

DÁIL ÉIREANN

ROGHCHOISTE SPEISIALTA AN TSEANAID UM AN RÍOCHT AONTAITHE DO THARRAINGT SIAR AS AN AONTACH EORPACH

SEANAD SPECIAL COMMITTEE ON THE WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION

Dé Luain, 19 Aibreán 2021

Monday, 19 April 2021

Tháinig an Roghchoiste le chéile ag 3 p.m.

The Select Committee met at 3 p.m.

Comhaltaí a bhí i láthair / Members present:

Seanadóirí / Senators	
Malcolm Byrne,	
Tim Lombard,	
Michael McDowell,	
Mark Wall.	

Seanadóir / Senator Lisa Chambers sa Chathaoir / in the Chair.

Business of Select Committee

Chairman: I remind members to ensure their mobile phones are switched off. I ask them to mute their devices until they are contributing. I welcome everyone to the meeting.

We have no correspondence for today's meeting.

Next is the adoption of draft minutes for our meetings of 12 April, which was a private meeting for the work programme, and 29 March, which was a public meeting with Enterprise Ireland. Is the adoption of the minutes agreed to? Agreed.

New and Future Relationship Between the UK and Ireland: Discussion

Chairman: The agenda for today's meeting includes a discussion with the Institute of International and European Affairs, IIEA. We are focusing on the new and future relationship between the United Kingdom and the European Union and its implications for Ireland, as well as an analysis of the latest developments in Brexit and their impact on Ireland. Our witness this afternoon is Mr. Dáithí O'Ceallaigh, who is chairperson of the IIEA UK group. Mr. O'Ceallaigh is most welcome.

Witnesses giving evidence from within the parliamentary precincts are protected by absolute privilege in respect of the evidence they give to the committee. This means that a witness has a full defence in any defamation action for anything said at a committee meeting. However, witnesses are expected not to abuse this privilege and may be directed to cease giving evidence on an issue at the Chair's direction. Witnesses should follow the direction of the Chair in this regard and are reminded of the long-standing parliamentary practice to the effect that, as is reasonable, no adverse commentary should be made against an identifiable third party or entity. Witnesses who are to give evidence from a location outside the parliamentary precincts are asked to note that they may not benefit from the same level of immunity from legal proceedings as a witness giving evidence from within the parliamentary precincts and may consider it appropriate to take legal advice on this matter.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on or make charges against a person outside the Houses, or an official, either by name or in such a way as to make him or her identifiable. I remind members that they are only allowed to participate in this meeting if they are physically located on the Leinster House campus. In this regard, I ask all members, prior to making their initial contributions, to confirm that they are on the grounds of the Leinster House complex.

Members participating in the committee meeting from a location outside the parliamentary precincts are asked to note that the constitutional protection afforded to those participating within the parliamentary precincts does not extend to them. No clear guidance can be given on whether or to what extent their participation is covered by absolute privilege of a statutory nature. Therefore, if they are directed by the Chair to cease giving evidence on a particular matter, they must respect that direction.

Our witness today is Mr. Dáithí O'Ceallaigh, chair of the Institute of International and European Affairs, IIEA, UK group. I invite him to make his opening statement and thank him for being with us this afternoon.

Mr. Dáithí O’Ceallaigh: I thank the Chairman and the committee for inviting the IIEA to appear. I wish to make a few points, mainly of a general nature, that are additional to those in the written submission I provided last week and largely relate to the two particular questions asked by the committee in its letter to the IIEA with regard to the new and future relationship between the UK and the EU and an analysis of the latest developments in Brexit and the implications for Ireland.

The first point I wish to make is that the trade deal is a very thin one. There were areas in which the EU was prepared to make arrangements but the British did not want them, apparently on the basis of the sovereignty ground that they stress. For example, the British were offered much better arrangements on policing, legal matters, Erasmus+, financial matters and so on but they rejected them all on the basis that the arrangements were not in keeping with their desire for sovereignty.

There are, perhaps, two major issues to this notion of sovereignty in the UK. The first is that the British have a long history of enacting and utilising power through Westminster. Historically, they consider it very important to have power resting in Westminster, including the power to enact legislation. Second, there is a strong view among Brexiteers that they can better protect and advance their interests if they are outside the EU rather than inside it. This was probably best expressed by Ian Duncan Smith when he used the word “buccaneering”. That buccaneering nature is deep in the British psyche and dates back to the 16th century and the 17th century. As a result, it is quite likely that the future negotiations between the UK and the EU, of which there will be many because there are many areas where arrangements have not been made, may be quite fractious.

In Brussels, there is little trust of the UK. There is also very little trust of the UK among some member states and one major member state in particular. The manner in which the British decided last September that they would break international law in the context of the Northern Ireland protocol, as well as the bilateral decisions they took earlier this year about the bilateral protocol, have not served to build trust between London and Brussels. As all members will be aware, if one is really trying to do business internationally, there must be trust.

The EU will be a very different place without the UK. The absence of the UK will allow for changes in the EU that may not have occurred had the UK remained a member. A primary example was the deal done last year to address the results of Covid-19 and to make available to member states a big support package of more than €700 billion. I and many of my British friends, particularly the remainers, are quite certain that those support measures would not have gone through the EU had the UK remained a member. There may well, in the future, be areas of co-operation which will advance different types of unity in different areas and that would have been stymied by the UK had it remained a member. The whole area of taxation is an example of that. Ireland, largely in step with the UK, has been able to prevent certain things happening that we thought were not in our interests. It may be a little more difficult for us in the future.

Another loss for Ireland in the absence of the UK lies within the Commission. The Commission is forever drafting directives and all sorts of things, the bulk of which are drafted by people who have been brought up within the European legal system and not within the common law system. The UK had large numbers of people employed to examine those drafts and to try to make sure, before they became law, that there would be no unexpected consequences. That may cause difficulties for us, down the line, with the absence of the UK.

However, on the other hand, there may be advantages now that the UK has left the EU. We

will be the only European country that speaks English and relies entirely on common law. This may be helpful in attracting investment but it also may be helpful in legal areas. London is one of the prime locations for the resolution of commercial difficulties because large numbers of companies facing commercial difficulties prefer to resolve them in a court using Anglo-Saxon law. There may be an opportunity here, to a certain extent, for Dublin to do some of the legal work that was done in London prior to Britain's exit. I note, for example, that a large numbers of British queen's counsel, QCs, are establishing themselves here so they will be able to do legal business both here and in London.

I will turn briefly to consider Brexit and its effects on Ireland. This will be an area of very great difficulty for us in the future because the UK and Ireland are now, in effect, on opposite sides of the table. During the years when we were together in the European Economic Community, EEC, and then the EU, the fact that we were both members was very helpful in getting us to work together to try to help resolve the issues in Northern Ireland. We are now on different sides of the table. There are many people in Britain who think that many of the problems that were caused for them in the negotiations were not a result of Brexit, but a result of the Irish being stubborn and trying to look after their interests. There may be problems there.

A further problem is that it is more than 20 years since the Belfast or Good Friday Agreement. The vast majority of the politicians and civil servants who worked through those negotiations and the negotiations which followed, ending in 2010 or thereabouts, have passed on. There is not a great working memory in London of the many hours, weeks and years of work that British and Irish politicians and civil servants spent together trying to resolve issues around Northern Ireland. One can see the result of that in the way in which the British Government has dealt with Northern Ireland since the time that former Prime Minister, Theresa May, went to the country approximately four years ago, after which the UK Government became dependent on the votes of the DUP. Even as recently as last week, the Secretary of State, Brandon Lewis, opposed a meeting of the British-Irish Intergovernmental Conference, effectively because the unionists did not like it and despite the fact that he was told that Sinn Féin, the SDLP and the Alliance Party all want such a meeting. The Good Friday Agreement talks of rigorous impartiality on the part of both Governments towards the communities and parties in Northern Ireland. There may be a little question mark about the extent to which the rigorous impartiality existed in London in the albeit very difficult circumstances of the Government trying to negotiate Brexit in circumstances where it did not have a majority. The loss of those sorts of informal meetings between British and Irish civil servants, politicians and so on will not be very helpful as we go along the way to try to do something about what is happening in Northern Ireland.

I will say a couple of things about the unionists. There is no doubt that unionists, particularly political unionists, have been very badly spooked. The people of Northern Ireland had voted to remain in the EU but the running over the past four years was made practically entirely by the DUP, not in the assembly or the Northern Ireland Executive but in the Parliament in London. The DUP turned down Mrs. May's deal and supported Boris Johnson. Then Boris Johnson supported the protocol which, for them, is a very serious betrayal. Other things that have spooked them are: the Bobby Storey funeral - seeing those lines of people all dressed in a kind of uniform brought back memories of the past which many of them would have preferred to forget - and the recent decision not to prosecute some of those who attended the funeral; calls for a referendum; talk of Protestants not being in a majority in the next census; and it being quite clear that there are many people in London who no longer care about them very much, not least George Osborne. The prospect of Sinn Féin being in government both in the North and the South or Sinn Féin being the major party in Northern Ireland is spooking unionists. There

is precious little leadership or guidance being provided for the sort of people who are out throwing Molotov cocktails at the police in Belfast and so on. The North is in a very bad position. We must be exceedingly careful in how we try to bring some sort of normality back to it. The latter can only be done by the two Governments working together in accordance with the Good Friday Agreement, but that is exceedingly difficult in the current circumstances. We need to try to stand back a little and work as well as we can with the British Government and with all of the parties in Northern Ireland to try to put the Good Friday Agreement back on track.

Chairman: I thank Mr. Ó Ceallaigh for his openness and candour. He has given members a lot to think about. I will open the meeting to members to ask questions and contribute. We will go to and fro with questions and answers. I ask members to raise their hands on screen to indicate that they wish to come in.

Senator Malcolm Byrne: I thank Mr. O’Ceallaigh for his presentation. I would like to focus on two issues. First, on completion of its work, the committee will produce a report and will need to make specific recommendations. One of the issues Mr. O’Ceallaigh touched on was the advantages arising out of Brexit for Ireland, in particular in the legal space. In terms of the committee’s report, what specific measures should it recommend so that Ireland can take advantage of the opportunities in the legal, commercial and educational space?

Second, I am glad Mr. O’Ceallaigh mentioned the workings of the Good Friday Agreement. What specifically can not only the Irish Government, but Irish parliamentarians, do to ensure the Good Friday Agreement is worked and defended?

Mr. Dáithí O’Ceallaigh: I will take the Deputy’s second question first. Very good work has been done over years by the British-Irish parliamentary bodies, which meet regularly. I firmly believe many of these barriers can be broken down by jaw-jaw. It is a question of getting together and realising that we all do not have the devil’s ears on our heads and can work and manage together. In terms of the Good Friday Agreement, it is important Irish parliamentarians meet and talk as often as they can to their opposite numbers in the UK and, to the extent they are allowed, to their opposite numbers in the North. The Executive is very fragile. It did not exist for almost all of the Brexit negotiation, which meant that the political power went from Belfast to Westminster, and to a very specific group in Westminster which was not representative of all of the different views in Northern Ireland. Irish parliamentarians should try to meet and talk as often as possible to their opposite numbers in Britain and in Northern Ireland.

On the legal issue, I am not a legal person, but two or three years ago the President of the Supreme Court, Mr. Justice Frank Clarke, gave a talk to the IIEA in which he talked about the opportunities available to Irish barristers, Irish lawyers and Irish companies to get some of this commercial business that is in Britain. He said that companies that heretofore have done this work - sought mediation and so on in London - might now choose to come to Ireland to do so. That is as good an answer as I can give. I am not an expert, but from what I hear there are opportunities available which, perhaps, we should go after.

Deputy Malcolm Byrne: I agree with Mr. O’Ceallaigh, particularly in regard to the areas of arbitration and mediation. It is a matter the committee might look at further. If there is an opportunity for us to win business as a result of Brexit we should definitely explore it.

Mr. Dáithí O’Ceallaigh: Agreed.

Chairman: We are always looking for the silver lining. The next speaker is Senator Tim

Lombard.

Senator Tim Lombard: I acknowledge the presentation. It has been very helpful. The issue now is how can we build on that body of work to make sure we have the interaction between public representatives, but also officials, in Ireland and the UK. I note the recent visit of the Minister for Foreign Affairs, Deputy Coveney, to London, which was the first significant visit in nearly 12 months. Owing to Covid-19 and the current circumstances in which we are living, and Brexit, there has been a real deficit of engagement between Westminster and Kildare Street. Has that lack of engagement now become a big issue that we need to address in the short term? Do we need to formulate a plan directly to allow for the one-on-one meetings we spoke about or conversations among politicians and civil servants, which are vital? I do not believe there is a platform for this engagement at the moment. Fair enough, we are going through vaccination programmes on both sides of the Irish Sea but, logically, it will probably be next September before there can be physical engagement between Senators and Deputies and their counterparts in the UK. Is engagement in September too far away? Does work need to be done now to make sure we have that engagement?

Regarding what is happening in Northern Ireland, I was reading in the newspapers that protests are beginning again tonight. On Northern Ireland–Ireland engagement, how can we physically meet because of Covid? In many ways, this committee has done more than any other in the Houses of the Oireachtas in the past three months to have that engagement but it has been limited to some degree. Again, it will probably be next September before there is physical, one-on-one conversation. Are we in a really dangerous vacuum at the moment? Owing to that dangerous vacuum, the knock-on effect for our economies, societies and people is great. That is my great fear. There will be a six-month vacuum before we can have physical one-on-one engagement. Does Mr. O’Ceallaigh believe this will have a major knock-on effect on how we can deliver the peace we all talk about and the prosperity that will come off the back of it?

Mr. Dáithí O’Ceallaigh: I agree with the Senator entirely about Covid. We have been locked down for 13 or 14 months, effectively. It has been impossible for people to have private arrangements, meetings and chats or a bite of lunch or dinner, or whatever it is. Many of the difficulties that occurred in Northern Ireland during the negotiations that eventually led to the agreement last December could have been eased had there been face-to-face meetings instead of having people stuck, as we are now, in different rooms because of Covid. Therefore, I entirely agree that Covid has had a negative effect and that it has made it very difficult to build up the sorts of arrangements one would like.

I welcomed the visit to London this week of the Minister for Foreign Affairs, Deputy Simon Coveney. By all accounts, it has been a good visit. It was helpful that Lord Frost was able to go to Brussels last Thursday. That was also good.

As regards meeting before September, I have had my first jab. I am a little older than most of the members so I am due my second jab tomorrow week. Therefore, it might be okay for me to travel in two or three weeks’ time. Even though I will have had the two jabs, however, will I know whether I am carrying the virus or not? I believe it will not be at any time before the early summer before there are circumstances that would allow people to go over to London to have a chat with a few people, for example. I refer to going over in the morning and coming back in the evening. We will probably be waiting until September for that. We will probably be waiting until September or the autumn before there are interparliamentary group meetings or face-to-face meetings in the North.

Covid has made government in the North particularly difficult. It was difficult enough as it was but when body language is missed, it can make things very difficult. I do not have anything good to say to the Senator about being able to travel. I do not believe we will really be able to do so this side of the summer, but I am not an expert. Who knows?

Chairman: I have a couple of questions, coming from two angles. The first touches on Mr. O’Ceallaigh’s comments on the Good Friday Agreement and Northern Ireland. What does Mr. O’Ceallaigh believe the future for the Good Friday Agreement will be if the engagement between both Governments that is required to maintain the agreement is curtailed? Ask we all know, peace in Northern Ireland is always a work in progress. It is never finished; it is ongoing.

A member of the unionist community raised the Northern Ireland protocol with our committee some weeks ago when we had an engagement with parliamentarians from the North on the issue. One of the things put to the committee, which I answered, was that we were very much focused on the negative impact on the Good Friday Agreement if we were to have a border on the island of Ireland. The protocol was designed to avoid having a border on the island and we have achieved that. People can still move freely, taking Covid restrictions into account, obviously. There is no physical border. However, from his perspective, there is now a border in the Irish Sea between Northern Ireland and Great Britain. His view was that that also has a damaging effect on the Good Friday Agreement from the perspective of the unionist community. I found it hard to disagree with him. Even though we were not the cause of this, I can see how they would take that view.

We were discussing many of the things that have blown up since January in the context of the impact of the protocol. There has been much focus on the practical elements such as trade issues, the importation of seed potatoes, flowers, soil, etc. Those are the kinds of things we can resolve. They are solvable issues. I made the point at that meeting that even if we were to overcome those practical issues, it still would not solve the problem that the unionist community now see the protocol as presenting an identity issue for them. I am not sure what the solution is to get out of this. I am not sure what the options are for the unionists to lead their community on this issue because they have taken it to be such a fundamental attack on their identity and on their place within the United Kingdom - the Union. I ask Mr. O’Ceallaigh to answer those questions on Northern Ireland before I come back to the other matters.

Mr. Dáithí O’Ceallaigh: There is much there to discuss. I agree with the Chairman. Let me deal with the first one on the future for the Good Friday Agreement. The two Governments committed themselves solemnly to the agreement. Both made enormous changes in how they handled themselves. For six years, from 2001 to 2007, I was the Irish ambassador in London. The Good Friday Agreement was not a final agreement. It was an overall agreement and there were many pieces in it that had to be dealt with before it was concluded. During the six years that I was in London, the two Governments were exceedingly close together. It did not mean that they always agreed, but they were determined together to try to provide peace in Northern Ireland. They did so on the basis that what they were trying to do would have to be acceptable to both sides. That is what has been missing over the past four years.

There was a minority British Government which was in very serious difficulties and dependent on the DUP. In political terms, one could understand why they had to listen carefully to the DUP. However, the DUP was only one voice from Northern Ireland. Other voices from Northern Ireland were not being heard at all. There was no nationalist in Westminster. Sinn Féin had many seats but, for one reason or another, its Members did not take their seats in Westminster. The one voice from Northern Ireland in the House of Commons who was against Brexit - she

was a very brave lady indeed - was that of Lady Hermon, Jack Hermon's widow, but she was not listened to.

What does the future hold? There are difficulties in Northern Ireland. Politics is very fragile in Northern Ireland. If it is to move forward in a positive way, it will be totally dependent on the two Governments moving forward together. I am not saying that there are not good relationships. There are good relationships between the two Governments, but what we need are structures, whether they be structures that currently exist, such as the British-Irish Intergovernmental Conference, which has not met for a long time, or new types of structures which the Taoiseach mentioned in his speech to the institute in January. I refer to structures that are perhaps not dissimilar to the type of structures the British have for their annual meetings with the French or the Germans. We do need some way of ensuring that the two Governments can address problems in Northern Ireland together without megaphone diplomacy on a regular basis where it becomes just normal and where nobody gets frightened or upset when it is happening. It takes two to tango though.

As regards Northern Ireland, the unionists are refusing to talk to us. Effectively, they have been refusing to talk to us for quite a long while now. There was not an Executive in Northern Ireland and the unionist power was in the DUP in Westminster, so they thought they had the upper hand and that is okay if that is the way they look at it, but as it turned out they did not have the upper hand. I can understand what they say about the equivalence of a border down the Irish Sea and a border between Northern Ireland and the Republic, but I am afraid I disagree with them. There are different borders down the Irish Sea. The British Government has taken, for example, views on abortion, transgender issues and so on which were not effected in Northern Ireland. Was that a constitutional crisis between Northern Ireland and Britain? No. At the beginning of January, Arlene Foster, who does not like the protocol – I understand why she does not like it – said that while she did not like it she would try to work it and then things went awry for one reason or another. One was the invocation by the Commission of Article 16 with regard to the possible export of vaccines to the United Kingdom. Another was the sort of publicity that existed in London about the DUP.

George Osborne, the former Chancellor of the Exchequer, had a long piece in the *Evening Standard* in January in which he said that there is now an economic border down the Irish Sea and that it would shortly become a political border down the Irish Sea. That must have been extremely upsetting for Ulster unionists. It should be upsetting for us as well because we have accepted in the Good Friday Agreement the legitimacy of unionism and its position. If unionists are as upset now, as they are, that is dangerous for us, for people in Northern Ireland and for the whole situation.

For what it is worth, my understanding is that there are 27 technical issues in the protocol and that probably 23 of them can be resolved technically. The difficult ones are those that deal with health and veterinary standards. That does concern plants, seed potatoes, live meat exports and the export of food products. The EU has reached an agreement on veterinary arrangements with Switzerland which effectively eliminated such controls between the two. It has also reached an agreement with New Zealand – I do not think it is quite as extensive as the agreement with Switzerland – which allows, for example, the importation of New Zealand lamb into the European Union. It is only on sovereignty grounds, but so far, the British have refused to agree to veterinary arrangements between Great Britain and the EU. Were they to do so, these problems with regard to food, pets and all that sort of stuff could all disappear immediately. That is what the non-unionist parties in Northern Ireland want, without exception. They want a

veterinary arrangement with the United Kingdom that will allow these things to go backwards and forwards. There are solutions to the technical issues, but the notion in unionists' minds that this has become a constitutional matter is worrying and more difficult to deal with. I do not think it is a constitutional matter, but that is a personal view. What I think does not matter; it is what they think, and they think it is a constitutional matter.

We are going through a difficult time in our relations with London and with the North. We need to try to keep talking as much as we can and meeting as often as we can in the hope that a period will arrive when we can make progress together to deal with these issues that are dividing society.

I hope that answered the questions.

Chairman: It did. I thank Mr. O'Ceallaigh. His response was along the lines of my own thinking. I share the view that it is worrying this has become a constitutional issue for the unionist community. I am concerned about the vote in Stormont that will be required in four years' time to continue the operation of the protocol. It has become a sectarian issue and the lines have been drawn for the next election, which prolongs tensions. It is difficult to see an end in sight, given we know there is an impending vote in Northern Ireland on the protocol, so straight away it will be a campaign issue. That should be a concern for both Dublin and London because it affects us and we need the protocol to work. I agree with Mr. O'Ceallaigh on those points.

Mr. O'Ceallaigh spoke about the EU being a very different place without the UK in it, which is a fair point I am sure we would all accept. A large member state - almost a founding member - has exited. As for the changes, one of the main concerns from an Irish perspective relates to our corporation tax rate, and there has been talk of a digital tax. Where does Mr. O'Ceallaigh think we are in regard to these changes that might be coming down the tracks? How imminent are they? Are we doing enough as a member state to make some new friends, if I can put it that way, with like-minded member states that share our views on certain issues being state competences and not something that should be done from a central point in Brussels?

Mr. O'Ceallaigh mentioned the knowledge deficit, an issue we have discussed at this committee and other committees. We are quite aware now as a Parliament that we relied quite heavily over the years on the UK civil service and its expertise in dealing with the significant workload that comes out of Brussels, and now we do not have that to rely on. Are we doing enough to beef up our supports to scrutinise the legislation and directives coming from the Commission? Does Mr. O'Ceallaigh have a view on the longer term plan? This is one of the significant impacts of Brexit, although it is not obvious or directly visible. Behind the scenes it makes a huge difference, it impacts on every aspect of our interactions with the European Union, and it has direct consequences for our citizens. If Mr. O'Ceallaigh were to make recommendations to the Government as to how to address that deficit, are we doing enough and what else should we be doing? Are there recommendations he would ask the committee to include in our final report?

Mr. Dáithí O'Ceallaigh: I will begin with the issue of corporation tax and digital tax. As a background, the committee might bear in mind that the new US President takes a very different view from that of the former US President. We are facing changes to corporation tax and to the manner in which it is dealt with worldwide, and certainly within the OECD, which is where it seems the changes will occur. As the committee will be aware, attempts have been made by the EU over the years to make changes to the corporation tax rate, the manner in which such is-

sues are handled and so on. The attempts did not make it through, partly because of opposition from us but also because of opposition from others, including the UK. I believe that the US has returned to the OECD and that the work of the OECD has gone some way forward.

In addition, with the specific proposals made by the US President, Mr. Biden, last week on taxing American corporations which are operating abroad, I think we are facing changes in the worldwide attitude to corporate tax. The latter has been an important element in attracting inward investment to Ireland and it remains an important element in attracting people. However, it is by no means the only one. Over the past 50 years or so, this country has built up extraordinary expertise in various areas, including pharmaceuticals, financial services and legal services relating to sectors such as aircraft leasing. There is great expertise in this country. Youngsters are going through school and university against a background of knowing what the people before them have achieved. This means that if there are changes in the corporate tax area, it may be difficult but I do not believe it will necessarily be as difficult as people might think.

I also believe that changes are coming in the context of a digital tax. It is difficult to argue that if Google earns €1 billion in France, it should pay no tax in France and pay only a modicum of tax in Ireland. If I were a Frenchman, I would be unhappy with that. We are coming to a stage where companies that earn money in specific countries will be expected to pay some of their tax in those countries.

Are we doing enough? We are a small country with a population of 5 million. We can only do so much. The UK was able to do a great deal more than we were. First, it was a far bigger country. Second, the UK had built up assets over the centuries from international trade, slavery or whatever we like to call it. There were vast assets in the UK that did not exist in this country. When I was growing up this country was exceeding poor. We are not poor now and we have many assets now. However, we are still relatively small in numbers. When we look at the size of the country and what we do internationally, in Brussels and so on, I take heart rather than anything else. There is always more we can do but I take heart from that.

One area where we have not been particularly successful, and where I would like to see us be far more successful, is in getting our people into the Commission. We were very good in the old days. For example, two of the Secretaries General of the Commission have been Irish, namely, Catherine Day and David O'Sullivan. We had Irish civil servants or Irish people in senior positions within the Commission. That is no longer true. We are not necessarily particularly good at languages, which is understandable because we are an island way out in the western world. Yet, we should find some way, as the French do, of encouraging people in industry and in the Civil Service - all manner of individuals - to put themselves into the Commission and learn other languages. Then we should welcome them back when they return to Ireland. In some ways, one group that is exceedingly good at putting its people into international organisations, getting them to learn a great deal from those organisations and then bringing them back is the Defence Forces. We could take a leaf out of their book at the manner in which they try to encourage their people to get into international organisations and then return to the Defence Forces and bring experience back. We should be trying to do the same with the Commission. However, that is only a small matter. A major issue relates to languages. We really need to try to engage a bit more in French and particularly in German. Did I answer all the Chairman's questions?

Chairman: You did. I thank Mr. O'Ceallaigh. Those are very practical suggestions in terms of investing in teaching languages, perhaps at a younger age, but also getting people into the Commission. The committee is aware that Ireland had many senior people in the Commis-

sion and throughout the various ranks in Brussels but we have not managed to follow through on that over the years. That may be because there are many other opportunities and people have not always opted for careers in the Commission. There should be a renewed focus on standing on our own two feet. It may be the case that we got a bit too comfortable relying on the UK. A little discomfort for a certain period might be no harm in terms of making those improvements.

Senator Michael McDowell: I welcome Mr. O’Ceallaigh and thank him for participating and his oral and written contributions to today’s proceedings. There are several matters of which I strongly believe Ireland should be conscious. One of them has already been mentioned by Mr. O’Ceallaigh in his evidence to the committee. When I was a Minister and, before that, the Attorney General, I had occasion, particularly as Minister, to attend meetings of the Justice and Home Affairs Council and, at one stage, to preside over that session. There is no doubt that what Mr. O’Ceallaigh has described as the army of people the British had examining proposals for European legislative measures was hugely beneficial to Ireland. They were looking at things from a common law point of view and from our kind of philosophical perspective on politics, law and, on occasion, economics, in a way that the analysts of many other member states were not. Without being unfair to the Department of Foreign Affairs, which has limited resources, it was a significant assistance to that Department to know there were people in London, even including the European Union Committee of the House of Lords, examining these issues and looking around a few corners prospectively to examine what the implications might be for the United Kingdom. Those were often the same implications that would eventuate for Ireland if particular legislative projects were to be progressed. On one occasion, I, as Minister, was brought to the House of Lords to testify before its committee on European matters. I remember thinking it was like attending a *viva voce* defence of a doctoral thesis at Oxford or Cambridge. It was a wholly intimidating thing for an Irish Minister to do and something that does not often happen in Leinster House.

The answer on this issue is that we will have to up our game very substantially and the public service will have to realise it will have to bring in non-public servant contributions, including academics or other experts, on proposed legislation. One just cannot have a kind of bilateral relationship between an Irish Department of state and the European Commission and have things dealt with at a kind of ambassadorial level at the EU. Other member states use their domestic resources in a very active way.

I am going to make a slightly controversial point with which Mr. O’Ceallaigh may not agree. At least he can bat it down if he disagrees with it. One of our problems in the context of European matters is that we tend to use Jean Monnet professors as participants in public discussion. They are well versed in European law and have an interest in it and their terms of reference are kind of *communautaire*. We tend to rely on the European movement for commentary, analysis and criticism. We do not have sufficient devil’s advocate analysis of proposals coming from Brussels that would suggest that if something is done, there is a need to have regard to the potential consequences. What I am saying is that we are going to have a vacuum in terms of analysis and expertise, and a smaller concentration of persons with experience on an issue. We can rely on the Irish Farmers Association, IFA, to kick up a fuss if something is coming down the road in the agricultural sector but we cannot rely on many other bodies in civil society to become a part of the process unless they are invited to do so by the permanent government. That is my tuppence worth. I again thank Mr. O’Ceallaigh for participating.

Mr. Dáithí O’Ceallaigh: I thank the Senator. Before I come to his comments, I did not respond when I was asked earlier about the question of parliamentary scrutiny of EU legisla-

tion. That is critical. We could usefully look at the way in which the Finns scrutinise European legislation. They have a well-organised parliamentary system of scrutiny which has an effect on government policy. The Finnish Government is then held responsible to the Legislature. We in Ireland possibly do not have sufficient scrutiny of European legislation and so on by Parliament and it is all the more necessary now that the British have pulled out of the EU because, in a way, we were hiding behind British coat-tails. I happen to know the Finnish system because I lived and worked in Finland and it is very good.

It might surprise Senator McDowell when I say that I agree with everything he said.

Senator Michael McDowell: That is good.

Mr. Dáithí O’Ceallaigh: His idea of bringing in and consulting outsiders early on is a good one. I can think of half a dozen academics, some of them Irish but working in London, in that context. One occasionally sees those academics in the newspapers, including, for example, Professor Ronan McCrea. Dr. Diarmuid Torney from DCU is a climate change man and has written on that topic. There are experts in the universities and in places such as the Economic and Social Research Institute, ESRI, who could easily be brought in, not as civil servants, and told we have got hold of certain legislation and asked to take a look to see what they think. They could be used formally or informally in that regard. They could be used and brought in because there is no doubt that we do not have the capacity at the moment to scrutinise legislation and so on that is being done in the Commission or the European Parliament. We do not have sufficient capacity within the public service. There is now expertise out there. I would not dismiss the Jean Monnet people, who can be very good, but they are by no means the only people. There is expertise out there and, frankly, the Senator has made a very good suggestion.

Senator Michael McDowell: I thank Mr. O’Ceallaigh for that. I will add that the Cathaoirleach of the Seanad is proposing to hugely increase the role of the Seanad in looking at draft legislation from Europe. He deserves the support of the public service because, as Mr. O’Ceallaigh said, this is an area in which we are, by common consent, falling down a bit. I have not seen much effort being put into pre-legislative scrutiny of anything coming from Europe but the Cathaoirleach of the Seanad is anxious to address that, which is good news.

Mr. Dáithí O’Ceallaigh: I will add a bit to that. The Senator said he went over to the House of Lords. I must say I find it difficult to imagine him being intimidated by anybody. The work done on Brexit by the committees in the House of Lords during the past four or five years was astonishing. One of the reasons is that people in the House of Lords do not have to seek re-election and can, therefore, apply themselves and their expertise in a way that is much more difficult for a person who is seeking re-election. If the Cathaoirleach of the Seanad is of such of view, I think it is very good because it is scrutiny we need and before the thing becomes law. After it becomes law, we can do nothing about it.

Chairman: The secretariat and I were in shock that Senator McDowell would be intimidated. We were in agreement with Mr. O’Ceallaigh in his surprise.

Senator McDowell is correct about the Cathaoirleach’s suggestion. I and Senator McDowell are members of the Joint Committee on European Union Affairs and there is not enough capacity or time to do all that work on top of the other issues the committee has to work through. The Parliament needs to find some other way to undertake that scrutiny of EU legislation. It is a good suggestion.

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I thank Mr. O’Ceallaigh. It has been a robust exchange. He touched on a lot of areas where others have not yet dared to go and he has given us a lot to think about. Much of today’s engagement will form part of our report which we will publish before the summer recess.

The select committee adjourned at 4.07 p.m. *sine die*.