



Select Committee on the European Union

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

Wednesday 31 January 2018

4 pm

Watch the meeting

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

Evidence Session No. 11

Heard in Public

Questions 91 - 98

Witnesses

I: Dr Katy Hayward, Reader in Sociology, Queen's University Belfast; Professor Neil Gibson, Chief Economist – Ireland, Ernst and Young LLP; Professor Duncan Morrow, Lecturer in Politics, Ulster University.

Examination of witnesses

Dr Katy Hayward, Professor Neil Gibson and Professor Duncan Morrow.

Q91 **The Chairman:** Welcome. It is very good to see you. Thank you very much for coming to give evidence to us. In some cases, we know you quite well; in other cases, it is very good to have you here.

We are members of the House of Lords European Union Committee. We had a day in Dublin yesterday when we saw the Deputy Prime Minister, Mr Coveney, among others. We have had a very good day so far today. We have seen Sinn Féin and we are seeing the DUP later on, but, interspersed with the political excitement, it is good to be able to stand back a bit and talk from your perspective about some of the issues with which we are dealing, so you are very welcome. We are going to Londonderry this evening to spend tomorrow on both sides of the border to try to get a better understanding of the issues that arise there.

Would you like to say anything to us to start with, or shall we go into questions? We are in your hands on that. If you would like to make an initial statement, perhaps you would explain who you are for the record.

Dr Katy Hayward: I am a political sociologist at Queen's University Belfast and a research fellow in the Senator George J. Mitchell Institute for Global Peace, Security and Justice. I am also a board member of the Centre for Cross Border Studies. I work a lot on the impact of European integration on north-south relations, on Northern Ireland in particular, and the peace process.

Professor Neil Gibson: I am the chief economist on the island of Ireland for EY, formerly Ernst & Young. I am also a visiting professor in economic policy at Ulster University. I am an economic modeller and forecaster. Please don't hold that against me. My interest is usually in economic analysis, forecasting and, more latterly, working with corporates, trying to help them through this particular challenge.

The Chairman: I am not sure that economic analysis is quite the flavour of the month in London at the moment, but it may be okay here.

Professor Neil Gibson: Nobody booed.

Professor Duncan Morrow: I am professor of politics and director of community engagement in Ulster University. My background, however, is very much outside the university. For 10 years, I was chief executive of the Community Relations Council, so my job involved all the front-facing elements of peacebuilding in Northern Ireland, as well as questions around policy and how we might move forward, including cross-border work.

Q92 **The Chairman:** Thank you very much for that. Moving to some substantive issues, what is your assessment of the joint report that appeared in December on progress during phase 1 of the Article 50 negotiations on Ireland and Northern Ireland?

Dr Katy Hayward: First, it is very welcome, especially given the uncertainty as to whether it would actually happen before Christmas. It is important to see now that the UK and the EU negotiators were, at that point, speaking with one voice in relation to key issues as they affect the Irish border. In particular, it is good to see something substantive in relation to the 1998 agreement.

There are interesting phrases in the joint report—for example, about the totality of relationships. It talks about the all-Ireland economy, which is a very significant addition; and there is specific talk about the operation of the 1998 agreement, recognising that, on the face of it, it is put in jeopardy by Brexit. It is a very significant achievement on both sides, but since then we have seen the limitations of such a statement.

It is not legally binding at the moment, as we know. We have also seen since then different interpretations of key words and phrases, one of which is “hard border”. There is apparently still disagreement on the interpretation of what a hard border means for Ireland, which is very important, and on interpretation of the phrase “full alignment” and what that means. It was a great achievement, but the next couple of months will be extremely critical for the UK to show how it wants to put it into practice and protect the 1998 agreement through Brexit.

The Chairman: What did you understand full alignment to mean?

Dr Katy Hayward: I can say what the EU interprets it to mean. The UK Government are right; it means that the outcome of the regulations will be the same, but, whereas the UK Government tend to interpret the scope of full alignment as being in the light of flexibility and sovereignty, for the EU it is very much that the outcome will be as if the UK was still a member of the EU.

One thing that has been missed is that, even if there is full alignment between the UK and EU as a whole, there will still be a border, because it does not account for customs controls. The fact is that, if the UK leaves the customs union and does not have a customs union with the EU, there will be a hard border.

The Chairman: We might come back to that. Professor Gibson or Professor Morrow, what do you say?

Professor Neil Gibson: I echo what Katy said, in particular the fact that the document exists. It was not guaranteed that we would get to that point. Although there is ambiguity around some of the language, there are some things that are very clear about commitments not to have a physical infrastructure, which is of particular importance here in the island.

From an economist’s point of view, there is also within it something that sometimes gets lost, which is that both sides are still going into the negotiation with the same desired outcome. Nobody is looking to make trade more difficult or to make either part of the island, or indeed of

Europe or the UK, any worse off. We may disagree about the choices that were made and why we made the Brexit decision; nevertheless, you are still starting a negotiation where the endgame is the same on both sides. It was refreshing for me that the document reiterated both the importance of the all-island economy and an objection to anything that provided impediment to economic growth. It is important to restate that, although we might have some difficulties in the negotiating position, nobody is formally advocating tariffs or anything that would make the economies more difficult. That was an important piece.

As Katy said, there are questions on some of the specifics that are still open to challenge, and I am sure we will come back to them, but, sitting in Northern Ireland, I take comfort from the fact that, although there was an awful lot in it that might not have been negotiated, when I saw that it had been, I was generally rather positive.

Professor Duncan Morrow: I, too, was positive about the outcome, and I have hesitations to which I should probably give voice. The process by which the agreement was reached was at one level quite alarming. The first element is the extent to which it appeared as though Irish issues under the Good Friday agreement were almost unanticipated in the negotiations until about a month before. I personally think, living in Northern Ireland, that the issues around the Good Friday agreement from a stability and political point of view of politics are paramount.

Secondly, from the perspective of being somebody here—and with respect, that is the perspective I will be adopting rather than being strictly academic—the question is: will Brexit be negotiated to accommodate the Good Friday agreement, or will the Good Friday agreement be negotiated to accommodate Brexit? That will have differential political consequences.

If you are of the view that the Good Friday agreement is the foundation stone of any stability in Northern Ireland, the prospect of its being negotiated as a secondary issue, as a peripheral matter or a makeweight issue, if that is not too strong, is very alarming—not just for internal political consequences here, but for all sorts of constitutional understandings in both Ireland and Britain.

The final part, which I suppose we just have to note from a political point of view, is the extreme divergence in the approaches of the political parties that are voted on here, and the fact that the Monday to Friday exercise that happened in the Dáil was, effectively, about the uncertainty in the positions of parties in Northern Ireland. That means that some of this could re-emerge in the second phase or could impact on stability here.

I have been interested all along in how to generate stability in what is essentially a very difficult context, as it is here, and unilateralism and uncertainty are probably the two single things you should avoid in a peace process-type environment. I am concerned that the uncertainties and the diplomatic language that allowed phase 2 to begin, which is

certainly better than if it did not begin—I do not want to be misunderstood—are still with us and have not been resolved. An all options, open-type approach remains in Northern Ireland, which is interfered with by instability in the local political institutional context. I simply want to say that that context really matters if I am looking at it from the point of view of the Good Friday agreement.

Q93 The Chairman: You said, rhetorically in a way, that it was important that the Good Friday agreement should be the base, or at least that was how I understood it. Is that the impression of all three of you, or are parts of the Good Friday agreement in some kind of jeopardy because of this agreement? How do you see the relationship between the two?

Professor Duncan Morrow: Part of the problem is that, like every agreement, the Good Friday agreement is both a legal document and has its own interpretation from the points of view of the various people who signed it. Let us start from that. Politics as well as law are involved.

If we are talking about the Good Friday agreement, I cannot answer your question directly, but I want to draw attention to some aspects of it. One is that the citizenship arrangements that are integral to the Good Friday agreement mean that it is an option for every single person born in Northern Ireland—their birthright—to continue to have Irish citizenship and British citizenship, and thereby to have access to some kind of citizenship of the European Union. Vindication of that citizenship may well become an issue, if issues were to emerge around that area.

The second part is the notion of interlocking and interdependent FAP parts of the agreement. Over the years, a lot of the rhetoric around the agreement has come to mean, “Can we get power sharing in Northern Ireland?”, but looking at the agreement, certainly from the nationalist political point of view, it is about interlocking and interdependent relationships that extend to the three strands and all the background to those. What does Brexit do to “interlocking and interdependent”? What remains of that?

The third part relates to the formal institutional cross-border bodies that remain and the question of their status. What is clear is that they are absolutely—although I do not think these are the words in the document—joined at the hip with the devolved structures. If confidence is lost that they are meaningful, confidence may be lost in the internal workings of Northern Ireland. Those seem to me three very specific elements of the Good Friday agreement where Brexit asks questions about interlocking citizenship.

I am not a nationalist, but the nationalist interpretation of the Good Friday agreement suggests that what was adopted was the agreement as a whole. That means that the consent principle, which is now enshrined and has been a hugely important element in the exercise of sovereignty since 1998, is interlocking and interdependent with all the other institutions, including the functioning of the cross-border bodies. That goes to the emotive issue of how all those aspects are tied up. It is

crystal clear to me that these are real issues that must be resolved in an explicit fashion in the Brexit process, because to leave them as potential traps is probably for us a seriously risky enterprise, to put it no less than that, from a political point of view.

The Chairman: Dr Hayward or Professor Gibson, do you want to comment?

Professor Neil Gibson: Economists should know their limits, so I will leave the political scientists to comment on that.

Dr Katy Hayward: I want to say something related specifically to what you are investigating: UK-Irish relationships. The 1998 agreement, as is the Anglo-Irish agreement, is founded on a close and trusting relationship between the UK and Ireland, most particularly the British and Irish Governments. What we see is that that partnership in the European Union is now in doubt. The partnership with the EU has had very practical implications. Now they are on opposite sides of the negotiating table.

Because the agreement addresses Northern Ireland as manifesting a border conflict, it has been interpreted such that, if the UK and Ireland are on different sides of the table, they represent unionism and nationalism respectively. We need to be careful. My concern is that we see a re-emergence of either/or, and that it is either leave or remain, either British or Irish; and the scope for both, which as Duncan says is very important in the agreement, is being lost.

I draw your attention to the fact that data from the Northern Ireland Life and Times Survey consistently shows that the majority of people in Northern Ireland have both British and Irish identities. Some are more British than Irish and some more Irish than British, but about half of people across all age ranges say they are both British and Irish. That is very easily lost when concentration is on the border and we are saying, "Should Northern Ireland be closer to Britain or Ireland?" For that reason, Sinn Féin and the DUP do not represent the interests of the people of Northern Ireland, because the majority of people say they are neither unionist nor nationalist; they are both British and Irish to varying extents.

That complexity is something the agreement has managed, through its multilevel institutions and various arrangements, to recognise and accommodate. What we need to see arising from Brexit and the withdrawal agreement as it emerges in the future relationship is some protection of that complexity and messiness in Northern Ireland.

Professor Neil Gibson: From the corporate perspective, I have any number of conversations about the need to maintain that harmonious relationship, and I hear constant reiteration that business issues are acute at the moment. Whether it is talent attraction or infrastructure on the island, they never come off the top of the corporate agenda, and they will only be dealt with by extremely strong and close working relationships prioritising economic matters. Although I would not

comment directly on the Good Friday agreement, I can report that the corporates on the island desperately need that level of close co-operation on policy-making.

The Chairman: We should move on. What Dr Hayward said was extremely important and valuable. Thank you very much.

Earl of Kinnoull: The very first paragraph of the joint report talks about that very point. The second part of that paragraph says that both parties agree that the Good Friday agreement "must be protected in all its parts, and this extends to the practical application of the 1998 Agreement on the island of Ireland and to the totality of the relationships set out in the Agreement". I hope the fact that that is the very first paragraph means the negotiators are alive to the very good points you made. I would not want people listening to this to get all depressed. It does not stop your points being very powerful, but it is evidence that those who are negotiating the joint report are alive to the points.

Q94 **Baroness Brown of Cambridge:** Just to prove that we have not had enough of economists, this question is directed mostly to Professor Gibson, but I am sure we would be interested to hear from the others as well. What is your assessment of the likely economic impact on the island of Ireland, and on the north and south separately, of the UK leaving the single market and the customs union? Have you done that analysis? Are there analyses around? What do you think is the most likely outcome, and do you have some numbers?

Professor Neil Gibson: There are plenty of estimates around. Not to be too critical of my own profession, and I say this as a forecaster, it does not have a terrific track record on predicting any of the major political or economic changes that we have seen in the past. Indeed, some of the predictions of an immediate recession, which I was hugely critical of at the time, that did not come to pass have further undermined any warnings that economists may be sounding now about some of the longer-term implications.

Any estimates of the scale of the economic impact need to be taken with an enormous pinch of salt, because they have to be built on assumptions. We do not know what the tariff arrangements are going to be; we do not know what the migration policy is going to be. Without those kinds of facts, it is extremely difficult to say what the overall economic impact will be, but I want to make two points about the economic impact modelling work that has been done thus far.

First, I am on record as being extremely critical of, and have published papers on, gravity models and some of the technical approaches that have been taken to measure economic impacts. I am critical of some of the Treasury's estimates in that regard.

I have rather more support for some of the work carried out with the ESRI and published by InterTradeIreland. That runs through in detail how individual products might be influenced by different tariff ratings. They

come out with estimates that range between 9% and 16% of WTO-type tariffs on the level of cross-border trade. That is not the same as the economic impact, because many people would benefit from some of that disruption. People would take other opportunities. For example, if Ireland could not sell food produce to GB at the same competitive rate, Northern Ireland might step in to take up some of the slack. Equally, if the UK was to sign new trade agreements on food imports from the US or elsewhere, it might price some local suppliers out of the market. It is an extraordinarily complex piece, but the InterTradeIreland report is a good breakdown of exactly what tariffs would mean.

Of course, tariffs are not the whole part of the economic puzzle. There are three things we need to keep in mind. First, GDP estimates mean very little to the man in the street; in fact, they mean very little even to many qualified observers, so that is not the collateral for measurement that should be used. What people need to understand are jobs or wealth impacts. Obviously, they are related to GDP, but it is a topic that has lost a lot of people. What would 3% or 8% of GDP in 2030 or 2040 look like? Nobody has a tangible feeling of what that means.

Is there huge merit in assessments of the economic impacts in 2030 and 2040? Not really. You will get much more benefit in hearing from individual firms now about how they would deal with it, how they would experience it, how they could change prices and what reaction they would have. What we hear from firms is that access to labour is a big issue right across the island. Any implications of tariffs would be hugely damaging to agri-food in particular, and around the border area, or in factories either side of it, business movements would be particularly sensitive.

I would question the extent of the economic impacts. I would take a look at InterTradeIreland for the most accessible of the reports with the most credibility. I do not think the 2030 or 2040 estimates add hugely if you do not assess the people implications. There are a lot of reports that we will be 5% poorer in 2030. How many people is that spread across? What is the migration dimension? That is a very important part of the puzzle, which is not often talked about but is a very sensitive issue for firms. That is No. 1: the economic impact is hard to assess.

Secondly, it is very clearly the case that the number of reports suggesting there would be some detrimental effect that may be slightly more amplified in Northern Ireland than elsewhere far outweigh those on the other side of that argument. We might not be able to say how damaging it would be, but there is likely to be an immediate economic impact on exit. Who knows about 2030? In the immediate impact, let us be clear that the border that would have to exist will add cost, even if it is just compliance cost. Even if there is free trade, and people have to fill in more forms and do more paperwork, there will be a cost.

The question is to what extent that cost really impacts on Northern Ireland. Clearly, the impact is hugely important for the agri-food sector, but the data on our manufacturing sector, our hotel sector and our administrative services sector shows that they all depend very heavily on

migrant labour. The need for, potentially, a regional migration policy becomes quite acute.

The short-term impacts are likely to be damaging. I think a lot of the estimates of their scale are dubious at best and I do not suggest that you place any great weight on them. I do not think that 2030 estimates add a lot.

The third and final point is that the InterTradeIreland and other work shows that the narrow focus of some of the tariff issues means that there could be solutions to some of those problems. The tariff issues predominantly are in agri-food, so we need to make sure that we deal with that but that we do not forget the other aspects that are hugely important. Migrant labour would be one of them, and regulation would be another. There has been a period of time when we focused very heavily on what the tariff implications would be, but my fear as an economist is that if we make progress towards a free trade agreement, which is where I think we will end up, it may distract us from thinking about some of the other economic costs that will still be very clearly felt in this region. I point particularly to compliance costs and, more acutely, migration.

The Chairman: We have a hard finish, just before 5, so answers need to be brief.

Baroness Brown of Cambridge: That is so far in the other direction from giving us some numbers that I want to try to pin you down a bit more, Professor Gibson. We have heard about all the issues to do with agri-food, labour, compliance costs and standards. A number of people tell us that the island of Ireland will be more strongly affected than the mainland; that the Republic will be more affected than Northern Ireland; and that the concentration of small businesses in Northern Ireland could be a factor in a higher impact on Northern Ireland. I would like a bit more guidance from you as to what you think the relative impacts will be.

Professor Neil Gibson: I am certainly not trying to be elusive in any way. We would have to make a call as to whether or not we have tariffs, because that will clearly impact the scale. The point you make, which is correct and which we should emphasise, is that there are particularly unique economic circumstances in Ireland that will make it more acutely impacted. For example, it is more small-firm dominated, and agri plays a much bigger and more important role in rural Ireland, both north and south. GB is the main trading partner for much of that agricultural produce, so there is a sense in which there are some amplifications there. Northern Ireland's main trading partner remains GB. There is within the agreement a commitment to making sure that that access remains, whatever decision is made. It is Northern Ireland's main trading partner.

We have done some work around the border area. I am sure Katy will say something about this. We have picked up particular nervousness around what the economic impact could be on very small businesses with lots of activity on either side of the border. A very small but important effect at the moment is the unsettling effect on staff in businesses. Their bosses

cannot reassure them about exactly what is going to happen, and that is making a number of people particularly nervous about what the changes might be.

From the econometric work on the economic impacts I have done or have been involved in, I would certainly take the lower end of the long-range estimates, with the caveat that I do not think they are as insightful as you might expect. Northern Ireland is likely to be slightly more impacted by the 5% GDP-type ranges, but because of its nature the scale of the impact depends on tariff policy, regulatory alignment and what we do about migration.

Q95 **Baroness Suttie:** Can I return to some of the specific wording of the December joint report and your interpretation of it? The joint report refers to the UK's intention to develop "specific solutions to address the unique circumstances of the island of Ireland". Can you conceive of any such solution short of full alignment with the EU regulatory framework?

Dr Katy Hayward: The first scenario is that we manage to have a UK-EU free trade agreement that avoids a hard border. I do not think that is possible. I do not think those two ambitions are compatible. Then we come to the second scenario, which is specific solutions for Northern Ireland. It is important to remember the realities of devolution and the UK as they currently exist. There is already divergence within the UK and between Northern Ireland and GB in certain areas.

Then we come to the question of how we might manage to achieve the commitments made in the joint report to the agreement to avoid a hard border through specific solutions. There is scope for flexible and imaginative solutions from the EU that would allow Northern Ireland to have something for which there is no precedent elsewhere in the EU. That could entail, for example, the so-called Norway-minus arrangements. Northern Ireland could be part of the European Economic Area, or something like EFTA. That would be a huge help in the movement of goods, services, capital, et cetera on the island of Ireland. In addition, ideally there could be a customs union arrangement between the UK and the EU to minimise the risks of a hard border. The ideal would be to have Norway-minus and something very specific.

Baroness Suttie: Do you think that would be politically possible in the current climate?

Dr Katy Hayward: This is very important. Distinctive arrangements for Northern Ireland already exist and that should be our baseline. What have we achieved under the Belfast/Good Friday agreement? What have we achieved by devolution? That fundamentally recognises that Northern Ireland has unique circumstances and specific needs, as do Scotland and Wales in certain ways. That should be our baseline. We should point to the fact that there are already distinctive arrangements in Northern Ireland that relate to economically significant areas. Most particularly and obviously, they relate to areas covered by north/south co-operation and implementation bodies. Indeed, there are other areas set out in the 1998

agreement as having potential scope for future closer north/south co-operation that have relevance at third-strand level.

I would be cautious about going down the line of sector-specific arrangements. That could happen, but, first and foremost, the EU would not be open to that; it would be cautious. Secondly, given the commitments made in the joint report about avoiding a hard border and upholding the 1998 agreement in all its parts, I do not think the sector-specific arrangement route is the one to go down.

Let us think about the timeframe. At the moment, the EU is waiting for the UK to come forward with suggestions as to how it might uphold the commitments made in the joint report through an EU-UK trade agreement, and it is looking for specific arrangements in Northern Ireland. This will be very complicated and complex, and we are dealing with a very tight timeframe. We have to have something very specific on the table from the UK by March. It certainly has to be clear and more or less agreed on by June in order to start making preparations for the final text and for transition.

At the level of specific solutions, we are talking about fairly clear models that already exist in the EU, or in relation to the EU. That entails distinct arrangements for Northern Ireland as compared with GB. The fundamental point is that Northern Ireland would still be outside the European Union. Such specific arrangements will also enable the requests made by the Office of the First Minister and Deputy First Minister in August 2016 to the Prime Minister to be adhered to.

Professor Duncan Morrow: The potential for creativity around this depends entirely on the political room for manoeuvre, which currently is narrow, because the position taken by the different parties is very strong. Within that framework, the particular nature of the relationship to the Irish Republic is already established in the wording of the Good Friday agreement. While Northern Ireland remains economically integral to the United Kingdom, and will be within the Brexit framework, the special nature of that relationship is already part of the constitutional framework of the United Kingdom through the agreement, so the language of special is already in the Good Friday agreement.

Professor Neil Gibson: There is potential for innovative solutions, but it is not surprising that we are not thinking about them in too much detail now, because we do not know to which problem we need to respond. If we are in a tariff environment, we need to think about something different to try to find our way around it; if it is a migration issue, there is a different problem. It is quite understandable that in a negotiation you do not want to go straight to what the exemptions or special conditions might be if you are still aiming for the main deal first. I am not dismayed that we are not really thinking too heavily about it, because we still do not have the list of issues—one, two, three and four—that matter most.

Professor Duncan Morrow: That goes to the heart of the difference between an economic approach and a political approach in Northern

Ireland. In Northern Ireland, the questions are not about tariffs; they are about symbolism. They are about the symbolism of the nature of the relationship between the United Kingdom and Ireland through Northern Ireland. Part of the complexity of dealing with the Irish issue is that it will require a language of constitutionalism as well as a language of economics to master the way in which the issue plays out, and that, partly, is the particular Northern Ireland circumstance.

- Q96 **Earl of Kinnoull:** We will move from paragraph 49 to paragraph 50 where a couple of commitments are made about the preservation of links and the way in which Northern Ireland sits within the United Kingdom. The commitment is that Brexit will not undermine the status quo. Do you have any thoughts and guidance for us in looking at paragraph 50?

Dr Katy Hayward: That is about east/west. The phrase is important: “no new regulatory barriers” unless distinctive arrangements are seen to be necessary.

Earl of Kinnoull: And agreed by everyone.

Dr Katy Hayward: Absolutely. That is very important. It is relevant to think about what is going on in the House of Lords at the moment with the EU withdrawal Bill. It is important that the competencies of the devolved Administrations are preserved and maintained in such a way that there will be scope for them to make decisions in relation to such distinctive arrangements.

That paragraph is critical. As Duncan says, it relates to the importance of constitutional language, but it is very unhelpful that the potential for distinctive arrangements for Northern Ireland is always framed as if it is about a change in the constitution of the United Kingdom, or the break-up of the UK, which is the phrase that is used. We should be able to distinguish those things, because if we make it a binary choice—either closer to Britain or closer to Ireland—we will have deep problems in Northern Ireland and it will be politically toxic.

- Q97 **Baroness Armstrong of Hill Top:** It seems to me that one of the problems we face is that the Good Friday agreement was written and agreed in the knowledge that both countries would be members of the European Union, so the rights of citizenship, and other rights, were within that framework, adjudication, appeal system and so on. Are you confident about the provisions around citizens’ rights, including the right of people in Northern Ireland to British and Irish citizenship, of freedom of movement of British and Irish citizens within the common travel area, continued access to cross-border EU funding and so on? Where do you think we are on that? I often think that part of the problem is that it is 20 years since the Good Friday agreement and a lot of the current players have forgotten some of the things that were very important at the time. Being an old person, I lived through it at the time. I wondered where you feel we are on those things.

Professor Duncan Morrow: I suspect that, whether explicitly or implicitly, they remain absolutely essential to the political stability of

Northern Ireland. They had the effect of removing the constitutional question, or the border question at least, from politics for the last 20 years. They allowed a degree of co-operation internally and they normalised cross-border trade. Anybody with a historical sense knows that anything that interferes with legal citizenship, security, trading or family relationships in Ireland has the potential to be translated into a political grievance. The maintenance of those things underpins what we have to avoid.

Katy has described the European Union as an invisible goldfish bowl; it holds the water. You cannot actually see it but nevertheless it is there. The implication of the EU was that, bluntly, control over borders in Ireland was reached through international co-operation and open borders. The logic of Brexit is that control over borders is to do the opposite. For me, the logical conundrum we are trying to resolve is that the European Union allowed for that opening of borders to appear not as the unilateral act of one state but as a consequence of membership, so it could be taken for granted. For the first time since the Good Friday agreement, we can no longer take it for granted. But on that act hang consequences of enormous importance.

When you ask the very direct question as to where we are on that, I have to retreat a bit to where Neil is. It all depends on how it is negotiated. This goes back to my original point. If we think these dogs will not bark and they can simply be additionalities in the negotiations around Brexit, I fear we are grossly mistaken. They must now be faced and put into the discussion and the consequential thinking on the various decisions and options.

The fact that this issue arose only one month before the joint statement, and appeared to be dealt with rather quickly, suggests to me that within a very short period we need to have these questions set out in more specific detail. How do we make sure that the legal issues are covered? We cannot go back to extradition crises every time somebody has to be moved across the border. The European arrest warrant is critical, as is the joint task force on crime. Those are very specific issues, as is the right of people to commute, to study and move freely to meet their family members who are now in integrated markets, whether on the border or working in Dublin, Belfast or other places. These remain absolutely minute, micro-family issues.

You asked where we are. At the moment, nothing has changed and everybody is waiting for the outcome of the negotiations, but the position taken in the political parties on the either/or basis has undoubtedly already begun, so that is a concern.

Professor Neil Gibson: The different rhythms at which things are taking place add to the complexity Duncan rightly mentioned. It is great that you are here taking evidence on the detailed issues. I do not think it will surprise anyone that they never come up in the boardrooms I am in, where people are dealing with exactly the same issues as in businesses anywhere else. It may be implicit in what they worry about; it might be

what they talk about around the coffee table at home, but what I hear is, "Where am I going to get talent? What are the cost issues? What do you think is going to happen to currency? What about access to markets?" Those are all business issues.

There is a disconnect from two things: the political and family issues Duncan raised; and the big issues that matter to the public when surveyed, "What about my healthcare? What about my kids' access to school? What about transport and infrastructure?" As businesses, we think more is better: more growth, more jobs and more wealth. All our economic strategies are about more: getting in more people, more GDP and more jobs. The evidence is that the public are not always as bought into that concept. They want their commute to stay the same or become shorter. They want their quality of life to improve. They want their kids to be able to get into a school. They want to be able to access the health service.

The pressure of this multifaceted issue is interesting to me. Sitting in this room, I hear conversations with my colleagues Katy and Duncan that I would not hear in boardrooms. The difficulty is in making sure that all three bits play out. What do the public want? They never talk to me about tariffs or anything like that. Businesses talk about tariffs, talent and regulation, and then there are the personal and political issues. That three-rhythm negotiation makes it really complicated, because almost nobody is talking about all three. I see one dimension of that; you see a different one.

The Chairman: There is rather a lot of disconnection around at the moment, and that is one of the problems. Lord Selkirk has some questions. They may be as far as we get, but they are rather important.

Q98 Lord Selkirk of Douglas: Can I ask all three questions together? Does the UK Government's August 2017 position paper on Northern Ireland and Ireland, particularly in regard to the movement of goods, provide a coherent way forward to solving the issues arising from Brexit? In particular, the UK Government envisage "technology-based solutions to make it easier to comply with customs procedures". The paper goes on to mention waivers from security and safety declarations, a cross-border trade exemption primarily benefiting smaller local traders, streamlined processes for other trusted traders, and the tracking of imports to the UK. How politically and logically feasible are those proposals?

In fairness, I should mention that we have come across quite a lot of evidence against having technology-based solutions on the border, but perhaps we can come back to that point. To what extent have the proposals in the Government's position paper been superseded by the December agreement? I am sorry to ask so many big questions all at once, but I would be most grateful for your view.

Dr Katy Hayward: I shall try to be as succinct as possible. It is a very important question. If the UK comes back to the EU with something that is just a warmed-up version of that position paper, it will be severely

disappointing, not least because the position paper does not enable it to meet the commitments it has now made in the joint report.

To answer your specific question about technology, we need to remember that the technology is there to facilitate and implement an arrangement; it is not a substitute for the arrangement itself. Oftentimes, the idea of a technological solution is put forward as an answer rather than getting to the detail of what Neil is looking for, and what we are all waiting for, which is a decision and an agreement to begin with.

The implications of the position paper, not to put too fine a point on it, are that Northern Ireland would become a smuggler's paradise. I know that sounds dramatic, but in fact that is what it would be, because there would be no checks or controls on small businesses under a certain size. This creates a problem both for existing businesses in Northern Ireland and on the island of Ireland that seek to cross the border. Some businesses would seek to be compliant in crossing the border and would meet all the customs regulations, et cetera, as needs be. Others would not. We know from experience that the border has created smuggling opportunities that have been exploited in the past and contributed to criminal activity and paramilitarism down the line.

The second issue is that such an arrangement would mean that Northern Ireland was renowned as the back door into the single market and the EU. It is all very well to say that the unmanned border is a problem for the EU, but the UK would be obliged under WTO rules to implement and enforce a customs border. On what is put forward in the position paper: it is absolutely right that technology is very helpful, and I welcome that, but it is not an answer; it is not an arrangement and, as you have already heard, it certainly raises particular issues. It will have a physical manifestation, and it will not mean that we do not have a hard border. We would still have a hard border, with all the implications for jobs, movement, co-operation and normalisation of Northern Ireland and the border region.

Professor Neil Gibson: I do not speak with great authority on technology particularly, but I would be perhaps slightly more optimistic than Katy, in the sense that I never cease to be amazed at the ability of technology and the pace at which it moves. Many of our corporate clients say, "I know exactly where every millilitre of milk or every one of my products is at what time. It is all documented. Whatever paperwork you need, I can provide".

The Chairman: Do you believe them?

Professor Neil Gibson: I am quite astonished when I look at the software they use for tracking. They need to know exactly what they have at every second. A lot of the animal welfare issues mean that we must have much better tracking of animals than we ever had before. I would at least want to be convinced that we have explored fully whether we can find technological solutions.

There are issues for smaller firms, but large corporates are very willing to embrace whatever the paperwork requirements are. They have the resources to invest in software; they can provide the paperwork that is needed, and they are happy to be inspected. The system would require great co-operation. If the penalties for breaking it and not complying were sufficiently high to be a good enough deterrent, most good businesses would comply. Equally, we have the advantage of being an island and quite small in scale, so it is not the case that overnight huge flows of goods will start to appear and no one will notice. The response would need to be proportionate to the scale of the potential risk from any smuggling.

Although I do not know what the solution would be, I hope that we are at least pushing people. A number of people have said there is no possible technological way, but, if you drill a bit further, they have not actually thought it through; they just feel uncomfortable with the concept. Technology has moved on in such a way that we have better ways of automating where things are at any particular time and filling in paperwork. I worry much more about how small firms would comply with that, and there would have to be a very good policing and penalty scheme to make sure that firms complied.

The Chairman: Where would that much better policing and penalty scheme be?

Professor Neil Gibson: The firms would have to be willing, if they are to have the benefit. A firm with trusted status would have to say, "You can inspect me whenever you want. You can inspect any of my consignments at my factory at whatever time of day or night you want, but we won't be queuing up at checkpoints".

As Katy says, there will be a border. A hard border means different things to different people. To a lot of the public, it means physical border infrastructure. In the main, firms are happy to say, "If there's going to be an inspection, that's okay. If we have trusted status, you can check our consignment any time wherever you want". It does not have to be at a depot, a port or whatever.

It is at least incumbent on us, if we go in that direction, to make every effort, which requires close collaboration between Governments, to exhaust completely any possibility for technological solutions. That means looking line by line at the problem and the solution, and at whether technology can help us. It always amazes me that we are able to do more with software and technology than I think we can.

Professor Duncan Morrow: I live in a different world from Neil. I am currently working on a research project about trying to build down paramilitarism, which continues to be a very real presence in some parts of Northern Ireland. The question of the viability of technology in a form that is compliant with an economic framework is very different if you are asked it in the context where I work, where people are looking to subvert

or create opportunities for their own business growth or to undertake criminal enterprise.

The geography of the referendum is that every constituency touching the border is anti-Brexit, and I have the feeling that technology that is seen as invasive in any manner will not be voluntarily complied with at a community or social level. That is different from what happens in the corporate boardroom or what might happen in small firms, which I cannot anticipate. I simply note that it would become almost a patriotic duty to subvert that if it was seen as compliant.

This is where it becomes very complex. I do not believe that we are on the cusp of any return to violence on the scale that we had in 1969. I want to make that part clear. There is always a risk that you give some permission for it by speaking about it. Anybody who looks at Irish history has to be clear that the amount of effort that it takes to enforce something in the context of community resistance is gigantic. Any rivalry that emerges around that, or any attempt to enforce compliance that does not have the broad consensus of the population, will feed into a narrative of surveillance and compliance, and all sorts of heavy-handed top-down mechanisms.

To ignore that is not to be real about what life is like in south Armagh, on the border in Fermanagh, in Derry or in the 275 border crossings that everybody locally knows about. I have no idea how that numerically balances against compliance with the economy, but I am absolutely sure there are elements of society that would see it as their business to subvert it.

The Chairman: We are very grateful to you all. We have to stop there. We have not got quite to the end of what we wanted to ask, but we have got to the end of our time. What you have shown very clearly indeed is the conflict between economics and logic on one side and politics and sense of identity on the other, and that there is no easy resolution between the two. Thank you very much indeed for giving evidence to us this afternoon. It has been extremely valuable and thought-provoking. We are most grateful to you.