



BRITISH-IRISH PARLIAMENTARY ASSEMBLY

**COMHLAHT IDIR-PHARLAIMINTEACH NA BREATAINE
AGUS NA HÉIREANN**

REPORT

from

Committee A (Sovereign Matters)

on

**The British-Irish trade relationship and the border when the UK
leaves the EU**

Background to the inquiry

1. On 23 June 2016 the UK held a referendum on its membership of the EU. 52% voted for the UK to leave the EU, and 48% voted for the UK to remain in the EU. In Northern Ireland the result was 56% for remain, and 44% for leave.
2. In light of the outcome of the EU referendum, in July 2016 the Committee agreed to hold an inquiry into the implications of the result of the referendum for the British-Irish trade relationship and the border between Ireland and Northern Ireland. The Committee focused its inquiry on:
 - The impact that the UK's withdrawal from the EU will have on trade, economic and business relations between Ireland and the UK
 - Implications for the border
 - Membership of the Customs Union
 - Access to the Single Market
3. During the course of our inquiry the Committee held a series of meetings in Liverpool, London, Belfast and Dublin, speaking to: Professor Michael Dougan, Liverpool City Council, Liverpool and Sefton Chambers of Commerce, the Northern Ireland Office, the Rt Hon Owen Paterson MP, Ireland's Ambassador to the UK, the PSNI, the Irish Congress of Trade Unions Northern Ireland, the Centre for Cross Border Studies, Jane Morrice, Professor Graham Gudgin, the Committee on the Administration of Justice, the Ulster Farmers Union, Norway's Ambassador to Ireland, Dr Katy Hayward, Ray Bassett, Dr Andrew Murrison MP, Lord Jay, and Switzerland's Ambassador to the UK.
4. The Committee wishes to extend its sincere thanks to those who assisted with this inquiry.

Challenges

The movement of people

5. At present people can move freely between Ireland and Northern Ireland, and every day thousands do for work, education or family reasons. It has been estimated that, every month, there are over 3 million passenger vehicle border crossings on the 15 busiest, of over 200 border crossing points between Ireland and Northern Ireland, and that there are around 30,000 border-crossings made for work or study each day.¹
6. The free movement between Ireland and Northern Ireland is facilitated by the

¹ [CSO. Census 2011 Ireland and Northern Ireland \(data from CSO and NISRA\). June 2014.](#)

Common Travel Area, which provides for the absence of border controls between the UK, Ireland, the Isle of Man and the Channel Islands, and provisions regarding the free movement of persons between member states of the EU.

7. The Committee has heard that the Common Travel Area could be maintained post-Brexit, but that the possible divergence of immigration policy would mean that consideration needed to be given to whether people moving between Ireland, Northern Ireland and Great Britain had their citizenship checked. Given that the current UK immigration system requires employer and landlord checks to ensure that foreign nationals are not living or working in the UK illegally, any changes to UK's immigration arrangements for EU nationals could be met by changes to internal immigration checks, and would not require identity checks at the Irish border.

Conclusion

- A. The free movement of people between Ireland and Northern Ireland is an integral part of the daily lives of thousands of people who live on both sides of the border. This must not be compromised by the UK's decision to leave the EU.**

The movement of goods

8. At present goods move freely across the border between Ireland and Northern Ireland. The border itself is to all intents and purposes invisible. There is no border infrastructure or border checks. This has been made possible by the UK and Ireland both being members of the EU Customs Union and the European Single Market. The Customs Union created a common customs area where customs duties only apply to imports from outside the Customs Union. The European Single Market has removed non-tariff barriers to the movement of goods by harmonising regulatory standards, which means that goods produced in one EU nation can be sold anywhere in the Single Market area.
9. The UK's withdrawal from the EU raises major questions about the operation of arrangements, which will apply to goods which move between Ireland and the UK. This is a particular issue on the island of Ireland, where the border between Ireland and Northern Ireland will be the only place where there will be a land border between the UK and the EU.
10. Moving goods between Ireland and Northern Ireland therefore is little different, at present, to moving goods within Ireland or Northern Ireland. As a result, many companies operate across the island of Ireland, and the free movement of goods is particularly important to sectors such as agriculture and food. For example, in the dairy sector livestock might be raised in Northern Ireland, moved to Ireland to be

milked, the milk is moved back to Northern Ireland to be processed into cream and butter, which is then moved back to Ireland to be sold.

11. Any changes to customs arrangements and regulatory alignment which result from Brexit could have significant implications for the ability of goods to move freely across the border between Ireland and Northern Ireland. The Committee has heard that any changes to the trading relationship between the UK and Ireland which create barriers to moving goods between Ireland and Northern Ireland could have significant adverse consequences for both the UK and Ireland, and in particular for Northern Ireland.
12. In the event of new barriers to movement of goods, the Committee heard about the particular difficulties which would be faced by industries which operate across the border. For example, in the agricultural sector about 25% of milk produced and 40% of lambs raised in NI are processed in Ireland. Similarly, around 25-30% of pigs processed in NI came from Ireland. The Committee was told that anything which added to costs or made this process less efficient would affect farmers in both Ireland and Northern Ireland.
13. In addition to the possible harm which could be caused by the imposition of a hard border, the Committee also heard that such a border would be impossible to maintain. There are over 200 crossings between Ireland and Northern Ireland—more than the number of land crossings on the entirety of the EU's eastern border, and establishing checks on every crossing would be both undesirable and a huge logistical challenge.
14. The Committee considered the risk that future trade relations could increase the incentive for smuggling across the border, over and above the existing significant illicit trade, and heard that this could be an issue if future UK-EU trade relations increased barriers to legitimate trade between Ireland and Northern Ireland.

Conclusion

- B. The current border arrangements between Northern Ireland and Ireland facilitate frictionless trade and make it easy for businesses to operate across the island of Ireland. Changes to these arrangements, in particular the establishment of physical infrastructure at the border, and/or the imposition of border checks, would have serious adverse consequences for both Ireland and Northern Ireland. The importance of avoiding a hard border cannot be overstated.**

Political significance of the border

- C. In addition to the practical benefits of a frictionless border, ease of crossing the border has allowed border communities to be less divided and isolated, and has contributed positively to the Peace Process. Any change to this would be a retrograde step. The Committee also heard fears that physical installations on the border could be a target for dissident groups.**

Consideration of the challenges

15. The Committee is not alone in considering the challenges Brexit poses for the border between Ireland and Northern Ireland. In addition to work undertaken by other Committees of the British-Irish Parliamentary Assembly, bodies which have looked in detail at some of the issues considered in this report include: the House of Commons Northern Ireland Affairs Committee,² the House of Lords EU Select Committee,³ the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement,⁴ the Seanad Committee on the Withdrawal of the UK from the EU,⁵ Local Authorities on the border,⁶ the British Irish Chamber of Commerce,⁷ Deloitte,⁸ and the Institute for Government.⁹ The European Parliament's Committee on Constitutional Affairs has also commissioned a number of papers on these issues.¹⁰ There is, therefore, no shortage of information about the implications Brexit could have for the border. The matter was also dealt with in the Joint Report of December 2017.
16. Despite the considerable work which has been conducted in this area, one notable absence in the debate has been the Northern Ireland Executive. The absence of a Northern Ireland Executive has meant that, unlike Wales and Scotland, Northern Ireland has not had a devolved administration to represent Northern Ireland in UK discussions—and particularly at the Joint Ministerial Committee on European Negotiations, which brings together UK ministers and ministers of the devolved administrations to discuss Brexit. The Committee heard that this absence had meant the interests of Northern Ireland were not adequately represented at internal UK

² Northern Ireland Affairs Committee, [Inquiry: The land border between Northern Ireland and Ireland](#)

³ House of Lords European Union Committee, [Brexit: devolution](#), July 2017

⁴ Oireachtas Joint Committee on the Implementation of the Good Friday Agreement, [Brexit and the Future of Ireland](#), August 2017; [The Implications of Brexit for the Good Friday Agreement](#), July 2017

⁵ Seanad Special Select Committee on the Withdrawal of the UK from the EU, [Brexit: Implications and Potential Solutions](#), June 2017

⁶ [Brexit and the Border Corridor](#), October 2017; [Initial Analysis of the Challenges and Opportunities of Brexit for the Derry~Londonderry North West City Region](#), February 2017

⁷ British Irish Chamber of Commerce, [British Irish Chamber of Commerce calls for tailored EU-UK Customs Union Arrangement](#), September 2017

⁸ Deloitte, [Potential implications of Brexit: Customs and trade](#), September 2017

⁹ Institute for Government, [Ireland and Brexit](#), February 2018

¹⁰ European Parliament, [The Impact and Consequences of Brexit for Northern Ireland](#), March 2017, and European Parliament, [Smart Border 2.0: Avoiding a hard border on the island of Ireland for Customs control and the free movement of persons](#), November 2017

discussions.

17. The Committee heard about the work the Northern Ireland Office had undertaken to hear views from Northern Ireland, including the creation of the Northern Ireland Business Advisory Group.¹¹ Although some people the Committee met with argued that the Northern Ireland Office should, in the absence of a Northern Ireland Executive, take a greater role in representing the interests of Northern Ireland, others argued that there were difficulties in the NIO—as a Department of the UK Government—representing Northern Ireland interests with regards to Brexit matters when the UK Government had its own agenda.

Conclusion

- D. It is undeniable that the absence of a Northern Ireland Executive has adversely affected how the interests of Northern Ireland have been represented during internal UK discussions on Brexit. The UK and Irish Governments should continue to support efforts to re-establish the Northern Ireland Assembly and Executive.**

UK-EU negotiations

18. The EU has exclusive competence on the Customs Union, the Common Commercial Policy, and the European Internal Market. The future trade arrangements which will apply to the border between Ireland and Northern Ireland will therefore depend on the outcome of the UK-EU negotiations.
19. Entry checks for persons, and residency rights for third country nationals, fall within the competence of Ireland, and the UK and Ireland can therefore agree certain arrangements bilaterally, subject to only limited EU obligations.

UK and EU positions

20. On 29 March 2017 the UK Prime Minister wrote to the President of the European Council to formally notify him of the UK's intention to leave the EU.¹² Under the Lisbon Treaty, a Member State will leave the EU two years after providing such notification, unless it is agreed that a longer or shorter period apply. As a result the UK and EU are currently in negotiations regarding the UK's withdrawal from the EU, including how to deal with the particular implications this will have for Northern Ireland and Ireland.

21. In August 2017 the UK Government published a position paper on Northern Ireland

¹¹ Northern Ireland Office, [Brokenshire holds inaugural meeting of Northern Ireland Business Advisory Group](#), September 2016

¹² Prime Minister's Office, [Prime Minister's letter to Donald Tusk triggering Article 50](#), March 2017

and Ireland.¹³ This made commitments in four areas:

- a. upholding the Belfast ('Good Friday') Agreement in all its parts;
- b. maintaining the Common Travel Area and associated rights;
- c. avoiding a hard border for the movement of goods; and
- d. aiming to preserve North-South and East-West cooperation, including on energy.

22. In this paper, the UK Government acknowledged that “unilateral flexibility is insufficient to deliver UK objectives on the border”, and stated that the UK “must reach an agreement with the EU in order to ensure that the Irish side of the land border, which is subject to relevant EU regulations, is also as seamless and frictionless as possible”.

23. Similarly, in September 2017 the European Commission published principles for the dialogue on Ireland and Northern Ireland.¹⁴ This stated that the European Union and the United Kingdom should continue to support peace, stability and reconciliation on the island of Ireland, recognised the continuation of the Common Travel Area arrangements. The paper also stated that “flexible and imaginative solutions will be required, including with the aim of avoiding a hard border”, but that these solutions “must respect the proper functioning of the internal market and of the Customs Union”. The European Commission’s paper stated that “The onus to propose solutions which overcome the challenges created on the island of Ireland by the United Kingdom's withdrawal from the European Union and its decision to leave the customs union and the internal market remains on the United Kingdom.”

24. It should be noted that both the UK and EU’s position papers on this matter were published well over a year after the EU referendum. This was reflected in the Committee’s meetings, where a key theme was uncertainty about the eventual outcome of the UK’s withdrawal from the EU, and the implications this would have for trade, the border and wider relations.

Joint report of December 2017

25. In December 2017 the EU and UK jointly published a report on progress of negotiations regarding the UK’s withdrawal from the EU. This:

- a. Affirmed that the achievements, benefits and commitments of the peace process will remain of paramount importance to peace, stability and reconciliation, and stated that the Good Friday/Belfast Agreement must be protected in all its parts.
- b. Noting that the United Kingdom remains committed to protecting North-South

¹³ HM Government, [Northern Ireland and Ireland: position paper](#), August 2017

¹⁴ European Commission, [Guiding principles for the Dialogue on Ireland/Northern Ireland](#), September 2017

cooperation and to its guarantee of avoiding a hard border, and stating that any future arrangements must be compatible with these overarching requirements.

26. The Committee did not look at the implications of Brexit for the implementation of the Good Friday/Belfast Agreement as this inquiry focused on trade relationships and the land border, but in recognition of the importance of this issue we have included an Annex to this report setting out those areas of co-operation to which the joint report of December 2017 relates.
27. The report states that the UK's intention is to "achieve the above objectives through the overall EU-UK relationship", but that should this not be possible, says that the UK will "propose specific solutions to address the unique circumstances of the island of Ireland". In the absence of agreed solutions, report stated that the UK will "maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 Agreement."

Draft Withdrawal Agreement of March 2018

28. In March 2018, the EU published a draft Withdrawal Agreement, which put into legal form the agreement made in the Joint Report of December 2017.¹⁵ It contained legal text on issues including citizens' rights, proposals for a transition period, the financial settlement, and a Draft Protocol on Ireland / Northern Ireland, which codified the 'backstop' solution for the border that had been agreed in the absence of a negotiated agreement.
29. Negotiations on the draft Withdrawal Agreement text are continuing and it is expected that a final version will be agreed by the EU Commission and UK Government in October 2018. The text will then need to be approved by the European Parliament and European Council, while the UK Government has also committed to a 'meaningful vote' on the Withdrawal Agreement in both Houses of Parliament.

Conclusion

- E. The Committee welcomes the commitments made by both the UK Government and the EU, and the priority that this issue has been given during negotiations. It is essential that the commitments made in the Joint Report of December 2017 be met in the Withdrawal Agreement concluded between the EU and the UK. In the event that such an Agreement is not reached, the UK Government must fulfil its guarantee of avoiding a hard border on the island of Ireland.**

¹⁵ European Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 March 2018

Solutions

Future UK-EU relations

30. The Committee has heard that the least disruptive model for the UK's future relationship with the EU was membership of the EEA and Customs Union, but that these options have been specifically ruled out by the UK Government.
31. The Committee heard that there was no model for the UK's future relationship with the EU which would offer a more or similarly advantageous economic relationship than the UK's current membership of the Single Market, and that negotiations were therefore going to be a matter of minimising the degree of damage and disruption which the UK-EU economic relationship would inevitably suffer.
32. In the absence of membership of the Single Market or Customs Union, the Committee heard that it was in everyone's interests for a comprehensive Free Trade Agreement to be agreed between the UK and the EU. Given the concerns of particular sectors of the economy on the island of Ireland, we have heard that a Free Trade Agreement could include sectoral deals, which would ensure that those sectors which could be most affected by Brexit were protected. However, the Committee heard that even a comprehensive free trade agreement would be likely to result in new customs requirements or checks for goods moving between Ireland and Northern Ireland.

Conclusion

- F. The easiest way to ensure that there are no complications to the movement of goods between Ireland and Northern Ireland is for the UK to remain within the European Single Market and EU Customs Union. We note that this option is incompatible with the UK Government's stated policy. In the absence of membership of the European Single Market and EU Customs Union, we agree that it would be desirable for the UK and EU to agree a comprehensive Free Trade Agreement, but this in itself will not be sufficient to prevent the creation of new barriers to the movements of goods between Ireland and Northern Ireland.**

Technological solutions and international experience

33. Given the likelihood of future UK-EU trade relations requiring new arrangements for customs duties and regulatory checks. There has been considerable discussion of the extent to which technological solutions would reduce the need for any infrastructure to fulfil these requirements, and the Committee discussed the possibility of having a trusted trader status for those moving significant volumes of

goods, or automatic licence plate recognition systems to monitor the movement of goods without inconveniencing those crossing the border.

34. A number borders between EU and non-EU countries have developed in a way where technology has been used to reduce the burden of border checks. The Committee heard from Ambassadors from Norway and Switzerland about the way their borders with EU nations operated, and although these have reduced the need for border checks, both countries have substantial border infrastructure and conduct checks at the border for goods and person.
35. The Northern Ireland Affairs Committee has also looked at a number of international borders, and has been unable to identify any international example which presents an appropriate solution to the border on Ireland.

Conclusion

- G. Although technology can reduce the extent to which checks need to be conducted at the border, it is clear that there is no existing model which would enable the current border arrangements on the island of Ireland to continue as they are if the UK's withdrawal from the EU results in new customs arrangements and regulatory divergence between Ireland and Northern Ireland.**

Annex – North-South cooperation resulting from the Belfast/Good Friday Agreement

The Belfast /Good Friday Agreement provided for the establishment of a [North/South Ministerial Council](#) bringing together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation 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.

[The North/South Ministerial Council](#) and the Northern Ireland Assembly are mutually inter-dependent, and that one cannot successfully function without the other.

AREAS OF CO-OPERATION

The [Belfast/Good Friday Agreement](#) provided that at least 12 subject areas would be identified for co-operation and implementation for mutual benefit under the aegis of the North South Ministerial Council (NSMC). Co-operation in these areas is implemented in two ways - in the case of at least six of them by means of existing mechanisms in each jurisdiction separately, and in the case of at least six others by means of North South Implementation Bodies operating at a cross-border or all-island level.

North South Implementation Bodies

Each of the six North South Bodies, operates on an all-island basis. While having a clear operational remit, all operate under the overall policy direction of the North South Ministerial Council, with clear accountability lines back to the Council and to the Oireachtas and the Northern Ireland Assembly.

Waterways Ireland

Responsibility for the management, maintenance, development and restoration of specified inland navigable waterways principally for recreational purposes.

Food Safety Promotion Board

The promotion of food safety research into food safety, communication of food alerts, surveillance of food borne disease, promotion of scientific co-operation and laboratory linkages, and development of cost-effective facilities for specialised laboratory testing.

Trade and Business Development Body (InterTradeIreland)

The promotion of trade and business on an all-island and cross-border basis and the enhancement of the global competitiveness of the all-island economy to the mutual benefit of Ireland and Northern Ireland.

Special European Union Programmes Body

Managerial and oversight functions in relation to EU programmes including PEACE III and INTERREG IVA

The Language Body/An Foras Teanga/North-South Body o Leid

Consisting of two agencies i.e. **Foras na Gaeilge** and **Tha Boord o Ulster-Scotch**.

Foras na Gaeilge is responsible for the promotion of the Irish Language throughout the island and **Tha Boord o Ulster-Scotch** is responsible for promoting the study, conservation, development, and use of the Ulster-Scots as a living language: to encourage and develop the full range of its attendant culture; and to promote an understanding of the history of the Ulster-Scots.

Foyle, Carlingford and Irish Lights Commission

Consisting of two Agencies ie. The Loughs Agency and Lights Agency.

The Loughs Agency has responsibility for the promotion and development of Lough Foyle and Carlingford Lough for commercial and recreational purposes in respect of marine, fishery and aquaculture matters. It was intended that **the Lights Agency**, when established, would replace the Commissioners of Irish Lights as the General Lighthouse Authority for Ireland. However, given the complexities that have arisen in terms of pursuing such a transfer of functions, the matter remains under review.

Areas for Cooperation

In each of the six Areas of Co-operation common policies and approaches are agreed in the North South Ministerial Council but implemented separately in each jurisdiction

Agriculture Common Agricultural Policy issues, Animal and Plant Health Policy and Research Rural Development

Environment Environment protection, pollution, water quality management and waste management in a cross-border content

Education Education for children with special needs, educational under-achievement, teacher qualifications and school, youth and teacher exchanges

Health Accident and emergency planning, co-operation on high technology equipment, cancer research and health promotion

Transport Co-operation on a strategic transport planning in road and rail infrastructure and public transport services and road and rail safety

Tourism including Tourism Ireland The promotion of the island of Ireland overseas as a tourist destination via the establishment of a new company, known as Tourism Ireland

Funding and Staffing of North South Bodies

The North South Bodies are funded by the two Administrations, North and South. They are staffed by a combination of civil servants (either transferred or seconded from their parent Departments, North and South) and directly recruited staff.

Structure of the North South Bodies

The functions of three of the Bodies, InterTradeIreland, the North South Language Body and the Foyle, Carlingford and Irish Lights Commission, are exercised by Boards of Management appointed by the NSMC. The Food Safety Promotion Board has an Advisory Board, also appointed by the NSMC, and the functions of the Body are exercised by the Chief Executive. The remaining two Bodies, Waterways Ireland and the Special European Union Programmes Body, do not have Boards, and the functions of the Body are exercised by the Chief Executive.

Joint Secretariat

The North South Ministerial Council is supported by a standing Joint Secretariat which is based in Armagh. The Secretariat is staffed by personnel from the Irish Civil Service and the Northern Ireland Civil Service.

The Formats of North South Ministerial Council Meetings.

The NSMC meets in a number of formats. It meets in Plenary format, with the Northern Ireland Executive delegation led by the First Minister and deputy First Minister and the Irish Government delegation led by the Taoiseach. The task of the Plenary is to take an overview of co-operation on the island and of the North South institutions.

The NSMC also meets in Sectoral format to oversee co-operation in the agreed 12 Areas or Sectors. The NSMC meets regularly in relation to each of the 12 Sectors. At these meetings, the Irish Government is represented by the Minister or the Minister of State responsible for that Sector, and the Northern Ireland Executive is represented by two Ministers nominated by the First Minister and deputy First Minister on a cross-community basis, one normally being the Minister with responsibility for that Sector within the Executive. This is in line with the requirements of the Belfast/Good Friday Agreement (1998) and the Northern Ireland Act 1998 that participation by the Executive in the NSMC must be on a cross-community basis.

In addition to Sectoral and Plenary formats, the NSMC also meets in Institutional formats, with the Northern Ireland Executive represented by the First Minister and deputy First Minister and the Irish Government represented by the Minister for Foreign Affairs. In this format, the NSMC considers institutional and cross-sectoral issues, including in relation to the EU, and endeavours to resolve disagreements and difficulties in the operation of the NSMC.