

A Touch of Frost to a Heated Atmosphere: Weeks 6-12 of implementing the Protocol on Ireland/Northern Ireland

This blog by Milena Komarova, Katy Hayward and Ben Rosher of Queen's University Belfast, is the second of a series that will be published every other month as part of a 'temperature gauge' of Brexit and the Protocol on Ireland/Northern Ireland, with a particular focus on its impact on borders and cross-border cooperation. The research behind it is funded by the Reconciliation Fund of the Department of Foreign Affairs, as part of the Border Catalyst project, led by the [Irish Central Border Area Network](#).

UK unilateral action, EU reaction

A new phase in the embryonic operation of the Protocol on Ireland/Northern Ireland opened on 3rd March. Needless to say, it was a contentious one. Via a [statement](#) from the Secretary of State for Northern Ireland, the UK Government announced a unilateral extension of the grace periods which had been [agreed](#) with the EU as a means of allowing time to adjust to some of the most demanding trade aspects of the Protocol. Coming after a few weeks of [contradictory statements](#) between the UK and EU regarding the implementation of the Protocol, this was a dramatic move.

It was the first action taken by Lord David [Frost](#) in his new role replacing Michael Gove MP as co-chair of the UK-EU Joint Committee responsible for overseeing the Protocol. The reaction from the EU was swift and clear. The [European Parliament](#) reacted by postponing the setting of a date to ratifying the Trade and Cooperation Agreement. And the [European Commission](#) announced the beginning of formal infringement proceedings against the UK, for breaching the international law and not acting in good faith. In a five page letter to his UK co-chair, Commission Vice President [Maroš Šefčovič](#) urged the UK to resolve issues together through the Joint Committee and to provide the Union a credible roadmap.

The week of St Patrick's Day was also the one in which the US turned attention to the debate. A [resolution was introduced in the US Senate](#) reaffirming support for the Belfast/Good Friday Agreement and for the Protocol. Indeed, President Joe Biden expressed [support](#) for the Protocol as 'something that was legally binding, that was agreed to by both sides...as a way to manage the practical challenges around the EU Single Market while preventing a return to a hard border'.

Opposition to the Protocol

The legal route is also getting popular for those concerned about the Protocol from a different perspective. This includes a case from the DUP on the grounds that the Protocol is [incompatible](#) with existing law. And a number of unionist leaders, including Lord Trimble, are joining with Baroness Kate Hoey and former Brexit Party MEP, Ben Habib, in challenging '[the way in which Northern Ireland will be asked to provide consent for the protocol continuing or ending in 2024](#)'.

In an action which was picked up by European media in late February, the acting NI Minister of Agriculture Gordon Lyons MLA cited 'practical barriers and legal uncertainties' as he called a halt to the [construction of border control posts and recruitment of port staff](#) for conducting Protocol-related checks. The following week the Brexit spokesman of his party, Sammy Wilson MP, stated the DUP's determination to '[fight guerrilla warfare against this, until the big battle opportunity comes](#)'.

Certainly, the fallout from Brexit and the Protocol has involved a growing sense of insecurity these past six weeks. [Posters continued to appear in loyalist areas](#) threatening violence if the sea border is not removed and papers reported widely on simmering [frustration among loyalist communities](#) and risk of violence. The Loyalist Communities Council wrote to the Prime Minister to [inform him that they had withdrawn their support of the Belfast Good Friday Agreement](#). [Graffiti threatening Cabinet minister Michael Gove](#) appeared in Belfast along with his address, and [threats were made by loyalist paramilitary groups](#) that 'nobody is off limits'. Towards the end of March, Tánaiste Leo Varadkar TD was given round-the-clock garda protection after '[a series of 'credible threats'](#) were made on his life.

In a positive piece of news against this background, NIO minister Robin Walker MP assured the NI Affairs Committee in Westminster that cross-border [policing cooperation between the PSNI and the Garda was operating effectively](#) post-Brexit and that 'Exchanging information continues to work very effectively and in a timely manner'.

Disruption and adjustment in trade

Disruption in the movement of goods from GB to NI continued in the period. The burden in time, resources and complexity caused by new paperwork for goods entering NI from GB was illustrated by one [business person](#), who explained that bringing in six cases of a sweet sauce required 'six forms and 26 manual entries' in the customs declaration, which is further complicated by 'computer errors on the system'. He was not alone in criticising the government's messaging on the issues involved. Some [companies criticised](#) government suggestions that there was nothing preventing the transport of parcels to Northern Ireland, pointing out the late confirmation of parcel regulations that had prevented large businesses from adapting on time their technology programmes and IT systems.

A different example of the impact of NI following EU rather than GB rules was seen in the announcement that [some tobacco brands were being withdrawn from sale in NI](#) as, 'post-Brexit, tobacco products in Northern Ireland must carry an EU health warning, which is different from Britain'. In evidence to the NI Affairs Committee, Andrew Lynas of the NI catering supplier, said that as a result of the Protocol he was [ordering less from British firms and more from Ireland and the EU](#). One illustration of this was the news that NI vegetable producer 'Mash Direct' had secured [a contract to supply M&S stores in the Republic of Ireland](#).

Another sign of redirection of post-Brexit trade was reflected in [figures issued by Ireland's Central Statistics Office](#), which showed a 75 per cent decline in food and live animals trade, with imports into the Republic of Ireland from Britain 'falling from €187m (£160m) to €62m year on year this January'. A [comprehensive analysis of trade data between GB and Ireland](#) found that 'Freight volumes from Welsh ports into Ireland fell by 65% in February compared

to same month last year'. This is despite the [head of Irish Revenue's customs operations stating](#) that only 4 per cent of trade entering Ireland from GB is 'red routed' and requires physical checks. A [fourth ferry](#) was added to the Rosslare-Dunkirk route in March as the number of sailings per week has risen from 6 to 36 post-Brexit.

North-South cooperation

Figures on imports from Northern Ireland, across the land border, were [said to be](#) 'buoyant by comparison' to those from across the Irish Sea, having increased to €177m from €161m in January 2020. Nevertheless, Cavan-Monaghan TD and chair of the British-Irish Parliamentary Assembly, Brendan Smith, [warned](#) that east-west problems would also affect north-south: 'Trade disruption in Northern Ireland means trade disruption throughout all of the island'. Also in recognition of the all-island economy, the Irish Business and Employers confederation (IBEC) argued that [investment in the North-West needs to be prioritised](#) 'to address the adverse effects of COVID and Brexit, as well as the legacy of under-investment, which has left the region lagging behind other parts of the country'.

Similarly, of particular interest in the North-West is the provision of cross-border healthcare. A senior official in Ireland's Department of Health [reassured](#) people that 'cardiology and cancer treatments in Altnagelvin and the paediatric cardiology and related maternity services in Dublin continue to operate on a cross-border, all-island basis'. Assurance on cross-border healthcare was also issued by [Medicines for Ireland \(MFI\)](#) which said it does not currently anticipate issues with regard to the supply of medicines in Ireland. However, it did express concern at 'the temporary nature of some of the current measures employed by the [Irish] Government' post-Brexit, 'as they are not sustainable moving forward'.

The most pressing cross-border issues appear to be in relation to the registration of workers, the lack of mutual recognition of qualifications and insurance liability cover, recognising that neither the UK-EU deal nor the Protocol cover these matters. SDLP MLA Matthew O'Toole highlighted that [NI cross border healthcare workers are required to register in the south by 1st April](#). Legal requirements for 'dual registration' of staff involved in all-island services, with the process to be completed by March 31, raised concerns around [the impact of Brexit on vulnerable young people who require cross border care](#) by social workers.

Finding a roadmap

In its final report (22 March) before its disbandment, the [Lords EU Select committee warned](#) that 'the Brexit deal signed in December has been thrown into jeopardy because of the recent breakdown of relations with the EU'. It stated that 'It is incumbent on both sides to approach the new relationship constructively, in good faith, with the aim of rebuilding trust'. At the end of a tumultuous twelve weeks, there is some sign of moves in this direction.

The UK-EU Specialised Committee for the Protocol on Ireland/Northern Ireland met on March 26th for the seventh time. Following the meeting [the UK government released a statement](#) saying that the meeting 'took place in a constructive atmosphere'. The statement finished 'The

UK continues to be clear that the operation of the Protocol must take place in a proportionate and pragmatic way, capable of maintaining cross-community confidence’.

For its part, [the EU released a statement](#) echoing the ‘constructive atmosphere’ and repeating that the UK needs to provide ‘a credible roadmap, with clear deliverables and milestones for the implementation of the relevant rules and requirements of the Protocol’. This is something that the UK had already [promised](#) to provide, and indeed [reportedly](#) did so on 30 March, just within the deadline. In our next blog, we will be able to see if the roadmap was deemed sufficient enough to offer a path to improved economic and political stability.