

All Island Civic Dialogue on Brexit

Wednesday 2nd November 2016

Royal Hospital Kilmainham

Moderated Panel discussion on North/South issues

David Phinnemore¹

Introductory Comments

Clearly Brexit poses many challenges. In taking discussion further I would like to pose three key questions around the ideas of some form of bespoke arrangement for Northern Ireland/the island of Ireland:

- a) Should bespoke arrangements for Northern Ireland/the island of Ireland be sought as part of the UK's withdrawal from the EU and the new post-Brexit UK-EU relationship?
- b) If so, what should any bespoke arrangements cover?
- c) Are such arrangements possible and if so what form or forms might they?

The answer to the first question – should bespoke arrangements be sought – is essentially 'yes', although much will depend on what form of relationship the UK government secures for the UK with the EU.

As the points already raised today have indicated there are many concerns and challenges posed by Brexit that need to be addressed and it is not at all clear that these can – or will – be addressed within a uniform deal for the UK.

A further point is that, as we have seen, the situation faced on this island is unique. Brexit will mean that the land border on this island will become the land border – indeed the only land border – between the EU and the UK.

¹ Professor of European Politics, Queen's University Belfast (d.phinnemore@qub.ac.uk).

This means that many of the challenges associated with Brexit are likely to be far more acute for Northern Ireland than for the rest of the UK and far more acute for Ireland compared with the rest of the EU.

The two most obvious challenges relate to the free movement of people and the free movement of goods. There are many others. The border – whether hard, soft or ‘smart’ – will disrupt – existing day-to-day movements of goods and people far more extensively than anywhere else in the UK. And we cannot assume that a new UK-EU relationship will address these such that the disruption will be minimized.

It follows that, not least for these reasons, bespoke arrangements for Northern Ireland at least should be sought to minimize the disruption caused by Brexit.

So, to my second question what should any bespoke arrangements cover. So much depends on the nature of the post-Brexit relationship the UK aims to conclude with and ultimately secures from the EU.

If there is a ‘hard’ Brexit – so, one essentially seeing the UK leave the customs union and the single market – the disruption to the status quo for Northern Ireland – indeed the whole island – will be significant. The movement of goods and people will be subject to, respectively, numerous tariffs, quotas, restrictions and controls. As we’ve heard, it will disrupt cross-border cooperation arrangements at multiple levels and in multiple sectors. It will also disrupt supply chains. A ‘hard’ Brexit is also likely to see Northern Ireland – along with the rest of the UK – no longer participating in EU programmes.

If, on the other hand, there is a softer Brexit – so, one seeing the UK remain in the customs union and the single market and many EU programmes – the challenges will be fewer but nonetheless potentially significant for some sectors. Participation in neither the customs union nor the single market covers agricultural goods or fisheries, for example. How therefore will access to the EU market for NI agricultural products be regulated? What access to EU waters will fishing boats from NI ports have? Is something bespoke possible?

Ultimately the question to be answered is: what aspects of the status quo – e.g. free movement of people, free movement of goods, participation in Horizon 2020, access to the

EU agricultural market, EU-funded cross-border cooperation – should be retained? For many, understandably, the view is: as much as possible of the status quo.

If the UK opts for a ‘hard’ Brexit outside the single market and the customs union, the coverage will need to be extensive. Arrangements will have to be sought to ensure the unhindered cross-border movement of goods and people.

If the UK remains in the single market and the customs union, the focus will be more on issues such as agricultural trade and the areas of existing cooperation and integration are excluded from the new relationship

This brings me to my third question: if there is a need for bespoke arrangements are such arrangements possible and if so what form or forms might they take?

The answer to the first part of the question is again ‘yes’; bespoke arrangements are possible. Precedent suggests as much.

As to what forms they might take, there are no ‘off the peg’ solutions. No member state has previously left the EU, so the EU and UK are entering uncharted territory.

Two points to make here.

First, contrary to popular perception the EU is a flexible entity and there are numerous examples of member states and non-member states having different forms of integration within and with the EU.

Within the EU the most obvious examples are the euro and Schengen where we have most member states participating, others not. For both the euro and Schengen we also have non-member states either using the euro or participating in Schengen. We also have some non-member states in the customs union (Turkey) and the single market (Norway, Iceland and Liechtenstein).

There is therefore precedent for differential forms of integration with the EU.

We should note too that there are various examples of policy areas and EU programmes where non-member states participate. Horizon 2020 and Erasmus+ involves member states and non-member states.

Differentiated forms of integration are the norm in and with the EU.

And there are examples of differentiation on a regional basis – e.g. for the Åland Islands – as well as special arrangements for neighbours. Reference has already been made today to the example of East Germany vis-à-vis West Germany prior to 1990.

A Second point is that the EU exists primarily to solve problems. Yes, it is a treaty-based organization; yes, it is based firmly on the rule of law. However, what member states agree to do in the EU is a result of political negotiation and often creative thinking about how to address challenges and problems.

In the case of Brexit the EU-27 and the UK are faced with major challenges. For us many of the challenges relate to the border. And yes these are challenges for us on these islands. But they are also challenges for the EU. For the EU a key question is how to manage the challenges posed by having a member state with an unmarked land border with a withdrawing member state.

As a problem-solving entity with a direct interest in the challenges posed by Brexit, we can expect the EU to be willing to draw on its capacity for creative thinking to find solutions to those challenges, particularly where its interests and those of one its member states are concerned.

Brexit is rightly causing concerns and exercising minds. How to deal with the implications for this island – particularly with regard to the border and the impact on trade and the movement of people – is a major challenge.

The opportunity for bespoke arrangements exists. There is though no bespoke arrangement ready to be pulled off the shelf. The task for us is therefore essentially twofold:

- to identify the challenges that need to be addressed
- to come up with ideas for how they can be solved

Background Note:

Given the UK government's position on the outcome of the referendum we are faced with the prospect of the UK withdrawing from the EU and before that a series of negotiations to determine the arrangements governing that withdrawal. There are three sets of negotiations that need to be concluded with the EU.

- A first set will be on the terms of the UK's withdrawal
- A second set will be on the terms of the UK's post-Brexit relationship with the EU
- A third set will be on the transition arrangements governing UK-EU relations between the date of departure and the establishment of the new relationship