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European Union Committee

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6th Report of Session 2016–17

# **Brexit: UK-Irish relations**

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Evidence is published online at [www.parliament.uk/brexit-uk-irish-relations](http://www.parliament.uk/brexit-uk-irish-relations) and available for inspection at the Parliamentary Archives (020 7129 3074).

Q in footnotes refers to a question in oral evidence.

## SUMMARY

The United Kingdom and Ireland have a special set of historical, geographical, economic, social and cultural ties. It is a unique relationship, turbocharged in recent years by an unprecedented degree of friendship as the Northern Ireland peace process has advanced. This relationship has as one of its foundations—though not its only one—the UK and Ireland’s common membership of the EU.

The implications of Brexit for Ireland are therefore more profound than they are for any other Member State. Brexit gives rise to a series of complex and interconnected questions, affecting UK-Irish relations, Northern Ireland, and North-South relations on the island of Ireland. Yet these issues are often overlooked on the British side of the Irish Sea.

In this report, we therefore draw attention to: the serious economic implications of Brexit for Ireland, North and South; the consequences for the Irish land border of potential restrictions to the free movement of goods and people; the implications for the Common Travel Area (CTA) and for the special status of UK and Irish citizens in each other’s countries, including the right of people born in Northern Ireland to Irish (and therefore EU) citizenship; the potential impact on political stability in Northern Ireland; and the challenge to the institutional structure for North-South cooperation on the island of Ireland, and East-West relations between the UK and Ireland, established under the Belfast/Good Friday Agreement.

In order to ensure that these issues receive the attention they deserve, all parties to the negotiations need to give official recognition to the special, unique nature of UK-Irish relations in their entirety, including the position of Northern Ireland, and the North-South and East-West structure and institutions established under the Belfast/Good Friday Agreement.

We do not underestimate the legal and institutional difficulties of translating such recognition into a final agreement. Yet the unique nature of UK-Irish relations necessitates a unique solution. The best way to achieve this would be for the EU institutions and Member States to invite the UK and Irish Governments to negotiate a draft bilateral agreement, involving and incorporating the views and interests of the Northern Ireland Executive, while keeping the EU itself fully informed. Such an agreement would then need to be agreed by EU partners, as a strand of the withdrawal agreement.

Key objectives of any bilateral negotiation should include: maintenance of the current open land border between the UK and Ireland, as well as of the ease of movement across the sea boundary between Northern Ireland and the rest of the UK; maintenance of the current Common Travel Area arrangements, and the right of free movement of UK and Irish citizens between the jurisdictions; maintenance of the right of UK and Irish citizens to reside and work in each other’s countries; the retention of rights to Irish (and therefore EU) citizenship for the people of Northern Ireland; in the event that the UK leaves the customs union, a customs and trade arrangement between the two countries, subject to the agreement of the EU institutions and Member States; acceptance of the Northern Ireland Executive’s right to exercise devolved powers in making decisions about the free movement of EU workers within its jurisdiction; reaffirmation by both governments of their commitment to the Belfast/Good

Friday Agreement and subsequent agreements, including continued support for existing cross-border cooperation; and continued eligibility for cross-border projects to EU funding programmes.

The EU has a strong interest in supporting this approach. It has made a significant political and financial contribution to the peace process, and it is not in the EU's interests, any more than of the UK and Ireland, for political stability in Northern Ireland to be put at risk by Brexit. The EU will also be particularly cognisant of the asymmetric burden that Brexit would place on Ireland, which has made clear that its future lies in the EU.

We welcome the Irish Government's strenuous efforts to ensure that EU colleagues are informed about the unique circumstances in the island of Ireland, and the particular challenges of Brexit.

But the primary responsibility for drawing attention to and finding solutions to these issues lies with the UK Government. Ireland now faces challenges that are not of its own making. Closer UK-Irish relations and stability in Northern Ireland must not be allowed to become 'collateral damage' of Brexit.

# Brexit: UK-Irish relations

## CHAPTER 1: INTRODUCTION

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### Overview

1. The implications of the 23 June referendum result for UK-Irish relations are often overlooked, at least on this side of the Irish Sea. Yet the consequences of Brexit are highly significant, not only for the Republic of Ireland, Northern Ireland and North-South relations between the two,<sup>1</sup> but for the totality of relationships across these islands. Indeed, Taoiseach Enda Kenny has described the UK's vote to withdraw from the EU as “arguably the greatest economic and social challenge for this island in fifty years.”<sup>2</sup>
2. This report seeks to draw attention to the implications in key areas such as the Irish economy; cross-border trade; the Irish land border and the Common Travel Area; policing and security cooperation; the future of the Northern Ireland peace process; and North-South and East-West relations.

### This report

3. The United Kingdom and Ireland have a special set of historical, geographical, economic, social and cultural ties. While the relationship has not historically been a smooth one, it is, in the words of both the UK and Irish Governments, unique, and it has been turbocharged in recent years by an “unprecedented degree of friendship” as the Northern Ireland peace process has advanced.<sup>3</sup> This friendship, symbolised in recent years by the successful reciprocal state visits of the Queen and the President of Ireland, has as one of its foundations—though not its only one—the UK and Ireland's common membership of the EU.
4. The implications of the UK's decision to leave the EU are therefore more profound for Ireland than for any other EU Member State. Brexit gives rise to a series of complex and interconnected questions. What will be the economic consequences for cross-border trade and economic activity? Can the current soft border arrangements be retained in their entirety? What are the implications for the Common Travel Area? What will the impact be on the institutional framework for North-South and East-West cooperation, established under the Belfast/Good Friday Agreement?<sup>4</sup> And, perhaps most importantly of all, what needs to be done to ensure that the Northern Ireland peace process remains on track?
5. For it is in Northern Ireland that, arguably, the consequences of the Brexit vote are thrown into sharpest relief. Of all the nations and regions of the UK,

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1 The population of the Republic of Ireland was estimated at its 2016 census as 4.76 million. The population of Northern Ireland is estimated by the Northern Ireland Statistics and Research Agency to be 1.86 million.

2 Enda Kenny, Irish Times Brexit Summit keynote address (7 November 2016): [http://www.taoiseach.gov.ie/eng/News/Taoiseach's\\_Speeches/Keynote\\_address\\_by\\_the\\_Taoiseach\\_Irish\\_Times\\_Brexit\\_Summit\\_7\\_November\\_2016\\_Westin\\_Hotel\\_Dublin.html](http://www.taoiseach.gov.ie/eng/News/Taoiseach's_Speeches/Keynote_address_by_the_Taoiseach_Irish_Times_Brexit_Summit_7_November_2016_Westin_Hotel_Dublin.html) [accessed 16 November 2016]

3 Q 3 (Ambassador Dan Mulhall); Q 13 (James Brokenshire MP)

4 John Bruton reminded us of the political sensitivity around certain phrases in the context of UK-Irish relations (Q 124). We have, wherever possible, sought to use what we understand to be accepted politically neutral terminology, save where we quote witnesses, where we seek to reflect the terminology that they used.

the economic implications of Brexit are greatest for Northern Ireland, not least because of the significant level of EU funding it receives, and the high volume of cross-border trade and economic cooperation with the Republic. Yet the social and political implications are equally significant, not least given that 56% of votes cast in the referendum in Northern Ireland were for ‘remain’. The British and Irish Governments are co-guarantors of the Belfast/Good Friday Agreement, which presumes that they are “partners in the European Union”.<sup>5</sup> Under that agreement, people born in Northern Ireland are entitled to Irish citizenship, which would make Northern Ireland unique, post-Brexit, as the only jurisdiction outside the EU where citizens were entitled to EU citizenship. The uncertain impact of Brexit on these issues threatens to disrupt the fragile political stability now seen in Northern Ireland.

6. Yet there is a pervasive sense that, while these issues are high on the agenda in Dublin and Belfast, they are not receiving the attention they deserve in London, Brussels or other EU capitals. The former Irish Taoiseach and EU Ambassador to the USA, John Bruton, expressed regret at the failure to address this issue during the referendum campaign:

“The impact on Ireland was virtually ignored, apart from a few interventions from the Prime Minister ... 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 consequences of failing to deal with certain underlying grievances for innocent people.”<sup>6</sup>

7. We share Mr Bruton’s regret at the lack of attention given to the implications of Brexit for Ireland. The Irish Government and people remain committed to EU membership, and, aside from attempting to inform the debate and encourage Irish citizens resident in the UK to vote, had no power over its outcome. We also regret the lack of attention given to the impact of Brexit on East-West relations between the UK and Ireland, and between Northern Ireland and the rest of the UK. We have therefore undertaken this inquiry in order to give the impact of Brexit on UK-Irish relations and on Ireland, North and South, the attention it deserves.
8. We heard evidence in London from the Ambassador of Ireland to Great Britain, His Excellency Dan Mulhall; the Secretary of State for Northern Ireland, Rt Hon James Brokenshire MP, and Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union (DExEU); and from former Irish Taoisigh John Bruton and Bertie Ahern. We also visited Belfast and Dublin, where we heard evidence from politicians, academics, think-tanks, economists, business, trade union and sectoral representatives, and those engaged in cross-border cooperation and engagement. While

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5 The Belfast Agreement, *Agreement reached in the multi-party negotiations* (10 April 1998): [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) [accessed 28 November 2016]



in Dublin, we also met the British Ambassador to Ireland, His Excellency Robin Barnett.

9. It did not prove possible while in Belfast to meet members of the Northern Ireland Executive. We were, though, grateful for the opportunity to exchange views informally with members of all the main parties represented on the Northern Ireland Assembly Committee on the Executive Office, and to participate in separate informal meetings with Democratic Unionist Party (DUP) and Sinn Féin MPs in London. In addition, we held an informal meeting in Dublin with members of the Oireachtas Committees on European Affairs and on the Implementation of the Good Friday Agreement. We also received a number of written submissions from interested parties. We are grateful to all our witnesses for their assistance.
10. This report is intended to inform and influence the UK Government's consideration of issues affecting Ireland as it forms its Brexit negotiating position. We trust that it will prove useful for ministers, officials, parliamentarians and other stakeholders not only in London, but also in Belfast, Dublin, and colleagues in the EU institutions and other Member States. The importance of closer UK-Irish relations and stability in Northern Ireland transcend the referendum result, and are too important to put at risk as collateral damage of the Brexit decision.

#### **The work of the EU Committees**

11. Following the referendum on 23 June 2016, the European Union Committee and its six sub-committees launched a coordinated series of short inquiries, addressing the most important cross-cutting issues that will arise in the course of negotiations on Brexit. The pace of events means that these inquiries will be short, but with this constraint, we are seeking to outline the major opportunities and risks that Brexit presents to the United Kingdom.
12. Our inquiries are running in parallel with the work currently being undertaken across Government, where departments are engaging with stakeholders, with a view to drawing up negotiating guidelines. But while much of the Government's work is being conducted behind closed doors, our aim is to stimulate informed debate, in the House and beyond, on the many areas of vital national interest that will be covered in the negotiations. As far as possible we aim to complete this work before March 2017.
13. **We make this report to the House for debate.**

## CHAPTER 2: THE ECONOMIC IMPLICATIONS

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### Current UK-Irish trade relations

14. The scale of the UK-Irish economic and trading relationship is significant. John McGrane, Director General of the British Irish Chamber of Commerce, said that it accounted for €60 billion a year in two-way trade and directly supported 400,000 jobs.<sup>7</sup> Even though the Chairman of Allied Irish Bank PLC, Richard Pym, highlighted that the share of Irish exports going to the UK had declined from 50% in 1973 to around 17% today,<sup>8</sup> Dan O'Brien, Chief Economist, Institute of International and European Affairs (IIEA), was clear that the UK was still hugely significant to Ireland's economy.<sup>9</sup>
15. The Secretary of State for Northern Ireland pointed out that Ireland represented the fifth largest market for UK goods overall and the largest for Northern Ireland's exports.<sup>10</sup> Office for National Statistics figures show that in 2014 5% of total UK exports (worth £28 billion) went to Ireland, while 3% of UK imports (worth £17 billion) came from Ireland.<sup>11</sup> The Irish Department of Finance's analysis notes that the UK is the source of almost 30% of imported merchandise to Ireland.<sup>12</sup>
16. Since the referendum in June, concerns have been raised that these close bilateral trade links will be affected by Brexit, with implications for the Irish economy, North and South, and particularly for the significant level of cross-border economic integration on the island.

### The economic implications for Ireland

17. John Bruton argued that, given the volume of trade between the two nations, the effect of Brexit was "bound to be negative",<sup>13</sup> not least given the economic uncertainty already resulting from the referendum.<sup>14</sup> Mr Bruton also noted the difficulty of assessing the long-term impact on Ireland without knowing the terms of the UK's withdrawal agreement with the EU and what, if any, trade barriers will be erected post-Brexit.<sup>15</sup> Richard Pym was also concerned that such uncertainty might deter investment.<sup>16</sup>
18. In its report 'Getting Ireland Brexit Ready', the Irish Department of Finance predicts that, whatever trade deal is ultimately reached with the EU, the UK's future GDP will be lower than if it had remained an EU member.<sup>17</sup>

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7 [Q 108](#)

8 [Q 112](#)

9 [Q 100](#)

10 [Q 13](#)

11 As referenced in House of Lords Library, *Leaving the European Union: The UK and Ireland*, Library Note, [LLN 2016/060](#), November 2016

12 Irish Government Department of Finance, *Getting Ireland Brexit Ready: Budget 2017* (October 2016): [http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready\\_final.pdf](http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready_final.pdf) [accessed 15 November 2016]

13 [Q 121](#)

14 [Q 130](#)

15 [Q 121](#)

16 [Q 112](#)

17 Irish Government Department of Finance, *Getting Ireland Brexit Ready: Budget 2017* (October 2016): [http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready\\_final.pdf](http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready_final.pdf) [accessed 15 November 2016]

The report suggests that the extent of these losses passing through to the Irish economy is “likely to be material.”<sup>18</sup>

19. While the accuracy of economic projections on the impact of Brexit are a matter of contention, we note that most show that, were there to be a negative impact upon the UK economy, it would be replicated, and in some scenarios amplified, in respect of the Republic of Ireland. Edgar Morgenroth, Associate Research Professor, Economic and Social Research Institute (ESRI), suggested that the negative impact on Ireland’s GDP of Brexit would be “somewhere between 2% and 4% relative to base.”<sup>19</sup> John Bruton shared this concern, noting that Ireland could experience an even greater economic impact from Brexit than the UK itself.<sup>20</sup> Modelling by the Bertelsmann Foundation suggests that Ireland stands to suffer the greatest loss to GDP of all other Member States, and perhaps even greater than the UK, depending on the terms of Brexit.<sup>21</sup>

### *Agri-food*

20. Agriculture is Ireland’s largest indigenous sector,<sup>22</sup> with agri-food and drink accounting for 12.3% of exports (worth €10.8 billion in 2015), 8.6% of total employment and 7.6% of economy-wide gross value added.<sup>23</sup>
21. Ambassador Mulhall noted that, for this sector, “Britain is the most important market.”<sup>24</sup> Indeed, more than 40% of Irish agri-food and drink exports go to the UK market, compared with 31% to the rest of the EU and 28% to international markets.<sup>25</sup> Bryan Barry, Acting General Secretary, Irish Farmers’ Association, highlighted specific sub-sectors where the UK market accounted for an even greater share of exports, including beef at 50%, cheese at 60%, and mushrooms at 90%. He argued this dependence made the sector Ireland’s “most exposed” should trade with the UK be negatively affected by Brexit.<sup>26</sup>
22. The Irish Department of Finance analysis estimates a multiplier of 1.5 on the wider economy, meaning that if it were “to suffer a demand shock of €1 million, an additional €500,000 shock would hit the wider economy”.<sup>27</sup> With Teagasc (the Irish Agriculture and Food Development Authority) projecting

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18 Irish Government Department of Finance, *Getting Ireland Brexit Ready: Budget 2017* (October 2016): [http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready\\_final.pdf](http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready_final.pdf) [accessed 15 November 2016]

19 [Q 103](#)

20 [Q 121](#)

21 Bertelsmann Stiftung, *Brexit: potential economic consequences if the UK exits the EU* (May 2015): [https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/Policy-Brief-Brexit-en\\_NW\\_05\\_2015.pdf](https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/Policy-Brief-Brexit-en_NW_05_2015.pdf) [accessed 16 November 2016]

22 The Irish Farmers’ Association, *The Value of Agriculture at County Level: IFA Estimate, 2016* (September 2016): <http://www.ifa.ie/wp-content/uploads/2014/08/Value-of-Agriculture.pdf> [accessed 17 November 2016]

23 Bord Bia, ‘Factsheet on the Irish Agriculture and Food & Drink Sector’: <http://www.bordbia.ie/industry/buyers/industryinfo/agri/pages/default.aspx> [accessed 17 November 2016]

24 [Q 12](#)

25 Bord Bia, ‘Factsheet on the Irish Agriculture and Food & Drink Sector’: <http://www.bordbia.ie/industry/buyers/industryinfo/agri/pages/default.aspx> [accessed 17 November 2016]

26 [Q 112](#)

27 Irish Government Department of Finance, *Getting Ireland Brexit Ready: Budget 2017* (October 2016): [http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready\\_final.pdf](http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready_final.pdf) [accessed 15 November 2016]

annual losses of between €150 million and €800 million in agri-food export value<sup>28</sup> as a result of Brexit, the multiplier effect could be significant.

23. Richard Pym warned that, if the UK moved to trading with EU countries on World Trade Organisation (WTO) terms following Brexit, some WTO agricultural tariffs would reach 60–70%. Given the centrality of agriculture to the Irish economy, Ireland thus stood to be among the “worst hit by WTO terms”.<sup>29</sup> The forthcoming report by our EU External Affairs and Internal Market Sub-Committees into *Brexit: the options for trade* considers in more detail the matter of WTO trade terms, as well as, more generally, all the different possible trade arrangements and their implications for trade between the UK and the EU.<sup>30</sup>
24. Witnesses also highlighted the impact of the depreciation of Sterling following the referendum result, particularly on the Irish mushroom sector, which, as indicated above, depends heavily on the UK market. Shane Campbell, CEO of the Irish Central Border Area Network (ICBAN), told us that, constrained by contracts based on the value of the pound at the start of 2016, mushroom businesses had been unable to adapt, and their traditionally tight profit margins had been “wiped out”.<sup>31</sup> A recent report in *The Guardian* claimed that six (out of 60) mushroom farmers had gone out of business since the referendum<sup>32</sup>—though Edgar Morgenroth suggested that, given the narrow margins of the industry, mushroom businesses had always opened and closed depending on the favourability of the exchange rate.<sup>33</sup>
25. Bryan Barry told us that the Irish beef industry (employing 80,000–100,000 people) had also been hit by the sudden and sustained depreciation of Sterling.<sup>34</sup> He and Declan Billington, Chair of the Northern Ireland Food and Drink Association (NIFDA), noted that diversification away from the UK market would be challenging, both because of the time lag in indigenous industries being able to expand to meet demand,<sup>35</sup> and because of the lower prices in the continental market.<sup>36</sup>
26. A number of witnesses also commented on the potential impact on Ireland of future UK trade policy. Dan O’Brien suggested that any future UK trade deals that reduced tariffs on beef and dairy from Latin America and New Zealand could “decimate” Ireland’s agri-food sector.<sup>37</sup> In light of these concerns, many witnesses highlighted the vital importance of maintaining

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28 Teagasc Agriculture and Food Development Authority, *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016): <https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf> [accessed 16 November 2016]

29 [Q 112](#). Tariffs are taxes or duties which are applied to imports or exports, while non-tariff barriers are all barriers to trade that are not tariffs, usually bureaucratic or legal issues that can hinder trade between countries. HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: the Single Market* (July 2013) p20: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227069/2901084\\_SingleMarket\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227069/2901084_SingleMarket_acc.pdf) [accessed 1 November 2016].

30 Forthcoming report by our EU External Affairs and Internal Market Sub-Committee on *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72)

31 [Q 73](#)

32 Henry McDonald, ‘Weak sterling puts Irish mushroom farmers in the shade’, *The Guardian* (12 November 2016): [https://www.theguardian.com/business/2016/nov/12/plunging-pound-puts-irish-mushroom-farmers-in-the-shade?CMP=share\\_btn\\_link](https://www.theguardian.com/business/2016/nov/12/plunging-pound-puts-irish-mushroom-farmers-in-the-shade?CMP=share_btn_link) [16 November 2016]

33 [Q 106](#)

34 [Q 112](#)

35 [Q 49](#)

36 [Q 112](#)

37 [Q 100](#)

“as free as possible market access to the UK ... with the minimisation of any barriers to trade”.<sup>38</sup>

*SMEs and indigenous firms*

27. There was general agreement that Ireland’s indigenous (Irish-owned) firms—mostly small and medium sized enterprises (SMEs)—were particularly vulnerable to the effects of Brexit. Ambassador Mulhall told us that Irish SMEs were heavily reliant on the UK market for exports, and were thus in a “more sensitive or exposed position from Brexit”.<sup>39</sup>
28. This is supported by the Irish Department of Finance’s assessment, which, after food and beverages, identified electrical equipment and other manufacturing sectors as most at risk. These sectors are largely made up of Irish-owned SMEs, who are significant regional employers but with comparatively low profit levels. The UK provides a market for 26–36% of the sectors’ total exports; they also source 30–47% of their imported intermediate goods from the UK.<sup>40</sup>
29. Patricia King, General Secretary of the Irish Congress of Trade Unions (ICTU), agreed that tight margins put Irish SMEs at particular risk from Brexit, as they were less able to absorb shocks.<sup>41</sup> Pat Ivory, Director of EU and International Affairs, Ibec, asserted that this could have an impact on Irish regions already struggling to recover from the recent economic downturn.<sup>42</sup>
30. The Irish Department of Finance has also noted that profit margins make it difficult for Irish SMEs to diversify away from the UK market, given the lower “fixed costs associated with exporting to the UK ... due to a shared language, legal system and culture.”<sup>43</sup> Dan O’Brien even suggested that, if Brexit threw up significant trade barriers, Irish companies dependent on the UK market would, rather than diversify, be more likely to “relocate at least part of their operations over those barriers into the UK”.<sup>44</sup>

*Financial services, hi-tech and multinational firms*

31. In contrast to the sectors we have discussed hitherto, the Irish financial services sector could stand to benefit from the UK’s decision to leave the EU. Dan O’Brien commented on the general “scramble for investment from the City” involving numerous countries, including Ireland, since the referendum result. Ireland could in fact benefit if trade barriers prompted large-scale disinvestment from London.<sup>45</sup>
32. Professor John O’Brennan, Jean Monnet Professor of European Integration, NUI Maynooth, agreed that the International Financial Services Centre in Dublin could be a “big beneficiary”<sup>46</sup> of Brexit. On the other hand, Richard

38 See for instance [Q 112](#) (Bryan Barry)

39 [Q 12](#)

40 Irish Government Department of Finance, *Getting Ireland Brexit Ready: Budget 2017* (October 2016): [http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready\\_final.pdf](http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready_final.pdf) [accessed 15 November 2016]

41 [Q 110](#)

42 [Q 110](#)

43 Irish Government Department of Finance, *Getting Ireland Brexit Ready: Budget 2017* (October 2016): [http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready\\_final.pdf](http://www.budget.gov.ie/Budgets/2017/Documents/Getting%20Ireland%20Brexit%20Ready_final.pdf) [accessed 15 November 2016]

44 [Q 102](#)

45 [Q 102](#)

46 [Q 96](#)

Pym said that Dublin’s limited infrastructure and shortage of housing might deter financial firms from relocating there. Nevertheless, even the removal of 20,000–30,000 jobs (a relatively small proportion of the total) from London to Ireland would be “extremely valuable to the economy”.<sup>47</sup>

33. John McGrane suggested that Ireland could also be an attractive destination for the technology sector, where companies were looking to ensure continued access to the EU Single Market.<sup>48</sup> Ireland’s position as an English-speaking EU Member State, with a similar cultural and legal environment to the UK, could give Ireland a competitive advantage.<sup>49</sup>
34. Witnesses also noted that the existing multinational sector in Ireland was perhaps the least likely to suffer much ill-effect from Brexit, given its focus on international markets, and its greater capacity to diversify.<sup>50</sup>

### *The future for UK-Irish trade*

35. Although Dan O’Brien argued that there was near-consensus among economists that Brexit was “overwhelmingly a bad thing economically for both Britain and Ireland”,<sup>51</sup> some witnesses were more positive about Ireland’s prospects. Pat Ivory suggested that “the Irish Government are probably better prepared than many other member states for dealing with Brexit”,<sup>52</sup> as shown by their extensive contingency planning prior to the vote.<sup>53</sup> Richard Pym described the Irish economy as “very strong”.<sup>54</sup>
36. Although the Secretary of State for Northern Ireland and the Irish Ambassador both affirmed their Governments’ commitment to maintaining the “hugely important”<sup>55</sup> and “mutually advantageous”<sup>56</sup> UK-Irish trading relationship, this relationship is sure to change.
37. Edgar Morgenroth observed that the combined value of trade with other EU Member States was already worth more to Ireland’s economy than bilateral trade with the UK. Because of this, he argued, Ireland’s focus would remain on protecting trade with the EU, out of pure “self-interest”.<sup>57</sup> A paper by Durham and Newcastle Universities also suggests that Brexit “is likely to rebalance Ireland’s trade relationships away from the UK and towards the remainder of the EU”.<sup>58</sup>
38. ESRI, though, argued that this rebalancing would take time. In the near term any barriers to trade would leave Ireland facing higher prices, which

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47 [Q 112](#)

48 [Q 110](#)

49 Durham and Newcastle Universities, *Policy Paper: Brexit, Northern Ireland and Ireland* (June 2016): <http://niconstitution.org/docs/Policy%20Paper%20-%20Brexit%20Ireland%20and%20Northern%20Ireland.pdf> [accessed 16 November 2016]

50 [Q 106](#) (Dan O’Brien) and [Q 12](#) (Ambassador Dan Mulhall)

51 [Q 106](#)

52 [Q 109](#)

53 Irish Government, ‘Contingency Framework: Summary of key actions to manage contingencies arising as a result of the UK vote to leave the European Union’ (24 June 2016): <http://www.merriionstreet.ie/MerriionStreet/en/ImageLibrary/20160624Contingency%20Plan.pdf> [accessed 15 November 2016]

54 [Q 112](#)

55 [Q 13](#) (James Brokenshire MP)

56 [Q 1](#) (Ambassador Dan Mulhall)

57 [Q 100](#)

58 Durham and Newcastle Universities, *Policy Paper: Brexit, Northern Ireland and Ireland* (June 2016): <http://niconstitution.org/docs/Policy%20Paper%20-%20Brexit%20Ireland%20and%20Northern%20Ireland.pdf> [accessed 16 November 2016]

“affect competitiveness [and] impact on the wider economy”.<sup>59</sup> Ultimately, ESRI forecast that UK-Irish trade flows could be reduced by 20%, with most exposed sectors experiencing a more significant impact.<sup>60</sup>

### *Conclusion*

39. **Any potential negative impact of Brexit will probably be more significant for Ireland than for any other Member State, in particular in the event of any economic downturn in the UK, or in the event of tariffs or other barriers to trade being introduced between the UK and the EU. The agri-food and manufacturing sectors, and the SMEs that work within them, would probably be worst affected, given their reliance on UK exports, and this could place a particular burden on the communities that rely on these industries.**
40. **Notwithstanding the potentially negative economic outlook overall, some sectors may stand to benefit. As an English-speaking member of the Single Market, Ireland may be able to attract increased inward investment post-Brexit. The contingency planning undertaken by the Irish Government also means that it is well placed to respond to the economic challenges that Brexit will represent.**

### **The economic implications for Northern Ireland**

41. The nature of Northern Ireland’s economy makes it particularly vulnerable to the potential negative effects of Brexit. Patricia King noted that Northern Ireland’s economy was already characterised by the “highest levels of deprivation, unemployment and poverty” in the UK, with lower wages and productivity.<sup>61</sup> Angela McGowan, Director, CBI Northern Ireland, argued that any economic downturn as a result of Brexit would hit Northern Ireland the hardest.<sup>62</sup>
42. Ms McGowan also highlighted Northern Ireland’s high dependence on the EU (and especially the Republic of Ireland) market for its exports, compared with the rest of the UK.<sup>63</sup> HMRC statistics show that 52% of Northern Ireland exports go to the EU, including 38% to the Republic of Ireland.<sup>64</sup> ESRI’s report also found that Northern Ireland’s firms were highly reliant on the Irish market, leaving them more exposed to the impact of any trade barriers that might emerge after the UK leaves the EU.<sup>65</sup> Angela McGowan therefore concluded that, for Northern Ireland, “the further away we are from the EU in [any] trade deal, the more negative economic effects it will have”.<sup>66</sup>
43. In recognition of the particular issues facing Northern Ireland as a result of Brexit, the First Minister and deputy First Minister wrote a joint letter to the Prime Minister outlining five key issues of particular concern. As well as the

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59 The Economic and Social Research Institute, *Scoping the Possible Economic Implications of Brexit on Ireland* (November 2015): <http://www.esri.ie/pubs/RS48.pdf> [accessed 15 November 2016]

60 The Economic and Social Research Institute, *Scoping the Possible Economic Implications of Brexit on Ireland* (November 2015): <http://www.esri.ie/pubs/RS48.pdf> [accessed 15 November 2016]

61 [Q 111](#)

62 [Q 50](#)

63 [Q 49](#)

64 Supplementary written evidence from James Brokenshire MP ([BUI0014](#))

65 The Economic and Social Research Institute, *Scoping the Possible Economic Implications of Brexit on Ireland* (November 2015): <http://www.esri.ie/pubs/RS48.pdf> [accessed 15 November 2016]

66 [Q 50](#)

Irish land border and EU funding, which we consider in later chapters, these included trade and access to labour, the agri-food sector and energy.<sup>67</sup>

### *Access to labour*

44. Angela McGowan and Declan Billington stressed the importance of free movement of labour to Northern Ireland in helping to boost a small domestic labour market, which also faced a steady exodus of young people.<sup>68</sup> Mr Billington highlighted the agri-food sector as a particular example of Northern Ireland's dependence on foreign labour: 60% of factory workers and 90% of seasonal labourers were non-UK nationals.<sup>69</sup> In a report published before the referendum, the Social Market Foundation found that 7% of all employees in Northern Ireland were born in the EEA,<sup>70</sup> making it second only to London in terms of reliance on European employees.<sup>71</sup>
45. Declan Billington warned that any restrictions to the free movement of labour to Northern Ireland following Brexit could affect the economy's "ability to stand still, never mind grow". Businesses that struggled to access sufficient labour might relocate facilities south of the border, to benefit from continued access to EU labour.<sup>72</sup>

### *The agri-food sector*

46. As in the Republic of Ireland, agriculture and the agri-food business are highly significant to Northern Ireland's economy. Estimates commissioned for NIFDA in 2010 found that the agri-food industry supported some 92,000 jobs, including direct employees, farmers, and those in the supply chain (transport, packaging, and engineering).<sup>73</sup> The industry has grown in the intervening years.<sup>74</sup> While around 72% of Northern Ireland food and drink processing sales are domestic (within Northern Ireland and the rest of the UK), the EU is the sector's largest export market, accounting for annual sales of £1.15 billion, of which £700 million relates to the Republic of Ireland.<sup>75</sup>
47. Declan Billington and Ruth Taillon, Director, Centre for Cross Border Studies, also highlighted the significance of EU Common Agricultural Policy (CAP) funding for Northern Ireland, where the single farm payment accounts for 87% of total farming income, and where the rural development programme supports important land management and agri-food business

67 Letter to the Prime Minister, The Rt Hon Theresa May MP from the First Minister and deputy First Minister of the Northern Ireland Executive, dated 10 August 2016: <https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/Letter%20to%20PM%20from%20FM%20%26%20dFM.pdf> [accessed 30 November 2016]

68 [QQ 49–50](#)

69 [Q 50](#)

70 Which they take to refer to Member States of the European Union plus Norway, Switzerland, Iceland and Liechtenstein.

71 Social Market Foundation, Working together: European workers in the UK economy, (May 2016): <http://www.smf.co.uk/wp-content/uploads/2016/04/Social-Market-Foundation-Working-Together-European-workers-in-the-UK-Embargoed-0001-030516.pdf> [accessed 17 November 2016]

72 [Q 50](#)

73 Northern Ireland Food & Drink Association, *Brexit: Challenges & Opportunities for Northern Ireland Food & Drink* (November 2016) [http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA\\_Brexit\\_Final\\_Report.pdf](http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA_Brexit_Final_Report.pdf) [accessed 30 November 2016]

74 [Q 51](#)

75 Northern Ireland Food & Drink Association, *Brexit: Challenges & Opportunities for Northern Ireland Food & Drink* (November 2016) [http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA\\_Brexit\\_Final\\_Report.pdf](http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA_Brexit_Final_Report.pdf) [accessed 30 November 2016]



improvement projects.<sup>76</sup> We will consider the impact of the full range of EU funding allocated to Northern Ireland further in Chapter 4.

48. Mr Billington acknowledged that the weak pound could benefit Northern Ireland's exporters in the short term, but believed that any such benefit would be more than offset if tariffs were introduced post-Brexit.<sup>77</sup> Michael Bell, Executive Director, NIFDA, agreed that there was a real risk that Brexit would cause the sector to lose momentum. He warned that the potential impact of the EU's Common External Tariff could be "hugely significant" for the sector, which had average net margins of 2.7% to 3%, compared with potential tariffs of 7% to 65% on agricultural products under WTO terms.<sup>78</sup>
49. Notwithstanding polling evidence that just over half of farmers voted for Brexit,<sup>79</sup> Declan Billington cited a survey of agri-food businesses conducted by NIFDA following the referendum, which found that access to the European market was a key concern for respondents.<sup>80</sup> The survey also showed that 64–67% of respondents were 'very concerned' about the potential impact of tariffs on their import and export costs, 88% would find it difficult or extremely difficult to find alternative export markets, and 73% would find it difficult or impossible to source inputs from the UK that they currently source from the EU.<sup>81</sup>

#### *Foreign direct investment*

50. Angela McGowan discussed Northern Ireland's historic success in attracting foreign direct investment (FDI), noting that access to the EU market of 500 million people was a significant factor in attracting FDI. She believed that the implications of the referendum for "political and economic stability, regulation and business taxation levels, ability to attract talent and exchange rate risk" were likely to deter investment in Northern Ireland going forward.<sup>82</sup>

#### *Growth and economic development*

51. Brexit could also affect the Executive's plans to develop Northern Ireland's economy. Dr Anthony Soares, Deputy Director, Centre for Cross Border Studies, noted that an ongoing priority for Northern Ireland had been to improve its export performance. This, he suggested, would be made significantly more difficult if the UK lost tariff free access to the EU internal market or decided to leave the customs union.<sup>83</sup>
52. Bertie Ahern pointed out that much EU funding in Northern Ireland was invested in helping the economy to develop away from its current dependence on the public sector. Such development could be set back if Northern Ireland lost access to these funds.<sup>84</sup>

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76 [Q 61](#) (Ruth Taillon) [Q 54](#) (Declan Billington). See also <https://www.daera-ni.gov.uk/articles/2014-2020-rural-development-programme>.

77 [Q 49](#)

78 [Q 51](#)

79 [Q 42](#)

80 [Q 52](#)

81 Northern Ireland Food & Drink Association, *Brexit: Challenges & Opportunities for Northern Ireland Food & Drink* (November 2016): [http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA\\_Brexit\\_Final\\_Report.pdf](http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA_Brexit_Final_Report.pdf) [accessed 30 November 2016]

82 [QQ 50–51](#)

83 [Q 61](#)

84 [Q 131](#)

53. Angela McGowan agreed that Brexit would hinder plans to grow Northern Ireland’s economy, arguing that tools intended to help improve Northern Ireland’s competitiveness—such as lowering corporation tax—“could be blunted” if Brexit led to the imposition of trade barriers.<sup>85</sup>

*Northern Ireland’s voice in negotiations*

54. HMRC regional trade statistics show that Northern Ireland accounts for just 2.4% of UK exports and 1.5% of imports.<sup>86</sup> Witnesses therefore questioned how far Northern Ireland’s economic concerns would really be taken into account in Brexit negotiations.<sup>87</sup> The Secretary of State for Northern Ireland attempted to offer reassurance. He described his efforts to seek a wide range of perspectives and “feelings on the ground”<sup>88</sup> from the business community in Northern Ireland, including sectoral meetings and the establishment of a Business Advisory Group to provide ongoing input into the Government’s Brexit negotiating stance.<sup>89</sup>
55. We return to this issue in Chapter 4.

*Economic opportunities following Brexit*

56. The DUP, led by First Minister Rt Hon Arlene Foster MLA, was the only major Northern Ireland party to call for a vote to leave the EU in the referendum, arguing that Brexit presented economic opportunities for Northern Ireland as well as challenges.
57. While the evidence we received focused heavily on the potential damage that Brexit could inflict on Northern Ireland’s economy, we note the First Minister’s words in her speech to the DUP annual conference in October 2016:

“Brexit represents the biggest economic opportunity for this country in decades ... the economic and social benefits for Northern Ireland within the United Kingdom are far more important than our relationship with the EU ... I am quite confident that the investment offer that will be available, both now and in the future, will mean our reputation as a place to invest will continue to grow.”<sup>90</sup>

58. The First Minister reaffirmed these views in a recent article in *The Guardian*, arguing that the rest of the UK was Northern Ireland’s most important market, and that the UK including Northern Ireland would continue to trade “quite capably” with the EU following Brexit.<sup>91</sup> The *Irish News* has reported

85 [Q 50](#)

86 HMRC, ‘Regional Trade Statistics Second Quarter 2016’ (6 September 2016): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/547956/RTS\\_Q2\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/547956/RTS_Q2_2016.pdf) [accessed 15 November 2016]

87 [Q 75](#)

88 [Q 16](#)

89 [Q 16](#)

90 Arlene Foster, ‘Leader’s Speech to Conference 2016’ (October 2016): <http://www.mydup.com/news/article/conference-2016-leaders-speech> [accessed 9 November 2016]

91 Arlene Foster, ‘The UK joined Europe as one nation, and that’s how we’ll leave’, *The Guardian* (28 October 2016): <https://www.theguardian.com/commentisfree/2016/oct/28/britain-joined-eu-one-nation-thats-how-leave> [accessed 16 November 2016]

an announcement by the DUP Economy Minister of a new international trade plan to help Northern Ireland “seize the opportunities” of Brexit.<sup>92</sup>

59. The Secretary of State for Northern Ireland pointed out that Northern Ireland was the only UK nation or region to see growth in the value of its exports over the past year, increasing trade with non-EU partners by 24%.<sup>93</sup> He also said that, following conversations with businesses across Northern Ireland, he was convinced that, even with Brexit, there was “vast potential” to develop Northern Ireland’s economy.<sup>94</sup>

### *Conclusion*

60. **While the First Minister and the Secretary of State for Northern Ireland perceive opportunities for Northern Ireland outside the EU, our evidence suggests that the risks to the Northern Ireland economy posed by Brexit probably outweigh the opportunities. Northern Ireland’s agri-food and manufacturing sectors stand to be particularly affected, and we therefore urge the Northern Ireland Office and Northern Ireland Executive to redouble their efforts to engage with both sides of industry in Northern Ireland to ensure that their views are taken into account in the forthcoming negotiations.**

### *Cross-border economic issues*

61. The two economies of Northern Ireland and the Republic of Ireland are deeply interdependent, with significant cross-border trade, integrated labour markets, and many industries that operate on an all-island basis. The border region is particularly vulnerable economically.
62. Ambassador Mulhall, though suggesting that trade between Northern Ireland and the Republic of Ireland was below what one might expect for “two neighbouring jurisdictions on an island”, observed that common membership of the Single Market had facilitated a significant increase in trade over the past 20–30 years.<sup>95</sup> The Centre for Cross Border Studies accordingly argued that both economies would suffer “serious consequences”<sup>96</sup> if the post-Brexit UK were shut out of the customs union or Single Market.
63. We discuss the feasibility of maintaining the open Irish land border in Chapter 3, and at this stage we note only that any changes in the border arrangements could have a significant economic impact, disrupting North-South trade flows<sup>97</sup> and creating “additional administrative and financial burdens to Irish and UK businesses engaged in trade between their jurisdictions”.<sup>98</sup> Declan Billington observed that, if the land border was closed or movement across it restricted, this could lead to the assets of cross-border businesses, including

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92 Suzanne McGonagle ‘Simon Hamilton to develop global trade plan and air routes task force’, *The Irish News* (1 November 2016): <http://www.irishnews.com/news/2016/11/01/news/simon-hamilton-ni-should-seize-the-opportunities-presented-by-the-uk-exiting-the-eu--763869/> [accessed 9 November 2016]

93 HMRC regional trade statistics quoted in supplementary written evidence from James Brokenshire MP ([BUI0014](#))

94 Supplementary written evidence from James Brokenshire MP ([BUI0014](#))

95 [Q 8](#)

96 Supplementary written evidence from The Centre for Cross Border Studies ([BUI0012](#))

97 Written evidence from Fianna Fáil ([BUI0005](#))

98 Supplementary written evidence from The Centre for Cross Border Studies ([BUI0012](#))

farms with land on both sides of the border, becoming “stranded on one side”.<sup>99</sup>

64. The Chief Executive of the East Border Region, Pamela Arthurs, offered a case study of how the imposition of tariffs could negatively affect cross-border business:

“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.”<sup>100</sup>

65. Aidan Gough, Strategy and Policy Director, InterTradeIreland, pointed to a survey conducted by his organisation which underlined the importance that cross-border businesses attach to maintaining “free movement of goods, services and labour on this island”.<sup>101</sup>

#### *Integrated labour markets*

66. The integration of labour markets on the island of Ireland was described by Pat Ivory as a “key feature” of both economies.<sup>102</sup> As well as people who move permanently from one jurisdiction to the other for work, the Centre for Cross Border Studies estimates that between 23,000 and 30,000 people are cross-border workers—including non-Irish and non-UK EU citizens—living and working on different sides of the Irish land border.<sup>103</sup> Bernie McCrory, Chief Officer, Co-operation and Working Together (CAWT), also highlighted “frontier workers”, such as nurses, whose work took them back and forth across the border several times each day.<sup>104</sup> For such people the imposition of controls at the Irish land border would present a significant impediment.
67. There is also the issue of employment standards on both sides of the border. Patricia King was concerned that Brexit could affect workers’ rights, if the UK decided to cheapen labour costs after withdrawal. This could lead to a race to the bottom in employment standards, with companies in both the Republic of Ireland and Northern Ireland feeling forced to pay less or to bring down their labour costs to retain a competitive edge.<sup>105</sup>

#### *Agri-food*

68. We heard abundant evidence that the agricultural sector on the island of Ireland operates on an all-island basis. Supply chains in particular are extremely interconnected, both North-South and East-West. Many of our witnesses commented on the significant cross-border flows of animals and

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99 [Q 49](#)

100 [Q 73](#)

101 [Q 50](#)

102 [Q 108](#)

103 The Centre for Cross Border Studies, ‘Introductory statement to oral evidence submitted to the Joint Committee on Jobs, Enterprise and Innovation’ (20 October 2016): <http://www.oireachtas.ie/parliament/media/committees/jobcenterpriseandinnovation/submissions/32nddail/Centre-for-Cross-Border-Studies-Opening-Statement.pdf> [accessed 16 November 2016]

104 [Q 70](#)

105 [QQ 108, 110](#)

other produce for processing.<sup>106</sup> Bryan Barry told us that 350,000 lambs went from North to South, 500,000 pigs went from South to North, and millions of litres of milk travelled in both directions for processing.<sup>107</sup> John Bruton noted that if you bought a sandwich at a filling station:

“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.”<sup>108</sup>

69. Any restrictions on cross-border trade could thus have a significant impact on the sector. One way to manage this impact, proposed by Declan Billington, might be a trade agreement based on quotas, enabling Ireland, Northern Ireland and the rest of the UK to facilitate continued cross-border trade in agricultural produce and food:

“There is no reason why we cannot have legacy trade deals when we exit, on the basis of quotas ... The scale of that quota would be small against the scale of all European agrifood ... because Ireland is quite a small part of Europe ... Having set a quota, how hard do you need to police and inspect transactions crossborder? 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 ... There is always leakage, but ... if you size quotas correctly you can maintain the status quo and have a light touch, at least for a number of years.”<sup>109</sup>

70. The non-tariff barriers resulting from Brexit could have at least an equal impact on cross-border trade. Declan Billington noted that, while high regulatory standards had raised production costs, the agri-food sector in the EU had been shielded by the EU’s Common External Tariff from competition from countries with lower standards. There was concern in the Northern Ireland agri-food industry that, outside the EU, the UK could pursue a ‘cheap food policy’, pricing producers on both sides of the border out of the market.<sup>110</sup>

### *Energy*

71. John Bruton noted that Northern Ireland depended on the Single Market for wholesale electricity within the island of Ireland, and in particular on the availability of surplus power from south of the border, to make up for insufficient local generation capacity. A new North-South interconnector was needed to meet Northern Ireland’s demand. This, Aidan Gough noted, “requires substantial investment over the next few years”.<sup>111</sup> If investors were put off by the economic uncertainty caused by the Brexit vote, the security of Northern Ireland’s energy supply might be at risk.

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106 [Q 121](#) (John Bruton), [Q 72](#) (Pamela Arthurs), [Q 77](#) (David Ford) and [Q 114](#) (Bryan Barry)

107 [Q 114](#)

108 [Q 121](#)

109 [QQ 52–53](#). The complex question of Tariff rate quotas is explored fully in the forthcoming report by our EU External Affairs and Internal Market Sub-Committees on *Brexit: the options for trade*.

110 [Q 51](#)

111 [Q 54](#)

72. John Bruton also observed that the Republic of Ireland was a net importer of electricity from the UK.<sup>112</sup> Richard Pym raised the possibility of the UK withdrawing completely from the European internal energy market, while Edgar Morgenroth highlighted the potential for the UK and EU environmental regulation to diverge over time. Both scenarios would put Ireland's energy security at risk, potentially forcing Ireland to invest in a direct connection to the EU grid, at substantial cost.<sup>113</sup>
73. Nevertheless, Mr Morgenroth believed that, in the short term at least, the current legal arrangements underpinning the single market for wholesale electricity would be "robust to a Brexit."<sup>114</sup>

### *Tourism*

74. Niall Gibbons, Chief Executive of Tourism Ireland (which oversees marketing the island of Ireland as a tourist destination overseas), described tourism as "woven very deeply into the fabric of Irish society". He noted that the industry supported 263,000 jobs across the island, representing 4% of Irish GDP and 5.3% of Northern Ireland's GDP.<sup>115</sup>
75. Mr Gibbons observed that a high proportion of tourists visiting the island of Ireland came from Great Britain: the industry was therefore vulnerable to currency fluctuations and economic uncertainty.<sup>116</sup> He argued that increased controls at the Irish land border would also have a negative impact on the industry, since "the international tourist generally does not recognise borders. They are coming for an experience."<sup>117</sup> On the other hand, Edgar Morgenroth argued that "provided that nobody is proposing to close borders to tourists ... the long-term impacts are likely to be small".<sup>118</sup>

### *Higher education*

76. Queen's University Belfast expressed concern about the impact on the higher education sector, including immigration barriers restricting access to international research talent and impeding free movement of staff and students within the island of Ireland; uncertainty for current and prospective EU students about their immigration status, fee rates and access to student loans; and the possibility that either immigration barriers or loss of access to the Erasmus exchange programme would undermine the viability of degree courses involving a year abroad in European countries.<sup>119</sup>
77. Queen's University Belfast also noted that the UK's participation in European framework research programmes, such as Horizon 2020, had been put at risk by the referendum result.<sup>120</sup> Professor O'Brennan believed that UK institutions were already being "frozen out" of bids to European funding programmes, and noted that this would in turn be detrimental to Irish universities, who benefited from UK partners' "critical" role in consortia partnerships.<sup>121</sup> John McGrane, in contrast, saw this as an opportunity for

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112 [Q 131](#)

113 [Q 119](#) (Richard Pym) and [Q 102](#) (Edgar Morgenroth)

114 [Q 102](#)

115 [Q 100](#)

116 [Q 100](#)

117 [QQ 100-101](#)

118 [Q 101](#)

119 Written evidence from Queen's University Belfast ([BUI0017](#))

120 Written evidence from Queen's University Belfast ([BUI0017](#))

121 [Q 99](#)

Ireland in the longer term to secure a greater proportion of EU research funding.<sup>122</sup>

### *Currency fluctuations*

78. The Secretary of State for Northern Ireland suggested that, for Northern Ireland's border communities at least, the devaluation of the pound had resulted in "a slight lift in trade",<sup>123</sup> though some other witnesses did not consider this lift to have "any great strength."<sup>124</sup> Taking an all-island perspective, Aidan Gough stressed that short term gains on one side of the border did nothing to address the region's structural problems, and so were unlikely to provide any sustainable benefit to border communities.<sup>125</sup> Angela McGowan noted that this effect had occurred due to the "strange limbo" of currency fluctuations caused by the referendum result occurring while the UK was still in the EU, with full access to EU markets.<sup>126</sup>
79. In the longer term, Angela McGowan suggested that significant depreciation of Sterling could actually "erode incomes" in Northern Ireland, which are already low compared with the rest of the UK. She also highlighted Northern Ireland's dependence on commodities that rely on a good exchange rate.<sup>127</sup>

### *Smuggling*

80. Dr Nat O'Connor, Lecturer in Public Policy, University of Ulster, predicted that Brexit would open up further incentives for cross-border smuggling.<sup>128</sup> The Outgoing Leader of the Alliance Party of Northern Ireland, David Ford MLA, agreed, noting that variable excise duties on either side of the border already led to smuggling in fuel, and painted a vivid picture of "curtain-sided lorries with plastic tanks."<sup>129</sup>
81. This concern was supported by evidence from the Police Service of Northern Ireland (PSNI), who considered that divergence in EU and UK immigration and taxation rules following Brexit would lead to an increase in commodity smuggling, including fuel, alcohol and counterfeit/contraband cigarettes.<sup>130</sup>
82. We consider the question of smuggling further in Chapters 3 and 4.

### *Summary*

83. Aidan Gough believed that the close interconnection between Northern Ireland and the Republic of Ireland would make the "impact of Brexit on the island ... different and disproportionate".<sup>131</sup> Declan Billington was concerned that the intricacies of this cross-border relationship might not be "directly understood by the departments doing the negotiations".<sup>132</sup> A workable solution needed to take into account the all-island nature of the economy.<sup>133</sup>

122 [Q 110](#)

123 [Q 24](#)

124 [Q 49](#) (Aidan Gough)

125 [Q 49](#)

126 [Q 49](#)

127 [Q 50](#)

128 Written evidence from Dr Nat O'Connor ([BUI0004](#))

129 [Q 83](#)

130 Written evidence from the Police Service of Northern Ireland ([BUI0015](#))

131 [Q 54](#)

132 [Q 49](#)

133 [Q 55](#)

84. The Secretary of State for Northern Ireland acknowledged the complexities of the cross-border dimension.<sup>134</sup> He emphasised the Government's determination to secure the "best possible arrangements, working closely with the Irish Government".<sup>135</sup> However, Mr Brokenshire also noted that these cross-border implications would be considered "in the light of a UK-wide negotiation",<sup>136</sup> and he offered no indication of how specific cross-border issues would be resolved, concluding simply that "there are practical issues that arise in relation to the island of Ireland".<sup>137</sup>
85. **Despite ministerial recognition of the substantial implications Brexit could have for cross-border economic activity on the island of Ireland, there is still significant uncertainty over how the UK plans to mitigate these effects, and over the priority they will receive in withdrawal negotiations.**
86. **It is extremely important for both Northern Ireland and the Republic of Ireland that an agreement is reached which takes into account the all-island nature of their economies. It is in the interest of the Irish economy, North and South, that the current movement of people, goods and services within the island of Ireland is maintained.**

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134 [Q 24](#) and [Q 32](#)

135 [Q 21](#)

136 [Q 21](#)

137 [Q 32](#)



## CHAPTER 3: THE IRISH LAND BORDER AND THE COMMON TRAVEL AREA

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### The Irish land border

87. Given its significant economic, social and political implications, the fulcrum of the debate on the impact of Brexit on Ireland has been the future of the Irish land border, alongside the separate, albeit overlapping, issue of the future of the Common Travel Area.

### *The history of the land border and the Common Travel Area*

88. The land border was established on 3 May 1921, after the Government of Ireland Act 1920 had partitioned Ireland between the newly-established jurisdiction of Northern Ireland and what became known the following year as the Irish Free State, and, subsequently, the Republic of Ireland.<sup>138</sup>
89. Customs controls were operated on both sides of the border from 1923 until their abolition on 1 January 1993, when the EU Single Market came into effect.<sup>139</sup> In addition, security checkpoints operated on both sides of the border during the Troubles, from 1970 to the late 1990s—although the border security regime operated only partially, even at the height of the Troubles, because the Government in London recognised that a ‘hard’ border would inflame tensions in the Nationalist community.<sup>140</sup> Other controls have been instituted on an *ad hoc* basis. For instance, in 2001 the Republic of Ireland operated systematic controls at the Irish border to curtail the spread of foot and mouth disease.<sup>141</sup>
90. The Common Travel Area between the UK and Ireland (as well as the Crown Dependencies of Jersey, Guernsey and the Isle of Man) is a distinct aspect of the border arrangements. Its operation is set out in Box 1 below.

### **Box 1: The operation of the Common Travel Area**

Common Travel Area arrangements between the United Kingdom and Ireland date from the foundation of 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 UK 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.

138 This was a provisional boundary, which was subsequently confirmed by the Parliaments in London, Belfast and Dublin in 1925. The border location has remained static ever since.

139 Written evidence from Professor Bernard Ryan ([BUI0008](#))

140 Written evidence from Professor Bernard Ryan ([BUI0008](#)) and Professor Cathal McCall ([BUI0002](#))

141 Written evidence from Professor Bernard Ryan ([BUI0008](#))

That general position is qualified by the provisions of the Immigration (Control of Entry through Republic of Ireland) Order 1972, Article 3 of which 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.

In its original version, Article 4 of the 1972 Order exempted Irish citizens, and only them. That provision was 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>142</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 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 cooperate in various ways in immigration control, including in relation to visa policy. The states each make provision in their immigration laws for refusal of entry to persons who intend to travel to the other state and who would not be admitted there.

Source: Drawn from written evidence from Professor Bernard Ryan ([BUI0008](#))

### *The evolution of the border*

91. Ambassador Mulhall noted that cross-border communication was limited both before and during the Troubles, and recalled “irksome” border customs checks in the 1960s.<sup>143</sup> Peter Sheridan, Chief Executive, Co-operation Ireland, recollected queues of traffic for rudimentary customs checks,<sup>144</sup> and he and Bertie Ahern also noted that customs posts had been targets for attack when the Troubles erupted.<sup>145</sup> Mr Ahern recalled that at one stage there were over 40,000 people on the security pay bill, and hoped no-one wished to return to a ‘hard border’ of that kind.<sup>146</sup>
92. On the other hand, Dr Katy Hayward noted that the Common Travel Area had remained operational even when the UK and Ireland were engaged in a trade war.<sup>147</sup> Edgar Morgenroth and Professor Cathal McCall, Professor of European Politics, Queen’s University Belfast, noted that it had been a permeable border, even at the height of the Troubles.<sup>148</sup>
93. Professor McCall stated that the launch of the European Single Market, together with the onset of the peace process from 1994, had removed the need for customs posts and military checkpoints, meaning that, today, “the physical manifestation of the Irish border itself is hardly discernible.”<sup>149</sup> It is

142 The Immigration (Control of Entry through Republic of Ireland) (Amendment) Order 2014 ([SI 2014/2475](#))

143 [Q 5](#)

144 [Q 59](#)

145 [Q 57](#) and [Q 129](#)

146 [Q 126](#)

147 [Q 43](#)

148 [Q 105](#) and written evidence from Professor Cathal McCall ([BUI0002](#))

149 Written evidence from Professor Cathal McCall ([BUI0002](#))

estimated that there are up to 300<sup>150</sup> major and minor crossings along a 310 mile (499 kilometre) border, with 35,000 people crossing the border each day.<sup>151</sup>

### **The implications of Brexit for the Irish land border**

94. Giving evidence to us in a related inquiry, the Secretary of State for Exiting the European Union, Rt Hon David Davis MP, told us that London, Belfast and Dublin were united in their wish to see the open border maintained, and that “no one wants to go back to the hard border”.<sup>152</sup>
95. Welcome as this statement is, it leaves open what the precise impact of Brexit on the land border will be, both in terms of the movement of goods (whether UK withdrawal from the customs union would inevitably lead to border checks) or the movement of people (whether the current Common Travel Area arrangements can be maintained).

### *The free movement of goods and UK membership of the customs union*

96. We were told that the principal impediment to maintenance of the current soft border arrangements was that, if the UK withdrew from the customs union, customs tariffs would need to be applied, inevitably resulting in some form of physical manifestation of the border.
97. Edgar Morgenroth thought that the UK leaving the customs union “would make a hard border almost inevitable, whatever that might look like”.<sup>153</sup> Peter Sheridan agreed that there would need to be some controls, although this did not necessarily mean the reimposition of the old border checkpoints.<sup>154</sup>
98. Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin, observed that, goodwill between the UK and Ireland notwithstanding, EU colleagues would wish to ensure that robust arrangements were in place to protect the customs union.<sup>155</sup> John Bruton noted that Ireland would have to fulfil its EU obligations in the event that the UK left the customs union.<sup>156</sup> We observe in particular that Article 3(1)(e) 207 of the Treaty on the Functioning of the European Union provides that, through the Common Commercial Policy, the EU has exclusive competence to negotiate trade agreements with third countries.<sup>157</sup> The United Kingdom, following Brexit, will become a third country for this purpose.
99. Ambassador Mulhall said that the Irish Government’s preference would be for the UK to remain in the customs union.<sup>158</sup> However, the Secretary of State for Northern Ireland stressed that “we have made no decisions in relation to the customs union”.<sup>159</sup>

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150 Written evidence from Fianna Fáil ([BUI0005](#)), citing the report of the Northern Ireland Affairs Committee, *Northern Ireland and the EU referendum* (First Report, Session 2016–17, HC 48)

151 [Q 5](#) (Ambassador Dan Mulhall); [Q 71](#) (Shane Campbell) and [Q 77](#) (Colum Eastwood)

152 Oral evidence taken on 12 September 2016 (Session 2016–17), [Q 26](#) (David Davis MP)

153 [Q 105](#)

154 [Q 59](#)

155 [Q 91](#)

156 [Q 128](#)

157 See para 247 below. The constraints of the Common Commercial Policy are explored in more detail in the report by our EU External Affairs and Internal Market Sub-Committees into *Brexit: the options for trade*.

158 [Q 11](#)

159 [QQ 19, 27](#)

*European precedents*

100. There are no exact precedents for managing a border such as the Irish land border. The Immigration Law Practitioners' Association noted that there were customs checks (but not immigration checks) at the Franco-Swiss border.<sup>160</sup> Professor Derrick Wyatt QC, Brick Court Chambers and Emeritus Professor of Law, University of Oxford, observed that at the border between Sweden and Norway (which is not a member of the customs union, though it is part of the EEA), there were only customs spot-checks. He suggested that these need not take place at the physical border, but could take place via mobile check points for private cars or at customs depots elsewhere for commercial vehicles.<sup>161</sup>
101. John Bruton, though, observed that part of the price for this was that Swedish customs officials could examine premises in Norway—a solution that was unlikely to be acceptable in Ireland given the historical context.<sup>162</sup>

*Technological solutions*

102. David Davis suggested that the movement of goods across the border was resolvable “by a variety of technical and technological means”, although he did not specify what he had in mind.<sup>163</sup> Dan O’Brien agreed that, in principle, technological advances might enable customs controls to be less onerous than in the past.<sup>164</sup> Aidan Gough also said that technology systems could be used, although, given that there were rules of origin requirements to consider, he could not see how some checks could be avoided.<sup>165</sup>
103. John McGrane did not know of any technology that could “tell us the contents of a vehicle without the driver having to declare them in the traditional way.”<sup>166</sup> That said, John Bruton was in favour of cross-border cooperation to use the most advanced technology available, so as to minimise costs.<sup>167</sup>
104. The outgoing leader of the Alliance Party, and former Northern Ireland Justice Minister, David Ford MLA, observed that it was “utterly meaningless” to talk of electronic controls as a preventative tool against cross-border smuggling. He noted that there was already evasion of the different excise duties on either side of the border.<sup>168</sup> The Leader of the Ulster Unionist Party (UUP), Mike Nesbitt MLA, agreed that electronic monitoring of the movement of goods “just will not cut it”.<sup>169</sup> Indeed, David Davis conceded that a loss of revenue to smuggling might be a price that needed to be paid in order to maintain an open border.<sup>170</sup> Yet the issue of smuggling should not be lightly dismissed, as we discuss in the section on police and security cooperation below.<sup>171</sup>

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160 Written evidence from the Immigration Law Practitioners' Association ([BUI0010](#))

161 Written evidence from Professor Derrick Wyatt ([BUI0001](#))

162 [Q 126](#)

163 Oral evidence taken on 12 September 2016 (Session 2016–17), [Q 26](#) (David Davis MP)

164 [Q 105](#)

165 [Q 53](#)

166 [Q 108](#)

167 [Q 126](#)

168 [Q 83](#)

169 [Q 83](#)

170 Oral evidence taken on 12 September 2016 (Session 2016–17), [Q 26](#) (David Davis MP)

171 See paras 144–152.

*Conclusion*

105. **Retaining customs-free trade between the UK and Ireland will be essential if the current soft border arrangements are to be maintained. The experience at other EU borders shows that, where a customs border exists, while the burden and visibility of customs checks can be minimised, they cannot be eliminated entirely. Nor, while electronic solutions and cross-border cooperation are helpful as far as they go, is the technology currently available to maintain an accurate record of cross-border movement of goods without physical checks at the border.**
106. **The only way to retain the current open border in its entirety would be either for the UK to remain in the customs union, or for EU partners to agree to a bilateral UK-Irish agreement on trade and customs. Yet given the EU's exclusive competence to negotiate trade agreements with third countries, the latter option is not currently available.**

*The movement of people and the Common Travel Area*

107. While the operation of the Common Travel Area has broader application than the Irish land border alone, its existence is, in large part, a function of the complexity of the Irish border question. There was consensus among our witnesses that it needed to be retained.<sup>172</sup>
108. The UK and Irish Governments both stressed their commitment to maintaining the Common Travel Area. Ambassador Mulhall saw no fundamental reason why it could not be preserved, although he warned that the UK's changing status meant that unforeseen circumstances needed to be guarded against.<sup>173</sup> David Davis also noted that "it has been around since 1923, it is not EU dependent, and the interlinking of British and Irish societies is extensive ... there are something like 600,000 Irish passport holders in the UK".<sup>174</sup>
109. The Secretary of State for Northern Ireland noted that the Crown Dependencies were outside the EU and yet within the Common Travel Area.<sup>175</sup> He also noted that the Common Travel Area was embedded in the EU Treaties (see Box 2), and was therefore confident that "the principle and the concept" of the CTA was understood by other Member States.<sup>176</sup> He stressed that the UK and Irish Governments were working to strengthen the Common Travel Area, in particular by working to prevent terrorists and criminals from entering the CTA. He noted that Ireland presently had no intention of entering the Schengen area, and would thus retain border controls with regard to other EU Member States; this was one of the "fundamental building blocks" to continuation for the CTA.<sup>177</sup>

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172 See, for instance, written evidence from Fianna Fáil ([BUI0005](#))

173 [QQ 1, 4, 9](#)

174 Oral evidence taken on 12 September 2016 (Session 2016–17), [Q 26](#) (David Davis MP)

175 [Q 13](#)

176 [Q 18](#)

177 [Q 28](#)

### **Box 2: The Common Travel Area in EU law**

Protocol (No 20) to the EU Treaties, “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”, states that “the high contracting parties, desiring to settle certain questions relating to the United Kingdom and Ireland, having regard to the existence for many years of special travel arrangements between the United Kingdom and Ireland, have agreed upon the following provisions, which shall be annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union:

#### *Article 1*

The United Kingdom shall be entitled, notwithstanding Articles 26 and 77 of the Treaty on the Functioning of the European Union, any other provision of that Treaty or of the Treaty on European Union, any measure adopted under those Treaties, or any international agreement concluded by the Union or by the Union and its Member States with one or more third States, to exercise at its frontiers with other Member States such controls on persons seeking to enter the United Kingdom as it may consider necessary for the purpose:

- (a) of verifying the right to enter the United Kingdom of citizens of Member States and of their dependents exercising rights conferred by Union law, as well as citizens of other States on whom such rights have been conferred by an agreement by which the United Kingdom is bound; and
- (b) of determining whether or not to grant other persons permission to enter the United Kingdom.

Nothing in Articles 26 and 77 of the Treaty on the Functioning of the European Union or in any other provision of that Treaty or of the Treaty on European Union or in any measure adopted under them shall prejudice the right of the United Kingdom to adopt or exercise any such controls. References to the United Kingdom in this Article shall include territories for whose external relations the United Kingdom is responsible.

#### *Article 2*

The United Kingdom and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories (“the Common Travel Area”), while fully respecting the rights of persons referred to in Article 1, first paragraph, point (a) of this Protocol. Accordingly, as long as they maintain such arrangements, the provisions of Article 1 of this Protocol shall apply to Ireland under the same terms and conditions as for the United Kingdom. Nothing in Articles 26 and 77 of the Treaty on the Functioning of the European Union, in any other provision of that Treaty or of the Treaty on European Union or in any measure adopted under them, shall affect any such arrangements.

#### *Article 3*

The other Member States shall be entitled to exercise at their frontiers or at any point of entry into their territory such controls on persons seeking to enter their territory from the United Kingdom or any territories whose external relations are under its responsibility for the same purposes stated in Article 1 of this Protocol, or from Ireland as long as the provisions of Article 1 of this Protocol apply to Ireland.

Nothing in Articles 26 and 77 of the Treaty on the Functioning of the European Union or in any other provision of that Treaty or of the Treaty on European Union or in any measure adopted under them shall prejudice the right of the other Member States to adopt or exercise any such controls.”

Source: *Treaty on the Functioning of the European Union* [OJ C 326](#) (consolidated version of 26 October 2012)

110. The Immigration Law Practitioners’ Association thought it would be optimistic to assume that the Protocol would not become the subject of Brexit negotiations.<sup>178</sup> The Centre for Cross Border Studies noted that, given the references in EU Treaties, retention of at least some of the benefits of the CTA was dependent on EU agreement”.<sup>179</sup> Fianna Fáil agreed that it should not be assumed that the political, economic and social imperative to maintain the Common Travel Area and an open border would supersede European law and procedures. In their view, Brexit posed a “real and substantive threat to the very existence of the Common Travel Area”, including the introduction of passport controls to prevent the land border being used as a back door into the UK.<sup>180</sup>
111. David Ford observed that “the issue of the common travel area is not dealt with by people simply saying, “The CTA has existed since 1923”, because it had never existed when one jurisdiction was outside the EU and the other within it.<sup>181</sup>
112. On the other hand, Bernard Ryan, Professor of Migration Law, University of Leicester, stated that:
- “The continuation of common travel area arrangements appears compatible with EU law ... 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.”<sup>182</sup>
- He suggested that Brexit presented an opportunity for a comprehensive Common Travel Area agreement, in particular given that adjustments to the CTA arrangements were in any case required to cater for EU, EEA and Swiss nationals. He suggested that the two governments could publicise their co-operation over immigration control.<sup>183</sup>
113. Dr Etain Tannam, Assistant Professor, Irish School of Ecumenics, Trinity College Dublin, agreed that the fact that Ireland was not part of the Schengen area would make it possible to continue with the CTA.<sup>184</sup> Ambassador Mulhall told us that there was no pressure from other Member States for Ireland to join Schengen, because of their recognition of the unique circumstances in Northern Ireland.<sup>185</sup>
114. **There is consensus between the UK and Irish Governments that the Common Travel Area arrangements should be retained. Yet the**

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178 Written evidence from the Immigration Law Practitioners’ Association ([BUI0010](#))

179 Written evidence from the Centre for Cross Border Studies ([BUI0012](#))

180 Written evidence from Fianna Fáil ([BUI0005](#))

181 [Q 77](#)

182 Written evidence from Professor Bernard Ryan ([BUI0008](#))

183 Written evidence from Professor Bernard Ryan ([BUI0008](#))

184 [Q 90](#)

185 [Q 4](#)

**references to the CTA in a Protocol to the EU Treaties mean that the agreement of EU partners to this approach will be required. While Ireland’s non-participation in Schengen suggests that it should be possible for the CTA to continue after Brexit, both Governments need to take action to convince EU colleagues of its necessity, in particular in the context of the unique circumstances in Northern Ireland. We also believe that the case for consolidating the CTA arrangements post-Brexit merits exploration.**

*The implications for the cross-border free movement of EU citizens*

115. As set out in Box 2 above, the rights of free movement across the jurisdictions within the Common Travel Area only apply to British and Irish citizens (and residents of the Crown Dependencies). The question therefore arises as to the implications of Brexit for the free movement of EU citizens across the border, in the event that the UK sought to place constraints on free movement.
116. Ambassador Mulhall stated that, in these circumstances, while an EU citizen could in theory come to Ireland, settle in Ireland and then decide to cross the border to Northern Ireland and then to Britain, in such a case they would be illegal immigrants, unable to “be legally present ... to live and work there and to be able to access all the services”. He argued that only a relatively small number of European citizens would want to act in this way, and concluded that the Irish border would not pose a risk sufficient to warrant the imposition of stronger border controls.<sup>186</sup>
117. Professor O’Brennan agreed that it was highly unlikely that EU migrants would try to get into the United Kingdom illegally from Ireland. Neither did he think that this was a great fear for the UK Government.<sup>187</sup>
118. The Centre for Cross Border Studies suggested that EU citizens could be permitted to cross the border into Northern Ireland in the knowledge that they would not legally be able to reside, seek employment, study or gain access to social welfare and healthcare services or benefits. They suggested that the same approach could be extended to movement of EU citizens from Northern Ireland to other parts of the United Kingdom.<sup>188</sup>
119. Nevertheless, the Centre was concerned at the societal impact of any such restrictions, and called for urgent clarification of the rights of EU nationals currently resident in Northern Ireland to remain. Ruth Taillon noted that many businesses (in the agri-food sector in particular) were reliant on eastern European workers, and warned that raids on the premises where they worked would feed into a negative and fearful atmosphere.<sup>189</sup>
120. At present, illegal movement of non-EU citizens between Northern Ireland and Britain is addressed by means of Operation Gull, which targets domestic UK flights and ferries to and from Northern Ireland in order to identify and arrest illegal immigrants going to and from Ireland by way of the border.<sup>190</sup>

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186 [QQ 4, 6](#)

187 [Q 90](#)

188 Written evidence from the Centre for Cross Border Studies ([BUI0012](#))

189 Written evidence from the Centre for Cross Border Studies ([BUI0012](#)); [Q 58](#) and [Q 61](#) (Anthony Soares)

190 Written evidence from the Police Service of Northern Ireland ([BUI0015](#))



121. Professor Wyatt stated that it was not clear if Operation Gull could be expanded to deal with cross-border illegal movement by EU citizens in the future. He and the Immigration Law Practitioners' Association noted criticism of Operation Gull by human rights groups, in particular accusations of racial profiling in its identification of individuals selected for interview in UK ports and airports. Professor Wyatt agreed that the techniques used on the UK side to identify and interview suspect travellers lacked the transparency of border passport checks, although they did act as a surrogate for this.<sup>191</sup>
122. The Immigration Law Practitioners' Association suggested that one solution to these problems might be to allow the Northern Ireland Executive to reach its own settlement on the rights of EU and EEA nationals in Northern Ireland. They noted that, while immigration was a reserved matter, EU/EEA nationals' access to services in Northern Ireland could be protected by clarifying which matters were within the competence of the Northern Ireland Assembly. They noted a number of areas overlapping with immigration policy, including health and social services, education, employment and skills, social security, and housing, were already devolved.<sup>192</sup>
123. Such an arrangement would require UK Government approval to an adjustment of the devolution settlement. It would also be essential that any intensification of Operation Gull to prevent EU citizens moving illegally to live and work in Great Britain did not inhibit the ease of movement of UK and Irish citizens on internal journeys in the UK between Britain and Northern Ireland. We explore the question of the sea boundary between Northern Ireland and Britain in paras 140–142 below.
124. **The UK Government has yet to determine whether it will seek to impose restrictions on the free movement of EU citizens to live and work in the UK. While we agree that, were restrictions to be imposed, the overall numbers seeking to enter the UK illegally to work via the Irish land border would be likely to be low, the introduction of restrictions could have an impact in particular on industries already reliant on EU labour, for instance the cross-border agri-food sector. We also acknowledge that other EU Member States are looking for assurances about how their citizens already resident in Northern Ireland will be treated.**
125. **Short of the introduction of full immigration controls on the Irish land border, the solution would either be acceptance of a low level of cross-border movement by EU workers, or allowing Northern Ireland to reach its own settlement on the rights of EU citizens to live and work there. Given that immigration is a reserved matter, the latter option would require UK Government approval to an adjustment of the devolution settlement. It would also be essential that any intensification of Operation Gull should not inhibit the ability of UK and Irish citizens to move freely and easily between Northern Ireland and Britain. Bearing these caveats in mind, this may be an option worth exploring.**

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191 Written evidence from Professor Derrick Wyatt (BUI0001) and the Immigration Law Practitioners' Association (BUI0010)

192 Written evidence from the Immigration Law Practitioners' Association (BUI0010)

*Reciprocal rights for UK and Irish citizens*

126. We also considered the impact of Brexit on the current reciprocal rights for UK and Irish citizens to live and work in each other's countries. Such rights are underpinned in domestic law by the treatment of Irish nationals as non-foreigners under the Ireland Act 1949, and the acknowledgement of their special status in subsequent legislation including the Immigration Act 1971, as well as by the provisions of the British Nationality Act 1981 (see Box 3 below).<sup>193</sup> In addition, under the terms of the Belfast/Good Friday Agreement, the people of Northern Ireland have the right to identify as British, Irish or both, and to claim citizenship accordingly. Those who claim Irish citizenship would, by extension, be able to claim EU citizenship.

**Box 3: The status of Irish citizens under UK law**

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 Ireland is not a foreign country for the purposes of any law in force in any part of the United Kingdom.” It provides that “references in any Act of Parliament, other enactment or instrument whatsoever ... to foreigners, aliens ... shall be construed accordingly”.

The 1949 Act was the UK’s response to Ireland’s declaration of a Republic, and its 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.

Professor Ryan argued that it was not clear that section 2 could now be relied upon to claim specific legal rights.

Irish citizens have been subject to UK immigration law since the Commonwealth Immigrants Act 1962 came into force on 1 July 1962. The core purpose of that Act 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>194</sup>

Professor Ryan stated that in practice, it appeared 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 nevertheless occur under the 1962 Act, notwithstanding the practical difficulty of preventing persons subject to deportation orders from returning to the United Kingdom.

Box 1 above sets out the provisions of the Immigration Act 1971, the Immigration (Control of Entry through Republic of Ireland) Order 1972 and its 2014 amendment. 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>195</sup> and means that their children born in the UK are born British citizens.<sup>196</sup>

193 Written evidence from the Centre for Cross Border Studies ([BUI0012](#))

194 Commonwealth Immigrants Act 1962, sections 1(4) and 6(3).

195 British Nationality Act 1981, [section 6 \(1\)](#)

196 British Nationality Act 1981 [section 1\(1\)\(b\)](#)

Professor Ryan also told us that the underlying position that Irish citizens were subject to immigration control had probably been obscured by Common Travel Area arrangements (including the original 1972 Order), and by Irish citizens having had EU free movement rights since 1973.

Source: Written evidence from Professor Bernard Ryan ([BUI0008](#)) and the Immigration Law Practitioners' Association ([BUI0010](#))

127. David Davis suggested that the Government would be able to guarantee the rights of Irish nationals in the UK.<sup>197</sup> However, when we pressed the Secretary of State for Northern Ireland to give a specific guarantee that the existing rights of Irish citizens would be maintained post-Brexit, he was less forthcoming:

“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 ... It is very much the approach that we are taking into the negotiations.”<sup>198</sup>

128. Other witnesses suggested that the practical difficulties in ensuring that reciprocal rights were maintained might lie more on the Irish side, because of its continuing obligations as an EU Member State. Indeed, the Immigration Law Practitioners’ Association suggested that the EU might seek guarantees that entry into the Republic of Ireland from the UK would not become a back door to entry into the EU. Dr Soares said that, while the UK would be free to “do whatever it likes” in relation to the rights of Irish citizens, Ireland would be restricted in what it could do to reciprocate, for instance in relation to pension rights and child benefit rights: “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”.<sup>199</sup>

129. The Centre for Cross Border Studies called on the Irish Government to make clear to other Member States that the post-Brexit retention of these arrangements was not a matter of conferring preferential treatment on a departing Member State, but rather of the EU adopting a flexible approach to accommodate the specific needs of one of its Members in its geographical context, and in order to support the peace process in Northern Ireland.<sup>200</sup>

130. **It is imperative that the longstanding rights of UK and Irish citizens to reside and work in each other’s countries be retained. We urge the Government to confirm that the rights of Irish citizens under domestic law will be maintained, whatever the outcome of the Brexit negotiations.**

131. **It is not a given that the EU will tolerate uncontrolled movement from the UK into the EU, via the UK-Irish border. Both the UK and Irish Governments must seek to convince EU partners of the necessity of maintaining the reciprocal rights enjoyed by UK and Irish citizens, both because of the unique nature of UK-Irish relations, and in view of the specific circumstances in Northern Ireland.**

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197 Oral evidence taken on 12 September 2016 (Session 2016–17), [Q 26](#) (David Davis MP)

198 [Q 28](#)

199 [Q 66](#)

200 Written evidence from the Centre for Cross Border Studies ([BUI0012](#))

*Other solutions*

132. We asked our witnesses how the challenges identified above could be overcome. Ambassador Mulhall told us:

“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.”<sup>201</sup>

133. As we have seen, the consensus view of our witnesses was that the UK and Ireland needed to remain a customs-free area if the effect of Brexit on the land border was to be mitigated. None of the other potential solutions on offer is without difficulty.

*Enhanced UK-Irish immigration cooperation*

134. During the course of our inquiry, reports emerged in *The Guardian* that the UK Government was seeking to shift the front-line immigration control to Ireland’s ports and airports to avoid introducing a hard border between North and South.<sup>202</sup>
135. Many of our witnesses reacted to these reports with a mix of scepticism and incredulity. Bertie Ahern found the suggestion to be “frankly unbelievable”, as it showed a “total lack of understanding of how people think north and south in either tradition. It just would not happen”.<sup>203</sup> Neither could David Ford see how the Irish authorities could be expected to police their ports and airports to stop EU citizens coming to Britain.<sup>204</sup> The leader of the SDLP, Colum Eastwood MLA, agreed that there was no support for “the Irish Government taking on the immigration job of the UK Government”, both for practical and symbolic reasons.<sup>205</sup>
136. Some witnesses suggested that the UK Government might in fact have in mind a less overt (and less contentious) proposal to strengthen existing arrangements, whereby passengers arriving into Irish ports or airports from other EU countries have to show their passports, because Ireland is not in Schengen.<sup>206</sup> Dr O’Connor suggested that the Irish authorities would be open to additional data-sharing, which would enable some tracking of people to see if they leave the Republic again, or whether they appear in the UK.<sup>207</sup> Dr Hayward noted that Ireland already had stricter measures than the UK related to screening people on entry, in that immigration officers “can ask all passengers, including those from within the Common Travel Area, to produce identity documentation ... A lot of this monitoring happens invisibly anyway.”<sup>208</sup>

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201 [Q 118](#)

202 Henry McDonald ‘Britain to push post-Brexit UK immigration controls back to Irish border’, *The Guardian* (9 October 2016): <https://www.theguardian.com/politics/2016/oct/09/britain-to-push-post-brexit-uk-immigration-controls-back-to-irish-border> [accessed 30 November 2016]

203 [Q 127](#)

204 [Q 83](#)

205 [Q 83](#)

206 [Q 40](#) (Dr Katy Hayward); [Q 59](#) (Peter Sheridan and Anthony Soares) and [Q 90](#) (Dr Paul Gillespie)

207 Written evidence from Dr Nat O’Connor ([BUI0004](#))

208 [Q 40](#)

137. Mike Nesbitt suggested that the situation where American customs could be cleared in the terminal at Dublin Airport, where “that piece of land has, in effect, been ceded to the United States”, might be the basis of a scheme to protect against people seeking to enter the UK via the Irish land border.<sup>209</sup>
138. The Secretary of State for Northern Ireland, who was quoted in the story in *The Guardian*, told us that the two Governments were examining how the Common Travel Area could be strengthened, particularly in terms of confronting terrorism and organised crime.<sup>210</sup>
139. **Any enhanced cooperation between UK and Irish authorities, for instance in the field of information-sharing, in order to strengthen the Common Travel Area for mutual benefit, will be welcome. But it is not, in and of itself, enough to prevent a change to the current soft border arrangements. The UK Government needs to be aware of the risk of placing a disproportionate burden on the Irish authorities in providing a solution to issues arising from Brexit, and the negative political message that creating such a burden could convey.**

*Controls between Britain and Northern Ireland*

140. We heard evidence that the only viable alternative to a harder land border was to introduce greater control of the sea boundary between Northern Ireland and Great Britain. Mike Nesbitt told us that the Troubles had demonstrated that it was not possible to secure the land border, and that therefore “the border will inevitably be at the ports and airports of Great Britain, from Cairnryan to Heathrow”. This, he said, “would disadvantage everybody travelling either way, but particularly the citizens of Northern Ireland making their way to the rest of the United Kingdom”.<sup>211</sup> Colum Eastwood agreed that maintaining a border on the island of Ireland was practically impossible, and that the border would end up in ports and airports in Britain.<sup>212</sup>
141. Dr O’Connor, though, noted that full border checks would be unacceptable to many Unionists, as they would mean needing to show ID to move within the UK.<sup>213</sup> Katy Hayward agreed, citing the then Labour Government’s unsuccessful attempts in the 2008 Borders, Citizenship and Immigration Bill to strengthen checks within the Common Travel Area, in particular at points of entry to and from Northern Ireland and Great Britain. The Bill was amended in the House of Lords to remove this provision because of concerns about internal UK checks.<sup>214</sup>
142. **Political stability in Northern Ireland depends on the confidence of both communities that their interests are being respected. Just as any undermining of the current soft land border would be economically, politically and socially unacceptable, so strengthened checks for UK and Irish citizens at the sea boundary between Northern Ireland and Great Britain would be politically divisive and inherently undesirable. Other solutions must be identified, to ensure that the**

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209 [Q 80](#)

210 [Q 20](#)

211 [Q 83](#)

212 [Q 83](#)

213 Written evidence from Dr Nat O’Connor ([BUI0004](#))

214 [Q 40](#). See also written evidence from Professor Derrick Wyatt ([BUI0001](#)) and the Immigration Law Practitioners’ Association ([BUI0010](#)).

**positive progress of recent years in developing UK-Irish relations and promoting stability in Northern Ireland is not undermined by Brexit.**

**Case studies of cross-border cooperation**

143. The impact of Brexit is likely to be felt in a number of fields of cross-border cooperation. We focus here on two case studies: policing and security cooperation; and healthcare provision.

*Police and security cooperation*

144. The Police Service of Northern Ireland (PSNI) stated that its relationship with An Garda Síochána had never been better. A new Cross Border Policing Strategy had just been published, and a new Cross Border Joint Agency Task Force had been established. The PSNI stressed that continued cross-border cooperation was key to combating organised crime in Ireland.

145. While the PSNI asserted that Brexit would not adversely affect the culture of cooperation, it identified three principal potential risks:

- An inability to pursue wanted criminals in Ireland via European Arrest Warrants;
- Potential exploitation of the CTA by organised crime, in the event that UK immigration policies diverged from EU policy; and
- The loss of valuable investigation tools, including the Prüm database and Schengen Information System (SIS) II.

146. The first and third of these issues will be addressed in detail in the report of our Home Affairs Sub-Committee on the implications of Brexit for police and security cooperation: in this report we only touch on their specifically Irish aspects. In particular, the PSNI argued that European Arrest Warrants had proved vital in apprehending suspected terrorists and reducing the risk of flight. They were also essential to tackling lower levels of criminality such as burglary and traffic offences. If the PSNI were no longer able to use European Arrest Warrants, bilateral extradition procedures would be required to prevent suspects simply fleeing across the border to evade arrest.

147. David Ford, the former Northern Ireland Justice Minister, pointed out that there was no legislation in the Republic of Ireland to allow for extradition to the UK other than under the European Arrest Warrant.<sup>215</sup> Mike Nesbitt agreed that the European Arrest Warrant had eliminated paperwork problems at the border which had resulted in suspected terrorists going free during the Troubles.<sup>216</sup>

148. The PSNI also warned that a divergence of immigration rules between the UK and the EU would create an increased risk of organised immigration crime and commodity smuggling. They cited the work of Operation Gull, through which 775 immigration offenders were intercepted in 2015/16.<sup>217</sup>

149. As for the third issue, the PSNI warned that Brexit could lead to a loss of access to SIS II unless a separate agreement could be negotiated. They noted that Ireland did not have access to the database at present, and so checks

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215 [Q 84](#)

216 [Q 84](#)

217 See above, paras 120–125.

at Northern Ireland ports were key to ensuring dangerous persons did not travel on to Ireland or Great Britain undetected. The loss of access to the Prüm database would also present obstacles, although the PSNI argued that there would be an opportunity to develop bilateral agreements between the UK and Ireland.<sup>218</sup>

150. More broadly, the Centre for Cross Border Studies feared that a more tangible border would inevitably lead to increased levels of criminality, in the form of cross-border smuggling and terrorist violence focused on physical manifestations of the border.<sup>219</sup> The PSNI also thought that any attempt to reinstate border checkpoints would be seen by extremists as a target for terrorist attacks.<sup>220</sup>
151. The Secretary of State for Northern Ireland told us that the UK Government was determined to maintain the current high level of cross-border cooperation on policing and security issues. The Government was focused on how these benefits could be retained post-Brexit, and he hoped that EU partners recognised that there were mutual benefits to such cooperation.<sup>221</sup>
152. **Brexit has profound implications for the current high levels of cross-border police and security cooperation between the UK and Irish authorities. Our parallel report on Brexit: policing and security cooperation will consider the wider issues, but we note that, in the UK-Irish context, continued access to EU databases, and the ability to make use of the European Arrest Warrant, are vital if cross-border cooperation, and the fight against terrorism and organised crime, are not to be undermined.**

#### *Healthcare provision*

153. Co-operation and Working Together (CAWT) is an organisation that, in partnership with health agencies on both sides of the border, seeks to provide an overarching framework for cross-border health care. CAWT told us that cross-border cooperation was increasing, helped by the availability of EU funds. Between 2003 and 2015, over €40 million was invested in cross-border health and social care initiatives via CAWT, with further project applications totalling €53 million submitted in relation to acute hospital services, prevention and early intervention, tackling health inequalities and other needs.
154. CAWT expressed concern at post-Brexit uncertainty in relation to cross-border recognition of qualifications, mobility of staff, cooperation of ambulance services and others in response to major emergencies, and the maintenance of *ad hoc* cross-jurisdictional communication.<sup>222</sup>
155. CAWT's Chief Officer, Bernie McCrory, told us that patients in Cavan and Monaghan had formerly had to travel to Dublin for Ear Nose and Throat (ENT) treatment, with some children waiting four years for their first appointment. The appointment of two extra ENT consultant surgeons based in the border region of Northern Ireland meant that they were able

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218 Written evidence from the Police Service of Northern Ireland ([BUI0015](#))

219 Written evidence from the Centre for Cross Border Studies ([BUI0012](#))

220 Written evidence from Dr Nat O'Connor ([BUI0004](#)) and the Police Service of Northern Ireland ([BUI0015](#))

221 [QQ 20, 31](#)

222 Supplementary written evidence from Co-operation and Working Together ([BUI0013](#))

to conduct rotations at a hospital across the border, with patients from the Republic also able to cross the border for more complex treatment. This created economies of scale in managing the scarce skill base of clinicians—a particular challenge in the border regions, given that young doctors gravitated towards regional centres.<sup>223</sup>

156. Ruth Taillon praised the work of CAWT in encouraging health authorities to work together. She pointed out that children regularly crossed the border for cardiac surgery in Dublin, while a new radiology unit in Derry was a crossborder initiative funded, staffed and available to patients on both sides of the border. She argued that such initiatives were under threat because of their reliance on EU funding.<sup>224</sup>
157. **The increased and successful provision of cross-border healthcare is a demonstrable success story of effective cross-border cooperation. The launch of such projects has largely been dependent on the provision of EU funds, and it is vital that these and future projects are not placed in jeopardy by Brexit. Authorities on both sides of the border need to give assurances that these services will be funded in the future, that any practical issues arising from Brexit (such as the cross-border recognition of qualifications) are managed, and that formal and informal cross-border communication continues. It would be a tragedy if such cooperation, which improves peoples' lives, were to wither on the vine.**

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223 [Q 70](#)

224 [Q 66](#)



## CHAPTER 4: THE IMPACT ON THE PEACE PROCESS AND ON NORTH-SOUTH AND EAST-WEST RELATIONS

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### *The impact of Brexit on the peace process*

158. One of the principal concerns of our witnesses was over the impact of Brexit on the Northern Ireland peace process. In September David Davis told us that, based on his conversations with interlocutors in Belfast and Dublin, there was “nervousness about the peace process because of the prior involvement of the EU in it”, but it was “not a particularly well-specified nervousness”.<sup>225</sup> We therefore sought to clarify the nature of the concerns.
159. The positive role played by the EU in relation to the peace process can be encapsulated in four areas: the safeguards that EU membership provides in underpinning the Belfast/Good Friday Agreement; the role that common UK-Irish EU membership played and continues to play in transforming relations between the two countries; the effect of common EU membership in diluting cross-community tensions in Northern Ireland; and the positive impact of EU funding in Northern Ireland.

### *The role of the EU in underpinning the Belfast/Good Friday Agreement*

160. Box 4 sets out the terms of the Belfast/Good Friday Agreement, as they pertain to the European Union, and also to the European Convention on Human Rights.

#### **Box 4: The Belfast/Good Friday Agreement and EU membership and the ECHR**

The International Agreement between the British and Irish Governments underpinning the Belfast/Good Friday Agreement expresses the two nations’ intentions as follows: “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”.

The Agreement itself contains a number of references to the EU, including, at paragraph 31 of Strand One (the status and system of government of Northern Ireland within the United Kingdom), that “terms will be agreed between appropriate Assembly representatives and the Government of the United Kingdom to ensure effective co-ordination and input by Ministers to national policy-making, including on EU issues”.

Paragraph 3 of Strand Two (the relationship of Northern Ireland with the Republic of Ireland) states that the North/South Ministerial Council will meet “in an appropriate format to consider institutional or cross-sectoral matters (including in relation to the EU) and to resolve disagreement”. Paragraph 17 states that the North/ South Ministerial Council is “to consider the European Union dimension of relevant matters, including the implementation of EU policies and programmes and proposals under consideration in the EU framework. Arrangements to be made to ensure that the views of the Council are taken into account and represented appropriately at relevant EU meetings.” The Annex to Strand Two states that areas for North-South cooperation and implementation may include “relevant EU programmes such as SPPR, INTERREG, Leader II and their successors”.

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225 Oral evidence taken on 12 September 2016 (Session 2016–17), [Q 26](#) (David Davis MP)

Strand Three (the relationship between the Republic of Ireland and the United Kingdom) states that suitable issues for early discussion in the British Irish Council could include “approaches to EU issues”.

The Agreement also contains references to the European Convention on Human Rights, which is cited as a safeguard to ensure all sections of the community can participate and work together successfully. It establishes, for instance, “Arrangements to provide that key decisions and legislation are proofed to ensure that they do not infringe the ECHR and any Bill of Rights for Northern Ireland”. The Agreement further states that if the courts find such arrangements to have been breached by devolved legislation, then the legislation would be rendered null and void.

Paragraph 2 of the section on rights, safeguards and equality of opportunity states that “the British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency”. It states in paragraph 4 that the new Northern Ireland Human Rights Commission will be invited to consult and advise on the scope for defining in legislation rights supplementary to those in the European Convention on Human Rights to reflect the particular circumstances of Northern Ireland.

Source: *The Belfast Agreement, Agreement reached in the multi-party negotiations (10 April 1998)*: [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)

161. Patricia King argued that both the EU and ECHR elements of the Good Friday/Belfast Agreement, noting the assumption of common European identity and the incorporation of the European Convention on Human Rights into Northern Ireland law, provided “crucial confidence” to the Nationalist community.<sup>226</sup>
162. Bertie Ahern, who was Taoiseach at the time of the Belfast/Good Friday Agreement, and who played a pivotal role in delivering the Agreement and in subsequent developments in the peace process, emphasised the EU aspects of the Agreement. He told us that such references were vital, in particular those that provided a framework for dealing with differences over EU matters.<sup>227</sup>
163. The Supreme Court will shortly hear a case brought by political parties and community groups in Northern Ireland, and a campaigner for victims of paramilitary violence, on the UK’s withdrawal from the EU. In October the High Court in Belfast, in the judgment now being appealed, found that:
  - The royal prerogative powers of the UK Government to issue the notice of the UK’s withdrawal from the EU, under Article 50 of the Treaty on European Union, were not displaced by the Northern Ireland Act read together with the Belfast/Good Friday Agreement.
  - The Northern Ireland Act read together with the Belfast/Good Friday Agreement could not be construed as requiring the consent of the people of Northern Ireland before the UK could issue the notice of withdrawal.

226 [Q 108](#)

227 [Q 121](#)

- If UK legislation were required to issue the withdrawal notice, that legislation would not need the consent of the Northern Ireland Assembly as it would not relate to a devolved matter.<sup>228</sup>
164. John Bruton, on the other hand, stressed the European Convention on Human Rights aspects of the Agreement, which fall outside the ambit of the EU. The Convention was, 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.” He accepted that there was currently no suggestion that the UK Government would seek to leave the European Convention on Human Rights,<sup>229</sup> though we note the recent confirmation by the Secretary of State for Justice that the Government is “committed to scrapping the Human Rights Act and introducing a British Bill of Rights”.<sup>230</sup> The Human Rights Act (HRA) incorporates the ECHR into UK law, including in Northern Ireland.<sup>231</sup>
165. Our EU Justice-Sub-Committee took evidence on the impact of repealing the HRA on the Belfast/Good Friday Agreement in its inquiry into *The UK, the EU and a British Bill of Rights*. Professor Christopher McCrudden, Professor of Human Rights and Equality Law, Queen’s University Belfast, said that the incorporation of the ECHR into the law of Northern Ireland had “brought about greater stability and reconciliation than has been possible since the foundation of Northern Ireland in 1920. The repeal of the Human Rights Act, therefore, risks destabilising the peace agreement by removing a critical part of that agreement”. He considered that the HRA had played a role in Northern Ireland that was significantly different from that of the rest of the UK, particularly “in addressing issues from the past that continue to dog the path to complete transition, such as the alleged complicity of security forces in paramilitary murders”. He thought that the repeal of the HRA “risks at least breaching the UK’s legal obligations” under the Belfast/Good Friday Agreement.<sup>232</sup>
166. In the present inquiry, the Secretary of State for Northern Ireland simply stressed that the Government stood behind its commitments in the Belfast/Good Friday Agreement, and “in our judgment the EU referendum does not change that at all.”<sup>233</sup>
167. **The Belfast/Good Friday Agreement assumes that the co-guarantors are both Member States of the EU. We note the case on appeal to the Supreme Court arguing that Brexit infringes the Belfast/Good Friday Agreement. While the evidence we received did not suggest that the legal framework of the Belfast/Good Friday Agreement would be substantially undermined by Brexit, we note the potential**

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228 Court Dismisses Brexit Challenge, Summary of Judgement (28 October 2016): [http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/SummaryJudgments/Documents/Court%20dismisses%20Brexit%20challenge/j\\_j\\_Summary%20of%20judgment%20-%20Brexit%20JRs%2028%20Oct%2016.htm](http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/SummaryJudgments/Documents/Court%20dismisses%20Brexit%20challenge/j_j_Summary%20of%20judgment%20-%20Brexit%20JRs%2028%20Oct%2016.htm) [accessed 23 November 2016]

229 Q 121

230 HC Deb, 6 September 2016, col 614

231 Public Law for Everyone, *The new Justice Secretary, Elizabeth Truss, on a British Bill of Rights* (undated): <https://publiclawforeveryone.com/2016/09/09/the-new-justice-secretary-elizabeth-truss-on-a-british-bill-of-rights/> [accessed 23 November 2016]

232 European Union Committee, *The UK, the EU and a British Bill of Rights*, (12th Report, Session 2015–16, HL Paper 139), paras 168–170

233 Q 29

**psychological impact of Brexit in undermining confidence in the Agreement and in subsequent agreements.**

168. **We note also that the European Convention on Human Rights, which falls outside the ambit of the EU, is a crucial safeguard to the Agreement. While we welcome the Government’s statement that it stands by its commitments under the Belfast/Good Friday Agreement, we note that any proposal to withdraw from the European Convention on Human Rights would put that commitment under threat.**
169. **We also note that the incorporation of the ECHR into the law of Northern Ireland is an obligation of the Belfast/Good Friday Agreement. The Government’s intention to repeal the Human Rights Act will put it at risk of breaching this obligation unless the ECHR is incorporated into the law of Northern Ireland by means of the Government’s proposed Bill of Rights.**

*The transformative effect of common EU membership*

170. Several witnesses commented on the transformative effect that common EU membership had had on UK-Irish relations. According to John Bruton, the joint decision to join the EU had transformed the relationship from a “bilateral unequal relationship, which had all the difficulties that go with any bilateral unequal relationship, whether in a family, between states or between businesses”, into an equal membership of something bigger than either of them. He noted that no serving British Prime Minister visited Ireland from 1922 until 1973, but that common EU membership helped to dispense with “some of the psychological difficulties that had prevented us from engaging”. This made all the progress that followed possible.<sup>234</sup>
171. Bertie Ahern reflected on the way he had built good working relationships with UK ministers over the years in EU meetings,<sup>235</sup> and Fianna Fáil argued that these bonds were intrinsic to the success of the peace process.<sup>236</sup> Ambassador Mulhall told us that common membership had aided the Irish understanding of the UK:
- “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.”<sup>237</sup>
172. **Common EU membership has been a vital ingredient in the positive transformation of UK-Irish relations in recent years, and in helping lay the groundwork for the development of the peace process. It is incumbent on all sides to ensure that the relationship does not atrophy as a result of Brexit.**

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234 [Q 120](#)

235 [Q 120](#)

236 Written evidence from Fianna Fáil ([BUI0005](#))

237 [Q 3](#)

*Common EU membership and community identity*

173. Several witnesses suggested that the UK and Ireland’s common EU membership had also helped to diminish cross-community tensions in Northern Ireland, and expressed concern that Brexit could have a destabilising effect. SDLP leader Colum Eastwood told us:
- “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 ... this shakes northern Nationalism to the core.”<sup>238</sup>
174. Ulster Unionist Party leader Mike Nesbitt compared the impact of the Brexit vote on Nationalists with the “seismic shock” of the 1985 Anglo-Irish Agreement being “imposed above [Unionist] heads”: “This is English nationalism saying ... ‘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’.”<sup>239</sup>
175. David Ford agreed that these concerns were a “huge psychological issue” and “absolute realities for a significant section of our community”.<sup>240</sup> Peter Sheridan said that whereas the Belfast/Good Friday Agreement had diminished “the tribal issue of identity”, Brexit threatened to resurrect it.<sup>241</sup>
176. Dr O’Connor observed that Brexit had already had a psychological effect in widening the gulf between Northern Ireland and the Republic, including because of the perception (by Nationalists in particular) that Northern Ireland was being taken out of the EU against the clear majority will of the population. Any imposition of border checks, dilution of the Common Travel Area arrangements, or new administrative requirements placed on Irish passport holders would be seen as favouring one side in the Northern Irish Unionist-Nationalist divide.<sup>242</sup>
177. The Secretary of State for Northern Ireland acknowledged that “a number of communities are concerned and have been unsettled, so we as the UK Government need to give ... assurances and to continue to work on them”.<sup>243</sup>
178. **Common EU membership laid the groundwork for the development of the peace process, as the border diminished both visibly and psychologically. In particular, it allowed Nationalists in Northern Ireland to develop a sense of common identity with fellow EU citizens across the border. The loss of EU membership thus threatens to undermine this sense of identity.**

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238 [Q 77](#)

239 [Q 78](#)

240 [Q 77](#)

241 [Q 57](#)

242 Written evidence from Dr Nat O’Connor ([BUI0004](#))

243 [Q 29](#)

*Is Brexit a threat to the peace process?*

179. Does Brexit therefore place the peace process itself in jeopardy? Notwithstanding his concern, Colum Eastwood told us:

“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 ... 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.”<sup>244</sup>

180. Bertie Ahern did not foresee a return to disorder, although he did think Brexit could lead to tensions within the Northern Ireland Executive and the Assembly and between North and South.<sup>245</sup> John Bruton noted that a sense of isolation, of being disregarded or in a permanent minority, lay behind some of the aggressive tactics used by both sides in the Troubles.<sup>246</sup> He feared that negative symbolism and language around Brexit could act as a generator of violence, and said that the death of at least one person as a result of terrorist violence in Northern Ireland this year stood as a warning against complacency.<sup>247</sup>
181. Peter Sheridan also warned against complacency.<sup>248</sup> While the risk of civil unrest should not be overstated, Northern Ireland was a fragile place, and it was incumbent on organisations such as Co-operation Ireland to build formal and informal cross-border and cross-community relationships.<sup>249</sup>
182. The Secretary of State for Northern Ireland noted that a majority of people in Northern Ireland supported the political settlement, and stressed his commitment to continue work on confronting paramilitarism and tackling legacy issues from the conflict.<sup>250</sup>
183. **The peace process is supported by a majority of people from across the communities, and it would be irresponsible to overstate the threat posed by Brexit. Nevertheless, Brexit is already proving politically divisive. All sides must remain vigilant to ensure that the momentum behind the peace process is maintained.**

*EU funding*

184. Northern Ireland, and the border regions in particular, have benefited substantially from EU funding. Tables 1 and 2 below set out the various strands of EU funding from which Northern Ireland has benefited, and its allocation within the 2007–2013 and 2014–2020 Multiannual Financial Frameworks.

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244 [Q 84](#)

245 [Q 132](#)

246 [Q 121](#)

247 [Q 132](#)

248 [Q 57](#)

249 [Q 67](#)

250 [Q 29](#)

**Table 1: European co-funded programmes in Northern Ireland 2007–2013**

<b>Programme</b>	<b>Managing Authority</b>	<b>EU allocation (€m)</b>
European Sustainability Competitiveness Programme (European Social Fund (ESF))	Department for Enterprise, Trade and Investment	€306.8
Northern Ireland European Social Fund Programme (ESF)	Department for Employment and Learning	€165.7
PEACE III (European Regional Development Fund (ERDF))	Special EU Programmes Body (SEUPB)	€224.8
INTERREG IVA (ERDF)	Special EU Programmes Body (SEUPB)	€192.0
Common Agricultural Policy: Direct Payments (Pillar I) (European Agricultural Guidance and Guarantee Fund (EAGGF))	Department for Agricultural and Rural Development	€2,231.0
Common Agricultural Policy: Rural Development Programme (Pillar II) (EAGGF)	Department for Agricultural and Rural Development	€329.5
European Fisheries Fund in Northern Ireland (European Fisheries Fund (EFF))	Department for Agricultural and Rural Development	€18.1.
<b>Total</b>		<b>€3,449.3</b>

Source: European Commission, 'European co-funded programmes in Northern Ireland 2007–2013 and 2014–2020' July 2016: [https://ec.europa.eu/unitedkingdom/sites/unitedkingdom/files/eu\\_funding\\_in\\_ni\\_2007-2013\\_and\\_2014-2020\\_1.pdf](https://ec.europa.eu/unitedkingdom/sites/unitedkingdom/files/eu_funding_in_ni_2007-2013_and_2014-2020_1.pdf) [accessed 30 November 2016]

**Table 2: European co-funded programmes in Northern Ireland 2014–2020**

<b>Programme</b>	<b>Managing Authority</b>	<b>EU allocation (€m)</b>
Investment for Growth and Jobs (ERDF)	Department for Economy	€308.0
Northern Ireland European Social Fund Programme (ESF)	Department for Economy	€205.2
PEACE IV (ERDF)	Special EU Programmes Body (SEUPB)	€229.1
INTERREG VA (ERDF)	Special EU Programmes Body (SEUPB)	€240.3
Common Agricultural Policy: Direct Payments (Pillar I) (European Agricultural Fund for Rural Development (EAFRD))	Department for Agricultural, Environment and Rural Development	€2,299.0

<b>Programme</b>	<b>Managing Authority</b>	<b>EU allocation (€m)</b>
Common Agricultural Policy: Rural Development Programme (Pillar II) (EAFRD)	Department for Agricultural, Environment and Rural Development	€228.0
European Maritime and Fisheries Fund	Department for Agricultural, Environment and Rural Development	€23.5
<b>Total</b>		<b>€3,533.1</b>

Source: European Commission, 'European co-funded programmes in Northern Ireland 2007–2013 and 2014–2020' July 2016: [https://ec.europa.eu/unitedkingdom/sites/unitedkingdom/files/eu\\_funding\\_in\\_ni\\_2007-2013\\_and\\_2014-2020\\_1.pdf](https://ec.europa.eu/unitedkingdom/sites/unitedkingdom/files/eu_funding_in_ni_2007-2013_and_2014-2020_1.pdf) [accessed 30 November 2016]

185. The First Minister and deputy First Minister's joint letter to the Prime Minister in August 2016 highlighted the significance of EU funds to Northern Ireland: "The current uncertainty around the ability to draw down a proportion of these funds, and the absence of EU programmes in the future is of real concern to a range of sectors."<sup>251</sup>
186. Fianna Fáil noted that the EU cross-border PEACE Programme for Peace and Reconciliation in Northern Ireland and the Border Region of Ireland "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". Fianna Fáil estimated that by 2020 the EU would have contributed €1.56 billion in PEACE funding alone.<sup>252</sup> The Tim Parry Johnathan Ball Foundation for Peace agreed that the EU PEACE programme had been pivotal in transforming Northern Ireland, and stressed the focus of the new PEACE IV programme, launched in January 2016, on creating opportunities for young people.<sup>253</sup>
187. Shane Campbell noted that the border regions had received approximately €3.5 billion from EU programmes under the current Multiannual Financial Framework, not counting funding received under the Common Agricultural Policy. He added that approximately 8% of the GDP of Northern Ireland came in through EU funds, much of which was spent on cross-border cooperation.<sup>254</sup>
188. Pamela Arthurs told us that many cross-border projects were reliant on EU funding for their survival, and suggested that uncertainty over Brexit was already proving an obstacle to accessing EU funds. As we have seen, cross-border health and social care cooperation has been greatly assisted by the availability of INTERREG funding in particular. 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 was allocated to CAWT.<sup>255</sup>

251 Letter to the Prime Minister, The Rt Hon Theresa May MP from the First Minister and deputy First Minister of the Northern Ireland Executive, dated 10 August 2016: <https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/Letter%20to%20PM%20from%20FM%20%26%20dFM.pdf> [accessed 30 November 2016]

252 Written evidence from Fianna Fáil (BUI0005)

253 Written evidence from the Tim Parry Johnathan Ball Foundation for Peace (BUI0007)

254 QQ 68–9

255 Written evidence from Cooperation and Working Together (BUI0013)



189. Bertie Ahern agreed that Northern Ireland benefited from the Common Agricultural Policy, the European Regional Development Fund, the European Social Fund and the European Maritime and Fisheries Fund, as well as the PEACE IV and INTERREG programmes. He expressed scepticism that a Brexit funding gap could be filled by the UK Exchequer.<sup>256</sup> John Bruton agreed, and added that some of the most deprived communities in Northern Ireland could be most at risk.<sup>257</sup>
190. Patricia King noted that the economic challenges already facing Northern Ireland meant that the loss of EU funding could be particularly damaging.<sup>258</sup> Mike Nesbitt suggested that any savings from the UK's EU budgetary contribution accruing to Northern Ireland would not be enough fully to compensate farmers, the voluntary and community sector and Northern Ireland's universities for their combined loss of EU funding.<sup>259</sup>
191. The Secretary of State for Northern Ireland confirmed that HM Treasury would guarantee programmes entered into prior to UK withdrawal, including the PEACE IV and INTERREG funding lines, amounting to €469 million over the 2014–2020 period. His ministerial colleague Robin Walker added that HM Treasury had also promised to underwrite the payments of any awards won by UK organisations that had made bids directly to the EU for competitive funding prior to Brexit. So far as the period after Brexit was concerned, Mr Brokenshire told us that the UK Government was considering its position and had not yet reached any conclusions.<sup>260</sup>
192. This uncertainty is causing considerable trepidation. Declan Billington, noting that 87% of farm income in Northern Ireland comes from the single farm payment, sought clarity about what would happen after 2020.<sup>261</sup> Similarly, Angela McGowan noted that current EU programmes deliver £144 million per annum to Northern Ireland, and sought decisions on how they would be replaced. She cited the uncertainty over the future of the York Street transport interchange project in Belfast, which was scheduled to be 40% part-funded by the EU.<sup>262</sup>
193. The Centre for Cross Border Studies argued that, even though it would involve a UK contribution to EU funds, Northern Ireland should continue to have access to EU funding programmes, along the lines of the European Partnership Programme model, in support of cross-border cooperation and transport and energy infrastructure programmes.<sup>263</sup>
194. **EU funding has had a positive transformative effect on Northern Ireland, and on the border regions in particular. The Northern Ireland economy is more dependent on EU funding than any other nation or region of the UK, and its loss could have a devastating effect. Brexit is already giving rise to uncertainty about the availability of future funding, and there is some scepticism over the Government's undertaking that the post-2020 funding gap will be filled. In view of Northern Ireland's unique circumstances, we call on the Government**

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256 [Q 131](#)

257 [QQ 131, 134](#)

258 [Q 111](#)

259 [Q 77](#)

260 [Q 30](#)

261 [Q 54](#)

262 [Q 54](#)

263 [Q 57](#) (Ruth Taillon) and written evidence from the Centre for Cross Border Studies ([BUI0012](#))

**to explore during the course of Brexit negotiations means by which it might continue to be eligible, post-Brexit, to apply to some EU funding programmes, in particular for cross-border projects.**

### **The impact on North-South and East-West relations**

195. Strand Two of the Belfast/Good Friday Agreement deals with the relationship between Northern Ireland and the Republic of Ireland (North-South relations), and Strand Three deals with the relationship between the United Kingdom and the Republic of Ireland (East-West relations). Box 5 below sets out the main institutional elements of Strands Two and Three.

#### **Box 5: The main institutional elements of Strands Two and Three of the Belfast/Good Friday Agreement**

Strand Two (North/South relations) provides for a North/South Ministerial Council to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, cooperation and action within the island of Ireland—including through implementation on an all-island and cross-border basis—on matters of mutual interest within the competence of the Administrations, North and South.

Northern Ireland is represented by the First Minister, Deputy First Minister and any relevant Ministers, the Irish Government by the Taoiseach and relevant Ministers. The Council meets in different formats: (i) in plenary format twice a year; (ii) in specific sectoral formats on a regular and frequent basis; (iii) in an appropriate format to consider institutional or cross-sectoral matters (including in relation to the EU) and to resolve disagreement.

Strand Two further states that the Northern Ireland Assembly and the Oireachtas are “to consider developing a joint parliamentary forum, bringing together equal numbers from both institutions for discussion of matters of mutual interest and concern” (since established as the North-South Inter-Parliamentary Association).

It also states that consideration is to be given to “the establishment of an independent consultative forum ... representative of civil society, comprising the social partners and other members with expertise in social, cultural, economic and other issues”. This forum is yet to be established.

Strand Three (East/West relations) states that a British-Irish Council (BIC) will be established “to promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands”.

Strand Three also states that there will be a “standing British-Irish Intergovernmental Conference ... The Conference will bring together the British and Irish Governments to promote bilateral co-operation at all levels on all matters of mutual interest within the competence of both Governments.”

Strand Three also states that “the elected institutions of the members will be encouraged to develop interparliamentary links, perhaps building on the British-Irish Interparliamentary Body” (since renamed the British-Irish Parliamentary Assembly).

Source: *The Belfast Agreement, Agreement reached in the multi-party negotiations (10 April 1998)*: [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)

*North-South relations**The role of the North/South Ministerial Council*

196. Ambassador Mulhall noted that at the 4 July North/South Ministerial Council in Dublin, the Irish Government and Northern Ireland Executive agreed to work together to ensure that Northern Ireland's interests were protected and that the importance of North-South cooperation was fully recognised in any new arrangements emerging from the Brexit negotiations. Ten specific actions were agreed to optimise North-South joint planning and engagement, including a full audit of work programmes in key North-South strands to establish risks and likely impacts arising from Brexit. He also stressed that the North/South Ministerial Council would continue to be the location of discussions about the North-South issues arising from the Brexit negotiations.<sup>264</sup> The North/South Ministerial Council subsequently met on 18 November to discuss the implications of Brexit further. This followed two meetings between the Taoiseach and the First Minister earlier in the week.
197. Bertie Ahern agreed that, rather than setting up another structure, the North/South Ministerial Council should be the forum to discuss EU matters, as envisaged in the Good Friday Agreement.<sup>265</sup> John Bruton added that the views expressed in the North/South Ministerial Council could be represented appropriately at relevant EU meetings—a responsibility that would fall solely on the Irish Government after Brexit.<sup>266</sup>
198. On the other hand, Dr Etain Tannam suggested that the North-South institutions might need to be strengthened.<sup>267</sup> Professor McCall also thought there was a question mark over how cross-border institutions such as the North/South Ministerial Council would develop.<sup>268</sup>
199. The Consultative Committee of Accountancy Bodies—Ireland highlighted the important role that existing cross-border implementation bodies, including Tourism Ireland, InterTradeIreland, Waterways Ireland, and the Special EU Programmes Body, which manages cross-border implementation of EU peace funds, would play in promoting cross-border dialogue post-Brexit.<sup>269</sup>

*The all-island Civic Dialogue on Brexit*

200. Ambassador Mulhall told us that the Irish Government believed that there needed to be “the widest possible conversation on the implications of the referendum result for Ireland North and South, and for North-South relations”.<sup>270</sup> Subsequently, on 2 November, the Irish Government staged the first meeting of an all-island Civic Dialogue on Brexit. This followed an abortive proposal for an all-island forum, which was abandoned because of a lack of support from the First Minister of Northern Ireland. In the event, neither the DUP nor the UUP participated in the Civic Dialogue.

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264 [Q 10](#)

265 [Q 123](#)

266 [Q 123](#)

267 [Q 94](#)

268 [QQ 34–5](#)

269 Written evidence from The Consultative Committee of Accountancy Bodies—Ireland ([BUI0009](#))

270 [Q 10](#)

201. Bertie Ahern thought that the importance of the Civic Dialogue was that it gave people, including people from Northern Ireland, a voice,<sup>271</sup> and was not unduly concerned that the Unionist parties were not represented.<sup>272</sup> John Bruton agreed that the Civic Dialogue was important, because “the sense of shock is quite substantial and people need to know that they can be heard in a structure”.<sup>273</sup>
202. Peter Sheridan suggested that one reason why the Unionist parties were reluctant to engage in the Civic Dialogue was because of the unfulfilled commitment in the Good Friday Agreement to the establishment of an all-island civic forum. Unionists would be “lukewarm to anything that feels and smells like a civic forum”.<sup>274</sup>
203. Dr Soares welcomed the Civic Dialogue as an opportunity not only to discuss the consequences of Brexit, but also to bring forward concrete proposals for how to respond.<sup>275</sup> Ruth Taillon argued that the Civic Dialogue’s value lay in the participation of wider civil society, and noted that it was likely to include Unionists and/or leave voters in their capacity as members of the farming sector, business people or civic society organisations.<sup>276</sup>

### *Conclusions*

204. **We welcome the engagement of the North/South Ministerial Council in Brexit discussions. We agree that the existing structures established under the Belfast/Good Friday Agreement should be utilised and maximised rather than new ones being created, but given the serious cross-border implications of Brexit, the *quid pro quo* is that all sides must engage effectively in the structure.**
205. **We call on the Irish Government and Northern Ireland Executive to affirm the continuing role of the existing cross-border implementation bodies in the post-Brexit environment.**
206. **The all-island Civic Dialogue is, we believe, a useful format for discussion. While we respect the decision of the Unionist parties not to engage, and their concern about the establishment of any new formal cross-border mechanisms, it is important that politicians on all sides pay due account to any proposals emerging from the Civic Dialogue.**

### *East-West relations*

#### *The impact of Brexit on bilateral UK-Irish relations*

207. As we have seen, common EU membership has had a transformative effect on the UK-Irish bilateral relationship. When questioned on the impact of Brexit, Ambassador Mulhall said that it would represent “a new era for both our countries and for our bilateral relations ... we have never conducted our relations in a situation where one of us was outside and the other inside the European Union”. Although Ireland’s EU membership was not in question, he said that the Irish Government was determined to do everything in its

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271 [Q 123](#)

272 [Q 124](#)

273 [Q 123](#)

274 [Q 60](#)

275 [Q 57](#)

276 [Q 60](#)

power to protect Ireland’s political, economic and people-to-people links with the UK. Ambassador Mulhall conceded, however, that “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”.<sup>277</sup>

208. Dr O’Connor agreed that information-sharing and cooperation between the two Governments would be helpful in making Brexit as smooth as possible.<sup>278</sup> Professor O’Brennan, on the other hand, questioned whether it would be possible to replicate the intensity of formal and informal dialogue in the EU context through the current North-South and East-West institutional framework.<sup>279</sup>
209. David Davis told us in September that he had already met the Irish Taoiseach, Tánaiste (Deputy Prime Minister), Minister for Foreign Affairs and Europe Minister. He felt that, “if I wanted to right now, I could pick up the phone to [Minister for Foreign Affairs] Charlie Flanagan”. He was uncertain at that stage whether more formal machinery for consultation was required, but was confident it could be created if necessary.<sup>280</sup>

*The British-Irish Council and the British-Irish Intergovernmental Conference*

210. Ambassador Mulhall predicted that the British-Irish Council (which comprises representatives of the Governments/Executives of the UK, Ireland, Northern Ireland, Scotland, Wales and the Crown Dependencies) would play a valuable role in the coming years, given that all the component parts of the British-Irish Council were affected by Brexit. He cited the debate that had taken place at the extraordinary meeting of the British-Irish Council in July 2016.<sup>281</sup> The British-Irish Council subsequently met in November 2016, when Brexit was again the main agenda item.<sup>282</sup>
211. Bertie Ahern stressed the need to make use of the British-Irish Council rather than setting up any new bilateral structures.<sup>283</sup> John Bruton, on the other hand, thought that the British-Irish Council would 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.” He also stressed the importance of more frequent meetings of the bilateral British-Irish Intergovernmental Conference, and noted that the Good Friday Agreement required the two Governments to have regular and frequent meetings on non-devolved matters.<sup>284</sup>
212. Mr Bruton said that these structures, as well as the North/South Ministerial Council, should be seen as “safety valves for difficulties”. Given that negotiations on Brexit were likely to become fraught, he thought that they could be a useful way to “buy time and get into a situation where whichever issue has been a source of difference between London and Dublin, or Dublin

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277 [Q 1](#)

278 Written evidence from Dr Nat O’Connor ([BUI0004](#))

279 [Q 86](#)

280 Oral evidence taken on 12 September 2016 (Session 2016–17), [Q 26](#) (David Davis MP)

281 [Q 10](#)

282 See British-Irish Council, ‘Communiqué: 25th Summit: Cardiff’, (25 November 2016): [https://www.britishirishcouncil.org/sites/default/files/communiqu%C3%A9s/9%20%20Communiqu%C3%A9s/9%20%20Communiqu%C3%A9s/FINAL\\_0.pdf](https://www.britishirishcouncil.org/sites/default/files/communiqu%C3%A9s/9%20%20Communiqu%C3%A9s/9%20%20Communiqu%C3%A9s/FINAL_0.pdf).

283 [QQ 123–4](#)

284 [Q 123](#)

and Belfast, it can be discussed somewhere else in a week's time when tempers have cooled".<sup>285</sup>

213. Dr Gillespie agreed that the British-Irish Council had "suffered from a rather limited and unambitious agenda and ... usually, from an absence of high representation from ... London, compared with the other places". He also noted that the 2012 Joint Statement between the Prime Minister and Taoiseach<sup>286</sup> (and the collaboration between departmental UK Permanent Secretaries and Irish Secretaries-General) depended to some extent on the strength of the personal relationship between the two leaders.<sup>287</sup> Professor McCall agreed that the intensity of the Taoiseach-Prime Minister relationship had tailed off, and argued that, in light of Brexit, consistent engagement at that level was required.<sup>288</sup>
214. On the parliamentary side, Robin Walker shared his experience as a former member of the British-Irish Parliamentary Assembly (BIPA). BIPA was founded (as the British-Irish Inter-Parliamentary Body) in 1990, as a link between the Irish and UK Parliaments. In 2001 membership was opened to the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, the High Court of Tynwald and the States of Guernsey and Jersey. Mr Walker reminded us of the "complete transformation in attitudes during the period over which BIPA has been meeting. That is something we have to build on."<sup>289</sup> We note that Brexit has been the main agenda item at the two most recent BIPA plenary meetings, and that its committees are undertaking inquiries into the implications of Brexit for British-Irish relations.<sup>290</sup>

### *Conclusions*

215. **We welcome the dialogue between the two Governments, and support the continuing work of the British/Irish Council and British-Irish Intergovernmental Conference. We note concerns over the level of engagement by UK ministers in these fora, and therefore urge the Government to show the fullest possible commitment to supporting intergovernmental dialogue, especially with regard to Brexit. The bilateral link between the Taoiseach and Prime Minister in particular must be sustained and developed. The fact that UK and Irish ministers and officials will no longer meet in the EU context makes it all the more important that both sides devote the time and attention necessary to ensure that the bilateral UK-Irish relationship continues to prosper.**
216. **We applaud the work of the British-Irish Parliamentary Assembly in forging closer links between parliamentarians throughout these islands. Interparliamentary dialogue will become increasingly important once the UK is no longer part of the EU.**

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285 [Q 133](#)

286 In 2012, the then British Prime Minister, David Cameron, and the Irish Taoiseach, Enda Kenny, agreed a Joint Statement. See Prime Minister's Office, *British Irish relations, the next decade*, 12 March 2012: <https://www.gov.uk/government/news/british-irish-relations-the-next-decade> [accessed 30 November 2016]

287 [Q 88](#)

288 [QQ 34–5](#)

289 [Q 27](#)

290 British-Irish Parliamentary Assembly, '53rd Plenary to take place in Cardiff 28-29 November', (undated): <http://www.britishirish.org/> [accessed 30 November 2016]

## The political context in Northern Ireland

### *The role and responsibility of the Northern Ireland Executive*

217. In August 2016 the First Minister and deputy First Minister of Northern Ireland wrote to the Prime Minister to set out their concerns surrounding the implications of Brexit for Northern Ireland. They reiterated their “full commitment to achieving the best possible outcome for the people of Northern Ireland”, and welcomed the Prime Minister’s commitment “that we will be fully involved and represented in the negotiations on the terms of our future relationships with the EU and other countries”. As we have seen, the letter set out five issues of particular significance:
- The land border, in particular the need to ensure that the movement of people, goods and services is not impeded, that criminal justice and crime-fighting are not compromised, that Brexit does not provide an incentive for those who wish to undermine the peace process, and the need to bear in mind the consequences for the agri-food sector and for cross-border workers;
  - The need to retain business competitiveness and to retain as far as possible the ease of trade with EU Member State and access to labour;
  - The need to ensure that the Irish energy market is not undermined;
  - Uncertainty around the future of EU funding; and
  - The importance of the agri-food sector, which is “uniquely vulnerable both to the loss of EU funding, and to potential tariff and non-tariff barriers to trade”.

The letter also stressed the importance of proactively seeking opportunities in any new arrangements “that would be of benefit to the UK and its regions. No doubt each region will have its own priorities.”<sup>291</sup>

218. Although the Northern Ireland Executive was not able to give evidence to this inquiry, the leaders of the three main opposition parties in the Northern Ireland Assembly were able to do so. They felt that the Executive was not doing enough to respond to Brexit. The Ulster Unionist Party leader, Mike Nesbitt, observed that the difficulty was that the DUP and Sinn Féin were “poles apart” on Brexit. The two governing parties had held separate meetings with the Secretary of State for Exiting the European Union, and as a result had no collective leverage in negotiations. The Northern Ireland Executive was in “a terrible position” compared with the governments in Scotland, Wales, Dublin and London: “The only group that does not seem to be putting together processes, plans, resource and intellectual capacity is the Executive ... 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.”<sup>292</sup>
219. SDLP Leader Colum Eastwood said that the problem was not so much that the DUP and Sinn Féin took different views, but rather that they had only

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291 Letter to the Prime Minister, The Rt Hon Theresa May MP from the First Minister and deputy First Minister of the Northern Ireland Executive, dated 10 August 2016: <https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/Letter%20to%20PM%20from%20FM%20%26%20dFM.pdf> [accessed 30 November 2016]

292 Q 80

begun to make contingency plans after the referendum. Outgoing Alliance Party leader David Ford saw no sign of cooperation between the governing parties, beyond the letter to the Prime Minister.<sup>293</sup>

220. While it may not be surprising that the three opposition parties should criticise their political opponents' approach, such concerns were shared more widely. David Phinnemore, Professor of European Politics, Queen's University Belfast, questioned whether there was the political inclination to engage in the necessary analysis and consideration of options. He argued that the Brexit debate in Northern Ireland, both before and after the referendum, 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."<sup>294</sup>
221. Katy Hayward observed that identifying common interests across Northern Ireland was less of a priority for politicians than setting out the Unionist and Nationalist positions. This made it difficult to achieve clarity on negotiating objectives, which was a particular concern given that Northern Ireland's interests might diverge from those of Great Britain on a range of issues.<sup>295</sup>
222. Dr Lee McGowan, Senior Lecturer in European Politics, Queen's University Belfast, noted that the EU was a marginal issue in Northern Ireland, and bemoaned the lack of leadership: "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."<sup>296</sup>
223. Shane Campbell warned that, as Northern Ireland represented just 3% of the UK's population and 2% of its economic output, its voice might get lost. There needed to be "not just a united political voice but a united Northern Ireland voice". The history of dealing with cross-community division was that "we get there in the end, but the challenge is time".<sup>297</sup>
224. Others were more sanguine. Bertie Ahern believed that the First Minister and deputy First Minister had made a clear effort to deal with the substantive issues.<sup>298</sup> Peter Sheridan agreed that political leaders recognised the need to elucidate the priorities for Northern Ireland, but believed that the real challenge would be to ensure their voice was heard as negotiations progressed.<sup>299</sup> He believed that the Executive parties agreed on the need to strengthen BritishIrish relationships and NorthSouth relationships, to minimise the impact of the border, and to continue the peace process.<sup>300</sup>
225. **Brexit poses significant challenges for Northern Ireland, which transcend the traditional dividing lines of Northern Ireland politics. While we appreciate that the DUP and Sinn Féin were on opposing sides during the referendum campaign, as the two constituent parts of the Northern Ireland Executive both parties have a duty**

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293 [Q 80](#)

294 [Q 43](#)

295 [QQ 34–5](#)

296 [Q 39](#)

297 [Q 75](#)

298 [Q 124](#)

299 [Q 62](#)

300 [Q 57](#)



**to the communities they represent to work together and show leadership. They need to ensure, as Brexit negotiations begin, that Northern Ireland’s interests are effectively communicated to the UK Government, the Irish Government, to the EU and to other Member States.**

*The relationship between Belfast and the UK Government*

226. A number of witnesses expressed concern over the channels of communication between Belfast and the UK Government in London. Peter Sheridan said that there was a danger of political and economic isolation for Northern Ireland. Notwithstanding the good intentions of David Davis, the reality was that “the negotiations will largely happen between the EU Council and the UK, even to the extent that the Irish Government will be one<sup>27</sup>th of that in those negotiations”.<sup>301</sup> Professor Phinnemore also feared that “we are just one small part of the UK and are not particularly high up the priorities of the London Government”.<sup>302</sup>
227. Angela McGowan was concerned that the Northern Ireland Office and the Northern Ireland Executive were undertaking information-gathering in parallel rather than in concert. She called for a joined-up approach, suggesting that senior Northern Ireland Civil Service officials should be seconded to the Department for Exiting the EU.<sup>303</sup> Mike Nesbitt called for the office of the Northern Ireland Executive in Brussels to be utilised to engage in direct lobbying there.<sup>304</sup>
228. Professor Phinnemore saw signs that the process would be London-led, with only lip service being paid to the concerns of the devolved administrations. The fact that the Secretaries of State for Northern Ireland, Wales and Scotland would only be involved in the Brexit Cabinet Committee “as required” was “a very poor signal about the extent to which there is going to be effective engagement with devolved administrations”.<sup>305</sup>
229. The Secretary of State for Northern Ireland pointed out that he held regular meetings with the First Minister and the deputy First Minister, who had also met the Prime Minister and the Secretary of State for Exiting the EU. He said that the Executive would be undertaking sectoral analysis that would feed into the process of setting the UK’s negotiating position. He had also set up a Business Advisory Group, which had begun to examine the implications for the agri-food sector, and the Northern Ireland Office was conducting a number of sectoral meetings.
230. Mr Brokenshire stressed that the Joint Ministerial Committee (JMC) provided the formal mechanism for engagement between the devolved Administrations and the UK Government.<sup>306</sup> The JMC duly met on 24 October 2016, and “the Prime Minister restated the UK Government’s commitment to full engagement with the Scottish Government, the Welsh Government and

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301 [Q 57](#)

302 [Q 43](#)

303 [Q 49](#)

304 [Q 78](#)

305 [Q 37](#). See also [Q 49](#) (Angela McGowan)

306 [Q 16](#)

Northern Ireland Executive on the UK's exit from the European Union".<sup>307</sup> The JMC agreed to take forward multilateral engagement through a new Joint Ministerial Committee on EU Negotiations, charged with:

- Discussing each government's requirements of the future relationship with the EU;
- Seeking to agree a UK approach to, and objectives for, Article 50 negotiations;
- Providing oversight of negotiations with the EU, to ensure, as far as possible, that outcomes agreed by all four governments are secured from these negotiations; and
- Discussing issues stemming from the negotiation process which may affect or have consequences for the UK Government, the Scottish Government, the Welsh Government or the Northern Ireland Executive.

The Joint Ministerial Committee on EU Negotiations held its first meeting in November 2016, and will meet monthly henceforth.<sup>308</sup>

#### *The devolution settlement*

231. Finally, we note that section 6(2) of the Northern Ireland Act 1998 binds the Northern Ireland Assembly to act in a manner compatible with EU law. It follows that, as a logical consequence of Brexit, the devolution settlement will have to be amended. We note that Sir David Edward KCMG, QC, PC, FRSE, giving evidence to the European Union Select Committee on 30 March 2016, believed that the Scottish Parliament, which is similarly bound, would be required to give its consent to any legislation to any measures extinguishing the application of EU law in Scotland.<sup>309</sup> Similar considerations would apply in respect of Northern Ireland. Although we did not receive evidence on this point in the present inquiry, we note that this question is likely to become current once the Government publishes its forthcoming Great Repeal Bill.

#### *Conclusions*

232. **We urge the Government to enhance the role of the Joint Ministerial Committee for the duration of the negotiations, to ensure that the interests not only of Northern Ireland but of all the devolved nations and regions are properly understood and respected. We welcome the establishment of the new Joint Ministerial Committee on EU Negotiations, though it remains to be seen how effective this new mechanism will be.**
233. **While the UK Government's engagement with Northern Ireland stakeholders over Brexit is welcome, as far as it goes, there also needs**

307 Joint Ministerial Committee, 'Joint Ministerial Committee communiqué' (24 October 2016): <https://www.gov.uk/government/publications/joint-ministerial-committee-communique-24-october-2016> [accessed 30 November 2016]

308 Northern Ireland Office and Department for Exiting the European Union, 'Meeting of devolved administrations in preparation for UK's EU negotiations' 9 November 2016: <https://www.gov.uk/government/news/brokenshire-attends-meeting-of-devolved-administrations-in-preparation-for-uks-brexite-negotiations> [accessed 30 November 2016]

309 See European Union Committee, *The process of withdrawing from the European Union* (11th Report, Session 2015–16, HL Paper 138) paras 70–71

**to be more effective coordination between the Northern Ireland Office and Northern Ireland Executive, and between officials in London and Belfast, as they gather information on the implications of Brexit.**

## CHAPTER 5: CONCLUSION

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### The unique implications of Brexit for Ireland

234. The implications of Brexit for Ireland, North and South, are profound. We have therefore considered whether there should be some acknowledgement of the special status of Northern Ireland in the forthcoming Brexit negotiations, and whether there is scope for a bilateral UK-Irish agreement as an element within the final withdrawal agreement.

### Special status for Northern Ireland?

235. Colum Eastwood argued that there needed to be “a special understanding or recognition of Northern Ireland’s place”.<sup>310</sup> David Ford observed that in the 1998 referendum on the Belfast/Good Friday Agreement, a majority of people had supported the principle that Northern Ireland should have a special status within the UK.<sup>311</sup>
236. As things stand, Northern Ireland will in any case be in a unique situation post-Brexit with regard to the EU: as John Bruton noted, it will be the only territory outside the EU “where every person living there is legally entitled to be a citizen of the European Union, simply by applying for an Irish passport”. He thought that there would be recognition that Northern Ireland had “some special standing”.<sup>312</sup>
237. Dr Etain Tannam suggested that, building on past precedents of protocols and elements added to agreements, there could be formal recognition of Northern Ireland’s special status.<sup>313</sup> Professor Phinnemore argued that the EU regarded itself as a problem-solving organisation, and would thus be open to a bespoke arrangement.<sup>314</sup> Professor O’Brennan, on the other hand, was concerned by the potential objections of other Member States, and thought it would be difficult to define any ‘special status’ in practice.<sup>315</sup>
238. Dr Soares did not like the term ‘special status’, and suggested that, rather than the UK seeking to secure such status for Northern Ireland as part of the withdrawal negotiations, it would be more productive for the Republic of Ireland to negotiate with the other Member States recognition of its particular circumstances, both because of its geography and also as a co-guarantor of the Belfast/Good Friday Agreement.<sup>316</sup>
239. More generally, any negotiation of a ‘special status’ will need to take account of acute sensitivities, particularly in the Unionist community. While we were taking evidence in Belfast, a debate was held in the Northern Ireland Assembly, on a motion proposed by SDLP leader Colum Eastwood, endorsing “the proposal of the Irish Government and others that there should be legal recognition of the unique status of Northern Ireland and the circumstances on the island as part of the arrangements to leave the European Union.” The motion was defeated by a single vote, following opposition from the Unionist parties.

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310 [Q 81](#)

311 [Q 83](#)

312 [Q 122](#)

313 [Q 87](#)

314 [Q 37](#)

315 [Q 92](#)

316 [Q 58](#)

240. The Secretary of State for Northern Ireland, without committing the Government to a formal special status for Northern Ireland, told us:

“We are seeking to achieve a UK-wide negotiation and therefore reflective of the issues and circumstances arising all around the United Kingdom. Northern Ireland obviously has some very specific issues ... 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.”<sup>317</sup>

### A bilateral UK-Ireland arrangement?

241. Several of our witnesses reflected on whether the EU should recognise, not only the unique situation of Northern Ireland, but also the circumstances on the island of Ireland as a whole. Linked to this was the question of whether, given the unique nature of the UK-Irish relationship, the UK and Irish governments should seek some form of bilateral arrangement, in addition to any agreement at EU level.

242. As we have already noted, the Irish Minister for Foreign Affairs, Charlie Flanagan TD, was reported as stating that the Irish Government would seek “legal recognition of the unique status of the North and the circumstances on the island”.<sup>318</sup> Fianna Fáil argued that “the final arrangement must give special acknowledgement to Ireland’s distinct position and the unique and special relationship between our two countries”.<sup>319</sup>

243. Bertie Ahern agreed that the EU needed to acknowledge that the implications of Brexit for Ireland were greater than for any other Member State. He also stressed that the discussion of these implications could not take place solely at EU level, because of the status of the Good Friday Agreement as an international agreement. This raises the possibility of parallel bilateral discussions. Mr Ahern, while acknowledging that bilateral discussions might not be able to address trade matters, the Common Agricultural Policy, or the EU Budget, was concerned that “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”.<sup>320</sup> David Ford agreed that there needed to be a bilateral UK-Irish deal, though he was not sure how it could be achieved in practice.<sup>321</sup>

244. John Bruton pointed out that the EU treaties already contained protocols recognising the situation of particular territories, such as the Åland Islands.<sup>322</sup> He therefore thought that there could be special recognition of the circumstances on the island of Ireland, which could be appended to the withdrawal agreement.<sup>323</sup> While any bilateral discussion would need to bear in mind Ireland’s EU obligations, for instance on trade, on other issues he believed that a bilateral arrangement was possible.<sup>324</sup>

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317 [Q 18](#)

318 Pat Leahy, ‘Government to seek special status for North after Brexit’, *The Irish Times* (4 October 2016): <http://www.irishtimes.com/news/politics/government-to-seek-special-status-for-north-after-brex-it-1.2815427> [accessed 30 November 2016]

319 Written evidence from Fianna Fáil ([BUI0005](#))

320 [QQ 121, 124](#)

321 [Q 78](#)

322 See Protocol No. 2 to the Act of Accession of the Republic of Finland, 1994. Decision of the Council of the European Union of 1 January 1995 adjusting the instruments concerning the accession of new Member States to the European Union [OJ L001](#).

323 [QQ 121, 124](#)

324 [Q 121](#)

### The role and responsibility of the EU and the other 26 Member States

245. Some witnesses suggested specific elements that might be included in a bilateral deal. The Consultative Committee of Accountancy Bodies—Ireland stated that a bilateral arrangement should allow for the free movement of workers between the two countries, and a standalone UK-Irish customs and trade agreement.<sup>325</sup> Professor Ryan suggested that there could be a bilateral arrangement not to operate customs controls at the Irish land border.<sup>326</sup>
246. These suggestions clearly demonstrate that any bilateral agreement between the UK and Ireland is likely to impinge upon areas of EU competence, and will thus depend upon on the attitude of the other 26 Member States.<sup>327</sup> Ruth Taillon warned that, although the UK could give certain guarantees to Irish and other EU citizens in the UK, the Irish Government would not have the same flexibility.<sup>328</sup> Patricia King agreed that “the interests of the other 26 ... will not be the same as Ireland’s ... The issue is how Ireland will be placed in the order of importance in these negotiations.”<sup>329</sup> Pamela Arthurs referred to conversations in Brussels, “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”.<sup>330</sup>
247. The Consultative Committee of Accountancy Bodies—Ireland accepted that its proposed bilateral arrangement would require the consent of EU partners, in accordance with Article 3(1)(e) 207 TFEU, which states that agreements between an EU Member State and a “third country” (which is what the UK will become post-Brexit) are not permissible in the field of tariffs and customs. Nevertheless, they argued that it would be “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”.<sup>331</sup>
248. Edgar Morgenroth, in contrast, could not see a path to a bilateral deal, given that responsibility for negotiation on trade and migration issues with third countries lay with the EU.<sup>332</sup> David Ford feared that “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.”<sup>333</sup> Professor McCall predicted that other Member States would be distracted by their own concerns and priorities.<sup>334</sup>
249. John Bruton argued that the lack of understanding of the complexity of UK-Irish relations among EU colleagues reflected the lack of prominence given to these issues during the referendum campaign.<sup>335</sup> Mike Nesbitt accepted that

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325 Written evidence from the Consultative Committee of Accountancy Bodies—Ireland ([BUI0009](#))

326 Written evidence from Professor Bernard Ryan ([BUI0008](#))

327 [Q 87](#) (Professor John O’Brennan)

328 [Q 57](#)

329 [Q 109](#)

330 [Q 70](#)

331 Written evidence from the Consultative Committee of Accountancy Bodies—Ireland ([BUI0009](#)). The constraints of the Common Commercial Policy in preventing Member States from negotiating their own separate trade agreements, and WTO rules governing preferential treatment between countries, are explored in full in the forthcoming report by our EU External Affairs and Internal Market Sub-Committee on *Brexit: the options for trade*.

332 [Q 102](#)

333 [QQ 78–79](#)

334 [Q 38](#)

335 [Q 125](#)

EU partners could not reasonably be expected to understand the complexity of the social, economic and political relationship between the UK and the Republic of Ireland. Nevertheless, he noted that “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.”<sup>336</sup>

250. Professor O’Brennan argued that any damage to the peace process would also damage the EU.<sup>337</sup> Dr Etain Tannam agreed that stability in Northern Ireland was in the EU’s interest, given that the pursuit of peace was part of the EU’s original rationale.<sup>338</sup> Professor Phinnemore thought that the EU would be receptive to concerns because of its recognition of the significant impact on Ireland as a continuing Member State.<sup>339</sup>
251. Ambassador Mulhall was confident that EU partners understood the “particular set of circumstances and challenges” surrounding UK-Irish relations:

“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.”<sup>340</sup>

### **The role and responsibility of the Irish Government**

252. We were told that a particular obligation fell on the Irish Government to make the case for the unique nature of UK-Irish relations within the framework of the Brexit negotiations. John McGrane said: “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.”<sup>341</sup> Colum Eastwood and Shane Campbell both stressed that the onus was on the Irish Government to represent to EU colleagues the views and interests of the people of Northern Ireland.<sup>342</sup>
253. Robin Walker MP told us that the Irish Minister for Foreign Affairs and Trade, Charlie Flanagan TD, saw his role as impressing on the other Member States the importance of island of Ireland issues and the British-Irish relationship.<sup>343</sup> Dr Gillespie agreed that the Irish Government had placed a strong emphasis on the uniqueness of the Northern Ireland settlement, the importance of the peace process (in which the EU had played a key role) and the asymmetric impact that Brexit would have on Ireland.<sup>344</sup>
254. Ambassador Mulhall confirmed in September that Mr Flanagan had at that stage spoken to all of his EU Foreign Minister counterparts to set out

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336 [Q 78](#)

337 [Q 93](#)

338 [Q 91](#)

339 [Q 37](#)

340 [Q 2](#)

341 [Q 109](#)

342 [Q 74](#) and [Q 78](#)

343 [QQ 15, 20](#)

344 [Q 91](#)

Ireland's national priorities and interests. The Taoiseach had met Prime Minister May, Chancellor Merkel, President Hollande and other members of the European Council, and European Council President Donald Tusk had visited Dublin.

255. Ambassador Mulhall anticipated that EU partners would look 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 would keep Britain as close as possible to the European Union.”<sup>345</sup>

### **The role and responsibility of the UK Government**

256. As the instigators of the UK's withdrawal from the EU, the UK Government has a political and moral responsibility to seek solutions to the challenges that this report has identified. As John Bruton told us:

“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.”<sup>346</sup>

257. The Secretary of State for Northern Ireland told us that the UK and Irish Governments were liaising closely, to identify areas of common interest, where there might be a wish to present a shared position moving forward.<sup>347</sup> Robin Walker MP agreed that the two Governments would seek to work together in a complementary way.<sup>348</sup>

### **Conclusions**

258. **As this report has fully demonstrated, Brexit has profound and unique implications for Ireland, North and South, and for UK-Irish relations. In particular, we highlight:**

- **The economic implications for the Republic of Ireland, which it will face even though it had no say in the UK's decision to leave the EU.**
- **The economic implications for Northern Ireland, particularly given the extent of cross-border trade and the agri-food sector's reliance on EU funding.**
- **The consequences for the soft Irish land border of potential restrictions to the free movement of goods and people.**

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345 [Q 3](#)

346 [Q 121](#)

347 [Q 15](#)

348 [QQ 15, 20](#)



- **The implications for the Common Travel Area and for the special status of UK and Irish citizens in each other's countries, including the right of the people of Northern Ireland to Irish (and therefore EU) citizenship.**
  - **The potential impact on political stability in Northern Ireland, and in particular on the confidence of both communities that their interests and aspirations are being respected.**
  - **The challenge to the North-South and East-West institutional structure established under the Belfast/Good Friday Agreement.**
259. **We acknowledge that the negotiations under Article 50, on UK withdrawal and on the framework for the future relationship between the UK and the EU, will inevitably focus on issues affecting all 28 states concerned. But the unique position of Ireland, North and South, must not be overlooked.**
260. **We therefore call on all parties to the negotiations, the EU institutions as well as the Member States, to give official recognition to the special, unique nature of UK-Irish relations in their entirety, including the position of Northern Ireland, and the North-South and East-West structure and institutions established under the Belfast/Good Friday Agreement.**
261. **We do not underestimate the difficulties, legal and institutional, of translating such recognition into a final agreement. Yet the unique nature of UK-Irish relations requires a unique solution. The preferred approach, we believe, would be for the EU institutions and Member States to invite the UK and Irish Governments to negotiate a draft bilateral agreement, involving and incorporating the views and interests of the Northern Ireland Executive and keeping the EU parties fully informed as this negotiation proceeds. Such an agreement would then need to be agreed by EU partners, as a strand of the final Brexit arrangements.**
262. **Key objectives of any bilateral negotiation should include:**
- **Maintenance of the current open land border between the UK and Ireland, as well as of the ease of movement across the sea boundary between Northern Ireland and the rest of the UK.**
  - **Maintenance of the current Common Travel Area arrangements, and the right of free movement of UK and Irish citizens between the jurisdictions.**
  - **Maintenance of the right of UK and Irish citizens to reside and work in each other's countries.**
  - **The retention of rights to Irish (and therefore EU) citizenship for the people of Northern Ireland.**
  - **In the event that the UK leaves the customs union, a customs and trade arrangement between the two countries, subject to the agreement of the EU institutions and Member States.**

- **Acceptance of the Northern Ireland Executive’s right to exercise devolved powers in making decisions about the free movement of EU workers within its jurisdiction.**
  - **Reaffirmation by both governments of their commitment to the Belfast/Good Friday Agreement and subsequent agreements, including continued support for existing cross-border cooperation.**
  - **Continued eligibility for cross-border projects to EU funding programmes.**
263. **The EU has a strong interest in supporting this approach. It has made a significant contribution to the peace process, both politically and financially. It is therefore not in the interests of the EU, any more than of the UK and Ireland, for political stability in Northern Ireland, facilitated by the Belfast/Good Friday Agreement and subsequent agreements, to be put at risk by Brexit. The EU will also be particularly cognisant of the asymmetric burden that Brexit would place on Ireland, which has made clear that its future lies in the EU.**
264. **A particular burden has fallen on the Irish Government to bring these issues to the attention of EU colleagues, and we therefore welcome the efforts the Irish Government has made to ensure that EU colleagues are informed about the unique circumstances in the island of Ireland, and the particular challenges of Brexit.**
265. **But the primary responsibility for drawing attention to and finding solutions to the many challenges we have identified lies with the UK Government. Ireland now faces challenges that are not of its own making. Closer UK-Irish relations and stability in Northern Ireland are too important to put at risk as collateral damage of the Brexit decision. In an era of blossoming bilateral relationships, after long years of mistrust and misunderstanding, we urge the UK Government to be sensitive to the implications of its actions for the people and communities of Ireland, North and South. Anything less would diminish the efforts of all those who have worked so hard for peace and good relations across these islands.**

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

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### The economic implications

1. Any potential negative impact of Brexit will probably be more significant for Ireland than for any other Member State, in particular in the event of any economic downturn in the UK, or in the event of tariffs or other barriers to trade being introduced between the UK and the EU. The agri-food and manufacturing sectors, and the SMEs that work within them, would probably be worst affected, given their reliance on UK exports, and this could place a particular burden on the communities that rely on these industries. (Paragraph 39)
2. Notwithstanding the potentially negative economic outlook overall, some sectors may stand to benefit. As an English-speaking member of the Single Market, Ireland may be able to attract increased inward investment post-Brexit. The contingency planning undertaken by the Irish Government also means that it is well placed to respond to the economic challenges that Brexit will represent. (Paragraph 40)
3. While the First Minister and the Secretary of State for Northern Ireland perceive opportunities for Northern Ireland outside the EU, our evidence suggests that the risks to the Northern Ireland economy posed by Brexit probably outweigh the opportunities. Northern Ireland's agri-food and manufacturing sectors stand to be particularly affected, and we therefore urge the Northern Ireland Office and Northern Ireland Executive to redouble their efforts to engage with both sides of industry in Northern Ireland to ensure that their views are taken into account in the forthcoming negotiations. (Paragraph 60)
4. Despite ministerial recognition of the substantial implications Brexit could have for cross-border economic activity on the island of Ireland, there is still significant uncertainty over how the UK plans to mitigate these effects, and over the priority they will receive in withdrawal negotiations. (Paragraph 85)
5. It is extremely important for both Northern Ireland and the Republic of Ireland that an agreement is reached which takes into account the all-island nature of their economies. It is in the interest of the Irish economy, North and South, that the current movement of people, goods and services within the island of Ireland is maintained. (Paragraph 86)

### The Irish land border and the Common Travel Area

6. Retaining customs-free trade between the UK and Ireland will be essential if the current soft border arrangements are to be maintained. The experience at other EU borders shows that, where a customs border exists, while the burden and visibility of customs checks can be minimised, they cannot be eliminated entirely. Nor, while electronic solutions and cross-border cooperation are helpful as far as they go, is the technology currently available to maintain an accurate record of cross-border movement of goods without physical checks at the border. (Paragraph 105)
7. The only way to retain the current open border in its entirety would be either for the UK to remain in the customs union, or for EU partners to agree to a bilateral UK-Irish agreement on trade and customs. Yet given the EU's

exclusive competence to negotiate trade agreements with third countries, the latter option is not currently available. (Paragraph 106)

8. There is consensus between the UK and Irish Governments that the Common Travel Area arrangements should be retained. Yet the references to the CTA in a Protocol to the EU Treaties mean that the agreement of EU partners to this approach will be required. While Ireland's non-participation in Schengen suggests that it should be possible for the CTA to continue after Brexit, both Governments need to take action to convince EU colleagues of its necessity, in particular in the context of the unique circumstances in Northern Ireland. We also believe that the case for consolidating the CTA arrangements post-Brexit merits exploration. (Paragraph 114)
9. The UK Government has yet to determine whether it will seek to impose restrictions on the free movement of EU citizens to live and work in the UK. While we agree that, were restrictions to be imposed, the overall numbers seeking to enter the UK illegally to work via the Irish land border would be likely to be low, the introduction of restrictions could have an impact in particular on industries already reliant on EU labour, for instance the cross-border agri-food sector. We also acknowledge that other EU Member States are looking for assurances about how their citizens already resident in Northern Ireland will be treated. (Paragraph 124)
10. Short of the introduction of full immigration controls on the Irish land border, the solution would either be acceptance of a low level of cross-border movement by EU workers, or allowing Northern Ireland to reach its own settlement on the rights of EU citizens to live and work there. Given that immigration is a reserved matter, the latter option would require UK Government approval to an adjustment of the devolution settlement. It would also be essential that any intensification of Operation Gull should not inhibit the ability of UK and Irish citizens to move freely and easily between Northern Ireland and Britain. Bearing these caveats in mind, this may be an option worth exploring. (Paragraph 125)
11. It is imperative that the longstanding rights of UK and Irish citizens to reside and work in each other's countries be retained. We urge the Government to confirm that the rights of Irish citizens under domestic law will be maintained, whatever the outcome of the Brexit negotiations. (Paragraph 130)
12. It is not a given that the EU will tolerate uncontrolled movement from the UK into the EU, via the UK-Irish border. Both the UK and Irish Governments must seek to convince EU partners of the necessity of maintaining the reciprocal rights enjoyed by UK and Irish citizens, both because of the unique nature of UK-Irish relations, and in view of the specific circumstances in Northern Ireland. (Paragraph 131)
13. Any enhanced cooperation between UK and Irish authorities, for instance in the field of information-sharing, in order to strengthen the Common Travel Area for mutual benefit, will be welcome. But it is not, in and of itself, enough to prevent a change to the current soft border arrangements. The UK Government needs to be aware of the risk of placing a disproportionate burden on the Irish authorities in providing a solution to issues arising from Brexit, and the negative political message that creating such a burden could convey. (Paragraph 139)

14. Political stability in Northern Ireland depends on the confidence of both communities that their interests are being respected. Just as any undermining of the current soft land border would be economically, politically and socially unacceptable, so strengthened checks for UK and Irish citizens at the sea boundary between Northern Ireland and Great Britain would be politically divisive and inherently undesirable. Other solutions must be identified, to ensure that the positive progress of recent years in developing UK-Irish relations and promoting stability in Northern Ireland is not undermined by Brexit. (Paragraph 142)
15. Brexit has profound implications for the current high levels of cross-border police and security cooperation between the UK and Irish authorities. Our parallel report on Brexit: policing and security cooperation will consider the wider issues, but we note that, in the UK-Irish context, continued access to EU databases, and the ability to make use of the European Arrest Warrant, are vital if cross-border cooperation, and the fight against terrorism and organised crime, are not to be undermined. (Paragraph 152)
16. The increased and successful provision of cross-border healthcare is a demonstrable success story of effective cross-border cooperation. The launch of such projects has largely been dependent on the provision of EU funds, and it is vital that these and future projects are not placed in jeopardy by Brexit. Authorities on both sides of the border need to give assurances that these services will be funded in the future, that any practical issues arising from Brexit (such as the cross-border recognition of qualifications) are managed, and that formal and informal cross-border communication continues. It would be a tragedy if such cooperation, which improves peoples' lives, were to wither on the vine. (Paragraph 157)

#### **The impact on the peace process and on North-South and East-West relations**

17. The Belfast/Good Friday Agreement assumes that the co-guarantors are both Member States of the EU. We note the case on appeal to the Supreme Court arguing that Brexit infringes the Belfast/Good Friday Agreement. While the evidence we received did not suggest that the legal framework of the Belfast/Good Friday Agreement would be substantially undermined by Brexit, we note the potential psychological impact of Brexit in undermining confidence in the Agreement and in subsequent agreements. (Paragraph 167)
18. We note also that the European Convention on Human Rights, which falls outside the ambit of the EU, is a crucial safeguard to the Agreement. While we welcome the Government's statement that it stands by its commitments under the Belfast/Good Friday Agreement, we note that any proposal to withdraw from the European Convention on Human Rights would put that commitment under threat. (Paragraph 168)
19. We also note that the incorporation of the ECHR into the law of Northern Ireland is an obligation of the Belfast/Good Friday Agreement. The Government's intention to repeal the Human Rights Act will put it at risk of breaching this obligation unless the ECHR is incorporated into the law of Northern Ireland by means of the Government's proposed Bill of Rights. (Paragraph 169)
20. Common EU membership has been a vital ingredient in the positive transformation of UK-Irish relations in recent years, and in helping lay the

groundwork for the development of the peace process. It is incumbent on all sides to ensure that the relationship does not atrophy as a result of Brexit. (Paragraph 172)

21. Common EU membership laid the groundwork for the development of the peace process, as the border diminished both visibly and psychologically. In particular, it allowed Nationalists in Northern Ireland to develop a sense of common identity with fellow EU citizens across the border. The loss of EU membership thus threatens to undermine this sense of identity. (Paragraph 178)
22. The peace process is supported by a majority of people from across the communities, and it would be irresponsible to overstate the threat posed by Brexit. Nevertheless, Brexit is already proving politically divisive. All sides must remain vigilant to ensure that the momentum behind the peace process is maintained. (Paragraph 183)
23. EU funding has had a positive transformative effect on Northern Ireland, and on the border regions in particular. The Northern Ireland economy is more dependent on EU funding than any other nation or region of the UK, and its loss could have a devastating effect. Brexit is already giving rise to uncertainty about the availability of future funding, and there is some scepticism over the Government's undertaking that the post-2020 funding gap will be filled. In view of Northern Ireland's unique circumstances, we call on the Government to explore during the course of Brexit negotiations means by which it might continue to be eligible, post-Brexit, to apply to some EU funding programmes, in particular for cross-border projects. (Paragraph 194)
24. We welcome the engagement of the North/South Ministerial Council in Brexit discussions. We agree that the existing structures established under the Belfast/Good Friday Agreement should be utilised and maximised rather than new ones being created, but given the serious cross-border implications of Brexit, the *quid pro quo* is that all sides must engage effectively in the structure. (Paragraph 204)
25. We call on the Irish Government and Northern Ireland Executive to affirm the continuing role of the existing cross-border implementation bodies in the post-Brexit environment. (Paragraph 205)
26. The all-island Civic Dialogue is, we believe, a useful format for discussion. While we respect the decision of the Unionist parties not to engage, and their concern about the establishment of any new formal cross-border mechanisms, it is important that politicians on all sides pay due account to any proposals emerging from the Civic Dialogue. (Paragraph 206)
27. We welcome the dialogue between the two Governments, and support the continuing work of the British/Irish Council and British-Irish Intergovernmental Conference. We note concerns over the level of engagement by UK ministers in these fora, and therefore urge the Government to show the fullest possible commitment to supporting intergovernmental dialogue, especially with regard to Brexit. The bilateral link between the Taoiseach and Prime Minister in particular must be sustained and developed. The fact that UK and Irish ministers and officials will no longer meet in the EU context makes it all the more important that both sides devote the time

and attention necessary to ensure that the bilateral UK-Irish relationship continues to prosper. (Paragraph 215)

28. We applaud the work of the British-Irish Parliamentary Assembly in forging closer links between parliamentarians throughout these islands. Interparliamentary dialogue will become increasingly important once the UK is no longer part of the EU. (Paragraph 216)
29. Brexit poses significant challenges for Northern Ireland, which transcend the traditional dividing lines of Northern Ireland politics. While we appreciate that the DUP and Sinn Féin were on opposing sides during the referendum campaign, as the two constituent parts of the Northern Ireland Executive both parties have a duty to the communities they represent to work together and show leadership. They need to ensure, as Brexit negotiations begin, that Northern Ireland's interests are effectively communicated to the UK Government, the Irish Government, to the EU and to other Member States. (Paragraph 225)
30. We urge the Government to enhance the role of the Joint Ministerial Committee for the duration of the negotiations, to ensure that the interests not only of Northern Ireland but of all the devolved nations and regions are properly understood and respected. We welcome the establishment of the new Joint Ministerial Committee on EU Negotiations, though it remains to be seen how effective this new mechanism will be. (Paragraph 232)
31. While the UK Government's engagement with Northern Ireland stakeholders over Brexit is welcome, as far as it goes, there also needs to be more effective coordination between the Northern Ireland Office and Northern Ireland Executive, and between officials in London and Belfast, as they gather information on the implications of Brexit. (Paragraph 233)

### **Conclusion**

32. As this report has fully demonstrated, Brexit has profound and unique implications for Ireland, North and South, and for UK-Irish relations. In particular, we highlight:
  - The economic implications for the Republic of Ireland, which it will face even though it had no say in the UK's decision to leave the EU.
  - The economic implications for Northern Ireland, particularly given the extent of cross-border trade and the agri-food sector's reliance on EU funding.
  - The consequences for the soft Irish land border of potential restrictions to the free movement of goods and people.
  - The implications for the Common Travel Area and for the special status of UK and Irish citizens in each other's countries, including the right of the people of Northern Ireland to Irish (and therefore EU) citizenship.
  - The potential impact on political stability in Northern Ireland, and in particular on the confidence of both communities that their interests and aspirations are being respected.

- The challenge to the North-South and East-West institutional structure established under the Belfast/Good Friday Agreement. (Paragraph 258)
33. We acknowledge that the negotiations under Article 50, on UK withdrawal and on the framework for the future relationship between the UK and the EU, will inevitably focus on issues affecting all 28 states concerned. But the unique position of Ireland, North and South, must not be overlooked. (Paragraph 259)
  34. We therefore call on all parties to the negotiations, the EU institutions as well as the Member States, to give official recognition to the special, unique nature of UK-Irish relations in their entirety, including the position of Northern Ireland, and the North-South and East-West structure and institutions established under the Belfast/Good Friday Agreement. (Paragraph 260)
  35. We do not underestimate the difficulties, legal and institutional, of translating such recognition into a final agreement. Yet the unique nature of UK-Irish relations requires a unique solution. The preferred approach, we believe, would be for the EU institutions and Member States to invite the UK and Irish Governments to negotiate a draft bilateral agreement, involving and incorporating the views and interests of the Northern Ireland Executive and keeping the EU parties fully informed as this negotiation proceeds. Such an agreement would then need to be agreed by EU partners, as a strand of the final Brexit arrangements. (Paragraph 261)
  36. Key objectives of any bilateral negotiation should include:
    - Maintenance of the current open land border between the UK and Ireland, as well as of the ease of movement across the sea boundary between Northern Ireland and the rest of the UK.
    - Maintenance of the current Common Travel Area arrangements, and the right of free movement of UK and Irish citizens between the jurisdictions.
    - Maintenance of the right of UK and Irish citizens to reside and work in each other's countries.
    - The retention of rights to Irish (and therefore EU) citizenship for the people of Northern Ireland.
    - In the event that the UK leaves the customs union, a customs and trade arrangement between the two countries, subject to the agreement of the EU institutions and Member States.
    - Acceptance of the Northern Ireland Executive's right to exercise devolved powers in making decisions about the free movement of EU workers within its jurisdiction.
    - Reaffirmation by both governments of their commitment to the Belfast/Good Friday Agreement and subsequent agreements, including continued support for existing cross-border cooperation.
    - Continued eligibility for cross-border projects to EU funding programmes. (Paragraph 262)



37. The EU has a strong interest in supporting this approach. It has made a significant contribution to the peace process, both politically and financially. It is therefore not in the interests of the EU, any more than of the UK and Ireland, for political stability in Northern Ireland, facilitated by the Belfast/Good Friday Agreement and subsequent agreements, to be put at risk by Brexit. The EU will also be particularly cognisant of the asymmetric burden that Brexit would place on Ireland, which has made clear that its future lies in the EU. (Paragraph 263)
38. A particular burden has fallen on the Irish Government to bring these issues to the attention of EU colleagues, and we therefore welcome the efforts the Irish Government has made to ensure that EU colleagues are informed about the unique circumstances in the island of Ireland, and the particular challenges of Brexit. (Paragraph 264)
39. But the primary responsibility for drawing attention to and finding solutions to the many challenges we have identified lies with the UK Government. Ireland now faces challenges that are not of its own making. Closer UK-Irish relations and stability in Northern Ireland are too important to put at risk as collateral damage of the Brexit decision. In an era of blossoming bilateral relationships, after long years of mistrust and misunderstanding, we urge the UK Government to be sensitive to the implications of its actions for the people and communities of Ireland, North and South. Anything less would diminish the efforts of all those who have worked so hard for peace and good relations across these islands. (Paragraph 265)

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Baroness Armstrong of Hill Top  
 Lord Boswell of Aynho (Chairman)  
 Baroness Brown of Cambridge  
 Baroness Browning  
 Baroness Falkner of Margravine  
 Lord Green of Hurstpierpoint  
 Lord Jay of Ewelme  
 Baroness Kennedy of The Shaws  
 The Earl of Kinnoull  
 Lord Liddle  
 Baroness Prashar  
 Lord Selkirk of Douglas  
 Baroness Suttie  
 Lord Teverson  
 Lord Trees  
 Baroness Verma (from 13 September 2016)  
 Lord Whitty  
 Baroness Wilcox

### Declarations of interest

Baroness Armstrong of Hill Top  
*Chair, Changing Lives (a charity based in Tyneside which may benefit from European Union funds)*  
*Member, Advisory Board, GovNet Communications (publisher and event organiser)*  
*Trustee, Africa Governing Initiative Trustee, Voluntary Service Overseas*

Lord Boswell of Aynho (Chairman)  
*In receipt of salary as Principal Deputy Chairman of Committees, House of Lords*  
*Shareholdings as set out in the Register of Lords' Interests*  
*Income is received as a Partner (with wife) from land and family farming business trading as EN & TE Boswell at Lower Aynho Grounds, Banbury, with separate rentals from cottage and grazing*  
*Land at Great Leighs, Essex (one-eighth holding, with balance held by family interests), from which rental income is received*  
*House in Banbury owned jointly with wife, from which rental income is received*  
*Lower Aynho Grounds Farm, Northants/Oxon; this property is owned personally by the Member and not the Partnership*  
*Lunch with the Irish Ambassador on 5 September 2016*  
*Meeting with President, CEO, Head of Public Relations and Corporate Affairs officer from IBEC on 22 November 2016*

Baroness Brown of Cambridge  
*Vice Chancellor of Aston University (to September 2016): significant research income, ERDF Funding from EU. Large number of EU (non-UK) staff and students. EIB Loan*  
*Former Governing Board member of the European Institute for Innovation & Technology*

**Baroness Browning***Chair of the Advisory Committee on Business Appointments***Baroness Falkner of Margravine***Visiting Professor, King's College London**Member, Advisory Board, Cambridge YouGov Stone (market research and events agency)**Member, British Steering Committee: Koenigswinter, The British-German Conference**Vice President, Liberal International: The International Network of Liberal Parties**Member, Advisory Board, British Influence**Ownership of a house in Italy, jointly owned with member's husband**Member, House of Lords Foreign Policy Network***Lord Green of Hurstpierpoint***President, Institute of Exports**Member of informal advisory group on Brexit and trade convened by CEO of the engineering Employees Federation (EEF)***Lord Jay of Ewelme***Trustee (Non-Executive Director) Thomson Reuters Founders Share Company Chairman, Positive Planet (UK)**Member, European Policy Forum Advisory Council**Member, Senior European Experts Group**Patron, Fair Trials International***Baroness Kennedy of The Shaws***Chair, Justice***Earl of Kinnoull***Executive Consultant, Hiscox Group (insurance)**Trustee, Blair Charitable Trust (running of Blair Castle and estate; a farm subsidy is received under the EU farm subsidy scheme)**Trustee, Red Squirrel Survival Trust and Director of associated private company (in receipt of EU funds)**Director, Horsecross Arts Limited (Perth) and trustee of related registered charity (in receipt of EU funds)**Member of Supervisory Board, Fine Art Fund Group funds**Farmland and associated cottages in Perthshire from which rental income is received and a farm subsidy is received under the EU farm subsidy scheme*  
*Shareholdings in Hiscox Ltd and Schroders PLC (fund management)***Lord Liddle***Chair, Policy Network and Communications Ltd (think-tank)**Co-author of a report which the City of London Corporation commissioned Policy Network to write on developments in thinking on the regulation of financial services in the European Union**Personal assistant at Policy Network carries out secretarial work which includes work in relation to the member's parliamentary duties***Baroness Prashar***Deputy Chair, British Council***Lord Selkirk of Douglas***Director, Lennoxlove House Limited (remunerated as a Director)**Chairman of Directors, and Director, Douglas-Hamilton (D Share) Ltd (small family company: agriculture and property; the Member's financial interest derives from his directorship, which is now paid as an annual sum above the registration threshold)*

*President, Scottish Veterans' Garden City Association (national charity)*  
*Chairman, Scottish Advisory Committee, Skill Force (national charity)*

**Baroness Suttie**

*Associate with Global Partners Governance Limited in respect of their Foreign and Commonwealth Office contract to provide mentoring and training for parliamentarians and their staff in Jordan*  
*Trustee, Institute for Public Policy Research (IPPR)*  
*Campaign Council Member, British Influence*

**Lord Teverson**

*In receipt of a pension from the European Parliament*  
*Director, KCS Trade Print Ltd (card & label products)*  
*Director, Wessex Investors Ltd*  
*Director, Wessex Hotel Operators Limited (interest ceased 27 April 2016)*  
*Director, KCS Holdings Ltd*  
*Director, Anchorwood Developments Limited (property)*  
*Board Member, Marine Management Organisation*  
*Trustee, Regen SW (renewable energy agency for South West England)*  
*Board Member, Policy Connect (think-tank)*

**Lord Trees**

*Chair, Moredum Research Institute, Edinburgh (independent animal health research institute) which applies for competitive research grants from the EU*

**Baroness Verma**

*No interests declared*

**Lord Whitty**

*President, Road Safety Foundation*  
*Chair, Cheshire Lehmann Fund*  
*President, Environmental Protection UK*  
*Member, GMB*  
*Vice President, Local Government Association*  
*Vice President, Chartered Institute for Trading Standards*

**Baroness Wilcox**

*Shareholdings as set out in the Register of Lords' Interests*

A full list of Members' interests can be found in the Register of Lords Interests:  
<http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at <http://www.parliament.uk/brexit-uk-irish-relations/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral and written evidence. Those marked with \* gave oral evidence and did not submit and written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

- |    |   |                                 |
|----|---|---------------------------------|
| *  | H.E. Dan Mulhall, Ambassador of Ireland to Great Britain  | <a href="#"><u>QQ 1–12</u></a>  |
| ** | Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland  | <a href="#"><u>QQ 13–32</u></a> |
| *  | Mr Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union   |                                 |
| *  | Dr Katy Hayward, Senior Lecturer, Queen’s University Belfast  | <a href="#"><u>QQ 33–47</u></a> |
| ** | Professor Cathal McCall, Professor of Politics and International Studies, Queen’s University Belfast  |                                 |
| *  | Dr Lee McGowan, Senior Lecturer, Queen’s University Belfast   |                                 |
| *  | Professor David Phinnemore, Professor of European Politics, Jean Monnet Chair in European Political Science and Dean of Education in the Arts, Humanities and Social Sciences at Queen’s University Belfast |                                 |
| *  | Angela McGowan, Director, CBI Northern Ireland  | <a href="#"><u>QQ 48–55</u></a> |
| *  | 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   |                                 |
| *  | Peter Sheridan, Chief Executive, Co-operation Ireland   | <a href="#"><u>QQ 56–67</u></a> |
| ** | Dr Anthony Soares, Deputy Director, Centre for Cross Border Studies   |                                 |
| ** | Ruth Taillon, Director, Centre for Cross Border Studies   |                                 |
| ** | Bernie McCrory, Chief Officer, Cooperation and Working Together   | <a href="#"><u>QQ 68–75</u></a> |
| *  | Pamela Arthurs, Chief Executive, East Border Region   |                                 |
| *  | Shane Campbell, CEO, ICBAN  |                                 |

- \* David Ford, Outgoing Leader, Alliance Party of Northern Ireland [QQ 76–84](#)
- \* Colum Eastwood, Leader, SDLP
- \* Mike Nesbitt, Leader, Ulster Unionist Party
- \* Dr Paul Gillespie, Adjunct Senior Research Fellow, University College Dublin and Columnist, Irish Times [QQ 85–99](#)
- \* Professor John O’Brennan, Jean Monnet Professor of European Integration, NUI Maynooth
- \* Dr Etain Tannam, Assistant Professor, Irish School of Ecumenics, Trinity College Dublin
- \* Edgar Morgenroth, Associate Research Professor, Economic and Social Research Institute [QQ 100–107](#)
- \* Dan O’Brien, Chief Economist, Institute of International and European Affairs
- \* Niall Gibbons, Chief Executive, Tourism Ireland
- \* John McGrane, Director General, British Irish Chamber of Commerce [QQ 108–111](#)
- \* Pat Ivory, Director of EU and International Affairs, Ibec
- \* Patricia King, General Secretary, ICTU
- \* Richard Pym, Chairman, Allied Irish Bank Plc [QQ 112–119](#)
- \* Bryan Barry, Acting General Secretary, Irish Farmers’ Association
- \* Bertie Ahern, Former Taoiseach of Ireland, 1997–2008 [QQ 120–137](#)
- \*\* John Bruton, Former Taoiseach of Ireland, 1994–1997 and EU Ambassador to the USA 2004–2009

### **Alphabetical list of all witnesses**

- \* Bertie Ahern, Former Taoiseach of Ireland, 1997–2008 ([QQ 120–137](#))
- \* Alliance Party of Northern Ireland ([QQ 76–84](#))
- \* British Irish Chamber of Commerce ([QQ 108–111](#))
- \*\* Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland ([QQ 13–32](#)) [BUI0014](#)
- \*\* John Bruton, Former Taoiseach of Ireland, 1994–1997 and EU Ambassador to the USA 2004–2009 ([QQ 120–137](#)) [BUI0016](#)
- C&C Group plc [BUI0003](#)
- \* CBI Northern Ireland ([QQ 48–55](#))
- \*\* Centre for Cross Border Studies ([QQ 56–67](#)) [BUI0012](#)
- The Consultative Committee of Accountancy Bodies - Ireland [BUI0009](#)

- \*\* Cooperation and Working Together ([QQ 68–75](#)) [BUI0013](#)
- \* Co-operation Ireland ([QQ 56–67](#))
- \* East Border Region ([QQ 68–75](#))
- Fianna Fáil [BUI0005](#)
- \* Dr Paul Gillespie, Adjunct Senior Research Fellow,  
University College Dublin and Columnist, Irish Times  
([QQ 85–99](#))
- \* Dr Katy Hayward, Senior Lecturer, Queen’s University  
Belfast ([QQ 33–47](#))
- \* Ibec ([QQ 108–111](#))
- \* ICBAN ([QQ 68–75](#))
- \* ICTU ([QQ 108–111](#))
- Immigration Law Practitioners’ Association [BUI0010](#)
- \* InterTradeIreland ([QQ 48–55](#))
- \* Irish Farmers’ Association ([QQ 112–119](#))
- \*\* Professor Cathal McCall, Professor of Politics and  
International Studies, Queen’s University Belfast  
([QQ 33–47](#)) [BUI0002](#)
- \* Dr Lee McGowan, Senior Lecturer, Queen’s  
University Belfast ([QQ 33–47](#))
- \* Edgar Morgenroth, Associate Research Professor,  
Economic and Social Research Institute ([QQ 100–107](#))
- \* H.E. Dan Mulhall, Ambassador of Ireland to Great  
Britain ([QQ 1–12](#))
- \* Northern Ireland Food and Drink Association  
([QQ 48–55](#))
- \* Professor John O’Brennan, Jean Monnet Professor of  
European Integration, NUI Maynooth ([QQ 85–99](#))
- \* Dan O’Brien, Chief Economist, Institute of  
International and European Affairs ([QQ 100–107](#))
- Dr Nat O’Connor, Lecturer in Public Policy,  
University of Ulster [BUI0004](#)
- \* Professor David Phinnemore, Professor of European  
Politics, Jean Monnet Chair in European Political  
Science and Dean of Education in the Arts,  
Humanities and Social Sciences at Queen’s University  
Belfast ([QQ 33–47](#))
- Police Service of Northern Ireland [BUI0015](#)
- \* Richard Pym, Chairman, Allied Irish Bank Plc  
([QQ 112–119](#))
- Queen’s University Belfast [BUI0017](#)
- The Royal Commonwealth Society [BUI0006](#)

- Professor Bernard Ryan, Professor of Migration Law,  
University of Leicester [BUI0008](#)
- \* SDLP ([QQ 76–84](#))
- \* Dr Etain Tannam, Assistant Professor, Irish School of  
Ecumenics, Trinity College Dublin ([QQ 85–99](#))
- The Tim Parry Johnathan Ball Foundation for Peace [BUI0007](#)
- \* Tourism Ireland ([QQ 100–107](#))
- \* Ulster Unionist Party ([QQ 76–84](#))
- \* Mr Robin Walker MP, Parliamentary Under-Secretary  
of State, Department for Exiting the European Union  
([QQ 13–32](#))
- Professor Derrick Wyatt QC, Brick Court Chambers,  
Emeritus Professor of Law, University of Oxford [BUI0001](#)