



Submission to the House of Lords European Union Select Committee's

Brexit: Devolution Inquiry

This document has been prepared by the Centre for Cross Border Studies as a contribution to the House of Lords European Union Select Committee's Brexit: Devolution Inquiry.

About The Centre for Cross Border Studies

The Centre for Cross Border Studies (CCBS), based in Armagh, Northern Ireland, has a strong reputation as an authoritative advocate for cross-border cooperation and as a valued source of research, information and support for collaboration across borders on the island of Ireland, Europe and beyond.

The Centre empowers citizens and builds capacity and capability for cooperation across sectors and jurisdictional boundaries on the island of Ireland and further afield. This mission is achieved through research, expertise, partnership and experience in a wide range of cross-border practices and concerns.¹

The response that follows, therefore, is closely informed by the Centre's particular concerns, organisational aims and experience, and by the work it has undertaken in relation to the UK's membership of the European Union. The Centre's current analysis of the implications of Brexit builds on the series of Briefing Papers it published in the run-up to the referendum on the UK's membership of the European Union,² as well as its submissions to relevant inquiries by the House of

¹ For further information, please visit www.crossborder.ie

² Published in collaboration with Cooperation Ireland, these were: "The UK Referendum on Membership of the EU: What does it mean for us?" (<http://crossborder.ie/site2015/wp-content/uploads/2016/02/CCBS-and-Cooperation-Ireland-EU-Referendum-Briefing-Paper-1.pdf>), "Potential Constitutional Consequences" (<http://crossborder.ie/site2015/wp-content/uploads/2016/03/EU-Referendum-Briefing-Paper-2.pdf>), "Cross-Border Cooperation, Peace-Building and Regional Development" (<http://crossborder.ie/site2015/wp-content/uploads/2016/06/CCBS-Cooperation-Ireland-EU-Referendum-Briefing-Paper-31.pdf>), "Citizen Mobility" (<http://crossborder.ie/site2015/wp-content/uploads/2016/06/CCBS-and-Cooperation-Ireland-EU-Referendum-Briefing-Paper-4.pdf>), and "Economic Development" (<http://crossborder.ie/site2015/wp-content/uploads/2016/06/EU-Referendum-Briefing-Paper-5.pdf>).

Lords European Union Select Committee,³ the House of Commons Northern Ireland Affairs Committee,⁴ as well as oral evidence given to the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement, the Oireachtas Joint Committee on Jobs, Enterprise and Innovation,⁵ and the British-Irish Parliamentary Assembly.⁶ **Although this response makes reference to Brexit’s implications for devolution in Scotland and Wales, its principal focus given the Centre’s expertise will be on Northern Ireland. It will also restrict itself to considering the political and economic implications of Brexit for Scotland, Wales and Northern Ireland, as well as the question of how the devolved jurisdictions’ interests are represented.**

Political implications of Brexit for Scotland, Wales and Northern Ireland

1. To differing extents, the immediate repercussions of the June 23rd referendum decision have exacerbated divisions within the devolved regions, and between the regions and the UK Government. The extent to which those divisions may be assuaged in the post-Brexit context will be dependent on whether the UK Government’s negotiations with the EU are able to accommodate the concerns identified by the devolved administrations, and whether the final outcome guarantees them the full replacement from HM Treasury of funds currently received from the EU.

2. In the Scottish Parliament and Welsh Assembly, where there is representation from the Conservative Party, current political divisions could be characterised as arising from how the Scottish and Welsh Governments’ proposals are seen as a challenge to those of the UK Government. Moreover, the fact that the majority of the electorate in Scotland voted to remain in the EU has added weight to the Scottish Government’s political challenge to both the UK Government and those in the Scottish Parliament who argue that Scotland must accept the outcome of the referendum and an undifferentiated post-Brexit position for the UK as a whole. Of course, the distance separating the current negotiating positions of the Scottish and UK Governments has brought into the foreground the prospect of a second referendum on Scottish independence that would inevitably dominate the political landscape in both Scotland and the wider UK.

3. Meanwhile in Northern Ireland, whilst Brexit should not be seen as the principal cause of the current lack of an Executive and the likelihood of a period of suspension of the devolved institutions following the elections to the Northern Ireland Assembly, its political implications represent a serious destabilising factor. Despite the fact that both the Ulster Unionist Party and the Alliance Party were among the main political parties to campaign alongside nationalist parties for the UK to

³ “Submission to the House of Lords European Union Select Committee’s Inquiry on Brexit and UK-Irish Relations” (<http://crossborder.ie/site2015/wp-content/uploads/2015/10/CCBS-submission-to-House-of-Lords-EU-Committee-Inquiry-Brexit-and-UK-Irish-Relations.pdf>).

⁴ “Submission to the Northern Ireland Affairs Committee Inquiry: Future of the land border with the Republic of Ireland” (<http://crossborder.ie/submission-to-the-ni-affairs-committee-inquiry-future-of-the-land-border-with-the-republic-of-ireland/>).

⁵ “Introductory statement to oral evidence submitted to the Joint Committee on the Implementation of the Good Friday Agreement: Implications of the UK Referendum decision for the GFA and its Institutions” (<http://crossborder.ie/oral-evidence-implications-of-the-uk-referendum-for-the-good-friday-agreement-and-institutions/>), “Introductory statement to oral evidence submitted to the Joint Committee on Jobs, Enterprise and Innovation: Economic implications of the UK Referendum decision” (<http://crossborder.ie/oral-evidence-economic-implications-of-the-uk-referendum-decision/>).

⁶ “Briefing Notes for Meeting with the British-Irish Parliamentary Assembly”, <http://crossborder.ie/site2015/wp-content/uploads/2015/10/CCBS-Briefing-Notes-for-Meeting-with-the-British-Irish-Parliamentary-Assembly-Jan-2017.pdf>.

remain within the EU in advance of the referendum, there is a real possibility that Brexit will cement sectarian political divisions, with consequent negative implications for social cohesion in Northern Ireland.

4. The question of “special status” for Northern Ireland can be seen as an example of a political fault line with the potential to undermine efforts to move away from a politics dominated by sectarian divisions.⁷ As the largest nationalist party and member of the last Executive with the Democratic Unionist Party, Sinn Féin has argued that in order for Northern Ireland not to be forced to leave the EU and to avoid “a major set-back for the political process in the north”, “the only credible approach is for the north to be designated a special status within the EU and for the whole island of Ireland to remain within the EU together”.⁸ Similarly, the Social Democratic and Labour Party has reiterated in its manifesto for the March 2017 Northern Ireland Assembly elections its belief “that the interests of all of our people are best served through securing Special Status for the North”.⁹ This position is largely shared by the Alliance party, which does not align itself to either a nationalist or unionist stance, stating in its 2017 manifesto that it “will continue to argue for special arrangements to be negotiated and put in place for Northern Ireland, and for this region to be accorded a Special Status in terms of either continued associate membership of the European Union or a bespoke relationship with it”.¹⁰ The Ulster Unionist Party, however, although it had campaigned to remain in the EU, does not advocate for a “special status” for Northern Ireland, and instead stresses in its 2017 manifesto that “we are very clear that, while there are challenges, we take a positive view of the opportunities that Brexit does present, and we have a vision to move Northern Ireland forward outside of the European Union”.¹¹ As the only major political party in Northern Ireland to campaign to leave the EU, the Democratic Unionist Party is clear in its own 2017 manifesto that it “believes that this decision must be upheld and our MPs fought against those who sought to overturn the people’s decision, block Article 50 and tie the government’s negotiation stance”, adding that the “DUP sees no value in the attempts by some to keep re-running the referendum”.¹²

⁷ As noted in our “Submission to the Northern Ireland Affairs Committee Inquiry: Future of the land border with the Republic of Ireland” (October 2016), “The Centre for Cross Border Studies is not convinced that the term ‘special status’ is helpful in attempting to secure the best possible outcome for Northern Ireland within a post-Brexit UK [...]. Nevertheless, there are unique factors that could be used to justify some flexible arrangements for Northern Ireland, not least as a consequence of the settlement contained within the 1998 Belfast/Good Friday Agreement” (p.5), <http://crossborder.ie/site2015/wp-content/uploads/2016/11/2016-10-21-Submission-NI-Affairs-Committee-Inquiry-on-the-land-border-with-the-Republic-of-Ireland.pdf>.

⁸ Sinn Féin, *The Case for the North to Achieve Designated Special Status Within the EU* (December 2016), p.1, https://www.sinnfein.ie/files/2016/The_Case_For_The_North_To_Achieve_Special_Designated_Status_Within_The_EU.pdf [last accessed 01/03/2017].

⁹ Social Democratic and Labour Party, *Make Change Happen: Manifesto 2017*, p.3, http://www.sdlp.ie/site/assets/files/43536/sdlp_manifesto_2017.pdf [last accessed 01/03/2017]. See also *Securing our Future in Europe*, <http://www.newry.ie/attachments/article/4720/eustatus.pdf>.

¹⁰ Alliance, *How to change Northern Ireland. For good. Manifesto 2017*, p.21, [file://server/Folder%20Redirection/AnthonySoares/Downloads/2017-assembly-manifesto%20\(1\).pdf](file://server/Folder%20Redirection/AnthonySoares/Downloads/2017-assembly-manifesto%20(1).pdf) [last accessed 03/03/2017].

¹¹ Ulster Unionist Party, *A manifesto for real partnership: A plan for a better Northern Ireland. Manifesto 2017*, p.14, <https://uup.org/our-vision/policies#2017-manifesto> [last accessed 03/03/2017]. See also *A Vision for Northern Ireland outside the EU* (September 2016), <https://uup.org/our-vision/policies#2017-manifesto> [last accessed 03/03/2017].

¹² Democratic Unionist Party, *Our Plan for Northern Ireland: The DUP Manifesto for the 2017 Northern Ireland Assembly Election*, p.4,

5. The potential for increased political division in Northern Ireland as a consequence of how the UK Government approaches the negotiations with the EU and the final Brexit outcome cannot be overemphasised. The UK Government's stated opposition to the notion of a "special status" for Northern Ireland is again an example of how it may contribute to political and sectarian divisions in the region. This can be illustrated by the response of the Secretary of State for Northern Ireland to a question in the House of Commons from the DUP MP Sammy Wilson, who asked "can the Secretary of State assure us that all parts of the United Kingdom will leave the EU on an equal basis and that no special arrangements, different conditions or special circumstances will be afforded to Northern Ireland", with James Brokenshire MP replying that "concepts of special status are the wrong approach".¹³ The degree to which Northern Ireland's unionist parties acquiesce to or even urge on the UK Government's position is likely to exacerbate divisions with Northern Ireland's nationalist parties as they interpret this as antithetical to their aspirations and undermining the principle of consent underpinning the 1998 Belfast/Good Friday Agreement. The likelihood of this occurring will perhaps increase if the Ulster Unionist Party does not perform well in the Northern Ireland Assembly elections, and if Sinn Féin reinforces its position as the largest nationalist party.

6. With the nature of the border between Northern Ireland and the Republic of Ireland and the right of citizens of Northern Ireland to claim Irish citizenship, and therefore to be EU citizens, as two of the core issues raised by Brexit, the impact on the 1998 Belfast/Good Friday Agreement of the final outcome of the UK's negotiations with the EU will define the distance that divides political parties in Northern Ireland along nationalist-unionist lines. That distance is likely to be widened if the UK Government's current position on Brexit – outside the Single Market and the Customs Union – is not compensated for by an agreement with the EU that accommodates the various concerns of the political parties in Northern Ireland. Any imposition of a border either between Northern Ireland and the Republic of Ireland or between Northern Ireland and Great Britain will be interpreted as threatening the delicate balance achieved by the 1998 Agreement, which would be compounded if the UK Government pursues its intent to abolish the Human Rights Act and withdraw from the European Convention on Human Rights. As the Centre for Cross Border Studies noted prior to the June 2016 referendum:

"It is clear that a decision to leave the EU would require revisions to the Belfast Agreement and associated legislation. While some of these changes appear relatively minor, others have the potential to raise serious political difficulties. In particular, a UK decision to also repeal the 1998 Human Rights Act [...] would potentially re-open political consensus on key safeguards and protections underlying the agreement. The dangers lie not so much in revisiting the Agreement – provision exists for review of its operation and several supplementary agreements have been concluded over the past decade – but rather that renewed negotiations will be taking place, post-Brexit, against a backdrop of great political uncertainty about future relations between the UK and

http://dev.mydup.com/images/uploads/publications/DUP_Manifesto_2017_v2_SINGLES.pdf [last accessed 03/03/2017].

¹³ House of Commons, Hansard, 1 February 2017, Volume 620, <https://hansard.parliament.uk/Commons/2017-02-01/debates/B386ED22-D91D-4FF8-9804-F87EEBC26D6A/LeavingTheEUCommonTravelArea#contribution-2A3D0077-A430-46AE-A56C-887D68633906> [last accessed 03/03/2017].

the EU and between the UK and the Republic of Ireland. In this context, achieving a renewed political consensus in Northern Ireland could prove extremely challenging”.¹⁴

7. Whilst Brexit will undoubtedly affect the internal politics of Scotland and Wales, as well as the political relationships between those devolved regions and the UK Government, the UK’s departure from the EU will not only impact on party political divisions in Northern Ireland, but also on the governance of Northern Ireland itself. The lack of a Northern Ireland Executive, or one that cannot properly function due to divisions over the UK’s relationship to the EU, will have a detrimental effect on social cohesion and constrain economic development.

Economic implications of Brexit for Scotland, Wales and Northern Ireland

8. Given that the overarching purpose of this inquiry is on Brexit and devolution in the United Kingdom, we will simply note here the economic implications of Brexit as set out by the devolved administrations. We will not, therefore, include economic forecasts produced by business organisations, academic institutions or any other organisation unless they are utilised by the devolved administrations for their own forecasts. Moreover, no certainty can be provided on economic forecasts on the impact of Brexit without knowledge of the final outcomes of the UK’s negotiations with the EU and of the nature of future trading relations.

9. The Welsh Government has concluded that “replacing Single Market participation with World Trade Organisation (WTO) rules could result in a UK economy up to 8-10% smaller than would otherwise have been the case and would devastate trade in certain key sectors”, and that this “would have both immediate and long-term consequential impact on living standards and poverty in Wales”.¹⁵ The Welsh Government also warns that “the imposition of barriers to imports from the EU would also produce negative effects including an increase in consumer prices in many goods and increasing the cost-base of goods and services dependent on imports”, and highlights the example of how “81% of our timber is imported, as is the majority of agricultural feed and fertiliser (which has a direct impact on food prices) and, of course, food itself”.¹⁶ Concern is also expressed of Wales’s ability to resist negative economic impacts given its current position in comparison with other parts of the United Kingdom: “It is also important to recognise that Wales is potentially more vulnerable to economic shocks than some other parts of the UK due to factors such as relatively low household income and a greater reliance on manufacturing. An economic downturn impacting on the UK as a result of EU exit could have a disproportionately high impact on the Welsh economy”.¹⁷

10. The Scottish Government has concluded that the UK Government’s current approach to the EU’s Single Market and Customs Union “could cost the Scottish economy up to around £11 billion per

¹⁴ Centre for Cross Border Studies, “Potential Constitutional Consequences”, pp.6-7. See also “The possible implications of repealing the Human Rights Act 1998” (January 2016), http://crossborder.ie/site2015/wp-content/uploads/2016/01/Briefing-Report_Implications-of-HRA-Repeal.pdf.

¹⁵ Welsh Government, *Securing Wales’ Future: Transition from the European Union to a new relationship with Europe* (January 2017), p.9, https://beta.gov.wales/sites/default/files/2017-01/30683%20Securing%20Wales%C2%B9%20Future_ENGLISH_WEB.pdf [last accessed 15/02/2017]. The Welsh Government’s position was developed in conjunction with Plaid Cymru.

¹⁶ Welsh Government, *op. cit.*, p.10.

¹⁷ Welsh Government, *ibid.*

year”.¹⁸ According to the Scottish Government, such a downturn in Scotland’s economic performance “would reduce tax revenues, and in turn the funding available for public services”, meaning that “resources for public spending could be up to £3.7 billion a year lower under a ‘hard Brexit’”.¹⁹ Citing research by the Fraser of Allander Institute, the Scottish Government considers that a “hard Brexit” “could result in wages being £2,000 lower, and the Scottish economy supporting 80,000 fewer jobs, than would otherwise have been the case”.²⁰

11. No comparable analyses of the potential economic implications of Brexit for Northern Ireland were published by the Northern Ireland Executive. However, some analysis was undertaken by the Northern Ireland Assembly, the former Office of the First and Deputy First Minister (now the Executive Office), and on behalf of the former Department of Enterprise and Trade (now the Department for the Economy).

12. The Northern Ireland Assembly’s Research and Information Service, for example, notes research undertaken by the Enterprise Trade and Investment Committee’s specialist advisor that suggests the “impact of a UK withdrawal from the EU would be a 3% reduction in Northern Ireland’s GDP and argues that this would lead to proportionate increases in unemployment”.²¹ Brexit will also introduce very large transactions costs, which for Northern Ireland include “the undermining of corporation tax harmonisation with the Republic of Ireland, increasing cost of cross-border trade and cooperation, and a detrimental impact on FDI”.²²

13. An analysis prepared by the European Policy and Co-ordination Unit of the Office of the First and Deputy First Minister noted that a “UK exit from the European Union risks making [...] regional inequality worse, because poorer regions of the UK are more dependent on exports to Europe than richer ones”.²³ In terms of UK regions most exposed to EU demand for goods, it states that “Northern Ireland’s [...] exposure is 4th in a list of 12 regions, with only the North East, Wales, and the East of England having greater exposure”.²⁴ In its consideration of the imposition of EU tariffs it concludes that Northern Ireland “would see tariffs applied to 0.34% of its private sector output; second only to the North East at 0.43%”.²⁵ However, it is important to note that in a statement on 27 September 2016, the Executive Office said that although commissioned by the Head of the Northern Ireland Civil Service, “This analysis paper was not sent to Ministers for consideration following its

¹⁸ The Scottish Government, *Scotland’s Place in Europe* (December 2016), p.3, <http://www.gov.scot/Publications/2016/12/9234/downloads> [last accessed 15/02/2017]. See also Scottish Government, “Potential Implications of the UK Leaving the EU on Scotland’s Long Run Economic Performance” (August 2016), <http://www.gov.scot/Topics/Economy/Publications/PotentialEU> [last accessed 03/03/2017].

¹⁹ The Scottish Government, op. cit., p.10. In its White Paper, the Welsh Government similarly points out that a “departure from the EU which does not provide Single Market participation will almost certainly lead to even more significant cuts to public services in Wales, or to tax rises, or both, than would otherwise have been the case”, op. cit., pp.10-11.

²⁰ The Scottish Government, *ibid.*

²¹ Northern Ireland Assembly Research and Information Service Research Paper, “The EU referendum and potential implications for Northern Ireland” (21 January 2016), p.7, <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016/eti/2116.pdf> [last accessed 03/03/2017].

²² Northern Ireland Assembly Research and Information Service, *ibid.*

²³ European Policy and Co-ordination Unit, Office of the First Minister and Deputy First Minister, “Preliminary Analysis on the Impact of a UK Referendum on its Membership of the European Union” (May 2015), p.7.

²⁴ European Policy and Co-ordination Unit, Office of the First Minister and Deputy First Minister, *ibid.*

²⁵ European Policy and Co-ordination Unit, Office of the First Minister and Deputy First Minister, *ibid.*

completion”, and that “Following a Freedom of Information request to the Department, Ministers became aware of this work and the document was released on two occasions following Freedom of Information requests”.²⁶

14. The research commissioned by the Department of Enterprise, Trade and Investment and carried out by Oxford Economics, found that its “modelling indicates that Northern Ireland’s economy is likely to be more vulnerable to the type of structural changes triggered by a UK exit from the EU in comparison to the rest of the UK”, and that “on average by 2030, GVA in Northern Ireland was 2.8 per cent lower than baseline”.²⁷ Among other impacts foreseen in its analysis, Oxford Economics notes that “Northern Ireland would be particularly vulnerable to a decision to revert to MFN status [...] because of its unique characteristic of sharing a land border with another EU member state”, and it would suffer more from a downturn in foreign direct investment “due to its reliance on FDI as a source of financing for investment projects”.²⁸

15. It is clear that the assessments provided by the devolved administrations identify a negative economic outcome for each of the devolved nations if the UK pursues an exit from the EU that leaves it outside both the Single Market and the Customs Union. The Centre for Cross Border Studies also believes that the UK Government should not pursue an economic model for Brexit that does not guarantee improved economic performance for all of the constituent parts of the UK. Brexit cannot be judged a success if its economic performance improves based on activity on only one of its regions.

Reflecting the interests of the devolved jurisdictions

16. There are no indications that the UK Government’s overarching aims in relation to the negotiations that will follow the triggering of Article 50 are reflective of the stated interests of the devolved jurisdictions.

17. The Prime Minister’s speech on her government’s negotiating objectives (reiterated in the White Paper, “The United Kingdom’s exit from and new partnership with the European Union”²⁹) set out broad parameters that cannot accommodate the needs expressed by the devolved administrations. Crucially, in terms of trade, the outcome of the UK Government’s negotiations with the EU “cannot mean membership of the Single Market”, and its approach will be informed by the view “that full Customs Union membership prevents [the UK] from negotiating [its] own comprehensive trade

²⁶ <https://www.northernireland.gov.uk/news/statement-executive-office-relation-preliminary-analysis-impact-uk-referendum-its-membership> [last accessed 03/03/2017]. On this, see Steven McCaffery, “Stormont officials highlighted the potential risks of Brexit a year before the EU referendum”, <http://www.thedetail.tv/articles/stormont-officials-warned-of-the-dangers-of-brexit-a-year-before-the-eu-referendum> [last accessed 03/03/2017].

²⁷ Oxford Economics, “The Economic Implications of a UK Exit from the EU for Northern Ireland” (February 2016), p.6, <https://d1iydh3qrygeij.cloudfront.net/Media/Default/Brexit/Brexit-NI-Report.pdf> [last accessed 03/03/2017].

²⁸ Oxford Economics, op. cit., p.7.

²⁹ HM Government, “The United Kingdom’s exit from and new partnership with the European Union” (February 2017), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589191/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Web.pdf [last accessed 15/02/2017].

deals”.³⁰ However, in relation to the latter, the Prime Minister suggested alternative outcomes from the upcoming negotiations wherein the UK could “reach a completely new customs agreement, become an associate member of the Customs Union in some way, or remain a signatory to some elements of it”. Nevertheless, the Prime Minister made clear in her speech that the UK’s preferred option is to achieve “a new, comprehensive, bold and ambitious free trade agreement” with the EU. If, on the other hand, the UK cannot conclude what it considers to be a fair deal, the Prime Minister highlighted how in that situation we “would be free to strike trade deals across the world. And we would have the freedom to set the competitive tax rates and embrace the policies that would attract the world’s best companies and biggest investors to Britain. And – if we were excluded from accessing the single market – we would be free to change the basis of Britain’s economic model”.³¹

18. The UK Government’s stated aim of relinquishing membership of the Single Market and no longer being bound by the principle of the free movement of people is clearly in contradiction with the Scottish Government’s own priorities, which include “retaining membership of the European Single Market and its market of 500 million people”, and “ensuring [Scottish] firms have access to the EU workforce they need”.³² The Welsh Government’s position, meanwhile, is that “the case for continuing Single Market participation is overwhelming and [it] can agree to no other position”.³³ To ensure continued access to EU labour the Welsh Government further proposes “ensuring a stronger link between employment and the right to remain for new EU migrants [...], an approach [it believes] is broadly compatible with the principles of freedom of movement of people”.³⁴ For both the Scottish and Welsh governments, therefore, the priority is for the UK to retain full and unfettered access to the Single Market, with both suggesting that this could be achieved through membership of the European Free Trade Association, and thus of the European Economic Area. With slightly differing degrees of emphasis, both governments also call for the UK to remain within the Customs Union.

19. The Centre for Cross Border Studies views it as a matter of grave concern that unlike the Scottish and Welsh Governments, not only was the Northern Ireland Executive unable to set out a similarly comprehensive position ahead of the UK Government’s negotiations with the EU, but that there is no longer an Executive in place to do so. Nevertheless, the August 2016 letter to the Prime Minister from the former First Minister and Deputy First Minister set out a number of concerns that cannot readily be addressed by the UK Government’s current stance. These included the “need to retain as

³⁰ “The government's negotiating objectives for exiting the EU: PM speech”, (<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>).

³¹ It is interesting to note that in his foreword to the Policy Exchange’s report, *Clean Brexit*, which sets out similar parameters for Brexit as outlined by the Prime Minister, Lord Lawson writes: “In practice, we must accept that our free-trade offer will be rejected and that no remotely acceptable post-Brexit trade agreement between the UK and the EU is negotiable”, and that with that offer rejected “we are happy to fall back on World Trade Organisation rules”. Liam Halligan and Gerard Lyons, Policy Exchange, *Clean Brexit* (January 2017), <https://policyexchange.org.uk/wp-content/uploads/2017/01/Policy-Exchange-Clean-Brexit-16th-January-2017.pdf>, p.2, [last accessed 19/01/2017].

³² The Scottish Government, op. cit., p.2.

³³ Welsh Government, op. cit., p.9.

³⁴ Welsh Government, op. cit., p.19.

far as possible the ease with which we trade with EU member states and, also importantly retain access to labour”.³⁵

20. If following the elections to the Northern Ireland Assembly negotiations between the political parties fail to establish an Executive, the Centre for Cross Border Studies urges the Secretary of State for Northern Ireland to establish a consultative mechanism similar to the Irish Government’s All-Island Civic Dialogue in order for the UK Government to properly reflect Northern Ireland’s interests. We are aware that the Northern Ireland Office has established a Business Advisory Group “designed to ensure Northern Ireland’s interests are fully represented in forthcoming EU exit negotiations and that the voice of its businesses continues to be heard,”³⁶ and that the Secretary of State Secretary of State has also launched a series of round-table events with the voluntary and community sector to hear from organisations from that sector what their priorities are for the upcoming negotiations. However, it is essential that sectoral conversations with the Secretary of State are brought into a cross-sectoral forum, and that all such conversations are as open as possible. Moreover, such an initiative would be in a position to inform and be informed by the Irish Government’s All-Island Civic Dialogue.

21. From the stated positions presented by the Welsh and Scottish Governments, and the concerns expressed by the former First Minister and Deputy First Minister of Northern Ireland, it is clear that they are in conflict with the UK Government’s current approach to negotiations with the EU. In order for the UK Government to properly reflect the interests of each of the devolved jurisdictions in the forthcoming negotiations with the EU, it is essential that it avoids adopting entrenched positions from which it cannot accommodate the expressed needs of the devolved nations. This will mean either ensuring continued UK membership of the Single Market and the Customs Union, or exploring differentiated solutions for the devolved jurisdictions. In view of statements from the EU’s institutions and the its Member States, the Centre for Cross Border Studies believes that it would be an overly risky gamble for the UK Government to approach negotiations in the hope that it would achieve a Free Trade Agreement capable of accommodating the needs of all parts of the United Kingdom – a gamble that notwithstanding the nationalist tendencies in Scotland and Northern Ireland could place the Union that is the United Kingdom in jeopardy.

22. The Centre for Cross Border Studies is of the opinion that existing mechanisms for intergovernmental and interparliamentary dialogue between Whitehall, Westminster and the devolved jurisdictions are sufficient to deal with the challenge of Brexit. However, whilst the mechanisms are sufficient, the manner in which they operate is crucial for achieving an outcome acceptable to all parts of the United Kingdom. Among other issues, this entails ensuring the setting of agendas is undertaken and agreed by all jurisdictions in advance of meetings of the Joint Ministerial Council, for example, and that each meeting is attended by the highest representative from each government. It also means that these mechanisms cannot simply be arenas for the UK

³⁵ The Executive Office, Letter to the Prime Minister, The Rt Hon Theresa May MP, <https://www.executiveoffice-ni.gov.uk/publications/letter-prime-minister-rt-hon-theresa-may-mp> [last accessed 15/02/2017].

³⁶ Northern Ireland Office, “Brokenshire holds inaugural meeting of Northern Ireland Business Advisory Group” (1 September 2016), <https://www.gov.uk/government/news/brokenshire-holds-inaugural-meeting-of-northern-ireland-business-advisory-group> [last accessed 20/02/2017].

Government to update the devolved governments on its negotiations, but instead opportunities for the devolved governments to actively shape those negotiations.