



Submission to the House of Commons Northern Ireland Affairs Committee: Northern Ireland and the EU Inquiry

This document has been prepared by the Centre for Cross Border Studies as a contribution to the House of Commons Northern Ireland Affairs Committee's inquiry into Northern Ireland and the UK's referendum on EU membership.

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 knowledge of and experience in cross-border socio-economic development involving a range of sectors from both Northern Ireland and Ireland, as well as of how European Union funding and regional policy has supported much of the cross-border cooperation that has benefited citizens in both jurisdictions. It is not exhaustive, but the Centre for Cross Border Studies would welcome the opportunity to expand on the issues outlined here as well as others relevant to Northern Ireland in the context of the EU referendum.

However, it should be noted that in discussing the UK's membership of the EU some of the questions posed by the Northern Ireland Affairs Committee cannot be answered definitively. This is due to the fact that in any assessment of the impacts on Northern Ireland of a UK exit from the EU we have no a priori knowledge of what the final terms of the negotiated exit would be.

1. The Centre for Cross Border Studies (CCBS) believes that the debate on UK membership of the EU should consider the following issues as those that are specific to Northern Ireland: the 1998 Belfast/Good Friday Agreement and the 1998 Northern Ireland Act; cross-border cooperation; the agri-

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

food sector and corporation tax; and external channels of policy influence.² Discussed in more detail later, the main points for debate would be:

- A UK exit from the EU could lead to calls for amendments to the 1998 political settlement and revision of the 1998 Northern Ireland Act that, if not approached with political consensus, could in the short-term interrupt the ongoing consolidation of peace in Northern Ireland.
- The establishment of a post-Brexit situation where the border between Northern Ireland and Ireland would become an external EU border would impact upon the ability and financial capacity to undertake mutually beneficial cross-border cooperation projects. A decline in the levels of cross-border cooperation undertaken by actors at all levels would represent a retrograde step in the cementing of peace and reconciliation.
- The existence of the land border would also become an issue for EU citizens currently living in one jurisdiction but crossing the border to work or study, or for other social reasons. Even if the Common Travel area continues, the CTA applies only to Irish and UK citizens.
- Withdrawal from the EU should also be considered in the light of possible economic impacts specific to Northern Ireland, and the extent to which these could be mitigated. The agri-food sector is a more significant contributor to GVA in Northern Ireland than it is in the UK generally, therefore any negative consequences of a Brexit for agriculture and food and drink processing would be felt most keenly in Northern Ireland.
- The assumed benefits of reducing Corporation Tax in Northern Ireland below the rate levied in the UK and comparable to that of the Republic of Ireland could be placed in jeopardy if the UK were to leave the EU. A situation would be created where investors would be faced with the choice of similar corporation tax rates in the two jurisdictions of the island of Ireland, but where only one would be a full member of the Single Market.
- Northern Ireland is currently distinct from other parts of the UK in that it has a dedicated European Commission task force – the Northern Ireland, or Barroso, Task Force. This has offered the Northern Ireland Executive a direct channel to the Commission, and therefore an external arena with the potential to influence policies that are directly relevant to Northern Ireland. This external channel, along with Northern Ireland's representation in the European Parliament and the Committee of the Regions, would be removed if the UK were to leave the EU.

The Peace Process

2. Although agreements such as the 1998 Belfast/Good Friday Agreement need not be seen as immutable and incapable of reflecting changing circumstances, a Brexit could lead to the possibility of an unpicking of the Agreement and political divisions in Northern Ireland on how the UK's withdrawal from the EU should be reflected in any revisions to the Agreement, particularly in regards to Strands II (dealing with North-South relations) and III (dealing with inter-governmental

² We are limiting ourselves to issues specific to Northern Ireland, and not including those that although more relevant to Northern Ireland would also be relevant to other parts of the UK or the UK as a whole.

relations).³ The Governments of the United Kingdom and Ireland also signed an agreement to act as co-guarantors of the 1998 political settlement, and did so “as friendly neighbours and as partners in the European Union”.⁴

3. However, although common membership of the EU has been an important enabler of the Agreement and provides a forum for improving relations on an East-West basis, the fact that one of its co-guarantors may no longer be an EU Member State should not of itself undermine the status of the 1998 settlement which is an international treaty registered at the UN. The difficulty may arise if combined with other issues (of a constitutional nature and those unrelated to constitutional questions) identified as arising from a Brexit. This could be destabilising politically and socially and exacerbate existing ‘residual’ political violence.

4. Under Strand I, the 1998 Agreement sets out the framework for the Northern Ireland Assembly’s relations with other institutions, stating that “Terms will be agreed between appropriate Assembly representatives and the Government of the United Kingdom to ensure effective coordination and input by Ministers to national policy-making, including on EU issues”. Under Strand II, the North South Ministerial Council (NSMC) is set to meet in different formats, including “in an appropriate format to consider institutional or cross-sectoral matters (including in relation to the EU)”. More specifically, the NSMC is:

“To consider the European Union dimension of relevant matters, including the implementation of EU policies and programmes and proposals under consideration in the EU framework. Arrangements to be made to ensure that the views of the Council are taken into account and represented appropriately at relevant EU meetings.”

Consideration of common approaches to EU matters is also an issue seen as suitable for consideration by the British Irish Council, under Strand III of the Agreement.

5. Additionally, a Brexit could lead to a review of the operation of the Joint Ministerial Committee on Europe, a separate inter-governmental forum that brings together Ministers from the UK Government, the Scottish Government, the Welsh Government and the Northern Ireland Executive to discuss EU business.

6. Crucially, the possible cessation of EU-related functions of the North South Ministerial Council and the British Irish Council may have implications for the ability of these bodies to carry out their wider roles and responsibilities. It is also possible that the terms of reference of all these bodies could be modified in order to reflect the UK’s new circumstances, allowing them to consider matters related to the EU that would affect the UK even as a non-member. However, the cross-border bodies and areas of cooperation created under Strand II of the 1998 Agreement whose remit includes the implementation of EU programmes and directives on a cross-border basis would at the very least

³ The 2006 St Andrew’s Agreement can be seen as a review of the mechanisms established under the 1998 Agreement, and current moves to create an official opposition in the Northern Ireland Assembly could equally imply a revision to the Agreement and the 1998 Northern Ireland Act. Moreover, the Fresh Start Agreement has led to the current consideration of the Northern Ireland (Stormont Agreement and Implementation Plan) Bill, whose passing by the UK Parliament will imply some changes to the operation of the Northern Ireland Assembly.

⁴ <https://www.gov.uk/government/publications/the-belfast-agreement>.

find themselves under considerable strain if UK and Northern Ireland policies begin to diverge from those of the EU, and therefore of the Republic of Ireland.

7. The 1998 Northern Ireland Act makes repeated reference to European Community Law in relation to the legislative powers of the Northern Ireland Assembly. A UK withdrawal from the European Union and its associated laws established under the relevant Treaties and cases in EU courts could imply that the limits imposed on the legislative powers of the Northern Ireland Assembly would have to be redrawn within different parameters. Again, it is not possible to predict how this will impact on the functioning of the Assembly, without knowing what revisions will be made to the Act and the political and social climate in which they are made.⁵

8. A decrease in cross-border cooperation and restrictions on those involved in such cooperation for the reasons set out below will be detrimental to the ongoing process of peace and reconciliation, and could be seen as against the spirit of Strand II of the 1998 Belfast/Good Friday Agreement.

Cross-Border Cooperation

9. A UK withdrawal from the EU would change the status of the border between Northern Ireland and the Republic of Ireland, making it an EU external border. The implications of that change in status will largely depend on the result of the negotiations triggered by Article 50, particularly in the movement of goods, services and capital, and the extent to which any controls on movement of these would have to be in place at the border. Again, the levels of any such controls will depend on the degree of access to the Single Market the UK Government is able to guarantee in the post-Brexit negotiations with the EU.

10. The Common Travel Area (CTA) between the United Kingdom and the Republic of Ireland, which predates the accession of both states to the European Union, is currently recognised by the EU through protocols attached to EU Treaties. In a post-Brexit scenario, the continued ability of UK and Irish nationals to move freely between the two jurisdictions and enjoy certain privileges regarding residency rights and access to benefits would depend on Ireland's continuing status as an EU Member State. The EU's legal recognition of the CTA in the form of existing Treaty protocols would become redundant following a UK withdrawal, and its subsequent recognition would depend on the result of negotiations. Retention of the CTA is critical for both the UK and Irish Governments and of vital importance to Northern Ireland since the opening of the border between the two jurisdictions on the island of Ireland has contributed to normalisation and the peace process. The Irish Government will make strenuous efforts within the EU to ensure that the CTA remains in operation following a Brexit.

11. However, the fundamental change in status of the border between Northern Ireland and the Republic of Ireland that would follow a Brexit would pose a significant threat to the ability of the governments and actors at all levels of both parts of the island to fully engage in cross-border

⁵ However, it should be noted that a more pressing reason to revisit the Northern Ireland Act and the 1998 Agreement is only indirectly related to the UK's membership of the European Union. This is the UK Government's proposal to repeal the 1998 Human Rights Act and to withdraw from the European Convention on Human Rights. The latter is not related to the European Union, but rather to the Council of Europe, although there may be indirect consequences for the UK's membership of the EU. On the potential implications of repealing the Human Rights Act, see CCBS's policy briefing paper at <http://crossborder.ie/briefing-report-the-possible-implications-of-repealing-the-human-rights-act-1998/>.

cooperation. Much of the concrete cross-border work undertaken across a variety of areas, and involving collaboration between people North and South, has been made possible through EU funds.

12. EU Cohesion Policy has also provided an important overarching framework for cross-border cooperation and the implementation of policies designed collaboratively by both jurisdictions on the island of Ireland. With its withdrawal from the EU there would no longer be any imperative for the UK to follow Cohesion Policy. In turn, this could mean increasing policy divergence between Northern Ireland and the Republic of Ireland in multiple areas of mutual strategic interest, making it increasingly difficult to engage in cross-border cooperation. As a result, although there is no substantial reason why the border between the Republic of Ireland and Northern Ireland should become a “hard” border, it could nevertheless represent a marker distancing the Governments on both sides as they resort to back-to-back policy development, especially if there is not sufficient financial mitigation made for the loss of associated EU funds.

Economic Impacts

13. The precise implications of and opportunities for Northern Ireland’s economy following a Brexit are entirely dependent on the conclusion of negotiations between the UK Government and the EU regarding future relations, particularly in terms of access to the Single Market. In 2014 65.9% of Northern Ireland sales were internal (i.e. within Northern Ireland itself), with the second most important market being Great Britain (19.3%).⁶ However, if Northern Ireland’s prosperity depends on increasing levels of exports, then the precise nature of Northern Ireland’s ability to access the Single Market and to profit from any Free Trade Agreements (FTAs) made by the UK Government will be crucial in this regard.⁷

14. Northern Ireland exports outside the European Union accounted for 6.1% of total sales in 2014, whereas those within the EU accounted for 8.8%, with exports to the Republic of Ireland accounting for more than half of that figure (5.5%). Current trends in Northern Ireland exports suggest that the EU market continues to be of significant importance and that the market in the Republic of Ireland on its own is almost comparable to the Rest of the World (ROW) in terms of total volume of sales. It is likely therefore that attempts to increase exports and to restructure the Northern Ireland economy would be undermined by a Brexit unless access to the European Single Market could be guaranteed on favourable terms.

15. Similarly, the potential opportunities following a Brexit for Northern Ireland to become more comparable with the rest of the UK in terms of exports to ROW will depend on the UK’s ability to

⁶ That importance appears to have increased over recent years, rising from 18.5% of total sales in 2011 to its 19.3% level in 2014. Northern Ireland Statistics & Research Agency, “Northern Ireland Broad Economy Sales and Exports Statistics: Headline Results 2014” (February 2016), https://www.detini.gov.uk/sites/default/files/publications/deti/BESES-Publication-2014-Headline-results_0.pdf.

⁷ The powers of the devolved administration in Northern Ireland in relation to external trade relations are set out in the Memorandum of Understanding and Supplementary Agreements between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee; <https://www.gov.uk/government/publications/devolution-memorandum-of-understanding-and-supplementary-agreement>.

negotiate competitive FTAs.⁸ If the UK with a population of over 64 million were able to achieve FTAs with non-EU countries that offered a competitive edge over FTAs signed by those countries with the EU (consisting of 27 Member States with a population of over 400 million), then Northern Ireland businesses would have the potential to increase their exports. If, on the other hand, the EU were able to secure more advantageous FTAs than those achieved by the UK, then the latter – including Northern Ireland – would become less competitive.

16. The implications of a Brexit are particularly significant for the agri-food sector in Northern Ireland given its relative importance to the Northern Ireland economy in comparison with the UK as a whole. This situation can be seen when we consider that in 2014 the agri-food sector accounted for 5.2% of Northern Ireland GVA, whereas the figure for the UK was 2.1%.⁹ Research conducted recently by CCBS into the agri-food sector in four border counties also echoes statistical evidence and previous research in relation to the destination of food and drinks processing sales.¹⁰ The most important external market for the sector in Northern Ireland is Great Britain, with 43% of total sales in 2013, exceeding even the internal Northern Ireland market, which accounted for 26.7%.¹¹ In terms of export markets, the Republic of Ireland is by far the most significant receiving 15.6% of total Northern Ireland sales in 2013, with other EU countries combined receiving 11.6% (making the total to the EU 27.2%) and the ROW 3%.

17. Although a Brexit should not affect the Northern Ireland agri-food sector's largest market,¹² it is essential that a UK withdrawal from the EU does not impact negatively on the sector's ability to sell within the Single Market. Again, the need for the sector to increase its sales to ROW from its relatively low base would, in the event of a Brexit, depend on the UK Government's capacity to secure competitive FTAs. It would also be dependent on the replacement of EU funding under CAP by the UK Government, bearing in mind the more prominent role of the agricultural sector in the Northern Ireland economy in comparison with the UK as a whole.

18. It is also important to consider from the perspective of the internal economic context within Northern Ireland how a Brexit would affect the planned introduction of lower rates of corporation tax. In the view of CCBS, if one of the purposes of lowering corporation tax rates is to attract FDI, then this objective would be compromised unless the UK Government were able to negotiate sufficient access to the Single Market that would make Northern Ireland competitive for investment in relation to the Republic of Ireland. If the latter, with similar rates of corporation tax, were to have

⁸ As outlined in a recent paper by the Northern Ireland Assembly Research and Information Service, the value of UK exports to non-EU countries grew by 40% between 2004 and 2014, while the comparable figure for Northern Ireland was 25%; "The EU referendum and potential implications for Northern Ireland" (January 2016), <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016/eti/2116.pdf>.

⁹ Department of Agriculture and Rural Development, "Northern Ireland agri-food sector: key statistics" (June 2015), <https://www.dardni.gov.uk/sites/default/files/publications/dard/northern-ireland-agri-food-sector-key-statistics-2015-final.pdf>.

¹⁰ Anthony Soares and Martin McTaggart, *A Study of Cross-Border Flows within the Agri-Food Sector: A Snapshot of Four Border Counties* (Armagh: Centre for Cross Border Studies, 2016).

¹¹ Department of Agriculture and Rural Development, "Size and Performance of the Northern Ireland Food and Drinks Processing Sector, Subsector Statistics 2013, with provisional estimates for 2014", <https://www.dardni.gov.uk/sites/default/files/publications/dard/size-performance-ni-food-drink-2013-14.pdf>.

¹² This would of course depend to some extent on continuing consumer confidence in GB and the wider UK economic performance.

greater access to the Single Market, then Northern Ireland's ability to profit from lower rates of corporation tax would be unduly restricted.¹³

External Relations

19. A Brexit would necessarily imply that Northern Ireland would no longer continue to be directly represented within the European Union through the channels it currently possesses. These not only include representation within the European Parliament and the Committee of the Regions, but also through the Office of the Northern Ireland Executive in Brussels (ONIEB) and the European Commission's Northern Ireland Task Force, which is unique to Northern Ireland. The UK's membership of the European Union has provided Northern Ireland political representatives and policy-makers external arenas in which to promote and defend the interests of the citizens of Northern Ireland, and to collaborate with their counterparts from other EU Member States and their constituent regions, within the parameters set out in the Memorandum of Understanding between the United Kingdom Government and the devolved administrations.

20. CCBS is concerned that a Brexit would restrict the operating arena of Northern Ireland political representatives and policy-makers to a largely internal one, with their presence in external arenas being mediated to a significant extent through the UK Government. In this regard, and in the context of the UK Government's recent negotiations over reforms to its membership of the EU, we note the concerns raised by officials in the Office of the First Minister and Deputy First Minister in an answer to CCBS on the nature of the engagement between the Northern Ireland administration and the UK Government: "We would like to see increased engagement with Devolved Administrations and have made this point to the UK Government".¹⁴

21. If, on the other hand, the UK remains within the European Union, the full potential of the Northern Ireland Task Force and the ONIEB must be exploited.¹⁵ That potential must be measured beyond success in the draw-down of EU funds, but also in terms of how our political representatives and policy-makers contribute to the shaping of relevant EU policies. This will require coordination between the various channels available to Northern Ireland, whilst also respecting the terms of the MoU between the UK and the devolved administrations.

¹³ Similar views are also included in a report published by the Northern Ireland Assembly Committee for Enterprise, Trade and Investment, which states, for example that: "Invest NI is also concerned that, although the devolution of corporation tax will bring the opportunity for a step change in how Northern Ireland is promoted, uncertainty about future EU membership will restrict its ability to promote Northern Ireland as a destination for inward investment"; "Opportunity for Excellence: The Report on the Committee's Inquiry into Growing the Economy and Creating Jobs with Lower Corporation Tax", p.54; <http://www.niassembly.gov.uk/globalassets/documents/reports/enterprise-trade-and-investment/eti-opportunity-for-excellence.pdf>.

¹⁴ Correspondence received from the Office of the First Minister and Deputy First Minister, 17 December 2015.

¹⁵ On the Northern Ireland Task Force, see CCBS's response to the Committee for the Office of the First Minister and Deputy First Minister's inquiry into the Barroso Task Force, <http://crossborder.ie/ccbs-responds-to-inquiry-on-the-barroso-task-force/>.