

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM FEIDHMIÚ CHOMHAONTÚ AOINE AN CHÉASTA

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

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*Déardaoin, 15 Deireadh Fómhair 2020*

*Thursday, 15 October 2020*

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Tháinig an Comhchoiste le chéile ag 2 p.m.

The Joint Committee met at 2 p.m.

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Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Jennifer Carroll MacNeill,	Frances Black,
Rose Conway-Walsh,	Niall Blaney,
Patrick Costello,	Gerard P. Craughwell,
James Lawless,	Emer Currie,
Michael McNamara,	John McGahon,
Brendan Smith,	Niall Ó Donnghaile.
Peadar Tóibín.	

I láthair / In attendance: Senator Elisha McCallion.

Teachta / Deputy Fergus O'Dowd sa Chathaoir / in the Chair.

## **Business of Joint Committee**

**Chairman:** Apologies have been received from Deputy Mac Lochlainn. Members are requested to ensure that for the duration of the meeting their mobile phones are turned off completely or switched to airplane, safe or flight mode, depending on the device. It is not sufficient for members to put their phones in silent mode as they still cause interference with the committee room audio system.

I propose we go into private session to discuss questions and speaking slots. Is that agreed? Agreed.

*The joint committee went into private session at 2.01 p.m. and resumed in public session at 2.12 p.m.*

### **Brexit and the Implications for the Good Friday Agreement: Discussion**

**Chairman:** The purpose of the meeting is to have an engagement with the Minister for Foreign Affairs, Deputy Coveney, on Brexit and the implications for the Good Friday Agreement and other issues currently arising. On behalf of the committee, I welcome him and his officials. As all present are aware, we are at a critical juncture with Brexit and its implications for the Agreement. Today's engagement on this very important topic is timely. I formally welcome all Oireachtas Members who are present. I particularly welcome our colleagues, the Members of Parliament at Westminster. It is the first time we have had a member of the Alliance Party participating in one of our meetings. We are delighted to have him here, along with the members of Sinn Féin and the SDLP. I wish to make clear that the committee decided to hear from the representative of the Alliance Party first, followed by the representatives of Sinn Féin and the SDLP. It is important to us all that every voice is heard on this island and that everybody has an equal voice.

**Minister for Foreign Affairs (Deputy Simon Coveney):** I thank the Chairman for the invitation. It has been some time since I last attended a meeting of the committee. The timing of this engagement is very appropriate, given what is happening with Brexit. I will deliver my introductory remarks and am happy to then take questions or get into detail on the areas members wish to address. I am pleased to have this opportunity to outline a number of issues relating to the Good Friday Agreement in the context of Brexit and I look forward to discussion with members. It is good to have so many MPs for Northern Ireland joining us today. This forum is an important and practical way to facilitate the all-island engagement that is so crucial on these issues. It is great to have Mr. Farry with us in particular.

Protection of the Good Friday Agreement has been a fundamental priority for the Government from the very beginning of the Brexit process and at every phase of the negotiations since then. That is reflected in the prominent place the protection of the Good Friday Agreement has in the protocol on Ireland and Northern Ireland. This emphasis is in line with the central importance that the unique circumstances of the island of Ireland have not only for Ireland, but also for our EU partners. It is vital that the protocol is now implemented in full and in good faith. For our part, together with our EU partners, the Government has consistently urged the UK to move forward on operationalising the protocol. Some of those present will be familiar with the issues that are still under discussion. We have delivered this message through bilateral channels

but also, very importantly, through our participation as part of the EU delegation on the joint committee on implementation of the withdrawal agreement and the specialised committee on implementation of the protocol. The committees have met in recent weeks and months and are expected to meet again soon. I understand the next meeting of the joint committee will take place next Monday and I expect that will trigger a meeting of the specialised committee shortly thereafter.

I wish to address the UK Government's internal market Bill. Both Ireland and the EU have made clear our profound concern at the Bill, including in respect of the Bill as now amended. The UK must move away from the path it has chosen in the Bill and work to rebuild trust on implementing the withdrawal agreement in full and in good faith. The absence of that makes other agreements very difficult. We have been particularly concerned by suggestions from the UK Government that its unilateral approach is designed to protect the Good Friday Agreement. The protocol itself is specifically designed to protect the Agreement and the gains of the peace process, including avoiding a hard border. It also protects the integrity of the Single Market and Ireland's place in it. We spent years trying to design it in order to do that.

The protocol is designed to operate in all circumstances, including in the event that there is no EU-UK future relationship agreement or trade deal. Our view is that these developments could seriously erode and damage political trust in Northern Ireland and between the EU and the UK. The protocol was the result of long and difficult negotiations and represents a fair and balanced outcome for all parties. There are many elements of the protocol that various people do not like, but it is the effect of the protocol as a whole that achieves important aims that we now need to protect. There have been compromises on all sides. We have been clear that implementation of the protocol should work for the economy and people of Northern Ireland, and indeed for the all-island economy and the people of this island as a whole, in as smooth a manner as possible. Clarity and stability are vital for businesses and people in Northern Ireland.

The protocol provides for no diminution of the rights, safeguards and equality of opportunity provided for the people of Northern Ireland, as set out in the Good Friday Agreement. We will continue to engage with UK counterparts on implementation of this important commitment. The EU rights of Irish, and therefore EU, citizens from Northern Ireland are specifically addressed in the protocol. It confirms that Irish citizens in Northern Ireland will continue to enjoy, exercise and have access to rights, opportunities and benefits that come with EU citizenship. The Government is working proactively to ensure that people in Northern Ireland can continue to enjoy access to EU rights, opportunities and benefits into the future as they do today, including in regard to the benefits of the European health insurance card, EHIC, and the Erasmus+ programme. Some of this is still to be addressed during transition. I am happy to provide further detail on this to members during our discussion if they so wish.

As members will be aware, the common travel area, CTA, arrangements underpin the Good Friday Agreement in all its parts, as well as the cross-Border freedoms central to the lives and livelihoods of the people of Northern Ireland and the Border region more generally. The CTA will be maintained in all circumstances. Irish officials across the government continue to work with UK counterparts to ensure the interests and reciprocal rights of our respective citizens are maintained and safeguarded by the CTA. We have done significant work on that and legislation will come before the Oireachtas in the coming weeks to ensure we legally underpin some of the elements of the CTA memorandum of understanding with the British Government.

I welcome the resumption of meetings of the North-South Ministerial Council since I last attended a meeting of the committee. A plenary session was held on 31 July and ministerial meet-

ings on sectoral issues continue, bringing our Government and the Northern Ireland Executive together to oversee and further develop North-South co-operation as provided for in the agreement. North-South co-operation is recognised and protected in the protocol and will remain a priority for successive Irish Governments. To build normal relations on our island, we must continue to co-operate formally and informally in the areas which are important to our people, our businesses and our environment.

A planned €500 million will be made available in budget 2021 out to 2025 to deliver on our commitment to build a shared island underpinned by the Good Friday Agreement. This complements the Government's existing all-island commitments.

As I am sure members will appreciate, the next few weeks are crucial with regard to ongoing work to secure an agreement between the EU and UK on a future partnership. I attended the General Affairs Council earlier this week, where I and my colleagues from across the EU 27 member states considered the outstanding issues, not only on the future relationship but also regarding implementation of the protocol which I am sure we will go into in some detail later.

Significant challenges remain, but the EU is doing its utmost to work towards a successful conclusion of these talks in the coming weeks. The EU-UK relationship will change regardless on 1 January. It is vital that businesses, no matter how small, take immediate steps to understand the impacts the new rules or processes that will apply from 1 January 2021 will have on their operations. Time is short and action is required now. The Government's Brexit Readiness Action Plan provides information on these changes and the supports in place to assist businesses. Many of those support were supplemented further in the budget that was passed this week.

In all circumstances, our relationship with the UK will remain crucially important but it will be different. As co-guarantors, however, the two Governments will continue to have our

obligations under the Good Friday Agreement and we will continue to work together to deliver on our shared goals. The Irish Government will continue to place the Good Friday Agreement and the gains of the peace process at the top of our agenda, working with the UK Government in partnership. I look forward to the committees comments and questions on Brexit or on anything else that members may wish to ask me about.

**Chairman:** I thank the Minister. In the order that we have agreed, I will call the Alliance Party then Sinn Fein and the SDLP. If any party such as Sinn Fein, for instance, is calling speakers that are sitting here within the first ten minutes, please ensure with Covid-19 in mind, that when they finish speaking that they move to one of the other seats, so that those who wish to speak and do not have a microphone can take their place.

It is a great privilege to call Dr. Stephen Farry MP, a member of the Alliance Party, and to welcome him to his first meeting here on Teams.

**Dr. Stephen Farry:** Go raibh maith agat, a Chathaoirligh. I thank the committee very much for the opportunity to join the meeting. It is a great honour for the Alliance Party. I want to put into context that we are a cross-community party and we do not take a formal position on the constitutional status, although we have a range of opinions inside the party. We are, essentially, about making Northern Ireland work, but also respecting the whole range of relationships across these islands, including the North-South relationship. We recognise that we are in a very fluid situation in terms of a range of debates that are happening across these islands and we are happy to take part in constructive, rational debates such as the debates of this committee. We

look forward to this discussion today and beyond.

I also express my thanks to successive Irish Governments for what they have done both in looking out for the interests of Northern Ireland within the Brexit process and also for standing up for the Good Friday Agreement more generally. That is greatly appreciated and cuts across the traditional divide in Northern Ireland.

The Good Friday Agreement is paramount. The difficulty we have is that any form of Brexit involves some degree of a border or boundary. That does not work in a society based on sharing and interdependence. That is the difficulty that people have been wrestling with over the past number of years. The backstop and then the protocol, while not perfect, are the response to decisions that have been taken by others. It is important that we recognise this in that particular context and both respect what has been done and try to soften the impact as far as we can. In that respect, both the UK Government and the EU can have a role to play.

It is also important for people to respect what the Good Friday Agreement actually stands for. I am sure Ms Hanna will echo this in due course. We are very concerned by what has happened in Westminster, with the UK Government twisting and distorting the meaning of the Good Friday Agreement for very narrow political ends. The Agreement is more than just the principle of consent. It is about the entirety of those relationships, including, obviously, the North-South one, and that wider context and understanding has been lost by some, is understood by others but is being abused as part of a wider process.

The notion that the UK Government is seeking to breach international law on behalf of Northern Ireland businesses and the good of the Good Friday Agreement is something we regard as risible. It is an utterly spurious argument that we reject.

Much of the focus has been on the movement of goods as the critical issue that is being debated at present. I want to focus a little more on some of the issues relating to North-South co-operation such as services and free movement of people, particularly what is going to happen with EU nationals who are outside the common travel area arrangements. In the services sector, we have a large degree of co-operation in dealing with an all-island economy. The terms of the protocol do not cover that. There are risks in the area of existing co-operation, never mind the future, from issues such as data adequacy agreements not being in place and mutual recognition of qualifications. In turn, we need to get some degree of assurance on those issues, whether on a bilateral or a wider EU basis over the coming months. That also leads to issues around the future of the European health insurance card and Erasmus+ and I am certainly encouraged by what the Minister said in that respect. I certainly look forward to any elaboration in that particular respect.

We are keen to see the common travel area dealt with beyond simply domestic legislation in both the UK and Ireland and to see it formalised as part of a bilateral treaty. Once joint EU membership is stripped away, many loose ends may come to the fore over the coming years and it would be useful to try to address that.

My final point is that in the context of Brexit, we regard the North-South aspect of the Good Friday Agreement as still being relatively underdeveloped. There is much more scope for practical co-operation on an all-island basis. In that respect, we welcome the shared island initiative from the Taoiseach and the Irish Government and we are happy to play a constructive role in that as we develop our economic, social, and environmental research and co-operation across a wide range of issues. I thank the committee very much for the opportunity to contribute.

**Chairman:** I thank Dr. Farry. Would the Minister like to respond to any of those issues?

**Deputy Simon Coveney:** Dr. Farry made sense, as ever, on many issues. The Good Friday Agreement tries to achieve the facilitation of more North-South co-operation. This is the whole point of what we are trying to do. It is encouraging to get his support in developing further cross-Border co-operation. That is what we are trying to do in the shared island unit. Not only do we want to do that politically, but we want to put serious money behind some of the projects that can spearhead that approach. We have to have a partner to do that too. We cannot spend money in Northern Ireland unless it is a joint partnership that allows us to do so with Ministers in the Executive in different areas, whether that is education, transport or many of the others we are looking at.

People will be familiar with the road projects that we are looking to co-fund and with the ambition for high-speed rail connectivity between Belfast, Dublin and Cork, with the possibility of spurs to Limerick and Galway. I am also aware that a case has been made for Derry to link into that project. We want to see cross-Border greenways and cycleways developed and we are willing to pay for that. This is about connectivity, normality and relationships which, in a practical sense, is what North-South co-operation is about.

In terms of ensuring that people in Northern Ireland can continue to enjoy the benefits of being EU citizens even though they will be living outside of the EU, we are trying to ensure that anyone from Northern Ireland who travels into the EU will be an EU citizen. An Irish citizen is an EU citizen, but for people living in Northern Ireland while outside of the EU, we want to ensure that they are protected and get the benefits of many of the programmes that are provided for EU citizens within the EU. This is where the European health insurance card, EHIC, comes in, and ERASMUS. I am on record that the Irish Government has committed to pay for this if needs be, but I suspect and hope we will be able to work out an arrangement with the British Government and with the Executive in Northern Ireland to ensure that EHIC and ERASMUS can continue to benefit people living in Northern Ireland. They are two valuable schemes that can allow people to travel, including travel to study, across a Single Market, which is a real privilege.

On Dr. Farry's remarks regarding the common travel area and whether we can extend the benefits of it to EU citizens as well as Irish and British citizens, the common travel area is confined to British and Irish citizens in each others' country, providing, effectively, privileged access in terms of services. Basically, the home country treats citizens of the other country as citizens of the home country. For example, for an Irish citizen visiting or moving to the UK, access rights in terms of care provision, opportunities in terms of study, the ability to retain social welfare benefits to carry pension entitlements from one jurisdiction to the other, cross-Border healthcare provision, and the freedom to move and work as well as study in a post-Brexit environment are in many ways privileges that Irish people will have in the UK that no other EU national will have because of the common travel area.

Where this gets complicated and does not solve all of the free movement issues between Britain and Ireland is in regard to the many EU nationals living and working in Ireland who are a part of the Irish economy and of Irish society, in that the privileges and provisions of the common travel area when they travel into the UK do not necessarily apply in the same way as if they were Irish citizens. People will be able to travel because free travel is guaranteed, but accessing employment and all of the other rights that come with Irish citizenship in the UK recognised under the common travel area do not apply if a person is not an Irish national.

**Chairman:** My apologies to the Minister but I must move on to the Sinn Féin questions.

**Deputy Simon Coveney:** This is an important issue that does not get a lot of coverage.

**Chairman:** I agree it is very important.

**Deputy Simon Coveney:** Dr. Farry also spoke about the twisting of what the Good Friday Agreement is. That is a big issue that all of us need to be aware of and respond to. Just as we need to make sure that in Dublin, or anywhere else for the matter, we do not exaggerate or misrepresent the Good Friday Agreement, we need to make sure that is not happening anywhere else either, particularly in Westminster. We need to offer that clarity, and for that reason it is helpful to have powerful voices in Westminster that are providing the necessary balance.

**Chairman:** I am sorry to interrupt the Minister. I welcome his responses but I would like to allow time for a second round. I appreciate there will be issues and questions in each contribution that the Minister will not necessarily be able to deal with. I invite Ms Michelle Gildernew to put her questions.

**Ms Michelle Gildernew:** I am sharing time in this round with Mr. Hazzard and Mr. Finucane and our Oireachtas colleagues will share time in the next round. I welcome Dr. Farry from the Alliance Party. I am delighted he is with us today. This is an extremely important committee and it is open to all of the North's MPs. There has never been a more appropriate time for everybody to be involved in it on the basis of inclusion, equality and respect. We are delighted Dr. Farry is with us. We would love to see all of our Westminster colleagues tying into this committee.

I welcome the Minister and his officials. As I said to Dr. Farry, this is a critically important committee which is becoming more important in light of the global pandemic, Brexit and the Good Friday Agreement, the latter being key to its work. The Minister, as a former Minister Agriculture, Food and the Marine, will appreciate the epidemiological status of the island of Ireland and how we use that to protect our livestock. This should be the approach to protecting our people. They are the most important and valuable commodity we have. To that end, the Cabinet decision last night to increase the restrictions in Border counties was critical in terms of helping to stop the current spread of Covid-19 at this time. However, as the Minister will know, many of my constituents are cross-Border workers who pay taxes and work in the South, but they live in the North and they were excluded from the pandemic unemployment payment. Will this change? This may not be the final lockdown before Covid-19 is dealt with. It would be important to ensure that people are included in that scheme and any further schemes on the island, in particular in these very challenging times. I look forward to hearing the Minister's response.

**Mr. Chris Hazzard:** I welcome the Minister. Before I touch on Brexit, I would like to put on record my thanks from a constituency perspective. The Department of Foreign Affairs has stepped in to the breach during Covid to increase the support to the Saint Patrick Centre in Downpatrick without being asked to do so. The engagement has been very positive. I want to put on record my thanks to the Minister and his Department officials for engaging in such a positive way.

Moving on to Brexit, I would like to make a couple of points on which the Minister touched earlier. With regard to the Internal Market Bill, there are clauses in it that represent a direct attack on the withdrawal agreement and the protocol. Fundamentally, they are also an attack on

devolution, which has attracted less publicity in Ireland than it has in Scotland or Wales. The Internal Market Bill deviates significantly from all strands of the Good Friday Agreement. It removes powers from the devolved assembly, disapplies the European Convention on Human Rights and overrides the budgetary role of the Stormont Assembly and the Executive. In that regard, the Bill establishes an undemocratic environment where the British Government can unilaterally and arbitrarily impose rules and regulations regardless of the decision of the Stormont Minister or the Executive. One example is clause 46 of that Bill, which gives a British Government Minister the ability to impose spending programmes in devolved areas. The Minister spoke earlier about having a partner in the North to work with. This Bill gives the British Government the power to set aside partners and to do whatever it wants against the democratic mandate of the people in the North.

I know that the Irish Government and Europe have been very strong with regard to the protocol and the withdrawal agreement. This Bill is an attack on the Good Friday Agreement. Surely, there is no way an Irish Government can allow this type of violation to proceed. Has the Irish Government discussed this in Cabinet and what is the direction of travel in terms of engagement with the British Government on these clauses? Will this issue be raised with the British Government? I ask that because it surely cannot be allowed to stand. I also welcome the commitment regarding the European Health Insurance Card, EHIC, and access for students in universities to such programmes as Horizon 2020 and Erasmus. People have welcomed those times in recent months when the Government has gone on the record in this regard. I would, however, like some more operational detail. Will legislation be brought forward shortly to confirm these aspects, or what is happening? When can we expect to see details of what is being provided for? Is there any idea of cost? I saw one figure of approximately €4 million to cover things such as EHIC. I would just like to get to the bottom of when are we going to see the detail. I ask this because people see that 31 December is only around the corner, they know what kind of territory we are in now, and they are anxious and frustrated.

I would also like to inquire about the progress on protecting the democratic rights of citizens in the North. There was much discussion and talk about providing oversight or involvement regarding Northern citizens in the democratic process in Europe and there was some talk of observer status for MEPs, or whatever the designation might be. Is this something that has come on to the Minister's radar and can we look forward to seeing some action on this issue in the months to come? It is good to see the Minister again and I hope that it will not be too long before he is back in with the committee.

**Chairman:** I call the Minister to respond.

**Deputy Simon Coveney:** I think there was one more person from Sinn Féin, Mr. John Finucane.

**Mr. John Finucane:** I thank the Minister. Yes, that is correct. I will be quick, because I do not want to eat into the time.

**Chairman:** I call Mr. Finucane. I am just worried about the time.

**Mr. John Finucane:** Regarding the case of Ms Emma De Souza, I think, subject to correction, that her campaign and her case received the support of all parties represented on the committee today. The resolution to Ms De Souza's case was very much specific to her, and her only, and there is concern that what was exposed by that challenge still remains as an issue to be resolved. There is a bit of a vague commitment to resolving this issue in New Decade, New



Approach. Commitments in that regard from the British Government have already passed the time limit in respect of when it was stated that legislation would be introduced. I am inviting the Minister to outline his commitment to the citizenship rights in the North and to explain what the Department of Foreign Affairs will be doing with its British counterparts in this regard.

**Chairman:** To make it fair to everyone, and if it is okay with the Minister, we have five minutes for replies.

**Deputy Simon Coveney:** That is fine, and I will try to be as quick as I can. I will respond to Mr. Finucane first on the Emma De Souza case. The Government provided consistent political support for the De Souza case and engaged at the highest level with the British Government on the issue. I remember many of the conversations I had on that issue, and the related concerns for the citizenship and identity provisions of the Good Friday Agreement. The Government has always been clear that the case taken by Ms De Souza in the UK courts was a private matter in respect of her immigration application, and decisions on the litigation have always been a matter for the De Souzas, in consultation with their solicitor.

We have, however, always supported Ms De Souza and I have met her and her husband several times. We managed to mention the Emma De Souza campaign as a positive and effective one in the New Decade, New Approach agreement. The British Government committed to changing “the rules...[on] how people in Northern Ireland bring their family members to the UK”, “taking into account the letter and spirit of the Good Friday Agreement”. We will follow up on that issue, but it was a conversation I had many times with the previous Secretary of State for Northern Ireland and I will follow up with the current Secretary of State.

Turning to the question from Mr. Hazzard, we are very supportive of the St. Patrick Visitor Centre, and we will continue to provide funding for it. It is worth saying, by the way, that we made the case for increased funding for the reconciliation fund for next year, given that we will be operating in the aftermath of Brexit, the continuation of Covid-19 and all the other pressures and strains being put on the system and on Border communities. I would like to spend, and I am committed to spending, more money on the reconciliation fund next year, which I hope will be welcomed by everybody.

On the UK Government’s Internal Market Bill, I do not think anybody can argue that I have not been vocal on that issue. I have been on virtually every media outlet in Ireland and Britain, and indeed in the US, talking about why the Internal Market Bill is a serious mistake by the British Government. It has backfired as a negotiating strategy. It does not happen often that the five former Prime Ministers of the UK come out strongly in the way that they have in rejecting this approach and stating that it is not good for Britain or Britain’s reputation internationally. I agree with them. It is, of course, not a good way to attempt to close out a negotiation that has been ongoing for nearly four and a half years.

I refer to creating the basis for a future relationship with a partner that is as important to the UK as the EU is, in a context where the UK Government is effectively saying, “Give us what we want in the implementation of elements of this negotiation, or we will legislate for it domestically anyway”. I suggest that is an approach that undermines trust and creates a whole series of questions that are unhelpful to this process. It has also triggered a necessary legal response from the EU, which has issued notice that if things do not change within a month, then it will move to taking legal action to respond to a breach of international law, in the shape of the withdrawal agreement and the protocol, which is an international treaty and international law. I have, therefore, been very vocal on this issue.

I accept that our focus has been on the implementation of the withdrawal agreement and the protocol, and perhaps less on the impact on devolved government. I know, however, that there has been a strong reaction in Wales, Scotland and Northern Ireland regarding some of the other elements of the Internal Market Bill concerning the devolved governments of those countries.

Regarding EHIC and Erasmus, next week I will be bringing to Government the heads of the new omnibus Brexit Bill, if we want to call it that, which involves 11 different Ministers and I think has about 23 different Parts. It is a big piece of legislation, which is very complicated. Actually, the individual elements are not that complicated, but it looks that way because so many different Departments are involved. We will be trying to do what is necessary, from a legislative point of view, to provide many of the protections which people have spoken about today. That may well be an opportunity to deal with the issues of EHIC and Erasmus, although, hopefully, we can deal with them outside of the need to pass primary legislation. I also hope that we can deal with them in partnership with the British Government.

Moving to the question posed by Ms Gildernew regarding co-operation on Covid-19, it is important to state that we have had several good conversations on the need for more consistency on both sides of the Border. The Executive in Northern Ireland gets its advice from a different chief medical officer. There is, however, much more consistency now and decisions being made on both sides of the Border are certainly cognisant of decisions and the numbers and spread of Covid-19 in the two jurisdictions. I think we will continue to see much more co-operation in that regard.

On Ms Gildernew's other question on cross-Border workers, the rules are clear on this issue. Where people live determines where they access welfare benefits. People who live in Northern Ireland but who work south of the Border can be supported by the wage subsidy scheme through their employer. That is determined by where people are working. In cases where people lose their jobs, however, what social welfare payment, or PUP in our case south of the Border, is received is determined by where people live. The Executive in Northern Ireland has responsibility for people who live in Northern Ireland in terms of the supports that are needed for people who are unemployed and our responsibility, of course, is for people who live south of the Border. This is the legal position and I have outlined it many times. There can be a cross-Border element of support in terms of wage subsidy and supports for employment and business. It does not matter where people come from, it is where they are employed. Effectively their social welfare payment or jobseeker's benefit, or PUP as it is in the case of the pandemic, is determined by where they are resident.

**Ms Claire Hanna:** I am very pleased to be able to participate. I see engagement in the committee as a core part of our role as MPs. I apologise on behalf of my colleague and party leader, Mr. Colum Eastwood, who is in the chamber at present expressing our concerns about the covert human intelligence sources Bill. I appreciate the Chairman's very kind words about the importance of Northern voices in Westminster to correct some erroneous policy and perceptions. I only wish there were not quite so many bad Bills that we have to try to address. Mr. Eastwood is hoping to join the latter part of the meeting.

I thank the Minister for his effort and engagement over the past four years, for his fidelity to the Good Friday Agreement at all times and, in particular, for his robust response to the internal market Bill and, in general, the UK's recent stances. We have been speaking about the immediate impact in terms of the movement of goods and people but the Minister understands very well that the Good Friday Agreement also has at its heart the primacy of the rule of law and agreed respectful democratic processes. He knows the damage the internal market Bill and

recent UK Government approaches are doing to this and he is right to highlight how important the devolution settlement is to the Agreement.

The Minister is also aware of our concerns about the implications of Brexit and the operation of the protocol. Businesses are trying their best and I understand it is about getting businesses to engage. He mentioned that businesses are trying their best to engage and prepare for what is coming to them but they are unable to do so in the absence of key information. They are very much flying blind. I certainly want to convey that deep anxiety of businesses and consumers, particularly in the context of the pandemic and the economic tightening we all know is happening and is coming. People are anxious about the months ahead and the impact of Brexit. I certainly echo Dr. Farry's comments that it is important to reiterate that these are the impacts of Brexit, and the issues with the protocol are merely a symptom of Brexit. We appreciate the consistent efforts of the Minister and the Irish Government to try to get the information that people need and the clarity and the ability to operate that protocol.

I want to take this opportunity, because it bears repeating, to state how profoundly the SDLP regrets we are dealing with any east-west barrier. The last thing we wanted was a barrier anywhere on these islands. We absolutely acknowledge the worry and anxiety it gives to people of a unionist aspiration in particular. We are certainly not blind to this. In this vein, beyond all the practical issues regarding people and goods that are taking a lot of the airtime, working time and headspace, I know the Minister is very much attuned to the tension and disequilibrium caused by recent years and the polarisation and, in many cases, the regression of good relationships in Northern Ireland as well as North-South and east-west. I share his welcoming that at least that Good Friday Agreement institutions are back up and running and we again have some of the opportunities and the possibilities of the Agreement to try to improve our situation, not least the North-South Ministerial Council and all that it offers.

The creation of the shared Ireland unit, and its approach and tone, is also very much welcome. It will look at the politics and practicalities of closer North-South operation and I look forward to engaging with the unit and its work, particularly through the committee, as well as addressing issues regarding the past and legacy issues and, in future, better taking advantage of all the possibilities the Good Friday Agreement offered us 20 years ago, in terms of relationships in Northern Ireland as well as North-South and east-west. These opportunities have not always been taken and they have certainly been disrupted and corrupted by Brexit. There is still plenty we can do to try to make the best of the situation. I will not eat up any more time than is necessary and I look forward to the rest of the conversation.

**Deputy Simon Coveney:** It might be helpful if I give Ms Hanna and the committee an update on where I see the talks at present. It really is what this is all about, with regard to whether we can get a deal that makes the implementation of the protocol easier, whether we can get agreement on the implementation of the protocol, whether we can avoid the use of this offensive legislation, and whether we can make it irrelevant by securing a political agreement on the outstanding areas. These are the questions that will determine the level of disruption linked to Brexit and the end of the transition period at the end of this year for business people, politicians and society as a whole.

On the protocol, the British Government has highlighted a number of key issues with which it has a problem. It is legislating for one of these through the internal market Bill, which is the application of the state aid elements of the Northern Ireland protocol. The British Government is stating it will not support a requirement for businesses in Ireland to have export summary declarations on the goods they export from Northern Ireland into Great Britain. It regards this

as a UK market and that, therefore, there should not be a formal export declaration process. This issue can be resolved to the satisfaction of both sides. There is still work to do on it. The British Government is looking at technical alternatives to an export declaration that may be able to do the same job that would not be onerous or costly for businesses. I am hopeful we are making progress on resolving this outstanding issue.

The British Government accepts fully that Northern Ireland effectively has to mirror EU state aid rules because what is happening effectively with the protocol in simple terms is that Northern Ireland is becoming a *de facto* extension of the EU Single Market for goods but not services. We have to have commonalities in respect of state aid supports, otherwise there will be unfair competition in one jurisdiction or the other. Where it becomes complicated is that many companies in Northern Ireland have a parent company in Great Britain. If a future British Government were to give a large amount of state aid to a company in Great Britain that had a footprint or linked company in Northern Ireland, it would be a matter of whether the company in Northern Ireland had a competitive advantage that would undermine the fair competition on the island of Ireland guaranteed under the protocol. The issue is whether the protocol impacts the British Government's decision-making on state aid in Great Britain. The British Government is effectively threatening to legislate in domestic law to give a British minister the power to determine when it does and does not have an impact, which, of course, is completely inconsistent with the spirit and letter of the protocol.

The third issue concerns the application of tariffs and whether they should apply to certain goods that come from Great Britain into Northern Ireland. The issue concerns goods at risk of finding their way into the EU Single Market through Northern Ireland from Great Britain. If we do not have a trade deal, tariffs and the WTO rules will apply. We have to find a way of differentiating between the goods we know are staying in Northern Ireland, and therefore in the United Kingdom, and goods that are at risk of leaking into the EU Single Market without a tariff having been paid, which would be required if goods moved between Britain and the European Union. Coming up with a mechanism to determine that list is very difficult to get agreement on.

The truth on the three issues is that I believe we can find a solution to the first. It is not easy but I believe we are making progress on it. The two remaining issues will be solved if we have a trade deal that avoids tariffs and quotas. On the state aid issue insofar as it relates to Great Britain, there will have to be a level playing field agreement for fair competition in any event and an associated governance and dispute resolution mechanism, whereby the state aid issue in Northern Ireland would be a non-issue as it relates to Great Britain. On the third issue, if there is a trade deal, there will be no tariffs anyway so the goods-at-risk list would become a non-issue.

What I suggest regarding the three issues is very doable if we can secure a trade deal that avoids tariffs and quotas and does a series of other things as well. If, at a bare minimum, it avoids tariffs and quotas, two of the three key issues will be resolved in respect of the implementation of protocol. In truth, there are also other practical issues, but they just have not been highlighted in the same way. They relate to supermarket supply chains between Great Britain and Northern Ireland; rules of origin and whether businesses in Northern Ireland can benefit from EU trade agreements in the future; state aid applications pertaining to agriculture to ensure really fair competition on the island in terms of the agri-food sectors; and an EU presence in Northern Ireland providing reassurance that the protocol is being implemented in full. These are the kinds of issues that are now being discussed by the specialised committee but, to be fair to both teams of negotiators, we are making progress on many of them now. We are not making

progress on all of them yet, but on many. The timeframe is really short, however. Even putting basic infrastructure into ports and airports in Northern Ireland on time is a big challenge now. We realise how long it has taken to put infrastructure in place in Dublin and Rosslare ports. It has taken 18 months but we only have weeks left. Therefore, there are genuine time pressures if the protocol is to be implemented in full by 1 January 2021.

On the future relationship, I will be quick because I am aware that we are tight for time-----

**Chairman:** It is an important issue.

**Deputy Simon Coveney:** -----but I hope people find this informative. The future relationship arrangement is really difficult to conclude. I spent quite some time with Mr. Michel Barnier this week talking about the outstanding issues. There are many that relate to a future relationship, including data, data protection, aviation, haulage, energy co-operation, judicial co-operation, services, financial services, citizens' rights and movement, but the two core issues that will prevent an agreement on a basic free trade agreement concern what the European Union describes as a level playing field agreement. It will not be called that in Westminster because that term is now not politically acceptable to many people. Regardless of what one wants to call it, there has got to be fair competition between the two markets if they are to be able to trade with each other tariff free and quota free. There must also be an agreement on a series of principles of fair competition in order for the foundations to be laid for the free trade agreement. There has to be a governance mechanism that can deal with disputes if and when they arise because there is no way the European Union will sign up to the to an agreement if it believes the current or a future British Government can decide to provide in a targeted way financial supports through state aid that go way beyond what the European Union can provide to create competitive advantage for its own companies to be able to sell into the EU Single Market tariff free. Why would that ever be facilitated? This is not about threatening British sovereignty or forcing Britain to abide by EU rules, or anything like that; it is about having clarity and understanding around fair competition between the two markets so as to be able to have a free trade agreement that allows for trade that is as frictionless as we can make it in the current circumstances. If we do not have the agreement on fair competition and a governance model that can deal quickly and independently with disputes, we will not have a trade deal. That is the first issue. We got an official briefing from Mr. Michel Barnier this week recognising that there has been some progress in this area. It is important to recognise that. The matter is far from agreed and concluded but there has been some progress.

The second area, fishing, is really difficult. The two sides are miles support. The European Union has essentially stated — correctly, I believe — that, in the broadest sense, the United Kingdom is essentially asking for access to the European Union's energy market and the European Union is essentially asking the United Kingdom for access to UK fishing grounds. This is about managing resources in a way that works for both sides. Fishing is even more complicated because, of course, fish are migratory. Mackerel comprise a major stock under dispute. Many of the mackerel caught off the coast of Scotland are born off the coast of Galway. They mature and grow into juveniles off the coast of Mayo, Sligo and Donegal. They are primed for catching when they move into Scottish waters in many cases. No one owns that stock. It is a shared stock that is swimming between jurisdictions. I hope we are realistic and mature enough to recognise that we have to get a fisheries deal that is fair to all sides in terms of managing these resources in a sustainable way. There is a reason fishing was always linked to trade and other issues; it was so we could have an agreement that is balanced overall rather than a deal on fisheries that has been agreed in isolation and that has been considered in an emotive way in

terms of the reclaiming of sovereignty, taking back control and all the other factors people have attached to the issue. Realism is required in our approach. From my perspective — I have been very blunt on it this week — the European Union will not sell out its fishing industry to get a trade deal on Brexit. Both sides need to understand that. Of course there is an agreement to be negotiated that both sides can accept but fishing will not be sacrificed to get a deal. I am pretty confident about that.

The issues of fisheries and the level playing field are two difficult ones to resolve. If we could reach an agreement on both, it would open the door not only to a trade deal but also to an opportunity to sign off on potential agreements in multiple other areas that would be very valuable for everybody, including data, aviation, haulage, energy and security co-operation. Likewise, if there is no trade deal, the atmosphere associated with trying to reach agreements in all the other areas, even if they are temporary contingency plans, will be much more difficult. The aftermath of a failed negotiation and the blame game that follows politically will create enormous uncertainty as we move into the new reality from 1 January. It will be difficult enough to manage even if we get all this done and get an agreement in place, not to mind if we do not, on top of trying to deal with Covid at the same time. My assessment is that a deal can be done and that a deal will be done, but there is much difficult work to do. It will take weeks rather than days to finalise this. I hope that by the start of November we will be in the space of a deal in sight. Once we move into November we are really running out of time with regard to capacity. That is where we are. In summary, this is difficult but doable if both sides want to make it happen.

**Chairman:** That is a very good and fair analysis. We have to do much more thinking on that and support the Minister in that.

**Deputy Simon Coveney:** Finally, we know how difficult it is to implement the protocol and to give the certainty to business. Today I held a conference call with the Northern Ireland Chamber of Commerce and Industry where we talked about many of the details of this. Imagine trying to implement the protocol, which we will have to do under international law, in the absence of a trade deal and with tension around all these other issues on which the UK needs facilitation, and us having to apply tariffs, as well as all the other things we have to manage in the context of the protocol. There is much at stake here. The two negotiations are linked with each other, and if we can get a trade deal it really makes the implementation of the protocol much more straightforward. It is in all our interests to try to do everything we can to facilitate an atmosphere that can get the trade deal across the line.

**Senator Niall Blaney:** I thank the Minister for coming to the committee to give us a very open briefing on where Brexit is at. I take some comfort in what the Minister said today on the possibility of getting a deal. Obviously, I realise that difficulties are still there, which the Minister will continue to work on. I also take much comfort from the Minister's comments on the EU not selling out on fishing rights. This is a very important point, especially for County Donegal.

I commend the Minister on how he has protected the Good Friday Agreement over the past years in his portfolio. There have been many times, from a non-party perspective, the Minister has had a strong pair of hands in dealing with protecting the rights in the Good Friday Agreement. The Minister's relationship with the EU, which he has developed over the past couple of years, is really starting to bear fruit now.

I made an important point on the last day we met here, which I again want to make to the Minister, about what this committee can do going forward and particularly around its member-

ship. I was the co-chairman of the British-Irish Parliamentary Assembly at a time when there was no unionist membership. I worked for over 21 months to ensure that we got unionist participation, while keeping everybody on board. It was an important piece of work for that organisation. Now, likewise, it is really important that we bring those members of the unionist community in Northern Ireland and the MLAs in Stormont to the table here. I believe that the Minister plays a very important role in trying to do that, along with our Chairman. I have not spoken to the Taoiseach yet, but he also needs to play an important role in that regard.

Given that we now have the shared island unit that is backed up financially for the next number of years, it is imperative that all voices are at the table. It is only in that vein we can really move forward as a shared island. The Minister referred to the spending of those moneys over the next years and high-speed rail was also mentioned. I come from a county which is north of the North, so to speak. There once was a rail service but that is no more. Many people there still have memories of travelling on the rail that existed many years ago. There is much talk now about greenways and moneys being provided for greenways. I believe there is a great opportunity to open up the old rail line that existed. There is an effort in Donegal to open up a greenway from west Donegal to Letterkenny, but the old rail line that went from there through Tyrone and Monaghan and on to Dublin is a fantastic opportunity to start putting investment into those areas. There is a double cross-Border element to that. It is a great opportunity for one of those group projects to help those counties that were most cut off by the Border over the past 30 or 40 years. It is something I will push more with colleagues. I have not mentioned it to colleagues before today. I thank the Minister very much for his briefing today.

**Deputy Brendan Smith:** I welcome the Minister's repeated statement today on the absolute need to implement in full and in good faith the withdrawal agreement in the Ireland-Northern Ireland protocol. The Minister has been very clear on that. The British Internal Market Bill has been damaging. It has caused concern among Border communities, among business and enterprise, and especially among those sectors very heavily dependent on the export market to Britain. We do not hear enough commentary about the absolute need to protect the integrity of the EU Single Market. It has been so beneficial to Ireland and it helped to grow the all-Ireland economy. Similarly, we need agreement on state aid rules, the protection of employment rights, and the protection and enhancement of environment standards. The State has invested heavily in these areas over the years, which has been for the benefit of our citizens.

The Minister stated there would be changed circumstances come 1 January 2021, and spoke of the absolute need to ensure a level playing field for business. The implementation of the joint political declaration is critical for business, for the economy and for employment, both North and South. There cannot be any diminution in any aspects of the withdrawal agreement. It would be very damaging for our economy and for all the country.

The Minister will have heard me speak repeatedly at this committee and in the Dáil on the less developed areas of the State. Consider the central Border area of Cavan, Fermanagh, Tyrone and Monaghan. Economically, they have been the least developed areas and historical reasons have played a bid factor in that. By definition our local economy is very heavily dependent on small and medium enterprises. By definition, when those enterprises grow they depend on Northern Ireland as their first export market. When they grow again they depend on the British market. Three sectors in particular are critical to that economy in the central Border area: agrifood; construction products; and engineering. These are the sectors that are most heavily dependent on Britain as an export market. I am just emphasising the absolute need to have no tariffs on the export of products for those sectors, which are such a sizeable part of the

economy in the central Border area and elsewhere.

The Minister has been upbeat on the possibility of reaching agreement, and we wish him well in the negotiations and on getting an agreement. Going back to the Minister's introductory remarks, implementing in full and in good faith the Ireland-Northern Ireland protocol and the withdrawal agreement is absolutely critical for the future development and good of our society on all of this island.

Since April I have advocated an all-Ireland approach to dealing with the Covid pandemic. We need more comparable restrictions North and South. Importantly, we also need a similar implementation of those measures and restrictions.

**Deputy James Lawless:** I will conclude for my party. I thank the Minister for his very informative overview and for his command of his brief since he took it up, which was a couple of years ago at this stage. He has been a good ambassador for the country and for the EU in the talks. He has done well and I wish him continued success in the difficult period ahead. His account of mackerel movements was very interesting and enlightening and highlighted some of the geographical and geopolitical challenges posed by Brexit to our island and to the other islands involved.

I am not sure whether it was apocryphal or accurate, but I read somewhere that Michael Gove's commitment to Brexit was first challenged when he was appointed to an agricultural brief and assumed responsibility for fisheries. He began to realise that, as the Minister has outlined to the committee, fish do not respect borders. They are blissfully unaware of them as they move along. Complications such as this arise. Things like national catches, quotas and stocks are extremely difficult to quantify and manage.

There was a *voisinage* agreement whereby it was understood that fishing vessels from the North could travel in the waters of the South. An Act was passed last year to regularise this arrangement following some incidents of vessels crossing into different territorial waters. I am not sure of the extent to which this has been reciprocated in law or in practice by the UK authorities to date. I am not sure the issue has been put to bed. If it has, has it been put to bed temporarily? Is it on the verge of reopening if no deal is secured and if there is a vacuum? How would it translate? It is a very pressing issue for our national fishery stocks and, therefore, for our catch.

Another risk that has been highlighted is that of bypass movements whereby people might register vessels in the North and then use the cover of *voisinage* to bypass whatever agreement is reached in respect of fisheries. That is a very pressing issue for all involved in the coastal economy, particularly fishermen. It is quite an emotive issue not only for Brexiteers but for the Irish as well. I would appreciate any insight the Minister can offer on that.

**Deputy Simon Coveney:** I thank the members for their comments. I take Senator Blaney and Deputy Lawless's comments on fish. Getting an agreement in this regard is particularly difficult for both political reasons and technical reasons. Anyone who has been a Minister with responsibility for fisheries will know that we deal with approximately 70 stocks, some of which are really strategically important to the UK and to the EU or individual member states. Different EU member states will catch differing percentages of their fish in British waters. For Ireland, it is approximately 35% although it is approximately 60% for mackerel and 40% for prawns, our two most valuable stocks. It is a really serious issue from the Irish perspective. Likewise, however, the UK has interests in EU waters. The negotiations on fish are, therefore, complex.



I hope the negotiating teams will have the capacity to come to an agreement, although I believe it will be one of the last things agreed.

I take Senator Blaney's point with regard to the railway line. I do not want to start making commitments on behalf of the Department of Transport. The Senator might share his views with the Minister. On the commitments under the New Decade, New Approach agreement, there are some very strategic transport projects that will link the north west with Dublin. These will go through Northern Ireland, which will also benefit. People will know what project I am referring to. It has been waiting far too long. We have had money available to spend but we have not been able to spend it because the project has not proceeded at the pace many of us would have liked. There are many other projects involved, including potential partnership and co-operation with regard to investment in third level education in Derry, which would benefit the north west as a whole rather than just the city of Derry and its population. That is something about which we need to speak to the Minister of Education in the Executive.

I am interested in what the Senator had to say about the role of this committee. Let us be honest; we have really only heard one perspective on the constitutional question in most of the meetings of this committee, albeit in a number of varieties. The same can be said of the perspective on the Good Friday Agreement and how it should be implemented. This would be a much more powerful and impactful committee if we could persuade unionist voices to be part of the discussion. I will certainly play my part in encouraging such involvement. It is really helpful that Mr. Farry is with us today. It is a step in the right direction. This committee could play a really important role in dealing with some of the perceptions that may exist and which need to be addressed in a reassuring way to allow for a mature exchange of views between people who come from very different backgrounds and who have very different interpretations of history on this island. Otherwise, we are simply talking to each other and reinforcing each other's points while not having a real discussion of the future of this island and relationships on it. That is a challenge for this committee and its Chair and members. I would be very happy to help it progress in this regard. Senator Blaney's experience of the British-Irish Parliamentary Assembly might be really useful in this area.

Deputy Smith asked about protecting the integrity of the Single Market. We talk about the protocol and its protection of the Good Friday Agreement and the all-island economy. That is important from an EU perspective but it is also a matter of protecting and maintaining Ireland's place in the Single Market. If we did not find a way of solving the Border question during Brexit, Ireland would have faced a really difficult choice. We would have either had to consider some form of border infrastructure or accept that we could no longer guarantee the integrity of the Single Market, on the back of which our economy thrives. We would have had to look at some form of checks between the island of Ireland and the rest of the EU Single Market. This would have been a really difficult and unpleasant choice to make. I, for one, would not have chosen border infrastructure on this island so we would have had to look at an act of great self-harm which would have damaged our place within the European Union and its Single Market.

We managed to negotiate a solution that avoided that consequence, which would have been so damaging, by effectively creating a de facto extension of the EU Single Market into Northern Ireland. The price of this is some limited checks on goods travelling from Great Britain to Northern Ireland, although not on goods travelling the other way. We have achieved something very significant in the Northern Ireland protocol. That this is now enshrined in international law is not in dispute. This is not still being negotiated. It was concluded a year ago. It is now a matter of implementation. That point needs to be made very strongly.

I take the Deputy's point about Border counties. Agrifood, construction and engineering products really drive the economy in these counties. If tariffs are applied to products, and to agrifood products in particular, when traded across the Irish Sea, the prices for them may well become uncompetitive very quickly. This would be very damaging to economic activity in the Border counties. I will give an example from the agrifood side. We export €5.5 billion worth of food and drink across the Irish Sea from Ireland into the UK each year. We import €4.5 billion worth. The trade in this area is very significant. Under World Trade Organization rules, we estimate that tariffs of between €1.35 billion and €1.5 billion would be applied to our €5.5 billion worth of exports every year. It does not take a genius to realise that is not sustainable. In the short term, I think we will still be selling those products to the UK in order to fill shelves but they will be significantly more expensive. In the medium term, Irish and EU products in the UK may well not be competitive with cheaper sources of food from other parts of the world, if the UK decides to put trade deals in place that move away from its reliance on the EU. These are serious issues for the Irish economy, and indeed the British economy, and that is why a deal is so important.

I totally agree about the full implementation of the Ireland and Northern Ireland protocol and, where possible, an all-island approach on Covid-19, although we need to respect that there are two different systems here. At different times during the pandemic, the public health advice was different in its emphasis, North and South. If politicians in Northern Ireland are getting clear advice that is somewhat different from the advice we are getting in certain areas, it is hard to have an all-island approach in the purest sense. I reassure people that there is ongoing consultation between the chief medical officers, senior decision makers and the Ministers for Health. There was a conference call the other day between the First Minister, deputy First Minister, the Northern Irish Minister for Health, Robin Swann, Secretary of State for Northern Ireland, Brandon Lewis, Minister for Health, Deputy Stephen Donnelly, and me. A lot of discussion is ongoing all the time to try to create as much consistency as we can between the two jurisdictions in our management of this pandemic, particularly now, given the numbers in Donegal, Cavan, Monaghan and Northern Ireland. The numbers are frightening.

**Chairman:** I have a problem, if I might explain it. The Covid-19 rules mean that we have to be out of the room by 4 p.m. Notwithstanding the importance of the Minister's answers, I have to take contributions from Fine Gael, Independents, the Green Party and Sinn Féin representatives a second time. Perhaps we could ask the questions now and the Minister could give an omnibus answer. I do not know if that suggestion is helpful. If there is any disadvantage in terms of time this round, we will go back to the parties the next time. In other words, we will change the rotation at the next meeting, if that is fair to everybody. I want everybody to feel fully a part of it.

**Deputy James Lawless:** Those who have spoken are happy for others to come in.

**Chairman:** Senator Currie and Deputy McNamara are waiting. Fine Gael will be next. Ten minutes are allotted for Independents, five for the Green Party. Is that okay? We will have to shorten that as much as we can.

**Senator Elisha McCallion:** Will we have another ten minutes?

**Chairman:** Am I right in saying that the Senator is not a member of the committee? I am trying to be fair to everybody.

**Senator Elisha McCallion:** I am representing Deputy Mac Lochlainn. For clarity, does the

Sinn Féin Oireachtas team have ten minutes?

**Chairman:** It does. I am just trying to keep us right. Everybody has a right to talk, and I want to ensure that, but members of the committee will go first. We will then get the Senator in. I have no issue if she has been nominated to speak by Sinn Féin. Fine Gael will be next.

**Senator John McGahon:** I thank the Chairman.

**Chairman:** We can allow five minutes for contributions.

**Deputy Michael McNamara:** Would that be for both question and answer?

**Chairman:** I think we can get all the questions in and allow the Minister ten minutes at the end in which to answer. Is that fair?

**Deputy Simon Coveney:** I will write down the questions and try to reply to them.

**Chairman:** The pressure is the 4 o'clock deadline.

**Senator John McGahon:** We could listen to the Minister all afternoon without having to ask questions. His level of ability on these matters is astounding.

I will be brief in asking three questions and will then give time to my colleague, Senator Emer Currie. It would be great if we could get an update on the joint committee to oversee the implementation of the withdrawal agreement and find out if the Minister is content with the required amount of work at points of entry to Northern Ireland that has been carried out to date and what are his views on that.

My second question relates to something that has already been discussed in detail, namely, the Internal Market Bill. I agree that the Minister has been vocal on this at every opportunity he has had but I was hoping he could expand slightly on the current status of the Bill in Westminster and outline exactly what Ireland and the European Union are doing to monitor the progression of that legislation through Westminster.

Deputy Carroll MacNeill has had to step out of the meeting but she would like to ask whether businesses in Northern Ireland will be able to benefit from EU trade agreements, given the country of origin rules. Those are my three questions.

**Senator Emer Currie:** I thank the Minister and say "Hello" to all the Members of Parliament. It is fantastic to see Ms Claire Hanna, Dr. Stephen Farry and all the Sinn Féin MPs.

I thank the Minister and his officials for all their work. I am grateful that they are fighting for us when it comes to the implementation of the Ireland and Northern Ireland protocol in the withdrawal agreement. The truth is that Brexit and the Internal Market Bill have damaged trust and the relationship that we have all worked so hard to build. How do we protect the ethos and spirit of multilateralism without the EU? How do we protect the interdependence and interlocking strands of the Good Friday Agreement? How do we rebuild resilience? That is about the institutions working even harder.

I know that the North South Ministerial Council is up and running and its members have met through the Intergovernmental Conference. What about the British-Irish Council and inter-parliamentary bodies, even perhaps the North-South consultative forum?

I also ask about the Stormont House Agreement and legacy issues. We have seen how the

Prime Minister is reneging on the withdrawal agreement, but what about the Stormont House Agreement and where do we go from here?

My third question is about the shared island unit and its operations. The Minister has said that needs to be done in conjunction with the North. How is the shared island unit going to work? Is it through the North South Ministerial Council and the various Departments working together?

**Chairman:** Because of the time pressure we are under, would it be helpful if I suggested that we will make sure that people who do not get their ten minutes now will get them at the next meeting? We will address that issue. We have four Independents here.

**Deputy Peadar Tóibín:** I will be very quick.

**Chairman:** Okay. Go ahead.

**Deputy Peadar Tóibín:** I will be asking my question to the Minister with my back to him. I apologise for that; no disrespect is meant.

Brexit and Covid-19 have shown in flashing neon lights the importance of North-South co-operation and people realise now that such co-operation is about saving lives, it is that important.

I appreciate the level of co-operation that the Minister indicated when he spoke about conversations, phone calls, etc. However, that level of co-operation still feels nebulous. Where is the locus of co-operation on Covid, for example? Is it the Taoiseach's office, the Minister's office, or the Department of Health? What is the process by which decisions made on restrictions here are briefed to the health department in the North? What about *vice versa*? What is the process by which our Department of Health is briefed about decisions made in the North in advance of them being published or settled upon? Is there a permanent structure? Is there a secretariat for co-operation and communication on the issue of Covid, North and South?

The EU has obviously issued a notice of court action against the British over the Internal Market Bill. That has had a big effect and shaken up the British perspective on its strategy. Does the Minister believe that the terms of the Good Friday Agreement are broken by the Internal Market Bill and, if they are, would the Government not consider following the EU's lead and issuing a notice of court action against the British for breaking that international agreement?

**Deputy Michael McNamara:** There is a debate among scientists about Covid-19 and some advocate a zero-Covid island approach. There is a debate as to whether it is possible to eliminate the virus or not and I have no expertise to pronounce on that, nor would I expect the Minister to. It seems to me that if one takes the elimination approach, one would have to prevent the virus coming in while it is being eliminated and after it has been eliminated and that would require a border at which people are quarantined for a finite period of time. The Minister has ruled out, or is not keen to have, a border between this jurisdiction and Northern Ireland. Arlene Foster has been quite clear. It might disappoint some but it cannot surprise many that she will not countenance travel restrictions between Northern Ireland and the rest of the United Kingdom.

If we are to have this elimination strategy, which sounds attractive, where is the Border going to be? If we could not agree a Border for the past 100 years of this State, where is it suddenly going to be magicked out of in the next 100 days?

**Senator Frances Black:** I thank the Minister for attending today and all the work he has done on Brexit. I am sure there are times when he felt frustrated himself.

The last time the Intergovernmental Conference met was in May 2019. We all know it is an integral part of the Good Friday Agreement. Why does it not meet regularly? There is no doubt that there is plenty to talk about. Does the Minister believe it should meet at least every six months? Has it developed a plan of action?

More recently, the British Government has made threats against the Human Rights Act and made negative references to human rights lawyers as do-gooder lefties. It was after such criticism in the British Parliament that Pat Finucane was assassinated. Will the Minister consider making his concerns known to the British Government in this regard?

**Senator Gerard P. Craughwell:** On the issue of the Border, the Minister has said emphatically at the Committee on European Union Affairs that there would be no Border, irrespective of the outcome of the negotiations. Has the Minister a derogation from Europe to substantiate that? There can certainly be no checks at Republic of Ireland ports going to Europe. Deputy McNamara has done an excellent job of explaining the rest of the problem. Is there something in writing that substantiates what the Minister has said about no Border on this island?

**Deputy Patrick Costello:** The Minister's example of mackerel earlier shows that nature does not give a damn about a line on a map, as I have been saying too. One of my concerns is about environmental regulation after 31 December. This cuts into many matters, particularly if there is any regulatory divergence in food standards, sanitary and phytosanitary regulations. It fundamentally undermines the level playing field and fair competition. Ultimately, it creates a situation where farmers on either side are not competing fairly and a downward pressure occurs on environmental regulations and protections. This is concerning.

Part of the issue is that we need to look at further all-island environmental governance mechanisms. Some of the environmental NGOs have complained that the various organs under the Good Friday Agreement have not had that necessary focus to date in terms of environmental governance. We need to do more of that. What is being done in those areas will be important and good to hear.

Up to 70% of the UK's environmental legislation has come through the EU. While some of those will continue in terms of the protocol, as the Minister said, it is now about implementation of the protocol. It is important we find a way to implement those various environmental protection directives after 31 December.

The Minister flagged data transfer as an important issue for the continuing future relationship. I would not share the Minister's optimism in getting those issues resolved. We have seen reports from the Irish Council of Civil Liberties on the impossibility of Britain meeting adequacy standards under GDPR for a variety of reasons. This has significant knock-on consequences even for processes as simple as reciprocal welfare payments which would be part of the common travel area. How can we manage them if we are not in a position to transfer data? We can obviously scramble a fudge together or bring in new legislation. The reality is that those data transfer issues are significant, however. The UK, for several different reasons, will not meet our adequacy standards. That impacts on everything we do in terms of the Good Friday Agreement and cross-Border arrangements. I do not share the Minister's optimism that they can be resolved.

**Senator Niall Ó Donnghaile:** I thank the Minister for being here. His contributions are helpful and insightful at this committee. Due to his acknowledgement, and that of other colleagues, that it is such a crucial time for us, it would be good if the Minister could make a commitment to come in more regularly to this committee than he was able to in the last term.

While I accept the Minister and other colleagues have said that this committee has an important role in facilitating engagement and dialogue, which it does, its remit also looks at the implementation, or lack of implementation, of certain aspects of the Good Friday Agreement. We should not lose sight of that.

There is real unease, concern and fear about the Internal Market Bill. The Assembly and the Seanad recently passed motions condemning the Bill and asked for it to be withdrawn. A part of the implementation of the Good Friday Agreement is an exercise in democratic expression around our future constitutional status. The Minister will note increased mobilisation around that issue and will have heard that from a broad range of political and civic life. When the Minister was with the committee before in the past Oireachtas term, he made reference to the fact that even he, within his political lifetime, would like to see a united Ireland.

In the context of the Good Friday Agreement, the shared island unit and the real and live danger posed by Brexit, I am sure it will give the Minister deep cause for concern when people in senior positions of responsibility in political life refer to aspects of the Good Friday Agreement, which is endorsed democratically North and South, as being divisive or dangerous or not to be spoken about. That runs absolutely contrary to the political spirit of the Good Friday Agreement.

Given all of this, what preparations are under way with the Minister and his Department in terms of prudent and responsible future planning for any change in the constitutional status in line with the Good Friday Agreement in order that we do not have another example of a Brexit where the preparatory groundwork has not been done? That would be a plague on all our houses if we were to follow that particular agenda. I do not hear anybody asking for that.

Given that there is a commitment in the programme for Government to extend presidential voting rights to citizens outside of the State, will the Minister update us on a planned referendum for this?

**Chairman:** I want to give the Minister five minutes to reply at the end. If there are questions he does not have time to answer, will he get his Department to communicate with the committee secretariat?

**Deputy Rose Conway-Walsh:** I thank the Minister for attending today. I welcome his comments around the importance of unionist representation on this committee. Senator Blaney alluded to it as well. It was a major mistake that we did not value the only independent unionist voice we had in the Oireachtas enough to keep it here. Obviously, there will be an opportunity in the near future in terms of the Seanad by-elections to put that right. It is important that we are all inclusive.

I am concerned around the intentions and the indications of the British to reduce the influence and the authority of the Human Rights Act which came into British law in 1998 and underpins the human rights component of the Good Friday Agreement. There are other areas of the Good Friday Agreement which the British failed to honour in terms of the all-island civic forum, the bill of rights and so forth. How will rights of citizens in the North be protected?

I ask the Minister to comment on the influence of Congressman Richard Neal in particular, and on the US Administration's declaration that there will not be a trade deal between the US and the UK, that such a deal will not be sanctioned by the US House Committee on Ways and Means, if there is an undermining of the Good Friday Agreement.

The Minister referred to the EU presence in the North. I ask him to elaborate on what form he believes that might take.

**Senator Elisha McCallion:** To follow on from Deputy Conway-Walsh's comments on citizens' rights, I welcome what the Minister said regarding proposed legislation in the context of the common travel area, CTA, but how much of that will deal with the many issues relating to citizens' rights? I take issue with the suggestion that I must travel into this State to have full recognition as European or Irish. I am as Irish and European while sitting at home with my children as I am sitting here as a Member of Seanad Éireann. How far on are we with the conversations regarding future arrangements and the protection of EU and Irish citizens who live in the North and take full citizenship? I also take issue with the Minister's comment on the pandemic unemployment payment. He is correct that the law currently is that cross-Border workers are assessed on the basis of where they receive their benefits but in July this year, when the legislation was being introduced, the Government could have made provision for payments to cross-Border workers who pay their taxes in this State. That decision could have been taken at that time but unfortunately there was not the political will to do so. I have sent information to the Minister for Employment Affairs and Social Protection, Deputy Humphreys, on how it could be done but she has chosen not to do it. I hope that wrong is righted in the near future because those payments are deserved by people who pay tax in this State.

**Chairman:** The payment in the North is £95. If the payments were the same, North and South, there would not be a difficulty. I ask the Minister to respond briefly.

**Deputy Simon Coveney:** I think I have already answered the question on cross-Border workers. We are supporting many cross-Border workers to keep them in a job by supporting their employers through the employee wage subsidy scheme, EWSS. This ensures that employers can keep people in employment. The problem is that when people lose employment, the state in which they live has responsibility for their supports. It is the responsibility of the Northern Ireland Executive to support people living in Northern Ireland who are, unfortunately, unemployed. Our focus has been on putting money into making sure they retain employment here on this side of the Border, where we can make payments.

I have come to know Congressman Richard Neal very well. He has been an extraordinary support to Ireland and sees himself in many ways as a political guarantor of the Good Friday Agreement from afar. I could not say enough about how supportive he has been through the Brexit process in terms of trying to ensure that those in Washington who are following this process understand the complexity of what is going on and why it was and is so important that the protocol that was designed to protect the Good Friday Agreement and prevent border infrastructure re-emerging on this island is fully implemented. Even in the last number of weeks I have met Congressman Neal in Washington and discussed this further.

Reference was made to human rights and in the context of the Good Friday Agreement, the European Convention on Human Rights, ECHR, is very important in safeguarding rights and equality. That is why real concern was expressed when there were some suggestions in the British media that the British Government was going to move away from commitments relating to the ECHR. That has not happened, however, and we have not seen any move away from that in

terms of legislative change or anything like that. I certainly hope that remains the case.

In response to Senator Ó Donnghaile, I am happy to come before this committee whenever I am asked to do so. If the Chairman asks me to come more often, I will certainly try to make myself available. On the question of constitutional change, we have one of the biggest challenges that our generation of politicians is ever going to face in terms of trying to get a satisfactory outcome to what is remaining of the Brexit negotiations. We must try to get an outcome that protects relationships on the island regardless of what the future holds constitutionally in the medium to long term and my focus is solely on that right now. I am focused on protecting the Good Friday Agreement, its institutions, its spirit and what it is trying to do to create normal relationships between people on this island and to increase levels of North-South co-operation to try to reinforce that normalisation. Brexit is an extraordinary disrupter to that because the whole point of Brexit is separation from the EU for the UK while the whole point of the Good Friday Agreement is togetherness and partnership while recognising difference. Finding a solution in the way that we did in the design of the protocol was a significant achievement for the negotiators who managed to get that across the line, on the British side as well as the EU and Irish sides. That is why we now want to see it implemented in full. However, we have not finished the job here because the imposition of tariffs and quotas would be extraordinarily disruptive in terms of pressure on Northern Ireland, the implementation of the protocol and, of course, east-west trade across the Irish Sea, politically as well as from a trade perspective. That is why we are fighting so hard to try to avoid that. That must be our focus for now.

I accept the absolutely legitimate aspirations that people have, whether they are nationalists or unionists, for the future for themselves and their children. That is what the Good Friday Agreement is all about. It is about respecting both of those perspectives and putting in place structures for how those issues can be decided democratically in the future. For now, let us concentrate on trying to close out these Brexit negotiations in a way that limits damage as best we can. We cannot afford to get it wrong and to fail to get an agreement, as is absolutely possible. I think there will be an agreement but I will not be surprised if there is not one because of the issues that are still unresolved and all of the emotion and politics that surround that. This is a big enough challenge in itself without trying to progress, at the same time, preparations around the constitutional question and so on. This is an issue that we need to address in the future but we must do it in a way that is responsible, reassuring, open and transparent in trying to accommodate different perspectives. For now, we are not short of challenges in the short term and that is where my focus and that of my Department lie.

Deputy Costello asked about data. There is nothing easy about data. It is one of many areas where we have to find a solution that both sides can live with because if there is no agreement on data, many services from the UK into the EU become impossible. This includes financial services and many other types of services. If the UK cannot hold and manage the data of EU citizens in the UK under some new arrangement, that will pose a big problem for a lot of sectors.

**Deputy Michael McNamara:** I asked a question on quarantine.

**Deputy Simon Coveney:** I am coming to that now.

**Chairman:** We have one minute left under the Covid compliance regulations.

**Deputy Simon Coveney:** I do not believe that we can effectively lock people up when they come into Irish airports. I certainly do not believe we can close the Border, nor should we do



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so. Managing Covid on this island is an issue of containment, preventing spread where we can and learning to live with the virus. We must try to contain and minimise its spread through a responsible response to good public health advice.

**Deputy Michael McNamara:** Does the Minister believe that quarantining between Northern Ireland and the rest of the United Kingdom is realistic or feasible?

**Deputy Simon Coveney:** No, I do not.

**Deputy Michael McNamara:** I share that view.

**Deputy Simon Coveney:** I do not think it is realistic or feasible. We live in a very open society, with people moving around-----

**Chairman:** I must adjourn the meeting. I thank all of our witnesses for attending, including the Minister and departmental officials and those who joined us remotely from the North. We had parties representing ten of the 18 members of the Westminster Parliament which makes this an historic meeting and a good start for this committee.

The joint committee adjourned at 4 p.m. until 2 p.m. on Thursday, 22 October 2020.