

The need for Regulatory impact assessment: “Challenges at the Ireland-Northern Ireland border”

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Cross Border Studies

Initial reaction...



Evidence-based policy-making

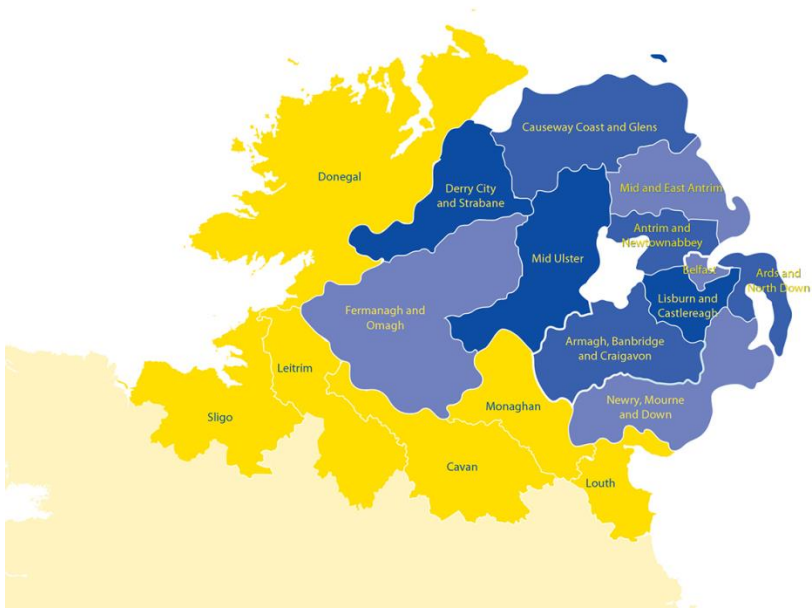


- ▶ When assessing impact, how do we react to a divided political context where “evidence” is highly contested?
- ▶ What is our responsibility?



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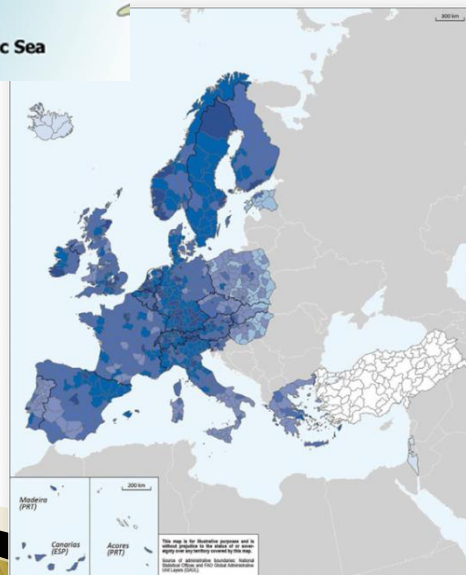
The geography of cooperation



The Ireland-Northern Ireland Border: A Multi-Directional Regulatory Context



- ▶ EU
- ▶ Dublin
- ▶ London
- ▶ [Belfast –
Unionist/Nationalist]



Time for a change, or not?

An example of the multi-directional context

- ▶ Ireland as MS
- ▶ “Time” is a devolved area to Northern Ireland – not to Scotland or Wales
- ▶ Who aligns with who?
- ▶ Impact on cross-border workers, employers, service providers.

Brussels, 12.9.2018
COM(2018) 639 final
2018/0332(COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

discontinuing seasonal changes of time and repealing Directive 2000/84/EC

(Text with EEA relevance)

{SWD(2018) 406 final}

EXPLANATORY MEMORANDUM

The Ireland-Northern Ireland Border: Which regulatory framework?

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BRIEFING PAPER

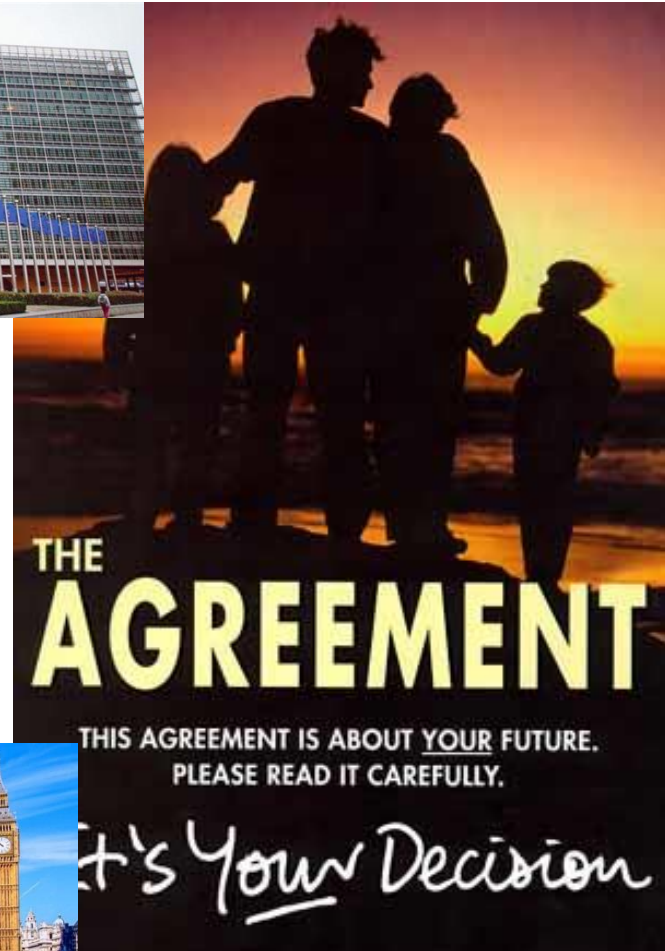
Number 7661, 9 June 2017

The Common Travel Area, and the special status of Irish nationals in UK law

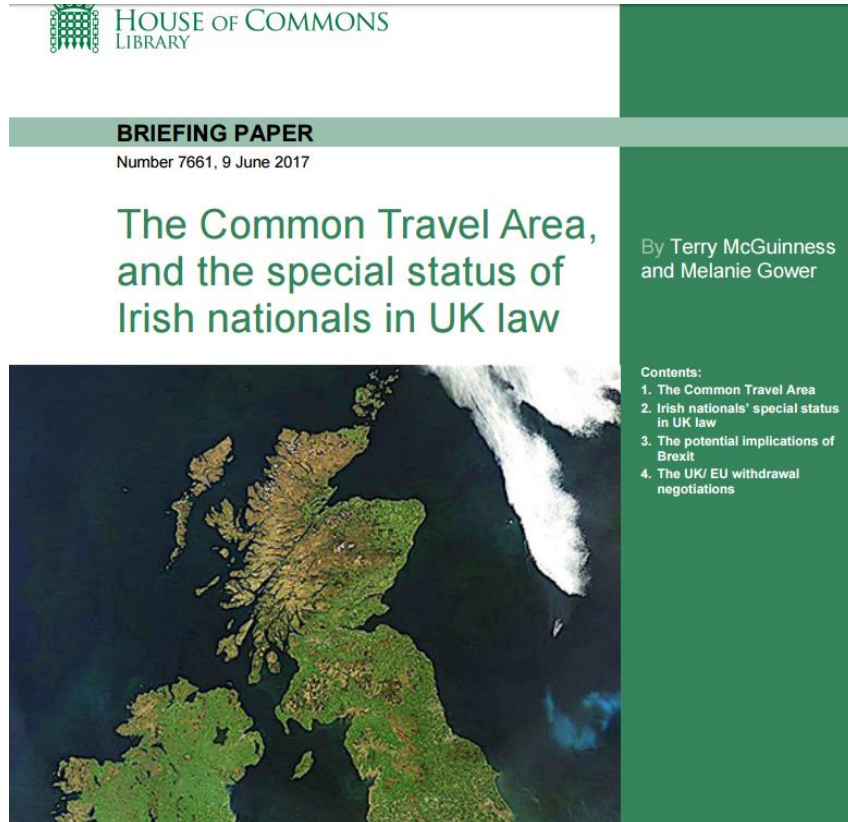
By Terry McGuinness
and Melanie Gower

Contents:

1. The Common Travel Area
2. Irish nationals' special status in UK law
3. The potential implications of Brexit
4. The UK/ EU withdrawal negotiations

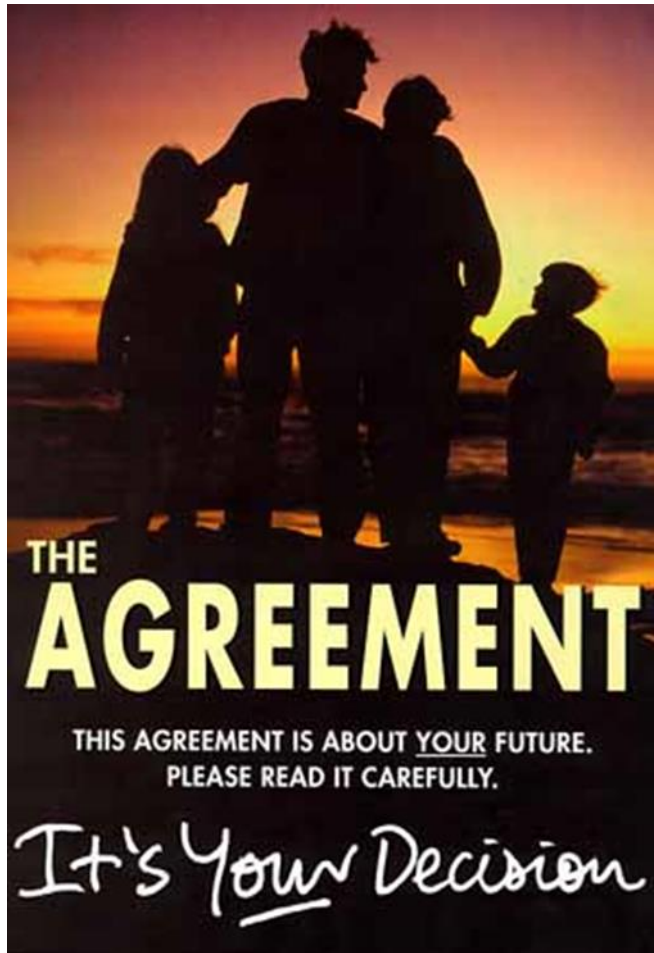


The Ireland-Northern Ireland Border: Common Travel Area



- ▶ “The Common Travel Area (CTA) is a special travel zone between the Republic of Ireland and the UK, Isle of Man and Channel Islands. It dates back to the establishment of the Irish Free State in 1922”.

The Ireland-Northern Ireland Border: Strand 2 of the Good Friday Agreement



- ▶ “North/South Ministerial Council to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, **to develop consultation, co-operation and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the Administrations, North and South**”.

Scoping 142 areas of North-South cooperation under EU regulatory framework

NORTH-SOUTH COOPERATION: SCOPING EXERCISE

	GFA underpinning	Area of North-South cooperation	Description	Indicative categorisation	EU legal/policy base	Separate UK legal base and wider obligations	CTA as core/partial facilitator
1	Cross-border implementation body	Special EU Programmes Body	Established by the Implementation Bodies treaty between the UK and Ireland, which is given legal effect in domestic law either side of the border. Responsible for the implementation of the EU's PEACE IV and INTERREG VA Programmes". The North-South Ministerial Council makes decisions on policies and actions to be implemented by the SEUPB.	Directly underpinned by or linked	The Common Provisions Regulation (EU Regulation 2013/1303); European Territorial Cooperation (ETC) Regulation (EU Regulation 2013/1299).	Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland done at Belfast on 10 April 1998; Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing Implementation Bodies, done at Dublin on 8 March 1999; Exchange of Letters dated 8 March 1999 constituting a supplementary Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland concerning the Interpretation of Certain Terms of the Implementation Bodies Agreement signed at Dublin on 8 March 1999; Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing a North/South Ministerial Council, done at Dublin on 8 March 1999.	N/A
2	Cross-border implementation body	Foyle, Carlingford and Irish Lights Commission/Loughs Agency	Established by the Implementation Bodies treaty between the UK and Ireland, which is given legal effect in domestic law either side of the border. The Loughs Agency (the Agency) aims to provide sustainable social, economic and environmental benefits through the effective conservation, management, promotion and development of the fisheries and marine resources of the Foyle and Carlingford Areas. These functions are as follows: -Promotion of development of Lough Foyle and Carlingford Lough for commercial and recreational purposes in respect of marine, fishery and aquaculture matters;	Partially underpinned or linked	The existence of the implementation body itself is underpinned by UK-Irish Treaties rather than EU law. Within the scope of the Commission and Loughs Agency's work, some areas such as promoting tourism and inland fisheries do not engage EU frameworks, though other aspects of its work are directly underpinned by EU frameworks (see other entries on aquaculture, invasive alien species and aspects of environmental cooperation). The separate entry on the voisinage agreement in relation to fisheries is also important to note in this context.	Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland done at Belfast on 10 April 1998; Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing Implementation Bodies, done at Dublin on 8 March 1999; Exchange of Letters dated 8 March 1999 constituting a supplementary Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland concerning the Interpretation of Certain Terms of the Implementation Bodies Agreement	N/A

Scoping cooperation under EU regulatory framework: CCBS in the frame

DRAFT: This information has been communicated in confidence and should not be released without prior written agreement by the UK Government.

NORTH-SOUTH COOPERATION: SCOPING EXERCISE

	GFA underpinning	Area of North-South cooperation	Description	Indicative categorisation	EU legal/policy base	Separate UK legal base and wider obligations	CTA as core/partial facilitator
109	Cooperation beyond NSMC (public services)	Obstacles to Cross Border Mobility (Border People Project)	A project established by the Centre for Cross Border Studies to provide a resource to deal with queries arising as a result of people crossing the border for various purposes (work, recreation, education, retirement etc).	Partially underpinned or linked	The project was initially funded in 2007 by the EU PEACE Programme and then developed with EU INTERREG funding. It is currently funded by the Department of Foreign Affairs and Trade's Reconciliation Fund (Ireland). In relation to the Common Travel Area - Protocol (No 20) on the application of certain aspects of Article 26 of the Treaty of the Functioning of the European Union to the United Kingdom and to Ireland.	Common Travel Area (the formalised legal status is provided for by the Ireland Act 1949, s2(1) and the Immigration Act 1971, s1(3)).	Yes
110	Cooperation beyond NSMC (public services)	Cross-border Working Group on Fire Services	A working group to develop cooperation and joint working on the Fire Service within the island of Ireland.	Not underpinned by or linked		Informal arrangements and collaboration	N/A
111	Cooperation beyond NSMC (local councils)	All-Island Local Authority Programme	Joint funding by Department for Communities (Northern Ireland) and Ireland to support the delivery by cooperation Ireland of the All Island Local Authority Programme. The Programme has provided leadership and practical cooperation between local government in Northern Ireland and Ireland, through joint projects, seminars and the production of research publications as well as the facilitation of networking within local government in both jurisdictions.	Not underpinned by or linked		Informal arrangements and collaboration	N/A
112	Cooperation beyond NSMC (local councils)	Local authority led cross-border engagement	Formal and informal engagement between local City & District Councils in Northern Ireland and County Councils in Ireland, both at a political Councillor level and an official/operational level. They provide strategic support on key cross-border regional development issues which relate to	Not underpinned by or linked		Informal arrangements and collaboration	N/A

Common UK frameworks: The need for cross-border impact assessment



- ▶ **“The UK Internal Market.**
The UK Government continues to seek development of a shared approach to the UK Internal Market with the devolved administrations, and, alongside the work being undertaken by policy teams, we are considering how to manage internal market issues across framework areas”.



Common UK frameworks: The need for cross-border impact assessment

- ▶ **“Trade and international obligations.** Although frameworks are domestic structures, they will need to be adaptable to future international trade deals and other international obligations which will require ongoing flexibility”.
- ▶ **“Northern Ireland.** Northern Ireland has a unique position as an integral part of the UK economy and, in several sectors, simultaneously part of the all-Ireland economy. This creates some specific challenges for those frameworks involving NI”.

Border? What border?



- ▶ “Our manifesto committed to establishing a UK Shared Prosperity Fund to reduce inequalities between communities ***across our four nations***, once we have left the European Union and EU Structural Funds” (July 2018).



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Our work continues...

- ▶ “Collaborating for Common Success”



An Roinn Gnóthaí Eachtracha
agus Trádála

Department of Foreign Affairs
and Trade

- ▶ How the Strand 2 bodies and areas of North-South cooperation may be affected by shifts towards UK-wide policies in areas previously considered to be devolved competences. This shift will become particularly acute in respect of the “repatriation” of powers from the EU to the UK, and the degree of difficulty facing North-South cooperation will depend on any regulatory divergence between the two jurisdictions on the island of Ireland.

Thank you!

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