

**JOINT COMMITTEE ON IMPLEMENTATION OF THE GOOD FRIDAY
AGREEMENT**

Committee Room 4, Leinster House, Dublin 2.

Thursday July 4th, 2019

OPENING STATEMENT BY OONAGH DUGGAN, *the Environmental Pillar*

Thank you for the opportunity of presenting on the critical issue of Brexit and the environment on the island of Ireland to you this afternoon.

I am representing the Irish Environmental Pillar. The Pillar is comprised of 26 independent environmental non-governmental organisations (NGOs), working together to represent the views of the Irish environmental sector. The work of our members covers a broad range of areas including habitat conservation, wildlife protection, environmental education, sustainability, waste and energy issues, as well as environmental campaigning and lobbying.

Given the island of Ireland is a single biogeographic unit, we collaborate closely with our colleagues in Northern Ireland. This is especially true when it comes to the issue of Brexit. The report which Alison presented on, was jointly commissioned with the Northern Ireland Environment Link Northern Ireland Environment Link (NIEL). NIEL is the networking and forum body for organisations interested in the natural and built environment of Northern Ireland. NIEL was formally launched in 1990 to complete the UK network: Scottish Environment Link, Wales Environment Link and Wildlife and Countryside Link.

The close collaboration between the Environmental Pillar and NIEL is evidence of the extraordinary transformation we have seen since the Troubles ended. Peace is not to be taken for granted, and is reinforced on a daily basis by the contacts and interactions that occur across communities. These interactions are

so often framed in, and by our shared and common environment. Brexit cannot be allowed to threaten this.

Cross-border cooperation on the island of Ireland is embedded in the legislative framework of EU membership, the *Acquis Communautaire*. This framework has been the driver of environmental improvements on the island of Ireland, facilitating cross-border cooperation between both governmental and non-governmental organisations on a broad range of environmental issues.

The issue of maintaining an open Irish border has dominated Brexit discussions, and there is every indication that it will continue to play a central role when discussions move on to the next phase after October 31st. An open border with aligned policies on either side is key to facilitating continued cooperation. Similarly, a no-deal Brexit poses a severe risk to the environment on the island of Ireland.

Businesses in Northern Ireland could be placed at a competitive disadvantage if faced with cheaper imports from outside the EU and seek greater ‘flexibility’ in the implementation of the environmental rules protecting shared species, habitats, and water bodies – with damaging implications for the whole island. Any dilution of standards in Northern Ireland could see corresponding pressure for dilution south of the border.

At present, the European Commission and the European Court of Justice provide oversight and enforcement of the EU environmental rules. A no-deal Brexit would mean the UK would no longer be subject to any of these mechanisms, with insufficient time to put new arrangements in place to replicate their function. This would be even worse on the island of Ireland as there is no environment agency in Northern Ireland and no functioning Northern Ireland executive to put one in place. This lack of a controlling body could mean looser implementation of environmental rules and an inability to prevent runaway cross-border pollution.

There are several shared protected nature sites (Natura 2000 sites), on the island of Ireland. These sites are protected by the Birds and Habitats Directives and supported by a range of other Directives including the Water Framework Directive, and directives focused on environmental assessment, tackling wildlife crime and assessing environmental liability. With a no-deal these sites could be severely undermined without a clear way to continue the protection and monitoring.

These are only some of the environmental risks posed by a no-deal Brexit. There are more which can be foreseen, but also many that are hard to predict. While the Belfast/Good Friday Agreement includes the environment as an area of co-operation with defined mechanism for doing this, it remains untested. In the short-term, the risks are best addressed by avoiding a no-deal Brexit and ensuring that the commitments to the environment included in the Withdrawal Agreement, like the level playing field, are not jeopardised.

In the long-term the best scenario for the environment on the island of Ireland would be dynamic regulatory alignment of environmental standards; meaning that EU and UK standards evolve in tune with each other either, upwards or downwards. Any future relationship must include this and should describe robust mechanisms for effective oversight and enforcement.

Dynamic regulatory alignment of environmental standards between Northern Ireland and Ireland post-Brexit would:

1. support continued environmental cooperation and policy coherence on the island of Ireland; and
2. ensure a level playing field, reducing the risks of environmental dumping across an open, frictionless border.

1. Alignment to support continued cooperation and policy coherence

The challenges associated with fostering close North-South cooperation following decades of conflict should not be underestimated. As Alison has described, the Good Friday/Belfast Agreement has created “*a framework for mutual co-operation and interdependence*” of which environmental cooperation is an important element. The Agreement has facilitated North-South cooperation on environmental issues, and as we have heard, there is more that could be done to utilise the structures created by it.

North-South cooperation is heavily reliant on a common EU regulatory framework, the *Acquis*. The common framework makes it easier for both sides to work together, to align. The recently made public *mapping exercise* conducted by the UK and EU negotiators identified over 100 areas of cooperation that could be affected by a divergence in standards – including water quality, flood risk management, air quality, and nature/biodiversity protection. The *exercise* concluded that North-South cooperation relies “to a significant extent, on the common European Union legal and policy framework” and identified regulatory divergence between Northern Ireland and Ireland as “the biggest single risk to its continuation and future development”.

Maintaining this cooperation post-Brexit – which is largely dependent on a combination of political will and “the driving force of EU legislation” – will undoubtedly be challenging. In her report, Alison concludes that a high degree of regulatory alignment would be “the ideal context” for maintaining North-South cooperation on environmental issues post-Brexit.

To reiterate: Close North-South cooperation is essential to securing environmental benefits on the island of Ireland, through regulatory coherence and managing any transboundary impacts. We encourage you advocate for continued coherence in the cross-border legislative framework.

2. Alignment to support an all-island level playing field

All sides in the Brexit negotiations committed to maintaining an open border post-Brexit, including continued frictionless trade in goods and free movement of persons. In the absence of alternative solutions, the *backstop* (Protocol on Ireland/Northern Ireland) has been designed to guarantee that this continues.

The *backstop* allows for frictionless EU market access without compliance with all EU rules. In order to avoid the need for regulatory checks along the Irish border, under the terms of the *backstop* Northern Ireland will be required to stay aligned with some single market rules, namely those for which compliance would otherwise be physically checked at the border in areas such as technical regulation of goods, agricultural standards.

This raises the issue of Northern Ireland being at risk from environmental dumping and EU rules being undermined. Businesses in Northern Ireland could gain a competitive advantage over businesses in Ireland by becoming an

attractive destination for access to both the EU and UK markets whilst only having to comply with a subset of the EU's single market rules.

To reiterate: in order to avoid a competitive disadvantage on either side of the border, Ireland must ensure that the environmental laws are aligned, including having in place effective and robust means of enforcement. This means Ireland advocating within EU Coordination in the course of any negotiations with the UK about a future relationship.

To conclude. Under the terms of the *backstop*, Northern Ireland will be required to align with *some* EU rules in return for maintaining an open Irish border. There will be some additional checks on goods moving from Great Britain to Northern Ireland, but no additional checks on goods moving in the other direction. This could undermine the level playing field on the island of Ireland, which could be addressed if Northern Ireland was to dynamically align with all EU environmental rules.

If we are to avoid environmental harm and damage to the island of Ireland, then there must be dynamic alignment of rules on either side of the border. And this is not just a matter of protecting the environment, it is about maintaining the peace, prosperity and protection on the communities who enjoy and share that single island environment.