

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM

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### FEIDHMIÚ CHOMHAONTÚ AOINE AN CHÉASTA

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

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*Déardaoin, 21 Feabhra 2019*

*Thursday, 21 February 2019*

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The Joint Committee met at 2.40 p.m.

#### MEMBERS PRESENT:

Deputy Declan Breathnach,	Senator Gerard P. Craughwell,
Deputy Fergus O'Dowd,	Senator Frank Feighan,
Deputy Maureen O'Sullivan,	Senator Niall Ó Donnghaile.
Deputy Brendan Smith,	

In attendance: Senator Mark Daly.

DEPUTY SEÁN CROWE IN THE CHAIR.

*The joint committee met in private session at 3.15 p.m. and went into public session at 3.20 p.m.*

### **Impact of Brexit on the Good Friday Agreement: Discussion (Resumed)**

**Chairman:** I remind members, delegates and those in the Visitors Gallery to turn off their mobile phones or switch them to airplane or safe mode as it is not sufficient to leave them in silent mode because they may still interfere with the broadcasting and recording systems.

Today we are meeting the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Coveney, to discuss the implementation of the Good Friday Agreement and the challenges presented by Brexit. The Tánaiste and his officials are welcome. We will hear his opening statement before proceeding to a question and answer session with members. The Tánaiste has said he will be here for approximately an hour and a half. As such, I ask contributors to be as concise as possible in their questions. If we are concise, we will be able to bring everyone in.

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** It is good to see everyone, particularly those who have taken the time to travel to be here with us.

I thank the Chairman for the invitation to meet the joint committee. The meeting is timely to discuss a full range of issues related to implementation of the Good Friday Agreement and the peace process generally. There are a number of issues I would like to address in my opening statement, following which I look forward to a discussion with members. I acknowledge the important and constructive role the committee plays in expressing tangible cross-party support in the Oireachtas for the Good Friday Agreement and working to support its full implementation. Importantly, it engages with stakeholders, North and South, east and west, to consolidate peace and deepen reconciliation. Its members have a deep commitment to the Agreement, as do I, and had countless hours of engagement with those working in communities and at the interface in Northern Ireland. The committee has at all times sought to build understanding across communities and encourage and facilitate steps forward in the process of reconciliation, which is at the heart of the Agreement. As Tánaiste and Minister for Foreign Affairs and Trade, I know what this work involves and demands and see the impact and value of the committee's engagement on behalf of both Houses of the Oireachtas in supporting the peace process and the Agreement in whatever challenges arise. With its important facility for MPs representing Northern Ireland constituencies to participate, the committee is a very practical expression of the all-island engagement enabled by the Agreement. It is good to see many Northern representatives here. While they are always welcome, they are particularly welcome today, given some of the challenges with which we are coping.

I turn first to Brexit. While there are many settings within the Oireachtas in which we are addressing the challenges of Brexit, the protection of the Good Friday Agreement and the peace process is the Government's fundamental concern in the negotiations, as it is for everyone present. As such, it is the first issue I want to address. The Government remains firmly of the view that the best and only way to ensure an orderly withdrawal by the United Kingdom and to protect the Good Friday Agreement in all of its parts is to ratify the withdrawal agreement agreed to last year between the European Union and the British Government. The Taoiseach's recent joint statement with President Juncker was clear that the backstop was an integral part of the withdrawal agreement. It was also clear that the backstop was not a bilateral issue but a European one. I reaffirmed this with Michel Barnier at our meeting in Brussels on Monday of

this week. It is important to be clear at all times that the backstop is intended to constitute an insurance policy for the avoidance of a hard border in all scenarios. We hope it will never be used or, if it is, that it will be replaced quickly by a future relationship agreement. The Government remains convinced that it is absolutely necessary and this view is shared across the joint committee, or at least I hope it is.

The European Union is committed to exploring and seeking to agree to alternative arrangements with the United Kingdom to replace the backstop in the future. We want a comprehensive future relationship agreement in place by the end of 2020 in order that the backstop will never need to be used. We want to get on with that work once the withdrawal agreement is ratified. However, no credible alternative arrangements have been put forward by anyone inside the negotiations or elsewhere which would achieve the shared goal of the United Kingdom and the European Union to avoid a hard border. The backstop is a necessary guarantee based on legal certainty, rather than wishful thinking. As well as ensuring there will be no hard border on the island of Ireland, we believe these arrangements represent a good outcome for Northern Ireland, should they ever be necessary. This view is shared by a number of political parties and business, farming and trade union leaders from both communities in Northern Ireland. Their cross-community engagement to explain the importance of the backstop as the necessary insurance for jobs and the economy is important and welcome.

In November the British Government signed up to the withdrawal agreement, including the backstop, as it stands, and other important provisions to protect the Good Friday Agreement in all of its parts. The European Union has listened to British concerns. In December the European Council and the joint letter from Presidents Tusk and Juncker provided important reassurance. Were the United Kingdom's proposals for the future partnership to evolve, the European Union would be prepared to reconsider its offer and adjust the level of ambition of the political declaration, while respecting its established principles. A no-deal Brexit would, of course, be the worst possible outcome and in no one's interests. In simple terms, everybody would lose, in some cases significantly, in a no-deal, worst case scenario. However, the Government is preparing comprehensively for this scenario, just in case. With the vital co-operation of Opposition parties, we are advancing no-deal legislation which will be published tomorrow. It will ensure we can deal domestically with the undoubted serious challenges of a no-deal exit, should it happen. However, the focus of our engagement at EU level remains on securing the deal which has been reached with the British Government through the withdrawal agreement.

It is important to recall the protections included in the protocol to the Good Friday Agreement in all of its parts. The protocol, expressly and fully, respects the constitutional status of Northern Ireland and the principle of consent as guaranteed by the Good Friday Agreement. It also underpins North-South co-operation and protects the all-island economy, including through the avoidance of a hard border. It provides for the maintenance of a single electricity market on the island. It makes legally binding the United Kingdom's commitment to ensuring there will be no diminution of rights, safeguards and equality of opportunity as set out in the Good Friday Agreement, including through the maintenance of EU directives in the area of non-discrimination. Consistent with the citizenship provisions of the Good Friday Agreement, the protocol confirms the EU citizenship of Irish citizens in Northern Ireland and their continued access to EU rights, opportunities and beliefs. Ensuring the access of those entitled to Irish citizenship in Northern Ireland to specific EU benefits, for example, in the areas of healthcare and education, will be addressed during the transition period in the context of the future relationship. This is reflected in the preamble of the protocol. The protocol also importantly provides for the maintenance of the common travel area, ensuring that the current bilateral arrangements can

continue whereby Irish and British citizens can live, work, study and access healthcare, social security and public services in each jurisdiction. I am glad to say that, in legislation that will be published in the morning, we have arrangements in place to protect many of these important public services should there be a no-deal Brexit. In addition, the protocol confirms the EU and UK commitment to the PEACE and INTERREG programmes, which have contributed in such significant ways to supporting the peace process in all its dimensions over the past 25 years, and which are a major practical expression of the European Union's solidarity and support for peace and reconciliation. The Government warmly welcomes the Commission's proposal for a special new PEACE Plus programme to build on and continue the work of the successive PEACE and INTERREG programmes. The firm commitment of the UK Government to the PEACE Plus programme is also welcome. As the Government, the EU as a whole and the UK have always sought, the protocol protects the Good Friday Agreement in all its parts from the challenges that Brexit undoubtedly poses.

On restoring the Good Friday Agreement institutions to full operation, which everyone in this room wants to see, the commitments and obligations of the Good Friday Agreement remain for both Governments under any scenario. The Government continues to engage with the British Government as co-guarantor to secure the full implementation of the agreement and the effective operation of all of its institutions, including the Northern Ireland Assembly and power-sharing Executive, and the North-South Ministerial Council. The continuing absence of these vital institutions of the agreement is a source of deep concern for the Government and indeed for the British Government. Since the assembly elections in March 2017, the Government has worked tirelessly with the British Government and the political parties in Northern Ireland in successive phases of talks to secure an agreement that would see the devolved institutions fully operational once again. We have also consistently engaged to seek progress with the implementation of outstanding commitments from previous agreements, including an Irish language Act as envisaged under the St. Andrews Agreement. Unfortunately, as everyone here knows, the necessary agreement between the parties has to date not been secured. However, we will continue to work until all the institutions of the Good Friday Agreement are operating effectively again.

The two-year absence of the devolved institutions simply cannot continue. As everyone here is acutely aware, there are pressing decisions and issues across a range of areas, which require a functioning Executive and assembly. These institutions are also urgently needed to represent the interests of all of the people of Northern Ireland, most significantly at present on the challenges raised by Brexit. These institutions are the most powerful symbol and expression of what the Good Friday Agreement has achieved in Northern Ireland, namely, co-operation and power sharing between both communities on the basis of equality, respect and parity of esteem. There could be no more persuasive advocates, in Brussels, London, Dublin, Washington and beyond, for the unique interests and needs of Northern Ireland than a power-sharing Executive working to address the interests of everyone it represents. No one says it is easy, but there is no other available way to address the political and identity divisions in Northern Ireland and to deliver for all the people. We must get the power-sharing institutions back working again. The Government is equally anxious to see the North-South Ministerial Council operating again in order to oversee and develop North-South co-operation on matters of mutual interest, including the resumption of that constructive engagement to address the all-island challenges raised by Brexit that was commenced at the North-South Ministerial Council in the second half of 2016.

The Government will continue to do everything possible, in accordance with our responsibilities as a co-guarantor of the agreement, to secure the effective operation of all of its institu-

tions. To this end, the Secretary of State, Ms Karen Bradley, and I met the leaders of the five main political parties at Stormont last Friday, further to our respective consultations with each of the party leaders in recent weeks and months. This meeting sought the parties' views, at this stage, on how a new talks process could most constructively be commenced in the period ahead. All of the party leaders confirmed their wish to participate in the institutions again and provided views on the necessary basis for an effective talks process. It was not an easy meeting last Friday; that is no secret to anybody. People are sceptical, understandably so. It is up to the Governments in particular to respond to and address that scepticism to move this process forward. It was agreed that the two Governments will engage further with the parties to seek an urgent way forward with a new political process that can secure an agreement for a functioning Executive, assembly and North-South Ministerial Council. Following these further consultations, I do not in any way underestimate the way to go in achieving that resolution. However, I continue to believe that an agreement can be achieved and that there is an increasingly urgent need for talks with a credible basis to commence. I will continue to work with the Secretary of State and each of the party leaders, in some cases North and South, to get the necessary political process under way as soon as possible.

On constitutional issues, I am acutely conscious of a view currently being expressed that because of the ongoing challenges of the peace process, or because Brexit is raising so many challenges for the island as a whole, now is the moment to move ahead with consideration of constitutional status issues as provided for under the Good Friday Agreement. I respect, and the Government respects, the right of everyone on this island to make the case for the constitutional future that he or she wishes to see for Northern Ireland, whether he or she is nationalist, unionist or neither. The Good Friday Agreement and the two sovereign Governments explicitly recognise and validate the legitimacy of both of these constitutional positions, which are deeply held. People have the right to take part in discussion, dialogue and engagement on the kind of future they would like to see. The Government hears, shares and is working to address the real concerns, worry and frustration that people in the North feel about the acute challenges that Brexit raises. However, the Government is also very clear that we cannot and will not seek to use Brexit to advance any kind of constitutional agenda. These are separate and distinct issues. They are big challenges in both cases. At present, the Government does not believe that sufficient support exists for a Border poll that would result in constitutional change. The Government's priorities are therefore, first, to secure the effective functioning of the devolved institutions and the North-South Ministerial Council and, second, to ensure the protection of the Good Friday Agreement and the achievements of the peace process as the UK leaves the EU. That is our only agenda as co-guarantor of the Good Friday Agreement, and the Government believes that this is an important message to clearly convey at this time.

One aspect of the Good Friday Agreement that is perhaps less prominent in political exchanges but no less important for the future of everyone on this island is the commitment to the achievement of real reconciliation, following the tragedies and suffering of the past. I recognise that this has always been a major area of focus for the committee's engagement, as it has been a continuing priority for successive Irish Governments. Reflecting this, the Government has provided for a substantial increase of €1 million for my Department's reconciliation fund this year, bringing the total budget to €3.7 million. In 2018, the reconciliation fund made grants to over 150 projects, supporting organisations across the community and voluntary sector. The vast majority of funding goes to projects and organisations in Northern Ireland because this is where the greatest need for reconciliation clearly lies. The groups supported by the fund are building meaningful links across communities, addressing the issues that are impacting on their lives, including sectarianism, and working to create better understanding between people

and traditions on this island, and indeed between Ireland and Britain. Reconciliation is a vital component of the peace process and the Government is committed to supporting this work at community level through the reconciliation fund and ministerial engagement with representatives of different community traditions.

I wish to make a few comments on the pressing need to deal with the legacy of the past and address the suffering of victims of violence and their families. This was envisaged under the Good Friday Agreement when it was signed almost 21 years ago, but victims and survivors are still waiting for a system that can deal comprehensively with their legitimate needs and expectations. Addressing the past is also a necessary element of reconciliation, particularly for those individuals and communities that suffered most through the dark days of the Troubles.

The new policing dispensation in Northern Ireland cannot continue to be weighed down with legacy issues, when the PSNI's focus needs to be on policing for today and in ensuring that cross-community confidence in the new policing arrangements achieved through the Patten reforms is maintained and advanced. We saw once again last week the almost endless difficulties that legacy issues raise with the concerning announcement that the PSNI had discovered significant new material for investigations being conducted by the Police Ombudsman for Northern Ireland. My thoughts are first and foremost with all of the families affected, as they have to wait now for even longer to see the reports of the Police Ombudsman for Northern Ireland. This development makes clear once again that the Stormont House Agreement framework, agreed by the two Governments and political parties, is urgently needed to provide a comprehensive process for addressing legacy investigations and issues in Northern Ireland, focused on the needs of victims and survivors. We are still working to get this in place and it must be achieved.

Significant progress was made in the political discussions that took place since 2014 and a public consultation on draft UK legislation was conducted by the Secretary of State for Northern Ireland in the latter part of last year. There was significant engagement with this consultation from individuals and groups across Northern Ireland, and importantly also from victims and survivors in this jurisdiction and indeed in Britain. It was not an easy process but it was a necessary one. The responses to the consultation are now being reviewed by the British Government and I am informed that this process is nearing completion.

The Government's concern is to see that the process continues to advance to implement the Stormont House legacy framework in full, including moving ahead to legislative phases in both jurisdictions as needed and as soon as possible. We also continue to press for confirmation of the necessary resourcing for legacy inquests to proceed in Northern Ireland, consistent with the Article 2 obligations on the UK Government.

We continue to proactively engage with the Secretary of State and all of the political parties to secure the implementation of the Stormont House legacy framework as speedily as possible. The drafting of legislative proposals in this jurisdiction to support and implement the Stormont House framework is also advancing, led by the Minister for Justice and Equality, Deputy Flanagan. The Government has already published a general scheme of a Bill to provide for enhanced co-operation with legacy inquests in Northern Ireland and a draft Bill is being finalised. This legislation will be of immediate relevance for the ongoing inquest into the Kingsmill massacre at the Belfast Coroner's Court. Draft legislation is also being advanced to provide for the establishment of the independent commission on information retrieval, which will conduct its work on an all-island basis.

A number of cases remain of particular concern for the Government and the Dáil. These

include the Dublin and Monaghan bombings and other attacks in the South where the Government continues to pursue the request to the British Government, as set out in successive Dáil motions; the Ballymurphy massacre where an inquest is continuing in Belfast; and the case of Pat Finucane, whose 30th anniversary was marked last week. The Government's position remains that an independent public inquiry should be established into the murder of Pat Finucane, in line with the commitments made at Weston Park in 2001. Today is the 31st anniversary of the shooting of Aidan McAnespie. It is important to raise it today on 21 February. Our concerns, as always, are with his family.

The Taoiseach and I have been glad to have the opportunity to meet many of the victims' families in these cases in recent months. We have reaffirmed the Government's unwavering commitment to seeking progress and supporting their right to truth and justice, consistent with the supporting motions adopted by the Dáil in each case. More broadly, the Government will keep working to secure the implementation of the Stormont House Agreement framework, which can provide victims' families with a way to access whatever truth and justice is possible in their case. Implementation would be an important step towards achieving a truly reconciled society in Northern Ireland. I believe that can be achieved, and I strongly welcome the committee's ongoing engagement on legacy issues of such importance for people directly affected by the violence and conflict, and integral to the peace process founded on the Good Friday Agreement.

We are at a very sensitive moment with Brexit. I more than appreciate the frustrations in Northern Ireland having to listen to other people debating their issues in many ways. I will try to be as open and free as I can be in that regard, but obviously I am somewhat restricted in what I can say on some things.

**Chairman:** I thank the Tánaiste for his comprehensive opening statement and in particular for his remarks about the constructive role this committee plays. We see ourselves very much as offering advice to people, particularly the victims or survivors. We have reached out to areas in the North. Most of the communities we visited have appreciated that someone is listening. That plays an important role in people overcoming some of the tragedy they have experienced in their lives.

**Deputy Declan Breathnach:** I reiterate what the Chair has said. I thank the Tánaiste for his frankness and openness. I understand the sensitivity over those talks to achieve the best outcome for the entire island. Not alone is there sensitivity, but major concern. Pundits have suggested that we will experience a 6% slowdown in our economy, a loss of 55,000 jobs, a 2% increase in unemployment and a 30% increase in the cost of consumer goods in the event of a no-deal Brexit. I listened to the Tánaiste speaking in the Dáil earlier today. It is important to hear him reaffirm that the buck stops at the backstop. He also gave a commitment to continued co-operation on health services operating in both directions. I would have asked about that important matter had he not reaffirmed it here today.

We are reaching the endgame; there is no doubt that the end is nigh. Does the Tánaiste believe that in the short time remaining until 29 March an agreement can be reached? If it cannot and an extension of time is sought, on what premise would that extension be granted?

The Tánaiste referred to the importance of protecting the human rights deriving from the EU and the Good Friday Agreement. How can he ensure that there will be no diminution of those rights? He referred to the agreement to continue PEACE funding. We have had many presentations from Border communities and organisations trying to plan in respect of programmes

which benefit communities, businesses and local authorities North and South. To what degree is the commitment that appears to be coming from the British Government on matching funding directed right across the North rather than focused clearly, as is needed, on troubled areas and along the Border corridor? A mapping exercise was completed by the British Government and published in December 2018. It identified 156 areas of North-South co-operation, including the implementation bodies, agriculture, the environment, health, tourism, education, including higher and further education, energy, telecommunications, justice and security, and fisheries. To what degree will the omnibus Bill published tomorrow provide legal guarantees that these areas of co-operation will be nurtured and continued going forward?

**Mr. Chris Hazzard:** I thank the Tánaiste for a substantive, thought-provoking and constructive contribution. Bearing in mind that plenty of people want to come in, I will be brief and to the point. The headline around Brexit, the Good Friday Agreement, the backstop and no hoarding at the Border is that we are all on the same page. As such, I will get to a point where differences start to come in. Despite the rhetoric and platitudes, people in the North are very disappointed that the Irish Government is not moving legislation to allow our democratic rights to be protected going forward. Come 29 March, we will lose our democratic right to participate in European elections. It is entirely in the gift of the Irish Government to redistribute MEP seats to the North. For political reasons, the Government has decided not to do so. I ask the Tánaiste to outline why that is the case, despite the fact that both he and the Taoiseach stood up and said Northern citizens would not be left behind again. The Tánaiste referred to paragraph 52, which provides that we will continue to share EU rights and benefits going forward, but the Government has fallen at the first hurdle and Northern citizens will face a second class citizenship in respect of those rights and benefits. This is something entirely in the gift of the Government. Next week, the Government will move legislation on the redistribution of those seats within the State whereas they should be redistributed towards the North to preserve those rights. I am sure other speakers will have other questions, but I would like a very clear and definitive answer on that.

**Senator Frank Feighan:** The Tánaiste's remarks are timely. The common travel area is something we have taken for granted. It has kept lines of communication open over decades. I am delighted that arrangements are in place in the event of a no-deal Brexit to keep the common travel area open. I ask the Tánaiste to elaborate, however, on healthcare, social security and public services. The Tánaiste says the two-year absence of devolved institutions cannot continue. What more can we do to get the parties to agree to sit together? It is causing huge difficulties in our negotiations on Brexit. I welcome the fact that the Government has provided a substantial increase of €1 million towards reconciliation funding this year, bringing the total budget to €3.7 million. While it is hugely significant, we need to do a great deal more. I have seen at first hand at the committee the extent to which, as the Chairman said, this funding has been acknowledged by all communities on the island and, indeed, in the UK. There have been calls for a Border poll. How helpful is this? Is it the right time to call for a Border poll? What should the Government be doing to keep the lines of communication open at this very difficult time?

**Deputy Simon Coveney:** There are a lot of questions there. I will try to be accurate in the answers. Deputy Breathnach referred to the impact of a no-deal Brexit. A no-deal Brexit will put huge pressure on the economies of Northern Ireland, the Republic of Ireland and Britain as well as on the economies of other member states. No one should pretend we can have a contingency plan which is comprehensive enough to manage a no-deal Brexit easily. That is nonsense. It cannot. It will have an impact on our economic growth and on jobs which would

otherwise have been created. We will still be creating jobs, but not as many. It will mean we have to operate on the basis of a deficit for another year or two rather than to have a surplus. Undoubtedly, we will have to borrow to fund and protect vulnerable sectors. I take beef and agrifood as an example of an area in which we have received confusing messages over the last number of weeks on the imposition of tariffs under the World Trade Organization rules that could be triggered in the context of a no-deal Brexit. Whether one is a farmer in Northern Ireland or down here, the impact is of great significance. Imagine the consequences for milk produced in Northern Ireland, 40% of which is actually processed south of the Border, if tariffs of somewhere above 40% were imposed. This would mean a loss for everyone. It would be crazy and we cannot allow it to happen. I do not believe it will happen, by the way, but we do not control all of the levers.

We need to plan for that worst-case scenario on a just-in-case basis and we are. Tomorrow morning at 9 a.m., we will publish a very lengthy Bill with 15 Parts dealing with, *inter alia*, cross-Border healthcare arrangements. To reassure the members, I note that even in a no-deal, worst-case scenario, we will have emergency legislation in place to ensure that cross-Border healthcare provision can continue. Children from Belfast will be able to come to Dublin for specialist paediatric care while people in Donegal will be able to cross the Border to Altnagelvin Hospital for treatment. Myriad health services being provided on a cross-Border basis will be able to continue. We are doing the same to legislate to protect an all-island electricity market and introducing provisions to support students who have had special privileges to date between the UK and Ireland. I benefitted from them at university in England for a while. The British taxpayer paid for some of my third level costs just as many British people are enrolled in Irish universities at the moment. Without a legislative basis, that arrangement cannot continue. People would be treated as coming from a third country and subject to the fee structure applying to foreign students. We could not continue to provide grant aid through SUSI to Irish students studying in British universities and other third level institutions if we did not provide for it in legislation. I refer to social welfare. There are thousands of British people in Ireland who receive a pension from the UK on a weekly basis and there are many Irish people living in the UK who receive pensions from here. Again, we need a legislative basis to ensure that can continue. Otherwise, at 11 a.m. on 29 March, which is the time Britain will formally leave the European Union, a lot of people could be very adversely impacted very quickly.

There is a whole series of other areas to address, including transport. Believe it or not - I never thought I would have to say this - we must now put primary legislation in place to facilitate a train travelling from Dublin to Belfast because that train will be travelling out of the European Union and into a third country. There will essentially need to be a legal basis for the recognition of a driver's qualifications, safety certifications and so on. The same goes for buses. Even when it comes to driving between Northern Ireland and the Republic of Ireland, I am sure some of the members have heard about the potential need to carry proof of insurance in the other jurisdiction. These are things we never thought we would have to deal with - again - but they are the kinds of practical things Brexit throws up.

There will be 15 Parts to the Bill, and then we will introduce, I think, about 28 secondary pieces of legislation through what are called statutory instruments in various areas, including mutual recognition of driver licences and so on. To reassure the committee on one level, we are preparing in every way we can for a no-deal Brexit, as is the EU collectively, because there are many things we cannot do ourselves and which are EU competences, whether that be in aviation, financial services or whatever else. That said, I think the impact of a no-deal Brexit would be very dramatic indeed and I do not believe people will allow it to happen because of those

consequences. I certainly hope I am right about that.

Regarding the extension of Article 50, Deputy Breathnach asked me whether I believe a deal could be done that could be ratified in Westminster before the end of March. Yes, I do. Are we there yet? No, we are not, but work is ongoing to try to find a way of doing that. The parameters within which we and the EU operate are pretty clear. We are not reopening the withdrawal agreement. It is already a very fine balance of compromises on both sides. If it is reopened and changed, that will have knock-on effects and others will look to open other areas, whether that is Spain seeking to open something relating to Gibraltar or whatever else. That said, we must try to find a way of providing the reassurance that many in the British Parliament, in Westminster, are seeking before they can ratify this deal. We are trying to do this in a way that does not undermine the effectiveness of a guaranteed insurance mechanism to reassure people that they will never face the reintroduction of physical border infrastructure between the two jurisdictions on this island. That is the challenge. We are happy to reinforce the point that no one wants the backstop ever to be used. I hope we will be able to avoid it through a comprehensive future relationship agreement. If it is ever used, we want it to be temporary. However, we cannot agree to time limits or unilateral exit clauses because if one cannot answer convincingly the question what will happen after that period, then it is not a backstop at all. Alternative arrangements may well emerge. We need to have an open mind on that. If a review mechanism is triggered within the backstop, we must have an open mind to replacing the backstop with alternative mechanisms. This is already catered for in the Irish protocol of the withdrawal agreement and in the relationship declaration on the framework for the future. The test here, however, is that the alternative arrangements must do the same job. Therefore, I would say to people who say we must have a time limit or a unilateral exit clause and that there are alternative arrangements that can prevent border infrastructure, "Let us see them." I have been involved in a process that has tested many of these alternative theories and, quite frankly, they have not stood up to scrutiny. There are those who believe there are alternative mechanisms. In the future they can be tested. If they work, perhaps they can be agreed as the basis of replacing a backstop. They must do the job, however. That is the key issue here, and there is absolute solidarity across the European Union on this. We cannot have, as an unintended consequence of Brexit, the re-emergence of physical border infrastructure, which in my view would have a desperately corrosive impact on relationships between communities, particularly in Border counties, and a very detrimental impact on an all-island economy which in many ways has reinforced the normality that so many of us have got used to over the past 20 years.

How do we ensure no diminution in rights? I have lots of notes on this but do not worry, I will not read them all out. Essentially, anyone born in Northern Ireland has a right to be an Irish citizen or a British citizen or both under the Good Friday Agreement. That is the beauty of the agreement. If one is an Irish citizen, one is an EU citizen. It is simple as that. As soon as one travels into the EU, one gets all the rights of an EU citizen - to study, to work, to move around and so on - which is why, in my view, many people will want those entitlements through Irish citizenship. This is one of the reasons so many people are applying for Irish passports at present. In the future, they may want them for practical reasons rather than reasons of identity. What is more challenging, then, is how we ensure no diminution in rights for people while living in Northern Ireland. In many ways residency rights and citizenship rights are different. There are many EU citizens living outside the EU who hold onto their EU citizenship rights and come back into the EU. This does not necessarily mean they can force the Government of a state outside of the EU to implement EU legislation in order to implement their rights, and this is where this gets tricky. My understanding of the way in which this works is that the withdrawal agreement effectively becomes an international treaty with legal effect and, therefore, people

will be able to go to the UK courts to ensure that their rights are in no way undermined and that there would be no diminution in their rights as a result of Britain leaving the European Union. The British courts system would have to bear this in mind in the decisions it makes, but it will be up to the UK to put systems in place that can follow through on the commitments to which it has signed up in the withdrawal agreement. I know there is a lot of focus on the backstop, but there are many other really important things in the Irish protocol of the withdrawal agreement relating to rights, the common travel area, CTA, and so many other areas that are hugely valuable for everyone, whether one considers oneself British or Irish in Northern Ireland.

I have met a number of North-South bodies, and in many ways some of them are kind of in limbo because they are not getting a clear direction from the North-South Ministerial Council and they are essentially continuing to operate as they did. However, it is very hard to give new political direction or to implement new political thinking because we do not have the North-South bodies functioning as they should in terms of the political end of that infrastructure because of the absence of a functioning Assembly and an Executive.

Mr. Hazzard raised one main issue, that is, the European elections. We have had a discussion on this in Cabinet. I raised it with Cabinet because we are trying to get the balance right here. There is no example of a constituency outside of the European Union voting for and electing MEPs. By the way, I am one of the advocates, as is the Taoiseach, of the extension of voting rights for Presidential elections to everyone in Northern Ireland and to all Irish citizens all over the world. We will hold a referendum on this on 25 October which I hope everyone in this room will support. There is a practical issue here around the idea that an election in Northern Ireland could be held after Brexit if Northern Ireland is outside of the European Union. Who would hold the election? Who would manage it? In the absence of devolved government, would the election be run effectively by the British Government to elect MEPs? Who would vote? Would it just be Irish citizens and EU citizens or would British passport-holders in Northern Ireland be able to vote as well? There is a practical reality here.

One of the ways we could potentially do what Mr. Hazzard would like to do - to have some representation in the European Parliament, particularly in the context of the backstop being triggered, if it were ever to be - where there would be regulatory alignment with the rules and regulations of the European Union in Northern Ireland and therefore an understanding of them if they were to be changed, is through my proposal for observer status in the European Parliament. An accession state that wishes to join the European Union has observer status in the European Parliament in the year before it joins. It does not vote, but its representatives are present for all debates and can contribute to them. I wonder if it would be possible to have something similar where perhaps there could be two observers from each of the communities in Northern Ireland, certainly in a case where the backstop was to be triggered. However, how that could be facilitated is something that would need to be tested legally. It would also have to be facilitated by the European Commission and the European Parliament and that would not be straightforward. I assure Mr. Hazzard that we have talked about the issue. It is not as if we are ignoring it for party political reasons. We are not, but there are practical considerations that pose the questions I have raised.

Senator Feighan asked how we could get the Northern Ireland institutions up and running again. Some people in this room will have received feedback from the meeting held last Friday. It was a difficult enough meeting. I believe Sinn Féin, in particular, found it frustrating and did not believe it was a serious process, but it was a serious effort by the two Governments to get people around a table to have a serious conversation. It was not the start of a new process and

was not meant to be, but it was the first time in a year that all of the party leaders had sat around a table and had had a discussion, even if it was somewhat tense, on the parameters within which we needed to work to get a system of devolved government working again. To be honest, I believe the two Governments need to do more together. We must look at how they can do some of the political heavy lifting to help the parties to find the basis of an agreement. From Sinn Féin's perspective, the rights agenda is very important. The SDLP and the Alliance Party also had sensible suggestions to make, as did the UUP and the DUP. It was an honest discussion, at the end of which we said the two Governments needed to talk to each other and the party leaders to find a way to put a basis in place which would be taken seriously by all parties to make another attempt at finding an accommodation for each other in a way that would allow the institutions to be re-established. We cannot afford to have a half-baked proposal and fail again. As the political capital in Northern Ireland is running thin and people are losing faith, we must be careful. Whatever we do next must have a good chance of succeeding. I am conscious of this in the conversations I am having with my counterparts in the British Government.

We are increasing PEACE programme funding and will continue to increase it. I am glad that the appetite in the European Union for continuing to support the programme will be strong through to the end of 2020 and beyond. The indications are that the British Government would also like to contribute to it, as we hope and expect.

I do not wish to get into the question of a Border poll because I am not sure it would help. People have different perspectives which I respect. I hope they also respect my perspective. We are trying to get a deal that will protect this island, North and South, from the potentially extraordinarily damaging impact of Brexit. It is difficult and many people feel threatened by it. Introducing a conversation on the demand for a Border poll at this time has an even more intense polarising effect on communities, but that is not to say it is not a legitimate aspiration. Of course, it is. People in Northern Ireland should be able to talk about having a nationalist aspiration, just as they should be allowed to talk about having a unionist one. That is what the Good Friday Agreement should facilitate. However, there is an issue in looking at the multiple challenges we face and trying to navigate a way through them. We only have 36 days left.

To respond to Deputy Breathnach's question about an extension of Article 50, Ireland will not be an obstacle to its extension if there is a sincere request from the British Government. However, if the European Union is to agree to it, there will have to be a plan to go with it. It cannot just be a case of seeking another six or 12 months. There would have to be a convincing plan, whereby the British Government could state what it would do if it was given another six months and how it would get the deal across the line if given more time. If the request was sincere and there was proper thought behind it, it could happen, but the Prime Minister has made it clear that she is not seeking an extension of Article 50, certainly not at present. She has to manage politics at Westminster, but that is the job of the British Government. What we must do is contribute to the EU side of the discussion. We must ensure we are informed, consistent and respectful of the United Kingdom and at the same time not make decisions that will fundamentally undermine core positions that were settled in the withdrawal agreement and which should not be undermined now in any attempt at compromise.

**Chairman:** I remind speakers to be mindful of the time.

**Ms Michelle Gildernew:** It is welcome that the Tánaiste mentioned Aidan McEnaspe. He is correct that he was murdered 31 years ago today, on a lovely sunny February afternoon while on his way to a Gaelic match. I am a member of the same club, Aghaloo O'Neills Gaelic Football Club, and my brothers and many club members participated in the investigation the

Government commissioned into Aidan’s murder. This week we learned that the PSNI had withheld vital information on loyalist murders in the North. This has rocked confidence among nationalists and republicans. The Tánaiste said the PSNI had discovered significant new material. It did not discover it. It has covered it up. It has been covering up, redacting and destroying evidence for as long as I can remember.

Roseanne Mallon was murdered 25 years ago and the inquest into her death was recently concluded. It was a sham because the coroner did not take into consideration the fact that evidence had been destroyed and, therefore, was not available. People are very frustrated at the cover-up and lack of evidence. People were murdered in cold blood in the North of Ireland and the British are doing their best to ensure we will never get to the truth. What role will the Irish Government play in holding the PSNI, the Judiciary and others to account on these matters? Aidan McEnaspie’s mother, Lizzie, and his sister, Eilish, who was a tireless campaigner, have both died. They fought all of their lives for the Crowley report. Will the McEnaspie family finally be given the Crowley report to give them closure on Aidan’s death?

**Deputy Fergus O’Dowd:** I welcome the Minister and agree with the statements he made in his address to the committee. It is a measure of their efforts that the Government, officials and civil servants have been successful in ensuring the Irish case has been heard loud and clear in the European Union. It is extremely valuable to us and welcome that there is full support across the European Union for the Government’s position. The professionalism shown on all sides has been very productive. As the Tánaiste said, it is important as we approach the end game that we remain resolute in our stance. Following on from the Tánaiste’s remarks, I have no doubt that will be the case. Whatever will be agreed by the British Government there is no guarantee the UK Parliament will support it. There are increasing signs of dissent and a continuing failure to achieve a clear Government line that is effective and has majority support in the UK Parliament. It is important that we continue to show unity of purpose and a determination to get this right to ensure that everybody is treated equally, particularly in the north of our country.

The issue of getting the administration in the North up and running again has been mentioned. I note the Tánaiste’s comment that at the meeting at which he spoke to people from the different parties about this, they said they want and are willing to work to make that happen but there are huge barriers to that step forward. In the absence of an administration in the North, everybody’s case is weakened. The majority of people in Northern Ireland voted to remain in the EU. The voices of businesses and ordinary working people are behind the Tánaiste in his efforts. We do not underestimate the pressure the Irish Government may be under but the Tánaiste can be assured of our commitment and unity on the essential purpose. There is nothing more important than that.

The Border poll was also mentioned. As we all know, people have a right to their nationalist and unionist identities. I accept that at this point there is not a majority in the North for a successful Border poll but it is a legitimate aspiration. One of the weaknesses of the Good Friday Agreement is that it makes no provision for such a poll in the future. I accept that the British Government reserves the authority to instigate such a poll but we need to articulate a cogent objective pathway in this regard. I accept this is not the right time for such a poll but people have a right to this aspiration. Like my colleague, Deputy Breathnach, I live in a Border constituency. We are acutely aware and concerned about the impact of Brexit. There is no Brexit that will work for the Border areas. The harder the Brexit the greater will be the impact.

I encourage the Tánaiste to maintain the determined and focused work he is doing. I have not heard anybody say they disagree with anything that he is doing.

**Senator Niall Ó Donnghaile:** I welcome the Tánaiste and his officials to the committee. We appreciate the Tánaiste's comprehensive opening statement. People will take great comfort and reassurance from much, but not all, of his address this afternoon. It is important to make the point that this is in contrast to his remarks in the Dáil Chamber last night which I do not think were helpful in regard to the ongoing process. The only people who take comfort from those remarks are the people who insist on denying equality and a return to the institutions in the North. It is important to make the point that the Good Friday Agreement exists because the North is different, because it is contested, because there are competing identities there and because Belfast is not Finchley.

We are discussing the prospect of Irish and EU citizens who are resident in the North losing rights after Brexit. The reality is that currently these people do not have the full and equal status of Irish citizens in this jurisdiction. This is a cause of grave concern for people. These anomalies are to the fore in the here and now regardless of Brexit. I acknowledge and appreciate the change in tone around the issue of advocating for reunification. Many of these anomalies are the very reason people are suggesting it as the legitimate democratic alternative. We are 36 days away from Brexit. One wonders if it will be okay to start the conversation about Irish unification in 37 days. The only thing that people are advocating here is the beginning of a conversation. Two of the biggest reactions at the recent Waterfront Hall conference were in response to a request from the floor that the Irish Government stop appropriating the term "Ireland" because many of us are Irish in Ireland and the statement that we would not be stopped or hindered in discussing and planning for reunification.

In terms of the omnibus Bill, while not wishing to pre-empt any future Tánaiste and noting the Tánaiste's comments around citizenship rights versus residency rights, is there anything in that Bill to address the concerns around citizenship and is there anything that he or the Irish Government can do in concert with the Good Friday Agreement to ensure that Irish citizens in the North are legislated for here by the Irish Government to stop, for example, Irish citizens being taken to court for asserting their Good Friday Agreement rights? I reaffirm Sinn Féin's commitment to working collaboratively with the Tánaiste on the legislation when it comes before the Seanad. I think people will be watching it very carefully on all the macro issues the Tánaiste alluded to, in particular whether it legislates for our rights.

**Deputy Simon Coveney:** I will start with Ms Gildernew's questions and comments. Like a lot of other people we were very concerned to read and hear the story last week in regard to incomplete evidence. We continue to follow that story closely. Obviously, the police ombudsman in Northern Ireland plays an important role in supporting public confidence in the new policing arrangements as envisaged in Patten. It is vital there is full co-operation by all relevant authorities with the police ombudsman's work. I note that in addition to the further investigation of the ombudsman's office, the ombudsman, Dr. Michael Maguire, has asked that an independent review be undertaken of the methods used for disclosure of information to his office. This is a story that will go on for some time. I can understand why people would be concerned and cynical about it, particularly families impacted in the case concerned. The powers we have are somewhat limited, but we can raise questions in the context of our political interaction with the British Government and with the Secretary of State for Northern Ireland.

On the Crowley report, the Minister for Justice and Equality, Deputy Charles Flanagan, has said that he wants to examine the issue to see if he can do anything. I do not want to raise expectations too much. The Crowley report has been made available but it is a redacted version. I know that for many people this is frustrating but there is a legal reason that is the case. Many

people gave evidence and contributed to the discussions that led to that report on the basis of anonymity and so there is a legal obligation to respect that. That is the difficulty, which I explained when I met the legal representatives of the family. To answer Deputy Fergus O'Dowd, it is good to hear that businesses on the Border are supportive of what we are trying to do. If one takes identity politics out of this, the backstop which is actually being offered by the EU on a temporary basis, to which the UK Government has agreed, essentially allows Northern Ireland to be given unfettered access to the rest of the UK market and unfettered access to the EU Single Market and Customs Union. From a trading and business perspective it is effectively the best of both worlds, recognising as it does that Northern Ireland is a unique construct, being part of the United Kingdom but subject to the Good Friday Agreement and so respecting different identities and requiring power sharing. Because of that uniqueness, the EU has compromised significantly and has stated that a state outside the European Union will be given unfettered access into the Single Market. It is an extraordinary offer and I think businesspeople and farmers see that. No barriers are being put in place to cover the costs of trading into the rest of the UK, though some very limited checks may be required for goods coming from Great Britain into Northern Ireland. The freight industry has recently published a report which states that no more than nine lorries per day will be checked. Is that what we are all falling out over?

I do not want to get sidelined into talking about the backstop again but I can understand why businesses see things in this way. The difference between that scenario and the consequences of a no-deal Brexit, potentially trading on WTO terms with tariffs and non-tariff barriers, as well as customs and sanitary and phytosanitary, SPS, checks, are huge. The obligation on all of us to find solutions that do not involve physical border infrastructure is a huge challenge.

I take the point on the need for a roadmap. There is a lot of work to do, in particular to reach out to unionists to give them reassurance that this not an agenda to turn a minority into a majority and, somehow, not recognise their sense of identity in Northern Ireland, regardless of the constitutional construct or what people vote for. Political reconciliation is required, as is political trust, but this will take quite some time. The rush for a roadmap to a Border poll in the middle of what we are trying to achieve at the moment will force people back into their corners again because they will feel threatened by it.

In answer to Senator Ó Donnghaile, a lot of people in Sinn Féin have mentioned what I said last night in the Dáil Chamber but let us be clear about what was happening. Sinn Féin was trying to pull the Government down, with 36 days to go until Brexit and less than two days to go to publishing emergency legislation which tries to protect many people in Northern Ireland as well as people south of the Border. There is political chaos at Westminster and no functioning devolved government in Northern Ireland. Last night's proposition would have left us with no Government, here or in Northern Ireland, throughout the Brexit process. In that context, it is inconceivable that I would not have pushed back on the motion last night. It was a serious motion that could have triggered a whole series of events that would have put this country under massive pressure and it was a really irresponsible thing to do.

While Sinn Féin has responsibilities in the process of getting devolved government up and running in Northern Ireland, I do not believe it is the main obstacle and in the discussions we had up until a year ago, Sinn Féin was willing to work constructively to re-establish devolved government. We all have an obligation to work together and putting down motions of no confidence to pull down a functioning Government that is working night and day to protect everybody, North and South, from the potentially very serious consequences of Brexit would have had a significant impact on the ability to get devolved government functioning again in

the North and on a whole range of other sectors. That is the context of what I said last night, in addition to the fact that I was attempting to protect a colleague of mine who I believe was being unfairly targeted.

The Senator is right to say that Northern Ireland is different. In fact, it is unique. Irish people in Northern Ireland are as Irish as I am, and the whole point of the provisions in the Good Friday Agreement is that they have the right to hold that identity. On the other hand, many people in the North consider themselves as British as the people of Finchley, and they should be able to do that too, even though Northern Ireland is not the same as Finchley, for obvious reasons which I do not need to go into here. This sense of identity is what makes Northern Ireland so different but also, potentially, so polarised and that is what we are trying to deal with.

As for discussing reunification, can we do that in 37 days time, rather than 36? That may be a slightly provocative comment and I take the Senator's point.

**Senator Niall Ó Donnghaile:** The Minister spoke about it the last time he was here.

**Deputy Simon Coveney:** Yes, and I have never moved away from my comments on that occasion. I am entitled to have hopes and dreams for this island too but I need to respect those of everybody else. I expect other people to respect mine and this is how we can all live together. Hopefully, it is how we can get through Brexit too.

On the omnibus Bill, we cannot do everything through national legislation. We can do a lot and we are doing a lot, and members will see what I mean by that when they see the legislation. A series of important issues are being dealt with by statutory instruments, where we do not need primary legislation. For other areas, the EU will have to introduce contingency measures, some of which will be legal while others will offer temporary facilitation. There is a competence issue and we cannot take on national competence in an area where we work through the EU.

In the legislation and the statutory instruments, the Senator will see the areas for which we can provide legislation to give protection. The UK has agreed to do what it needs to do in Westminster to complement what we are doing, because that is the only way we can protect Irish citizens in the UK and this shows people that the British and Irish Governments are trying to work together in practical areas. If members think we have missed something in the Bill, we have given over most of next week for a Second Stage debate and the following week for Committee and Report Stages. Members will find me very open to amendments which are justified, make sense and stack up. I do not want to pretend we own this legislation and, though I am sponsoring it as the Minister, nine other Government Ministers and their Departments are involved. It is not party political or policy driven but is about trying to protect the *status quo* as best we can in a no-deal scenario.

**Chairman:** I am conscious that a number of other people would like to come in now. Many of the attendees have travelled long journeys to attend the committee today and I want to allow each person in. I ask that each person co-operates with the Chair because we do not have much time. The meeting must finish at 5 p.m. The next speaker will be Mr. Paul Maskey, followed by Mr. Francie Molloy, Ms Elisha McCallion, Ms Órfhlaith Begley and Mr. Mickey Brady. I will give each of the speakers an opportunity to ask questions. Senator Mark Daly is also looking to come in but I do not know if there will be time. If there is time I will bring him in. Will the attendees please try to confine their speaking time to questions, if they can?

**Mr. Paul Maskey:** I will be very brief. I thank the Tánaiste for coming to the committee

today. He will be aware of and recognise that there are many sections of communities in the North of Ireland who suffer because they do not have equality. This is not only a recent thing since the Assembly collapsed two years ago: this has been going on for many years. People from the LGBT community, the Irish language community and other sections of the community may never have had equality in their lifetime. As a co-guarantor of the Good Friday Agreement, the Government will be aware that there are still a number of issues that have never been implemented. The Assembly has been collapsed for two years. It collapsed because a lot of those agreements have never been implemented in their entirety. This is a massive issue. People who raise this with me say that they want and deserve equality as much as anybody else. As a co-guarantor, the Tánaiste has a special remit with regard to the agreements. Is there a progress report? Does the Tánaiste do progress reports? Prior to the Assembly collapsing two years ago what did the Government do to try to get the outstanding issues implemented in their entirety as per those agreements? I will leave it at that.

**Mr. Francie Molloy:** I thank the Tánaiste for his presentation. It is good to see him back at the committee since his last presentation here. I have a concern that people in the North, nationalists in particular, who look to this Government to support them and be the guarantor of the Good Friday Agreement, feel neglected and have been left behind. There are issues around where and how people vote. The Tánaiste recently attacked Sinn Féin for not taking our seats in Westminster. The people in the North have decided against Westminster and have turned their backs on Westminster. They decided to vote for Sinn Féin for our particular policies. We are, however, here today as MPs and we are looking for speaking and voting rights within this committee, and speaking rights within the Dáil to ensure that the voice of Northern representation is not lost in the future.

On the issue of Brexit, the Tánaiste said there can be no other solution but I believe there is a very simple solution, which is Irish unity. The Tánaiste has said that one cannot mix the two things together but I certainly believe there is an opportunity to use Irish unity as the only solution. It needs no borders and would create no borders. It would actually alleviate the need for borders. It would give the Irish people as a whole the right to self-determination.

The other issue is around a referendum. The Tánaiste has said there is no reason to have a referendum on Irish unity at the moment. What criteria has the Irish Government set or proposed to the British Government on how a referendum would be called? Unfortunately, the Good Friday Agreement left it that it would be the British Government and the British Secretary of State, who would call it with no input from the Irish Government. Will the Tánaiste indicate what is the current criteria that we can work with for a roadmap towards exactly how a referendum would actually happen in the North?

**Ms Elisha McCallion:** I welcome the Tánaiste and thank him for his contribution so far. I am sure I do not need to outline to the Tánaiste his Government's responsibilities with regard to its obligations under the Good Friday Agreement. He will be very well aware of all the responsibilities of which the Irish - as co-guarantors of the agreement - bear the brunt. Every person in this room is working towards mitigating against any form of Brexit, be it hard or soft, or whatever it is called these days. It is very important that we remind ourselves that no one in this room brought that about. We did not ask for Brexit. The people of the North voted against Brexit. Every day that passes takes us a day closer to a crash-out or no-deal Brexit. I am aware that it has been talked about quite a bit already in today's conversation, but I genuinely believe that it is irresponsible for the Irish Government to not consider opening up that conversation around the constitutional issue. What I heard today from the Tánaiste about the constitutional

question is disappointing. While he said it is his only agenda as co-guarantor of the Good Friday Agreement to protect the institutions and the North-South Ministerial Council, I put it to the Tánaiste that it is his Government's obligation to uphold the entirety of the Good Friday Agreement, which in itself allows for the issue of consent. While I appreciate the Government's position around trying to manage against the Brexit debacle that none of us has asked for, but which we find ourselves in, there is an option on the table that is not being considered from the Irish Government's point of view. It is irresponsible and I find it baffling that legislation will be published tomorrow that none of us has seen. I certainly have not seen it and I assume from the conversation today that nowhere in that legislation is there an option for consideration of a Border poll. We are asking for the introduction of a conversation. Nobody is asking for a Border poll to happen tomorrow. Going back to what Deputy O'Dowd said, it has been outlined already in relation to the potential of a roadmap. The Tánaiste said there is no rush to a roadmap to this, but with respect it is now 20 years after the Good Friday Agreement. It should be the Irish Government's priority to have these conversations. We all accept that unionism is vitally important to the conversation. We need to ensure we bring unionists into the conversation, but whether we accept it or not citizens are beyond the Government in this regard because it is happening organically at kitchen tables and in workplaces. People are talking about this. I put it to the Tánaiste that the Irish Government should be planning and preparing for unity and it should be opening up that conversation in a space that is safe, secure and responsible. I find it baffling that at this stage we are still not even considering it as an option in the event of a Brexit that none of us has asked for.

**Ms Órfhlaithe Begley:** I thank the Tánaiste for the update. There is no doubt that Brexit will have disastrous consequences for the entire nation, but particularly for people living in Border constituencies. As a Border constituency MP, I hear daily of people's fears and concerns about the return of a hard border. It is important in a post-Brexit context that cross-Border initiatives are maintained and protected. The upgrade of the A5 dual carriageway is one such cross-Border initiative in my constituency. The Tánaiste will be aware that this project is vital to the area in terms of opening up the western transport corridor and bringing connectivity from Dublin right through to the north-west region. It also has the potential to bring economic prosperity and development to an area that has been neglected by the British and Irish Governments for far too long. The region needs that development even more in a post-Brexit context. Last week the Irish Government made the decision to defer €27 million that was earmarked for the A5 upgrade. I seek the Tánaiste's assurance today - I am aware the Taoiseach has already done so - that the A5 will not be impeded by that and it will not act as a barrier or a delay in the project going forward. The Irish Government originally committed €400 million to this project, but that amount was significantly reduced to €75 million, with a view to the remainder being reinstated at a later date. Now that the project is ready to begin, with works possibly commencing this year, will the Irish Government revisit its original commitment of €400 million? I appeal to the Tánaiste, as we cannot allow further delays to the project. The money is necessary to see the road to completion in its entirety from Derry to Aughnacloy. There have been a number of fatal tragedies in recent weeks and months. We cannot allow delays that will ultimately cost lives.

**Mr. Mickey Brady:** I thank the Tánaiste for his presentation. Previously, he was vociferous about corruption. In the North, we have seen a number of issues, in particular two major ones - Red Sky and RHI. Does the Tánaiste believe it to be right and proper that people in the North must endure that kind of governance or lack of governance? Not much seems to have been said about it.

The Tánaiste referred to people living in Britain getting Irish pensions and *vice versa*. I

live in a Border constituency and deal with social welfare issues daily. The question of frontier workers needs to be addressed urgently. There are benefits and tax credits that people working in the South and living in the North can claim.

**Deputy Simon Coveney:** We will deal with that in the legislation tomorrow. It is an important part of the taxation element.

**Mr. Mickey Brady:** It is a major issue that affects people daily and is a significant concern for a number of them. In my constituency, many people come to work in Newry or go across the Border to work in Dundalk or Drogheda.

The corruption issue is the elephant in the room and it has not been addressed by the Southern Government.

**Chairman:** Deputy Smith will have the final word before the Tánaiste replies.

**Deputy Brendan Smith:** I thank the Tánaiste for his detailed presentation and for his engagement with us and other committees over the past week. I gather from his comments that he is downbeat about the possibility of having the political institutions - the Executive, the Assembly and the North-South Ministerial Council - restored in the near future. It is disappointing that, more than two years on, we do not have functioning political institutions in Northern Ireland at what is a critical time in the history of these islands. Have the talks been adjourned *sine die* or have arrangements been made for the Secretary of State, the Tánaiste and the political parties in Stormont to meet again? Has any consideration been given to the idea floated by some people of an independent chair for the talks? Every effort has to be made. There is an onus on Sinn Féin, the DUP and the two Governments to ensure that we have those institutions, which came about after a great deal of hard work by different Governments and political parties.

I am glad that the Tánaiste mentioned the legacy issues. The Dublin and Monaghan bombings are a major issue in my area.

Mr. Molloy referred to voting rights at this committee, but this is not a legislative committee. Generally, committees are proportionately representative of the groupings and political parties in the parliaments they represent. The day that this committee needs to vote will be a day that we on this island will be going backwards. I sincerely hope that we never need to have votes.

**Chairman:** I call the Tánaiste.

**Deputy Simon Coveney:** Does the Chairman want to let Senator Daly contribute first?

**Chairman:** Yes, if the Tánaiste does not mind.

**Senator Mark Daly:** I join others in congratulating the Tánaiste on his hard work and that of his officials. We all support their efforts. His recent trip to the US was a great success, in that it galvanised Irish America. The support of Congressman Richard Neal and the House Ways and Means Committee is enormous, as it sent a message to the UK that Irish America and its powerful position on that committee, which will decide on the future trade arrangements between the US and the UK, will not support any trade arrangement. When we met Congressman Neal and other Irish American Congressmen, they told us that they wanted to know where the border between the UK and Ireland and the EU would be and how it would function. They wanted Britain to sign up to the backstop, which people seem to forget it negotiated. Those congressmen are concerned about the Good Friday Agreement and the peace.

We are discussing the Border poll and related matters. The issue of unification is not just a name or aspiration. As the former Attorney General, Mr. Rory Brady, stated, achieving it is a constitutional imperative and an obligation, not simply an aspiration to have. The policy neglect in that context that we are currently suffering needs to be resolved. I agree with Deputy O'Dowd about the roadmap, but one of the concerns about that relate to the Belfast High Court case last year in which Mr. Justice Paul Girvan ruled that, although it would be prudent for the Secretary of State to have a policy on how a referendum would be called and how she would determine that the majority of people were in favour of a referendum, he could not legally require her to do so. Although we need clarification in this regard, it is not a matter for the next 36 days. That conversation around a new agreed Ireland - a vision that we can all share of the best future for everyone in the island - is probably not for the 36 days.

I wish to bring the Tánaiste's attention to a report - I partly assisted in compiling it - by two experts on preventing violent extremism. Professors Pat Dolan and Mark Brennan are chairs in UNESCO. This is about having facts. Their view is that, if there is a return to a hard border, there will be a return to violence. The question is the scale of the violence. It is important for the UK Government to listen. It needs to know. When the UK had its debate on the Brexit referendum, it did not have the facts. If the UK Government is deciding to do a U-turn on the backstop, it needs to be aware of the fact that there will not just be economic consequences for this island, but also circumstances that we do not want to see returning. There was a reason for the Good Friday Agreement and the backstop, and it is the reason we do not want a U-turn on the latter.

I thank the Chair for allowing me to contribute and the Tánaiste for attending the meeting.

**Deputy Simon Coveney:** I thank the Senator. I think everyone has contributed.

Mr. Maskey asked what we had been doing about the equality issues. Some of those present might remember how, the summer before last and shortly after I entered this job, when we went straight into the heat of negotiations, I made it clear that it was a previous British Government commitment under the then Prime Minister, Tony Blair, to facilitate Irish language legislation. We supported that, as it needed to happen. I got roundly criticised by unionism in Northern Ireland for taking sides and so on when really I was just repeating what had been an Irish Government policy for many years in light of the commitment that had been made by a British Government. That is still our position. Northern Ireland is a unique place where identities are held strongly, and if people are not allowed to express their identities, they feel that in terms of a lack of acceptance by others. Unfortunately, that is why the Irish language issue has become such a divisive one politically. Language should not be about divisive politics. It should be about allowing people to be who they are. That is why many Irish language speakers feel frustrated that this issue has become such a divisive one politically when it should be the opposite, namely, a celebration of the diversity of identity in Northern Ireland.

We are always looking for ways in which we can recognise the threat, unfortunately, that some unionists feel from the Irish language. People talk to me about the Irish language being used as a political weapon. That sounds unrealistic to many in this room, but for others it is very real, and we must find ways of addressing that if we are going to get agreement, compromise and facilitation. There are other elements that some unionists regard as part of their identity that some nationalists or republicans feel offended by, too. We need to try to find ways to deal with these issues, which have become contentious and been part of contentious election campaigning, that take the heat out of this while also getting something real done. My record has been one of honest conversation about how we do that. I spent many hours, in particular with

members of the DUP and Sinn Féin, until this time last year trying to do that.

I refer to the broader support we have, as a Government and as co-guarantor of the Good Friday Agreement and at what the Government has looked for in terms of North-South consultative forums, successive talks processes from 2014 to 2017, inclusive, talking about the need for a bill of rights and talking honestly about the Irish language and how we can overcome that issue, which really was the obstacle a year ago, because perceptions were the problem here in terms of what was being asked for and what was real and what was not.

The questions from Mr. Francie Molloy related to nationalists feeling left behind. I really hope those who share the same views on nationalism do not feel left behind.

Let us think about Brexit and about what the Government, of which I am a part, could have been doing in terms of its approach to Brexit. We have a €75 billion east-west trade relationship with Britain, but we have not talked primarily about that today, last week or last month. Primarily, we are talking about how we protect the peace process and how we ensure there is no border infrastructure that acts as a barrier to the movement of goods and people. We are talking about people in Northern Ireland primarily in the context of the Brexit debate and many people have asked me why there is so much focus on the Border when the majority of the trade is east-west. That is because, as I have often said, some things are more important than commerce and trade. What I would say to nationalists, unionists and people who are neither in Northern Ireland is that we are trying to find a way of getting an outcome to Brexit that by and large protects the *status quo* and then allows us to re-establish a functioning Executive so that we can start to build on all the other things we need to do around legacy issues, reconciliation and allow people to freely talk about their future aspirations under the Good Friday Agreement in a way that is less threatening and less divisive. We are in the middle of a potential crisis that needs to be resolved. That has to be our focus right now, but I can promise that, in many ways, people who live in Northern Ireland have got more attention from the Government in Dublin at one level, than the people in the Republic in the context of Brexit.

Let me reassure everyone that no one is being left behind. We will not, and we will not let the EU, sign up to any deal that involves a really damaging unintended consequence of Brexit. That is what we have been firmly trying to do for many months.

On the question of speaking rights and so on, I take Deputy Brendan Smith's point that if we come to a point where we are voting in this committee-----

**Mr. Francie Molloy:** We have.

**Deputy Simon Coveney:** Perhaps the committee has but it has not happened while I have been here. We have to be honest with ourselves. This is not a fully representative committee. There are no unionists in this room. I know the witnesses can say they choose not to turn up, but that does not solve the problem. If we are going to have a real conversation here in the future about Northern Ireland and its future, shared responsibilities and so on, we have to find a way of having that conversation with people who represent a big portion of the population of Northern Ireland. There is a very complete picture here in terms of the nationalist perspective but some of the issues that have been raised today and some of the painful legacy issues of the past involve families who would not regard themselves as being represented here. Let us be honest about it. All of us have work to do and the last thing we need to be doing is splitting this committee with votes and trying to force things through because one party may have more representation than another party. That is not exactly the spirit of the Good Friday Agreement but,

in fairness, I do not think that is the point Mr. Molloy was making and I do not want to attribute it to him. I think what he was trying to say is that he wants to have a real say here, recognising the fact that he represents Irish people and I do not think that is an unreasonable sentiment

**Senator Niall Ó Donnghaile:** It is important to say for the record that this committee has for some considerable time been unanimous in its desire to have unionist participation and representation. I know the Tánaiste is not saying otherwise, but it is important to make that point. We are conscious that we are devoid of that valid and sought after contribution.

**Deputy Simon Coveney:** Yes. I do not think anybody here is looking to exclude anybody-----

**Senator Niall Ó Donnghaile:** No.

**Deputy Simon Coveney:** -----but there is a-----

**Senator Niall Ó Donnghaile:** The Tánaiste was right in what he said.

**Deputy Simon Coveney:** We need to think about that. As a committee, how do we change the structure that would make it more inviting for others to come here? I do not think it will happen during the Brexit process *per se*, but after we get through this difficult period-----

**Chairman:** As a committee, we are trying to do that outreach work privately and confidentially and, hopefully, it will be successful in the future.

**Deputy Simon Coveney:** Great. That would be really good.

On the criteria for calling for a Border poll, we know what it is in the Good Friday Agreement. Basically, it is up to the judgment of the Secretary of State, as to whether he or she thinks there is a majority that has effectively changed its mind or has a new perspective that needs to be taken account of. Some would say that is not ideal but that is what is in the Good Friday Agreement. That is all the more reason the two Governments have to have a very close relationship on Northern Ireland, so that these decisions are discussed and managed appropriately.

Is it irresponsible for the Irish Government not to pursue a Border poll at the moment as one of the Brexit options, as Ms McCallion suggested? I do not think it is. I refer to adding that into the mix right now, when we are trying to get an agreed compromise with a parliament in Westminster that does not have any nationalist representation from Northern Ireland in it, and I am not going to get into that as Sinn Féin has to make its own decisions and it has valid reasons for making the decisions it makes. The truth is that we have to try to get an agreement ratified right now in Westminster and to bring a Border poll into the mix-----

**Ms Elisha McCallion:** Chairman, on a point of information, I was not suggesting that as part of the withdrawal discussions. I was talking about the legislation that the Government is bringing into play that will discuss the potential crash out or harmful Brexit.

**Deputy Simon Coveney:** We, in the Republic of Ireland, cannot legislate for a Border poll in a way that is not consistent with the Good Friday Agreement.

**Ms Elisha McCallion:** The Government can plan and prepare a roadmap.

**Deputy Simon Coveney:** That is a different issue and I mentioned that earlier.

I take the point in terms of some citizens going beyond where the Government wants to

go at this stage. I have heard those debates in Northern Ireland, where nationalism has a new confidence and it wants more radical solutions in some cases. That has to be part of the debate but that is all the more reason we need an Executive and an Assembly that can manage that debate, so that it does not become a polarised and threatening one and that there is leadership by example coming from the top down in politics. When one talks about a safe and secure space to have this discussion, I would respectfully ask, in the context of the Brexit debate right now, whether we have a safe and secure and balanced platform for this discussion. I put that question out there.

**Senator Niall Ó Donnghaile:** On that, the Tánaiste will agree that Brexit is divisive and is toxic.

**Deputy Simon Coveney:** Very.

**Senator Niall Ó Donnghaile:** We have convened the civic dialogue. A toxic or a divisive political climate has not prevented us from responsibly and rationally convening a civic dialogue to try to address those issues. None of us is green enough to think that Irish unity will not generate a difference of opinion but if we can convene a dialogue and see a coming together as a rational outworking to try to solve the issue of Brexit, I put it to the Tánaiste that a civic coming together and a national dialogue on unity would make sense.

**Deputy Simon Coveney:** Neither the DUP nor the UUP was represented at the all-Ireland dialogue on Brexit. The Alliance Party and the Green Party were represented.

**Senator Niall Ó Donnghaile:** That did not stop the Government holding it.

**Deputy Simon Coveney:** We have work to do, as has everyone around this table.

I am glad that Ms Begley asked about the A5 project in order that I can put the issue firmly to bed. The Government will make money available for the project when it is ready to proceed. We have not pulled funding from it. In many ways, it was a saving that was offered to us because the project would not be ready to draw down funds until the end of the year at the earliest. As soon as it moves ahead and there is a need for funding, the Irish Government will meet its commitment straightaway. There will be no delay in that regard. The way it was explained and sold probably led to some ambiguity that should not have been allowed to gain traction because people were talking about the Irish Government pulling money from the project to pay for the national children's hospital which was proving to be more expensive than we had thought it would be, but that is not what is happening. If the project is ready to proceed in June, July or August, the money will be made available and we will have to find a saving somewhere else. However, we are being told that the project will not be ready to start drawing down money until the end of the year at the very earliest and probably into the start of next year. We are absolutely committed to spending the money we have signed up to spend to support the project because we know that we need to connect the north west more effectively to the rest of the country and the A5 project is a big part of that objective. We have committed to giving €75 million in total, but it was more than that. The figure was reduced in the midst of the recession in Ireland when we were borrowing huge amounts of money from an emergency fund, with a lot of strings attached which made it very difficult for us to commit to giving €400 million. That is why the figure was reduced to €75 million. I am pretty confident that if the project gets under way, the Irish Government will not hold it up owing to a lack of funding. We need to speak to the British Government about the matter to have it built. I promise those present that, as a Government, we are very committed to having the A5 project completed.

In response to Mr. Brady, my understanding is the RHI inquiry was fairly robust and that it is going to report next month. It is going to be an awkward period in which some people may be put under pressure. Of course, lessons need to be learned and the new Executive will need to take account of them, but people should not be waiting for the inquiry to report in order to use it in a destructive way. Instead we should be learning lessons from it, fix what was broken and then try to get the Executive functioning again, but there is a danger that the bitterness that may come from the inquiry will delay even further the opportunity to get the Executive up and running. I am not for one minute saying we should ignore the recommendations made; of course, we should not. When I say “we,” I am referring mainly to the political parties in Northern Ireland. There will have to be political consequences after such an inquiry. I respectfully suggest the consequences should include a restructuring of how the new Executive will work in order to make sure that whatever is uncovered by the RHI inquiry cannot happen again because the systems in place will not allow it.

In response to Deputy Brendan Smith’s comments, we did consider having an independent chair. We received a recommendation and towards the end of last year approached somebody to be an independent chair, but that person then had to pull out. We are talking to the parties and there is no real objection to having an independent chair, but the Governments have to satisfy themselves whether they should bring in somebody new to the process and spend weeks or months waiting for them to build trust, confidence and relationships with the parties to get a deal done, or whether they should build on some of the work done up to a year ago. As all of the parties know each other pretty well at this stage, we have to decide whether we have the capacity to start a process that would last not for months but for weeks and which would involve the two Governments also doing some heavy lifting in moving some of these difficult and contentious but important issues forward. We are having some direct discussions with the British Government on how best we can do this. I do not think anybody has the energy or enthusiasm for a new five or six-month process. What everybody seems to want is honest and comprehensive interaction to get several things done and agreements in place which would provide a basis for re-establishing the Executive. To be honest, it will take a lot of work to get there because the trust issues of the past four or five months have been very damaging.

**Chairman:** On behalf of the joint committee, I thank the Tánaiste for his briefing. We have dealt with a huge range of issues and it was a good discussion. I hope the Tánaiste also found it useful.

The joint committee adjourned at 5.20 p.m. until 4 p.m. on Wednesday, 27 February 2019.