



The Centre for
Cross Border Studies

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39 Abbey Street ❖ Armagh BT61 7EB

Tel: +44 (0) 28 3751 1550 ❖ Fax: +44 (0)28 3751 1721

Email: crossborder@qub.ac.uk ❖ www.crossborder.ie

Submission to the House of Lords European Affairs Sub-Committee on the Protocol on Ireland/Northern Ireland's follow-up inquiry into the impact of the Protocol on Ireland/Northern Ireland

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This document has been prepared by the Centre for Cross Border Studies in response to the call for evidence issued by the House of Lords European Affairs Sub-Committee on the Protocol on Ireland/Northern Ireland.¹

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, between the island of Ireland and Great Britain, elsewhere in 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 (for more details visit www.crossborder.ie).

The short submission that follows, therefore, is closely informed by the Centre's particular knowledge of and experience in cross-border socio-economic development involving a range

¹ This response was authored by Dr Anthony Soares, Director of the Centre for Cross Border Studies (a.soares@qub.ac.uk).

of sectors from both Northern Ireland and Ireland, including public bodies, business and civil society. **It is focused on the Centre's ongoing efforts in monitoring the extent to which the necessary conditions for North-South cooperation are being maintained following the UK's withdrawal from the EU,² and in particular on the results of its quarterly surveys on the conditions for North-South and East-West cooperation,** ongoing since the first quarter of 2021,³ as well as the Centre's role in convening the Ad-Hoc Group for North-South and East-West Cooperation.⁴ This submission should be seen as a follow-up to the Centre's submission to this Sub-Committee of June 2021 (IIO0020),⁵ and the supplementary written evidence prepared by the Centre on behalf of the Ad-Hoc Group for North-South and East-West Cooperation in November 2021.⁶

Overview

1. Reflective of wider reactions, according to the results of the four quarterly surveys on the conditions for North-South and East-West cooperation undertaken in 2021,⁷ and reflected again in the first survey of 2022, the principal concern raised by respondents was the deterioration of the political context. That deterioration is largely seen as a result of the UK Government's approach to its dealings with the European Union in relation to the Protocol on Ireland/Northern Ireland, which has affected relations between London and Dublin, and exacerbated political divisions in Northern Ireland. Those political divisions have been evident in the absence of DUP Ministers from meetings of the North South Ministerial Council prior to the First Minister's resignation and the ensuing elections to the Northern Ireland Assembly. Although the results of our surveys indicate a more robust social context, there are nevertheless responses that indicate a withdrawal of support from unionist communities for North-South cooperation and increasing resentment towards the Irish Government. What emerges are concerns not in terms of the specific outworkings of the Protocol itself, but rather of how political attitudes towards it are undermining relations and trust. Therefore, a core lesson to be drawn is that unilateral action, from either party responsible for the implementation and operation of the Protocol, will only further undermine trust and make

² The Centre has responded to a range of relevant parliamentary inquiries and produced a number of Briefing Papers, which can be consulted at <http://crossborder.ie/category/research-and-policy/policy/consultation-responses/> and <http://crossborder.ie/category/research-and-policy/policy/briefings/>.

³ The results of our quarterly surveys can be found at <https://crossborder.ie/what-we-do/projects/maintaining-the-necessary-conditions-for-cooperation-and-cross-border-lives/>.

⁴ The views expressed in this submission are entirely those of the Centre for Cross Border Studies, and should not be seen as representing the opinions of the organisations supporting the Ad-Hoc Group for North-South and East-West Cooperation. For further information on the Ad-Hoc Group, see <https://crossborder.ie/ad-hoc-group-for-north-south-and-east-west-cooperation/>.

⁵ Available at <https://crossborder.ie/reports/ccbs-submission-to-the-house-of-lords-european-affairs-sub-committee-on-the-protocol-on-ireland-northern-ireland/>.

⁶ Available at <https://crossborder.ie/reports/house-of-lords-sub-committee-on-the-protocol-publishes-evidence-from-ad-hoc-group/>.

⁷ A detailed report analysing the emerging trends in the quarterly survey results from 2021 can be found at <https://crossborder.ie/newsite/wp-content/uploads/2022/05/CCBS-Report-on-2021-Quarterly-Surveys-on-North-South-and-East-West-Cooperation-FINAL.pdf>.

the search for joint solutions regarding the movement of goods from Great Britain into Northern Ireland all the more difficult.

2. The current political impasse between the UK and EU over the Protocol can only be resolved through working jointly to find sustainable solutions. Moreover, that joint work needs to involve increased engagement with wider civic society, as well as continued engagement with representatives of business in Northern Ireland as well as in Great Britain. Far from resolving the current impasse, unilateral action will only serve to exacerbate divisions.

The practical impact of the Protocol

3. Recalling that this submission is focused on the operation of North-South and East-West cooperation and on relations, whereas some responses to the Centre's quarterly surveys have indicated rising costs and difficulties in sourcing goods from Great Britain (affecting respondents both in Northern Ireland and the Republic of Ireland), the major area of concern – as already noted – has been the deterioration of the political context. Other issues raised in relation to obstacles to North-South cooperation in particular are either related to the wider impacts of the UK's withdrawal from the EU (and thus not within the scope of the Protocol), or to post-Brexit UK Government policies, particularly those affecting the cross-border movement of non-Irish and non-UK citizens.

4. Increased UK regulatory divergence will make it more difficult to find joint solutions in terms of the movement of goods from Great Britain to Northern Ireland, particularly in the context of an absence of trust. This will be especially the case where that divergence is in relation to animal and plant products, an area of significant concern in terms of the EU's Single Market, as in the example of the current Genetic Technology (Precision Breeding) Bill before Parliament.

Social attitudes to the Protocol

5. Asked whether the Protocol was on balance a good or bad thing for North-South and East-West cooperation and relations, 73% of respondents in the first quarter of 2022 reported that it was generally good for North-South cooperation, with 22% saying they were unsure and 6% considering it to be bad. However, in terms of East-West cooperation and relations, 53% thought the Protocol was beneficial, 28% were unsure, and 20% saw it as detrimental. Exacerbated by the political divisions, we have also seen some deterioration in inter-community relations, and – as referred to earlier – increased antipathy among some within unionist communities towards North-South cooperation and the Irish Government. However, in the Centre's work with other organisations in Northern Ireland, what is seen as of more immediate concern is the cost of living crisis.

The UK and EU approach

7. There was significant potential in the proposal in paragraph 77 of the UK Government's July Command Paper that the UK and EU 'should agree a "standstill" on existing arrangements', as long as this were to be used for the purpose it set out: 'to ensure there is room to negotiate

without further cliff edges, and to provide a genuine signal of good intent to find ways forward'. Following a brief period where there were some signs of positive engagement subsequent to the resignation of Lord Frost, it no longer appears that the "standstill" arrangements are being used as a space for discussion conducive to the maintenance of stability in Northern Ireland.

8. A core reason the UK Government has put forward for bringing forward domestic legislation in relation to the Protocol is the need to protect the 1998 Agreement, of which it is a co-guarantor. And yet, what it appears to be considering would not only ignore the views of the other co-guarantor, it would also ignore the results of the recent Northern Ireland Assembly elections and assessments of the impacts of the Protocol and how to address outstanding issues that contradict those of the Government.

9. While the action it is considering pursuing *could* achieve at some point the objective of enabling the formation of a new Northern Ireland Executive, the question arises as to how the means chosen to do so will provide the Executive and civil society organisations with the necessary political and social stability to function properly for the benefit of everyone in Northern Ireland, or provide the appropriate context for repairing relations within and across these islands? It is highly doubtful that the pursuit of such action will resolve the current political divisions in Northern Ireland, or provide for social stability.

10. The other core question is whether the Government has prepared for the potentially severe economic consequences that could result from a decision to pursue unilateral action on the Protocol? These would impact across the UK, where people are already facing hardship, and could lead to some in Great Britain looking to Northern Ireland as the cause of additional economic difficulties. What would the Government do to address these impacts?

11. We are at an extremely low ebb of trust. This is affecting internal relations, as well as relations across these islands, and for the UK Government to introduce domestic legislation in relation to the Protocol will do *nothing* to promote the importance of adhering to international agreements precisely at a time where this is crucial. We therefore urge the UK Government to continue to engage with the EU in the pursuit of joint solutions to address existing concerns regarding the Protocol on Ireland/Northern Ireland, and to refrain from embarking on unilateral actions that would further undermine trust.

12. As in the UK Government's July Command Paper, the EU's proposals of 13 October included suggestions on structures for engagement with civic society stakeholders, set out in its Protocol on Ireland and Northern Ireland Non-Paper: Engagement with Northern Ireland

Stakeholders and Authorities.⁸ Among the core issues of addressed by these proposals were:⁹ increased transparency; the work of the Joint Consultative Working Group (JCWG); fora for structured dialogue; structured dialogue between stakeholders and co-chairs of the Joint Committee; and participation of stakeholders at the Specialised Committee.

13. While the EU's proposals contain greater detail on the potential structures for engagement with the mechanisms of the Protocol than the UK Government's Command Paper, they also do not envisage representation from civic society organisations in the Republic of Ireland. This is a serious shortcoming, and such representation must be an essential element in contributing to the ongoing monitoring of the extent to which the Protocol is maintaining the necessary conditions for North-South cooperation.

14. The grounds for compromise between the UK and EU can only become visible through continued and positive engagement, the restoration and building of mutual trust, and by involving political representatives in Northern Ireland, as well as civic society organisations from both jurisdictions on the island of Ireland, in the search for sustainable solutions.

⁸ European Commission, Protocol on Ireland and Northern Ireland Non-Paper: Engagement with Northern Ireland Stakeholders and Authorities, https://ec.europa.eu/info/publications/protocol-ireland-and-northern-ireland-non-paper-engagement-northern-ireland-stakeholders-and-authorities_en.

⁹ The Ad-Hoc Group also notes the pressing need for "myth-busting" – and independent fact-checking service – as part of a process of structured engagement, thereby countering the effects of scaremongering and political posturing.