



Brexit: what next in 2020?



Prof David Phinnemore (@DPhinnemore)

Brexit in 2020 = Transition

... but to what?

**Implementing the Withdrawal Agreement... and the
Protocol on Ireland/Northern Ireland**

**Negotiating the UK-EU 'partnership': free trade
agreement ... and more?**

**An extendable transition: one or two year extension
possible... before 1 July 2020**


Implementing the Protocol on Ireland/Northern Ireland

Formalities, Checks and Controls on the Movement of Goods between Northern Ireland and the rest of the UK

▶▶ PROTOCOL ON IRELAND AND NORTHERN IRELAND ▶▶

Examples of trade flows: customs and regulatory checks

EXAMPLE 1: Great Britain to Northern Ireland



- **LIVERPOOL**
Exit modalities / formalities (if any) for UK to determine.
- **BELFAST**
EU import formalities (incl. entry summary declaration and customs declaration) and checks

Relevant authority

- UK authorities will apply relevant EU rules and carry out any checks required.
- EU institutions have same oversight as today (e.g. full ECJ competence).
- In addition, EU representatives have the right to be present during checks, request information, and direct UK to carry out checks.

Checks and controls of product safety


- Live animals, animal products and plants: systematic SPS (sanitary and phytosanitary) checks at entry point.
- Industrial products: risk-based checks at entry point

Tariffs

- No tariff: if good is not subject to commercial processing and not at risk of entering the EU.
- EU tariff: if good is subject to commercial processing or at risk of entering the EU.
- Joint Committee will set out criteria for when a good is not "at risk" of entering the EU and will not be subject to EU tariffs.

Other


- EU legislation on VAT and excise applies.




▶▶ PROTOCOL ON IRELAND AND NORTHERN IRELAND ▶▶

Examples of trade flows: customs and regulatory checks

EXAMPLE 2: Northern Ireland to Great Britain



- **BELFAST**
EU export formalities/ pre-departure declaration
- **LIVERPOOL**
Entry modalities / formalities (if any) for UK to determine in accordance with international obligations (World Trade Organisation, Free Trade Agreements, etc.).



Implementing the Protocol on Ireland/Northern Ireland

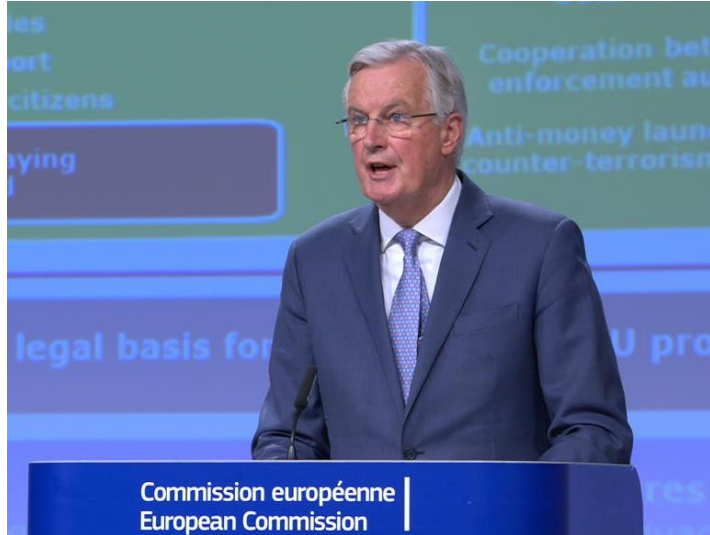
Four Sets of Decisions for the UK-EU Joint Committee

1. Goods: which goods are to be exempted from tariffs on entering Northern Ireland from the rest of the UK – which goods are not ‘at risk’ of onward movement into the EU?
2. Fish: conditions under which fish and ‘other aquaculture products’ can enter the EU’s customs territory
3. Agriculture: level of permissible agricultural subsidies the UK can make available to producers in Northern Ireland
4. Practical working arrangements for EU officials involved in the implementation of the Protocol

Issue for UK Government:

What level of involvement for Northern Ireland in the Joint Committee, Specialized Committee and Joint Consultative Working Group?

Negotiations on the post-transition UK-EU Relationship



UK: “The Government wishes to see a future relationship based on friendly cooperation between sovereign equals ... It cannot therefore include any regulatory alignment, any jurisdiction for the CJEU... or any supranational control in any area... This points to a suite of agreements of which the main elements would be a comprehensive free trade agreement covering substantially all trade... agreement[s] on fisheries... internal security... areas such as aviation or civil nuclear cooperation” (HCWS86, 03.02.2020)



EU: “The scope of the partnership envisaged in this recommendation is comprehensive [and] includes all areas of interest outlined in the Political Declaration: trade and economic cooperation, law enforcement and judicial cooperation in criminal matters, foreign policy, security and defence, participation in Union programmes and thematic areas of cooperation. The Commission stands ready to achieve as much as possible of this during the transition period” – *Draft EU Negotiating Directive*, 03.02.2020

EU: “The negotiations of the envisaged partnership should be premised on the effective implementation of the Withdrawal Agreement and of its three Protocols. In this context, the envisaged partnership should continue to protect the Good Friday or Belfast Agreement reached on 10 April 1998 by the United Kingdom Government, the Irish Government and the other participants in the multiparty negotiations in all its parts, in recognition of the fact that the peace process in Northern Ireland will remain of paramount importance to the peace, stability and reconciliation on the island of Ireland” – *Draft EU Negotiating Directive*, 03.02.2020

**** Agreement needs to be agreed and ratified before 31 December 2020 ****

Services and People Movement in Northern Ireland after the UK left the EU

Prof Dagmar Schiek

@dschiek

d.schiek@qub.ac.uk

1. Potential change after 2020 (end of transition)
2. Diverging from the EU, not the UK → future relationship is decisive
3. Using Article 11 Protocol Ireland/Northern Ireland as a bridging mechanism?

Main paradigms of the future economic relationship

Degree of market access	Intensity of level playing field	Governance	Guiding paradigm
Non-discrimination only, MFN applies fully	None	Joint Committee, arbitration, trade remedies	WTO (now called Australia)
Non-discrimination only, MFN with exceptions, zero or reduced tariffs, regulatory cooperation	Chapters on environmental protection, labour rights, public procurement and subsidies	Joint committee, arbitration, trade remedies potentially investor protection court	CETA , see also Armenia (although in EU neighbourhood
Market access in selected areas , commitments to harmonise with EU (or maintain harmonisation)	Chapters as above, plus dedicated maintenance of specific EU standards	Joint committee, arbitration, ECJ retains autonomy to interpret those clauses with resemble EU law	EU's neighbourhood, e.g. Ukraine, Moldova, Georgia

Ambition for services



EUROPEAN
COMMISSION

Brussels, 3.2.2020
COM(2020) 35 final

- 32: “level of liberalisation in trade in services going beyond (...) WTO commitments” 33: under GATS V this means substantial sectoral coverage over all modes of supply. However, limited to ban discrimination, and subject to “exceptions and limitations as appropriate”, in particular governmental activities, audio-visual services, and services of general interest. 34: market access under host state rule
- 39: regulatory cooperation to be voluntary, aims to negotiate framework for recognition of professional qualifications

*Services to become
much less mobile
than under EU law.
Recognising
professional
qualifications will take
time.*

*This inhibits the
continued
operation of all island
professional practice in
fields such as
legal, accountancy and
medical services
beyond the narrow
confines of the Common
Travel Area*

Ambition on person mobility

- 53 Visa-free travel for short term stays on basis of reciprocity and non-discrimination
- 54 Special visas for research, study, training and youth exchange
- 55 Social security coordination in view of future movement of persons
- 56 CTA to continue, if not inhibiting Ireland's compliance with EU law (i.e. no better conditions for UK citizens in Ireland than for EU citizens)
- 35 Entry and temporary stay of natural persons for business purposes in defined areas – but parties may apply national requirements regarding entry and stay without nullifying benefits from envisaged partnership. EU working conditions and workers' rights apply

Immigration of EU citizens (except Irish) into NI seriously limited

Population in NI



96,000 people
resident in NI who were born in EU27 (5.1% of population)

62,000 workers
resident in NI who were born in EU27 (7.3% of workers)



2,100 births
in NI each year to mothers who were born in EU27 (9.2% of all births)

Follow this link for the relevant data sources

NISRA

Last week's MAC report notes a 26% decrease of EU **26** migrant workers in Northern Ireland from 2016-2019 (down to 40,000 from 54,000)

Is there any foothold in the Protocol Ireland/Northern Ireland to go further?

- Article 11 (1): stresses the areas highlighted in the 1998 Agreement, which include service-related fields: health, transport, tourism, telecommunication, broadcasting
- Article 11 (2) requires the Joint Committee to “keep under constant review the extent to which the implementation and application of this Protocol maintains the necessary conditions for North-South cooperation”. Upon recommendation of the Specialised Committee, it may make appropriate recommendations...
- ➔ expansion of the Protocol is not excluded, but requires consent of all.
- ➔ unlikely to happen during negotiation of future relationship

More advantageous for NI to remain in internal market for services

EU Exit and Impacts on Northern Ireland's Services Trade Services Trade Restrictiveness Index (STRI) Project: Overview and Final Results

"It has been agreed that NI will have Customs Union/Single Market type arrangement with the EU with respect to the movement of goods, unlike the rest of the United Kingdom. This arrangement necessitates the provision of level playing field arrangements in the all-island economy. Under existing arrangements, competitors in Ireland will have access to EEA labour without any minimum salary conditions, giving a serious competitive advantage and risks businesses moving operations to ROI."

Representative organisation, multiple sectors represented, Northern Ireland.

MAC report 1/20, no 8.22 – quoted as stake holder reaction

Environment during the transition period

Dr Viviane Gravey

@VGravey

v.gravey@qub.ac.uk

1. What changes during the transition?
2. A full domestic legislative agenda
3. Environment in the future relationship

1. What changes during the transition period?

“Virtually nothing will change for businesses or for the public” [NL Government, 2020](#)

Polity Impacted	Policy Outcome	
	Negative	Positive
EU	EU policy diluted by UK membership Air quality Fracking Energy efficiency Soils EU Emissions Trading System (ETS) (early)	EU policy strengthened by UK membership Climate change (targets, recent EU ETS, and external policy, but <i>not</i> renewables or energy efficiency) Common Agricultural Policy (CAP) Common Fisheries Policy (CFP) Integrated Pollution Prevention and Control (IPPC)/ Industrial Emissions Directive (IED) Habitats (early)
UK	UK diluted by EU CAP CFP Biofuels	UK strengthened by EU Bathing water Drinking water Air quality Recent wildlife protection (<i>except</i> farm birds) Waste Renewables Chemicals Genetically modified organisms (GMOs) Fracking Environmental impact assessment (EIA)

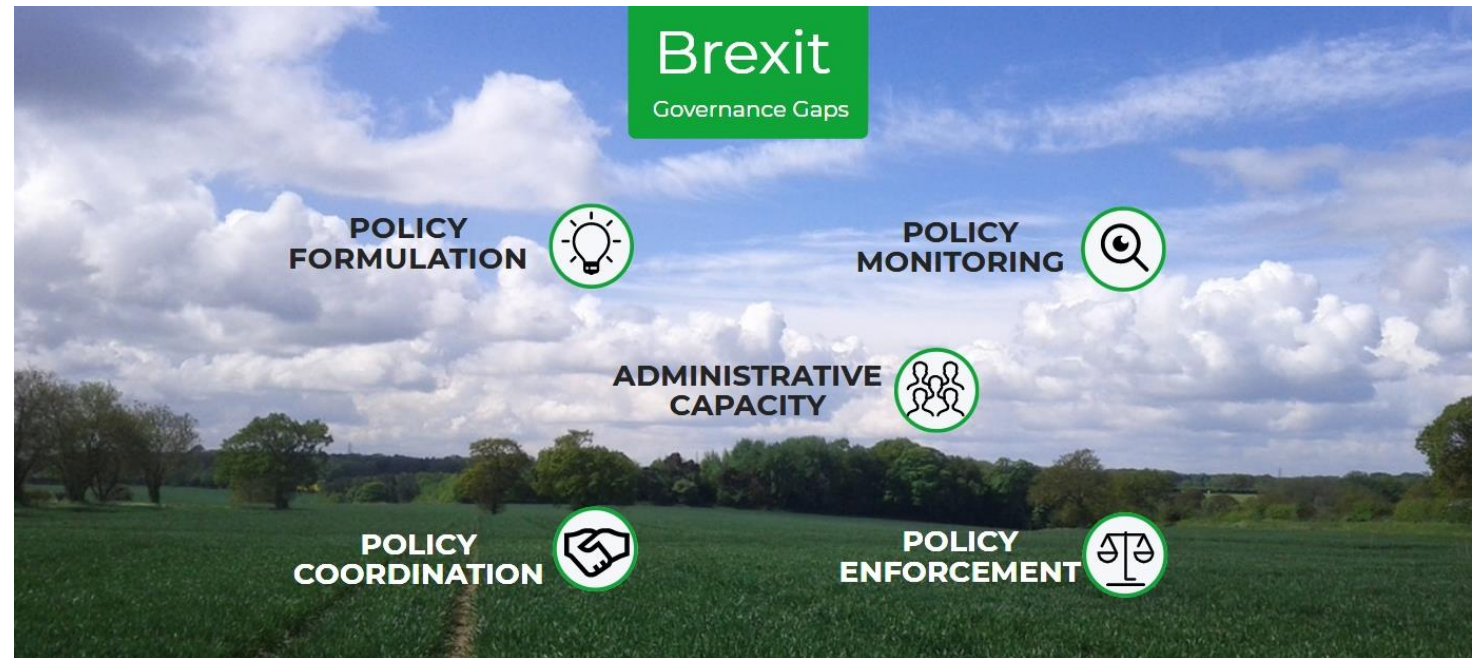
[Hilson, 2018](#)

2. A full domestic legislative agenda

1. Agriculture Bill

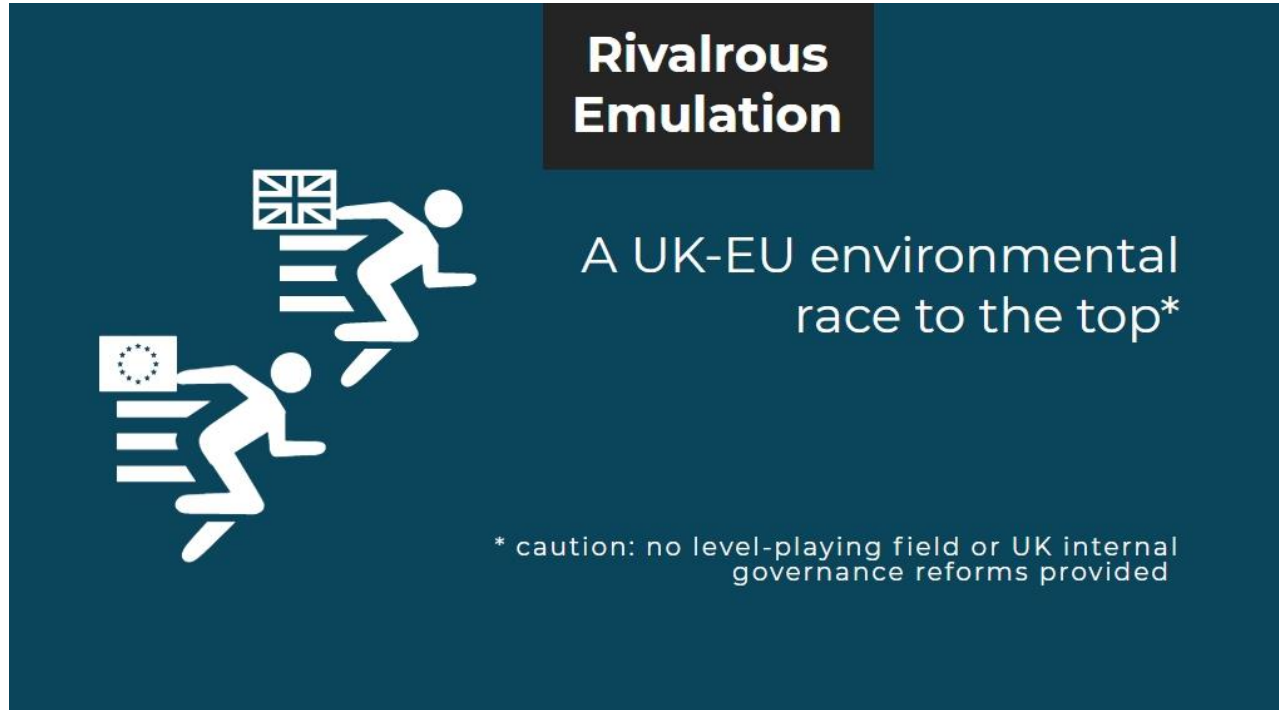
2. Environment Bill

3. Fisheries Bill



....And what about Northern Ireland?

3. Environment in the future relationship



Profound disagreement between UK and EU on level playing field requirements – need and practicalities.

UK's approach is environmental ambition, built on political commitments not legally binding certainties

- *PM Speech in Greenwich*, 3 February 2020: <https://www.gov.uk/government/speeches/pm-speech-in-greenwich-3-february-2020>
- *UK/EU relations: Written statement*, House of Commons, HCWS86, London, 3 February 2020: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-02-03/HCWS86/>
- European Commission, *Questions & Answers on the draft negotiating directives for a new partnership with the United Kingdom*, Brussels, QANDA/20/179, Brussels, 3 February 2020: https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_179
- European Commission, *Statement by Michel Barnier at the presentation of the Commission's proposal for a Council recommendation on directives for the negotiation of a new partnership with the UK*, SPEECH/20/185, Brussels, 3 February 2020: https://ec.europa.eu/commission/presscorner/detail/en/speech_20_185
- European Commission, *Future EU-UK Partnership: European Commission takes first step to launch negotiations with the United Kingdom*, IP/20/176, Brussels, 3 February 2020: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_176
- European Commission, *Draft Negotiating Mandate – Legal Text*, COM(2020) 35 final, Brussels, 3 February 2020: <https://ec.europa.eu/info/sites/info/files/communication-annex-negotiating-directives.pdf>