



British-Irish Parliamentary Assembly

Report on Brexit and the future of British-Irish Relations

Appendix: Summary of evidence received

Committee B (European Affairs)

February 2018

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Introduction

1. In July 2016, Committee B (European Affairs) of the British-Irish Parliamentary Assembly agreed to undertake an inquiry to examine the effects on British-Irish relations of the UK leaving the EU. The inquiry aimed to build on previous work done by the Committee on the future of visa systems, looking at the future of the Common Travel Area and Schengen. It also considered the impact on Ireland's influence in the EU and Ireland's role in Article 50 negotiations.
2. The Committee invited written evidence from members of the public, governments at national, regional and devolved level, the EU institutions and other EU Member States, and any other interested parties and stakeholders. Evidence was invited on the following issues:
 - Implications for the Common Travel Area, Schengen and visa policy
 - Effect on Irish influence in the EU and decision making within the EU institutions
 - Article 50 negotiations and the role of Ireland
 - Effect on the Crown Dependencies and Gibraltar
3. To complement this written evidence, the Committee held a number of working group meetings with relevant parties pursuant to the inquiry. A full list of written evidence received, parties met and the dates of the meetings can be found below.
4. The Committee agreed its report, detailing a set of recommendations and conclusions based on evidence heard throughout this inquiry, at the BIPA plenary session in Liverpool on 15-17 October 2017. The report also took account of two major publications published since the Committee launched its inquiry: the House of Lords EU Committee's report on "Brexit: UK-Irish Relations", and the report of a Special Select Committee of the Seanad, which was established to consider the implications for Ireland of the UK's withdrawal from the European Union.
5. This document comprises a summary of the evidence taken throughout the Committee's inquiry, and is published as an annex to the report. Each section contains background information relevant to the Committee's inquiry, and a summary of relevant points made by participants.
6. The members of Committee B would like to thank all those who assisted and participated in the inquiry for their time and insight; all those organisations that produced previous reports on this topic, which have informed the work of the Committee; and the British and Irish clerks to the Committee for their assistance in drafting the report.

List of individuals and organisations met

7. Written evidence was submitted by the following parties:
 - Jane Morrice, Member of the European Economic and Social Committee (EESC), author of the EESC Opinion on the role of the EU in the Northern Ireland peace process (2008)
 - Ministry of External Relations, Government of Jersey
 - Dr Joseph Garcia, Deputy Chief Minister and Minister for EU Affairs, Gibraltar
 - Government of the States of Guernsey
 - Mairéad McGuinness, MEP for Midlands North-West and Vice-President of the European Parliament
 - Department for Exiting the European Union, United Kingdom
 - Department of Foreign Affairs and Trade, Ireland
8. Working group meeting, London, 27-28 February 2017:
 - Robert Goodwill MP, Minister of State for Immigration (in camera)
 - Daniel Mulhall, then Ambassador of Ireland to Great Britain
 - Lord Boswell, Lord Jay, Baroness Armstrong, House of Lords EU Committee
 - Channel Islands APPG
 - Nigel Mills MP, Northern Ireland Affairs Committee
 - Robin Walker MP, Parliamentary Under Secretary of State at the Department for Exiting the European Union
 - Sir William Cash MP, European Scrutiny Committee
9. Working group meeting, Dublin, 9-10 March 2017:
 - Seán Crowe TD, Senator Neale Richmond, Senator Paul Coghlan, Oireachtas Joint Committee on EU Affairs
 - Michael Kirrane, Jimmy Martin, Donncha O'Sullivan, Department of Justice and Equality
 - Tom Arnold, Institute of International and European Affairs
 - Francis Jacobs, University College Dublin
 - Katie Daughen, British Irish Chamber of Commerce
 - Aidan Flynn, Freight Transport Association Ireland
 - John Coakley, Queens University Belfast
 - Mary C Murphy, University College Cork
 - Noelle O'Connell, European Movement Ireland
10. Working group meeting, Brussels, 25-26 September 2017:
 - Ambassador Joe Hackett, Émer Deane, Permanent Representation of Ireland to the EU
 - Emma Gibbons, Ivan Smyth, Permanent Representation of the UK to the EU
 - Andrew Elliot, Lynsey Moore, Office of the Northern Ireland Executive Brussels
 - Eve Pennant-Jones, Welsh Government Office Brussels
 - Ian Campbell, Scottish Government Office Brussels
 - Guy Verhofstadt MEP
 - Mairead McGuinness MEP
 - Commissioner Phil Hogan

Implications of Brexit for the Common Travel Area, Schengen and visa policy

Background

11. The Common Travel Area is a travel zone encompassing Ireland, the United Kingdom, Isle of Man and Channel Islands, which dates from the establishment of the Irish Free State in 1922. Nationals of countries within the CTA can travel within its boundaries without being subject to passport controls. Non-CTA nationals must have the relevant permissions and documentation to travel to and within the CTA. High levels of practical coordination between Irish and British authorities underpin the functioning of the CTA.¹
12. The Schengen Area is a passport-free travel area comprised of 22 EU Member States, Iceland, Norway, Switzerland and Lichtenstein. The Area developed from 1985 and was originally created outside the legal framework of the European Communities. The Convention implementing the Schengen Agreement, which entered into force in 1995, abolished internal borders among its signatories and created a single external border. However, since the start of the current refugee crisis in 2015, a number of Schengen Member States have reinstated temporary border controls, as provided for in the Schengen Borders Code.² This includes Spain's border with Gibraltar. Neither the United Kingdom nor Ireland is a member of the Schengen Area or a candidate to join the Area, but both have requested to opt into certain rules on criminal law and policing under the Treaty of Amsterdam.³
13. In their report on the impact of Brexit on UK-Irish relations, the Lords EU Committee highlighted the "profound implication" of Brexit for cross-border police and security cooperation between Irish and UK law enforcement authorities. These include measures relating to the Schengen Agreement, such as the Second Generation Schengen Information System, which contains alerts on individuals subject to a European Arrest Warrant, suspects and witnesses wanted for questioning, vehicles linked to crime and other data. The Committee noted that continued access to EU databases is "vital if cross-border cooperation, and the fight against terrorism and organised crime, are not to be undermined" by Brexit.⁴
14. While the UK and Ireland retain national competency for visa policy, coordination of policy has led to some joint initiatives in this area. These include the Irish visa waiver programme

¹ House of Commons Library Briefing Paper (2017), *The Common Travel Area, and the special status of Irish nationals in UK law*, <http://researchbriefings.files.parliament.uk/documents/CBP-7661/CBP-7661.pdf>

² European Parliament Implementation Appraisal (2016), *Schengen and the management of the EU's external borders*, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581392/EPRS_BRI\(2016\)581392_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581392/EPRS_BRI(2016)581392_EN.pdf)

³ EUR-Lex Summary of EU Legislation (2009), *The Schengen area and cooperation*, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:I33020>

⁴ House of Lords EU Committee report (2016), *Brexit: UK-Irish relations*, <https://publications.parliament.uk/pa/ld201617/ldselect/ldcom/76/76.pdf>

for short-stay visa holders of a visa issued by the UK,⁵ and the establishment of a single short-stay visa scheme for visitors from India and China.⁶

15. A report by BIPA Committee B, adopted in 2016, considered the operation of the CTA and the potential for further harmonisation of visa policy between the UK and Ireland. Recommendations made in that report included the following:

- a. Both the UK and Irish Governments should consider steps to enhance the understanding and awareness of the CTA among people travelling to and within it;
- b. Cooperation on maintaining the security and integrity of the external border of the CTA should be stepped up, having regard to the availability and efficient use of resources;
- c. Formal evaluation of the British Irish Visa Scheme (BIVS) should be completed as soon as possible, so that steps can be taken towards the expansion both of that scheme and the short stay visa waiver programme. A report on the functioning of the BIVS is expected in the coming months;
- d. Both the UK and Irish Governments should continue to play an active part in Schengen and other visa and border related discussions and negotiations at the EU level, in order to ensure that the interests and views of both countries are reflected in future EU rules and cooperation.⁷

16. In light of recommendation d, the Committee considered that there was merit, following the decision of the UK to leave the European Union, to consider further the operation of the CTA, Schengen and visa policy in the post-Brexit context.

Evidence Received

17. Sir William Cash, Chair of the House of Commons European Scrutiny Committee, noted the goodwill towards Ireland in the UK and the prominence of the CTA in the Prime Minister and Secretary of State for Northern Ireland's recent (January 2017) speeches.

18. Jimmy Martin, Assistant Secretary of the Department of Justice and Equality, emphasised the importance of maintaining the Common Travel Area, which is recognised in Articles 19 and 20 of the Treaty on the Functioning of the EU. Mr Kirrane emphasised the importance of the CTA to allowing free movement on the island of Ireland and equality of citizenship, as provided for under the Good Friday Agreement. Mr Martin and Mr Kirrane outlined the ongoing efforts of their Department – and the Government more widely – to

⁵ Irish Naturalisation and Immigration Service information note (2016), *The Irish Short-stay Visa Waiver Programme*, <http://www.inis.gov.ie/en/INIS/visa-waiver-programme-oct2016.pdf/Files/visa-waiver-programme-oct2016.pdf>

⁶ Irish Naturalisation and Immigration Service information note (2014), *The British-Irish Visa Scheme*, 2014, <https://www.dfa.ie/media/embassychina/visas/BIVS-information-note-EN.pdf>

⁷ British Irish Parliamentary Assembly (2016), *Report on Visa Systems*, <http://www.britishirish.org/assets/VISAS-report-FINAL-002.pdf>

sensitise EU partners to the importance of this issue for Ireland, with a view to securing agreement at EU level that the CTA may be continued post-Brexit. As it is a bilateral arrangement, the substance of the CTA would not be a matter of negotiation at EU level, although it would be essential for Ireland to continue to comply with all its EU obligations, notably the right of EU citizens to freely travel to and reside in Ireland, and for this to be respected by the UK.

19. Tom Arnold, Director of the Institute of International and European Affairs, stated that the question of the CTA was of fundamental importance. It is a political problem that would require a political solution; however, Mr Arnold's view was that there does exist political will to have a seamless border. Mr Arnold suggested that exit and entry checks for the UK could be moved to Irish ports.
20. Noelle O'Connell, European Movement Ireland, considered that the preferential treatment afforded to Irish and British citizens under the CTA may have to get the approval of the EU26 to continue after Brexit. In her evidence, Ms O'Connell also called on politicians to recognise the "people aspect" of the EU, in addition to the current focus on trade and economic factors.
21. Ivan Smyth, UK Permanent Representation to the EU, described the protection of the CTA as "sacrosanct" but noted that the difficulty lay in resolving trade issues and the different in regulatory frameworks.
22. Michael Kirrane, Director General of the Irish Naturalisation and Immigration Service, provided an update on the workings of the British Irish Visa Scheme. Mr Kirrane said that this facilitates North-South tourism and benefits tour operators. Security is enhanced due to the collection of biometric data and checks on both countries' systems. The Irish Department of Justice was close to finalising a study on the operation of the scheme but, so far, no negative aspects had been identified, so the Department was looking at the prospects for extension. Mr Kirrane also confirmed that the scheme can operate after Brexit as Ireland is not in the common visa code shared by Schengen countries.
23. Dan Mulhall, then Ambassador of Ireland to Great Britain (February 2017), outlined the Irish Government's priorities in the EU-UK negotiations, which include the maintenance of the Common Travel Area. The Ambassador stressed the importance of political will in paving the way for a positive settlement.
24. The former MEP, Andrew Duff, argued in a recent analysis of the Brexit talks that "Because the whole Irish question has been almost intractable for centuries, the solution here will

be a political one, at a very high level, that will result in the turning of a blind eye to an EU porous border in Ulster.”⁸

25. Lord Jay, House of Lords EU Committee, stated that one of the primary drivers to producing the House of Lords report on Brexit and UK-Irish relations⁹ was that, in his opinion, issues related to Ireland had either not been understood or completely ignored in the run up to the 2016 referendum. He also believed that the UK and Ireland needed to come up with an informal agreement on how the CTA and other border issues would be resolved, which they could then present to other EU countries as part of the negotiations. This view was reflected in the House of Lords report.
26. Baroness Armstrong, House of Lords EU Committee, believed there was a clear will of both governments to preserve the CTA, but that the challenges of this should not be ignored. The border would now be a border between the UK and the EU. If one of the UK’s main aims is to reduce migration, she said, this could be a big issue.
27. Nigel Mills MP, a member of the Northern Ireland Affairs Committee, suggested that the CTA could be retained as there was a precedent in the Schengen Area, which covers both EU and non-EU countries, just as the CTA will after Brexit. In the view of Mr Mills, functionally, all-island border checks already exist; assuming that there will be no visa requirement for EU nationals on short stays, this could remain the case, helping to preserve the CTA. The parallel system for non-EU nationals currently functions well, and Mr Mills thought it unlikely many people would choose to work illegally in the UK when they could go elsewhere in the EU²⁷.
28. The members of the House of Lords Committee argued that further study was required to determine how illegal migration and trafficking into the UK were to be dealt with after Brexit.
29. The States of Guernsey noted that Guernsey forms part of the CTA, but not the EU. In written evidence to the Committee, the Government of Guernsey emphasised that due to its very strong economic, cultural and social links with the UK, Guernsey should be regularly briefed and consulted throughout the negotiations with respect to the CTA, among other issues.
30. The Department for Exiting the EU, on behalf of the British Government, affirmed the UK’s commitment to preserving the CTA and to continuing the joint programme of work with

⁸ Duff, Andrew (2017), *Brexit: No ordinary third country*, European Policy Centre, http://www.epc.eu/documents/uploads/pub_7833_brexitnoordinarythirdcountry.pdf

⁹ House of Lords EU Committee report (2016), *Brexit: UK-Irish relations*, <https://publications.parliament.uk/pa/ld201617/ldselect/ldcom/76/76.pdf>

Ireland to secure the CTA's external border, including increased data-sharing and harmonisation of visa policy and procedures. The UK also emphasised its commitment to the British-Irish Visa Scheme.

31. Robin Walker MP, Parliamentary Under Secretary of State at the Department for Exiting the EU, noted that the CTA is enshrined in UK and EU law and predates Irish and British membership of the EU. Mr Walker believed the EU institutions also recognised the importance of continuing the CTA.
32. The Seanad special committee has considered the future of the CTA in a report published in July 2017. The Committee concluded that border controls between the CTA and the Schengen Area could remain in place alongside the maintenance of free movement between Ireland and the UK, with Ireland remaining outside the Schengen Area. The committee stated that "while Ireland might be interested in becoming a Member of Schengen, the current arrangements are to Ireland's advantage".¹⁰

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http://data.oireachtas.ie/ie/oireachtas/committee/seanad/25/seanad_committee_on_the_withdrawal_of_the_uk_from_the_eu/reports/2017/2017-07-04_brexit-implications-and-potential-solutions_en.pdf

Effect of Brexit on Irish influence in the EU and decision making within the EU institutions

Background

33. Since both countries joined the European Economic Community in 1973, the UK and Ireland have often been allies in the European Council, particularly in areas such as regulation, free trade and tax harmonisation. Both have also remained outside the Schengen area. Post Brexit, Ireland will be the only common law jurisdiction in the EU.
34. The Irish Government has said that “Brexit is particularly regrettable from an Irish perspective as it will mean the loss of an important ally on many issues at the EU table.”¹¹ However, in the European Council, Sweden, the Netherlands and Denmark have all voted with the UK more frequently than Ireland has.¹²
35. The Lords EU Committee welcomed the UK Government’s engagement with Northern Ireland stakeholders over Brexit, but called on it to ensure “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”.¹³
36. The UK has 73 MEPs, out of a total of 751. While it has not yet been decided how to redistribute UK seats in the European Parliament, there will be an impact on the balance of political groups, particularly the European Conservatives and Reformists (ECR) and Europe of Freedom and Direct Democracy (EFDD).¹⁴

Evidence Received

37. The Department of Foreign Affairs and Trade, on behalf of the Government of Ireland, stated that Ireland remains a fully committed Member State of the EU. The Government’s view is that EU membership remains central to the success of Ireland’s open, competitive economy and has been the foundation for much of the social progress Ireland has made over the last four decades. Ireland’s position is that membership of the European Union has brought great benefits and remains profoundly in Ireland’s interests. Ireland values being part of a Union with other like-minded democracies which share its values and interests.

¹¹ Irish Government Publication (2017), *Brexit: Ireland’s Priorities*, http://www.merrionstreet.ie/MerrionStreet/en/EU-UK/Key_Irish_Documents/M10016_Department_of_the_Taoiseach_Brexit_Report_Web_spreads-2_new_pdf.pdf

¹² Hix, Simon, Hagemann, Sara and Frantescu, Doru (2016), *Would Brexit matter? The UK’s voting record in the Council and the European Parliament*, VoteWatch Europe, <http://eprints.lse.ac.uk/66261/>

¹³ House of Lords EU Committee report (2016), *Brexit: UK-Irish relations*, <https://publications.parliament.uk/pa/ld201617/ldselect/ldcom/76/76.pdf>

¹⁴ Bond, Ian et al (2016), *Europe after Brexit: Unleashed or Undone?* Centre for European Reform, http://www.cer.eu/sites/default/files/pb_euafterBrexit_15april16.pdf

38. As regards Ireland's influence in the EU, the Government of Ireland believes that it is difficult to draw clear conclusions on the potential effects of the UK's decision to leave. Since 1973, in some areas of policy the interests of Ireland and the UK have coincided; in other areas, they have diverged, and this pattern has changed over time. Ireland has, of necessity, built alliances with Member States and institutions across a range of policy areas. For example, Ireland is one of a select group of Member States with Embassies in all EU capitals. With the departure of the UK, the importance of this network of alliances is evident, in Ireland's view.
39. While the UK Government acknowledged that Ireland's relationship with the EU is a matter for the Irish Government, it affirmed that the UK Government is clear that Ireland will not have to choose between having a strong commitment to the EU or to the UK. In the UK Government's view, this will mean taking steps to strengthen the political and commercial ties between the two countries.
40. Mairéad McGuinness, MEP, Vice President of the European Parliament, took the view that relations are already changing since the referendum which led to Brexit. One positive side effect of Brexit has been increased engagement of the European institutions with the national parliaments of Member States.
41. The report of the Seanad Special Committee stated that it heard from witnesses that "this is the time for Ireland to work 'to make the EU more effective, and more visibly democratic.'"¹⁵
42. Francis Jacobs, Adjunct Senior Research Fellow at University College Dublin, noted that there had always been a significant Eurosceptic vote in Ireland (around 30%), but this did not focus on immigration like it has in the UK. Tom Arnold, Director General of the Institute of International and European Affairs, agreed, saying it is unlikely that there will ever be a strong movement in Ireland to leave the EU. Polls conducted in Ireland since the UK referendum have found support for the EU standing at between 70 and 80%.¹⁶
43. While accepting that the UK's exit from the EU would impact on Ireland in the short term, Sir William Cash MP did not believe it would be a long term issue, and expected the long term impacts of Brexit to be positive.

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http://data.oireachtas.ie/ie/oireachtas/committee/seanad/25/seanad_committee_on_the_withdrawal_of_the_uk_from_the_eu/reports/2017/2017-07-04_brexit-implications-and-potential-solutions_en.pdf

¹⁶ <https://www.irishtimes.com/news/politics/strong-majority-want-a-minister-for-brexit-according-to-poll-1.2955473?mode=amp> and <http://www.newstalk.com/Brexit-Ireland-opinion-poll-Britain-economy-Northern-Ireland-referendum-EU>

44. Mr Jacobs considered that it was likely that Ireland would need to revisit its linkages and alliances with other Member States within the EU institutions. Mr Jacobs noted that Brexit would impact on the European Parliament, both through the redistribution of seats and through the loss of “champions” of particular policy areas such as the single market, free trade and competitiveness.
45. Several witnesses noted that UK-Irish relations had been enormously developed by shared EU membership, through both formal and informal contact between officials and politicians.
46. Mr Jacobs thought that Brexit would have a huge effect on the balance of power within the remaining EU27, leading to greater Franco-German dominance. Ireland and other small Member States would need to seek ways to react to this. Professor Mary C. Murphy of University College Cork noted that Ireland is likely to find it more difficult, in the absence of the UK, to muster a blocking minority (35% of total EU population) on future Council proposals. However, she also acknowledged that some commentators have argued that Ireland’s relative power in the European Council will not be greatly affected by Brexit.
47. The Government of Ireland noted that, in the Council of the EU, qualified majority voting will no doubt be affected by the UK’s departure, and the range of majorities available changed as a result. While decision making rules may be one factor in the decision making process however, Ireland’s experience of Council demonstrates that the institution has developed a working method which favours consensus, and that voting is the exception rather than the rule.
48. Senator Richmond, Oireachtas Joint Committee on EU Affairs noted the requirement for consent by the European Parliament to the future deal, and said Irish MEPs were working incredibly hard already to represent Irish views in the Brexit context.
49. Emma Gibbons, UK Permanent Representation to the EU, stated that the UK was already working to ensure positive bilateral relations with all EU Member States.

Article 50 negotiations and the role of Ireland

Background

50. On 29 March 2017, the UK Permanent Representative to the European Union, Tim Barrow, delivered a letter from Prime Minister Theresa May to President Donald Tusk, formally triggering the article 50 process of leaving the EU.
51. On 29 April 2017, an extraordinary European Council summit of the remaining 27 EU Member States met to agree a mandate for European Commission chief negotiator Michel Barnier. The guidelines outline the framework for the negotiations, setting out the broad EU principles for the talks, which will be conducted by the European Commission and overseen by the Council.¹⁷ Prior to this summit, on 5 April, the European Parliament adopted a non-binding resolution which identified its “red lines” in the negotiations.¹⁸
52. Negotiations formally began in June, and areas agreed in the early phase of negotiations included the timing and structure of the talks, citizens’ rights, financial settlements and the border on the island of Ireland.¹⁹ As one of the remaining EU Member States, Ireland is represented in the negotiations by the EU negotiating team headed by Michel Barnier.
53. The Lords EU Committee recommended in December 2016 that the EU institutions and Member States invite the UK and Irish Governments to negotiate a draft bilateral agreement, to be agreed by EU partners, which involves and incorporates the views and interests of the Northern Ireland Executive.²⁰ However, the Government of Ireland has consistently stated that it will negotiate as a member of the EU27.

Evidence Received

54. The UK Government said that as it leaves the EU, the UK is embarking on a historic and important negotiation. How it takes the process forward will be a matter for discussion with the EU institutions and the UK’s European partners. The UK Government said that it will always act in good faith towards its European partners, including Ireland. In the view of the British Government, the UK-Irish relationship has never been stronger and that is something both countries need to use to their mutual benefit as the UK negotiates its departure from the European Union.

¹⁷ European Movement Ireland (2017), *Just the Facts: Special European Council on Article 50 negotiations, 29 April 2017*, <http://www.europeanmovement.ie/just-the-facts-special-european-council-on-article-50-negotiations-29-april-2017/>

¹⁸ European Parliament Press Release (2017), *Red lines on Brexit negotiations*, <http://www.europarl.europa.eu/news/en/press-room/20170329IPR69054/red-lines-on-brexit-negotiations>

¹⁹ D’Alfonso, Alessandro et al (2017) *The Brexit negotiations: Issues for the first phase*, European Parliamentary Research Service, [http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/607267/EPRS_IDA\(2017\)607267_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/607267/EPRS_IDA(2017)607267_EN.pdf)

²⁰ House of Lords EU Committee report (2016), *Brexit: UK-Irish relations*, <https://publications.parliament.uk/pa/ld201617/ldselect/ldcom/76/76.pdf>

55. Robin Walker MP noted that the UK Government had been extremely active over the months leading up to the triggering of article 50 in engaging bilaterally with all EU member states on priorities for the forthcoming negotiations. These discussions had been most intense with Ireland. The Prime Minister had met the Taoiseach on three occasions and had made it very clear in the White Paper that preserving the UK and Ireland's special relationship, and in particular the CTA, was one of the UK Government's primary objectives.
56. Mairéad McGuinness MEP emphasised the importance of making sure Ireland's specific concerns are understood and addressed in the negotiations. She considered that it was desirable to find a solution as close to the status quo as possible.
57. Ambassador Mulhall spoke about Ireland's priorities in the article 50 negotiations, including the maintenance of the Common Travel Area, and noted that it is the policy of the Irish Government to defend the Good Friday Agreement in letter and spirit. The UK Government also affirmed its full commitment to the Belfast Agreement, its fundamental principles, its successors and to the institutions they establish.
58. Ambassador Joe Hackett, Deputy Permanent Representative of Ireland to the EU, said that it was clear that there is strong solidarity and unity on Ireland's priorities being understood and addressed as evidenced in the EU guidelines and position paper.
59. The Irish Government stated that in preparing for Ireland's participation in the negotiations, the Irish Government's priorities have been to protect the interests of its citizens, with particular regard to: Northern Ireland and the peace process; the Common Travel Area; North-South and British-Irish trade and co-operation; and the Irish economy. The future of the EU itself is also a key priority for Ireland.
60. Ms O'Connell said that communicating the Irish perspective in Brussels is a key part of EMI's work, and that Ireland is seeking recognition of its unique circumstances in the context of Brexit, not special advantage.
61. The Irish Government said that it wants an orderly and constructive negotiations process and would like the UK to retain a close and positive relationship with the EU post-departure. At the same time, the Irish Government wishes to ensure the continued effectiveness of the EU with the integrity of the Single Market maintained and the indivisibility of the four freedoms upheld.
62. On its role in the negotiations, the Irish Government stated that it has made a number of structural changes within the administration to enhance the system's capacity to deal with the immense challenge of Brexit.

63. Ambassador Mulhall recognised the concerns of rural regions in Ireland, noting that they would suffer the most and reap the fewest rewards from Brexit, and spoke of the importance of minimising disruption to small producers on both sides of the border. He suggested BIPA could usefully raise the profile of issues such as these as the negotiations continue.
64. Concerns about the impact of Brexit on agriculture have also been raised by the Seanad Special Committee, which referred to potential “massive disruption to all-island supply chains” and stated that “Often the same product travels over the border and back before finally being sold”. The Committee concluded that the withdrawal of the UK from the single market and customs union would mean that “a Comprehensive Free Trade Agreement that includes food and agricultural products will be needed”.²¹
65. In terms of the opportunities for Ireland, Katie Daughen, British Irish Chamber of Commerce (BICC), described Brexit as a potential “Whitaker moment”, a chance to find creative solutions. BICC would like to see a National Strategic Opportunity Plan backed by all Irish political parties, to protect key industries in the aftermath of Brexit. Ms Daughen highlighted participation in the Government’s All-Island Civic Dialogue sectoral consultations and engagement with the Oireachtas as ways that the voices of industry would be heard in the Brexit process.

Effect on the Crown Dependencies and Gibraltar

Background

66. The Crown Dependencies and British Overseas Territories have differing relationships to the United Kingdom and EU. The Crown Dependencies (The Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man) are self-governing and are not part of the European Union. However, they are inside the CTA and have a relationship with the EU provided for under Protocol 3 to the UK's Treaty of Accession to the European Community which means that they are part of the EU Customs Union.²² None of the Crown Dependencies participated in the UK referendum on leaving the EU in 2016.
67. In 2007, the then-Secretary of State for Constitutional Affairs signed an agreement with the Chief Ministers of each of the Crown Dependencies stating that the UK would not act internationally on their behalf without prior consultation and recognising the democratic legitimacy of the Governments of the Islands.²³
68. Each British Overseas Territory has its own constitution, government and local laws. As a matter of constitutional law the UK Parliament has unlimited power to legislate for the Territories.²⁴ Gibraltar is the only British Overseas Territory in the EU. It did participate in the 2016 referendum, with 96% of voters voting to Remain in the EU. However, it is not part of the EU Customs Union or the Common Agricultural Policy, and is excluded from the requirement to levy VAT.

Evidence Received

69. The Government of Guernsey welcomed the initial discussions between the UK Government and Crown Dependencies, and asked that negotiations be carefully managed in order to ensure proper engagement with the Crown Dependencies. Guernsey noted that it was not actively seeking any change in its relationship with either the EU or the UK, but that if the Crown Dependencies' access to EU markets is affected by Brexit the UK Government should ensure they are able to protect and promote their interests. Finally, the States of Guernsey requested that the definitions used in future policy development be carefully scrutinised for their implications for residents of Guernsey to ensure they are not discriminatory.

²² Ministry of Justice (2013), *Fact Sheet on the UK's relationship with the Crown Dependencies*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/564373/factsheet-on-the-uks-relationship-with-the-crown-dependencies.pdf

²³ All available on the UK Government's website at <https://www.gov.uk/government/publications/crown-dependencies-jersey-guernsey-and-the-isle-of-man>

²⁴ Foreign and Commonwealth Office White Paper (2012), *The Overseas Territories: Security, Success and Sustainability*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32952/ot-wp-0612.pdf

70. The Government of Jersey identified three priorities regarding the UK's withdrawal from the EU: preserving as far as possible the relationship between Jersey and the EU as set out in Protocol 3 of the UK's Act of Accession, with terms no less favourable than those for the UK and that recognise Jersey's economic interests; being able to protect and promote Jersey's interests in international trade; maintaining the status quo on financial services market access. The Government of Jersey also said that Jersey's Rural Economy (Agriculture and Fisheries) are of particular importance in the Brexit context.
71. The Government of Jersey stated that, as part of the CTA, it would seek an outcome to the EU-UK negotiations on terms no less favourable than those for the UK. Jersey identified the maintenance of the CTA as a strategic priority, and requested that it be kept informed, consulted and involved throughout the Brexit process, given the wide implications for Jersey.
72. David Corlett, Head of the Isle of Man Brussels Office, noted that, while a member of the Customs Union, the Isle of Man is not part of the EU, and did not vote in the Brexit referendum. The Isle of Man did not have major concerns regarding Brexit, but was holding regular meetings with DEXEU and was preparing its own Withdrawal Bill.
73. In relation to the Crown Dependencies, Robin Walker MP said that the approach is slightly different to Gibraltar, as the Dependencies legislate for themselves. Mr Walker said that he met with the three chief ministers regularly and that they were pleased with the engagement of the UK Government. Mr Walker confirmed that the Crown Dependencies' views would be fed into the negotiations.
74. Sir Graham Watson, Director of the Gibraltar Office in Brussels, noted that Gibraltar's main concern is the border: 13,000 people commute across it each day (40% of Gibraltar's workforce); he also emphasised the importance of the border remaining open and fluid in terms of economic activity and tourism. Gibraltar wishes to be part of UK trade deals post Brexit.
75. The Government of Gibraltar said that it is imperative that Gibraltar is a full participant in the discussions leading to the development of the UK position in negotiations. It stated that the people of Gibraltar see the EU as providing a degree of protection for it with regards to Spanish claims of sovereignty over Gibraltar. The Government of Gibraltar said that the people of Gibraltar reject both Spanish sovereignty and shared sovereignty.
76. Gibraltar stated that freedom of movement at its border with Spain was essential for its economy and that of the surrounding area. It noted that there are already immigration controls on travel between Gibraltar and the UK and stated that this means that free movement between Gibraltar and Spain could be safeguarded without impacts on the UK.

In light of this, the Government of Gibraltar said that it would give consideration to membership of Schengen in the appropriate circumstances.

77. Mr Walker noted that there is a separate Joint Ministerial Council process for Gibraltar and also highlighted the recent House of Lords EU Committee report on Gibraltar.²⁵

78. Ambassador Hackett stated that the situation of Gibraltar would be dealt with as part of discussions on the future relationship between the UK and EU (phase two).

79. Guy Verhofstadt MEP, European Parliament Brexit Coordinator, clarified that the European Parliament has not taken a position on Gibraltar.

²⁵ Available at www.parliament.uk/brexit-gibraltar/