

EU Committee: Submission Prof. Peter Shirlow FAcSSⁱ

Executive Summary

- Regarding party politics the Protocol fell with the predictable binaries to be found across these islands.
- Much of the rhetoric surrounding the Protocol has fallen within populist arguments that forgo evidence, and merely assert an ideological position.
- The Protocol should be viewed as long-term process not as a short-term event. This framing is important insofar as it opens strategic and ongoing opportunities for practical, flexible, creative, and positive development in responding to ever evolving realities.
- The situational context for the Protocol is part of the historical continuum of political and societal change in Northern Ireland, Ireland, the UK and the EU. The global relativity of issues around Brexit and the Protocol to the broader canvas of recent decades is important - but comes with a reminder that even greater challenges have been resolved.
- The focus must be upon utilitarian and evidence-based choices that are effective, not least for the people who live and work in Northern Ireland.
- Reasoned discourse must be cognisant that since the GFA, the capacity to effect significant reductions in violence was paralleled by growths in income, falling unemployment and the emergence of new economic activity within Northern Ireland. There is no doubt that any fragility in economic terms will undermine the peace process.
- Present and future negotiations must be cognisant that trade and economic issues are inextricably coupled with the politics of identity and constitutional preference.
- Negotiations and the implementation of the Protocol must be built upon positive economic and societal outcomes together with the placing of Northern Ireland's future around productivity growth, skills development, and the expansion of the export market.
- Such an approach built upon agreed policy development drives leadership and a move away from inter-community resource competition.
- It is a misnomer that identity groups do not support future mitigations or that unionist, nationalists and those who are neither unionist or nationalist think in predictable and homogenous ways.

1.0 Interdependent Realities

1. The Protocol offers a reset moment regarding the economic future of these islands and beyond. Irrespective of constitutional allegiance, the Protocol now places Northern Ireland within unique and interdependent legal and trade relationships.
2. The Protocol has verified in domestic and international law Northern Ireland's place within the UK but has also re-affirmed the importance of North-South (N-S) relationships. It has also placed Northern Ireland within the EU customs code.

3. Within those 3 interdependent relationships that are East-West (E-W), North-South (N-S) and Northern Ireland – EU (NI-EU) there exists a range of opportunities for economic growth and leadership with the potential to resolve existing structural incapacities and economic impediments.
4. Realising these benefits will require a clear articulation of the unique value Northern Ireland can derive from being allied with **1. UK:** The UK economy is the 5th largest and a global leader in financial, IT, services and aerospace. **2. Ireland:** The economy of Ireland remains one of the fastest growing in the EU and a global leader in RDI (Research, Development and Innovation). **3. EU:** The Protocol maintains access to its Single Market of close to 450 million people with net worth estimated at \$15 trillion (nominal) in 2020.
5. The existence of the Protocol, and much of how it has been shaped, was driven by constitutional issues and concerns around protection of the GFA. The evident tensions immediately following the Brexit Referendum resulted in a prioritisation of the N-S relationship, which in turn paved the way for the complexities and tensions now experienced within the E-W relationship.
6. Smoothing the E-W relationship is as critical now as was protecting the N-S dimension.

2.0 The Politics of the Protocol

7. The politics of the Protocol places(d) Northern Ireland within a series of tensions. This does make the intentions behind the Protocol unimportant. However, the overall discourse of fixing and responding to identity issues is not presently contiguous with a wider policy regarding building a peace dividend in Northern Ireland. Building a peace dividend requires the successful working of the ‘totality’ of interdependent relationships. Ultimately, the future of Northern Ireland is contingent upon maximising the benefits of those relationships – **which is a question of choice that leads to effective decision-making.**
8. Versions of political and media discourse, practice and rhetoric have undermined a wider appreciation of these interdependencies as opportunities. Such unique trading relationships are status and prospect giving. The failure to realise that the Protocol could be the gateway to an economic dividend through those interdependencies is immiserating.
9. The friction caused by Brexit and the Protocol requires resolutions, but these must stretch beyond the identity/constitutional issue and address questions regarding how

the Protocol will/or will not sustain a growth oriented Northern Ireland. Political parties largely presented around:

- The Brexit period led to claims that the GFA would be undermined, that there would be a 'hard border' on the island of Ireland, that individual rights would be denied, and violence from dissident republicans would escalate. Given none of these threats emerged makes it important to highlight a reading of the Protocol that pinpoints mechanisms that protect the GFA, enhances N-S relationships, and individual rights.
- The pro-Irish unity parties and Alliance called for the full implementation of the Protocol but U-turned when civic society pointed out that there were evident E-W trading issues.
- The DUP, TUV and UUP stated that there were E-W trading issues but did not adequately evidence or explain what they were. In particular, the DUP and TUV raised issues regarding the Act of Union but beyond scrapping the Protocol did not promote any coherent ideas regarding alternative arrangements.
- The UK government's Protocol Bill would permit the UK to overrule sections of the Ireland/Northern Ireland Protocol, and lets UK ministers override the European Court of Justice in decisions about EU laws that were to be maintained in Northern Ireland to protect its access to the single market. In short, the bill is a hazardous legislative method that potentially tears up an international treaty.
- Regarding the ERG the Protocol – with its open borders, European-led arbitration, protection of rights and promotion of all-Ireland inter-connection is too consensual, imaginative and beyond UK control.
- The EU's chief negotiator Maroš Šefčovič has suggested that physical checks on goods travelling across the Irish Sea could be reduced to a "couple of lorries a day" – if the UK government would re-engage in negotiations. Despite such flexibility and pragmatism, the UK government's response was that the EU should accept in totality the policies (or, rather, demands) laid out in the Protocol Bill.
- Civic society showed leadership. It highlighted issues and reminded that the Protocol was within grace periods meaning that the full impact of the Protocol was not properly modelled or understood. Civic society has pointed to undoubted flaws such as the surcharge of 25% on steel products being moved from GB to Northern Ireland, due to EU policy in August 2022. A year earlier, Brussels was forced into a U-turn after initially trying to impose border controls on COVID vaccines moving into Northern Ireland from the Republic.

10. As colleagues and I noted in a recent RUSI article:

'... it is particularly critical to re-establish close Ireland–UK governmental cooperation, ensuring the fullest implementation of the Agreement's interlocking elements while developing renewed intergovernmental management of the emerging risks, opportunities and trends that jointly affect both islands. The damage following Brexit to the essential

ingredients of partnership and trust is something that needs to be honestly accepted and openly addressed – particularly by the UK government’ⁱⁱ

11. What has failed to emerge is a situation in which (when the NI Executive returns)

- The NI Executive recognises and maps out the opportunities provided by the interdependencies noted above and the positive role each plays regarding societal progression.
- The Executive, with maximum creativity and common purpose, develops a new relationship with the EU - as permitted under the GFA.
- The Executive maps how interdependencies will be aligned to RDI, productivity growth, market astuteness and the role of the university sector in skills and technological enhancement.
- The Executive leads deliberative democracy through creating fora for civic initiatives to support building economic prosperity and social justice. The capturing of expertise and ideas from across civic society would do much to better inform policy and practice. Such civic knowledge and capacity should link directly to each interdependency.
- The Executive should understand business sector responses and map these onto unique trading relationships of E-W, N-S and NI-EU and promote their relevance and future out-working.
- The Executive should support and better understand business sector alliances that are E-W, N-S and NI-EU. Northern Ireland within the EU customs code and the UK customs territory provides an opportunity to examine the institutions of Strands 1-3 to not only resolve present difficulties, but also to determine the nature, form and direction of enhanced economic futures. This is critical for government-based leadership to ameliorate the tensions caused by the Protocol.
- The governments of Ireland and UK maximising the potential of the British Irish Council (BIC), the North South Ministerial Council (NSMC), and British Irish Intergovernmental Conference (BIIGC), to frame policy direction post-Protocol.

3.0 What do the People Think?

12. In the Liverpool University General Election Survey of **2019/2021** we located findings that presented a nuanced understanding with more inter-community agreement than assumed. Survey findings challenged simplistic and un-evidenced opinions and analysis that positioned society as composed of two dominant communities, which reacted and operated in ways that are homogenous, separate and standardised. The Survey painted a more complex scenario. For example, 53% of those who are pro-union voted Remain or did not vote. Moreover, there was significant support for leaving the EU among those who wish for Irish unification, around a fifth of whom voted for Brexit.

13. Within the same survey a minority of those who were pro-union (27%) or pro-unity (18.2%) supported checks on goods moving N-S. Similarly, regarding support for checks E-W 23.2% who were pro-union and 35% pro-unity approved. Among those who were neither pro-unity or pro-union around 16% approved of checks E-W orⁱⁱⁱ N-S.
14. The University of Liverpool survey conducted mid to late **October 2021**^{iv} located a pragmatic approach amongst many including support for Protocol mitigations. It found levels of inter-community consensus that would suggest significant shares of respondents wish to see practical resolution and more frictionless goods movement: Findings included:
- With regard to the EU proposal regarding food, plant and animal health (i.e. 'SPS') 54.9% were in support. Half as many (24.2%) disagreed and a fifth (20.9%) stated they did not know. When examined by identity, and removing those who stated they neither agreed/disagreed or did not know, 55.7% of unionist agreed compared to 85.7% of nationalists and 72.1% of neithers.
 - Concerning the UK proposal that goods should circulate without checks on their movement into and within Northern Ireland if they meet either UK or EU standards, a significant 74.7% agreed. 13.4% neither agreed nor disagreed, less than 10% (7.2%) disagreed with 4.7% stating they did not know. 69.5% of SF and 72.5% of SDLP voters agreed with the UK government's proposal. This is similar to the University of Liverpool General election survey in which inter-community support was high for no checks on goods moving from Northern Ireland to Ireland and between GB and Northern Ireland.
 - The EU's proposals regarding medicines in which pharmaceutical companies in GB could continue to supply the Northern Irish market also received significant support at 72.4%.
 - Respondents were asked if the mitigations announced on 13th October 2021 by the EU should be accepted or rejected. Twice as many (42.2%) stated accept and move forward compared to 20.7% who wished for rejection and renegotiation. Slightly more (26.0%) stated that they did not know compared to those who urged rejection. When excluding those who did not know 54.5% of those who wish to remain in the UK agreed to move forward.
 - There was also majority support (56.7%) - nearly 4 times greater than disagreement (15.8%) - affirming that the Northern Ireland Assembly should decide by simple majority whether the Protocol should remain. This included majority support from DUP (71.5%), UUP (66.6%) and TUV (56%) voters.
15. In the University of Liverpool **March 2022**^v survey and again contrary to media and party-political conjecture the majority in each community believed that 'Executive parties should jointly seek mitigations and easements from the EU regarding the

Protocol'. 71.3% of unionists and around 55% of nationalist and neither unionist or nationalist agreed.

16. A further survey conducted in July 2022 found that:

- Support for the EU's position that renegotiating the Protocol would lead to prolonged legal uncertainty and instability divides strongly along identity lines with nationalist support at 71.1%, Unionist at 28.5% and neithers firmly in the middle on 45.7%.
- When asked if the UK Government was correct in introducing legislation to address the Protocol 80% of unionists, 46% of nationalists and 49% of neithers agreed. Suggesting that support is growing for the idea that the Protocol does require changes.
- A high level of respondents agreed that goods coming from GB or the rest of the world **should not be checked** if destined only for Northern Ireland. Ranging from almost 75% of unionists, to 60% each amongst nationalists and neithers.
- Goods coming from GB or the rest of the world should not have to comply with EU rules if destined for Northern Ireland attracted similar support with 76.2% from unionists and approximately 55% from both nationalists and neithers agreeing
- 55% of respondents believed that Goods from GB or the rest of the world that enter Northern Ireland before moving to the Republic of Ireland should be checked in Northern Ireland to ensure they meet EU regulations.
- 64% of nationalists and only 26% of unionists agreed that the European Court of Justice is the correct place in which compliance with the Protocol should be ensured. Inter-community agreement was more pronounced regarding an independent arbitrator, as opposed to the European Court of Justice (55% of unionists and 53% of nationalists agreed).
- Over 70% of respondents believe access to both the EU and UK markets is vital to the economy of Northern Ireland. 78.8% nationalist, 72% unionist and 77.5% neithers agreed.
- In answer to the statement that negotiations between the EU and UK are the best way to solve tensions within the Protocol there was, once again, high levels of consensus - 69% of nationalists, 62% of unionists and 62% of neithers agreed.

Conclusions

17. If we accept that future debates must be driven by parity of esteem, then it is incumbent upon this committee to favour evidence-based approaches and challenge the obstructive advocacy that suggests issues around the Protocol cannot be resolved and that there is not inter-community support for negotiation and agreed outcomes.

18. Negotiation is effectively a focus on practicalities. It must reduce disruptive consequences to trade in terms of additional cost to GB-NI supply chains. Minimising impact upon the E-W trade and commercial relationship is critical especially regarding the symbolic impact of NI being displaced within the UK. Yet, precise research is needed to evaluate the impact of Brexit upon Northern Ireland and the island of Ireland given the unique set of emerging trading relationships/structures/governance arrangements regarding business and economic activity.
19. This could be put in place in response to unique conditions. That would include agreement by all parties to protect the peace process in a manner that is publicly asserted. Essentially, the actors involved in negotiation and implementation, and the political actors who are the guarantors of societal and economic well-being, must each present plans, ideas and concepts that restore the peace-process as the primary driver of economic growth and the meeting of business and trade challenges.
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21. This is a moment, give the unknowns of Brexit and its impacts, for a pragmatic politics that maps futures, locates solutions, and forges and defines the missing strategy for a peace dividend. We call for mature reflection and the use of dialogue, evidence, and debate to advance the peace process.
22. Existing institutions must be developed to be more attuned and effective. Recognition of an awareness of societal tensions caused by the Protocol is needed and a commitment from all actors involved in the Protocol to make decisions to better support societal development, as opposed to undermining it.

ⁱ Peter Shirlow is Director of the Institute of Irish Studies at the University of Liverpool.

ⁱⁱ [Partition to Partnership to Brexit: Strategically Reinvigorating the Belfast/Good Friday Agreement | Royal United Services Institute \(rusi.org\)](#)

ⁱⁱⁱ See <https://www.liverpool.ac.uk/media/livacuk/humanitiesampsocialsciences/documents/The,Ireland-Northern,Ireland,Protocol,-,Responding,to,Tensions,or,Enacting,Opportunity.pdf>

^{iv} <https://www.liverpool.ac.uk/media/livacuk/humanitiesampsocialsciences/documents/The,Ireland-Northern,Ireland,Protocol,Consensus,or,Conflict,v3.pdf>

^v <https://www.liverpool.ac.uk/humanities-and-social-sciences/research/projects/irish-news-poll/>