



HM Government

Northern Ireland and Ireland

POSITION PAPER

Position Paper by the United Kingdom

Northern Ireland and Ireland

This paper outlines the United Kingdom's (UK) position on how to address the unique circumstances of Northern Ireland and Ireland in light of the UK's withdrawal from, and new partnership with, the European Union (EU).

Introduction

1. The United Kingdom welcomes the establishment of a dialogue on Northern Ireland/Ireland issues between the UK and the EU negotiating teams. The UK believes that this dialogue should be substantial and detailed, and seek to address the unique circumstances of Northern Ireland and Ireland in a comprehensive and flexible way. The UK and the EU had positive exploratory discussions in the July round of negotiations covering the UK's proposals in relation to the Belfast ('Good Friday') Agreement and the Common Travel Area and associated rights.
2. The UK's withdrawal from the EU, and the development of a new, deep and special partnership between the UK and the EU, has important implications for Northern Ireland and Ireland. While continuing to take account of these interests across the board, the UK believes that there are four broad areas where a specific focus on the unique relationship between the UK and Ireland, and the importance of the peace process in Northern Ireland, is required in the initial phases of the dialogue. This paper sets out the UK's proposals for these areas as follows:
 - Section 1: upholding the Belfast ('Good Friday') Agreement in all its parts;
 - Section 2: maintaining the Common Travel Area and associated rights;
 - Section 3: avoiding a hard border for the movement of goods; and
 - Section 4: aiming to preserve North-South and East-West cooperation, including on energy.
3. An early and specific focus on these issues is consistent with the European Council's negotiating guidelines and the European Commission's directives, the Irish Government's priorities paper, and the UK Government's White Paper and Article 50 letter (see Annex 1 for more detail on these documents). It is also in line with the issues "of particular significance" set out by the former First Minister and deputy First Minister of Northern Ireland in their joint letter of 10 August 2016 to the Prime Minister.¹ The European Council's negotiating guidelines are clear that "flexible and imaginative solutions" must be developed on border arrangements as an early priority in the negotiations.²

¹ Letter to the Prime Minister from the First Minister and deputy First Minister, 10 August 2016.

² European Council (Art. 50) guidelines for Brexit negotiations, 29 April 2017.

4. There is significant overlap in the objectives set out by the UK Government, the Irish Government and the EU. In particular, it is clear that our high level objectives are wholly aligned with regards to: avoiding a hard border; maintaining the existing Common Travel Area and associated arrangements; and upholding the Belfast ('Good Friday') Agreement, including the principles of continued North-South and East-West cooperation. The UK therefore welcomes the opportunity to discuss how best to deliver these shared objectives.
5. The UK believes that swift progress should be made in agreeing the way forward on the Common Travel Area and associated rights and some of the specific issues arising from the Belfast ('Good Friday') Agreement by October. The UK also believes it is possible in this phase to establish working principles for the movement of goods, energy and wider cross-border cooperation that will underpin the development of technical solutions as part of the negotiations on the future relationship between the UK and the EU. Given the complete alignment between the UK, Ireland and the EU on high level objectives for these crucial issues, and our strong support for the peace process in Northern Ireland, these solutions should be agreed at the earliest opportunity. To facilitate progress, the UK proposes to discuss in forthcoming negotiating rounds the high level principles and criteria that could be agreed and used to test potential future models for border arrangements.

Section 1: The Belfast ('Good Friday') Agreement

Upholding the Agreement

6. The Belfast ('Good Friday') Agreement – signed by the UK Government, Irish Government, and eight of the Northern Ireland political parties on 10 April 1998; endorsed by a treaty between the UK Government and the Irish Government signed on the same date³; and endorsed in parallel referendums in Northern Ireland and Ireland – represents the bedrock of the peace process. It paved the way for inclusive power-sharing devolved government in Northern Ireland and set up structures to foster strong relationships between the Northern Ireland Executive, UK Government, and Irish Government. It confirmed Northern Ireland's position as part of the United Kingdom, in accordance with the principle of consent: that Northern Ireland's constitutional status is a matter for the people of Northern Ireland alone to determine. It also confirmed the permanent birthright of all the people of Northern Ireland to hold both UK and Irish citizenship.
7. Political stability in Northern Ireland is dependent on the continued operation of the Agreement's institutions and constitutional framework, effective management of the security environment, and economic prosperity. Maintaining these three policy pillars has been a core part of UK Government policy, and is reflected in the structures and commitments in the Belfast ('Good Friday') Agreement, which takes a three-stranded approach:
 - Strand 1 sets out the internal governance of Northern Ireland, including the arrangements for power-sharing within the Executive and the structure of the Northern Ireland devolved institutions;
 - Strand 2 details relations between Northern Ireland and Ireland ("North-South cooperation"), including arrangements for cross-border and all-island cooperation; and
 - Strand 3 focuses on relations between the UK and Ireland ("East-West cooperation"), reflecting the close ties between our two nations and our role as signatories to the Belfast ('Good Friday') Agreement.
8. The EU's unwavering support for the peace process has been valuable in furthering political progress and reconciliation. In particular, the EU has provided support through EU regional policy, including financial contributions to the International Fund for Ireland and, most recently, the PEACE programmes. As the Report of the European Commission's Task Force 2007-2014 of October 2014 states: "Northern Ireland can count on the European Commission in its efforts to ensure lasting peace and prosperity".⁴ The Opinion of the European Economic and Social Committee of 23 October 2008 (SC/029) sets out that: "The EU peace-building method in Northern Ireland has been a unique, long-term commitment of substantial resources, strategically planned and executed, based on the principles of social partnership and subsidiarity and guided every step of the way by inclusive local consultation. The EU should retain its long-term support for peace-building in Northern Ireland".⁵

³ Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland done at Belfast on 10th April 1998.

⁴ 'Northern Ireland in Europe: Report of the European Commission's Task Force 2007-2014', October 2014.

⁵ Opinion of the European Economic and Social Committee on The role of the EU in the Northern Ireland peace process (Own-initiative opinion), 23 October 2008.

9. Although the Belfast ('Good Friday') Agreement is not predicated on EU membership, the UK is clear that it must be considered and safeguarded throughout the exit process, as a whole and in all its parts. There are some important themes flowing from the Agreement that the UK and the EU need to be particularly mindful of in the context of UK exit, including: the constitutional context and framework for North-South and East-West cooperation; the border; citizenship rights; and the Northern Ireland economy in recognition of the importance of economic prosperity to sustaining the peace process.

Proposal for the dialogue

10. The UK believes that the UK Government, the Irish Government and the EU share a strong desire to continue to safeguard the Belfast ('Good Friday') Agreement, and to ensure that nothing agreed as part of the UK's exit in any way undermines the Agreement. The Prime Minister made clear in her Article 50 letter that the UK has "an important responsibility to make sure that nothing is done to jeopardise the peace process in Northern Ireland, and to continue to uphold the Belfast Agreement".⁶ The European Council's negotiating guidelines state that "the Union has consistently supported the goal of peace and reconciliation enshrined in the Good Friday Agreement in all its parts, and continuing to support and protect the achievements, benefits and commitments of the Peace Process will remain of paramount importance".⁷ The Irish Government has also stated that "we must ensure that there is no disruption to the integrity of the peace settlement achieved through the Good Friday Agreement".⁸
11. The UK believes that the UK and the EU should be mindful of the full breadth of commitments made in the Belfast ('Good Friday') Agreement. Ensuring that nothing is done to undermine it will require detailed and close engagement between the UK and the EU throughout the negotiations. At this stage, the UK proposes that both the UK and the EU should:
- affirm the ongoing support of the UK Government and Irish Government, and the European Union, for the peace process;
 - formally recognise that the citizenship rights set out in the Belfast ('Good Friday') Agreement will continue to be upheld; and
 - agree to the continuation of PEACE funding to Northern Ireland and border counties of Ireland.

More detail on these proposals is set out in the following sections.

⁶ Prime Minister's letter to Donald Tusk triggering Article 50, 29 March 2017.

⁷ European Council (Art. 50) guidelines for Brexit negotiations, 29 April 2017.

⁸ 'Ireland and the negotiations on the UK's withdrawal from the European Union: The Government's Approach', May 2017.

Protecting the Belfast ('Good Friday') Agreement – identity and citizenship rights

12. Issues of identity go to the heart of the divisions in Northern Ireland, so finding a way to address them was a crucial part of the Belfast ('Good Friday') Agreement. The Agreement confirmed the permanent birthright of the people of Northern Ireland, irrespective of Northern Ireland's constitutional status: to identify themselves and be accepted as British or Irish or both, as they may so choose; to equal treatment irrespective of their choice; and to hold both British and Irish citizenship.
13. The British-Irish Agreement, signed by the UK Government and Irish Government, arose out of the Belfast ('Good Friday') Agreement, which was reached on the same day between the Northern Ireland parties, the UK Government and the Irish Government. The British-Irish Agreement is binding on the UK Government and Irish Government, and gives the commitments on equality, parity of esteem and citizenship legal force in international law.

Proposal for the dialogue

14. **The UK proposes that the Withdrawal Agreement confirms that the current substantive position is not changed as a result of the UK's withdrawal from the EU and that both parties recognise that it will remain unchanged.** As long as Ireland remains a member of the EU, Irish citizenship also confers EU citizenship, with all the rights that go with this. This is as true for the people of Northern Ireland who are Irish citizens – or who hold both British and Irish citizenship – as it is for Irish citizens in Ireland. The UK welcomes the commitment in the European Commission's directives that these EU rights should continue to be respected following the UK's departure from the EU: "Full account should be taken of the fact that Irish citizens residing in Northern Ireland will continue to enjoy rights as EU citizens".⁹

Continuing PEACE funding

15. Since the first programme in 1995, there have been four PEACE programmes that have funded victims' groups and cross community projects in Northern Ireland and the border counties of Ireland. Funding is provided by the European Commission (through the European Regional Development Fund) and by the Northern Ireland Executive and the Irish Government. The programme is implemented by the Special EU Programmes Body (SEUPB) and its content is agreed by both the Northern Ireland Executive and the Irish Government through the North South Ministerial Council (NSMC). Both the SEUPB (one of the six North South Implementation Bodies) and the NSMC were established by treaties between the UK Government and the Irish Government in the context of Strand 2 of the Belfast ('Good Friday') Agreement relating to North-South cooperation.¹⁰

⁹ European Commission's Negotiating Directives May 2017.

¹⁰ 'Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing Implementation Bodies, done at Dublin on 8th March 1999' and 'Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing a North/South Ministerial Council, done at Dublin on 8th March 1999'.

16. Between 1995 and 2013, the PEACE programmes allocated almost €2 billion of funding to projects supporting peace and reconciliation, and the current programme (running from 2014 to 2020) has a total value of €270 million. PEACE funding has played a significant role in advancing cohesion between communities and promoting economic and social stability. The Irish Government has commented on the importance of PEACE funding in “sustaining cross-border cooperation beyond the immediate term”.¹¹

Proposal for the dialogue

17. The UK proposes that, without prejudice to the wider discussions¹² on the financial settlement and Structural and Investment Funds, the UK and the EU should agree the continuation of funding for PEACE IV for the duration of the existing programme and, with the Northern Ireland Executive and Irish Government, explore a potential future programme post-2020. In doing so, the UK wants to work with the EU on how together we can maintain the implementation of the PEACE IV programme, including the role of the SEUPB as managing authority¹³, and that of the NSMC in agreeing the policy direction of future programmes. Notwithstanding the outcome of the negotiations on this specific issue, the UK government would remain committed to peace and reconciliation programmes and to sustaining cross-border cooperation. The UK’s approach to PEACE funding applies to the exceptional circumstances of this programme, recognising its link to the Belfast (‘Good Friday’) Agreement, and should not be taken to imply any wider policy positions on the financial settlement as a whole.

¹¹ ‘Ireland and the negotiations on the UK’s withdrawal from the European Union: The Government’s Approach’, May 2017.

¹² Including on regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures.

¹³ Article 21 of EU Regulation 1299/2013 states that “the managing authority and the audit authority shall be located in the same Member State.” As the SEUPB is based in Belfast, this regulation would need to be amended to allow it to act as the managing authority post-Exit.

Section 2: Maintaining the Common Travel Area and associated rights

The Common Travel Area and associated rights

18. The Common Travel Area (CTA) is a special border-free zone comprising the UK, Ireland, the Channel Islands and the Isle of Man. The CTA arose to facilitate the principle of free movement for British and Irish citizens between the UK, Ireland and the Islands, and the reciprocal enjoyment of rights and entitlements to public services of citizens when in the other's state. The CTA's internal borders are subject to some immigration restrictions but not, or only to a minimal extent, border controls. The CTA arrangement established cooperation between the immigration authorities of its members to provide a pragmatic response to the movement of people within it, including other nationalities who remain subject to immigration control.
19. The CTA was formed before either the UK or Ireland were members of the EU and means that reciprocal rights for Irish and UK citizens operate separately and alongside those rights afforded to EU nationals. It is a partly administrative arrangement and has been in place for most of the period since the Irish Free State was established in 1922. The CTA is reflected in each state's application of national immigration policy. In its current form the CTA was put on a statutory footing in the UK by the Immigration Act 1971. Under Ireland's immigration law, British citizens are outside the definition of 'non-national' and are therefore exempt from immigration law.
20. Although it precedes the Belfast ('Good Friday') Agreement, the principle of free movement between the UK and Ireland carries symbolic significance in implementing the Agreement's commitment to the continued respect of the civil, political, social and cultural rights of the communities in Northern Ireland. It is a tangible example of East-West cooperation between the UK and Ireland, which is explained in more detail in Section 4, including its significance in the context of the Agreement.
21. Cooperation between the UK and Ireland in support of the CTA is provided for by bilateral agreements and arrangements. In 2011, a Joint Ministerial Statement was signed, setting out a joint programme of work in support of securing the external CTA border.¹⁴ This built on the prior practice of exchanging letters between CTA members. The operation of the CTA is dependent on cooperation between its members, with full regard for the interests and legal obligations of each nation. This continuing joint programme of work with all CTA members to strengthen the external border includes investment in border procedures, increased data sharing to inform immigration and border security decisions and alignment on non-EU nationals visa policy and processes. Data on the volume of traffic moving within the CTA will be published alongside this policy paper.

¹⁴ 'Joint Statement by Mr Damian Green, Minister of State for Immigration, The United Kingdom's Home Department, and Mr Alan Shatter, Minister for Justice and Equality, Ireland's Department of Justice and Equality, regarding cooperation on measures to secure the external Common Travel Area', December 2011.

22. In relation to the rights associated with the CTA, the rights of Irish citizens in the UK were first codified in 1949, when Ireland left the Commonwealth. The Ireland Act 1949 states that Ireland “is not a foreign country for the purposes of any law in force in any part of the United Kingdom”. The Irish Government also legislated in 1949 to ensure that British citizens in Ireland enjoy similar rights and privileges to those enjoyed by Irish citizens in the UK.¹⁵ From the 1920s onwards, there were a number of bilateral agreements between the UK and Ireland in relation to social security and healthcare provision; for example, the Social Welfare (Great Britain Reciprocal Arrangements) Order 1960 provided for reciprocity in equal treatment of citizens from either state across the branches of social security covering sickness, maternity, unemployment, what was termed “widowhood” and guardian’s allowance”.¹⁶
23. As a result of these historic arrangements, the reciprocal rights for UK and Irish nationals include:
- the right to enter and reside in each others’ state without being subject to a requirement to obtain permission;
 - the right to work without being subject to a requirement to obtain permission;
 - the right to study;
 - access to social welfare entitlements and benefits;
 - access to health services; and
 - the right to vote in local and parliamentary elections.¹⁷
24. In practice, the operation of the CTA and many of the benefits enjoyed by Irish and UK nationals have also been provided for in instruments setting out EU free movement and associated rights. This intermingling of rights can make it difficult to distinguish what rights accrue under the CTA as opposed to under EU instruments.
25. However, the UK and Ireland have continued to make provisions in support of reciprocal rights beyond EU law.¹⁸ Since the 1970s, the UK, the Channel Islands and the Isle of Man have also continued to make arrangements bilaterally in support of protecting these rights. In addition, the existing CTA arrangements and associated rights – and their independence from EEA Treaty rights – mean that UK and Irish nationals have different rights to other EEA nationals in the UK or Ireland, and there are different administrative requirements in relation to accessing some public services.

¹⁵ Citizens of the United Kingdom and Colonies (Irish Citizenship Rights) Order 1949.

¹⁶ S.I. No. 96/1960 – Social Welfare (Great Britain Reciprocal Arrangements) Order, 1960.

¹⁷ In the UK, the Representation of People Act 1983 provides for the franchise of Parliamentary elections and local government elections which includes Irish citizens. Section 8 of Electoral Act 1992 provides that UK citizens resident in Ireland are entitled to register to vote in Dáil elections. Section 10 of the Act provides that any person resident in a local electoral area may register to vote in local elections. The right to vote at elections is linked directly to registration. UK nationals resident in Ireland cannot vote in Presidential elections or in constitutional referendums (as there is no equivalent election for head of state in the UK).

¹⁸ For example, the Social Security (Ireland) Order 2007 implements a reciprocal agreement with Ireland covering social security for countries where EU Regulation 883/2004 does not apply.

26. The CTA has proven to be resilient over the years, withstanding legal challenges and new policy and political developments. It has been staunchly protected by all its members, and both the UK Government and Irish Government are firmly committed to protecting and maintaining the CTA and associated rights. As the Prime Minister made clear in her Article 50 letter, preserving these arrangements and the unique relationship between the UK and Ireland is a priority for the negotiations ahead. The Irish Government has stated its intention to “secure acknowledgment from EU partners and institutions that the long-standing bilateral CTA arrangements with the UK will be maintained (in conformity with EU law)”.¹⁹
27. For its part, the UK wants to continue to protect the CTA and associated reciprocal bilateral arrangements. This means protecting the ability to move freely within the UK and between the UK and Ireland with no practical change from now, recognising the special importance of this to people in their daily lives, and the underpinning it provides for the Northern Ireland political process. As the Irish Government has stated: “the CTA ... has a vital role for the peace process in facilitating mobility of people across the island”.²⁰ The UK recognises, and is committed to protecting on a reciprocal basis, the ability for British and Irish nationals to work without hindrance across the border between Northern Ireland and Ireland.
28. While the CTA arrangements rely on close administrative cooperation, they have never required the UK and Ireland to have entirely harmonised immigration arrangements. One area where extensive cooperation is evident – but which does not necessitate harmonised systems – concerns the list of states whose nationals require a visa to enter. Currently, 103 states are subject to visa requirements in both the UK and Ireland; there are six states subject to visa requirements in the UK only; and a separate seven states are subject to visa requirements in Ireland only.
29. The legal basis for the CTA is provided through longstanding UK and Irish domestic provisions, as set out above, and has also long been recognised in European Union law (see Annex 2 for a timeline of the evolution of the CTA). Recognition of the CTA is provided for in Protocol 20 to the Treaty on European Union and the Treaty on the Functioning of the EU, which was originally introduced by the Treaty of Amsterdam. This confirmed that the UK and Ireland may “continue to make arrangements between themselves relating to the movement of persons between their territories (the Common Travel Area)”.²¹

¹⁹ ‘Ireland and the negotiations on the UK’s withdrawal from the European Union: The Government’s Approach’, May 2017.

²⁰ ‘Ireland and the negotiations on the UK’s withdrawal from the European Union: The Government’s Approach’, May 2017.

²¹ Protocol (No 20) on the application of certain aspects of Article 26 of the Treaty on the Functioning of the European Union to the United Kingdom and to Ireland.

30. The UK welcomes the commitment by both the European Council and Commission to recognise these bilateral arrangements, and in particular notes that the European Commission's directives expressly confirm the conformity of these arrangements with EU law: "Existing bilateral agreements and arrangements between Ireland and the United Kingdom, such as the Common Travel Area, which are in conformity with EU law, should be recognised".²² It is important to note that there are a number of examples of EU law recognising longstanding historical arrangements for Member States.²³

²² European Commission's Negotiating Directives May 2017.

²³ For example, Article 350 TFEU expressly acknowledges that "The provisions of the Treaties shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the Treaties".

Proposal for the dialogue

31. **The UK proposes that the UK and the EU seek to agree text for the Withdrawal Agreement that recognises the ongoing status of the CTA and associated reciprocal arrangements following the UK's exit from the EU. The UK believes that this proposal is consistent with the European Commission's directives.** Given the alignment between the UK Government, Irish Government, and European Union, our view is that an agreement on protecting and upholding the CTA and associated bilateral arrangements should be concluded at an early stage.
32. The development of our future immigration system will not impact on the ability to enter the UK from within the CTA free from routine border controls. It will support the preservation of the rights of British and Irish citizens as enjoyed today. Neither the UK nor Ireland is part of the Schengen border-free area, which enables both countries to maintain border checks. In the July round of negotiations, the Commission sought further assurances from the UK that the continued operation of the CTA would not result in any negative implications for other EEA nationals exercising their free movement rights in Ireland. The UK can provide a clear assurance that the CTA can continue to operate in the current form and can do so without compromising in any way Ireland's ability to honour its obligations as an EU Member State, including in relation to free movement for EEA nationals in Ireland. If the EU wishes, the UK would be content for such an assurance to be reflected in the Withdrawal Agreement.
33. Wider questions about the UK's future operation of its whole border and immigration controls for EEA nationals (other than Irish nationals) can only be addressed as part of the future relationship between the UK and the EU, and further highlights the need to move to this next phase of negotiations as quickly as possible. When considering the nature of the CTA as a border-free zone, it is important to note that immigration controls are not, and never have been, solely about the ability to prevent and control entry at the UK's physical border. Along with many other Member States, controlling access to the labour market and social security have long formed an integral part of the UK's immigration system. The nature of this range of control mechanisms means that the UK is confident that it will be able to: maintain existing movement to the UK from within the CTA without requiring border controls, as now; respect Ireland's ongoing EU free movement obligations; and put in place a new UK immigration system and controls for EEA citizens. The UK will be setting out further detail on our wider plans for the future immigration system in the autumn. Given the UK's willingness to provide a clear assurance now that Ireland's immigration and border arrangements will be unaffected by the preservation of the CTA – and our proposal that this guarantee could be set out in the Withdrawal Agreement – the UK believes that it can conclude an agreement on the CTA swiftly in this first phase of negotiations. This issue, and the longstanding rights associated with the CTA, is clearly separate from the ongoing negotiations on EEA national rights in the UK.

Section 3: Avoiding a hard border for the movement of goods

The goods border

34. Delivering our shared objective for a land border that is as seamless and frictionless as possible cannot be achieved solely through preserving the Common Travel Area and maintaining the free flow of people between Northern Ireland and Ireland. It is also important to ensure that there is no return to a hard border as a result of any new controls placed on the movement of goods between the UK and the EU. This will require detailed engagement on customs, agriculture, and other relevant economic matters as negotiations progress. As a first step, the UK proposes agreeing principles and criteria against which to test potential models for the land border.
35. The UK recognises that avoiding a hard border for the movement of goods is only one strand of the future economic relationship relevant to Northern Ireland and Ireland. Services, for example, are of significant importance to the economies of Northern Ireland and Ireland and form part of the wider cross-border economic relationship that is also addressed in Section 4. While these elements of the future economic relationship are not unique to Northern Ireland and Ireland in the same way as the issues relating to the movement of goods, they do highlight the importance of the bold and ambitious Free Trade Agreement that the UK has called for, and the need to press ahead with talks on our deep and special future partnership.
36. The invisible and open border between Northern Ireland and Ireland is, as the Irish Government has said, arguably “the most tangible symbol of the peace process”.²⁴ Customs controls were first introduced at the land border in 1923, shortly after the establishment of the Irish Free State. These controls, and the associated system of ‘approved roads’, were maintained to varying degrees until the the European Single Market was formally established in December 1992. In 1972 there was a chain of 17 HM Customs and Excise boundary posts at the major road crossing points along the Northern Ireland land border, with the other (over 200) crossings not approved for vehicular traffic. During the ‘Troubles’, customs posts were frequently the subject of bombing attacks. Border crossings and checkpoints were manned by a very substantial military and security presence, including a series of ‘watchtowers’ in border areas, and a number of border roads were blocked by the security forces adding to the disruption created by the approved road network. The Belfast (‘Good Friday’) Agreement included a specific commitment to “the removal of security installations”.²⁵ All military security installations and other infrastructure were removed following the Agreement and the border today is invisible and seamless across its 310 mile/500 km length. As the Irish Government has said, “the disappearance of physical border crossings and checkpoints is both a symbol of, and a dividend from, the success of the peace process”.²⁶

²⁴ ‘Ireland and the negotiations on the UK’s withdrawal from the European Union: The Government’s Approach’, May 2017.

²⁵ The Belfast (‘Good Friday’) Agreement 10 April 1998.

²⁶ ‘Ireland and the negotiations on the UK’s withdrawal from the European Union: The Government’s Approach’, May 2017.

37. There has long been recognition of the link between political stability in Northern Ireland and economic prosperity. Northern Ireland's economy suffered considerably as a result of the Troubles, and deprivation within communities reduced support for the democratic process. The Belfast ('Good Friday') Agreement therefore recognised the importance of laying the foundations for "sustained economic growth and stability in Northern Ireland" in order to break the cycle of declining economic conditions and reduced support for the political process.²⁷
38. Internal trade between Northern Ireland and Great Britain is of critical importance to Northern Ireland's economy. In 2015, external sales of goods from Northern Ireland to Great Britain stood at £10.7 billion (22 per cent of all NI's sales in goods by value).²⁸ Trade between Northern Ireland and Ireland is also very important. Over the same period, Ireland was Northern Ireland's biggest external trading partner, exporting £2.7 billion of goods to Ireland (6 per cent of all NI's sales in goods by value and 36 per cent of NI's total goods exports).²⁹ Similarly, Ireland-Great Britain trade is significant. In 2016, Great Britain exported goods worth £13.6bn to Ireland and imported £9.1bn.³⁰ When considering cross-border trade, it is particularly important to note the integrated nature of the agri-food sector. Food, beverages and tobacco account for 49 per cent of cross-border manufacturing trade,³¹ with, for example, more than 10,000 pigs exported from Ireland to Northern Ireland every week³² and a quarter of all milk produced on Northern Ireland's farms exported for processing in Ireland.³³
39. Citizens rely on being able to cross the border freely with goods for their own personal use. Current rules mean they do not have to make declarations or pay duties on these goods at the border. The UK will seek to ensure that individuals travelling to the UK from the EU, and vice versa, can continue to travel with goods for personal use as freely and as smoothly as they do now.
40. The deeply integrated nature of trade, both domestically between Northern Ireland and Great Britain, and across the land border between Northern Ireland and Ireland, highlights why the UK is prioritising finding a solution that protects businesses' ability to access these important markets. The UK will publish statistics on trade between Northern Ireland, Great Britain and Ireland alongside this policy paper.

²⁷ The Belfast ('Good Friday') Agreement 10 April 1998.

²⁸ Northern Ireland Broad Economy Sales and Exports Statistics (BESES), 2017.

²⁹ Northern Ireland Broad Economy Sales and Exports Statistics (BESES), 2017. Further information on trade flows to and from Northern Ireland can be found in the additional data paper on Northern Ireland trade.

³⁰ HM Revenue and Customs, Regional Trade Statistics (2016).

³¹ 'Sectoral Cross Border Trade', InterTradeIreland, 2015.

³² 'Brexit Briefing Document', Bord Bia, June 2016.

³³ 'Annual Report and Accounts', National Milk Agency, 2015.

Proposal for the dialogue

41. The UK welcomes the clear commitment from the European Council and Commission to work on “flexible and imaginative” solutions to avoid a hard border. It is important to note that following our exit from the European Union the UK Government will have flexibility to determine its own border arrangements for the purposes of goods movements, while remaining consistent with its international obligations. The UK Government’s clear priority in devising new border arrangements is to respect the strong desire from all parties and all parts of the community in Northern Ireland and Ireland to avoid any return to a hard border, and to maintain as seamless and frictionless a border as possible.
42. However, the Government recognises that unilateral flexibility is insufficient to deliver UK objectives on the border. The UK must reach an agreement with the EU in order to ensure that the Irish side of the land border, which is subject to relevant EU regulations, is also as seamless and frictionless as possible. The nature of the border clearly means that we must aim for an agreed, reciprocal solution. As Michel Barnier, the EU’s chief negotiator, has said – the solution for the border between Northern Ireland and Ireland cannot “be based on a precedent”. While agreeing that the solution for Northern Ireland cannot be based on any previous precedent, the UK also notes that there are a number of examples of where the EU has set aside the normal regulations and codes set out in EU law in order to recognise the circumstances of certain border areas.³⁴ Devising a way forward on the Irish side of the land border will also require a flexible and imaginative approach that goes beyond current EU frameworks to achieve this.
43. Delivering our shared objective will require detailed joint work and can only properly be finalised in the context of the new, deep and special partnership that the UK wishes to build with the EU. However, as the European Council’s negotiating guidelines and the letter from the President of the European Council to the Prime Minister acknowledge, it is clearly important to make progress now on how best to address our shared objectives on the border. To this end, the UK sets out in this paper a number of high-level principles and criteria that the UK proposes the UK and the EU should discuss in forthcoming rounds. Establishing clear principles now will help shape potential technical solutions and, as the Irish Government has said, recognises that this issue requires “a political and not just a technical solution, as well as recognition that the land border on the island represents a unique and unprecedented set of circumstances”.³⁵ The UK believes that agreeing principles and criteria first is the right approach to these discussions. The UK and the EU can then test proposals for specific models against these core principles in the context of the deep and special partnership.

³⁴ For example, in the context of Cyprus, European Council regulation 866/2004 came into force in May 2004 to facilitate trade with areas which are temporarily outside the customs and fiscal territory of the Union. There are other recent examples of derogations from the UCC in relation to, for example, the Croatia-Bosnia border, as well as derogations from the Schengen Border Code in an immigration context in recognition of the unique circumstances of certain border areas. The Irish Seanad Special Select Committee on the Withdrawal of the United Kingdom from the European Union noted historical examples of unique circumstances recognised by the EU. There are also smaller micro-states with a variety of different, and often unique, customs arrangements with the European Union which reflect their historical, geographic and social context.

³⁵ ‘Ireland and the negotiations on the UK’s withdrawal from the European Union: The Government’s Approach’, May 2017.

44. **The UK proposes that our dialogue should, at the earliest opportunity, focus in particular on the issues most critical to delivering as frictionless and seamless a border as possible: customs arrangements; and checks and processes on particular goods, such as Sanitary and Phytosanitary measures for agri-food.** The dialogue should also consider and agree the scope of other potential barriers that need to be addressed to meet our shared objectives for the border.³⁶ The UK recognises that different potential barriers in relation to the border may necessitate different solutions and that the UK and the EU should consider this in a flexible way rather than one that assumes a uniform approach.
45. The UK therefore proposes that potential models for the land border are developed on the basis of the following nine key principles and criteria.
- Recognise the crucial importance of avoiding a return to a hard border for the peace process in Northern Ireland. This must mean aiming to avoid any physical border infrastructure in either the United Kingdom or Ireland, for any purpose (including customs or agri-food checks).
 - Respect the provisions of the Belfast ('Good Friday') Agreement in all its parts, with particular reference to: the three-stranded constitutional framework set out in the Agreement; the need to respect and treat equally the identity, ethos and aspirations of both communities; and the importance of promoting sustained economic growth in Northern Ireland.
 - Recognise the unique nature of the land border, in particular: its history and geography; the cross-border movements of smaller traders, farmers and individuals; the need to protect everyday movement of goods; and the integrated nature of the agri-food industry.
 - Prevent the creation of new barriers to doing business within the UK, including between Northern Ireland and Great Britain.
 - Address other regulatory and customs-related barriers necessary to deliver as frictionless a land border as possible including waivers from security and safety declarations, and ensuring there is no requirement for product standards checks or intellectual property rights checks at the border.
 - Address the transit of goods to and from Ireland to the rest of the European Union via the United Kingdom – in line with the European Commission's directives – through UK membership of the Common Transit Convention.
 - Consider how best to protect the integrity of both the EU Customs Union, Single Market and trade policy, and the new independent UK customs regime, internal market and trade policy, in the context of finding flexible and imaginative solutions, while recognising that the solution will need to go beyond any previous precedents.

³⁶ The UK has identified a wide range of border-related issues to discuss with the EU, including: product standards; checks on intellectual property rights; and mutual recognition of driving licenses, vehicle registration and insurance cover.

- Take account of the importance of trade between Ireland and the UK and aim to avoid economic harm to Ireland as an EU Member State.
- Agree at an early stage a time-limited interim period, linked to the speed at which the implementation of new arrangements could take place, that allows for a smooth and orderly transition.

Specific options in relation to the customs border

46. The principles set out above are designed to cover any potential border frictions between Northern Ireland and Ireland, not just new customs processes. The UK recognises, however, that the specific issues relating to customs and checks on particular goods such as Sanitary and Phytosanitary (SPS) measures will need to be prioritised and considered in depth at an early stage of our negotiations on the border. On 15 August, the UK Government set out two broad approaches to a future customs relationship with the EU in *Future customs arrangements: a future partnership paper*.

- A highly streamlined customs arrangement between the UK and the EU, streamlining and simplifying requirements, leaving as few additional requirements on UK-EU trade as possible. This would aim to: continue some of the existing agreements between the UK and the EU, put in place new negotiated facilitations to reduce and remove barriers to trade, and implement technology-based solutions to make it easier to comply with customs procedures.
- A new customs partnership with the EU, aligning our approach to the customs border in a way that removes the need for a UK-EU customs border. One potential approach would involve the UK mirroring the EU's requirements for imports from the rest of the world where their final destination is the EU. This is of course unprecedented as an approach and could be challenging to implement so we will look to explore the principles of this with business and the EU.

47. Some of the specific facilitations set out in *Future customs arrangements: a future partnership paper*, and reflected in the principles above, would be essential to enable a Northern Ireland border under the model of a highly streamlined customs arrangement that is as seamless as possible. In particular, the following measures would be particularly important in relation to Northern Ireland and Ireland.

- Negotiating a continued waiver from the requirement to submit entry and exit summary declarations for goods being moved between the UK and the EU, removing a time-sensitive administrative requirement. Pre-notification of travel by businesses on either side of the land border, through entry and exit summary declarations, would clearly not be consistent with the objectives shared by the UK and the EU.
- Membership of the Common Transit Convention (CTC) simplifies border crossing for goods in transit, meaning that goods do not need to complete import and export declarations each time they cross a new border. This would be particularly important in relation to the use of Great Britain as a land bridge to the EU by businesses in Ireland. It is also important to note that businesses in Northern Ireland frequently transit through Ireland when exporting to, and importing from, Great Britain.

48. Under this arrangement, the UK believes it would still need to go further to agree specific facilitations that recognise the unique circumstances of the Northern Ireland-Ireland border. As the principles above outline, these facilitations will need to go beyond existing precedents and should be developed in a flexible and imaginative way. One potential approach that the UK intends to explore further with the EU is a cross-border trade exemption that would recognise the unique economic, social and cultural context of the land border and the fact that many of the movements of goods across it by smaller traders cannot be properly categorised and treated as economically significant international trade. Such an exemption would ensure that smaller traders could continue to operate as they do now, with no new requirements in relation to customs processes. It is important to note that in 2015, over 80 per cent of North to South trade was carried out by micro, small and medium sized businesses.³⁷ They are, in effect, examples of local trade in local markets.
49. For those businesses not eligible for this exemption, the UK would explore with the EU how to ensure that administrative processes could be significantly streamlined. In our paper on future customs arrangements, the UK sets out the UK-EU wide option of negotiating mutual recognition of Authorised Economic Operators (AEOs), enabling faster clearance of AEO goods at the border. In relation to Northern Ireland and Ireland, the UK would want to explore even further streamlined processes for businesses, including for 'trusted traders' on either side of the border who did not qualify for the cross-border trade exemption. This could, for example, allow for simplified customs procedures, such as reduced declaration requirements and periodic payment of duty. The UK would test any new approach against our proposed principles above, including the essential aim of no physical infrastructure at the border.
50. The option of a new customs partnership arrangement with the EU, outlined in our customs paper, would remove the need for the UK and the EU to introduce customs processes between them, so that goods moving between the UK and the EU would be treated as they are now for customs purposes. This would enable the border between Northern Ireland and Ireland to continue to be seamless in relation to customs, and operate largely in the same way it does today. There would need to be a robust enforcement mechanism that ensured goods which had not complied with the EU's trade policy stayed in the UK. This could involve, for instance, a tracking mechanism, where imports to the UK were tracked until they reached an end user, or a repayment mechanism, where imports to the UK paid whichever was the higher of the UK's or the EU's tariff rates and traders claimed a refund for the difference between the two rates when the goods were sold to an end user in the country charging lower tariffs. As with other businesses in the UK, traders in Northern Ireland would need to be able to track goods or pass the ability to claim a repayment along their supply chain in order to benefit from tariff differences between the UK and the EU for rest of the world goods. It is important to note that this partnership would need to cover all goods, not just certain sectors or types of goods, in order to deliver a seamless border in Northern Ireland from a customs perspective.³⁸

³⁷ Northern Ireland Broad Economy Sales and Exports Statistics (BESES), 2017. We have defined micro, small and medium sized businesses as those with less than 250 employees.

³⁸ Although this proposed partnership model is a different arrangement to the customs relationship that Turkey has with the EU, this example does show the importance from a Northern Ireland/Ireland perspective of ensuring that all goods are covered in our future arrangements. Turkey's Customs Union with the EU only covers certain goods, with agricultural goods, for example, excluded. All goods moving between the EU and Turkey require declarations and need to pass through Border Inspection Posts at the Turkey-EU border.

51. We acknowledge this is an innovative and untested approach that would take time to develop and implement. The Government is keen to explore this approach with businesses and other stakeholders to understand the practical complexities involved in making it work and assess which other approaches could have a similar effect, how they would work in practice and whether they could achieve the Government's objectives.
52. Some commentators have proposed that the UK should impose a customs border between Northern Ireland and Great Britain following our exit from the EU. The UK has been clear that avoiding a return to a hard border between Northern Ireland and Ireland is one of our top priorities. But the answer as to how to achieve this cannot be to impose a customs border between Northern Ireland and Great Britain, and we believe our position on this is widely shared.
53. Throughout this paper, the UK has stressed the importance of respecting the Belfast ('Good Friday') Agreement in all its parts. This includes: the commitments to promote sustained economic growth in Northern Ireland; the consent principle that Northern Ireland's constitutional future is for the people of Northern Ireland alone to determine; and a guarantee of respect for the identity, ethos and aspirations of both the nationalist and unionist side of the community in Northern Ireland. Imposing new customs barriers within the UK would clearly have wider constitutional implications and could not be accepted by the UK Government. Such an approach would also have significant implications for the Northern Ireland economy. It is important to note that a significant proportion of Northern Ireland's sales go to Great Britain. In 2015, external sales of goods from Northern Ireland to Great Britain stood at £10.7 billion (22 per cent of all NI's sales in goods by value).³⁹
54. The customs paper sets out the importance of an interim period, linked to the implementation of the arrangements, to allow a smooth and orderly transition. This will enable the UK and the EU to avoid any cliff-edge as we move from our current relationship to our future partnership. The Government believes a model of close association with the EU Customs Union for a time-limited interim period could achieve this. It is important to note that this proposal is highly relevant to the border between Northern Ireland and Ireland. In order to deliver our shared objective of avoiding a return to a hard border, it will be important to agree at an early stage an interim period which could be delivered through a continued close association with the EU Customs Union for a time-limited period after the UK has left the EU. The principles outlined above reflect the importance of agreeing this interim period as part of our dialogue on Northern Ireland and Ireland.

³⁹ Northern Ireland Broad Economy Sales and Exports Statistics (BESES), 2017.

Potential approaches on Sanitary and Phytosanitary measures

55. As noted above, the UK also believes that the UK and the EU should prioritise in particular addressing how to avoid a hard border in relation to checks on particular types of goods, such as Sanitary and Phytosanitary (SPS) measures for agri-food. EU law stipulates a range of controls and checks for third country agri-food products in situations where the EU does not have a sufficiently deep trade relationship with the relevant country.⁴⁰ While the UK would have greater flexibility in relation to designing our own approach to SPS checks, the Irish side of the land border would continue to be subject to relevant EU regulations. An agreed, reciprocal solution is therefore required. The extent and complexity of third country SPS and related checks would clearly not be appropriate or consistent with the UK and the EU's shared objectives to avoid a hard border for the movement of goods, and to respect the Belfast ('Good Friday') Agreement in all its parts, including in regard to facilitating ongoing North-South cooperation on agriculture. It is important to note that North-South cooperation on agriculture has enabled the island of Ireland to be treated in policy and operational terms as a single epidemiological unit for the purposes of animal health and welfare. This highlights the importance of reaching a negotiated outcome consistent with the UK's Article 50 letter and the European Council's negotiating guidelines on the Northern Ireland-Ireland border.
56. The UK will approach reaching agreement on this issue with the same flexible and imaginative approach it will adopt across all aspects of the Northern Ireland-Ireland border negotiations. While the UK agrees that the solution here cannot, as Michel Barnier has said, be "based on a precedent", it is important to note that the EU has reached deep agreements with near neighbours allowing for the free flow of agri-food products across borders.⁴¹ It is also important to highlight that the UK is in a unique position; the Repeal Bill means that the UK is starting from a point of full regulatory alignment on day one after the leaving the EU.
57. One option for achieving our objectives could be regulatory equivalence on agri-food measures, where the UK and the EU agree to achieve the same outcome and high standards, with scope for flexibility in relation to the method for achieving this. An agreement on regulatory equivalence for agri-food, including regulatory cooperation and dispute resolution mechanisms, would allow the UK and the EU to manage the process of ensuring ongoing equivalence in regulatory outcomes following the UK's withdrawal from the EU. Providing the UK and the EU could reach a sufficiently deep agreement, this approach could ensure that there would be no requirement for any SPS or related checks for agri-food products at the border between Northern Ireland and Ireland.

⁴⁰ Border checks for third country imports to the EU currently include physical/veterinary, documentary, and identification checks in order to prevent the spread of disease, protect biosecurity, ensure food safety and hygiene standards, and animal welfare standards. For example, according to Directive 91/496/EEC (veterinary checks on animals) 100 per cent of live animals have physical, documentary, and identification checks. Directive 97/78/EC (veterinary checks) are carried out by official veterinary surgeons at Border Inspection Posts on products of animal origin and animal by-products not for human consumption. For these, 100 per cent of third country imports have documentary and identity checks, and 1 per cent – 50 per cent have physical checks.

⁴¹ For example, Switzerland has a common veterinary area with no border controls at the EU-Swiss border, as well as a regulatory equivalence agreement for some non-trade aspects of animal health regulation.

Section 4: Aiming to preserve North-South and East-West cooperation, including for Energy

North-South and East-West Cooperation

58. As already outlined in this paper, the Belfast ('Good Friday') Agreement provides the unique constitutional framework for the North-South and East-West cooperation that is so significant from an economic, political and social perspective to Northern Ireland. It is therefore important that the negotiations achieve our shared objective of upholding the Agreement itself, and also that, crucially, the UK and the EU do not do anything to obstruct the wide range of cooperation between Northern Ireland, Ireland and Great Britain in the future partnership. This section considers North-South and East-West cooperation consistent with the Belfast ('Good Friday') Agreement following the UK's withdrawal from the EU.
59. Strand 2 of the Belfast ('Good Friday') Agreement deals with the importance of North-South cooperation between Northern Ireland and Ireland. It put in place formal structures that provide the framework for Northern Ireland and Ireland cooperation on matters of mutual interest, including through bodies established in international treaties between the UK Government and Irish Government. Pursuant to the requirements of the Belfast ('Good Friday') Agreement and its establishing treaty, the North South Ministerial Council (NSMC) agreed six areas of cooperation in each separate jurisdiction: agriculture, education, environment, health, tourism and transport. The NSMC is also responsible for the six implementation bodies that deal with the management of inland waterways; the management of sea loughs and lighthouses; language; trade; food safety; and the distribution of funds from the various EU programmes (including PEACE, detailed in Section 1).
60. Since the Belfast ('Good Friday') Agreement was reached, other fora of collaboration have developed in line with the principles of North-South cooperation laid down in the Agreement but in parallel to, rather than under the auspices of, the NSMC. These include: the regular dialogue between justice ministers; joint hosting of sporting events; the creation of the Single Electricity Market; and policing exchanges, as recommended by the Agreement and the subsequent report of the Independent Commission on Policing in Northern Ireland.⁴²
61. Strand 3 of the Agreement deals with East-West cooperation, recognising the importance of the strong relationship between the UK Government and Irish Government, and between their various jurisdictions. This is in addition to the internal UK links between Northern Ireland and Great Britain that are part of Northern Ireland's status as an integral part of the United Kingdom.

⁴² Underpinned by a treaty between the UK and Ireland: Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland on Police Cooperation, done at Belfast on 29th April 2002.

62. The Agreement committed to setting up two formal structures for cooperation on the East-West axis: the British-Irish Council and the British-Irish Intergovernmental Conference, which were established by treaty between the UK and Ireland.⁴³ The British-Irish Council brings together the UK Government and Irish Government, the Northern Ireland Executive, the devolved administrations in Scotland and Wales, and the governments of the Isle of Man, Jersey and Guernsey to exchange ideas and collaborate on matters of mutual interest. The British-Irish Intergovernmental Conference provides a forum for the UK Government, Irish Government and members of the Northern Ireland Executive to discuss non-devolved matters relating to Northern Ireland.
63. In addition to these structures, the UK Government and Irish Government have continued to strengthen their bilateral relationship, consistent with the Strand 3 emphasis on East-West cooperation. The relationship between the two countries has never been better or more settled than today, thanks to the strong political commitment from both Governments to deepen and broaden our modern partnership. Two recent state visits, by Her Majesty The Queen in May 2011 and by President Higgins in April 2014, have helped cement this partnership.

Proposal for the dialogue

64. **The UK proposes that the UK and the EU should focus in the initial phases of the dialogue on reaching a common understanding of the principles of North-South and East-West cooperation.** The cooperation outlined here will need to be recognised and considered in the negotiations covering the future relationship between the UK and the EU. Key aspects of North-South and East-West cooperation should be covered in the discussions on the Common Travel Area and associated rights, and the goods border. The UK proposals on these areas are set out earlier in the paper.
65. The UK recognises, however, that the full range of cross-border cooperation goes wider than this, and it will be important to consider the full breadth of issues. Ensuring that the full spectrum of North-South and East-West co-operation can continue will require the type of bold and ambitious Free Trade Agreement that the UK has committed to, and will need a sustained focus on the interests of Northern Ireland and Ireland throughout the negotiations. An issue which the UK believes requires specific, early, consideration in our dialogue – alongside the movement of people and goods – concerns the energy market in Northern Ireland and Ireland.

⁴³ Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing a British Irish Council, done at Dublin on 8th March 1999; and Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing a British Irish Intergovernmental Conference, done at Dublin on 8th March 1999.

Energy

66. The development of the Single Electricity Market (SEM) is a practical example of North-South cooperation that has benefited the people of Northern Ireland and its economy. Given its strategic importance to domestic and business consumers in Northern Ireland and Ireland, and the need to provide early reassurance and certainty to investors, the UK proposes that the UK and the EU should prioritise discussion of energy issues alongside the movement of people and goods.
67. Under the SEM, all electricity generators compete in a unified wholesale market across the island of Ireland. Before the SEM was established in 2007, Northern Ireland and Ireland had separate electricity markets. Bringing these markets together as a Single Electricity Market has helped to reduce consumer electricity prices, facilitated the integration of renewables, and bolstered security of supply. The SEM is in the process of being reformed to ensure full alignment with EU trading arrangements. The reformed SEM will be launched in May 2018 and will facilitate more efficient trading, further improve security of supply, support greater renewable generation, increase competition and provide a positive climate for further investment. The SEM is connected to the electricity market in Great Britain through two interconnectors.⁴⁴ It currently has no interconnectors to other markets. The Irish Government and the previous Northern Ireland Executive have remained committed to the construction of a North-South interconnector to improve transmission across the SEM.
68. The continued ability to trade gas between Great Britain and the island of Ireland is also critical for security of supply and efficient market operation. Electricity generation in Northern Ireland and Ireland is heavily reliant on supplies of natural gas, and imports from Great Britain account for nearly 100 per cent of Northern Ireland's gas supplies and 40 per cent of supplies for Ireland.⁴⁵ If Ireland does not find more economically recoverable gas elsewhere, or build infrastructure for different trading arrangements, the level of dependence on gas from Great Britain is expected to rise. Again, there is no gas interconnection with other markets beyond Great Britain.
69. There is cross-party support in Northern Ireland and Ireland to maintain the SEM and work is already under way to develop it further to ensure it is fully integrated in the EU cross-border trading arrangements. As the former First Minister and deputy First Minister set out in their August 2016 letter to the Prime Minister, "energy is a key priority, given that there are inherent cost and supply issues in a small, isolated market so we will need to ensure that nothing in the negotiation process undermines this vital aspect of the economy".⁴⁶ The Irish Government has stated that the SEM "enables Ireland and Northern Ireland to maximise market efficiencies and ensure security of electricity at an affordable cost for consumers".⁴⁷

⁴⁴ The Moyle interconnector between south-west Scotland and Northern Ireland (500MW, completed 2002) and the East-West interconnector between north-east Wales and Ireland (500MW, completed 2012).

⁴⁵ Natural gas supplies 1875 MW out of Northern Ireland's 3301 MW total generation capacity.

⁴⁶ Letter to the Prime Minister from the First Minister and deputy First Minister, 10 August 2016.

⁴⁷ 'Ireland and the negotiations on the UK's withdrawal from the European Union: The Government's Approach', May 2017.

Proposal for the dialogue

70. The UK believes that there should be a strong shared desire between the UK Government, Irish Government and the rest of the EU to support the stability of energy supply on the island of Ireland. The efficient transit of gas across the border to and from Ireland, and maintaining affordable, sustainable and secure electricity supplies across the island of Ireland are central to achieving this. The nature of the wholesale SEM operating in Ireland and Northern Ireland, which represents the first market of its kind in the world, underlines the unique circumstances on the island of Ireland.
71. **The UK proposes that the new framework relevant to the energy market in Northern Ireland and Ireland should:**
- recognise the importance placed on cross-border cooperation in the Belfast ('Good Friday') Agreement, which provides for cooperation between Northern Ireland and Ireland (Strand 2), and the UK and Ireland (Strand 3);
 - take account of the strategic importance to Northern Ireland and Ireland of maintaining affordable, secure, and sustainable supplies of electricity and gas for businesses and domestic consumers;
 - facilitate the continuation of a single electricity market covering Northern Ireland and Ireland;
 - facilitate the continuation of efficient electricity and gas interconnection between the island of Ireland and Great Britain;
 - seek to provide certainty as soon as possible for citizens, investors, and businesses in Northern Ireland and Ireland on energy arrangements; and
 - include an appropriate interim period to ensure that any changes to current arrangements can be implemented in a timely way.
72. In line with the importance that the UK places on continuing North-South cooperation, the principles proposed above specifically highlight the need to continue the operation of a single electricity market. This is by far the best option for the electricity market in Northern Ireland (in the medium term at least) given the size and isolation of the market. The development of any new electricity trading arrangements and the construction of new power generating capacity that would be required would be inefficient and expensive, and only deliverable in the medium to long-term.

73. The structures of the SEM include arrangements for generators to contract with a Single Electricity Market Operator (SEMO), which is overseen by the Single Electricity Market Committee, and the UK believes this should continue following UK exit from the EU. Negotiations with the EU will need to cover how best to avoid market distortions within a single electricity market following UK exit, and ensure that future legal and operational frameworks do not undermine the effective operation of an integrated market. Agreeing the principles set out above will be without prejudice to the wider UK-EU energy relationship, though the UK and EU will clearly need to consider the linkages with supporting efficient trading over the inter-connectors between the Single Electricity Market and Great Britain. The nature of this issue and its link to the wider UK-EU relationship provide another example of the importance of moving swiftly to negotiations on our future relationship.

Next steps on the Northern Ireland and Ireland dialogue

74. The UK proposes that it should work intensively with the EU over the coming months to address the issues set out in this paper. Our view is that the UK and the EU start this process with complete alignment on our high level objectives and our strong support for the peace process in Northern Ireland.
75. The themes set out in this paper will require focused engagement throughout the course of the UK's exit negotiations and not simply in the initial phases of discussions. Given the strong links to the future relationship it would not make sense to seek to use October as a cut-off point for work on the unique issues relating to Northern Ireland and Ireland. Nonetheless, the UK supports making as much progress as we can on these issues in the coming months and believes that the UK and EU could aim by October to have:
- agreed that the Common Travel Area and associated rights should be preserved and acknowledged in the Withdrawal Agreement;
 - reached agreement on the scope of the issues arising from the Belfast ('Good Friday') Agreement, and specifically agreed to affirm our continued support for the Agreement, upholding the identity and citizenship rights of the people of Northern Ireland, and considered the key principles for the continuation of the PEACE IV programme and a potential future PEACE programme;
 - considered, and if possible, agreed to the principle of a time-limited interim period linked to the speed at which the implementation of new arrangements could take place, including considerations relating to the unique circumstances of Northern Ireland and Ireland, as set out in *Future Customs Arrangements: a future partnership paper*.
 - considered the key principles and criteria for avoiding a hard border for the movement of goods; and
 - discussed the preservation of the North-South and East-West cooperation envisaged in the Belfast ('Good Friday') Agreement, and if possible agreed specifically on key principles for the energy market in Northern Ireland and Ireland.

- In parallel with our discussions with the EU, the UK Government will continue to work closely with the Irish Government and the political parties in Northern Ireland to reach agreement to form an Executive and re-establish a power-sharing government in Northern Ireland. Devolved government is what the people of Northern Ireland have voted for and would strengthen Northern Ireland's voice in the negotiations. Once there is a new Northern Ireland Executive in place, the UK Government will be providing regular briefings to the Executive. These will report progress on the specific issues covered in the Northern Ireland/Ireland dialogue. This could take place monthly in the context of the formal negotiating round structure agreed by the UK and the EU, and would be in addition to the routine engagement on broader EU exit and other issues.

Annex 1: Extracts from the UK Prime Minister’s Article 50 letter; European Council (Art. 50) Negotiating guidelines; European Commission’s Negotiating Directives and the Irish priorities paper.

Prime Minister’s Article 50 Letter

“In particular, we must pay attention to the UK’s unique relationship with the Republic of Ireland and the importance of the peace process in Northern Ireland. The Republic of Ireland is the only EU Member State with a land border with the United Kingdom. We want to avoid a return to a hard border between our two countries, to be able to maintain the Common Travel Area between us, and to make sure that the UK’s withdrawal from the EU does not harm the Republic of Ireland. We also have an important responsibility to make sure that nothing is done to jeopardise the peace process in Northern Ireland, and to continue to uphold the Belfast Agreement”.

European Council Negotiating Guidelines

“The Union has consistently supported the goal of peace and reconciliation enshrined in the Good Friday Agreement in all its parts, and continuing to support and protect the achievements, benefits and commitments of the Peace Process will remain of paramount importance. In view of the unique circumstances on the island of Ireland, flexible and imaginative solutions will be required, including with the aim of avoiding a hard border, while respecting the integrity of the Union legal order. In this context, the Union should also recognise existing bilateral agreements and arrangements between the United Kingdom and Ireland which are compatible with EU law”.

European Commission Negotiating Directives

“In line with the European Council guidelines, the Union is committed to continuing to support peace, stability and reconciliation on the island of Ireland. Nothing in the Agreement should undermine the objectives and commitments set out in the Good Friday Agreement and its related implementing agreements; the unique circumstances and challenges on the island of Ireland will require flexible and imaginative solutions. Negotiations should in particular aim to avoid the creation of a hard border on the island of Ireland, while respecting the integrity of the Union legal order. Full account should be taken of the fact that Irish citizens residing in Northern Ireland will continue to enjoy rights as EU citizens. Existing bilateral agreements and arrangements between Ireland and the United Kingdom, such as the Common Travel Area, which are in conformity with EU law, should be recognised. The Agreement should also address issues arising from Ireland’s unique geographic situation, including transit of goods (to and from Ireland via the United Kingdom). These issues will be addressed in line with the approach established by the European Council guidelines”.

Irish Government's priorities paper

Article 50: Issues Unique to Ireland

“The UK’s decision to leave the EU has raised a number of specific and very significant issues which are unique to Ireland, in particular in relation to Northern Ireland, the border and the Common Travel Area (CTA). These issues have been identified as matters to be addressed as part of the Article 50 process and in the withdrawal agreement between the EU and the UK. The outcome of the UK referendum poses particular challenges in Northern Ireland. The Government will ensure that the Good Friday Agreement is fully respected and protected in the withdrawal process and that the gains of the peace process are preserved. The statement approved by the European Council on 29 April includes an explicit acknowledgement of the possibility of a change in the constitutional status of Northern Ireland, as provided for in the Good Friday Agreement and in accordance with the principle of consent, and that the EU Treaties will apply to the unified Ireland.

The Government has made clear its priority that there be no visible, ‘hard’ border on the island of Ireland. This will require a political and not just a technical solution, as well as recognition that the land border on the island represents a unique and unprecedented set of circumstances. The Government will also ensure the protection of the rights of those in Northern Ireland who choose to exercise their right to hold Irish, and thus EU, citizenship, and will advocate for continued EU engagement in Northern Ireland.

Both the Irish and British Governments have indicated their intention to maintain the Common Travel Area (CTA) after the UK withdraws from the EU. The CTA predates Ireland and the UK joining the EU and is not dependent on EU membership. The CTA is particularly important in the context of the Northern Ireland Peace Process and relations on the island of Ireland. It facilitates the vast numbers of people who commute across the border and to and from Great Britain for work, business, trade, education, health, family or other reasons. For this reason, the recognition of ‘existing bilateral arrangements’ in the EU Negotiation Guidelines is important, given that it speaks to the fundamental importance of the Common Travel Area in underpinning relationships across these islands”.

