

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM GHNÓTHAÍ AN AONTAIS EORPAIGH

### JOINT COMMITTEE ON EUROPEAN UNION AFFAIRS

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*Dé Céadaoin, 9 Samhain 2022*

*Wednesday, 9 November 2022*

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Tháinig an Comhchoiste le chéile ag 9.30 a.m.

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The Joint Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
John Brady,+	Lisa Chambers,
Marian Harkin,	Regina Doherty,
Seán Haughey,	Sharon Keogan,
Brendan Howlin,	Vincent P. Martin.
Ruairí Ó Murchú,	
Neale Richmond,	
Robert Troy.	

+ In éagmais le haghaidh cuid den choiste / In the absence for part of the meeting of Deputy Rose Conway-Walsh.

Teachta / Deputy Joe McHugh sa Chathaoir / in the Chair.

## **EU-UK relations and the implementation of the Trade and Cooperation Agreement and the Northern Ireland Protocol: Discussion**

**Chairman:** Ar son an choiste, cuirim fáilte roimh achan duine do dtí an cruinniú.

On behalf of the committee I welcome: Professor Katy Hayward and Professor David Phinnemore, Queens University Belfast; Professor Peter Shirlow, University of Liverpool; and Dr. Christy Ann Petit and Dr. Ian Cooper, Dublin City University. They are all very welcome. We will discuss the state of play regarding EU-UK relations as well as the implementation of the Trade and Cooperation Agreement and the Northern Ireland Protocol.

Before we begin, I will read a note on privilege and some housekeeping matters. All witnesses are reminded of the long-standing parliamentary practice to the effect that they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable, or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if the witnesses' statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

Members all know the constitutional requirements that members must be physically present within the confines of the Leinster House complex to participate in public meetings. I will not permit members to participate where they are not adhering to this constitutional requirement. There are a few more lines there but I think we are all covered.

Before calling on Professor Hayward to make her opening statement, I want to make an appeal. I am conscious of the presence a fellow Ulsterman, although there may be other people who were born in Ulster here as well. Professor Shirlow and I were talking about that common ground in an Ulster context. One thing we do not do in Ulster is tell people what to do, so I am encouraging the witnesses to stay within the confines of the five minute opening statement because this is a proactive committee. Members like engagement and asking questions. They like getting involved and they like conversation. We have a wide array of talent and expertise here today and a lot of ground to cover, so I am appealing to, and encouraging, witnesses to try to stay as close as possible to five minutes in their opening statements. I am not telling them to do so but I am appealing to them.

I call Professor Hayward. There is no pressure on her, but she could certainly set a very good and positive precedent here. She is very welcome and we look forward to her opening statement.

**Professor Katy Hayward:** I thank the committee for facilitating my participation remotely. It enabled me to continue teaching this morning.

In my remarks I want to touch on five lessons we could draw on given that it is now two

years into the operation, in theory, of the protocol. I have identified five problems and five lessons from those, by way of reflection. The first problem has been the failure from the start of the UK and EU to publicly outline and agree on the implications of the protocol. This caused a vacuum of information and, therefore, discussion around the protocol has featured conflicting discourses making it inherently contested. Ironically, this is only beginning to be addressed now with the two agreeing, to some degree, on what the problems are. The lesson from this is that progress is limited by what the UK and the EU can agree on. If we are to have better EU-UK relations for Northern Ireland, it would be transformative if they could agree on the real benefits of the arrangements they agree for Northern Ireland in the future.

The second is that public discourse on the subject of the protocol has been informed by two contrasting narratives. We know from our polling in Northern Ireland, led by Professor David Phinnemore, that people consider the political parties they support to be the most reliable sources of information on the protocol. This helps us understand why it is that the debate is so polarised here, and why factual information is both rare and subject to political spin. The lesson from this is that the proper test for UK-EU relations is whether they are willing and able to jointly present factual information on the protocol as it evolves. We know from the same polling that this is what the majority of people would like to see.

Third, the problems with the protocol, as originally conceived and drawn up, were predicted and, to some degree, avoidable. The failure to use the implementation period of 2020 for the protocol exacerbated its disruptive effects. The failure by both the UK and the EU to secure longer grace periods as needs be meant that as soon as the protocol came into force businesses knew they were facing a ticking clock towards the impossible. The expectation thus had to be either that the law would be ignored or broken. The lesson from this is that any new or additional UK-EU agreement needs to include reasonable implementation periods and supports to enable adjustment.

Fourth, the willingness to take evidence from Northern Ireland stakeholders to identify and address issues arising in relation to the protocol, for both business and civic society, has become greater as time has continued. This has made a difference in the recognition of the problems and the complexity. A lesson from this is that direct channels for information from stakeholders in Northern Ireland need to be secured and formalised for the future operating of the protocol to avoid predictable problems.

Finally, the implementation of the protocol must be seen in the context of wider trends within the UK. It is moving to replace provisions of the protocol and retain EU law with secondary legislation made by statutory instrument, without consultation, debate, scrutiny or parliamentary vote, especially not within the Northern Ireland Assembly. The lesson from this is that close observation of what is happening in Westminster will be more difficult but also more important for understanding the challenges and consequences of implementing the protocol and trade and the EU-UK Trade and Cooperation Agreement, TCA, in the future for both Ireland and for Northern Ireland.

**Chairman:** I thank Professor Hayward and call Professor Phinnemore.

**Professor David Phinnemore:** I thank the committee for the invitation to address it today. I have provided a written statement, which is quite lengthy, but I am going to draw out five key points from it, touching on the TCA and the protocol. The first point is that post-Brexit relations between the EU and the UK have been characterised by considerable political tension. Much of this is the result of the UK Government under Boris Johnson failing to come to terms with the

consequences of the policy choices it made in implementing the result of the 2016 referendum. In leaving the EU customs union and the Single Market and hastily settling for a zero tariff-zero quota free trade arrangement, as part of a hastily concluded and comparatively minimalist trade and co-operation agreement, the disruptive effects of Brexit, which is an inherently disruptive process, have been far greater than many anticipated. I would argue that the UK is still coming to terms with the consequences of the choices it made, and this is likely to continue irrespective of who is in government.

The second point I would make is that the effect of UK Government policy choices has been to ensure significant disruption to UK trade with the EU, and the end of UK-EU co-operation in almost all areas of policy. While the TCA provided for a dense institutional framework for managing relations, its various committees have only slowly been established and there have generally been few meetings. The institutional framework also lacks a high-level political forum for the strategic development of relations, which is a reflection of the Johnson Government's preference for minimal post-Brexit engagement with the EU. That may need to change to facilitate the development of relations. Related to the protocol on the issue of institutional framework, a framework is in place to ensure the challenges associated with the unique circumstances on the island of Ireland can be addressed through the protocol. The protocol tensions clearly need to be resolved and we also need to see that the unique institutional framework that has been established is operating. I can go into more detail on that if necessary. Currently, its core institutional arrangements, such as joint committees, a specialised committee, and a joint consultative working group, are not meeting, with the exception of the latter. Picking up on Professor Hayward's point, the formalisation and regularisation of the *ad hoc* yet effective stakeholder engagement needs to be established with business representatives and representatives of civil society. This is yet to be formalised and institutionalised.

The third point I want to make relates to the question of opinion on the protocol. Clearly, what we have in Northern Ireland is political positions on the protocol moving from broadening acceptance of the protocol in 2020 and into 2021, to a situation where today among strong unionists in particular, there is considerable opposition to the protocol and a preference among many unionists for its scrapping. Recent polling we have carried out has found that in forthcoming elections to the Northern Ireland Assembly, almost one quarter of voters would vote for candidates in favour of scrapping the protocol. However, non-unionist political parties are generally supportive of the protocol and successive polls indicate a narrow majority of voters in favour of the protocol. A clear majority of 71% agreed in polling last month that a negotiated UK-EU settlement of outstanding issues regarding implementation of the protocol is preferable to the UK taking unilateral action.

The fourth point is looking at the fact that the protocol is about more than just trade. It includes obligations regarding the functioning of the single electricity market, as well as the maintaining of conditions for North-South co-operation on the island of Ireland. As yet, limited attention has been paid to assessing whether such conditions are being maintained. It is also of note that, despite the objective of avoiding a hard border, the protocol's actual yet unstated focus is on avoiding a physical hardening of the border. Since the end of the transition period at the end of 2020, during which the UK remained in the EU internal market and part of the free movement of goods, services and capital, concerns have increased that a hardening of the border is taking place at least as far as the movement of services and people is concerned. Limited attention has as yet been paid to determining how and whether such concerns can and should be addressed through the protocol.

My final point relates to the issue that if the outstanding issues between the UK and the EU are resolved, any abating of the political tension around the protocol may be short-lived. In 2024, members of the Northern Ireland Assembly, whether it is sitting or not, will be offered the opportunity to vote as part of the protocol's democratic consent process. That will determine where the core features of the protocol, related to the free movement of goods, continue to apply. While at present it appears likely that a simple majority will vote in favour of consent, the vote is just as likely to serve as a reminder of the political divisions that exist in Northern Ireland on the protocol. If consent is granted by only a simple majority, MLAs will be invited to return to the issue again in 2028. A key challenge for the UK and the EU is how to manage the politicisation of the protocol and this process around democratic consent.

**Professor Peter Shirlow:** As Professor Phinnemore said, I have also submitted a paper so I will not bore the committee with facts and figures. There are some important points to be made more generally. What Brexit has shown us has been policy making that has not been based on evidence. It has been ideologically driven and it has created a lot of friction, not only on this island but also between these islands and within Great Britain.

One of the things we have to understand also is what happens next. Of course, none of us in this room knows what the EU-UK negotiations will produce. What is critically important is what I have heard throughout the Brexit period, that people are protecting the Good Friday Agreement. I am never clear what that actually means because many of the people who say they are protecting the Good Friday Agreement are actually undermining it or presenting a very singular idea of what it is. It is critically important to understand the context of where Northern Ireland is today. Since the Good Friday Agreement, Northern Ireland is clearly within new relationships that are based on inter-dependence.

As somebody from a pro-union background it is clear to me that building relationships across this island is critical for economic prosperity. It is critical for reconciliation and it is critical for building futures. We have to understand that what we are protecting here are the inter-dependencies that were created by joining the European Single Market and by the Good Friday Agreement. The shared island initiative, etc., are critically important, not specifically related to the question of Brexit, but they are critically important.

It is also important to understand where Northern Ireland's place will be. Nobody has mapped and modelled what the impact of the protocol and Brexit is. The constitutional and ideological politics have foregone any rational understanding of Northern Ireland's place within its North-South relationship, its east-west relationship and also within its relationship with the European Union. There has been a lack of political maturity to understand the issues that are trading and constitutional issues.

How do we think of this if the protocol is resolved? Northern Ireland is part of the UK. The UK is the fifth largest economy in the world, although maybe not for long the way things are going. It is increasingly embedded in and connected with the Republic of Ireland, an economy which has high levels of growth and is a global leader in research, development and innovation. It is linked in a unique way, in the context of these islands, to the European Union which offers a market of 450 million people. Where is the discourse and the dialogue about this being the opportunity to create a peace dividend that drives a new society in Northern Ireland? What we have had is a politics that talks about a hard border, taking our country back, a line down the Irish Sea, etc. Politically, nobody comes out of this smelling of roses but I think some come out worse than others.

It is also critically important that we understand what the Good Friday Agreement has created. Belfast is now the seventh best performing out of 179 regions in the UK. Northern Ireland is now the sixth fastest growing region in skills and high tech jobs. It is now a world leader in hydrogen technology, cybercrime and fin tech. There have been significant changes that have paralleled what I am about to say.

In 1972, the police in Northern Ireland seized 20,000 kg of explosives. Last year, they seized 1 kg. There has been a 90% plus decline in violence related to the conflict. In the last 15 years, there has been a 60% plus decline in sectarian crime. Is it not strange how that parallels growth in jobs, investments and wages? What we are actually protecting here is the politics of a protocol, which recognises those inter-dependencies and which is based upon building that economic future. That is to say, this is linked to the peace dividend.

I do not believe we are going back to conflict. I do not believe that we are going back to those circumstances but most certainly the stability that we have had has been important. Unlike the civic and economic sectors, politics in Northern Ireland is failing. You can not have had that transformation in our economy. A quarter of Belfast was bombed during the Troubles. Now it is one of the fastest growing economies in these islands, so these things are critically important.

What is also important is the issue of talking to the people. Professor Phinnemore referred to the surveys they have conducted and the surveys we have conducted. One of the things we found in our surveys was much more consensus between unionists and nationalists about the way to proceed. As Professor Phinnemore alluded to, most unionists and most nationalists and those who are neither believe the best way to solve this problem is for the UK and the EU to negotiate. In all the surveys we have conducted, nobody - unionists, nationalists and neither - wants checks on goods going from North to South or from east to west. In fact, unionists are more in favour of there not being checks North to South than nationalists who are in favour of east to west checks. There is a misconception that the unionist community is simply pitted against Europe, the protocol and the Irish and British Governments. That is simply not what we are finding in our surveys. As I said, all communities oppose checks, east to west and North to South. That is fantasy, of course. We understand that but it shows what is not being presented by the media. None of the things I have said about the economic growth, the decline of violence and the issue of inter-community support are being reported. It goes to the point made by Professor Hayward originally of a narrative emerging which is not based upon evidence. Surprising that, it sounds very like Brexit.

There is a moment here for this committee to start to engage in a proper evidence-based approach to the issues that affect Northern Ireland. There is great support for the red and green channel ideas, which I think emerged within this part of the island, and things like that. One of the things we have to get across here is what we are protecting. We are not protecting ideologies. What we are protecting is the capacity of Northern Ireland to function as a better society. The protocol and the politics of the protocol have undermined that capacity. Whether one is a nationalist or a unionist, a functioning Northern Ireland is healthy for this island either way. It is critically important. We have to understand the people of Northern Ireland are no longer so tied to their unionist and nationalist identities that they behave in ways that we think are homogenous. There is a great deal of flexibility within the unionist community, in particular about these issues. There is inter-community support.

Even with the mitigations that were offered by Europe last year that we tested, even 60% plus of TUV voters supported the mitigations. When you ask the questions about what are the

issues that affect you in Northern Ireland, the protocol and the constitutional issue are very far down that list. What we need is pragmatic leadership. We need evidence-based approaches.

Hopefully, with the new dispensation in Downing Street we will have a more flexible process. I do not think we will and I think things will rumble on for a while but this has got to be what has failed. There was no reaction from the Assembly which mapped out futures. Let us think about it this way. If the protocol works and Northern Ireland has this unique relationship and it has a bonanza economically, where is the skills strategy? When we talk about constitutional issues, we completely forego the next stage in developing and building a society. This is critically important. I do not think it is an issue of violence and I do not think it is a case of going back to the old days but it is an illustration that politics is not working. It certainly will not work when it is driven by high-level ideological commitment. The ecosystem of Northern Ireland needs something more subtle, more planned and more agreed.

**Dr. Christy Ann Petit:** I thank the Chair and the committee for the invitation and the opportunity to speak to it. Our remarks will be based on the research and engagement activities of the DCU Brexit institute over recent months. We wish to speak about three main points. First, we will give an overview of some issues in the governance and implementation of the Trade and Cooperation Agreement and the protocol. Second, we will elaborate on the improvement of EU-UK relations in the context of the Parliamentary Partnership Assembly. My colleague, Dr. Ian Cooper, will talk about this. Third, we will mention some practical solutions to implementation issues.

The EU is, and will most likely remain, inflexible on the fact that the protocol on Ireland and Northern Ireland was a commonly agreed solution designed to protect the stability of Northern Ireland, as we already heard, but also the integrity of the Single Market. Despite the EU's refusal to reopen the protocol, it has shown flexibility regarding its operation. Indeed, acknowledging some of the practical difficulties in its implementation, the EU put forward a package of constructive proposals in October 2021. Overall, the outcomes would simplify and facilitate trade, in particular the movement of goods from Great Britain to Northern Ireland, stressing that the EU wishes to work on joint solutions with the UK, including some safeguards, surveillance and enforcement mechanisms. However, these proposals were not discussed with the UK from February until October 2022, when technical negotiations restarted.

The EU approach contrasts sharply with the unilateral approach taken by the UK with the Northern Ireland Protocol Bill. This Bill, as the committee is aware, is now being considered by the House of Lords. It would dis-apply some elements of the protocol and delegate powers to ministers to make new laws. The EU's firmly held view is that this Bill undermines legally binding commitments set in the withdrawal agreement. This is also the opinion of European Commission Vice-President Šefčovič. If the Bill is adopted, the reactions of the EU could hypothetically range from mild to strong forms of retaliation, from activating the level playing field clauses and articles from the TCA to, in the worst-case scenario, terminating the withdrawal agreement altogether.

Let us make one point very clear. The EU has no interest in starting a trade war with the UK. Nor does it want to come to a situation that would have been equivalent to a no deal scenario, if the TCA were to be suspended or terminated. Moreover, the UK economy has already suffered greatly from the market and political turmoil following the mini budget proposal. I will allow my colleague, Dr. Ian Cooper to follow with the second point.

**Dr. Ian Cooper:** A recent improvement in EU-UK relations can be illustrated by reference

to one specific institution created by the TCA and that is the Parliamentary Partnership Assembly. This is a joint body made up of 35 members of the European Parliament and 35 members of the UK Parliament. It exercises joint parliamentary scrutiny over the partnership council and the implementation of the TCA. It meets twice per year. Its first meeting was in May of this year, in Brussels. Its second meeting was this week, in London, over the last two days. There was a marked change in tone from the first meeting to the second. At the first meeting, the normally mild-mannered, Maroš Šefčovič, was clearly exasperated by the lack of any serious engagement from the UK side. At the second meeting, Mr. Šefčovič recognised that a new tone in EU-UK relations had been set since September by his counterpart, Mr. James Cleverly, who is his co-chairperson on the partnership council. Both Mr. Šefčovič and Parliamentary Under Secretary of State at the Foreign, Commonwealth and Development Office, Leo Docherty, who stood in for Mr. Cleverly, hailed the fact that the machinery of the TCA is now fully up and running. This machinery includes not only the partnership council but also the many specialised committees, the domestic advisory groups and the civil society forum. All of these groups have now met at least once. The PPA itself is one more piece of this machinery created by the TCA that is now up and running. The PPA actually used one of its powers for the first time on Monday, when it issued a recommendation to the partnership council on energy security.

A great deal of discussion at the PPA was focused on Northern Ireland. This is despite the fact that the PPA was created to oversee the TCA, and not the Northern Ireland Protocol, which is part of the withdrawal agreement. There is no dedicated interparliamentary body to oversee the withdrawal agreement. To some extent, the PPA is filling that gap. The co-chairpersons of the joint committee in charge of the withdrawal agreement are the same two people that are on the partnership council, that is, Mr. Šefčovič and Mr. Cleverly. However, it is awkward that only one member of the PPA is actually from Northern Ireland and that is Sir Jeffrey Donaldson MP. In part to overcome this lack of representation, the PPA also allows the participation of observers from the UK's devolved assemblies, including the Northern Ireland Assembly.

There was a much more positive tone in the discussion of Northern Ireland at the second meeting, despite the fact that little had changed in the formal position of the two sides. Mr. Šefčovič pointed out that it was a sign of the goodwill of the EU that it continues to negotiate despite the fact that the Northern Ireland Protocol has not been withdrawn by the UK. For his part, the Parliamentary Under Secretary of State, Leo Docherty, speaking for the UK, emphasised that the UK's position is to resolve the issue through talks.

The optimistic and pragmatic atmosphere showed an improved spirit of partnership both in the partnership council and in the PPA. Furthermore, the contrast between the first and second meetings showed that the PPA cannot fulfil its scrutiny function unless there is a good working relationship between the EU and UK counterparts. In short, if the partnership council is grid locked, then there are no joint decisions for the PPA to scrutinise. I will pass briefly back to Dr. Petit.

**Dr. Christy Ann Petit:** Very briefly, we will cover some possible practical solutions as regards the implementation issues. In particular, the bespoke arrangements that were proposed by the commission in October 2021 included further flexibility in the area of food, plant and animal health, customs, movement of sanitary and phytosanitary products, medicines and engagement with stakeholders. Overall, this set of arrangements means a different implementation model of the protocol, but within its legal scope. However, as mentioned, the UK did not react constructively to these proposals for a long time.

What could help are some pragmatic measures to help the technical implementation on the

ground, for example, IT solutions to make the identification of goods easier such as a UK database that could give real-time reporting about the movement of goods from Great Britain to Northern Ireland.

Following the UK non-implementation of the protocol and further uncooperative reactions, the EU initiated some legal challenges before the Court of Justice of the European Union. Litigation on both sides accompanied the worsening of the EU-UK relationship. These legal actions do not favour a joint, cooperative solution now but may be conducive to a reconciliation, should there be a different political environment to reach a compromise that then would suspend these legal proceedings. As regards the legal proceedings, the jurisdiction of the Court of Justice of the European Union will not be an element that is open for negotiation on the EU side.

We wanted to finish with a more positive tone that is existing more on the side of the EU. Over the last two months there have been signs of a warming of the relationship at a political level. In Prague, former UK Prime Minister, Liz Truss, took a more constructive approach when she attended the inaugural meeting of the European Political Community in early October.

The current UK Prime Minister, Rishi Sunak, who is depicted as a financial and economic realist, has given recent cause for hopes of a reset in relations between the UK and the EU. Likewise, the Taoiseach, Micheál Martin, reported of the EU's determination to find a solution after speaking with the UK Prime Minister. That was reported in a speech earlier this month at the University of Oxford.

To give an example, the UK's readiness to sign a memorandum of understanding with the member states of North Sea Energy Cooperation illustrates how the UK and the European Commission can cooperate in a specific sector. In this case it is on offshore renewable energy, so again, this is more about energy security and the current energy crisis. This cooperative approach could be a useful precedent for other issues. This is the case, for instance, of financial services that led in practice to a no deal Brexit for financial services according to Niamh Moloney.

We acknowledge that geo-political and economic environments compel the EU to concentrate on other pressing matters such as the energy crisis that has just been mentioned, the consequences of the war in Ukraine and rising inflation. We will stop our remarks there and very much look forward to the conversation with members.

**Chairman:** I thank the witnesses. We will move to the members. First up is Deputy Ruairi Ó Murchú who is under some time pressure, and he will be followed by Deputy Neale Richmond.

**Deputy Ruairí Ó Murchú:** I welcome the witnesses and I apologise if I am ignorant and walk out, but I am meant to be in two or three different places at the same time. I will do all of these very badly.

We had Brexit, and I remember at one stage Peter Robinson in a pre-Brexit place talking about how secure the union was and we can make an argument as to whether he was right or wrong. Obviously, Brexit has changed everything and the constitutional issue is now in play, and that is just a fact. With regard to where we are now, a number of the witnesses, particularly Professor Shirlow, spoke about how people want to see negotiation between the European Union, the European Commission and the British Government. The other problem is that the DUP, which I have said over many years has not shown great leadership and is always looking

to the right rather than any other direction, has backed itself into a cul-de-sac. The only possibility is if a deal is done and they are not provided with the succour that the Boris Johnson government gave at times. Boris Johnson made decisions half of the time on the basis of Boris Johnson staying in power. We all know that. We are now in a different circumstance. We can have all the discussions relating to the democratic deficit and the difficulties with the protocol Bill. Obviously we can talk about the joint committee, the PPA and all of that. We need to get through a gap so we have a deal, with unionism given the facility and told this deal is in play, that everything is streamlined, businesses and whoever else are reasonably happy, and they get themselves off the hook. However, that is on them. They are in a cul-de-sac. I know this is asking the witnesses to look into the magic looking glass. However, what are the chances at this point of a deal between the British Government and the European Union? Do they believe that Jeffrey Donaldson and others can get themselves off their hook? Can we move to a better place and deal with stuff in relation to the economy, workforce, planning and the wider issues as regards wind energy and all the rest of it, the real things we need to deal with and the cost-of-living crisis?

**Chairman:** Okay folks. Crystal ball time. Who is up?

**Deputy Ruairí Ó Murchú:** I will listen back because I am going to run.

**Professor Peter Shirlow:** Nobody has a crystal ball, but I think it has been made clear that there is a shift or a mood change in the personalities. I encourage everyone to watch “This England” on Disney Channel, which is about Boris Johnson and Dominic Cummings, and things definitely could not get worse. I think in this Prime Minister there is clearly going to be more pragmatism. Anybody who was at the British-Irish Association conference in Oxford this year would certainly have heard the mood that Dr. Petit was talking about, and that potentially there were solutions and capacity. The issue with the constitutional question is one I have to bite on. In 1998 Sinn Féin and the SDLP got 39% of the vote. This year they got 39% of the vote. Therefore, I do not think Brexit is the constitutional steamroller that people are imagining it to be. We have to remember-----

**Deputy Ruairí Ó Murchú:** I am going to go. I think it has changed circumstances, even in relation to some of the people in this room and across this island.

**Professor Peter Shirlow:** I am not disagreeing with that. I think there is a conversation in that, but I think it is important to go back to the evidence. It is not just unionists who have misgivings about a united Ireland. I lectured earlier on about not getting into the constitutional question, and of course being from Belfast I had to get back in to the constitutional question.

We have to work out the unionist position in term of the DUP etc., and there are legitimate concerns. They have reflected the concerns that have come out of the business community. We are still in the grace period but they were picking up issues that checks were going to cause for the economy of Northern Ireland. There has been the recent 25% imposition on steel products coming into Northern Ireland. That should not be a concern just for unionists, or articulated just by unionists. That is something that should be articulated by everybody. I think this is one of the problems that we had. As much as unionist behaviour has quite clearly been intransigent and difficult, you started off with Sinn Féin, the SDLP and the Alliance Party repeatedly calling for implementation of the protocol. Whenever civic society stood up and said there were issues with the protocol and it affects supply chains and all of that, then there were calls to reform the protocol. There was no recognition by those parties publicly that there were issues. That is not good political leadership either. One thing that is also important to understand is that the

unionist thing is not as clearcut as people think. Some 40% of DUP voters support marriage equality, but the politics of the DUP is anti-marriage equality, or hostile to it. People have got to realise that just because people are unionists it does not mean they subscribe to what they vote for. They vote on constitutional reasons usually. The question for the DUP is critical and I think this is where evidence from Queens and other universities and ourselves is important. This is not the main issue that people in Northern Ireland are discussing. Ever more so, the main issues are the cost of living, housing and the health service issues. In terms of the crystal ball approach it is clear that at some point Jeffrey Donaldson has to accept a deal if there are some more mitigations, because that is what the unionist community is prepared to accept. That has to be articulated by civic leaders and by people within that community. There is a pragmatism here. However, theoretically the argument Jeffrey Donaldson has to adopt is that if he wants to save the union, the only way to do it is to build a very significant, high income, high value economy in Northern Ireland. The best way to do that is within the eco system I talked about earlier, which is the whole management of the interdependencies that are now the modern relationships on this island and between these islands. That is the way for him to start thinking. I think what is important, and what the protocol has shown, has been the weakness of party politics in Northern Ireland. However, what it has also shown is the strength and the capacity of the civic sector. The civic sector has got this right. They have called out the issues with the protocol. They have called out the opportunities that exist with the protocol. They have also continued to build trading relationships north, south, east and west. That is something that should not be forgotten. Civic society has made a major contribution here to understanding the issues and the potential to get beyond those issues.

**Chairman:** I will not bring in everybody. I see Professor Hayward has her hand up and I think Professor Phinnemore wants to come in as well.

**Professor Katy Hayward:** I will be as succinct as possible. A fundamental question is what we are talking about when talking about an EU-UK agreement. Obviously, there are various strands to this and a pertinent question to ask is if we will get agreements announced as they arrive, or are we going to wait for a comprehensive agreement that is then presented as a package. For example, we know there has been progress on IT access, and data sharing between the UK and the EU with respect to GB-NI movements which has been a long contested issue. We know there has been progress on that and they are currently testing the systems. If there is an agreement on that, will it be announced soon, or will they hold off? A similar question applies to tariff rate quotas for steel. Will they announce that because a solution has potentially been found or will they hold off? That will be really testing in terms of the quality of trust in that relationship, and also how much they are going to try and build confidence in Northern Ireland apart from across the EU and wider UK around the possibility of them finding agreement. Obviously beyond that we have issues around customs, particularly the very difficult issues around sanitary and phytosanitary checks, SPS, and how much data is required and how many checks and controls. That will be when we get into more legal arguments apart from the technical ones. That will be more complicated even though we know in principle they both agree on the green and red channels, express lane etc. When it comes to the details we can imagine quite quickly differences between the two in terms of what GB businesses are prepared to do in terms of paperwork etc. I suspect that will be when we come to some problems. There are other issues in relation to parcels. We know from polling that the possibility of customs declarations on all parcels is something that people have most concerns around though it is not being implemented. Will there be any agreement on that? Will the grace period with respect to veterinary medicines be extended before the end of the year? This is all before we get to the questions of governance and how much the issue of the Court of Justice of the European Union is going to hold up any

ultimate agreement between the UK and the EU. That is something we need to bear in mind. This is very complex and there are various different issues that are contested and on which the two sides are trying to find agreement. We then come to the question of timing. Will they be expecting the Secretary of State to postpone the elections? Will the hope be that there can be some form of agreement before an election? If we are thinking about those time pressures, then we have two other issues of concern. One is how good this agreement would be and to what extent it has dealt with the complexities, difficulties and the evidence particularly from businesses here with respect to making this thing manageable. The second issue with respect to timing, is in preparing the ground. We know from polling that the expectations particularly on the side of unionists, with regard to what is possible from an UK-EU agreement, have to be managed very carefully. We have seen worrying trends in our polling in terms of the growth of those who are strongly unionist saying they want the protocol gone altogether until they are willing to see a Northern Ireland Executive reformed. There is a real challenge here for the DUP leadership in particular, as Professor Shirlow alluded to. There is danger in thinking we will get the UK-EU agreement, it will be sold and then we will get the institutions up and running again. We need to bear in mind that this is going to be much more complex and look ahead to the fact that it is going to evolve. As I mentioned in my opening remarks, the context for this will get more and more difficult as we go on as the UK diverges further from the EU. Fundamental towards this is preparing the ground for continual engagement between the UK and the EU and for the fact that there will not be one moment where all this is resolved. It is actually going to be a long process rather than happening in a particular moment.

**Professor David Phinnemore:** I have three very brief comments. First, we obviously have to view developments around the protocol within the context of the wider UK-EU relationship. My observation here is that under the current British Prime Minister there seems to be greater emphasis placed on the further development of better relations between the UK and the EU than there is the prioritisation of addressing all the concerns coming through on the protocol. There is slightly more prioritisation there on the wider EU-UK relationship. That will change the mood in the EU-UK relationship and should help facilitate a deal; not that that necessarily means a deal will come about.

Second, there is a growing appreciation within the UK that there may need to be some shifts in the broader UK-EU relationship to accommodate solutions within the protocol. The issue about regulatory alignment is key here. What is interesting from our polling is that this is low down on the list of issues of concern in Northern Ireland. It is obviously of very high concern among our most ardent Brexiteers but what we are also seeing is that having regulatory alignment in the areas of UK and the EU, in respect of Northern Ireland more broadly in the UK-EU relationship, would be a vital element to this process. What we are also seeing coming through in Great Britain is traders into the EU market are now recognising the disruption being created by the lack of alignment and that may shift opinion there and there may be a softening. That is the optimistic take on this. I really stress the point here of political leadership locally in Northern Ireland. One of the key findings here from recent polling is political parties for which people would consider voting are seen as being the most reliable on issues around the protocol in terms of provision of information. That really points to the need for political leadership here. If there is a deal, it needs to be sold by the political leaders.

The third point relates to the role of the UK and the EU in this. They need to be honest about what is in the deal. They also need to sell the deal collectively and have a shared narrative around it. We need to avoid a situation which we had earlier this year where the medicines issue was to a significant extent addressed and was possibly oversold on the EU side, but totally

undersold on the UK side. We find a good number of people are not aware of what actually has been agreed on that front.

**Chairman:** I will just come back in on the first part of Professor Phinnemore's last contribution regarding the research he did on the responsibility of political parties in the North to sell a deal. What question did he put to his audience in the polling?

**Professor David Phinnemore:** We asked two questions. What we had been finding in the polling to date was that 75% of people felt they had a really good understanding of the protocol yet they also indicated there was a lack of reliable information around it. We wanted to know where people were getting their information and which sources they found most reliable. What we found in terms of the first question, on the sources of information, is that people tended to engage with television and radio programmes, news, discussion, political parties and we asked whether they consulted official sources etc. When we turned to the question of reliability, what was seen clearly as the most reliable sources of information were political parties for which people considered voting. Approximately 70% of people found these sources reliable or very reliable. Then there are the issues such as business groups, official sources and media dropping down the agenda. Social media was often an interesting one.

**Chairman:** I thank Professor Phinnemore for that. We will come to Dr. Petit and Dr. Cooper after the next contribution, if that is okay.

**Deputy Neale Richmond:** I thank all our contributors this morning and also for their contributions to come and generally over the past six or seven years. They have been sober voices in very difficult times. I will not lie - I have cheated many times by regurgitating what they have written in many a format while obviously giving credit and citations of course.

I will start by answering Deputy Ó Murchú's question. There will be a deal in the coming months. There will be a few bumps along the road and a bit of noise but then the difficulty will come, as already alluded to, in selling the deal and making it work. That has been the big issue. We already had a deal but no one has tried to make it work or where they have tried, there have been much louder voices trying to make it not work. We will come to a particular juncture where global geopolitics will mean that whatever happens in the coming weeks or months has to stick. There is a need for both the EU and the UK to shift attention far more clearly onto other issues, be it the war in Ukraine, the cost-of-living crisis, potential recession, the energy crisis and everything else one wants to throw at it.

I will start with a number of questions. I will try to hopefully cover all of the interventions and there will be something for everyone to reply to if they want to, depending on the Chair's latitude. First, there is a need for an increased role and relevance of institutions. Professor Phinnemore referred to the institutions within the protocol itself and the fact that they are effectively frozen. Beyond the protocol and more widely in the UK-EU relationship, but particularly the Anglo-Irish relationship in all directions, this means getting those institutions working and making them far more tangible. The obvious ones are the strand two institutions of the Good Friday Agreement and actually getting these back up and running. It is a chicken and egg situation. If you still have a DUP boycott of the North-South institutions, and still do not have an Executive, how do you make them work? Let us hope we get to a place where they come back inside the fold. How do you make institutions work in such a manner that their decisions have far more impact? That ties into the other institutions I am going to refer to. The European political community, even though it has only met once, provides a great vehicle for the EU and the UK to have a far more regular engagement. One of the great problems with Brexit, one of

many, is that it removes the format for the UK to have those informal relationships with EU member states; be it at European Council meetings or Council of Minister meetings or the informal chat in the corridor, let alone around the formal table of the various other body and committee hearings. Every opportunity, whether in the European Policy Centre, EPC; the Organization for Security and Co-operation in Europe, OSCE; NATO or the OECD, where UK ministers and parliamentarians can engage with counterparts with the EU, needs to now be maximised in a decided diplomatic effort.

Going back to the Trade and Cooperation Agreement, TCA, which Dr. Cooper mentioned, this ties in with a slight bugbear of mine. I am not making a political point here but I would argue the TCA and the Good Friday Agreement institutions have not been taken seriously enough by the British Government in recent years as reflected by the fact that it was a junior minister who attended rather than the foreign secretary. I am delighted the British Prime Minister is going to the next British-Irish Council but this is a rarity that should be a constant. Deputy Howlin and I have both been at meetings of the British-Irish Parliamentary Assembly twice in the past calendar year which were addressed by the Taoiseach while the response from the British Government came from a junior minister. We have to look at the balance of that relationship and if people are serious about the relationship between the EU-UK, Ireland-UK, and North-South, we need to see a level of impetus led by seniority. In making all those points, my key question is where the witnesses see the scope for a formal role for the representatives in Northern Ireland. It is being discussed by the Joint Committee on the Implementation of the Good Friday Agreement. Dr. Cooper referred to the fact that the only MP from Northern Ireland in the PPA is Sir Jeffrey Donaldson. If and when the assembly gets back up and running, in what context will its members have a role in that regard? Barry Andrews MEP made the point about observer status for Northern Irish representatives in the European Parliament and Séamas de Faoite from Belfast City Council has talked about it for the EU's Committee of the Regions. This is something the EU needs to do. I may be having a pop at the EU in that it needs to be far more outward-looking and engaging.

I will move on to Professor Hayward, who referred to stakeholder engagement and how the increased level of engagement has led to an increased level of understanding. We saw that in Westminster with some of the committee presentations this week. Has that level of understanding led to tangible action? Have these case studies led to policymakers, particularly those in Westminster, genuinely saying that they need to take a more realistic position when it comes to regulatory alignment or something else?

On regulatory alignment, will Professor Phinnemore elaborate on the role of the European Court of Justice? There is occasionally a flare-up, usually instigated by a British Minister or a Unionist politician, to the effect that it is a massive issue. Is that reflected in polling? Is it seen as an issue?

I will now come to a wordy conclusion. Some people might think it worthy a one, but I will not be the judge of that. The crux of the matter - this was referred to directly by Professor Shirlow and indirectly by all of the witnesses - comes down to the battle of evidence and data versus emotion. We are all professional political practitioners. Evidence versus emotion coming into any political discussion is a difficulty we all face every day, but it does provide the most obvious solution to improving relations, moving past the current impasse and having a working set of relationships. That solution is not going to be to everyone's liking, be it constitutionally or aspirationally, but it can deliver results, most importantly for the people of Northern Ireland and in the wider EU-UK and Anglo-Irish relationships. It requires leadership on the part of the

EU, the Irish Government and the British Government in order to agree to those terms. There has to be an understanding that we are going to work this deal - I believe there will be a deal - on the basis of evidence, data and facts. Do the witnesses believe there is an appetite for that?

**Chairman:** I am conscious, in light of the Deputy's worthy, worldly and wordy contribution, that we have a great deal of ground to cover. In that context, and in the interests of moving matters forward, perhaps we will take responses from one spokesperson from each of the institutions

**Dr. Ian Cooper:** Those are excellent questions. Senator Richmond's question came up at the PPA meeting in the context of some kind of formal representation for Northern Ireland. It did not come up at the first meeting because the rules or procedures had not been established. Once that was done, at the second meeting it was agreed that Members of the devolved assemblies, members of the Committee of the Regions and the European Economic and Social Committee, representatives from local and regional government in the EU and civil society actors could be invited to attend. There was a discussion about whether the Committee of the Regions could include some kind of representation for Northern Ireland. Barry Andrews was at the meeting of the PPA. He did not bring the matter up, but this is an idea he has floated, namely, that Northern Ireland should have some kind of representation in the European Parliament. It was not put in those terms, but many people brought up the problem of a democratic deficit. This is a problem that is unique to Northern Ireland because the latter is going to be a rule taker for the foreseeable future without having any formal role in EU decision-making. The consent vote that will be forthcoming in 2024 hardly compensates for that fact.

There are ideas floating around. The advantage of the PPA is that it has a certain amount of flexibility in the context of the fact that it can set its own rules and decide who to invite as guests. However, the fundamental problem is that there are 35 Members of the UK Parliament and only one of them is from Northern Ireland. In that context, you simply cannot have cross-community or cross-party representation. It was interesting that at the same meeting, Ireland, in the context of its MEPs, was very much over-represented. Four of the 35 MEPs present were Irish. They all spoke, and that had a tendency to tilt the conversation back constantly to questions about Northern Ireland. Two members of the Northern Ireland Assembly were also in attendance. One spoke quite robustly in a way that was critical of the UK's approach to Brexit. A couple of members asked if the PPA could not get on to its main task, namely, holding the partnership council to account. They were of the view that the PPA should discuss the broader EU-UK issues rather than always coming back to Northern Ireland. If there were another forum where the representatives from Northern Ireland could have a voice, it could help to resolve that problem.

The point Deputy Richmond made about junior Ministers is also well taken. Liz Truss, the UK Foreign Secretary at the time, was not at the meeting that happened in May. That was taken as an insult by many of the European members. She may have had a perfectly good excuse for not being present. Maroš Šefčovič had just come from meeting with Ms Truss, but she did not actually show up to the meeting of the PPA. In the room, that was thought of as a kind of snub. That was less the case this time around because the tone was different. I do not know if the fact that James Cleverly was not there makes a difference. If you have experience with other forums like COSAC or the various inter-parliamentary meetings that happen within the context of the EU, the parliamentarians expect there to be a representative of the executive - whether it is someone from the Commission or someone from a national government representing the Council - who is there in the room answering questions. These groups have scrutiny and ac-

countability functions; they are not just talking shops.

**Professor Peter Shirlow:** There is a difference between the surveys that come out of Queen's University and our surveys; they are constructed in different ways and have different panels. For example, in our survey, more than 70% of people said they found the protocol and Brexit really complicated. As Professor Phinnemore indicated, in his survey people said they had a familiarity with and knowledge of it. On the point about evidence and data, when you read our reports, you can see that the panels are constructed in different ways. As a result, there is a need to be careful. We did a survey across October, April, May and July. We have been tracking these and other issues. Even with the election results, our predictions were within the 3.1% margin of error, so we have some confidence in what we are saying.

We are also going out and talking and engaging with people in communities. When we talk to members of the unionist community face to face and point things out to them, they will say that it is not what they knew, heard or understood. That is not unique to unionists. It is a question of leadership, which I think Deputy Richmond referred to, and one of getting and giving evidence and allowing that to happen.

The Deputy mentioned the European Court of Justice. In one of our surveys, 64% of nationalists supported the ECJ compared with 26% of unionists. We are not finding intra-community consensus on every question but clearly the ECJ has got into people's heads through the media and public discourse. It is the idea of something being a bad thing and a good thing. Nationalists say it is a good thing, unionists say it is a bad thing and, therefore, it must be a good or bad thing.

When we asked a question about an independent arbitrator, 55% of unionists and 55% of nationalists supported it. It goes from one question where there is a big division, along orange and green lines, to another solution where we find parity. That is the mood we have to get into, which is the point I think Professor Hayward and Professor Phinnemore made, and what this deal will be and then how we will sell it. That is important.

On the overall context of selling deals, we all have to recognise that relationships have already changed. I am not just talking about party political relationships. Some of us are old enough to remember black and white footage of a young Ian Paisley throwing snowballs at Seán Lemass and Terence O'Neill when they were trying to set up trade relationships across this island. That led to the rise of UVF violence and bombing across the Border, etc. Nobody blinks an eyelid now at North-South economic trade and development. I do not know if this is completely correct but an example of that is Wrightbus, which is now a world leader in hydrogen technology. From what I know - please correct me if I am wrong - the buses are made in Ballymena and the technology came from the South of Ireland. Those are relationships where trade unionists, investors and others worked to build that North-South partnership. The point I am trying to make is that in 1965, the Lemass-O'Neill meeting led to civil breakdown and disorder, while today, nobody bats an eyelid about Wrightbus because they see the benefits of North-South co-operation. What is important is that in any way that this is sold and the energy from either side that goes into this, it has to go back to the question of interdependencies. We are living in a new set of relationships. This is not the politics of 100 years ago. My grandmothers could not vote 100 years ago. There was no digital technology 100 years ago. Our families would not have had high-paid jobs; they would have been on the boat or they would have been travelling about trying to make a living. There was no National Health Service or mass education. Why is some of the politics we have still reflective of 100 years ago when it should be reflective of the points Deputy Richmond made about geopolitical stability? There

are new threats emerging. Conventional wars are gone; it is cyber wars now.

If we want to sell anything and we agree that the deal that may emerge is a good deal, then we have to get beyond the binaries of orange and green and nationalist-unionist politics. We have to start getting into the politics of what this protocol will do for the economy. Given that immigrants cannot come unless they earn a certain wage, will Northern Ireland even have the capacity to build its economy if no immigrants are coming? We need to have conversations about interdependence, economic development, skills and productivity. Those are the types of conversations we need. The protocol and Brexit was the opposite conversation. It was about a hard border, a border poll now, never, never, never and no, no, no. The opportunities that still lie within the protocol, if it is agreed, for a unique status for Northern Ireland and its unique interdependencies mean that the politics of persuasion need to develop. We cannot keep going down the road of “You say yes and I say no”. Civic society does not get up in the morning and wonder to itself if it is British or Irish. Civic society gets up in the morning and wonders whether it is going to cut deals, save jobs, pay the wage bill and develop the products needed to sell good and services. In many ways, politics has failed in Northern Ireland, whereas civic society is colour blind to green and orange dynamics. It has proved that through Brexit. What is the best deal for Northern Ireland? What is undermining the economy? What can help the economy? That is exactly the type of politics and approach we need here.

**Professor David Phinnemore:** I will respond to the question on the European Court of Justice because the Deputy asked it directly. In the last two polls we asked people whether they had concerns - “Yes” or “No” - about the full operation or scope of the implementation of the protocol? We found that about one third said they did not have concerns. We then looked at those who do have concerns - the figure was 55% or 56% - and asked them, on a scale of 1 to 10, how concerned they were about these different issues. On the European Court of Justice question, 56% of respondents ranked that as an issue about which they were highly concerned. When we take that 56% of the 55%, it amounts to one third of the population of Northern Ireland, based on participation in our polls. It is a significant issue for that proportion but it is not an issue which has widespread high levels of concern.

What is also interesting in those data is that the European Court of Justice issue is rated as an issue of no concern among the 10% or 12% of people who do have concerns about the protocol. It is not the issue it is made out to be in certain quarters. Going back to the command paper last year, when the UK Government put the European Court of Justice issue in, it raised a number of eyebrows who said that in the debate we have observed in Northern Ireland over the past 18 months or so, this issue has not been coming through in our stakeholder engagement and polling findings. This comes back to a question about what is at stake in terms of the UK Government’s position. Is it specific interests being raised in Northern Ireland, namely, the focus of the implementation of the protocol, or are these issues of concern for the UK from a more ideological perspective? When one goes through the Northern Ireland protocol Bill and the command paper, one sees issues we would certainly recognise as ones we have come across in Northern Ireland but there are others driven more by what the preference is in Westminster. The key for the UK at the moment is to try to move away from that London preference-driven agenda for a deal with the EU and focus more on what the issues are in Northern Ireland because those are the ones the EU would be willing to respond to.

How do we address some of the deficits in the institutional structures? The institutional structures proposed or provided for in the protocol are exactly those that were in the backstop version of the protocol. No thought was given to how to manage an actual relationship, as op-

posed to what was going to be a potential relationship, depending on the wider one of the UK-EU. There is a recognition that the institutional arrangements set out in the protocol need to be revisited and looked at. We have seen that in the *ad hoc* informal stakeholder engagement that has been developed. We also saw it when David Frost and Maroš Šefčovič appeared before a committee of the Northern Ireland Assembly. To me, that suggests that there is innovation there. We also saw it in the presence of the observers on the Parliamentary Partnership Assembly; there is innovation there. How you then bring in the institutions of the Good Friday Agreement is going to be down to the UK and the EU deciding what can be done with those institutions. What is often forgotten in the institutional framework for the protocol is that, while there is the joint committee and the specialised committee, below that, the North-South Ministerial Council, NSMC, can feed in recommendations. There are arrangements whereby the joint implementation bodies feed into the process, as do the rights bodies. What is to stop the strand three institutions finding a way in? It would be very difficult for the EU to turn around and say we cannot have those feeding in because the principle is already there of extra-EU bodies feeding into the government's arrangements for the protocol. Some creative thinking can be done there.

We also need to ensure as part of the process that we know who is part of the UK delegation. Each of the meetings of the joint committee and the specialised committee has had representation from Northern Ireland. The First Minister and deputy First Minister, when they were in position, and Northern Ireland officials were part of it. There is also the joint consultative working group, which is working well now. It is in a regular pattern of meetings in which there are UK officials and Northern Ireland officials involved. They seem to be doing some good work but there is no transparency about it. We do not know what is going on there. It comes back to a point I made in my previous responses. The UK and the EU need to be more upfront about what is happening as opposed to what is not happening. We need more transparency and honesty about what is taking place and to think creatively about what we might be able to do bring the institutions of the 1998 agreement into this process.

**Chairman:** I thank Professor Phinnemore. I am conscious that a question was asked directly of Professor Hayward. Perhaps when she next contributes she can include the matter in her overall response. We will move to Deputy Howlin's slot. We have 40 minutes left, so I ask that everyone be a little more succinct to allow us to move through everything.

**Deputy Brendan Howlin:** I thank all the witnesses for the written papers they submitted. They were optimistic in their presentations and perhaps they have to be. Politicians also try to be optimistic but I am afraid I am a little more sanguine on a number of issues.

Across the political divide here, Brexit was regarded as a bad idea and the protocol was the best negotiated device we could make to deal with the unique situation of Northern Ireland. There was obviously going to be an outworking of it because, like with all overarching agreements reached under time pressure, specific issues were left to be teased out over time. We understood that would work, but for that to work - and this is the point I really want to make - there must be a willingness for it to work. According to all the witnesses' presentations, there is a willingness. Deputy Richmond is positive about that but the whole Brexit strategy is to create a point of division in British politics. There is an enduring residual group - I heard a senior member of the Tory Party describe it this morning as the UK Independence Party, UKIP, branch of the Tory Party - who want a permanent conflict with the EU as part of the political narrative they think they can win votes with. If that is the reality, how can the issues ever be resolved?

I chaired the economic committee of the British-Irish Parliamentary Assembly. We worked

for the past year or so examining the trade implications of the Brexit deal and produced a report. In all our discussions with practical businesses and such groups in Northern Ireland, people spoke about difficulties that needed to be resolved. It was the same in Britain as regards transport and so on. People were concerned with practical difficulties all of which, from a practical politician's perspective, can be resolved but the starting point must be a willingness not to seek to have points of division as political rallying points but to minimise division to work to a solution.

Most of our conversation has been about GB-Northern Ireland trade and so on. Of course there is Republic of Ireland-GB trade as well. On Monday I was with a significant manufacturing company in my constituency of Wexford, Danone. It exports 20% of its baby-food products to the UK. It does not know what future summary of product characteristics, SPC, standards will be and how they will impact on its trade. There is much uncertainty about Republic of Ireland-GB future trade because not all of the barriers to trade or the tests have been put in place yet. They are being pushed back but inevitably some form of testing will be done. Hopefully, another solution is being considered, namely, that those tests could take place on the island of Ireland before products are transferred to any part of Great Britain.

An important issue we have been talking about for years is the question of how we construct a proper dialogue between the European institutions and the UK into the future. Bluntly, a twice annual gathering of individual politicians, who quite often will not be the same politicians, meeting informally is no substitution for the deep engagement we have had for 40 years. We need something more substantial than that. I am interested to hear the witnesses' views on that.

With respect to the strong point made by Professor Shirlow about decisions being made with a lack of evidence, that is not unique to Brexit. It seems to be the overwhelming perspective of our times. Mr. Gove spoke about having enough of experts. We hear people say we can go on gut instincts. Even objective truth is no longer objective truth. It is what the speaker believes it to be. These are difficult and challenging times. I am interested in the witnesses' take on my fundamental question, which is whether they believe the Sunak administration is the pragmatic, engaging, solution-finding administration it is presented as, or is Prime Minister Sunak as much a captive of the divisions in the Tory Party his three predecessors came a cropper with?

**Professor Katy Hayward:** We try to be optimistic because this has been going on for a long time and it is easy to despair. People are saying that the tone is different in the relationship at UK-EU level. The tone is significant but it is not enough. We will see fairly soon the degree to which a qualitative shift has taken place.

I will also respond to Deputy Richmond's points. To some degree the UK position has moved to wanting to see a constructive outcome and agreement. In part because the UK has engaged more closely with stakeholders in Northern Ireland as result of its process in preparing for potential secondary legislation related to the Northern Ireland protocol Bill. As members will know, that is a skeletal Bill. It will exclude certain provisions of the protocol and the idea is that regulations would be put forward by Ministers using delegated powers instead of the provisions of the protocol. Much of this is quite technical, including issues relating to regulatory alignment, etc. As a result of trying to prepare for those, UK officials across different departments have engaged with businesses both in GB and Northern Ireland to try to collect evidence to see what might work. When you engage with people who know what they are talking about, you realise the complexity of the challenge. An awareness of that has fed up to the decision makers and the negotiators in this process. If that is matched equally by evidence on the part of

the EU - it will be difficult - I hope they will be able to find a way forward on that.

That relates to the point about stakeholder engagement. With my colleague, Dr. Milena Komarova, I have submitted proposals to the UK and EU negotiating teams on stakeholder engagement. This is based on a lot of engagement and liaison with various stakeholder organisations in Northern Ireland and across the Border. A key approach is to use the model of the domestic advisory groups that exist in all EU agreements to consider what would work best in Northern Ireland, given the particular complexity and looking at different sectors. One element we consider important is to involve not only the stakeholders, but to have a standing panel of experts. The importance of information must be recognised in the continual decision making that will have to be done, ultimately at the joint committee, but also at the specialist committee and in what the joint consultative working group is processing.

On the democratic deficit, it is too easy to overlook the role of the Northern Ireland Assembly. Let us hope that the Assembly resumes its functions before too long. Things do not look good at the moment. The MLAs have a consent vote to which Professor Phinnemore alluded. However, there is a possibility of having a committee in the Northern Ireland Assembly that would be explicitly established to process the information coming through from the joint consultative working group because at the moment that process is happening only in Westminster in terms of formal scrutiny of the areas of EU law which Northern Ireland must be seen to be aligned with, so there is a gap there that needs to be addressed. On the strand three institutions, I am aware the British-Irish Parliamentary Assembly, committee A, produced an excellent report recently on consolidating the bilateral relationship, recognising the challenges in this post-Brexit context. I must stress, as I mentioned at the start, we must not overlook how much more difficult it will be, so it is absolutely right to identify challenges with respect to the lack of informal engagement and formal engagement with UK and EU ministers and officials. More specifically, the transformation of the regulatory environment within the UK, including significant divergence from EU rules, will potentially have such implications not just for Great Britain and Northern Ireland, GBNI, but also North-South on the island of Ireland. There is potential for the strand three and, hopefully, the strand two institutions also to manage that. It will require a step change in not just their capacity but in the information they are getting. In a funny way, just as post-Brexit border controls require better communication on either side of those borders, similarly, post-Brexit, UK-EU, east-west and North-South relations will have had better communication between the relevant institutions than ever existed before because there is so much now that we cannot take for granted.

**Chairman:** I thank Professor Hayward. Would Dr. Petit like to respond?

**Dr. Christy Ann Petit:** To reinforce the positive and optimistic approach, I completely agree about the willingness of the community and the political representatives but at the same time we need to acknowledge all the alternative scenarios as being worse for communities and for society. This is where all of us can work and make strong points that can be acknowledged in evidence to showcase that these alternative scenarios, which were discussed and considered before a deal was eventually made, were not positive for anyone. I would still have a positive approach considering the fact that there is an appetite to reach a compromise but we have a strong ask to consider what has been put on the table on the EU side with the October 2021 package but also some updates that were made in June 2022 in the context of infringement proceedings, saying that we can move forward but please come to the table with us and we will negotiate and discuss this at a technical level.

I am aware that the technical operations and the technical side need a broader political con-

text that is favourable but there is much evidence from all groups and across society that we need to move ahead and that there needs to be a solution. As regards regulatory divergence, two years ago in the context of the UK internal markets Bill, there were some moves made to ultimately facilitate the conclusion and agreement of the EU-UK Trade and Cooperation Agreement, TCA. When we look at the Bills that are currently being discussed, there is a very strong position on the EU side to say that the Bills that are now being considered could be adapted. Clauses could be revised or removed to ensure there is no infringement of what has already been agreed. At the same time the different degrees of regulatory divergence would impede trade and economic activity. I am currently working on a study for the European Parliament on financial services regulation in respect of the UK and to what extent we can anticipate divergences which would be critical for the operation of economic activities in the financial sector, acknowledging the fact the UK and the EU are very much interconnected at this level. This sector could be an example of how co-operation could be elaborated on or designed in the meantime. Until we reach a deal, the channels for co-operation and talking further, as energy co-operation has shown, could also be used in this sector, namely, for trade and financial services.

Another point to consider that is not ideal but which exists is equivalence regimes. We could consider the equivalence of the frameworks at regulatory and supervisory level. If the EU granted equivalence, it would not be ideal for the UK's regulatory autonomy. Hearing this prospect, the UK side could look at what the consequences would be and opt for a better solution than this one.

**Chairman:** I thank Dr. Petit and call on Professor Shirlow to respond.

**Professor Peter Shirlow:** There is always hope or alcohol, but hopefully both. We have been through a difficult time but let us go back to something. I remember at the time of the 1998 Good Friday Agreement and before that that republicans said they would never sit in a devolved assembly and they would never accept the principle of consent. Unionists said they would never accept reform of policing and power-sharing and issues like that. With the benefit of ageing, the long term is the way. This is what happened with the protocol. Professor Phinnemore spoke about checks and balances, so let us run it and see what happens. Checks and balances kick in, etc. We never got there. That was one of the fundamental problems because what we started off with was no hard border and what we ended up with was no sea border. Those are important points. Those ideologies never allowed us to build this into the ecosystem of Northern Ireland. There was a big opportunity here, although I do not want to rehearse this again, for a customs union and customs tariff. The Taoiseach's initiative, the shared island initiative, is brilliant. This can build capacities and make the types of changes we need to build. I sat on the group that handed out grants for the North-South universities. It was just perfect, in that at Queen's University, they had the technology while in the Republic of Ireland, they had the network. In the Republic of Ireland, they had the idea while in Queen's or the Ulster University, they had the practical experience, which is the very thing we need to be building and doing.

Going back to the Tory Party, we would hope this is the end of the populist-type rhetoric. It has damaged the country. It is interesting when one looks at the surveys that many of those who voted for Brexit would not do so now. There is that realisation and there has been the debacle of the Truss government. It is a party that is not in the position that it was in. How it recovers will not be by going down the rabbit hole of Brexit and the European Research Group, ERG. There are clearly people who have sat in the wings waiting during the various machinations of the party. Some 80 ministers and whips have resigned this year and we still have another couple of weeks to go, so we could get up to 100 yet. The realities of that are very clear. That has

been something that has hit the skids. The Prime Minister has come in with a different scenario and approach but that does not mean that we will get the right outcome. In terms of all of this populism, Trump got a bit of a dent last night as well.

These things run into the practicalities of the outcomes. When we think about the Good Friday Agreement and people not signing up to things, if they signed up to things, they would create a much more stable, normal society. As for Brexit, people wanting this and that and wanting to take their country back has led to this instability. It can work both ways.

Clearly the Conservative Party will be concentrating very strongly on winning an election. Hopefully, that cannot be through this excessive type of politics. It goes back to the point all of us made today that whatever comes out has to be sold. This is the most imaginative moment we need to create here because this is the last roll of the dice for the Assembly. It cannot go on like this. You cannot continually go back to an electorate with election after election. It will not build the stability we need. It is as important as that. Therefore, this deal has to be better than the Good Friday Agreement. The Good Friday Agreement allowed us all our identities. It was like a box of chocolates in that some people liked macaroons while some people liked Brazil nuts. It was a confection. People voted for the Good Friday Agreement because they wanted the conflict to end. It is in the paper I have written but the fundamental problem here is that the Assembly has to have the confidence to start having mature debates about inter-dependencies and building a new economy. It has to get into that space. That is what is critically important here.

**Deputy Seán Haughey:** I thank the witnesses for their presentations. We appreciate that we have been given factual information, rational arguments and evidence-based findings. As practising politicians, we appreciate that having regard to the situation on these islands.

I have three brief questions which, hopefully, can be answered briefly. Deputy Howlin made a brief reference to evidence related to trade flows. Is it too early to be definitive about trade flows between Great Britain and Ireland, east-west, and between the Republic of Ireland and Northern Ireland, both ways? What are the headline figures so far in relation to trade flows as a result of Brexit?

We have all been following British politics very closely over the last few months and listening to all the arguments and the different factions within the Conservative Party. To what extent has Brexit been responsible for the economic woes of Great Britain at this time? People like to think that Brexit is totally responsible and allow themselves a wry smile that the British have got themselves into these difficulties. Britain is suffering from declining economic growth and inflation, the markets are spooked and there are public finances issues and so on. To what extent can these problems be traced to Brexit solely or was that just a contributing factor?

Professor Shirlow mentioned the shared island initiative twice, the need for the peace dividend, the role of civic society, the decline in violence and the grants for the universities. How important is the shared island initiative? It is a new initiative and it took a while for all of us to get our heads around it and to see what it is trying to do. We appreciate there is a lot of hard work involved in that, much harder work than mere sloganeering. How important is the shared island initiative given what has been outlined in relation to what needs to be done?

**Professor David Phinnemore:** On the trade flows question, it is probably too early to say, partly because one of the things, as we heard earlier, that has been absent from the negotiations is reliable data. It is very difficult to know these flows. Consider goods that are going from

south of the Border, across the Border and into Great Britain, there are no checks on these goods. As a result, data flow questions are difficult to answer.

On the question of the responsibility of Brexit for the economic woes, by its nature, it was always going to be disruptive. The UK actually took the hardest form of Brexit available in terms of leaving the Single Market and the customs union. It got a zero tariff, zero quota agreement with the EU. In those circumstances, there is bound to be an economic effect. However, caution is needed here about identifying one sole source of responsibility for economic outcomes. Covid has played a part and there have been general economic structural changes within the UK. Brexit is there but I think it will take some time to determine exactly what proportion of responsibility it has for the economic situation the UK finds itself in.

**Professor Peter Shirlow:** I was in the Seanad Chamber a week ago, also praising the shared island initiative so I have some thoughts about that. As I said earlier, I am from a pro-unionist background and I think this is the type of inter-dependency and the type of connection that I voted for in 1998. I wanted this island to work and join itself together and to work against the harmful impacts of partition on those relationships. The shared island initiative is critically important. It can give majority support for a North-South relationship, shared prosperity and the building of new economic futures. It is a new space for civic leadership, which was very dented during the conflict. Politicians and media filled that space. Civic society walked away a lot from the conflict. It was dangerous to engage in political pronouncements and activity. I think that is very important. It is not divisive. If you want a united Ireland, it can help build a Northern Ireland which makes constitutional change easier. It can help build a Northern Ireland which means constitutional change is not needed. It can give that sort of cross-community support because it is future orientated. It is about restoring the relationships destroyed by partition. It is an accelerator of those inter-connections and it is critically important. It is notable that the recent NESC report pointed out that this type of all-island connection is possible and that this could happen without constitutional change or without demands for a Border poll. The report shows that it is possible to create the realpolitik of building a more shared society and shared island.

One thing we forget about the protocol, when we get into the debacle of the protocol and the arguments arising out of it, is that it extended the capacity for North-South arrangements. It also protected rights. The Equality Commission for Northern Ireland was given extra funding by an Act of parliament to protect rights. One of the things we actually have is that one portion of the protocol has become the debate and the argument. Many of the aspects actually show mutuality between Great Britain and Ireland because they signed this together. They show that the British were prepared to support more North-South development and to protect rights by giving the Equality Commission for Northern Ireland certain roles, obligations and positions. That is forgotten. When we go back to that document and see what is in it, the potential of this shared island initiative is very important.

**Dr. Christy Ann Petit:** I will be brief. On the point about trade and data, we retrieved data from 2021. The EU is indeed the UK's largest trading partner with 46.2% of the share in goods, imports plus exports, whereas the UK is the third largest partner for the EU. This is data from 2021 which was still possible to trace. However, from this year onwards, it is much more difficult because there are data collection issues and also the statistics reporting mechanisms are being changed on both sides. As a result, it is much more difficult to compare with previous years and to trace back differences as a result of Brexit.

The second point is on the financial services sector. The city of London has been the main

point for the financial services sector for the EU. From qualitative evidence, not quantitative, and from interactions with industry, I have been told that there is no big shift at an international level. The UK continues to have a strong connection for financial services with the EU Single Market.

My final point is that the EU is concluding more and more partnership agreements or equivalence regimes with third countries apart from the UK to manage the situation once the unique equivalence regime that exists at the moment for clearing services comes to an end probably in 2024 or 2025.

**Dr. Ian Cooper:** On the question of whether or not you can ascertain that Brexit is the cause of the economic woes of the UK, there is an answer to that question from a social science point of view. Various economists have made comparisons between the UK's performance post-2016 to a basket of similarly situated countries. It is difficult because of Covid and all these things. The further you get from 2016, the more uncertainty there is. There is definitely a hit in terms of economic growth. However, trade and investment, in particular, have been hit hard by Brexit. I do not just think this. I think you can say that as a matter of fact.

I want to briefly respond to the question from Deputy Howlin about whether the new Prime Minister, Rishi Sunak, is likely to change the tone of the proverbial mood music. To give Liz Truss her due, the mood music changed when she became Prime Minister, even though the mood music was terrible when she was foreign minister. Rishi Sunak has kept the same team of James Cleverly, Chris Heaton-Harris and Steve Baker in these Brexit relevant posts. She is going to be a footnote in history, but to give Liz Truss her due, the change did come under her premiership.

**Chairman:** As Professor Hayward is the only person to be excluded in this round, I want to give her the opportunity to come in on some of the points made by Deputy Haughey.

**Professor Katy Hayward:** That is very kind. As Professor Phinnemore said, we do not have the data yet for Northern Ireland. We do not have detailed statistics on GB-NI trade, but we have seen trade flows through Belfast port increase. The latest data that they have grown significantly, which is really because we have seen less trade between Dublin and Holyhead. That suggests a diversion of trade through Northern Ireland, which shows that we do not yet have full implementation of the protocol. This brings some benefits to Northern Ireland and possibly it is partly why Northern Ireland business as well as the UK Government is saying the baseline for an EU-UK agreement is to keep the grace periods in effect, so the consequences of the grace period can be preserved. That is clearly bringing some benefit to Northern Ireland.

**Chairman:** I call Senator Chambers.

**Senator Lisa Chambers:** A lot has been covered. I do not have a huge number of useful thoughts to offer on top of those given by other colleagues. I thank the witnesses for their contributions. It has been fascinating to listen to the different perspectives. It has reminded us of the journey we have been on over the last number of years, in particular. I refer to the EU's perspective, things we are doing now and what the EU offered and those concessions about which Dr. Petit spoke. At the start we were told they could not be done, but they were done. It shows we have been on a journey together. We have not covered ourselves in glory at all times. Professor Shirlow spoke about evidence-based approaches. We are all guilty at times of not focusing on the evidence, but of using ideology and emotion. That has been across the board. It is good to reflect on that as we move on to the next chapter. When it happened in 2016, we

said we would spend the next decade talking about it and we are living up to that. We will still be talking about it.

Talking about the structures that were put in place, like the parliamentary assembly and how that is operating, I concur with Deputy Howlin's remarks that two meetings annually are not going to suffice as replacement. We are doing a lot of work domestically in terms of BIPA. We have a new friendship group set up between the UK and Ireland. I convened that group. We are trying to replicate some of those engagements and make up for their loss. However, it would be a welcome move from the EU perspective to look for further engagement. It was great to see the MLAs speaking yesterday at the meeting in London. That is great progress and that democratic deficit is keenly felt in Northern Ireland. I chaired the Seanad Brexit committee. We concluded our work almost a year ago but that kept coming up, not just among political representatives, but among business groups and civic society. They felt they had no meaningful voice at that table. Having to do it through the UK Parliament and on up the line that way was just convoluted and weakens their voice. Anything we can do to really address that democratic deficit in a meaningful way and give people a seat at the table is a small concession and is not going to upset how things are run. However, it makes a big difference to those voices in Northern Ireland, and that is supported across the island from all communities. It would be welcome to see that advanced.

I loved a lot of Professor Shirlow's commentary. It was eye opening for me to hear some of the positive stuff coming through that we do not hear communicated through our media, on the whole island, not just in Northern Ireland. Even in the Oireachtas we do not give enough weight to those positive news stories. I will certainly reflect on that and look in more depth at that type of information and do my best, in terms of my position, to try to get it out there. It is really positive. It changes the narrative and the tone of the discussion and conversation.

I have a quick question and it is open to anybody who wants to comment. How do the witnesses see Northern Ireland's place in the European Union evolving over the short and medium term? It has a unique position and maybe at times over the last number of years we have been a bit condescending in reiterating that this is an opportunity they are failing to grab. That must have been really annoying in some quarters. If we are honest, it has changed Northern Ireland's position within the UK, to a certain extent. The increase in North-South trade has been to the annoyance of some members of the unionist community, which they have articulated through their public representatives. I understand where they are coming from. Things have changed.

Flowing from that, Professor Shirlow spoke extensively about the Good Friday Agreement, not just in this committee but in other fora. Obviously, that was constructed post-EU membership, and was constructed in the knowledge that we were all part of the European Union. That has changed. How does he think that impacts on the operation of the Good Friday Agreement given, that the link is no longer how it was with the European Union, if I can put it that way? Do we need to update it in some way? Is it still fit for purpose? What are the professor's views on that? Obviously we have different communities saying different things, that it has been damaged by the protocol, or that it is not fit for purpose anymore. How does that evolve? Obviously, we need to protect and support the Good Friday Agreement, but we should not be afraid to update it if it needs to be updated. I know we are down to the last few moments, so I will leave it at that. I apologise in advance as I am due in the Seanad Chamber at 11.30 a.m., so when the bells go I have to run.

**Chairman:** Who wants to go first? We will have an all inclusive response here, starting with Professor Phinnemore.

**Professor David Phinnemore:** I thank the Senator for those questions. She said there were a few issues there, but there are 1,001 issues on which we could engage. On the future, the Senator talked about some mistakes being made in the past. One of them was to present the protocol as the best of both worlds. It was oversold. As soon as we began to look at it, we realised that there were various shortcomings in it. I referenced earlier that it avoids a physical hardening of the border, but we do not have free movement of services, capital and people. Issues are arising there. If the protocol is to serve the function of addressing the unique circumstances on the island of Ireland as it sets out to do, then there has to be flexibility around addressing some of the issues that are emerging. It is interesting that we used to hear rhetoric that this was about protecting the all-Ireland economy. That language disappeared from the protocol in the revised version, but if that is still part of the spirit in which it exists, what is being done to address the issues which the disruption of Brexit has caused in other areas?

I appreciate that we are at a difficult place in the UK-EU relationship and there is obviously resistance within Northern Ireland to differentiated treatment of Northern Ireland. However, if the narrative were to change, we have a framework here, where the UK has accepted some differentiated treatment for Northern Ireland. The EU has accepted that there can be special differentiated arrangements for a part of a non-member state in its relationships. What can be done there? If we think about trade, for example, one problem we know exporters in Northern Ireland are having is that they cannot access EU trade agreements. They can trade into the EU, but they are not covered by EU trade agreements with third countries. Can that be resolved so they can get that access? We talk about issues where the UK is possibly not necessarily pursuing what might be in the interest of Northern Ireland, for example, in the education space. Could we go back to ideas of how the protocol might be used to provide Northern Ireland particular access to EU programmes, because of the unique circumstances on the island of Ireland? We have to get over the current problems but I think there is a framework there, which can potentially be used subject to ensuring that there is broad consensus within Northern Ireland on this.

**Professor Peter Shirlow:** I think this is the very point, that is, on whether we have moved to a better Northern Ireland. I made the point earlier about the NUTS 3 regions. There are 179 in the UK and Belfast is seven. The only places above it are in the south-east of England, mostly in London. It is a phenomenal performance. We know that is driven by fintech, cybercrime and cultural production. That has shaped and framed a different city. Nobody is saying there are not structural weaknesses or difficulties. Agri-business in Northern Ireland feeds 10 million people in Great Britain. It has dramatically improved its quality, its marketing and all that. When we reach the point where nationalists and those who want a united Ireland can accept it is a better place, that will be a true and proper political shift. When we reach a place where unionists can accept that the Republic of Ireland is not the place they were told it was, we will have reached a level of political maturity. The point the Senator picked up is a problem of a lack of political maturity. People can say Northern Ireland is an improving and better place and still want a united Ireland. We are tied to this 100-year-old approach of the Orwellian “two legs good, four legs bad”. Any time I point out the positive things about Northern Ireland people just say “if” and “but”. It is like having a row with your partner. Nobody is going to give in. It is the same with unionists. They always point out the problems in the South, like the issues of housing or the working poor or whatever. Then people in the South will say “Well, we have more of this or that”. That masculinised type of conversation - it is not a debate - very much reflects the type of politics we live in. Facts do matter. We are the only society in the world that has had a successful peace process and we do not celebrate that success because sharing power with Sinn Féin created successes and acknowledging North-South relationships created positives. For republicans, of course, Northern Ireland cannot be a positive place because it is a colonial

construct and an artificial society. Politicians are very good at claiming success when it comes. There is nowhere else in the world where they have failed to actually grab the successes of what they created and delivered. We are caught in this constitutional binary and that constitutional binary defines the protocol and the reaction to it.

**Senator Lisa Chambers:** My apologies, I am meant to be in the Seanad now.

**Professor Peter Shirlow:** Was I that bad? I was bored too.

**Chairman:** The Senator will be the second person to have left during Professor Shirlow's presentation.

**Professor Peter Shirlow:** There are only four to go.

**Chairman:** I call Professor Hayward.

**Professor Katy Hayward:** In response to the question asked by Senator Chambers, Northern Ireland is no longer in the EU and we will increasingly see the consequences of that. To give one example, as a result of the Nationality and Borders Act, non-visa nationals in the Republic of Ireland, that is, EU citizens and non-Irish citizens, will need an electronic travel authorisation, ETA, before they cross the Border. That is not even for work or anything like that but just to cross the Border. Legally that is the case. That ETA will be associated with biometric data so people will need to submit biometric data, including facial recognition data and fingerprints, in order to get the ETA that is required, at least officially, before they cross the Border. It sounds extraordinary but this is the environment we are in post Brexit in terms of North-South relations. We should just be aware of that. Such issues will increasingly arise for relations across these islands.

*Ad hoc* engagement with Northern Ireland by the EU, recognising the consequences of the protocol, has been excellent. There has been so much attention from across EU member states, EEA countries and others. That has been very welcome. It is not just from businesses but also civil society organisations and experts. However, we are conscious that that will not be sustainable. It needs to be put on a formal basis. It is important that the UK and the EU agree proposals for structured engagement and formalised means around more complex aspects of governance in Northern Ireland going forward.

Regarding the Good Friday-Belfast Agreement, it was of course made in the context of UK and Irish membership of the EU and the assumption, therefore, of closer integration. I would point not just to the fact that Brexit is now putting that under pressure. It is not just about regulatory change etc. There are really fundamental changes happening. In effect, the UK constitution is being eroded or transformed. That will have an impact on the Good Friday-Belfast Agreement. At a baseline, there is also the breaking of international law, as we have seen in the Northern Ireland protocol Bill. We also see the centralisation of power, the erosion of devolution and the status of devolved authorities and institutions, parliaments and governments across the UK, and the sequestering of power into the Executive in Westminster. The use of delegated powers by Ministers will have consequences, as will the erosion of the Human Rights Act and what that means for Northern Ireland. In fact, the Equality and Human Rights Commission here will potentially lose its UN-recognised status as a result of a lack of funding and resourcing. It is fundamental to note the fact that we have not had rigorous impartiality in the exercise of sovereign power in Northern Ireland by the UK Government. This very much relates to the protocol. As a consequence, we are facing a situation in which anti-protocol senti-

ment is very closely linked to anti-Good Friday-Belfast Agreement sentiment. We need to be careful in how we manage not just the dangers but the opportunities that arise from any UK-EU agreement. We must preserve the essentials of the Good Friday-Belfast Agreement, including within the UK constitution with regard to basic principles of democratic governance, so we do not inadvertently end up in a very bad situation by the time we come to the agreement's 25th anniversary.

**Dr. Ian Cooper:** I will respond to a point made by Deputy Howlin. He asked about how the UK-EU relationship is going to develop if there are some people within the British Government who have an interest in permanent conflict. Looking at the Parliamentary Partnership Assembly, the solution is to sideline those people, basically. It seemed most of the people in the Parliamentary Partnership Assembly were remainers or former remainers who, with a heavy heart, have accepted the fact of Brexit and are now trying to make it work. It is those kinds of middle-of-the-road former remainers, people like Hilary Benn, Oliver Heald and Robert Goodwill, who will actually make Brexit work. They are often just Tories but they are reasonable Tories. The European scrutiny committee, which is within the British Parliament, is full of Brexiteers. They wanted more representation on the Parliamentary Partnership Assembly but they did not get it. That might be an indication of the way forward in practical terms.

**Deputy Brendan Howlin:** Is there a prospect of renegotiation? The settlement that emerged after the Brexit vote was the hardest form of Brexit because of the unique political dynamic of the House of Commons at the time. Is there any prospect that a more pragmatic trade approach would open discussions again? I am not talking about undoing Brexit but opening the terms of Brexit again. Is that possible?

**Dr. Christy Ann Petit:** I think it is because there are some measures within the withdrawal agreement and the different parts of the treaty that can be reopened. There are rebalancing measures that can be taken if there have been significant changes that result in a material impact on trade and investment. We have talked about that. Some of these provisions could be activated by either party. If there is a willingness to sit at the table, they could work within the legal framework that has already been negotiated and adopted and is in force. It could work but it goes back to the earlier point that there needs to be political willingness for this.

**Professor David Phinnemore:** There is a five-year review clause in the trade and co-operation agreement. Serious thought needs to be given to reviewing what has actually happened. One of the roles of the joint committee is to constantly review the protocol, so review mechanisms do exist.

**Senator Vincent P. Martin:** I thank our expert guests. This has been a worthwhile exchange. However, I have a feeling politics as we know it is broken. We will continue to step up but there is huge weight on the shoulders of those in the academic world and civic society to help us fix this most serious moment since the Good Friday Agreement.

It is not a high-level academic proposition, but there is a lack of trust. I am safe in my own comfort zone of coming from a school of republican nationalism. I believe the unionists' concerns are genuine. We all know the scars have not healed but I am worried they are not healing. We have an august gathering of expert guests today that is led proudly by a strong contingent from QUB, which is a wonderful place. I read a piece by Sam McBride recently. He relived the horror on the QUB campus in 1983 when a university lecturer was shot in the head. Standing beside him was another lecturer, Dermot Nesbitt, who is a voice for moderate unionism and a reasonable man. He continued to teach while fearing for his life and that someone was going

to jump at him in the lecture hall. The Dermot Nesbitts of this world have problems with the protocol. I do not have such problems but those who do need assurance. They do not trust people and do not think there is adequate insurance, so we must feed into the process. I have written pieces on this and so have many others. We say Northern Ireland has the best of both worlds, we ask how could people turn this down and we ask modern unionism to step forward. Unionists do not get that and they do not appreciate that at the moment. This is not a belligerent standoff where they are being awkward for the sake of it. We must reach out to the other side. It is broken at the moment.

This is less about the highbrow points of academia our guests are so brilliant at. I ask them to translate their emotional intelligence and humanity into breaking the logjam because at the moment there is a deep lack of trust. There has been a fundamental breakdown in trust among unionists. They think they are under siege and that their proud tradition will be impacted by this. If they could only hear the objectivity of the experts today. Alas, that is not feeding into their school of thought. Edgar Graham was a rising star. He was a barrister, academic and a potential future leader of the UUP. I do not want to look at the past because we are not going to get answers there. The past is stymying the future and those scars have not healed. I hate singling out an atrocity but do so because we have a number of speakers from the university. It is just one of the many horrific examples of how broken the system is. We have a peace but it is not an authentic peace. People are not embracing the peace in my experience. A lecturer should have been out of bounds, like a peacekeeper or religious minister. An academic walking the campus is like the women and children who are innocent victims. Even in the worst war in the world none should have lost their life. People are old enough to remember that. I must always say there is equal hurt in the republican nationalist community. However, it so happens the obstacle at the moment is a genuinely-held fear of unionists, who will not accept the best of both worlds. The fear is groundless and I hope unionists do not feel insulted by my saying so. Indeed, they could save the union just as Trimble did 25 years ago. He was such a man of vision. He was recorded talking to some of his unionist colleagues convincing them to vote for the Good Friday Agreement. He told them we know what is coming down the tracks, that this is good and saves our union. He faced down a few people who were saying, “No surrender”, and engaging in that kind of cul-de-sac politics.

I would love to hear from our guests on this. It is not going to be an award-winning academic paper but it makes use of their immense experience and brainpower. How can we fulfil something even greater and reach out to a community that feels under siege and under threat at the moment? They do not buy into what so many of us are saying about how this is good for them. It is the fundamental challenge for us all. It is a big question to ask. Have our guests any suggestions? The Northern Ireland Women’s Coalition was a catalyst of hope at the time. Sometimes it takes something special outside politics. I am a believer in bottom-up politics. Maybe we should all go home and talk to our neighbours, reach out to people who are perhaps of a different persuasion and hope that will feed up into the crucial decision-making process. I thank all our guests for sharing their enlightening papers with us.

**Chairman:** I thank the Senator. I will go to Professor Hayward because she must be away in five minutes. No pressure. It is to be a non-highbrow response from our esteemed academic guests.

**Professor Katy Hayward:** I thank the Senator. We need to be clear about what the role of academics is in all this. It is fundamentally around good research and evidence. You can only do so much. You can have good-quality research and evidence and engage in fact checking,

for example, and this is fundamental to the proper operation of democracy. The protection of academic freedom and recognition of the role of universities, which is privileged, is vital and needs to come from other institutions of democracy that are essential to democracy, most particularly elected institutions.

There is a worrying trend, which has been alluded to, of demoting the value of evidence and expertise. We have seen the consequences of that and there are, of course, obvious dangers in this regard. That is especially evident in Northern Ireland. When we did the polling on where people get information from on the protocol, we were not too surprised to see academic institutions were not super-high in that. That said, when we look in more detail at that data, those who have more moderate views on the protocol are those who engage more frequently with official sources, academic sources and business, so there is probably something in that. However, rather than thinking about things that might particularly dissuade a given community, it is the responsibility of academics to present their information as appropriate in accessible ways. All of us on the panel try to do that when presenting evidence.

Another aspect is the university being a place where we can have a safe space for public discussion. Again, we have a very privileged role in relation to that. However, we must fundamentally come back to the fact there is a distinct role to be played. For elected representatives, there is the responsibility to not selectively use information in a way that can try to present a particular picture of the protocol or whatever issue is at hand. There is a responsibility there not just to democracy but to good governance and decision-making. The points raised by the Senator are profound but the answer is quite simple and fairly straightforward and is around valuing the role of evidence and protecting the independence of institutions such as universities in what is a very highly contested and complicated situation, and what are very difficult matters to address, particularly given the emotions and the values which surround all of these issues.

**Chairman:** I thank Professor Hayward for her contribution there and for attending today's meeting. We really appreciate and are grateful for her time and value her contribution. The committee may be doing some further work in this area and we hope to reach out to her again.

**Professor Katy Hayward:** I thank the Chairman and the committee for having invited me.

**Chairman:** I call now Professor Phinnemore to speak, please.

**Professor David Phinnemore:** I will be very brief. In addition to what Professor Hayward said there, the issue of trust is of great importance here. As an example, I will quote from the polling evidence, where we have asked this question over the five or six polls on the extent to which we trust various actors to look after Northern Ireland's interest regarding the protocol. On the EU and the Irish Government, 47% and 45% of those polled have trust. The most remarkable figure relates to that trust in the UK Government. The latest polling indicates that 7% of our respondents either trust the UK Government or trust it a great deal to look after the interests of Northern Ireland in the protocol. That is the highest figure across the six polls. This lack of trust is a very worrying situation. One can appreciate that there may be certain sectors of society in Northern Ireland who would not trust the UK Government but the fact that this figure includes unionists suggests there is a major issue there for the UK Government to address.

My second point is that part of the reason we have such a lack of trust is that expectations have simply not been managed in this Brexit process. There has not been honesty around the choices or the consequences of those choices. This goes back to the point I made right at the beginning. If you are going to develop trust then there needs to be much greater honesty on the

part of the principals in this process, and I am looking primarily at politicians and Ministers. Trust and honesty are very important in this and we need to address those.

**Chairman:** I thank Professor Phinnemore and call Professor Shirlow to speak now, please.

**Professor Peter Shirlow:** I will respond generally to the question of the pro-union community. As Brexit and the protocol has shown nearly every day through social media, one of the significant challenges which all of us share is to challenge the entrepreneurs of sectarianism and identity politics. Those who act in a way to destabilise must be challenged. There are several ways of illustrating that. Certain entrepreneurs have created this idea among both unionists and non-unionists that the unionist community is in economic free fall etc. Of the 100 most deprived places in Northern Ireland, 72 are Catholic, 18 are Protestant, and the rest are mixed. Unionists, Protestants or people with those backgrounds still maintain a greater likelihood of owning their own homes and of having soft capital such as a home, investments etc. Both unionists and republicans play into the myth that the unionist community is on its back foot, is intransigent etc. That is something we need to respond to, going back to the point about evidence. I grew up in a council house and became a professor. It has not been a bad life and there are many more people like that.

One then gets to picking up the idea of educational disadvantage. There is an issue there for a very small number of people and it is an important issue but issues are picked up all of the time that this unionist community is in decline, that it does not make a contribution, that it is not part of civic society and that it does not have community groups.

In Lisburn, former UDA paramilitaries set up what is now one of the most successful social economy projects on this island. This goes back to the point that, I believe, Senator Chambers made earlier, on knowledge about these issues. The pro-union community is as likely to support marriage equality as those who wish for a united Ireland. The pro-union community is more likely to support abortion. With all of the things I am talking about here, especially when I come to this part of the island, I have to explain this deep-seated lack of knowledge of who I am. I receive questions such as to ask whether there any Protestant poets or writers or do I take a drink. It is as if we all sit at home, wearing a sash and a bowler hat and do not engage with the modern world. We have to remember that the forces of history have forged ideas and identities about people and sometimes unionists dig into that negativity of themselves to present themselves in exactly the way that sometimes nationalists and republicans present them, with the Jamie Bryson types etc. suggesting the game is up and everything is open.

There are barristers, lawyers, business and tech people. Not everybody is living in a council estate and shouting, "No Surrender". There is a bigger project and I believe this kind of conversation is healthy and it is very important that we have it, as we have not reached the point where we know each other as people. We have allowed stereotypes to be used to form a great deal of our political discourse. There is a point I made earlier on, which is that 100 years on we are still talking in ways which are unimaginative. My wife is called Oonagh and my children are called Aoife and Ruairi. That is an increasing trend in our society; which is of people marrying or living in adult relationships across the sectarian divide.

My final amusing point is that when I married in 1993 in the Catholic church in Derry, and when the altar boy rang the bell, all the Protestants ran out because they thought it was last orders. There are more imaginative ways for people to engage and ways in which people are breaking down these barriers and these relationships but we have a media and political discourse which tells the opposite to actually what the reality is.

**Chairman:** I thank Professor Shirlow. I call Dr. Petit now, please.

**Dr. Christy Ann Petit:** I will elaborate a little bit on the role of academics. I very much agree with all of our speakers that we have a mission. It is not just about excellent research and learning but there is a very significant part about engagement, which is also part of the mission of Dublin City University, DCU. In these engagement activities, it is our mission and responsibility to get out of our ivory tower and to convey all of these data and evidence and what we believe, to some extent, because there is also an opinion that we represent, namely, the academic position. This is where I would very much support the committee's proposal or the fact that it emphasises establishing a forum of activities in which academics could participate and play a role here, between North and South and east and west. There are many initiatives and issues and all worlds, including academia, policymakers and communities need to be talking to one another and making space for that and spending time together. It is about making this knowledge and all of this accessible. It is a challenge but is a mission we can achieve.

**Senator Vincent P. Martin:** The academics are esteemed but they are independent and expert. Their message is an objective one but is not being hammered home effectively at the moment. If I say something, I am a politician and have a certain view on this but the majority of the independent, esteemed research points in one direction. I take Professor Shirlow's point that a fake information war is being waged out there and it is just a shame that the expert, independent, academic voice is not landing or else we would not be where we are today.

**Dr. Christy Ann Petit:** Yes, but this is my point about getting out of the ivory tower and making ourselves understood.

**Senator Vincent P. Martin:** That point has been well articulated by Dr. Petit and I thank her and the committee very much for their indulgence.

**Chairman:** I thank our contributors there and the Senator is more than welcome. We are going to break with precedent here and are going to allow a member to come in for a second time. Do I have the agreement of our esteemed members for that? Will we allow Deputy Ó Murchú-----

**Senator Vincent P. Martin:** My apologies to the Chairman, I would love to spend more time talking to the committee but I must attend the Seanad to speak.

**Deputy Ruairí Ó Murchú:** I find it deeply offensive that the Senator is to leave when he heard that I was going to speak.

**Deputy Rose Conway-Walsh:** I believe the Chairman may allow me to speak first as I am not a permanent member of this committee but am obviously very interested in the discussion this morning. I am a member of the Committee on the Implementation of the Good Friday Agreement and these issues overlap. Indeed, I believe that had we had the full implementation of the Good Friday Agreement and the subsequent agreements, many of the issues which we are trying to grapple with now would have already been solved but that is to look back.

I apologise to the committee that I have had to go in and out to other meetings while this meeting has been in session. I thank our guest contributors for their submissions, which are very good. It is important that we are all on the same page here and that we fill in the knowledge gaps which each of us have on this issue.

Returning to what Professor Shirlow was saying there that nobody has mapped or modelled

the protocol; we have not measured the full extent of the opportunities that are available to us with the protocol. I have a number of questions. What do we need to do to have that mapped and modelled because that would take the politics, the emotions and the other stuff out of the argument? It is hugely important.

The second question is on the Horizon programme. As the British have now said they are going to pull out of Horizon, so the wall is up there. The British are going to use the £14 billion they were putting into Horizon to replace it with something of their own. I am deeply concerned about this from the point of view of both islands and in terms of what we need to do regarding climate change and public health. I am also afraid about the current tightening, in terms of the decisions the British need to make, and that even the £14 billion they say they will ring-fence for their own Horizon-type programme will drop off the table. Where does that leave us and what can we do to reopen that door in order that this is back on the table?

**Professor Peter Shirlow:** On the question on mapping, that is process involving more than just economics. It is also involves mapping social attitudes, identity attitudes etc. The point was made here today that there is a lack of data. Modelling could be done, however. As Invest NI allegedly had more interest in investing in Northern Ireland than at any time, you could model the consequences of that. I think one of the consequences is very clear, namely, lack of workers because of Brexit, which means you cannot come to the UK unless you are on a certain wage. We already have - I am sure it is the same in Dublin with the shortage of workers - things like certain restaurants not opening on Monday, Tuesday or Wednesday.

The modelling can be done in many different ways. The problem is that we do not have an Assembly that can think in that way. You used to have that under Peter Robinson and Martin McGuinness. A lot of the fintech that came to Belfast was because Peter Robinson and Martin McGuinness did the tours, went out and sold Northern Ireland as a place to invest. We have lost that dynamic. I do not think we have that type of leadership at present. At the end of the day, when are we going to have an Assembly that thinks about building a society, irrespective of your constitutional preference? That mapping exercise is a very dry, boring and econometric exercise but it is the way we have to think. I am going to keep making the point I made earlier, which is that if you want an united Ireland, making Northern Ireland a more stable place makes it easier. If you want to stay in the UK, you want to make Northern Ireland a more stable place. There should be more conjoined thinking that people can achieve their ideological and constitutional outcome by behaving in a very different way.

**Deputy Rose Conway-Walsh:** What I am hearing is that the institutions need to get back up and running as quickly as possible. I take Professor Shirlow's point about the wider analysis that must be done and the Department for the Economy can instruct that work in order that it brings certainty to business and industry, which can ascertain what it will be like in five or ten years' time. By having that certainty, research and innovation can work together.

**Professor Peter Shirlow:** Some political parties, which I will not name, should be far less resistant to outsiders providing information and argument. An ideological shift on the part of a lot of political parties has to take place. Outsiders can be trusted. They might have a different perspective and a different set of values but they can be trusted to provide evidence that is not agenda-seeking. I want social prosperity and social justice as much as those in political parties in Northern Ireland, as does everyone here. There must be less suspicion of outsiders providing evidence. It is not always an agenda. It is about their values and ideas. Much of the capacity within the Assembly is lost because of that impervious nature towards evidence and engaging with others.

**Dr. Christy Ann Petit:** On the second point about research funding, if I am correct, following the non-implementation of the protocol and some breaches by the UK, the Commission decided to exclude the UK from the EU Horizon programme for research funding. Following this exclusion, the UK started a dispute under the TCA. This is an example where the current legal framework has been used. I do not know the latest update in September. They were discussing the measures in this legal dispute. Basically, it is in the context of the worsening of the relationship between the UK and the EU. A proceeding is ongoing. It is a concern I share. Ideally, research funding should be ongoing but in the context of this exclusion, for now, the UK will be treated as a third country for this funding scheme.

**Deputy Rose Conway-Walsh:** Perhaps we will have other conversations about how we get that. If there is agreement on the protocol, if we open the door for Horizon again to part of that wider thing, it would be crucially important.

**Dr. Ian Cooper:** The Parliamentary Partnership Assembly has taken that up as a cause. It is trying to seize on a couple of really practical issues it could use as proof of concept that the EU and the UK can work together on practical issues. Another one involves touring artists, who have been badly hit by Brexit. It is an ongoing campaign from the parliamentarians to try to get this up and running.

**Chairman:** I thank the Deputy for raising that. I know the Committee on the Implementation of the Good Friday Agreement will visit London shortly. We are going in a few weeks' time as well, so we will put that on the agenda.

**Deputy Ruairí Ó Murchú:** I am deeply disappointed that Professor Shirlow has not come round to Irish unity. I thought that would have happened in the interim. In fairness, he-----

**Professor Peter Shirlow:** If you came up with a plan first, we might look at it.

**Deputy Ruairí Ó Murchú:** The Irish Government has a piece of work to do on that as well. In fairness, Professor Shirlow named his son very well.

On the basis of what I heard and the synopsis, the mood music is better regarding the TCA and protocol. We do not have a crystal ball but Britain has bigger fish to fry at this point in time and Rishi Sunak is likely to be somewhat more pragmatic than previous Prime Ministers. Perhaps even Liz Truss had already pointed in that direction, whatever other issues may have arisen.

We still have difficulties. The Nationality and Borders Act was raised. We obviously have the amnesty legislation and all those other factors. We will see where the lie of the land is. Professor Phinnemore spoke about the flexibility that is required - we all gather that - and that maybe the protocol had been oversold as the best of all worlds. He went into the ins and outs and difficulties. Some of them are the difficulties of Brexit. If we just reworked and went back, we would not have those difficulties but we are where we are. We are in very changed circumstances. I think Professor Phinnemore answered regarding where most of that is.

Professor Shirlow argued that if a deal is done between the European Union and the British Government, it needs to be sold and a particular piece of work has to be done to sell it to unionism. Unionism must also be open to that. It is very good that we have all the information and can have real conversations because sometimes we have all had nonsense conversations on what our perceptions are. A lot of people vote for an awful lot of political parties without necessarily buying into all they speak about. There is probably an element of unionism that

has always voted for the biggest unionist party. That does not mean they buy into the almost Christian fundamentalism of certain parts of what the DUP puts on offer. I would argue that at times, unionism has not shown great leadership. The DUP has always been afraid of moving from its lowest common denominators. You might say, "I would say that, wouldn't I?". That is a fair point but when we are talking on the wider issues of constitutional change, and so on, and we are talking about the protocol and the majority. No matter who anyone votes for wants a deal. Nobody trusts the British Government. I can buy into that, but they want the deal to be put in place.

On the wider constitutional issue, a large number have their decision made. A huge number of people probably do not think about it much and even if they do, they are opposed, mildly opposed or in favour. We are going to have a referendum at some stage and then we will have those pieces. It is correct to say the planning has to be done and we have to be able to put on paper what the situation is.

I will throw one spanner into the works. There was mention of almost moving away from devolution. I do not want to paraphrase anyone incorrectly but let us consider what has happened in Westminster lately, with the almost weaponisation of legislation and beyond that the movement away from devolved assemblies. The big question in play is the Scottish referendum. The SNP has stated straightforwardly what it wants to see. I imagine that is a complete game changer on the situation in the North, even psychologically, for unionists and all the rest. If Scotland removes itself from the union, what is the union then? That is before I get into the arguments on how, for a lot of people, Brexit has created a circumstance where Irish unity is a solution for people where it provides a means of being in the Single Market and all the positives that are there for the EU.

I have dealt with enough issues across the board and as usual I have left people two minutes to answer them in a comprehensive manner. I appreciate the interaction. It has been great and I apologise for having to leave earlier, although I think I have made up for it.

**Chairman:** I thank the Deputy. Does Dr. Petit wish to kick off?

**Dr. Christy Ann Petit:** I am not sure that I got a question but that it was more a general comment.

**Deputy Ruairí Ó Murchú:** Some of it was a general comment. I think that Dr. Petit has given the answer that mood music is better and we will see where we are going.

**Dr. Christy Ann Petit:** Yes.

**Deputy Ruairí Ó Murchú:** In relation to Professor Phinnemore, I said that the difficulty with Brexit is the streamlining. We all want to see that happen. The constitutional issue is in play. People vote for political parties for a pile of reasons. There are people who are having conversations now and I said that the possibility of a referendum in Scotland changes everything. Whether a British Government is willing to accept that might be a difficult situation. We are back looking at a crystal ball.

**Professor Peter Shirlow:** If I could say something on the Scottish issue. Yet again, the Deputy is playing on this idea that unionists wake up every morning, open the curtains and look outside to see if they are still in the union. That is not that community; it does not behave in that way.

**Deputy Ruairí Ó Murchú:** No, I agree with Professor Shirlow completely on that. Most people do not.

**Professor Peter Shirlow:** I do not know if that is true. I do not know what evidence the Deputy has to say that. However, the point is this: if Scotland goes, then Scotland goes. Scotland is not the same issue regarding the union as Northern Ireland. Scotland has the sectarianism, etc., but it has not had the conflict or that type of difficulties. The Good Friday Agreement clearly set out the ways in which constitutional change can happen. The shared island initiative, to my way of thinking, sets out ways that we change relationships, which are the ones we need to have before we make a constitutional decision. The role all of us should play is to see how we restore the relationships that were affected by partition in the first instance. If the Deputy thinks Brexit is bad, banging on the table, shouting for a united Ireland and behaving in a way which is at times sectarian and at times unthinking will make Brexit seem like a sunny day in the park. This has to be handled incredibly carefully, not because of people's desires or demands or because they believe it is right or wrong but the issue here is not Scotland. We have gone through a pernicious sectarian conflict and there is a real hangover from that. The Deputy should not forget that in our conflict most of our victims were civilian.

**Deputy Ruairí Ó Murchú:** Yes. I know.

**Professor Peter Shirlow:** That is critically important. I am not against Irish unity. I have asked, and I was not being glib earlier: where is the plan? Where is this costed? If we want to have a rational and mature debate then let us have that rational and mature debate but because of Scotland or because of Brexit that does not mean that a united Ireland is around the corner because the Deputy knows as well as I do that when you ask the question, "Do you want a united Ireland?", there is the 30% or 40% who say "Yes" but in the South, when you ask the question 71% say "Yes" and when you ask the question, "Do you want to pay for it with higher taxes?", the share of people who want a united Ireland goes down. I am not making that as a pro-union point. That is the reality here. Some people who want a united Ireland are from a Protestant and Catholic background and some people who want to stay in the union are from a Protestant and Catholic background. That is the point that I was trying to make earlier that we have to get beyond this green and orange way in which we think. The group that will win the argument is the people who put forward a fact and evidence-based debate about what constitutional change or otherwise would mean. It is too serious an issue to simply wrap it up with Brexit or Scotland. One of the things that is really clear here is that as someone from the pro-union community, I am more than happy to listen to arguments for a united Ireland - it is not that I am blinkered or that I am deaf to what people say to me - but nobody has tried to either persuade me in a way that is meaningful or they have stereotyped and labelled me in who I am and what I am. I might be somebody who wishes to stay in the union but I am also culturally Irish. I think those things are critically important. What the protocol and Brexit has shown clearly is that type of stereotypical, populist-type rhetoric undermines any capacity to build a shared island and a shared future.

**Chairman:** Does Dr. Petit or Dr. Cooper wish to come back in?

**Dr. Ian Cooper:** I would just make the point history does not always show that rational arguments and evidence-based approaches win referendums and Brexit is a good example of that. I will not weigh in on the issues about Northern Ireland.

**Professor David Phinnemore:** Over the past six years we focused on the extent to which Brexit has been disruptive in the UK's relationship with the EU but when we peer inside the

UK, looking beyond just the Northern Ireland position, it has raised lots of constitutional questions. It has been quite a steep learning process for Westminster to understand the nature of this United Kingdom which, dare one say, is not as united as is assumed in the title. Equally, the UK Government's management of the process has often led to an exacerbation of the tensions that exist. Quite a significant piece of work needs to be done on the part of the UK Government in Westminster to manage the relationships it has with Edinburgh, Cardiff and Belfast. Recently I was in Cardiff and was struck by how much frustration there is about the lack of consultation around what are quite major issues for the United Kingdom. There is very little engagement with the devolved administrations. It feeds into what the opportunities are further ahead for using the protocol as a framework because even though the UK is characterised by differentiation because of the developed settlements, there is a reluctance to accept that quite often in London and think through how to manage policy in that context. If that exacerbation of the tensions is to be reversed, then serious work needs to be done to ensure that central government works in such a way in the UK that the devolved administrations are listened to. That then comes back to the protocol question and the question of trust in the UK Government to act in the interests of Northern Ireland. What mechanisms do we have in place such that any voice identified in Northern Ireland as being in its interest feeds up into the UK position and is then represented in the UK position to the EU? There is concern everywhere at the extent to which the mechanisms exist. My sense is that serious work needs to be done to ensure this, otherwise the claims that exist within the UK that devolved government and devolved administrations are not being listened to is only going to get worse.

**Chairman:** I thank Professor Phinnemore.

**Dr. Christy Ann Petit:** I will elaborate on how the internal market in the UK has been impacted to some extent and how it could be conflicting with the devolution of competencies to some members of the UK. There is even a practical example. I am not up to date as to what is the state of the legislation and if it is adopted or not, but single-use plastic in Wales would be a devolved competence and is impacted by the UK Internal Market Act, which was adopted previously and which now is much more centralised. In a way, some of the principles of the internal market that used to exist within the EU Single Market transposed to the UK reality, and then came up against the constitutional aspects of the devolved competencies. I guess that this is very problematic, for now, to my knowledge.

**Deputy Ruairí Ó Murchú:** I am not going to ask another question. It is fair to say that the British Government has a serious work to do regarding its relationships with all the unions we have spoken about here. I agree with Professor Shirlow that it is about relationships. We are all complex people and we do not necessarily fall into absolute boxes. We definitely have to deal with the damage done by partition and from everything that ensued? There will always be political elements that will not be particularly interested and, to a degree, sometimes one must ignore an element of that and deal with those who are willing to deal.

I also agree that there has been an insufficient amount of mapping and modelling. Some work has been done, with comparisons, on planning around what a united Ireland would look like, and on that wider conversation. I would work on the basis that some of this is putting things out there and having conversations, even for people who would still vote against it but could live with certain aspects. Then we can find something that is better than all we have lived with for more than 100 years. I appreciate the exchange and I hope we will have a lot more in the future. Eventually, everyone will come to agree with me.

**Chairman:** Coming back to Professor Phinnemore's statistic - and I hope I am quoting him

correctly - about the 70% reliance on political parties for reliable information, if one couples that or measures that against Professor Shirlow's study, which says civic society is out of sync with the political process, invariably this happens in most societies whereby in civic society the people are ahead of the political process with regard to their thought processes, which I have always believed.

I will just throw this out to the witnesses. We are here today discussing the problem with the protocol and trade, an issue that exercises a lot of business people, North and South. Is now the time to have a formal mechanism in place to enable or assist that conversation to bring the citizens' voice to the fore? This could be through a formal mechanism. By "formal mechanism" I mean what was done down here with some difficult issues through deliberative participation and through citizens' assemblies. Is there a need for formal mechanism or is it to be a rolling up the sleeves exercise where people just need to be with each other and talk to each other, be that politicians down South heading up North? I recall when I chaired the Joint Committee on the Implementation of the Good Friday Agreement, one of the asks - especially in Newtownards and the east Belfast area - was for a visible presence of politicians from Dublin to be there to listen, hear, find out, learn and understand. Is an informal requirement needed or a more formal mechanism around this? I do not throw out the citizens' assembly dialogue as a red rag to the bull on the constitutional question but just specifically on the trade issue.

**Professor David Phinnemore:** I have a number of observations. The reason we have seen quite high levels of stakeholder engagement by the EU and the UK on the protocol is we have had, and still have, serious issues around the implementation of the protocol and contestation. There was a desire on the part of the UK and the EU to engage more with stakeholders to find out what are the genuine issues on the ground because this is a new set of arrangements. It is an untested and untried set of arrangements that will have effects. Both sides found it useful to get feedback on these issues. We must remember, however, that the protocol is not just a static entity where any resolution to these issues is going to resolve the protocol. The protocol is about managing a set of relationships and providing a framework for that. Certainly the evidence to date suggests that the most trusted actors in this process at the moment are business representatives due to the trade dimensions. It follows that we should find mechanisms to ensure that existing level of stakeholder engagement becomes routinised and formalised. What structure is used needs some more thinking. Equally, we could think about multiple structures. The protocol has to sit within the UK-EU relationship. It must sit within the framework of the 1998 Agreement. What could we possibly be doing in and around the institutions and structures - whether those be strand one, strand two, or strand three - to facilitate that dialogue? That dialogue is important to try to provide at least some counter to some of the more politicised rhetoric we see coming from politicians on these issues. Often it is far more evidence-based because it reflects the situation on the ground, and certainly in terms of the trade dimension, that businesses are facing. There is an issue at the moment, for example, where the EU has put forward a number of ideas around governance. Professor Hayward has indicated that she has submitted papers on possible options there. I do not believe that much space has been given to some discussion about what models might work but it is in the interests of both the UK and the EU to try to identify some arrangements and to draw on what is a valuable set of views and ideas that are coming out of civil society, which tend to come not just with problems but also with solutions and ideas. We need to have that more creative approach to managing the protocol than we have possibly seen in some of the politics that has surrounded it over the past two years.

**Chairman:** Maybe people just need a forum. Straight after Brexit in 2016, in county Louth we had plenty of meetings there, as in Letterkenny, where people came together to discuss it

and raise issues.

Would anybody else like to comment or are we all talked out at this stage? There is an old Irish saying: “Má theastaíonn uait aithne a chur orainn, mair inár dteannta: if we want to get to know each other, live with us.” I hear a very strong sentiment on that coming from Professor Shirlow, and from that understanding. I have enormous concerns around the social media stuff that is flying around in relation to the process. I will use the professor’s term, if he has not patented it, of “sectarian entrepreneurs”. Some of the memes and stuff on social media tries to reinforce those stereotypes that are out there, on sectarian grounds, and there is a responsibility on the part of social media entities to address this because it is not helping.

We are very grateful as a committee to our guests for participating here today and for giving us their impartial, evidence-based research and statistics. It is important. It also allows room for the political conversation to go into a space where, invariably, we do not go to, and backed up by facts and statistics. We are very grateful to our guests for being here. I have no doubt we will be in touch with them again. Gabhaim buíochas leo.

The joint committee adjourned at 12.29 p.m. until 9.30 a.m. on Wednesday, 23 November, 2022.