



CENTRE FOR CROSS BORDER STUDIES

Briefing Note on UK Command Paper: “Safeguarding the Union”

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About the Centre for Cross Border Studies

The Centre for Cross Border Studies, 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 (for more details visit www.crossborder.ie).

1. Introduction

This Briefing Note offers a brief examination of the Command Paper, [“Safeguarding the Union”](#), published by the UK Government on 31 January 2024. The particular focus here is on how the Command Paper approaches relations within and across the jurisdictions on the island of Ireland and Great Britain.

However, it is important to distinguish between the Command Paper’s political objectives and what it may mean in practical terms for the framework of relations encompassed by the 1998 Good Friday/Belfast Agreement. As a political instrument, the Command Paper is the result of the UK Government’s ‘detailed negotiations with the Democratic Unionist Party’ (paragraph 2), and its overarching aim is to resolve the impasse that has left Northern Ireland without a functioning Executive or Assembly for two years. In terms of the restoration of the institutions under Strand 1 of the 1998 Agreement, the Centre for Cross Border Studies has [publicly welcomed](#) this outcome and it is one that must be achieved. Therefore, although the presentation of its contents may be seen as potentially divisive in some cases, it is vital that the Command Paper is ultimately measured against its practical outcomes rather than its style. Crucially, one of those outcomes is the restoration of an Executive and Assembly in Northern Ireland, which will in turn result in the return of fully functioning institutions under Strands 2 and 3 of the Good Friday/Belfast Agreement.

In terms of what the Command Paper sets out and potential practical implications for North-South and East-West cooperation and relations, there are four areas to consider here: Northern Ireland’s relations to the UK’s Internal Market and the EU’s Single Market for services; the relationship between the North-South and East-West dimensions; “border-proofing”; and the East-West Council. We will look very briefly at each one these in turn.

2. Northern Ireland and services

There are several references in the Command Paper to Northern Ireland’s place within the UK internal market for services, and therefore how it does not have access to the EU’s single market in this area (unlike its position regarding the EU’s single market for goods). Paragraph 43(c) is such an example. It sets out the intent to introduce legislation preventing future UK

Governments from entering into agreements with the EU that would create obstacles to Northern Ireland’s relations with Great Britain:

‘Legislation to future-proof the effective operation of the UK’s internal market by preventing governments from reaching a future agreement with the EU like the Protocol that would create new EU law alignment for Northern Ireland and new barriers with Great Britain – such as any attempt to put in place new EU alignment in areas like services for NI alone, thereby offering new legal and constitutional protections that fulfil the original purpose of the Acts of Union’.

There is no acknowledgment here that challenges may have arisen in relation to undertaking North-South cooperation due to the UK’s – including Northern Ireland’s – post-Brexit position in relation to the EU’s single market for services. Responses to the Centre for Cross Border Studies’ [quarterly surveys on North-South and East-West cooperation](#), which began in the first quarter of 2021, have often pointed to new difficulties in engaging North-South operations, such as acquiring insurance on a cross-border basis.

Services are again referred to in paragraph 71:

‘The Government is conscious that, whilst only a tiny fraction of EU law applies under the Windsor Framework, there have been calls in the past to expand this significantly, into areas such as the environment, health, migration or services [...]. This was often attached to the divisive and misguided political notion of the ‘all-island economy’, or to claims that North-South cooperation in these areas was dependent on EU law’.

The Command Paper does not explicitly recognise that being outside the EU single market for services can impact on North-South cooperation, and suggests arguments otherwise are based on a desire to expand Northern Ireland’s access to the EU single market, which is beyond what is in the Withdrawal Agreement and the Protocol/Windsor Framework, placing Northern Ireland under EU law in relation to services. This approach is unhelpful and dismissive – perhaps unintentionally – of the potential of the UK and EU, along with stakeholders, in jointly finding imaginative and flexible solutions within the parameters of what they have already agreed. And it is important to recall that one of the things they jointly agreed was ‘to maintain the necessary conditions for continued North-South cooperation’ (Article 11 of the Protocol/Windsor Framework).

3. The North-South and East-West dimensions

The Command Paper refers to the UK Government’s intention to address concerns regarding the application of the North-South and East-West dimensions of the Belfast/Good Friday Agreement and of the Protocol/Windsor Framework. In paragraph 11 of Annex A, for example, it states:

‘While the Government [...] remains committed to ensuring no hard border and protecting cross-border sectors of the Northern Ireland economy – as it has stated since 2016 – it is also committed to redressing the sense that this has previously been prioritised at the expense of its far more substantial East-West dimension’.

While the above statement may have economic concerns as its primary focus, paragraph 2 of Annex B addresses concerns about Northern Ireland’s place in the Union of the United Kingdom:

‘The recent political context has given rise to concerns about Northern Ireland’s place in the Union. The lack of functioning devolved institutions, the unionist community’s strong objections to the old Northern Ireland Protocol, and perceptions about [the] importance afforded to the North-South dimensions of the Belfast (Good Friday) Agreement relative to the East-West dimensions have all contributed to a sense that the parity of esteem on which the Agreement was founded has been undermined’.

It is of critical importance that the UK Government and all parties do not inadvertently create an unnecessary and divisive approach to North-South and East-West cooperation and relations, which are both essential and interrelated components of the Good Friday/Belfast Agreement. Indeed, in 2018, following the publication of the draft Withdrawal Agreement, the Centre for Cross Border Studies issued a [statement](#) that noted:

‘The Protocol on Ireland/Northern Ireland in the draft Withdrawal Agreement of November 14th represents the best deal on offer for Northern Ireland that safeguards against a “hard” border on the island and protects North-South cooperation. As it presently stands, however, the Protocol does not protect the totality of existing socio-economic relations within and between these islands, notably the East-West dimension, of the 1998 Belfast/Good Friday Agreement’.

However, in terms of the East-West dimension, to date there has been a distinct lack of UK Government support to networks of cooperation between both jurisdictions on the island of Ireland and Great Britain.¹ As the Research Briefing on the Centre for Cross Border Studies 12th Quarterly Survey on North-South and East-West cooperation (for the period October to December 2023) notes:

‘while the level of North-South cooperation remains both high and robust, East-West cooperation consistently falls behind. This survey, and indeed several previous rounds of the survey make clear that increased funding is needed from all quarters, but

¹ Although it is important to point out that the PEACE PLUS programme, to which the UK Government contributes financially, offers the possibility for projects that involve partners outside the eligible area of Northern Ireland and the border counties of the Republic of Ireland.

particularly the UK Government in order to build capacity and incentive for East-West cooperation and collaboration’.

There have been missed opportunities for the UK Government to address this situation, including its development of the UK Shared Prosperity Fund. In August 2018, the Centre for Cross Border Studies’ [response](#) to an All Party Parliamentary Group’s inquiry into post-Brexit funding stated that:

‘we think that in the post-Brexit context it would be particularly helpful to create a fund (this could be separate from and additional to the Shared Prosperity Fund) to support initiatives to build relationships and cooperation across these islands (i.e. beyond the existing eligible areas of the European Territorial Cooperation programmes). This fund could also specifically support social cohesion and reconciliation between social groups and communities’ (p.4).

In redressing this lack of support for the East-West dimension, it is important that the UK Government not only facilitates cooperation and relations between Northern Ireland and Great Britain, but that it also does so in a manner that builds cooperation and relations between both jurisdictions on the island of Ireland and counterparts in England, Scotland and Wales. Above all, this issue must be addressed in a manner that does not place North-South and East-West cooperation within adversarial camps.

4. Border-proofing

The Centre for Cross Border Studies has consistently championed the need for proposed policy or legislation to be assessed in terms of how it may impact on cross-border cooperation, relations and mobility: “border-proofing”. The Command Paper offers an opportunity in this regard, as it refers to ‘new guidance and training to promote the balance of the Belfast (Good Friday) Agreement’ (paragraph 12).

However, paragraph 5(e) in Annex B sets out the Government’s commitment to:

‘Refresh training programmes and materials for both the Home Civil Service and the Diplomatic Service on the Belfast (Good Friday) Agreement and successor agreements, including to reflect the commitments made in this document and the fact that Strand One of the Agreement is a purely internal matter’.

While it is welcome that the UK Government intends to ensure officials based outside Northern Ireland are properly attuned to its specific context and needs, thereby helping to ensure that policy reflects that context, it is crucial that they are also attentive to Northern Ireland’s relations not only with the rest of the UK, but also with its neighbouring jurisdiction on the island of Ireland. Indeed, the Good Friday Agreement also prizes relations between the UK and the Republic of Ireland under Strand 3. Therefore, it is essential that the practice of border-proofing encompasses all strands of the 1998 Agreement.

5. The UK East-West Council

There are a range of measures set out in the Command Paper aimed at strengthening the relations between Northern Ireland and Great Britain, including improved transport connectivity and East-West educational connections. They also include the establishment of an East-West Council.

The Council’s objectives will be to ‘foster deeper links for Northern Ireland as part of the Union across business, education and culture’ (Annex B, paragraph 5 (e)), and that its work ‘will be driven by targeted “missions” designed to tackle some of Northern Ireland’s most challenging issues’ (paragraph 77).²

However, in terms of the membership of the Council, there is perhaps some lack of clarity. In paragraph 43(o) of the Command Paper, for example, it refers to the UK Government’s commitment to:

‘The creation of a UK East-West Council to establish a unique new forum, across the United Kingdom, for key representatives from government, business and the education sector from Northern Ireland and Great Britain to identify opportunities for deepening connections between Northern Ireland and the rest of the UK in areas such as trade, transport, education and culture’.

In paragraph 76 it then states that the Council ‘will be a unique new forum in which key representatives from government and business from the constituent parts of the UK will be able to discuss the opportunities and challenges we share’. In the very next paragraph, it says it ‘will consist of ministers and experts from across all parts of the UK and from a variety of sectors including business and industry and trade organisations’. But elsewhere it states that the East-West Council will be:

‘a new forum in which key representatives from government, civil society and business from the constituent parts of the UK will be able to advance the opportunities and address the challenges we share’ (Annex B, paragraph 9).

Where clarity is needed is whether civil society will be represented on this Council, particularly if there is a desire from the community and voluntary sector to engage with the Council’s work, or whether it will be restricted to government, business and the education sector.

It is also important to distinguish between the existing British Irish Council, established under Strand 3 of the Good Friday/Belfast Agreement, and this new UK East-West Council. Whereas the first includes representation from the Republic of Ireland, the Isle of Man and the Channel Islands, as well as the UK Government and the devolved UK administrations, the East-West

² The Command Paper sets out a number of economic missions, which are: economic inactivity; East-West investment and trade flows; improving international investment to Northern Ireland; and bolstering East-West institutional connectivity.

Council will be solely for representatives from the UK Government and the devolved administrations, as well as business and the education sector and, perhaps, civic society.

The establishment of the UK East-West Council is to be welcomed, as it represents a further opportunity for building cooperation and relations. As this new Council is set to begin functioning in early 2024, it is imperative that every care is taken to avoid any unnecessary and ultimately self-defeating prioritising of this new body over the existing institutions under Strands 2 and 3 of the Belfast/Good Friday Agreement. All of them merit the full commitment of all parties.

The commitment from civic society to both North-South and East-West cooperation and relations is already there, and it should be supported and directly engaged by the formal institutions and governments to fully exploit our shared opportunities and challenges.

A clear expression of that commitment is the [New Common Charter for Cooperation Within and Between these Islands](#), developed by community organisations on the island of Ireland in collaboration with counterparts from Great Britain. Included among its objectives is the need to ‘Improve policy-making by matching it to the realities on the ground and identifying cross-border opportunities to collaborate to solve shared problems or exploit common resources’.

6. Conclusion

The overriding objective of the Command Paper, “Safeguarding the Union”, is to enable the conditions for the restoration of a functioning Northern Ireland Executive and Assembly. That objective is to be welcomed, as the return of the institutions under Strand 1 of the Good Friday/Belfast Agreement is of paramount importance to address the urgent needs of communities in Northern Ireland. Moreover, their return also enables the proper functioning of the North South Ministerial Council, and the presence of the Executive at the British Irish Council, which are institutions with enormous potential for cooperation to address shared challenges and to exploit opportunities for mutual benefit.

New structures and bodies set out in the Command Paper also represent opportunities for the strengthening of relations and increased collaboration. These will be realised if all parties fully commit in practice to these new arrangements and those that already exist, ensuring that the entire framework of relations within and across these islands, embodied in the Good Friday Agreement, is a living network of vibrant and fruitful cooperation. None of us can afford to create division based on the privileging of one set of relations over another – they are all necessary to achieve a positive future for Northern Ireland, and for all within and across these islands.

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