

Select Committee on the European Union

Corrected oral evidence: Brexit: UK-Irish Relations

Monday 17 October 2016

9.15 am

Watch the meeting

Members present: Lord Boswell of Aynho (The Chairman); Baroness Armstrong of Hill Top; Baroness Browning; Lord Jay of Ewelme; Lord Selkirk of Douglas; Lord Whitty; Baroness Wilcox.

Evidence Session No 3

Heard in Public

Questions 33 - 47

Witnesses

[I](#): Professor David Phinnemore; Dr Lee McGowan; Professor Cathal McCall; Dr Katy Hayward, Queen's University Belfast.



Examination of witnesses

Professor David Phinnemore; Dr Lee McGowan; Professor Cathal McCall; Dr Katy Hayward.

The Chairman: Just to introduce matters, this is a formal evidence session, which will continue with various panels of witnesses during the day, for the House of Lords European Union Select Committee. We are visiting Belfast today and moving on to Dublin tomorrow, looking at the Brexit-related implications for the island of Ireland and the problems you have identified. It happens that we have already been actively in contact with our four panel members, who I will invite to introduce themselves formally in a minute, in rather different circumstances nearly 12 months ago when I was last over here with the clerk. We had a very interesting evidence session on the lead-up to the referendum. The decision has now been taken; the world is somewhat different from 12 months ago, and we will be very interested in hearing your perspectives. Can I invite you, David, to kick off, and then I will ask the others to introduce themselves. Just explain who you are.

Professor Phinnemore: David Phinnemore. I am professor of European politics in the School of History, Anthropology, Philosophy and Politics at Queen's University Belfast, and have had a long-standing interest in EU politics and the integration process in particular.

Dr Hayward: I am Katy Hayward. I am senior lecturer in sociology in Queen's, and I am also senior research fellow in the George Mitchell Institute at Queen's.

The Chairman: Cathal, I gather that you are now a professor. We had you down as a doctor, but many congratulations.

Professor McCall: Thank you very much. I am Professor Cathal McCall, in the school that David just mentioned—I am not going to reel the whole thing off again. My interest is on European Union borders and conflict transformation.

Dr McGowan: I am Lee McGowan. I am also from the same school, on the politics side. My background is in the politics of EU integration widely, and more specifically in the public policy domain.

Q33 **The Chairman:** We will start. We have a prepared schedule of questions, but we are mainly interested in listening to your answers. Could I ask the panel to be fairly informal in signifying their interests? Do not feel you have to contribute on every one, but, on the other hand, do not hold back if you want to make an intervention or contribution. I am going to start with a question that is not scheduled and will perhaps give rise to a one-sentence answer: how much of a shock has the referendum decision been for people here, in your experience? For background, the last time I met this panel, things were only very slowly coming into consciousness. Now it has become real, how real is it? David, would you like to lead off on that?



Professor Phinnemore: There was a fair degree of shock around. We have seen that in some of the evidence recently of the lack of preparation on the part of Northern Ireland politically for a leave vote. We also see that in the rather muddled and underdeveloped response we have seen since. The fact that there was a remain vote in Northern Ireland was expected. There was some surprise that that was not higher than it was.

The Chairman: Can I interrupt and ask whether the turnout has been a matter of discussion here? For example, it was rather lower than in England.

Professor Phinnemore: Colleagues may correct me here, but I think the turnout was lower than in previous general elections and was lower than we necessarily anticipated.

Dr Hayward: There is some notion that the low turnout connects to some uncertainty among nationalists about the vote, and some ambiguity about the issues.

Professor McCall: There was a shock at the overall UK vote. However, it is interesting to note that the remain vote here, which, as we have said, was in the majority, actually is something that for once included not just the nationalist population but the unionist population. If you look at the map of Northern Ireland and how it voted, you had specific areas, like South Down, for example, which traditionally are associated with a dominant unionist community but actually voted to remain.

The Chairman: Can I just interpose on that? It might be helpful if you could share with us and the secretariat later any particular maps, because obviously we are interested in the cross-border issues. Was there, in your understanding, a skew in the unionist vote in that there was a higher remain proportion in those border areas, or was it a fairly uniform turnout?

Professor McCall: The border areas traditionally have a nationalist majority.

The Chairman: I knew that, but among unionists within the areas; you mentioned South Down, for example.

Professor McCall: I was incorrect in saying that. It was actually North Down that I meant. I beg your pardon. That was something that really stood out for us here.

Dr McGowan: There were a few opinion polls leading up to the referendum that showed Northern Ireland was going to vote in favour of the UK remaining in the European Union. David is right that we thought it might be higher than it was, but it more or less reflected those polls; it was between 56% and 58% that the polls were showing. The shock was the UK voting to leave, because there was always a general assumption, by commentators here and politicians, that in the last few days the vote was swinging the other way but that did not happen. On the vote in Northern Ireland, there are certain demographics that come into play—



background, educational experience—but more or less it looks as if a minority of the unionist population, those in the A and B professional social groups, voted to remain. In the unionist community, it was the stalwarts of the DUP that tended to vote to leave.

Q34 The Chairman: Thank you for that introduction. Starting now with our main lines of inquiry, you will know that the Brexit Secretary David Davis has identified UK-Irish issues, and specifically the impact on Northern Ireland, as one of the more difficult elements of the negotiations. Can I ask you, either individually or collectively, what you see as the main difficulties that need to be addressed in this, for Northern Ireland and the island of Ireland? David, do you want to lead on that?

Professor Phinnemore: We will probably all come up with the border issue as being the most obvious. Within that, we must recognise that the border has a whole variety of issues around it, whether that is to do with security, movement of goods, movement of people or agriculture. That is a very key issue and is multifaceted. That needs to be addressed for a whole variety of reasons, many of which are to do with the economy and trade, but also issues of identity and security, and I think my colleagues are far better versed with border issues to be able to respond on this.

The Chairman: Perhaps either Katy or Cathal would like to add.

Dr Hayward: One of the particular difficulties is the relative ineffectiveness of the governance systems here, which mean that getting the common interests across Northern Ireland and across communities is something that is often not a priority of politicians or of the Executive. That makes the negotiating stance from Northern Ireland difficult to achieve clarity on, because the system tends to be such that unionist and nationalist views on any particular issue come to the fore, rather than the collective interests of Northern Ireland. When we see particular needs of Northern Ireland that differ from Great Britain in many ways, such as in relation to the economy, the border, immigration, dual citizenship and the importance of Irish citizens within Northern Ireland, then we have concerns that those particular issues will not necessarily be articulated clearly from Northern Ireland, given the way that the system works here, where the common interest is not easy to define.

The Chairman: Is there perhaps a generic issue as well, which is that people feel the whole thing will be swept up in what might be termed the European level of debate, and some of their particular concerns about their community or locality may just be overlooked until there is a problem?

Dr Hayward: Yes, absolutely. Proportionately, with Northern Ireland representing 3% of the UK population, it is very conscious of its small size vis-à-vis the UK, let alone the EU.

Professor McCall: As you know, the Belfast Good Friday agreement of 1998 threw up a very complex form of governance that includes the Republic of Ireland. Integral to that was the softening of the Irish border and the creation of cross-border institutions, such as the North/South



Ministerial Council. There is a question mark over not necessarily the continued existence of these institutions, but how they will develop and perform. In the border areas there is an obvious concern regarding free movement. We have had protests on the border in the last week or two. There is almost an element of performance to it, whereby local communities have created customs posts, et cetera. Certainly that is something that is very much on their radar. It is very much something that they do not want to be imposed, and obviously there are two sides to it: there is the European Union side, with the customs union, and the Brexiteer side, which is more about security and controlling freedom of movement.

The Chairman: Lee, do you want to add at this stage?

Dr McGowan: I just want to state that Northern Ireland will be greatly affected by what the outcome of Brexit may actually look like in the end. The worrying thing, as an observer trying to look at all this, is a point raised by my colleague. There are many issues for the leaders of Northern Ireland to pursue, but it is about which ones they prioritise as more important.

Almost four months after the referendum, and five months before the Prime Minister triggers Article 50, you do begin to wonder. Time is passing very quickly, and I am not quite convinced. The way the Government works here is that there are two main parties, and they are divided on Europe. We are not getting that leadership coming through about what the priorities may actually be. Is it about the border and how that might manifest itself? There are different options. We have had David Davis over here; Liam Fox has been here and the Prime Minister has been here. They have all made the same statements about listening to the needs of society, but we need leadership to push some of those ideas forward and work out what the preferences are, and then try to influence the debate. It will be difficult, but I am not getting much sign of that yet.

Q35 **The Chairman:** That leads on to my next question, which Cathal has referred to. There are the existing bilateral contacts—north-south and east-west. Particularly between the UK and Irish Governments, and between the Irish Government and the Northern Ireland Executive, is the machinery sufficient to deal with the implications of Brexit, or would it be improved by new mechanisms, and, if so, what should they be?

Professor McCall: There is a new mechanism, you could argue, that is already in play in that the Irish Government has announced an all-island—to use the politically correct term—dialogue and conversation.

The Chairman: Is this the one on 2 November?

Professor McCall: Yes. It could be argued that that is already part of a new mechanism. I would make the case that the North/South Ministerial Council should be able to accommodate such a dialogue, and indeed the leader of the Democratic Unionist Party, Arlene Foster, has made a similar point.



The Chairman: Are there any other comments on the machinery?

Dr Hayward: Prior to the negotiations even happening, there was concern about how various central interests would be represented to the British Government, and the machinery at the moment does not necessarily allow for that. Some of the regional bodies, such as ICBAN, which represent local authorities, are very good at being able to hear the different voices from different sectors that will be affected by Brexit. There is some concern, particularly in the border region, that that mechanism is not quite there for that representation to take place before the negotiations actually happen.

The Chairman: In fairness, the sectoral interests—you have already touched on food manufacturing—would be able to make representations through their national machinery to the UK Government and the Irish Government. That presumably is taking place without necessarily being flagged. It is partly political participation and partly the ability of the unheard to be heard, is it not? You are nodding at that.

Lord Jay of Ewelme: On the Republic of Ireland idea for an all-island conference on 2 November, as far as you know was that proposed in concert or in conjunction with the Northern Irish Government, or is that an Irish proposal? Do we know whether everybody will attend?

Professor McCall: It seems to me that it was a Republic of Ireland proposal from the Department of the Taoiseach. It was announced at a particular event attended by Arlene Foster and she had no prior knowledge of this proposal.

Dr Hayward: I understand the unionist parties are not going to attend.

Q36 **The Chairman:** This is my final question before I bring in my colleagues. There is some talk about the desirability of establishing a specific bilateral UK-Irish deal, taking account of the uniqueness of our relationship, as part of the Brexit negotiations, that, in a sense, is without prejudice to what the European-level negotiations come up with. Can that be done? Is it helpful?

Professor Phinnemore: It could be done and it probably would be helpful. The big question is about that broader context, because whatever happens on a UK-Ireland basis has to take place, as you rightly said, within the context of a UK-EU relationship. One of the big challenges we are facing at the moment, not just on the north-south dimension but across all of the issues with regards to Northern Ireland in the context of Brexit, is trying to understand what the broader UK Government position is, because once you begin to understand that, you can then begin to think through what the possible solutions may be to problems and challenges locally. For example, if the UK went for the European Economic Area option, that would resolve a significant number of issues, but if it goes for the hard Brexit, that creates far more difficulties for resolving many of the issues that we face.



The Chairman: In a sense, the machinery will follow some cardinal decisions that are upcoming.

Professor Phinnemore: I would expect so.

The Chairman: You cannot prescribe it in advance.

Professor Phinnemore: No. You can generate ideas but, given the broad range of issues covered by the EU and therefore by Brexit, it is probably very difficult to identify discrete areas where you could proceed without knowing what the future nature of the UK-EU relationship will be.

Q37 **Lord Whitty:** You have already referred to the difficulty of having a coherent unified view of Northern Ireland, however much Westminster says that it wants Northern Ireland's view to be heard. If it is not coherent, that becomes more difficult. In your views, what would a coherent view look like in terms of the eventual outcome? Would you be looking for a bespoke agreement or arrangement in the final outcome for Northern Ireland, with the unique circumstances of the border and the relationship with the Republic? Charlie Flanagan from the south has referred to legal recognition of the unique status. Is that what you feel you ought to be looking for, and how likely is that coherent view to materialise from here to the British Government, let alone in negotiation with the EU?

Dr Hayward: To begin, there is precedent within the European Union relationship with Northern Ireland for recognising the importance of the bilateral relationship and that special status of Northern Ireland. Charlie Flanagan's request for legal recognition relates to that special position of the Republic of Ireland vis-à-vis Northern Ireland, but its constitutional status may change. Northern Ireland remains within the UK, or else it unifies with the rest of Ireland. The problem in Northern Ireland has always been to try to ensure that that can remain the case, despite uneasy tension. That has been possible within the EU, recognising the validity of input from both the Republic and the UK into Northern Ireland. Outside the EU it complicates things much more greatly.

Lord Whitty: That is because of the constitutional position as much as the physical issue of the border.

Dr Hayward: Exactly, yes.

Professor Phinnemore: There is a major challenge here. I do think the opportunity is there for a bespoke arrangement, because there are particular issues that are thrown up by dint of Northern Ireland's geographical location and the fact that the border currently referred to as the Irish border will become the UK-EU border. A bespoke arrangement is possible. The challenge within Northern Ireland is to identify the issues of key concern, identify priorities within that and identify possible solutions to those, which may be more regionally set out, rather than ones that would reflect an all-UK relationship with the EU.



You then have the challenge of uploading those into the policy-making process in the UK, and there we have a major problem ahead of us, in so far as, despite Theresa May's references to having a UK approach to the negotiations, all the signals at the moment are that this is going to be a London-led and London-determined process where there would be, cynics might say, at best lip service to the devolved administrations. The fact that the new sub-committee of the Cabinet will involve only Secretaries of State from Northern Ireland, Wales and Scotland 'as required' provided a very poor signal about the extent to which there is going to be effective engagement with devolved administrations.

Lord Whitty: Is that going to be a real issue, as in the local papers this morning?

Professor Phinnemore: I have not seen them this morning.

Lord Whitty: The fact that James Brokenshire is not a full member of the Brexit committee has been seized on.

Professor Phinnemore: I am not too sure whether it has been seized on, but there is a challenge there. It is also not just simply a case of having Northern Ireland's interests acknowledged. It is making sure that they feature in the negotiating position and in the negotiating outcome. We are not at all clear at present what mechanisms exist to ensure that.

There is also scope for a bespoke arrangement because historically the EU has been established to try to resolve particular problems. It is pretty creative, and therefore, partly because there has been a lot of investment in Northern Ireland and partly because there is going to be recognition of the fact that the Irish Government have been put in a position where they can be affected negatively by Brexit, the EU will be willing to support one of its member states in trying to solve particular problems that it will face, and many of those are ones that we will face here in Northern Ireland. There is opportunity there.

Professor McCall: Just to make a quick point on this, quite set apart from legal recognition in terms of the role of the Republic of Ireland in Northern Ireland, there certainly has been political recognition, stemming from the 1985 Anglo-Irish agreement right through to the Belfast Good Friday agreement and onwards. That need not necessarily continue, not least because once the UK leaves, depending on the nature of Brexit, that throws into question the relationship between the UK and the Republic of Ireland, hitherto known as equal member states of the European Union.

The Chairman: It is going to change the status, is it not?

Dr Hayward: Just very quickly, bespoke status for Northern Ireland would also involve recognition of that important north-south link, and any consideration of what that recognition might look like would also need to be cognisant of unionist sensitivities around the east-west relationship. The apparent diminution of the importance of the devolved status of Northern Ireland or representation of regional interests in Northern



Ireland would actually be coming at a very bad time to reassure unionism in this time of change.

Q38 The Chairman: Given that we are blessed with some political scientists in the room, I wondered the extent to which you have a sense of what might be seen from the Brussels perspective of all this, and whether they are looking for a particular Northern Ireland deal, or are prepared to tolerate one. We heard the Irish ambassador in London speak at some length about the importance of the peace process, rather implying—I do not think this will be foreshortening his views—that that will be a very powerful card for negotiating in the Northern Irish interest, because Brussels, collectively, would not want to disturb or prejudice that. I just wondered how much you feel, from your own contacts, that the European mind, as opposed to the British or Irish mind, is directed towards those macropolitical issues, or how much it will fall back on issues of principle in relation to the repercussions with other member states and possible dangers to the community as a whole. Are these issues being debated? Do you sense a way through this, or is it too early to say?

Dr Hayward: The European Union has encouraged the strong relationship between Ireland and the UK. Even though it has done a huge amount to support the peace process—the biggest change that was made in terms of its long-term commitment to the peace here—it ultimately would see the responsibility for the peace being the responsibility of the UK Government. To get back to the original point, a lot depends on the position taken by the UK Government vis-à-vis the negotiations.

Dr McGowan: In terms of conversations in Brussels with the Parliament and the Commission, we still as political scientists look at the EU while so fixated with the issue of Brexit. You realise when you talk to some of them that while Brexit is very important, we can play games in terms of where it actually is on the list: is it number three, five, six or seven?

The Chairman: It is not the only show in town.

Dr McGowan: No, and you realise that. You also get a sense from people that they recognise Northern Ireland in terms of the peace process, which they will highlight as something they are very proud of helping to contribute towards. There are still many issues that have gone unresolved and still need to be worked on, but it is progress from where it was. They may be willing to lend some sort of support, but I take you back to the UK Government. Whatever deal comes is going to be through the UK Government, no matter how well disposed they might be to Northern Ireland.

Professor McCall: The Irish Minister for Foreign Affairs and Trade, Charlie Flanagan, has done a sterling job in trying to highlight the special position of Northern Ireland and all the difficulties or challenges—to use the proper word these days—that Northern Ireland faces. He has been conducting this kind of conversation with his counterparts throughout the European Union for the past year or so, and certainly has intensified that since the referendum. However, we have to recognise that there are fissures within the European Union and geopolitical interests are being



represented by different groupings of member states. The Visegrad group is very much concerned with the whole migration issue. The Mediterranean member states, led by Greece, are looking for a more socio-democratic version of the European Union. So, just to reiterate the point that has been made, it is not the only show in town: there are other major concerns that other member states have, and that is something that we are cognisant of.

Q39 **Baroness Browning:** The UK Government have sought to reassure people both in Northern Ireland and in the Republic that there will be no return to the hard borders of the past, but in reality, as you have already discussed, the Irish border will become an EU border. Is there any way you can see at the moment that the soft border arrangements could be maintained in their entirety? Just picking up on a point that Dr McGowan made, if so, where will the leadership for that come from?

Professor Phinnemore: A lot depends on the type of outcome that the UK secures with the EU. If the relationship is one that keeps the UK in the customs union and keeps the UK in the single market, then a lot of the cross-border issues will not become significant, although, as we often point out, agriculture would be an issue, because no non-member state of the EU has free access to EU agricultural markets. It comes back to that broader question of what the outcome would be.

If you draw a line from there all the way to hard Brexit, you can think of various ways in which you could address some of the problems within that, but it is a major challenge if it is going to be a hard Brexit.

Dr McGowan: Can I add a tiny caveat to that? Certain sections of Northern Ireland society welcome a hard Brexit. Again, we are back into Northern Irish politics, in terms of seeing it as about identity. For some of the community, the idea of Brexit means they are identifying more with the UK again, and in theory brings them closer to the UK than they otherwise would be. We have raised the idea that voting for Brexit brings them closer to the UK and makes them feel less European. Identity politics is mixed up in all this. David is right that it is about what we do not know about. What will the terms of the agreement be? Where is the UK Government actually heading towards, whether the option is soft, hard, clean or whatever word we want to use?

One of the big issues for Northern Ireland that we will be pursuing later on is agriculture. What happens about agriculture, which is outside of most of these various agreements? For this part of the world, agriculture is much more important in terms of employment and the overall GDP for this part of the country. It is a big, big issue.

Baroness Browning: Are you telling us that until those wider issues to do with UK negotiations with the EU are more available and have started, that need for leadership in this matter is unlikely to come forward?

Dr McGowan: You would have thought, post-Brexit, or post-referendum heading towards Brexit, that some of the politicians would begin to think about, "Now we are heading towards Brexit, what does Brexit actually



look like?" They do not know what it will look like. Europe has been marginal to local politics here. It has appeared now and again but it has never really been pursued. Some people are still denying that there will be any major change, no matter what Brexit looks like, and it comes back to this idea of leadership. What is the leadership? Can they start thinking about the various options? Is it going to be like the Canadian model, the Swiss model, the Norwegian model or whatever? We are not getting a sense that that is happening on the ground, and that is a real issue, because 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.

Q40 **Baroness Browning:** Could I ask you about immigration controls? I am sure you have seen the reporting in the *Guardian* that the UK Government are seeking to shift the front line of immigration controls to Ireland's ports and airports in order to avoid a hard border between north and south. How do you think that might work?

Professor McCall: If the Republic of Ireland leaves the European Union then it would work very nicely.

Baroness Browning: And what is your guess as to whether that will happen?

Professor McCall: At the minute I think the chances are zero. This obviously refers mostly to those termed "persons of interest"—illegal migrants, et cetera. That already happens under the common travel area. The difficulty is how to then bring European Union workers into this whole scenario. Various suggestions have been made with regard to letting them continue to move in the Republic and, if they move across the border, they would be detected by right to residency, workers' rights, et cetera. That introduces a whole new layer of bureaucracy in terms of control. I am not so sure how workable it is. You would certainly have an increase in undocumented workers.

Dr Hayward: It is important to bear in mind that you can have soft borders for some things and hard ones for others. You can have soft immigration controls in the common travel area, and this is really what that proposal builds upon in relation to immigration controls in Ireland. That makes sense in many ways because it is just a ramping up of what already exists. Ireland already has measures that are stricter than the UK related to screening people as they enter, in that they can ask all passengers, including those from within the common travel area, to produce identity documentation.

Baroness Browning: When you say they are "stricter", are they stricter or more effective?

Dr Hayward: I would not necessarily say that they were more effective, but they do screen in a way that monitors people as they enter.

The Chairman: This is a database issue, rather than a physical—



Dr Hayward: Yes, although that raises the issue of visibility, which will affect how a lot of people respond to these borders. How visible are they? A lot of this monitoring happens invisibly anyway.

The second issue is what happens when they are in. It is not just the practicality of the goods or the people crossing the border; it is what happens to them when they are in the jurisdiction. That is when the real complication comes through. In effect, you then make the island of Ireland a jurisdiction, and that then raises the issue about east-west relations and unionist concerns about that, which have already been raised in the past with regards to changes to the common travel area and proposals in the past to scrutinise people coming from the island to Britain.

The Chairman: I think we might go on to the customs side of this—the goods and services—with Lord Jay.

Q41 **Lord Jay of Ewelme:** To follow on from Baroness Browning's question, there is an open question as to whether we leave the customs union as well as the single market or stay within the customs union. Assuming for the moment that we move out of the customs union and that the border between north and south therefore becomes the external border of the EU for customs purposes, can you see any way in which that could happen without there being some kind of hard border with customs posts? Are you aware of the possibility of some sort of electronic means of tracing goods moving across the border without having all the risks of a hard border?

Professor McCall: Yes, it is certainly possible, and I think it happens at the moment where a lorry-load of goods heading off from Cork crosses the border to its destination in Belfast, Manchester, Liverpool or wherever. It can be physically done and it can be tracked. That is possible, but it is a case of visibility, as Katy has said, because it is not really about the free movement of goods and services for the hardcore Brexiteers. It is to do with bringing back control of our borders, and that needs to be visibly done.

Lord Jay of Ewelme: I quite see that point. It was just whether it was technically feasible, because if it is that at least gives a possible way through.

Professor McCall: It is possible.

Lord Jay of Ewelme: Is that something you would all agree with?

Professor Phinnemore: We do have examples on the border of the EU. People often point to the Swedish-Norwegian border, and we need to be looking more closely at that. There is not necessarily the need to have physical border controls for customs reasons, but there must be the capacity to put those in place.

The Chairman: There has to be a border post that might be used from time to time.



Professor Phinnemore: Yes, that might be used from time to time. A lot depends on the nature of the tariffs, the extent of the tariffs, what type of quotas there may be and what the arrangements are with regards to rules of origin. You then have the whole question of whether they have the capacity locally to administer such a system.

Lord Jay of Ewelme: In any event, would there have to be a customs post? Are you saying that whatever system you came up with there would need to be some kind of physical manifestation of the border?

Professor McCall: There is a physical manifestation of the border between Norway and Sweden, with periodic checks.

Professor Phinnemore: There would need to be capacity to be able to have the physical checks at some location.

Lord Jay of Ewelme: It could not all be done by spot checks or by patrols on both sides of the border.

Professor McCall: It could be done that way, backed up by the technological approach that we have talked about, but the evidence vis-à-vis Norway and Sweden would suggest that these spot-checks would have to take place and do have to take place.

The Chairman: We will quicken the pace a bit, if we may. This is very helpful.

Q42

Lord Whitty: On the economics, first of all on the agriculture-related sectors and then more generally, for agriculture clearly the trade across the border and the trade between both parts of Ireland and GB are vital. Once one is in the CAP, both in terms of subsidy and regulation, are we then in a disaster zone for Ulster's farming sector? It looks difficult to resolve that, whatever the configuration of the overall agreement. Is there any way through this that you can see? Secondly, more generally, what is the impact of Brexit on inward investment, both from the UK and foreign direct investment?

Dr McGowan: To take agriculture first, as I said earlier, it is a huge issue for Northern Ireland. There are 48,000 people working in that sector. A lot of traffic goes back and forth of milk that is produced in Northern Ireland, then goes across the border to be processed, and then goes back to Northern Ireland. There is an issue about where agriculture would be after that. There are two key issues. One is CAP funding and what happens to it. We have seen initial opinion polls of farmers and how they voted in the referendum, and it looks like just over half voted for Brexit.

Lord Whitty: Rather less than in GB.

Dr McGowan: Yes. Those polls asked why they voted that way, and the two key things were regulation and bureaucracy. Are they going to change? Leaving that aside, the issue for Northern Ireland is then, if it is outside of the CAP, where the money comes from. Linked to that is, if we look at this in terms of European competencies, what happens once the



UK moves out of the European Union? Does agriculture come back to the devolved assemblies or does Whitehall take over and look after it? If it comes back in both areas, be it London or Northern Ireland, the issue is about capacity. Are there enough people on the ground to manage some of these things?

There is the issue about financing for farmers. There was work done by the European Commission that said, on average, for every £1 made by farmers in Northern Ireland, 87 pence came from the Common Agricultural Policy fund and the single farm payment, although we need to differentiate between different sectors. It is a huge issue. Outside the CAP, unless there are mechanisms there, you could see farmers failing and going to the wall. A lot of money is spent on that in terms of the money coming through Northern Ireland in the cycle under the CAP, but there is also trade. If London is negotiating trade deals, because agriculture would be outside most of these, to what extent are Northern Irish interests on their radar screen? They are on London's radar screen, but where are they in terms of the wider view? Is London looking at trade deals with Africa or with Latin America? With something like beef, for example, coming into Northern Ireland, how does that impact on local farmers here?

There are three issues. There is the issue of funding and where the money comes from once the UK leaves—in other words, what will a British agriculture policy then look like, or will there be a Northern Irish agricultural policy? Where will the funds come to support that, with the same means as at the moment? It should also be said that the Common Agricultural Policy itself is undergoing major change. It has been completely reworked. Of course, Brexit brings it home closer to farmers here in the short term that we are not under the CAP, but there are major issues. The third issue is trade: what trade deal the UK cuts. That may benefit the UK as a whole but not necessarily benefit Northern Irish farmers.

Lord Whitty: The automatic effect of Brexit would be that agriculture was more or less totally devolved. You seem to be saying that that may be a disadvantage, because it is not high up enough in terms of Whitehall's priorities.

Dr McGowan: It is an area that comes back to the local Assembly here to deal with. The question is whether they have the capacity to deal with it themselves, or would there be funding streams coming in to allow them to carry it on in the same way that it currently operates, if that was the intention.

Lord Whitty: So far only to 2020.

Dr Hayward: I have a very quick answer on foreign direct investment. It would rely on stability within Northern Ireland and that could be, as has been touched upon, put into some question by Brexit. A big draw for FDI is also access to the single market. Those two things would be put into doubt.



Q43 **Baroness Wilcox:** The UK Government have pointed out that the common travel area predates either country's membership of the EU, but as yet the situation has never existed where one member state was in the EU and the other was not, so I have two questions for you to come up with an answer for, please. First, that being the case, what obstacles do you see that need to be overcome to ensure that the common travel area continues to operate? Secondly, is there any way to guarantee that the existing rights of Irish citizens living in the UK will be maintained post Brexit?

Professor McCall: Could I tackle the last question, because it is amusing to me? As someone who has lived in the UK all my life, I have only ever had an Irish passport, so does that mean I will be ejected from the UK? The complicating factor of Northern Ireland in terms of its identity is something that we thought had been tackled rather well in 1998 by the Good Friday agreement.

With regard to the common travel area, for the common travel area to continue to work effectively and smoothly you have to have the two states either in the EU or outside the EU. The complicating factor of one being in and one being out certainly asks serious questions of the common travel area.

Professor Phinnemore: A lot comes back to the general point that a lot would depend on the nature of the UK-EU relationship. The hard Brexit at the moment to my mind seems to raise questions about all elements of the CTA and whether it can continue in its current form.

Baroness Wilcox: It is something for us to think about. We are trying very hard to make sure that our relationship with the European Community is good.

Professor Phinnemore: This possibly points to the broader question that we have all touched on, which is about the capacity to think through these issues. One thing that has not been done within Northern Ireland and in the general UK context is to think through the issues and what the problems are that are raised by the different potential types of relationship following Brexit. We just have not done that work, but there are a lot of assumptions out there that everything will remain the same. It is clearly the case that we cannot make that assumption.

The Chairman: To follow up on that, because that was a helpful comment, is one of the problems that the critical part of these negotiations in effect makes it difficult to do anything other than on a contingency basis, and it is difficult, given the resources available in Northern Ireland, publicly and through the academic, civic and other sectors, to generate a fully informed debate until some of the boxes are ticked elsewhere, and then there may not be time to get it sorted out? Is that the fear that you have?

Professor Phinnemore: Yes, that is certainly the case. I would go one step further and question whether there is the political inclination to engage with that level of analysis and consideration of options, because if



we look at the nature of the debate leading up to the referendum, it 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. A number of us around this table were raising a lot of these issues during the course of the campaign and were immediately told we were scaremongering.

Lord Jay of Ewelme: Is that continuing reluctance in Westminster, Belfast or in both?

Professor Phinnemore: It is at both levels, and partly reflects in London that we are just one small part of the UK and are not particularly high up the priorities of the London Government, and that there is limited capacity in London to think through all of the issues. What is more problematic is that we have not come to terms with them domestically and locally. If you look at the way the Northern Ireland Executive engaged with referendum-related issues, it simply did not compare to either Scotland or Wales in terms of the amount of analysis and the amount of enquiry going on. I would say that has continued post-referendum as well.

Dr Hayward: If it is not rude to disagree with Cathal—we disagree on several things—I disagree a little bit in relation to the common travel area. It is significant that the agreement has been there for a very long time and it persisted even when there was a trade war between Britain and Ireland. That relates to the different types of borders and border controls that can happen at the same time, so I do not think it is necessarily automatically problematised by Brexit. It does mean that the European Union position in relation to the common travel area would be more significant now, in terms of the status of EU citizens and discrimination.

Q44 **Baroness Armstrong of Hill Top:** You have mentioned several times the Good Friday agreement. My experience, when I was in government, was that it was a very difficult thing to negotiate. We have had to work on it, day in and day out, ever since. Sometimes, when there has not been the work, that is when the problems have come. I want to ask what your views are about the specific challenges that arise from the determination that the peace process must continue. Europe, the Republic and the UK want that, but there will be real shifts, because one of the basic things in the agreement was that the co-guarantors both had EU membership. I want to ask what you see in the peace process that we have to keep a particular eye on, and I want to ask you about the political consequences of this, because the nationalists, as far as I can read, are concerned that their interests, in terms of the relationship with the Republic, may well be being undermined.

Professor McCall: As you well know, intrinsic to the negotiations leading up to the Belfast Good Friday agreement was the relationship between the Republic of Ireland Government and the UK Government, in particular the two Prime Ministers. Looking at the trajectory from the early 1990s, I



can see that that has tailed off. Certainly the engagement between the last UK Prime Minister and the current Irish Prime Minister was not as deep and ongoing as it had been in the past between previous occupants of those posts. You could say, "That is because the deal was done and everything was grand, so forget about it". I do not think so. With a deeply divided society like the one that we have in Northern Ireland, you have to keep your eye on the ball. That intergovernmental relationship is key to keeping the thing together. Brexit and all of the debates and possibilities that come out of Brexit lead to specific challenges that require engagement at that level.

Dr Hayward: One concern I have is that we frequently reach stalemate or standoff between unionists and nationalists at the highest level here. That tends to be resolved by tortuous negotiations between the British and Irish Governments, with some support from the EU. Outside the EU, with a slightly different relationship between British and Irish Governments, that would also be absent; that would be a long-term concern.

Q45 Lord Selkirk of Douglas: Can I raise the issue of Treasury funding guarantees to Northern Ireland? There is likely to be an impact as a result of Brexit, with a loss of EU funding. Has this been made up by the Treasury? Can you say to what extent the funding guarantees have mitigated the present situation? In particular, with regard to cross-border infrastructure projects such as the A5 western transport corridor, the Ulster canal, narrow water bridge and the north-west gateway initiative, what will the impact be on them?

Professor McCall: There is some dispute with regard to the extent to which the Treasury will maintain that kind of funding until 2020. Certainly from within the Northern Ireland Executive concerns have been raised. The Narrow Water bridge project is something that has been on seemingly perpetual hold for the last number of years. That is despite the fact that the EU had promised a certain amount of funding for that bridge. The problem arose essentially through incompetence, in terms of assessing how much it would cost. Therefore, some of the projects are not ongoing anyway. Others that are ongoing are funded under the EU Peace programme. They will continue until the UK pulls out of the EU—that is if it is a hard Brexit, of course. Whether the Treasury will step in to support those up until 2020 and then beyond is something that we cannot tell.

The Chairman: You have not got a full guarantee even until 2020?

Professor McCall: No.

Lord Selkirk of Douglas: Does it follow from this that there will be continuing discussions between the British Government and the Northern Ireland Executive?

Professor McCall: Yes.



Dr Hayward: It is important to also note that the EU funding is not just the money; it is also about what it can do to support projects that may be sensitive or are not ones that draw particular political interest. There is also the sustainability issue that Cathal has raised, and the fact that it comes additional to not just British Government funding but Irish Government commitment to projects here. All of that would be thrown into question by Brexit.

The Chairman: Almost by definition, those are cross-border interests where the impacts are likely to be magnified even beyond those of both halves of the island of Ireland, so there would be an intense effect if they were insecure or withdrawn.

Dr Hayward: Yes, within the EU that kind of transaction is normalised, and it becomes politicised outside of the EU.

Q46 **Baroness Armstrong of Hill Top:** What about the impact on cross-border policing and security?

Dr Hayward: At the moment the co-operation between them is good, but it is not reliant on European integration. For example, there is not hot pursuit across the border. At the moment, they stop at the border. Those kinds of things would continue. The biggest concerns would relate to membership of Europol and the European arrest warrant. Some of those are in question anyway, so that is not the biggest concern in relation to Brexit.

Professor McCall: To contradict my colleague, there are informal arrangements whereby if someone within a few miles of the border on the northern side thinks, for example, that there is an intruder in the house late at night, and the nearest PSNI station is 35 miles away and the nearest Garda station is 10 miles down the road, they will be advised to phone the guards to come out and do a quick check. It is just a practical thing to do. Depending on your political persuasion, some householders are not particularly enamoured with this suggestion.

Baroness Armstrong of Hill Top: Others quite like it.

The Chairman: That has grown as a practice over the years. It would not have happened at the height of the Troubles.

Professor McCall: The question is whether it could continue to happen after Brexit.

The Chairman: One point I have not seen publically commented upon recently is the question of Prüm decisions. There was a certain interest, particularly in our House, in encouraging the British Government to go ahead with accession. Is that happening in parallel with the Irish Republic now? Do things like the almost instant exchange of number plate information and so forth happen?

Professor McCall: There is that exchange of information.

The Chairman: Yes, but it was going to be speeded up.



Professor McCall: Yes, that seems to be ongoing. The hot pursuit issue is a no-no.

Baroness Armstrong of Hill Top: Do you think that Brexit will present any impediment to sharing evidence and immigration data, and the things about co-operation on things like extradition, tackling organised crime and terrorism? It has been very important that they have been done in a spirit of co-operation. Do you see that continuing?

Professor McCall: It depends who the immigrant is. In terms of persons of interest, illegal immigrants, terrorists, et cetera, I imagine that information will be processed as it is now and shared. I am not sure that will happen on EU workers.

Dr McGowan: In terms of police co-operation, is it a growth industry in a post-Brexit world? The idea of smuggling across the border exists and may develop.

I am conscious I did not answer one of Baroness Armstrong's earlier comments, so could I do so very quickly now? It was about the impact on the peace process itself. The peace process is ongoing and is still developing. One potential fear I have about where we might be heading in a post-Brexit world, with the UK outside and Ireland still in the European Union, is whether it unsettles the peace process and whether it gives certain people the idea that it does, given the Good Friday agreement and the fact that one of the guarantors that signed up to it is now no longer part of the European Union. I do not want to overdramatise this at all, but we do still have a very small dissident community, which is growing ever so slightly. Is this ammunition they could use to mobilise? It is way down the line, but it is something that could potentially happen.

Q47 **Baroness Wilcox:** In its contingency plan published immediately after the referendum, the Irish Government identified implications for social welfare provision, the Irish energy market and cross-border health services as key issues for them. What are your thoughts on the implications of Brexit on each one of these policy areas?

Professor Phinnemore: The initial response is that Brexit can only be disruptive. The extent of that disruption will be determined by the nature of the relationship. I was party to a number of conversations recently where you had, for example, public health officials from either side of the border, and the level of co-operation that had become normalised, in terms of provision and effective use and allocation of resources, was considerable. Depending on what happens with that border that could all be significantly disrupted.

Dr McGowan: One example of that is those people needing heart surgery. Currently, there is a waiting list in Northern Ireland that you can bypass by going to the clinic outside Dublin—on the NHS, I should add. What happens to those arrangements in a post-Brexit world?



The Chairman: I suspect, again, that the reality of that will not happen until we are further down the track on the macro negotiations. You have been very generous with your time, including giving us an extension. Before I do the formal vote of thanks, is there anything else that you would like to mention to us as issues that we have not discussed in our fairly comprehensive exchange of views? Have we missed something?

Professor Phinnemore: There are an enormous number of things that we could discuss further.

The Chairman: Please feel, of course, that you can come back to us.

Professor Phinnemore: The general point I would raise is about the voice of Northern Ireland, just as you have the voice of Scotland and the voice of Wales. We have touched on it in a number of ways, in terms of the withdrawal negotiations and in terms of the new relationships that Lee mentioned that are being established with countries with which we currently have a trade relationship through the EU, but we would need to get a new relationship outside.

I would also raise the implementation of the great repeal Bill. All of the indications are that the decisions will be taken at the Executive level. Will those be taken with due cognisance given to the impact and implications for the devolved administrations? What is the mechanism there for us feeding into that?

The Chairman: Thank you for that. If there are no other comments, may I thank you across the piece? You have very much illuminated our thoughts. You may not have resolved some of them, because the issues are not yet resolvable, and we need to bear that in mind. Could I formally thank you, David Phinnemore, Lee McGowan, Cathal McCall—now Professor McCall—and Dr Hayward, for spending time with us and stimulating our thoughts and giving us some very helpful answers? I declare the formal session closed.