



Select Committee on the European Union

Uncorrected oral evidence: Brexit: UK-Irish relations—follow up

Wednesday 31 January 2018

11 am

Watch the meeting

Members present: Lord Jay of Ewelme (The Chairman); Baroness Armstrong of Hill Top; Baroness Brown of Cambridge; The Earl of Kinnoull; Lord Selkirk of Douglas; Baroness Suttie; Lord Whitty; Baroness Wilcox.

Evidence Session No. 8

Heard in Public

Questions 60 - 69

Witnesses

I: George Hamilton QPM, Chief Constable, PSNI; Tim Mairs, Detective Chief Superintendent, PSNI.

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.
2. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk of the Committee.
3. Members and witnesses are asked to send corrections to the Clerk of the Committee within 7 days of receipt.

Examination of witnesses

George Hamilton QPM and Tim Mairs.

Q60 **The Chairman:** Good morning to you both. Thank you very much for coming and talking to us, and for giving evidence this morning; we are very grateful to you. We are Members of the House of Lords EU Committee. We had a day in Dublin yesterday, in which we had some very interesting talks, including with Mr Coveney, the Deputy Prime Minister. We are here in Belfast today and are going to Londonderry tonight for a visit tomorrow, in order to see both sides of the border and how Brexit might affect the operations across the border. Your evidence is a crucial part of our attempt to understand the implications of Brexit for Northern Ireland and the relations between Northern Ireland and the Republic of Ireland. We are very grateful to you indeed.

We have read again, Chief Constable, the excellent submission that you sent us a couple of years ago for our first report on Ireland. Thank you very much for that. I am leading a debate in the House of Lords on the European arrest warrant next week, so it is extremely useful to have some good material there for my introductory speech.

Perhaps you could set the scene a little and talk about the degree of terrorism and cross-border criminality that there is at the moment, and whether that has that been or is growing. Then we will come on to a series of more specific questions about the implications of Brexit for your handling and the Government's handling of those issues.

George Hamilton: Thank you for the opportunity to be here this morning. I am grateful, too, that Tim Mairs, my colleague, has joined me, because Tim is detective chief superintendent in charge of criminal investigations branch. His people deal with organised crime, with local CID, but most importantly, in this context, a lot of the cross-border issues. We are doing a lot of work at an operational level, so that, when the police services are asked in fora such as this about what the operational requirement is, without encroaching into the political space, they will be clear about the law enforcement and policing requirements in any post-Brexit arrangements. Tim is leading for us on a lot of that work and linking in with his counterparts in An Garda Síochána, so Tim is here to answer all the difficult questions that you may have.

To set the general scene, the current challenges faced on the island of Ireland, particularly in the north, which are affected by the fact that we have two jurisdictions on one fairly small piece of land, are around the threat emanating from violent dissident republicans. These are a group of people who have not bought into the peace process and still see violence as a legitimate mechanism for trying to secure their political ideals. They are a relatively small group of people who continue to use violence and similar tactics as the Provisional IRA would have done pre the ceasefires, the Good Friday agreement and the peace process.

While they are a small group of people, they can have quite catastrophic consequences in terms of their actions. For example, we have seen a

number of prison officers, and indeed police officers, murdered at their hand over the years since the peace process has been moving along. That creates, in interjurisdictional terms and in the context of considering Brexit, quite a significant challenge. Relationships operationally and strategically with our police colleagues in the south are very good, but we still need a legal basis and legal framework to operate within around exchange of information, movement of people and evidence, and all that. That is probably the biggest significant threat that we are dealing with: there is an interdependency between the two jurisdictions for criminal justice outcomes.

There is, of course, a big issue around organised criminality, smuggling, criminals trying to use the different jurisdictions and the existence of a border to their tactical benefit in conducting their business. That is the piece that Tim has responsibility for within this jurisdiction and in terms of engagement with the police in the south of Ireland.

The threat from those violent dissident republicans remains severe and has done since 2009. Our prediction is that we will continue to work with communities, partner agencies, the security service and An Garda Síochána to address that risk. However, we would anticipate and are planning for that threat to continue at its current level. The challenge for us in policing is to ensure that our activity is constantly suppressing that threat, both through harder-edge tactics in terms of how we deploy covert resources, as any other policing service or law enforcement agency would do, but also in how we do policing, by ensuring that our policing is culturally sensitive and that we are not doing anything to tip young people, in particular, into a place where these avowed dissident republicans have any legitimacy at community level.

It is important that policing fills that gap and narrows the ground that violent dissidents can walk upon. This is a careful balancing act for us around the full spectrum of policing tactics and service delivery, from community policing at one end, almost as a counterterrorism tactic—not in any sneaky or secretive way, but just having a high level of police legitimacy so that we can continue with that good, age-old concept of policing with consent—right through to using all the tools in the covert policing box, so that we can pursue good criminal justice outcomes against those who wish to bring harm to our communities, and indeed to our officers.

I would not want to exaggerate or minimise the threat. It is characterised by the security services as severe. The successes that we have had, and the help from communities that we have had, have meant that we have been good at disrupting and suppressing that threat. But we are also mindful every day that these people only need to get lucky once, from their perspective, to have quite catastrophic consequences for families, for policing, for communities, for the peace process. We work well with partners to try to deal with that in a culturally intelligent way.

Q61 The Chairman: Thank you very much for that. I wonder if I could ask Detective Chief Superintendent Mairs about not the terrorism but the

cross-border criminality. How far is that organised, and how far is it organised from outside the island of Ireland and the United Kingdom? How far are international criminal groups trying to exploit differences across the border, and is that growing?

Tim Mairs: In brief terms, our understanding of the profile and the nature of that threat is increasing. That is in no small part due to the work of the Joint Agency Task Force, which you will be aware was established as part of the Stormont House agreement. It is a joint, all-Ireland task force that includes the PSNI and An Garda Síochána, but also the National Crime Agency, HMRC, the Revenue Commissioners in Ireland, the Garda National Immigration Bureau and Home Office Immigration Enforcement. One of the big benefits of that for us is that we now have a group of law enforcement professionals who are sharing information and their analysis of the threats to the United Kingdom and to Ireland, collectively, from serious and organised crime. As you will be aware, that has been identified as a national security threat, comparable with counterterrorism, to the United Kingdom, and I know the Irish Government share that view.

You referenced cross-border crime. We have worked very hard in understanding what that definition is and how criminal elements view the physical border within the island of Ireland. It is clear that many organised criminals will either not notice the border whatever or will see it as an advantage. For too long, law enforcement has seen it as a hindrance, and the work of the Joint Agency Task Force is essentially to overcome that burden. We see certain types of crime where, we believe, the border is seen as an enabler or a facilitator.

The other category we would look at within that is specific crime types that impact border communities, the likes of burglaries, for example. At the moment, we are seeing a spike in burglaries north and south of the border, in communities along that line. That concerns us, because it impacts community confidence, and it is important for us to demonstrate to our communities that we can effectively manage these crime types in spite of the border.

If I look at drugs as a key priority, we see groups that operate across Europe, and in fact have a global footprint, which supply significant quantities of drugs into the island of Ireland. Our assessment, with An Garda Síochána, is that they see the border as an advantage, simply because they are aware of the challenges, at times, around information sharing between the two organisations. They can commit criminality on one side of the border, and they hope and aspire to remain reasonably unnoticed on the other side of the border. We have worked exceptionally hard to close that gap. While we cannot talk publicly about some of the successes, working jointly with the National Crime Agency and An Garda Síochána, we have saved people's lives in the last eight to nine months, and that is people living in England and Wales. We have also been able to effectively counter threats from a number of very violent drugs-related feuds ongoing on the island.

I am aware that HMRC has stated, for example, that fuel excise fraud is worth about £100 million a year to the UK economy, to the Exchequer, and it assesses that approximately 50% of that emanates from Northern Ireland.

The Chairman: Could you say that again?

Tim Mairs: This is from HMRC's evidence to the House of Commons committee. It assesses the loss to the Exchequer through fuel fraud in the UK to be in the region of £100 million per annum, and approximately 50% of that emanates from Northern Ireland. It is facilitated by the land border and the differential in tariffs between north and south. Again, the ability to share that analysis with HMRC through the Joint Agency Task Force benefits us.

That may be helpful in setting the context as to where we feel gains have been made by law enforcement on both sides of the border in the last four to five years. I would be the first to say, as the chair of the operational co-ordination group, we have a long way still to go. We can improve and refine our objectives, but we are very keen to protect the abilities that we have. At the heart of that is the need to demonstrate that committing criminality on any part of the island will be investigated and there will be consequences for that. That is why the likes of the European arrest warrant, in particular, are critical to us. If we were to return to a scenario, which was most marked during the Troubles, of extended, long, protracted extradition battles to move people from one jurisdiction to the other, the potential for that to undermine this sense of the rule of law on the island, which we have all worked so hard to create, would be a significant concern for us.

The Chairman: That is very helpful indeed. Thank you very much for that answer to the first question.

Q62 **Lord Whitty:** You have said quite a lot about the nature of the co-operation with the Gardai. Could you give us an idea of the scale, in the sense of how much of your co-operation is north/south and how that would compare with co-operation with UK forces, with Scotland Yard and so forth, and with continental forces? I ask this because I saw something on the telly this morning. Is the possibility of the UK no longer being a member of Europol a problem for you?

You have mentioned terrorism, organised crime and use of the border for avoidance of arrest and so forth. Do you have a problem at the moment with organised illegal migration?

George Hamilton: On the level of co-operation north/south and how it compares with other parts of the UK, it is probably different in its nature. At a very operational level, we will have local police commanders in the border areas who are engaged, almost on a daily basis, with their counterparts, dealing with travelling criminals at a pretty low level, with burglaries, with local policing operations and with rural crime issues in a similar way, I guess, to how police services in the West Midlands and Warwickshire may well need to co-operate. Although we are two different

jurisdictions, the exchange of information and the local arrangements around tasking and deployment need to be joined up at that very local level. Clearly, because of the Irish Sea, we do not have a relationship of that nature with neighbouring UK forces; it is not necessary.

That said, we are part of the United Kingdom. I am a member of the National Police Chiefs Council. I am a member of the UK counterterrorism co-ordination committee and we are fully plugged into the UK arrangements, but it tends to be at a more strategic level. We have a lot to bring to the counterterrorism effort across the UK because of our unfortunate and sad experience here, but there are differences between the international terrorist threat and the more local problems that we have here.

That said, all that is joined up. We are part of the mutual assistance arrangements, even around dealing with public disorder, for example. Each year, we plan to avail of mutual aid from other UK police services; because we are part of the United Kingdom, we can tap into that and police officers are empowered to come and assist us. We touch into those arrangements in the same way as any other UK police service would.

As we reach past the UK into Europe and beyond, we have the National Crime Agency fully operational in Northern Ireland now—that is another one of Tim’s hats—to link in and be involved in joint tasking. A lot of the work we are doing around tackling paramilitarism is with HMRC and the National Crime Agency, and we are grateful for that. But more relevant to your question is this piece about using the NCA network of international liaison officers, reaching out globally, into the EU and beyond. That is helpful for us; we do not have to create infrastructure that already exists. We tap into the NCA capability in the same way as any other UK police service and we are grateful for it. We would tap into other specialist capabilities that the NCA can bring to bear upon policing and supporting law enforcement as well.

There was a final element to your question, if I remember correctly, around Eurojust or Europol.

Lord Whitty: Yes, it is the issue of whether the UK remains a member of Europol. I just wondered what the degree of direct engagement between the PSNI and Europol is, and how important that will be.

Tim Mairs: As the chief constable has indicated, we are actively involved with the national group chaired by the NCA and the National Police Chiefs Council, which is seeking to inform the UK Government’s position on that. In line with that group, we would identify Europol as a critical element in being able to effectively combat organised criminality, which by its nature, as we said, is now transnational. As recently as in the last couple of weeks, PSNI has attended Europol in The Hague, along with colleagues from An Garda Síochána and from other European nations, to agree a joint investigation team targeting European crime gangs that seek to bring a range of drugs into the island of Ireland and are involved in human trafficking. We identify that as a critical element in developing

smart solutions that overcome the traditional issues of borders and divisions between nation states. We would support the position of NCA and NPCC, in that those powers and the ability to co-ordinate and collaborate through Europol remain a priority for us moving forward.

The Chairman: Could you say something about Eurojust as well? Is that as important as Europol?

Tim Mairs: I would defer to my colleagues in the prosecution service, who take the lead with Eurojust. In the sense that it provides that co-ordinating ability to carry out investigations and inquiries across Europe, absolutely, we would see that remaining a priority.

George Hamilton: It is worthy of note for this Committee that all this infrastructure has become much more effective and efficient over the years. In the early days of these arrangements—Europol, Eurojust, the use of European arrest warrants—there were teething problems, but we have worked together on a case-by-case basis and gathered learning from that. You very rarely see a technically unsuccessful application for a European arrest warrant, whereas at the start of the process you would have seen that, as lawyers, police officers and prosecutors have come to understand and deal with the peculiarities of the legislation. We are in a good place.

I guess the follow-on from that, by way of an observation in an operational sense, is we do not have, with the Republic of Ireland, alternative or parallel extradition legislation. Probably the biggest practical vulnerability for us is the removal of the European arrest warrant. From our perspective, we need an alternative arrangement with the Republic of Ireland and with other countries where there are not pre-existing or parallel extradition arrangements.

The Chairman: That is very helpful. Thank you.

Q63 **Baroness Armstrong of Hill Top:** You are answering all our questions as you go along, but we are now 18 months on from the referendum and I am sure you have been involved in discussions with others. In the paper that you sent us, for example, you said that you thought you would need international legislation to facilitate some of the work that you have been talking about. Are you more confident, 18 months on, about arrangements that will be made, which you think will benefit, when we have left the European Union? Do you see any advantages? I certainly was not able to detect that in your paper. I also wondered where you thought we were in terms of being able to assure you, and therefore the public, about the things that will be a challenge.

George Hamilton: The short answer is no. I do not feel that we are in a better place than we were 18 months ago when we offered that written submission to the Committee. We have appeared before a number of parliamentary committees—the Northern Ireland Affairs Committee, the Commons Committee on Exiting the European Union. We are trying to be very careful and sensitive about not offering a political view, but it is

legitimate for the police to identify operational consequences and, therefore, mechanisms that need to be put in place to replace the current EU-sponsored arrangements. My concern is that we have been treading carefully so as not to move into what is a political debate, but we also feel a certain lack of assurance, in that we are saying the same things now that we were saying 18 months ago.

We stand ready as public servants, in an apolitical sense, to advise, to help, to support, to draft the operational structures that need to be in place, but we are not seeing on the policing and criminal justice front, partly because of the plethora of other issues that need to be addressed with Brexit, enough direction, clarity and ask about what we need. We keep talking to committees such as yours, we think, outlining clearly our areas of concern, which have not really changed. They are things like the European arrest warrant, like having alternative arrangements in place to share information, evidence and biometric data, all of which exist currently within an EU framework.

To be clear and to be absolutely apolitical, we are not saying that there is no alternative to those EU frameworks, but there needs to be some alternative arrangement. Our concern, without moving to a panic stage, is that the clock is ticking and we are not that far away now from when we are going to need these instruments and pieces of legislation in place. Other than us flagging up what the issues are and asking for alternative arrangements to be put in place, we feel that we are treading water a little. As part of that, perhaps we are too sensitive about not straying into the political space, but we are really keen to be able to arrest people abroad, to bring justice to bear on people who have fled the jurisdiction, to exchange intelligence and information, to exchange evidence, especially biometric material.

The Chairman: You would pretty certainly be criticised afterwards if you had not raised a flag now, I would have thought.

George Hamilton: Yes. My concern is that we might have been so timid about raising it that it has not had the prominence that it deserves. There is something about getting the balance right and not moving into what could be perceived as offering a political perspective. We are not doing that, but there are very real operational consequences if there are no alternative arrangements in place around exchange of material and people by way of a European arrest warrant.

Q64 **Lord Selkirk of Douglas:** May I ask the chief constable and the detective chief superintendent about the issues, which we have already touched on, in relation to police and security co-operation needing to be resolved in the Brexit negotiations? What specific preparation is the Police Service of Northern Ireland making for Brexit and to what extent are you co-ordinating with the Gardai in such preparations? I have another question, but perhaps you can deal with that first.

George Hamilton: I will ask Tim to comment specifically on the work that the Garda commissioner and I commissioned a few months ago,

which Tim is leading on, in terms of the co-operation. As far as is sensible, we seek a joint approach between the Police Service of Northern Ireland and An Garda Síochána, so that, when respective Governments ask for what the police analysis or the police ask is, it is joined up and we do not have to arbitrate between two police services. Tim has done some work on that, but just to inform you and, I hope, reassure you, we are plugged in at just about every level that we can be. We are plugged into the National Police Chiefs Council, where the NCA has agreed, kindly, to lead on behalf of UK chief constables. We are at the table there. We are probably going to increase our presence in that space. That is closely aligned with the Home Office.

At a more political level, across a number of departments—primarily for us the Department of Justice—that currently do not have Ministers attached to them because of the collapse of devolution, officials within Northern Ireland are working hard on preparation and trying to inform. But they are, of course, dependent on the ask and the co-operation from London.

You have police-to-police co-operation north/south, which Tim is leading on for us. I am plugged into the National Police Chiefs Council and the NCA; that is police to police at a UK and European level. In terms of looking at potential legislation, policy fixes and alternatives, we are also linked in through the Department of Justice, in our case, and across all the Northern Ireland departments. That is the higher-level view. Tim, do you want to talk about the work you have been doing recently on co-operation with the guards?

Tim Mairs: To pick up on what the chief constable has mentioned around the preparations, we are fully engaged with the groups that we have. To echo the points made, if one applies the worst-case scenario of a no-deal situation, we are potentially in the region of 13 months away from the Police Service of Northern Ireland effectively managing a 300-mile land border with the European Union. We would have to support colleagues in enforcing World Trade Organization tariffs and a range of arrangements around the movement of people, which is a confusing mix of the existing common travel area, which has been extant since the 1920s, and a range of other agreements that go right back to the formation of Éire. There would be some confusion around coming out of the single market.

From our perspective, 13 months is not a lot of time in which to prepare or plan. If there are resourcing implications for policing in supporting partner agencies, 13 months with a diminishing budget is just not achievable. In a worst-case scenario, where we are looking at day 1 planning, frankly, we are in difficulties.

To moderate that, we are focusing very closely, as the chief constable and the commissioner have directed, on understanding and clarifying the opportunities between the UK Government and the Irish Government to co-operate on the island of Ireland, primarily led by the PSNI and An Garda Síochána. We have held a number of workshops jointly and are, in the second draft of the document for the chief constable and the

commissioner, clarifying what priorities remain for us as organisations. In very simple terms, there is a clear commitment that we will continue to inform and advise those involved in the negotiations, to clarify what our requirements are in order to keep people safe on the island of Ireland.

When it comes to what is within our gift to achieve, the chief constable and commissioner have been clear around maximising our opportunities to co-operate on the basis of legislation and agreements that exist outwith European arrangements. That includes the likes of the 2002 intergovernmental agreement and provisions under various jurisdictional Acts that allow, for example, serious crimes, such as murder, that occur in the north to be prosecuted in the south. You may be aware of a number of successful instances where that has occurred. A number of those powers and other arrangements can remain post Article 50 and the removal of the UK from the European Union.

You mentioned possible benefits. If there are to be bilateral agreements between the Irish Government and the UK Government, there is undoubtedly an opportunity for us to build a strong legislative framework between the two Governments, to allow for seamless information sharing and other matters. There are many hurdles that would need to be overcome. There would be an awful lot of legal discussions and drafting, I imagine, to get to that point.

Baroness Armstrong of Hill Top: You need a Government, too.

Tim Mairs: It would be helpful. I trust that is helpful, sir.

Lord Selkirk of Douglas: Yes. Can I thank you for also answering the question that I was about to ask? I have quite a big supplementary in relation to the border. We have heard a certain amount of evidence both ways with regard to the use of technology to make sure that border issues do not arise. What is your view? Is that not a practicable approach? This will be bound to come up with the EU negotiators.

Tim Mairs: I speak as a police officer, so I would defer to HMRC and the Border Force on controls and measures, but based on the experience globally there are opportunities to provide technical controls at borders, which can be very effective and robust. A lot of that depends on what the agreement is, and the position of the two Governments involved in this. We have met colleagues from Gibraltar, and that example is quite germane, in the sense that those on the Gibraltar side are able to use technology to create broadly seamless transition of people into that region from Spain. But the experience of moving from Gibraltar into Spain is different, because the Spanish Government's status and position, which it is within their sovereignty to hold, is more intensive and they require higher levels of assurance.

In many ways, technology offers opportunities, but technology will be required to be tailored to whatever the agreements are.

Lord Selkirk of Douglas: Are you reassured that the negotiators are

mindful of the security interests and keep these at the fore of their thinking?

George Hamilton: We have had enough public commentary at a very senior political level to show that security considerations are being considered alongside movement of trade, people and so on. Certainly we have had voice into government and senior officials, and we feel like we are being listened to, in that there is no resistance.

What we are not seeing coming the other way is what we are going to do about all this, because 13 months is not a long time. Of course, there could be a transitional arrangement after that, but we need to be sure. We have very strong, good working relationships with colleagues in the south of Ireland, and indeed other European countries, but good relationships are not enough. There needs to be a legislative footing and we need to be able to operate on a strong legal basis.

To answer your question on whether the security considerations are being listened to, I think they are, but I am not sure that the full consequences of all those, the problems that they create or the solutions that need to be sought and considered, are necessarily being articulated. It may well be that is just because of the scale of the task for negotiators. I do not think that they are blind to it. I think we are being listened to.

Q65 **Baroness Suttie:** What would be the implications for security and policing of the provision of any kind of physical infrastructure at the border?

George Hamilton: Our assessment is that any re-emphasis of the border, from a policing and security perspective, would be unhelpful and would increase threat and risk. If infrastructure is put in place, our assessment is that it would become the subject of unhelpful attention. At one end, there would be lawful protest activity, which we would be very keen to facilitate and to uphold people's right to protest. That is fine, but at the other end is the more sinister threat from violent dissident republican groupings. It is almost creating a target.

In terms of putting hard infrastructure in place to police the border, we have somewhere towards 300 miles of border. When we tried to police that, from a security perspective, during the period of the Troubles, it was not particularly successful. There was lots of very hard infrastructure built that became the target of attack. It led to predictability around resource deployments in and out of it. At that stage, the police organisation on the northern side, the Royal Ulster Constabulary, was about 13,000 strong; we are now fewer than 7,000. On top of that, we had several thousand soldiers. None of this led to an entirely satisfactory or successful policing of the border in the policing and security sense. We have a pretty strong evidence base from what went before to tell us that that is not going to work anyway, so why would we invest in that?

That takes you into what the alternatives are and what the political appetite is, but from our point of view a lot of hard infrastructure around

the border would create opportunities for those who wish to attack the police and any representation of the state. We like to think of ourselves as being representatives of the community rather than the state, but of course there is a perspective out there that the police service, and perhaps to a lesser extent other partner agencies, are part of the state apparatus and, therefore, in their view, are legitimate targets. We should not make it easy or predictable for them by creating targets that are effectively sitting ducks.

Tim Mairs: We are keen to stress that the transitional experience of border communities over the last 20-plus years has been to remove infrastructure, because it was seen as a massively detrimental factor to stability and quality of life for communities on both sides of the border. It is incumbent on any agency or section of the Government that is considering border infrastructure to actively engage with those communities, consult them around the nature of arrangements and take on board their views. We cannot stress enough that this is an exceptionally sensitive issue and these are vulnerable communities that experienced, very viscerally and very painfully, the violence and impact of the 30 to 40 years of conflict that we had here.

Q66 The Earl of Kinnoull: We move to two quite important documents and, to some extent, you have already touched on this area in answer to Lord Selkirk a moment ago. The first document is the aspirational one of the UK Government's position paper of August last year. The second document is the joint report of December. In those documents, I just wondered whether you saw anything that you felt looked as if it was going to provide a route to a solution, particularly in the joint report; whether you saw some things missing; and whether you saw some things that you thought were unhelpful.

George Hamilton: The reports presented information that was helpful, but they were, in some ways, stating the obvious. Documents such as the ones you referred to give us the "what", but we are not really seeing the "so what" and "now what" pieces. Without us being impatient, and trying to be understanding of the size of the task that negotiators and Governments have in navigating a way through Brexit, we are at a point where we feel we need to change the emphasis of our messaging. All that is pretty good and documents such as these refer to the challenges, the problems, the opportunities, perhaps, but we need to find a way of addressing them. In criminal justice terms, it is going to be much more difficult if, constitutionally and legally, we are in a different place. In 14 months' time, we will still need to bring offenders to justice, to share information, to exchange evidence on a legal basis so that it is acceptable in courts in this jurisdiction and in the other EU countries.

The reports are helpful at one level, but they are largely helpful in bringing together an analysis of what the challenges and issues are. They are not completely silent, but from our point of view they lack detail on what we are going to do with these consequences, these implications, which is a concern to us.

Tim Mairs: To speak of the UK Government's document, the aspirations set out from their negotiating position we welcome fully. From the perspective of both the customs paper and the UK and the Ireland paper, in particular, an aspiration to minimise the impact and to retain good relations on the island and the Belfast agreement is very welcome. As to the phase 1 agreement, while we appreciate there is an awful lot of negotiation and discussion to get to that stage, the aspirations are similarly welcome.

What concerns me and keeps me awake at night, though, is how this impacts the County Armagh farmer who crosses the border three times a day with cattle, to milk them. How does this impact the Irish citizen who serves in the Police Service of Northern Ireland? These are questions and queries that we have, which we would be keen to start to address effectively, to ensure that we can maintain service. I speak as a citizen of this island, not just as a police officer, but we seek to maintain the benefits of, as you will see when you visit Derry/Londonderry, essentially an invisible border where people are free to move, free to trade and free to socialise. It is fair to say we welcome all the positions to date and we remain very anxious to start being engaged in active planning around specific detail.

The Earl of Kinnoull: I was just thinking the farmer's dog probably crosses it 25 times a day, not just three.

What I was going to observe and ask for your comment on is that both documents are very strong on their support for the Belfast agreement. On the various laudable structures that you have been discussing, the joint working together and all the things that come out, which of course are a thoroughly pragmatic and commendable way of addressing things, how much of that stems from the Belfast agreement and how much—for instance, I am thinking of the European arrest warrant—is nothing to do with the Belfast agreement but comes from elsewhere? In other words, even with what is in these documents, I am concerned that they have not gone far enough at the high level, let alone talking about the detail. Is that a correct concern to have?

George Hamilton: Some of the European provisions have had much more meaning and impact because of the resolution of the conflict and the closer co-operation, having dealt with all the conflict issues, that were manifest in the Belfast agreement. Those provisions may well have happened anyway. In dealing with the causes of the conflict and providing reassurance to the two large sides in the conflict around their future, their stability, the issue of consent and parity of esteem, and all those sensible trade-offs that led to the Belfast agreement, that has created an environment whereby the European Union provisions were able to work much more smoothly and in a well-oiled fashion. I could be wrong and Tim might have a view on this, but I am not sure that there are any stronger interdependencies than them.

The Belfast agreement, because it took the heat out of the conflict, allowed the border to become less emphasised. Because there was peace

and the threat was reducing—the requirement for armed presence and hard infrastructure and all of that—there were interdependencies at that level in terms of how comfortable people felt in their identity and how assured they were about their future. That would be my analysis. The provisions coming out of European legislation and enablers to do things like arrest, exchange evidence and so on were a separate track which has worked more effectively because of the Good Friday agreement rather than being firm interdependencies. Does that make sense?

The Earl of Kinnoull: It makes perfect sense. My point is, therefore, reinforced, in that that does not specifically appear in the joint report, does it?

George Hamilton: No.

Lord Whitty: Could I just raise another complication? The joint report endorses the common travel area. You will know that one of the reasons for the Brexit vote is alleged to be concern about migration. Although the common travel area is Britain, Ireland, the Channel Islands and so on, nevertheless there are dangers that people will see the common travel area as a soft way in for whatever additional immigration controls are required for the UK as a whole post Brexit. You may say that that is the Border Force's problem and not yours, but in a sense that could be a serious credibility issue for the new arrangements within Ireland. Is this migration already a problem?

George Hamilton: That risk currently exists, so it is something to be mindful of. As we plan and build organisations and infrastructure to deal with the post-Brexit era, it will clearly be high up on the list. The common travel area has many benefits for us all, but it also creates some vulnerabilities. Those vulnerabilities exist currently because of different levels of control, immigration and so on between various European jurisdictions.

Lord Whitty: Post-Brexit migration control would apply to people who are currently quite legally moving around, but there is already, as you say, a problem of people trafficking and organised illegal migration.

Tim Mairs: Yes. Organised immigration crime is one of the priorities for the Joint Agency Task Force. We have acknowledged that it is an important matter. We work, on the UK side, with Home Office Immigration Enforcement, and with the Garda National Immigration Bureau. They work very closely on that.

As the chief constable mentioned, abuse of the common travel area has been identified already as an issue that needs to be addressed. Effective information sharing, the sharing of passenger details, is a critical element of that, to maintain the security of Ireland and the UK. It is probably a good example of an area where we are keen to start to understand potential arrangements post departure from the European Union, because the elements of moving people are particularly complex. We are keen to see what the ultimate political arrangements are for balancing the

controls around immigration that the UK will wish to enforce with maintaining the common travel area.

Q67 Baroness Brown of Cambridge: You have already touched on the welfare and well-being of communities around the border, and things associated with it being an invisible border. I wonder if you might like to comment more broadly on the impact of the Brexit process on community relations, and then more specifically on the border area. What is your perception?

George Hamilton: Within Northern Ireland, I do not see the Brexit decision and direction of travel creating tension within or between those communities.

Baroness Brown of Cambridge: The split of votes between Catholics and Protestants was significant in terms of remainers and leavers.

George Hamilton: Yes, but we are not seeing that difference of political opinion manifesting itself in increased tension in how communities interact or engage. You can take an analysis and say that one community was more likely to vote in a certain direction than the other. At a community level, we are not seeing any increase in tension, but what happens in Northern Ireland at a more political level ends up manifesting itself and having repercussions at community level eventually.

I mentioned earlier that one benefit of the Good Friday agreement was that it enabled, as the conflict reduced, the border to be emphasised less. It was still significant and for people from a unionist background, for example, it was still important, because it marked out territory and reinforced their status within the United Kingdom, and the principle of consent gave them some reassurance of that. From a nationalist perspective, our existence within a European Union probably reduced the significance of the border anyway. Therefore, the removal of this part of Ireland from the European Union may reduce some of that confidence or assurance for the nationalists. It is not for me to speak on behalf of any one of the communities; it is more of an observation.

At a community level, we are not seeing any evidence that the difference in the voting patterns pro and anti-Brexit is manifesting itself in increased tension, difficulties in terms of public order or anything like that. However, we are seeing a divergence away from political co-operation, which is self-evident from the fact that we have not had an Executive in place and functioning for the last 13 or 14 months. At the political level, there is at least a possibility that the Brexit vote is playing into that in some shape or form. That is for others to decide and comment on; I simply say it is a possibility. My concern is that what tends to happen at a political level can then have an impact, by creating either a vacuum or tension at community level.

We are not seeing that yet, but, from a policing perspective, we are alive to it as we engage with communities, with officials and in the political space. We try to do our jobs as effectively as possible, and it is

something that we are mindful of and monitoring, but we are not currently seeing different views on Brexit manifesting themselves in increased community tension at the community level. At a political level, the differences around Brexit are all in the mix, along with a number of other issues, which is leading to a lack of consensus to get a coalition Government working again.

Q68 Baroness Wilcox: To almost paraphrase what you have just said, is the lack of a Northern Ireland Executive having any negative impact on your ability to communicate your concerns about the impact of Brexit on police and security co-operation?

George Hamilton: It has an impact on the Brexit issue, as it does on several other policy issues. We do not think it is extreme, but I would far rather have locally accountable, responsive advocates in Northern Ireland Executive Ministers making noises. It would be good to have a Justice Minister, from a policing perspective, who was plugged into the Home Office, the Department of Justice and so on. We do not have that. We feel like we have a voice through the National Police Chiefs Council and the NCA route. We have officials who we engage with almost daily at a senior level, who we are absolutely satisfied are doing their level best to influence, at official-to-official level, into the various Whitehall departments and beyond into Brussels. We have our own work going on, at police-to-police level.

We have other routes of influence, but to have a local Executive and, in our world, a Justice Minister and Deputy First Minister who could be making the noises into Whitehall to make sure that policing and security issues were on the agenda and receiving focus would certainly help. From an advocacy perspective, even if we did not get all that we felt we needed, at least giving us that extra voice and advocacy would be helpful.

Q69 The Chairman: Could I ask one final question? You have talked a lot during the discussion about alternative arrangements that you want to see in place when we leave the EU and, therefore, formally leave a number of the institutions that form part of it. Do you have a view of what those alternative arrangements might be, from your point of view, to preserve the influence and effectiveness you now have and will need to have?

George Hamilton: We have views on the areas that need to be covered. Part of the difficulty is this whole political issue around sovereignty, control, how much the Government are prepared to concede or co-operate and how much that looks like giving away influence and sovereignty, which is, I suppose, at the heart of the whole Brexit debate.

We do not feel that it is appropriate to outline the exact measures, but there are certain headline issues that the Government need to make their mind up on which need to be at the heart of the negotiations from a criminal justice, policing and security perspective. The European arrest warrant has to be top of the list. If we are not going to have that

provision, what is the alternative? This is not a political statement, but we are very happy with the current arrangements, so would seek something that mirrors as closely as possible European arrest warrant arrangements.

Likewise, on the exchange of data, the flagging of alerts around everything from sex offenders to organised criminals through the Schengen information system and Prüm, and the exchange of biometric data, from a police practitioner perspective, all those arrangements are working well, so our ask is that we do not reduce our ability to do our jobs on the basis of any future arrangements.

The challenge in your question is how we in policing find a way of saying more than that without moving into the political space. Fundamentally, if the UK Government are ceding influence and entering into agreements with other states, that dilemma was right at the heart of the Brexit debate, and policing needs to be very careful that it does not reduce its legitimacy by entering into the political space. This is a blurred line; I am quite sure that some observers of our evidence today may even feel that we have crossed that line. We are trying our very best to nudge things along towards agreement, within a pretty compressed timescale, without getting into the political space.

The Chairman: Thank you very much. Thank you very much indeed, both of you, for the evidence you have given. It has been extremely helpful to us and given us quite a lot to think about, so thank you both very much.

George Hamilton: Thank you for the opportunity.