereignty to the extent that it withdraws from power sharing in the European Union, being subject to those European regulations, Ireland will have to invest in a connector, presumably to France, at huge cost to either Ireland or the European Union in some way.

You ask what I would ask for. It would be that the line for sovereignty is not drawn in an absolutely binary black or white way and that the United Kingdom has to have sovereignty on everything, because one of the signs of adult relationships is an acceptance of interdependence. It is adolescents who crave independence; it is mature people who accept interdependence.

**The Chairman:** We will reflect on that. All this has been extraordinarily helpful. By way of a shopping list of things that we have not explored on this visit—I realise that to some extent they are in competition with you—one matter is fisheries. I know that is also important to the Irish Republic. I just flag that up because I am sure Richard will be lending to that sector as well. Before I formally thank our guests in the two minutes apiece we have remaining, would they like to give us any closing thoughts?

**Bryan Barry:** We wish it had not come to this, to be blunt. We had a press conference in this hotel a couple of weeks before the referendum to talk about the importance of a remain vote, but here we are. We find ourselves in an extraordinarily difficult situation. We are a relatively small member state with a massive relationship—a really very major relationship—with the UK. It is of extreme importance to us. We are wedded to the European Union; that has not come into question at all.

We want to keep the relationship as close and as tight to the current situation as possible. We recognise there are serious difficulties in that because of the political forces and economic ones to some extent at play in the rest of the EU, and that ultimately we will not be determining our own fate. We will have some influence over it and will certainly seek to have influence. All that influence from our side is heading towards as soft a Brexit from our point of view—the softer the better, from our point of view. Other member states may not see it that way, but certainly in trade terms and economic impact the stakes for them are not nearly as high.

**Richard Pym:** I would echo all that. The area that is probably the most complex is Northern Ireland and whether the UK Parliament would permit the devolved Assemblies to have differential arrangements with the European Union. The economy of Northern Ireland is a most unusual one. It has most unusual problems, and one must be concerned about that. It is a very wide issue.

**The Chairman:** On that note, thank you very much. You have been most reflective and generous with your time and we appreciate it enormously. We are in no doubt, the more for having been here and listened to evidence, as to the seriousness of some of these issues and the impact on both parts of this island, the people who live in it and the businesses trying to survive perhaps without big resources or resilience. We will reflect on it. We are here because we have identified this as a primary concern as part of the Brexit negotiations. As we move into the phase where perhaps there is a more open discussion as to how that will be taken forward, we will want to take forward some of these messages and at least make sure we do our best to see that our Government are alerted to them.

I conclude by not only thanking you but, to use the language of trade deals, saying this is a dynamic relationship. If you have anything you want



to share with us by way of policy papers, positions, stats or any concerns you have as this develops, please feel free to get in touch, because we will not forget about it. It will be a continuing interest, as I know it will be for you. Meanwhile, I record our thanks and formally close the session bang on time.

## **British Irish Chamber of Commerce, IBEC and ICTU – Oral evidence (QQ 108-111)**

Evidence Session No. 10

Heard in Public

Questions 108 – 111

Tuesday 18 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty

### Witnesses

Pat Ivory, Director of EU and International Affairs, IBEC, Patricia King, General Secretary, ICTU, and John McGrane, Director General, British Irish Chamber of Commerce.

Q108 **The Chairman:** I apologise for a slight delay in starting. Reflecting a European phrase, it has not always been the House of Lords' style to interview the social partners, but we certainly did it in London pre-referendum with the British variant, and we have had representations since the Brexit vote. Moving characteristically quickly, the TUC came to see me. Many of us have links with various organisations in the UK. Looking here, it would not require a genius to work out that there are huge implications for Ireland as an island and for the Irish economy and political structure after the Brexit vote. In the inquiry we are carrying out in the House of Lords we seek to do two things: first, to try to bottom out some of the issues that are not clear, including those that are not yet resolvable, and, secondly, to assure ourselves that the lines of communication are open to those who will be making decisions, and that contingency planning is being done for those decisions before things are set in stone or are difficult to alter.

It would be helpful if you would individually introduce yourselves and say a word or two, and then we will get into the questions. We are becoming familiar with the questions we ask, but repetition at a level of wide representation and influence is always appreciated, and if there is something different, it will be even more interesting. Patricia, perhaps you would kick off and tell us who you are, and any particular take you have on the situation we are in.

**Patricia King:** My name is Patricia King. I am general secretary of the Irish Congress of Trade Unions, an all-Ireland body representing approximately 800,000 members across the island. About 230,000 are in Northern Ireland and the remainder are in the Republic of Ireland. We have membership across all employment sectors: the private sector, the public sector and the community sector. I would expect that we have a good opportunity to take a view in relation to most sectors from a worker point of view.

In Northern Ireland, in relation to Brexit, we intend to set out the case that, Northern Ireland being part of the UK, Brexit poses different issues from those in the Republic of Ireland. Having said that, the Republic of Ireland has very close relationships with Northern Ireland. As you rightly said, Chairman, the situation is very different for Ireland than for any other European state, and there may be the prospect of immense consequences for both parts of the island.

Northern Ireland is the most peripheral region of the UK, both geographically and politically, and, in the case of Brexit, would be the only region to share a land border with the EU. By virtue of its size, economic make-up and history, the forecasts for Northern Ireland could be very bleak indeed. From all those standpoints, there is a huge need, in whatever agreement is reached ultimately, to take major account of the circumstances of Northern Ireland. It is difficult to forecast the long-term effects on the Republic or Northern Ireland. I am sure the UK is in the same position. Nobody knows what the ultimate agreement will be like and how it will affect various trade and non-trade issues, but, if asked, I intend to give you some details, as I am sure other contributors will, on all economic aspects.

The Republic of Ireland has done some work to estimate some of the consequences. We have lots of views in relation to facts and figures, exports and trading between the two countries and so on. Another aspect is the all-island economy piece. As you know, we have the Good Friday agreement; one aspect of that was that cross-border co-operation would get a boost and be increased, and a fair degree of effort would be put into that. Interreg was a body set up to try to promote that. Its last report, which is not that contemporary, found that cross-border trade was not as good as expected, or hoped for—I suppose that is probably more accurate.

**The Chairman:** For the record, that is pre-Brexit.

**Patricia King:** It is, yes. However, one aspect is the energy link between Northern Ireland and the Republic of Ireland. Northern Ireland depends very heavily on coal, but 72% is gas for electricity generation. That comes ashore at Islandmagee from Scotland via the interconnector. Even on that one aspect, any interruption could be very difficult altogether. The Republic of Ireland has a dependency there as well as regards imports.

I would like to highlight two particular pieces, one of which is freedom of movement. We have the common travel area that allows for freedom of movement of people in that area. The idea of once again dividing up the island by border controls, quite apart from the economic consequences, is so regressive and negative that no matter what your political standpoint, I am not sure you will find anybody who will tell you it is a good idea. Although there have been some pronouncements about what may or may not happen, people here do not have hugely overwhelming confidence that a border will not be reinstated, so that is a big negative.

There are about 470,000 Republic of Ireland-born residents in the UK, 40,000 in Northern Ireland, and there are an estimated 290,000 people who were born in the UK but are now resident in the Republic of Ireland. Clearly, freedom of movement for them under the common travel

arrangements, apart from anything related to labour markets or anything else, is a concern.

The Good Friday agreement is based on the assumption that there is a continuation of EU membership by Ireland and the UK. The complexities of the relationship between North and South are underpinned by Peace II, as it is known, and a regional funding structure has been put in to solidify the whole peace process. We have to be careful how we say this, but on the face of it, we have had peace in Northern Ireland for a number of years, thankfully, but that is not to say that the Troubles are just a past memory, because the reality is that they are not. Disruption to the Good Friday agreement could be the cause of something altogether very negative.

All the citizens of Northern Ireland have shared European identity, which provided crucial confidence at the time to the minority nationalist community. Part of that agreement was the incorporation of the European Convention on Human Rights into Northern Ireland law. That is part of the Good Friday agreement and is lodged as a treaty in the UN. All of that is parcelled up in that agreement, built on the foundation of the UK being part of the European Union. What are the consequences of the UK coming out of the European Union? That is another consequence that is not just a trade one.

From our perspective, the other piece I would highlight is that considerable worker rights are enjoyed—hard-fought and hard-got, but won—and they have been based on various European directives over the last 43 years. They range from equality legislation to health and safety, organisation of working time, part-time work and all that, and they are and have been very valuable to workers across the island. In the event of those pieces of legislation no longer applying in the UK—albeit there is devolved government and that they are a devolved piece in Northern Ireland—there is no confidence that competitive pressure will not build in both the Republic of Ireland and Northern Ireland: “Well, if you want to trade with us, here is the price of it”, and in order to bring down the price of trading, companies would believe they were forced to pay less or to bring down their labour costs. That would put huge pressure on workers here in the Republic and in Northern Ireland. From our perspective, that is a really negative piece, and we in the movement will campaign strongly to try to stop it.

We have already met the Minister for Foreign Affairs in our own Government. He has already told us that he understands that it is a big issue, and that he would not stand over until we know what is going to come out of this. In a brief opening statement to you on the issues, that is where we are coming from.

**The Chairman:** As a brief follow-up—keep the answer as brief as you can, given the timing—I assume there is also a potential industrial relations issue. If there is a workforce on site, as there will be in certain places at the moment in practice, say electrical contractors, sourced from Northern Ireland and the Republic, and people have different terms and conditions and different labour laws apply, it will not be an easy relationship to manage, will it?

**Patricia King:** No. For instance, in the Republic of Ireland there are already different tax laws from those in Northern Ireland. There is a land border. You would see a fair bit of it in the construction industry, where workers cross the border to do similar work alongside those in the Republic of Ireland. They have two different obligations, but the EU directive piece at least conditions it and sets a level playing pitch. One of the reasons those directives were developed over 43 years was to deal with all those issues. From our perspective, you are going into very regressive territory if you start removing what we have fought for and won over 43 years and here we are back again in the same place. There would be a strong push. Even with the minimum wage, whatever way the UK handles it, there is a currency difference between the two. All of that will have an effect. As workers we will be told, "If you want to be competitive, this is how you do it". These guys love the word "competitive". They want to close their ears when I say that, but they love it. That is basically what happens. Then the argument comes along, "Well, if you want to keep the jobs, have it at that price". That is the deal offered to workers.

**The Chairman:** We will now invite your neighbours to open their mouths rather than close their ears, starting with Pat Ivory from IBEC.

**Pat Ivory:** Thank you, Chairman. First, I would like to thank you for the opportunity to set out some of the views and concerns of Irish business on an issue that is truly of immense importance. IBEC is Ireland's largest business organisation and the voice of business on a national, European and international level. We represent indigenous and multinational companies, big and small, and our membership and work span every sector of the economy, so we bring you a particularly full view. Our 7,500 companies employ 1.2 million workers, about 70% of the private sector in Ireland, and we are the umbrella group of Ireland's main sector trade associations.

The UK vote on 23 June to leave the EU remains a matter of profound regret and ongoing concern. The deeply integrated nature of our two economies, our land border with Northern Ireland and our long-standing historical and cultural ties mean that Ireland and Irish business will be disproportionately affected by any rupture in EU-UK relations. Already the fall in sterling is putting intense strain on Irish exporters and increasing the cost of imported inputs for manufacturers in the UK. IBEC forecasted that would happen if the UK voted to leave the EU, and it is happening very quickly.

Recent comments from the UK Government in advance of the formal exit negotiations are a matter of real concern. A hard Brexit, with restrictive rules on migration, the imposition of tariffs and the resulting disruption to trade flows, investment and the regulatory environment, would be deeply damaging to business and economic interests. For that reason, we feel it is important to Irish business that the UK retains access to the single market on grounds as close as possible to full membership of the EU, while also conscious of the obligations that go with it.

It is also important to Irish business that the UK remains a member of the customs union. In the negotiations, the political settlement in the North needs to be afforded special status, along with continued commitment to

the development of an all-Ireland economy. The common travel area between the UK and Ireland must be preserved, in our view, particularly given the integrated nature of our labour markets, which is a key feature of both our economies. It is vital that we sustain and build on the very positive and mutually beneficial relationships we currently enjoy. That is even more important given the challenges ahead.

**John McGrane:** Good afternoon, Chairman, ladies and gentlemen. Thank you very much for inviting us along. You are most welcome to Dublin, Buswells Hotel and Ireland. You are the perfect example to your countrymen and women that a modest slip in the exchange rate should not put you off travelling to Ireland for pleasure, leisure or business. That is quite a serious point, because it is an example of an immediate effect we are having to grapple with here.

Let me tell you a little bit about the British Irish Chamber of Commerce. We are the organisation that represents the interests of the combined cohort of British and Irish business across the two islands, north, south east and west, working very closely with likeminded organisations but with a particular perspective of the common trade area that is represented by these two islands—that trade accounting for over €60 billion a year in two-way trade and more than 400,000 direct jobs, distributed roughly evenly between the two islands, with many more in the food chain, supply chain and communities around that. We are very much concerned with the fact that our member firms employ more than 2 million people. We were concerned originally to see an outcome that might see a strong UK take a leading position in a reforming and strengthening European Union, but now we absolutely respect the will of the UK people and the outcome of the referendum, and we are pragmatically focused on achieving the least worst outcome for all of us in the resulting steps unfolding before us.

The British Irish Chamber of Commerce is not as old an organisation as you might think. We were founded in the surroundings of the historic visit to Ireland of Her Majesty Queen Elizabeth in 2011. We work very closely with both Governments and all government departments on both sides and their officials, many of whom are now thoroughly occupied on the business of what happens next both in the UK and in Ireland. Working with likeminded and friendly organisations, we have a clear mission to support the work of government and officials in bringing about solutions, rather than shouting or decrying things. We have to be pragmatic, realistic and respectful in that process, and we intend to be.

We are not a political organisation. Our members take a thoroughly pragmatic view about this, and we are now in the business of thinking through realistic solutions, with realism about a border that cannot not exist. We may try for as soft a border as we can, but it is unrealistic to think there is a zone from which a country chooses democratically to exclude itself and not have a dividing line of some sort. It is clearly a contradiction in terms. That dividing line we call a border. For instance, in our pragmatism we do not know of any technology that people might claim is now so advanced that it can tell us the contents of a vehicle without the driver having to declare them in the traditional way. There are a lot of fanciful ideas that nothing much is going to change, the border issue being just one of them—a very important one. We are quite

pragmatic about this, and it is our role to highlight issues where we think people are on the wrong track in what they think might be the outcomes, and try to point people towards the right track.

We are now in the business of proposing solutions from a trade point of view. We do not focus on much else beyond pure trading issues, which obviously we do in a politicised environment. We think about trade, and what can hold the volume of trade, and the employment and investment it supports in communities the length and breadth of the two islands. For instance, we do not think just about helping businesses to respond, on the Ireland side, to the deep weakening of sterling versus the euro. For Irish food exporters, tourism and many other key goods and service exports from Ireland, this is a very heavy challenge right now to business owners, employees and communities directly impacted by a roughly 17% price increase in Ireland for our friends buying from us in one form or another in the UK.

We observe that in the UK context you cannot depreciate a currency unilaterally, not least one with a very significant trade deficit with the European Union, without bringing upon yourself significant price increases. Last week, Marmitegate might have been a taste, so to speak, of things to come. The reality is that Nissan last week passed on its first price increase in the UK in some years. Nissan employs about 34,000 people in its conurbation in the Sunderland area, an area which will never see 34,000 jobs again if Nissan decides to move.

**Baroness Armstrong of Hill Top:** I come from Sunderland. We think it is 35,000.

**John McGrane:** You know it well. Indeed, there are a few thousand more in the Irish supply chain, with many services and workers involved. Nissan exports four out of five of the very good vehicles it makes in Sunderland, most of them to the EU, and it also imports 40% of the raw materials for those vehicles. It is now faced with a democratic decision that has the effect of raising levies on its exports and incurring tariffs on its imports. It may be diplomatically inappropriate to call this out, but it is rational for business to think in terms of consequences and say, "As a result of what has happened, there is very little incentive for Nissan to invest further". It has to become extremely competitive just to hold its position. In response to Patricia's very important point, competitiveness cannot be just about wage costs; it is about having a business that can be adaptable to change of any sort and produce high-grade services and goods for high-value customers, and our members are intent on delivering those categories. That is our opening context, Chairman.

Q109 **The Chairman:** That has been a very comprehensive picture and has covered a lot of ground. My colleagues are fairly familiar with it, and I will put them on free fire in a moment for their particular interests. I confine myself to only one other question. It is self-evident from what you have said about the Irish debate and more widely—maybe it is not—given that we have a Northern Ireland Executive and a UK Government perspective, that these negotiations will take place with another 26. We understand and appreciate what you have said to us very clearly. Are those messages going home to those who need to have them? Is the

contingency work being undertaken, either in-house or outsourced, to deal with it? Is there potential for looking at options to meet the difficulties as they arise in the negotiations? We are getting to the stage where we begin to understand what needs to be done, but how are we going to make sure that those charged with dealing with it, or who have responsibility for it, are able to carry it out to your satisfaction?

**Pat Ivory:** From an Irish Government perspective, we feel that the Irish Government are probably better prepared than many other member states for dealing with Brexit. There was good engagement with business, the trade unions and different elements of civil society before the referendum, and since then it has been stepped up and intensified. We have observed that there have been preparations in government to deal with the challenge of Brexit, and that has been mirrored in many of our own organisations. We are also stepping up and doing that. From an Irish point of view, we at IBEC believe that Ireland is better prepared than many other member states. Part of the reason for that is that for both ourselves and yourselves it is at the top of our particular agenda, but the further you move away from Ireland and the UK, other items tend to drift to the top of other member states' agendas.

**The Chairman:** Is it not reasonable to say that they have other things on their mind, for example youth unemployment across the Community, which tend to get overlooked in this?

**Pat Ivory:** They do. For example, in Spain there have been two general elections and they are still struggling to form a Government. The far eastern part of the European Union is grappling with migration questions arising from Syria, so there are huge items that have drawn the attention of other countries.

**Patricia King:** We know that the EU has appointed nominees to head up negotiations and so on, but it is important to note that what all three of us have described—I am sure you have heard it in all the contributions during the day—are the complexities and seriousness of all the various issues. I carry out a lot of negotiations; that is what I do for a living. To succeed in a negotiation, you have to be exceptionally clear about what you want; you have to have the authority to be in the room looking for it in the first place, and using somebody to do it on your behalf is not a great place to be in. By that I mean that Ireland is just a member of the EU, which means the interests of the other 26, in this case, will not be the same as Ireland's, but they will have interests. Whether our Taoiseach stands on his head or does whatever he has to do to get someone to notice him is not the issue. The issue is how Ireland will be placed in the order of importance in these negotiations. Ireland's interests may not necessarily be the UK's interests at all.

Northern Ireland is more complex and should be the UK's interest. The politics of that is also important, in that the people of Northern Ireland voted to remain. The person who is First Minister does not agree with that, but there is a constitutional piece under the Good Friday agreement. It is the direct opposite in Scotland. They voted to remain and the First Minister there agrees with that, but she has no constitutional entity to hang her hat on, whereas the people of Northern Ireland have the Good Friday



agreement, which says what it says about their having the ability to be Europeans, so there are complexities.

The Irish Government also have a huge interest in ensuring that Northern Ireland is treated well and that, as has been described by my colleagues, all those exigencies are taken on board to make sure that Northern Ireland is allowed to prosper, that the peace is not interrupted, and that nothing regressive happens. The Irish Government and the Republic of Ireland have a massive interest in ensuring that happens. They will be in a particular position because they will be part of the EU. Northern Ireland will also be looked after from the UK, in the sense that it is represented in the UK, but it may not be as focused, so it is a complex negotiation. I do not know whether the European people will give Ireland a special place. I would expect us to advocate, in so far as anybody will listen, that they should, and that Ireland should be at the top of the class in terms of advocating what will be in any agreement, in so far as that can happen. It is too early to say. It is a very big challenge for Ireland to get itself into a space where it can negotiate the best, and my view is that it is nowhere near that yet.

**John McGrane:** Ireland has to be brilliant at managing two distinct sets of relationships. We have an undiminished commitment to membership of the EU, but we also have a very special relationship with our friends and connections in the UK. We have to be brilliant at managing both those distinct sets of relationships.

It has been reported in some quarters in recent weeks that certain opinion within Britain may see Britain having the ability to hold Ireland as some kind of hostage in its relationship with Europe and in the negotiations. Frankly, we would regard that as a pretty despicable notion, to say the least, but we understand that we are now in a dangerous phase where people may take positions that try to leverage unwisely some of the relationship factors, whereas the right way is to think about what is in our best interests while still respecting the will of the people.

**The Chairman:** If I may respond on behalf of the Committee, thank you for your frankness in making that point. I think you can take it as self-evident that across the Committee that would not be our intention, nor do I suggest that you implied that it was. It would be helpful to have any indication—I am not asking for names—as to whether this is a theoretical concept or whether you have any evidence, which you might not wish to share with us in detail, that this is being seriously contemplated.

**John McGrane:** I do not say that it is, but it is in the noisy vacuum that now opens up where these types of ideas can be posited improperly. What is important is leadership on all sides, in public and private sectors, to fill that vacuum quickly and say, "These are our principles and commitments, and we are going to work to find solutions that are appropriate for everybody".

**The Chairman:** Thank you. Colleagues, I leave this open substantively. You have heard a lot of evidence today. Would you like to distil particular things?

Q110 **Lord Whitty:** Two things, really. First, all the evidence we have had so far indicates that this is a serious threat to economic performance and the well-being of people, employment, profitability and everything else in Ireland, but is there a differential impact across sectors? Is there a chance that any sectors would benefit? You have a very serious and particular problem in the agrifood sector, but there may be other sectors that will be badly hit. Perhaps you could go through a list of them.

My second question is to Patricia on the issue of workers' rights. The British Government have said that they will legislate into British law what currently exists and then review it. If they reviewed it to the degree that, some way down the line, European rights for workers diminished after Brexit, what would be the effect in Ireland of having different workers' rights and different health and safety standards in Northern Ireland as compared with the Republic? Would there be a shift of investment or of employment? There are a lot of ifs in that, but your anxiety is pretty palpable. Obviously, it would affect the whole of the United Kingdom, but you would be within miles of each other; you would have employment in similar factories and offices with different rights. What would be the effect on the Irish economy and Irish employment?

**Pat Ivory:** Maybe I could comment on the sectoral approach. You can measure the exposure of sectors in two ways. One is the size of their actual exports to the UK and the business they do in the UK. The second is the actual proportionate exposure, which is how much of their own business that trade accounts for. The Department of Finance and the Government's economic analysis unit have done some work on this, and they came up with a composite index methodology that identifies the most exposed sectors on the manufacturing side: pharmaceuticals—pharmichem; food and beverages; traditional manufacturing; materials manufacturing; and electrical equipment. Those five sectors collectively account for 75% of manufacturing gross value added in Ireland and they employ 94,000 people, according to the census of industrial production. The economic importance of those sectors cannot be underestimated. There is one particular distinction in the five sectors. The pharma sector is the largest in turnover terms, but it is also a foreign direct investment-style sector. The other four sectors are basically indigenous and Irish-owned.

Another thing worth pointing out in the manufacturing sector in particular is that although Dublin, the capital, has been the main engine for growth and our recovery, outside Dublin employment is very high in those exposed manufacturing sectors. In the food sector, 80% of employment is outside the Dublin region, so there is a regional aspect. As well as the exposed sectors being on the whole Irish-owned, they employ more people in the regions, which are the areas of Ireland that have found it most challenging to recover from the recent economic downturn, so they are still in a recovery phase.

**The Chairman:** Some of those would be border regions.

**Pat Ivory:** Absolutely.

**The Chairman:** If I may amplify the point, I take it that those sectoral categories, which it is very useful to have, would be supplemented by

cases where there was a particularly complex or dedicated supply chain of which an individual business formed part.

**Pat Ivory:** Yes. To take an example, in the food and drink sector, which is one of the most exposed, in the border counties, farmers are moving back and forward across the border on a daily basis to supply businesses on both sides.

**The Chairman:** We heard, in simplistic terms, that the pigs go north and the milk goes south for processing.

**Pat Ivory:** Yes.

**The Chairman:** That is a pattern all of you recognise.

**Pat Ivory:** It is definitely a pattern we would recognise.

**The Chairman:** That is really helpful.

**Patricia King:** To deal with Lord Whitty's points relating to employment law, first, it is a devolved power in Northern Ireland. It has its own pieces of legislation in relating to it. If, as a result of Brexit, the UK decides to dilute employment law provisions, as I would describe it, in years to come, and the Republic of Ireland continues them, one can expect the continuation of trade in some shape or form between the Republic of Ireland and the UK for some years. At the moment, 16% of the Republic's exports go to the UK. One can only assume that it is not all going to stop. Everybody knows and expects that Ireland will try to find other markets, but that will not happen overnight, so there will be trade between them.

The other important piece is that 40% of those are indigenous Irish companies, which in the main are small to medium-sized industries. The reason I mention that is that they are usually more affected by any change, alteration or otherwise in the labour market. Anything that affects labour costs in some shape or form means that a small or medium-sized industry will be more quickly affected by it than the bigger ones; they have less space to absorb shocks. In effect, that means that if that company wants to continue to trade with the UK—I am talking more about trading with the UK across the water—and that becomes a feature of the labour market in the UK, where they address the cost issues and so on, it will come back to its workforce and say, "The only way we can continue to do this is to start mirroring costs across the water". That starts what we describe here as a race to the bottom—I am sure you have the same term in the UK. That will take off very quickly, because the drive for those companies to stay alive will be, "We want to continue to trade across the water". I have already heard companies saying publicly on the airwaves that the only way they foresee continuing to trade and continuing to survive is to deal with labour costs. They have already started this.

In Northern Ireland, the devolved powers are there. Clearly, if the Northern Ireland Government decided to dilute, it would have some effect as well. However, believe it or not, the Northern Ireland Government export more to the Republic of Ireland than the other way round, so the dependency is not the same. That would not necessarily be changed. You have cross-border labour movement, in that people live on one side of the border and work on the other, but that would have a different effect. The

people going to work would be affected by the rule of law of that particular jurisdiction, so the issue would not be the same.

**Pat Ivory:** To add to that, about 15 to 20,000 people cross the border every day.

**The Chairman:** To work.

**Pat Ivory:** To work, and that is significant. SMEs are very important in the food sector. North-South trade is an important point, but you also need to take on board the amount of Irish trade that goes to the UK as a whole and the amount of UK trade that comes to Ireland. We are a very significant market for UK producers. If you look at the exposure on the food side, 70% of processed food produced in Ireland is exported to the UK. Many of those companies are SMEs while others have manufacturing facilities in both Ireland and the UK. It is a very deep relationship that is not just trade-based; it is based on investment and very deep linkages, and global supply chains. Many of our SMEs supply global supply chains that are either exporting to the UK or transiting product through the UK to other markets. An area that is particularly exposed is transport services. A lot of our transport is through the UK and on to other markets.

**John McGrane:** To go back to Lord Whitty's point about who gains along the way, including the point about trade, there is no question of our not trading with each other. We always have and we always will. For as long as Ireland and the UK are less than two hours apart—frequently even less than that—we will be closest neighbours, and for many of us we want to be closest friends. We will always trade, but the question is at what price, and what viability of jobs, investment and sustaining the well-being of communities? What is happening is a subtraction from the well-being of that trade: fewer jobs, less investment and less well-being in communities supported by that.

To take specific cases, almost nothing is made in one place any more—in one country, one town, one community or one jurisdiction. If you are a barber or hairdresser, you are not exactly importing or exporting, but you are cutting the hair of somebody who is, or who is in the supply chain, or the family of somebody who is. Nobody is immune from the effects of this anywhere across the UK, Ireland, the EU, or the globe for that matter. Everything is now comingled. Take the example of the iconic Bentley car—some of you may have that pleasure—the quintessential English vehicle. It starts life in Bratislava, believe it or not, where the chassis is made. It is fitted with a German engine by Volkswagen; I believe it is emission-compliant. It is then transported to Crewe, or somewhere, to be prepared in finality, to which is added chrome trim made in Ireland. It is then placed in a showroom and sold to people who take long-term finance on that vehicle, which finance is assembled in Dublin's International Financial Services Centre. Nothing is made in one place any more, food not least. The world's biggest food ingredients company is Irish—Kerry Group. When you buy a Jacob's biscuit, a Jaffa cake or a McVitie shortbread, it contains ingredients made in Ireland, processed in Britain, put into a pack, put on to a truck and brought back and sold in a restaurant, café or works canteen in Ireland the following day or week. Everything is two-way these days. All that is at issue here is what barriers are we going to place in the

way of that? Beef coming into the EU from outside faces tariffs upwards of 60%; for dairy it is upwards of 30%; for vegetables it is upwards of 15%. All that gets done by creating this change is subtracting value from the process. When you subtract value, you subtract investment activity and you subtract jobs and employment in those communities.

Lord Whitty asked whether there were specific places that might gain. Yes, there are. The reason why Ireland is home to nine out of 10 of the world's top pharmaceutical, internet and medical devices companies is not that Irish people buy all their output; we are a gateway economy and a gateway community to a 500 million-person market across the European Union today. Those companies like what we do here. Many of their British counterparts, which have major operations in the UK, now need to think about how to secure their access to that market. Pragmatically, they will think first of the place that is closest in language, custom, law, access and pro-business ethos. That is already happening in technology; it is happening, interestingly, in university research funding. Significant EU funding of research—well over €1 billion a year—is now being jeopardised in the UK. What we talk about in the British Irish Chamber of Commerce for our members is how we can be an instrument of joint thinking that can support UK universities, but partner with Irish universities for the research contracts that the EU funds, and for the clusters of innovative SME enterprises that spring up around those colleges and research centres.

There are areas where there will be growth here, and we need every single one of them to take care of the offsets that are coming on the negative side from the adverse effects on things such as our food, tourism and other industries.

**The Chairman:** Thank you very much for clarifying that. If you are agreeable, perhaps we could have another 10 minutes max. We have a question from Baroness Browning. By way of a trailer, if you have any afterthoughts, I invite you to give them before you close.

Q111 **Baroness Browning:** May I be a bit naughty? This is not a question I have asked anybody in the past two days, but it seems to me that, when the British Government begin their negotiations for real with the EU, none of us knows what the deal will be, what the package will be, at the end of the day. The language being used at the moment about what is being looked for and what the position might be is somewhat speculative. Nobody is going to declare their hand from the beginning. Suppose, as we get towards the final stages of these negotiations, that the UK remains part of the customs union, which is a possibility. It will have to barter other things in return for that, some of which may not be easy. Suppose that as part of the whole package the customs union remains. After that, what would worry you most?

**Pat Ivory:** Remaining part of the customs union would deal with the tariff issue.

**The Chairman:** The one John has just been speaking about.

**Pat Ivory:** Yes, but the tariff issue is only a small part of the barriers to trade these days. In a modern free trade agreement, a huge amount of the emphasis today is on regulatory co-operation. Remaining part of the

customs union does not deal with all those regulatory issues. If you are part of the single market, you are applying the same regulations and standards. There are still huge challenges. Many of the trade barriers that could arise could be in that regulatory space.

Going back to the point about SMEs, they have a much greater challenge in dealing with regulatory differences on labelling and the way a product is produced and so on than large corporations. That hits SMEs much harder than multinational corporations. Regulatory co-operation, standards, and being able to trade would be key things.

There is then the whole question of services. We have not spoken very much about the services industry. The single market is being developed in the direction of services. In financial services, passporting is a particular issue under discussion, and a threat from the UK point of view. As we have already outlined, if financial services companies, pharmaceutical companies or research companies are exiting the UK and looking for somewhere within the European Union to base themselves, we hope they will consider Ireland because of our common language, common legal system, our way of doing business, our proven track record and the skills we have in this country. Both on the services side and the goods side, remaining part of the customs union does not cover all the particular issues.

**Baroness Browning:** I was not suggesting it would, but at the moment the mood music is that we would not; if you were able to bank that, the question is where you go next. You are saying it would be regulation.

**John McGrane:** You are right, Baroness. Your point in the first question was, what else, what is next? What else is people; global businesses need global people and global talent. One of the hallmarks of Ireland's success in the modern era has been our openness not just to trade but to migration, allowing the best people in the world to flow in and out of this country, to ply their trade and make their lives as well as their living. It stands to the credit of our creative industries, but also of technology, which is a highly internationalised business. I do not know how long your visit will last—bringing your sterling earnings to Dublin—but we encourage you to visit "Googleland", which is a burgeoning quarter of this great city, filled with the world's greatest technology companies. They are typically one-third to one-half international people, not born here, but making their lives as well as their living here, bringing their families here and enriching our lives and our culture as they do that, and that is critical to the business models of those industries. If you go to Googleland, just look across the river to the International Financial Services Centre. Finance is an innately internationalised business; it requires talented people from all over the world, and the idea that the bargain might be struck on just one side of the ledger without also dealing critically with the issue of enabling the right people to move in and out of the right roles is critically important. We hugely respect that that has been a major issue for the UK people. We encourage people to see the difference between non-EU migratory issues and in-EU migratory issues; fairness of conditions for people; and adequacy of supply of talent for the work to be done at all levels of society, but critically including the ones I have mentioned.

**Patricia King:** Lest you get the wrong impression, I would not be too inclined to overdo the description of Ireland as “Googleland”. You might be able to describe it in some other way, but not necessarily entirely like that. Those things are all part of the fabric that makes up the Irish economy. The Republic of Ireland intends to remain in the EU, so some of the stability posts will remain, from the point of view of funding arrangements, support and so on. While there has been recovery in the Republic of Ireland in recent years, there are parts of the Republic that have not experienced the same levels of recovery in unemployment.

On the customs union, that question deals with one aspect, which is the trade piece. To me, even if you have that trade pillar in place, you will still have all the other things I dealt with, such as employment legislation. All of that will be a feature and will have to be dealt with. In my judgment, there will be differences in the way the two countries trade with each other, whether it is customs union or whatever else. Some of those competitive pressures will come along.

From the Northern Ireland point of view, Northern Ireland is the most depressed region in the UK. It has the highest levels of deprivation, unemployment and poverty. As you know, 26% of its exports are food and live animals, so agriculture plays a big part. It depends on CAP funding. Who is going to pay that? It received €205 million from the EU under the ESF for skills training. It has a manufacturing industry that is declining every day, and the only thing that will resurrect it is to reskill people and get them into a place that will attract further investment.

There are certain parts of the infrastructure of Northern Ireland that require a lot of work, whether roads blown up during the Troubles or just lack of money in the local authority sector. There are lots of infrastructure pieces, not just the roads network; I mentioned that as one of them. Again, the EU has supplied a considerable amount of money to boost the chances of the peace process taking hold and normal societal activity continuing. Through Interreg, €283 million has been pumped in to build investment pieces across the region. If you take the EU contribution out of that, Northern Ireland is at major risk unless somebody in the UK says, “We will match every euro they put in”. I do not hear anybody saying that is going to happen. Unfortunately, because of the politics and the different stances people are taking, it is not entirely audible at this moment that anybody is going to fight for it. That is what needs to happen for Northern Ireland even to continue to have a chance economically of improving its lot; otherwise, we are looking at huge job loss and bigger deprivation levels. The UK needs to get it. It needs to understand that, when you take all the politics out, human beings in Northern Ireland need a lot of effort put in to ensure that all that is sustained. That is a big key risk in Northern Ireland. In fairness to the Republic of Ireland, if we remain in the EU we will have all the trade and other issues we talked about, but Northern Ireland has unique difficulties and the UK needs to get its head around how to address them.

**The Chairman:** On which note, having dangled the possibility of further comment, I think we will draw to a close, if you do not mind.

**Pat Ivory:** Can I make just one small point?

**The Chairman:** If it can be one sentence, I am more than happy to take it.

**Pat Ivory:** In relation to the process, the one thing businesses here in Ireland, in Northern Ireland, in the UK and across the European Union need is certainty. The longer the negotiation process goes on, the more uncertain the position and the harder the position on a Brexit, the further that period of uncertainty extends. That is bad for businesses right across the UK, Ireland and the European Union. If the negotiations continue to go down a hard Brexit line, we could be looking at a very extended period of negotiation and uncertainty for business, which is not good for anybody's growth creation, job creation and any of our economies.

**The Chairman:** To conclude this session, I thank our three witnesses very much. You have illuminated and expressed fears and concerns across a wide range, which is really helpful. Our interest in this subject will not cease on the publication of our initial report. We are all conscious that this is a continuing issue that will have to be watched very carefully through the negotiations. I hope you will feel we have established at least a line of communication such that, if at any stage you want to communicate with us, we would like to hear from you, and work on that basis. Meanwhile we will reflect very carefully on what you have said. It has been extremely helpful. This formal session closes.



Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland and Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union – Oral evidence (QQ 13-32)

**Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland and Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union – Oral evidence (QQ 13-32)**

Evidence Session No. 2

Heard in Public

Questions 13 – 32

Tuesday 11 October 2016

[Watch the meeting](#)

Members Present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Baroness Falkner of Margravine; Lord Jay of Ewelme; Baroness Kennedy of The Shaws; Earl of Kinnoull; Lord Liddle; Baroness Prashar; Lord Selkirk of Douglas; Baroness Suttie; Lord Teverson; Lord Trees; Baroness Verma; Lord Whitty; Baroness Wilcox

**Witnesses**

Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland; Mr Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union

Q13 **The Chairman:** Good afternoon to James Brokenshire, Secretary of State. We welcome you to your new post as Northern Ireland Secretary. You have with you Robin Walker, who is Parliamentary Under-Secretary of State in the Department for Exiting the European Union. Clearly, James, you are familiar with this Committee, or its constituent parts, through your previous work at the Home Office on migration. We are particularly grateful to have your take on this. Robin, we know that you have a general interest in a department that is finding the way forward. I would like you to feel that this is a study that is directed towards dealing with this sensitive area of British-Irish relations in a constructive way and trying to explore some of the difficulties in a positive spirit.

I remind you that this is a public evidence session, which is broadcast. We will in due course send you a transcript. I will address my questions to you, Secretary of State, but if you feel that you want to bring in your colleague or if your colleague feels that he needs to be brought in at any stage, we will do that. We appreciate your time; we will make this as punchy as we can. You have just come back from Northern Ireland, I think.

**Rt Hon James Brokenshire MP:** Yes, I have. As you would imagine, I am there very regularly.

**The Chairman:** I know that. We are taking our Committee both to Northern Ireland and Dublin next week to have a look.

**Rt Hon James Brokenshire MP:** Perhaps, Lord Chairman, I can first very much welcome your inquiry in relation to the importance of UK-Ireland relationships. As you indicated, I have over the years in a different role

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been a regular attendee at your Sub-Committee on Justice and Home Affairs and it is good to see Baroness Prashar here in that regard.

Perhaps I may make some opening comments on what I think is a very strong relationship between the UK and Ireland. We obviously have a long historical relationship with each other, which I do not think has ever been stronger. I often refer to it as a unique relationship. It is important to note that our two economies are interconnected on both an east-west and north-south basis. Ireland is the largest export market for Northern Ireland and the fifth largest for the UK as a whole, so obviously that is significant. The relationship with Ireland is hugely important to the UK and we want to see it deepen and strengthen after we leave the EU. There have been important relationships at a number of different levels, not simply politically but also in terms of official-level contact and how that is maintained on a regular basis. That is something on which we have worked together over many years and we want to see it continuing into the future.

We have been working closely with the Irish Government to support the political process for Northern Ireland. I recognise that, under the Belfast Agreement, the Northern Ireland Executive have an important direct north-south relationship with the Irish Government that complements the wider east-west relationship. We as a Government remain committed—I think it is important to stress this—to the Belfast Agreement and its successors and to making a success for Northern Ireland of the UK's exit from the EU. A key part of that, which I am sure we will be looking at in this evidence session, is the way in which we deal with the border. We had a common travel area between the UK and Ireland for many decades before either country was a member of the European Union. Indeed, several of the other partners in the common travel area are already not part of the EU—the Channel Islands and the Isle of Man. It is worth stressing that commitment on both sides. Certainly, I have had a number of exchanges with Irish Government Ministers and with the Taoiseach about this very strong shared will and objective to make a success of working together closely, so that we get the best outcome for Northern Ireland within the UK but outside the EU.

**The Chairman:** Thank you, Secretary of State. I think that the Committee will very much welcome what you have said. You will be aware that we have already taken evidence from Ambassador Dan Mulhall, who also spoke positively about the relationship. You referred to the border, which will obviously be an interest to our Committee. I made the point that it is 499 kilometres. If one is a student of Google Maps, one immediately realises some of the difficulties.

**Rt Hon James Brokenshire MP:** Equally, the Irish ambassador referred to the number of movements on a daily basis. He gave the figure of about 35,000 people crossing the border every day. Yes, it is right to focus on things such as goods and services and the movement of people, but it is also about the politics that lie behind this and the sense of identity, to which we are very sensitive as we look to the negotiations ahead.

Q14 **The Chairman:** That is really helpful. Let me kick off with the first scripted question. Mr Walker's Secretary of State, David Davis, has

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identified UK-Irish issues, and the impact on Northern Ireland of Brexit, as one of the more difficult elements of the negotiation. Could you summarise for us what you think the main difficulties are that need to be addressed?

**Rt Hon James Brokenshire MP:** I have already alluded to some of the issues that we have very much in our minds. We want to ensure that we do not see a return to what I have described as the borders of the past. The strength of the common travel area has served the UK and Ireland for many years, dating back to the Irish Free State in 1922. That is a core area of our focus, as well as other ancillary issues. I think that you may have got a sense of those from the joint letter issued by the First Minister and deputy First Minister, such as the single electricity market on the island of Ireland and the continuity that that provides, as well as the support from and potential impacts on business in relation to it. A number of items are quite distinct and different in their significance and relevance to Northern Ireland and it is important that we understand those clearly, in working closely with the Executive and listening to the points and representations that they make, as well as in discussions with the Irish Government. We need to look at those special issues that reside in relation to Northern Ireland, which is why I think the Secretary of State for Exiting the EU made the comments that he did. It is interesting to note that his first official visit as Secretary of State was to Northern Ireland and his second official visit was to Dublin.

Q15 **The Chairman:** Thank you. In the light of that, is it your view—I am prepared to say that it might be your interim view; I am not necessarily saying that you would wish to commit to it definitively—that it would be desirable to establish a specific bilateral UK-Irish deal, taking account of the uniqueness and, as you have said, the complexities of the UK-Irish relationship, not merely the peace process but also the electricity grid and so forth, as part of the Brexit negotiations? Do you see it being swept up in the Brexit deal or would there be a possibility of a discrete agreement over and above the agreement with the 27 but no doubt consistent with it?

**Rt Hon James Brokenshire MP:** Perhaps I might frame it in a slightly different way. Clearly we have a negotiation to come with the European Union. We are currently in the phase of assessing the evidence and establishing our negotiating position. But we are talking closely with the Irish Government. That is not about pre-opening negotiations in relation to Article 50; it is rather to identify areas where there is a common shared interest and where there may be items on which we would want to present a shared position moving forward into those negotiations. For example, both Governments have underlined clearly their desire to see the common travel area continuing into the future. I suppose that I would frame it in those terms, in relation to the approach that we are seeing now, but obviously we are preparing and considering carefully as we look towards the negotiations ahead at the EU level.

**Mr Robin Walker MP:** There is one thing that I will add to that, if I may. I joined the Secretary of State for my department when he went out to Dublin. Although I did not go with him on his first visit to Belfast, I was

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also in Belfast last week following up on some of those meetings. The Irish Foreign Minister, Charlie Flanagan, was very clear that part of his role as he sees it is to impress upon all the other member states the importance of the island of Ireland issues, if you like, and the British-Irish relationship, and to make sure that they take them into account. When we begin our bilateral engagement with all the other member states, we will want to press that home as well and make sure that there is a recognition at the European level among both the 27 and the institutions of the importance of addressing these issues. That is somewhere where we can be very complementary, and I think as the ambassador made clear to you in his evidence, it is a real priority for the Government of the Republic of Ireland. Equally it needs to be a priority for us.

**Q16 The Chairman:** You have anticipated my following question by responding as you have. I suspect the basic point is that if you have the two interests in Ireland, if I may put it that way, singing from the same hymn sheet, that is more likely to be of interest to colleagues in the upcoming negotiations. Would that be the way you would summarise it?

**Mr Robin Walker MP:** Actually there are potentially more than two interests. As I was saying at a lot of my engagements last week, one of the more positive things is the fact that we actually have the Executive in Northern Ireland, the UK Government and the Government of the Republic of Ireland all identifying very similar issues that need to be addressed and all pushing in the same direction on them.

**The Chairman:** That is helpful. My final question is really about the machinery. In one sense the Secretary of State has already discussed the upfront side, as it were, of this in diplomacy terms. The Prime Minister, the Secretary of State and you yourselves have undertaken work in Belfast and Dublin. Going on from that, is there any flavour or anything you want to add on the issues that have been raised with you? Secondly, are the existing contacts Government to Government, UK and Irish, and between the Irish Government and the Northern Ireland Executive to do with Brexit, up to the task? No doubt this is to some extent a work in progress, but it would be helpful to have an assurance—given that you have started on a rather positive note, if I may put it that way—that the machinery for the three Executives and the interests of the people of the island of Ireland can be expressed and effectively rehearsed. Are all those mechanisms being developed?

**Rt Hon James Brokenshire MP:** Perhaps I could give you a sense of some of the structures that are in place.

**The Chairman:** That would be really helpful.

**Rt Hon James Brokenshire MP:** In essence you have the bilateral discussions and engagement between the UK Government and the Irish Government, and equally the bilateral discussions and engagements that we have on a number of different levels between the UK Government and the Executive—the regular meetings I have with the First Minister and the deputy First Minister, the meetings that have already taken place with the Prime Minister, with the Secretary of State for Exiting the EU, with the

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First and deputy First Ministers, and with other Ministers within the Executive as well. So you have that framework.

You then have work that the Executive are doing on sectoral analysis and therefore the representations and detailed points they are making to us, given that a number of elements will be devolved and therefore that they understand keenly why we want and need their input on these matters. So you have that structure. I have set up my own Business Advisory Group to assist me, and last week Robin attended a meeting of that group looking at the agri-food sector. We are also doing a number of sectoral meetings to supplement and support the inputs that we are receiving from the Executive to ensure that we have the best information in order to understand not just the issues but also some of the themes and feelings on the ground. That is important to assist me in being a keen and positive advocate for Northern Ireland in my role as Secretary of State.

Then we have the architecture that stems from the Belfast Agreement with the North/South Ministerial Council and the British-Irish Council bringing together all of the devolved Administrations—Jersey, the Channel Islands and the Isle of Man and ourselves—in a formal structure. We have the Joint Ministerial Committee where the devolved Administrations have a formal mechanism of meeting with the UK Government. With all of these different mechanisms in their own way, as well as more informal official-to-official channels, there are a number of opportunities to ensure that we are engaging fully with, listening intently to and acting upon the information we are receiving to ensure that we get the best arrangements for Northern Ireland.

**The Chairman:** Thank you. I have a final minor point. Presumably you have not closed your minds to the possibility of either commissioning or at least listening to and receiving help from external bodies like academics and others who are practitioners in the field. I am thinking of Irish relations, for example. Certainly we have met some during our previous travels in Northern Ireland. They may be helpful to you.

**Rt Hon James Brokenshire MP:** I certainly remain open to receiving all evidence in relation to this, and indeed I am sure that the report of this Committee in due time will be valuable and helpful in seeking to inform the debate. I am sure that Robin, in terms of the Department for Exiting the EU, will take a similar stance.

Q17 **Baroness Kennedy of The Shaws:** When David Davis was before us he undertook to ensure that Northern Ireland's voice would be heard and that is echoed in what you and your colleague have been saying today. The contact you are making with all these different aspects of Northern Irish life is impressive, but as you know, when we talk about hearing Northern Ireland's voice, there are different voices in Northern Ireland. One has to be very alert to the fact that in the recent referendum most of the voters in Northern Ireland voted for Remain. The Northern Irish Catholic community in particular has taken great comfort from being part of the European Union. What can you say about the extent to which you are mindful of that difference, which was, if you like, part of the whole business of the peace process in Northern Ireland? Is one really hearing from all the communities?

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**Rt Hon James Brokenshire MP:** Thank you. That is why I made the point about standing behind the Belfast Agreement and all of the agreements that have followed on from it. As Secretary of State, I think it is important that we continue to make progress in relation to issues coming from the Stormont House Agreement and the fresh start agreements to underline again that I want to see continuing political momentum in the very positive way that we have seen over many years. It is worth noting that we are currently seeing the longest period of unbroken devolved government in Northern Ireland since the 1960s. It is important to set that context.

Obviously, the meetings that I am having with the Executive—that is, meetings with the First Minister representing the DUP and the Deputy First Minister representing Sinn Fein—therefore the Executive itself, given the nature of devolved Government in Northern Ireland, is representative of a number of different strands of the community. But it is something I am conscious of. From my own perspective I campaigned for Remain, but my clear view is that as Secretary of State, I have a strong objective and a strong responsibility that I feel very keenly to ensure that we make a success of the UK's departure from the EU, that Northern Ireland within the UK sees that success, and how it needs to be reflective of a number of different themes across the community.

Q18 **Baroness Kennedy of The Shaws:** That is why my next question picks up on that. I think that people in Northern Ireland and indeed across the whole of the United Kingdom want to know what the best deal for Northern Ireland would look like, particularly given its special history. What would a good deal for Northern Ireland look like? Is it too early to say?

**Rt Hon James Brokenshire MP:** Obviously we still have a number of decisions to take in relation to those negotiations. I suppose what I would point to again is the strong objective of seeing the maintenance of the common travel area, of not seeing those visible hard borders returning between Northern Ireland and the Republic of Ireland with all of the connotations we have seen from that in the past. That is a clearly stated objective of both the UK Government and the Irish Government. I would certainly point to that, as well as wanting to see the strongest ability for UK companies to trade with and operate within the single market. Those are two objectives that I would point to at the very high level, but obviously there is still a lot more work to do and a number of decisions to be taken.

**Baroness Kennedy of The Shaws:** You seem to be describing something that is bespoke for Northern Ireland. It reflects something that was said by the Irish Foreign Minister, Charlie Flanagan. He said that the Irish Government would seek legal recognition of the unique status of the North in the circumstances of the island in the Brexit negotiations. It sounds to me as though that is what you also imagine is going to have to be part of any ultimate deal.

**Rt Hon James Brokenshire MP:** I suppose that I would characterise it like this. We are seeking to achieve a UK-wide negotiation and therefore reflective of the issues and circumstances arising all around the United

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Kingdom. Northern Ireland obviously has some very specific issues that we have already alluded to in this evidence session. For example, the common travel area is recognised in the Treaty of Amsterdam within the EU context. It is incumbent on us to underline to the EU in the negotiations the special circumstances being set out by the Taoiseach and the Irish Foreign Minister in a number of their existing meetings. Equally there is a recognition in the EU. Some of the feedback that we have already heard and seen is that there is a recognition that different circumstances exist in relation to Northern Ireland. Indeed, both politically and financially the EU itself has invested heavily into that political process.

**Baroness Kennedy of The Shaws:** Absolutely it has. Some elements of the Irish community must be worried that there is going to be a great shift in all of that.

**Rt Hon James Brokenshire MP:** I suppose I take an optimistic approach to this. I think that that was evident in the evidence I have read from the Irish ambassador. However, there is a strong sense of will on the part of the two Governments as to how we want to achieve the best objectives from this. There are areas of commonality that we are working together on very closely so that we achieve the positive future that I think we can achieve and I believe we will achieve.

**The Chairman:** If it were necessary in order to meet those objectives, you would not rule out the possibility of a bespoke arrangement, which would of course have to be negotiated.

**Rt Hon James Brokenshire MP:** As I say, it is important to stress that we are looking at a UK-wide negotiation. But within that, as I have alluded, there will be specific factors that are relevant to Northern Ireland because of the nature of having a land border with the Republic of Ireland and because of the issues around, for example, the single electricity market where we will be focused on getting the best outcome for Northern Ireland within the overall framework.

Q19 **Lord Whitty:** I am going to return to the issue of the border. None of us wants to return to the border as it was in the 1970s, but even before the Troubles there was a proper border in the 1950s even though it was a common travel area, because of customs and other checks. I can go back that far.

Both you and the Irish ambassador seem to be reasonably confident that we would be able to retain something like the current soft border, but logically, can that be true? If we are not in the customs area of the EU, which we may or may not be, surely we will have to have a strong customs presence on the border. More importantly, the Prime Minister has made it clear control of immigration trumps most other considerations in the Government's approach to these negotiations. There is a possibility of EU nationals and others both within the EU and outside using the Irish Republic as a soft way into Britain. That will be a major consideration. I saw in the papers this week that one deal might be that we have a British customs and passport presence in the Irish ports. It slightly surprised me that the sensitivity of the Irish political set-up would allow that, but it is a possibility. However, logically the border will have to

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change to some degree. We cannot maintain the status quo if one part is outside the customs area and the other part has a different status of individuals as EU nationals—non-Irish EU nationals—at the crossing points.

***Rt Hon James Brokenshire MP:*** It is probably more important for me to stress that we have made no decisions in relation to the customs union, as you know. We are assessing the evidence around all of that. We are part of the common travel area and indeed we have been working with the Irish Government over many months on how we can strengthen it. We have a shared objective in relation to that—regarding organised criminality, people who are crossing borders—and therefore within that CTA structure how we as two Governments work together to ensure that it is strengthened even further. Indeed I have a recollection that I may have given evidence at some point to Baroness Prashar’s Committee when we touched on those themes when I was in my previous role. That is an important framework and basis upon which to approach this.

It is also worth recognising that we have different excise duties between Northern Ireland and the Republic of Ireland and that arrangements exist which allow for intelligence-led approaches to be taken to enforce them. There is the joint working that takes place between the PSNI and the Garda Síochána, as well as with HMRC. While we have made no decisions, I think that we look to some clearly established principles and clearly established foundations as well as a hugely strong will between the two Governments to find the right solution that does not lead to a return of the physical borders which touch on some of the political points raised by Baroness Kennedy in her question. That is why we are so focused on this and why, at all levels from the Prime Minister down, we have made statements about working together to ensure that we do not see a return to the previous border arrangements.

***Lord Whitty:*** David Davis did suggest that the Swedish-Norwegian border was an analogy, but actually it is not a direct analogy because of Schengen.

***Mr Robin Walker MP:*** Part of his argument was to say that there are technological solutions used on that border which could be valuable. In terms of freedom of movement of people, you are right, it is not a direct analogy. It was interesting to note the Irish ambassador’s comments in his evidence to you about the importance of Ireland not necessarily planning to join Schengen and being happy to work with us on that basis. We recognise that there are challenges here for the Brexit process, and David recognised that in his evidence to you as well. However, we think that there is the strength of will and agreement between all the key parties to overcome them. If you think about it, there are very few areas—some would argue that there are too few—where we have set out clear red lines ahead of the negotiations. However, this is one of them. It is so important that we want to put it right up front because we recognise that a return to the hard borders of the past would not be an acceptable solution. It is something that we have been determined to put out there. The engagement will absolutely be there between my department, the NIO, and the Republic of Ireland to make sure that we get to the right place on this.



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**The Chairman:** Given that, as both of you have said, there is something of an identikit view on that between the two Governments and the Executive, there is not really an issue within the island or across the British Isles. Are you equally confident that the intensity of the need will commend itself to the other 26 member states you have to negotiate with? Will they get the point if a sufficiently coherent and convincing case is put to them?

**Rt Hon James Brokenshire MP:** The Irish ambassador pointed to this in some of his evidence. When he was asked, “Why aren’t you in Schengen?” he explained and they recognised why there was this distinction and difference. Again, it comes back to the efforts that the EU has made in supporting the political process. There is a recognition of the distinct issues that arise in relation to the island of Ireland. Of course there is still a negotiation to come, but with the strength of will that we have and equally the recognition from the EU standpoint of the work that it has done over many years to support the political process, I remain optimistic that we will find a way through that does not lead to the harder, negative borders that we certainly do not want to see.

Q20 **Lord Jay of Ewelme:** I found that last exchange helpful and encouraging. What you are saying is that the objective is not to have a hard border and the question is how we ensure that we do not have one, because if we did it would be too dangerous for other reasons. On the question of how you get to that stage, to follow up the Lord Chairman’s question, would we negotiate this with the other 27 during our negotiations or would the Irish negotiate it within the 27, when they were deciding on what their stance should be vis-à-vis us, or would it be both of those? Or is it too early to say?

**Rt Hon James Brokenshire MP:** I think it is probably too early to say. I am sure that a number of more technical discussions will need to take place in relation to this, which is why the Prime Minister made her comments about seeing how we may be able to have some of those technical discussions to ensure that the negotiations themselves are used effectively and in the best possible fashion. All I can point to is the discussions that are taking place at a number of different levels between the UK and the Irish Government in a preparatory sense and in the sense of the continuing work that we have been doing over quite an extensive period on the common travel area. Therefore, there is a good understanding of the technical and other issues that reside around this, with that strong sense of political purpose that underpins it all.

**Mr Robin Walker MP:** I refer you to the point that I made earlier. When we went to Dublin, one thing that the Irish Government were at pains to make clear was that they had been engaging bilaterally with the 27 to ensure that they all recognised the importance of these issues. As our bilateral process kicks off after the Article 50 process, it will certainly be a core part of our script to make sure that we are making that clear. I think there will be that double-pronged approach to addressing these issues and making sure that they are on the agenda of all the discussions. It is important that that comes through in all the bilaterals, but also in the conversation between us and the EU institutions as and when that starts.

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**Lord Jay of Ewelme:** Thank you for that. Perhaps I could go back to one of the points that Lord Whitty made about the reports in the *Guardian* about the possibility of almost transposing border controls to the perimeter of the island of Ireland in order not to have them between north and south. There has been a certain amount about that in the last day or so. Is that part of the negotiations and discussions that you are having with the Irish at the moment? Would Dover and Calais be a model for that as to how you would treat EU citizens, British and Irish citizens and third-country citizens coming across the border?

**Rt Hon James Brokenshire MP:** Inevitably in these circumstances, all sorts of speculation arises. In the quotes that I gave to the *Guardian*, I was clear on how we are working with the Irish Government to strengthen the common travel area and on the mutual benefit that we receive from it in terms of our ability to work together strongly to prevent people from entering the CTA. It provides mutual benefit to the UK and the Irish Government when confronting terrorism and organised criminality, and on a whole range of different themes that build on a solid platform of work that we have been doing with the Irish Government over many months. Indeed, in my previous role, I was having conversations with Frances Fitzgerald, the Justice Minister, about how we look at the common travel area and how we strengthen it—given that there is no indication that the Irish Government would come within Schengen, and therefore would be outside the Schengen area—and about how we look at the CTA as that strong mechanism that both Governments, for our mutual benefit, want for safety and security and that sort of passage across the border.

**The Chairman:** I suppose it would be fair to say in present pre-Brexit circumstances that it would be theoretically possible—indeed, it may have happened—for somebody to become radicalised in Dublin, whether or not as an Irish national resident in the Irish Republic, and then to come freely to Britain, so that any control to stop that would have to be a matter of intelligence.

**Rt Hon James Brokenshire MP:** That is why I make a point about the common travel area and our ability to work closely with the Irish Government on identifying passages of travel and how we use advance passenger information. There is also the work that we have previously done at an EU level on passenger name records. All that work is to our mutual benefit. I do not know whether this will come up elsewhere, but we see the strong need moving forward for the UK to have that close security partnership with the EU, recognising the shared benefits that we get on both sides by that shared connection. Again, something that the Prime Minister and the Secretary of State for Exiting the EU have underlined as a core part of the negotiations is securing that strong, continuing relationship. While we may be leaving the EU, we are not leaving Europe and we are not leaving the work on strong security and confronting organised crime that in many ways we have been leading on for a number of years in the EU, because of the benefit that is seen in so many different aspects.

Q21 **Lord Liddle:** What you have just said is reassuring; it is reassuring to hear about the strong working together of the British and Irish

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Governments in these areas. It is also the case that our EU partners have a track record of acknowledging the special circumstances of Northern Ireland and presumably we can build on that. Also, a lot depends on the political choices that the Government make for their renegotiation objectives. For example, you must accept, as Northern Ireland Secretary, that your task in ensuring good relations in Ireland would be a lot easier if we remained in the customs union. You must accept that, because it is obviously the case.

**Rt Hon James Brokenshire MP:** We are looking carefully at the relative merits and evidence in relation to the customs union and other aspects. Indeed, I have been having meetings with business and industry about the potential implications of that. It is very useful to get that feedback from the different sectors. Our most recent one was agri-foods, which is one of the most pertinent in relation to this. We are considering that aspect carefully in the light of a UK-wide negotiation. We are looking at that and then seeking to ensure that, having framed that UK-wide negotiation, we can get the best possible arrangements, working closely with the Irish Government, in terms of the practical implications of those decisions and what happens on the ground.

**Lord Liddle:** Let me just come back on that. I hope that the question of what is in Northern Ireland's best interests will play an important part when the Government frame their overall objectives. I hope that you will not just be taking an overall objective but will be looking at what is best for the peace and prosperity of the island of Ireland.

Perhaps I could make one other point. On negotiating objectives, surely it must be the case—and you must accept as Secretary of State that it is—that whether the potential abuse of people coming to the Republic and then coming to Britain to work, probably illegally, post-Brexit is a serious problem depends on whether the Government are technically establishing sovereignty over immigration or whether they have a serious intent to cut it to tens of thousands. If you have a serious intent to cut EU immigration to tens of thousands, you will get lots of Polish labourers trying to get on to British construction sites by flying to Dublin.

**Rt Hon James Brokenshire MP:** We are considering the whole issue of immigration carefully. The Prime Minister has equally been very clear that free movement as it has existed to date cannot continue into the future. That is one of the clear messages that came through from the referendum. Obviously that is work which the Home Office is leading and it is important to see it in that regard. We do remain focused on seeing net migration reduced to what I have always described as long-term sustainable levels. We are not in that position at the moment, and here I refer to all the work that I had been doing in my previous role. It is important to see all of this in that macro sense. It is why we are looking at this as a UK-wide negotiation, but we are also conscious of the particular issues and circumstances that relate to particular parts of the UK. That is why I have made what I hope are the clear points that I have over issues such as the border.

Q22 **The Chairman:** I think we might move on to aspects of the trading relationship rather than the people relationship. You did say some time

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ago that you have had consultations with various interests in Ireland about how this might work, covering all the possible solutions to the problems. Can you give us a thumbnail sketch of what the general feeling of those other parties was? Is there something they would like to have or, conversely, is there something that they would really like not to have?

While you reflect on that, we have a Division in the House. Perhaps we may suspend the session. Bearing in mind that this is a public evidence session, I am not going to expel the gallery while the Division takes place. I would like colleagues to reassemble within 10 minutes if they can.

*The Committee suspended for a Division in the House.*

**The Chairman:** We will now resume.

Q23 **Baroness Browning:** Secretary of State, in September you attended the first meeting of the business advisory forum. Can you spell out for the Committee the purpose of that forum?

**Rt Hon James Brokenshire MP:** Thank you. I established the Business Advisory Group in September and the first meeting was attended by the Secretary of State for Exiting the EU on his first visit to Belfast. The purpose is to ensure that as Secretary of State I have good inputs and evidence from the business community on the issues that are generally on the mind of business across the whole of Northern Ireland. We have been following that up with a series of sectoral meetings which are ongoing. My colleague Lord Dunlop has been assisting and chairing a number of Business Advisory Group meetings with different sectors as well. I mentioned the meeting we held last week that focused on the agri-foods business, which Robin was also able to attend. I have further meetings that will be continuing in the weeks ahead.

To ensure that as Secretary of State I am able to be a strong advocate for Northern Ireland, I have a direct link to business in order to supplement the work that I know that the Executive are doing. Again, I have what I suppose is a two-way channel to be able to give some assurance on messages where we have made decisions over particular issues. An example would be some of the statements the Chancellor has made on EU funding. I can ensure that business people are hearing it directly and thus understand what is happening. Also, as I say, it is to make sure that we are getting good, direct inputs of information from the business community.

Q24 **Baroness Browning:** Thank you. Perhaps I may ask you about one of those sectors. Agribusiness is very important both north and south. Under existing EU law, there is a lot of legislation on the food supply chain and animal diseases. I suspect that several of us around this table have been responsible for quite a lot of it over the years. But nothing brings a sector to its knees more quickly than a disease outbreak in animals or a scare in the food supply chain. How do you see these things going forward? At the moment there is parity between north and south in terms of the regulations in the sector, but once Northern Ireland and the UK leave, are we going to make an effort to reflect EU law in this sector?

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Once you start to get a widening of the gap, I can see all sorts of problems developing if, for example, question marks are raised about the security of the food chain, the use of pesticides, animals not just with disease but with the potential for disease, being treated differently between the north and the south. Has any thought been given to how to minimise that risk?

**Rt Hon James Brokenshire MP:** I am grateful for that question. Some of the issues that you touch on have broader application to the whole of the UK, and obviously there is work that Robin and his department are taking forward alongside Defra on a number of them. At this stage we are very much in the analytical phase of taking evidence. For me as Secretary of State for Northern Ireland, I obviously recognise some of the cross-border implications of production that may start in Northern Ireland and conclude in the Republic of Ireland or vice versa. There are issues around country of origin. It is precisely because of all of these factors that we want to get inputs from industry—I am sure that Robin will equally attest to this from the session we held last week—and why I have set up the Business Advisory Group. It is to ensure that while there may be a number of specific issues on policy, there will be some nuance and specific circumstances that operate within Northern Ireland that may make something more important for Northern Ireland than it might be for the rest of the United Kingdom, and vice versa. Therefore, as we seek to establish and go into the UK-wide negotiation, we will do it consciously with the best evidence and understanding we can have before us in order to make informed decisions. That is precisely the purpose of the Business Advisory Group and of the different sectoral elements that I am seeking to take from it, so that I am in the best position to support DExEU and to support the work of other Government departments in framing the new policy and implementation, and obviously more generally being a strong advocate for Northern Ireland.

**The Chairman:** Following up on that and reminding the Committee that I have declared interests in agriculture in Great Britain but not in Northern Ireland, I would ask you to comment generally on whether you see your business advisory committee as being able to identify areas of specific difficulty in Northern Ireland, not necessarily agri-food—although I suspect from what has been said that it may be one of them—but other areas being brought to your attention.

The second point, which in a sense has an agricultural context, is the question of currency movements. I appreciate that it is quite difficult to encapsulate a deal on having a special currency arrangement for Northern Ireland, for example, but there will be some real sensitivities if there is volatility in currency, indeed as there is now. I wonder whether you would like to comment on those two.

**Rt Hon James Brokenshire MP:** When it comes to currency issues, we have always lived in, or in modern times have lived in, an era where we have currencies that move around. Indeed, some of the anecdotal information we have received from some businesses in and around the border areas of Northern Ireland shows how they have seen a slight lift in trade as a consequence of currency fluctuations. As I say, that is anecdotal and I could not point to hard evidence, but it is interesting to hear about

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some of the subtlety of the reports that we pick up from the engagement that we have with witnesses more broadly.

Of course, we are looking at challenges but also at opportunities. It is important to stress that businesses are saying, "Yes, we would like to see this and that, but also we see real potential and new trade opportunities that we can harness". I see my role as that of helping to assist that connection as we form our policy. The Secretary of State for International Trade, Liam Fox, has already been to Northern Ireland and again underlined his sense of how he wants to understand and recognise the potential opportunities that we have in different parts of the United Kingdom, thus taking that step in parallel. Indeed, I have already been out to the US to underline very clearly to a number of US businesses that Northern Ireland remains open for business. What is notable is the increase in exports from Northern Ireland to the United States. They have gone up remarkably, by around 80% in the course of the past year. There are opportunities residing in some of those markets.

**Q25** **Baroness Verma:** To follow on from that, Secretary of State, I want to look at the currency fluctuations and the possibility of inflation increases. In your consultations with businesses, are they encouraging you to have a greater interaction with the Bank of England and the Treasury in order to give them reassurances that while exporting might be very good, the other side of the rhetoric is about migration and immigration and keeping the numbers down while making trade deals between Northern Ireland with those economies? How is that discussion being balanced?

**Rt Hon James Brokenshire MP:** It is important to stress the sense of opportunity that we have here, but equally other issues are in play. We as a Government stand behind our commitment to devolve corporation tax to the Northern Ireland Executive if they demonstrate the relevant fiscal and budgetary robustness in their arrangements. Obviously they have plans to reduce corporation tax in Northern Ireland. I think that there are number of other elements. As I say, we stand committed to our obligations around all of that. I think that, yes, on a sectoral basis as well, hearing from them of the potential opportunities that they see from being outside the European Union, I see the Business Advisory Group helping to inform that, as well as in relation to the industrial strategy.

It is about all of these different facets. It is not about using it to have a dialogue and a discussion simply for the purposes of Brexit and EU negotiations. There is value at this time in hearing some of the clear messages as they emerge and we go through this process. It will not be static and issues will emerge. Having a mechanism where you are best able to pick up on some of those subtleties that may appear on the ground is for me very helpful. It also supplements the good work that the Executive themselves are already doing and therefore the information that they are giving to DExEU and the relationships they have with other government departments in the framing of policy. What was important, given the significance of the agri-food sector within the Northern Ireland economy, was the statement from the Chancellor about CAP and the continuance of the direct payment through until 2020, as well as the assurances that the Chancellor has also given on the infrastructure and

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structural funds. We have been able to underline all of that to business. Where we can give some certainty and assurance, obviously we will do so.

**Q26 Earl of Kinnoull:** Thank you. Quite a bit of what I was going to ask you about has been covered by Lord Liddle and Baroness Browning. You have talked about a sectoral analysis. Could you be a little more specific about which sectors give rise to causes for concern for you? On your list of areas you have mentioned the agri-sector, given that there is a tremendous amount of livestock trading back and forth across the border during the life of a particular animal. Are there other sectors of concern? I have in mind particularly the financial services sector.

**The Chairman:** Would it be helpful, Secretary of State, if you were to drop us a line after reflecting on that question?

**Rt Hon James Brokenshire MP:** Obviously we are having private meetings so that we are able to have open discussions within that framework. I should stress very firmly that it is not a case of looking at this just in terms of challenges but also of opportunities so that we have the successful, flourishing Northern Ireland that all of us in this Room would want to see. When looking at commodities for export and import, for example, HMRC has published some data on those which give a sense of the balance of the economy in Northern Ireland in terms of export opportunities as well as imports. If it is helpful to the Committee to provide some of that information to give context, we will be happy to do so.

**Mr Robin Walker MP:** If I may add one thing to that, as part of our broader engagement and the analysis we are carrying out at the moment we are engaging across different sectors not only of business but also of different parts of the economy and different parts of society. While I was over in Northern Ireland, for instance, the Secretary of State mentioned that Lord Dunlop has been taking a number of meetings, one of which I took jointly with him with the Northern Irish hospitality sector. I attended the very useful meeting of the Business Advisory Group with the agribusiness sector and I went to a largely farming-dominated business meeting. I also met with the Northern Irish voluntary sector. It is very important that we do not consider this just within the economic sector and imports and exports; it is also about engaging across the board so that we can address the concerns. Some of the issues that Baroness Kennedy touched on in her question were raised very strongly with the voluntary sector as areas of its concern. We need to engage with those as well.

**The Chairman:** Can we go to Lord Teverson's question?

**Q27 Lord Teverson:** Secretary of State, coming back briefly to the border issue, I sort understand that we can probably get away without a hard border with a common travel area if we do not have a visa system between us and the rest of the EU, which hopefully we will never get to. Coming back to the customs union mentioned by Lord Whitty, I find it very difficult to see that. Human nature is such that where there is a border and there is a tariff difference between the two sides, there is opportunity. In Northern Ireland we have organised crime and former paramilitary groups. That is mainstream in terms of opportunities to

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make some money. I think that there are real dangers in that area. How does one tackle that?

**Rt Hon James Brokenshire MP:** Again, it probably would not be right for me to work on the basis of supposition.

**Lord Teverson:** I understand that. I am not trying to put you in the position of—

**Rt Hon James Brokenshire MP:** What I would point to is this. We have differences in excise duties and a huge amount of really good work is taking place cross-border. HMRC is working closely with the Garda Síochána and the Irish authorities and there is a really solid platform of co-operation that we will continue to develop and want to see strengthened come what may. It is right that I draw back from getting involved in questions of “What if this, that or the other?” We are assessing all the evidence and working closely with the Irish Government, and we will continue to do so as the process develops.

**Lord Teverson:** If I could stay on the economic side for a moment, which areas of the British economy do you feel the Irish Government are targeting—the remaining English-speaking part of the European Union apart from Malta?

**Rt Hon James Brokenshire MP:** I think that is a question probably best directed at the Irish Government. It is not for me to speculate on their behalf. My focus is on supporting business in Northern Ireland and taking the opportunities that are there. I point to things like the agri-food sector, which is very strong and successful and I am looking at some other elements such as chemicals and related products, machinery and transport equipment. All of these play an important part in the Northern Irish economy. I want to see those succeed and flourish and look at how they feed into our whole approach as a Government to competitiveness, working with the Northern Ireland Executive. We are charting a very positive course for Northern Ireland and want to see it flourish and succeed within the UK but outside of the EU.

**Lord Teverson:** Perhaps I could ask the Minister this. Ireland is extremely good at foreign direct investment. It may be termed its USP.

**Mr Robin Walker MP:** What we have seen over the past few decades is that the Irish economy has become much more competitive, and relations between the UK and Ireland are better than they have ever been. When I went to Dublin we attended a dinner held by the British-Irish Chamber of Commerce. It involved some 500 people and there was an incredibly warm atmosphere of businesses doing business between the two countries. That organisation did not exist six years ago. It is extraordinary to think of the scale and success of the development of this relationship. I think that we can afford for Ireland to succeed and for the UK to succeed. Part of our objective in this negotiation is to make sure that the UK is as competitive and attractive for investment and doing business in the wider world as possible. We also want to make sure that we maintain really good relations with our neighbours. There are few relationships you could identify in the world which have improved on a bilateral basis as much as the British relationship with Ireland. I am wearing my BIPA tie. I am no



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longer a member of the Assembly because I am a Minister, but I joined the BIPA having served briefly as a PPS in Northern Ireland because I was fascinated by how this relationship was developing. I remember talking to some of the first members of that organisation who said that there has been a complete transformation in attitudes during the period over which BIPA has been meeting. That is something we have to build on. We have to recognise that yes, of course we all compete, but that does not mean we have to do it in an inimical way; we can do it in a friendly way. That is something our two countries have become extremely good at over the past few years.

**Lord Teverson:** I like that and I just hope that that fantastically improved relationship is not now the high water mark because of the different focus that will definitely arise between us as two separate nation states. I hope that it will not start to go down. I wish you every success.

**Mr Robin Walker MP:** That is something we all need to work on. It was good to see in the ambassador's evidence to you that the commitment is there on the Irish side.

**The Chairman:** It has been helpful to have those strong statements, and thank you. Let us return to a few more of the nuts and bolts.

Q28 **Baroness Prashar:** Mr Brokenshire, it is good to see you again. Congratulations on your new role as Secretary of State. We have talked a great deal about the common travel area. From what I have heard so far, there is the will to make it work in order to benefit from it. But we have never had a situation where one country is part of the EU and the other is not. What I would like to hear a little more about are the practical obstacles to your plans for making it work and how you intend to overcome them.

**Rt Hon James Brokenshire MP:** It is important to stress—that is why I made the point about Schengen—that the Republic of Ireland is not in Schengen. As shown in the evidence the ambassador gave to you, there is no intention and no likelihood or prospect of it joining Schengen. That framework of commonality of both the United Kingdom and the Republic of Ireland remaining outside Schengen is one of the fundamental building blocks that underpins where we are on the common travel area. I suppose it is about the continued work we will do, as I have indicated, on the CTA and on the external border of the common travel area. Very detailed work continues to take place between the UK and the Republic of Ireland, and the Republic is itself investing in and focusing on a number of the technological aspects. It is about a practical sense of how we continue with that work, thus embedding the political will with some of the operational issues.

**Baroness Prashar:** The issue that I am trying to pinpoint is the technology that you have mentioned. What are the technological issues and how are you going to overcome some of those obstacles?

**Rt Hon James Brokenshire MP:** As I have already indicated, we are still working with the Irish Government on a lot of the detail on this, hence the different engagements that have taken place thus far. That work continues. Obviously, it is preparatory in terms of triggering the Article 50

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process itself. In fairness to the Committee, it would not be right for me to speculate on certain issues around this. What I can say is that detailed work, thought and engagement continues and has been going on for quite a considerable period. It is about how we look at the common travel area and how together we can work to strengthen it. I suppose it is about continuing to underline the special circumstances in relation to the island of Ireland. We go into the negotiation with the need to underline that on a continuing basis. I have highlighted that the ability of the UK and the Republic of Ireland to establish, maintain and operate the common travel area is embedded in the existing EU treaty, and therefore the principle and the concept are understood. It is important that we continue to reinforce that as we go into the negotiations, and it will remain a core part of the objective. When it comes to the engagement we have with EU partners, we should again underline those specific circumstances. I see it as a continuing important point, so as to ensure that they are protected and that we get the outcome we all want to see.

**Baroness Prashar:** Can you give a guarantee that the existing rights of Irish citizens living in the UK will be maintained post Brexit?

**Rt Hon James Brokenshire MP:** You are right to point to the specific circumstances, in particular the rights of citizens effectively to have those pre-existing rights; that is, rights for the people of Northern Ireland under the Belfast Agreement to identify as British, Irish or both and to claim citizenship accordingly. They are treated equally in the UK and Northern Ireland irrespective of their choice. In addition, non-Northern Irish citizens living in the UK are not treated as foreigners by virtue of the Ireland Act 1949. That is why I said that we stand behind our commitments under the Belfast Agreement, which is where a lot of this comes from. We have strong ties between the UK and Ireland that predate the EU and we remain fully committed to our obligations under the Belfast Agreement. We have no reason to suppose that the UK's exit need affect them.

**Baroness Prashar:** That is a guarantee.

**Rt Hon James Brokenshire MP:** It is the approach we are absolutely taking. We are standing behind the Belfast Agreement in relation to the rights that have existed up until now. It is very much the approach that we are taking into the negotiations.

Q29 **Baroness Armstrong of Hill Top:** My experience in Government was that the peace process was not something that was signed, sealed and delivered—it had to be worked on daily, not just by the Secretary of State for Northern Ireland but by the whole of government and indeed by No. 10. There is anxiety about upholding the Belfast Agreement, particularly the aspect that both Governments, having EU membership in common, were the co-guarantors. That is clearly not going to be the position, so changes will be coming whether we like it or not. What practical steps are the Government proposing to take to ensure that the Good Friday agreement and the peace process as a whole are not undermined by anxieties about the negotiations for Brexit?

**Rt Hon James Brokenshire MP:** I think it is right to underline that the UK and Irish Governments were co-signatories of the Belfast Agreement. I

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and the Prime Minister have equally underlined that we stand by our commitments under the agreement, and in our judgment the EU referendum does not change that at all. You are right about having to continue to work at the political process. It was important to make the point I did about marking the duration of the devolved Administration. Indeed, in terms of the politics of Northern Ireland, we are now seeing a formal opposition emerging to hold the Executive to account. We can see a further maturing of the political environment in Northern Ireland, which I warmly welcome. But it goes back to the continuing progress on a number of different elements of the political settlement.

I have made a number of comments about confronting paramilitarism. The Irish Government and the UK Government signed a treaty to establish a new commission to galvanise and support the Executive in work to confront paramilitarism. We are continuing to work on the legacy issues and the issues of the past, which again I have underlined as a priority for me. It is not saying that because a vote has been taken, somehow all that work stops; it does not. The work absolutely will continue. I see that as one of the key roles I have as Secretary of State, working alongside colleagues across government so that we are able to maintain the positive momentum we have seen. Again, the structures of the North/South Ministerial Council and the British-Irish Council, as well as political stability in Northern Ireland, remain solid. The majority of people in Northern Ireland absolutely support the political settlement and it is important to underline that, and again it is something we need to continue to work on. The point you have made about being focused on the continuing work is one that I take very much to heart. That is why we are taking steps so that we do not just stand behind the Belfast Agreement, but follow through on the continued progress in relation to the outcomes of subsequent agreements as well.

**Baroness Armstrong of Hill Top:** The nationalists, or at least representatives of the nationalist community, have particular concerns given their historic relationship to and identity with the Republic. They are worried about how they will be in a sense represented and negotiated through the Brexit period. It is going to go on, whether we like it or not, for many months. What proposals do you have to maintain political stability given those particular anxieties?

**Rt Hon James Brokenshire MP:** That is where the structure of the Belfast Agreement, with the three-strand approach, is a really important framework. It is why we have structures and institutions to underpin it. A particularly important role for me as Secretary of State is getting out across Northern Ireland, which is what I have been doing, to engage at different levels with the community and business as well as with political representatives across Northern Ireland to underline our commitment to the Belfast Agreement and the subsequent agreements. It is something that we will need to continue to do. I am very conscious of that, but equally there is a real opportunity for all the communities to come together and say, "The decision has been taken across the UK for the UK including Northern Ireland to leave, so how as Northern Ireland do we come together?" We look at the challenges but also at the opportunities to make a success of Northern Ireland within the UK but outside of the EU,

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while still being sensitive to and reflective of the Belfast Agreement and the subsequent agreements. That is the environment I want and seek to achieve. I know that a number of communities are concerned and have been unsettled, so we as the UK Government need to give these assurances and to continue to work on them.

**Baroness Armstrong of Hill Top:** Some groups have talked about a referendum on reunification, or at least a movement of Northern Ireland from the UK.

**Rt Hon James Brokenshire MP:** As you know, Baroness Armstrong, the Belfast Agreement is very clear. I stand foursquare behind the fundamental principle of consent that operates there. If I judge that the majority view is for a united Ireland, as you know, I am obliged to call a border poll. But I am satisfied that there is no evidence to suggest that those circumstances exist. Indeed, recent polling has again underpinned the strong support for the existing political settlement. We will continue to provide a sense of assurance and keep up the momentum that we have seen and will want to see in the future.

**The Chairman:** Thank you. We will close with three slightly more technical questions, or narrow questions.

Q30 **Lord Selkirk of Douglas:** I will split the question into two as it is quite technical. The Secretary of State and the Under-Secretary of State will of course be well aware of the Treasury's guarantees in respect of structural and investment fund projects, as well as research and innovation projects. Does this extend to the cohesion policy, PEACE IV and INTERREG funding in relation to Northern Ireland?

**Rt Hon James Brokenshire MP:** Yes.

**Lord Selkirk of Douglas:** As well as that, will the Government continue to support cross-border infrastructure projects including the A5 Western Corridor, the Ulster Canal, the Narrow Water Bridge and the north-west gateway initiative? I think that that is enough for one question.

**Rt Hon James Brokenshire MP:** I interjected with a "yes" in order to give an assurance that the Treasury's guarantees in relation to structural investment fund projects do cover the PEACE IV and INTERREG funding lines. Therefore, the programmes which are entered into prior to the departure of the UK from the EU are being guaranteed as per the Chancellor's statement.

On the specific projects and programmes that you have referenced, those are likely to be for the devolved Government. In essence, decisions on which particular infrastructure projects are to be supported, or indeed other projects that may come forward, are absolutely for the Executive to determine rather than for me as Secretary of State. But I note the particular projects and programmes you have referenced. If there is any further information I am able to share with the Committee on those, I will consult with officials.

**Mr Robin Walker MP:** There is one thing I would add to that. One of my first meetings last week was with the Infrastructure Minister at the Northern Ireland Executive. The issue of infrastructure investment came

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up during that meeting. While not going into the detail of the individual projects, I was able to say to him that, first, the UK Government are looking at infrastructure and consider it to be very important going forward. Secondly, he asked about access to the TEN-T networks and funding for that sector. We have had a response from the Treasury saying that it will underwrite the payments of any awards won by UK organisations which bid directly to the EU for competitive funding. That will be ongoing, which I think provides an important reassurance on the point about infrastructure more broadly.

**Lord Selkirk of Douglas:** Thank you for those encouraging replies. Do you accept that EU funding has had a positive and transformational effect on the border regions on both sides of the border? What is your assessment of the overall impact on those regions of the loss of EU funding after the UK leaves the EU? Will the Treasury guarantee more or less fill the gap?

**Rt Hon James Brokenshire MP:** As we have said, the Treasury will guarantee those programmes under the European Territorial Co-operation programmes which cover PEACE IV and INTERREG. Over the six-year period 2014 to 2020, those programmes have support to the value of around €469 million. We are considering very carefully the position post the UK's departure. That is an assessment being made by the Treasury and we have formed no judgments in relation to it thus far. Obviously, the guarantees in my answer that I have referenced thus far give a sense of the programmes that have been entered into prior to the UK's departure from the European Union, and we will be giving very careful consideration to the next steps in the same way that we are considering carefully a number of different funding lines and programmes after the UK's departure. That parallel workstream will need to continue in the months ahead on the position post the UK's departure, and it is why we have taken this sequenced approach to how we are analysing the various funding streams. The Chancellor has given an assurance of the position up to the Autumn Statement, and now the position from the Autumn Statement to the UK's departure. Obviously, the next phase will be the UK's position post the departure. But that is very much analysis and work in progress.

Q31 **Baroness Falkner of Margravine:** I want to take you back a little into your previous role in asking this question. We have seen media reports about the establishment of a rapid armed police unit which will involve considerable co-operation with European partners if it is to be successful. We will also have EUROPOL's new powers, which are to come into effect next May. We do not know yet whether Britain will opt in, but it will probably not opt in because of the European Parliament's scrutiny powers over EUROPOL at that point. I wonder whether you would comment on the nature of the police and security co-operation that you envisage and whether you are thinking of mitigating the effects on the extremely close networks that we have relied on and made, as you yourself have said, a huge contribution to. How will we mitigate the effects of Brexit in these areas?

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***Rt Hon James Brokenshire MP:*** It is worth underlining the co-operation between the PSNI, An Garda Síochána and other partners on the crime and security agenda, which I would characterise as being the strongest it has ever been. There are really solid relationships between the various different institutions. To take a step back, I would say that we have solid relationships both operationally and from a policy perspective with officials as well as politically. We are determined to maintain them and it matters for the Republic of Ireland and the United Kingdom to see them continuing into the future. That is because in an ever-more interconnected world, we need to remain close to our friends and allies—

**Baroness Falkner of Margravine:** Will we continue to be a part of EUROPOL?

***Rt Hon James Brokenshire MP:*** —which is something I have sought over many years to advance. Those on the EU Sub-Committee will know that from the evidence I have given over many years. I have described some of the benefits we have seen from that. The maintenance of those relationships in a changed environment is something that we as a Government are considering carefully. We can point to some systems as well as some broader relationships on co-operation. It is precisely that analysis that DExEU has been working on with the Home Office and other partners, and we have the input of the PSNI in relation to Northern Ireland. We recognise the strong co-operation and co-ordination in this area and how we will be able to maintain that approach into the future. It is something that is being considered carefully on a number of different levels across government. It goes beyond the Northern Ireland-Republic of Ireland relationship to a broader EU standpoint. That is why both the Secretary of State and the Prime Minister have underlined this important part of the negotiations to come. It is a priority for us in terms of how we retain the benefits of these systems, processes, procedures and structures in a changed environment.

Equally, there is a mutual benefit to both sides here. That is why in a pragmatic sense I am again optimistic, but the negotiation is still to come. The fact is that the benefits accrue on both sides of that connection. Our ability to share information and intelligence, and perhaps good co-ordination on joint investigation teams by our police forces, matters and will continue to matter into the future. But we are at the analytical stage and then we will head into the negotiations to come. Equally, we recognise the benefits that we have and will continue to accrue.

**Lord Teverson:** I may well be out of date, Secretary of State, but I remember—before you used to address justice and home affairs—that as a member state but not in Schengen, we still did not get access to the whole of the Schengen system's information on criminality. I do not know whether that was ever solved, but if you like it shows a mindset, does it not?

***Rt Hon James Brokenshire MP:*** I was instrumental in the work on the UK joining what is known as the second generation of the Schengen information system, SIS II, which went live last April, and therefore we are party to that. The number of different interconnected elements to it is something we are conscious of. It is precisely that analysis that the Home

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Office, along with others like the Ministry of Justice and DExEU, are undertaking as we go into the negotiation. We recognise the systems, structures and operations we use that give us the ability to exchange information and are looking at how they can continue to operate post-EU departure.

**Lord Teverson:** Can I ask this as a factual point? Do we have the same access to SIS II as a Schengen member state?

**Rt Hon James Brokenshire MP:** Yes, as far as I am aware.

**Lord Teverson:** That is a very good answer.

**Rt Hon James Brokenshire MP:** The SIS II platform is something where you are able to share data on a whole range of different things, from missing children to other information from the criminality perspective.

**Lord Teverson:** I am well reassured, Secretary of State. Thank you.

Q32 **Baroness Wilcox:** This is the final question. The Irish Government in their contingency plan published immediately after the referendum, as you know, identify three key issues: the implications for social welfare provision, the Irish energy market and cross-border health services. Can you share your thoughts at this stage on the implications of Brexit in each of those policy areas?

**Rt Hon James Brokenshire MP:** I have already touched on the single electricity market. One of the visits that David Davis and I conducted when he and I were in Northern Ireland was to the system operators in Northern Ireland, SONI. We saw a presentation on the north-south interconnector that they are proposing, showing how it operates in relation to the market. That is something we are conscious of. I think there are other issues where perhaps the nature of the operations is in a sense practical. An example within the health service is co-operation between hospitals in Northern Ireland and the Republic of Ireland, the recognition of professional qualifications and specialist services. Again, it is a matter of understanding that those are more in the devolved arena and therefore the Executive's perspective on these themes underpins or underlines what we will need to be cognisant of in the negotiation ahead. There are practical issues that arise in relation to the island of Ireland.

**Baroness Wilcox:** Excuse me, but I do not want to keep you for too long. You are talking about what happens now, but the question is not about that. The question is what is going to happen with Brexit, when we have moved.

**Rt Hon James Brokenshire MP:** You are taking me to a position where we have not actually triggered the Article 50 process as yet. We have not had the negotiations. What we want to achieve is the best possible outcome for Northern Ireland by recognising all of the different elements that fit within that. That is why I am engaging as I am and why the inputs from the Executive on some of these devolved matters are really important. However, there is a cross-border element to them where there may be certain shared arrangements. We want to be able to be representative in that negotiation from a UK-wide perspective, being conscious of the specific issues that relate to Northern Ireland in order to

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get the best outcome for Northern Ireland. That is why we are conscious of a number of these different things. We are conscious of the input that the Executive are continuing to provide and how that informs and fits into the negotiations we will need to have with our current EU partners to secure the bright and prosperous future for Northern Ireland that I want to achieve, the Government want to achieve, and I am sure everyone on the Committee wants to achieve.

**Baroness Wilcox:** Thank you. Some of us are going to Northern Ireland this weekend. Having listened to you in this meeting, I feel very much better equipped than I would have done.

***Rt Hon James Brokenshire MP:*** I hope you have a fantastic visit because Northern Ireland is a wonderful place. There is plenty to see and do, so make sure that you get to visit to some of the tourist attractions as well.

**The Chairman:** That has always been my experience and I suspect it is that of many of my colleagues as well. Thank you very much, Secretary of State, for ending on a positive note. We would like to record our gratitude to you and to your colleague from DExEU for throwing light on a lot of difficult issues which have not been resolved, but at least if I may say appear to have been perceived by your department. That is really encouraging, and I suspect that we will continue to have a rather close dialogue on these issues. We will be attending to and reporting on them in due course. We are always anxious to share views and perspectives with you. We look forward to your responses to those issues which you have elected to write to us on. I conclude by saying that this has been a positive afternoon and we appreciate that. I close the formal evidence session.



## **Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland – Supplementary written evidence (BUI0014)**

### **EU exit: Sectoral analysis**

During my recent appearance before the House of Lords EU Select Committee (Tuesday 11 October), I committed to respond to the Earl of Kinnoull's request for further information regarding sectors of the economy of specific interest, following on from my meetings with a range of businesses and the programme of engagement my department is undertaking. I also committed to provide further information regarding the balance of the economy in Northern Ireland in terms of imports and export opportunities.

The recent data from HMRC shows that in the year to June 2016, Northern Ireland was the only UK constituent country to see an increase in the value of its exports, with the fastest growing (and generally larger) export trade areas tending to be less reliant on export trade with the EU. I attach at Annex A data outlining the top five commodities for import to and export from Northern Ireland and HMRC's partner country analysis, highlighting Northern Ireland's top five export partners.

I have been engaging with a range of relevant economy stakeholders in Northern Ireland since taking up my post as Secretary of State. I have set up a Business Advisory Group to provide a structured platform for engagement with the business community and to enable me to listen directly to their concerns, ideas and solutions to the issues facing the Northern Ireland economy.

A series of further sector specific meetings are being held over the coming weeks, with the support of my Parliamentary Under-Secretary of State Lord Dunlop. The first of these, held on 6 October, involved meeting representatives from Northern Ireland's £5 billion agriculture and food sector at Moy Park, where our discussion focused on how the industry's world class performance in recent years can be protected and expanded.

It is clear that there will be certain sectors of the economy in Northern Ireland for which our exit from the EU will raise specific issues. HMRC's regional trade statistics underline this point showing a majority (52 per cent) of Northern Ireland's exports going to the EU. Northern Ireland has the highest proportion of export trade with the EU when compared to the other UK countries and has extensive cross-border trade and economic co-operation with Ireland.

From my engagement with business, I am increasingly aware of those sectors of particular strategic importance to Northern Ireland or certain industries where there is a unique Northern Ireland dimension to be considered. These include:

- **Agri-food:** representing 14 per cent of Northern Ireland's total exports employing 100,000 people and generating £2 billion in wages;
- **Energy:** characterised by an all-island wholesale electricity market and a reliance on gas supply from Great Britain that flows through Ireland;

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- **Aerospace, space and aviation industries:** which benefit from foreign direct investment flows and are part of integrated EU-wide supply chains;
- **Transport and logistics:** defined by (and enabling) a constant cross-border flow of goods, people and traffic; and
- **Creative industries,** where Northern Ireland has enjoyed considerable success in recent years and where there are opportunities for further export growth.

I am encouraged by recent data highlighting increases in the value of Northern Ireland's exports and by the conversations I am having with ambitious businesses in every sector.

Our focus now needs to be on what Northern Ireland can be and on what we can achieve in terms of trade, jobs and new opportunities. I am determined to work with all of the political parties in Northern Ireland, businesses and others to help us make the most of these new opportunities and to ensure Northern Ireland is equipped to fulfil its vast potential.

## **ANNEX A: Top five commodities for export and import from Northern Ireland and export partner country analysis**

### **EXPORTS**

The value of exports from Northern Ireland increased during the year for four of the top five commodities.

- Northern Ireland's exports continued to be dominated by goods in 'Machinery & transport equipment'. There was an increase in value of 3.3 per cent but its share of total exports fell from 37 per cent to 35 per cent.
- 'Chemicals & related products' experienced the largest increase in exports during the year (up £541 million, 56 per cent) followed by 'Miscellaneous manufactured articles' (up £75 million, 10 per cent).
- The largest decrease was for 'Food & live animals' (down £123 million, 11 per cent).

Description	Year ending June 2016 Total £ millions	Year ending June 2015 Total £ millions	% Change from June 2015	% Total Exports in year ending June 2016
<b>Machinery &amp; transport equipment</b>	2,311.7	2,238.3	3.3	34.6
<b>Chemicals &amp; related products</b>	1,501.6	960.6	56.3	22.5
<b>Food &amp; live animals</b>	991.3	1,114.7	-11.1	14.8
<b>Miscellaneous manufactured articles</b>	788.0	713.2	10.5	11.8
<b>Manufactured goods classified chiefly by material</b>	549.2	536.4	2.4	8.2
<b>Other categories</b>	542.9	541.3	0.3	8.1
<b>Grand Total</b>	6,684.7	6,104.5	9.5	100.0

Source: HMRC Regional Trade Statistics, Q2 2016

### **IMPORTS**

The value of imports increased during the year in three of Northern Ireland's top five commodities with 'Machinery and transport equipment' and 'Food and live animals' experiencing a decrease.

- 'Miscellaneous manufactured articles' remained the top import section by value. Its share of Northern Ireland's total imports has increased slightly from 29 per cent to 30 per cent over the last year.

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- Northern Ireland experienced its largest value increases of imports in 'Miscellaneous manufactured articles' (up £63 million, 3.6 per cent) and 'Chemicals & related products' (up £42 million, 7.2 per cent).
- The biggest decreases came from 'Food & live animals' (down £48 million, 4.4 per cent) and 'Mineral fuels, lubricants & related materials' (down £43 million, 28 per cent).

Description	Year ending June 2016 Total £ millions	Year ending June 2015 Total £ millions	% Change from June 2015	% Total Imports in year ending June 2016
Miscellaneous manufactured articles	1,829.1	1,766.1	3.6	30.3
Machinery & transport equipment	1,047.6	1,084.9	-3.4	17.4
Food & live animals	1,024.9	1,072.4	-4.4	17.0
Manufactured goods classified chiefly by material	856.4	850.1	0.7	14.2
Chemicals & related products	622.5	580.7	7.2	10.3
Other Categories	656.1	764.3	-14.2	10.9
<b>Grand Total</b>	<b>6,036.6</b>	<b>6,118.5</b>	<b>-1.3</b>	<b>100.0</b>

Source: HMRC Regional Trade Statistics, Q2 2016

## **PARTNER COUNTRY ANALYSIS**

Exports from Northern Ireland increased in value by 9.5 per cent during the year ending June 2016.

- The majority (52 per cent) of Northern Ireland's exports still went to the EU. This has decreased from 58 per cent over the last year. Exports to EU partners decreased by 1.1 per cent compared to the previous year and trade to non-EU partners increased by 24 per cent.
- There were increases in exports to three of the top five partner countries during the year. The exceptions were the Irish Republic and France.
- The Irish Republic continued to dominate Northern Ireland's export market despite its share decreasing from 36 per cent to 32 per cent compared to the previous year. Northern Ireland has a higher proportion of export trade with the EU in comparison with the other UK countries.
- The largest value increases were to the USA (up £619 million, 74 per cent) followed by Switzerland (up £23 million, 43 per cent).
- Northern Ireland's export trade saw the largest decreases with the Irish Republic, down £56 million (2.5 per cent) and Taiwan, down £35 million (83 per cent).

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Country	Year ending June 2016 Total £ millions	Year ending June 2015 Total £ millions	% Change from June 2015	% Total Exports in year ending
<b>Irish Republic (1)</b>	2,141.1	2,196.8	-2.5	32.0
<b>USA (2)</b>	1,456.8	837.6	73.9	21.8
<b>Canada (3)</b>	371.7	361.3	2.9	5.6
<b>Germany (4)</b>	333.2	329.8	1.0	5.0
<b>France (5)</b>	285.5	305.5	-6.5	4.3
<b>Others</b>	2,096.4	2,073.5	1.1	31.4
<b>Total EU</b>	3,498.6	3,537.8	-1.1	52.3
<b>Total Non-EU</b>	3,186.0	2,566.7	24.1	47.7
<b>Grand Total</b>	6,684.7	6,104.5	9.5	100.0

Source: HMRC Regional Trade Statistics, Q2 2016

26 October 2016

John Bruton, Former Taoiseach of Ireland 1994-97, and EU Ambassador to the USA, 2004-09 and Bertie Ahern, Former Taoiseach of Ireland 1997-2008 – Oral evidence (QQ 120-137)

**John Bruton, Former Taoiseach of Ireland 1994-97, and EU Ambassador to the USA, 2004-09 and Bertie Ahern, Former Taoiseach of Ireland 1997-2008 – Oral evidence (QQ 120-137)**

[Transcript can be found under Bertie Ahern, Former Taoiseach of Ireland 1997-2008](#)

John Bruton, Former Taoiseach of Ireland 1994-97 and EU Ambassador to the USA, 2004-09 – Supplementary written evidence (BUI0016)

**John Bruton, Former Taoiseach of Ireland 1994-97 and EU Ambassador to the USA, 2004-09 – Supplementary written evidence (BUI0016)**

Evidence submitted by John Bruton, former Taoiseach of Ireland, 1994-97 and EU Ambassador to the USA, 2004-09, following oral evidence session 25 October 2016

**DIVERGING PRODUCT AND SERVICE STANDARDS BETWEEN IRELAND AND THE UK**

UK exports to Ireland are worth £15 billion and Irish exports to the UK are worth £11.2 billion. The UK is Ireland's single biggest export market and the UK, in turn, exports more to Ireland than it does to China, India and Brazil combined. The UK's trade negotiators would be wise to devote as much attention to the market they already have as to the ones they hope to gain.

Even if the UK stays in the EU Customs Union, and that is a big IF, there are huge risks that, once the UK is outside the EU, new invisible barriers will be created to trade across the border in Ireland, and between Ireland and Britain.

Every legal means available should be considered to prevent this damage both economies, including making full use of all the institutions set up in the Good Friday Agreement of 1998. Things could go seriously wrong.

For example, if, after Brexit, the UK uses its newfound freedom to develop different standards for

- + Packaging,
- + Plant safety,
- + Pharmaceutical safety, or
- + Food safety,

The disruption to UK/Irish trade could be immense.

Even slight differences can add hugely to costs, requiring expensive duplication of testing and production lines. Similar regulatory barriers could arise for services sold between Ireland and the UK.

Increasingly, international trade agreements are about standards rather than tariffs.

Since 1973, Ireland and the UK have been bound by almost identical rules, made under similar European Communities Acts, covering each jurisdiction, under which both of us have implemented common EU standards and laws. These EU standards have also been interpreted in a uniform way, because both of us allow a right of appeal to the European Court of Justice (ECJ).

All that will change on the day the UK leaves to EU.

John Bruton, Former Taoiseach of Ireland 1994-97 and EU Ambassador to the USA, 2004-09 – Supplementary written evidence (BUI0016)

The UK Prime Minister has announced that, outside the EU,

- + The UK would no longer accept the jurisdiction of the ECJ, and
- + That she would, late next year, introduce a “Great Repeal Bill”, to repeal the 1972 Act, under which EU laws automatically apply in the UK, to come into force the day the UK leaves the EU.

The “Great Repeal Bill” will not itself actually repeal the EU laws of the previous 60 years. It will simply declare that they are now sovereign UK law, independently of the EU.

This is a practical approach because there will simply be not be enough time, between now and when the UK leaves the EU, for UK Ministers to go through 60 years of EU laws, and decide which to keep, which to drop, and which to tweak. Furthermore, if the UK does not want an overnight disruption of all EU trade, it makes sense to comply with EU standards, at least initially.

But the potential problem is that the Great Repeal Bill will also provide a mechanism whereby the UK can then quietly repeal, or amend, these EU laws, one by one, without reference to the EU or to its trading partners, like Ireland, who are in the EU. This will probably be done by Ministerial orders, which cannot be amended, and are rarely even debated. If these orders change the standards to be met on the UK market, they will erect an immediate barrier to trade between the two parts of Ireland, and between the UK and Ireland.

While it will years for UK Ministers to go through every directive and regulation, the work will be done, under pressure from special interests.

Theresa May has said the process will be subject to “full scrutiny and Parliamentary debate”, but this seems impractical because so many EU laws are involved. And the scrutiny and debate, if any, will be confined to Westminster.

She said nothing about scrutiny of the use of the Great Repeal Act powers in the Parliament in Edinburgh, or in the Assemblies in Belfast or Cardiff, let alone about any consultation with Dublin!

So much for past EU laws, what about new laws the EU makes, after the UK has left?

If the UK decides not to amend its law, in line with the new EU version, this too will create new barriers to trade. This problem will get more and more severe as time goes on.

I suggest that the British / Irish Intergovernmental Conference, set up under the Good Friday Agreement, take this problem on board. It will have to work intensively to keep up with the rapidly moving EU and UK regulatory agenda, and will need new resources for the task.

A third problem will be divergences in the interpretation by judges of the meaning of EU/ UK laws, even where the texts are the same. The UK Supreme Court will probably interpret some laws differently from the way the ECJ will. Where they differ, who will adjudicate?

## **A POSSIBLE SOLUTION**



John Bruton, Former Taoiseach of Ireland 1994-97 and EU Ambassador to the USA, 2004-09 – Supplementary written evidence (BUI0016)

What we can do to prevent all these disruptive and costly trends?

I suggest that the proposed "Great Repeal Bill" contain a special "Ireland clause", which would require any UK Minister, who is contemplating using its powers to make any unilateral UK amendment to an existing "EU/UK" law, to give public notice of his intention to do so, and formally consult both the Irish Government, and the Northern Ireland Assembly.

Such an "Ireland clause", should also provide for the monitoring of any divergences in interpretations between the ECJ and the UK courts, of the EU laws inherited by the UK.

These problems could then be discussed by the British/Irish Intergovernmental Conference in a timely way.

18 November 2016

**CBI Northern Ireland, InterTradeIreland and Northern Ireland Food and Drink Association – Oral evidence (QQ 48-55)**

Evidence Session No 4

Heard in Public

Questions 48 – 55

Monday 17 October 2016

Members present: Lord Boswell of Aynho (Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty; Baroness Wilcox.

**Examination of witnesses**

Angela McGowan, Director, CBI Northern Ireland; Aidan Gough, Strategy and Policy Director, InterTradeIreland; Michael Bell, Executive Director, Northern Ireland Food and Drink Association; Declan Billington, Chair, Northern Ireland Food and Drink Association and CBI Northern Ireland Member.

Q48 **The Chairman:** Good morning, ladies and gentlemen. We reconvene our second session of the House of Lords EU Select Committee, visiting Northern Ireland and then, tomorrow, the Irish Republic, in conjunction with the impact on both of Brexit issues. We are hugely grateful to you for sparing the time and always conscious that, in the world of industry, there are opportunity costs. We are very grateful for your time.

I notice, if not a skew, a certain emphasis, which, given the economic pattern of Northern Ireland, is entirely appropriate, towards the food and drink sector. I hope it may be reassuring to you to know that, on a quick headcount, three of our delegation are former Agriculture Ministers in London, of whom I am one. It would also be proper to declare formally my interest, which is on the register of interests in Westminster, as a farmer in the UK. While I do not have direct tradings with Northern Ireland, one knows enough about it to know how intimately connected these things are. If stuff gets a little cheaper, I am sure it will come our way from you, or vice versa, for example.

You are very welcome. This is a fact-finding inquiry. We are anxious to hear from you what is on your mind. The subtext is that we are anxious to know from you whether what is on your mind is also being conveyed effectively through Westminster in its negotiations. If we may, we will start, but perhaps, beginning with Angela, I might ask you to formally introduce yourself for the Committee.

The only other point I want to make is that you need not feel that each of you has to answer every question. I hope you can divvy it up among

yourselves and we will keep moving in the hour we have, for which we are very grateful.

**Angela McGowan:** Good morning, everyone. As a bit of background about the CBI, we are a confederation of 140 trade associations. We are independent and non-party-political, in terms of our organisation. We are funded entirely by members across the UK. We speak for 190,000 businesses; that represents about a third of private sector employees.

In Northern Ireland, we represent a range of sectors—all sectors, actually—and a range of companies in terms of size and scale, and about two-thirds of the top 100 companies in Northern Ireland. I should add that I have been in post for two weeks as the Northern Ireland retail director.

**The Chairman:** Congratulations.

**Angela McGowan:** Thank you very much. Before that, I worked for eight years as the chief economist for Danske Bank in Northern Ireland. It is one of the largest retail and business banks in Northern Ireland, if not the largest. I will now let my colleagues introduce themselves.

**Aidan Gough:** I am Aidan Gough, director of strategy at InterTradeIreland, which is the trade and business development body established in Belfast in the Good Friday agreement. Our remit is to promote cross-border trade and business development. We have been doing that very successfully for this last 16 years or so. North-south and south-north trade in total has grown exponentially; in fact, it has doubled since about 1996. We work primarily with small businesses, and cross-border trade is particularly important for the small business economy. In fact, two-thirds of Northern Ireland's small firms' exports go south of the border, so it is a vital market.

**Declan Billington:** I am currently chair of the Northern Ireland Food and Drink Association, and former chair of CBI Northern Ireland. I also sit in the Agricultural Industries Confederation in England, which is a UK-wide body, as you will be glad to hear, looking at farm inputs: animal feed, crop sprays, et cetera. I have been in the chair of NIFDA for around four or five months. I defer to my colleague, Michael Bell, on the statistics of our trade body.

**Michael Bell:** First, thank you very much for the invite today and for the opportunity. I have worked in the agri-food industry for some 32 years, 20 of those running the Northern Ireland Food and Drink Association, which is a private sector trade body covering about 110 food and drink manufacturers. We cover about 90% of the industry by turnover, and food and drink manufacturing is about 25% of our private sector by employment.

Q49 **The Chairman:** That is a serious factor. If you are happy, we will get straight on to the questions that we have in outline, with some follow-up. I will ask the first. You will be aware, as he mentions it from time to time, that David Davis, the new Brexit Secretary, has made his first visit in that role to Belfast and has identified UK-Irish issues, and specifically the impact on Northern Ireland, as one of the more difficult elements of the negotiation that are going to come up next year. From your point of view, what are the main difficulties that need to be addressed?

**Angela McGowan:** We would certainly concur with what David Davis has said. We see this as an extremely complex situation. I guess, if you want a quick summary, we have three points that we would see as the main difficulties. The first would be the future of the land border and the movement of goods and people across the island. The second would be securing access to EU markets. We are hugely dependent, in Northern Ireland, on the EU in terms of the proportion of exports: 52% of Northern Ireland exports go to the EU, and indeed 38% go to the Republic of Ireland. We are very dependent on this region for trade.

Thirdly, securing access to people is extremely important for us in Northern Ireland. This is a small economy in population terms, with a population of 1.8 million. We find a lot of young people go to university elsewhere and do not return, so the movement of people is very important for us and for many of our industries.

**Declan Billington:** If I can add to those comments, I agree with Angela. If we look at agriculture in Northern Ireland, it is part of an all-Island industry. The size and shape of the island is such that businesses have had to invest in assets to achieve economies of scale. As a result, for example, around 25% to 30% of the milk produced in the north travels to the south to be processed. Around 36% of the pigs slaughtered in Northern Ireland come from across the border in the south. In beef, there is a lot of trade south to north as well.

We are in a situation where the border is a faint grey line that, day to day, we do not pay much attention to. If we end up with a hard border, we will find assets stranded on one side of the border, maybe not achieving scale, and product on the other side of the border—animal livestock, et cetera—with restrictions, in that the assets are not available to process them to the scale that is needed.

**The Chairman:** There are supply chain problems.

**Declan Billington:** There is a whole supply chain problem. Northern Ireland also tends to be a little more exposed in terms of EU and international trade than the rest of the UK. The UK agri-food market is largely servicing the domestic market. Northern Ireland, because of its proximity to the south, has a cross-border trade of around £700 million of the £4.6 billion that we trade. We have another £400 million with the rest of Europe.

There is a slight wrinkle that I would draw the Committee's attention to. In the nature of the industry, the consumer buys parts of animals, but you slaughter a whole animal. Although you may consider the trade with the rest of the world of around £140 million small, that is an income stream of product that you cannot otherwise sell. The UK market does not consume, for example, the offal we produce. If we lose access to international markets or some of the European markets, where we buy a whole animal, we may not be able to sell all the parts; therefore the profitability of the industry at a UK level and in Northern Ireland will decline.

**The Chairman:** I have two follow-ups to that, which are rather different in nature. One is the question of the machinery through which you are able to make your position clear. You are talking to us now, and we will no doubt reflect and report in due course, but we heard from the Secretary of

State for Northern Ireland, James Brokenshire, the other day. He said that he had set up a new business forum, with particular reference to the agri-food area, which he mentioned a number of times in his evidence. I wonder whether you see your lines of communication as being upwards through your Executive, across to Whitehall and Westminster, or to the European Union. Presumably, the answer will be all of those. It would be helpful if, at the beginning of this, you could indicate areas of blockage or difficulty that need attention before things are decided that may not quite suit your particular problems.

**Angela McGowan:** I will speak at a high level on that and then Declan will go into the specifics. We welcome the work the Secretary of State for Exiting the EU and the Secretary of State for Northern Ireland have done in terms of raising issues locally. Some core members of the CBI have been involved in the Business Advisory Group, giving evidence to him, so we have welcomed that. Both the NIO and the Executive have engaged heavily with the business community in recent months, but CBI members have expressed some concern that the Northern Ireland Office and the Executive have approached the issue of gathering information separately, and they would prefer to see a joined-up approach between the NIO and the Executive on this.

Preferably, we would like to see more senior civil servants from the Northern Ireland Civil Service seconded to the Department for Exiting the EU, to provide on-the-spot guidance on issues that arise, particularly in relation to Northern Ireland. We feel that might help.

Additionally, we have observed that the Secretary of State, James Brokenshire, was reportedly excluded from the government Brexit negotiations. We and the CBI members would like to see the Secretary of State, if that happens to be the case, heavily involved within the government Brexit negotiations going forward.

Due to the structure of our economy and the presence of the land border, we are more vulnerable; we can talk through the economics of that later on. At the CBI, we believe that no decision should be taken on the UK's future relationship with the EU without taking into account the impact on the people in Northern Ireland. I will let Declan go into the specifics.

**Declan Billington:** I sit on an advisory panel to the Ministers for the Department for the Economy and the Department of Agriculture, Environment and Rural Affairs. I was involved in a recent meeting with the Secretary of State. It is early days and there is a lot of dialogue. The anxiety that our members feel is that there are different groups having lots of conversations, and we are worried about a confusion of information arriving.

The other concern, of course, is about the key decision-making departments for agriculture—first of all, the department dealing with Brexit. There are some points about trade negotiations at an EU level and in the international markets that our important to our industry, especially with our cross-border trade. I suppose the challenge is how comfortable we feel that that is directly understood by the departments doing the negotiations.

Whatever the outcome of the negotiations, there will be a requirement to develop policy within the framework of a new way forward.

**The Chairman:** Including a domestic agricultural policy for Northern Ireland.

**Declan Billington:** Exactly, but remember that the agricultural policy for Northern Ireland will have many similarities with the agricultural policy in GB. The real question there is how we influence the shape and direction of that policy, because you would like it to be consistent at a UK level. The concern is that we are feeding in directly and we hope that those messages get to the people deciding policy and negotiation. There is anxiety over how comfortable we are that that is directly understood.

**Aidan Gough:** From a slightly different perspective, as you know, InterTradeIreland reports to both Governments through the Ministers for the Economy. The land border on the island, the extent of cross-border trade, the fact that 53% of cross-border trade is in agri-food, which is itself a highly integrated all-Island industry, and the east-west relationship, where there is £1.2 billion worth of trade between Ireland and the UK on a weekly basis, mean that this island as a whole is in a very special and difficult situation, faced with Brexit. We are speculating until we know what form Brexit will take, but the fact is that the island stands to be impacted greatly.

It is therefore vital that discussions happen between the north and the south, and we would welcome that, and between the east and the west.

**The Chairman:** I will ask a quite different question, which in a sense has become more current since we prepared our notes and our thoughts before coming out here. As you know, there has recently been some currency turbulence in the UK in relation to the exchange with other currencies, including the euro. There have been different currencies on this island since 1922 and the south now has the euro, of course. You have set out very helpfully to us the extent of north-south trade, particularly in the agricultural and agri-food sectors.

I wonder whether recent events create a qualitative problem for people, or whether they are hedged or used to this kind of thing, because it is not new. We are talking about changes in the political arrangements and potential market access, for example. Currency is a real issue now. I wonder to what extent people are used to handling that and whether that might be aggravated and become a political issue. For example, people in the south might say, "These people have let their currency go and we are not in a position to control our currency, because we are a part of a 19-member-state currency." This could create difficulties for your counterparts and opposite numbers in the south.

You are nodding at me. Is this a real issue or something we do not need to worry about as much as some of the other issues at the moment? Angela, you have a finance background.

**Angela McGowan:** Everybody appreciates that huge fluctuations in currency are disruptive for most businesses and for investment purposes.

**The Chairman:** Including foreign direct investment.

**Angela McGowan:** Exactly, in terms of the price of their assets and where they see their investments going. I have had feedback from local companies. Some of them hedged, coming up to the referendum. Many of them, though, were starting to run out of that hedge; they had maybe hedged for only two or three months, and they could see, as that came to a close, that they would face much higher input costs. That is one of the main feedbacks we get in terms of the producer prices: that imports are much more expensive. Many companies wait for the largest player in the market to make the first move, and then they will follow suit in terms of raising prices afterwards.

Of course, as with any currency swing, there are winners and losers. At the moment, we can see some winners in the border areas, and Aidan might touch on that a wee bit further, certainly for things like retail. I am not sure it has come through yet in the tourism sector, but there are possibilities there. We do not see that as any great strength. It is a short-term position and the reason for it is that we are in a strange limbo where we have the best of both worlds. We have a very low pound because people assume we are leaving the EU, but right now we have access to EU markets. In some ways, it helps with the exports, and it helps with cross-border trade for now.

Businesses in the border areas are probably quite used to currency fluctuations. Aidan, you could give us a handle on that, as to how they have been coping historically, as opposed to currently, and on the issue for the Republic of Ireland.

**Aidan Gough:** It is interesting. You might think that, in an area such as Newry, shop-owners and traders are rubbing their hands at the prospects in the short term. That is certainly the case, but it has been shown that these large swings and volatility do not address the structural problems in the border community; in fact, they exacerbate the problem on one side of the community, with the scales shifting to the other side. There may be short-term gains for northern retailers, but given that we do not know which way the exchange rate will go in the future, by and large, these fluctuations do not help address the structural problems in the border communities.

The Irish Government published a report late last week, which shows the impact of what they are calling a hard Brexit. Nobody knows what form Brexit will take, but a hard type of Brexit will disproportionately affect the border communities, because of the mix of sectors defined in those communities and the fact that they are predominated by small and medium-sized enterprises. There may be short-term gains for Northern Ireland, but taking the all-Island perspective, and on the whole it does not help address the problems in the border regions.

**The Chairman:** Thank you, we have noted that. If I may, I will come to you, Declan. Looking from the southern Irish perspective, it is interesting to see a story in today's *Guardian* from a mushroom factory in Tipperary, which was closed in August. It exported 90% to the UK and was therefore entirely reliant on British sales. It closed with a loss of 75 jobs. That is an anecdote, but it is 75 jobs in the deep south of this island. Is that kind of thing already happening? Is it a worry that it might, and might it upset

supply chains, because, to take Aidan's point, people might not have any stability in their arrangements?

**Declan Billington:** As we know, agriculture is complicated. Going through the currency impact in the short term, if you happen to be exporting to the EU, it is good for you. If you are an importer, you have to get cost recovery into the UK market, which traditionally has been quite difficult. You will get it eventually, but you end up suffering squeezed margins until you can get it.

The south is very significantly exposed in its trading relationships with the UK. It has about a £4.4 billion export market, which is the UK market, largely dairy and red meat. It is significantly exposed because, in the UK market, its prices appear more expensive. This will squeeze its productive base. Given it has built a large proportion of the industry around the UK market, where else can it go?

The white meat, which is poultry and pork, is largely coming out of the Danish, German and Dutch markets. Again, at a UK level, we will see food costs rise as a result. The UK imports 42% of what it consumes. Even in the industries where we are strong—red meat, white meat, dairy—we import a quarter of what we consume. That will drive inflation. It would create an opportunity for the indigenous industries to expand over time, subject to various constraints, and meet some of that supply, so it is complicated.

There could be an opportunity for import substitution. Other businesses could see the benefits of export, but then they might start hitting tariff walls. Currency is useful up until the point when you exit Europe. We need to understand the trade deals that exist after that, because you may be competitive, but not if you cannot trade into the market you would be competitive in.

In summary, I believe there will be a significant challenge to the supply chain from the island of Ireland to the UK. On currency, it can be made even worse if we cannot resolve an all-Ireland-UK trading relationship. The UK industry can expand to take up some of the slack, but that is a structural change that could take some time to achieve.

**The Chairman:** Thank you. It is very useful to have your perspective. We will no doubt explore that further in Dublin, when we go there tomorrow.

Q50 **Baroness Armstrong of Hill Top:** I was going to ask you about the economy. You have already talked about that fairly fully. Is there anything else about the economic impact of Brexit that you think we need to take account of? You have already said that a lot depends on the nature of the terms we come to; nonetheless, do you have anything? We are particularly interested in what you think about Northern Ireland as a potential destination for foreign direct investment, and how you think that might be affected.

**Angela McGowan:** I should have mentioned, on the last point, that sterling has an impact on the migrant workforce. Europeans who have been working in the country find that they have less disposable income when they go back home. Some businesses fear that these migrant



workers might prefer to live in the Republic of Ireland, so that they can maintain their standard of living.

**The Chairman:** Could this lead to labour shortages?

**Angela McGowan:** Yes. There is no hard statistical evidence around that now, but it had been mooted by some of the firms as one of their fears.

In terms of the economic implications and impacts, there are quite a few, but I will try to narrow it down to the main six. Foreign direct investment is clearly one of them. I will list them first; then we can go into the details. We see foreign direct investment being affected. Where an external investor could look at Northern Ireland and see access to half a billion consumers, now it has a much smaller market. That will make a difference. We see it lowering indigenous investment because of the uncertainty, and foreign direct investment because of access to markets. We see it restricting access to people as well. As I have said, we have a very small population in Northern Ireland and we rely heavily on the free flow and movement of labour.

For Northern Ireland, particularly in the short term, the depreciation of sterling will reduce incomes. There is no doubt about it: an 18% drop in the currency will in time feed through to households, which will place downward pressure on aggregate demand in the economy. We see it as slowing down the overall economy and GVA.

It is probably worth noting that Northern Ireland has lower disposable incomes, relative to the rest of the UK. When you erode incomes through a depreciation of the currency, there is a bigger impact in the local region. We spend more on energy, food and many of the things that rely on a good exchange rate. I have some figures from a report done by Oxford Economics and the Danske Bank forecasts. There is an expectation that this aggregate demand will play out and consumer spending will slow in the economy from 2.1% this year to about 1% in 2017-18.

Finally, there are of course huge trade implications for the economy. We have mentioned the cross-border issue. For us, the further away we are from the EU in that trade deal, the more negative economic effects it will have.

At this stage, it is worth exploring a few differences in the Northern Ireland economy relative to the UK economy. This is a small-firm-oriented economy; it is dominated by small firms. We are not a big exporting region as it is. Where companies take the leap and try to export, they tend to move into the Republic of Ireland; that is their first step. It is an English-speaking region and has the same corporate governance, so it is easier. Aidan will probably want to talk about that further.

We are less engaged in exports, but also, I suppose because it is a small-firm economy, we are less productive, hence the lower wages as well. Any slowdown in the economy hits us harder than it does the rest of the UK, because we are not as productive and we have these lower wages.

The trade is really significant, particularly our dependence on EU trade. I mentioned 38% of exports go to the ROI. In particular, we have a bigger manufacturing base than the rest of the UK; about 14% of our employment base is in manufacturing, while it is about 10%, I believe, in

the UK. We have seen a decline in some manufacturers, but huge growth in the agri-food manufacturing base. There are fears as to how Brexit will play out in that regard, given the progress we have been making over recent months.

I will let Declan come in. I was just going to mention that we had been pushing a policy for lower corporation tax so that we could compete more evenly with the Republic of Ireland. There are some fears as to whether that instrument could be blunted if we did not have good access to markets. Brexit certainly complicates the Executive's efforts to grow the economy, in respect of what it had planned.

**Declan Billington:** Before joining agri-food, I worked for an American multinational, running a manufacturing plant—an FDI facility—in Northern Ireland. Why was it in Northern Ireland? It was because of the combination of factors that made it a competitive production cost base, supplying product into the European market. Multinationals are, by their nature, mobile; they can pick up plant and move it anywhere. Going forward, the question is: post-Brexit, what type of access will manufactured goods from manufacturing bases have here, versus the opportunities in, say, eastern Europe, which has always had a lower production cost?

The combination of skills and infrastructure still make Northern Ireland a very attractive place, and currency will continue to make it attractive, but the challenge for manufacturing is: it is here, on the doorstep of Europe, because it is inside a tariff wall. What are the consequences of being outside for manufacturing bases in Northern Ireland?

Moving on to agriculture, one of the challenges we have had as an industry is that the dialogue on Brexit, as we have heard today, is dialogue in siloes. What about the trade deals? What about rural support? What about the export markets? We commissioned a piece of work, which we hope to publish by the end of this month or at the start of next month, looking at all these factors and how they will impact on agri-food. I would welcome an opportunity to table that to your Committee, because it is pulling together a holistic view, making observations and recommendations, not just about the types of trade deal but about the opportunities that exist and the need to have joined-up policy.

The reason I am going on about it is that a key element of what we did was surveying members. We had a lot of breakfast meetings with them to pull out that minutiae of information that helps us better understand the ripples.

Labour is a significant issue for us. Many years ago, we exhausted the ability to get local labour into our processing facilities. As a result, we are quite heavily dependent on non-UK labour. Some 60% of those working in our agri-food factories are non-UK nationals, many of whom have established families and their children are being raised here.

**The Chairman:** Those will typically be people who come from eastern Europe.

**Declan Billington:** Correct, and 90% of the seasonal labour we need, to handle the seasonality within our industry, is non-UK labour. Any

restrictions on access to labour, or any challenges to that labour workforce, could restrict our ability to stand still, never mind grow. The unique position of Northern Ireland is that, if we struggle to get access to labour—and we are businesses that run on an all-Ireland economy—it is not unlikely that businesses would relocate their processing facilities across the border, where they will have free access to labour. That would not affect trade with the UK because the product is produced in Northern Ireland, minimally processed by labour in the south and sold on to the UK. That sort of event is still acceptable, in international trade deals, as being badged as UK.

The point is that, elsewhere in the UK, a labour shortage is a problem you have to address within the UK. In Northern Ireland, economics could well pull some of our business across the border.

**The Chairman:** If I can unpack that for a moment, to be clear, you were saying that there is a labour shortage in manufacturing, of conventional, manual and industrial workers, and in food, particularly in agri-food; there may well be in other industries. You said you were reliant on imported labour, typically, although not exclusively, from eastern Europe.

At the moment, if someone is operating in Limerick, for the sake of argument, exactly those circumstances will arise. Do they also have to rely on imported labour, which of course, by definition, they will continue to get through freedom of movement, while you will not; or do they have adequate labour from their own sources, so the industry would move down there, irrespective of whether they had access?

**Declan Billington:** I am unclear as to the specifics of the labour employed in their agri-food sector. I know they have had a significant inflow of non-UK nationals over many years, to support a great deal of their industries—the service sector and the manufacturing sector. The way to look at it is perhaps this: there is no labour constraint to growing industry in the Republic of Ireland, because of the free movement of labour that exists. If you restrict us, labour becomes a significant constraint to our industry in the north.

**The Chairman:** Aidan, have you any comments?

**Aidan Gough:** Angela has picked up the key points. In terms of cross-border trade, we are speculating a lot at the minute, because we do not know. What is very clear, and what businesses are telling us—because we survey over 1,000 businesses four times a year—is that they want to maintain a free movement of goods, services and labour on this island. That is the overwhelming message coming from the businesses we are involved with. We think that will give us the best opportunity to maintain the growth in cross-border trade that has taken place over the past 16 to 20 years. That is to put it in fairly simple terms: anything less than that will have an impact.

Once you look into that, it will have a very differential impact. We are aware of the fact that agriculture is a critical issue on the island. If we move out of any sort of customs union, tariffs will come in. If we go to the WTO, the trade-weighted EU average tariff is roughly 2.5%, but it is 22.5% for agriculture. It is vital that that sector be treated differently in a cross-border context.

**The Chairman:** We will now start examining some of those sectors.

Q51 **Baroness Browning:** Could you identify for us which sectors and industries you think will be most affected by Brexit? If there are any, which sectors will be minimally affected? I do not want you to rank them.

**Angela McGowan:** I should apologise to Baroness Armstrong, because I did not get on to FDI, but we can go back to that at a later point.

We move on to the sectors first. As an economist, I think it has the potential to hit all firms and sectors. You are looking at blanket implications for access to skills and overall demand in the economy. Also, as the economy slows, the inflation impact will hit household spending. For Northern Ireland in particular, food manufacturing, hospitality and universities will be very negatively impacted.

I will go through manufacturing first. For that sector, access to markets is huge, as is access to people, migrant workers and the free flow of talent, which is particularly important for pharmaceuticals—for example, for larger companies like Norbrook. The implications of a depreciated currency have a huge impact on the manufacturing base and even on the logistics of transporting goods around the place and moving workers.

The hospitality sector in Northern Ireland is also reliant on migrant workers, and local universities rely on the free flow of talent. A lot of the scientific and research staff in universities come from an EU background. They have a lot of fears around their funding. Access to Horizon 2020 grants, for example, is based on cross-border collaboration.

The financial sector in Northern Ireland is nowhere near the size it is in the rest of the UK, but it will still be impacted if we do not have passporting and access to supply services across the EU. Most of the insurance for the Northern Ireland market is underwritten in Dublin. Construction has also been identified as a sector that is particularly sensitive to business investment. When it goes down, it impacts construction.

For agriculture, the issues are migrant workers; EU funding, which is very high for agriculture; and future exposure to tariffs, as we have mentioned. I will let Declan and Michael come in there.

**The Chairman:** Do you want to say a word about FDI?

**Angela McGowan:** Yes. In Northern Ireland, we have a history of punching above our weight in foreign direct investment. We have always done particularly well and credit should be given to Invest NI in that regard. Much of the employment growth since the crisis can be attributed to the very good foreign direct investment growth we have seen. It has always been a policy aim in Northern Ireland to attract foreign direct investment. For us, this is not just about creating jobs; it is about bringing into Northern Ireland companies that have high value added and come with good manufacturing practice and technology transfer. If we attract foreign direct investors, it helps to change the overall structure by bringing in larger firms, so small firms are not so dominant.

As you know, investors seek stability. With Brexit, obviously, the macroeconomic stability will not be there. We think that will affect foreign direct investment. It is about a number of things. I have here a list of the

most influential factors that investors choose; it is a survey done by Ipsos MORI. There are about 12 different factors; when I go down them, about five of those factors will be negatively influenced by Brexit.

**The Chairman:** Perhaps you could share that with us via correspondence.

**Angela McGowan:** Certainly. Access to markets, political and economic stability, regulation and business taxation levels, ability to attract talent and exchange rate risk will all be negatively impacted. Five out of 12 is quite significant, so that is why we fear for foreign direct investment and our ability to attract it.

**Michael Bell:** Since 2008, Northern Ireland Food and Drink has almost doubled its turnover, which by any metric is very significant growth. We added about 4,000 in direct employment in food manufacturing over those eight years. The challenge for us, with Brexit, is how not to lose momentum. We are recognised in the programme for government; we are recognised by the Executive as being a significant contributor to rebalancing the Northern Ireland economy in terms of public and private sector employment. I make that contextual point.

I would also make the point that the average net-net margin—these are DAERA figures, not mine—is about 3%. Generally, 2.7% to 3% is quoted as the average. We are looking at currency movement of 15% to 18%; we are looking at WTO tariffs across our principal parts, at today's prices, of between 7% and 65%, so they are hugely significant. That is a set of challenges that we may face.

The last point I would make before handing over to my chairman, which has not been raised so far, is on standards. Currently, we operate to European standards across the agriculture and food piece entirely. I have not yet heard a discussion begin as to how the structure of whatever those standards are replaced with will be managed. If I look at the structures in the UK, if anything they are disaggregating, with the Scottish FSA leaving the UK FSA. I am concerned as to how, going forward, we will manage the standards that govern this industry.

**The Chairman:** Presumably, if nothing else, that is because of its trade implications.

**Michael Bell:** Yes.

**Declan Billington:** If I can pick up on that, 30% of Northern Irish production is directly subject to trade deals—the trade deals with the rest of the world and with Europe. The moment we exit Europe, we will have a 30% exposure if we do not get the trade deals in place. The international trade deals, the argument goes, should simply be rolled over, because they were acceptable to all parties when we were part of Europe, but they are quite important. That is £1.3 billion of our turnover at risk, unless we get trade deals.

The second issue to bear in mind is the history of Europe. It inserted significant tariff walls, within which it had a common market for agriproduce. It was able to layer social policy, environmental policy, animal welfare policy and disease policy on to the production base, which increased the cost, but it did so for all countries and production systems in Europe. A rising tide lifted all boats, protected by a tariff wall. When we

step outside that tariff wall, the question to the UK Government is: if you hold dear the idea of environment, if you hold dear high-quality, safe food, how will you continue to deliver those attributes?

Take the rural economy, which is heavily dependent on agricultural produce. Historically, agriculture was seen as a support mechanism to the rural economy. We have now confused production efficiency with policy cost. The big danger that our members see is that, in this confusion, we enter into trade deals for imports from countries such as Australia, where the tariffs keep them out. In countries such as New Zealand, they are on quota; if you take the quota away, it flows in. Countries such as Thailand and Brazil do not have a living wage. Are we going to invite them into our markets and expect an industry on which we have layered policy costs to compete?

One of the key challenges to the Government in the UK is to understand the cost of policy that has made the industry the size, shape and efficiency it is. How do you create a level playing field with imports that does not have us priced out of the marketplace?

The final question, of course, is transition. Because of the exposure to Europe that our industry has, we will have to reposition ourselves to different markets if we cannot continue to have tariff-free access to Europe. Therefore, there needs to be transition for the industry. I believe we can transition; I believe there are opportunities. But, in that transition, will we lose a number of businesses on the way because we did not create a migrating infrastructure to support businesses as they reposition themselves?

**Baroness Browning:** Gentlemen, you have answered what was to be my supplementary question to that: the question of the dependence on CAP funding and the impact of WTO tariffs. You have also raised this question of standards. I jotted down "agricultural feeds, veterinary medicines, abattoir regulation, pesticides". Looking at what you have described as the need to compete, whether domestically, within the existing EU or wherever, would it be a good idea if, in these negotiations, the UK Government were encouraged to at least mirror changes in these sorts of areas as they occur within the EU? If we start to slip behind, there will be a massive crash in consumer confidence and an impact for business.

**Declan Billington:** It goes beyond that. There is a thing called equivalence. When you want to trade in the world markets, you have to deliver a set of regulatory controls equivalent to the standard of the country that is importing. Not only do you need to agree that, but they will even send their vets over to inspect your enforcement of it. If, over time, we start to diverge from the standards that Europe drives, we may well find ourselves, if we have trade deals with Europe, losing them.

More importantly, the standards that were agreed with Europe underpin the 53 other trade deals that exist, which we want to roll over. You cannot roll over a trade deal and stand still on it if you start to move away from the standards underpinning it. Those standards are rolling standards, as the UK and those countries continue to improve.

Our industry sees a serious threat or risk in playing with the whole issue of hygiene and disease standards and walking away from the equivalence that exists in trade deals; and, therefore, those trade deals fall as a result.

**Baroness Browning:** I have a quick supplementary. This applies as much to England, Scotland and Wales as it does to Northern Ireland.

**Declan Billington:** Yes, it does.

**Baroness Browning:** I wonder if, in any recommendations to Government, we should be flagging this up as something that Government will have to prioritise. Agri-food business is important not only in Northern Ireland but in every region of the UK.

**The Chairman:** As are other sectors, such as pharmaceuticals.

**Declan Billington:** Yes. There is a general principle that, if we want to trade in the world market and reposition the UK globally as a trading nation, we have to work to the world standards, which are the highest. In any market you want to compete in, you have to find the highest standards in the market and work to them, even if all other countries do not.

The great anxiety my members have is that we have some of the best animal welfare, environmental, food safety and food quality protections. Underpinning all that have been the regulations and the costs. How comfortable can we be about the equivalence of the imports we bring in? America uses hormones in its beef; that is one of the reasons why TTIP has not moved forward on imports. There is the issue of unapproved GM that Europe will not accept. There is a whole issue about things such as social policy and wages. We cannot compete to a standard expected of local production where we accept a much lower standard from the supply chain coming in. There are ways to manage it.

**Baroness Browning:** We heard in an earlier session this morning that, although Northern Ireland voted overall to remain, one group of people who were rather keen to leave, because of regulations, were the farming community. How, in Northern Ireland, are you going to sell what we have just been talking about to the farming community and explain that what we have just discussed is in their best interests?

**Declan Billington:** The issue is that there is good regulation and bad regulation. European principles I think we would all agree with. The application of regulation to deliver them has been quite poor, to my mind, in that it has been gold-plated and made more onerous than necessary. The president of the farmers union said it is a debate of hearts and minds. Regulation was the issue that drove them away, but there is this challenge that Europe supports us. That is what the mind says, but the heart says we could do a better job if we had some freedom to move forwards. It is a challenge, but if we form more pragmatic regulations, delivering the same standards without the gold-plating, we could win the farming base over.

**The Chairman:** I am going to compress our programme slightly now. Those have been valuable exchanges. I am going to skip straight on to Lord Whitty, with his question about the impact of Brexit on the trading relationship generally. We are scheduled to end in seven or eight minutes. If you would allow us five minutes so we can get a bit more in, it would be

very helpful.

- Q52 **Lord Whitty:** We have been hearing that Northern Ireland's voice needs to be heard, but what would it be asking for in relation to trading relationships? Is there a specific outcome that would have a unified voice of Northern Ireland arguing for it? What would that look like? Does it involve some exceptional, bespoke agreements, with part of the agreement relating to Northern Ireland? What does business in Northern Ireland see as the optimal outcome, given the circumstances?

**Declan Billington:** We carried out a survey of our membership asking what it wanted. Number one in terms of access to markets was the European market. That is because it already has well established trading within Europe, and any disruption to that could be very damaging. When you look at the trade we do, much of the European trade is all-Ireland trade. From that point of view, we are looking at a special solution for a special location. We know we are the only land border between the UK and Europe; Europe has other land borders, but we have a legacy of problems here. However, the all-Ireland market, the prosperity underpinning peace, has been a great success in making the border a pale shade.

Above everything else, our industry is looking for a continuation of the status quo, which is free movement of people and goods across the island of Ireland. That may not be possible, because the counterparty to those wishes is Europe, but we need to find an all-Island solution that enables us to continue with the all-Island economy that we have. I cannot define how you do that, but the principle of it is strongly engrained within our memories: that we continue, in some shape or form, with the relationships that exist. One thing I would table is the concept of quota as a solution to trade, east-west and north-south.

**The Chairman:** Store that thought. Angela, do you want to come in on this.

**Angela McGowan:** Yes, very quickly. We can submit evidence to you, but the CBI has had consultation with over 500 businesses, and we have key asks. We can submit more detail later, but I will briefly highlight six of the key asks: maintaining ease of access to EU and UK trade; balancing, as Baroness Browning mentioned, the regulatory equivalence with the EU against flexibility and influence over the domestic environment; ensuring the UK's migration system allows companies to access the people and skills they need, while recognising the public concerns; developing a very clear strategy for international trade and economic agreements; protecting the economic and social benefits of EU-funded projects; and, specifically for Northern Ireland, keeping the barriers to labour, goods, energy and services across the island of Ireland as low as possible.

**The Chairman:** I will ask Lord Jay to come in now with questions, some of them more technical, about the border arrangements.

- Q53 **Lord Jay of Ewelme:** You have talked a little about the importance of a soft border or maintaining the existing border—not having a hard border. Assuming for a moment that we leave the customs union and therefore it becomes the external border, can you see ways in which that could be managed electronically, by selective tests on either side of the border,



and not by some kind of hard border? I guess that is for Mr Gough.

**Aidan Gough:** To be very clear, InterTradeIreland is an implementation body, not a policy body. We are there to make sure that, whatever arrangements are agreed, we can assist businesses to navigate those new trading relationships. It is very clear from talking to businesses that they want to retain free movement, so a physical border and border checks would be seen by the business community as detrimental, for obvious reasons.

I do not know at the minute, but, if they go down the road of exiting the customs union, some innovative thought has to be given to technology systems that will alleviate any impact of a physical border. You also have rules on origin to consider. At the minute, I cannot see how there will not be some checks.

**Declan Billington:** We have wrestled with this one, because it is quite difficult. We come to the answer that quota may well be a solution here. Traditionally, quota happens when there are legacy agreements, usually with Commonwealth countries and Europe, when they arrive into Europe and keep some of these legacy trade deals. There is no reason why we cannot have legacy trade deals when we exit, on the basis of quota.

**The Chairman:** A tariff-free quota?

**Declan Billington:** A tariff-free quota: north-south, east-west, whatever. The scale of that quota would be small against the scale of all European agri-food or, indeed, UK-Europe trade, because Ireland is quite a small part of Europe. I can see how a quota might work north-south, east-west.

Having set quota, how hard do you need to police and inspect transactions cross-border? You normally police them to make sure duty is paid, but, with a sizeable quota, why on earth would you then need to micromanage trade? You would end up putting electronic systems in place, using and auditing statistics to satisfy yourself that the quota was working as described, with a light touch in terms of the policing of trade, because quota means no financial loss or abuse can happen.

**Lord Jay of Ewelme:** That is very interesting, thank you. I guess there would be some leakage, but presumably there already is a certain amount.

**The Chairman:** It is a historical fact.

**Declan Billington:** There is always leakage, but consider the alternatives. If you have tariffs in the UK and the Republic has to export into the UK, historically there was export relief, and you will find animals being brought round the border three or four times to make the money. Those sorts of things do not work. If you reach the ceiling of quota and then see smuggling happening, to move animals north, it is risk and reward. First of all, what is it worth? The differential is the tariff that the UK has set. What is the UK going to set?

There are a lot of uncertainties here, but if you size quota correctly you can maintain the status quo and have a light touch, at least for a number of years.

guarantees that I understand have been made quite recently? How would you assess the likely economic impact on Northern Ireland and border regions in particular of the loss of EU funding? To what extent will it be mitigated by the Treasury guarantees to make up the amount?

**Declan Billington:** Treasury guarantees only go to 2020. At that point, the whole CAP reform would be up for review, because it is 2014-2020. What surprises me about the guarantee, I suppose, is that, having submitted our arrangements with Europe to 2020, I would have thought that we were satisfied with the economic justification of what we are doing, so he is guaranteeing something we already decided we wanted to do in the first place.

Post-2020, it is unclear. Given that 87% of farm income in Northern Ireland comes from the single farm payment, the real question is not that you wake up in 2020 and decide what you are going to do; in 2017 and 2018, you want clarity about what the world will look like in five years' time. That is why we need clarity around policy, about what we intend to do to support the rural economy, what role agriculture has, because farmers will not invest in the future if it is unclear, and policy needs to tell us where we want to go.

**The Chairman:** Aidan, I would like to get you in with reference partly to the cross-border capital investment side and the nature of Government undertakings, as well as the current situation.

**Aidan Gough:** There are two important aspects. First, we know from our surveys of businesses that nearly a quarter of them have already decreased their investment plans on the back of the referendum result, which will have a substantial impact, and that is to do with the uncertainty that surrounds it.

There is an important sector that we have not mentioned, which will require substantial investment, which is the energy market. I am not an expert in the energy market, but we know that Northern Ireland depends for its energy supply on the all-Island energy market. That requires substantial investment over the next few years, so there are critical issues here that still have to be addressed. Again, it emphasises the point that the impact of Brexit on the island, in Northern Ireland and Ireland, is different and disproportionate.

**The Chairman:** Angela, perhaps you would like to have the last word.

**Angela McGowan:** It is very important to stress the positive impact that EU funding has had on this economy over the past few decades, when it comes to things like infrastructure, agriculture, the peace and reconciliation fund, structural funds, the help to bring us out of Objective 1 status and university funding. We have welcomed the Chancellor's recent announcement, confirming that they would honour the funding up to 2020, but we feel that key decisions need to be made regarding how existing funding programmes will be replaced when Britain leaves the EU.

There are small things. A proportion of the Executive's investment in apprenticeships is underpinned by European social funding. We have flagship infrastructure projects that are dependent on it. I think the York

Street interchange is 40% funded by Europe. We would like some clarity as to what happens after 2020.

The scale of the current EU funding should be noted as well. On average, between 2014 and 2020, current EU programmes deliver £144 million per annum to Northern Ireland, so it is a really significant level of funding and we would like some clarity on it going forward.

Q55 **The Chairman:** We are coming to the end of our formal session. Before I close it, can I ask the panel if there is anything that you would like to flag up with us that we have not mentioned? One I am conscious of is that while all capital may be slightly mobile, fisheries is even more so. I realise the importance of the fisheries sector, but we can perhaps explore that on another occasion. Is there anything else that you would like to mention to us?

**Declan Billington:** The conversation today has again been about certain areas of Brexit and we need to take an overview. In agri-food, we believe, pragmatically, in getting the right outcomes to negotiation. I am not being naive. A £5 billion deficit will appear in the CAP if the UK does not pay into it. How will Europe view that deficit when we want to trade in agri-food? There are certain consequences to that. Regardless of that, we believe there is a way forward for the industry; we believe the industry can grow, but it requires joined-up government, joined-up thinking and striking a balance between tariffs and policy and support mechanisms.

We believe the UK can be an anchor customer for our industry; we are supplying only three-quarters of the market, but a slight quirk of the whole thing is that we could grow our international markets on the back of servicing the domestic market. That will be covered in the paper we will be producing shortly. It is not all negative. It can work, but we need to have the knowledge from those negotiating about what the endgame could be for agriculture and policy and negotiation, working together to create a positive framework going forward.

**Aidan Gough:** A question was asked about specific sectors. The Irish Government have identified five specific sectors that will be impacted. Food and beverages—agriculture—is obviously one, but you have pharmachem, which is largely east-west trade, and traditional manufacturing sectors, materials and electric. They have highlighted those specific sectors and think that up to 94,000 jobs are at risk. Looking not in terms of sectors, it is primarily small, indigenous exporters, located outside the Dublin area in rural communities and specifically in the border area. Of those five sectors, four are also key ones in Northern Ireland and will likely be affected.

**The Chairman:** Thank you. On that note, you can take it as read that this Committee will take very seriously implications in the here and now for jobs and, of course, stability and security, which are important issues and go wider than the discussion we have had this morning. The whole Committee has found what you have said very helpful and illuminating in picking out the areas of concern and looking proactively at ways in which they might be met according to the unfolding negotiations.

In thanking you, I would just say that, in one or two cases, you have

kindly undertaken to provide material for us. Declan is preparing a paper as we speak and I am sure, if you could share that with us, it would be helpful. Please feel this is a continuing dialogue. Whatever happens, as a Committee, we are likely to be very engaged in the whole process of negotiation, albeit at a distance, as you are. We would like that to go as well as it practically can. We are grateful for your time this morning and look forward to further contact, as and when appropriate. Thank you very much.

## **C & C Group plc – Written evidence (BUI0003)**

### **Purpose:**

The House of Lords is carrying out a study into the effect of the UK vote to leave the European Union and relationship between the UK and Ireland. C&C is one of the most relevant companies for this study as a large proportion of our business (circa 90%) takes place in the UK and Ireland with a high degree of activity across the two markets. In this document we seek to outline some of the key issues arising from Brexit.

### **Brexit Background:**

There is no clarity about what a post EU relationship between the UK and Ireland will look like. Assuming that Article 50, the mechanism to separate the UK from the EU is triggered, there would be a period of two years during which time negotiations would need to be finalised. Article 50 has not yet been triggered so it is reasonable to assume we have circa 2 1/2 years remaining of the current UK/EU relationship.

The UK and Ireland are both currently part of the EU and, in addition, the UK has a special “borderless” relationship with Ireland. Consequently we currently have completely free movement of goods and people across the UK and Ireland borders.

The vast majority of Irish imports come through the UK. Similarly, the UK is Ireland’s biggest trading partner. Socially and politically the UK and Ireland have a close relationship. The consensus amongst the Irish population is that Brexit is bad news for Ireland.

However, as things currently stand with Ireland remaining a member of the EU and assuming EU rules do not change, then it would not be able to negotiate any separate trade or migration terms with the UK. Making a post Brexit relationship with Ireland largely the same as it would be with any other country that remained inside the EU.

At this stage we have no information on what the relationship between the UK and the EU will look like in terms of free movement of goods. Both sides, the UK Government and the other EU Governments, are setting out early negotiating stances. Many large organisations, particularly motor manufacturers, are stressing the importance of continuing free-trade but concerns over corresponding free movement of people in the UK may make such an agreement difficult.

### **C&C Background Summary:**

C&C is a producer and distributor of high quality alcoholic beverage brands with a strong heritage in UK and Ireland also recent impressive international export growth. The brands that we are best known for are Magners (cider UK and international), Bulmers (Ireland’s leading cider brand) and Tennent’s (Scotland’s leading lager brand with good export performance and growth potential).

C&C is registered and domiciled in Ireland. The vast majority of our operation takes place either in the UK or Ireland. Our two main operation sites are in Clonmel, Co Tipperary (Ireland) and Glasgow (UK). We have a turnover of circa

€700 million and employ 1200 people in the UK and Ireland. Whilst our Irish and UK businesses have separate sales teams and these are employed in both UK and Irish entities, the supply chain is entirely integrated across both jurisdictions.

In the island of Ireland we operate our business seamlessly as a single operating group, through the respective companies in each jurisdiction. In addition to the production site in Clonmel we have an office staff based in Dublin and Belfast as well as distribution depots across the entire island. We offer a full range of products, both alcoholic and non-alcoholic beverages.

### **C&C - The UK and Irish Trade Overview:**

C&C is in a unique position, we are the largest drinks company registered and domiciled in Ireland. We have a joint listing on the London and Dublin stock exchanges. Within the Group we have operating companies in both the Republic of Ireland, Northern Ireland and Great Britain. We produce beer products in the UK and import to Ireland and we produce cider products in Ireland then import them into the UK.

Raw materials, packaging, equipment, people and investment are sourced and employed in the UK and Ireland without consideration to political boundaries. We are a significant employer with over 1200 employees. Our jobs are important to the local communities in which we are based, particularly in County Tipperary, Ireland, where our cider brands are produced. This area of Ireland is vital to us and we are a significant part of the community in which we are based. We have invested over €400 million in a new plant, new business ventures and investment in our customer's businesses.

This evidence document focuses primarily on the impact on C&C. However, if you examine the value chain across our sector the level of complexity and cost that Brexit will bring is not just about C&C. We have input material suppliers, services providers and customers who straddle both Ireland and the U.K. Therefore, the likely cost of doing business is inflating all through the value chain.

C&C is a business that believes in entrepreneurial activity and a free and open market. The change posed by Brexit risks unsettling this open market arrangement.

### **Sourcing Raw Materials – Apples:**

C&C is a large purchaser of agricultural raw materials. We buy circa 80,000 tonnes of apples per year, pressed to make cider. Looking at apple purchasing in more detail, of the 80,000 tonnes per year we buy, 60,000 come from England and Wales, 10,000 from Northern Ireland and 10,000 from the Republic of Ireland. All of these apples are fermented into cider at our cider production facility in Clonmel, Ireland.

Apple growing is a marginal agricultural activity, it is not in the remit of wealthy farmers. We have long-term relationships often stretching back generations with our apple growers. If Brexit reduces our ability to source apples from the UK in order to press them in Ireland then hundreds of the farmers will be adversely affected. We would still be able to source apple juice for our cider, either from other parts of the EU or internationally, but farmers in the UK would be badly affected. It is worth emphasising that farming for apples in the UK tends to be in

remote regions where there are limited other employment options, for these farmers it is essential that the free movement of raw materials is maintained.

In addition to the apple volumes outlined above we own and operate an apple pressing business in Portugal, Biofun. This facility gives our business access to apple juice/apple juice concentrate and gives us a significant alternative source of ingredients for cider demands. Demonstrating if it is necessary we will be able to source apple juice from within the EU, however this would obviously be to the detriment of UK apple growers.

**Other Production Materials:**

As with many other modern businesses we operate an internationally integrated supply chain. This means that packaging materials can be sourced across the EU at lowest cost solutions. Some of these materials are not available in Ireland, such as large quantities of glass bottles, meaning these would have to be imported. The same point applies to beverage cans, which are not produced in Ireland. These are currently produced in the UK and therefore prices would be driven up for consumers if tariffs were applied. Additionally, significant volumes of beverage cans currently sourced from the UK may well have to be sourced from other EU producers.

Similarly, for our beer business in Scotland, we try to source all materials locally but this is not always possible and we import our hops from across the EU, mainly the Czech Republic.

**Finished Goods Transfer:**

We have a brewery in the UK (Glasgow), which sends beer to Ireland and our cider production site in Ireland (Clonmel), which sends cider to the UK. Both sites additionally have export volumes that leave the UK and Ireland. We have spent many years perfecting an integrated supply chain that can meet our customers' needs. We will deliver cider from Ireland and beer from the UK to customers in a single load, on the same delivery lorry. This is possible because both production sites are operating within the same market with no tariffs/barriers. If we were not able to continue this it would have significant level of complexity and cost to the operational business.

**The Operation of the Island of Ireland Market:**

C&C operates the geographical island of Ireland as a single operating group. This means that of the 600 people working on the island across the various companies, free movement of people, as enshrined under EU law is of paramount benefit for us and means that we are able to provide opportunities for our people in both countries.

We operate a brand led wholesale model. This model means that we can meet all of our customers' needs in a fast and flexible way. This is made possible by treating the island of Ireland as a single geographical unit with the movement of people, money and goods taking place, without barriers.

Operating the island of Ireland as one operating group not only provides greater employee opportunities but it also delivers a better level of service to customers, as economies of scale and best practice can be deployed across the island. This transformation in our business to operate as a single unit in Ireland is relatively

recent and reflects the wishes of the people to live and work together harmoniously.

We regularly deliver to large UK customers directly from our cider production facility in Clonmel. Changing the relationship between UK and Ireland may lead to increased bureaucracy, cost and delays in this process. This could reduce our ability to service customers' needs, with a resulting loss in business.

### **The Economics of our Business:**

The key statistics relating to our business are as follows:

- Net revenue: €663 million
- Operating profit: €103 million
- Free cash flow: €123 million
- Net debt to profit ratio: 1.33: 1
- Dividend growth: +14% (five year average growth rate)

As can be seen from the numbers above, we are a medium size to small business with good profit and cash generation. Our market capitalisation is just over €1 billion, this makes us up to 100 times smaller than our key competitors. Of our net revenue €261 million is generated in Ireland and €330 million is generated in the UK. This means that €591 million of our €633 million net revenue is generated in the UK and Ireland. This equates to 89% of our net revenue.

When this is combined with the fact that we are listed in both markets and domiciled in Ireland, you can see that the economics of our business makes achieving a good post Brexit solution for our business essential.

### **Exports:**

The Irish and UK alcohol markets are both ex-growth. Future job security for our employees depends on exports outside of UK and Ireland, therefore we need a stable operating base and good access to the export markets. We are currently in a good period of export performance with the volumes from the UK, tracking at +10% per annum and our cider volume from Ireland also growing at +10% per annum. Currently we export products from the UK and Ireland across Europe, North America, Africa, Asia and Australasia. The UK and Irish drinks brands are strong assets for export growth. Within the EU we have some very strong sales performance in Italy, Spain, Germany and France our Tennent's beer volumes increased by double-digit percentages this year.

Overall, being able to export products across Europe is important in our future growth plans. Additionally, the current political arrangement is not causing any barriers to exploit opportunities further afield. The current North America/EU trade negotiation is only likely to increase export opportunities. We desire that current export arrangements should be maintained.

### **Tourism:**

Both the Irish and the Scottish alcohol and hospitality industry are influenced to a very large degree by tourism. There is a concern that if the movement of people is restricted then the tourism market in Scotland will suffer with a resulting knock-on effect on our customers. Similarly the biggest group of tourists in Ireland come from the UK. Therefore in both markets restrictions on tourist movement, whether



they are real or perceived restrictions will be detrimental to our customers' businesses and to our own business.

**Taxation:**

C&C Group plc is resident in Ireland; however, the Group has a number of entities that are incorporated and tax resident in both Ireland and the UK. As a result, significant taxes are remitted to both the Irish Revenue and HMRC. Taking into account corporation tax, VAT, excise duty and payroll taxes we remit circa €413 million in total between the Irish Revenue and HMRC. The Group respects and complies with local tax laws and pays the required level of tax in the different countries where we operate thus ensuring we *or [allowing us]* to make the appropriate contribution to the communities in which we operate. Any taxation barriers that are created by the UK decision to leave the EU will lead to a less equitable taxation split.

**Coordination of Alcohol Policy:**

C&C is focused on the sale of alcoholic beverages. Minimising the misuse of alcohol is central to our business. The EU has played a useful role in ensuring that alcohol policy and health issues are carefully balanced to ensure sustainable outcomes. Whilst our core markets in Scotland and Ireland have led the way on alcohol policy with our support on initiatives such as minimum unit pricing, there is no doubt that the balancing effect of the EU Parliament and European Courts reduces the likelihood of extreme legislation being implemented.

**Legal Framework:**

The European laws on issues such as anti-competitive behaviour are very important. As we are a small operator, such laws give us protection from the large multinational companies who could operate in an anticompetitive way if the law did not prevent them from doing so. With the likelihood that European laws will not apply to the UK, concerns over items such as anti-competitive behaviour are worrying for us.

**Business and Politics:**

As a company we seek to avoid political comment and in this instance we entirely respect the democratic process. However, like other businesses our preference is for stable economic conditions, open and transparent trading and freedom of movement for our people and goods. On behalf of all stakeholders including our employees, customers, shareholders and suppliers we are reiterating this point in all of our discussions with politicians. We do not take party political sides but we now feel duty-bound to comment on Brexit related issues.

**Opportunities:**

As an entrepreneurial organisation we believe that opportunities are also created when change happens. In the short-term, the devaluation of the pound is beneficial to exports from the UK. In the medium to long-term it may be possible for the UK to negotiate beneficial trade deals with export markets. However, for us negotiating a deal between Ireland and the UK is essential as there is great value in there being no border between UK and Ireland. Economically, politically and socially our business, like the market, is a highly interconnected group and therefore derives greatest economic benefit.

**Summary:**

The change posed by Brexit is of concern to C&C on economic, political and social grounds. The current free movement of goods and people between UK and Ireland has allowed business to prosper and jobs to be protected.

In this regard it is worth remembering that C&C Group plc is a European company tax resident in Ireland with a dual listing in both London and Dublin. Our operations are centered within the UK as well as the Republic of Ireland. In order to secure the best possible future for all of our stakeholders, from the farmers in the southwest of England, to our employees and customers, we need the options for future trade relations between the UK and Ireland to be very carefully examined. We are pleased that the House of Lords is examining this critical issue and will do everything possible to help achieve a meaningful outcome from the enquiry.

20 September 2016

**The Centre for Cross-Border Studies and Co-operation Ireland – Oral evidence (QQ 56-67)**

Evidence Session No 5

Heard in Public

Questions 56 – 67

Monday 17 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty; Baroness Wilcox.

**Witnesses**

Dr Anthony Soares, Deputy Director, Centre for Cross-Border Studies; Ruth Taillon, Director, Centre for Cross-Border Studies; Peter Sheridan, Chief Executive, Co-operation Ireland.

**Q56 The Chairman:** Good morning, lady and gentlemen. Welcome to this formal evidence session of the Lords EU Select Committee's inquiry into the implications of the referendum decision for Brexit on the island of Ireland generically. We could not be better placed than in having the panel that we have before us this afternoon. Ruth Taillon is the director of the Centre for Cross-Border Studies and Dr Soares is the deputy director. He also provides a more continental perspective, which is strengthening. Peter Sheridan is the chief executive of Co-operation Ireland and there is a very strong and interesting CV behind that.

All I would say is that we will look at this objectively, with an eye to two issues: what the implications are for the island of Ireland generically, both here in Northern Ireland and when we go down to Dublin tomorrow; also, the underpinning interest is to make sure that those voices that are being heard and brought effectively to bear on the upcoming negotiations, so that we do not get surprised as the matter unfolds and no damage is done that could have been avoided with some forethought.

We are very grateful for your extensive submissions to us as well. Small hours were filled with them in certain cases. We are beginning to develop a pattern. What we are particularly interested in is picking out from that any really salient issues and messages that we can take back to London and share with our colleagues. Is there anything you would like to say to us, either about your organisation or by way of introduction? If not, we will start straight on the questions.

**Ruth Taillon:** I will say a few words, first of all to say thank you very much for coming to us and being open to hearing our concerns. We have quite a wide spectrum of concerns about how the decision will affect this region, both north and south of the border. Our centre was set up in the

wake of the peace agreement, so we were set up in 1999, specifically with a remit to work on a north-south co-operation basis. Virtually everything we do in terms of services, but also advocacy and research, is focused on cross-border co-operation. Over the last number of years, that has also spread to taking on much greater east-west dimensions, so we have been working with other border regions in Europe, and we are quite concerned about being cut off from that.

Also, increasingly over the last couple of years, particularly with the events in Scotland, we have been working more closely with colleagues in Scotland, but also in England and Wales. We have broadened our remit about cross-border co-operation because we think the political situation has changed, so we have quite a lot to share on that.

We have widespread interests, from the constitutional issues to the free movement of citizens and citizens' rights. We run a citizens' information service for people who cross the border to work, live and study, and all of that is currently based on European law, so we are quite worried about what we will be able to tell people as things get more difficult and we will not have the same answers for them.

We are also concerned about the rights of EU citizens living on the island, in terms of their ability to stay and work, and the impact that the loss of the European Union workers will have on businesses in Northern Ireland, because we are already seeing quite dramatic effects on that.

Also, culturally, in lots of different contexts there is the isolation that could come to our region, because we are only 1.5 million people in Northern Ireland. The European connections in terms of civil society networks and access to programmes such as Erasmus that allow students to travel are all things that were perhaps not on the list of specific questions that we were given, but they would be our general concerns: that those things will shut down and we will be left on the edge. That is one of the reasons that we are particularly grateful that you have decided to come and hear some of our concerns, because we are very worried that those will not be at the top of the political agenda in the negotiations.

**Peter Sheridan:** I will not repeat anything that Ruth has said because we are on the same page. Just for information purposes, Co-operation Ireland does not have a position on Brexit as an organisation, simply because I have a very mixed board of people, some of whom voted out and some of whom voted to remain. Former Irish Taoiseach John Bruton was obviously very much in the remain campaign.

**The Chairman:** He is coming to see us.

**Peter Sheridan:** He is coming to see you. The former First Minister, Peter Robinson, and David Campbell, who was David Trimble's chairman at the time, are "out". Our interest as an organisation is making sure that we do not undermine the spirit of the Good Friday agreement. We are about reconciliation on these islands and between these islands, and making sure that nothing that happens in the terms of moving out of the EU will impact on that.

Q57 **The Chairman:** I will just say, not by way of a threat to witnesses but as information for my colleagues, we have a deadline at 1 pm, so much as I

suspect we could be tempted to extend the session, we will have to be a little restrained, in which spirit I will kick off.

The Brexit Secretary, David Davis, was an early visitor here, and has identified UK-Irish issues, and specifically the impact on Northern Ireland, as one of the more difficult areas coming up in the negotiation. Could you just outline for us, either separately or collectively, what you think the main difficulties that need to be addressed are?

**Ruth Taillon:** The first thing is the border. It has all sorts of implications, as I say, for the free movement of workers, students and other people who cross the border regularly. That includes a number of EU citizens who are not Irish or UK citizens. Anthony will talk about the common travel area later, perhaps. There are the implications for the peace process in terms of the constitutional issues around the potential for unpicking of the Good Friday agreement and the other institutions and structures that were set up to support the Good Friday agreement, and more generally in terms of the importance of the border, first of all to the conflict and to the peace process. The border has faded quite a lot as an issue, almost to insignificance—not entirely but partially. We have already seen indications that it is becoming an issue of dispute again. Before the referendum we had UKIP advocating armed patrols, and you had republicans seeing this as another opportunity to push things forward. If the border becomes more contentious, we would be concerned, as we would if there is a serious impact on the economy; you would have more poverty, more disaffection and more alienation from those people who maybe did not even feel that they had got much out of the peace process yet. There are real dangers there for difficulties. We have already seen a huge spike in hate crime since the referendum.

**The Chairman:** That is in Northern Ireland as well.

**Ruth Taillon:** Yes. There was a report by the PSNI, which Peter can probably talk about with more authority than me, which stated that a hate crime was reported every three hours in Northern Ireland over the last year. That is quite significant in a population of our size, and we have already seen attacks on Polish people and so on starting to happen, so we would be very concerned about that, particularly with the potential loss of all the EU funding programmes that would help us mitigate some of that. We think it is important that we either stay in some of the EU programmes or we have a special EU programme, possibly based on something like the Neighbourhood Partnership model for external borders, or that the UK and Irish Governments come together and put something together.

While we have resigned ourselves, for instance, to PEACE IV being the last European PEACE programme, we think there will be an even greater need for something that will bring people together both across the border and to mitigate against some of the ethnic and social tensions that we think will start hitting us as people start feeling some of the economic impacts.

**The Chairman:** I will come to Peter in a minute. You have just said something I want to ask you a question about. In your opening remarks you talked about a sense of detachment from the whole process, which I thought was interesting but perhaps we will not go on about that today. On the immediate, from what you have just said, did you have in mind the

possibility of a specific, fresh bilateral UK-Irish deal or some kind of tripartite EU-Irish Republic-UK Government deal, or what?

**Ruth Taillon:** We see great difficulties with a specific bilateral deal, because although the UK could give certain guarantees to Irish and other EU citizens in the UK, we do not think the Irish Government have the same flexibility as one of the 27. However, if there is scope for something like a bilateral programme between the two Governments, I am not sure if there would be barriers to that, in terms of just supporting the peace process and stabilisation on the island. Ideally, we would like to see Europe keeping us in some of the European programmes, which would mean paying into the European budget for them. Something, for instance, modelled on the European Partnership Programme would allow us to then keep being involved. It has been very important. Our centre recently pushed a proposal to DG Regio about a potential way in which we could, with some very European partners, support their cross-border programmes, and already we were told that we would not be included if that was taken forward because of the political sensitivities. We were just putting a very preliminary proposal to DG Regio and already they are saying that until Brexit is sorted, they are not going to include us. Already we can see people being excluded or being dropped off. The same thing has been reported by people in research programmes. They are just not being integrated into them because of the uncertainties. A lot of the benefits of Europe have been those contacts and being part of those circles, so if we have to fall back on a UK-Ireland programme for some things, that is definitely second best to being involved with our European partners.

**The Chairman:** I will come to Peter in a moment. May I just ask you one other question, which is about the existing bilateral contacts between the UK and Irish Governments, and between the Irish Government and the Executive here? Maybe Anthony would like to answer this. Are they sufficient to deal with the implications of Brexit, or do we need new mechanisms? Are we satisfied that we have enough fire power to even work out what is likely to happen and to influence the negotiations, given good will?

**Dr Soares:** We have structures there currently that could be exploited more fully. We have the British-Irish Council, the intergovernmental conference, and obviously the North/South Ministerial Council, where, in terms of Ministers and political leaders, you have that north-south and east-west dimension. That gives the potential for a dialogue around how the consequences of the UK's departure from the EU could be minimised, both for both parts of this island and for Great Britain. The potential is there; whether it is being exploited to its full extent is another question.

We also must say that we welcome the recent initiative from the Taoiseach and the Irish Government in terms of opening the all-island dialogue, which brings another dimension. It is important that the discussions are around not just the consequences of Brexit but also coming up with concrete proposals on how to deal with the consequences, because the consequences have been studied and identified prior to the referendum

and since the referendum. It is now time to come up with some concrete proposals on how we move forward.

In that context, it is really important that we do not limit the conversations just to political representatives and senior civil servants. We need to have a cross-sectoral dialogue that encompasses all sectors and has a north-south dimension. Our island has to listen to that conversation. It would be welcomed if that also took place on an east-west basis, so it is not just civil society talking about Brexit on this island, but there is also that opportunity for it to take place on an east-west basis as well. The structures exist, but there is potential to exploit them further.

**Peter Sheridan:** On the border, just to reiterate what Ruth said, the agreement brought about an invisible border. It has already started to dominate politics again here. I do not know if you have had the opportunity to go across the border yet. You will be handed a leaflet—

**The Chairman:** We have seen the pictures.

**Peter Sheridan:** That is organised by people who are about peaceful protest, but mass protest and violent confrontation are part of the political culture here. If there was some sort of border there that people are against, it is not too far a step—I recall the very first shootings at a border checkpoint at the beginning of the conflict, so it will create that barrier in people's minds as well, and it could raise the issue of identity again. One of the things the Good Friday agreement did was to remove that tribal issue of identity where you could be British, Irish or both. For many northern nationalists in particular, they were comfortable being Northern Ireland in the context of Europe; being Northern Ireland in the UK is not what they were thinking about at the time, so that might raise those issues of tribal identity again. I would not want to overemphasise that issue of civil unrest as part of what we are thinking about, but we should not become complacent about it.

When you were asking about other models, I know that between Germany and Switzerland there have been no border controls since 2008, or very few. You can fly between Berlin and Zurich with only your ID card. You can walk across the border from Basel without any documentation at all. There are models and similarities there. We do not need to move to a hard border. There is an issue of differentiating between goods and people moving across the border, and how you differentiate those two things will be difficult.

As Ruth said, there is a danger for us that we become economically isolated. We are 1.5 million people; the UK is 60 million people. The negotiations will largely happen between the EU Council and the UK, even to the extent that the Irish Government will be one-27th of that in those negotiations. I listened to what David Davis said and I listened to what the Prime Minister said, and I am absolutely sure that that is what they want to do, but you wonder, as those negotiations begin to happen, how much of this gets lost in the ether. That is our concern.

Q58 **Lord Whitty:** You have partially touched on this, but one thing is to improve Northern Ireland's role in the negotiations themselves and the degree to which the British Government is taking that into account. For

them to do so, they need to know where Northern Ireland as a whole would wish to end up. Is there a unified view? Is there the possibility of having bespoke agreement or agreements on parts of the deal? There has been reference to possibilities of partial agreements on areas that are currently funded or jointly run by the UK with heavy Northern Irish participation. There are things such as Erasmus. Do you envisage, even with an overall outcome that is detrimental to much of Northern Ireland, the possibility of bespoke arrangements for Northern Ireland in the final outcome?

**Dr Soares:** We can address it in a different way. Instead of a bespoke arrangement for Northern Ireland—I do not like the term a “special status” for Northern Ireland—it might be more positive to look at this from the Republic of Ireland’s perspective. As a member state of the European Union, the Republic of Ireland could negotiate with the other member states recognition of its particular circumstances, because of its geography but also, very importantly, because it is a co-guarantor of the 1998 Belfast Good Friday agreement, in which the EU has invested a lot, not just financially but politically. The Republic of Ireland and the Irish Government here have a crucial role in negotiating with the Commission and its fellow member states recognition of its own particular needs, rather than us addressing this from a perspective that might appear to the Commission and the other member states as rewarding the UK as it departs the EU. It is taking it from a different perspective.

**Peter Sheridan:** There are things that they can agree on, even though the two parties in government took different positions. They have agreed on the need for British-Irish relationships and north-south relationships to continue to be strengthened, even as formal relationships are removed. There is a need for more informal relationships, so they have agreed on that, and they have all agreed that they want to minimise the impact of the border; that they want to continue as uninterrupted as possible; and that they want the peace process to continue. There are things that they can agree and have agreed on. I do not think it is a case of them being at two separate ends of the spectrum.

**Ruth Taillon:** There is quite a lot of potential at different levels for dispensations to be given. A good percentage of our population in Northern Ireland—we are only a total of 1.5 million—have Irish citizenship and Irish passports. Just looking at university students, the two universities are still UK institutions, so they will be excluded as institutions, but some accommodation could be made, whether it is that the Irish Government pay in extra or there are some special arrangements so that those institutions can participate in things like Erasmus or Horizon 2020. You would not have to exclude those.

We would also be quite concerned for the EU citizens who live here and contribute to our economy. A lot of businesses are very dependent on east European workers, so already they are giving soundings that they are quite concerned about their workforces and the rights of their workers. Aside from the visibility of the border, we would be very concerned about that border in terms of the freedom to travel, work and live, and then all the associated things around that, which get very messy.



We certainly do not have answers about pensions, the implications for things such as child benefit and all those things that at the moment fall back on EU law. If those laws stayed in place and were not eroded and chipped away at, that may be the solution, as long as people were given the opportunity. I can foresee, going back to the issues around social conflict, if the border stays open but is controlled by, for instance, lots of raids on chicken factories and people being asked, five miles from the border, to show identity cards or whatever to prove that they have the right to be here, then all of that will feed into what we have already seen with the attacks on Polish families and so on. I would be quite concerned about that.

**The Chairman:** May I ask one question on that? The significant non-Irish but EU involvement in the labour force here has been something of a revelation for me. I am not sure whether there are any readily available statistics; it would be quite useful to have them. Possibly even more than other Members of the Committee, I have to work quite closely with the ambassadors in London, who will of course be accredited to Northern Ireland, and in certain cases perhaps to the Irish Republic; that is a separate issue. Inevitably, it is at the edge of their responsibilities in a way that, for example, immediate post-referendum incidents in Harlow in Essex were not. Is it your impression that other member states are taking an interest of the welfare of their nationals here and are at least alert to this as a potential social problem and a problem of some distress?

**Ruth Taillon:** Certainly the Polish consul has had things to say about it.

**The Chairman:** Indeed. Presumably there is a quite strong consular representation.

**Ruth Taillon:** The other nationalities have been mainly Lithuanians, Latvians, and some Romanians. The size of the Polish population here is quite significant. In some neighbourhoods it can just be somebody who they know is different and know as an outsider, so there has been quite a lot of that. Danny Kinahan, the Ulster Unionist MP, went around and met some of the Mid-Ulster businesses. He might be somebody worth getting first-hand reports from about some of the companies that he specifically talked to.

**The Chairman:** We can ask him.

**Ruth Taillon:** We know, as was in the news the other day, that five mushroom factories have already closed—that might be to do with currency differentials as well.

**The Chairman:** We have seen the report. Peter, did you want to add on this?

**Peter Sheridan:** On the bit about racist crime increasing, we were very fortunate here, during the conflict, that we did not have a racism problem, simply because there was nobody to be racist with. There were no migrant communities living here apart from the Chinese. However, post the agreement, there are a lot of migrant communities and we have found that we are as good as anybody else at it. Of course, since the vote there has definitely been a rise or a spike in opposition against migrant communities who live here, in the same way as in the UK.

Q59 **Baroness Browning:** The UK Government have said that there would be no return to the hard borders of the past but, given that the Irish border will become an EU border, what is the solution in terms of keeping a soft border. How do you envisage it?

**Peter Sheridan:** When people talk about a hard border here, they imagine what the security checkpoints were on the border. There is no suggestion that that will happen, but that is the image it creates in people's mind here. I remember growing up. I lived in Fermanagh and went across to Bundoran on a Sunday. As you came back, you sat in a customs queue of traffic—it was nothing to with security—and, as soon as you got to it, you were waved on. It was just the very nature of the checkpoint. I do not even think that is what people are talking about. A lot of it will be made electronic, but there will be the need, I imagine, for some sort of physical checks to be made, whether through a border force stopping vehicles, as Ruth said, five miles away, with targeted intelligence around people illegally coming across the border. There are ways of doing it that do not mean you need to have a physical border.

It is difficult to see how, outside the customs union, there will not be some controls other than electronic controls, but I do not envisage that you will see border checkpoints in the way people saw them before. I think that is one of the difficulties here. Having lived through it and experienced border checkpoints, people see that as what a hard border is. I do not think the names "hard border" and "soft border" are particularly helpful, in any case.

**Baroness Browning:** I am sure you will have seen the articles in the *Guardian*. I wonder what your response is to the idea that the UK Government are seeking to shift the front line of immigration controls to Ireland's ports and airports to avoid that hard border between north and south. If that was the case, how would that work in practice?

**Peter Sheridan:** The articles emerged in the *Irish Times*, and the *Guardian* is doing a series of joint articles. Presumably they are saying that for anybody coming into that part of Europe, the Republic of Ireland, the checks and balances would be at Dublin Port, Dublin Airport and Rosslare, and that that would negate the need for anything on the 500 kilometres of land border that we have here. That depends on what Europe thinks of that decision, because ultimately the border between Northern Ireland and the Republic of Ireland, as somebody said, is an EU border, so I am not sure how they would view that solution.

**Baroness Browning:** How would that equate to the example you gave just now, of the arrangement between Germany and Switzerland?

**Peter Sheridan:** Air transport would be allowed. We would not have to show anything other than an identity card, which is what happens at the minute, unless you travel with Ryanair, which demands your passport. If you travel from here to London, you show the identity card, as you know, and similarly if you travel down south, it is an identity card; when you get to Dublin Airport, you show your identity card and through you go. I would imagine that that is what would happen in that situation. Nothing would change. It would almost be reflective of the common travel area we have currently.

The checks already happen at Dublin Airport. Aircrafts arriving into Dublin Airport from other countries have to show their passports because they are not in Schengen, and similarly at ports the checks are there. They may have to be hardened at that level, but whether the EU is satisfied that it sees that as the border, I do not know.

**Ruth Taillon:** In any case, the Irish Government still have to let in other EU citizens. As Theresa May and others have said, that will be controlled by employment law, so basically they do not care how many EU citizens come through the Republic and into Northern Ireland. That is where we face the dangers of things such as border force raids on factories or Chinese takeaways or whatever it might be. I cannot see how it could be done, even if you put a ring of steel around the island. First of all, there will be political issues around people objecting when they try to go from here to Scotland or whatever if they are being treated like that. We have been through that with the Prevention of Terrorism Act, so I suppose people might accept stronger controls because of that security hardening anyway.

There is still that issue of the rights of EU citizens to come to the island. Are they going to be stopped if they try to go to Scotland? What will happen and how will that impact on us here? It is almost like they do not care how many people come here so long as they cannot get into Britain.

**Peter Sheridan:** You can get stopped still here. I travel on bus sometimes down south. Sometimes you get a Garda officer on who will step on the bus as it is at the minute. If we bring people from, say, Israel into our Dublin office, they get a visa to come to Dublin and they get a separate visa to come to Northern Ireland. They can come across and depend on being stopped up here and asked for their visa, so it currently goes on, but not to any great extent.

**Dr Soares:** The reports in the *Guardian*, which other newspapers took up, are picking up something that already exists. There are already arrangements between the Republic of Ireland and the UK for the co-ordination of immigration control, so maybe this is a stepping up of that, but this is not new. It has been happening. As Peter pointed out, there are random immigration checks that happen as you cross the border.

As Ruth pointed out, one way to perhaps maintain a soft border—obviously talking only about citizens—is to adopt the principle that EU citizens entering the Republic of Ireland and then entering Northern Ireland would not have the right to reside or employment, according to whatever context we end up with in terms of the UK and what restrictions it wants to impose on EU citizens. If you adopt that principle for the rest of Great Britain, there would be no need for a hard border at the Irish Sea. If it is acceptable for Northern Ireland, it should be acceptable for the rest of the United Kingdom as well, and that would avoid the hard border at the Irish Sea.

Q60 **Lord Jay of Ewelme:** In a way, Mr Sheridan has answered the question I was going to ask about whether you can have some kind of border that is not a border to cope with customs, tariffs and so on. I think you have suggested, as I think, that some way can be found, with some kind of

electronic means of doing that.

If I could go back to another question, Dr Soares mentioned the Irish Government's proposal for an all-island council. We heard this morning that the DUP or some other Ulster unionist parties might not take part in that. Do you have some indication of whether they would or would not, and what would it become if they do not? How significant an issue would it be?

**Dr Soares:** As it stands, the DUP has stated that it will not participate, and the Ulster Unionists equally have said that they will not participate in this. Obviously that is up to those political parties to decide what participation, if any, they will have in that dialogue. For example, the Democratic Unionist Party has concerns regarding the creation of yet another structure; they see the structures that currently exist as being sufficient. The First Minister has also emphasised at various points that the North/South Ministerial Council is the forum where those conversations should take place. Concerns have been voiced that this initiative will just be a talking shop, and there is a possibility that it might be a talking shop, especially if people who are going to participate—and we must point out that the Centre for Cross-Border Studies has been invited to participate in that initiative.

**Lord Jay of Ewelme:** And you will?

**Dr Soares:** We will, yes. It might become a talking shop if people are just talking about their concerns, concerns that have already been identified repeatedly in terms of the possible consequences of Brexit. I think it will become less of a talking shop if we have various sectors within business, civil society and political parties—the ones that will be there—presenting concrete visions and proposals for how we take things forward. That is what we need now: proposals, according to the various scenarios that might be in front of us, about how we take things forward.

**Peter Sheridan:** There may be something else in the background about why they are not taking part. One of the parts of the Good Friday agreement that has never been implemented was that there was to be a civic forum across the island of Ireland. That has never happened. The unionists and the DUP will be lukewarm to anything that feels and smells like a civic forum. I fear that some of that might be a concern: that what is being envisaged might be a forum through the back door, which they are not prepared to take part in.

**Ruth Taillon:** In any case, it is a civic dialogue, so there will be a lot of people who were perhaps leave voters, or certainly unionist voters, who will participate from their own interests as farmers, business people or civic society organisations. The fact that that is a way that those who are not attached to political parties or the Civil Service can participate in the discussion about the way forward is quite important.

Q61 **Lord Whitty:** In terms of the sectors that are most likely to be affected, particularly agriculture, are we looking at areas where a special agreement will be needed? Are we looking at the possibility of very serious economic and total disruption if we do not reach some agreement on agriculture, both on the funding side and on the trading side? Could

you comment on that and other economic uncertainties such as currency, and how they are affecting the mood and the possibilities of agreement?

**Dr Soares:** The Centre for Cross-Border Studies recently undertook a piece of research that took a snapshot of cross-border flows within the agri-food sector. It was not a piece of research that was looking at Brexit at all; it was just looking at what the flows are currently within the agri-food sector in a specific geographic area. What we saw, which supports other research, is that—in terms of the importance of the two markets, north and south—the market in the Republic of Ireland is very important to the agri-food sector within Northern Ireland. There is obviously trade going in both directions, but the volume of trade going from the north to the south is much greater in proportion than that in the other direction. The southern market is extremely important for producers.

Working within the agri-food sector we also have a number of migrant EU workers, so any restrictions on movement of labour will affect the agri-food sector especially. We even have instances of cross-border workers, so workers who are coming from the Republic of Ireland to work in production companies in the north, who happen to be non-Irish EU citizens, so it is not just the flow of workers who are Irish or UK citizens. There are also cross-border workers who happen to be non-Irish EU citizens.

Brexit will potentially have an enormous impact on the agri-food sector, outside CAP, just in terms of trade. For the economy as a whole, for Northern Ireland to develop economically, as the Executive and various experts have pointed out on various occasions, we have to improve our export performance. Our market is so small that we have to improve our export performance. In sales, a lot of our economy is internal sales within Northern Ireland, so it is Northern Irish companies who just sell within Northern Ireland, and then the most important market is Great Britain, which obviously is not exporting for Northern Ireland. That is just external trade still within the UK. The possibility that the UK will no longer have access to the EU internal market, or might even be outside the customs union, will have potentially significant consequences for the economy as a whole, particularly for the agri-food sector here in Northern Ireland.

**Ruth Taillon:** If I may just add to that, 87% of farm income in the north is directly dependent on EU subsidies currently, which is a huge amount to replace. If there are problems, for instance, with the currency dropping and other economic downturns over the next two or three years, at a time when those subsidies from the EU are stopping and it is a devolved matter, it will be very hard to see how those subsidies could be replaced in anything like the amounts that are there now.

Also, we would be concerned because there is a different model of agriculture on this island from that in Britain. The EU policies support, for instance, rural populations by supporting rural development and diversification, to keep people in rural communities. That also has impacts on the environment, because even if the farmers are not productive in that sense, and are dependent on their subsidies, they are managing the environment and the land, which has huge significance. There is also opening up, for instance, to beef from America, Brazil or wherever, and

hormones and antibiotics and GMO products that we will not be able to control. All of those will affect the rest of the UK but will disproportionately affect the farming industry here.

**Lord Whitty:** Apart from the international world trade dimension, all of those policy issues would become, in the absence of the EU, devolved matters for the Northern Ireland Executive.

**Peter Sheridan:** That is where some of the tensions are coming, because they are devolved. Agriculture, energy and the environment are all devolved matters, so there is a danger of it being recentralised again as part of the negotiations, which has the potential to impact on the relationships here, because one of the reasons people signed up to the Good Friday agreement was devolution. That could be removed because they cannot negotiate their position on it.

**Ruth Taillon:** Also, there were all the promises that were made about the money being clawed back to the Treasury and redistributed. Agriculture, education and health are all devolved matters. It is easy to foresee that a few years down the line, all the money that was supposed to be clawed back will not be there, and then we will have even more problems trying to support those areas of the economy that have been supported by us getting more of our share of EU funding than other regions.

**The Chairman:** We still have one or two really important areas to explore, and about 15 minutes to do it, so we will all have to be a little self-restrained. There is no one better, perhaps, than Baroness Armstrong to start with the next question.

Q62 **Baroness Armstrong of Hill Top:** On the peace process, the last time I met you, Peter, you emphasised the importance of continual work. This is an injection of concern. The peace process was based, in one sense, on both the Republic of Ireland and the UK Government being co-guarantors, but they are both members of the EU and that is changing. Where do you see the real challenges in the peace process coming?

**Peter Sheridan:** On the one hand, a huge amount of progress has been made here in the peace process, but you have only to look back to this time last year—last Christmas—when we were in crisis talks with both the Foreign Minister and the Secretary of State, who had to become involved in the fresh start. The Christmas before that was the Stormont House agreement. It is still a fragile place, and one of the real dangers of this, with the unpicking or unravelling of the Good Friday agreement, is that starting to impact on those relationships.

The constitutional arrangements of Northern Ireland were worked out in the context of continued partnership between Northern and Southern Ireland, and between London and Dublin, so you are absolutely right. Those tensions could manifest themselves over the next couple of years because, on the one hand, there may well be the opportunities for trade to be removed from London across to Dublin. The Republic of Ireland has already said that it stands with Europe and for Europe, and that even though it has its closest relations with Britain, nevertheless it sees its future in Europe, so one would imagine those tensions will continue.

Likewise, there are tensions between political leaders in Northern Ireland and the Republic of Ireland.

Organisations such as ourselves will have to redouble our efforts around those informal relationships, not just in political life but in ordinary life—between teachers, between chief executives of councils—so that we continue to build those relationships that are less than the formal relationships. We should not become complacent about it. One of the concerns we have is about how much relevance the Good Friday agreement will have in the negotiations. We were not particularly relevant during the referendum, and we need to be careful that we are relevant during the negotiations.

To be fair to our politicians, I think they all see that and recognise that. However, as this starts to gather momentum, it is about how we continue to inject ourselves in that, because silly decisions could be made without reference to thinking about the impact on the unique circumstances here, so we will need to have our politicians at the table and involved in it.

**The Chairman:** Presumably you will also need quite a high-level involvement with the continuing peace process. You rightly emphasised the local elements of the nuts and bolts, civic society and people getting to know each other and learning to trust each other, but it also needs a political signature at a very senior level as well.

**Peter Sheridan:** It needs that reaffirming at the senior level.

Q63 **Lord Selkirk of Douglas:** May I ask a question about the impact of EU funding on Northern Ireland, especially over and above the funding guarantees given by the Treasury? I take absolutely the point that you have made about the importance of having relevance in negotiations. Are the guarantees given by the Treasury sufficient to mitigate the effects of the withdrawal of EU funding, particularly in relation to cross-border infrastructure projects such as the A5 western transport corridor, the Ulster Canal and Narrow Water Bridge, and the north-west gateway initiative. Can you give us some picture of how important this is? I understand the guarantees last until 2020.

**Peter Sheridan:** Some commitments that have been made will depend on the Chancellor's Autumn Statement and how much commitment is in that, but nevertheless that will still be up to only 2020. Of course, EU funding was only up until 2020, so none of us knows what is beyond that and what the commitments will be. We have been particularly fortunate here in that about £1.3 billion of EU PEACE programme money went to particularly the border communities to help deal with some of the issues between communities on both sides of the border. None of us sees how that will be replaced and, as Ruth has said, we have some commitment under PEACE IV but there will be no PEACE V, and it is difficult to see whether the British Government want a similar funding arrangement; none of us can see that at this time. We are waiting until the Autumn Statement to see whether commitments made under PEACE IV will be guaranteed by the British Government.

Q64 **Baroness Armstrong of Hill Top:** The other big issue that was around during the peace process and the Good Friday agreement, and that has

been very important since, is cross-border police and security co-operation. As the world becomes more dangerous, that level of co-operation becomes even more important. What do you see as the challenges and the threats?

**Peter Sheridan:** I will put on a former hat; I was a cross-border superintendent responsible for the border along with a colleague of mine. My former chief constable, Hugh Orde, has pointed out in the UK some of the difficulties for UK policing versus Europe, with our interaction with Europol and so on. We will not get access to those databases that we have access to now; extradition procedures will start to become difficult. It took a long time here to work through until we got to a workable solution. On one level, policing will continue across the border; those relationships will continue.

**The Chairman:** Is it not fair to say—it has certainly been reported to me—that the personal quality of those relationships and, as it were, the corporate attention to those relationships is streets better than it would have been, say, a generation ago?

**Peter Sheridan:** Absolutely. It is, and part of that is a result of the agreement and willingness to work together. It becomes difficult in the sharing of intelligence and the sharing of information. The day-to-day relationship between the police here and the Garda Síochána will not change; I do not see that changing. On sharing of intelligence and the movement of criminals across the border, if there is any border again, particularly if there are trade tariffs and so on, the likelihood of smuggling becoming particularly relevant is something that they will be very alert for. It is the legal arrangements that will be difficult, around Europol and Interpol. We have had access to that, and that will be more difficult and more challenging than the day-to-day relationship between the police and the guards.

**Lord Jay of Ewelme:** So you would see it as being in your interests that we should continue to have a close relationship of some kind with Europol and others.

**Peter Sheridan:** Absolutely.

Q65 **Lord Selkirk of Douglas:** Can I ask a very brief question? If, during the course of the discussions and negotiations that take place, you wanted to make representations, would you go through the First Minister? How would you raise matters?

**Peter Sheridan:** We would probably make it through all the political parties. We have regular meetings and relationships with all the political parties, so in trying to get stuff on the agenda we use them all.

Q66 **Baroness Wilcox:** In its contingency plan published immediately after the referendum, the Irish Government identified the implications for social welfare provision, the Irish energy market and the cross-border health services as key issues. What are your thoughts on this and the implications of Brexit in this context?

**Peter Sheridan:** The only one I have any knowledge of is the energy market, because in Northern Ireland we will be in difficulty in a few years'



time around energy. The North-South Interconnector was a critical part of that. I do not know what impact Brexit will have on it but one would like to think that these things will be worked through and we will not be left with no electricity as a result of Brexit.

**The Chairman:** Without going on at length, our colleagues from another place, as we would call it, are in this place next door, examining these very issues.

**Ruth Taillon:** Perhaps I may respond on the health issue. There has been tremendous work done by the health authorities on both sides of the border to work together. We have, for a number of years now, had an entity known as Cooperation and Working Together, which involves the health authorities adjacent to the border on both sides. They have been largely, though not entirely, funded through the EU INTERREG programme. In the last programme I think they got €53 million, or at least it was €53 million for health co-operation across the border in the INTERREG programme, and CAWT got most of that. They have done tremendous work in terms of setting up so that doctors and other personnel can cross the border, patients can cross the border to get treatment where there are spaces, and all those sorts of things.

There have also been a couple of other important bilateral developments. One is around children's cardiac surgery, which now mostly takes place in Dublin, so children cross the border for that all the time. That was politically very sensitive for quite a long time, but the medical arguments finally held sway. Also our new radiology unit in Altnagelvin in Derry is a cross-border initiative between the two Governments. It is funded and staffed from both sides of the border, and patients from both sides of the border can go there for radiology treatments. That has been a huge development that took ages to come to fruition, but a lot of it could be threatened because a lot of it has not been mainstreamed. A lot of these initiatives still depend on EU funding. They have done a lot of work on cross-border protocols for professional qualifications and all of that. Again, though, it has been done in the context of two European member states, so a lot of that could get lost if recognitions for people get changed, or anything like that.

**Baroness Wilcox:** I have asked this question once or twice now and we have been getting similar answers to this. It seems that one of the good things of our coming here today is that you can start to plan what you are going to go towards. Having these questions asked of you, I can see again and again which are the important things and which are the things you will want to come back to the British Government on, to speak to them and see what you can do. There was a third thing, which was social welfare provision.

**Baroness Armstrong of Hill Top:** May I follow up on social welfare, because that was one of the big issues of conflict within the Executive recently?

**Dr Soares:** To begin, a lot of the social welfare co-ordination that takes place between the Republic of Ireland and the UK falls back on EU regulations. As to what the UK decides to do post-Brexit, specifically how it addresses Irish citizens—I am not referring to non-Irish EU citizens—within

the terms of the common travel area, frankly the UK can decide to do whatever it likes once it is outside the EU, and it can continue to give certain privileges to Irish citizens according to what already exists in UK law in terms of how it privileges Irish citizens, but Ireland will be restricted in what it can do to reciprocate once the UK leaves the EU. For issues of social welfare co-ordination—pension rights, child benefit rights and those transfers that eased under the EU—Ireland will be restricted in what it can do because it cannot be seen to be privileging UK citizens who are no longer within the EU unless, again, Ireland is able to argue for a special arrangement as a member of the EU, given its specific geographical position and its relationship with Northern Ireland and the UK.

**Q67 The Chairman:** Thank you. We begin to come to the conclusion. I am going to suggest that you offer any final thoughts for us. Have we missed anything? Perhaps Ruth might like to lead.

**Ruth Taillon:** I was just going to say that we have a number of briefing papers on different aspects of this, to which we will send you the links. They go into more detail. Most of those were written before the referendum, but I do not think the issues have really changed, although the concerns have changed. For instance, we have done a lot of work on family benefits, particularly for cross-border workers. That is where it gets complicated, if people are crossing the border because one parent lives on one side and the other lives on the other, and one person gets sick, or whatever.

Those sort of things, as I say, get very complicated. Until now we have fallen back on the EU regulations, but it is also a project that has been partnered with the North/South Ministerial Council, so it chairs the meetings of our advisory group for that project. We also have the departments north and south on that board with the Citizens Advice workers.

We have some evidence of what the social welfare issues will be. I am not an expert in it. It is very complicated, but we will make sure that you have the links to all our background documents.

**Peter Sheridan:** I have a small ask. It is important to ensure that the relationship between Ireland and the UK will change as little as possible after this. That would be a key win for us. Also important are the protection of the peace process, which is bespoke to here, measures to protect the economy—because I think we are in real danger of being isolated here—and protection of the common travel area.

**The Chairman:** Thank you. That is very clear. We are conscious that all this impacts on people as well as being a matter of high strategy. We are very grateful for your evidence and the way you have put it, as well as for your offer of continuing input, which would be appreciated because we shall be looking at this until it has all been tidied up, and we do not know when that will be. Meanwhile, I am grateful to you and I declare this formal session closed. We will now adjourn.

## **The Centre for Cross-Border Studies – Written evidence (BUI0012)**

This document has been prepared by the Centre for Cross Border Studies as a contribution to the House of Lords European Union Select Committee's inquiry on UK-Irish relations and Brexit.

### **About The Centre for Cross Border Studies**

The Centre for Cross Border Studies (CCBS), based in Armagh, Northern Ireland, has a strong reputation as an authoritative advocate for cross-border cooperation and as a valued source of research, information and support for collaboration across borders on the island of Ireland, Europe and beyond.

The Centre empowers citizens and builds capacity and capability for cooperation across sectors and jurisdictional boundaries on the island of Ireland and further afield. This mission is achieved through research, expertise, partnership and experience in a wide range of cross-border practices and concerns.<sup>1</sup>

The response that follows, therefore, is closely informed by the Centre's particular concerns and builds on the series of Briefing Papers it published in the run-up to the referendum on the UK's membership of the European Union.<sup>2</sup> It will address the specific issues posed by the Committee, namely: "soft border" arrangements, North-South relations during Brexit, the Common Travel Area, the rights of UK and Irish citizens, and the trading relationship between the UK and Ireland. These issues are explored in more detail in a Briefing Paper published as a supplement to this submission.<sup>3</sup>

#### Brexit and present 'soft border' arrangements

1. The 'soft' nature of the Northern Ireland-Ireland border owes much to the cessation of paramilitary violence (which saw an end of the 'hard' securitisation of the border) and the UK and Ireland's membership of the EU and its Internal Market.
2. If the UK Government – in order to control immigration of EU citizens to the UK – opts to relinquish access to the EU's Internal Market or to leave the Customs Union, then the current status of the Ireland-Northern Ireland border cannot remain unaltered.

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<sup>1</sup> For further information, please visit [www.crossborder.ie](http://www.crossborder.ie)

<sup>2</sup> Published in collaboration with Cooperation Ireland, these were: "The UK Referendum on Membership of the EU: What does it mean for us?"

(<http://crossborder.ie/site2015/wp-content/uploads/2016/02/CCBS-and-Cooperation-Ireland-EU-Referendum-Briefing-Paper-1.pdf>), "Potential Constitutional Consequences" (<http://crossborder.ie/site2015/wp-content/uploads/2016/03/EU-Referendum-Briefing-Paper-2.pdf>), "Cross-Border Cooperation, Peace-Building and Regional Development" (<http://crossborder.ie/site2015/wp-content/uploads/2016/06/CCBS-Cooperation-Ireland-EU-Referendum-Briefing-Paper-31.pdf>), "Citizen Mobility" (<http://crossborder.ie/site2015/wp-content/uploads/2016/06/CCBS-and-Cooperation-Ireland-EU-Referendum-Briefing-Paper-4.pdf>), and "Economic Development" (<http://crossborder.ie/site2015/wp-content/uploads/2016/06/EU-Referendum-Briefing-Paper-5.pdf>).

<sup>3</sup> Centre for Cross Border Studies, Briefing Paper: Brexit and UK-Irish Relations (October 2016), <http://crossborder.ie/8933-2/>.

3. Whereas the continued freedom of movement of UK and Irish citizens is subject to the possibility of retention of the Common Travel Area, the movement of other EU citizens may be curtailed and, crucially, the free movement of goods as currently enjoyed across the Ireland-Northern Ireland border will come to an end, irrespective of the level of securitisation or visibility of the border.
4. In terms of movement of non-Irish EU citizens across the Ireland-Northern Ireland border, there may be no need to establish *permanent* passport control posts. Instead, an approach could be taken that would permit the entry of non-Irish EU citizens into Northern Ireland from the Republic of Ireland in the knowledge that those who do so without the requisite entitlement would not legally be able to reside, seek employment, study or gain access to social welfare and healthcare services or benefits. Moreover, in order to avoid the political instability that would be caused in Northern Ireland if any passport controls were to be imposed that would be discriminatory in nature between UK citizens, this approach could be extended to movement of non-Irish EU citizens from Northern Ireland into other parts of the United Kingdom.
5. In terms of the movement of goods across the Northern Ireland-Ireland border Brexit will undoubtedly have an impact. Although electronic means could be introduced to manage the administrative procedures for the exporting and transportation of goods across the border, the current openness of the border will inevitably be affected by some type of customs controls.
6. For the Northern Ireland-Ireland border, the introduction of customs controls could not only make it a site for increased criminality linked to smuggling activities, but also – if such controls require a physical presence – a target for renewed violence capable of undermining the ongoing peace process.
7. If during the Brexit negotiations the UK Government does not secure continued access to EU cross-border and transnational programmes, then the continued development of cross-border transport and energy infrastructure could be placed in jeopardy, resulting in a Northern Ireland-Ireland border that would inhibit growth of cross-jurisdictional flows.
8. Cross-border cooperation between local councils and regional health authorities may also see a reduction in their intensity if EU funding for such cooperation is not replaced and if policy divergences result in increased administrative or regulatory obstacles.
9. The potential negative consequences of Brexit for the Northern Ireland-Ireland border could be mitigated to a significant extent if the UK Government were to actively explore and pursue with the devolved administration in Northern Ireland, the Irish Government and the European Commission the possibility of Northern Ireland retaining some level of access to EU funding programmes and the Internal Market.
10. The Centre for Cross Border Studies and a number of other organisations involved in cross-border cooperation have together considered the challenges for cross-border cooperation in the context of Brexit,<sup>4</sup> and the

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<sup>4</sup> The other organisations involved are: Cooperation and Working Together (CAWT), Cooperation Ireland, Derry and Strabane District Council, Donegal County Council, East Border Region, Irish Central Border Area Network, and the North West Regional Working Group.

primary common concern is that the commitments for cross-border cooperation embedded in the 1998 Belfast/Good Friday Agreement remain a priority for both the UK and Irish Governments. Cross-border cooperation will be increasingly important to address the challenges resulting from economic, social and political uncertainty and instability. It is essential that the “soft infrastructure” that has been established to support cross-border cooperation – the statutory cross-border bodies, links at Departmental and local government level and within civil society networks and projects – be protected and nurtured. We are acutely aware of the centrality of the border to the conflict and the dangers that could materialise as a result of uncertainties about the nature of the border. Also, as migration and citizenship issues emerge in the context of any economic stagnation or decline, social cohesion in the border region and other disadvantaged areas will likewise be threatened.

11. We are concerned, therefore, to ensure that the interests of the border region remain central to the deliberations of both the UK and Irish Governments and the Northern Ireland Executive prior to and following the notification of Article 50. In particular, it is essential that:
- measures be taken to ensure the sustainability of cross-border and transnational projects that are currently funded under EU 2014-2020 programmes. It is important that project promoters and participants be reassured that projects will continue to be financially supported until 2020;
  - existing EU directives and regulations that have been transposed into UK/Northern Ireland law should remain in place until such time as any proposed changes have been subject to comprehensive territorial, equality and environmental impact assessments;
  - means should be found to ensure the eligibility of continued participation by Northern Ireland ( and those parts of Wales and Scotland currently involved in INTERREG programmes with Ireland) in the European Territorial Cooperation Programmes and transnational programmes such as Horizon 2020, Erasmus+, Life and Europe for Citizens (which would require a financial commitment from the UK Government);
  - whether or not the UK is excluded from EU programmes and projects, the Irish and UK Governments must take steps to ensure new and sufficient resources are available for the social and economic development of the border region, including local authority and civic society-led projects. On the UK side, additional funding allocations should be derived from the UK’s current contribution to the EU budget that will revert to HM Treasury post-withdrawal from the EU, and not from the “block grant”;
  - additional funding be allocated by the UK and Irish Governments to the PEACE IV programme specifically to address the challenges of inter-community conflict and cross-border relationships in the context of political and economic uncertainty and instability arising in the post-referendum context; and
  - a “PEACE V” programme, funded by the UK and Irish Governments should be developed – in consultation with civil society organisations and local authorities – specifically to address the challenges of inter-community conflict and cross-border relationships in the context of uncertainty and instability arising in the post-Brexit context.

12. The full potential of the North-South collaboration between the two administrations on the island of Ireland can only be realised if the Northern Ireland Executive adopts a clear and unified policy on Northern Ireland's post-Brexit future.
13. Determining Northern Ireland's post-Brexit future must involve a North-South dimension that is not restricted to political representatives and senior officials from both administrations. North-South relations during Brexit must encompass all sectors of civic society in a way that actively involves them in the shaping of policies.
14. North-South relations during Brexit can be affected by decisions made by the UK Government. Therefore, in order to prevent unnecessary obstacles to the maintenance of optimal North-South relations during Brexit, the UK Government should undertake impact assessments of any policy decisions or statements it makes during this period that would have relevance to those relations.

#### The Common Travel Area

15. Brexit means the continuation of the Common Travel Area in its current form cannot be assumed to be guaranteed. The post-Brexit future of the CTA is not dependent on negotiations solely between the UK and Ireland – retention of at least some of the benefits of the CTA will be dependent on EU agreement.
16. If the UK's future relationship with the EU included access to the Single Market with the acceptance of the principle of freedom of movement there would be no obvious reasons for the EU to oppose the retention of the CTA. This would offer the greatest possibility of continuing with the current CTA arrangements post-Brexit.
17. In the event the UK does not retain access to the Internal Market with its associated principle of the free movement of EU citizens, the UK could opt to continue with the current arrangements in terms of freedom of entry to Irish citizens as set out in the Immigration Act 1971, as well as the associated rights conferred to them under the British Nationality Act 1981. However, this would not address serious concerns regarding the right to remain of EU citizens and their families already resident in Northern Ireland and the rest of the UK, which the UK Government should clarify as a matter of urgency.
18. The ability of the Irish Government to maintain reciprocity with a post-Brexit UK outside the Internal Market will be dependent on whether it is able to secure from the EU and the other Member States the necessary exemptions. This will mean not simply retaining the Common Travel Area in terms of allowing entry of UK citizens into the Republic of Ireland, but also in terms of continuing to offer them the same rights as EU citizens in areas such as employment and social welfare. In order to achieve this outcome leadership must come from the Irish Government so that the post-Brexit retention of CTA arrangements is not seen by the EU and its Member States as conferring preferential treatment to a departing Member State, but rather as the EU adopting a flexible approach to accommodate the specific needs of one of its Members.

#### The rights of UK and Irish citizens who live and work in each other's countries

19. Approximately 23,000 to 30,000 people commute across the Irish border to work, returning home daily or at least once a week. Although a number

of these are non-Irish and non-UK EU citizens, the vast majority are Irish and UK citizens travelling across the border to work in each other's jurisdictions.

20. Post-Brexit existing cross-border workers may face daily passport controls and visa or work permit systems. The recognition of professional qualifications is also reliant on EU legislation and could present further obstacles for jobseekers, cross-border workers seeking promotion or alternative employment, or employers seeking specific skills.
21. Post-Brexit uncertainty and complications for cross-border workers and employers could occur should the UK amend or weaken existing legislation or fail to implement new and emerging EU legislation.
22. Brexit will also affect arrangements for UK and Irish citizens working in each other's jurisdictions currently provided for under EU Social Security Coordination. Following Brexit, and in the absence of EU Social Security Co-ordination being replaced, this would no longer occur and cross-border workers may fail to qualify for assistance.
23. If the CTA survives Brexit, permanent residence for Irish citizens may be safeguarded, although an exemption to the health insurance rule would be required for all other EU nationals in order not to deny the same status to those who are economically inactive spouses or dependents of Irish citizens resident in the UK.
24. The ability of the Irish Government to offer similar rights to UK citizens will depend on the outcome of negotiations with the EU. The Government of the Republic of Ireland should lead interactions with the EU on these matters, emphasising its specific geographical context, as well as its role in supporting the peace and reconciliation process in Northern Ireland. Negotiations on these matters should not be presented as offering "special deals" to the UK, but rather as accommodating the needs of a Member State.

#### UK-Irish Trade

25. A post-Brexit UK outside the Internal Market or the Customs Union would have serious consequences for the economies of both jurisdictions on the island of Ireland.
26. The imposition of tariffs on trade with the UK would have a potential negative effect on the overall flows between the UK and Ireland. However, it would perhaps affect Northern Ireland more deeply given its trading links with the Republic of Ireland.
27. If the UK Government does not secure access to the EU's Internal Market and if barriers in the form of tariffs and customs controls are imposed, then the current trade between the UK and Ireland, and specifically between Northern Ireland and the Republic of Ireland cannot remain unaffected. Any customs controls will mean additional administrative and financial burdens to Irish and UK businesses engaged in trade between their jurisdictions.
28. Restrictions to the movement of EU labour into the UK will also impose further obstacles to UK businesses, including those in Northern Ireland where the agri-food sector, for example, is particularly reliant on non-Irish EU labour.

## **The Consultative Committee of Accountancy Bodies – Ireland – Written evidence (BUI0009)**

The Consultative Committee of Accountancy Bodies-Ireland is the representative committee for the main accountancy bodies in Ireland. It comprises Chartered Accountants Ireland, the Association of Chartered Certified Accountants, the Institute of Certified Public Accountants in Ireland, and the Chartered Institute of Management Accountants.

As an all island group, the day to day business of CCAB-I's members will be impacted by Brexit as we continue to work with our colleagues, members, students and stakeholders on both sides of the border.

### **With regard to the Irish land border, how real is that the present 'soft border' arrangements will be undermined by Brexit?**

The border between Northern Ireland and the Republic of Ireland will, potentially, be undermined in terms of trade and the movement of people because of changes to laws on foot of the UK's decision to leave the European Union. The extent of the problem depends of course on the course of action the UK will take in negotiating its exit from the EU and any subsequent trading arrangements negotiated.

The UK is one of Ireland's most important trading partners and the political history of the land border makes the relationship between Ireland and UK particularly significant. For example:

- The UK is Ireland's largest trading partner in the EU
- Ireland is the fifth largest destination for UK exports
- Over €1 billion in goods and services are exchanged between Ireland and the UK every week
- Irish exports to the UK are worth more than €1.2 billion per month
- Ireland imports 89% of its oil and 93% of its gas from the UK
- In terms of the agriculture, food and drink sector (the agri-food sector), Ireland exports 41% of all its produce to the UK
- There are over 500,000 Irish people living and working in the UK
- There are over 250,000 UK citizens living and working in Ireland.

The big issue for many Irish citizens is their freedom to live and work in the UK. The UK is a home from home for hundreds of thousands of Irish people, so any restrictions on the ability of Irish people to live and work in the UK will have a lasting negative impact for both jurisdictions. The same applies to people from Northern Ireland who live and work in Ireland including the thousands of people who cross the "soft border" on this island every day for work purposes. We believe it is in the best interest of Ireland and the UK to act now in order to preserve our relationship for trading purposes and more importantly, to accommodate the unique cross-border relationship between the people of Northern Ireland and the Republic of Ireland for the purposes of political and economic stability on the Island of Ireland.

### **How can effective North-South relations on the island of Ireland be maintained and enhanced during Brexit?**



The Consultative Committee of Accountancy Bodies – Ireland – Written evidence (BUI0009)

The Good Friday Agreement (1998) and the St. Andrews Agreement (2006) have effected successful institutional arrangements between the North and South of Ireland. Products of those agreements have included the North-South Ministerial Council and a number of government bodies with cross border functions including:

- Tourism Ireland which markets the island as an entity for tourism purposes,
- Inter-Trade Ireland which encourages and promotes cross border trade,
- Waterways Ireland which manages inland waterways, including waterways which criss-cross the border and
- The Special EU Programmes Body which manages cross-border implementation of EU peace funds.

While the existence of these bodies should not be affected by Brexit, their existence highlights the unique relationship between Northern Ireland and the Republic of Ireland and they will become increasingly important in the post-Brexit environment. The appropriate authorities in both jurisdictions should signal their ongoing commitment to the preservation of these institutions, and re-examine their work plans to accommodate any arrangements, legal obligations and approaches which will no longer be mandated under the EU Treaties.

### **Is it possible, and if so how, to retain the current Common Travel Area arrangements following UK withdrawal?**

The UK/Ireland's Common Travel Area arrangements predate the EU's establishment and are protected by protocols to the Treaties. This should mean that the common travel area between Ireland and the UK ought to continue to exist post-Brexit.

In case there are difficulties in securing the continuance of the Common Travel Arrangements, the institutions noted in the previous answer should be cited as examples to support how the two jurisdictions must co-exist and function successfully during and after Brexit.

### **How will Brexit affect the rights of UK and Irish citizens who live and work in each other's countries?**

If the UK reverts to domestic rules and does not join the EEA or EFTA, Irish nationals who work or study in the UK may require visas to remain in the UK (and vice versa). Employers will consequently face additional visa costs. For example, there are a large number of multi-national companies operating in Ireland who have a mobile workforce throughout the EU. As a result of Brexit, these companies may be required to organise work permits and visas for their employees who work in the UK.

According to a census taken in 2011, a total of 14,800<sup>5</sup> persons regularly commute between Northern Ireland and the Republic for work or study, with 6,500 travelling to Ireland from Northern Ireland and 8,300 travelling in the other direction. Ireland and the UK should negotiate a bilateral arrangement

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<sup>5</sup> Census 2011 Ireland and Northern Ireland, Central Statistics Office and Northern Ireland Statistics and Research Agency

allowing the free movement of workers between the two countries. Economic and social progress between the two jurisdictions would be greatly hampered if such workers are impeded by border controls or work visas in going about their job and daily commute.

Negative tax consequences for workers and employers alike should largely be mitigated by the provisions of the Ireland/UK Double Taxation Agreement, but it may be opportune for the revenue authorities of both jurisdictions to re-examine these arrangements to ensure minimum disruption.

### **What will be the impact on the trading relationship between Ireland and the UK?**

If the EU and the UK fail to negotiate a customs regime and the UK does not join the EEA:

- imports into Ireland from the UK will be subject to EU customs duty, payable by the Irish importer thereby increasing the cost and administrative burden for the Irish importer.
- Irish purchasers may seek to source other cheaper suppliers based elsewhere in the EU.
- exports of Irish goods could be more expensive to the UK customer if the UK implements its own customs regime, making Irish goods less attractive and diminish trade between the countries.

Currently, between Ireland and the UK and the rest of the EU, trade law is set exclusively by the EU as part of the “Common Commercial Policy” set forth in Articles 206 and 207 of the Treaty on the Functioning of the European Union. Article 207 (3) says that private deals between one EU country and a “third country” are not permissible in the field of tariffs and customs. Given the close relationship between Ireland and the UK, consideration should be given to Ireland and the UK negotiating their own trade agreement. Unfortunately, because trade is exclusively within the competence of the EU, such a bilateral arrangement would not be possible without the consent of Ireland’s EU partners.

However, because of the common land border between Ireland and the UK, and the history of relations between the jurisdictions, some form of bilateral trade and customs agreement between Ireland and the UK will be an imperative. This perhaps could be at an administrative level to simplify the customs, excise and VAT arrangements between the two countries without altering the substance of the Single Market. Because of the constraints of Ireland’s EU Treaty obligations, there is greater scope to tackle the problem at an administrative rather than at a substantive level.

It would represent both an unfair and disproportionate act by Ireland’s EU counterparts to stop such an agreement being made between the UK and Ireland or vetoing such a deal being part of any UK withdrawal agreement.

29<sup>th</sup> September 2016

Co-operation Ireland and The Centre for Cross-Border Studies – Oral evidence  
(QQ 56-67)

**Co-operation Ireland and The Centre for Cross-Border Studies –  
Oral evidence (QQ 56-67)**

[Transcript can be found under The Centre for Cross-Border Studies](#)

## Co-operation and Working Together, ICBAN and East Border Region – Oral evidence (QQ 68-75)

Evidence Session No 6

Heard in Public

Questions 68 - 75

Monday 17 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty; Baroness Wilcox.

### Witnesses

Shane Campbell, CEO, ICBAN; Pamela Arthurs, Chief Executive, East Border Region; Bernie McCrory, Chief Officer, Cooperation and Working Together.

Q68 **The Chairman:** We are now live, so I will call things to order for a formal session of the Lords European Union Select Committee. We are in Ireland this week, both north and then south, looking at the implications of Brexit for this island and more widely. We have had some interesting evidence this morning, with quite a strong emphasis on cross-border issues, but that is not our exclusive interest. We are really pleased that you have been able to find the time to give us an hour this afternoon. My colleagues and I have biogs of you, but perhaps you would like simply to introduce yourselves, beginning with Pamela.

**Pamela Arthurs:** My name is Pamela Arthurs. I am chief executive of East Border Region Ltd. That is a local authority-led cross-border organisation, comprising three local authorities in Northern Ireland and three in the Republic. It is along the east coast, so basically the area between Belfast and Dublin.

We came into existence in 1976, because we had back-to-back development in Ireland and Northern Ireland for many years. It was locally elected politicians who decided that we should turn our backs, face the border and talk to each other, and perhaps there would be areas of common concern. We have been in existence 40 years now, so there are obviously a lot of areas of common concern.

The key driver to all the work we have done since, which you will hear about later, has been the European Union, the fact that we have been members of the European Union, that the European Union funded the organisation. In the 1970s and the 1980s, cross-border co-operation was not important anywhere. It was not in Belfast; it was not in Dublin. While members at local and regional levels saw the need to co-operate, to work together for the good of the people, there was nothing behind that. There was no finance except coming from the local authorities themselves, who were under pressure at the time. There was also the backdrop of our

Co-operation and Working Together, ICBAN and East Border Region – Oral evidence (QQ 68-75)

political situation, which is always important. Again, the EU was useful there because it was a neutral venue and a neutral player in all that. It enabled us, as all the political parties, to work together, despite what was happening at the national level.

**Bernie McCrory:** My name is Bernie McCrory. I work for Cooperation and Working Together. That is a voluntary partnership of the statutory health services in Northern Ireland and the Republic of Ireland. It is particularly focused on the border region. It is the Western and Southern trusts in Northern Ireland, and the Health Service Executive in the Republic of Ireland.

**The Chairman:** To be clear, and forgive my relative ignorance in this, what proportion of the land border would you cover? Perhaps another way of putting it is: how far east do you come?

**Bernie McCrory:** Our health service is on both sides of the border, so it is the entire border we support.

**The Chairman:** And yours, Pamela, is more local, with the six local authorities.

**Pamela Arthurs:** Yes, on the east coast, really the area between Belfast and east Dublin.

**Shane Campbell:** Good afternoon and thank you for the invitation. I am Shane Campbell from the Irish Central Border Area Network, an organisation very similar to Pamela's. The area we cover is the central border region, as it is known. It occupies quite a land area in the north-west quadrant of the island. There are eight council areas in ICBAN: from Northern Ireland are Fermanagh & Omagh, Mid Ulster, and Armagh City, Banbridge and Craigavon; then the Irish county council areas are Donegal, Sligo, Leitrim, Cavan and Monaghan.

Our organisation is a younger cross-border group than East Border Region. We have been going 21 years, from 1995. The reason for the establishment of our group was that the communities on both sides of the border had common problems and found that the best way to resolve those was through common solutions that they could take together. Often these communities have more in common with the communities on the opposite side of the border than they may have respectively with Belfast and Dublin. Our region is very rural by nature. It is some 750,000 people. The predominant industries are small to medium-sized enterprises. There is little foreign direct investment. Industries are around agriculture, engineering, and construction. It is an ageing population.

We are run as a company limited by guarantee, similar to East Border Region. Our board comprises elected representatives that are cross-community from Northern Ireland, cross-party from the Irish Republic and cross-border.

**The Chairman:** As a follow-up question, rather like I asked Bernie, does the effect of your coverage mean that you virtually join up next door to Pamela's organisation?

**Shane Campbell:** Yes.

**The Chairman:** So in both structures you are covering the whole border—

499 kilometres.

**Shane Campbell:** Yes.

**Pamela Arthurs:** Yes.

**The Chairman:** That is really helpful. In a sense, you have explained the work that you do already, which is a question I was going to ask. It would be helpful, first of all, if you could just confirm whether all your funding is EU-directed or whether some of it is seconded from county councils and other local authorities, or other sources. The follow-on question then is to say a bit more about the projects you are involved in, not just the baseload, but the running costs of what you are doing and the implications of Brexit.

**Bernie McCrory:** From my point of view, there is a very small hub, known as the CAWT Development Centre. There are a number of locations, but there are only 12 people who actually work there. All those salaries are funded by the statutory health services on an equal basis, north and south.

**The Chairman:** So you do not have EU funding directly, except in so far as there is infrastructure funding.

**Bernie McCrory:** Yes, for projects, but we do a lot more work, other than EU-funded work. We do commissioned work from the two departments of health. For example, we led on the radiotherapy centre, the original project.

**The Chairman:** This was in Derry/Londonderry.

**Bernie McCrory:** Yes. Some 10 years ago, for example, it was recognised that people from Donegal had to go to Dublin to have their radiotherapy. In some cases, young mothers were opting not to have it rather than leave families for six weeks. Essentially, we built a relationship between Donegal and the Belfast City Hospital. That allowed people to go and receive their treatment and come back on the same day. That in fact forced a spatial analysis of Belfast City Hospital, which told us that the capacity, even for Northern Ireland, would expire this year. That enabled the development as it is today.

**The Chairman:** Are there any particular current projects that might be at risk from Brexit?

**Bernie McCrory:** Interreg V is very much at risk—the new funding. Thankfully about 85% of the new projects that have gone before have been mainstreamed from within the statutory services. It would certainly inhibit any new planning, because people in the border region have to compete with the regional priorities. That is where EU funding and so on is so useful to pump-prime new projects.

**The Chairman:** It is a similar question to either of you, as representing the cross-border authorities.

**Pamela Arthurs:** From the funding perspective, it is important to say that, yes, the local authorities fund us, but that is only part of our core work. We need the additional monies coming in in order for the organisations to survive, and that has been EU funding to date. From our

perspective, we have focused, as organisations, on the obvious cross-border one, which is the territorial co-operation, which requires both member states: the UK and Ireland.

The two territorial co-operation programmes are Interreg and the special Peace programme, in which the EU recognised the special nature of our situation here. That is worth about £500 million as we stand. Not one penny of that has had a letter of offer. It has been committed, but there is a problem at the moment because of Brexit. That is an immediate impact. We are waiting on various projects. We have put them through the Interreg steering committees, but not one penny has been released. I can talk about that later.

But that is only one element. It is very important to the work that we do, but the border region, north and south, has benefited from billions, in terms of EU funding for our distinct cross-border co-operation and with some parts of Scotland. If we were to lose EU funding in its totality, that would be a major issue for the border region. That is where we are unique from the rest of the UK. It is that whole border problem that we have always had.

This is a modern, prosperous area, which is still peripheral: it is still disadvantaged, there is still an awful lot of work to be done. There are still the issues around cross-border co-operation not being easy. Those issues are still there. I have worked for 20 years in cross-border co-operation. That is what makes us extremely nervous about leaving the EU: will that money come in through the UK?

We know there are competing interests out there: our farmers, our fishermen and the economics. This genuine cross-border co-operation has done so much, not just for cross-border co-operation but in terms of peace in Northern Ireland and the border counties. What will happen to that softer form in future? Given the competing interests, we have heard about all the money that there will be once the UK leaves, but quite frankly, we are not entirely convinced here that there will be the amounts of money.

**The Chairman:** Just for the record, you are still waiting for that bridge, are you not?

**Pamela Arthurs:** Yes.

**The Chairman:** I do not want to put words into your mouth, but presumably it would become even more questionable in future if there were not the EU money at all.

**Pamela Arthurs:** It would not happen.

**The Chairman:** Shane, what about your end of the border?

**Shane Campbell:** The figure for EU funding that has come into the border region is somewhere in the region of €3.5 billion for programmes. It is €17 billion in total when you consider the Common Agricultural Policy. That covers a range of projects that we as groups and organisations have been involved in, whether they are development projects or actual capital projects. It has been hugely important. Some 8% of the GDP of Northern Ireland comes in through EU funds. A lot of that is spent in the border

regions that we work in, because that has been the key area of EU policy: that it supports cross-border co-operation.

Our share in that is some €50 million of projects in the past, some 90 different projects in total, working with a range of partners from both sides of the border. Our work is now moving towards transnational Interreg projects. Aside from the Interreg that we have between Northern Ireland, the Republic of Ireland and western Scotland, we are looking towards the development of projects with partners from the Atlantic area, being an EU programme. That includes Spain, Portugal, France, as well as Ireland and the UK. Other projects are in the Northern Periphery Programme, opening us up to other areas of Europe and other members, because of the benefits of learning and sharing information.

That has been key to us. It means, as a small region, that you are able to look outside of your borders. Our work is essentially about breaking down borders. That is what cross-border co-operation is. It is breaking down the physical borders, which we do not have now. It is breaking down even what we talk about as the borders of the mind. In the past few years, we have seen huge advances in cross-border co-operation on this island.

The question is: what is the impact of Brexit? Brexit erects the borders. Brexit is taking us backwards. As Pamela says, we see ourselves as being quite unique in that regard, in comparison to the issues that have been debated elsewhere in GB about the movement of people. That is something that we are promoting here, which is the lifeline of our communities: the movement of people and the movement of goods. Any hardening effect of that border would have a detrimental impact on the social and economic development of our regions.

**The Chairman:** That is very helpful. I have one little question at this stage, as much for information as otherwise. Other parts of the European Union have similar problems. Possibly nobody here would know it intimately, but the one we would know is the link between Kent and Pas-de-Calais. Are you aware of any of these local links? Have you been in contact with any of them or picked their brains on things? Is that something you discuss? Do you meet at the European level as well, doing this kind of thing?

**Pamela Arthurs:** Yes. We have been members for many years of the Association of European Border Regions.

**The Chairman:** Yes. That is what I was feeling after. I could not remember the name.

**Pamela Arthurs:** Yes, the AEBR. We have colleagues, as we would now call them, because we have met them regularly. We have discovered that we have common links and challenges as border areas. In fact, we were surprised to find the one we did not have, compared with most of our colleagues across Europe, was a language barrier. At least we have that in common here.

In terms of the link you speak about, I do not have knowledge of it. We would have relationships now, through the transnational programmes, with some parts of Scotland, Wales and the UK. We are involved in a number of those. From my organisation's perspective, we have 14 projects



now, to the value of €114 million. A lot of those have been, as I said, approved, but they are not starting yet because the letters of offer have not been released on the cross-border programmes. Mostly it is because of the Irish concern in terms of what will happen in the middle of these programmes if the UK leaves. I would say those are legitimate concerns.

It is having an immediate impact. There is no money on the ground. For example, there is one of the projects providing €18 million for SMEs. Some 1,408 small businesses will avail of that funding. Many of them have been affected as we speak, because of the currency fluctuation since Brexit. That money needs to get out there.

With this two-year window we are talking about, where all the money may cease—we do not know—we really want to at least avail of that money, which has been approved, in the short term. We want to get that up and running and give some time to work out what is happening post the two years.

**The Chairman:** Shane, without going through it all again, is it the same experience for you or different?

**Shane Campbell:** Brexit introduces uncertainty in our planning and our development work. We are working with European partners. As a lead partner on a cultural development project, we are trying to provide an assurance that we can develop a project that will deliver on certain outputs for five member states over the next number of years. Yet we do not know whether funding will be supported for that project, because it will not get an approval until after the Autumn Statement. We do not know what pressure we will be under to spend and by what stage.

We also are unsure of the risk as we go in as ICBAN, with our office in Enniskillen, as a UK partner, and how we will be scored by others. Is it a risk or is it fair to be conceived as a risk? Our other partners, in Spain, Portugal et cetera, have those uncertainties as well. The uncertainties we have are therefore replicated or felt by others.

**The Chairman:** Bernie, are you involved in any international machinery?

**Bernie McCrory:** We have been involved in the Northern Periphery Programme with Canada, Norway, Sweden and so on, on a recruitment and retention programme for staff. Essentially, the health service is about delivery on the island of Ireland and on the west coast of Scotland. While we take cognisance of things like patient mobility directive, and we have the option to send patients out of area to another European country, it has not really taken off. It is more that we deliver services on the ground so people from either side of the border can access them more locally than they normally would if we were working on a back-to-back basis.

**The Chairman:** It is really helpful to have that perspective.

Q69 **Lord Selkirk of Douglas:** Can I ask two questions? First, how significant has common UK-Irish EU membership been in building co-operation in the border regions?

**The Chairman:** That is distinct from the funding specifically, although that obviously comes in.

**Pamela Arthurs:** I feel that it has been critical. As I said earlier, the EU has been a neutral player in our peace process. It allowed space for our politicians here, who had difficulties in terms of working together, to grab a coffee or something in Brussels, to start a dialogue and to start working together. More importantly, alongside that came the commitment from the EU, which was our Peace programme. No other part of the EU has that commitment. In order to fund the Peace programme, all the member states had to agree to that, and they did. That is certainly an example of the commitment there was.

There was no money prior to the EU for any of the type of work we were doing. At the national level, our political situation was not conducive to cross-border work. The EU enabled us to have a genuine bottom-up approach, with local people starting to talk together. Maybe only 10 years ago, the President of Ireland invited the board of East Border Region to Áras an Uachtaráin, and a number of our members had never crossed the border; they lived in Bangor, in County Down.

We are not there in terms of all this peace and stability. The huge uncertainty as to how Brexit will work out is really concerning. We do not have a plan or a way forward, and that is a big concern. Where are we going?

**Lord Selkirk of Douglas:** May I follow this up with the associated question about Treasury funding? For example, I understand funding guarantees for infrastructure projects have been offered by the Treasury up to the year 2020. I would be most grateful if you could give us your view as to what the impact is on such projects, including the A5 western corridor, the Ulster canal and narrow water bridge, and the north-west gateway initiative.

**Pamela Arthurs:** The Chancellor made two statements. Initially, when he made his first statement, we breathed a huge sigh of relief, because we thought, "This helps the current agreed programmes". But it actually did not help us. Obviously, we are talking about cross-border co-operation, so you need both Ireland and the UK to sign all these letters of offer. Ireland's attitude was, "Well, it is fair and well that the UK will say that it is funding". Initially it was anything agreed before the Autumn Statement. The Irish said, "That is not a deadline for us". They were not working with us on that.

They see a number of difficulties. They are concerned that there is an agreed programme between two member states for seven years in the middle of the funding cycle. If one of those partners leaves, where does that leave us? Even if the UK continues to fund, it is now a non-member state. That is an illegal programme, because the legal programme agreed was between two member states. You therefore need to have a consultation and agreement around that new programme. How long will that take? What form will it have? Ireland wants to protect the project partners, particularly those in the Irish Republic. The Chancellor then had a second statement, which was all the funding, but that is the problem with issuing these letters of offer.

I met with Irish officials in the Department of Public Expenditure and Reform a few weeks ago, who said, "We want to preserve these

programmes". Again, Ireland is a victim in all this. It did not want to leave; it still does not. It has three major programmes: Interreg A, Peace and Ireland Wales. They are all gone now, not through any fault of the Irish as such. The Irish want to protect the project partners and the programmes. They would like to see further programmes, which could happen, depending on the negotiations. That is the issue: the Irish saying, "We want to have more guarantees".

The other problem we have is: if, post-Brexit, the UK partners on the projects do not follow the EU rules, could there be clawback from the EU and would the Irish be liable? It could happen. All these things need sorting. That is the immediate detrimental impact that is affecting us.

**The Chairman:** Is that pretty well mirrored by your experience?

**Shane Campbell:** I would come back to the question about commonality and its significance. Pamela has covered all the detail there in the second part, but I would add that, in our opinion, commonality has made co-operation on the island easier and more fruitful, because of common arrangements, laws and requirements, and a common approach to peace in Northern Ireland and the border counties. Northern Ireland and Ireland have a similar position when it comes to matters of agriculture. We have just discussed the approach that is taken to the common funds for Interreg and cross-border co-operation.

The significance of it is that, in the absence of funding for cross-border co-operation, we go back to when the original cross-border groups were set up: East Border Region and North West. It was very much a piecemeal approach to cross-border co-operation. The funding and the example Europe has brought in, with the principle of co-operation, has meant we have been able to take a more strategic and bigger approach to addressing the challenges along this land border.

We are at a point now where north-south relations are, in my opinion, as good as they have ever been. It would be a disaster for both jurisdictions on this island to move away from that. An example we would give is our work on telecommunications and improving connectivity in the border region. It is seen to be as much of an issue on each side of the border and the common link is addressing, in the round, EU state aid principles and requirements and being able to share that. How do we develop common approaches in future if the regulations and policy issues are quite different between both?

**The Chairman:** I presume, if only as a debating point with the Chancellor and others, you must be rather chafing at the bit when interest rates are so historically low and borrowing for a good infrastructure project, whether it is a new ward or a new bridge, is something you would all really like to get on with. Is that fair?

**Shane Campbell:** Absolutely.

**Bernie McCrory:** Yes.

**Pamela Arthurs:** Yes.

Q70 **Baroness Browning:** The UK Government have said there will be "no return to the hard borders of the past" and that the common travel area

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will be retained. You have already given us an indication of how the soft border relationship has been of benefit, in very practical terms. What would the impact be if the current soft border arrangements were undermined?

**Bernie McCrory:** It would be hugely detrimental to both sides of the border. There are frontier workers—nurses, for example—who cross the border routinely, every day, to go to their work. I personally cross the border five times in the morning to get to my work and five times in the evening. That is how easy it is now, compared with years ago. When I started off as a very young nurse, I can remember an ambulance going from Northern Ireland, sitting at the border and waiting for the ambulance from the Republic of Ireland to come to the bridge, and the patient moved across. Now we routinely have ambulances, whether they are from the National Ambulance Service in the Republic of Ireland or the Northern Ireland Ambulance Service from Northern Ireland, picking up a patient where it makes sense to do so, if they are closer.

For emergency vehicles, it would be a terrible retrograde step to set up a border. For the day-to-day work that people have to go to, it would cause long delays. The cost of it would be disproportionate to any benefit that it may bring. It would affect business, the agrifood industry and all the day-to-day work we do, whether it is health, education or whatever. People now cross the border and do not perceive it. It is natural to shop and to socialise, and it makes sense economically for people to sometimes do those things in another jurisdiction.

**Pamela Arthurs:** It would be absolutely disastrous for us. The other thing that concerns us is around the common travel area. Indeed, the Prime Minister and the Taoiseach have talked about the common travel area. We had a deputation in Brussels last week where it was made fairly clear to us that it is not within the gift of Ireland or the UK to decide what the border will look like—the other 26 member states will decide. It will be an open door: it will become an international border when Brexit happens, and it is for those 26 member states to decide that. That is what concerns us. At the weekend, Tusk said that the only alternative to a hard Brexit is no Brexit. We will be impacted more than any other part of the UK.

It scares us. We would appeal to anyone who will listen to us that we want some kind of flexible arrangement. We have too much to lose here in Northern Ireland. As Shane says, we do not have the migration problem. That has not been the issue for us, but we have many other difficulties and challenges, and a hard Brexit would return us back many years. We would worry about our whole peace process and all that. How would you police the border? It was very difficult to police it during the Troubles. Why would it be any better now? We have something like 150 border roads, in a small area.

Quite frankly, it is a minefield when we start to think about the implications. I am not even talking about trade, tariffs or anything like that. It is just frightening.

**Shane Campbell:** Briefly, we would welcome a soft border. That is what the communities of the border region and in the main are saying. It is not the hard border that has been raised at EU level. We were debating

outside: was it 18,000 or 24,000 people a day who cross the border for day-to-day tasks, be they cultural, as Bernie talks about, for work or for education purposes? It must be somewhere in between. At the end of the day, it is a significant number of people.

We have quite a number of students transferring from Ireland to Northern Ireland and from Northern Ireland to the Irish Republic for their education. That is something that has benefited us for a number of years. A return to the hard border would see us return to the social and political disintegration that we experienced with the militarised approach to the border in the Troubles, over those 30 years.

Cross-border co-operation is key to some 13 districts along the border, which includes many areas of the UK. Any hardening of legislation or policy issues will severely impact on the ability for economic and social co-operation, in the interests not just of Ireland but of the UK.

**The Chairman:** If I can pick up something Bernie said about health services, there is a certain family interest in maternity services on my part. I presume, if one takes your description of literally handing over the patient from one ambulance service to another, you have two implications there. One is the immediate one, which is that more blue light cases die because of difficulties, either in the actual transit or eventually. Secondly, to some extent resources are wasted because you cannot optimise the pattern of provision if you have to duplicate everything. You are nodding, but is that the sort of thing you had in mind in terms of the damage done?

**Bernie McCrory:** Absolutely. To give you an example, with the last round of EU funding, we received about £9 million for acute hospital services. Patients in Cavan and Monaghan in the Republic of Ireland had no ENT service. They had to go to Dublin. There were children who waited four years, for example, for their first appointment. We were able to spend a relatively small amount of money: there was a very good ENT service in the Northern Ireland Southern Trust, so we appointed two more ENT consultant surgeons into the existing team of four. That meant there was a team of six, who rotated into Monaghan General Hospital, where they did out-patients and day cases. Then the patients crossed the border for more complex services to Craigavon and Daisy Hill in Newry. That service has been sustained into the future.

Basically, we are able to manage the scarce skill base of clinicians. It is very difficult to recruit clinicians into the border region; you certainly will not recruit one or two into a rota, because it is not even legal. We find that young doctors gravitate towards regional centres, because there would not be the infrastructure in some of the more local hospitals. That is one way of doing it. If we work together, instead of back-to-back, we have all those economies of scale.

Q71 **Baroness Wilcox:** Following on from that, I would ask you for a few more observations about the impact of Brexit on cross-border co-operation in such areas as police and security, social welfare provision, the Irish energy market and healthcare provision, but particularly for police and security.

**The Chairman:** And anything we have missed. I think we have healthcare

pretty clear now.

**Pamela Arthurs:** Policing the border is something that may continue irrespective of Brexit, because the police services work together pretty well as I speak. It would just make sense that they continue to do so. It is just my opinion—it is not my area of expertise—but my thinking is that that would continue. But associated with that is crime. We have had long years of smuggling and all that across our border. I suspect that that will become more apparent, if Brexit happens.

In terms of energy, again, it is not my area of expertise, but if we are not part of the single electricity market, that would have an impact, as our energy would become more expensive. Prior to the vote, we had a number of presentations from the energy providers in respect of that, and it was clear that the UK will have higher rates because of tariffs, et cetera. That would be my contribution.

**Bernie McCrory:** I would like to say something about emergency planning. Over the past 15 years, led by the cross-border health service, we have trained British Army, Irish army, RAF and Irish Air Corps personnel and all the emergency services—ambulance, police and so on. We started off very small, testing major incident plans in the hospital but using local police, army and so on. We have now moved very significantly on, through working and building those relationships. For example, the British Army can come once a year or so and train in the Curragh Camp in County Kildare, and, vice versa, we have Irish army and Irish Air Corps coming to train in Northern Ireland.

It is a completely joined-up security initiative. I would be very worried, if we had Brexit, that we would lose that. For the first time since 1922, we have British Army personnel in the Curragh Camp base, receiving humanitarian relief training and BATLS (Battlefield Advanced Trauma Life Support) training to enable them to go wherever they have to in the world. They are very well trained. That started just a couple of years ago. We have so significantly developed that and it would be a tragedy if it was to stop.

**Shane Campbell:** I have a comment, in relation to energy, on the interdependencies between the EU, the UK, Ireland and Northern Ireland. Again, it is not my sector of real knowledge, but I suppose we see a potential risk in that equation, given the importance of energy to these islands. It is similar with regard to the policing of the border. Imagination is needed as to how best to manage the situation. That 310-mile stretch of border, with some 150 different crossings of different types and sizes, has a huge volume of people and local, regional and national business traffic. As reported in the media, surely there are digital and technological means by which we can monitor and police the traffic going across the border, without needing significant levels of hard policing or any militarised presence.

Q72 **Lord Jay of Ewelme:** Continuing this theme, one of you mentioned already the possibility of customs controls of some kind. There is also the possibility of having electronic means of custom control, which would mean you had the controls away from the border. The first question is whether you have any views on that. Secondly, as a broader question, if

there is to be—and you made a very powerful case for it—a soft border or a clever electronic border that does not impinge on people crossing every day, I suppose that would have to be advocated by the Government in Dublin and they would need to get EU approval to do that. Are you and will you be talking to them, as well as to people north of the border, about that?

**Pamela Arthurs:** Absolutely. One of the MEPs, Mairead McGuinness, was talking to our deputation in Brussels last week. She is a member of the Fine Gael party, the party in power in Dublin, but is also vice-president of the European Commission. She made it very clear to us that whereas Ireland obviously wants to work with Northern Ireland and we want to get the best deal here, it is a team player. It is part of the EU project and that is where it is coming from as well. It is a very difficult situation.

If I can throw in something we have not talked about, one of the industries that will be decimated here is agrifood and agriculture for farmers. I know it is not a big sector in the whole of the UK, but here it is. Again, we were given an example in Brussels by people in Commissioner Hogan's cabinet, who said that 60% of the milk in Northern Ireland goes across the border and is processed in the Republic, primarily in Cavan. A major infrastructure has developed around processing that. It is then sold into the EU. When Brexit happens, they will not be able to sell to an EU country because the country of origin is non-EU. What will happen to our milk here? It is 60% of it. Also, the infrastructure in Cavan is geared to take that volume, and it will not be there.

**The Chairman:** We should tell you that we took evidence on the whole agrifood sector this morning. It is useful to have your unprompted corroboration.

**Shane Campbell:** I agree. I have nothing further to add on the question of technology other than what I said before. I am sure there are pros and cons to the idea of digital passport technology, given the amount of information that is held already, while there is no infringement of rights. We should embrace the technological means we have between all the states involved, to make it that bit easier.

Q73 **Lord Whitty:** You have talked about the health service and public services, and you talked just then about agriculture. These small firms in the border region presumably cover a multiplicity of industries and sectors. Can you say a little more about that and how they are most likely to be affected? Do they trade cross-border? Do they have personnel who move across the border to work?

**Pamela Arthurs:** I will take one example of a number of not just small firms, but bigger SMEs that move their goods through Warrenpoint harbour. Warrenpoint harbour is in Northern Ireland, but there are a number of firms along the border in the Republic whose lorries come across. In a situation where you have tariffs or anything like that, that will not happen. Those firms in the Republic will have to go down to Cork or somewhere like that. Warrenpoint, the fifth largest port in the UK, will potentially flounder after a few years because of that.

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In terms of the small businesses, yes, our biggest export is to the Republic. That will lead to major issues. The currency differential has already made a difference. I talked to some of the banks in Newry and their small business customers immediately after the referendum. They had agreed relatively large contracts in euro and they were not making a profit, because of the way the pound fell against the euro. It works the other way.

**The Chairman:** It might be helpful if perhaps at some stage, rather than doing it now, as that develops you might like to drop us a note about the currency moves. Again, we have heard some of this in the past. You are sensitive to dealing with both private sector contracts and public authorities that may not be fully hedged or are perhaps reluctant to undertake them in the future. Perhaps you would like to reflect on whether you can fill us in on that.

**Pamela Arthurs:** We are currently doing a study, which has just started, on the impact, with firm facts and figures. We are talking here about our knowledge as such, but we are doing a study that will look at that. We would like to send you that when it is completed.

**The Chairman:** We are not going to lose interest in this area, I can assure you.

**Shane Campbell:** To use an example, Mid Ulster is one of the strongest areas in terms of light engineering and new manufacturing businesses. That is all exported beyond our shores and beyond Europe as well. A lot of those firms have concerns. We have had anecdotes, and we are doing our own surveys and research to get the hard facts on this, but the firms with these concerns are now looking to establish offices outside Northern Ireland or to move entirely outside Northern Ireland, with a view to the future. We have also seen that happening with the agrifood producers. You may have had evidence that some of the largest employers in our region are very concerned at this and have had to consider moving beyond.

Take the example of the mushroom businesses that are in southern Ireland. You may have received some evidence on that earlier. Did you?

**The Chairman:** We read into the record the press reports today on businesses in Tipperary, which is as far from the border as you can get in Ireland.

**Pamela Arthurs:** That is right. In Monaghan, three businesses have closed.

**Shane Campbell:** Five mushroom businesses, actually, have already gone out of business as a result of this. The profit margins that these mushroom suppliers would have had, much of which goes towards the UK, have been wiped out as a result of the exchange rate differential. These businesses are unable to do anything at this current point in time, because they are tied into contracts.

**The Chairman:** Do you know where they are?

**Shane Campbell:** Yes we do. We spoke to them last week.

**The Chairman:** Perhaps you can drop us a line on that. Thank you.



Q74 **Baroness Armstrong of Hill Top:** You have alluded to this a little in some of your comments, but what practical steps do you think need to be taken to ensure the Good Friday agreement and the peace process as a whole are not undermined?

**Pamela Arthurs:** Do not Brexit.

**Shane Campbell:** In the first instance, Northern Ireland needs to have an agreed political voice. That is a piece of work that needs to be debated and discussed here. As to the UK Government, the Prime Minister and others, in terms of confidence to help our industries and our social confidence we need public reassurances from the UK. Even though Ireland is one of another 27 member states to negotiate with, it is our nearest member state and jurisdiction, and we would look towards the Irish for that support, because many of their issues in terms of trade are tied into both the UK and Northern Ireland. We need the confidence-building measures.

There is a debate today in the Assembly on special EU status for Northern Ireland. That is something we would regard as key, because, in a sense, we have had that through the UK's membership of the EU and through the support we have been able to draw on for cross-border co-operation in this area.

We hear that Northern Ireland will not be left out. Surely some measures like that need to be discussed and considered for this area, which may be different from other regions of the UK but is certainly one that is seen to be critical to us.

**Pamela Arthurs:** The continuation of funding so that we can continue to do the types of work we are doing is critical. As well as that, in this whole process there must be a bottom-up approach, not top-down. Where people are not involved as part of the discussion, that breeds suspicion, mistrust and all the things we have been plagued with. We on the border do not feel that, to date, we have been part of this conversation. I know it is still relatively young, but local authorities, which are big players along the border, have not really been consulted, even by our own Government here. Open lines of communication are very important.

I have no doubt that there will be an adverse impact on the peace process and cross-border co-operation. Organisations such as ours would hope and try to manage that, but given the uncertainty it is very difficult. It is very hard for us to plan when there are no plans at the top. We need a way forward; we need a plan and a direction. What does Brexit mean?

**The Chairman:** Indeed.

**Lord Whitty:** On funding, it would be useful for us to have an indication of under what EU budget head this funding arises. Is it all peace process-related?

**The Chairman:** Is it Interreg?

**Lord Whitty:** If we are looking at maintaining the funding, it would be useful to know how much comes under each of those headings.

**Bernie McCrory:** For me, it is Interreg—inter-regional—and, from the health perspective, that is a €53 million bid at the moment.

**The Chairman:** Any contributions we can have from you would be helpful.

**Pamela Arthurs:** The headline would be European territorial co-operation. Within that, you have Interreg and the Peace programme. It is ETC for sure.

Q75 **The Chairman:** That is all very helpful and picks up themes we have already been applying. The final line of questioning, as we exhaust our time, is about consultation. David Davis, as Brexit Secretary, has identified UK-Irish issues, and the impact on Northern Ireland in particular, as one of the significantly difficult elements of the forthcoming negotiation. First of all, have we left anything out that we have not discussed this afternoon and that will need to be on that list?

**Pamela Arthurs:** I do not think so.

**Bernie McCrory:** It has been quite comprehensive.

**The Chairman:** That is reassuring, but, if you have an afterthought, please share it with us. Looking at the machinery, I was interested in something Shane said about the question of a united Northern Ireland voice. Is this really quite central to it, in the sense that, unless there is political consensus and an expression of that consensus in an uncompromising way, with 3% of the UK's population it will not be possible to get these messages across, not merely to a Lords Committee that has come to see you, but to a set of busy negotiators in the middle of European international negotiation?

**Shane Campbell:** Absolutely. It is 3% of the population and 2% of economic output. Northern Ireland's voice could get lost, obviously. We do not want it to be lost. It is incumbent that it is not just a united political voice but a united Northern Ireland voice. The debate is really only happening now. We are having a level of debate now that we should have had pre-referendum. Anyway, we are where we are, but it is absolutely critical that we have that, because of our circumstances. It is not just by way of having our say within the UK negotiations on behalf of these isles, but it is taking that small voice of the UK here to London and beyond, to another 27 member states, which could have a veto over some of the considerations we are talking about here.

We can best advance our case by being united. In this part of the world, we have dealt with some very, very difficult issues between communities over past years. This is another challenge. We get there in the end, but the challenge is time. I heard the other day somebody saying that, because it is only a two-year timeframe, or over two years, as a result we may end up with an extreme Brexit, and that is not something we can countenance here.

**The Chairman:** Is that pretty well agreed, Pamela?

**Pamela Arthurs:** Yes. It is not within our gift to make sure we have a united voice. That is for our politicians. I know that, in the outworkings of this, if it becomes apparent that Northern Ireland will not be getting a good deal, at the end of the day you will find the politicians coming and working together practically.

**The Chairman:** You have to go into crisis mode before anything happens.

**Pamela Arthurs:** Possibly, yes, but, to Shane's point, we need to get the message to London somehow. We believe that London is concerned, yes, about the overall high-level border, but this practical impact on the ground for us, living and working, is not something that we feel is high on the priority list.

**The Chairman:** To use an Americanism, the way I read it is that you are the people where the rubber hits the road. You are dealing with communities that are facing this situation day by day. You are nodding. Do you want to add to this, Bernie?

**Bernie McCrory:** This peace process is still very fragile, in my opinion. The EU membership and the way that the EU was able to fund the Peace and Interreg programmes have helped to alleviate some of the pressures. Where people have no job or are living in very remote areas, it is not conducive to any kind of stability. I hope we can get a resolution.

**The Chairman:** Thank you for being so clear.

**Baroness Browning:** You have probably answered this. I was going to ask you where you see the leadership coming from to produce a united voice for Northern Ireland. One of the dangers, when Ministers are looking to make choices or make a particular pitch for something, is that, if they see a divided group of people with differing views, they will go through the middle and create their own view. Northern Ireland's voice would be lost under those circumstances. It seems to me, from what we have heard today, that it is essential that that united voice is encouraged. If that lies with your politicians, as you have said, how alert are they to the responsibility they have?

**Pamela Arthurs:** The politicians' own constituents are starting to see the adverse impacts. For example, a lot of big farmers voted to leave. My concern is that, when it starts to hurt, that is too late. When things start to go wrong, their own constituents will not be happy and will knock on their doors and say, "Why is this happening? Our business is closing". As we have spoken about, when farmers lose their EU subsidy, if they do not get that very soon from here, you will have demonstrations outside here, quickly followed by fishermen and then everybody else. That is what will happen. They have been told that there is plenty of money, but the problem we have is that we just do not see where this money is coming from.

**The Chairman:** As you speak on that, and as we begin to wrap up, it seems to me that there are some known channels. The three of you clearly have relationships with the Northern Ireland Executive, the Irish Government and the UK Government.

**Pamela Arthurs:** And Brussels.

**The Chairman:** And Brussels, rightly. Those are the main players. We would look to you collectively, and perhaps you can confirm this, to play a part in making sure that—to use the phrase—Northern Ireland's voice is heard.

**Pamela Arthurs:** Yes, absolutely.

**Bernie McCrory:** Yes

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**Shane Campbell:** Yes.

**The Chairman:** Thank you. You have been very open with us and it has been very helpful. Can I thank you for your evidence and time? In conclusion, as this develops—and this is a living dialogue—we will be reporting quite quickly, because we need to alert the new Secretary of State and the Government in London to what is going on and the issues as we see them. We will also be taking an interest through this process, so please keep in touch. We are much obliged and grateful for your evidence and analysis this afternoon.

## **Co-operation and Working Together – Supplementary written evidence (BUI0013)**

*(in support of oral evidence given 17 Oct 2016)*

### **Introduction**

It is clear that the Irish government and the NI Assembly both want to minimise the impact of the UK EU referendum vote on the island of Ireland and to the border region specifically. However, the precise nature of 'Brexit' and its potential impacts have yet to unfold. It is evident that Brexit poses risks to both formal and informal working relationships and arrangements which characterise cross border health and social care activity. In the meantime cross border health and social care work will continue as normal, but with a sense that the landscape will change in coming months and years. The following outlines the activities of the Co-operation and Working Together (CAWT) cross border health and social care Partnership and some of the concerns of the Partnership in relation to Brexit.

### **About the Co-operation and Working Together (CAWT) cross border health and social care Partnership**

- The core purpose of CAWT is to support its Partner organisations in the Republic of Ireland and Northern Ireland in their collective work to improve the health and wellbeing of the people living in the border region and to enable better access to health and social care services.
- Through the CAWT Partnership, the statutory health and social care services in both jurisdictions in the border region have been working together, to provide practical solutions to the health and social care needs of local populations since 1992.
- In Northern Ireland, the CAWT partners are the Health and Social Care Board, the Public Health Agency, the Southern Health and Social Care Trust and the Western Health and Social Care Trust. In the Republic of Ireland, the CAWT partner is the Health Service Executive (HSE).
- The CAWT Partnership is a unique structure in providing an overarching framework for the planning, management and implementation of cross border health care across the entire border region of Ireland / Northern Ireland. By bringing all the players together from the statutory health and social care services, CAWT has been able to pursue a co-ordinated and strategic focus ensuring work undertaken complements national Government and Health Department priorities. Therefore cross border health and social care activity is driven by the needs of the region and the health priorities and with all the key players engaged.
- CAWT is currently implementing its Strategic Plan 2014 to 2019. This plan underscores the purpose of the Partnership and sets out a number of strategic goals. ([Click here to access the CAWT Strategic Plan](#)).

### **The growth of cross border and all-island health activity**

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- Cross border health and social care is well established both via the CAWT Partnership and other significant cross-border and all-Island initiatives over the past 20 years.
- Despite the many differences between the two jurisdictions in Ireland and Northern Ireland, not only in health and social care but also in the political, legal, economic and social welfare systems, cross border activity has been growing. Some of the best examples of practical public sector cross border co-operation are in the field of health and social care and the border arrangements heretofore have not been a barrier to this.
- Based on recent commentary, both the Ministers for Health in Ireland and Northern Ireland are positive about the opportunities and benefits which North / South and cross border health and social care can bring. Examples of recent Ministerial statements:

Minister for Health in Northern Ireland Michelle O'Neill: *"A key priority for me will be the further development of all-island networks to tap into the benefits that collaboration on health and social care services will bring to every part of the island. I have spoken with my counterpart in the South, Simon Harris, to explore how our health services can further collaborate on improving people's health. My vision of a transformed health service, in the context of the upcoming Bengoa report and the announcement by the Minister in the South of a 10-year plan, is an opportune time to strengthen and progress all-Ireland health."* (21 June 2016 Hansard Report)

Minister for Health in Ireland Simon Harris: *"Cross-border cooperation on health makes sense, allowing us to pool our resources to provide better health care for all our citizens. North-South cooperation on health matters takes place through the North South Ministerial Council as well as joint departmental projects. There has been significant activity in cross-border health and social care activity over the last decade.....I am committed to continuing to work together with my Northern colleagues on issues of common concern and benefit."* (2 June 2016 Dáil debates written answers)

As evidenced by the above, both Ministers for Health have indicated their support for and commitment to all-island and cross border health and social care collaboration. It would be important that any post Brexit arrangements do not hinder future cross border and all-island health and social care developments.

### **EU Structural Funds' influence and contribution**

- The substantial activity in cross border health and social care activity to date has been greatly assisted by the availability of EU funding programmes, INTERREG funding in particular. Equally important is the commitment of the Health Services North and South to work in a collaborative way where a joined-up approach to particular service developments can bring mutual advantages.
- EU funding has been vital to the development and growth of activities in cross border health and social care. For example, over the last 13 years there have been two significant INTERREG funding programmes (IIIA and IVA) which ran consecutively. Both programmes included a cross border health theme. In the 2003 to 2008 period of the INTERREG IIIA programme, a total of €10.45 million was invested in cross border health

via CAWT. In the 2009 to 2015 period of the INTERREG IVA programme, €30 million has been allocated to the CAWT Partnership for cross border health and social care initiatives.

- Significantly EU funding has enabled the 'pump priming' of new services and ways of working, akin to a proof of concept process. It allowed the health services to trial new methods of delivery of care to patients and clients and provided a platform which demonstrated the advantages of adopting these new approaches and provided assurance as to how services could be realigned and reconfigured to ensure optimal outcomes. In many instances EU funded initiatives have since been continued as mainstream services, either in full or partially.
- The most recent of CAWT's work via the EU INTERREG IVA funded 12-project programme (Putting Patients, Clients and Families First) has had a strong focus on improving access to services, promoting health and well-being, reducing health inequalities and promoting social inclusion. Consequently, patients and clients are now benefitting directly from new and enhanced services in the border region.
- CAWT has submitted 6 distinct but connected project applications to the Health and Social care theme of the new INTERREG VA programme for Ireland/Scotland/Northern Ireland (potential fund of €53 million within the health and social care theme). The focus for the CAWT projects submitted to this funding programme include: acute hospital services, prevention & early intervention, tackling health inequalities, supporting independent living, building resilience and recovery within people & communities, technology as an enabler for change and to underpin services, partnerships with the community and voluntary sector, improved use of existing health and social care infrastructure, upskilling and building staff resilience and overcoming barriers to mobility on a cross border basis. It is vital that this 5-year programme of work continues as planned and is enabled and supported through the pre and post Brexit phases.

### **Advances in Cross Border Mobility – Staff and Services**

- The potential implications for cross-border health and social care workers and their employers in a post Brexit era, as yet remain unanswered. Some issues of concerns include the recognition of qualifications across jurisdictions and the overall mobility of staff is a critical element of CAWT's work. If a 'hard border' is erected, the actual physical movement of staff will be impacted significantly given that they are expected to work on a cross border basis and often facilitating training, delivery of services, treatment of patients/clients within identified cross border networks/areas.
- Obstacles to the development of cross border services were identified and practical solutions developed by the CAWT Partnership to enable staff to work on a cross border basis between Northern Ireland and Republic of Ireland within specific contexts. For example, there is a cross border indemnity agreement in place which allows health and social care employees to work in both jurisdictions within a range of contexts described within the agreement. In relation to emergency planning, professional and regulatory bodies agreed for their registrants / members

to be able to provide services in the opposite jurisdiction in the event of a Major Incident whilst still being accountable to them. On-going relations are maintained with a range of professional and regulatory bodies in order to support future cross border service developments. A cross-border protocol exists between Northern Ireland and the Republic for the two ambulance services to support each other during major emergencies and provide 'mutual aid.' The continuation of such co-operation, which has been developed over many years, is vital to providing a quality and equitable service for border populations.

- Furthermore, there is significant ad-hoc contact and communication between managers and clinicians on a cross-jurisdictional basis, contributing to the creation of a 'cross border' culture within the statutory health and social care services.

### **Advances in Cross Border Mobility – Patients and Clients**

- In addition to CAWT cross border health and social care activity, patients access services in the opposite jurisdiction for a variety of reasons. For example, patients from Northern Ireland may be referred as part of a formalised arrangement (Extra Contractual Referral) for specialist treatment or to reduce pressures on hospital waiting lists, or as part of a cross border arrangement stemming from the work of CAWT. Similarly, patients from the Republic of Ireland may opt for treatment in Northern Ireland and access services via a range of routes such as referral by a GP or hospital consultant or as a private patient.
- Other current and future cross border and North South services which will see significant numbers of people cross the border include; all-island Paediatric Cardiology service; cross border radiotherapy centre at Altnagelvin in Derry/Londonderry and Percutaneous Coronary Intervention (collaboration between HSE Donegal and the Western Health and Social Care Trust).
- Based on aforementioned statements, both Ministers for Health in Ireland and Northern Ireland wish to extend and further develop patient access to quality services on a cross border / all-island basis.
- The EU Directive on patients' rights in cross-border healthcare (Directive 2011/24/EU) has provided a further stimulus for cross border co-operation in health and social care as the two health and social care services on this island are geographically adjoined and thus more accessible to each other's citizens. It has yet to be clarified if Northern Ireland citizens will be able to continue to travel to the Republic of Ireland and vice versa to receive treatment under this directive.

### **Commitment to cross border solutions**

- There are many stakeholders involved in cross border and all-island health and social care ranging from both Departments of Health in Ireland and Northern Ireland including the North South Ministerial Council, to the Health and Social Care Commissioning and Delivery Agencies in both jurisdictions - this includes the Health and Social Care Board, the Public Health Agency, the various Health and Social Care Trusts in Northern Ireland and the HSE in Ireland.



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- The dedication, experience and commitment of health and social care staff who help to secure the EU funding and deliver projects on the ground, has been instrumental in the development of CAWT's cross border health activity to date.
- Other organisations such as the all-Island Institute of Public Health and the Centre for Cross Border Studies have played their part in keeping a focus on North South collaboration.
- In addition to the public sector, there is also increasing evidence of interest by the private / independent sector and the NGO / Community and Voluntary sector in developing some of their projects on a cross border or all Island basis.
- In addition to EU funded programmes of work, CAWT has taken forward some specific cross border projects directly commissioned by the Departments of Health in both jurisdictions, including Donegal patients accessing radiotherapy in Belfast City Hospital, Oral & Maxillofacial services, cross border emergency training and planning, an all-island conference on alcohol and work in the area of Hidden Harm, joint mental health protocols and dementia awareness training.

In order to maintain and further develop the solid working relationships which are now an everyday experience in the health services North and South, CAWT will continue to focus on key strategic goals including:

- Achieving solutions to barriers to the cross border mobility of patients and professionals;
- Actively pursuing collaborative strategic alliances;
- Actively engaging with policy makers and other key stakeholders in relation to the development and direction of cross-border health and social care; and
- Embedding cross-border planning and implementation in core activities where there is mutual benefit to be gained in terms of service efficiency and effectiveness.

Link to CAWT Annual Progress Reports:

[CAWT Annual Progress Report 2015](#)

[CAWT Annual Progress Report 2014](#)

26 October 2016

East Border Region, ICBAN and Co-operation and Working Together – Oral evidence (QQ 68-75)

**East Border Region, ICBAN and Co-operation and Working Together – Oral evidence (QQ 68-75)**

[Transcript can be found under Co-operation and Working Together](#)

**Economic and Social Research Institute, Institute of International and European Affairs and Tourism Ireland – Oral evidence (QQ 100-107)**

Evidence Session No. 9

Heard in Public

Questions 100 – 107

Tuesday 18 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty.

### Examination of witnesses

Dan O'Brien, Chief Economist, Institute of International and European Affairs, Edgar Morgenroth, Associate Research Professor, Economic and Social Research Institute, and Niall Gibbons, Chief Executive, Tourism Ireland.

Q100 **The Chairman:** Good morning and welcome to our second formal panel session this morning. We are the House of Lords European Union Select Committee, which is the overarching Committee. We are not here to give you a lecture on the details of our Committee's structure, but there are sub-committees within it.

As part of our Brexit analysis, which is going on even as we speak at the technical level in relation to many of the areas—for example, agriculture and economics, security, home affairs, justice, institutions and financial affairs: the whole spread—we identified as our main Committee the importance of looking at the important and sensitive Anglo-Irish relationship. We had one day in Belfast yesterday and we have one day here in Dublin to inform that and to do a report, in a fairly short time, to alert our Government to the issues as we see them.

Certainly, we would wish to have a continuing relationship as the negotiations proceed. We would very much like to hear from you as that happens, and if there are any difficulties you identify along the course of the way we would like to hear them, because we are all, slightly, in uncharted territory.

Having had the first session this morning with political scientists, we now come to an area with which some of us are more familiar, surprisingly, which is the economic impact. We are very grateful today to have Dan O'Brien, chief economist of the Institute of International and European Affairs; Edgar Morgenroth, who is the associate research professor at the Economic and Social Research Institute; and a voice from the front line of the economy, Niall Gibbons, the chief executive of Tourism Ireland. We appreciate your time, gentlemen, with us today.

We will examine these issues, to some extent, pro forma, but please feel that this is a session in which we want to inform ourselves rather than rehearse our own views. There is some constraint on time and I am conscious of that—it is my job—but if you wanted to make initial comments to us that would be helpful. Dan, do you want to say anything in introducing yourself formally?

**Dan O'Brien:** Sure. You suggested two minutes, so I will take two minutes. Thanks for the invite. It is a pleasure to be here. Economists do not agree on many things, but the one thing we do agree on is that the more barriers there are to commerce, the less commerce there is. That is as true within countries as it is among and between countries. Ireland's trade relationship with the UK is enormous. It has declined a great deal over the years, largely because of successes in diversifying markets, but if we add Irish goods and services exported to the United Kingdom, it is equivalent to 17% of GDP in 2014. UK exports to all 27 members of the EU equate to less than 13% of UK GDP. So, our export relationship with you is bigger than your export relationship with the entire EU—all 27 member states—relative to the size of the economies. That is just to give an indication of why, sometimes, I feel we are more concerned about Brexit in this country than, maybe, some people in the UK.

**The Chairman:** May I interpose on that? We have not asked the question in terms but, as to the public debate, is there any sense here that you might be hit more by our decision than we are?

**Dan O'Brien:** That is unquestionably the case. You see it already, given the exchange rate movements, in the farming sector. The farming sector is the most vulnerable sector overall, in terms of the focus on the UK market. If the UK decides to revert to a cheap food policy after Brexit and unilaterally decides to reduce tariffs on products such as Latin American beef and New Zealand dairy, that would pretty much decimate the food side here.

**The Chairman:** I ought, perhaps, at this point to declare an interest. About 50 years ago, as an agricultural economist, we did a lot of work preparatory to Britain's succession to the European Union. So one is familiar with some of the arguments from a long time ago and even how a cheap food policy used to work. Thank you for that. Is there anything else you want to add?

**Dan O'Brien:** I have worked for the European Commission on negotiating a free trade agreement. It was the most difficult thing I have ever been involved with on a professional level. It seems to me that the legal, administrative and technical challenges facing your country are so enormous that I struggle even to map them out in my mind. You have many excellent questions that you have forwarded. I will admit to you, quite frankly, that I have absolutely no clue how to answer an awful lot of the questions.

**The Chairman:** That is news in itself and not derogatory to you. Edgar?

**Edgar Morgenroth:** Good morning and thank you for the invitation. It is a pleasure to be here. It is a pleasure to see a Committee come here and take evidence in Ireland.

I have been involved in a good number of studies now on this issue, and as a sign of how seriously it is taken in Ireland the Irish Government commissioned us to do two pieces. I have also been involved in some work with the IIEA and other work now, looking at the wider issues around Europe.

We looked at four different areas. Trade is always the big one that seems to dominate the debate. There are a few other areas that are also important. There is the whole issue of FDI, which is probably a bigger concern to the UK. There is the issue of migration and the issue of energy markets. Again, this is something that is peculiar to the British-Irish relationship in that we are quite closely connected on the energy side.

Dan has already mentioned the importance of trade, and what that shows is the openness of Ireland to trade in general. While the UK is seriously important to us as a trading partner, the rest of the EU is more important still. For that reason, there has not been any kind of debate in Ireland about whether we should join Britain in leaving the EU. That is explained by self-interest: the EU is so much more important to us.

One thing that I raised, which has recently popped up in debates here, is that it is not just about exports but imports, and that is important to the UK as much as it is to us. Ireland is very closely linked to the UK in terms of supply chains. If you look at the importance of UK retailers in the Irish market, the wholesalers that supply the Irish market are typically based in the UK, and that could, potentially, trouble our supply chains, raise prices and, therefore, have competitiveness impacts beyond the pure Brexit effect.

**The Chairman:** If I might cite a comment that was made yesterday in the evidence we took in Belfast, people were talking about supply chains in relation to the agrifood business. They were making the point that what I used to call the fifth quarter, the bit that is not necessarily always consumed as steaks or whatever—the offal and other parts of animals—may well have a third-country destination. Clearly, third-country trade is very relevant to the overall return for the farmer or along the way in the food chain. I take it that is an example of what you mean.

**Edgar Morgenroth:** That is correct. There are many areas. Anecdotally, one hears, for example, that cheese produced in Ireland goes to the UK for packaging; it then comes back to Ireland and is then sold. The supply chains have become very complex. While the most complex, probably, is in the area of car manufacturing—Ireland does not have very much of this—even in agrifood, which is much simpler, we import a very substantial proportion of our ingredients, and some of that comes through the UK. You can go through all the individual sectors, and you will find in each sector there are very strong linkages not only in the supply chain and the intermediates but on the retail side.

**The Chairman:** Thank you. I do not know how they rate formally, Niall, but the tourism and hospitality sector must be a central Irish interest alongside the agricultural and food sector. I am very grateful to see you here. I wondered if you would like, briefly, to present your take on the impacts for your particular sector.

**Niall Gibbons:** First, I should say welcome to Ireland and welcome to Dublin. We are delighted to see you here. My name is Niall Gibbons and I am the chief executive of Tourism Ireland, and we are the agency that was established under the Good Friday agreement to market the island of Ireland, north and south of the border, as a holiday destination.

We have seen five consecutive years of growth. Last year was a record year: 9.5 million people visited the island of Ireland as a whole, spending €4.9 billion. Growth is continuing into 2016. The latest official data available shows that visitors to the Republic of Ireland up to the end of August were up 12% on last year's record year. For Northern Ireland, the first quarter growth is 8%, and, from all the industry anecdotes, it has been very positive for the summer season too. It is a vital industry for the island of Ireland. Tourism is woven very deeply into the fabric of Irish society. It is responsible for 4% of GNP here in the Republic of Ireland and it employs over 220,000 people, which is about 10% of the country's workforce. Similarly, in Northern Ireland it is responsible for 5.2% of GDP and supports 43,000 jobs, which is one in nearly 18, in Northern Ireland, and growing.

Great Britain is the largest single market for tourism to the island of Ireland, with 47% of all overseas visitors coming, and around 30% of overseas tourism spend. In 2015, we welcomed 4.5 million British visitors to the island of Ireland, a 10% increase over 2014, and this year the figure will not be far off 5 million visitors from Britain to the island of Ireland. It is continuing to grow very strongly.

**Lord Jay of Ewelme:** Is that 5 million visitors or 5 million visits?

**Niall Gibbons:** This is 5 million visitors from Great Britain to the island of Ireland.

**The Chairman:** Visitors.

**Niall Gibbons:** That is correct. It is unique visitors, yes, exactly. Ireland is also a significant market for the UK, by the way. According to our colleagues in Visit Britain, we are the fourth largest market to the UK in terms of visitor numbers, with more than 2.6 million Irish people travelling to the UK, contributing nearly £1 billion in tourism.

Since the referendum on 23 June we have been closely monitoring the implications for the tourism industry here on the island of Ireland, and it has given rise to a number of factors that I will just touch on. First, general economic uncertainty impacts on consumer confidence, which, in turn, has consequences for demand and generally on travel. According to Oxford Economics, who advise us, the number of British people travelling abroad to all destinations next year is likely to decline by 2.4%. This figure will be reviewed at the end of October and will be expected to have declined even further.

**The Chairman:** That reflects currency issues, I suspect, partly.

**Niall Gibbons:** And general uncertainty; yes. So it will, undoubtedly, have consequences for the island of Ireland.

Secondly, since the referendum there has been a depreciation of sterling of 18% against the euro, which has made the eurozone, as a whole, more

uncompetitive. Given our dependence on Britain as a source market, the island of Ireland is likely to be more impacted than other eurozone countries. This may provide Northern Ireland with opportunities in the short term, obviously, being part of the sterling zone.

Thirdly, Northern Ireland has seen strong growth in overseas tourism in the last number of years. With 950 international tour operators now programming the island of Ireland as a whole, 75% of visitors from North America to Northern Ireland and 68% of visitors from Europe to Northern Ireland arrive via the Republic of Ireland. The future of the common travel area is, therefore, vital to our business.

Fourthly, the British-Irish visa scheme, which was announced by the UK and Irish Governments in 2014, and the short-stay visa waiver programme introduced by the Irish Government in 2011 have provided a significant boost to our marketing efforts in developing markets such as China, India and the UAE.

Tourism Ireland and VisitBritain signed a memorandum of understanding in April 2014 with the aim of working more closely together, particularly in long-haul markets outside Europe and North America, to promote the island of Ireland and Great Britain as destinations to be visited as part of a single holiday.

Over the past two years the two organisations have worked together to highlight the British-Irish visa scheme in India and China. We welcomed last week the announcement that the short-stay visa waiver programme is to be extended for a further five years to 2021, and we hope to get clarity shortly on the future of the British-Irish visa scheme.

Looking ahead to 2017, Oxford Economics has revised its tourism growth forecasts for the island of Ireland downwards for the third time this year since the Brexit referendum. It has identified that Ireland and Northern Ireland are the destinations that are most exposed and most likely to be impacted by Brexit. It is a situation that we, along with our industry partners, will continue to keep under review.

Lord Chairman, that was just a brief overview of the potential implications of Brexit on the tourism sector. I am happy to take any questions you might have.

**The Chairman:** I am going to ask Baroness Browning to come in in a moment. You mentioned the Oxford Economics survey. I do not know if that is available to us or whether we can get a summary of it, at least, that we could reflect on before we leave.

**Niall Gibbons:** We share it with our Board. We are happy to give you the information.

**The Chairman:** Please feel that the other participants—the economists—can contribute. As we have started with Niall's presentations, it would be sensible to ask Baroness Browning to come in on that.

Q101 **Baroness Browning:** Could I ask you in practical terms what you think the impact of Brexit will be on the cross-border tourism co-operation, and could I float something else into the statistics that you have just given us, particularly the predicted numbers? There is no doubt that in the UK there

is a certain nervousness—this is not a scientific fact—about where people go on holiday now because of the situation, particularly around the Mediterranean countries. People are tending to want to go on holiday nearer to home or to stay at home, for that reason rather than because of Brexit. That obviously opens up a good opportunity for UK and Irish tourism. Where do you think the real problems will come post-Brexit?

**Niall Gibbons:** You raised a couple of things. The first is the safety and security issue, which existed regardless of Brexit anyway. We have seen since the Arab spring of 2011 that tourism in countries such as Tunisia, Morocco and Egypt, which are highly dependent on the tourism industry, has been decimated. A lot of that market share has been pushed into mainland Europe. Certainly, over the last 12 to 18 months, the awful atrocities that we have seen in France, Turkey and Brussels have had a further impact on central European travel. The winners this year in overall travel to Europe have been Scandinavia, Ireland, Spain and Portugal—destinations that are seen as safe havens.

I know from talking to our colleagues in London that visitor attractions had quite a difficult year, particularly in the first half of the year. While the sterling issue impacts from a competitiveness perspective, there are many other factors that encourage people to take a holiday in a particular destination. The factors I have outlined here are that general economic uncertainty is not good for the travel business in general. Secondly, the eurozone as a whole, not just the Republic of Ireland, is 18% more expensive, so we are all going to have to be more competitive if we are to maintain our market share.

Practical arrangements such as the visa schemes that I mentioned have been really positive in opening up destinations such as China and India. It is really important that the UK and Ireland work together. Remember, the Schengen zone has about 25 countries in it, and countries like France and Germany are attracting up to a million visitors from China, when the UK does not even have 300,000. The island of Ireland has about 50,000. There is a great potential. China is the largest outbound market in the world. In excess of 130 million Chinese people will travel abroad this year, although there may be only 5 million to Europe, but there are still great opportunities for the two destinations to work together.

In relation to the United States, the major change is sterling against the dollar, and that will make the UK very attractive next year, but I also bear in mind that 30% of people who come on holiday to Ireland from the United States come backtracked via the UK. So there are swings and roundabouts here. But, overall, Ireland is a much more exposed destination than the rest of the eurozone.

**Baroness Browning:** What are the implications for the north-south borders for tourism? Something that looked like the Cyprus arrangements would not be good, would it?

**Niall Gibbons:** I have been in tourism for 15 years. Tourism across this island has experienced an amazing renaissance. Compared with where we were back in 2002, Northern Ireland now attracts 21% of all overseas visitors to this island, which is quite a healthy share. Of course, we want to see that grow. Experiences such as Titanic, the fact that the Open is



coming in 2019, the G8 summit being held in Fermanagh, and the Irish Open at Royal Portrush, Royal County Down show that there will be huge advances. We need to build on that and capitalise on it.

The international tourist generally does not recognise borders. They are coming for an experience. Working together with the north and south enriches the Ireland experience and serves to inspire the international visitor to come here. The people who work with us very well overseas, such as the National Trust and Titanic, are reaping the rewards. Our visitor numbers from overseas markets are incredible.

The other statistic that is really important from an interdependency perspective is that this summer there were 537,000 seats every week flying into the island of Ireland, around 70% with access into Dublin. That makes it really important from the Northern Ireland perspective, particularly for markets like the United States and mainland Europe. Most people who arrive in Dublin would, of course, like to see more and go to Northern Ireland, but to speak of borders is not good for our business.

**The Chairman:** Simply in terms of your liaison with the Irish Government, the Northern Ireland Executive, and the British Government to some extent, how much do you think the impacts that you have described to us are understood by them, and how easy an opportunity is there for you to make sure that that point goes home?

**Niall Gibbons:** It is great to have an opportunity to speak to this Committee, because it is important that we deliver our message to every platform that we get. It is important that we remain calm and composed about it, because there are still many issues in relation to Brexit. We do not know how it is going to play out. The ball is going to bounce in a certain direction. The job for all of us is to maintain a €5 billion overseas spend in the face of fierce competition from overseas. There are emerging destinations coming out all the time. We need to encourage our own Government and the Northern Ireland Executive to continue to invest in marketing. It is a bit like going to the supermarket; if there is no Persil on the shelf, they will buy Daz. This is about maintaining our brand investment overseas. It is great that the World Economic Forum has ranked us fifth globally in marketing effectiveness. The dependence of tourism to Ireland is very significant. We will use every platform we can to make people aware of the importance of the tourism industry to the island of Ireland.

**The Chairman:** Thank you. To our economists on the panel, do you want to add anything specifically about the tourism and hospitality sector?

**Edgar Morgenroth:** We looked briefly at the tourism industry in one of our reports. We did not particularly consider the short-term impacts, such as exchange rate volatility, which faces the tourism sector anyway. Something could have happened to the British banking system that might have had the same effect on the exchange rate that would have been difficult for the industry. We were looking a little more at the long-term impacts. Provided that nobody is proposing to close borders to tourists—even countries like Tunisia never did—I would see no specific long-term impact from Brexit other than the issue of co-operation. If that were not to exist, it would have some kind of an impact on developing market share.

With Ireland being a relatively small destination, particularly seen from very far away like China or the US, it is easier to play alongside a bigger destination such as the UK. The long-term impacts are likely to be small if we can maintain the co-operation.

**The Chairman:** Dan, do you have any perceptions?

**Dan O'Brien:** I have one point for perspective. The numbers visiting Ireland relative to the population are greater than a country like Spain, which one associates much more with tourism. I would point out that openness brings many benefits. Ireland is a very open economy, no matter what way you cut it, financially and with tourism, as an example, so openness also comes with risks. If you get any kind of knocks, it can have much bigger effects than in larger economies.

Q102 **The Chairman:** In particular, I thank Niall for his comments on explaining the tourism scene. Do feel free to contribute from the point of view of the SMEs and, as it were, the active economic sector alongside our economist colleagues.

We will turn now to some of the macro issues, if we may. You will be aware that the new Brexit Secretary in the UK, David Davis, has identified UK and Irish issues as some of the more difficult elements of the negotiation. It would be helpful to get an opinion early on as to what you think the main difficulties are that need to be addressed. Perhaps, to save time, I could suggest that you also respond to two questions, the first being about the level of information in decision-making and the input of these interests into the British, Irish and Northern Ireland Executive; and, secondly, whether it is sensible, and if so how, to look at a common UK-Irish approach to some of these issues alongside the other 26 that will be party to this negotiation. How much is it in the interests of this island to be looking possibly for special arrangements or at least an understanding of what the special difficulties are? Who would like to start on that?

**Edgar Morgenroth:** I mentioned the four areas that we looked at. In relation to trade, Ireland has pretty much the same objective as the rest of the EU in wanting to keep it as free as possible. That is not special other than that we are exposed in particular sectors, and so on.

**The Chairman:** Can I just probe you on one point on that? It is often said that one of the issues in Britain is that we may do a lot of trade with other countries, whereas collectively the EU does a lot of business with us. Individual EU member states, possibly excepting Ireland, Germany and the Netherlands, do not so much relatively speaking, so they may be less exercised. How much do you see that as a potential trap in the negotiations?

**Edgar Morgenroth:** Potentially, yes. If you were Croatia and negotiating on your own, you would not bother negotiating on trade with the UK because it does not do much trade with the UK. It is something like 1% of its trade. It is tiny. But for many, particularly the larger, EU countries, it is significant. In that sense, Ireland has very much the same objective that Germany or France would have. Clearly, there are countries that do not

trade much with the UK. On trade, we have very much the same objective.

On FDI, I suppose Ireland's objective will be to try to attract some from the UK. That might be seen as an upside, and it probably is the same, although the ability for some countries to attract some of that might be less.

On energy, Ireland has a very unique position, but it is something that mostly can be handled quite easily bilaterally. It changes the calculus on energy-security issues and the connectivity to the wider European electricity market, which we are not connected to other than through the UK. That is something that is unique to Ireland.

The very important issue is migration, which is relatively unique. The level of migration between these islands is very substantial. It is no longer as important. I checked before I came here. Non-UK and EU citizens who are resident in Ireland outnumber the UK citizens resident in Ireland by just a bit over 2:1. If you go back 15 or 20 years, that would not have been the case.

**The Chairman:** They in turn are a complicating factor if there were to be a bilateral deal, for example, based on the recognition of the two citizenships.

**Edgar Morgenroth:** Yes. That is correct.

**The Chairman:** But, excluding other EU nationals, that would be quite sensitive.

**Edgar Morgenroth:** In relation to a bilateral deal, I do not see where this might come from, because it is the EU that has the responsibility to negotiate on migration and trade issues with non-EU members. That is going to be the difficult one. Then, of course, the really big issue is Northern Ireland. Again, there is no other country in the EU with similar issues. Migration and Northern Ireland are probably the most pressing issues. The energy one is important, but that can be dealt with. I believe the existing contractual arrangements are probably robust to a Brexit. There is some change in the calculus on energy security, but again that can be handled.

**The Chairman:** Dan, do you want to come in?

**Dan O'Brien:** Yes. I might be more concerned about the future of the trade and investment relationships than Edgar. If we take France, France's exports of goods and services to the UK account for about 2.5% of its GDP. If there were to be a one-quarter decline in French exports to the UK, it would probably not even push France into recession. France, as is well known, has long, deep, historical protectionist instincts, and it is certainly not a country that is behind the door in pursuing those interests when it sees an opportunity to do so. That, in my view, possibly puts Ireland's and France's positions at different (and extreme) ends of the spectrum of Member States when it comes to giving the UK market access to the Single Market. So when it comes to influencing the negotiations, as Edgar said, on the trade area and particularly an exclusive EU competence, bigger countries will have more say. To go back to France as

an example, that country has potentially more to gain by having a less free relationship with the EU-UK, and that, of course, is a concern.

A second point is that the higher the trade barriers that come into existence post-Brexit, the more of a dislocation effect there will be on economic activity in terms of company investment. In Ireland, as in some other member states, there has been almost a scramble for investment from the City, which is certainly a potential upside for Ireland and other countries if those barriers are significant and there is large-scale disinvestment from London. It works the other way as well. For Irish companies that are focused on the UK market, the higher the barriers to trading into the UK, the bigger the incentive for them to relocate at least part of their operations over those barriers into the UK. That will mean job gains for you but job losses for us. In general, the more barriers you have to trade, the more dislocation there is going to be as well as reduction in interaction.

**The Chairman:** Which may not lead to the economically optimal outcome.

**Dan O'Brien:** Precisely.

**Baroness Browning:** Could I just ask Edgar a quick point? You touched on energy, and unfortunately on this visit we have not been in a position to have any detailed briefing on energy. Under the Lisbon treaty, energy became a competence of the EU. You seemed to think it was all fair wind on the energy front. Suppose Northern Ireland is in a different regime from the EU in the south, and the sale of energy was linked to EU policy, particularly in the environmental field, with sums of money attached as conditions. How problematic is that going to be?

**Edgar Morgenroth:** I would not say "fair wind", to clarify that, and likewise on trade I might come back to that. We have done some very detailed analysis on that. In relation to energy, there is no fair wind, but the immediate relationships that we have are robust to Brexit. There are implications, obviously. On the island of Ireland we operate a single electricity market. Northern Ireland and the Republic of Ireland have one market that operates completely without barriers, and the prices that apply here are the same prices that apply in Northern Ireland.

**The Chairman:** To be picky, that is at the wholesale level, presumably.

**Edgar Morgenroth:** That is right.

**The Chairman:** At the retail level, that would be differentiated by the supply.

**Edgar Morgenroth:** Importantly, Northern Ireland imports electricity from the Republic of Ireland. As energy and environmental regulations or laws change, that will have an impact on energy prices. That could happen if the UK changes its energy and environmental laws; likewise, if the EU requires us to jump higher in terms of carbon emissions or whatever. That will then have an impact directly on the other part of the island, depending on what happens. That could be good. It could push down prices for Irish customers or it could raise them for Irish customers, and vice versa for Northern Ireland. We do not know at this point in which direction we are

heading, so it is very difficult to say whether this is going to be good or bad. It certainly can be good or it can be bad. If it is good for consumers, it might be bad for investors. That then has an implication for electricity generation capacity.

**The Chairman:** And for security.

**Edgar Morgenroth:** And therefore security. Because we will now only be linked to the UK and not to the wider EU market, the calculus on investment for energy security will have changed somewhat. It might be optimal to connect Ireland to the grid in the EU—it would be an expensive project to connect to France—or, alternatively, to have something like an LNG terminal, which would free us from our link on gas to Scotland. That calculus would have changed. I do not think that in the near term the relationships that we have will be encumbered by Brexit, but over the longer term as policy evolves, yes, there could be issues. Of course, there are these potential investment decisions that we might want to change our view on.

**The Chairman:** Do you want to come back on any of the overview issues, in particular given that you are charged with working together across the island to promote tourism? Is there anything specific that you see, particularly in the perspective of a joint approach to the negotiations?

**Niall Gibbons:** I think that cross-border collaboration is absolutely vital. I have been working in Tourism Ireland for nearly 15 years; 70% of our funding comes from the Irish Government and 30% from the Northern Ireland Administration. We have had a terrific buy-in from the tourism industry. It is a great example of collaboration and action. I have a board of directors; six are appointed by our Northern Ireland Minister and six by our Minister here in the south. The conversations and dialogue are all about how we generate more business. That is the space that we want to keep it in. Issues such as the common travel area and talk of a hard border are anathema to our business.

**The Chairman:** That is helpful and in a sense short-circuits some of the questions to come. In pursuing the economic impact, I am going to suggest that we get Lord Whitty and Lord Selkirk to ask their questions together, if they have something further on this.

Q103 **Lord Whitty:** You have partly covered it, but, more explicitly, how far is the detrimental effect that you have described on the Irish economy dependent on the form of the Brexit and the final terms of the deal? That is my general question. I would also like to ask Dan to say a little more about the difficulties of negotiating an FTA post-Brexit.

**Lord Selkirk of Douglas:** Can I ask which sectors and industries will be most affected by Brexit? Also, on the other hand, which sectors will be least affected and, indeed, minimally affected? How can any negative impact of Brexit on the trading relationship between north and south and between the Republic of Ireland and the UK as a whole best be mitigated and be kept to an absolute minimum?

**Dan O'Brien:** Unfortunately, on the mitigation point, there is really very little that can be done.

Going back to the final outcome, it seems to me that it is not just a one-shock change. There is the uncertainty pre-Brexit. There is the transitional agreement, because it now appears very unlikely that there will be two twin tracks—that the final relationship will be negotiated by the time you leave. There is a period of time where you are in a post-Brexit transition. There is the uncertainty around the negotiations for the new comprehensive free trade and investment agreement; let us call it that. Then there is the implementation of that, which could be in 10 years. So this is an extremely long period of different phases of different types of uncertainty.

**The Chairman:** Although it is outside the immediate discussion, there is also the question about negotiation with third parties for free trade agreements there, is there not?

**Dan O'Brien:** I was going to come to that. Specifically, as to my own experience 20 years ago with the European Commission, there are parallels. There was a change of Government in Malta. I was involved in the diplomatic mission of the European Commission to Malta, and out of the blue they decided to withdraw their membership application to the EU. There was a period of uncertainty. They then decided that they were looking for a free trade agreement, and we got into negotiating a free trade agreement. Malta is a small country, so it was relatively straightforward, but the complexities of negotiating that, the files on different aspects of the relationship, the interconnectedness of it, the trade-offs between different files, meant that it was an extremely long and arduous process.

The UK economy is infinitely more complex and bigger than a small country like Malta. To unscramble all the eggs of 40 years of membership, then to rescramble them and at the same time start scrambling other eggs with third countries, from my own experience of it, is the most daunting of prospects. Frankly, I think there is a high probability that Brexit will never happen simply because it is such a complex task.

**Edgar Morgenroth:** On the impact across different types of negotiated outcomes, there is a fairly large degree of difference. We have looked at a few different scenarios, starting with the Norway-EEA type. Basically, most people have to use that as the softest Brexit—that is the softest Brexit now, and the Prime Minister has ruled that out, but we will see—and then all the way down to a WTO arrangement. If you are looking at impacts of GDP in Ireland after a Brexit, our estimates are that it will be somewhere between 2% and 4% relative to base.

We have looked very carefully at the trade impacts with a WTO outcome. In fact, I would have to disagree with Dan here, having done a very detailed analysis down to the product level of 5,200 products across the EU. France is only marginally less affected than Ireland. Germany would be more affected than Ireland. That is to do not just with how high the individual tariffs would be on individual products, and then watching people trade with the UK, but with how sensitive the demand is to price changes. Once you take that into account, I am sure you will find that Ireland is not as badly affected as we had initially thought on the trade side. Nevertheless, the impacts will be quite substantial: in excess of 20%

of trade with the UK. In the case of Ireland, that would be somewhere between 3% to 5% of total trade.

**The Chairman:** Do you want to identify any particular sectors?

**Edgar Morgenroth:** The sectors that are most susceptible are agrifoods and traditional manufacturing. That has important significance to Ireland, because it is the area that is much more labour intensive and much more dominated by Irish firms and smaller firms. That is an important thing. Even regionally it is important, because those firms make up a much greater share of employment in the structurally poor regions of Ireland.

**The Chairman:** To put perhaps a rather simplistic formulation to get your response, would it be true to say that the harder the Brexit, whatever that means, the greater the potential damage to the Irish economy?

**Edgar Morgenroth:** Yes.

**The Chairman:** You would not dissent from that, and Niall, neither.

**Edgar Morgenroth:** You will not find an economist, I think, who would disagree with that statement.

**Niall Gibbons:** It is very hard to speculate on what these terms mean, but Oxford Economics has told us that it expects to see the number of British people travelling to all destinations next year fall by 2.4%. Depending on where things go, it sees the potential for the market to recover within the following two years. We are looking at 2017 to 2019, but there are so many factors involved. We are in the realm of speculation to a large extent.

Another enormous factor that impacts on our business is air access capacity. Our colleagues in Northern Ireland would cite APD and the level of VAT as inhibiting factors to competitiveness. APD has been abolished in the Republic of Ireland and VAT has been reduced to 9% from 13.5%. They have been good, pro-competitive factors, so to speak, but air access capacity, given that Aer Lingus and Ryanair bring about 70% of people on to this island, is going to be a major determinant of overall numbers as well.

**The Chairman:** I wonder if Lord Selkirk could come in on some of the EU funding points.

Q104 **Lord Selkirk of Douglas:** I would like to raise the issue of EU funding for Northern Ireland. How would you assess the likely impact on Northern Ireland as a whole and the border regions as a result of the loss of EU funding? What will be the impact of Brexit on cross-border infrastructure projects, which I could mention? How can the balance be made up? Will the Treasury guarantees go a long way in that direction or is more required? What is your view about the long-term relating to the border issues?

**Dan O'Brien:** I do not have a strong enough view on that.

**Edgar Morgenroth:** Very broadly, there are two issues. One is the impact on Northern Ireland itself, and then there is the cross-border dimension. If you think of the regions in the Republic of Ireland, the one region that borders Northern Ireland has been able to draw down INTERREG funding

from the EU. That will presumably cease to be available to them because they do not have an EU member state border, so they are probably less likely to draw funds down that source. In fact, there are very few structural funds available to Irish regions at this stage. It will have an effect there. Even if Northern Ireland gets the same level of funding from Westminster as a direct replacement, there will be that impact.

It is yet to be seen whether we will see a direct one-for-one replacement of those subsidies. It seems that, as almost all economists would agree that Brexit is a negative for the UK, then presumably there will be less money to be distributed. It might not be a one-for-one. That will obviously hurt Northern Ireland again, and Northern Ireland, I guess you will have probably heard, is very dependent on transfers from the UK. Public sector expenditure accounts for over 60% of GDP in Northern Ireland. It is very exposed to any change in its subsidy regime.

**The Chairman:** Niall, could you comment on some of these infrastructure issues, not only from the tourism viewpoint but, presumably, of residents of Donegal wanting to get to Dublin conveniently and at some speed? That is also the kind of problem that will arise with the domestic population, is it not?

**Niall Gibbons:** Yes. Tourism Ireland is not the beneficiary of any of those funds, but what we do see on the ground is PEACE and INTERREG funding, which are funds that get people working together that would never have worked before. Another practical example is our colleagues in the Commissioners of Irish Lights, which are another unique east-west body, so to speak, which has a big tranche of INTERREG funding for doing up the lighthouses around the coast of Ireland, both north and south, and that is proving a great tourism draw as a new product. We have seen various cross-border projects over the years funded by both PEACE and INTERREG that have been of great benefit for us in relation to selling the island of Ireland in the overseas marketplace.

**The Chairman:** These are both direct but more particularly indirect effects.

**Niall Gibbons:** Yes. They do not fund us directly, so to speak, but they get people together and working on the ground. Again, you must remember that the tourist who is coming over does not have perceptions of a border, so to speak. The more the people do on the ground to work together, the more inspiring the message you will be able to deliver to the international operators.

**The Chairman:** I think we might, in our remaining time, probe some of the border issues a little. I will ask Baroness Armstrong and Lord Jay to ask their linked questions.

Q105 **Baroness Armstrong of Hill Top:** You have talked about trade, tourism and migration being important issues, and obviously the borders between north and south and what agreements are made in the future on those are very important. The British Prime Minister has said that she does not want a hard border, but on the other hand there will be the border, as far as the UK is concerned, with the EU. Do you have anything that we ought to hear on how you see the soft border being maintained, the difference between the EU and non-EU countries being established and so on?



**The Chairman:** Incidentally, before Lord Jay asks his question, we are coming up to our nominal time, but can you spare us five or 10 minutes more to conclude? I think we can finish in that framework.

**Lord Jay of Ewelme:** I wanted to ask a question that is border-related and the potential impact on the border of the UK deciding to leave the customs union. First, can you see a scenario in which the UK would leave the single market but stay within the customs union, which some people have talked about, which would make the border issue slightly easier to solve? Assuming for the moment that we are outside the customs union, do you think it inevitable that there will be some kind of customs controls along the border, or is there now some electronic means plus selective checking that would avoid having to have a hard or hardish border, which would clearly be in the interests of tourism as much as other things?

**The Chairman:** If I might gloss on that, there is a major economic driver about the movement of goods, HGVs and so forth. There is a subordinate issue about whether tourists in their hire cars will be irritated by having to stop in line and open their boots to show that they are not taking contraband items across and avoiding duty. Perhaps we can come to the macro issue first—also raising Baroness Armstrong’s point—and then to the tourism-related issue.

**Dan O'Brien:** It now seems that the most obvious route is that the UK will not be part of the customs union. This gets into the very technical issue of what kinds of technologies exist to minimise the extent to which customs posts have to do testing. I understand that there are technological advances that will allow it to be less obtrusive than it may have been 30 or 40 years ago. Given the island nature here, controls may be less onerous and problematic than the old-style ones one might picture of a border guard lifting up a post and bringing one person through. One can only hope so. These are the sorts of technical details, involving new technologies, in which I do not have a sufficient degree of expertise to be able to give you an informed opinion on how it would look.

**Lord Jay of Ewelme:** Is it your view that if the Government decided that ensuring that there was not a hard border was so important, they would be able to find ways? In other words, could this be a spur to new forms of border control that were not border control?

**The Chairman:** A virtual border.

**Edgar Morgenroth:** Perhaps. The question of the customs union is very pertinent to this issue. If the UK were to leave the customs union and to do trade agreements with Argentina or Brazil about beef, the Irish agrifood sector would not welcome imports from those countries coming via Northern Ireland, through a soft border.

**The Chairman:** There would have to be arguments about rules of origin and so forth.

**Edgar Morgenroth:** Exactly. Leaving the customs union would open up that particular issue. It would make a hard border almost inevitable, whatever that might look like.

In Ireland, sometimes people forget that there are lots of EU member states that have a border with non-EU countries. To see what a border in

such circumstances would look like, one should look at the borders that we currently see between Poland and Ukraine or between Bulgaria and Turkey. They are quite substantially physical borders.

**The Chairman:** In fairness, Sweden and Norway would be a rather more—

**Edgar Morgenroth:** Again, that is the EEA.

**The Chairman:** It is an EEA country.

**Edgar Morgenroth:** Here we go back to the previous question. The nature of the deal that is ultimately agreed will determine a lot of these issues. Solutions could be found that would be less impactful, but there is a trade-off here. If Brexit means Brexit, as the Prime Minister said, and is going to be more hard, it is much harder to see how we cannot have a hard border. If there is a hard Brexit, almost inevitably it will give us a hard border.

That raises all kinds of issues on the island of Ireland. The trade ones are probably much more minor than the political ones. The previous group may have dealt with that. I live very close to the border—I can see Northern Ireland from my house—and it is pretty permeable. I have often walked across it. It has always been a very permeable border—even at the height of the Troubles, when there were lots of checkpoints. That is not all that long ago.

I see the political side as much more important than the trade dimension. The trade dimension is manageable. One might find a technical solution. When we did not have the single market in the EU, there were barriers, but I cannot remember being stopped when going from Germany to Holland in my lifetime. There were no physical barriers. They were open.

**The Chairman:** I can remember being stopped at that border, but that is a long time ago. Niall, perhaps we should not forget the fact that a lot of this comes back from the general to the personal—the experience of individuals and clients, as you might wish to describe them. What is your take on the issue of borders?

**Niall Gibbons:** I will talk about a couple of numbers first, to put it in perspective. I will then take a practical example, to walk through the implications.

North American travel to Ireland is exceptionally strong. It is not because of the diaspora, which is in decline; our growth is coming from the likes of California and the southern states. We are linked by 16 gateways in North America on to the island of Ireland. Ten per cent of all US outbound travel to Europe now comes to Ireland, which is a very high statistic. Approximately 97% arrive in the Republic of Ireland. The regional spread is getting better, but 75%—and growing—of Northern Ireland's North American visitors arrive via the Republic of Ireland.

Take a practical example that is being invested in at the moment—Hillsborough Castle. It is a terrific property. Recently it was transferred to Historic Royal Palaces. Multimillion-pound investment is going in. It is a great part of the armoury that we will have, so to speak, which will appeal to the American visitor really well. However, to get there, you have to

cross the border. You may continue your journey on to Belfast, where an extra pile of hotel rooms are being built at the moment. The sense is that economic confidence is very good. Belfast has had its best year ever for hotel occupancy in 2016. That has been getting stronger and stronger, so people are now building on the confidence there.

However, about 30% of our visitors from North America come on package holidays, where they get on a bus; some hire cars, too. If more barriers are put up, I see nothing but difficulty. The consumer does not want difficulty; they expect to have ease of travel. Anything that starts to put up borders in the way of our business is not good.

Our business growth thrives on open borders. It has been thriving—the numbers are there to prove it. There are about 6.5 million people living on the island of Ireland. In 2016, we will welcome 10 million visitors. It is a remarkable number. First Minister Arlene Foster, with whom I worked for a number of years, used the phrase “rebalancing the Northern Ireland economy”, which is very public sector-dependent. Tourism is an industry that can really lift and push that rebalancing, but anything that involves a border in our business has the capacity to set that back.

**Q106 The Chairman:** Thank you. We need to move towards a wrap-up. I have one more specific question for Dan. It is about sectoral issues. We have been hearing along the way—it appears in the press, for example—about the problems of mushroom farmers. Somebody was quoted as saying that this was the canary in the cage for economic troubles to come and some of the stresses that may arise with currency fluctuations, although recording the fact that we have operated two different currencies for many years. We know about hospitality and about agrifood; mushrooms are part of that, in a sense. How much are you looking out for those sorts of setbacks in the light of the Brexit decision? How relevant are they to future economic problems?

**Dan O'Brien:** I suppose that we have been talking a lot of negativity. As economists, maybe we are a bit dismal.

**The Chairman:** We hear about the problems, rather than the successes, do we not?

**Dan O'Brien:** My view, and the view of most economists, is that this is overwhelmingly a bad thing economically for both Britain and Ireland. Let us talk about something slightly more positive. The sector that will not be so affected by this is the very large multinational, mostly American, sector here, particularly in pharmaceuticals, financial services and higher tech. No European country has a similar dependence on a foreign multinational sector. It drives a huge proportion of exports. No other country in the OECD has more of its workforce employed by foreign companies.

Those companies are focused on the single market. For them, that does not change. Clearly, the UK leaving takes part of that, which is negative, but they are focused primarily on the continental market, which remains there. It is important to emphasise that there is no real question of Ireland following the UK out of the EU, because that is the main economic interest. The motor of the Irish economy is that multinational sector. It needs access to the single market, so there is no question of pulling out of the EU.

**The Chairman:** Following on with a thought, if that is the case, albeit that you may not have quite as big a macro problem as you thought, there may be acute regional problems that arise where is not such a high exposure to these international sectors. Is that fair?

**Dan O'Brien:** Exactly. At the other extreme, if, as I mentioned earlier, Britain were to go down the road of a cheap food policy, to leave the customs union and unilaterally to reduce all or most tariffs on imported food, that would have a disastrous effect on the farming sector here. In the rural areas, you may not have a large number of high-end US corporations, so it could have devastating regional implications for that sector, which is most exposed.

**Edgar Morgenroth:** To start with mushrooms, it is a sector that has been trading on very small margins and that exports almost entirely to the UK. There was a time not very long ago, in 2009 and 2010, when the exchange rate was more or less the same as it is now. The mushroom tunnels, which are just down the road from me—I live in rural Ireland, along the border—were not operating. They came back when the exchange rate was in their favour. It is a business that will go up and down. Under the WTO, mushrooms are not subject to any tariffs, so that will not affect them. I checked it out before I came here.

Q107 **The Chairman:** As we draw towards a conclusion, I would like each of you to make a final comment, picking up two things. First, had we had more time, we might have wanted to explore the peace process. You would not necessarily claim to be experts on that, but you clearly have an interest in it. I can gloss that by saying that we—and, I am sure, you—have an interest in both the reality and the perception that this island is a peaceable place where people get on with one another and the atmosphere is not one that will threaten overseas visitors, for example. You might like to comment on that. More generally, if there is any aspect of the economy or sectors of it that we have missed or if there are any messages that you want to share with us, please feel free to do so. Niall, would you like to start?

**Niall Gibbons:** I think that I have articulated all the issues relevant to our industry. The issue of peace is an interesting one. I have been involved in north-south dialogue for about 15 years. The conversations now are like day versus night, compared with what they were. The peace process has been an amazing journey. It takes time. The more we can engage in dialogue and cross-community and cross-border work, the better.

**The Chairman:** Can I come back to that on one point? I am sure—we have heard it elsewhere—that that is true at what you might call the official level, in public bodies and otherwise. We have had evidence to that effect. Is it your sense that it is also true at the more interpersonal level? I do not necessarily mean at the formal, intercommunal level. Do people feel easier in making visits that they previously would not have done, or otherwise?

**Niall Gibbons:** There is no question about it, but there is still a journey to go. There are a large number of people in the Republic of Ireland who have not visited Northern Ireland. There are lingering perceptions of safety

and security that arise in international research that we carry out. However, that is improving. It is a long-term trend.

**The Chairman:** It would be helpful to have any of the information that you can share with us on that.

**Niall Gibbons:** Sure. We can supply that to you. Peace drives tourism, and tourism drives peace. That is internationally recognised. We can be very negative sometimes in considering the Brexit issue, but I would finish on a high note. The Irish Government and the Northern Ireland Executive are working hand in glove on the bid for the Rugby World Cup in 2023. That is a great example where all of us are working together—shoulder to shoulder, as we say in the Irish rugby team—for the benefit of everybody.

**The Chairman:** We have conflicted loyalties in my own family on that. I need to declare an interest.

**Edgar Morgenroth:** To pick up from that point, I gave a briefing to Permanent Secretaries from Northern Ireland in the Department of the Taoiseach, where they were hosting their counterparts from Northern Ireland. So depressing is this Brexit issue that, after me, they had to have the IRFU in to talk about the bid, to lighten the mood.

I will make one brief comment. I have done a fair bit of research on this issue, going back to 2012; I started looking at it early. The more I look at it, the more I find issues that are very detailed. We have had an hour here. Dan mentioned the trade negotiations. The reason why trade negotiations take so long is that you are going into the nitty-gritty. The nitty-gritty really matters here. Until we have all that sorted, we will continue to see uncertainty, which is not good for tourism. It is not good for the rest of the economy either, because it will reduce investment and so on. The devil is really in the detail. The debate has not been sufficiently on the detail. Even at official level, there is an awful lot of work to be done to sort this out and to get an agreement everyone can work with.

**Dan O'Brien:** I have three final points. Extreme uncertainty that is very hard to quantify and lasts for a long period of time will be difficult just to map, think about and deal with. Another point that has not come up is a concern that the EU will become less liberal. The departure of a large and traditionally liberal country will shift the centre of balance—the centre of gravity—in the EU. That would cause considerable concern here. I do not know whether anybody else has raised the issue with you.

Finally, I do not claim to be an expert on the north, but northern society is unusual and very divided. Divisions and insecurities are significant. I do not think that Brexit will help, but my instinct would be that it is not enough to tip Northern Ireland back into negative, dangerous territory.

**The Chairman:** Thank you very much, on behalf of us all. We are very grateful to our three participants this morning, Niall, Edgar and Dan. You have given us some very interesting perspectives and quite a lot of depressing information, but also, I am pleased to say—because we are not in the process of preconceiving this—some indications of positivity or opportunity, which we will reflect on. It has given us a chance to take more seriously and to embrace some of the economic issues and challenges.

We are very grateful for your contribution. To borrow TTIP language, it is a living agreement or a living dialogue, as far as I am concerned. We will want to come back on many of these issues. If you can share with us either data that you have or anything that is upcoming, we would very much value that in the future.

With that, I will formally conclude the session. We will reconvene in this room at 2.45 pm. We have business over the road meanwhile, but this session is now closed

## **Fianna Fáil – Written evidence (BUI0005)**

### **Introduction**

Fianna Fáil, the largest opposition party in the Republic of Ireland, welcomes the opportunity to make a submission to the House of Lords European Union Committee which is examining the impact of Brexit on the relationship between the United Kingdom and the Republic of Ireland.

While Fianna Fáil fully respects the result of the Referendum we are nevertheless deeply concerned about the direct negative impact that Britain's withdrawal from the European Union will have on the entire island of Ireland economically; politically and socially and on British-Irish relations.

The United Kingdom is our nearest neighbour and ally; our largest trading partner; and crucially co-guarantor of the Good Friday Agreement. As a consequence Brexit poses amongst other things a direct threat to our trading relationship, the Common Travel Area, North-South relations and the peace process. In addition, restrictions on the free movement of capital, labour and goods could also irrevocably change the nature of our relationship and is a cause of grave concern. Ireland therefore stands to be affected by the UK's decision to leave the European Union more so than any other EU member state.

While ultimately the long-term outcome for Ireland will depend on the relationship that the UK establishes with the EU, and the terms and conditions of such a relationship, we are of the firm opinion that the final arrangement must give special acknowledgement to Ireland's distinct position and the unique and special relationship between our two countries.

Our goals are:

- to have Ireland's unique and distinct position recognised in the final arrangement;
- to safeguard the peace-process and prevent the return of a 'hard' border that would once again divide the Island of Ireland and serious negative political, economic and social implications for the entire Island of Ireland and British-Irish relations;
- to preserve the Common Travel Area;
- to maintain strong trade links with the UK; and
- to maintain and build on the close relationship and cooperation between our two countries.

This submission, which draws on relevant research, underscores the need for careful consideration of the Irish position in the negotiations going forward. An agreement that reflects our shared history and close ties will help sustain and safeguard our strong links and the hard-won peace, stability and prosperity enjoyed on our two Islands.

### **The Common Travel Area & Northern Ireland**

#### **Implications of a 'Hard' Border & the end of the Common Travel Area**

Ireland and Britain have enjoyed a special relationship for many years and the Common Travel Area (CTA) agreement predates our membership of the European Union and has been in existence since the 1920s. As a result of the CTA the Irish and British Governments have reciprocal visa arrangements including passport free travel; measures to increase the security of the external Common Travel Area border; and the sharing of immigration data between our two countries' immigration authorities. Undoubtedly, the CTA has served both countries well and has enhanced British-Irish relations. It has resulted in increased trade and mobility between our two nations and on the island of Ireland. The cumulative impact of the CTA, our shared membership of the EU and the peace process has rendered customs posts and checkpoints unnecessary. The dismantling of security posts and reopening of secondary border-crossings since the signing of the 'Good Friday Agreement' has by and large made the presence of the border invisible.

However, Brexit now poses a real and substantive threat to the very existence of the Common Travel Area and as a result of the referendum Northern Ireland will now share a land border with an EU member country which raises the possibility that a border may have to be imposed which will once again divide the island of Ireland. A recently published report by the House of Commons Northern Ireland Affairs Committee noted that there are nearly 300 formal crossing points between the Republic of Ireland and Northern Ireland, as well as many informal borders, and so this indicates the scale and the complexity of the issue before us<sup>6</sup>.

While there have been positive statements from the British Government that there will not be a return of a 'hard' border, the UK's desire to limit immigration may create difficulties in that regard. If the UK wishes to prevent EU immigrants entering the UK through the Republic, there is a very real possibility that they will have to introduce passport controls on border routes. Once EU nationals no longer have the same 'free movement' rights in both countries, the land border between the Republic of Ireland and Northern Ireland could become a weak point in the UK's ability to control EU immigration. Given the centrality of immigration in the debates prior to the Referendum this is a significant cause of concern.

Furthermore, if Britain leaves the European Union Customs Union when they leave the EU this *'will require the introduction of new customs controls (a "hard border") between Northern Ireland and the Republic, in order to prevent goods from crossing the border in contravention of customs checks'*.<sup>7</sup>

A 'hard' border would be a serious blow to the entire Island of Ireland, but particularly for the 55.8% of people in Northern Ireland who voted to remain in

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<sup>6</sup> House of Commons Northern Ireland Affairs Committee. Report available online at: <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmniaf/48/4802.htm>

<sup>7</sup> Clegg, Nick. September 2016. *What does Brexit mean for the UK's trading relationships?* Available online at: [http://d3n8a8pro7vhmx.cloudfront.net/libdems/mailings/4093/attachments/original/1international\\_trade.pdf?1473331526](http://d3n8a8pro7vhmx.cloudfront.net/libdems/mailings/4093/attachments/original/1international_trade.pdf?1473331526)



the EU. Many communities in Northern Ireland would once again feel cut off from the Republic by the inconvenience of passport and custom controls and it will bring an end to the CTA which has been in existence since 1923. This would be a retrograde step that would have serious economic, political and social implications for communities North and South of the border, and for the Island of Ireland as a whole.

According to IntertradeIreland for example, one of the six North/South implementation bodies set up under the 'Good Friday Agreement', cross-border trade in goods and services on the island of Ireland has grown substantially over the past twenty years and now stands at circa £5bn Sterling or €6bn Euros equivalent. If custom controls are introduced it will inevitably lead to an increase in administrative costs, with direct financial impacts, cash-flow implications and operational impacts on businesses. This undoubtedly will have serious economic implications and has the potential to impact on employment and exports north and south of the border and make it more difficult for businesses to operate.

Furthermore, the possibility of passport controls will create significant difficulties for cross-border workers and students and could also damage the tourism. According to Tourism Ireland for example Great Britain is one of our top four markets for overseas tourism, delivering some 4.5 million visitors in 2015, a +10% increase on 2014. It is also a very important market for Northern Ireland, which recorded a +10% growth in GB visitors last year. Visitor numbers from Britain have continued to grow strongly to date in 2016, with the Central Statistics Office (CSO) reporting almost +16% increase between January and May<sup>8</sup>. However, the introduction of passport controls coupled with the devaluation of sterling and economic uncertainty is likely to negatively affect our tourism market. It is imperative therefore that every effort is made to maintain the Common Travel Area and the border as open and free flowing as possible. This is imperative not only from an economic perspective but is also essential in maintaining the strong ties and close friendship between our two nations.

The question of the Common Travel Area and the border must therefore be central to the negotiations. Ireland and Northern Ireland's unique position in relation to this must be recognised and every effort must be made to ensure that in as much as feasibly possible Brexit does not damage or impede British-Irish relations and our mutually beneficial friendship.

### **Implications for the Peace Process and PEACE funding**

Aside from the possibility of border controls and the threat to the Common Travel Area, the issue of how Brexit may impact on the peace process in Northern Ireland needs to be addressed. Our shared membership of the European Union has enabled our countries to forge common bonds at EU level and to foster good working relationships. Undoubtedly, these positive relationships and the bonds developed at EU level were and continue to be intrinsic to the workings of the Good Friday Agreement and the peace process. Thus, the decision by the UK to leave the EU is an immense blow and has the

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<sup>8</sup> Tourism Ireland data, July 2016. Further information available online at: <https://www.tourismireland.com/Press-Releases/2016/July/Tourism-Ireland-post-Brexit-briefing-and-update-on>

potential to destabilise the peace process. Peace is fragile in Northern Ireland and the result has already thrown up questions regarding a border poll and the reunification of Ireland, with Sinn Féin opportunistically calling for a border poll the immediate aftermath of the referendum. We therefore must be cognisant of how Brexit could not only diminish our capacity to work together, but also destabilise the peace process in Northern Ireland and reignite tensions in the region. It is therefore imperative that our two nations work collectively during the negotiations to secure the best outcome for Northern Ireland and its people.

Another fundamental issue that must be addressed is the potential loss of essential EU funding to Northern Ireland and the border regions as a consequence of the UK's decision to leave the EU. The EU has played not only a political role but also a financial role in securing peace in Northern Ireland, and the region has benefited hugely from funding from the EU. The EU for example established a cross-border PEACE Programme for Peace and Reconciliation in Northern Ireland and the Border Region of Ireland. This Programme was the direct result of the EU's desire to make a positive response to opportunities presented in the Northern Ireland peace process during 1994. It is a unique structural fund aimed at reinforcing progress towards a peaceful and stable society and promoting reconciliation.

As demonstrated in Table 1 below by 2020 the EU will have contributed €1,563 million in PEACE funding alone. The PEACE funding has been vital in supporting the peace process and has had a very positive impact on communities in Northern Ireland. While much progress has been made since the signing of the Good Friday Agreement there are still significant issues that remain to be addressed, including sectarianism, high levels of unemployment, and poverty and social exclusion. The potential loss of this vital support and funding is a significant blow to all communities in Northern Ireland and the border regions.

**Table 1 PEACE Funding 1995-2020<sup>9</sup>**

<b>Programme</b>	<b>Funding Period</b>	<b>EU Contribution (€m)</b>	<b>National Contribution (€m)</b>	<b>Total Programme Value (€m)</b>	<b>Total Programme Value (£m)</b>
PEACE I	1995-1999	500	167	667	430
PEACE II	2000-2004	531	304	835	539
PEACE II Extension	2005-2006	78	82	160	110
PEACE III	2007-2013	225	108	333	273

<sup>9</sup> For further information, see page 2 [The impact of EU Funding on the Region](#). The following paper illustrates the impact of PEACE and INTERREG Funding in Northern Ireland, the border region of Ireland (including Western Scotland 2007- 2013 INTERREG) over the past and future Programming periods: Part A 1995 to 2013. Part B 2014 to 2020.

PEACE IV	2014-2020	229	41	270	211
Total		1,563	702	2,265	1,563

It is unclear yet what shape Brexit will take, but it is evident that it poses risks to British-Irish relations and in particular our working relationship with regard to Northern Ireland. Whilst there is a strong consensus amongst political, business and civic groups in the UK and Ireland that there should be no ‘hard’ border and that progress must continue in relation to the normalising of relations in Northern Ireland we must acknowledge the complexity of our position in the negotiations ahead. It cannot be assumed that our need to maintain the Common Travel Area and an open border for political, economic and social reasons can and will supersede European law and procedures.

We believe that Ireland’s distinct position and the need to adopt a sensitive approach to Northern Ireland must be a top priority in the negotiations ahead. Failure to secure a deal that reflects our shared history and common interests, particularly in relation to Northern Ireland will undoubtedly weaken our ties and close relationship. However, whatever shape Brexit may eventually take we need to ensure that our Governments, the Northern Ireland Executive, all political parties and civic society work collectively to ensure that Brexit is not used as an opportunity to re-open old divisions, inflame tensions or fuel hostility and discord once again.

### **Wider Economic Implications**

Ireland’s trading relationship with the UK is of vital importance. The UK is our largest trading partner and we trade approximately €1.2billion in goods and services per week. Our common membership of the European Union has underpinned our strong trading relationship and our shared membership of the EU single market has been crucial in bringing our economies together. The result of the referendum is challenging on several fronts and we now have a very serious job to do over the coming months and indeed years to ensure that our strong trading relationship is protected and that solid economic ties are maintained between our two countries.

While the reaction of the financial markets to the referendum result was initially swift and severe, a fuller assessment of the impact on our economy will take some time to emerge. However several reports which were published in the run-up to the referendum highlighted the possible implications for Ireland across several areas including trade, agri-food and energy.

The Summer Economic Statement for example issued by the Department of Finance in Ireland prior to the Referendum result highlighted that recently published work by both the UK Treasury and the UK’s National Institute of Economic and Social Research (NIESR) using model based analysis suggested that a vote to leave the EU could reduce UK GDP by between 2.3 and 6.0 per cent, relative to baseline, under a range of scenarios.

In relation to the impact for Ireland, the Summer Economic Statement went on to state that estimates made using the Irish Economic Social Research Institute (ESRI) HERMES model suggest that a 1 per cent reduction in UK GDP would

reduce Irish GDP by approximately 0.2 per cent, relative to baseline, over two years. This implies a possible fall in Irish GDP relative to baseline in the range of 0.5 to 1.2 per cent based on Treasury and NIESR estimates<sup>10</sup>.

In addition, several other analyses of the potential impact of Brexit have demonstrated that Ireland in particular stands to be affected by the UK's departure from the EU across a number of sectors and areas. A report for example from the Economic and Social Research Institute (ESRI) published in November 2015 on the possible implications of Brexit highlighted the economic implications of a British exit from the EU for Ireland across several areas<sup>11</sup>. The findings made for sobering reading and are all the more stark now given that Brexit has actually come to pass.

In relation to trade for example the ESRI report estimated that Brexit could reduce bilateral trade flows between Ireland and the UK by 20 per cent or more and that whilst the 20 per cent estimate is an average figure the impact would differ significantly across sectors. The report also went on to state that the UK is more important as a source of imports to Ireland than it is a destination for Irish exports, and any barriers to trade would increase prices of UK imports to Ireland.

While the Irish economy has become less reliant on the UK for trade over recent decades, the UK remains a particularly important market for indigenous firms. Some sectors, including the agri-food sector for example, continue to have a relatively high dependency on exports to the UK. The Irish Farmers Association (IFA) for example noted that in 1973 70 per cent of our food exports were to the UK, whilst in 2015 this figure was much lower but still significant at 41 per cent. In addition a report from Teagasc published in 2016 examined 4 scenarios in the event of Brexit and the largest impact showed a reduction in total Irish agri-food exports of 8 per cent or €800m, while the smallest impact of Brexit showed an annual loss of agri-food export value of circa €150m or 1.4 per cent of agri-food export value.<sup>12</sup>

The terms of a UK exit will also have several other implications for the agriculture and agri-food sectors, including plant and animal health regulatory regimes. All of these are currently harmonised at an EU level and Veterinary Ireland, the association of Veterinarians in Ireland, have warned that: *'Ireland shares a land border with the UK.... If Britain withdraws from these EU standards or applies different standards it could have potential ramifications for cross-border processing, animal identity, animal disease controls or food safety'*.<sup>13</sup>

Our agri-food sector is just one of the many sectors that stand to be adversely affected by Brexit and it is hugely important that as free as possible market

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<sup>10</sup> Summer Economic Statement, June 2016. Available online at: <http://www.budget.gov.ie/Budgets/2017/Documents/SES/Summer-Economic-Statement-2016.pdf>

<sup>11</sup> ESRI, November 2015. *'Scoping the Possible Implications of Brexit'*; available online at: <https://www.esri.ie/pubs/RS48.pdf>

<sup>12</sup> Teagasc April 2016. Brexit – Potential Implications for the Irish agri-food sector. Available online at: <https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>

<sup>13</sup> Veterinary Ireland press release 4<sup>th</sup> July 2016. Available online at: [http://www.veterinaryireland.ie/images/press\\_release\\_4th\\_July\\_2016.pdf](http://www.veterinaryireland.ie/images/press_release_4th_July_2016.pdf)

access to the UK is maintained and vice versa. We believe that the minimization of trade barriers is in both our interests and that there is continued harmonization of plant, animal health and food safety regimes.

## **Conclusion**

We are in uncharted territory as no member state has ever decided to withdraw from the EU. There is no clear timeline for when Article 50 will be invoked and although Prime Minister Theresa May has insisted that 'Brexit means Brexit' we do not have any indication yet as to what this will actually look like or mean in practical terms.

We are however clear that Brexit poses substantial challenges to British-Irish relations and Ireland stands to be affected by the UK's decision to leave the EU more so than any other member state. Our two nations are intrinsically intertwined; we are bound together by our past, our strong economic, social and cultural ties and our shared future in relation to Northern Ireland.

We are in no doubt that Britain's departure from the EU will be a defining moment not only in UK-EU relations, but also British-Irish relations. Ireland remains deeply committed to the EU and so we must navigate a new way forward and develop a new relationship that recognises our membership and commitment to the EU whilst also preserving and building on our close ties with the United Kingdom.

The negotiations ahead will undoubtedly be complex, at this juncture there are no certainties and unravelling 43 years of EU membership will be no easy task. However, we must endeavour to work together to secure the best deal for both our nations. In the midst of trying to negotiate a new way forward we must first and foremost ensure that no harm is done to Northern Ireland and its people; so much effort and so many people have worked tirelessly to get Northern Ireland where it is today we cannot let it slip back to the dark days of the past.

The UK will have to decide for themselves what sort of relationship they want with the EU but it is our hope that in the post Brexit era the strong links and common bonds between our two nations will be preserved and that we will continue to work closely together for the betterment of our nations and our people.

27 September 2016

Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin, Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI Maynooth and Dr Etain Tannam, Assistant Professor, International Peace Studies, Irish School of Ecume

**Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin, Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI Maynooth and Dr Etain Tannam, Assistant Professor, International Peace Studies, Irish School of Ecumenics, Trinity College Dublin – Oral evidence (QQ 85-99)**

Evidence Session No. 8

Heard in Public

Questions 85 – 99

Tuesday 18 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty

### Examination of witnesses

Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin and Columnist, Irish Times, Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI Maynooth, and Dr Etain Tannam, Assistant Professor, International Peace Studies, Irish School of Ecumenics, Trinity College Dublin.

Q85 **The Chairman:** In drawing things together for a formal start, I welcome our first panel in our evidence-gathering session in Dublin. We represent the overall House of Lords European Union Select Committee, which as some of you know is constituted into a series of specialist sub-committees. In relation to consideration of Brexit they, and my colleagues here engaged with them, are all doing detailed work to get an initial analysis of the implications of what will be the salient issues.

We have taken on a slightly more overarching role, looking at some of the constitutional implications. It is very clear that the sensitivity of the whole Anglo-Irish relationship is important, and that is why we are looking at that first. There will be other issues that we might explore in the UK. You may be aware that we have separate consultative machinery in our structure to look at European affairs with the devolved Administrations of the UK—the so-called EC-UK mechanism. That has brought the Clerk and me to Stormont a couple of times. We have typically had representation from Dublin when we have done that. We may have been aware of these issues ourselves, but as a Committee it is the first time we have considered them for some time. We are extraordinarily grateful to you for coming in.

It might be sensible to invite you, for the record, to introduce yourselves. If you want to say a couple of words about your take on things, that

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might give us something to start on.

**Dr Paul Gillespie:** We are delighted to engage with you. It is worth saying that the three of us are on the committee of a new network that we have set up, which is called the Islands and Unions Network: TIUN in short. It is a group of academics and some policymakers working on constitutional issues between Britain and Ireland as they arise from the Brexit decision. We got that going in June. We now have 140 or 150 academics and others on our list of contacts who have signed into it. We are having one of our first meetings in November here in Dublin.

We will be looking at issues of constitutional change in the UK and Ireland, doing research, organising public meetings and stakeholder events, and thinking about disseminating both the information we have and more academic publications. It is worth saying that it is quite a big breakthrough. Michael Keating from Edinburgh and Aberdeen and Anand Menon and a number of other academics are involved. There is particularly strong Scottish, Welsh and Northern Irish membership. The three of us are on that committee. We are activating that. I underline the importance of the research side of it, and therefore the importance of funding where we can bring value as academics and researchers. It will require a funding initiative in Britain and Ireland and the various centres. That is a kind of lobbying point but a necessary one.

As to my own interests, I have been involved with these issues over a number of years and have written several books with the Institute of International and European Affairs. I am trying to bring my own understanding of British-Irish relations in the European setting to bear on the Brexit decision. One of the areas that interests me is the issue of variable geometry or flexibility—differentiated integration. There is a nexus between what happens in the UK in this respect, with devolution and the idea that there might be separate outcomes for Northern Ireland, Scotland, and now even for London. That kind of model is what I would call a pluralist constitutional approach to the issue as distinct from a harder, more centralist—if you like, more sovereigntist—account of what Brexit would mean, which would be less open to that variable outcome.

In a similar way there is a range of views on the issue—not quite a continuum—in the European Union, in Brussels and among the Council. The way it pans out will be very interesting over the next period. It is not only an academic issue; it bears very strongly on policy, as we see almost daily. That is one of my own takes on it.

**Dr Etain Tannam:** My area is similar in some ways to Paul's. We are both very interested in British-Irish, Anglo-Irish relations. I was on research leave before the Brexit referendum and have been researching the British-Irish relationship in the 21st century for a book for OUP. Then Brexit happened, so now everything is delayed..

My specific area of interest is the institutionalisation of the relationship since the Anglo-Irish agreement—how that has consolidated and developed the relationship. I am interested, in a different way, in variable geometry and its impact on cross-border relations. I put in a research bid, which is linked to the book, to the Irish Research Council on whether every

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area is negatively affected by Brexit functionally, or whether there are grounds to believe that co-operation can prosper even with the UK out of the EU. We would all—the three of us—prefer the UK to be in the EU, but there may be variable impacts on different sectors. Some areas might develop with British-Irish motivation and prioritisation.

**Professor John O'Brennan:** I hold the Jean Monnet chair of European integration at Maynooth University. I have specialised in the politics of integration for more than 20 years. There are two vectors to my research. One is the EU relationship with central and eastern Europe, and the other is Ireland and the EU. I have studied Irish referendums; for example, the multiple reasons for failure of some referendums, and the dynamics that underpinned those failures and other successes, depending on one's point of view.

My key interest is in the impact that Brexit may have on Ireland's position in the European Council. Rightly, enormous attention has been paid to the economic impact of Brexit and to the constitutional issues. My interest is slightly different. It is what happens to Ireland within the Council. In some ways, the UK and Ireland have a very paradoxical relationship in the EU, in that over time Ireland lessened its dependence on the UK significantly in economic terms from an export range in the 60s in 1973 down to 17%; decoupling from sterling in 1979 and so on. Paradoxically, the political relationship between London and Brussels has deepened significantly, especially over the last 20 years. I hope that we can explore those issues about the politics of Brexit, both in the immediate sense of negotiations and subsequently.

**Q86 The Chairman:** Thank you very much for those presentations, which help to colour this discussion. If you feel that we are not doing justice to them with any of our questions you can interpose before the end and make a contribution, but even what you have said has been very challenging. Off script, as it were, I have a couple of thoughts for you. First, we are beyond pleasantries and are interested in the reality. As you have already touched on, John, there is a much easier working relationship between the British and Irish Governments, and more generally in society, and probably a better understanding than there would have been, say, at the time of accession, leaving aside the Troubles and what happened subsequently, and the euro and all that. In a strange way, the countries have grown together and that ought to be productive for a sensible outcome. That is a general point.

The second point, which is something that struck us in Belfast, is that for a number of reasons, including political reticence in the past, some of the issues in relation to Brexit were not particularly salient, certainly in Northern Ireland and questionably here, before the referendum, but have now become very intense. First, is there a sense in which you feel that these Brexit-related issues are now starting to go in a way that they had not before? Were you ploughing a lonely furrow, which has now become a mass crowd-funding exercise in ploughing the field? We will note but are unable to help directly on the funding bids. We know many of the academics you referred to, Paul. Secondly, do you feel this is against the



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background of better knowledge and sympathy between the people and their Governments? It is a general point. I do not want you to go into it at length because we have an agenda to fill.

**Dr Paul Gillespie:** I have used the term "normalisation of the relationship" in the work I have done on interdependence between the two countries. There would be some variation of interpretation as to the way in which the European issue helped that along, or helped the peace process along. I make strong cases for the influences on both sides.

The European setting was indispensable in reducing the dependency that John referred to. It is a complex interdependence and it allowed normalisation in all sorts of ways—interpersonal, political and intergovernmental. The North feeds into that. We can discuss further the extent to which that is the case. Brexit, therefore, takes up a lot of those themes, but it is a genuine shock to our system and to the totality of relations—that famous phrase—in these islands. It is an asymmetric shock as well in comparative terms. The impact on Ireland compared with the other member states of the EU is stronger and heavier. Some people say it might resurrect the Troubles, although I think that is sometimes exaggerated.

The issues you refer to cover a large agenda. Ruairi Quinn, for example, said the other day that this is the biggest shock to our relationship since the Second World War. That is probably true. Again, you can interpret that and it can be exaggerated, but because it is of that calibre and quality it tends to hit many aspects of the relationship. Therefore, people are agitated as seriously as they are.

**The Chairman:** Are there any other comments on that?

**Professor John O'Brennan:** I note that in his testimony to the Committee our Ambassador in London, Mr Mulhall, pointed out that up to 25 meetings a day are held in Brussels where Irish and British officials are in contact with each other. That is very significant. The big question that arises is, absent that kind of everyday contact, how are relations between senior civil servants going to evolve, and between political actors as well? That is a question of deep import for me and for others. It is the kind of intensive activity we associate with the Council and what goes on in the margins of the Council. In many instances, the commonality of interests between Ireland and the UK means that those officials meet each other informally, as well as in the formal setting of the Council. There is a big question as to whether that relationship might be replicated in North-South relations and in east-west relations through the British-Irish Council and through other fora.

**Dr Etain Tannam:** I concur with that. We were talking informally before the session. There is a difference in time periods. The role of the EU from 1973 to 1985 and onwards was significant, and is significant, but that was when the relationship was poor; it goes back to the Thatcher era and the many crises—the H-block and all of that era. Trying to be optimistic again, my hope would be that the institutions that are now there and the strength of the relationship can, in some way, compensate for Brexit.

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Paul talked about the asymmetrical effects. Between Ireland and England, in the British-Irish relationship, the effect is probably perceived as more important for Ireland than for the UK. I have seen very little in the British media about Northern Ireland. I have seen a lot more about Scotland. For the Irish Government, the priority must be to bring home that this is so important. Again, if we go back historically, it was only when there was violence that it became prioritised. When there was a crisis the British-Irish relationship began to strengthen, and the EU was a big factor, but now there is peace, Northern Ireland may not be prioritised, so I would worry about complacency.

**Q87 The Chairman:** Thank you for that. To respond briefly to the comments made, particularly, but not exclusively, by John, those of us on this side of the table who have had either ministerial or official experience—in my case recently, work for COSAC with my counterparts in the Oireachtas—would echo what you said about the importance of the bilateral relationship, and the ability in the margins to raise matters that were not necessarily on the agenda at that moment but may be of concern. Let us store that as a consideration and come to our first formal question. The new Brexit Secretary David Davis repaired to Dublin for his first international visit, and has identified UK-Irish issues as one of the more difficult elements in the Brexit negotiation. In a sense, we are all on the same page; that is why we are here. Given the shared history and the nature of the relationship, how much is it desirable to establish a specific bilateral UK-Irish deal, and—perhaps in square brackets—an and/or position, going forward to the Brexit negotiations with 28 in total, taking account of the uniqueness of this relationship? If it is desirable, how can it be effected?

**Dr Paul Gillespie:** Taking up the institutionalised setting, and taking John's point about subtracting that interaction in Brussels, what institutionalised setting do we have? We have the British-Irish Council as an east-west setting. It has suffered from a rather limited and unambitious agenda and very often, in fact usually, from an absence of high representation from Westminster, England or London, compared with the other places. I do not know whether you can develop that as a new institutionalised arrangement to match the North-South strengthening that is going on. The North/South Ministerial Council is developing a stronger agenda on Brexit-related EU issues, which is very interesting. The 2012 arrangement between the Prime Ministers and the Secretary-General is interesting and working away. To some extent, it depended on the personal relationship between Enda Kenny and David Cameron. How do you develop that? There has been talk in some of the meetings we have been having about the medium to long-term need for a new British-Irish agreement in this kind of area. That is feasible.

**The Chairman:** The Irish Foreign Minister, Charlie Flanagan, has been talking about that sort of legal recognition.

**Dr Paul Gillespie:** Yes, but it is clear that they have to balance that with their European commitment; they have to balance the bilateral against the multilateral. There is no discernible weakening of the multilateral

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commitment. That is going to be there, and the political balance that they found is a difficult one.

**Dr Etain Tannam:** I echo that. It depends on what is meant by a specific British-Irish deal, but I do not think there can be an arrangement outside the multilateral deal arrangements. Ireland's task is to balance its commitment to the UK British-Irish relationship and not in any way antagonise or undermine its success in getting outcomes for Northern Ireland vis-à-vis its EU partners. That is a balancing act. A specific deal, no, but special status for Northern Ireland has been mentioned: the idea, as in the past, of protocols and different things added to agreements that recognise Northern Ireland as a different case because of the conflict.

**Professor John O'Brennan:** To leave Northern Ireland aside for a moment, the issue of whether Ireland and Britain might build a more deeply institutionalised relationship will partly depend on the attitude of the other 27 to that relationship. Putting aside the question of special status for Northern Ireland, a common error being made in the UK, in commentary if not at political level, is that a deal with the EU can be expedited quickly because you are dealing with the European Union as an entity. That is not the case. You are dealing with 27 different member states with their own specific agendas and interests.

**The Chairman:** And the European Parliament.

**Professor John O'Brennan:** And the European Parliament. I do not think anything should be taken for granted about that, not least what kind of institutional form the new relationship between Ireland and the UK will have.

Q88 **The Chairman:** I will ask two short questions and then we will move on to other questions. The first is the immediate issue of the all-island civic dialogue proposed by the Taoiseach, taking place at the beginning of November. Do you see that as a good forum for rehearsing some of these all-island issues, not necessarily at official level but at civic society level, as a principle? I appreciate it is early days yet, but is that the sort of vehicle for explaining the voice of Irish interests that you would look for as positive?

**Dr Paul Gillespie:** Yes. The initial proposal was for a more elaborate forum, which would have political parties, political leaders and executives, as well as civil society. They backed off from that. As you know, Arlene Foster did not want to go along with it. The way I read it is that this forum is more informal and more civil-society oriented, and is likely to be attended by a good range of people from the North—organisations, civil society people. It is not overinstitutionalised. It might meet several times and it will produce a report. It is a useful supplement to what is undoubtedly a strengthening at the North/South Ministerial Council level, which brings together the important people, the executives and political leaders. We will see how far it goes.

**Dr Etain Tannam:** It is a useful supplement. It is not going to be fundamental.

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**Professor John O'Brennan:** There are two models that the Government had in mind. One was a so-called national forum on Europe, which was set up in the immediate aftermath of the failure of the Nice treaty referendum in 2001. That brought all the different political parties together with civil society. It was useful. I would not like to exaggerate its impact, but it was useful.

More recently, and perhaps more importantly, we have had a constitutional convention, which has been a useful exercise. We are currently going through a citizens' assembly to look at abortion rights. There are precursors for this. Like Paul and Etain, I hope that might feed into the conversation as it evolves and as the negotiations potentially kick off in the spring.

Q89 **The Chairman:** My final point, which we did not hear much about yesterday, is on what might be termed the phasing of these negotiations. It is prompted by something John said. There was a slight impression that this was a one-off exercise in which everything would be bundled and decided. Even those of us who know only a little of Article 50 know that it is more complex than that. There are those who say that six or seven different arrangements will have to be made in due course, not all of a trade nature. Do you see that the complexity of some of the Anglo-Irish issues is such as to lead to possibly a more phased approach, where there is some sort of understanding in principle in the initial negotiations that might then be fleshed out in detail at later stages of development? You are nodding, John. Do you see it that way?

**Professor John O'Brennan:** Yes, except that everything is highly contentious. Even the starting point for negotiations is contested to a degree. The result on 23 June did not come as a complete shock. It is arguable that our Government were better prepared than the British Government for what might ensue. In fact, I was in Brussels on the day Prime Minister Cameron announced his intention to hold a referendum, in January 2013. It was at the outset of the Irish presidency of the EU. There, I remember distinctly that the Irish Minister for European Affairs spoke volubly and openly about the challenges and representations that would be made to government.

There was a sense in government that it would be useful to make at least some preparations in advance. That process has obviously accelerated since 23 June, but anything that feeds into it is useful. A civil society dialogue should be considered in that sphere.

**Dr Paul Gillespie:** That contestedness and sensitivity must obviously be borne in mind, but in principle there is a lot that can and should be done bilaterally within the multilateral framework, and it should be prepared for and explored. It is probably easier to explore the bilateral than for Mrs May to explore the multilateral, but it has to be within that wider setting.

**Dr Etain Tannam:** I see how you can have a phased approach, but on a number of core principles, such as free travel, it would have to be decided.

**The Chairman:** I was thinking aloud. If you reach an agreement in principle, including possibly an agreement for some kind of special

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arrangement between our two countries in relation to the island of Ireland, it then opens the possibility that you might explore the technical issues about, say, the common travel area or whatever at a later stage, which is what we would like to do with you, if we may.

Q90 **Baroness Armstrong of Hill Top:** First, could I comment on the academic interest? The differential geometry is fascinating. We have played around with this in the UK for a long time. For a while I was responsible for devolution in England—massively unsuccessfully, I might say. I was engaged for a while with Spain and other European countries that were very interested in it. It seems to me that the UK is very split on this and the current Government are quite split on it. With your academic group, you are talking academically about Scotland going one way, Wales another and Northern Ireland another, having to make relationships with the European Union. Places like Spain will have a key interest in that. I would be really interested if you are talking with them too, because it has brought their country to a standstill at the moment. Anyway, that is an aside, but it will be interesting for us in the longer term, in these relationships, to see what you find out from other European countries. They may then say, "We are not prepared for the UK to go as far as that in differential agreements for different parts of the UK."

**The Chairman:** Before Hilary asks her question, perhaps I could flag up a question for everybody else. We would very much regard this as a continuing open dialogue. We are not just going to do a report and walk away from it. There will be the Brexit process, but it will be a continuing area of interest to us.

**Baroness Armstrong of Hill Top:** I am sorry for that aside, Chairman.

**The Chairman:** No, that is helpful.

**Baroness Armstrong of Hill Top:** It struck me that it was something we had not talked about and that it could be another little thing that we work hard on. If we do not understand where the rest of the EU is coming from, it might be a blind alley.

As we were saying, the UK Government and the Prime Minister have said that they do not want to see a return to the hard border. Yesterday, the people we were talking with were much exercised by that and what it would actually mean. Given that the Irish border will now become the border between the UK and the European Union, there are all sorts of questions and issues around that. Then we noticed the work in the *Guardian* and the *Irish Times* highlighting that the UK has been talking to the Irish Government about hardening up the borders between the European Union and Ireland. We wondered what your response was to all this chat and discussion.

**Dr Etain Tannam:** The fact that Ireland is not in Schengen is relevant. There are aspects that were related to the rest of Europe and the EU that did not relate to us, and can minimise some of the threat of the border being hardened. We have had our own travel arrangements. We have a free travel area, and that has been enshrined legally. That would be my hope, and, from what I have read, there is strong expert opinion that

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some provision can be made to continue those arrangements, given the different legal standing of Ireland and the UK in the free travel area.

I think I read in one of your questions about the idea of having British controls or immigration checks in some form in Ireland as well. I assume that would be politically sensitive, but on the other hand I would assume, if it is elite-driven, there could be leeway, depending on how it is implemented.

**Dr Paul Gillespie:** A lot of technical co-operation goes on. The shared visa arrangements, for example with the Chinese, illustrate that. The initial *Guardian* story was greatly overstated according to the information in the *Irish Times*. It is more an elaboration of existing arrangements, which are quite strong, than a new regime which would put British personnel in Irish ports, which would not be acceptable. It does not address all the issues and it would be symbolically and politically unacceptable.

**Professor John O'Brennan:** The reaction to the story was very interesting. One reaction common across social media was, "Well, the United Kingdom got itself into this mess. Please do not rely on us to get you out of it". There was a bit of that in posts.

Like Paul, I think this is probably exaggerated. If we think about EU migration to Ireland and the UK, it is highly unlikely that migrants will try to get into the United Kingdom illegally from Ireland. EU migrants tend to be rather better educated than our indigenous population and they have no interest in that. I suspect that within the British Government that does not constitute much of a fear. It is non-EU migration that constitutes the issue. As Paul suggested with China and India, there are frameworks in which the two countries could manage those kind of things rather more easily than the *Guardian* piece suggested.

Q91 **Lord Jay of Ewelme:** I want to focus on the border between North and South. There has been quite a lot of talk about the need, particularly if Britain is outside the customs union, to have some sort of customs border or some sort of border between North and South. One rather techie question is, do you think that can be managed by having some sort of electronic border or selective examination or checks outside the border area?

A broader question comes from something we heard in the evidence we had from Mr Brokenshire a couple of weeks ago. He gave the impression that not having a hard border between North and South was so important that that, in a sense, would be the objective, and therefore they would try to find ways to ensure that it would not happen. I wondered whether you thought that the issue was so important that that was the right kind of approach. It is a technical question and a more general one.

**Dr Paul Gillespie:** I am not competent on the technical question. People who know talk about it, and I would be very interested in what they are saying. It is superseded, however, by the political question. The political question is also the European question, because if you are outside the customs union the imperative from Brussels and the Council of Ministers

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will be that there are robust arrangements to make sure that the customs union is not breached. Working backwards from that, people are saying that outside both the customs union and the single market there will have to be some robust regime. Dublin knows very well that it has to be one that is acceptable in the multilateral EU setting. I cannot see that that is to be avoided out of the good will we have built up over a number of decades. That is the problem we have, politically.

**Lord Jay of Ewelme:** That puts a huge amount of weight on the Irish Government, because it is a question of trying to persuade the other 26 to agree to something that is necessary for Irish reasons but which will not necessarily be easily accepted by the 26.

**Dr Paul Gillespie:** Without going on too much, the Government have put a strong emphasis on the uniqueness of the Northern Ireland settlement. The asymmetric shock issue is one side of things. In addition, there is the uniqueness argument. It is to do with a violent conflict and a peace agreement, into which the EU bought as a peace actor itself, and quite heavily funded. If you can establish that argument for uniqueness, you strengthen your bargaining hand in the multilateral setting, it seems to me. They are right there. Going to the second part of your question, that is playing into the politics. It differentiates Ireland and Scotland, for example, which is interesting.

**Dr Etain Tannam:** I very much think a special case could be made based on the EU's interest. It is not just an Irish interest. It is peace, which is part of the EU's original rationale.

**The Chairman:** Within those thoughts I ask Baroness Browning to ask her question.

Q92 **Baroness Browning:** We have probably covered a lot of it. I was going to ask you about the changing situation post-Brexit. The common travel area predates either country's admittance to the EU. Picking up on what Paul has just said, we heard quite a lot yesterday in Stormont about the EU buy-in to the peace agreement and what it had contributed. It was seen as an active player in making sure that it continues. The view in Northern Ireland yesterday was that the peace agreement is an active plan that is ongoing and will need to be ongoing for a very long time. The border issue is at the heart of all this. In order to keep a soft border, given that there is clearly a political dimension in the North that might prefer a hard border, how do you see the way forward?

**Dr Paul Gillespie:** That is a big one. The hardness of the positions in the North echo to some extent the hardness of positions in London. There is a range between soft and hard; in between is something elastic, which is the differentiated or flexible approach. The harder message coming from the Conservative conference has echoes all around, including among unionists in the North. It has echoes around Europe, as we know.

This is being played out. I do not know where it will end, but in historical relations with Ireland, conservatism and Tory imperial nationalism, and now the emergent English nationalism—those clusters of sentiment—tend to be less favourable towards an Irish outcome, going back to Gladstonian

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times and over the history. That is something that Irish people are aware of, and the politics feeds into it. It is the small against the large and the weaker against the stronger. The smart game for the smaller and weaker is to know more about your opponent than vice versa.

**The Chairman:** It is called jiu-jitsu.

**Dr Paul Gillespie:** Maybe it is a rather roundabout way of answering your question, but I think how it is going to play out depends on the politics of all these islands and of Europe. It is uncertain yet.

**Professor John O'Brennan:** To follow up, and to link Baroness Browning's question to that of Lord Jay and Baroness Armstrong, I do not think we can take it for granted that Northern Ireland will end up with some kind of special status; in other words, that our interlocutors among the other 26 will accept those arguments, or accept them in full. In particular, the issue of devolution is linked in many jurisdictions to minority rights and intercommunal relationships. What would there be to prevent Hungary claiming special rights for its significant diaspora population in Slovakia or in Hungary? Looking ahead, one might anticipate problems arising about how we define what special status actually is.

**The Chairman:** The closer you are to cultural issues, the more sensitive the situation in relation to, for example, education.

**Professor John O'Brennan:** Yes, and the more dangerous it is.

**Dr Etain Tannam:** Yes.

Q93 **Lord Jay of Ewelme:** If you put the emphasis not so much on a special relationship but on the need in the EU's interest to ensure that there is not a conflict on its borders—what you need to prevent that—you could perhaps get drawn back into the idea of a special status without starting off with that as the objective.

**Dr Etain Tannam:** Yes.

**Dr Paul Gillespie:** Yes, absolutely.

**Professor John O'Brennan:** That is key. That argument will probably win out in the end because the EU's normative image of itself is so important. Even if the EU was only indirectly involved in the peace process, Northern Ireland stands as a success story. Anything that potentially damages that damages the union at a time when there are very few success stories.

**Baroness Browning:** From both North and South so far, we have been getting the view—although witnesses such as yourselves and politicians we have spoken to have qualified what they have said across the piece—that the Good Friday agreement is not in jeopardy; everybody is keen to reassure us on that. On the other hand, people realise that there is a certain fragility about how it goes forward. I wonder whether you think that that is the key card to play in the European negotiations.

**Dr Etain Tannam:** Yes, I would say so, very much linked to that. This is not Catalonia. This is a place where there have been more than 3,000 deaths and where it is fragile. It is not the same situation. The Good



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Friday agreement is very connected to that. It is an international treaty. It was very carefully crafted. Yes, is the short answer.

**The Chairman:** If we may, we will ask Baroness Armstrong to chip in with the final question in this area. Then we will go back to some of the economics.

**Q94 Baroness Armstrong of Hill Top:** We wondered if there was anything specific around the peace process and the Good Friday agreement where you thought that attention was needed. Devolution and how it was handled is part of the Good Friday agreement, for example, which I had not thought about much before yesterday, when it was drawn to our attention with things like how the UK Government devolve or do not devolve agricultural payments, which will be a very important test of devolution and the Good Friday agreement. Nationalists were very keen to alert us to their position, and their anxiety in terms of seeing themselves as linked to the Republic was another issue raised yesterday. Is there anything else around the Good Friday agreement that you think we should take into account?

**Dr Paul Gillespie:** That fragility bears in directly. The power-sharing Executive has only been going since 2007, which is not long; that is half the period. In the border regions, there is a feeling vis-à-vis the strong EU and intergovernmental funding of cross-border co-operation that we are reaching the cusp of a qualitative shift, but it has not quite happened. The intercommunal tension is very much still there. There is a fragility that necessitates continuing funding, continuing political attention, institutionalisation and special arrangements. There is a similar strong argument coming out of the uniqueness case. I am hopeful enough about achieving that, but the funding one is tricky. You have to convince London, Brussels and Dublin to do that.

**The Chairman:** We will come back to that. While your two colleagues formulate their response, I will mention that yesterday Colum Eastwood, on behalf of the SDLP, told us, "The impact on the nationalist psyche is tremendous and will get worse". In a sense, this is about the psychology rather than the formal expression of interest. In formulating your response, could you comment on that point, too?

**Dr Etain Tannam:** The Good Friday Agreement is central to creating that reassurance. One of the cornerstones of British-Irish policy since the 1980s has been to reassure nationalists. The Good Friday Agreement/the Belfast Agreement, is central to that. It is possible that the institutions provided for the North-South dimension and the South input may need to be strengthened and made more robust. The agenda may need to be expanded, but I think that is the correct forum and that is where that reassurance should be provided, because there are so many institutions in the GFA that would allow it to occur. It is an issue.

**Professor John O'Brennan:** Certainly, it is something that I have encountered in my interactions with nationalists from Northern Ireland over the last while. There was always a sense during the Troubles that the nationalist community in Northern Ireland was rather isolated, as much

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from Dublin as in its position within Northern Ireland. That has changed very significantly as a result of the peace process. It arises again not least because there are people to the left of the SDLP who have used Brexit to resuscitate the idea of a united Ireland, something that frightens a lot of people in Dublin. This sense of isolation might actually be enhanced if the Dublin Government are perceived to be defending their own interest rather than that of their people plus the nationalist community in Northern Ireland.

**The Chairman:** Putting it in rather simplistic terms, unless I am wrong, the nationalist community in Northern Ireland has had the assurance not only of access to Irish passports if they wanted them but that while they were resident in the UK as a member state they had a common European citizenship. Now they will not have that bit of the option. It points the issue for them a bit more intensely, does it not?

**Professor John O'Brennan:** Yes, it does, absolutely.

**The Chairman:** That is really helpful.

Q95 **Lord Whitty:** There is also the issue of the Protestant psyche in Northern Ireland. Any solution of special status that implied that Northern Ireland was less part of the United Kingdom than it currently is has the opposite reaction. That has to be taken care of, too.

**The Chairman:** There was a vote in the Assembly yesterday in Northern Ireland on this point.

**Lord Whitty:** Indeed, yes.

**Professor John O'Brennan:** As you were meeting.

**Lord Whitty:** Unfortunately, we did not hear the debate, but it was very much present. There is the opposite effect. Already, the constitutional role of the Republic in the North as a result of the peace agreement is resented there. If special status means something moving Northern Ireland more away from the United Kingdom, that will be a problem. That was a comment. I do not necessarily expect you to answer that.

**The Chairman:** Can we capture your assent to that comment?

**Dr Etain Tannam:** Could I make one response? I think there have been changes in unionism. From the research I have done and from talking to people, there is a pragmatism that perhaps was not always there in the past. If something was flagged up as a big constitutional settlement, that would be difficult, but a more pragmatic arrangement might be reached.

**Dr Paul Gillespie:** There is new research from John Garry and John Coakley showing the pattern of the vote.

**The Chairman:** It would be useful if you could reference that to us.

**Lord Whitty:** The unionist votes will be interesting.

**Dr Paul Gillespie:** The thing to watch is the impact of this over the next five or 10 years on interests. Unionist sentiment, which is somewhat differentiated, will shift according to interests, including in agriculture. If

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there is a hard Brexit with a deteriorating standard of living, attitudes will change, including attitudes towards a united Ireland.

**Q96 Lord Whitty:** That brings me to my economic question. Originally, Paul differentiated the economic aspect. My question is: what do you think the impact will be on the various economic and social sectors both sides of the border? Are there ways of mitigating that?

**The Chairman:** We will hear from them, but it is useful to hear from a political scientist.

**Dr Paul Gillespie:** Agriculture is a big one. I wonder what is going to happen to the FDI, corporation tax stuff. A lot of the libertarian economic logic of Brexit would be to bring taxation down for the UK as a whole. That is a competitive aspect, of course, from the Irish point of view, but it undermines the attractiveness of the North in a comparative UK setting. That is part of the medium to long-term interest that I see.

Do not underestimate the pragmatic streak in the DUP. It is materialising now in the North/South Ministerial Council discussion. It has materialised in all-Ireland policy approaches in certain sectors that are non-threatening to its political identity. You will probably see a working out of that; you certainly ought to see it. Research and argument, and better contact between North and South, should help that along.

The final point is that the nationalists expect the Irish Government to give voice. You will also find sotto voce some unionist support for that from the pragmatic wing of unionism, but maybe I am wrong.

**Dr Etain Tannam:** It seems there will be a differential impact on different sectors. Along the border there is a lot of trade among small farmers and small-sized industry. That would be hit, from what I have read, unless there are arrangements to make it easier. Even between Britain and Ireland the agrifood trade is strong.

**Lord Whitty:** In both directions.

**Dr Etain Tannam:** In both directions. Again, there would be an impact economically. It depends on the different sectors, definitely, but in agriculture, yes.

**Lord Whitty:** Once Europe goes, and the CAP goes from Northern Ireland, the automatic effect is that agriculture is a devolved issue. It is possible, as somebody implied earlier, that Whitehall will want to pull that back. I see no great appetite for Whitehall to do that. There is the possibility of an all-island agriculture understanding, and there are other areas where there is already the beginning of an all-island policy approach to markets, such as the energy market. Do you think that would go further?

**Dr Etain Tannam:** On issues like food safety, there would have to be an all-Ireland approach and they would probably meet EU standards.

**The Chairman:** And in the animal health sector.

**Dr Etain Tannam:** Yes.

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**Professor John O'Brennan:** I have two points in response. First, Brexit might have the effect of increasing the rural/urban divide in Ireland. In a lot of the sectors that are most affected, including agrifood, there are about 94,000 jobs in total, and 94% of those jobs are located outside Dublin. On the other hand, one of the big beneficiaries might be the International Financial Services Centre in Dublin, which might attract displaced investment of different kinds, and financial and other services, from London. That is contingent to different degrees, but you might see this already existing divide. It manifests itself in general elections and in other fora, but it might be increased. The most vulnerable area is certainly the border and midlands region. You have to ask whether the negotiation should include special status not just for Northern Ireland but for the cross-border region. That activity might be enhanced.

**The Chairman:** Of course, there is machinery for that now, as we heard yesterday.

**Professor John O'Brennan:** Yes. I leave aside the macroeconomic issues that I am sure Dan O'Brien and other people will focus on in the next session. They are much more qualified to talk about those.

The second really interesting thing for me is the whole issue of tax justice. I link this to the first comment I made about what happens to Ireland in the Council. Because of the Apple case and others, tax justice has become important within the European Union. Ireland is at the centre of that. There is no doubt that although there are no permanent alliances identified in the Council on tax, trade and competitiveness—member states tend to align with each other in respect of different policy issues—Ireland and the UK have been very close partners. You have to ask about the Government's capacity to defend their interests on tax in the Council subsequent to Brexit.

I disagree fundamentally with the Government's position. It is unconscionable that we allow multinational corporations to behave in the way they do, but from the Government's perspective there are enormous challenges to be faced. We will have to realign our diplomacy to very important degrees to defend those economic decisions.

**The Chairman:** We are ticking up to what is at least the nominal deadline. Can you spare us another 10 minutes? I am conscious that we have a following session. The next question is from Lord Selkirk, on what might be termed the EU feed-in to infrastructure, et cetera.

Q97 **Lord Selkirk of Douglas:** My question to a large extent has been answered already. I get the impression that there are a lot of different issues simmering under the surface, any one of which may suddenly come up the agenda. All Governments, even devolved Governments, have to be ready to deal with a changing situation. My question is on the effect of Brexit on Northern Ireland as a whole and the border region in particular. We are very well aware that Treasury guarantees from the British Government have been given to Northern Ireland with regard to infrastructure projects up to the year 2020. If you could give us a picture of what you think should be done after 2020, it would be very helpful. Do

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you have any views on the continuing infrastructure projects—the A5 western corridor, the Ulster canal and narrow water bridge and the north-west gateway initiative? If I may say so, what has happened means that we present a test case in Europe. A lot of these issues have not been specifically dealt with before in the form in which they are likely to be raised.

**Professor John O'Brennan:** Briefly, it seems to me that one of the many perverse and unintended consequences of Brexit might be to increase Northern Ireland's dependency on London. I do not think that is very welcome. The export performance of Northern Ireland has improved, but it is still very much in the shadows of the Republic. I do not see much within the mooted arrangements that might emerge from this that would change that. Looking at CAP, if spending becomes devolved but nevertheless the responsibility of London, it might not necessarily be to the advantage of Northern Ireland in the longer term. There is a whole set of issues that crystallise around dependency. Where devolution should encourage the opposite, it might have that perverse effect.

**Dr Etain Tannam:** There would be a real fear. Ideally, the UK should replace CAP and it has promised to do that to an extent until 2020, but we hope that will continue for Northern Ireland. There is a block grant, so even if there is devolution it will come from a fixed sum of money. That is one priority that will be a worry, I am sure.

Regarding other aspects, such as the flagship cross-border schemes, I am sure the Irish Government will be lobbying for them. I assume, and hope, that the British Government will have a commitment to continue and develop those schemes. John Bradley, an economist who has worked in this area, has in the past stated that the amount of money proportionately in these schemes is quite small. To an extent they are symbolic. A lot of them are important, but their economic significance should not be exaggerated. It is to be hoped that they will continue and that more will be added, and that there will be a British-Irish commitment through the Good Friday/Belfast agreement to do that.

**Dr Paul Gillespie:** Post-2020 is a very significant question. The big question is whether London is willing to continue to pay the price of political union in the UK, for example vis-à-vis agriculture, which is a big-ticket item, but there are many others. The point about the perverse effect of increased dependence is a very good one. In my understanding, it links to a kind of macropolitical point. What is the impact of this on interest in the North of Ireland? It is not surprising that Irish unification, which was very much a Sinn Féin agenda, has now been broadened. Enda Kenny spoke about it. Micheál Martin spoke about it. It is now much more on the agenda. It needs an awful lot more research. It needs to be delicately and sensitively handled, of course; we saw that in the vote yesterday. This is a period of flux. If you end up with a reconfigured UK, it seems to me that it would have to be somewhat more federal. It will open up that question not only for the North but for Scotland as well.

**The Chairman:** Thank you. A wide question. I will ask Lord Whitty to ask the final substantive question and bring in the police and security issue.

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Q98 **Lord Whitty:** It is about the impact of the change in status on security and police co-operation at the border, and the sharing of evidence and intelligence generally. Do you see that as a problem if the status of the border changes in some way, as almost inevitably it will even if there is no physical border?

**Dr Etain Tannam:** I have been thinking about that. Security co-operation was not strong until the 1980s. That was one of the priorities in the Anglo-Irish agreement. The EU did not create security co-operation. Of course, we did not have a free travel area and we did not have a hard border so that is a big issue, but I think there will be a commitment to security and policing co-operation, regardless of Brexit, between the British and Irish Governments.

**The Chairman:** Is that agreed?

**Professor John O'Brennan:** We should remember that there have been extraordinary changes in the justice and home affairs area in the European Union. There has been a considerable deepening of integration, so that much of what was considered previously as exclusively national or shared competence has moved to the European level, accelerated by the 9/11 attacks, and the attacks on London and Madrid and so on. There is a big question about that whole area of European law and how it can be transplanted to the bilateral relationship.

The Governments seem quite confident that this can be done, and it is facilitated by the Northern Ireland dispensation and the Good Friday agreement. There are real questions about the efficacy of those arrangements if you move them from the European level back to exclusively bilateral level.

Q99 **The Chairman:** Before I wrap this up and thank our interlocutors, it would be fair, and helpful to us, to invite you to make any final comments, first of all as to whether we have missed anything. Secondly, given that you have a political science background, would you like to comment on the ability of the Irish Government to handle this, given that they are in a minority and there is a continuing difficult political situation? I comment separately and neutrally that that is true in the United Kingdom as well. That may not be what you want to say, but if you would each like to make a final comment, it would be helpful.

**Dr Paul Gillespie:** There is quite a lot of cross-party agreement in this area. Notwithstanding the shocks, there is a good lot of preparedness. They have mapped out the work that needs to be done across the parties. They have mapped out the diplomacy required. They have identified the uniqueness issue vis-à-vis the North and signalled that around the European system quite well.

There is a better arrangement between the Taoiseach's Office and foreign affairs. They have rationalised the structure and it is now more effective at official level. It is a small state with quite a smart system of government. They have learned in this area that high officialdom and expertise will tend to drive any future policy, no matter what happens politically. You cannot quite say, "No matter what". I was talking earlier about what is happening

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with the Sinn Féin agenda. Some of these areas are now no longer exclusive to them, and that makes a difference, too.

**Dr Etain Tannam:** I agree with that. There has been a beefing up of the admin side in Civil Service departments, especially in foreign affairs, and I am sure equivalently in the UK. A small state has fewer priorities. The UK is faced with a quagmire of negotiations, whereas Ireland will prioritise this so that it can concentrate resources.

**Professor John O'Brennan:** One issue that has not been raised—here I will be quite partisan and put on my academic hat—is the future of higher education relationships in these islands. This is really important to us. We have already seen a lot of negative developments in relation to the UK's research capacity. In particular, key partners in Horizon 2020 and other European research framework programmes are being frozen out of very useful programmes. I have chaired some of those committees in Brussels. Certainly in the social sciences, UK universities have been absolutely critical as key partners in consortia. There is a real question mark over that. For Irish universities, these relationships are crucial. I hope that in your further discussions and analysis, and in what you are saying to government, you will stress the importance of that.

It also applies to teaching. The Erasmus framework has been hugely successful. Three million people have gone through it; 1 million Erasmus babies have been born over the last 30 years or so as a result of this wonderful and varied integration. Paul might call it variable geometry. There are real fears about uncertainty for UK students studying in Ireland, to limit this to the bilateral, and for Irish students going to Britain. Again, I hope that we see some very serious work to flesh out those issues.

**The Chairman:** To wrap up this session, I assure you that the Chairman of this Committee, as a former higher education Minister, takes a close interest. We have demitted the front-line responsibility to colleagues in the Science and Technology Committee in the Lords, who are not in our structure. They are very concerned about it and will follow it closely. We certainly want to hear if there are any washback effects on Irish higher education institutions from the difficulty you identified.

Beyond that, I want to say how much we have appreciated your three contributions, Paul, Etain and John. They have helped to fill this out. I hope you will feel, in the words of TTIP, which we have not discussed today, that this is a living relationship. We are more than delighted both to receive any information you want to draw to our attention as the academic work proceeds and to keep in dialogue with you. The session has fleshed things out in a very helpful way. It is a very good start to the day.

Our next panel is in the slips raring to take over. I remind colleagues that we will adjourn this session formally. We will not invite the gallery to be cleared, so remember, colleagues, that we are on the record while the gallery is present. We will demit one panel, thanking them. I am sorry that the terrible geography of this room makes it difficult to thank you personally, but you are more than welcome to keep in touch and to see us whenever you are in London.

Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin,  
Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI  
Maynooth and Dr Etain Tannam, Assistant Professor, International Peace  
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Dr Katy Hayward, Professor David Phinnemore, Dr Lee McGowan and Professor Cathal McCall, Queen's University Belfast – Oral evidence (QQ 33-47)

**Dr Katy Hayward, Professor David Phinnemore, Dr Lee McGowan and Professor Cathal McCall, Queen's University Belfast – Oral evidence (QQ 33-47)**

Evidence Session No 3

Heard in Public

Questions 33 – 47

Monday 17 October 2016

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty; Baroness Wilcox.

**Examination of witnesses**

Professor David Phinnemore; Dr Lee McGowan; Professor Cathal McCall; Dr Katy Hayward.

**The Chairman:** Just to introduce matters, this is a formal evidence session, which will continue with various panels of witnesses during the day, for the House of Lords European Union Select Committee. We are visiting Belfast today and moving on to Dublin tomorrow, looking at the Brexit-related implications for the island of Ireland and the problems you have identified. It happens that we have already been actively in contact with our four panel members, who I will invite to introduce themselves formally in a minute, in rather different circumstances nearly 12 months ago when I was last over here with the clerk. We had a very interesting evidence session on the lead-up to the referendum. The decision has now been taken; the world is somewhat different from 12 months ago, and we will be very interested in hearing your perspectives. Can I invite you, David, to kick off, and then I will ask the others to introduce themselves. Just explain who you are.

**Professor Phinnemore:** David Phinnemore. I am professor of European politics in the School of History, Anthropology, Philosophy and Politics at Queen's University Belfast, and have had a long-standing interest in EU politics and the integration process in particular.

**Dr Hayward:** I am Katy Hayward. I am senior lecturer in sociology in Queen's, and I am also senior research fellow in the George Mitchell Institute at Queen's.

**The Chairman:** Cathal, I gather that you are now a professor. We had you down as a doctor, but many congratulations.

**Professor McCall:** Thank you very much. I am Professor Cathal McCall, in the school that David just mentioned—I am not going to reel the whole thing off again. My interest is on European Union borders and conflict transformation.

**Dr McGowan:** I am Lee McGowan. I am also from the same school, on the politics side. My background is in the politics of EU integration widely, and more specifically in the public policy domain.

Q33 **The Chairman:** We will start. We have a prepared schedule of questions, but we are mainly interested in listening to your answers. Could I ask the panel to be fairly informal in signifying their interests? Do not feel you have to contribute on every one, but, on the other hand, do not hold back if you want to make an intervention or contribution. I am going to start with a question that is not scheduled and will perhaps give rise to a one-sentence answer: how much of a shock has the referendum decision been for people here, in your experience? For background, the last time I met this panel, things were only very slowly coming into consciousness. Now it has become real, how real is it? David, would you like to lead off on that?

**Professor Phinnemore:** There was a fair degree of shock around. We have seen that in some of the evidence recently of the lack of preparation on the part of Northern Ireland politically for a leave vote. We also see that in the rather muddled and underdeveloped response we have seen since. The fact that there was a remain vote in Northern Ireland was expected. There was some surprise that that was not higher than it was.

**The Chairman:** Can I interrupt and ask whether the turnout has been a matter of discussion here? For example, it was rather lower than in England.

**Professor Phinnemore:** Colleagues may correct me here, but I think the turnout was lower than in previous general elections and was lower than we necessarily anticipated.

**Dr Hayward:** There is some notion that the low turnout connects to some uncertainty among nationalists about the vote, and some ambiguity about the issues.

**Professor McCall:** There was a shock at the overall UK vote. However, it is interesting to note that the remain vote here, which, as we have said, was in the majority, actually is something that for once included not just the nationalist population but the unionist population. If you look at the map of Northern Ireland and how it voted, you had specific areas, like South Down, for example, which traditionally are associated with a dominant unionist community but actually voted to remain.

**The Chairman:** Can I just interpose on that? It might be helpful if you could share with us and the secretariat later any particular maps, because obviously we are interested in the cross-border issues. Was there, in your understanding, a skew in the unionist vote in that there was a higher remain proportion in those border areas, or was it a fairly uniform turnout?

**Professor McCall:** The border areas traditionally have a nationalist majority.

**The Chairman:** I knew that, but among unionists within the areas; you mentioned South Down, for example.

**Professor McCall:** I was incorrect in saying that. It was actually North Down that I meant. I beg your pardon. That was something that really stood out for us here.

**Dr McGowan:** There were a few opinion polls leading up to the referendum that showed Northern Ireland was going to vote in favour of the UK remaining in the European Union. David is right that we thought it might be higher than it was, but it more or less reflected those polls; it was between 56% and 58% that the polls were showing. The shock was the UK voting to leave, because there was always a general assumption, by commentators here and politicians, that in the last few days the vote was swinging the other way but that did not happen. On the vote in Northern Ireland, there are certain demographics that come into play—background, educational experience—but more or less it looks as if a minority of the unionist population, those in the A and B professional social groups, voted to remain. In the unionist community, it was the stalwarts of the DUP that tended to vote to leave.

Q34 **The Chairman:** Thank you for that introduction. Starting now with our main lines of inquiry, you will know that the Brexit Secretary David Davis has identified UK-Irish issues, and specifically the impact on Northern Ireland, as one of the more difficult elements of the negotiations. Can I ask you, either individually or collectively, what you see as the main difficulties that need to be addressed in this, for Northern Ireland and the island of Ireland? David, do you want to lead on that?

**Professor Phinnemore:** We will probably all come up with the border issue as being the most obvious. Within that, we must recognise that the border has a whole variety of issues around it, whether that is to do with security, movement of goods, movement of people or agriculture. That is a very key issue and is multifaceted. That needs to be addressed for a whole variety of reasons, many of which are to do with the economy and trade, but also issues of identity and security, and I think my colleagues are far better versed with border issues to be able to respond on this.

**The Chairman:** Perhaps either Katy or Cathal would like to add.

**Dr Hayward:** One of the particular difficulties is the relative ineffectiveness of the governance systems here, which mean that getting the common interests across Northern Ireland and across communities is something that is often not a priority of politicians or of the Executive. That makes the negotiating stance from Northern Ireland difficult to achieve clarity on, because the system tends to be such that unionist and nationalist views on any particular issue come to the fore, rather than the collective interests of Northern Ireland. When we see particular needs of Northern Ireland that differ from Great Britain in many ways, such as in relation to the economy, the border, immigration, dual citizenship and the importance of Irish citizens within Northern Ireland, then we have concerns that those particular issues will not necessarily be articulated clearly from Northern Ireland, given the way that the system works here, where the common interest is not easy to define.

**The Chairman:** Is there perhaps a generic issue as well, which is that people feel the whole thing will be swept up in what might be termed the European level of debate, and some of their particular concerns about

their community or locality may just be overlooked until there is a problem?

**Dr Hayward:** Yes, absolutely. Proportionately, with Northern Ireland representing 3% of the UK population, it is very conscious of its small size vis-à-vis the UK, let alone the EU.

**Professor McCall:** As you know, the Belfast Good Friday agreement of 1998 threw up a very complex form of governance that includes the Republic of Ireland. Integral to that was the softening of the Irish border and the creation of cross-border institutions, such as the North/South Ministerial Council. There is a question mark over not necessarily the continued existence of these institutions, but how they will develop and perform. In the border areas there is an obvious concern regarding free movement. We have had protests on the border in the last week or two. There is almost an element of performance to it, whereby local communities have created customs posts, et cetera. Certainly that is something that is very much on their radar. It is very much something that they do not want to be imposed, and obviously there are two sides to it: there is the European Union side, with the customs union, and the Brexiteer side, which is more about security and controlling freedom of movement.

**The Chairman:** Lee, do you want to add at this stage?

**Dr McGowan:** I just want to state that Northern Ireland will be greatly affected by what the outcome of Brexit may actually look like in the end. The worrying thing, as an observer trying to look at all this, is a point raised by my colleague. There are many issues for the leaders of Northern Ireland to pursue, but it is about which ones they prioritise as more important.

Almost four months after the referendum, and five months before the Prime Minister triggers Article 50, you do begin to wonder. Time is passing very quickly, and I am not quite convinced. The way the Government works here is that there are two main parties, and they are divided on Europe. We are not getting that leadership coming through about what the priorities may actually be. Is it about the border and how that might manifest itself? There are different options. We have had David Davis over here; Liam Fox has been here and the Prime Minister has been here. They have all made the same statements about listening to the needs of society, but we need leadership to push some of those ideas forward and work out what the preferences are, and then try to influence the debate. It will be difficult, but I am not getting much sign of that yet.

Q35 **The Chairman:** That leads on to my next question, which Cathal has referred to. There are the existing bilateral contacts—north-south and east-west. Particularly between the UK and Irish Governments, and between the Irish Government and the Northern Ireland Executive, is the machinery sufficient to deal with the implications of Brexit, or would it be improved by new mechanisms, and, if so, what should they be?

**Professor McCall:** There is a new mechanism, you could argue, that is already in play in that the Irish Government has announced an all-island—to use the politically correct term—dialogue and conversation.

**The Chairman:** Is this the one on 2 November?

**Professor McCall:** Yes. It could be argued that that is already part of a new mechanism. I would make the case that the North/South Ministerial Council should be able to accommodate such a dialogue, and indeed the leader of the Democratic Unionist Party, Arlene Foster, has made a similar point.

**The Chairman:** Are there any other comments on the machinery?

**Dr Hayward:** Prior to the negotiations even happening, there was concern about how various central interests would be represented to the British Government, and the machinery at the moment does not necessarily allow for that. Some of the regional bodies, such as ICBAN, which represent local authorities, are very good at being able to hear the different voices from different sectors that will be affected by Brexit. There is some concern, particularly in the border region, that that mechanism is not quite there for that representation to take place before the negotiations actually happen.

**The Chairman:** In fairness, the sectoral interests—you have already touched on food manufacturing—would be able to make representations through their national machinery to the UK Government and the Irish Government. That presumably is taking place without necessarily being flagged. It is partly political participation and partly the ability of the unheard to be heard, is it not? You are nodding at that.

**Lord Jay of Ewelme:** On the Republic of Ireland idea for an all-island conference on 2 November, as far as you know was that proposed in concert or in conjunction with the Northern Irish Government, or is that an Irish proposal? Do we know whether everybody will attend?

**Professor McCall:** It seems to me that it was a Republic of Ireland proposal from the Department of the Taoiseach. It was announced at a particular event attended by Arlene Foster and she had no prior knowledge of this proposal.

**Dr Hayward:** I understand the unionist parties are not going to attend.

Q36 **The Chairman:** This is my final question before I bring in my colleagues. There is some talk about the desirability of establishing a specific bilateral UK-Irish deal, taking account of the uniqueness of our relationship, as part of the Brexit negotiations, that, in a sense, is without prejudice to what the European-level negotiations come up with. Can that be done? Is it helpful?

**Professor Phinnemore:** It could be done and it probably would be helpful. The big question is about that broader context, because whatever happens on a UK-Ireland basis has to take place, as you rightly said, within the context of a UK-EU relationship. One of the big challenges we are facing at the moment, not just on the north-south dimension but across all of the issues with regards to Northern Ireland in the context of Brexit, is trying to understand what the broader UK

Government position is, because once you begin to understand that, you can then begin to think through what the possible solutions may be to problems and challenges locally. For example, if the UK went for the European Economic Area option, that would resolve a significant number of issues, but if it goes for the hard Brexit, that creates far more difficulties for resolving many of the issues that we face.

**The Chairman:** In a sense, the machinery will follow some cardinal decisions that are upcoming.

**Professor Phinnemore:** I would expect so.

**The Chairman:** You cannot prescribe it in advance.

**Professor Phinnemore:** No. You can generate ideas but, given the broad range of issues covered by the EU and therefore by Brexit, it is probably very difficult to identify discrete areas where you could proceed without knowing what the future nature of the UK-EU relationship will be.

Q37 **Lord Whitty:** You have already referred to the difficulty of having a coherent unified view of Northern Ireland, however much Westminster says that it wants Northern Ireland's view to be heard. If it is not coherent, that becomes more difficult. In your views, what would a coherent view look like in terms of the eventual outcome? Would you be looking for a bespoke agreement or arrangement in the final outcome for Northern Ireland, with the unique circumstances of the border and the relationship with the Republic? Charlie Flanagan from the south has referred to legal recognition of the unique status. Is that what you feel you ought to be looking for, and how likely is that coherent view to materialise from here to the British Government, let alone in negotiation with the EU?

**Dr Hayward:** To begin, there is precedent within the European Union relationship with Northern Ireland for recognising the importance of the bilateral relationship and that special status of Northern Ireland. Charlie Flanagan's request for legal recognition relates to that special position of the Republic of Ireland vis-à-vis Northern Ireland, but its constitutional status may change. Northern Ireland remains within the UK, or else it unifies with the rest of Ireland. The problem in Northern Ireland has always been to try to ensure that that can remain the case, despite uneasy tension. That has been possible within the EU, recognising the validity of input from both the Republic and the UK into Northern Ireland. Outside the EU it complicates things much more greatly.

**Lord Whitty:** That is because of the constitutional position as much as the physical issue of the border.

**Dr Hayward:** Exactly, yes.

**Professor Phinnemore:** There is a major challenge here. I do think the opportunity is there for a bespoke arrangement, because there are particular issues that are thrown up by dint of Northern Ireland's geographical location and the fact that the border currently referred to as the Irish border will become the UK-EU border. A bespoke arrangement is possible. The challenge within Northern Ireland is to identify the issues of key concern, identify priorities within that and identify possible

solutions to those, which may be more regionally set out, rather than ones that would reflect an all-UK relationship with the EU.

You then have the challenge of uploading those into the policy-making process in the UK, and there we have a major problem ahead of us, in so far as, despite Theresa May's references to having a UK approach to the negotiations, all the signals at the moment are that this is going to be a London-led and London-determined process where there would be, cynics might say, at best lip service to the devolved administrations. The fact that the new sub-committee of the Cabinet will involve only Secretaries of State from Northern Ireland, Wales and Scotland 'as required' provided a very poor signal about the extent to which there is going to be effective engagement with devolved administrations.

**Lord Whitty:** Is that going to be a real issue, as in the local papers this morning?

**Professor Phinnemore:** I have not seen them this morning.

**Lord Whitty:** The fact that James Brokenshire is not a full member of the Brexit committee has been seized on.

**Professor Phinnemore:** I am not too sure whether it has been seized on, but there is a challenge there. It is also not just simply a case of having Northern Ireland's interests acknowledged. It is making sure that they feature in the negotiating position and in the negotiating outcome. We are not at all clear at present what mechanisms exist to ensure that.

There is also scope for a bespoke arrangement because historically the EU has been established to try to resolve particular problems. It is pretty creative, and therefore, partly because there has been a lot of investment in Northern Ireland and partly because there is going to be recognition of the fact that the Irish Government have been put in a position where they can be affected negatively by Brexit, the EU will be willing to support one of its member states in trying to solve particular problems that it will face, and many of those are ones that we will face here in Northern Ireland. There is opportunity there.

**Professor McCall:** Just to make a quick point on this, quite set apart from legal recognition in terms of the role of the Republic of Ireland in Northern Ireland, there certainly has been political recognition, stemming from the 1985 Anglo-Irish agreement right through to the Belfast Good Friday agreement and onwards. That need not necessarily continue, not least because once the UK leaves, depending on the nature of Brexit, that throws into question the relationship between the UK and the Republic of Ireland, hitherto known as equal member states of the European Union.

**The Chairman:** It is going to change the status, is it not?

**Dr Hayward:** Just very quickly, bespoke status for Northern Ireland would also involve recognition of that important north-south link, and any consideration of what that recognition might look like would also need to be cognisant of unionist sensitivities around the east-west relationship. The apparent diminution of the importance of the devolved status of Northern Ireland or representation of regional interests in

Northern Ireland would actually be coming at a very bad time to reassure unionism in this time of change.

**Q38 The Chairman:** Given that we are blessed with some political scientists in the room, I wondered the extent to which you have a sense of what might be seen from the Brussels perspective of all this, and whether they are looking for a particular Northern Ireland deal, or are prepared to tolerate one. We heard the Irish ambassador in London speak at some length about the importance of the peace process, rather implying—I do not think this will be foreshortening his views—that that will be a very powerful card for negotiating in the Northern Irish interest, because Brussels, collectively, would not want to disturb or prejudice that. I just wondered how much you feel, from your own contacts, that the European mind, as opposed to the British or Irish mind, is directed towards those macropolitical issues, or how much it will fall back on issues of principle in relation to the repercussions with other member states and possible dangers to the community as a whole. Are these issues being debated? Do you sense a way through this, or is it too early to say?

**Dr Hayward:** The European Union has encouraged the strong relationship between Ireland and the UK. Even though it has done a huge amount to support the peace process—the biggest change that was made in terms of its long-term commitment to the peace here—it ultimately would see the responsibility for the peace being the responsibility of the UK Government. To get back to the original point, a lot depends on the position taken by the UK Government vis-à-vis the negotiations.

**Dr McGowan:** In terms of conversations in Brussels with the Parliament and the Commission, we still as political scientists look at the EU while so fixated with the issue of Brexit. You realise when you talk to some of them that while Brexit is very important, we can play games in terms of where it actually is on the list: is it number three, five, six or seven?

**The Chairman:** It is not the only show in town.

**Dr McGowan:** No, and you realise that. You also get a sense from people that they recognise Northern Ireland in terms of the peace process, which they will highlight as something they are very proud of helping to contribute towards. There are still many issues that have gone unresolved and still need to be worked on, but it is progress from where it was. They may be willing to lend some sort of support, but I take you back to the UK Government. Whatever deal comes is going to be through the UK Government, no matter how well disposed they might be to Northern Ireland.

**Professor McCall:** The Irish Minister for Foreign Affairs and Trade, Charlie Flanagan, has done a sterling job in trying to highlight the special position of Northern Ireland and all the difficulties or challenges—to use the proper word these days—that Northern Ireland faces. He has been conducting this kind of conversation with his counterparts throughout the European Union for the past year or so, and certainly has intensified that since the referendum. However, we have to recognise that there are fissures within the European Union and geopolitical interests are being



represented by different groupings of member states. The Visegrad group is very much concerned with the whole migration issue. The Mediterranean member states, led by Greece, are looking for a more socio-democratic version of the European Union. So, just to reiterate the point that has been made, it is not the only show in town: there are other major concerns that other member states have, and that is something that we are cognisant of.

Q39 **Baroness Browning:** The UK Government have sought to reassure people both in Northern Ireland and in the Republic that there will be no return to the hard borders of the past, but in reality, as you have already discussed, the Irish border will become an EU border. Is there any way you can see at the moment that the soft border arrangements could be maintained in their entirety? Just picking up on a point that Dr McGowan made, if so, where will the leadership for that come from?

**Professor Phinnemore:** A lot depends on the type of outcome that the UK secures with the EU. If the relationship is one that keeps the UK in the customs union and keeps the UK in the single market, then a lot of the cross-border issues will not become significant, although, as we often point out, agriculture would be an issue, because no non-member state of the EU has free access to EU agricultural markets. It comes back to that broader question of what the outcome would be.

If you draw a line from there all the way to hard Brexit, you can think of various ways in which you could address some of the problems within that, but it is a major challenge if it is going to be a hard Brexit.

**Dr McGowan:** Can I add a tiny caveat to that? Certain sections of Northern Ireland society welcome a hard Brexit. Again, we are back into Northern Irish politics, in terms of seeing it as about identity. For some of the community, the idea of Brexit means they are identifying more with the UK again, and in theory brings them closer to the UK than they otherwise would be. We have raised the idea that voting for Brexit brings them closer to the UK and makes them feel less European. Identity politics is mixed up in all this. David is right that it is about what we do not know about. What will the terms of the agreement be? Where is the UK Government actually heading towards, whether the option is soft, hard, clean or whatever word we want to use?

One of the big issues for Northern Ireland that we will be pursuing later on is agriculture. What happens about agriculture, which is outside of most of these various agreements? For this part of the world, agriculture is much more important in terms of employment and the overall GDP for this part of the country. It is a big, big issue.

**Baroness Browning:** Are you telling us that until those wider issues to do with UK negotiations with the EU are more available and have started, that need for leadership in this matter is unlikely to come forward?

**Dr McGowan:** You would have thought, post-Brexit, or post-referendum heading towards Brexit, that some of the politicians would begin to think about, "Now we are heading towards Brexit, what does Brexit actually look like?" They do not know what it will look like. Europe has been marginal to local politics here. It has appeared now and again but it has

never really been pursued. Some people are still denying that there will be any major change, no matter what Brexit looks like, and it comes back to this idea of leadership. What is the leadership? Can they start thinking about the various options? Is it going to be like the Canadian model, the Swiss model, the Norwegian model or whatever? We are not getting a sense that that is happening on the ground, and that is a real issue, because for the leaders of Northern Ireland time is moving too quickly. The danger is that they could find themselves left behind. It will have moved on and they are playing catch-up, but it may be too late to play catch-up.

**Q40** **Baroness Browning:** Could I ask you about immigration controls? I am sure you have seen the reporting in the *Guardian* that the UK Government are seeking to shift the front line of immigration controls to Ireland's ports and airports in order to avoid a hard border between north and south. How do you think that might work?

**Professor McCall:** If the Republic of Ireland leaves the European Union then it would work very nicely.

**Baroness Browning:** And what is your guess as to whether that will happen?

**Professor McCall:** At the minute I think the chances are zero. This obviously refers mostly to those termed "persons of interest"—illegal migrants, et cetera. That already happens under the common travel area. The difficulty is how to then bring European Union workers into this whole scenario. Various suggestions have been made with regard to letting them continue to move in the Republic and, if they move across the border, they would be detected by right to residency, workers' rights, et cetera. That introduces a whole new layer of bureaucracy in terms of control. I am not so sure how workable it is. You would certainly have an increase in undocumented workers.

**Dr Hayward:** It is important to bear in mind that you can have soft borders for some things and hard ones for others. You can have soft immigration controls in the common travel area, and this is really what that proposal builds upon in relation to immigration controls in Ireland. That makes sense in many ways because it is just a ramping up of what already exists. Ireland already has measures that are stricter than the UK related to screening people as they enter, in that they can ask all passengers, including those from within the common travel area, to produce identity documentation.

**Baroness Browning:** When you say they are "stricter", are they stricter or more effective?

**Dr Hayward:** I would not necessarily say that they were more effective, but they do screen in a way that monitors people as they enter.

**The Chairman:** This is a database issue, rather than a physical—

**Dr Hayward:** Yes, although that raises the issue of visibility, which will affect how a lot of people respond to these borders. How visible are they? A lot of this monitoring happens invisibly anyway.

The second issue is what happens when they are in. It is not just the practicality of the goods or the people crossing the border; it is what happens to them when they are in the jurisdiction. That is when the real complication comes through. In effect, you then make the island of Ireland a jurisdiction, and that then raises the issue about east-west relations and unionist concerns about that, which have already been raised in the past with regards to changes to the common travel area and proposals in the past to scrutinise people coming from the island to Britain.

**The Chairman:** I think we might go on to the customs side of this—the goods and services—with Lord Jay.

Q41 **Lord Jay of Ewelme:** To follow on from Baroness Browning's question, there is an open question as to whether we leave the customs union as well as the single market or stay within the customs union. Assuming for the moment that we move out of the customs union and that the border between north and south therefore becomes the external border of the EU for customs purposes, can you see any way in which that could happen without there being some kind of hard border with customs posts? Are you aware of the possibility of some sort of electronic means of tracing goods moving across the border without having all the risks of a hard border?

**Professor McCall:** Yes, it is certainly possible, and I think it happens at the moment where a lorry-load of goods heading off from Cork crosses the border to its destination in Belfast, Manchester, Liverpool or wherever. It can be physically done and it can be tracked. That is possible, but it is a case of visibility, as Katy has said, because it is not really about the free movement of goods and services for the hardcore Brexiteers. It is to do with bringing back control of our borders, and that needs to be visibly done.

**Lord Jay of Ewelme:** I quite see that point. It was just whether it was technically feasible, because if it is that at least gives a possible way through.

**Professor McCall:** It is possible.

**Lord Jay of Ewelme:** Is that something you would all agree with?

**Professor Phinnemore:** We do have examples on the border of the EU. People often point to the Swedish-Norwegian border, and we need to be looking more closely at that. There is not necessarily the need to have physical border controls for customs reasons, but there must be the capacity to put those in place.

**The Chairman:** There has to be a border post that might be used from time to time.

**Professor Phinnemore:** Yes, that might be used from time to time. A lot depends on the nature of the tariffs, the extent of the tariffs, what type of quotas there may be and what the arrangements are with regards to rules of origin. You then have the whole question of whether they have the capacity locally to administer such a system.

**Lord Jay of Ewelme:** In any event, would there have to be a customs

post? Are you saying that whatever system you came up with there would need to be some kind of physical manifestation of the border?

**Professor McCall:** There is a physical manifestation of the border between Norway and Sweden, with periodic checks.

**Professor Phinnemore:** There would need to be capacity to be able to have the physical checks at some location.

**Lord Jay of Ewelme:** It could not all be done by spot checks or by patrols on both sides of the border.

**Professor McCall:** It could be done that way, backed up by the technological approach that we have talked about, but the evidence vis-à-vis Norway and Sweden would suggest that these spot-checks would have to take place and do have to take place.

**The Chairman:** We will quicken the pace a bit, if we may. This is very helpful.

Q42 **Lord Whitty:** On the economics, first of all on the agriculture-related sectors and then more generally, for agriculture clearly the trade across the border and the trade between both parts of Ireland and GB are vital. Once one is in the CAP, both in terms of subsidy and regulation, are we then in a disaster zone for Ulster's farming sector? It looks difficult to resolve that, whatever the configuration of the overall agreement. Is there any way through this that you can see? Secondly, more generally, what is the impact of Brexit on inward investment, both from the UK and foreign direct investment?

**Dr McGowan:** To take agriculture first, as I said earlier, it is a huge issue for Northern Ireland. There are 48,000 people working in that sector. A lot of traffic goes back and forth of milk that is produced in Northern Ireland, then goes across the border to be processed, and then goes back to Northern Ireland. There is an issue about where agriculture would be after that. There are two key issues. One is CAP funding and what happens to it. We have seen initial opinion polls of farmers and how they voted in the referendum, and it looks like just over half voted for Brexit.

**Lord Whitty:** Rather less than in GB.

**Dr McGowan:** Yes. Those polls asked why they voted that way, and the two key things were regulation and bureaucracy. Are they going to change? Leaving that aside, the issue for Northern Ireland is then, if it is outside of the CAP, where the money comes from. Linked to that is, if we look at this in terms of European competencies, what happens once the UK moves out of the European Union? Does agriculture come back to the devolved assemblies or does Whitehall take over and look after it? If it comes back in both areas, be it London or Northern Ireland, the issue is about capacity. Are there enough people on the ground to manage some of these things?

There is the issue about financing for farmers. There was work done by the European Commission that said, on average, for every £1 made by farmers in Northern Ireland, 87 pence came from the Common Agricultural Policy fund and the single farm payment, although we need

to differentiate between different sectors. It is a huge issue. Outside the CAP, unless there are mechanisms there, you could see farmers failing and going to the wall. A lot of money is spent on that in terms of the money coming through Northern Ireland in the cycle under the CAP, but there is also trade. If London is negotiating trade deals, because agriculture would be outside most of these, to what extent are Northern Irish interests on their radar screen? They are on London's radar screen, but where are they in terms of the wider view? Is London looking at trade deals with Africa or with Latin America? With something like beef, for example, coming into Northern Ireland, how does that impact on local farmers here?

There are three issues. There is the issue of funding and where the money comes from once the UK leaves—in other words, what will a British agriculture policy then look like, or will there be a Northern Irish agricultural policy? Where will the funds come to support that, with the same means as at the moment? It should also be said that the Common Agricultural Policy itself is undergoing major change. It has been completely reworked. Of course, Brexit brings it home closer to farmers here in the short term that we are not under the CAP, but there are major issues. The third issue is trade: what trade deal the UK cuts. That may benefit the UK as a whole but not necessarily benefit Northern Irish farmers.

**Lord Whitty:** The automatic effect of Brexit would be that agriculture was more or less totally devolved. You seem to be saying that that may be a disadvantage, because it is not high up enough in terms of Whitehall's priorities.

**Dr McGowan:** It is an area that comes back to the local Assembly here to deal with. The question is whether they have the capacity to deal with it themselves, or would there be funding streams coming in to allow them to carry it on in the same way that it currently operates, if that was the intention.

**Lord Whitty:** So far only to 2020.

**Dr Hayward:** I have a very quick answer on foreign direct investment. It would rely on stability within Northern Ireland and that could be, as has been touched upon, put into some question by Brexit. A big draw for FDI is also access to the single market. Those two things would be put into doubt.

Q43 **Baroness Wilcox:** The UK Government have pointed out that the common travel area predates either country's membership of the EU, but as yet the situation has never existed where one member state was in the EU and the other was not, so I have two questions for you to come up with an answer for, please. First, that being the case, what obstacles do you see that need to be overcome to ensure that the common travel area continues to operate? Secondly, is there any way to guarantee that the existing rights of Irish citizens living in the UK will be maintained post Brexit?

**Professor McCall:** Could I tackle the last question, because it is amusing to me? As someone who has lived in the UK all my life, I have

only ever had an Irish passport, so does that mean I will be ejected from the UK? The complicating factor of Northern Ireland in terms of its identity is something that we thought had been tackled rather well in 1998 by the Good Friday agreement.

With regard to the common travel area, for the common travel area to continue to work effectively and smoothly you have to have the two states either in the EU or outside the EU. The complicating factor of one being in and one being out certainly asks serious questions of the common travel area.

**Professor Phinnemore:** A lot comes back to the general point that a lot would depend on the nature of the UK-EU relationship. The hard Brexit at the moment to my mind seems to raise questions about all elements of the CTA and whether it can continue in its current form.

**Baroness Wilcox:** It is something for us to think about. We are trying very hard to make sure that our relationship with the European Community is good.

**Professor Phinnemore:** This possibly points to the broader question that we have all touched on, which is about the capacity to think through these issues. One thing that has not been done within Northern Ireland and in the general UK context is to think through the issues and what the problems are that are raised by the different potential types of relationship following Brexit. We just have not done that work, but there are a lot of assumptions out there that everything will remain the same. It is clearly the case that we cannot make that assumption.

**The Chairman:** To follow up on that, because that was a helpful comment, is one of the problems that the critical part of these negotiations in effect makes it difficult to do anything other than on a contingency basis, and it is difficult, given the resources available in Northern Ireland, publicly and through the academic, civic and other sectors, to generate a fully informed debate until some of the boxes are ticked elsewhere, and then there may not be time to get it sorted out? Is that the fear that you have?

**Professor Phinnemore:** Yes, that is certainly the case. I would go one step further and question whether there is the political inclination to engage with that level of analysis and consideration of options, because if we look at the nature of the debate leading up to the referendum, it was highly polarised but at the same time it was not particularly well developed. There was a sense that everything would remain the same and Brexit would be easy, and a reluctance to go down the path of looking at the issues. A number of us around this table were raising a lot of these issues during the course of the campaign and were immediately told we were scaremongering.

**Lord Jay of Ewelme:** Is that continuing reluctance in Westminster, Belfast or in both?

**Professor Phinnemore:** It is at both levels, and partly reflects in London that we are just one small part of the UK and are not particularly high up the priorities of the London Government, and that there is limited capacity in London to think through all of the issues. What is

more problematic is that we have not come to terms with them domestically and locally. If you look at the way the Northern Ireland Executive engaged with referendum-related issues, it simply did not compare to either Scotland or Wales in terms of the amount of analysis and the amount of enquiry going on. I would say that has continued post-referendum as well.

**Dr Hayward:** If it is not rude to disagree with Cathal—we disagree on several things—I disagree a little bit in relation to the common travel area. It is significant that the agreement has been there for a very long time and it persisted even when there was a trade war between Britain and Ireland. That relates to the different types of borders and border controls that can happen at the same time, so I do not think it is necessarily automatically problematised by Brexit. It does mean that the European Union position in relation to the common travel area would be more significant now, in terms of the status of EU citizens and discrimination.

Q44 **Baroness Armstrong of Hill Top:** You have mentioned several times the Good Friday agreement. My experience, when I was in government, was that it was a very difficult thing to negotiate. We have had to work on it, day in and day out, ever since. Sometimes, when there has not been the work, that is when the problems have come. I want to ask what your views are about the specific challenges that arise from the determination that the peace process must continue. Europe, the Republic and the UK want that, but there will be real shifts, because one of the basic things in the agreement was that the co-guarantors both had EU membership. I want to ask what you see in the peace process that we have to keep a particular eye on, and I want to ask you about the political consequences of this, because the nationalists, as far as I can read, are concerned that their interests, in terms of the relationship with the Republic, may well be being undermined.

**Professor McCall:** As you well know, intrinsic to the negotiations leading up to the Belfast Good Friday agreement was the relationship between the Republic of Ireland Government and the UK Government, in particular the two Prime Ministers. Looking at the trajectory from the early 1990s, I can see that that has tailed off. Certainly the engagement between the last UK Prime Minister and the current Irish Prime Minister was not as deep and ongoing as it had been in the past between previous occupants of those posts. You could say, "That is because the deal was done and everything was grand, so forget about it". I do not think so. With a deeply divided society like the one that we have in Northern Ireland, you have to keep your eye on the ball. That intergovernmental relationship is key to keeping the thing together. Brexit and all of the debates and possibilities that come out of Brexit lead to specific challenges that require engagement at that level.

**Dr Hayward:** One concern I have is that we frequently reach stalemate or standoff between unionists and nationalists at the highest level here. That tends to be resolved by tortuous negotiations between the British and Irish Governments, with some support from the EU. Outside the EU, with a slightly different relationship between British and Irish

Governments, that would also be absent; that would be a long-term concern.

**Q45 Lord Selkirk of Douglas:** Can I raise the issue of Treasury funding guarantees to Northern Ireland? There is likely to be an impact as a result of Brexit, with a loss of EU funding. Has this been made up by the Treasury? Can you say to what extent the funding guarantees have mitigated the present situation? In particular, with regard to cross-border infrastructure projects such as the A5 western transport corridor, the Ulster canal, narrow water bridge and the north-west gateway initiative, what will the impact be on them?

**Professor McCall:** There is some dispute with regard to the extent to which the Treasury will maintain that kind of funding until 2020. Certainly from within the Northern Ireland Executive concerns have been raised. The Narrow Water bridge project is something that has been on seemingly perpetual hold for the last number of years. That is despite the fact that the EU had promised a certain amount of funding for that bridge. The problem arose essentially through incompetence, in terms of assessing how much it would cost. Therefore, some of the projects are not ongoing anyway. Others that are ongoing are funded under the EU Peace programme. They will continue until the UK pulls out of the EU—that is if it is a hard Brexit, of course. Whether the Treasury will step in to support those up until 2020 and then beyond is something that we cannot tell.

**The Chairman:** You have not got a full guarantee even until 2020?

**Professor McCall:** No.

**Lord Selkirk of Douglas:** Does it follow from this that there will be continuing discussions between the British Government and the Northern Ireland Executive?

**Professor McCall:** Yes.

**Dr Hayward:** It is important to also note that the EU funding is not just the money; it is also about what it can do to support projects that may be sensitive or are not ones that draw particular political interest. There is also the sustainability issue that Cathal has raised, and the fact that it comes additional to not just British Government funding but Irish Government commitment to projects here. All of that would be thrown into question by Brexit.

**The Chairman:** Almost by definition, those are cross-border interests where the impacts are likely to be magnified even beyond those of both halves of the island of Ireland, so there would be an intense effect if they were insecure or withdrawn.

**Dr Hayward:** Yes, within the EU that kind of transaction is normalised, and it becomes politicised outside of the EU.

**Q46 Baroness Armstrong of Hill Top:** What about the impact on cross-border policing and security?

**Dr Hayward:** At the moment the co-operation between them is good, but it is not reliant on European integration. For example, there is not



hot pursuit across the border. At the moment, they stop at the border. Those kinds of things would continue. The biggest concerns would relate to membership of Europol and the European arrest warrant. Some of those are in question anyway, so that is not the biggest concern in relation to Brexit.

**Professor McCall:** To contradict my colleague, there are informal arrangements whereby if someone within a few miles of the border on the northern side thinks, for example, that there is an intruder in the house late at night, and the nearest PSNI station is 35 miles away and the nearest Garda station is 10 miles down the road, they will be advised to phone the guards to come out and do a quick check. It is just a practical thing to do. Depending on your political persuasion, some householders are not particularly enamoured with this suggestion.

**Baroness Armstrong of Hill Top:** Others quite like it.

**The Chairman:** That has grown as a practice over the years. It would not have happened at the height of the Troubles.

**Professor McCall:** The question is whether it could continue to happen after Brexit.

**The Chairman:** One point I have not seen publically commented upon recently is the question of Prüm decisions. There was a certain interest, particularly in our House, in encouraging the British Government to go ahead with accession. Is that happening in parallel with the Irish Republic now? Do things like the almost instant exchange of number plate information and so forth happen?

**Professor McCall:** There is that exchange of information.

**The Chairman:** Yes, but it was going to be speeded up.

**Professor McCall:** Yes, that seems to be ongoing. The hot pursuit issue is a no-no.

**Baroness Armstrong of Hill Top:** Do you think that Brexit will present any impediment to sharing evidence and immigration data, and the things about co-operation on things like extradition, tackling organised crime and terrorism? It has been very important that they have been done in a spirit of co-operation. Do you see that continuing?

**Professor McCall:** It depends who the immigrant is. In terms of persons of interest, illegal immigrants, terrorists, et cetera, I imagine that information will be processed as it is now and shared. I am not sure that will happen on EU workers.

**Dr McGowan:** In terms of police co-operation, is it a growth industry in a post-Brexit world? The idea of smuggling across the border exists and may develop.

I am conscious I did not answer one of Baroness Armstrong's earlier comments, so could I do so very quickly now? It was about the impact on the peace process itself. The peace process is ongoing and is still developing. One potential fear I have about where we might be heading in a post-Brexit world, with the UK outside and Ireland still in the European Union, is whether it unsettles the peace process and whether it

gives certain people the idea that it does, given the Good Friday agreement and the fact that one of the guarantors that signed up to it is now no longer part of the European Union. I do not want to overdramatise this at all, but we do still have a very small dissident community, which is growing ever so slightly. Is this ammunition they could use to mobilise? It is way down the line, but it is something that could potentially happen.

Q47 **Baroness Wilcox:** In its contingency plan published immediately after the referendum, the Irish Government identified implications for social welfare provision, the Irish energy market and cross-border health services as key issues for them. What are your thoughts on the implications of Brexit on each one of these policy areas?

**Professor Phinnemore:** The initial response is that Brexit can only be disruptive. The extent of that disruption will be determined by the nature of the relationship. I was party to a number of conversations recently where you had, for example, public health officials from either side of the border, and the level of co-operation that had become normalised, in terms of provision and effective use and allocation of resources, was considerable. Depending on what happens with that border that could all be significantly disrupted.

**Dr McGowan:** One example of that is those people needing heart surgery. Currently, there is a waiting list in Northern Ireland that you can bypass by going to the clinic outside Dublin—on the NHS, I should add. What happens to those arrangements in a post-Brexit world?

**The Chairman:** I suspect, again, that the reality of that will not happen until we are further down the track on the macro negotiations. You have been very generous with your time, including giving us an extension. Before I do the formal vote of thanks, is there anything else that you would like to mention to us as issues that we have not discussed in our fairly comprehensive exchange of views? Have we missed something?

**Professor Phinnemore:** There are an enormous number of things that we could discuss further.

**The Chairman:** Please feel, of course, that you can come back to us.

**Professor Phinnemore:** The general point I would raise is about the voice of Northern Ireland, just as you have the voice of Scotland and the voice of Wales. We have touched on it in a number of ways, in terms of the withdrawal negotiations and in terms of the new relationships that Lee mentioned that are being established with countries with which we currently have a trade relationship through the EU, but we would need to get a new relationship outside.

I would also raise the implementation of the great repeal Bill. All of the indications are that the decisions will be taken at the Executive level. Will those be taken with due cognisance given to the impact and implications for the devolved administrations? What is the mechanism there for us feeding into that?

**The Chairman:** Thank you for that. If there are no other comments, may I thank you across the piece? You have very much illuminated our

IBEC, ICTU and British Irish Chamber of Commerce – Oral evidence (QQ 108-111)

thoughts. You may not have resolved some of them, because the issues are not yet resolvable, and we need to bear that in mind. Could I formally thank you, David Phinnemore, Lee McGowan, Cathal McCall—now Professor McCall—and Dr Hayward, for spending time with us and stimulating our thoughts and giving us some very helpful answers? I declare the formal session closed.

**IBEC, ICTU and British Irish Chamber of Commerce – Oral evidence (QQ 108-111)**

[Transcript can be found under British Irish Chamber of Commerce](#)

ICBAN, Co-operation and Working Together, and East Border Region – Oral evidence (QQ 68-75)

**ICBAN, Co-operation and Working Together, and East Border Region – Oral evidence (QQ 68-75)**

[Transcript can be found under Co-operation and Working Together](#)

ICTU, IBEC and British Irish Chamber of Commerce – Oral evidence (QQ 108-111)

**ICTU, IBEC and British Irish Chamber of Commerce – Oral evidence (QQ 108-111)**

[Transcript can be found under British Irish Chamber of Commerce](#)

## **Immigration Law Practitioners Association – Written evidence (BUI0010)**

### **Executive Summary**

- i. In this response we first describe ILPA and its work on the EU referendum and of questions of immigration, asylum and nationality law on the island of Ireland. We acknowledge that the question of the peace process and of the 1998 Belfast (“Good Friday”) Agreement are central to the Committee’s deliberations and if we do not focus on these it is because our specialist expertise lies in other areas.
- ii. We touch on the impact of trade relations and in particular the question of whether the UK remains part of the customs union for where dual Irish/British nationals, and indeed third country nationals, on the island of Ireland chose to live and work after a Brexit, and for the immigration law policies of both States and thus for decisions on the common travel area, whether at national or EU level.
- iii. We examine the legal framework of arrangements for the common travel area and the Irish land border. We recall efforts during the passage of the *Borders, Citizenship and Immigration Bill 2008-2009* to reintroduce controls in the common travel area and also mention the implications of the joint customs/immigration functions introduced by that Act for the exercise of control at the borders between the UK and the Republic of Ireland, in particular the land border. We describe Operation Gull, a UK and Ireland initiative operating at Northern Irish ports and on the land border since 2005 and express our concerns about it.
- iv. We look at the particular cases of frontier workers, persons claiming asylum, including ‘Dublin III’ transfers regulation after a Brexit, and refugees, and urge the mutual recognition of refugee status between the UK and the Republic of Ireland.
- v. We have written extensively on the rights of British citizens in other EU States and on EEA nationals in the UK. We summarise our comments, on principle and on practicality, but concentrate for this response on factors specific to the situation of Irish nationals under UK laws, and also the implications for UK nationals of Ireland’s having, like the UK, opted out of the EU common immigration policy.
- vi. Our paper aims to demystify complex areas of law while building a detailed picture of the factual and practical complexities of the current situation.

## Introduction

1. The Immigration Law Practitioners' Association (ILPA) is a registered charity and a professional membership association. The majority of members are barristers, solicitors and advocates practising in all areas of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Founded in 1984, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on advisory and consultative groups convened by Government departments, public bodies and non-governmental organizations.
2. Prior to the referendum, ILPA commissioned a series of position papers on the implications of the EU Referendum for free movement rights and rights currently protected in the Common European Asylum System. These do not necessarily represent the views of ILPA, but are designed to provide a view of the questions by experts in their field. These are available on our website<sup>14</sup> and include a paper by Professor Bernard Ryan of the University of Leicester: *The implications of UK withdrawal for immigration policy and nationality law: Irish aspects*<sup>15</sup>, which we understand that Professor Ryan will be submitting to this enquiry. In September 2016, Professor Ryan and ILPA's Legal Director Alison Harvey, participated in the North South Immigration Forum meeting in Belfast, where the implications of Brexit for the island of Ireland in the immigration context were discussed under the Chatham House Rule.
3. ILPA has prepared and is preparing a number of briefings and responses to consultations on the immigration aspects of Brexit. These can be found on the same page of the ILPA website as the position papers.<sup>16</sup>
4. The third preamble of the Belfast ('Good Friday') agreement<sup>17</sup> states

*The British and Irish governments*

...

*Wishing to develop still further the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Union;"*

5. We anticipate that the implications of the loss of the framework of EU law, of the protection of the EU Charter of Fundamental Rights and Freedoms, and of the supervisory jurisdiction of the Court of Justice of the European Union for the Irish peace process and the human rights of persons affected by it will be the main focus of the Committee's enquiry. That we do not focus on it is

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<sup>14</sup> Available at <http://www.ilpa.org.uk/pages/eu-referendum-position-papers.html>

<sup>15</sup> *ILPA EU Referendum position paper No. 8 : The implications of UK withdrawal for immigration policy and nationality law: Irish aspects* Professor Bernard Ryan, 18 May 2016, available at <http://www.ilpa.org.uk/resource/32154/eu-referendum-position-paper-8-the-implications-of-uk-withdrawal-for-immigration-policy-and-national>

<sup>16</sup> <http://www.ilpa.org.uk/pages/eu-referendum-position-papers.html>

<sup>17</sup> 10 April 1998. See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/136652/agreement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136652/agreement.pdf)

because our specialist expertise is in immigration, asylum and nationality law. Instead we concentrate on the impact on the common travel area, the Irish land border, and the rights of Irish citizens residing in the UK. We start, however, with a comment on trade relationships, as these provide the backdrop to our remarks.

### Trade relationships

6. ILPA members include lawyers practising in Irish as well as UK immigration law and members act for clients who are based both in Ireland and the UK. We are aware that, as always, questions of immigration law sit within a wider framework, including that of the relative prosperity of Northern Ireland and the Republic. Whether the UK remains with the customs union and whether the free movement of services is preserved have implications for this. The UK and Ireland are important markets for each other<sup>18</sup>. If the UK leaves the customs union, and if free movement of persons and services is not preserved, particularly if it takes many years to negotiate full independent UK membership of the World Trade Organization, we anticipate that a number of companies will relocate staff and operations out of the UK, reducing the numbers of their staff there. The Republic of Ireland is one place to which to relocate, in particular because of language but also because of culture<sup>19</sup>. Some moves, for example of financial services and tech, would have considerable implications for the prosperity of the Republic. This in its turn could have implications for where dual Irish/British nationals, and indeed third country nationals, chose to live and work and for the immigration law policies of both States. This could in turn affect decisions on the common travel area, whether at national or EU level.
7. In July 2015 the Northern Strategic Migration Partnership responded to the Migration Advisory Committee's call for evidence on the minimum salary thresholds for Tier 2 of the Points-based system. Its detailed consultation response provides valuable information about skills shortages in Northern Ireland.
8. At leader's questions on 27 September 2016, the Taoiseach said<sup>20</sup>

*...Our intention is to protect this country's vital national interest in these Brexit talks.*

*I have asked all Ministers to engage with their counterparts in Northern Ireland in respect of the forthcoming North-South Ministerial Council. This morning, for instance, the Cabinet noted the 2015 report of InterTradeIreland, which deals with cross-Border activities for research*

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<sup>18</sup> See the Department of Trade: *Doing Business in Ireland: Ireland Trade and Export Guide* updated 18 January 2016

<sup>19</sup> See *What will Brexit mean for the City of London*, 24 June 2016, <https://www.ft.com/content/23d576b0-386a-11e6-a780-b48ed7b6126f> ; Irish Times *Dublin's Financial Services expected to benefit from Brexit*, 18 August 2016 <http://www.irishtimes.com/business/financial-services/dublin-s-financial-services-expected-to-benefit-from-brexit-1.2760538>

<sup>20</sup> Dáil Éireann Debate 27 September 2016, Vol. 922 No. 1.



*and expansion of opportunity for exports and creation of jobs and so on. The reports for 2016, 2017 and 2018 may be very different.*

*...Ireland will argue vehemently for the continued recognition of the peace process and the support that has brought but also in respect of the critical juncture this country faces in terms of maintaining our links with the United Kingdom, but speaking as a country that will remain a central part of the European Union.*

## **The common travel area and the Irish land border**

### ***Legal framework***

9. The Protocol on the Common Travel Area, Protocol 20 to the Treaty of Lisbon<sup>21</sup>, provides that the United Kingdom and Ireland “...may continue to make arrangements between themselves relating to the movement of persons between their territories”.
10. Ireland and the UK joined the EU on the same date<sup>22</sup> therefore the question of the land border between the two States being an external border of the EU has never arisen. It would be sanguine, therefore, to assume that the Protocol will not become the subject of Brexit negotiations<sup>23</sup>. It is not the case, however, that all parts of the Common Travel Area are already fully within the EU: this is not the case for Jersey, Guernsey and the Isle of Man. All three islands have their own immigration laws and their own relationship to the EU.
11. As Professor Ryan described in his paper for ILPA, the legal framework relating to the common travel area is different in the two states. Under the Republic’s Immigration Act 2004, immigration controls apply to “non-nationals”, those who are not Irish or British citizens, who arrive in the Republic from the UK by air or sea, and may be imposed upon non-nationals as so defined who arrive by land, but this must be read with EU rights of free movement.
12. In contrast, in the UK, the Immigration Act 1971, section 1(3) provides:

*(3) Arrival in and departure from the United Kingdom on a local journey from or to any of the Islands (that is to say, the Channel Islands and Isle of Man) or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the United Kingdom on so arriving, except in so far as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the United Kingdom and those places, or such of them as are not so excluded, are collectively referred to as “the common travel area”.*

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<sup>21</sup> Protocol (No 20) to the Treaty on the Functioning of the European Union on the application of certain aspects of Article 26 of the Treaty on the Functioning of the European Union to the United Kingdom and to Ireland.

<sup>22</sup> 1 January 1973.

<sup>23</sup> See HM Government *Alternatives to membership: possible models for the UK outside the EU*, March 2016.

13. Article 4 of the Immigration (Control of Entry through the Republic of Ireland) Order 1972 (SI 1972/1610) exempts those exercising rights under EU free movement law from control. As Professor Ryan explains, this replaces the pre-2014<sup>24</sup> specific exception in the article for Irish nationals.

14. The Taoiseach, when pressed on the common travel area, said

*... The common travel area has been of great benefit to both countries before we joined the Union and since we joined the Union; it has not been tested when one country is in the Union and one is outside it. The British Prime Minister is clear that neither she nor I want to see a return to a hard Border and will do everything possible to see that the free movement of people and goods is as it is now.*

*We are in the negotiations as a member of the European Union, but we want to retain our specific traditional relationship with the United Kingdom. When I met the British Prime Minister, Mrs. May, she made it clear that she does not want to return to a hard Border and nor do we. She wants to retain the common travel area, as do we. We will speak as a member of the Union, but we have a particular relationship with Britain that we want to retain.*

### ***Borders, Citizenship and Immigration Bill 2008-2009***

15. The Borders, Citizenship and Immigration Bill as presented to the UK parliament<sup>25</sup> made provision for the introduction of controls within the common travel area, following a Home Office consultation<sup>26</sup>. The Government was defeated in the House of Lords on the amendment<sup>27</sup> and an amendment was substituted strengthening the protection of free movement within the common travel area<sup>28</sup>. Ultimately, both the original clause and the amended version were both removed from the Bill<sup>29</sup>. Lack of time and the prospect that the Bill might fall led the then government not to insist on the provisions, although it stated that it continued to be committed to the policy.<sup>30</sup>

16. The government stated prior to the referendum, discussing its likely effects:

*Outside the EU's Customs Union, it would be necessary to impose customs checks on the movement of goods across the border. Questions would also need to be answered about the Common Travel Area.<sup>31</sup>*

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<sup>24</sup> When the The Immigration (Control of Entry through Republic of Ireland) (Amendment) Order 2014 (SI 2014/2475).

<sup>25</sup> HL Bill 15, Clause 46.

<sup>26</sup> *Strengthening the Common Travel Area* consultation published, together with a partial impact assessment, 24 July 2008. The Government response and a final impact assessment were published on 15 January 2009.

<sup>27</sup> HL Deb 1 Apr 2009: Col 1116.

<sup>28</sup> HL Bill 36 of session 2008-9, clause 51.

<sup>29</sup> HC Deb 14 July 2009, vol 496, cols 238-9.

<sup>30</sup> HC Deb 14 July 2009, vol 496, col 239 and HL Deb 20 July 2009 vol 712 col 1395.

<sup>31</sup> HM Government *The process for withdrawing from the European Union* Cm 9216, February 2016.

17. It is the case, since the coming into force of part one of the Borders, Citizenship and Immigration Act 2009<sup>32</sup> that one individual can be both a customs official and an immigration officer and that customs functions performed at the border by Her Majesty's Revenue and Customs may be performed currently by the Secretary of State and officials designated by him or her. The Act created a unified border force and subsequent legislation has built on this. While it is not the case that customs checks at the border must imply immigration control, this sharing of functions would make it easier for such control to be exercised, whether in a systematic or selective manner.
18. There are examples elsewhere where customs controls are in force but the free movement of persons is permitted. This is the case, for example, for the Franco-Swiss border because Switzerland is not within the customs union but participates in the free movement of persons.

### ***Operation Gull***

19. The selective controls for which the law of the Republic of Ireland makes provision<sup>33</sup> have been operated as part of Operation Gull, a UK and Ireland initiative operating at Northern Irish ports<sup>34</sup> and on the land border since 2005. An immigration unit was created in Dundalk by the Garda Síochána. A range of joint operations involving relevant immigration personnel from both jurisdictions and the investigative division of the Irish Department of Social Protection have flowed from detections through Operation Gull. Other initiatives have been developed in relation to joint training, sharing immigration liaison officer resources and immigration information and biometric exchanges<sup>35</sup>.
20. In its response<sup>36</sup> to the consultation on the common travel area which preceded the 2009 Act, ILPA expressed concern that intelligence led operations carried out by immigration officers in Northern Ireland as part of Operation Gull had been carried out on a discriminatory basis, with individuals questioned under Operation Gull on grounds of ethnicity/nationality irrespective of the legality of their intentions. It drew attention to contemporary criticisms of those actions by High Court judges. It highlighted the case of the Zimbabwean engineer Frank Kakopa reported in the *Decisions and Settlements Review 2006-2007* of the Equality Commission

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<sup>32</sup> On 21 July 2009, the day on which the Act was passed, see s 58(1) therein.

<sup>33</sup> Immigration Act 2004, read with the definition of non-nationals in s 1(1) of the Immigration Act 1999 and S.I. No. 97/1999 Aliens (Exemption) Order.

<sup>34</sup> See the Northern Ireland Department of Justice Organised Crime Task Force Annual Report for 2015, <http://www.octf.gov.uk/OCTF/media/OCTF/documents/OCTF-REPORT-2015.pdf?ext=.pdf>

<sup>35</sup> See the 20 December 2011 *Joint Statement by Mr. Damian Green, Minister of State for Immigration, the United Kingdom's Home Department and Mr. Alan Shatter, Minister for Justice and Equality. Ireland's Department Of Justice and Equality Regarding Co-Operation on Measures to Secure the External Common Travel Area Border.*

<sup>36</sup> ILPA response to the UK Border Agency consultation on Strengthening the Common Travel Area, October 2008. <http://www.ilpa.org.uk/pages/non-parliamentary-briefings-submissions-and-responses.html>

for Northern Ireland. Mr Kapoka was legally resident in the UK. He travelled into Northern Ireland from Great Britain by air, was questioned, photographed, detained and strip searched. The Immigration Service agreed later to pay him £7500 for falsely and unlawfully imprisoning him and apologised unreservedly for their actions. ILPA called for independent, transparent, oversight of Operation Gull.

***Cross border movements: particular cases.***

21. Frontier workers may be Irish or UK or third country nationals and others in the border area may cross the border frequently for leisure or to see family and friends. Customs controls, as described above, could affect such journeys, whether or not immigration controls are imposed, and whether immigration controls are imposed systematically or selectively.

22. In 1999, the Northern Ireland Human Rights Commission *Briefing Paper and Proposed Amendments*<sup>37</sup> set out that

*Persons who have claimed asylum in the Republic of Ireland may enter Northern Ireland without knowing that they have entered a separate jurisdiction or without realising the consequences of such action. At present such people often wish to return to the Republic quickly but are generally detained whilst procedures for their return are pursued under the Dublin Convention. Facilitation of the removal (with free consent following independent legal advice) would reduce the length of detention. Special administrative arrangements would be required, possibly including the delegation of powers dealing with asylum matters to staff located in Northern Ireland.*

23. It is our understanding that those whom it is deemed should make their claims for asylum in the Republic of Ireland continue to be detained at Larne House pending the transfer. We do not have any recent examples of the practice of transferring persons seeking asylum to a detention centre in England or Scotland pending the transfer back to the Republic. It is currently unclear to us whether the Dublin procedure is currently formally invoked for cross-border transfers of persons seeking asylum on the island of Ireland, although we are aware that transfers, at least of adults, from Northern Ireland to the Republic of Ireland do take place. A study in 2012 observed

*Persons who receive a Dublin Regulation Transfer Order may be detained pending removal although [the Irish Naturalisation and Immigration Service (INIS)] stated that this is not common practice. The legal basis for detention pending Dublin II transfer is*

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<sup>37</sup> <http://www.nihrc.org/documents/advice-to-government/1999/support-provisions-immigration-asylum-bill-hol-committee-june-1999.pdf>

*Section 22 of the Refugee Act, 1996 as amended, and Section 7(5) of S.I. 423 of 2003*<sup>38</sup>

24. Families seeking asylum tend not to be returned to the Republic following the judgment of the High Court in Belfast in *In the Matter of an Application for Judicial Review by ALJ and A, B and C* [2013] NIQB 88 (14 August 2013), which found that the system of support for persons seeking asylum, ‘direct provision’ is contrary to the best interests of the child and thus that to return children to such support in the Republic of Ireland would breach the Home Office’s duties under section 55 of the Borders, Citizenship and Immigration Act 1999.
25. The UK would no longer be a party to the Common European Asylum System if it left the EU. There is nothing to prevent its continuing to operate a system resembling the Common European Asylum System within the UK, insofar as it is compatible with the UK’s obligations under 1951 UN Convention relating to the Status of Refugees and with the UK’s obligations under international human rights law. The UK will cease to be a party to the Dublin III Regulation<sup>39</sup>, whereby responsibility for refugees is divided up between member States, on leaving the European Union. The UK could designate European States, including the Republic of Ireland, as “safe third countries” and attempt to negotiate an agreement with the EU. Given the Common European Asylum Policy we do not consider that it could negotiate such an agreement with individual member States. It is unclear what EU states would have to gain from allowing the UK to continue to participate in the Dublin Regulation, as the UK sends more asylum seekers to other member States under the Dublin III Regulation than it receives from them<sup>40</sup>. The figures for the Republic of Ireland are set out in Professor Ryan’s paper<sup>41</sup> and reflect this general trend.
26. Refugees are entitled to a refugee travel document if recognised as such; if given humanitarian protection they will be eligible for a Home Office certificate of travel. Resettled Syrian refugees in the UK are being given humanitarian protection and thus are entitled to certificates of travel rather than refugee travel documents. To travel to the Republic of Ireland, within the Common Travel Area, they thus need to obtain a visa. Obtaining visas in certificates of travel can be problematic in other European States, as, unlike refugee travel documents, they are not internationally recognized documents. It is currently unclear to us whether the Republic of Ireland is recognizing UK

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<sup>38</sup> King, Emma, and Kingston, Gillian. 2012. “Practical Measures for Reducing Irregular Migration.” European Migration Network. The Economic and Social Research Institute. March 2012

<sup>39</sup> *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, 29 June 2013, OJ L. 180/31-180/59; 29.6.2013, (EU)No 604/2013.

<sup>40</sup> See the discussion in ILPA’s EU Referendum Position Paper 10 - The UK Referendum on the EU and the Common European Asylum System, 29 April 2016 by Professor Elspeth Guild.

<sup>41</sup> Op.cit.

certificates of travel; attempts to clarify this are ongoing. The mutual recognition of refugee status and humanitarian protection between the two States would be a much tidier way of allowing beneficiaries of international protection to travel on the island of Ireland.

27. It is the intention of the current government to increase the range of areas to which persons seeking asylum and resettled refugees are dispersed<sup>42</sup>. The more asylum seekers and refugees are dispersed to border areas the more likely it is that they will cross the border.
28. Third country nationals other than asylum seekers who cross the border may be detained pending their transfer back to the Republic. The "Joint Statement Regarding Co-Operation on Measures to Secure the External Common Travel Area Border"<sup>43</sup> of 20 December 2011 commits both governments to strengthening joint initiatives. As Professor Ryan points out in his paper the lists of third States whose nationals require a visa to visit is largely, although not completely, aligned in the UK and Ireland. The two governments, both sitting outside the Schengen zone, have cooperated on the issuing of joint visas. A visa launched in October 2014 allows nationals of China and India to apply for one visa to visit both the UK and Ireland<sup>44</sup>. Both States can turn back persons who would not be admissible in the other, at the external border of the common travel area. It appears likely that such arrangements could survive Brexit, because of Ireland's opt-out from the common immigration policy, but the EU may wish to be satisfied that entry into the Republic from the UK does not become a back door to entry into the EU. One way to ensure this is to require that control between the UK and the Republic meets particular standards, another is to require more stringent control on persons travelling from the Republic to the rest of the EU. If Ireland decided to opt into the common immigration policy its freedom to align with the UK would be constrained.

### **The rights of Irish citizens residing in the UK.**

29. See comments above re frontier workers.
30. ILPA has prepared a detailed paper for the consultation by the non-governmental organization British Future into the rights of nationals of EU member States in the UK post Brexit<sup>45</sup> and is preparing a paper for the House of Lords' Select Committee on the European Union for its enquiry into the possible consequences of Brexit on EU rights. We summarise here general comments on the rights of EU nationals in the UK which are explored in more detail in those papers and go on to focus here on matters specific to Irish nationals.

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<sup>42</sup> See e.g. HC Deb 3 May 2016, Vol 609 cols 44-45WH.

<sup>43</sup> Op.cit. Available at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/99045/21197-mea-sec-trav.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/99045/21197-mea-sec-trav.pdf)

<sup>44</sup> See the UK Visas and Immigration *Guidance: British Irish Visa Scheme* 10 December 2015 <https://www.gov.uk/government/publications/british-irish-visa-scheme/british-irish-visa-scheme>

<sup>45</sup> 7 September 2016, available at <http://www.ilpa.org.uk/resources.php/32463/ilpa-evidence-for-british-futures-inquiry-into-the-status-of-eu-nationals-in-the-uk-7-september-2016>

### ***A note on British citizens residing in Ireland***

31. Ireland, like the UK and Denmark, has opted out of measures in the common immigration policy which standardize rights of third country nationals living in the State. Thus, leaving aside the specific question of the common travel area, discussed above, there is much less certainty for British citizens living in the Republic of Ireland than for those British citizens in most other EU member States and there is scope for bilateral negotiations on the rights of British citizens in the Republic of Ireland which would not exist in most other EU member States.
32. There is current concern in the Republic of Ireland about British citizens making applications for documentation evidencing exercise of treaty rights in the Republic of Ireland, when they are not in reality living there<sup>46</sup>. This has been uncovered by Operation Vantage, the original focus of which was marriages of convenience, but which has uncovered broader concerns.
33. We are very much aware of the renewed interest in Irish nationality since the referendum from British citizens, regardless of where they are currently resident, who have Irish nationality by birth or are eligible for it<sup>47</sup>. Those British citizens resident in the Republic need however to consider the rights of any third country national members before applying to naturalize.
34. It is unclear whether Ireland, like the UK<sup>48</sup>, applies its domestic immigration law to EEA nationals who have naturalized rather than continuing to treat them as persons who exercising rights of free movement. In the UK, from the point of naturalization of the EEA national onwards their third country family members do not benefit from rights under EEA law flowing from their relationship with the principal and instead fall under domestic immigration law. Practitioners in the Republic are unaware of any cases in which the point has been arisen. The wording of Regulation 3(5) The European Communities (Free Movement of Persons) Regulations 2016 (S.I. 2015/584 into force 1 February 2016) read with Regulation 3(1)(a) is unclear<sup>49</sup>

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<sup>46</sup> Discussed at the North South Immigration Forum, September 2016, Belfast. See Garda Síochána *press release Operation Vantage: Investigation into sham marriages and immigration issues*, 27 November 2015, <http://www.garda.ie/Controller.aspx?Page=16224>

<sup>47</sup> For a general overview of acquisition of Irish citizenship by birth, descent or naturalization see the website of the Irish Naturalization and Immigration Service <http://www.inis.gov.ie/en/inis/pages/wp11000022>. The website at <http://www.inis.gov.ie/en/INIS/Pages/EU%20Treaty%20Rights> carries a notice dated July 2016 about a high volume of applications from EEA nationals.

<sup>48</sup> See the definition of an EEA national in the Immigration (European Economic Area) Regulations 2006 (SI 2006/1003) Regulation 2, and see the discussion of 16 July 2012 amendments in the Home Office guidance at EUN2.16, at <https://www.gov.uk/government/publications/eea-family-permits-eun02/eea-family-permit-eun02>

<sup>49</sup> See also the guidance of the Irish Naturalisation and Immigration service at <http://www.inis.gov.ie/en/INIS/Pages/EU+Treaty+Rights>: **Applications based on Irish nationals are not accepted by EU Treaty Rights Unit** Please note that we cannot accept applications under EU Treaty Rights provisions from non-EEA family members of

### ***Irish nationals in the UK post Brexit***

35. The 2011 census collected data<sup>50</sup> on country of birth which was subdivided into, *inter alia*, Northern Ireland and the Republic of Ireland. Irish was an identified ethnic group<sup>51</sup>. This does not give a complete picture of the numbers of the Irish nationals, or those with a claim to Irish nationality in the UK, but provides some indications of numbers.
36. As described in more detail in the responses detailed in the introduction to this part, the rights of EU nationals in the UK post Brexit is the source of considerable uncertainty, affecting them, their family members, their employers and the institutions in which they are studying. There is a need to address qualifying non-EEA family members, including persons exercising derived rights. Account must be taken of Articles 21, 45 (workers) and 49 (establishment) and 56 (services) (and predecessor provisions) to cover all free movement of persons.
37. If customs and/or immigration controls are re-introduced on the land border dividing the island of Ireland some frontier workers may wish to relocate to the side of the frontier on which they work to avoid having to negotiate controls, with any attendant risk of delays.
38. The then Minister said in the 6 July 2016 debate:

*This issue is not simply about the immigration status of an individual. Under free movement law, EU citizens' rights are far broader than just the right to reside in the UK. There are employment rights, entitlements to benefits and pensions, rights of access to public services, and rights to run a business, which is so closely aligned with the right to provide cross-border services, as well as the ability to be joined by family members and extended family members, in some cases from countries outside the EU. ...we must remember that people do not have to register with the UK authorities to enjoy basic EU rights to reside. We will need to work out how we identify fairly and properly the people who are affected.<sup>52</sup>*

39. Where a person is a dual British and Irish national, Brexit will not affect them as individuals they will continue to enjoy all their rights as a British citizen. It may, however, affect their family members.

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Irish nationals. Directive 2004/38/EC on the right of citizens of the EU and their family members to move and reside freely within the territory of the Member States applies only to Union citizens who move to or reside in a Member State other than that of which they are a national.

Exceptions to this apply only in cases where the non-EEA national family member has previously held a residence card of a family member of a Union citizen which has been issued by another Member State under Article 10 of the Directive.

<sup>50</sup> Question 9.

<sup>51</sup> Question 16.

<sup>52</sup> Col 951.



40. In *McCarthy v United Kingdom* (Case C-434/09) the European Court of Justice held that dual nationals holding two EU nationalities and living in one of the countries of nationality who have never exercised free movement rights cannot rely on the Citizens' Directive (2004/38). Ms McCarthy's claim based on or on Article 21 of the Treaty of the Functioning of the European Union did not succeed. The court proposed a general test for the application of the article, that the national measure had the effect of depriving the Union citizen of the substance of her/his rights associated with that status or of impeding the exercise of his/her rights of free movement. The court concluded that Ms McCarthy did not meet the test as her situation was confined in all relevant respects within a single member State<sup>53</sup> and had no factor linking it with any of the situations governed by European Union law. The extent to which it may be possible argue that dual nationals who have worked in a Member State (albeit without moving) are or have exercised their rights to free movement and are beneficiaries under Directive 2004/38/EC or to argue that they have rights derived directly from the Articles 20 or 21 of the Treaty on the Functioning of the European Union and its articles on workers and self-employed persons which are the equivalent of Citizens Directive's rights, are not yet matters of settled law and thus it is not possible to state categorically whether a dual Irish/British citizen living in the Republic of Ireland living there as a national and not exercising rights under EU law and their family members could currently rely on EU free movement rights on return to the UK following a period of residence in Ireland.
41. The 1998 Belfast ("Good Friday") Agreement recognised "the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British or both, as they so chose" and to hold both citizenships. It was not considered in the McCarthy case. The status of the Good Friday Agreement in domestic law is relevant to whether it could trump domestic primary or secondary (including the Immigration (European Economic Area) Regulations 2006 and thus to whether, as a matter of UK law, a person could rely on their Irish citizenship alone, even if they legally hold British citizenship as well.
42. There may be British citizens who are unaware that they are also Irish citizens. The rights of their third country national family members may be affected by Brexit. Where third country family members are required to meet domestic immigration rules, these entail minimum income thresholds. It may be particularly challenging for those in Northern Ireland to meet these. Households in Northern Ireland have the lowest disposable gross disposable household income in the UK<sup>54</sup>. While the UK immigration rules<sup>55</sup> are concerned with income rather than disposable income, the figures serve as a proxy. A worsening of economic conditions following Brexit could further affect income levels in Northern Ireland. The Northern Strategic Migration Partnership in its July 2015 response the Migration Advisory Committee's call

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<sup>53</sup> Paragraph 55.

<sup>54</sup> *Statistical bulletin: Regional gross disposable household income (GDHI): 1997 to 2014 Annual estimates of regional gross disposable household income (GDHI)*. Office of National Statistics, May 2016

<sup>55</sup> HC 395, Appendix FM.

for evidence on the minimum salary thresholds for Tier 2 of the Points-based system, mentioned above, said

*The proposal to increase the minimum salary thresholds for Tier 2 will, we believe, have a disproportionate impact on employers in Northern Ireland vis-à-vis employers in other parts of the UK, due to the lower salary levels offered here and the acute shortage of appropriately skilled labour in the region*

43. Where a person is an Irish citizen and is not a British citizen they may be exercising rights of free movement in the UK. A post-Brexit settlement needs to make provision not only for them, but also for their third country national family members.
44. As set out in Professor Ryan's paper, section 2(1) of the Ireland Act 1949 provides that "the Republic of Ireland is not a foreign country for the purposes of any law in force in any part of the UK". Immigration law appears to make its own provision for Ireland, separately from the 1949 Act, see for example the Commonwealth Immigrants Act of 1962 and the Immigration Act 1971.
45. Irish citizens without a right of abode in the United Kingdom are persons subject to immigration control under s 1(2) of the Immigration Act 1971. They are relieved from that when they arrive in or depart from the UK from elsewhere in the common travel area by section 1(3) of that Act. See further the common travel area exemption for them in the 1972 Immigration (Control of Entry through the Republic of Ireland) Order 1972 (SI 1972/1610).
46. The effect of these provisions is that Irish citizens, save insofar as they are exercising rights of free movement, are treated as persons subject to immigration control for deportation purposes but not otherwise.
47. Under the 1949 Act, where provision is made in law for foreign countries, for example in aspects of criminal law, Ireland is not to be treated as such. In ILPA's view there is scope to build on this to argue that treatment of Irish citizens cannot be aligned with that of third country nationals and that Brexit would not affect this. One possibility is to give nationals of EEA states, including Irish nationals, special status in UK law.
48. As Professor Ryan explains, as a matter of administrative practice, Irish citizens are treated as settled in the UK from the date they take up ordinary residence. This allows them to naturalize after five years continuous residence<sup>56</sup> and means that their children born in the UK are born British citizens<sup>57</sup>.

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<sup>56</sup> British Nationality Act 1981, s 6(1).

<sup>57</sup> British Nationality Act 1971 s 1(1)(b).

49. In *Patmalneice v Secretary of State for Work and Pensions*<sup>58</sup> it was held by the UK Supreme Court that the different treatment afforded to Irish nationals in relation to benefits dependent upon the claimant having a right to reside in the UK or elsewhere in the common travel area did not constitute unlawful discriminatory treatment in favour of Irish nationals and was not unlawful under EU law since there is sufficient connection between social security arrangements and the aim of promoting free movement between the two countries for the arrangements challenged to attract the protection of the Protocol.

### ***Devolved powers***

50. We are aware that there will continue to be debates about independence and the independence of parts of the UK so that they could remain within the EU. There will continue to be debates on whether Northern Ireland should join the Republic. Short of such settlements certain matters pertaining to EU citizens resident in Northern Ireland are within the competence of the Northern Ireland assembly. While immigration is a reserved matter, for example welfare entitlements are devolved in Northern Ireland and thus EEA nationals' access to services in Northern Ireland could be protected by clarifying which matters are within the competence of the Northern Ireland Assembly. Further devolution could bring aspects of the rights of EU/EEA nationals within the legislative competence of Northern Ireland Assembly to allow it to reach its own settlement. Devolved matters on which there is immigration legislation include<sup>59</sup>:

- health and social services
- education
- employment and skills
- social security
- housing

51. As Professor Ryan sets out in his paper, habitual residence elsewhere in the common travel area, including in Ireland, makes a person eligible for non-contributory benefits to which an habitual residence test is applied, anywhere in the UK. An Irish citizen habitually resident in the Republic of Ireland and present in the UK is thus eligible for these benefits and for homelessness assistance.

52. In ILPA's view there is potential for different successor arrangements to be made by the English, Welsh, Northern Irish and Scottish administrations.

### ***ILPA recommendations***

53. ILPA has recommended standstill clause and that the relevant date for the application of any protection should be the date of leaving the EU: this would be similar to the approach taken when changes are made to the Immigration Rules affecting, *inter alia*, persons on the route to settlement (see e.g. the pre and post November 2014 Tier 1 (Investor) changes; Part 8 of the

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<sup>58</sup> [2011] UKSC 11.

<sup>59</sup> Cabinet Office and Northern Ireland Office, *Devolution settlement: Northern Ireland*, 20 February 2013.

Immigration Rules and its replacement by Appendix FM to those rules etc.). ILPA has recommended that all those who have permanent residence at the cut-off date should retain the equivalent of their rights as a permanent resident. Those who do not yet have permanent residence should, at the very minimum, be allowed to qualify for permanent residence once they meet the current conditions for permanent residence set out in EU law (i.e. preserve this basis of qualification in separate provisions).

54. ILPA has recommended that beneficiaries of a standstill provision should include all EEA (not only EU) citizens and Swiss and their qualifying non-EEA family members, including persons exercising derived rights. Account must be taken of Articles 21, 45 (workers) and 49 (establishment) and 56 (services) (and predecessor provisions) to cover all free movement of persons.
55. It will be necessary to make provision for persons who may subsequently become part of the family unit: e.g. babies born to a couple benefiting from protection.
56. Consideration should be given, for simplicity's sake to giving rights of permanent residence to persons with a certain number of year's residence, e.g. five, without looking at detail within that period. This would be administratively more convenient. There will be many persons, including Irish citizens, long resident in the UK who are struggling to evidence rights of permanent residence, including many self-employed persons. Persons may struggle to evidence periods of job-seeking, in particular to meet current UK requirements on evidence, without which continuity of residence would be broken.
57. Provision should be made for *de facto* EU residents, e.g. the economically inactive partners of British citizens who do not have comprehensive sickness insurance and are thus not treated as exercising treaty rights as self-sufficient persons, but who have built lives and families here. For this group and to avoid other complications we strongly suggest that rights of access to the NHS be treated as comprehensive sickness insurance cover.
58. Provision should be made for persons exercising derived ("derivative") rights of residence to continue to exercise such rights for as long as the conditions currently pertaining to such exercise are met.
59. Those who do not yet have permanent residence should be allowed to qualify for permanent residence once they meet the current conditions for permanent residence set out in EU law (i.e. preserve this basis of qualification in separate provisions as described above).
60. The Citizens Directive 2004/38/EC offers greater protection from deportation for EU nationals than that afforded to other third country nationals, increasing with length of residence. We have proposed replicating this but it may be felt that the question of losing rights is separate to that of accruing them.

61. Were these guarantees, elaborated upon in the papers in the introduction to this part, accepted, then they would provide a sound basis for the rights of Irish nationals. The need for certainty means that it is desirable to set out minimum, but not minimal, guarantees as soon as possible. These minimum guarantees could be built on to give more rights to more people, or enhanced rights to beneficiaries of an initial settlement, in future and at this point special provision could be made for Irish nationals if required.
62. Matters of movement, visa waiver etc. (e.g. for tourism) rather than residence will depend on whether the common travel area survives Brexit.

***Legal and practical problems***

63. We consider that there should be a special post-EU status, set out in a separate set of rules, separate from current leave under the immigration rules (e.g. the rules on indefinite leave to remain).
64. Increasingly, immigration officers, employers, landlords etc., have to know who has a right to reside and who does not, and evidence is needed to prove this. We suggest that it will therefore be necessary to have residence documents confirming the rights to the new status. We are acutely aware, however, of the logistical problems this would entail. For the scale of the task see the Migration Observatory's 3 August 2016 post *Here today, gone tomorrow? The status of EU citizens already living in the UK*.<sup>60</sup> We are currently experiencing long delays in the issue of certificates of application in EEA cases, which attest to an application's having been made. Home Office capacity is not up to the scale of the task of dealing with current demand from EEA nationals and their family members, just as we understand the Republic of Ireland to be struggling to cope with the post-Brexit volume of applications for passports.

30 September 2016

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<sup>60</sup> <http://www.migrationobservatory.ox.ac.uk/commentary/here-today-gone-tomorrow-status-eu-citizens-already-living-uk>

Institute of International and European Affairs, Tourism Ireland and Economic and Social Research Institute – Oral evidence (QQ 100-107)

**Institute of International and European Affairs, Tourism Ireland and Economic and Social Research Institute – Oral evidence (QQ 100-107)**

[Transcript can be found under Economic and Social Research Institute](#)

InterTradeIreland, Northern Ireland Food and Drink Association and CBI  
Northern Ireland – Oral evidence (QQ 45-55)

**InterTradeIreland, Northern Ireland Food and Drink Association  
and CBI Northern Ireland – Oral evidence (QQ 45-55)**

[Transcript can be found under CBI Northern Ireland](#)

## **Professor Cathal McCall, Professor of European Politics, Queen's University – Written evidence (BUI0002)**

### **Brexit Bordering Alternatives**

The 'Brexit' campaign focused on the nexus between rebordering and security: borders are the principal foci for securitising mobility.

Its objective is to establish a hard border regime in order to prevent the movement of unwanted 'outsiders' to Britain, including those coming from within the EU.

Michael Keating detected three groups under the 'Brexit' umbrella: the 'Europeans' who prioritise access to the European single market without the political consequences<sup>61</sup>; the 'Little Englanders' who oppose EU membership or affiliation, as well as immigration; and the 'Globalists' who resent EU regulation and believe that the UK can become a global economic superpower in its own right<sup>62</sup>. Objection to the EU's freedom of movement principle is the primary motivating factor for both the 'Europeans' and the 'Little Englanders'.

British Eurosceptics - whether 'Europeans' or 'Little Englanders' - demand the creation of clear, hard security borders that prove to be impenetrable for unwanted 'outsiders' including those from within the EU. But where would the 'Brexit' hard border run?

### **Alternative 1: Reborder the United Kingdom of Great Britain and Northern Ireland**

The UK's front door to the European continent is heavily alarmed and would readily serve many of the hard border requirements of 'Brexit'. However, its back door to the Republic of Ireland is wide open.

The Irish border is the only land border that the UK shares with another member state<sup>63</sup>. Even at the height of the Northern Ireland Troubles the border security regime was partial. An unbroken British security force presence along the Irish border risked further alienating the Irish nationalist population and strengthening the hand of the IRA, a risk that successive UK Governments appeared to appreciate. According to Richard Rose, the relative lack of border security was due to the fact that there was 'no political will at Westminster' for its imposition because of the concern that such a move would further stir political and militant Irish nationalism<sup>64</sup>. With 'no political will at Westminster' to secure the Irish border during the 'Troubles', such an undertaking after 'Brexit' is almost unimaginable. All the more so because the reconfiguration of the Irish

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<sup>61</sup> The 'Brexit Europeans' support for the free movement of capital and commodities across the EU is in stark contrast to their objections to the free of movement of labour. Therein lies an inherent contradiction since there is an inevitable connection between market integration and the free movement of labour to service that market in the neo-liberal economic model.

<sup>62</sup> Keating, Michael, 2016. 'Where Next for a Divided United Kingdom?', in the *Irish Times*, 2nd July.

<sup>63</sup> Gibraltar shares a land border with Spain. However, under the Treaty of Rome (1973) and the UK Act of Accession (1973) Gibraltar is classified as a dependent territory of the UK and not as a member of the UK.

<sup>64</sup> Rose, Richard 1983. *Is the United Kingdom a State?* Glasgow: Centre for the Study of Public Policy.



border from the early 1990s - through the removal of security checkpoints and customs posts, as well as the promotion of North South and cross-border cooperation – has been an important element in British-Irish peacebuilding<sup>65</sup>.

The launch of the European Single Market in 1992 and the onset of the Irish Peace Process in 1994 meant that Irish border customs posts and military checkpoints were surplus to requirements. Secondary roads were re-opened and militarised sections of the Irish border gradually became demilitarised through the dismantling of British Army mountain top watchtowers in South Armagh and the closure of heavily fortified security bases along the border. The result is that the physical manifestation of the Irish border itself is hardly discernible.

Debordering the Irish border was embedded in the creation of a cross-border, North South institutional infrastructure that was established under the terms of the 1998 Good Friday Agreement<sup>66</sup>. It involved constitutional ingenuity, de-emphasising state sovereignty and overcoming borders as barriers to contact, communication, mobility, cooperation and trade. It was bolstered by the eventual removal of the selective border security regime.

After the 'Brexit' referendum it appeared that the new UK Government, led by Prime Minister Theresa May, was alive to the risks rebordering the Irish border involving the reintroduction of customs, security and immigration checks on key cross-border routes, closing secondary cross-border roads<sup>67</sup>, and deploying border patrols along the border. Prior to the 'Brexit' referendum, then British Home Secretary Theresa May claimed that 'it is inconceivable that a vote for Brexit would not have a negative impact on the North/South Border, bringing cost and disruption to trade and to people's lives'<sup>68</sup>. However, after becoming Prime Minister, May acknowledged that '... of course Northern Ireland will have a border with the Republic of Ireland, which will remain a member of the European Union'<sup>69</sup>.

Prime Minister May also stated that 'nobody wants a return to the borders of the past'<sup>70</sup>. However, since 'Brexit' has been inspired by the desire to curb freedom of movement from the European continent it does not seem plausible that the UK Government could entertain the continuation of an open Irish border. Nigel

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<sup>65</sup> In August 2009, a splinter IRA group left a 600lb bomb outside Forkhill, County Armagh, running a concealed command wire across fields and over the border into County Louth. A telephone warning was given but a week passed before British security forces found the bomb. Upon the discovery the UK Government emphasised that British troops would not be reintroduced to secure the border (*Irish Times*, 10 September 2009).

<sup>66</sup> The North South Ministerial Council has sectoral responsibility for education, health, transport, agriculture, the environment and tourism. North South Implementation Bodies which concentrate on the specifics of all-island cooperation in the areas of trade and business development, food safety, Gaelic and Ulster-Scots languages, aquaculture, waterways, and EU Programmes. A limited company - Tourism Ireland - functions as a *de facto* implementation body to promote the island abroad as a tourism destination.

<sup>67</sup> Border towns and villages include Derry, Strabane, Lifford, Pettigo, Belleek, Belcoo, Blacklion, Swanlinbar, Aghalane, Belturbet, Newtownbutler, Clones, Aghnacloy, Middletown, and Newry. However, there are many more cross-border roads than there are border towns and villages. 'Brexit' threatens many of these secondary cross-border roads with closure.

<sup>68</sup> *Financial Times*, 25 July 2016 (accessed 28/07/2016).

<sup>69</sup> The EU, being a customs union, requires border customs posts to be established between the EU and non-members. This is the case between the EU and Norway which is the subject of the most advanced EU free trade agreement with a non-member state.

<sup>70</sup> [www.bbc.co.uk/news/uk-northern-ireland-36885303](http://www.bbc.co.uk/news/uk-northern-ireland-36885303) (accessed 28/07/2016).

Professor Cathal McCall, Professor of European Politics, Queen's University –  
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Lawson, the former UK Chancellor of the Exchequer and chairman of the Vote Leave campaign, conceded that 'there would have to be border controls'<sup>71</sup>.

That said, there are other rebordering alternatives.

## **Alternative 2: Reborder Britain**

Initiatives for securing the border of Britain - rather than those of the UK – have historical precedent. After the fall of France in 1940 Irish travellers were required to carry passports or limited travel documents for 'war-work' to gain entry to Britain. A full return to freedom of movement in a 'common travel area' did not happen until 1952. A bordered Britain became a reality again under the 1974 Prevention of Terrorism (Temporary Provisions) Act in response to the IRA bombing of two public houses in Birmingham.

Passengers at the 'Belfast Gate' of Britain's airports were familiar with the intrusion of border control paraphernalia decades before the experience became widespread after the drama of the 11<sup>th</sup> September 2001 Islamic jihadist attacks on the United States of America. Britain's border within the UK, combined with the permeability of the UK's land border with the Republic of Ireland and Westminster's willingness to allow Northern Ireland to secede unilaterally (unlike Scotland or Wales) in the event of a majority in Northern Ireland approving such a move, is thus problematic for the idea of a UK border that is coterminous with the UK state. Britain is the *de facto* state and its borders are 'fuzzy'. The logic of 'Brexit' is that Britain's borders may well retreat to Britain (and possibly to England and Wales) in the quest to render them, clear, secure, and impenetrable to unwanted 'outsiders'.

Though the Scottish imagined community may demur, the British cultural imagination has the borders of the UK fixed firmly on Britain. 'This Sceptred Isle' and the 'White Cliffs of Dover' pervade heroic, romantic and (banal) nationalist readings of British history. Popular television and radio programmes such as the ten-week BBC Radio 4 series *This Sceptred Isle*, the long-running BBC comedy *Dad's Army*, as well as its seemingly endless documentary series *Coast* help to inculcate an idea of Britain in the British communal imagination. Northern Ireland does not feature on this 'mainland' radar.

When British broadcasters announced the inclusion of seven political parties in the line-up for the 2015 General Election televised debates, Northern Ireland parties were overlooked. When the then DUP leader, Peter Robinson, complained that his party was the fourth largest at Westminster and should, therefore, be included, he was rebuffed by the BBC's Director General, Tony Hall, on the grounds that the party political structure in Northern Ireland differs significantly from the rest of the UK<sup>72</sup>. In his effort to avoid the debates altogether the then Prime Minister David Cameron cited the initial exclusion of the Greens, not the DUP, as grounds for his non-participation. As Elizabeth Meehan puts it plainly,

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<sup>71</sup> Dominic Raab, Parliamentary Under Secretary of State at the Ministry of Justice between May 2015 and July 2016, also admitted that 'If you're worried about border controls and security . . . you couldn't leave a back door without some kind, either of checks there with any country or assurances in relation to the checks that they're conducting, obviously' (*Irish Times*, 11 April 2016).

<sup>72</sup> <http://www.bbc.co.uk/news/uk-politics-31029232> (accessed 04/06/2016).

'Great Britain being an island is still crucial to the outlooks of governments on the maintenance of frontier controls'<sup>73</sup>.

British public opinion reflects the position of UK Governments on Britain's borders. For example, in an ICM opinion poll published in the *Guardian*, the question posed to a sample of Britons in Britain was: 'Do you think Northern Ireland should be part of the UK? 26 per cent responded that it should remain part of the UK, 41 per cent that it should be joined with the Republic of Ireland, and 33 per cent responded 'don't know'. However, it goes without saying that unionists in Northern Ireland do not reflect that position. Indeed, Arlene Foster (DUP, Leader) appeared to be aware of the possibility of Alternative 2 when she declared: 'There must be no internal borders within the UK'<sup>74</sup>. Should Alternative 2 come to pass it would be a bitter irony for the DUP which recommended a 'Brexit' during the referendum campaign.

### **Alternative 3: Isles of Britain and Ireland hard border**

A benign understanding of the Common Travel Area is that it enables freedom of movement between Britain and Ireland. In effect, however, freedom of movement in the Common Travel Area has been predicated on the coordination of immigration policies operated by the UK and the Republic of Ireland to secure what was called the 'common outer perimeter' of the isles of Britain and Ireland.

A high level of cooperation and information-sharing between the Irish and UK electronic border control systems is evident and could form the basis for the development of a hard border around the isles of Britain and Ireland. 'Brexit' raises the possibility of an intensification of such cooperation to the ends of hardening a border around the isles and excluding unwanted 'outsiders'.

Such a course of action would present the Irish Government with serious questions, not least one regarding Ireland's continued membership of the EU. Any attempt to restrict the mobility of EU workers runs counter to the EU's freedom of movement principle contained in the *Acquis Communautaire*.

This did not stop most pre-2004 member states, including France and Germany, from imposing their own temporary restrictions on workers from the 2004 Enlargement states: restrictions can be maintained for a maximum of 7 years after accession. The difference is that the proposition of an isles hard security border regime suggests the imposition of permanent restrictions. Such an eventuality would position Ireland for an 'Irexit'. An arresting proposition for a member-state that has been unremittingly committed to EU membership principles, reaping 40 years of benefits in terms of acquiring sovereignty, developing infrastructurally, and opening culturally in the process.

1 September 2016

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<sup>73</sup> Meehan, Elizabeth, 2014. Borders and Boundaries: The Irish Example, *Centre on Constitutional Change blogspot* at <http://www.centreonconstitutionalchange.ac.uk/blog/borders-and-boundaries-irish-example> (accessed 13/07/2016).

<sup>74</sup> *Financial Times*, 25 July 2016 (accessed 28/07/2016).

Professor Cathal McCall, Dr Lee McGowan, Dr Katy Hayward and Professor David Phinnemore, Queen's University Belfast – Oral evidence (QQ 33-47)

**Professor Cathal McCall, Dr Lee McGowan, Dr Katy Hayward and Professor David Phinnemore, Queen's University Belfast – Oral evidence (QQ 33-47)**

[Transcript can be found under Dr Katy Hayward, Queen's University Belfast](#)

Dr Lee McGowan, Dr Katy Hayward, Professor David Phinnemore and Professor Cathal McCall, Queen's University Belfast – Oral evidence (QQ 33-47)

**Dr Lee McGowan, Dr Katy Hayward, Professor David Phinnemore and Professor Cathal McCall, Queen's University Belfast – Oral evidence (QQ 33-47)**

[Transcript can be found under Dr Katy Hayward, Queen's University Belfast](#)

## HE Dan Mulhall, Irish Ambassador to the United Kingdom – Oral evidence (QQ 1-12)

Evidence Session No. 1

Heard in Public

Questions 1 – 12

Tuesday 6 September 2016

[Watch the meeting](#)

Members Present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Green of Hurstpierpoint; Lord Jay of Ewelme; Earl of Kinnoull; Lord Liddle; Baroness Prashar; Lord Selkirk of Douglas; Lord Teverson; Lord Whitty; Baroness Wilcox

### Witness

HE Dan Mulhall, Irish Ambassador to the United Kingdom

Q1 **The Chairman:** Ambassador, huge thanks in advance from the Committee. You have always been very warm and assiduous in your contacts with us and indeed more generally in London, where your reputation is very high and your hospitality, as I can personally attest, is excellent. Thank you for coming this afternoon.

As you know, because you sat in on some of the session, we have been considering how we should handle parliamentary scrutiny of the clearly difficult issues that now have to be negotiated as part of the Brexit context. As you know, our Committee has always taken an interest in Anglo-Irish relations, sometimes perhaps—dare I say—a little more intensively than Her Majesty's Government, who from time to time have to be reminded of their importance.

As part of our post-Brexit work, we identified the need to do a particular study based in this overall Committee, rather than in the specialist sub-committees, on the Anglo-Irish implications. We are very grateful that you have come along to give evidence to us, and we will of course be following up with further inquiries and a visit to your island—Belfast and Dublin—next month.

As I mentioned, you are very familiar with the Committee. You will be familiar with the rules of engagement. This is a public session, with a webcast. We will send you a transcript afterwards. I remind my colleagues that, if they have a specific interest—we do not think that extends to an Irish granny, unless one feels it is necessary—they should declare it.

Ambassador, I think you would like to make a brief opening statement. Then we will get straight on to questions and cut to the chase.

**HE Dan Mulhall:** Thank you, Lord Boswell, and thank you, Lords, Ladies and members of the public, including those watching the webcast and Parliament TV—one of my favourite channels.

It is a pleasure for me to be here this afternoon. I am really glad to have this opportunity to set out our Government's views on a topic that is extremely important for us as well as for members of the Committee and for this country in general: the implications of Brexit across the board and in particular for Irish-UK relations. When I addressed you in the Committee on 27 October 2015 on the possibility of the UK leaving the EU, I spoke about the potential for negative implications for Northern Ireland and for Ireland's relations with the UK. I pointed to significant risks for Ireland, including in relation to our bilateral trade, and to the loss of an important ally in EU negotiations, a point that is often overlooked.

In February 2016, I spoke at the House of Commons Northern Ireland Affairs Committee inquiry on the implications of Brexit for Northern Ireland and north-south ties in Ireland. At that time I set out our concerns about the uncertainty a Brexit vote would create in terms of trade, the border and overall north-south co-operation in Ireland. I stated our Government's view that the best way of preserving the benefits of the strong Irish-UK relationship would be through continuation of our shared membership of the European Union.

During the month leading up to the June referendum I made a number of public statements, as did members of our Government. I blogged, I tweeted and I spoke in various places. Our purpose was not to interfere in the domestic politics of this country but to highlight Ireland's specific concerns as a friendly neighbour of the UK, a country with which we have an intensive, mutually advantageous set of relationships that we obviously want to preserve in the future.

The concerns we have today, in the aftermath of your referendum, derive from those that we expressed before the referendum. Ireland—I make it clear—will continue to be a member of the European Union. We accept, with regret, that at some stage in the coming years the UK will no longer be an EU member. This new situation will represent a new era for both our countries and for our bilateral relations. We have of course had relations when both of us were outside the European Union and within the Union for the past 43 years, but we have never conducted our relations in a situation where one of us was outside and the other inside the European Union.

As our Minister for Foreign Affairs and Trade, Charles Flanagan, acknowledged when responding to the referendum result, this will be a challenging time for the UK, for the EU and for Ireland. It is a challenge that we are determined will be met, from an Irish point of view. He stressed that we will remain in the EU and in the eurozone, but we will also do everything in our power to protect our political, economic and people-to-people links with the UK.

Over the summer months, our Government have engaged extensively with all our EU partners. Minister Flanagan has spoken to all 27 of his EU Foreign Minister counterparts to set out Ireland's national priorities and interests. The Taoiseach has met Prime Minister May, Chancellor Merkel, President Hollande and other members of the European Council. Tomorrow, European Council President Donald Tusk will visit Dublin, and the Secretary of State, David Davis, will be with us on Thursday in Dublin.

As Taoiseach Enda Kenny said when he met the Prime Minister in July, “We want the upcoming negotiation process to end with a prosperous and outward-looking UK which retains a close relationship with the EU. This is in all of our interests”.

If I might summarise our current focus on the implications of Brexit, it comes under four headings: first of all, the implications for our economy; secondly, our ties with the UK, which have undergone a positive transformation during the decades that we have been together as partners in the European Union; thirdly, Northern Ireland and north-south relationships in Ireland; and, fourthly, the overall balance of the European Union.

Let me briefly set out the concerns. Our two economies are deeply interconnected. Any damage sustained by the UK economy will also be damaging to our economy. The UK is the most important market for Irish goods and services, and we are Britain’s No. 5 export market. It is an extraordinary fact that a country with fewer than 5 million people should be the No. 5 export market for the UK. That demonstrates the power of geographical proximity and historical connections.

We want this mutually advantageous relationship with the UK to continue in the future, which means that we have a huge interest in minimising barriers to trade between us. We would therefore like to see the UK retain the closest possible trading relationship with the European Union post Brexit. We want to see our relations with the UK continue along the positive path they have followed for the last three decades since the Anglo-Irish agreement of 1985, but we will have to work harder on a bilateral basis, as we will no longer have the blanket of being partners within the European Union.

In particular, we want the common travel area arrangements to continue in the future, as they have worked to the benefit of both our countries and both our peoples over many decades. Irish people have made a huge contribution in so many walks of life in this country. For example, there are more than 60,000 Irish-born directors of UK companies, and I am sure that there will be a strong mutual interest in the continued free movement of people between our two countries, which benefits both of us.

Our concerns on Brexit are most acute when it comes to Northern Ireland. As our Foreign Minister Charles Flanagan said, “The fact that Ireland and the United Kingdom shared a common EU citizenship provided a space for reconciliation that transcended the zero-sum equation of British or Irish sovereignty. The Irish Government does not underestimate the sense of disquiet now felt by many people in Northern Ireland at the prospect of the loss of their connection to the European Union”.

The Good Friday agreement was a huge achievement for both our countries, of which we can be genuinely proud. The open border in Ireland has come about because of the combined effects of the Northern Ireland peace process and the implications of European Union membership. The current border arrangements benefit both parts of Ireland, and they benefit all our communities. They need to be preserved. We need to avoid any imposition of a hard border. I am encouraged by statements from Belfast and from the Government here in London, most recently by the



Secretary of State for Exiting the European Union in his statement yesterday, that that view is shared by all of us. I stress that we will need to work together and to work hard on the negotiations in order to find practical ways to achieve what I believe is an aim that all of us share, not least when it comes to customs arrangements, which could form a barrier to the further evolution of economic ties between north and south in Ireland. Any effort to control the free movement of people across the Irish border, or indeed between Britain and Ireland, would be very damaging, and I trust that no one would want to contemplate such a step.

I hope and trust that the particular circumstances applying in Northern Ireland will be front and centre when it comes to the working out of the UK's future relations with the European Union. When the UK leaves the EU, Northern Ireland will be in a unique position whereby almost all of its residents are entitled to citizenship of an EU country—Ireland. We must be alert to the particular circumstances of those Irish and EU citizens. They will find themselves in a very particular situation, where they will be citizens of a European Union country but resident outside the European Union, in a territory all of whose residents, practically, will be entitled to European citizenship.

Our countries need to work very closely together in the coming period with the aim of preserving the benefits of the unique and unprecedented degree of friendship that has evolved between us in recent decades. Minister Flanagan said, "The Irish Government will continue to work intensively with the British Government and the Northern Ireland Executive to see how best collectively we can ... ensure that the gains of the last two decades are fully protected" as the future unfolds.

In our discussions with other EU partners, we have found them very much aware of, and sympathetic to, Ireland's particular concerns. As I said, our Minister has spoken to all 27 of his EU ministerial colleagues and has made those points to them. We believe that there is genuine understanding and sympathy for Ireland's particular concerns.

Finally, we regret very much that the departure of the UK from the EU will affect the European Union itself, including in regard to its global role. The balance of views within the Union, in particular on issues such as competitiveness and trade, will be altered. Another priority for Ireland and for like-minded countries will be to mitigate those effects of the UK's departure from the European Union.

I very much welcome the efforts of the Committee to highlight the specific Irish dimension in the coming Brexit negotiations, which we in Ireland will be following with a particularly keen interest as your debate about this country's future direction and future relationship with the European Union evolves and intensifies in the period ahead. I look forward to continued engagement with the Committee in the coming months and, I suspect, in the coming years. Thank you very much for your attention.

**Q2 The Chairman:** Thank you very much, Ambassador, for that very clear statement of your Government's position and your own involvement.

I would like to echo three points. First, I have already referred to, and you have already responded to, the question of closeness and

engagement. We will leave that process with you. I am grateful for the offer. The second point was in your statement, but I would like to reiterate it on behalf of the Committee: the hugely improved tone of relations between our two countries that has developed over a number of years, perhaps not always causally because of our joint membership, but coincident with that. Nobody wants to disturb that. Indeed, we need to safeguard it. The third point is that you are clearly very active in wanting to get a positive outcome.

You will find that most of the questions we want to ask fall within the framework that you have set. That is encouraging rather than discouraging, because it would suggest that we are thinking along the same lines of concern. I will kick off the questioning with something you touched on. This is really two questions about the known known, which is the referendum result of 23 June, and the known unknown, which is when Article 50 may be triggered.

You talked about your Government's interests and activities since the referendum decision. If I can distil that and ask you if you want to add anything, it would seem to me that it is, first, representation to Her Majesty's Government of the particular interests that you have from the point of view of your own situation in Ireland and in the island of Ireland—the bilateral relationship. Also, interestingly, you talked about the multinational relationship with the other member states and the kind of response that you have had. Is that basically what you have done? Specifically, have you been talking to the new Department for Exiting the European Union? There may be trade implications. Do you feel that the lines are open enough between yourselves and the Government, not necessarily always to agree but at least to be able to concert or discuss positions? Is there anything you want to add on the multilateral relationship of what you are doing? The second question is more pointed: do you, as a country, have a position or preference on when Article 50 should be triggered, bearing in mind that it is a decision for Her Majesty's Government?

**HE Dan Mulhall:** Thank you for those questions. I certainly believe that we in Ireland were well prepared for this eventuality. We of course hoped that the outcome would be different, but we had a contingency plan in place, which we published. It is on the Government's information website.

**The Chairman:** Sorry for interrupting, but you have a new unit.

**HE Dan Mulhall:** Yes. A number of things happened. First, we were consulting about this within the Irish Government, and I took part in quite a number of discussions in advance of the referendum about contingency plans and so forth. A plan was published within a day or so of the result being announced. The Taoiseach announced that we would be strengthening a number of our embassies in key capitals including in London, and we are already in the process of doing that. New administrative arrangements were made in Dublin to handle the Brexit issue, both in the Department of the Taoiseach, where a new second Secretary General has been appointed, and in the Department of Foreign Affairs and Trade, where, likewise, the European division responsible for Brexit in the foreign ministry is now being headed up by a very senior

official. We have taken a number of administrative steps to strengthen our capacity to deal with the implications of Brexit. All government departments are involved in monitoring the implications of Brexit for Ireland, and we have already had quite significant contact with the British Administration, with the new administrative teams that have been established here to develop the Brexit brief on the UK side. I have already met the Permanent Secretary of the new ministry.

As I mentioned, Secretary of State Davis will be in Dublin on Thursday. There has already been a meeting at senior official level, in Dublin some weeks ago. The Permanent Secretaries—our Secretaries General—of our ministries in Dublin will be here next month meeting their British counterparts. We have the joint Irish-UK work programme, which I expect will spend quite a bit of time and energy focusing on the implications of Brexit in the coming period. Across the board, we have put substantial arrangements in place in Ireland to deal with the consequences for Ireland and for Irish-UK relations, in particular for Northern Ireland and north-south relations, stemming from the referendum result.

Regarding our contacts with partners, Minister Flanagan has met most of his counterparts, as I mentioned, and has certainly spoken to all of them. His message for them was similar to the message that I have given here today. He sought to highlight for them the unique circumstances of Ireland: we have a land border with the UK and we are the only country in Europe in that position; we have a long, historical connection with the UK; and we have very intensive economic relations, with more than £1 billion a week in trade back and forth across the Irish Sea.

I do not think that anybody looking at the British-Irish relationship could mistake that relationship as other than something that is very important. Indeed, I believe that our partners readily recognise that. Of course, they all have their own unique sets of interests and relationships with the UK—that is natural—but there is general recognition across Europe that we have a particular set of circumstances and challenges facing us, most particularly with regard to Northern Ireland. In my experience of dealing with our European partners, they see the Northern Ireland peace process as something that Europe can be proud of, having brought an end to an age-old conflict, with the European Union having supported that process significantly over the years through encouragement and financial support. European countries are generally quite aware of the importance of continuing to develop the peace and political processes in Northern Ireland. They are therefore receptive and sympathetic to our particular concerns. As I say, they will have their own concerns as well, but they are at least aware of the special sensitivities that apply to Ireland in this case.

Regarding the triggering of Article 50, as you know, the European Union position is that it should be triggered as soon as possible, but it is a matter for the British Government. There is a general expectation that it will not be triggered this year but that it will be triggered some time not too long after the start of 2017. Since the referendum result was announced, we in Ireland have been very much on the side of those who want to give the UK the necessary time to prepare itself, so that the outcome of the negotiations, when they take place, will keep the UK as close as possible

to the European Union. That is fundamental to Ireland's interests for the future.

**The Chairman:** That is helpful, Ambassador.

Q3 **Lord Jay of Ewelme:** Ambassador, you said clearly in your very helpful opening statement that there was clear recognition among EU colleagues of Ireland's relationship with Britain, both with regard to the land border with the UK and its close social, economic and historical links. You said towards the end that Ireland would be following the negotiations closely. In view of that closeness, would you not be participating actively in the negotiations? Indeed, I wondered whether you would seek to carve out a distinctive role for yourself in the negotiations, given the particularly close links with the United Kingdom that you describe.

**HE Dan Mulhall:** If I said that we would merely be following the negotiations, I would not be doing justice to our intentions. I may have used the wrong word inadvertently. The way I look at it, the negotiations will take place over the next number of years, and there are two sides to the negotiations. There is the EU side, and we are part of the EU team when it comes to the negotiations. We are part of the 27. We will be meeting in Bratislava as the 27—next week, I think. We are completely part of the EU negotiating team. The negotiations will be managed at European Council level.

We will also want to engage very comprehensively with the UK and with the various teams involved here in managing the negotiations from a UK point of view. We will be doing much more than following the negotiations. We will be trying to influence the negotiations at the Brussels end, where we are one of 27 countries, but I think we will have a voice in Brussels in this regard, because there will be general recognition around the table that Ireland is affected, perhaps in a unique way, by this development and, therefore, that our interests need to be listened to and accommodated. We will also be comprehensively and intensively engaging with the British Government to ensure that the British Government bear in mind and, as I said in my opening remarks, keep front and centre the need to ensure that nothing emerges from the negotiations that would be detrimental to the peace process or to the evolution of north-south relations, or indeed to Irish-UK relations in the future.

**The Chairman:** Would you at least not rule out the possibility that in certain aspects of the negotiations, if not all, you might be able to function as something of a broker, if there are difficult parts? I am inviting you not to rule it out, rather than to say that you will assume that role.

**HE Dan Mulhall:** To be clear, it seems to me that we will be part of the 27—we are part of the 27—and Britain is the country negotiating with the 27. We are staying in the European Union. Our interests are in the future evolution of the European Union, so we would not want to see anything done arising from these negotiations that would damage the future development of the European Union, which is fundamentally in Ireland's interests.

Our understanding of Britain has been acquired over a long period of time, as you can appreciate. I am a historian myself by training, so I probably

know a bit more than most about the lessons that we have learned from our engagement with Britain over the centuries. For Irish people and Irish officials, part of that understanding of Britain is a product of our membership of the European Union together. I checked this recently with our people in Brussels. There are probably 25 meetings taking place today at various levels in Brussels. At each meeting, there will be a British delegation and an Irish delegation. In most cases, they will probably have a word together in advance or afterwards. They might have a discussion about the rugby or whatever other topic. Friendships and connections have been developed over the past 40 years. Those friendships and the understandings that have built up over the decades between our officials and yours will be useful when it comes to us in Ireland understanding what the British ambition from the negotiations will be, when that becomes clear.

I dare say that some of our partners will perhaps be looking to Ireland to explain or help them to understand some of the issues that may arise and may need to be clarified. Likewise, I hope that the British Government and the British system will listen to us when we try to explain to your people that you may be looking for certain things that may not be feasible in our eyes, as a country that will be remaining in the European Union. I think we can play a distinctive role in our dialogue with our partners in the 27, where we belong and where our future lies, but also in our special relationship with the UK, which I hope will be able to help the negotiations to move forward in the direction that we certainly want.

Everything that arises in this context and all our interests in relation to the future will be facilitated by the closest possible relationship developing between the UK and the EU. It has to be in Ireland's interests. Therefore, although it is not in our gift, we will be determined to do whatever we can to help the negotiations to arrive at the best outcome from our point of view—a relationship for the future that would keep Britain as close as possible to the European Union.

**The Chairman:** That was very clear and helpful.

**Q4 Lord Green of Hurstpierpoint:** I wish to explore a little more what the nature of the special arrangements between the Republic and the UK might look like in the context of an agreed framework between the UK and the EU. This is a circle that I suspect every one of us in the room will recognise as difficult to square.

Looking at the trade dimension, we have a series of possibilities as eventual outcomes. At one end we have something looking a bit like the Turkish association deal, where Britain remains on the inside of the common external tariff and has minimal customs clearance requirements, through to the EEA, where Britain is no longer inside the common external tariff and there are therefore more onerous customs clearance requirements, and to the WTO, perhaps with a zero-tariff arrangement, if Britain chose to go down that route. All of those have implications at the border between the north and the Republic, for one thing, but not only that—the ferry between Holyhead and Dún Laoghaire, for example.

Separately from that, there is the issue of movement of people. The very

open border that we currently have within the island of Ireland and across the Irish Sea does not trouble any of us, but one might imagine that it would start to pose some issues if the British Government sought to put restraints on freedom of movement from the EU into the UK. Those are all difficulties that we are well aware of. What I am really doing is inviting you to comment, at this relatively early stage, on any specific ways in which the Irish Government think it might be possible to square the circle.

**The Chairman:** Can I just gloss on that, too? One of the points, as you emphasised, is your continuing membership. Obviously, any “special deal” between our two countries has to sit properly within your membership of the European Union and not prejudice it. We are aware of that as background, and it would be helpful if you could comment on that.

**HE Dan Mulhall:** That is correct. Let me take that question in two sections. First, as regards free movement of people, we are not a member of Schengen, and I am not aware of pressure from any quarter for us to join Schengen. I remember a number of times during my term in Germany being asked by Germans why we were not members of Schengen, and when I pointed to the situation in Northern Ireland, there was immediate recognition on their part that that was a valid reason why we were not part of Schengen.

For as long as Ireland is not part of Schengen, everyone coming into Ireland from continental Europe and beyond has to go through a passport control at our ports and airports. Therefore, the only people who will have the right of free movement into Ireland and the right to live, work, visit and settle in Ireland will be European Union citizens. It is of course true that an EU citizen could come to Ireland after Brexit, settle in Ireland and then decide to go across the border to Northern Ireland and then to Britain, but they would be illegal immigrants. As I understand it, most Europeans are not interested in being illegal in any European country. The right of free movement is the right to be legally present in another member state, to live and work there and to be able to access all the services. It seems to me that only a relatively small number of European citizens would want to come to the UK illegally.

I am assuming that there will always be free movement for people to visit Britain. Who knows what the outcome or the arrangements will be, but even if you assume that free movement of people into Britain could be an issue, it does not seem to me that the Irish border provides any greater challenge for anybody here. I do not think that there is any great risk that the border would be abused in the future because, as I say, anyone who was not entitled to live in Britain would be illegal once they crossed the border if they tried to settle and work in Britain. That ought not to be a major problem. Of course, we have to watch that. We have to ensure that nothing in the negotiations creates a requirement of any kind to impose any sort of border controls between north and south in Ireland.

We hope and believe that both Governments have a desire to preserve the benefits of the common travel area. Of course we have to make sure that that does not cut across any other interests that Ireland will have regarding our membership of the European Union, but I would be hopeful

and reasonably confident that free movement between north and south and between east and west can continue in the future. It has to be watched, and we have to make sure that nothing happens in the negotiations that compromises the current advantage that people have of being able to cross our borders freely.

**Q5 The Chairman:** I think we will come back and explore some of these things again with colleagues. You talked about relations and about your Foreign Minister having spoken to other member states, for example. Are you also putting those points very firmly to the Commission in the pre-negotiation stage, as it were? It would seem to me, at least on paper, that there is a theoretical possibility that what might be termed the theologians—if I am allowed to say that without being derogatory—the people who see the importance of the full freedoms of the single market and so forth, will interpret that as meaning that it is an obligation for member states. You need to have rehearsed with them very clearly the practical and human implications if that is challenged by a Brexit decision. In other words, you need to be very clear that the European Union's institutional thinking is alert to that as well.

**HE Dan Mulhall:** As I said, we have extensive contact at ministerial level, at prime ministerial level and at official level. We have an embassy in every European Union capital.

**The Chairman:** But this is also with the institutions, as well as with the member states.

**HE Dan Mulhall:** We have a very effective, well-staffed mission in Brussels. Our ambassador there will be making these points very clearly to all his interlocutors. I am satisfied that our European partners do not want to create unnecessary problems for Ireland. Of course, we have to monitor the situation carefully as the negotiations evolve.

We know from experience that being an external border of the European Union means something. It seems to me that, in this particular instance, we ought to be able to preserve the existing advantages and the existing openness that applies on the border. I hope that people here in Britain, including the Committee, will be vigilant in ensuring that nothing is done to affect that. I have been very encouraged so far, in that I have heard statements from a number of senior people here, politicians and others, all talking up the need to preserve the open borders in Ireland and, I believe, between our two countries. It is something that we can never sit back and take for granted. The negotiations will be complex, and we have to make sure that nothing is done that will cut across our shared desire to see the clock not being turned back, and barriers put in place that are not necessary.

When it comes to customs, there is obviously a different question. That area will have to be looked at very carefully. I am old enough to remember a time when I visited Northern Ireland with my parents back in the 1960s, when I was a boy. I remember crossing the border, and I remember the customs controls, which were somewhat irksome. I am not sure that those kind of controls make any sense in today's world, where there is so much more traffic going back and forth between countries, including north and south.

That, by the way, is one of the great dividends of the peace process. I recently saw the figure that 35,000 people cross the border every day to visit family, to do business, to buy and sell or for tourism purposes. It is a great boost to both our societies that people can now do that freely. Between the time when I visited Northern Ireland with my family in the mid-1960s as a boy and the time when I went back there as a diplomat in the 1980s, I had not been to Northern Ireland. Many people in the south had very little opportunity, reason or incentive to go to Northern Ireland. In recent times, people have become very frequent visitors back and forth across the border.

Nobody who has any interest in the future of our societies ought to be willing to take any risk with that benign and positive situation, which allows people to experience each other in ways that were not possible during the Troubles, and indeed in previous generations. Even before the Troubles, there was very little contact, because communications were not what they are today.

**The Chairman:** When I have a moment spare, I occasionally look at the Irish land boundary on Google Maps. It is very eloquent in itself, if you look at its complexity. It may not be to your disadvantage that our new Prime Minister is a geographer. You might like to draw it to her attention if you need to.

**HE Dan Mulhall:** Yes, there is no Rhine between north and south in Ireland.

**The Chairman:** We will go no further into that, but we will ask Lord Liddle to come in. Then we will ask for the remaining points to be put.

Q6 **Lord Liddle:** I am sure that all members of the Committee—certainly I would, and I am sure that most of our colleagues would—share your wish to see what you have just expressed about border controls not being there, but surely the Irish Government recognise that that depends on the policies adopted by the UK Government towards Brexit. You must have a view on that. Presumably, if the British Government prioritise above everything else taking back control of their borders in order to reduce migration into the UK, the chances that the Irish border will be used as a means of people getting into the UK will increase. You must have a view on what view the British Government should come to on freedom of movement.

Similarly, on the customs union, Dr Fox said that he thinks that we should withdraw from the customs union. Would that not have an implication for the Irish border?

**HE Dan Mulhall:** As I explained, Ireland is not a member of Schengen. Therefore, it is only European Union citizens who have a right to live and work in Ireland, and will continue to have that right, under the free movement principle.

**Lord Liddle:** But we are told that what we need to control more in the UK is the right of European Union citizens to come to live and work here, so—

**HE Dan Mulhall:** Of course, it is not for me to say what the British Government's position should be, but presumably the issue about free



movement is not the right to visit a country; it is the right to be there legally to work, to settle down and to raise a family, and to have the right to healthcare, social protection and all the things that people have when they are EU citizens under existing EU law.

I do not believe that there is an enormous risk in any realistic scenario. Any EU citizen who came to Ireland and wanted to get into Britain would be an illegal immigrant once they crossed into Britain. They would not be entitled to settle in Britain, as I understand it, if Britain were to resile from the free movement principle. Who knows what the outcome may be, but my point is that even under a worst-case scenario, whereby Britain decided to prevent all EU citizens coming to live and work in the UK, the Irish border would not really pose a particular additional risk to Britain of the kind that would warrant trying to impose border controls on a border that does not have very much geographical basis, unlike borders in other parts of the Europe.

**The Chairman:** We will move on from this in a minute, but, if we may, Baroness Browning—who was a Home Office Minister at one stage, I seem to recall—and Lord Selkirk have related issues that they might like to raise now.

**Q7 Baroness Browning:** Ambassador, I think you have answered the main question that I was going to ask you, which was about the risk to the soft border that we have at the moment. I think you have answered that in full.

In your opening remarks you mentioned the arrangements with passports. Since you published your contingency plan, which I am very impressed with—I do not think we had one—what has been the reaction so far to what you have shared with us today about the border from the rest of the European Union partners? Are you anticipating any pushback from them to such an arrangement continuing in the way that you outlined?

**HE Dan Mulhall:** As I said in my remarks and in answer to subsequent questions, I believe that our European partners have an understanding of the importance for Ireland and for Europe of the successful peace process that we have in Northern Ireland. I believe that our partners would be very slow to do anything that would in any way cut across or create difficulties for north-south relations as they have developed as part of our peace process.

I cannot speak for them, and I cannot guarantee what their response might be in future phases of the negotiation, which will be quite complex and will no doubt go through various twists and turns in the coming years. I cannot say what view they might take in the future, but I have experienced considerable understanding from EU colleagues, over the years, of the unique circumstances that apply in Northern Ireland, and I believe, on the basis of what I have seen and experienced, that there will be willingness on the part of our EU partners to be very sensitive to any concerns that arise connected with Northern Ireland.

**Q8 Lord Selkirk of Douglas:** Can I mention a past interest? I was a

Member of the Scottish Parliament when we welcomed the Taoiseach, who came to Scotland on what I believe was an extremely successful visit.

Can the Ambassador sum up in a few words what he would regard as the best possible outcome of future discussions in connection with the border of Ireland?

**HE Dan Mulhall:** The best possible outcome from an Irish point of view would be the status quo. It would be that the island of Ireland could continue to enjoy an open border, where people could move freely back and forth for various purposes—family, business, tourism et cetera—and that goods and services could also flow freely between the two parts of Ireland.

Remember that our economy is a very important market for Northern Ireland exports. I cannot remember the figure, but quite a high percentage of Northern Ireland exports come to the south. Our economic links in Ireland are below the level they should be for two neighbouring jurisdictions on an island. In normal circumstances, you would expect an even more intensive economic relationship between north and south than there is today. That relationship has improved and developed in the past 20 or 30 years as a result of the single market and of the peace process, but there is more potential for further development of economic ties on the island of Ireland. It is not just that we want to preserve what we currently have; we would like the potential for future economic links between our two countries to be exploited fully for the benefit of both our economies. Therefore, anything that comes in the way of that potential being realised would be unwelcome from our point of view. We would want the current arrangements and the openness that currently exists to be preserved in some way so that we can continue to exploit the geographical proximity of the two parts of Ireland and create more of an island economy, to the benefit of both our populations.

**The Chairman:** Baroness Prashar, is there anything specifically on the common travel area that you want to ask to which the Ambassador has not already responded, not least because it goes wider than UK-Ireland? It includes the Crown dependencies, I think.

Q9 **Baroness Prashar:** In your very helpful opening statement, Ambassador, you said that you would like the common travel area to continue.

**HE Dan Mulhall:** Yes.

**Baroness Prashar:** I am interested in the likely implications of Brexit on the common travel area.

**HE Dan Mulhall:** Let us unpack that a little bit. The common travel area has existed since 1922, essentially. In 1949, when we left the Commonwealth, the Ireland Act of that year provided special status for Irish citizens. We now have about 500,000 Irish passport holders who live in Britain. We issue about 50,000 passports a year through the embassy. The number may be inclined to increase in the coming year or so—I do not know; let us see how it goes.

That has led to a very special set of circumstances. For example, in the recent referendum, the Irish were the only non-British, non-Commonwealth citizens entitled to vote. That was recognition of the special status for the Irish. It is of course advantageous from an Irish point of view, because people come here and have full rights from the moment they arrive. They can vote as soon as they register for the vote. That means that they have a very special status here in Britain, but they do not have to become British citizens in any way. Most Irish people I know here, who may have been here for 30, 40, 50, 60 or even 70 years—I sometimes meet people who have been here that long—still have Irish passports. Almost all of them do. In many cases, their children have Irish passports as well. It is a very special status, and we would like to see that continue.

It is of course advantageous from an Irish point of view. Many of the people who have come here, for example the younger ones who have come in the past 10 years, will go back to Ireland. They will bring with them experience that they gained in London or in Britain, and that will enrich the Irish economy in the future. For example, when our economy went through our great expansion in the late 1980s into the 1990s—say, between 1990 and 2007—very large numbers of people who had left Ireland in the 1980s returned to Ireland. That is now happening again. It looks as though last year we had net migration into Ireland for the first time in quite a few years. It is good for us that our people can come over here, work in Britain freely and develop skills here. Some of them will go back, and that will be an enrichment of our economy for the future.

Likewise, Britain is getting the benefit of highly educated people who are flexible and keen to work, who integrate very well, and who are English speaking and a benefit to your economy. I meet younger Irish here on a regular basis; we have about 20 Irish business, professional and alumni networks in London alone. They are people of very high calibre, who make a significant contribution to the British economy. I hope that, in the future, many of them will return to Ireland and contribute to our future economic development as well. From both our points of view, we want that situation to continue. I would be hopeful that it can continue. I do not see any fundamental reason why we should not be able to preserve the common travel area arrangements.

The fact is, however, that Britain is changing its status. It is moving outside the European Union. We will be a member of the European Union; you will not be, at some point in the future. We have to watch what the implications of that could be. There may be unforeseen developments as a result of that fundamental change in Britain's status, but with the two Governments having an interest, for their own reasons, in a continuation of the good relationship between our two countries, I am hopeful that we can preserve it. That will require us to ensure that it does not create difficulties as a result of the fact that Ireland will be a member of the EU and the UK will not be.

**The Chairman:** I have a short point on that. We do not often concern ourselves with the nuts and bolts of things but in practical terms, given the common travel area and the fact that people are moving about to work, the cross-border exchange, if I may put it that way, is much more

intense than it is, say, between a member state in the eastern part of Europe and the UK. Is it your experience that the social security systems, records and pensions work reasonably well, so that if people have periods of service across the two jurisdictions it all comes together? Of course there are theoretical provisions, and indeed real ones, across the European Union at large, but given the common language and the history of co-working, if someone has 10 years of pension having worked in the Irish Republic and then comes back to live in the UK, or conversely, does it all fit fairly seamlessly?

**HE Dan Mulhall:** I have not come across any particular complaints. I have not been lobbied on that subject.

**The Chairman:** That is very significant.

**HE Dan Mulhall:** There is sometimes an issue with what is called habitual residence, whereby someone is meant to be habitually resident—

**The Chairman:** For benefits or something like that.

**HE Dan Mulhall:** For benefits, yes. I believe that these things can always be sorted out between friendly neighbouring countries. I think we have a good, normal, friendly neighbourly relationship with the UK. Certainly it will be our ambition to maintain that relationship, but, as I said in my opening remarks, we will have to work harder at that task, because, of course, we will be focused on developments within the European Union. Our system will be heavily oriented towards Brussels. I am not saying that we will ignore the UK, but we will have to make a special effort to ensure that we do not fall out of synch with each other because we will be in different camps at some time in the future once Britain leaves.

**The Chairman:** We have one major area that we have not explored yet, on which I will ask Baroness Armstrong to come in. Then colleagues can perhaps chip in at the end if they have any outstanding points generally.

Q10 **Baroness Armstrong of Hill Top:** Ambassador, you talked about the peace process. The peace process really is a process, and it continues to need a lot of work. The Northern Ireland peace process is no different from other peace processes, and it has certainly been my experience that both the Irish state and the British state have had to be continually engaged in ensuring that the peace process not just ticks along but actually develops. Inevitably, Brexit will have some effect on that. Institutions were set up, and structures were built into the Good Friday agreement in 1998. What do you think will need particular attention? The Taoiseach suggested a new all-Ireland forum, but the First Minister in Northern Ireland was not very keen on that. Where do you think the dialogue with Northern Ireland is at the moment? What do you think needs to happen as regards structures to keep the peace process moving?

**HE Dan Mulhall:** We have structures within the Good Friday agreement framework, in particular the North/South Ministerial Council and the British-Irish Council. Both those councils have met since the referendum result. Indeed, the British-Irish Council met in extraordinary session. It was not meant to meet until November, but there was a belief that it needed to meet sooner rather than later, so a meeting was convened in

Cardiff on 22 July. That was specifically to exchange views on the implications of Brexit for relations between Britain and Ireland, not just the two Governments but also the various other entities that are members of the British-Irish Council. It was a very interesting and, I think, valuable debate.

I dare say that the British-Irish Council will probably focus significantly on the Brexit issue in the coming years, because all the component parts of the British-Irish Council are influenced and affected by Brexit. Coming together to discuss the issue, between London, Dublin, Cardiff, Edinburgh, Belfast and indeed the Isle of Man and the Channel Islands, is clearly a positive. It is a plus. The fact that the British-Irish Council is there is very welcome. It was not set up for that purpose, but I think it now has an additional role to play in handling the implications of Brexit.

The North/South Ministerial Council met in Dublin on 4 July. It was agreed at that time to work together to ensure that Northern Ireland's interests are protected and that the importance of north-south co-operation is fully recognised in any new arrangements that emerge from the negotiations on Britain's future relationship with the European Union. Ten specific actions were agreed to optimise north-south joint planning and engagement on key issues arising following the UK's referendum result. That will include a full audit of work programmes in key north-south strands to establish risks and likely impacts arising from the UK's planned withdrawal from the EU. You can see from that that we already have a very extensive response on the part of the North/South Ministerial Council. That will be the location of discussions about the north-south issues arising from the Brexit negotiations.

With regard to the other issue you raise, our Government believe that there is a need for the widest possible conversation on the implications of the referendum result for Ireland north and south, and for north-south relations. The Government continue to explore options to achieve that in a way that accommodates the interests of those with interests or a stake in the issue, and there are many. As you know, the vote in Northern Ireland was 54-46 in favour of remain, which means that it was a cross-community vote in favour of remain. We have been encouraged by the responses from Belfast and London and of course from our own system. All of us are joined up when it comes to a shared agenda in trying to mitigate, minimise and completely avoid negative implications from Brexit for north-south relations and for Northern Ireland in particular.

**The Chairman:** There will be some funding implications regarding EU funds, will there not? I do not want to go on at length about that.

**HE Dan Mulhall:** One of the north-south bodies deals with the EU programmes.

**The Chairman:** Exactly.

**HE Dan Mulhall:** Clearly, there will be major implications. The audit that is to be conducted will look at all the different strands of north-south co-operation. For all of them, we will probably have to cope with some degree of impact from the Brexit negotiations and their outcome. The key thing is to consider all these things in advance and try to find ways of avoiding negative impacts arising from Brexit.

**The Chairman:** We will press on with our existing intentions, and we will then fill in with anyone who has any further comment. Lord Kinnoull is next.

**Earl of Kinnoull:** Thank you, Lord Chairman, but my salmon is on the bank.

**The Chairman:** If you are that happy, that is great.

Lord Liddle, who has intervened previously, has an issue to raise about sectoral trade, which is of interest to the Committee. Do you want to ask that one? Is there anything else you wanted to add? I thought at one point you did.

- Q11 **Lord Liddle:** Yes. Under what arrangement do you see the trading relationship between Britain and the Republic being secured best in future? I asked you earlier about the customs union, and you did not deal with that point. Also, there are people who are urging the Government to accept that Brexit is an opportunity to launch a great wave of deregulation in order to make Britain more competitive. What would be the Irish Government's view of that approach by Britain to the trading relationship?

**HE Dan Mulhall:** From our point of view, we would hope that Britain will remain as fully part of the European single market as is possible and that Britain will remain within the customs union. That would be our preference. Those outcomes would minimise the potential difficulties for Ireland, especially for Irish trade.

It is not possible for me, here at this time, to make any judgment as to what the British Government's negotiating position or set of desires for the future will be, but we will watch carefully the evolution of thinking on this side of the Irish Sea. We hope that the outcome will be that Britain will maintain the closest possible trading relationship with the European Union, because that is the way in which the relationship with Ireland can best be protected and enhanced further in the years ahead.

**The Chairman:** Lord Green is first, and then Lord Teverson.

**Lord Teverson:** No; I think mine has been answered.

**The Chairman:** Lord Green, and then I think we can conclude.

**HE Dan Mulhall:** I am obviously answering everyone's questions in advance; it is much too efficient of me.

**The Chairman:** Well, there you are.

- Q12 **Lord Green of Hurstpierpoint:** Ambassador, I have a quick follow-up on the question of trade. One possible outcome of the negotiations with the EU is sectorally focused; you could imagine some kind of association agreement where for certain key sectors Britain is inside the common external tariff and for others it is not. Are there particular sectors that are especially important for Irish-British trade?

**HE Dan Mulhall:** I made the point earlier that our two-way trade last year was approximately €1.2 billion a week, which is about £1 billion at today's

exchange rate. From that figure you will realise that the trade is across the board. There is now more trade in services than there is in goods.

**Lord Green of Hurstpierpoint:** If I may, that is the point: services would not be affected by this question. It is the question of physical goods. Despite the large number, they may be concentrated in two or three particular sectors. It would be helpful for the negotiation if one knew that.

**HE Dan Mulhall:** I can mention three sectors that make up the vast bulk of our exports to the UK. The UK's exports to Ireland are probably more diverse, but ours are concentrated in chemicals and pharmaceuticals, in IT products and in food and beverages.

Interestingly, Britain is the most important market for Irish food and beverages, as you can imagine, given the proximity—Irish beef, butter, salmon, lamb et cetera. This morning I had the Tipperary food producers around to the embassy for breakfast. They had some wonderful black and white pudding, handmade sausages and so forth. Our food industry is a very important sector, with more and more specialised foods now.

The extraordinary thing is that Ireland is also the biggest market for British food exports. In fact, it is by far the biggest market. I think 40% of our food and beverage exports come to Britain. Our trade in food, believe it or not, is balanced. Britain exports almost the same quantity of food—value of food and drink—to us as we export to you. That is interesting, and it means that for the British food industry Ireland is a very important market, which reflects the fact that there are British retail outlets with multiple shops all over Ireland.

Those are the three areas that I would pick out. Clearly, the pharmaceutical and IT sectors are very large. They are substantially dominated by the multinational companies, which have big operations in Ireland and employ large numbers of people in Ireland. Apple is one good example, but there is also Pfizer on the pharmaceutical side. That trade is obviously global, and Britain is part of that trading network.

Where we would be affected most is in relation to indigenous Irish or Irish-owned companies—the kind of company that might employ fewer than 100 people and is producing a service or a product in a niche area, usually a high-technology product that has been developed in Ireland. Very often they are spin-offs from the bigger multinationals. Those are the kind of companies that are much more heavily dependent on the British market than the multinational corporations, which have global supply chains and can, if there is a reduction in their exports to the UK, redirect their exports somewhere else. Our concern, I suppose, is largely related to indigenous Irish companies, which may be more heavily reliant; about 40% of their exports come to the UK. That means that they are the ones that are in a more sensitive or exposed position from Brexit.

On food suppliers, Britain is of course not self-sufficient in food and never will be as far as I can judge. Therefore, Britain will always need to import food, and I guess Ireland will have an advantage in geographical proximity, especially if we are talking about sustainability, which is now a big issue for the food sector. Ireland is a producer of sustainable, environmentally friendly food products.

One of the big challenges for the food companies and for companies in Ireland generally is the decline in the value of sterling, which, in a market such as food, where the margins are quite small, is quite a big challenge for companies to have to deal with. I know that sterling is rising in value again, but the longer-term scenario seems to be that the value of sterling may decline. That is a particular challenge for Irish exporters.

In the services sector, Britain has a surplus with Ireland in manufactured goods and a deficit in services. We would be keen for arrangements to be put in place to ensure that the movement of services is not unduly affected.

On the other side of the equation, there are suggestions that Ireland might benefit from British companies wanting or needing a location within the European Union. Because we have to face a negative consequence from Brexit, if there are companies that need to move from Britain, or move part of their activities from Britain to somewhere else in Europe, we hope that they will look favourably on Ireland as an English-speaking country that has many attractions for people who may want to live within the European Union in a country that has those attractions, both physical and in the hospitality and welcome that British people receive from Irish people wherever they go.

**The Chairman:** On that note, Ambassador, that is, if I may say—

**HE Dan Mulhall:** My little ad for IDA Ireland.

**The Chairman:** It exemplifies the positive nature of these exchanges. You have been very clear and helpful to us, you have been informative and you have been engaged in trying to achieve the best outcome for both our countries and for the European Union more generally in this quite demanding situation.

As I mentioned before, you have been a good attender of this Committee. You have been anxious to keep in touch and your officials have been helpful in doing so, and I am sure that we will want to do that. We will send you a transcript of this to check through. I am sure this will not be the end of our relationship during this period. We would like to record our thanks tonight. If we can invite the gallery collectively to withdraw, although I suspect some of them are the ambassador's staff, we will then have a very short deliberative meeting. Thank you very much.

**HE Dan Mulhall:** Thank you. It has been a pleasure.



Northern Ireland Food and Drink Association, InterTradeIreland and CBI  
Northern Ireland – Oral evidence (QQ 45-55)

**Northern Ireland Food and Drink Association, InterTradeIreland  
and CBI Northern Ireland – Oral evidence (QQ 45-55)**

[Transcript can be found under CBI Northern Ireland](#)

Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI Maynooth, Dr Etain Tannam, Assistant Professor, International Peace Studies, Irish School of Ecumenics, Trinity College Dublin and Dr Paul Gillespie, Adjunct Senior Research Fello

**Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI Maynooth, Dr Etain Tannam, Assistant Professor, International Peace Studies, Irish School of Ecumenics, Trinity College Dublin and Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin – Oral evidence (QQ 85-99)**

[Transcript can be found under Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin](#)

**Nat O'Connor, Lecturer in Public Policy and Public Management,  
Ulster University – Written evidence (BUI0004)**

I am writing in response to the EU committee's inquiry into post-Brexit UK-Ireland relations.

I am lecturer in public policy at Ulster University, Belfast, but I live in the Republic of Ireland, where I previously headed a think-tank.

- **With regard to the Irish land border, how real is that the present 'soft border' arrangements will be undermined by Brexit?**

The UK government are emphasising that curbing immigration is how they are interpreting the public demand underlying the Brexit vote. If the follow-through of this starting point is that the UK will not have free movement of people from the EU, then some mechanism will be needed to stop people using the Republic of Ireland as a point of entry into the UK, which indicates a move away from the current "soft border".

As an alternative, full border checks between Northern Ireland and Britain would be unacceptable to many unionists, and it would mean UK legal residents would need ID to move within their own country.

The Republic of Ireland is not in the EU's Schengen area, so passports/ID are needed to enter the Republic from the rest of the EU. The Irish authorities would probably be open to data-sharing, which would enable some tracking of people to see if they leave the Republic again, or whether they appear in the UK. But once they are in the UK, it will be expensive to locate and deport illegal migrants taking this route. And with cheap air fares to Ireland, this route into the UK is open to abuse.

There are already issues with smuggling at the Irish border (e.g. subsidised agricultural diesel fuel from Ireland). Brexit will open up further incentives for this, if there are tariffs levied on UK products entering the EU. Again, this will require some additional border countermeasures.

In the least worst scenario, the soft border is already partially ruptured. Unless the UK remains very close to the EU with free movement, Brexit has already had a psychological effect of widening the gulf between Northern Ireland and the Republic. For some unionists, this may be welcome. For many nationalists, it represents a loss.

In a far worse but plausible scenario, an attempt to reinstate border checkpoints would be perceived by extremists as a target for violent attacks.

- **How can effective North-South relations on the island of Ireland be maintained and enhanced during Brexit?**

Brexit itself, despite the majority Remain vote by the Northern Irish population (especially nationalists) does not help North-South relations. There are new political complications that arise due to the perception (by nationalists in particular) that Northern Ireland is being taken out of the EU against the clear majority will of the province's population. Any imposition of border checks, dilution of the Common Travel arrangements or new administrative requirements

placed on Irish passport holders will be seen as favouring one side in the Northern Irish unionist-nationalist divide.

For example, if Irish passport holders do not have the same rights post-Brexit as they hold today, those in Northern Ireland who (under the Good Friday Belfast Agreement) can claim Irish passports may be forced to take British ones to live/work in Britain. This will be seen as a blow by nationalists.

Limiting the ability of people in Ireland to travel to Northern Ireland (e.g. shopping, visiting family), and vice versa, would be seriously problematic to relations.

The Republic of Ireland governments will have strong incentive to assist the UK to get a good deal from the EU, especially if the UK expresses a desire to have free or semi-free movement of people, or other goals that are in line with continuing the status quo.

In so far as co-operating with the Irish government is helpful to making Brexit a success, the UK should share information with and co-operate with them. This may sound obvious, but such co-operation would need to be agreed and implemented by all relevant cabinet ministers.

- **Is it possible, and if so how, to retain the current Common Travel Area arrangements following UK withdrawal?**

The EU would plausibly allow some element of a special relationship between Ireland and the UK, so free movement of people between the Republic of Ireland and UK might be maintained even without free movement for other EU citizens. However, this would presumably involve passport checks being more strongly enforced at the ports and airports of Britain.

The Common Travel Area arrangements are changing anyway, as the entitlement of Irish descendants in the UK to an Irish passport will reduce as generations become further from the original Irish link.

What may arise sooner is a reluctance by the Republic of Ireland to grant quite so many Irish passports to people in the UK (potentially millions according to some plausible estimates), or to allow large numbers of people to move to the Republic of Ireland from the UK post-Brexit, in the event that such an exodus did occur.

- **How will Brexit affect the rights of UK and Irish citizens who live and work in each other's countries?**

It will be up to the UK government to decide whether Irish people will need work visas, or whether existing Irish residents will be permitted to stay for life, etc. but to make changes would be an explicit reversal of the Common Travel Area arrangements.

A number of administrative schemes will need to be maintained to facilitate the Common Travel Area and all that goes with it (such as right of residency, right to work, right to vote, etc.), such as allowing people to consolidate their national insurance/social insurance from both jurisdictions, as is currently permitted under EU rules. Likewise, willingness to pay pensions to a person who retires in the other jurisdiction, etc. This is fairly easy to do, as it just means keeping existing administrative schemes and exchanges.

One area of high risk is for those workers who work in agriculture, fisheries and hospitality, and who work close to the border area or on both sides of the

border. There is already concern about exploitation of workers in some industries, and reports have been made on these issues. If the UK has very different employment rights from the Republic of Ireland in future, this will potentially create loopholes that will need to be monitored. For example, mushroom pickers might not be aware of what country they are in when they are taken by bus to the site of a day's work. Questions of legal jurisdiction, etc. arise in these cases.

- **What will be the impact on the trading relationship between Ireland and the UK?**

This depends largely on tariffs. The Republic of Ireland will be negatively affected by tariffs on agricultural exports to the UK, such as beef.

The ability of Northern Ireland's agri-food sector to market their produce as Irish or Made in Ireland will undoubtedly become an issue for the EU, especially if there are high tariffs on UK exports to the EU. The incentive would be for British produce to be moved to Northern Ireland to avail of any such labelling.

On the whole, the UK-Ireland trading relationship must inevitably be worse post-Brexit as no (currently) likely scenario will give the UK the same gold-plated trading relationship with the EU as actual membership, and Ireland has no ability to negotiate anything separate from one single UK-EU trade deal (if any such deal is actually made).

The exit of the UK from the European Union, not least its withdrawal from the world's only internationally elected parliament, is to be regretted. It will do lasting damage to everyday relations between the UK and Ireland, but there is goodwill on both sides and a desire to work towards mutually beneficial outcomes.

One plausible scenario would be for the UK to enter into a new institutionally-based partnership with the EU—such as via a radically transformed European Free Trade Association (EFTA)—which would institute annual negotiations on trade and other areas of co-operation. This is a plausible win-win outcome for the UK and EU, as it would provide a mechanism for the EU to co-operate meaningful with all non-member countries in its neighbourhood on a long-term, sustainable basis without ever hoping that one "deal" will forever resolve relations in an ever-changing world.

22 September 2016

Professor David Phinnemore, Dr Lee McGowan, Dr Katy Hayward and Professor Cathal McCall, Queen's University Belfast – Oral evidence (QQ 33-47)

**Professor David Phinnemore, Dr Lee McGowan, Dr Katy Hayward and Professor Cathal McCall, Queen's University Belfast – Oral evidence (QQ 33-47)**

[Transcript can be found under Dr Katy Hayward, Queen's University Belfast](#)

## **Police Service of Northern Ireland – Written evidence (BUI0015)**

Whilst leaving the European Union means the United Kingdom (and thus the Police Service of Northern Ireland) will cease to be a part of a number of EU Justice and Home Office measures, which are designed to offer close and speedy co-operation with European Union member states, I remain optimistic for the partnerships between the Police Service of Northern Ireland, An Garda Síochána and the wider law enforcement community.

The relationship between the Police Service of Northern Ireland and An Garda Síochána has never been better.

The Commissioner and I are committed to tackling harm across the island of Ireland and the location of any vulnerable person, victim or offender is immaterial. We work together to prevent crime, protect the vulnerable and detect those who commit crime.

Along with Tánaiste and the NI Minister of Justice, we recently hosted the 14<sup>th</sup> Annual Cross Border Organised Crime Seminar in Enniskillen. This provided an invaluable opportunity for law enforcement agencies to discuss potential impediments to the fight against organised criminals. The second version of the Cross Border Policing Strategy was introduced at this seminar, updating the inaugural strategy introduced in 2010. The Cross Border Policing strategy allows for the co-ordination of joint policing activity in critical areas such as community policing, rural policing, intelligence sharing and emergency planning. Work in these and related areas will contribute towards improving public safety in all parts of this island and play a major part in disrupting criminal activity.

Accompanying this seminar was the launch of the Seventh Biennial Cross Border Organised Crime Threat Assessment, which provides an insight into organised criminality on both sides of the border. Trends and developments across both jurisdictions are compared, in an effort to highlight similarities and differences in the threat posed by certain areas of criminal activity.

In November 2015, the British and Irish Governments and the Northern Ireland Executive agreed a series of measures in *A Fresh Start, The Stormont Agreement and Implementation Plan*. This saw the introduction of a new Cross Border Joint Agency Task Force. The Joint Agency Task Force is led by senior officers from the Police Service of Northern Ireland, An Garda Síochána, the Revenue Commissioners and HM Revenue and Customs. A number of other organisations, including the National Crime Agency and the Criminal Assets Bureau are also involved in operational activity. The Task Force has already met on multiple occasions and agreed upon a number of areas of organised criminality, which have received focused attention over the last six months. The Joint Agency Task Force enhances and strengthens further the established working relationships between law enforcement agencies north and south. Continued cross border co-operation is key to the fight against organised crime in Ireland.

Co-operation exists at every level between our organisations, from Counter Terrorism to Road Safety, from illegal Drug Importation to Rural Crime and

across Immigration and Tax Avoidance. Brexit will not adversely affect our deep and embedded culture of co-operation.

However, there are legislative implications arising from the Brexit decision which require consideration in the interests of our communities on these islands.

The Police Service of Northern Ireland, like other UK law enforcement agencies makes extensive use of a number of European Union Justice and Home Affairs measures to provide a quicker, efficient and dynamic response to crime and criminality impacting the UK and its citizens. Many of these measures are used in a similar way to other agencies, for example, Joint Investigation Teams, International Letters of Request between EU countries and Anti-Money Laundering Directives. However, some measures have greater significance.

The open land border with Ireland means that there needs to be international legislation to allow the Police Service of Northern Ireland, An Gard Síochána and others to tackle effectively those who use the border to impair investigations and those who exploit differential legislation to commit crime. Key points to understanding our unique circumstance include;

1. Northern Ireland has a 224 mile porous land border with Ireland.
2. Ireland is not a signatory to Schengen and does not have access to SIS II.
3. Dissident Republican terrorists use the land border to frustrate Counter Terrorism efforts.
4. Terrorists, Organised Crime Gangs and Volume Crime offenders breach bail and cross the land border to avoid prosecution.
5. 43% of Northern Ireland Organised Crime Gangs have a cross border dimension.
6. European Arrest Warrants are essential in tackling Terrorism, Organised and Volume Crime across the island of Ireland.
7. 775 people were detained at Northern Ireland Ports (2015/16) for immigration offences, which is an increase of 66% on the previous year.
8. There is a potential for organised abuse of the CTA as the immigration policy between the United Kingdom and Europe diverges.
9. The uncertainty around Brexit can create an impetus for criminals to exploit perceived gaps in collective enforcement.

The Common Travel Area (CTA) is a free movement area comprised of the UK, Ireland, the Channel Islands and the Isle of Man. The CTA allows movement with minimal or non-existent border controls which provide a number of benefits such as economic growth through free movement of people and goods. However the CTA is open to exploitation by criminals, Organised Crime Gangs, illegal immigrants and extremists who can evade border controls and exploit these arrangements, aiding their criminality or illegal travel. The land border between Northern Ireland and Ireland is the only land border within the CTA and this border is completely open; therefore individuals can cross between Ireland



and Northern Ireland without being stopped or any record of the travel having taken place. This is open to exploitation, aiding criminality and illegal travel.

There are major transport links between Great Britain and Northern Ireland. Three airports fly direct to Great Britain from Northern Ireland. There are large Sea Ports at Larne, Belfast and Warrenpoint, which carry significant quantities of freight and passenger numbers on a daily basis. Numerous small ports could also facilitate the movement of individuals.

Organised Crime Groups utilise the CTA to enable or enhance their criminality and to avoid detection by law enforcement agency partners. Criminality includes the smuggling of various illicit commodities including drugs, fuel, firearms, counterfeit and contraband cigarettes and alcohol.

The CTA has significant vulnerabilities which can be exploited to enter and exit the United Kingdom and Ireland.

There is significant interaction and relationships between Organised Crime Groups operating on both sides of the border and they often work together across a number of types of organised crime.

In the absence of European Legislation, there exists an "Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland on Police Co-operation". However this treaty draws heavily on European Union developments to facilitate Joint Investigations.

The Police Service of Northern Ireland believes Brexit requires consideration and management of the following main risks

1. An inability to pursue wanted criminals in Ireland via European Arrest Warrants.
2. Future organised exploitation of the CTA as United Kingdom immigration policies diverge from European Union policy.
3. The loss of valuable investigation tools, including Prum and SIS II.

The loss of European Arrest Warrants will impact on the Police Service of Northern Ireland and An Garda Síochána's ability to pursue those who use the land border to evade prosecution. This will affect Counter Terrorism, Serious/Organised Crime and Volume Crime. It will be essential that bilateral extradition procedures be introduced to close this issue off.

The threat in Northern Ireland from Dissident Republican terrorists is severe. The threat to Great Britain is substantial. Dissident Republican terrorists make extensive use of the border to frustrate pro-active and reactive Counter Terrorism investigations. Weapons, explosives, personnel and finance move between jurisdictions, in order that attacks can be conducted and the various groups can advance their aims.

Intelligence, operations and investigations are progressed jointly with An Garda Síochána to reduce the ability of the terrorists to exploit the border. European Arrest Warrants are frequently the conclusion of these efforts, which can take

decades to achieve. The following case studies show how critical the European Arrest Warrant has been in tackling the terrorist threat.

Case Study 1 - On 17 February 2010, the Police Service of Northern Ireland conducted a search of individual A's address; during the search items were uncovered and revealed that 'A' was collecting information that could be useful to terrorists. 'A' was arrested and interviewed and on the 18 February 2010, he was charged with three offences contrary to Section 58 of the Terrorism Act 2000. 'A' was remanded in custody by Newry Magistrates' Court. On the 10 March 2010 he was granted High Court bail with conditions. He subsequently breached the terms of his bail and left the jurisdiction through the common travel area. On 1 December 2010 'A' was arrested in County Louth, Ireland, with an improvised mortar. He was later tried and convicted in that jurisdiction for a number of offences. He received a five year custodial sentence in the Special Criminal Court, Dublin on 3 December 2010 for offences against the state involving firearms. In the interim, the Police Service of Northern Ireland was able to apply for a European Arrest Warrant and secured his return to Northern Ireland upon his release from prison in Ireland, on 1 May 2014. 'A' subsequently stood trial in Northern Ireland and was convicted on 19 September 2014 for Possession of documents likely to be useful to terrorists.

Case Study 2 - Following an anti-terrorist operation led by An Garda Síochána on the 8 August 2010, a couple of vehicles traveling in convoy were stopped near Dundalk, Ireland. Firearms, ammunitions and a large quantity of icing sugar (a component of HME) were subsequently recovered from both the vehicles and the addresses of the drivers and occupants. The five men involved were subsequently charged with Membership of an Unlawful Organisation (IRA) and Possession of Firearm and Ammunition. One of them, individual 'B' was further charged with the attempted murder of a member of An Garda Síochána on the 2 December 2009. On that occasion he deliberately rammed an An Garda Síochána patrol car after having failed to stop for Police. Individual 'B' would later be granted bail, but absconded from the jurisdiction to Northern Ireland before a trial date could be fixed. On 14th February 2012, a European Arrest Warrant was issued by the Irish authorities. The Police Service of Northern Ireland arrested individual 'B' on foot of the European Arrest Warrant on 24 March 2012 and extradited him back to Ireland on 27 March 2012. Following trial, he received a five years sentence.

As with terrorism, Organised Crime Groups utilise the CTA to enable or enhance their criminality and to avoid detection by law enforcement agency partners. Their criminality includes the smuggling of various illicit commodities including drugs, fuel, firearms, counterfeit and contraband cigarettes and alcohol.

The inherent nature of the haulage industry and the common practices used can be exploited by criminal hauliers to carry out their criminality. This can take the form of both organiser and/or facilitator, with reporting indicating varying degrees of involvement of Organised Crime Groups.

There is significant interaction and relationships between Organised Crime Groups operating on both sides of the border and they work together across a number of types of organised crime.

There has been a substantial increase in the number of foreign national Organised Crime Groups known to be involved in organised crime across Northern Ireland. The nationality of these Organised Crime Groups means they do not operate exclusively in Northern Ireland, but take advantage of the CTA to travel to Ireland and back to Europe on a regular basis. Principal members of some of these Organised Crime Groups reside in Ireland.

Whilst on bail for serious offences, some of these offenders who, whilst based in Ireland hail from Europe, attempt to avoid jail by fleeing Northern Ireland to Ireland and onward to mainland Europe.

European Arrest Warrants are thus the key to reducing the risk of flight, by demonstrating that offenders will be returned for trial.

The open nature of the border means that a significant number of investigations focus on residents from an alternative jurisdiction. People socialise, work and frequent their neighbouring area, as they do across police boundaries in England and Wales. European Arrest Warrants are vital to ensure that even low level criminality is tackled effectively across the jurisdictions as the following case studies show;

Case Study 1 – Burglary: From approximately April 2010, a large number of type burglaries occurred throughout Co Donegal, Londonderry City and Counties Londonderry and Tyrone. On occasions, vehicles were stolen from dwellings, following the burglary. On most occasions, personal property including laptops, mobile telephones, work tools and handbags were stolen. Some of the stolen cars were later found burnt out. Following a search at the address of one of the suspects, namely individual 'C' on 2 June 2010, the Police Service of Northern Ireland was able to recover a number of items that would connect him and his associates to those burglaries. 'C' was charged to Londonderry Magistrates Court on 3 June 2010 on a number of burglary and handling stolen goods offences. He was granted bail at Londonderry Magistrates Court on 20 April 2011 and subsequently fled the jurisdiction. Enquiries with An Garda Síochána revealed that 'C' had been arrested on 29 April 2011 in Co Donegal, Ireland for other similar offences (18 burglaries). He would later get three years custodial sentence for those matters. The Police Service of Northern Ireland obtained a European Arrest Warrant for 'C' on 26 July 2013. He was subsequently arrested in Ireland and extradited back to Northern Ireland on 15 August 2013. He later received a two years custodial sentence and probation for 18 months.

Case Study 2 – Sexual: On the 1 April 2013, the Police Service of Northern Ireland's Child Abuse Investigation Unit commenced an investigation into a number of allegations of sexual abuse on children made against 'D'. These allegations cover a period stretching from the mid-1980s to the present day. It was believed that 'D' fled his home address on 30 April 2013 when a mother was made aware of allegations made by her daughter. 'D' had never been spoken to by the Police Service of Northern Ireland about the aforementioned allegations. Police enquiries indicated that 'D' was living in Ireland. A prosecution file was submitted to the Public Prosecution Service for Northern Ireland and a direction to prosecute was issued for 24 offences on 24 September 2013. The Public Prosecution Service obtained a European Arrest Warrant for 'D' on the 10 July 2014. He was arrested in Ireland where he was living rough, in the vicinity of a local school in Limerick, on 19 September 2014. He was extradited to Northern

Ireland on 22 October 2014 and subsequently received an eight year custodial sentence.

Case Study 3 – Traffic: Following the report of a one vehicle road traffic collision on the Sligo Road, Enniskillen, Northern Ireland on the 14 July 2009, the Police Service of Northern Ireland attended the scene and found the passenger in a critical condition. The driver, individual 'E', was also receiving medical treatment at the scene. The vehicle's passenger had received 75% burns to his upper body and would remain in a coma for a month following the collision. 'E' was arrested at the scene for Dangerous Driving causing Grievous Bodily Injury, Excess Alcohol and No Insurance. He was charged to Enniskillen Magistrates' Court on 15 July 2009 and was remanded in custody. On 17 July 2009 'E' was granted High Court bail. He then failed to return to Court on 8 February 2010. Enquiries revealed that he had fled the jurisdiction and resettled in Lucan, Co Dublin. The Police Service of Northern Ireland obtained a European Arrest Warrant for 'E' on 23 May 2013. He was arrested in Ireland on 30 July 2013 and extradited to Northern Ireland on 3 January 2014. He was subsequently convicted.

The effect of the withdrawal of the European Arrest Warrant, without replacement, will be to encourage criminals to believe that they can escape justice by fleeing from one jurisdiction to another, which could lead to further abuse of the land border between the United Kingdom and Ireland.

Upon Brexit, the UK-Ireland border would represent an external border to the EU as a whole. There are no other 'external' EU borders that do not come with border controls. Any proposal regarding the introduction of border controls is unlikely to assist, because the myriad of minor roads and private lanes that cross the border could not be effectively policed. It is also likely to be used by Dissident Republican groups as a rationale for continuing violence.

The CTA precedes freedom of travel within the European Union. The implementation of Brexit does not directly impact on the CTA. However, should the Immigration and Taxation rules between the United Kingdom and Europe change significantly then there will be an increased risk from;

1. Organised Immigration Crime
2. Commodity Smuggling arising from CTA abuse

Already the Ireland/Northern Ireland to Great Britain route is well understood by Organised Crime Gangs involved in facilitating illegal immigration.

In Northern Ireland, Immigration Enforcement also has an important role to play in protecting our borders and working in partnership to strengthen the CTA, which is open to exploitation by illegal immigrants. Immigration Enforcement, the Police Service of Northern Ireland and Police Scotland work together under the heading of Operation Gull.

Operation Gull focuses on domestic United Kingdom flights and ferries into and out of Northern Ireland, in order to identify and arrest illegal immigrants going to and coming from Ireland by way of the land border. In 2015/16, 775 immigration offenders were intercepted attempting to abuse, or facilitate abuse, of Northern Ireland Ports as a means of illegal transit across the United Kingdom

– an increase of 66% on 2014/15, including 73 criminals who had previously been deported from the UK and 30 foreign nationals with serious criminal convictions in the UK or abroad. More than 100 false documents were seized and 40 individuals involved in immigration crime were prosecuted.

This year to date, 343 offenders have been detected in Belfast Ports consisting of 47 different nationalities. At the Seaports, 182 foot passengers, five car passengers and one greeter were detected, 160 were departures and 27 arrivals (from Scotland) and 152 were male and 36 female. 182 offenders were removed from the United Kingdom with 85 being removed to Irish jurisdiction. A further 155 offenders were detected at our airports, with 113 at Belfast International and 42 at Belfast City, of these 126 were male and 29 were female.

Information sharing is key to our efforts to keep people safe through Ports Policing. In the European Union, the second generation of Schengen Information System (SISII) is used for law enforcement, immigration and border controls. It contains over 63 million alerts in relation to people and objects wanted for law enforcement purposes. It gives live time access, on the Police National Computer to all wanted/missing persons, stolen vehicles, persons sought for summons, all foreign fighters and all travelling sex offenders. On leaving the European Union, the Police Service of Northern Ireland will lose access to SISII, unless a separate agreement can be negotiated.

Ireland is not a signatory to Schengen and does not have access to the data base at present, so checks at Northern Irish Ports are key to ensuring dangerous persons do not travel on to Ireland or Great Britain undetected.

Prum is the fast time hit/no hit biometric exchange program (DNA/Fingerprints) within the European Union. The United Kingdom is signed up to commencing this instrument, in late 2017 (December). It speeds up biometric exchange, utilising new electronic gateways, reducing hit certification times to 15 minutes from the previous ten days timescale.

However, important as the measures are, this loss provides us with significant opportunities;

- The opportunity to develop bi-lateral agreements between the United Kingdom and our closest neighbour Ireland, which reflect our shared threats and the determination to challenge them.
- The opportunity to develop strategic and operational bilateral partnerships that reflect the emerging threats such as cybercrime, people trafficking and online Child Sex Exploitation as well as more traditional crimes.
- The opportunity to demonstrate, through these agreements and partnerships, to those who are vulnerable and to those who exploit them, that there is strong and effective co-operation on the island of Ireland and that together we will keep our people safe.

Richard Pym, Chairman, Allied Irish Banks plc and Bryan Barry, Acting General Secretary, Irish Farmers' Association (QQ 112-119)

**Richard Pym, Chairman, Allied Irish Banks plc and Bryan Barry, Acting General Secretary, Irish Farmers' Association (QQ 112-119)**

[Transcript can be found under Bryan Barry, Acting General Secretary, Irish Farmers' Association](#)

## **The Royal Commonwealth Society and The Royal Commonwealth Society Ireland Branch – Written evidence (BUI0006)**

### **Executive Summary**

- Discussion of the Republic of Ireland (ROI) rejoining the Commonwealth of Nations has been rekindled in recent months.
- The return of the ROI to the Commonwealth has the potential to further strengthen ties between the ROI, Northern Ireland (NI) and the rest of the United Kingdom (UK). This move could provide for enhanced collaboration, stronger diplomatic relations, and greater cooperation and 'soft power' connections between the two countries.
- The ROI has strong links with Commonwealth countries in terms of aid, trade, diaspora and sport to name a few areas.
- Today the Commonwealth is both an international institution that serves its member states and a broader network of people and organisations, which collaborate towards mutual prosperity and the realisation of shared values.

### **The Royal Commonwealth Society**

1. The Royal Commonwealth Society, founded in 1868, is a network of individuals and organisations committed to improving the lives and prospects of Commonwealth citizens across the world. Through youth empowerment, education and advocacy, the Royal Commonwealth Society promotes the value and the values of the Commonwealth. We champion human rights, democracy and sustainable development across the 53 member states which are intrinsically linked through their common history and shared values<sup>75</sup>.

### **Establishment of the Ireland Branch of the Royal Commonwealth Society**

2. The Royal Commonwealth Society's Ireland Branch was established in April 2015 in Dublin. Its objectives include raising awareness and understanding of the Commonwealth in Ireland; serving as a visible link to the Commonwealth for those living in Ireland who originate from Commonwealth countries; enhancing peace, reconciliation and prosperity across the island of Ireland and throughout the Commonwealth and; supporting Ireland's re-entry into the Commonwealth, should this be the wish of the Irish people<sup>76</sup>.

### **History of the Republic of Ireland and the Commonwealth**

3. The ROI exited the Commonwealth in 1949, following its declaration as a Republic. However, it previously left the UK in 1922 and became a

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<sup>75</sup> For more information see 'About Us' The Royal Commonwealth Society:

<https://www.thercs.org/about-us/>

<sup>76</sup> For more information see: <http://www.rcsireland.org/>

Dominion. In the 1920s and 1930s the then Irish Free State played a crucial role in the transformation of the Commonwealth into an association of free, democratic and sovereign states. After Ireland left, the Commonwealth continued to evolve. The 1949 London declaration, noting India's independence, ended the bar on Republics being members of the Commonwealth and the group of states became the 'Commonwealth of Nations'. By agreement of the member states the Queen remained Head of the Commonwealth, but only as the symbol of a free association of independent countries. In the 1950s and 1960s Commonwealth membership served as a bridge to world affairs for many newly sovereign states in Asia, Africa, and the Caribbean.

### **The modern Commonwealth of Nations**

4. Today the Commonwealth is an international organisation of 53 states, 32 of which are Republics. It is committed to peace, democracy, human rights, racial equality, sustainable development, and the rule of law. These common values are enshrined in the Commonwealth Charter. The Commonwealth Secretariat supports member states to uphold these values.
5. Commonwealth countries and their peoples are able to draw upon shared common legal systems, similar political institutions and a shared language to advance bilateral and multilateral connections in diplomacy, trade, development, culture and sport.
6. The Commonwealth is also connected through numerous networks, civil society organisations, and professional associations and youth groups. Over 80 of these are formally accredited to the Commonwealth Secretariat. These groups work in areas as diverse as education, health and urban planning.

### **Renewed discussion of Ireland's Commonwealth membership**

7. Discussion of the ROI re-joining the Commonwealth has been rekindled following HM The Queen's visit to the ROI in 2011 and that of HE The President of Ireland, Michael Higgins' State visit to the UK in 2014. UK Conservative MP Michael Fabricant raised the prospect of the ROI re-joining the Commonwealth in 2014<sup>77</sup>. In addition, at the 48<sup>th</sup> Plenary Session of the British Irish Parliamentary Association in 2014, the Irish Taoiseach (Prime Minister) Enda Kenny stated: "The Commonwealth has leverage to open new markets, both for Britain and Ireland in so many ways."<sup>78</sup> Prior to this, in 2009 the Guyanese former Commonwealth

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<sup>77</sup> Rebecca Black (2014), Republic of Ireland back in Commonwealth? It's not as mad as it sounds, says senior Tory MP Fabricant, *Belfast Telegraph*, 23<sup>rd</sup> April 2014.

<<http://bit.ly/2cMWTX8>>

<sup>78</sup> British Irish Parliamentary Association (2014) <https://youtu.be/MZoiDYdbkgY> 48<sup>th</sup> Plenary Session of the British Irish Parliamentary Association in 2014, retrieved 21 September 22 2016



Secretary General, Sir Shridath Ramphal, has called for Ireland to “Come Home” to the Commonwealth<sup>79</sup>.

8. A new Ireland Branch of the Royal Commonwealth Society was launched in Dublin on 17<sup>th</sup> April by 2015. Lord Rana MBE, Baron of Malone, Co. Antrim was named as Patron of the Branch.<sup>80</sup> Following this, Irish Senator Frank Feighan of the governing Fine Gael party has stated to the Irish Senate: “...it would be a good time to have a debate on whether the Republic of Ireland should consider rejoining the Commonwealth”. Senator Feighan cited ongoing relations with the Commonwealth and Ireland, Irish diaspora across the Commonwealth and support for commonly held values<sup>81</sup>. Furthermore, Lord Howell made the following remarks in the House of Lords earlier this month, during a debate on Brexit and the Belfast Agreement:

a. *“My Lords, is my noble friend aware that the Republic of Ireland has shown some interest recently in associate membership of the Commonwealth? Do Her Majesty’s Government consider that this could be useful in resolving some of the border problems which are being discussed? If so, will the Government consider pressing the Commonwealth authorities to develop the relationship with the Republic of Ireland which is already blossoming quite strongly?”<sup>82</sup>”*

It is understood that other countries have also explored associate membership of the Commonwealth or some kind of observer status. This is one possible route for further ROI engagement in the Commonwealth which would need to be discussed by existing member states, if full membership is not palatable.

#### **Current links between the Republic of Ireland and the Commonwealth**

9. According to statistics from the Irish Central Statistics Office between January and June 2016 16.09% of Irish exports went to Commonwealth countries. The connections between ROI and Commonwealth are even stronger when it comes to imports as in the same period 28.65% of imports to ROI were from Commonwealth countries<sup>83</sup>.

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<sup>79</sup> Speech at the ROUND TABLE’S DINNER on the occasion of the COMMONWEALTH SUMMIT 2009, Port of Spain, 7<sup>th</sup> November 2009, <http://www.reform.org/site/2009/11/07/ireland-time-to-come-home/> An article based on this speech can be found at: Sir Shridath Ramphal (2010), ‘Ireland: Time to Come Home’ *The Round Table* Vol. 99, Issue 408, pp. 317-320.

<sup>80</sup> RCS Ireland (2015), Launch of RCS Ireland 17 April 2015, <  
<http://www.rcsireland.org/launch-of-rcs-ireland-17-april-2015/>>

<sup>81</sup>

<sup>82</sup> House of Lords (2016) <https://hansard.parliament.uk/Lords/2016-09-08/debates/16090838000303/BrexitBelfastAgreement#contribution-16090838000313>  
House of Lords Hansard, retrieved 21 September 2016

<sup>83</sup> Central Statistics Office (2016), Goods Exports and Imports January 2016, *CSO statistical release, 15 March 2016*. <  
<http://cso.ie/en/releasesandpublications/er/gei/goodsexportsandimportsjanuary2016/>>

10. In terms of overseas aid, ROI gives considerable support to Commonwealth countries. Seven of Irish Aid's nine Key Partner Countries are Commonwealth members (Lesotho, Malawi, Mozambique, Sierra Leone, Tanzania, Uganda, and Zambia). Irish Aid also has projects in South Africa<sup>84</sup>. The UK and Canada also make substantial aid contributions to these countries.
11. According to a recent United Nations (UN) International Migration Report which studied 72 countries, some 771,572 people of Irish birth were found to be living in these nations. It is understood that approximately 70% of the Irish people captured in the study reside in countries that are members of the Commonwealth of Nations. These countries include Australia, Canada, South Africa, New Zealand, and the United Kingdom<sup>8586</sup>.
12. International sports offer a potential opportunity for warming UK-ROI-Commonwealth relations. Irish success can be seen for example in Rugby, Soccer, Golf, Athletics, Cricket, Snooker, and Gaelic Athletic Association (GAA) International Rules Football. Indeed, GAA sports are represented in clubs across the Commonwealth. Many sports in the ROI are organized on an all-island basis and thus incorporate NI, including Hockey, Rugby, Rowing, and Cricket. The 2021 Commonwealth Youth Games are due to be held in Belfast, which brings a further focus on sport and the Commonwealth on the island of Ireland.

### **Brexit**

13. Whatever the nature of the UK's exit from the European Union (EU), there is a unique relationship between the UK and ROI, which sets it apart from other EU states and warrants a special approach. This is particularly significant when considering the EU's 4 freedoms (i.e. people, goods, capital & services).
14. There has been concern expressed by politicians of the impact of Brexit on the Island of Ireland and the possible establishment of a hard border with the UK. Even if the UK does have a hard exit from the EU, there is a desire for special arrangements to be put in place between the ROI (i.e. as a continuing member of the EU) and the UK. This seeks to address not

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<sup>84</sup> Irish Aid (2016), Countries Where We Work, retrieved 19<sup>th</sup> September 2016, <<https://www.irishaid.ie/what-we-do/countries-where-we-work/>>

<sup>85</sup> House of the Oireachtas (2016), Seanad Debates, Tuesday 21 June 2016, Order of Business, Senator Frank Feighan. <<http://bit.ly/2daM3vf>>

<sup>86</sup> Irish Central (2015) Nearly 800,000 Irish now living abroad, UN figures show <http://www.irishcentral.com/news/nearly-800000-irish-now-living-abroad-un-figures-show>, retrieved 21 September 2016

only with the physical frontier with NI, but also to continue to facilitate the ease of movement (i.e. people, goods, capital & services) between the ROI and the UK<sup>87</sup>.

15. The Commonwealth network provides an additional layer of diplomatic relations and opportunities for collaboration, through which members can pursue common policy interests. Examples of these opportunities include Commonwealth Heads of Government Meetings, membership of professional bodies and Ministerial meetings including the upcoming Commonwealth Trade Ministers' Meeting in spring 2017. Should ROI re-join the Commonwealth, increased linkages between ROI, the UK and other Commonwealth members have the potential to add further support to political and diplomatic processes focused on building a post-Brexit framework for UK-ROI relations.

### **Conclusion**

16. The ROI's membership of the Commonwealth of Nations is a matter to be decided by its government and considered by all 53 existing members. Membership of the Commonwealth has the potential to strengthen Ireland's international role in the world alongside other members in this multilateral forum, without changing or influencing its national sovereignty. As a result, it has the potential to add a further layer of soft power ties to existing diplomatic, trade, diaspora, cultural, sporting, and civil society relationships between the ROI and numerous Commonwealth countries. If UK-ROI diplomatic ties were improved by mutual Commonwealth membership, this could bring obvious benefits for North-South relations and collaboration on other policy areas.

26 September 2016

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<sup>87</sup> Appearance of Ambassador Dan Mulhall House of Lords European Select Committee – Brexit UK Irish Relations 9<sup>th</sup> September 2016, <http://parliamentlive.tv/Event/Index/ba240a2f-f553-460f-a239-b8704f0bcd39>

## **Professor Bernard Ryan, Professor of Migration Law, University of Leicester – Written evidence (BUI0008)**

This paper addresses the implications of United Kingdom withdrawal from the European Union for the British-Irish relationship, in so far as concerns (1) the Irish land border, (2) the common travel area and (3) the status of Irish citizens in the United Kingdom.

It draws upon a briefing paper on these questions produced by the author for the Immigration Law Practitioners' Association in May 2016.<sup>88</sup> It also relies upon a previous publication by the author examining the history of the British-Irish common travel area up to 2001.<sup>89</sup>

### **Summary**

The main points made below are as follows:

- The greatest risk to the current freedom of travel across the Irish land border is that the United Kingdom will be outside the EU customs union and/ or the single market in goods. To avoid that, special arrangements for the island of Ireland could be sought within Brexit negotiations.
- The British and Irish Governments are likely to want to continue with common travel area arrangements, particularly because of the difficulty of operating effective immigration control at the Irish land border.
- Protocols 19 and 20 to the Treaty on the Functioning of the European Union guarantee Ireland's right to continue with common travel area arrangements, and not to join Schengen, after Brexit.
- In the event of a 'hard Brexit', EU free movement rights in the Republic of Ireland would pose a significant issue for the common travel area. This issue could be resolved through visa exemptions for EU/ EEA/ Swiss nationals within United Kingdom immigration policy. For other persons, a right to travel to the United Kingdom on the basis of Irish residence documents could be considered.
- The need to revise common travel area arrangements, and the wider political relationship between the United Kingdom and Ireland, make this an opportune moment to consider a comprehensive common travel area agreement.
- As Irish citizens are currently subject to immigration control in the United Kingdom, a special post-Brexit status for them will require a general amendment of the Immigration Act 1971. It would not be sufficient solely to amend common travel area legislation, as that would not protect Irish citizens who entered from places other than the Republic of Ireland.

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<sup>88</sup> The ILPA briefing paper is available at <http://www.ilpa.org.uk/resource/32154/>.

<sup>89</sup> 'The Common Travel Area between Britain and Ireland' (2001) 64 *Modern Law Review* 855-874.

- Any change to immigration law should include consideration of the treatment of Irish citizens within British nationality law.
- A 'hard Brexit' would require legislation to protect the social and economic rights of Irish citizens which are currently conferred upon all EU/ EEA/ Swiss nationals.

## 1. The Irish land border

### ***General comments***

There are inherent difficulties with comprehensive state control upon traffic and travel across the Irish land border. The border does not correspond to geographical barriers such as mountains or rivers, and much of it is in rural areas. Moreover, because the border cuts across a large number of roads, any controls interfere with local connections of a personal and business nature. This second factor has acquired particular importance since the normalisation of cross-border travel, subsequent to the Belfast Agreement of 1998.

Customs controls were operated by both states from 1923, until their abolition on 1 January 1993 as a consequence of the EU's completion of the single market. Security checkpoints operated on both sides of the border during the Northern Irish conflict, from 1970 to the late 1990s. In 2001, the Republic of Ireland<sup>90</sup> operated systematic controls at the Irish border to curtail the spread of foot and mouth disease.

In contrast, there has generally been reluctance to operate immigration controls at the Irish border. The historic United Kingdom position has been that, because immigration control is likely to be ineffective at the Irish border, and controls on travel between Northern Ireland and Great Britain are politically objectionable, there is no alternative to a common travel area with the Irish state. Irish Governments have taken a similar view of the difficulty of immigration control at the Irish border. Since 1997, however, the Republic's authorities have operated selective controls upon those arriving by land from Northern Ireland.

### ***The implications of Brexit***

The greatest risk to the current freedom of travel across the Irish border is that, after Brexit, the United Kingdom will be outside the EU customs union and/ or the single market in goods. In that situation, Ireland would potentially be obliged under EU law to have controls on goods imported from the United Kingdom. The United Kingdom could be expected to introduce its own controls in response.

If this outcome is in prospect, there is a case for seeking special arrangements on the island of Ireland. One approach would be a special arrangement for

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<sup>90</sup> The Irish Free State was established in 1922. It adopted the official name 'Ireland' in 1937, and declared itself a republic in 1949. For clarity, in this paper, 'Irish Free State' is used for the period 1922-1937, the 'Republic of Ireland' for the period from 1949 onwards, and 'the Irish state' is used in other contexts.

Northern Ireland and the Republic of Ireland in relation to the customs union and/or single market, so as to reduce the need for new controls. An alternative would be to create an option for the United Kingdom and the Republic of Ireland not to operate customs controls at the Irish land border, on the basis of a bilateral arrangement.

## 2. The common travel area

### *Overview*

Common travel area arrangements between the United Kingdom and the Irish state date from the foundation of the Irish state. The durability of those arrangements reflects the recognition on the part of the British and Irish authorities of the difficulty of operating effective immigration control at the Irish land border. A second factor is the desire to enable freedom of travel between all parts of the United Kingdom and the Irish state.

From 1923 to 1939, there was full mutual recognition of immigration permission granted by each state to aliens travelling to the other. Between 1939 and 1952, immigration control applied to travel between the island of Ireland and Great Britain. In 1952, those immigration controls were removed, after an administrative agreement between the two states concerning co-operation in control over entry by aliens.

In current United Kingdom law, section 1(3) of the Immigration Act 1971 provides that immigration control does not apply to persons arriving from the Republic of Ireland (or the Channel Islands or Isle of Man). Accordingly, the starting-point is that all persons who arrive from the Republic of Ireland automatically have leave to enter.

That general position is qualified by the provisions of the Immigration (Control of Entry through Republic of Ireland) Order 1972. Its Article 3 excludes several categories of person from the benefit of section 1(3), including visa nationals not in possession of a visa. Article 4 of the Order deems certain other persons to have leave as a visitor for three months, including those with visa exempt nationalities

Of particular significance is an exemption within Article 4 to this 'deemed leave' arrangement. In its original version, Article 4 of the 1972 Order exempted Irish citizens, and only them. That provision was however replaced in 2014 by an exemption for EEA/ Swiss nationals and their family members with a right of entry deriving from EU free movement law.<sup>91</sup>

In Irish immigration law, everyone who is not an Irish or a British citizen is classed as a 'non-national'. Under the Immigration Act 2004, immigration controls apply automatically to all 'non-nationals' who arrive from the United

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<sup>91</sup> Immigration (Control of Entry through Republic of Ireland) (Amendment) Order 2014, SI 2014 No. 2475.

Kingdom by air or sea. Immigration control *may* be applied to those who arrive by land from Northern Ireland. Persons who arrive by land must obtain immigration permission within one month, unless covered by EU law on the free movement of persons.

The two states co-operate in various ways in immigration control. There is a high degree of co-ordination of visa policy: at present, 103 states are subject to visa requirements in both states, seven in the United Kingdom alone, and seven in the Republic of Ireland alone. The states each make provision in their immigration laws for refusal of entry to a person who intends to travel to the other state and who would not be admitted to there. Since 2014, the two states have had a joint British-Irish visa for Chinese and Indian visitors.

Against this background, it must be considered unlikely that either of the British or Irish Governments will wish Brexit to lead to a disruption of common travel area arrangements.<sup>92</sup>

The continuation of common travel area arrangements appears compatible with EU law. Protocol 19 to the Treaty on the Functioning of the European Union provides that Republic of Ireland and the United Kingdom are not automatically covered by Schengen rules, or by proposals to develop them. Protocol 20 allows the United Kingdom and Republic of Ireland to “continue to make arrangements between themselves relating to the movement of persons between their territories (‘the Common Travel Area’)”. There is no apparent legal reason why the Republic of Ireland should not retain the benefit of Protocols 19 and 20 after Brexit, so as to permit bilateral co-operation with the United Kingdom outside the Schengen zone.

### ***Brexit and EU free movement rights***

If, after Brexit, the United Kingdom is not fully bound by EU free movement of persons rights (here termed a ‘hard Brexit’), complex issues will arise from the exercise of those rights in the Republic of Ireland. After Brexit, EEA and Swiss nationals, and their family members irrespective of nationality, will continue to have rights to enter the Republic of Ireland. Under the current common travel area arrangements, there would not be any legal obstacle to their then travelling to the United Kingdom by air, sea or land, without passing through immigration control. In the case of persons subject to future visa requirements in the United Kingdom, carrier checks by airlines or ferry companies might create a practical barrier. Even then, the option of entering the United Kingdom by land through Northern Ireland would remain.

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<sup>92</sup> In this regard, see the comments of the then Immigration Minister, James Brokenshire MP, to the House of Commons Home Affairs Committee on 12 July 2016: “There is a strong will on the part of both the Irish Government and the UK Government to preserve the common travel area and the arrangements that pre-existed our membership of the Common Market” (*The Work of the Immigration Directorates: Oral evidence*, HC 151, Q 226).

A version of this situation does arise under the current common travel area arrangements, in the case of persons who are not covered by EU free movement rights, and who are visa nationals in the United Kingdom. Nevertheless, the dilemma posed by these cases would be greater in the event of a 'hard Brexit', for two reasons.

Firstly, the group of persons with residence in the Republic of Ireland and potentially lacking a right to enter the United Kingdom would be larger. That can be seen from the Irish census results concerning the nationality of persons resident in the Republic of Ireland. In 2011, there were 254,505 resident EU nationals from states other than the Republic of Ireland or the United Kingdom. That compares to 177, 593 from non-EU countries, many of whom will actually have had EU rights of residence and travel.<sup>93</sup>

Secondly, in the event of a 'hard Brexit', EU/ EEA/ Swiss nationals and their family members could enter the Republic of Ireland in order to circumvent United Kingdom restrictions. At present, the Irish immigration authorities can refuse entry to someone who is not protected by EU rights, and whom they consider is likely to travel on to the United Kingdom, but who would not be admitted there. It is however unlikely that that power could be relied upon in the same way in relation to persons exercising EU rights, post-Brexit.

The simplest solution to these issues would be for all EU/ EEA/ Swiss persons to be exempted from United Kingdom visa requirements for short-term stay. In the event of a 'hard Brexit', this may be an attractive option more generally for the United Kingdom, in order to promote tourism and business visits from the EU, and to guarantee visa-free travel by British citizens to the Schengen zone.

To the extent that any EU/ EEA/ Swiss nationals do not have a visa exemption in the United Kingdom, an alternative would be an exemption for those who actually reside in the Republic of Ireland. This appears less practical as a solution, not least because it would oblige those persons to obtain residence documentation in the Republic, something which would not otherwise be necessary.

It would be more difficult to use visa policy to cater for family members with EU free movement rights who were not themselves EU/ EEA/ Swiss nationals, and who were simultaneously visa nationals in the United Kingdom. In this case, a right of travel based on residence documentation issued in the Republic of Ireland appears the best way forward.

### ***Brexit: the common travel area exemption***

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<sup>93</sup> Non-EU nationals will have had EU rights either as other EEA or Swiss nationals, or as the family members of EU, other EEA or Swiss nationals. It is not possible to identify these groups separately in the published census data.



In the event of a 'hard Brexit', it will be necessary to revisit the United Kingdom's common travel area legislation. As explained above, Article 4 of the Immigration (Control of Entry through Republic of Ireland) Order 1972 currently contains an exemption for all those with rights deriving from EU free movement law in the United Kingdom. That would make no sense in the event that free movement rights no longer applied in the United Kingdom.

One option would be to restore the original exemption for Irish citizens alone. We will see in section 3 below that there are wider issues concerning the lack of a clear status for Irish citizens in United Kingdom immigration law. For that reason, it would be preferable that this question be addressed together with a more general clarification in legislation of the status of Irish citizens.

### ***A common travel area agreement?***

A further point which may be raised is the possibility of a comprehensive common travel area agreement. One reason the timing appears opportune for such an agreement is that, in the event of a 'hard Brexit', adjustments will anyway have to be made to the common travel area arrangements to cater for EU/ EEA/ Swiss nationals, and Irish citizens. Another is that, as a by-product of the normalisation of relationships between the two states since 1998, the two governments now publicise their co-operation over immigration control. A further potential benefit of such an agreement would be to give greater certainty to all those from, or living in, Northern Ireland as to their future position in each of the two states.

Any such agreement could address some or all of the following points:

- the extent to which immigration control is to apply to travel by each of air, sea and land
- entry and residence rights of British and Irish citizens to the other state
- for those with a current right of residence in one state, the right to travel to the other
- for those with a current visa or visa exemption in one state, the right to travel to the other
- co-operation over the exclusion from the common travel area of individuals who are not British and Irish citizens
- co-operation over visa policy
- responsibility for international protection applications.

### **3. The status of Irish citizens in the United Kingdom**

#### ***Ireland Act 1949***

Section 2(1) of the Ireland Act 1949 declares that "notwithstanding that the Republic of Ireland is not part of [Her] Majesty's dominions, the Republic of

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Ireland is not a foreign country for the purposes of any law in force in any part of the United Kingdom.” It goes on to provide that “references in any Act of Parliament, other enactment or instrument whatsoever ... to foreigners, aliens [etc..] ... shall be construed accordingly.”

The 1949 Act was the United Kingdom’s response to the Irish state’s decision to declare itself a republic that year, which meant its definitive withdrawal from the Commonwealth. The purpose of section 2 was to maintain the *status quo* in the United Kingdom, by ensuring that the Irish state, and its citizens, retained the same legal position as independent Commonwealth states, and their nationals.

It is not clear that section 2 may now be relied upon to claim specific legal rights. Contemporary legislation is highly unlikely to differentiate between ‘aliens’ or ‘foreigners’ on the one hand, and British subjects or Commonwealth citizens on the other. At most, section 2 now reflects a *political* understanding within the United Kingdom, which may make a difference to the content of other legislation.

The clearest example of that ‘non-foreign’ understanding of the status of Irish citizens is the legislation relating to political rights, which treats them equivalently to the nationals of Commonwealth states. Specifically, resident Irish citizens and Commonwealth citizens have the right to vote in all elections, to stand for election to the House of Commons, and to be members of the House of Lords.

### ***Irish citizens in immigration law***

Irish citizens have been subject to British immigration law since the Commonwealth Immigrants Act 1962 came into force on 1 July 1962. The core purpose of that legislation was to permit control of immigration by Commonwealth citizens who lacked a personal connection to the United Kingdom. Its provisions concerning both control of entry and deportation were expressly extended to Irish citizens.<sup>94</sup>

In practice, it appears that entry controls were not actually applied to travel from the Republic of Ireland after 1962, and neither were substantive limits placed on entry by Irish citizens arriving from elsewhere in the world. Deportation of Irish citizens did though occur under the 1962 Act, notwithstanding the practical difficulty of preventing persons subject to deportation orders from returning to the United Kingdom.

Under current law, Irish citizens are subject to immigration control under the Immigration Act 1971. The starting-point of the 1971 Act is that British citizens, and a small number of other Commonwealth citizens, have a right of abode in the United Kingdom. Those without a right of abode – i.e. the rest of the world,

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<sup>94</sup> Commonwealth Immigrants Act 1962, sections 1(4) and 6(3).

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including Irish citizens – require leave to enter, or to remain in, the United Kingdom.

The underlying position that Irish citizens are subject to immigration control has probably been obscured by common travel area arrangements (including the original 1972 Order, referred to above) and by Irish citizens having had EU free movement rights since 1973.

If Irish citizens are to have a special status after Brexit, that will need to be written into immigration law. Within the current legislation, that would appear to require an amendment to the Immigration Act 1971. It would not be sufficient to revert to the position set out in the original 1972 Order, as that would only protect entry from the Republic of Ireland, and not entry from elsewhere in the world.

### ***Irish citizens and nationality law***

If Brexit leads to a modification of the immigration position of Irish citizens, then it would be desirable that parallel consideration be given to the implications for the acquisition of British citizenship.

Within nationality law, a key question is whether a person is ‘settled’. That term is defined to mean that a person is ordinarily resident in the United Kingdom without any limit on the duration of their stay. The administrative practice is that Irish citizens are treated as ‘settled’ in the United Kingdom from the date that they take up ordinary residence.<sup>95</sup> This is in contrast to the position for persons with other nationalities, who can become settled only once they obtain the EU right of permanent residence (after five years) or indefinite leave to remain (after a minimum period of residence which is five years in some cases, and longer in others).

The consequences of this practice are twofold:

- Irish citizens may naturalise after five years’ continuous residence, whereas other persons must reside for a minimum of one year after becoming settled (i.e. an absolute minimum of six years’ residence)
- Children born in the United Kingdom to Irish citizens can readily acquire British citizenship. If an Irish citizen parent is resident on the date of birth, the child acquires British citizenship automatically. If the parent takes up residence while the child is a minor, an application for British citizenship may then be made.

The classification of Irish citizens as ‘settled’ from the date of residence lacks a clear foundation in legislation, however. It does not seem possible to base it on the Ireland Act 1949, as that does not address immigration status. In the past,

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<sup>95</sup> This position is set out in published guidance: see Home Office, [European Economic Area \(EEA\) and Swiss nationals: Free movement rights](#), (12 November 2015), p. 24.

an argument might have been based on the common travel area exemption, which was without time limits. As we have seen however that never applied to Irish citizens entering from elsewhere in the world, and was dispensed with in 2014.

### ***Social and economic rights***

At present, Irish citizens have a small number of social and economic advantages over other EU/ EEA/ Swiss nationals in the United Kingdom. One is that residence elsewhere in the common travel area, including in the Republic Ireland, counts towards the 'habitual residence' test of eligibility for non-contributory benefits in the United Kingdom.<sup>96</sup> Another is that employers and landlords may rely upon Irish birth certificates and adoption certificates, rather than a passport, in evidencing a right to work or reside in the United Kingdom.

Most economic and social entitlements of Irish citizens in the United Kingdom currently arise from their position as EU citizens, however. Leading examples are the use of travel documents to satisfy employer checks of the right to work, and landlord and DVLA checks of the right to reside. In the event of a 'hard Brexit', a number of the rights and advantages conferred upon all EU/ EEA/ Swiss nationals would probably be removed. If Irish citizens are to have a special status, it would be necessary to ensure that these rights and advantages continued to benefit them.

30 September 2016

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<sup>96</sup> While this also benefits other EU/ EEA/ Swiss nationals moving from the Republic of Ireland, it is likely to be of particular value to Irish citizens moving from there.

SDLP, Alliance Party and Ulster Unionist Party – Oral evidence (QQ 76-84)

**SDLP, Alliance Party and Ulster Unionist Party – Oral evidence (QQ 76-84)**

[Transcript can be found under Alliance Party](#)

Dr Etain Tannam, Assistant Professor, International Peace Studies, Irish School of Ecumenics, Trinity College Dublin, Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI Maynooth and Dr Paul Gillespie, Adjunct Senior Research Fello

**Dr Etain Tannam, Assistant Professor, International Peace Studies, Irish School of Ecumenics, Trinity College Dublin, Professor John O'Brennan, Jean Monnet Professor of European Integration, NUI Maynooth and Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin – Oral evidence (QQ 85-99)**

[Transcript can be found under Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin](#)

## **The Tim Parry Johnathan Ball Foundation for Peace – Written evidence (BUI0007)**

### **Introduction**

1. While we note that the Committee has not issued a public call for evidence relating to this inquiry, we are submitting our views as an interested stakeholder. The Foundation is a charity working across borders, with our roots in The Troubles, therefore the issue of Anglo-Irish relations post Brexit is one of particular importance and relevance to our work.
2. Operating as a registered charity since 1995, The Foundation was founded in memory of two boys, Tim Parry and Johnathan Ball, who were tragically killed in an IRA bomb in March 1993. The IRA exploded two bombs, without warning, on a busy Saturday in a shopping street in the town of Warrington in the North-West of England. The bombs in bins created shrapnel that killed three-year-old Johnathan Ball and five days later, 12 year old Tim Parry lost his life. 54 others were seriously injured. The incident shocked the nation and gained worldwide publicity.
3. After the bombing, the parents of Tim Parry, supported by Johnathan's parents (Johnathan's have since passed away) wanted to gain an understanding of why they lost their children. Colin and Wendy Parry were taken by BBC Panorama to Northern Ireland, the Republic of Ireland and the USA. During these visits, they witnessed work efforts aimed at creating and sustaining peace. They returned inspired, like many other victims, to try and make sure nobody ever experienced what they had gone through. Funded largely by donations they had received in the aftermath of the bombing, they formed a charitable trust.
4. A scholarship commenced in Tim's name, bringing together young people from different sides of the conflict to try to understand their differences and also share their commonalities. Wendy Parry had the idea to create a location to house the scholarship and together, they set a vision to build a centre as a living memorial to the boys. The project became a millennium goal and with the involvement of Government and the NSPCC, grew substantially. The iconic Peace Centre opened in 2000. It is a multi-purpose building based in Warrington, and houses facilities ranging from residential quarters to a café, sport and art areas to special spaces for conferences and project work.
5. Early work started by undertaking a huge and diverse number of projects and activities ranging from community youth clubs to residential programmes. In 2001 the Foundation undertook a study looking at the specific needs of GB domiciled victims of the Northern Ireland conflict and from this report work began to provide a series of activities to assist those

victims. At the same time, conflict was changing, with terrorist attacks in New York on September 11<sup>th</sup> 2001 and London on July 7<sup>th</sup> 2005 (the latter remaining the biggest loss of life in a terrorist attack on mainland Britain). In addition, a gradual move to peace in Northern Ireland meant that the Foundation began to develop its capabilities working not only with young people but communities generally in building peace and conflict resolution skills. The Foundation is independent and funded as a charity. We do not take sides, we are not aligned to any conflict, we are not faith or political based and we do not pursue causes such as justice or truth. There is no other organisation that takes such a stance.

6. More than twenty years on we are proud of our ongoing work to support peace and reconciliation and our continuing efforts to build a lasting legacy in the names of Tim and Jonathan. To achieve this, The Foundation has to be a charity that is willing and able to work across borders. For example, our Survivors Assistance Network<sup>97</sup> (SAN) offers practical and emotional support and assistance to victims and survivors of terrorism and political violence, aiming to help heal division and move individuals to help break the cycle of violence. Completely free of charge, it brings individuals and families together and focuses on enabling people to cope and recover after acts of terrorism. Members of SAN are victims, survivors and those affected by terrorism who are located in England and Wales (a small number in Scotland funded by our own charity) and include Irish citizens who may now reside in Britain, veterans of the armed forces and many people impacted by the Troubles, including the injured and bereaved families. We are the only organisation in Britain that provides this work and in addition, we undertake reconciliation work within Ireland, Northern Ireland and Britain. Unfortunately, SAN faces ongoing funding challenges partly related to these jurisdiction issues.

**With regard to the Irish land border, how real is that the present 'soft border' arrangements will be undermined by Brexit?**

7. Now that the UK has voted to leave the European Union, the border between Northern Ireland and the Republic of Ireland is the only land border between the two areas.
8. During his evidence session to the Lords Select Committee on 6 September 2016, the Irish Ambassador, His Excellency Dan Mulhall, spoke of the importance of preserving the current, open border arrangements and of the need for the UK and Irish Governments to work together to avoid any impositions of a hard border.<sup>98</sup>

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<sup>97</sup><http://foundation4peace.org/projects/survivors-assistance-network-san/>

<sup>98</sup><http://parliamentlive.tv/Event/Index/ba240a2f-f553-460f-a239-b8704f0bcd39>



9. A few months prior to the referendum in November 2015, in an article entitled *How Brexit could destabilise the Irish peace process*, Professor Cathal McCall, a senior research fellow at Queen's University Belfast whose key research interest is the relationship between border reconfiguration and conflict transformation within and beyond the European Union, wrote in the Guardian newspaper:

*For some British politicians there are no obvious objections to hardening the Irish border. For example, Ukip's deputy leader, Paul Nuttall, has remarked, "If there's a hard [Irish] border, there's a hard border. I wouldn't have a problem if there was one." Finding someone who shares that view in Ireland is a hard task, however.<sup>99</sup>*

10. Professor McCall went on to discuss the vital importance of a soft, open Irish border to the peace process and warned of the dangers of hardening the border in the event of Brexit. He stated:

*Few British Eurosceptics seem to be aware of how fulfilling their aim in relations with the EU could reignite a conflict much closer to home. They do not take the Irish peace process into account, either because they can't see it or don't want to see it. In the absence of de facto control over the borders of the Republic of Ireland through a "British Isles" border security regime, it does not seem plausible that a post-Brexit Conservative government could entertain the continuation of an open Irish border.<sup>100</sup>*

11. In July 2016, on her first visit to the region as prime minister for talks with the deputy first minister, Martin McGuinness of Sinn Féin, and Arlene Foster, the first minister and Democratic Unionist party leader, May tried to alleviate concerns about a fortified frontier between Northern Ireland and the Republic of Ireland (having previously stated as home secretary during the referendum campaign that it was inconceivable that border arrangements between the two could remain unchanged in the event of a Brexit vote.) During these talks the prime minister insisted that peace and stability in the region was her "highest priority".<sup>101</sup>

12. The Foundation believes that the current border arrangements are of vital importance to the peace process and must be safeguarded. We are in agreement that we must avoid any impositions of a hard border and that the UK and Irish Governments must work together on this issue.

### **How can effective North-South relations on the island of Ireland be maintained and enhanced during Brexit?**

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<sup>99</sup> <https://www.theguardian.com/commentisfree/2015/nov/03/brexit-irish-peace-process-british-eurosceptics-uk-borders>

<sup>100</sup> <https://www.theguardian.com/commentisfree/2015/nov/03/brexit-irish-peace-process-british-eurosceptics-uk-borders>

<sup>101</sup> <http://www.ft.com/cms/s/0/bf8a7f30-519a-11e6-befd-2fc0c26b3c60.html#axzz4KtbtMi5P>

13. There can be no doubt that Brexit poses significant and unique challenges and implications for Anglo-Irish relations and for North-South relations. During his evidence session to the Lords Select Committee on 6 September 2016, the Irish Ambassador, His Excellency Dan Mulhall, spoke of the unique circumstances that will apply to Northern Irish citizens when the UK eventually leaves the EU, in that residents of Northern Ireland will be entitled to citizenship of an EU country, while being resident in a country outside the EU.<sup>102</sup>
14. For the Irish Government and those of us working within communities, North-South relations post Brexit are a real concern. We are particularly concerned about anything likely to heighten tension between communities. Speaking in July 2016 in the wake of the referendum result, Ireland's Foreign Affairs and Trade Minister, Charlie Flanagan, spoke of "the sense of disquiet now felt by many people in Northern Ireland at the prospect of the loss of their connection to the European Union"<sup>103</sup>
15. Speaking in November 2015, prior to the referendum result, Irish Prime Minister Enda Kenny said that the European Union had been an "important, perhaps underestimated, enabler of peace in Northern Ireland." He said: "It was instrumental in facilitating constructive contact and building trust between our Governments to find a political settlement."<sup>104</sup> The Irish Ambassador, His Excellency Dan Mulhall, highlighted North-South relations as a primary concern post-Brexit and referred to his concerns around Brexit being "most acute" in relation to Northern Ireland.<sup>105</sup>
16. The British public has now voted to leave the European Union and as the details of our exit begin to be negotiated and discussed, the importance of preserving the current, border arrangements and their benefit to community relations and ongoing role in the peace process is something of primary concern to The Foundation, particularly given our history and origins and ongoing work.
17. The Foundation exists to facilitate peaceful co-existence and we believe that addressing the causes of violence before, during and after conflict situations is the most effective way possible to promote peace. Our founders, Colin and Wendy Parry, did something remarkable in starting The Foundation. Out of devastating circumstances all too familiar to families who had suffered from years of violence waged by warring

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<sup>102</sup><http://parliamentlive.tv/Event/Index/ba240a2f-f553-460f-a239-b8704f0bcd39>

<sup>103</sup><http://www.independent.ie/breaking-news/irish-news/eu-will-be-sensitive-to-irelands-invisible-border-fears-34871381.html>

<sup>104</sup><http://www.telegraph.co.uk/news/politics/11983238/George-Osborne-secures-30pc-cuts-at-four-government-departments-live.html>

<sup>105</sup><http://parliamentlive.tv/Event/Index/ba240a2f-f553-460f-a239-b8704f0bcd39>

Republicans and Loyalists alike, the Parrys, alongside the parents of Johnathan Ball, turned their grief and pain into a lasting memorial for the two young boys and into a progressive and proactive peacebuilding movement. The murders of these two innocent boys were widely seen as marking a turning point in the conflict and a significant, contributing factor to the growing consensus that resolution and peace in the region must be urgently sought.

18. The peace process in Northern Ireland has been receiving financial support from the EU since 1989, through both EU regional policy and EU contributions to the International Fund for Ireland (IFI). The purpose of the EU PEACE programme is to support peace and reconciliation and to promote economic and social progress in Northern Ireland and the Border Region of Ireland. A new programme (PEACE IV) was launched on 14 January 2016, with a strong emphasis on creating opportunities for young people. It has provided opportunities for participation and dialogue and brought decision-making and responsibility for community development closer to the people. The programme has funded a wide range of projects, including projects to support victims and survivors, young people, small business enterprises, infrastructure and urban regeneration projects, as well as projects in support of immigrants and of celebrating the ethnic diversity of society as a whole.<sup>106</sup>

19. Given that EU funding has been a significant contributor to these programmes, their financial future post-Brexit is a concern. The Foundation believes that PEACE IV has been pivotal in transforming Northern Ireland and the conflict and that it must be sustained and built upon. The funding gap for the East West dimension of peace and reconciliation remains and this must also be addressed, despite jurisdiction issues.

29 September 2016

Tourism Ireland, Institute of International and European Affairs and Economic and Social Research Institute – Oral evidence (QQ 100-107)

**Tourism Ireland, Institute of International and European Affairs and Economic and Social Research Institute – Oral evidence (QQ 100-107)**

[Transcript can be found under Economic and Social Research Institute](#)

Ulster Unionist Party, Alliance Party and SDLP– Oral evidence (QQ 76-84)

**Ulster Unionist Party, Alliance Party and SDLP– Oral evidence (QQ 76-84)**

[Transcript can be found under Alliance Party](#)

Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union and Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland – Oral evidence (QQ 13-32)

**Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union and Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland – Oral evidence (QQ 13-32)**

[Transcript can be found under Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland](#)

**Professor Derrick Wyatt QC, Brick Court Chambers, Emeritus Professor of Law, Oxford University – Written evidence (BUI0001)**

**With regard to the Irish land border, how real is that the present 'soft border' arrangements will be undermined by Brexit?<sup>107</sup>**

1. It is possible that the present 'soft border' arrangements will be undermined by Brexit, but not inevitable. In my view the greatest possible efforts should be made to avoid that outcome. It should be added that systematic and effective policing of the entire Irish border with the UK is simply impossible.
2. A **close to certain feature** is an agreement on free trade in goods, in which free trade is however **confined to goods originating in the UK or the EU**. That is the pattern for the EU's free trade agreements, including those with the EFTA countries, Norway et al. It follows that **originating goods have to be distinguished from non-originating goods**, and non originating goods are likely to be subject to whatever **external tariff** is applied by the UK and EU respectively.
3. That means that Irish exports of goods to the UK will either qualify for free trade on the basis of proportion of Irish content, or will face duties at the rate of the UK's external tariff. Any waiver of these requirements at the border between Ireland and Northern Ireland would circumvent the UK's external border for imports of Irish goods and such non qualifying goods from other EU countries into the UK.
4. And the same would be the case in the other direction. UK exports of goods to Ireland will either qualify for free trade on the basis of proportion of UK content, or will face duties at the rate of the common external tariff. Any waiver of these requirements at the border between Ireland and Northern Ireland would circumvent the EU's external border for UK goods, and such non qualifying goods imported into the UK from third countries into the EU via Northern Ireland.
5. This would mean that the issue of border checks on goods would not solely be a matter for agreement between Ireland and the UK; the **EU Commission would need to be satisfied by Ireland** that it was applying and enforcing the EU-UK trade agreement, and the common external tariff, correctly. **This would seem to make it inevitable to introduce customs checks of one sort or another on trade between Ireland and Northern Ireland, but with the emphasis on "of one sort or another"**.
6. This would be quite separate and distinct from the issue of passport checks, which I shall address shortly. There is a general analogy which might be made and which might assist.

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<sup>107</sup> This evidence draws on a lecture I gave in May 2016 to the Irish Centre for European Law in Dublin, and on assistance I provided to Full Fact (the UK's independent Factchecking charity) which published a briefing on the subject <https://fullfact.org/europe/eu-referendum-and-irish-border/>

## **IT IS WITH THE BORDER BETWEEN SWEDEN AND NORWAY**

7. EU Member State Sweden and non EU Member State Norway are members of the Schengen area, so there are no passport checks. But there are customs checks. Norway is part of the EEA and is part of the single market but NOT part of the customs union. Trade is confined to originating products between Norway and the EU, and non-originating products are subject to the common external tariff. **FOR THESE REASONS THERE ARE CUSTOMS CHECKS BETWEEN NORWAY AND SWEDEN.** They are spot checks, however, and do not involve the checking of all vehicles.<sup>108</sup>

## **CUSTOMS CHECKS AROUND THE NORTH/SOUTH BORDER MIGHT HOWEVER BE FAIRLY LIGHT TOUCH**

8. Such checks could be spot checks and need not take place **at** the border. The existence of personal exemptions from the common external tariff could facilitate **private cars** entering Ireland being exempted from systematic checks. It might be possible to use mobile check points, and thus to avoid fixed check points for the monitoring of private cars.

9. Vans and lorries carrying imports could be required to attend a customs depot in Ireland, which need not be at the border, and spot checks of commercial vehicles in the vicinity of the border might be a feasible deterrent against evasion. Online facilities for recording transit of goods might also be used to mitigate the lack of border checks.

10. The approach on the UK side of the border could be the same.

11. There would no doubt be close cooperation between the Irish authorities and the UK authorities, to ensure the effectiveness of such an approach on each side of the border.

12. My general conclusion as regards the transit of goods, is that customs checks of one or sort of another would become necessary. These checks would not need to take place at the border, and need not lead to delays at the border for private cars or commercial vehicles.

13. I would add the rather obvious point that attempts at comprehensive monitoring of the north/south border would be difficult and costly in practice.

## **THE OTHER ISSUE WHICH MUST BE ADDRESSED CONCERNS PASSPORT CHECKS. WOULD THESE BECOME NECESSARY IN THE EVENT OF BREXIT?**

14. First, a few words about **the status quo in the common travel area**. There are of course **no passport checks**.

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<sup>108</sup> Customs checks are sporadic along the Norway/Sweden border. Cars are not usually forced to stop. See Open Europe, *How Might the Effect of Brexit on Ireland Northern Ireland be Managed* <http://openeurope.org.uk/today/blog/how-might-the-impact-of-brexit-on-ireland-and-northern-ireland-be-managed/>



Professor Derrick Wyatt QC, Brick Court Chambers, Emeritus Professor of Law, Oxford University – Written evidence (BUI0001)

15. This suggests that anybody entering the UK must also be entitled to enter Ireland, and vice versa. This is largely true, but not completely true.

16. First, there is the problem of **illegal immigrants** in the UK and Ireland using the common travel area to secure entry to Ireland, or the UK, as the case may be.

17. Secondly, legal entrants to Ireland are not necessarily legal entrants to the UK, and vice versa.

18. All EU nationals are entitled to travel, reside and work in both Ireland and the UK. **But UK and Irish visa requirements for nationals of third countries are not identical.** It is possible for a person to have a visa to visit the UK, without being eligible to visit Ireland. In practice such a person might find it possible to enter Ireland from Northern Ireland.

19. In other words, the common travel area is a potential means of evading the immigration rules of both the UK and Ireland.

20. This is currently addressed by "**Operation Gull**", a UK/Ireland initiative operating on both sides of the border, and designed to address abuse of the common travel area by those seeking illegal entry to the UK or Ireland.

21. Methods used include the interviewing of suspected persons at airports and ports in the UK including Northern Ireland. According to the UK Border Agency

*"Immigration officers in Northern Ireland check the status of passengers arriving from, or leaving for, Great Britain targeting routes shown to be most at risk."*

22. Passports are not required on transit between Northern Ireland and Great Britain but airlines and ferry operators require photo ID which facilitates the checking of the status of passengers on these routes.

23. In 2008 a British government proposal to introduce passport checks for those who fly from Belfast to the rest of the UK was dropped after strong opposition from Conservatives and Ulster Unionists.

<http://www.theguardian.com/uk/2009/jan/15/uk-irish-republic-border-passports>

24. On the Irish side, there are reports of Irish police setting up checkpoints in the vicinity of the border and detaining illegal entrants who have crossed the border from Northern Ireland.

25. The potential of Operation Gull to deal with any significant increase in potential cross border illegal movement is not clear. There has been criticism of Operation Gull on the UK side by human rights groups. It has been accused of racial profiling in its identification of individuals selected for interview in UK ports and airports. The UK authorities do not accept that this is the case. Techniques used on the UK side to identify and interview suspect travellers at airports and ports in Northern Ireland and elsewhere in the UK lack the transparency of border passport checks.

Professor Derrick Wyatt QC, Brick Court Chambers, Emeritus Professor of Law, Oxford University – Written evidence (BUI0001)

26. But there is no doubt that action taken, for example, to interview travellers between Northern Ireland and the rest of the UK are a kind of surrogate passport check, designed to compensate for unauthorised transit across the border between the UK and Ireland.

27. Will Brexit change the position? It might. If it generated enough additional illegal cross-border movement to outstrip the capabilities of Irish/UK cooperation within the framework of Operation Gull. The UK might seem to be faced with a choice - introduce passport checks at the Irish border, or introduce passport checks between Northern Ireland and the rest of the UK. I doubt either of these options would be embraced. Every effort would be made to maintain the status quo.

28. At the moment nationals of all EU Member States are entitled to enter the UK, for purposes of tourism, business, work and residence. After Brexit it likely that this universal entitlement would come to an end, but nationals of EU Member States might still be entitled to *enter* the UK **if the UK did not require visas for short stays for tourism and business purposes.**

29. If the UK post-Brexit were to require visas even for short visits by the nationals of some EU countries, the open border between Ireland and the UK would put strains on the Operation Gull approach. For that reason I think it highly likely post Brexit that the UK will allow visa free travel for short visits for all nationals of all EU countries, whatever restrictions are placed on the rights of nationals of EU countries to live and work in the UK.

7 September 2016