



Northern Ireland
Assembly

Committee for The Executive Office

OFFICIAL REPORT (Hansard)

Impact of Brexit on the Institutions and
North/South, East-west Relationships:
Briefing from the Executive Office and the
North/South Ministerial Council

13 January 2021

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Members present for all or part of the proceedings:

Mr Colin McGrath (Chairperson)
Mr Doug Beattie (Deputy Chairperson)
Ms Martina Anderson
Mr Trevor Clarke
Mr Trevor Lunn
Mr George Robinson
Mr Pat Sheehan
Ms Emma Sheerin
Mr Christopher Stalford

Witnesses:

Mr Tim Losty	North/South Ministerial Council
Mrs Lorraine Lynas	The Executive Office

The Chairperson (Mr McGrath): Unfortunately, because the previous session ran over a little, Andrew McCormick has had to join the First Minister and deputy First Minister at their next engagement. However, we have Tim Losty, the joint secretary of the North/South Ministerial Council (NSMC), and Lorraine Lynas, EU future relations, from the Executive Office. Can I confirm that Lorraine, who is on the audience list, is on the phone? Lorraine, is that you?

Mrs Lorraine Lynas (The Executive Office): Yes, Chair. Sorry, I am having difficulty joining by StarLeaf again. Can you hear me OK?

The Chairperson (Mr McGrath): Not a problem. We can hear you now; that is grand. We will pass over to Tim and Lorraine to give us a few words by way of an update, and then we can move on and ask a few questions.

Mrs Lynas: Thanks, Chair. Apologies for Andrew not being able to join us today to lead on the briefing. Forgive me for filling in where Andrew might have added a little bit more light and shade to —.

The Chairperson (Mr McGrath): OK, Lorraine seems to have dropped down into the audience again. Can we get her moved up into the spotlight? That is you back again, Lorraine. Can you hear us OK?

Mrs Lynas: Yes, that is fine. I am not sure how much you heard, but I just wanted to give Andrew's apologies for not being able to join us today. Forgive us a bit for filling in where Andrew might have been able to add a little bit more light and shade to the discussion.

First, this is a verbal update rather than a paper one, because it is fair to say that there has not been a lot of substantive work done in this area, mostly because we were not clear on the outcome of the implementation of the protocol — the decisions made by the Joint Ministerial Committee (JMC) on 17 December have been helpful in that regard — and on the outcome of the future negotiations with the EU. As you are aware, an agreement was reached with the EU on 24 December.

I will start at the very highest level of the east-west relationships and perhaps start with the intergovernmental review (IGR). On 14 March 2018, the Joint Ministerial Committee agreed that officials would review the existing intergovernmental structures, including the memorandum of understanding, to ensure that they were fit for purpose. That was brought forward because of the UK's impending exit from the EU.

Since that time, officials from TEO have been participating at official level in the discussions on the review and on the basis that any agreement would need to be referred to the Executive for final endorsement. In the absence of JMC plenary meetings, those discussions have, to some extent, been included on the agenda of the Joint Ministerial Committee (European Negotiations) (JMCEN), but there has been growing consensus among the Administrations that those issues should be discussed at IGR ministerial quadrilateral meetings in the absence of discussion at a future JMC plenary meeting or its replacement forum. The latest quadrilateral meeting of Ministers took place on 10 September, at which it was agreed that good progress had been made, but Ministers tasked the project board to bring forward all proposals together into one paper and produce a second paper with a little bit more detail on the critical path for delivery, and a draft of that paper is being finalised. It is intended that those papers will be completed in time for the next ministerial quadrilateral meeting in the coming weeks, which will be hosted by the Scottish Government. However, Ministers have had the opportunity to discuss issues at some of the JMCEN meetings, most recently on 3 December.

Brexit has been discussed at previous British-Irish Council (BIC) summits under the agenda item of "political development". BIC is not a negotiating or decision-making forum, so discussion there has principally consisted of each member Government commenting on the implications of particular aspects of Brexit for themselves. The Council has agreed that the next BIC summit will be hosted by the Northern Ireland Executive in June 2021 and will reflect the priority issues for members at that time.

At this stage, I want to bring in Tim to give a verbal update on the North/South Ministerial Council elements, and then I will come back in again on some other aspects of Brexit after that.

Mr Tim Losty (North/South Ministerial Council): Thanks, Lorraine. Can you see and hear me OK, Chair?

The Chairperson (Mr McGrath): We can indeed, Tim. It is good to see you.

Mr Losty: It is good to see you all. We believe that, in the North/South Ministerial Council, we have a structure that brings together the decision-makers in each of our jurisdictions in some of the key areas of mutual benefit, so we feel that it just makes sense to utilise this forum to address a number of the challenges that may arise due to Brexit. Shortly after the referendum in July 2016, the NSMC agreed to work together to ensure that Northern Ireland's interests were protected and advanced and the benefits of North/South cooperation are fully recognised in any new arrangements that emerge as regards the future relationship with the European Union.

Following the restoration of the Executive, a plenary meeting was held in July 2020. At that meeting, the Council discussed the implications of Brexit and recognised the common interest of both jurisdictions in minimising disruption to trade and economic activity and the role that we could play in that. Between October and December 2020, the NSMC held 12 sectoral meetings, and the impact of Brexit was included as an agenda item at all those meetings. The Council has also established a group of senior officials from the Executive Office, the Department of Foreign Affairs and the Department of the Taoiseach to consider Brexit issues in the future. A specific role has also been conferred on the NSMC around referring proposals to the Specialised Committee that has been established on issues related to the implementation of the Ireland/Northern Ireland protocol, and the Council has asked officials to develop a mechanism for the agreement of Ministers for referring proposals to the Specialised Committee.

We have also held meetings between the North/South bodies and their sponsor Departments to determine the impact of Brexit on our operations currently and in the future. A great deal of

cooperation goes on with the bodies and their sponsor Departments to identify and address any issues, and I can confirm that there is a lot of cooperation and commitment to cooperation going on across the board with the NSMC bodies.

Lorraine, do you want to finish with anything from your side?

Mrs Lynas: Yes, Tim. Our experience, particularly in our relationships with North/South, and a key challenge over the last while, has been the need for both the Executive and the Irish Government to respect the negotiating positions of both the EU and the UK. That has resulted in an arm's-length relationship between both sides while the negotiations were ongoing. With the conclusion of the negotiations and the agreement, it is hoped that the relationship North and South can improve. In fact, we have already seen a better opening of relationships since the agreement on 24 December.

I just want to add a couple of other things. In line with the commitment in the New Decade, New Approach agreement, one of the structures was the Brexit subcommittee. That Brexit subcommittee was established but subsequently replaced by the Executive committee dealing with EU exit matters during 2020. The role of that committee will need to be considered further as we understand the implications of the future relationship that has been agreed between the UK and the EU.

A final point on the legislation will be of interest to the Committee as well. The legislative work programme that had gone on prior to the end of the transition period was prioritised. There was the deprioritised legislation, some of which was put after the transition period. We will be working with Departments over coming weeks to work out the tail of that legislation and the implications that it will have for the Assembly Committees.

That is a very quick overview of the main structures and where we are on each of them. Tim and I will be happy to try to answer any questions that you might have.

The Chairperson (Mr McGrath): OK. Thank you very much. Given the lateness of the session, I am sure that all members will curtail their questions and keep them as brief as possible.

I want to raise two connected issues. You made reference to the fact that, during the process, there were some difficulties with North and South being on different sides of the negotiations and that that had an impact. I am thinking of the groups on the ground that are working with each other North and South, particularly in border areas. If they are encountering problems now as a result of Brexit and the completion of the transition programme, as far as I know, no joint consultative working group has been established yet as a forum for their concerns to have them addressed by the Specialised Committee. Likewise, the North/South Ministerial Council is an opportunity to put forward issues. However, given that that requires agreement North and South and agreement within the Executive in the North, which may not be the easiest to achieve, I am concerned that the voices of groups on the ground may not make it through to the committees that are able to effect change on the issues and concerns that they have. What advice do you have for groups that find themselves in that situation? Do you have any indication of when the joint consultative working group will be populated and start meeting to give a voice to the sectors?

Mr Losty: Chair, I will try to answer the question on working with the groups. As I mentioned in the introduction, we had 12 sectoral meetings, which covered a lot of the areas of North/South responsibility, and we also met the NSMC bodies. We have been getting information via the Departments and organisations as to what was happening with the stakeholders and groups that they were interacting with. We were getting information from them and feeding it into those sectoral meetings. Where there was the potential to resolve a lot of the issues at a sectoral meeting, the Departments would make that decision. From observing those meetings, I would say that they were very positive. Ministers and Departments engaged very positively to address a lot of these issues, so there was an avenue there for groups to raise any issues and concerns.

Through the North/South Ministerial Council secretariat, we meet from time to time the various council groupings, chambers of commerce and community organisations. We also see ourselves as having an ability to listen to what is happening at a grassroots level. We raise those issues with the relevant Department or organisation and see if it can take them forward. There are a number of sounding boards for a lot of those groups on the ground to bring their issues to the NSMC and to the Departments and Ministers. A number of organisations, including the Centre for Cross Border Studies, the universities and other think tanks, also meet us to make us aware of issues. It may not be 100%

perfect, but it is certainly an attempt to get a lot of that information from groups and then signpost it to the relevant organisations.

The Chairperson (Mr McGrath): I certainly welcome *[Inaudible.]* It sounds very informal — "We will find out what the issues are, pass it to the Departments, and hopefully they will address it" — but it is that ability to get something on the agenda of the Specialised Committee, and eventually to the Joint Committee, which requires the formalised structures. Are those structures not available at the minute, or is it just the case that you hope to sort them out informally?

Mr Losty: *[Inaudible.]* We try to address a lot of those issues by signposting them to the relevant Departments, but we are also establishing a Brexit group of senior officials who will be able to consider any issues that do not have a home, as it were. Through that grouping, we will be looking at how we can formally raise them back through our governance system and on to any of the Committees that have been established to look at these issues. As Lorraine was saying, we were not able to fully establish that group prior to the agreement on 24 December. We have had a number of discussions with colleagues in the Department of Foreign Affairs and the Taoiseach's office. I had a meeting with them this morning, and we are looking at the membership and the issues that that group will be taking forward. We will then see that group as having a very strong role in dealing with the consequences of Brexit.

The Chairperson (Mr McGrath): OK.

Mrs Lynas: Chair, on your other point on the joint consultative working group that sits under the Specialised Committee, we understand that this is still under consideration by the UK and the EU, and we expect that there will be more substantive discussions on how this will operate later this month. The rules of procedure have been published, but not how the group will operate. Under the rules of procedure, the UK and EU will have official delegations and may invite experts if both sides agree. There is still a lot of work to be done on how it will operate. It is an issue that, within TEO, we are raising on a regular basis with the United Kingdom Government, because it is important in relation to the management of the protocol and, in particular, the legislation that sits under annex 2 of the protocol.

The Chairperson (Mr McGrath): Thank you very much for those responses. I will now pass to Martina Anderson, who I see has her hand up for a question. If we can get Martina into the spotlight, then we can get the questions.

You are muted, Martina. I do not know if it is yourself that is muted or if it is at our end.

Ms Anderson: There you are; I am unmuted now. Thank you, Chair. Thank you for the presentation. Tim, it is good to see you again; it has been a while.

In relation to the Specialised Committee on the matter of the service industry, I think that it is going to be hit very hard. It does not appear in the protocol, and some in the industry feel that they have been left high and dry in relation to the withdrawal agreement and the arrangement. Is there an opportunity to have that dealt with by the Specialised Committee, who can filter that through to the joint working group or Joint Committee, however that is going to proceed? We need to find a home for this industry to be given some attention. At the moment, obviously people are looking at trade and all that is happening in terms of the end of the transition and how that was not well prepared for. Where can we locate that, and, as a Committee, how can we monitor how that is being taken forward?

Mrs Lynas: Sorry, Martina, I lost a bit of the connection. Can I just clarify that this relates to services?

Ms Anderson: Services, yes.

Mrs Lynas: Services are not part and parcel of the protocol. There is obviously a read-across, because the protocol covers goods but not services. One of the things that we will be looking to is what has been agreed within the trade and cooperation agreement (TCA). There are a range of agreements within there. There is financial services, but there is also a chapter on ordinary services as well. There are a range of governance structures that will be set up to oversee the trade and cooperation agreement, and we are looking at those. It is a complex agreement, and you will appreciate that staff are very focused on the operational delivery issues since the end of the transition period. The First Minister and deputy First Minister have already expressed at the JMCEN their desire

to be represented on the governance structures that cover the trade and cooperation agreement, given the benefit that they felt from their participation in the Joint Ministerial Committee and the Specialised Committee, and I am certain that that will be the position of Scotland and Wales as well. There is a lot of work to do, first of all in understanding what the impact of the services agreement is, and then secondly how we can be involved in the various levels of governance within that, which are quite substantial in the agreement and will take a bit of time to work through.

Ms Anderson: Is the mutual recognition of qualifications going to be dealt with as part of that?

Mrs Lynas: Mutual recognition of professional qualifications (MRPQ) is one of those areas where, obviously, the TCA was not as good as it could have been. What has been agreed is what is in the Canada deal, so it is a pathway, more or less, or a framework to MRPQ. For specific issues such as MRPQ, we will need to look at what the TCA provides, what the future relationship provides, what the common travel area provides and where we need additional bilateral engagement with Ireland from profession to profession. Now that we have all of these agreements, including the common travel area, we need to look at where the gaps are and see which mechanism we can seek to address them through.

Ms Anderson: I can foresee difficulties, because the common travel area is not in legislation. It is built on sand. There are going to be difficulties unless we give it legislative standing. I think, Chair, that the mutual recognition of professional qualifications is something that we need to keep an eye on. When we use the language of "MRPQ", perhaps people do not understand what we are talking about, but we need to try to make sure that people understand that we are scrutinising the matter for them.

I asked the two Ministers about the grace period when they were in front of us, but they obviously had a lot of questions to answer. We have only 10 weeks of this grace period, and we know that there could be challenges if work is not done in the interim. What work will be done over the next 10 weeks as we head to the end of the grace period, given that the Assembly, unfortunately, did not agree to an extension of the transition period? We probably would not have got the transition period anyway, because the British Government would not have argued for it, but, that said, we have a transition period now for 10 weeks, and I am concerned about what is going to happen at the end of that.

Mrs Lynas: I can say a little bit about the grace periods. There are a number of grace periods within what was agreed in the protocol. Obviously, those present further challenges this year, so, as the First Minister and deputy First Minister said, we will be working very closely with businesses, industry and the Government to make sure that we recognise that those are potential readiness issues that are coming further down the line. Those are all on our radar of issues that need to be addressed. The regular meetings like the one today are already on the radar. You will have seen, even from the questions in the Houses of Parliament today, that they are on the mind of FM and DFM, of businesses here and of the Government. The question of how those issues are going to be addressed is already being raised regularly.

Ms Anderson: It is something that we need to keep on our agenda, Chair, because it is only 10 weeks and the clock is going to start ticking. Let us not run to the end of that and have another reaction of the kind that we have had over the past few days around trading adjustment shock. We need to be seen to be putting in the work and actually doing that.

Tim, on the North/South Ministerial Council, particularly in relation to the common frameworks, one thing that I notice sometimes when officials present in front of us and talk about the common frameworks is that they do not deal with the third principle, which is ensuring the recognition of social and economic linkages between North and South and adhering to the Good Friday Agreement, particularly in respect of the devolution settlement, as it is called. When you go through the frameworks, you start to realise that, in the agreement, the British Government can freeze the competency of the Assembly in policy areas that they say are subject to the common frameworks. What kind of discussions are taking place in the NSMC on the common framework and its implications? It cannot just be a common framework for Britain and here. It is a common framework across this island, particularly in the context of the North/South Ministerial Council.

Mr Losty: I have been involved with the NSMC from September. Since then, our primary focus has been on getting sectoral, plenary and institutional meetings up and running again. That was the first priority and that included the discussion of Brexit and COVID issues. We are now in a situation in which we have more information about what is happening with Brexit. As we move forward, the senior officials group will work on other issues that need to be discussed with the Irish Government — the

Department of Foreign Affairs, the Department of the Taoiseach and that — and look at the British/Irish dimension. We will start to focus a lot more on those issues and will take a lead from Ministers on those.

Ms Anderson: Tim, has a date been set for an institutional meeting of the NSMC?

Mr Losty: We had an institutional meeting on 16 December. The deputy First Minister will make a statement on that to the Assembly next week. We also had a NSMC plenary meeting on 18 December, and the deputy First Minister will also make a statement on the outcome of that meeting.

Ms Anderson: OK, Chair. Given the time and everything else, I appreciate what we have so far. There are some matters that we need to keep on our agenda, particularly over the next 10 weeks. Services, the common framework and the third principle are three issues that I would be keen to give some focus and attention as we go forward.

The Chairperson (Mr McGrath): Thank you very much, Martina. No other members have indicated that they wish to speak, but I will allow any members who are online to raise their hands using the "hand up" mechanism. I see that no other members wish to ask a question.

For this segment, we thank Tim and Lorraine for their input. It is an issue that will continue to grow as the year goes on, and I do not doubt that we will have you back at some point for future updates. Thank you for your update today; it was appreciated. Lorraine, I know that you will hang on for the next session. If you are happy, I will do the bits in advance of bringing you in.

Mr Losty: Thank you, Chair.