

PROTOCOL ON IRELAND AND NORTHERN IRELAND

NON-PAPER

ENGAGEMENT WITH NORTHERN IRELAND STAKEHOLDERS AND AUTHORITIES

1) Issue

1. On 21 July 2021, the UK issued a Command Paper on the way forward for the Protocol on Ireland / Northern Ireland (“**Protocol**”), requesting, *inter alia*, to “*normalise the governance basis of the Protocol*”, so that the relationship between the UK and the EU is “*not ultimately policed by the EU institutions.*” This implies renegotiation of several provisions of the Protocol, including parts of the Protocol that place Northern Ireland in the EU’s Single Market. As part of this request, the UK is also looking for ways to ensure that Northern Ireland institutions and stakeholders are more deeply involved in shaping and bringing into force legislation applicable in Northern Ireland.
2. The EU is aware that there is a real interest in Northern Ireland for greater transparency and for Union measures to take account of implications for Northern Ireland. This was highlighted in our discussions with businesses, civic society groups and public authorities.
3. It is important to recall what already exists under the Protocol in this regard. Notably, a joint consultative working group on the implementation of the Protocol was established (“**JCWG**”), Northern Ireland authorities are actively participating in the meetings of the EU – UK Joint Committee on the Withdrawal Agreement (“**Joint Committee**”) and the JCWG, the Joint Committee has a role under Article 13(4) of the Protocol regarding new Union acts that fall within the scope of the Protocol and ultimately, the Protocol provides for democratic consent in Northern Ireland to the continued application of Articles 5 – 10 of the Protocol.
4. It is worth pointing out that primarily it would be for the UK Government to engage the Northern Ireland authorities in the work of joint bodies established under the Withdrawal Agreement and the Protocol. Any solution on this point should be in line with the UK’s constitutional order.
5. The purpose of this paper is to outline effective and strategic solutions to enhance engagement with Northern Ireland authorities and stakeholders, within the framework of the Protocol. These solutions are based on discussions with the Northern Ireland civic society and business.

2) Framework

6. Article 15 of the Protocol establishes the JCWG, designed as a ‘*forum for the exchange of information and mutual consultation*’. The JCWG is composed of representatives of the Union and the UK. It carries out its functions under the supervision of the Specialised Committee on issues related to the implementation of the Protocol on Ireland and Northern Ireland established by Article 165 of the Withdrawal Agreement (“**Specialised Committee**”) to which it reports. The JCWG has no powers to take binding decisions (other than to adopt its own rules of procedure).
7. The Protocol further requires the EU to “*ensure that all views expressed by the United Kingdom in the working group and all information provided by the UK in the working [...] are communicated to the relevant institutions, bodies, offices and agencies of the Union without undue delay*” (Article 15(6) of the Protocol).

3) EU interest

8. The EU will not agree to a renegotiation of the Protocol. The EU's focus remains on identifying long-term, flexible and practical solutions to address issues related to the practical implementation of the Protocol that citizens and businesses in Northern Ireland are experiencing.

4) Possible solutions

9. The ideas outlined below have six strands addressing the concerns referred to in para 2 raised by the stakeholders.

Increasing transparency

10. The EU is aware that transparency is a crucial element for building trust in Northern Ireland and there is clearly room for improvement. The Commission is working on setting up a website that would in a clear and comprehensive way show the EU legislation applicable in Northern Ireland (covering also dynamic alignment aspect). That will significantly contribute to greater transparency for the people of Northern Ireland.
11. In terms of stakeholders' engagement, we would also like to recall that the Commission launches public consultations for certain measures where Northern Ireland stakeholders can express their views. We could also envisage to include the information on pending public consultations for measures that have relevance for Northern Ireland, on this dedicated website.
12. Although this idea primarily addresses concerns of stakeholders, it is also important for Northern Ireland authorities to be able to easily refer and find the EU *acquis* applicable to and in the UK in respect of Northern Ireland.

The work of the JCWG

13. The JCWG as important platform for information sharing, consultation and exchanges with Northern Ireland authorities, specifically on (new) legislation relevant for the implementation of the Protocol. Operational arrangements are in place to facilitate the work of the JCWG. The Union acknowledges the importance of the JCWG, and we are committed to making it work better.
14. In agreement with our UK counterparts, we could set up structured groups with the participation of experts from respective authorities to discuss aspects of Union measures that are important for the implementation of the Protocol. This would create space for the technical cooperation that the day-to-day application of the Protocol requires.
15. Furthermore, the Rules of Procedure of the JCWG provide that the meetings of the group are confidential. However, we do see merits in lifting this confidentiality requirement for deliberations on specific legislative proposals (and in particular when expert explanations are given in the JCWG) and their impact on the Northern Ireland. The co-chairs of the JCWG may also decide to publish the summary of the minutes (which could include any explanations on specific measures).
16. The development of the work of the JCWG is relevant for the UK Government and Northern Ireland authorities to have a better understanding of the rules made applicable by the Protocol to and in the UK in respect of Northern Ireland. It builds on mechanisms already existing in the Protocol. While the EU is willing to engage and work constructively on these matters, we also believe that the UK

Government needs to play a crucial role to increase engagement with Northern Ireland's authorities on matters related to the implementation of the Protocol.

Fora for structured dialogue with Northern Ireland stakeholders

17. The structured dialogue would be established between stakeholders (including Northern Ireland civic society and business), the experts working in the Union institutions, bodies and agencies and their UK counterparts (including Northern Ireland authorities).
18. The purpose of having these formalised fora is to establish dedicated space for dialogue between Northern Ireland stakeholders and experts in certain fields (e.g. customs, sanitary and phytosanitary measures, and environment) to allow for the views of Northern Ireland stakeholders to be expressed in the areas relevant for the implementation of the Protocol. Those meetings could be structured around the meetings of the Specialised Committee and/or JCWG.
19. Creation of these dedicated fora has two main goals. First, it is important for Northern Ireland stakeholders to have a better understanding of the Union rules made applicable by the Protocol to and in the UK in respect of Northern Ireland. Secondly, it would allow the Union to be able to better understand the impact of certain aspects of the Protocol for Northern Ireland businesses and civic society.

Structured dialogue between stakeholders and co-chairs of the Joint Committee

20. The EU and the UK would establish a structured dialogue between the co-chairmen of the Joint Committee and representatives of business communities and of civil society organisations in Northern Ireland. These meetings would be set up on a regular basis.
21. These exchanges are already taking place – but going forward they could be organised in a more structured way. This primarily benefits the stakeholders in having their concerns heard.

Participation of the stakeholders at the Specialised Committee

22. The Specialised Committee is a high-level body that should be used as a platform to engage with wider Northern Ireland civic society and business. This primarily benefits the stakeholders and civic societies in having their concerns heard.

Stronger link between Northern Ireland Assembly and the EU-UK Parliamentary Partnership Assembly

23. Following the European Parliament's endorsement of its delegation to the EU-UK Parliamentary Partnership Assembly, further contacts with Parliament colleagues would be needed to see how the ideas of a Northern Ireland sub-structure could work.
