**NICVA briefing on the UK Government’s Brexit position paper on Northern Ireland and Ireland**

**August 2017**

On 15 August 2017, the UK Government released its position paper on how the ‘unique circumstances’ of Northern Ireland and Ireland should be addressed in the Brexit process. The paper outlines proposals under the following four areas –

● Section 1: Upholding the Belfast (‘Good Friday’) Agreement in all its parts

● Section 2: Maintaining the Common Travel Area and associated rights

● Section 3: Avoiding a hard border for the movement of goods

● Section 4: Aiming to preserve North-South and East-West cooperation, including on energy

**Section 1: Upholding the Belfast (‘Good Friday’) Agreement in all its parts**

Key proposals

The paper includes the following key proposals -

* affirm the ongoing support of the UK Government and Irish Government, and the European Union, for the peace process;
* formally recognise that the citizenship rights set out in the Belfast (‘Good Friday’) Agreement will continue to be upheld; and
* agree to the continuation of PEACE funding to Northern Ireland and border counties of Ireland to 2020, and explore a potential future programme post 2020

*NICVA response and comments*

* *NICVA welcomes the paper’s recognition of the potentially profound implications of Brexit for the peace process and stability in Northern Ireland*
* *NICVA also welcomes the UK government’s desire to protect the identity and citizenship rights afforded by the Good Friday Agreement and the intention that EU rights should be enjoyed by citizens residing in Northern Ireland conferred by their rights to Irish citizenship under the Good Friday Agreement*
* *The proposals in the paper raise the following questions:* 
  + *Will all NI citizens enjoy EU citizen’s rights whether they choose to actively (e.g. though passport) acknowledge their right to Irish (and therefore EU) citizenship or not?*
  + *Does “will continue to enjoy rights as EU citizens” mean full rights, or limited in any way e.g. subject to restrictions which would apply to non-EU resident EU citizens?*
* *NICVA welcomes the proposed continuation of PEACE funding to 2020 (in line with previous commitments to fund current commitments under all EU structural funds programmes) and to explore a potential post 2020 programme. We would also welcome a comprehensive process of engagement with the voluntary and community sector in developing plans not only for a further PEACE programme, but also for future domestic programmes to target issues and communities previously targeted by a range of EU programmes*

**Section 2: Maintaining the Common Travel Area and associated rights**

Background

* The Common Travel Area (CTA) is a special border-free zone comprising the UK, Ireland, the Channel Islands and the Isle of Man.
* The CTA was formed before either the UK or Ireland were members of the EU and means that reciprocal rights for Irish and UK citizens operate separately and alongside those rights afforded to EU nationals

Key proposals

The paper includes the following key proposals -

* The paper highlights that the CTA has been recognised in EU law - “*Existing bilateral agreements and arrangements between Ireland and the United Kingdom, such as the Common Travel Area, which are in conformity with EU law, should be recognised*” (<https://ec.europa.eu/commission/publications/negotiating-directives-article-50-negotiations_en>) and that there are other precedents for EU law recognising long-standing historical arrangements between countries (e.g. between Belgium and Luxembourg)
* Key rights afforded under the CTA and UK/Irish reciprocal arrangements include:
  + the right to enter and reside in each others’ state without being subject to a requirement to obtain permission;
  + the right to work without being subject to a requirement to obtain permission;
  + the right to study;
  + access to social welfare entitlements and benefits;
  + access to health services; and
  + the right to vote in local and parliamentary elections.

Key proposals

The paper includes the following key proposals -

* The UK and the EU should seek to agree text for the Withdrawal Agreement that recognises the ongoing status of the CTA and associated reciprocal arrangements following the UK’s exit from the EU.
* Future development of the UK immigration system will not impact on current rights to enter the UK from within the CTA free from routine border controls and will support the preservation of the rights of British and Irish citizens as enjoyed today
* The UK’s future operation of its whole border and immigration controls for EEA nationals (other than Irish nationals) can only be addressed as part of the future relationship between the UK and the EU in the next phase of the negotiations
* Through immigration control mechanisms such as access to the labour market and social security, the UK government is confident it will be able to maintain existing movement to the UK from within the CTA without requiring border controls

*NICVA response and comments*

* *NICVA welcomes the intention to protect the CTA and associated reciprocal rights ‘to preserve the rights of British and Irish citizens as enjoyed today’*

**Section 3: Avoiding a hard border for the movement of goods**

Key proposals

The paper includes the following key proposals -

* The UK/EU dialogue should focus, at the earliest opportunity, on the issues most critical to delivering as frictionless and seamless a border as possible, i.e.:
  + customs arrangements;
  + and checks and processes on particular goods, such as Sanitary and Phytosanitary measures for agri-food
* Potential models for the land border should be developed on the basis of **nine key principles** and criteria relating to –
  + The avoidance of a hard border and any visible border infrastructure
  + Respecting the provisions of the Belfast (‘Good Friday’) Agreement
  + Recognising the unique nature of the land border
  + Preventing the creation of new barriers to doing business
  + Addressing other regulatory and customs-related barriers (e.g. through waivers)
  + Addressing the transit of goods to and from Ireland to the rest of the EU via the UK
  + Protecting the integrity of both the EU Customs Union, Single Market and trade policy, and the new independent UK customs regime, internal market and trade policy, while recognising that the solution will need to go beyond any previous precedents
  + Taking account of the importance of UK/Irish trade and avoiding economic harm to Ireland as an EU Member State.
  + Agreeing at an early stage a time-limited interim period to allow for a smooth and orderly transition
* As outlined its separate Brexit position paper on Customs arrangements released on 15 August, the UK Government is proposing two broad approaches to a future UK/EU customs, namely:
  + A ‘highly streamlined UK/EU customs arrangement’ – with ‘negotiated facilitations to reduce and remove trade barriers’, and ‘technology-based solutions’
  + New customs partnership between the UK and EU – a potential approach being for the UK to mirror the EU’s requirements for imports from the rest of the world where their final destination is the EU
* Exemption for smaller traders – the paper proposes exempting smaller traders from customs obligations on the basis that they represent local trade in local markets rather than significant international trade
* Streamlining of requirements for larger companies – the paper outlines a number of suggested mechanisms that might be used to streamline and simplify custom requirements for larger companies, such as reduced declaration requirements and periodic payment of duty
* The paper acknowledges, with regard to the proposal for a new customs UK/EU partnership, that this would be an ‘innovative and untested approach that would take time to develop and implement’ and indicates it is keen to explore this approach with business and other stakeholders to understand the practical complexities involved in making it work
* The paper indicates that UK government would not accept the idea, proposed by some, of imposing a customs border between Northern Ireland and Great Britain as a way of avoiding a hard border on the island of Ireland, because of both the implications of this for the Northern Ireland economy and the constitutional implications on any customs barriers within the UK
* The paper also highlights the importance of an interim period to allow a smooth transition to new arrangements and avoid a cliff-edge

*NICVA response and comments*

* *NICVA welcomes the paper’s intention to avoid a hard border and any visible infrastructure, however, the two ‘broad approaches’ suggested for doing this (ie through a yet to be defined ‘streamlined UK/EU customs arrangement’ delivered through ‘negotiated facilitations to reduce and remove trade barriers’, and ‘technology-based solutions’ or through a speculative ‘innovative and untested’ new UK/EU customs partnership seem fraught with uncertainty and lacking in detail and do not provide confidence that they are either achievable, workable or even desirable. On the other hand, options which have so far been rejected such as retaining UK (and NI) membership of the EEA and/or single market, are tried and tested and could provide that confidence*

**Section 4: Aiming to preserve North-South and East-West cooperation, including on energy**

Key proposals

The paper includes the following key proposals -

* The paper rehearses and highlights the importance of the arrangements and mechanisms which have been developed to facilitate North-South (NI/ROI) and East-West (ROI/UK) co-operation under the Good Friday Agreement and subsequently
* It proposes ‘that the UK and the EU should focus in the initial phases of the dialogue on reaching a common understanding of the principles of North-South and East-West cooperation’
* The paper advocates that ‘there should be a strong shared desire between the UK Government, Irish Government and the rest of the EU to support the stability of energy supply on the island of Ireland’
* It proposed that new energy framework should be developed on the island of Ireland which take full account of the following six issues:
  + the importance placed on cross-border cooperation in the Belfast (‘Good Friday’) Agreement, between NI and Ireland (Strand 2), and the UK and Ireland (Strand 3);
  + the strategic importance to NI and Ireland of maintaining affordable, secure, and sustainable supplies of electricity and gas for businesses and domestic consumers;
  + facilitating the continuation of a single electricity market covering NI and Ireland;
  + facilitate the continuation of efficient electricity and gas interconnection between the island of Ireland and Great Britain;
  + seeking to provide certainty as soon as possible for citizens, investors, and businesses in Northern Ireland and Ireland on energy arrangements; and
  + including an appropriate interim period to ensure that any changes to current arrangements can be implemented in a timely way.
* The paper also highlights the importance, post-Brexit, of continuing the operation of the single energy market on the island of Ireland and the current arrangements whereby generators contract with a Single Electricity Market Operator (SEMO), overseen by the Single Electricity Market Committee

*NICVA response and comments*

* *The paper appears to stop short of advocating the continuation of the current North-South and East-West co-operation mechanisms and arrangements, only indicating the need for the UK/EU dialogue to ‘reach a common understanding of the principles’ of such co-operation. Is this intentional, or is the UK government position that it would wish to see the existing mechanisms continue?*

**Further information**

Further information on key issues and concerns raised by the Northern Ireland VCSE can be found here <http://www.nicva.org/key-issues/eu-referendum-and-brexit>

For further information, please contact -

Geoff Nuttall

Head of Policy and Public Affairs

[geoff.nuttall@nicva.org](mailto:geoff.nuttall@nicva.org)

Tel: (028) 9087 7777