

DÁIL ÉIREANN

AN COMHCHOISTE UM

FEIDHMIÚ CHOMHAONTÚ AOINE AN CHÉASTA

JOINT COMMITTEE ON THE IMPLEMENTATION OF THE GOOD FRIDAY AGREEMENT

Déardaoin, 23 Samhain 2017

Thursday, 23 November 2017

Tháinig an Comhchoiste le chéile ag 2.10 p.m.

The Joint Committee met at 2.10 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Declan Breathnach,	Frances Black,
Tony McLoughlin,	Gerard P. Craughwell,
Fergus O'Dowd,	Mark Daly,
Maureen O'Sullivan,	Niall Ó Donnghaile.
Brendan Smith.	

I láthair / In attendance: Deputy Stephen Donnelly.

Teachta / Deputy Seán Crowe sa Chathaoir / in the Chair.

Northern Ireland Issues and Implications of Brexit for Good Friday Agreement: Minister for Foreign Affairs and Trade

Chairman: Apologies have been received from Senators Denis Landy and Frank Feighan, Deputy Sean Sherlock and Ms Elisha McCallion, MP.

Today's meeting is significant as it marks the first time the Minister, Deputy Coveney, will address the committee since taking on his new position. I look forward to hearing an update on matters relating to the North of Ireland, the Brexit negotiations and their implications for the Good Friday Agreement, and the Government's efforts to restore devolved institutions in the Northern Executive. I know Members and MPs are keen to have the opportunity to discuss these hugely important issues. Cuirim fáilte roimh an Aire, Deputy Simon Coveney, and his officials from the Ireland, UK and Americas division of the Department of Foreign Affairs and Trade to the meeting. We are joined by Mr. Fergal Mythen, director general, Ms Sarah McGraw, director, and Mr. Eoghan Duffy, deputy director.

Tánaiste and Minister for Foreign Affairs and Trade. (Deputy Simon Coveney): I welcome everyone to the committee. I am delighted to have the opportunity to engage with the committee and I hope we will be able to have a real back and forth conversation that gets into the detail of some of the issues members would like us to try to address. Obviously, the big issues politically at present relate to Brexit in the context of the full implementation of the Good Friday Agreement and the need to find a way to restore devolved government, working with all the parties in Northern Ireland and preparing for and managing issues of legacy, which are incredibly sensitive and difficult for very many of the families concerned, and trying to get that right. I have a-----

Chairman: I must interrupt the Minister before he gets into the flow. As usual, I forgot to remind members and those in the Gallery to switch off their mobile phones as they interfere with the broadcasting system.

I must also read out a note on privilege. I remind members of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person or body outside the Houses or an official either by name or in such a way as to make him, her or it identifiable. By virtue of section 17(2)(1) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. If they are directed by the Chairman to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, 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.

I apologise for the interruption.

Deputy Simon Coveney: I will set a context for the meeting and put on the record some of the issues the Government is trying to address at present. I thank the committee for the invitation to meet and look forward to our discussion and to continuing to engage with the committee on the Good Friday Agreement and the peace process, which I think we would all agree is at a critical phase. I know that the committee is focusing on legacy issues in its public hearings at present, and that is very timely. The Government continues to work for a definitive move

forward soon with the implementation of the Stormont House Agreement framework to address the legacy of the Troubles.

However, before getting into the Government's engagement on legacy, I wish to take a moment to consider the overall political picture in the North, which of course concerns the Good Friday Agreement and this committee directly. We can all see that the situation is very serious. The devolved institutions which are at the heart of the Good Friday Agreement, providing for power-sharing representative government in Northern Ireland, have not been operating for the past eight months. The Government is a co-guarantor of the Good Friday Agreement, working with the British Government, and we have spared no effort in supporting and facilitating talks on the formation of a new Executive since the Assembly election in March. However, devolved power-sharing government can only operate on the basis of an agreement reached initially between the two largest parties. The other parties represented in the Assembly have shown considerable patience and have a critical role to play, but we must find a way of moving forward between Sinn Féin and the DUP in order for this to work. I am disappointed that, after several phases of negotiations in different formats, we still do not have an agreement to form an Executive. The issues under discussion, particularly those of language and culture, go to the heart of the divisions in society in Northern Ireland, and agreement on them was always going to be challenging. However, I have always believed that it remains possible to reach an agreed outcome which ensures implementation of previous agreements and reflects the core principles of the Good Friday Agreement and power-sharing itself: partnership, equality and mutual respect. It remains my conviction that this is still achievable. I assure the committee that the Government remains determined, as a co-guarantor of the agreement, to secure the effective operation of all its institutions. The Taoiseach and I continue to engage with the British Government and the parties in Northern Ireland to give full effect to that commitment.

Of course, Brexit is a further cross-cutting issue with which we must all contend, not least in respect of the Good Friday Agreement and the peace process. I wish to acknowledge the work of the committee in producing its two reports on the impact of Brexit on the agreement. I was glad to be here in June for the launch of the committee's first report and have also taken note of the report prepared by Senator Mark Daly and published by the committee in August. Upholding the letter and spirit of the Good Friday Agreement and preserving the gains and benefits of the peace process are of the highest priority for the Government as we participate in the EU-UK negotiations as a committed EU member state. We are at a critical moment in the Article 50 process, and our EU partners are fully aware and supportive of the importance of protecting the gains and benefits of the peace process founded on the Good Friday Agreement. The requirements for protecting the Good Friday Agreement that were set out in the EU's Guiding Principles for the Dialogue on Ireland/Northern Ireland, published in September, are consistent with the Government's objectives and our responsibilities as co-guarantor of the agreement. We continue to work closely with the Commission task force on the Ireland-specific issues, including ensuring the agreement in all its parts is protected. It is probably worth noting that we speak to the EU task force, the Barnier task force, virtually every day and have very strong solidarity on that task force. Michel Barnier himself has really taken the time to understand the detail of the Irish issues, and we are lucky to have him.

The next few weeks are a critical phase for the EU-UK negotiations. There remains much to do before the European Council summit in December. That summit will decide on whether these negotiations can move on to what is called phase 2, which will concern the future relationship between the EU and the UK. However, to get there, we need to make sufficient progress on the phase 1 issues, which include many issues related to the Good Friday Agreement and the

Border as well as the common travel area, CTA. The Government continues to seek progress on all of these Ireland-specific issues, including the Border and protecting the Good Friday Agreement in all its parts, as part of our wish to see sufficient progress achieved across the three phase 1 issues. I hope this can be reached in December, but it is by no means predetermined. While we deal with what is the generational challenge of Brexit for the island of Ireland, it is essential that our attention and our efforts remain also on progressing all aspects of our own peace process. The uncertainties that Brexit has raised has made all the more evident the imperative of continuing to strive to achieve genuine reconciliation both between communities and at a deeper societal level in the North and both parts of the island.

One of the fundamental commitments made by the parties to the Good Friday Agreement is “to strive in every practical way toward reconciliation” within the framework of the agreement. I am proud that as part of the Government’s contribution, my Department continues to work towards that objective by providing support through the reconciliation fund to groups, three of which I met yesterday in west Belfast, and organisations working to further reconciliation at community level. I know the committee has engaged with many of these groups and I look forward to following its engagement on reconciliation matters as part of our collective responsibility as supporters of the agreement to support healing and reconciliation for all communities.

An essential element for achieving a genuinely reconciled society in Northern Ireland is dealing with the difficult and painful legacy of the past. I would like to conclude my remarks with a focus on how we can and must do that in the period ahead. It is high time to make good on the commitments that have been made to victims and survivors and to meet their legitimate needs and expectations through the implementation of the Stormont House Agreement legacy framework. Dealing with legacy issues in a comprehensive way will make an important contribution to building confidence that the peace process founded on the Good Friday Agreement can continue what needs to be no less than a transformative process of societal change and healing after the destruction and pain of the Troubles.

The system in Northern Ireland at present is simply not equipped to deal with the past. The needs and indeed the rights of victims and survivors are not being met. All deaths must be effectively investigated consistent with the requirements of the European Convention of Human Rights. Victims’ needs and broader societal issues arising from the legacy of the past must also be addressed through these structures.

The police, the courts and the political system in Northern Ireland should be unencumbered from dealing with the past and allowed to focus on the here and now, and the future.

During the past few months the urgent need to address the legacy of the past has been emphasised to me through my engagement with families who are simply seeking to establish the truth of what happened to their loved ones. I had the privilege yesterday of meeting the families of some of those killed in Ballymurphy in 1971. I acknowledge their tireless efforts in campaigning for an inquest which will now go ahead in September 2018. I hope that this inquest will finally provide the families with the answers that they are seeking. I have recently met also with the families of the victims of the appalling Kingsmill massacre and assured them of the Irish Government’s continued commitment to full co-operation in accordance with the law with the Kingsmill inquest. Let me outline what we are doing at a legislative level to back up the statements I am making today. This week we approved in Cabinet the heads of a Bill that will allow for the first time for evidence to be heard in Dublin on an inquest that is going on in Northern Ireland. From a legal perspective, it is complicated to have evidence being heard for an inquest that is being held in a different legal jurisdiction. We will be legislating to allow

a system whereby a Garda can give evidence in the High Court in Dublin for an inquest that a coroner is undertaking north of the Border. That is one of a number of things the Government is doing to ensure that we are fully co-operating with assisting the process of establishing the truth and the facts in the context of the many inquests that will take place in the next number of years.

There are many other victims' families that are still seeking truth and justice, often decades after their loss. The Stormont House Agreement provides for dedicated institutions to deal with issues arising from the legacy of the past in Northern Ireland in a comprehensive way.

Last week, I discussed the urgent need to move forward with these institutions with Ms Judith Thompson, the Northern Ireland Commissioner for Victims and Survivors. Let me assure the committee that progress in this regard is a priority for the Government. I look forward to meeting other victims and survivors, from both communities and all regions in the period ahead. I was particularly impressed by Ms Thompson. Both Governments, but also political parties in Northern Ireland have a real obligation to help her do the job that she has taken on, which will be a very difficult and challenging one. She strikes me as the right person for the job.

It is worth reflecting for a moment what the comprehensive approach contained in the Stormont House Agreement will entail and particularly how it can serve the needs of victims and survivors. The historical investigations unit will take forward outstanding investigations into Troubles-related deaths in Northern Ireland. The Independent Commission for Information Retrieval will enable victims and survivors to seek and privately receive information about the Troubles related deaths of their next of kin. The oral history archive will provide a central place for people from all backgrounds and from right across these islands to share their experiences and narratives related to the Troubles. The implementation and reconciliation group is also essential and it will oversee themes, archives and information recovery. Dealing with the legacy of the past also requires moving forward with outstanding legacy inquests. The backlog of inquests with families who have waited for decades being asked to wait even longer, shows that the current system is patently not working. The Government has been clear in its support for the proposals made by the Lord Chief Justice of Northern Ireland to allow inquests to now be held in a reasonable period of time and secure for families a record of what happened that caused their loss. It is essential that this is urgently progressed and the Government will continue to seek that in terms of funding and resources that are needed.

In addition, victims, survivors and their families also, of course, need and deserve support as they deal with investigations and other legacy processes. The Stormont House Agreement provides for services, such as the mental trauma service, a system of counsellors and a pension for the severely injured, which are to be taken forward by the devolved administration, if and when we can get it up and running. These elements must be delivered in the period ahead, and it is one further reason that the Executive and the Assembly must urgently operate again.

As the committee will be aware, there was important progress in the discussions at Stormont Castle earlier this year on taking forward the Stormont House legacy framework.

I am hopeful and determined that further progress will be achieved in the period ahead. A public consultation on the draft UK Bill is envisaged and the preparation of legislation to implement the Stormont House framework in this jurisdiction is also being advanced.

This week the Government approved a general scheme for an international co-operation Bill 2017, which the Minister for Justice and Equality is publishing. He is advancing further drafting of the Bill as a priority. The Bill which the Minister, Deputy Flanagan, will bring for-

ward will importantly facilitate the taking of evidence from members of An Garda Síochána in inquests in Northern Ireland. It will also facilitate co-operation by the Garda authorities with the non-criminal investigations of the HIU and the Ombudsman in Northern Ireland. This Bill is an innovation in justice co-operation and a demonstration of the Government's commitment to address the legacy of the past in Northern Ireland through the establishment of the Stormont House Agreement framework.

Drafting of a further Bill is also advancing between the Department of Justice and Equality and my Department to establish in law the Independent Commission for Information Retrieval, further to the international agreement that was concluded between Ireland and the UK in 2015. The Government intends to bring forward the legislation in the period ahead.

Our legislative preparations are well advanced, reflecting the political priority the Government attaches to the Stormont House Agreement legacy framework. The Government will continue to engage with the British Government and the political parties to seek an urgent and definitive move forward on legacy issues by establishing the Stormont House framework in a manner that will meet the legitimate needs and expectations of all victims and survivors and contribute to broader societal reconciliation as an integral part of the peace process.

I believe this can be achieved, and I strongly welcome the committee's continuing engagement on legacy issues, which are of such importance for our shared island and for the peace process founded on the Good Friday Agreement.

I am sure that members will have plenty of questions on these issues. I look forward to, hopefully, providing complete answers for the committee.

Chairman: I thank the Minister for his presentation and for arranging a briefing for me by his officials when I took over this Chair. I appreciated it. How long can we expect to have the Minister with us this afternoon?

Deputy Simon Coveney: I am here until 4.10 p.m. That will be two hours from when I came in to the committee.

Chairman: I will take members' queries in tranches of three if that is okay with the Minister. We will start with Deputies Declan Breathnach and Maureen O'Sullivan, and Mr. Francie Molloy, MP.

Deputy Declan Breathnach: I thank the Minister for his engagement with this committee and his proactive role on civil dialogue and the break-out sessions. They have been very informative, especially in his dealings with Oireachtas Members on a personal basis regarding many of the minor items while the major issues such as Brexit are pressing. It would be remiss of me to not mention the Narrow Water bridge project as one of those minor issues given the problems we are in.

The Minister said we are at a critical phase. I would go further and say that chaos, confusion, the lack of credibility and lack of coherence are the order of the day, particularly with the Brexiteers who just do not seem to get what the Border issue is about. The Minister spoke of the complexity of the legacy issues. I will refer to one issue that I believe could be solved, from a southern perspective, quite simply. Witnesses who have been in to the committee have referred to some 80 or 90 families who have been impacted by the Troubles from a southern perspective. One of the issues that came across clearly was that these families are not being dealt with in a similar way to those in the North who also suffer from legacy issues. These families

are being referred through the HSE. The Minister spoke of trauma issues but I believe there is a need for some status to be set up for those families who have legacy issues, from a southern perspective. I will leave the Northern issues for others to comment on.

I will now move on the substantive issues. As co-guarantor of the Good Friday Agreement, how does the Minister intend to ensure that the institutions, the values and principles, will be upheld and respected through the process of the UK's withdrawal and beyond? INTERREG and PEACE programme funding is very important to the Border communities. We have heard all sorts of promises about it lasting up until 2020 with Brexit in place. Have we found a mechanism to ensure that these important funds for those communities North and South will continue and are enhanced? We were told in Belfast, for example, that much of the money has not trickled down to the communities there and that there is much work to be done.

The task force paper makes it clear that it is the UK's responsibility to propose a workable solution for the Border. The British appear to have moved from the technical solution of recent months or years towards a unique solution, a phrase that I have continued to use for many a day since Brexit was proposed. What does the Minister see as this unique solution? In recent days we have heard suggestions of a Canadian style format. Everybody has stated that they wish to avoid a return to the hard border of the old days, and the wish to maintain the common travel area.

A research paper carried out by the European Parliament states that there will be a need for a customs and border solution post-Brexit on 29 March 2019. This is regardless of the political solutions and the results of the Brexit negotiations. If such a customs and border solution is not designed, developed and implemented to facilitate the movement of people and trade it will have severe consequences. The paper also concludes that it is possible to implement a customs and border solution that meets the requirements of the EU customs legislation and procedures - with expected post-Brexit volumes of cross border people and goods - if using a combination of international standards, global best practices and state-of-the-art technology, upgraded to a smart border or a similar such solution. Will the Minister indicate if the Government has given any serious thought to how this could operate, with the myriad of roads along the misquoted sieve of 500 km of border? In recent days we have been hearing that the Irish Border issue is likely to scupper a deal on Brexit.

Chairman: I am sorry to cut across the Deputy but a division has been called in the Dáil.

Deputy Declan Breathnach: I am nearly finished. Would the Minister accept that there is a danger that no solutions could satisfy the UK, Ireland and the rest? There is a danger that we might not get a solution.

Chairman: If the Minister needs to vote can I suggest that we go ahead with the Senators' queries?

Deputy Simon Coveney: I believe that I have a pairing arrangement with the Ceann Comhairle. Maybe we could focus on the Senators' questions and the MPs questions. We could come back to the Deputies' questions when they return after the division.

Chairman: Is that okay with members?

Deputy Simon Coveney: I will answer Deputy Breathnach's questions when he returns from the Chamber.

Chairman: I call on Mr. Francie Molloy, MP.

Mr. Francie Molloy: I thank the Minister for his presentation, which at this point in time is important especially in dealing with legacy issues. It has emerged this week that the British Government intends to include the statute of limitations covering the Troubles and in particular the British crown forces. This involves a new section being inserted into the Northern Ireland (Stormont House Agreement) Bill. Despite all the negotiations that have happened over the last ten months this had not been raised or proposed at that stage by the British Government. I understand that the Irish Government was not involved and had not been told. The Sinn Féin Party had not been told and we see this as very bad faith with regard to the negotiations. The families and victims across the board have major concerns about how long it is taking to have their issues dealt with. To add this element at this time, when people are looking for justice on the back of issues around Government forces and their actions, means we need to move to clarify that situation. My main question around legacy issues is what is the position of the Irish Government on it and what does the Government hope to do in respect of negotiations with the British Government on the issue of the statute of limitations.

Senator Mark Daly: I thank the Minister for coming in to the committee. This committee's brief is the implementation of the Good Friday Agreement. Last year at the committee I asked if there was any chance somebody could give us an update on what was left to be implemented. One would imagine that the committee that has been given this role would have an outline of what needs to be implemented. For the Fresh Start agreement and the Stormont House Agreement - as the Minister referred to in his address - there is a comprehensive document compiled for Members every six months, line by line on what needs to be done. We have been in communication with the Minister and his predecessor to get a similar document for the members of the Joint Committee on the Implementation of the Good Friday Agreement. We got a four page document from the Department in regard to what remains to be implemented of the Good Friday Agreement. It is marked "confidential". When one compares it to the documents compiled for the Fresh Start agreement or the Stormont House Agreement, it is not comprehensive enough. We had members of the Northern Ireland select committee from Westminster here. They asked us what is left to be implemented and we could not possibly tell them that this was all we have. I ask the Minister to give a commitment to the committee in this regard, especially with the 20th anniversary of the agreement coming up. Somebody is going to ask about what is left to be implemented but we do not have a comprehensive analysis that would enable us to answer that. I believe it should be done annually.

With regard to the Border, there is a lesson to be learned from where we are at this critical juncture - with the heads of Government meeting coming up - as to whether Ireland will allow the issues to proceed. The Irish Boundary Commission was set up as part of the treaty negotiations in 1921 to move it out of the political arena and to solve the immediate problem that Britain had. The lesson learned in that instance was if it is not solved when it needs to be solved it will never be solved. If we allow the negotiations to proceed to the trade element the Border issue will get lost in that and we will have a very bad border. Amazingly enough, Members of Parliament, MPs, from the Westminster foreign affairs committee who were here last week told us they will keep the *status quo* and have zero tariffs. I had to tell them that if it is zero tariffs for us, it is zero tariffs for everybody and the rules of the World Trade Organization mean that Argentinian beef will be brought into Belfast at zero tariff and brought across the Border. That was news to them. That shows how much they know about our concerns and the issues around the Border.

On a recent “Spotlight” programme, the Taoiseach spoke about this issue and I addressed it in the Seanad when the Minister was there to discuss the North. The Taoiseach said he would not like us to get to a point where we are challenging and changing the constitutional position here on Northern Ireland on a 50% plus one basis. Mark Durkan, the former MP, said the Social Democratic and Labour Party, SDLP, would not have signed up to the Good Friday Agreement unless it was based on the democratic principle of 50% plus one. We know the people in the city of Derry had to march to get the right to vote, the same as any other person’s right. In my report, which the Minister spoke about, I quoted High Court judge, Mr. Justice Richard Humphreys, who said:

...the really fundamental reason, apart from legal considerations, why a minority or a dual consent could never act to prevent the reunification of the island of Ireland if a majority so wished, is that there is no corresponding provision at present permitting the nationalist and republican ‘minority’ to prevent Northern Ireland from remaining part of the United Kingdom. The test for a United Ireland could not in logic be different from the test for a United Kingdom.

While the Taoiseach said that 70% of people in Northern Ireland voted in favour of the Good Friday Agreement, in the unionist community it was only 56%. Dr. Wilson, in his address to us, said there are three main fears: unionist identity in a united Ireland; the issue of retribution against former members of the security forces, bearing in mind there are 300 unsolved murders involving former members of the security forces; and the issue of land ownership and if the return of land given during the Plantations of 1641 would be sought. I know the Minister finds that amazing and I find it amazing, but it is a concern. What is the Department doing to address the concerns of the unionist community?

We are asked why we are talking about a united Ireland. We talk about it because it is an issue. Brexit has brought it up, but ignoring it does not solve the problem. The lesson of Brexit is simple. A government does not hold a referendum and then tell everybody what the future looks like. We should be telling people if there is a referendum in five, ten, 15 or 20 years’ time this is what the future of Ireland would look like, this is how identities would be protected, how land ownership would look and that everyone’s land ownership title would be the same the day after as it was the day before.

The Minister’s posters said “Uniting Ireland” and in exactly six minutes’ time the Department will have been asked to respond to a letter about the case Raymond McCord is taking against the Secretary of State for Northern Ireland on the issue of how a referendum would be triggered. The legal team gave the Minister until 3 p.m. today to respond and if he does not respond, it will go to the High Court to seek clarity on whether he will be a party to this case. The Secretary of State alone can decide how a referendum would be triggered. The former Attorney General, Mr. Brady, pointed out in 2007 that the State has a constitutional obligation to achieve a united Ireland. It is not an aim or an objective. It is an obligation. What are the State and the Department doing to try to achieve that aim in the way we all want it to be, which is peaceful, prosperous and through engagement and negotiation while addressing all the concerns of the past and, more importantly, those of the future?

Chairman: I am concerned about the length and number of questions. We need to be a bit more disciplined. It is impossible for the Minister to reply to all those questions. It is even difficult for me as Chairman to follow the number of questions. The Minister is here for an hour but if each person asking questions speaks for 15 minutes, we will not get any answers. I am in

the hands of the committee but members should bear in mind that we only have an hour.

Mr. Chris Hazzard: I thank the Minister for his report today. It seems much longer than a year since we sat across from one another at a North-South Ministerial Council but a lot of water has gone under the bridge in that year, not least that the catalyst for much of what is going on at the minute is Brexit.

What does the Minister mean by “sufficient progress”? Is the Irish Government turning “sufficient progress” from wanting the North to remain within the Single Market and customs union to meaning there is going to be a border so let us mitigate that? Does “sufficient progress” mean sufficient mitigation of a possible future border or does it mean sufficient progress on getting agreement on the North staying within the customs union and the Single Market? No doubt the Minister saw the completely lacklustre performance of the UK Home Office and its Border Force before the Public Accounts Committee in Westminster on Monday. When asked what work they had been doing in the past 18 months on the Irish Border, their reply was absolutely nothing. They had not looked at the Irish Border because there is no political agreement yet on that. I am dumbfounded by that.

Very often we find ourselves drawn into discussing North-South issues. The Minister did it today and last week in the Dáil he referred to the 142 different issues and the Border. We forget that the Good Friday Agreement is much more than that. There are the institutions on devolved matters, issues relating to the European Court of Justice and human rights in tandem with the Northern Ireland Act 1998. Has there been any discussion with the British Government to exempt the 1998 Act from the withdrawal Bill, so that it remains within the EU legal framework thereby leaving all devolved matters and matters we are discussing today within that EU context?

In respect of legacy issues, the Loughinisland massacre in 1994 is a serious issue in my constituency. The film “No Stone Unturned” was released lately. If his diary permits, I invite the Minister to come to a showing of that film in Dublin on 12 December. It will be in the AV room in Leinster House. The Minister is very welcome to attend and meet the families.

Deputy Simon Coveney: In response to Mr. Molloy’s question on legacy issues and the consultation process which we hope will start soon, the idea and the sensible discussions concerned trying to get an Executive up and running and within weeks to build on that momentum and get a consultation process under way on the UK draft Bill on legacy. We will then try to bring forward positive political momentum as well as try to get communities to engage constructively in that consultation process which will be a painful, difficult exercise. Political parties will need to be helpful, responsible and supportive of communities to get the right outcome. That is the ideal sequencing if possible. The British Government has to use its own judgment on that.

If it is not possible to get devolved institutions up and running, decisions will have to be made on when that consultation process may begin, how it would happen and on how to get as many of the families and victims as possible to buy in to that consultation process actively and positively. Our view is that it would be very unhelpful to have as part of the consultation process any new questions around the use of the Statute of Limitations or the application of an amnesty. That would create a tiering of categories of atrocities, treating them differently, depending on where a person comes from and who they were working for, whether for the State or not. The use of a Statute of Limitations in that way and the application of an amnesty is not catered for in the Good Friday Agreement or in any of the subsequent agreements. It is cer-

tainly not catered for in the Stormont House legacy framework. This has come from a different source, from a defence committee in Westminster. Of course, people are entitled to raise the issue, but that does not mean, in our view, that it should become part of either the consultation process or the process itself given that it is not part of what was agreed in terms of the way forward. We have made our view very clearly understood on this issue to the British Government and, as late as this morning, to the Northern Ireland Office in the context of the potential it has to undermine the credibility of the consultation process from day one.

I will speak to the Secretary of State later this evening, and I will make these points to him because I have a genuine concern about it. I have spoken to a number of families from both communities who are struggling to deal with very painful and difficult memories. Their demand is the truth, and we need to ensure we have structures in place that are credible and trusted by victims and their families so we can try to get to the truth as part of taking forward a structured legacy process consistent with the Stormont House Agreement, and consistent with the European Convention on Human Rights, in terms of the obligations here for how we manage legacy over a period of time. I hope this is a clear answer.

With regard to Senator Mark Daly's questions, I take his point on the process of measuring progress on implementation. He raised it in the Seanad recently when we had a big debate on it. We had a brief discussion on it this morning, anticipating that he may raise it again today. We will look at it and see if we can provide something that is a bit more comprehensive.

Senator Mark Daly: Thank you.

Deputy Simon Coveney: There are elements of the Good Friday Agreement that are not as definitive as the Senator might like in terms of box ticking. They are about anticipating an evolution of an improved relationship between communities and the obligation to try to promote that. It is an ongoing process and it is not the case that it is done or not done. There are a number of examples of this in the Good Friday Agreement in a way that is broader, and they require a judgment on progress that is not simply a "yes" or "no". Having said that, I do think we could provide a more comprehensive scorecard or an update in terms of implementation. Obviously, given the 20th anniversary next year, it is an appropriate time for us to look at being as comprehensive as we can. I believe the British Government would work with us on this. We are co-guarantors. We both have responsibility for this agreement. We should work together on it to provide as much credibility and co-operation as possible.

I could spend the rest of the next hour speaking about the Border, and I do not want to do that because there are other questions. The Taoiseach and I, in particular, have been very clear on what we are asking for. This has not changed for months. What has changed, perhaps, is the expectation that Ireland might back off on that ask, to a certain extent, when we came under a little bit of pressure, or that we would accept it would be deferred to phase 2 of the Brexit discussions. Some people seem to be surprised this is not happening. Maybe they were not listening when we told them the first time, the second time, the third time or the tenth time, but people are listening now and this is because we have been consistent and firm.

It is not just Ireland taking this position. It is the EU taskforce collectively taking the position also. There is a lot of solidarity for Ireland in terms of our exposure and vulnerability to a bad deal on Brexit from an Irish perspective. It goes way beyond trade and commerce. It is something much deeper than that. It is something that is an historic moment in Irish history, in terms of the relationships on this island and whether we insist on preventing a process going backwards again, in the context of the efforts being made to try to normalise relationships

through trade and through, effectively, the evolution of what is largely now an invisible Border. There is certainly no barrier there and that is for sure. When we cross the Border, as many committee members know because they live near there, we do not notice we cross it any more. Even the road markings are no longer different.

We have this fantastic byproduct of a functioning and working peace process, whereby 100,000 store cattle from the west of Ireland cross the Border to be finished in the North every year. Half a million lambs produced on farms in Northern Ireland come South to be slaughtered every year. A total of 40% of the milk from farms in Northern Ireland is processed south of the Border in processing facilities here. We want to encourage more on the island of Ireland this normalisation of movement, industry and commerce, and interaction and buying and selling between people from different communities and backgrounds, with different stories to tell in terms of Northern Ireland's history. This is just agriculture. We could talk about a common electricity market. We could talk about environmental responsibilities. We could talk about health care, in terms of Irish patients being treated north of the Border and the potential for patients in Northern Ireland to be treated in some of our big specialty centres down here.

What we are saying here is we are determined to protect that normalisation, which not only is very much linked to sensible trade and commerce, animal health management, disease control and all of the other things we manage on an all-island basis now, but it is also the bedrock, in my view, that allows the Good Friday Agreement to continue to evolve as a process of reconciliation, normalisation and bedding down peaceful relationships, North and South, and between communities, particularly those living in the Border counties.

Anybody who sees this from afar as simply a trading barrier fundamentally misunderstands the strength of feeling politically in Ireland on this issue. I have made this point very forcefully to some of my counterparts and friends who are negotiating on the British side. As I said earlier, I think Michel Barnier really understands this also. He has come here and spoken to people from communities on the Border, and really made the point that Ireland's problems are Europe's problems in the context of a peace process in which the European Union sees it has played a positive role and certainly does not want these negotiations to undermine it in any way. I have also said I have no intention of being a Minister in a Government that does not prioritise a peace process in the context of these negotiations and its protection. I say this as somebody who, I hope, is reaching out and connecting with unionist communities, who also care about these issues, as well as nationalist communities. I have really tried not to turn this into an orange versus green argument, although others, unfortunately, have.

Just to be clear, what we what want from the British Government, in the context of these negotiations before moving on to phase 2, is an acceptance that regulatory divergence between the two jurisdictions would make that North-South co-operation and that normalisation of trade very difficult to continue to implement in practical terms. I hope committee members will not mind me giving a few examples, because this is a key issue and it will become a big issue politically in the coming weeks.

When Northern Ireland leaves the European Union as part of the United Kingdom leaving, if the European Medicines Agency, which signs off on the use of medicines in the European Union, no longer signs for the use of appropriate medicines in Northern Ireland, all of a sudden we will have medical device companies which may have a footprint on both sides of the Border operating to different rules on one side versus the other. Farmers in Northern Ireland might not be compliant with the rules of the Common Agricultural Policy, CAP, regarding inspections, animal health and their obligations to the environment in terms of cross-compliance. At the

moment we have a level playing field for agriculture in the North and South. It is easy to treat the two jurisdictions essentially as the one area when it comes to trade and movement. If there is a different rule book on both sides of the Border, there is no way of avoiding checks. It cannot be done. If there are two different standards on both sides of the Border, there must be checks to see if there is equivalence and if there is fair play in terms of how people trade with each other and how their products are produced. If, for example, state aid rules within the European Union on competition no longer apply in Britain because it is no longer in the European Union, there could be a very practical situation where North of the Border the British Government could grant aid a fish processing plant's extension and construction, but South of the Border we could not do it because we are not allowed to do so under state aid rules and competition law. All of a sudden there is an unbalanced trading relationship, and that creates unfairness. International experience shows that imbalance can be corrected through the application of levies or penalties, but that creates borders, barriers and checkpoints. It does not matter how cleverly that is done, whether by scanning systems, cameras and pre-registration, or if the checks are physically on the Border or in farmyards or offices. It is still border infrastructure and an impediment to trade and the free movement of goods, services, people and livestock, and all the other things that we on this island enjoy and have come to take for granted as part of a normalisation around a functioning and working peace process.

I hope that I am coming across as somebody who is serious about this issue and has thought through the consequences. To be fair to the British Government, it is really engaging and trying to understand the complexity of the full implementation of the Good Friday Agreement in the context of Brexit. It was the British Government which put 141 examples of North-South co-operation on the table. In truth, there are many more examples. That is the start of the list. When one works through variants of the 141 examples, the more one looks at the detail, the more one realises that if there is regulatory divergence in the context of that co-operation today, the relationship potentially fundamentally changes. There will be need for a checking system or some form of process of verification of standards once the regulatory environment diverges in the two jurisdictions.

The way to deal with this, in simple terms, is to find a solution where Northern Ireland, or the United Kingdom as a whole, is part of the same customs union as the European Union through some new customs union partnership that could be designed. From a customs check point of view, that would solve our problem with the Border, but we would need to go beyond that because it still does not solve the regulatory issues in its entirety. It only solves the customs check issues. What we would really like to see is the UK remaining part of an extended and redesigned Single Market. That would deal with many of the trade issues not just North and South of the island of Ireland, but also east-west as well, which is a €65 billion trade relationship. Some 38,000 Irish companies trade directly with Britain virtually every week, which amounts to 200,000 jobs and 10% of our workforce. Anybody who thinks that we are not engaged seriously in these negotiations is incorrect. We are, given what is at stake here. However, in phase one we are focusing very much on Border issues and the implementation of the Good Friday Agreement in full.

It is not just about North-South co-operation. A scoping and mapping exercise is being carried out now which is focusing on citizens' rights in the context of the Good Friday Agreement. It should not be forgotten that people in Northern Ireland have an entitlement to be an Irish citizen, a British citizen or both. In the future, if they are Irish citizens, they will also have an automatic entitlement to be an EU citizen, and so a unique situation is created whereby people born outside the European Union will have a birthright to be an EU citizen by virtue of having

been born in Northern Ireland and thus an automatic right to Irish citizenship by birth. How is that right implemented in full for EU citizens if one is living outside the EU with no access to a European court which will enforce those rights? EU citizens living South of the Border have those rights.

These are not easy things to deal with, and that is why we will take a firm, fair and stubborn approach. Ireland is one of the three big priorities for phase one of the negotiations, along with the financial settlement issues and the broader citizens' rights issues for EU and British citizens. There are three Irish issues at stake, including the common travel area, which we are making great progress on, the full implementation of the Good Friday Agreement, which is proving very complex but which has a lot of good faith and effort from both sides, and the Border issues, which in our view we do not have sufficient progress on at the minute. We need more clarity and credibility around the answers that we need to have and the parameters by which we will work out how to maintain a largely invisible Border on the island of Ireland in the future, for all the reasons I outlined earlier. The British Government knows and understands that now. It has challenges politically in terms of responding to the issues that we are raising and sometimes there is a misunderstanding or perception, particularly in the UK, that the Irish Government is asking for something for the Republic of Ireland. This is something that we are seeking for the island of Ireland, for both Northern Ireland and the Republic of Ireland, to try to maintain what many people, some of whom are in this room, have worked so hard to try to create over the past 20 or 30 years. These issues will require a lot of work in the next three weeks if we are going to be part of a decision, through the Taoiseach, to facilitate the opening of phase two of these negotiations, which is where we would all like to get to. We have to deal with those issues too, and the clock is ticking on the negotiating time. The future relationship issues are really important for Northern Ireland as well. I hope I am clear on that point.

In terms of-----

Mr. Chris Hazzard: The 1998 Act.

Deputy Simon Coveney: -----the Act and how it is treated in the context of the withdrawal Bill, I believe that it would be difficult to simply exempt it, but I certainly believe that there needs to be language in any final agreement. The withdrawal Bill is the way in which the British Government is dealing with how it sees Brexit going from a legislative point of view. What actually matters here is the final written agreement between the EU negotiating team and the British negotiating team which we hope will have a sensible and well managed exit over time. The agreements within that should address comprehensively the full implementation of the Good Friday Agreement and the protection of that agreement in law. The answer to that question may develop over time.

There was one other question from Senator Daly on the 50% plus one issue and the comments the Taoiseach made. I read some of the coverage of that and I know exactly what the Taoiseach meant. What he was getting at was that we do not want to promote the idea that as soon as we can achieve a 50% plus one vote here, we go for it without addressing the need to try to reassure communities on both sides and to create an atmosphere that allows broad support for a united Ireland in the future. I am a constitutional nationalist and I am totally unapologetic about that. I would like to see a united Ireland in my lifetime, and, if possible, in my political lifetime. However, we need to do that in a way that learns the lessons of the past so that we do not send a signal to unionist communities that in the future, they will be the minority and will suffer in the same way many nationalists did in the past. It needs to be a much more generous approach than that and that is what the Taoiseach was talking about when he said we need to try

to create an atmosphere that allows a consensus that will deliver a result that goes way beyond 50% plus one. Of course, what he was not doing, which some people interpreted his comments as meaning, was attempting to rewrite the Good Friday Agreement.

There is clarity in what is an international agreement registered with the UN called the Good Friday Agreement. There is clarity on how decisions relating to the future of Northern Ireland will be made democratically by people. If a majority votes for change, under the rules of the Good Friday Agreement, there will be change but our obligation as politicians is to start to lay the foundations and build on the back of reconciliation, reassurance and support for people who may see themselves as minorities in the future who may be discriminated against and who may, therefore, be hugely fearful of that future eventuality and, as a result, fight against it. Surely we have learned that lesson in the past in a hard and very painful way. As a representative of an Irish Government, I really need to reach out and tangibly show that in the context of this debate, we recognise that the unionist communities in Northern Ireland are part of Ireland. They are part of the Irish story and Irish culture, heritage and history. If, in the future, a majority of people choose to change the constitutional make up of the island of Ireland, they will still be part, and a valued part, of our history and will not in any way be discriminated against or victimised because they moved from being a majority to being a minority and their Britishness will also be recognised. We need to talk about the things that would sometimes make nationalists uncomfortable in the context of that recognition and generosity that are needed.

These are the kind of things that this committee will have to debate and discuss in the future and I look forward to being part of that debate. However, there are immediate challenges that take priority over those broader discussions right now that we need to address. They are Brexit, devolved government and legacy issues. Those three issues in particular are immediate issues that we all have an obligation to try to progress for the sake of all the communities in Northern Ireland. My answer on the Border was particularly long but I suspect people needed to hear me say it.

Chairman: I am conscious that we are running against the clock and there are members who want to get back in. That would be the ideal situation. I asked previously if people could be more disciplined in their questions and we will try to get in everyone. There may be potential for people to get back in but it does not look like it at the moment.

Deputy Maureen O’Sullivan: I thank the Minister. There are two areas about which I would like to speak. The Minister mentioned the many families who are still seeking truth and justice. The key word in that sentence is “still”. In particular, I think of Justice for the Forgotten with regard to the Dublin-Monaghan bombings and the Hooded Men. How much longer must they wait? There was great hope at the time of the 40th anniversary of the Dublin-Monaghan bombings that the answers would have been with the families at that stage, but we are approaching the 43rd anniversary. The Minister mentioned the system in Northern Ireland not having been equipped to deal with this issue. I would also suggest that there is a lack of genuine will on the part of the British authorities to really come to terms and give the answers for which people are waiting. We have put many questions to the Minister’s predecessor and other Ministers about this and are told constantly that the Government is expressing its concerns, but that is not getting to the answers. These people have been waiting long enough. I have met the Hooded Men, who are in their 70s and 80s. Four of them have already passed away and we owe it to them to make more progress on their issue.

As the Minister is aware, a number of us have been involved with prisoner issues and have made many visits to Maghaberry Prison. In spite of the fact that the 2010 agreement and the

stock-take agreement were reached and despite the work of the International Red Cross, the issues are still not resolved. I believe these issues have implications for Brexit depending on what way Brexit can go, such as Border issues, etc.

Deputy Simon Coveney: The implications of what? Sorry, I was just distracted there for second.

Deputy Maureen O’Sullivan: The issues in the prison involving prisoners, both republican and loyalist, are not being addressed. Again, lip service is being paid to them, Despite the agreements that have been signed by everyone, they are not being implemented, which is creating a very difficult atmosphere within the prison and in parts of society. This brings me to the other point regarding revocation of licences because, again, this has implications. If we are talking about legacy issues, this is central to them. Those whose licences are revoked must go through a system with parole commissioners that is totally unjust and is certainly not transparent or in any way accountable. I would refer to those particular issues because they are very far down the agenda and my fear is that they will be totally overshadowed by the economic aspects of Brexit and will slide further and further down.

Senator Niall Ó Donnghaile: I thank the Minister for, as always, a very forthright presentation. He outlined a range of issues that impact across all sectors of our society in terms of Brexit. The one issue that unifies us, which the Minister touched on, is the issue of citizenship not just in terms of Brexit, although that has brought it into sharper focus, but fundamentally under the Good Friday Agreement. I have written to the Minister several times alerting him to a number of anomalies and contradictions that have presented themselves for Irish citizens who are resident in Northern Ireland. The Minister spoke very encouragingly about the implementation in full of EU citizenship for those who are Irish citizens in Northern Ireland. I will talk for a few minutes about the implementation in full of Irish citizenship for people resident in Northern Ireland. What does the Minister believe our rights as Irish citizens are under the Good Friday Agreement? Are they equal to those the Minister holds as a resident in the South? He mentioned the scoping exercise but could he expand on the citizenship issue in terms of Brexit negotiations? It was a key issue when Guy Verhofstadt visited a number of weeks ago.

Due to the volume of issues coming to me and being forwarded to the Minister and his officials about citizenship, I asked a number of weeks ago in the Seanad whether he would consider engaging with his colleagues in the British Government about training for Home Office officials who are dealing with visa applications from those who are resident in Northern Ireland. Would the Minister also consider training and developing a dedicated portal, hub or satellite for his own officials who may be able to offer help and assistance to Irish citizens resident in Northern Ireland regarding the anomalies we face as a result of partition that are being intensified by the impact of Brexit? This is something I want to put to the Minister for his consideration and I will follow up with him. It relates to an update on the issue of citizenship. A raft of cases are coming to the fore, some of which are being legally challenged in Northern Ireland, around the rights of citizens. I am sure the Minister’s officials are aware of the De Souza case. The initial judgment in this case by a judge in Belfast contests that the Good Friday Agreement supersedes the British Nationality Act so it could be the case that Irish citizens are facing many barriers in an unwarranted and unjustified way. What can the Department do to break down some of those tangible and mechanical barriers that are being erected as a result of partition and worsened by Brexit?

Senator Gerard P. Craughwell: I thank the Minister for his very forthright statements here today. A number of people in Northern Ireland with whom I have been dealing, particu-

larly businesses which feel they need a voice other than a political voice, have come together. We are holding a meeting in Strabane where they are threatening to remove thousands of jobs from Northern Ireland if there is a hard Brexit on 11 December. We will be writing to the Minister to ask him to send somebody along to listen to what they have to say.

An issue we have not really looked at is the road haulage system that needs to get to the EU. The head of one company points to the fact that he carries pharmaceuticals and raw materials for Coca-Cola. If any of his trucks is stopped anywhere between the point of departure and the point of arrival, that truck must be turned around and sent back home. He cannot deliver where a truck has been opened. As trucks cross from what is a EU country through a third county, we have no way of securing or ensuring these vehicles are not interfered with in any way so that is one issue I would like the Minister to address.

I got a little worried when the Minister spoke about the 50% plus one. I have quite a lot of sympathy for the unionist community in Northern Ireland and the fear of nationalism taking over and swamping it. However, at the same time, we need an assurance that there cannot be a veto by any group over the future of the island of Ireland or the future of any Border poll. It sends an uncomfortable message that we must placate people before we would even consider that. I find it deeply disappointing that there is nobody from the unionist community here. I know some of them would want to be here. We need to be very careful with the language we use. I would appreciate it if the Minister looked at that again.

How will cross-Border institutions like Waterways Ireland fare in a post-Brexit world where we may finish up with different standards and where funding will certainly be an issue? A man told me recently that post-Brexit, he would be a third-class Irishman. Will the Minister address this? The man said that a first-class Irishman lives and works in the Republic of Ireland, a second-class Irishman lives and works in the EU and a third-class Irishman lives and works in the UK. He feels he will be discriminated against. Notwithstanding the fact that he will carry an Irish passport, he will not have the same rights and privileges that come with EU membership.

My final point concerns prisoners, not the ones Deputy O'Sullivan was talking about, but those who were released under the Good Friday Agreement and who are suffering the most horrendous discrimination heard of in Northern Ireland. This is cross-community in that it does not affect any specific community. We are hearing things like insurance being loaded on cars. Billy Hutchinson told us that his wife's insurance went from £200 to £800 when the company realised who she was married to. We also heard about the grandchildren of former prisoners being refused access to the security services in Great Britain. We heard of one lady who was asked to leave the Metropolitan Police once they found out her grandfather had been in prison. Like it or lump it, and I may not like part of it, but the prisoners released under the Good Friday Agreement were not ordinary decent criminals. They were political prisoners who were released under an agreement. We should surely have cleared the record as they left and allowed them freedom to travel throughout the world wherever they wish to go as well as freedom to get insurance and things like that. We are all aware of what happened but when one enters into an agreement, the agreement must be met. I would be interested in hearing the Minister's views on that. I will not hold him up because many other members wish to speak.

Chairman: Unionist MPs are invited to these meetings and get correspondence and so on. They are more than welcome to attend these meetings.

Deputy Simon Coveney: It would probably be a more balanced discussion if they were here, which would be very helpful. It would probably be a more challenging discussion too in

terms of many of the issues about which we are talking because they impact the unionist community as much as they impact the nationalist community.

Deputy O'Sullivan raised the issue of Justice for the Forgotten and the Hooded Men. I can read out the official answers here, although I suspect she has heard them before. First of all, we want to acknowledge at the outset those across the House, including several members of this committee, who work on a cross-party basis with the Government on this issue and their tireless efforts for Justice for the Forgotten. I know they met last month. I have spoken directly to the Secretary of State for Northern Ireland, James Brokenshire, about this issue a number of times. I understand that the request from the Police Ombudsman of Northern Ireland is under active consideration, that advice has been sought on legal issues arising and that An Garda Síochána and the Department of the Taoiseach are in ongoing contact with the office of the Police Ombudsman of Northern Ireland. We have indicated our desire to facilitate the investigations of his office as far as possible subject to the requirements of the law.

I am aware of the committee's ongoing concern about conditions, particularly for prisoners in the separated regime, in Maghaberry Prison, which I suspect is one of the prisons Deputy O'Sullivan raised concerns about. My officials at the Belfast secretariat continue to engage in an ongoing basis with a range of interlocutors, including the Northern Ireland Office, the Northern Ireland Prison Service, the members of the stock-take group, the International Committee of the Red Cross and Red Crescent and others, to discuss, explore and encourage progress. They are also in regular touch with the Criminal Justice Inspection Northern Ireland, whose most recent report on the conditions in the prison issued in August 2017 noted that health and education provision is improving and that levels of disorder and violence were generally low. The report found that there were still significant challenges around the separated regime.

With regard to the Hooded Men, I am aware of the recent decision by the High Court in Belfast to quash a decision by the PSNI not to take further steps to identify and prosecute those responsible for the torture of 14 men in Northern Ireland in 1971. Decisions such as this underline the urgency of achieving progress with the implementation of the Stormont House Agreement legacy framework, about which we have spoken extensively. This framework is intended to focus on the needs of victims and survivors so that they would no longer have to seek the vindication of their basic Article 2 right to an effective investigation under the European Convention on Human Rights through arduous court processes. I understand the Deputy's frustration and her request that these issues move ahead in a speedier manner than they have heretofore but we are trying to progress them. In the context of the Stormont House Agreement legacy process, there is an opportunity for a major step forward regarding a number of these cases. I hope and think that we will be able to make that happen.

With regard to the comments about citizens' rights, it might be wrong for me to talk about individual cases here. We are working through the legal challenges and complexity of how we are going to deal with the citizens' rights elements of the Good Friday Agreement just like we are trying to work through the complexity of some of the North-South co-operation and how it would function in different Brexit scenarios. The one thing I would say is that the Prime Minister has been crystal clear in her language in terms of the British Government's commitment to the full implementation of all aspects of the Good Friday Agreement. This is not a picking and choosing exercise regarding what is possible. I have heard commentary from others who have said that they will try to ensure North-South co-operation works where possible. As far as I am concerned, that is not what is committed to in terms of the aspirational and very welcome and positive statements we have heard from the British Prime Minister regarding full implementa-

tion of the Good Friday Agreement post-Brexit. We want to work with the British Government and help it find a route to get to where we need to go to make sure those aspirations become a reality. That is why we have asked for more clarity in phase one of these negotiations rather than allowing this thing to be kicked off in the hope it will be solved in the context of a broader trade agreement or future trading relationship. That for us is a jump in the dark that we are not willing to take without knowing where we are going to land or without at the very least having much more clarity on the parameters of the landing zone. This is the clarity that we need to give the Good Friday Agreement the protection that it needs.

I cannot yet give the member as complete an answer on citizens' rights issues as he might like. I take the point, however, on training and on ensuring the provision of a mechanism or portal whereby Irish citizens living in Northern Ireland can feel that they have space in which they can ask questions and get detailed answers on where they stand and the implications and consequences of Brexit for them as it becomes clearer what it is going to look like. The first thing we have to do is to try to support a negotiation process that puts these pieces together in order that we can try to provide some certainty. We will then provide the staff and training needed to make sure that citizens can know where they stand and get access to their rights.

In response to Senator Craughwell's point about road haulage, I believe that approximately 86% to 88% of all goods that arrive on the island of Ireland as freight do so via the United Kingdom. This is obviously a big deal from a trade perspective. Ireland as an economy is a huge net exporter, so Britain is both a big market for us but also a very important bridge to the European Union mainland. The British Government has tried to be helpful with regard to the various international transport directives that could potentially facilitate ease of access across Britain so as to reach European Union markets. Britain is a physical landmass between ourselves and markets such as those in France and in the Benelux countries, so we will of course look for practical solutions to this. Depending on what a future trade relationship, agreement or partnership might look like, however, we could find that the infrastructure between Dover and Calais might be totally overloaded over a very short space of time if, for example, new checking systems are required at British ports. This whole process will need to be redesigned, meaning that Ireland will need to plan for other contingencies in order that we can get our products to market.

We do not want a situation in which the impression is given that we are simply going to isolate Britain and diversify into a new trading relationship that does not involve the United Kingdom. We want to trade with Britain. We want a strong British economy that is good for Ireland. We want a very strong, barrier-free and easy access trading relationship between Britain and the EU as a whole, which would be good for Britain, Ireland, and the EU. We can really only get into the detail of that, however, when we get into the phase 2 discussions and we still have real work to do before that will be possible.

I made some comments earlier about regulatory divergence, which obviously poses problems for many of the cross-Border bodies. Much confusion will be created if such bodies end up operating under two different regulatory models. Some of those bodies also rely on political decision-making and direction, which they do not currently have because we do not have devolved institutions in Northern Ireland that can give them that certainty. When it comes to programme spending and promotion and so on, most of those bodies are required to give the same attention north of the Border as they do south of it. Without the political direction and certainty that they need from devolved institutions, it becomes more and more difficult for these North-South bodies to do the work they need to do. Brexit certainly poses challenges, then, but so too does the absence of a functioning devolved Government structure. This is a major

problem that we all urgently need to address.

I do not accept that the prospect of a so-called third-class Irishman, or indeed woman, will arise and we must all ensure that it does not. Something I have not talked about today, and which is a good news story, is the progress on the common travel area. Since 1923 or so British and Irish Governments have had an arrangement which is as much a recognition of the citizenship of each others' countries as a common travel area. Irish people can work, study and get access to social welfare in Britain. I went to university in England myself so the British taxpayer paid for some of my education. There are plenty of British people studying in Ireland, meanwhile, with the Irish taxpayer contributing to their education. I can vote in British elections and they can vote in at least some of ours. We can also carry pensions between the two countries. We have a special relationship and recognition of each other's citizens and it is my view that this will remain intact through these negotiations. This has only happened, by the way, because of the real solidarity from our EU colleagues, who have accepted that Ireland is different and that we are more integrated with Britain than any other EU member state. This is why the common travel area will continue to be protected. This will address many of the issues that the Senator raised. Even after Brexit, there will be no impediment to any Irish person moving to Britain or working or accessing welfare or health services there. The same goes for British people in Ireland. It is important to say that rather than to try to categorise people into different tiers in terms of rights and access.

Chairman: Another vote has been called in the Chamber so that is why people are leaving. I know that Ms. Gildernew wanted to come in, followed by Mr. Maskey and Mr. McElduff.

Ms Michelle Gildernew: I was very impressed by the Minister's agricultural summary, though he forgot about the pigs that are born and reared in the South before being brought up to the North to be slaughtered and processed.

Deputy Simon Coveney: And the chickens.

Ms Michelle Gildernew: And the chickens, of course. We could go on forever. Senator Craughwell spoke about first, second and third-class Irish citizens and I think that there is still a very real sense of that. This time 50 years ago, which is not that long ago, although the Minister and myself were not yet alive at the time, my aunt was squatting in a house in Caledon, County Tyrone. She had not been allocated a house because that would have meant that she would have got a vote, a very blunt instrument with which to try to disenfranchise Irish citizens in the North. Such blunt instruments are still being used, as we see in the whole issue around the Irish language, for example. I appreciate that we are not yet back in the Executive but there are very difficult issues involved here, and the way in which those issues have been dealt with by our former partners in government has meant that we cannot go back to institutions that do not work for many people and that are now trying to institutionalise discrimination and bigotry. The Irish language is a big issue for us in Sinn Féin, as is marriage equality, so I would like to draw the Minister's attention to that.

Returning to what I was saying about the situation in Caledon, the Minister's official, Mr. Fergal Mythen, actually came to Caledon with me a long time ago. It is bad to realise that I have known the Minister's officials for 20 years. I feel like Mr. Mythen has been knocking around for a very long time.

I would actually expand the point raised earlier about citizens' rights. We have citizens from outside Ireland who now live and work in Fermanagh and South Tyrone and made it their home.

Their children are Irish and hold Irish passports but because they have come from other parts of the world and settled in the North of Ireland, they now have different citizens' rights. If two people come from Poland and one ends up living in Emyvale, County Monaghan, and the other in Aughnacloy, County Tyrone, the person in Emyvale has more rights to Irish citizenship and naturalisation than the person in Aughnacloy. This is an anomaly in the Good Friday Agreement that we now need to rectify. As part of the citizenship debate, I would like us to look at the new Irish who have made their home in the North of Ireland.

I would also like to say to the Minister that poverty, and child poverty in particular, is much more endemic in the Border corridor and that Brexit is going to throw up all kinds of challenges in this regard. There has been talk of hard and soft borders but what we need to see is no Border at all. The way the Border was when we were growing up and the way the two jurisdictions operated, with their back-to-back to infrastructure, meant that people living on the Border got the thin end of the wedge every time, whether it was in respect of roads infrastructure, broadband or access to services and the situation endures to some extent. In County Fermanagh, one of the issues we have is access to GP services. In Rosslea, the GP has retired and there is no active GP in the area. They are closer to GP services in Clones or parts of County Monaghan but they cannot access those at present. There are plans to bring about a north-west school of medicine on the part of the Ulster University co-operative project, based in the Magee campus, to train doctors and medical staff North and South who want to live and work in the west. It will affect counties Donegal, Sligo, Derry, Fermanagh and Tyrone equally and it is a really exciting project. I spoke to people about it last week and they said it cannot happen without ministerial sign-off. If it is not signed off by springtime, we cannot have a December 2018 intake. It does not look like we are getting around the Executive table any time soon but there are important issues that affect the Irish Government which we would like to be expanded and moved on.

Deputy Simon Coveney: May I request that we pause for a moment?

Chairman: Of course.

Sitting suspended at 3.51 p.m. and resumed at 3.53 p.m.

Mr. Paul Maskey: I thank the Minister for coming into my constituency of West Belfast, where he met with the families of the Ballymurphy massacre. The stories they told, which I have heard a number of times, were absolutely horrendous. The local parish priest had heard them before but even he broke down yesterday, which shows that, more than 40 years after their loved ones were murdered in the streets where the Minister was yesterday, they are still in people's heads. He satisfied the families to a certain extent about the issue of the Statute of Limitations, saying he would oppose it and would speak to the British Government on it. The inquests will be held next year and the legal team asked us about costs, where they said there could be difficulties because the British Government had yet to release the finance. There is a danger that there will not be enough money to cover all the inquests so perhaps the Minister will ask James Brokenshire if he will release the money when he speaks to him this evening. It would allow the Lord Chief Justice to continue with the inquest. The families have been fighting for justice for 46 years.

In regard to the 50% plus one issue, the Minister said he did not want an Ireland of minorities. I do not think anybody in this room wants to see an Ireland of minorities but they would work for an Ireland of equals. I ask the Minister to work with the rest of us to build that Ireland of equals and to put papers together that would allow that to happen and would show how we could move forward with that Ireland of equals to a referendum on unity.

The Minister replied to some points made by Mr. Hazzard on the NI Act. He said the answer would work itself out over time but is that not a stage 1 issue that should be dealt with immediately? I urge him to deal with it as speedily as he possibly can.

Mr. Barry McElduff: I thank the Minister for his presentation and I thank his officials. I want to talk about the A5. The prospect of Brexit and the problems to do with connectivity in the north west of Ireland, in the form of roads and telecommunications, present a double whammy for those living in the north west. I welcome Senator Craughwell's interest in hearing the views of business people in the Border area, not least Strabane, Lifford etc., and last night I had an engagement with leading business people from Omagh and Strabane, who wanted me to carry a request about the A5 into this meeting. The A5 is crucial for jobs, investment, road safety and for travel times pertaining to counties Tyrone, Donegal and Derry. I acknowledge the Taoiseach's recent expression of support at Queen's University, Belfast, Ollscoil na Ríona, Béal Feirste, when he restated the commitment of the Government to the A5 project. However, while the original financial commitment to the A5 was in the order of €400 million, it has been reduced to €75 million. I ask the Minister to work closely with the Taoiseach and other Ministers to ensure the €400 million commitment to the A5 is reinstated to give confidence to people in counties Tyrone, Donegal and Derry.

Senator Frances Black: I thank the Minister for his attendance and I hope this is the beginning of a relationship with the Joint Committee on the Implementation of the Good Friday Agreement and that we can keep connected. Deputy Maureen O'Sullivan raised the Dublin-Monaghan bombings. I have met the families a few times, as I have the hooded men. I hear what the Minister says to the effect that there is an official answer but I do not know if he has met the families. It would be great if he would consider doing so at some point, just to hear their story about their frustration and their loss 43 years ago, which was devastating. Some of the hooded men are still alive and it would be great if he would consider meeting them too.

I am interested in the legacy issues in respect of trauma in particular. I am particularly interested in intergenerational trauma, which I bring up a lot in this committee. We know about mental health issues in the North, particularly around suicide, and I work in this field, including with organisations in the North which have had to deal with suicide issues. Intergenerational trauma from the conflict affects families who have lost loved ones and victims but there are other types too. Hyper-vigilance can pass down through generations and people end up trying to self-soothe through drugs, addiction etc. This matter really needs to be addressed. The Minister mentioned it in the context of the Stormont House Agreement and the provision of mental trauma services. Much more needs to be done in this area, and I would love if the Minister would give consideration to it. I have worked in this area with the RISE Foundation. I have run programmes in the North, where people on all sides of the community came in and spoke about their traumas. I went into a room where people would not speak to each other and there was huge resentment and feelings of bitterness because of generational issues and then, when they worked through it, what happened at the end was mind-blowing. The Department of Foreign Affairs and Trade funded one of these programmes. This is a matter that needs to be addressed and in respect of which much more needs to be done.

Does the Minister think the British-Irish Intergovernmental Conference should be recalled? Sir Jeffrey Donaldson, MP, said recently that this would be a breach of implementation of the Good Friday Agreement. Does the Minister agree?

Deputy Simon Coveney: There are plenty of questions there, some of which will cause a bit of controversy.

Language and culture issues have been a big part of the discussions between the DUP and Sinn Féin. These discussions have stopped for the past two weeks but there was certainly a ten-week period when we tried to facilitate private discussions on a bilateral basis between the two parties, with the support of both Governments and the Northern Ireland Office. Many issues were discussed. I would not like to pretend that the discussion was all about the Irish language and other culture and identity issues; it was not. However, they were a big part of what was discussed.

It is important to recognise that both parties were trying to find - and are still open to trying to find - a way forward on this issue. There were some very welcome statements such as, for example, from the leader of the DUP, who said to people they should not fear the Irish language and that it is part of Northern Ireland and the people there. There was also some recognition coming from the Sinn Féin leadership that there is a need for both parties to try to accommodate each other in terms of the political challenges they are facing in finding a way forward to set up the Executive.

Undoubtedly, this is an issue that cannot be fudged. We cannot have two parties pretending different outcomes because that will be exposed for what it is. As a result, there is a need for both negotiating teams to try to accommodate each other while also seeking to make real progress that is consistent with previous agreements, whereby there is legislation to deal with language and culture issues. I do not want to go into the intricacies of the legal structures and frameworks the negotiations focused on. There is a way to get this done which recognises that many people see the Irish language as part of who they are - it is part of their identity, community, Irishness and where they come from in Northern Ireland - and which will allow us to move forward consistent with that priority. However, we must also proceed in a way that acknowledges the sensitivities that many unionists have in the context of the need to recognise diversity in Northern Ireland, and the fact there are other language and culture issues that they prioritise. There is a way of doing this - through a legislative framework - that recognises the succinct differences between the two and the need for separation of the issues and that provides a context which incorporates them all. This is what we have been trying to find a way forward on.

If people just hold hardline positions because they say they cannot sell anything else to their political base, then the stalemate continues. That is why there is a need for a willingness to try to understand the problems that others face. To be fair, there have been real efforts to try to do this and we are much further down the line than we would have been a number of months ago on this issue in terms of trying to find an outcome that can work.

I know I have made a lot of generalisations. It is helpful, however, if I do not go into the exact details because I hope the parties will be around the table again at some stage in the not too distant future to try to find a way forward towards setting up a devolved government.

There are very real issues on citizens' rights generally linked to Brexit, because Irish citizens and British citizens will have their issues in terms of moving, working and accessing social services resolved between Britain and Ireland. A French, German, Spanish, Polish or Dutch citizen living in Ireland can move between the islands, but he or she does not have any of the other automatic rights. He or she cannot work necessarily, unless perhaps he or she goes through a permit system or whatever happens to be agreed in the context of EU nationals having the right to work in the UK in future. It will be likewise for UK citizens in the context of working within the Single Market. These issues will be part of the negotiation as we move on.

In terms of poverty in the Border region and infrastructural investment, these can be linked

to the question asked about the A5. Senior officials maintain a close eye on the proposed A5 project as it proceeds through the planning process in Northern Ireland, subject to the successful completion of statutory procedures. A decision can then be made regarding progression on to construction stage. The project's spend profile, including the €75 million Irish Government commitments, will be reviewed in the context of the planning process as it progresses.

In the coming months, the Government will publish a ten-year capital plan. This will commit approximately €100 billion of expenditure for the next ten years for a population growth of over 1 million. Ireland is now the fastest growing and youngest population in the European Union, as well as the fastest growing economy in the European Union. We have real momentum and we need to invest to plan for this and accommodate it in terms of schools, hospitals, roads, rail networks, public transport systems, social housing and so many other things. The fact that we need to recognise the strategic importance of the A5 will be part of the discussion. I am certainly not in a position to be able to announce today what the Government will do in this context but I am confident that we will take a very positive view of the A5 in the capital plan. However, that is a matter for the Minister for Finance, Deputy Paschal Donohoe, to clarify in the coming months. I recognise its strategic importance and the benefits of such a piece of infrastructure in the context of linking the north west, particularly Donegal, to the rest of the country, providing connectivity along the line, servicing the populations that live along it and the economic corridor it would open up.

On access to GP services, one of the great frustrations in terms of North-South co-operation and projects involving practical co-operation on human or animal health that are good for communities on both sides of the Border is that if we do not have Ministers to sign off on these measures, we cannot progress them. Some people seem to think that the *status quo* in Northern Ireland is okay, that the latter will continue to limp on and that, perhaps, the assembly was not working so well in any event. The truth is that as time goes on people will begin to realise - in very real terms - that the *status quo* is not okay and that people's lives will be impacted upon by this in terms of the inability of local political representatives to be able to make local decisions in respect of schools and hospitals or to respond to issues such as flooding. The downsides to not having functioning devolved government will become evident and may become highly divisive in Northern Ireland. In the absence of devolved government, we have signalled that, just as when there is any impasse or challenge in the context of Northern Ireland, we will revert to the Good Friday Agreement, which is the basis and foundation for everything in this area. We have made clear that the structures in terms of east-west and North-South co-operation in the context of the absence of devolved government would need to be triggered. The Taoiseach made that clear, which did not go down well with some people because the idea of devolved government means different things to different people. To us, it means the implementation of what is in the Good Friday Agreement, not a version of direct rule that some others would like to see and, therefore, we will be sticking to that agreement in full. Part of the agreement provides for a potential British-Irish intergovernmental conference structure but that is not where we want to be. That is where we will be forced to go if we cannot find a way to put devolved government back in place but neither the Irish nor British Government wants that and nor do unionists or nationalists. It is not a good way of governing a country but it is what we will be forced into in the absence of a functioning devolved government in Northern Ireland. That absence takes the heart out of the Good Friday Agreement because everything is built around having a functioning devolved government structure that allows practical and sensible North-South co-operation and much local decision making that helps to progress many of the other ambitions of the agreement. That does not cut across the fact that the United Kingdom Government is the sovereign Government in Northern Ireland, which nobody is challenging. However,

we have a legal responsibility as a co-guarantor of the Good Friday Agreement and the absence of devolved government triggers the use of structures in the Good Friday Agreement consistent with the responsibilities that we have and the British Government has, which makes some people uncomfortable. It is to be hoped that will remind people of the necessity to find a way to get devolved government up and running again.

I share Senator Black's concerns in terms of legacy. When we met the commissioner for victims last week, she raised the issue with me. Within the Stormont House Agreement, there is quite a strong response on health supports in Northern Ireland for those who have suffered trauma. It is important that we look at North-South co-operation in terms of learning some lessons to ensure that those who may be traumatised from the Troubles and are living south of the Border have access to the kind of supports we all recognise are needed and that are available north of the Border. The Government needs to consider that and I will speak to the Minister for Health, Deputy Harris, in that regard from a health support point of view.

Chairman: I am conscious that the Minister has gone beyond his time but Deputy Brendan Smith wishes to ask one question. Will the Minister take that question?

Deputy Simon Coveney: I will.

Deputy Brendan Smith: I have a few comments to make. It is difficult to follow the proceedings when one has to leave to vote in the Dáil.

As regards the capital plan, in the early days of this committee, following the Brexit referendum I raised the need to prioritise the infrastructural needs of the Border region in the review of the capital plan with the then Minister for Foreign Affairs and Trade, Deputy Flanagan, and the Ministers for Public Expenditure and Reform and Transport, Tourism and Trade, Deputies Donohoe and Ross. This was to try to assist companies that are heavily dependent on the agrifood sector, construction products and engineering and which are based in the Cavan-Monaghan and Fermanagh-Tyrone areas to remain competitive. As they are more dependent on the Northern Ireland and British market than any other sectors, some prioritisation should be given to the infrastructural needs of that area and I hope the Minister will represent that view in discussions at Cabinet.

I represent two southern Ulster counties that are very conscious of the benefits that have flowed to us from the workings of the Good Friday Agreement. The potential resurrection of the Border is an absolute nightmare for my constituents. As I said previously at this committee, that prospect has knocked the stuffing out of individuals and Border communities. I brought members of the Foreign Affairs Committee of the House of Commons to Cavan-Monaghan last Thursday, where they met local interest groups, businesses, public representatives and statutory agencies. That was the first meeting at which there was a real downer among those who are providing jobs and gainful employment and that was due to the British Government's statements, mis-statements and contradictory statements last week. I do not know how one will manage to ensure that such companies will be reassured that the best possible deal will be secured. That will not be easy but we want to try to ensure that even at this early stage, the confidence is not knocked out of the sectors that are very heavily dependent on the British market.

One of the great outcomes of the Good Friday Agreement has been the development of business on an all-Ireland basis. The Minister will know from his days in the Department of Agriculture, Food and the Marine, as do I, of the development of the agrifood sector in particular on an all-Ireland basis. The Minister earlier spoke of the interdependence of the farming

and agrifood sector North and South, as well as of the nightmare we will have if there are two different regulatory regimes. He mentioned the raw material that travels from North to South and *vice versa*. The quietest day in the farming calendar is Christmas Day. However, even on that day, more than 50 tanker loads of milk come from the North for processing at the Lakeland Dairies plant in Bailieborough. The transportation of more than 50 large containers of milk on that day demonstrates clearly the interdependence of the agrifood sector and the need to ensure that no impediments are put in the way of ensuring that the *modus operandi* currently enjoyed can continue.

Can the Minister assure members that phase 1 of the talks between Britain and the European Union will not conclude unless there is a satisfactory outcome in respect of the Border? I thank him for his contribution. It is unfortunate that members must miss parts of the meeting because of other commitments.

Chairman: The Deputy has asked a lot of questions and the Minister may not be able to answer them all.

Deputy Simon Coveney: I will try to quickly address them. The capital plan will take into account the vulnerability and the opportunity in the Border area with more investment and that is very much part of the Ireland 2040 plan, the new national planning framework, which will set the context for where the capital spend goes in the next ten to 20 years. I appreciate the Border issue is a nightmare for those living there and that it is weighing heavily on people at the moment. I have spoken to many people with business interests near the Border. I have been very public about our being very firm and clear on the issue and we have worked really hard to get solidarity and understanding. It is not a coincidence that the Latvian Minister of Foreign Affairs visited Ireland last week to understand the Border, as did Guy Verhofstadt, Michel Barnier and the Finnish Minister for Foreign Affairs a few months ago. A real effort has been made to issue invitations and encourage people to try to understand why Ireland is so vulnerable in this situation and, on the back of that, why it is so important that we maintain solidarity and unity with the European Union in terms of insisting we get the answers and solutions needed to protect what is important on this island. We will continue to hold that position but we will not have the complete solution on the Border issue by 14 or 15 December. That is not going to happen. What we will have, I hope, is a lot more clarity around the parameters within which that solution will be finalised and negotiated when and if we move on to phase 2, which will cover future relationships, trade agreements, partnerships and so on. Given what we have been discussing today, we need much more clarity on a solution for the Border that recognises the uniqueness and the unique problems and vulnerability of both Northern Ireland and the island of Ireland as a whole. As I said, some will bring up simplistic solutions such as keeping Northern Ireland in the same customs union and, as an extension, in the Single Market. It is not as easy as that, however, because there is of course also a relationship between Northern Ireland and the rest of the United Kingdom. Different people have different views on these matters but we would like a solution that applies to all of the United Kingdom because that would also help with the challenge of east-west relationships. In the absence of being able to achieve this, however, we need reassurance that the challenges on the island of Ireland in the context of the Border will be addressed in way that recognises the realities of the consequences of regulatory divergence between two jurisdictions on the same island. This is in light of the fact that we have been able to work together, particularly in the last 20 years, in a way that has been beneficial for many people and we cannot allow that to be undermined by Brexit.

Senator Frances Black: Will the Minister be able to meet the families of the victims of the

Dublin and Monaghan bombings, as well as the hooded men?

Deputy Simon Coveney: Yes. Our officials have met them, the previous Minister, Deputy Flanagan, met them, and I of course would also be happy to do the same. It is just a question of agreeing a time but I would be more than happy to do so. That would be no problem.

Senator Frances Black: And the hooded men?

Deputy Simon Coveney: Yes.

Senator Mark Daly: Might the Minister come back to address the court case involving Raymond McCord?

Deputy Simon Coveney: This is the first that I have heard of this case but I will come back to it.

Chairman: The Minister might also come back to address the question from Mr. Paul Maskey, MP, about the costs of the inquests.

Deputy Simon Coveney: We have consistently raised the issue of funding. As this is primarily a matter for the British Government, I do not want to overreach here but for the legacy structures under the Stormont House Agreement to be credible, they obviously have to be properly funded. That has been recognised by the British Government and it is my view that funding will not be an obstacle to the setting up and successful functioning of the legacy structures. This is, however, a matter for the British Government to clarify.

Chairman: Gabhaim buíochas leis an Aire. I again thank him on behalf of the committee for staying on here later than he had originally outlined and for providing comprehensive answers. We will now go into private session.

The joint committee went into private session at 4.23 p.m. and adjourned at 4.41 p.m. until 2.10 p.m. on Thursday, 25 January 2018.