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Exiting the EU: Policy Considerations for Northern Ireland

As the UK government prepares to trigger Article 50 (TEC) which commences the process of the UK exiting the European Union, so there is an urgent need for Northern Ireland to have a voice in the upcoming negotiations between the UK and the EU.

In many ways it is now easier post referendum to have these discussions and to outline questions and options because some choice has now to be made. Finding and agreeing the best solutions is another matter and will be very challenging. What does the opaque phrase 'Brexit means Brexit' mean for the UK and for Northern Ireland?

There are three immediate challenges for the Northern Ireland Executive; firstly, to establish what Brexit means for Northern Ireland in terms of existing EU laws (state aid, single market, services liberalization, energy) and current EU monies (university research, fisheries, agriculture, structural funds); secondly to engage proactively in talks forging a British position with Whitehall and the other devolved administrations and finally, to seek to influence the British negotiations. Can be done most clearly through the JMC and through the interdepartmental connections to Dexeu. London has made all the positive noises – The PM, David Davies and Liam Fox have all been in NI since the referendum and all have stressed the desire to hear the views from NI. James Brokenshire, the New Secretary of State has held meetings across NI. The NIO is well placed to express NI interests in London, but also opportunities for other institutions such as the British Irish Council.

Different parts of the UK will bring similar issues to the table but also different ones. It is expected that a wider number of interests across the private, public and voluntary sectors in Northern Ireland will aim to raise their own particular concerns to elected officials in the NIA and the Northern Ireland Executive.

This paper focuses on two of the most salient policy themes for Northern Ireland, namely agriculture and the environment.

Agriculture

The EU is the world's largest agricultural trader. The United Kingdom is a net-importer of agri-food products and the country imports almost twice as much from other EU member states than it exports to them. The EU market is important for the UK farming sector and accounted for some £13 billion worth of products in 2014. Agriculture is one of Northern Ireland's most important industries in terms of both an annual turn-over of some £4.5 billion and a workforce of some 48,000 (2015 Agricultural Census) people. In terms of employment and GDP Northern Ireland is more dependent on the agricultural sector (including the agri-food business) than any other area of the United Kingdom and draws heavily on the Common Agricultural Policy established in 1962. (For short history of CAP see http://ec.europa.eu/agriculture/cap-history/index_en.htm) The budget for EU agricultural spending in the period from 2014-20 is an estimated €1 trillion. Some 40% of the EU's entire budget is directed towards agriculture and rural development. There are some 25,000 farms in Northern Ireland. County Tyrone contains the most farms (6,015), followed by County Down (4,816) and County Antrim (4,385). Altogether some one million hectares is being farmed in Northern Ireland. It was estimated that for every pound earned by Northern Irish farmers, some 87 pence came from the EU'S Single Farm Payment. Rural development aid also forms part of the assistance opportunities for rural areas and has helped projects such as the Railway Preservation Society of Ireland (RPSI) which received £640,317 from this fund in 2013/14.

Challenges were already lying ahead for Northern Ireland farming sector as the CAP continued to undergo major reform (DAERA - <https://www.daera-ni.gov.uk/articles/information-and-guidance-common-agricultural-policy-cap-reform> and the European Commission http://ec.europa.eu/agriculture/cap-post-2013/agreement/index_en.htm), focusing much less on price support and seeking to make agriculture competitive and to ensure better quality goods and lower prices for consumers.

Brexit just brings the issue forward and intensifies the need to consider what agricultural policy looks like outside the EU. Two things to bear in mind here: Firstly, common agricultural policy rules are not included in existing options such as either the EEA, the Swiss bilateral agreements model or the Customs Union with Turkey. Furthermore, under these different solutions, agricultural products face different levels of tariffs. Hence currently just under half of Norwegian agricultural exports into the EU do not face tariffs but over half face tariffs of some 15%. The Swiss arrangement with the EU seeks to make it easier for Swiss products to enter the EU Market (i.e. lower tariffs for cheese, vegetables etc. and over a third of Swiss exports do not face any tariffs in getting into the EU market). Another option could be based on the CETA agreement with Canada where most agricultural goods will not face tariffs.

Secondly, as agricultural policy is a devolved policy competence, responsibility for a new agricultural policy is expected to fall to the devolved administrations across the UK. This raises a number of interconnected issues in terms of level of financing, policy content (what should be the goals of the policy, its beneficiaries), trade issues and administrative capacity. Issues of financing are certain to take centre stage. For over 40 years the type and level of support for agriculture have been set within the framework of the Common Agricultural Policy. Leaving the CAP opens a debate on the right level

of financing, and what type of agriculture should be supported by public funding. This debate has already started over the summer (e.g. the National Trust called in July 2016 for a move toward agri-environment payments only). Compared to financing issues, the impact on agricultural

trade and tariffs as well as access to markets for farmers in Northern Ireland have been mostly absent from the public debate. Yet the terms on which the UK trades with the rest of Europe, as well as with the rest of the world – consider the UK signing a trade deal with Mercosur and access for Argentinian beef – will have major impacts on the long term viability of the farming sector in NI

Crucially, while the devolved administrations are expected to have as much if not more flexibility in setting their own agricultural policies, trade policy remains a UK competence. This creates issues of coordination between the different administrations, to which we can add issues of administrative capacity, as the all UK administrations will be called upon not only to implement but also to develop new agricultural policies, something which they have not done for the last 40 years.

Finally, while the UK may be leaving the EU, farming in the UK will continue to be impacted by decisions made in the EU, both on trade terms and the content of future Common Agricultural Policies. Thus, according to the NFU 'it's impossible to measure the impact of being outside the EU since we do not know the relationship the UK would have with the EU nor the conditions under which our farmers would be expected to operate if we left,'. However, simply removing the CAP support, while it remained in place in the rest of Europe, 'could devastate British farming", according to Meurig Raymond, the NFU President who described the vote as a 'political car crash'. It is expected that many farmers could go out of business. (Independent, 26 June 2016 and at <http://www.independent.co.uk/news/uk/home-news/brexit-eu-referendum-food-prices-rise-economy-what-will-happen-farming-a7104366.html>) Others see opportunities and lower prices for consumers. Price differentials may aid farmers now but will this really compensate for like after Brexit?

Money from the EU budget towards agriculture



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Source: Detail Data and available at <http://www.thedetail.tv/articles/the-eu-s-common-agricultural-policy-should-we-stay-or-should-we-go>

Graphic by Chris Scott

What are the issues for the farming community in Northern Ireland after Brexit?

1. What happens to an estimated 40,000 legal acts that are in force under the EU's CAP? EU rules covers issues such as animal health, welfare and transportation of animals, hygiene, tagging of animals and disposal of carcasses.
2. What does a British Agricultural policy look like after Brexit?
3. Does the Northern Ireland Executive get responsibility for developing and administering a Northern Irish agriculture policy following Brexit?
4. What funding mechanisms would be put in place to replace the payments that currently come from the EU and specifically, the Common Agricultural Policy? Will the level of support and funding arrangements be the same as in 2015?
5. Can arrangements be put in place to allow Northern Irish agricultural products to be exported to the EU?
6. How much do employers in Northern Ireland within the agricultural and horticultural sectors rely on migrant (seasonal) workers?
7. How much would a Northern Ireland outside the EU impact on the agricultural sector on the island of Ireland as a whole?
8. What opportunities arise from a post Brexit Northern Ireland for consumers and farmers?
9. Will agricultural goods be cheaper or more expensive after Brexit?

Environmental policy

Many areas of current UK environmental regulation have originated from the European Union (some 200+) and cover areas such as waste management, air pollution, bathing and water standards, nature and biodiversity legislation (e.g. Habitats directive), chemical safety legislation, action on climate change, air and noise pollution. Among these, waste management and illegal waste has been a particularly problematic issue for Northern Ireland.

Environment is a devolved matter and as such the Northern Ireland executive and the newly created Department for Agriculture, Environment and Rural Affairs will be responsible for developing an environmental policy for Northern Ireland post Brexit. Contrary to agriculture, where the CAP will cease to apply irrespective of the Brexit scenario followed, the type of Brexit arrangement – as soft Brexit with continued Single Market membership, such as obtained through membership of the European Economic Area like Norway; or a hard Brexit with a trade deal negotiating access to the

Single Market like Canada¹ – will have major consequences on the proportion of EU environmental legislation which will still apply in NI.

Under a ‘soft’ Brexit deal, most EU directives and regulations continue to apply. There are nevertheless notable exceptions: nature legislation (such as the Birds and Habitats directives but also the recent Regulation on Alien Invasive Species) and the bathing water directive, as well as all environmental policy instruments and funding under the Common Agricultural and Common Fisheries Policy are excluded from the current EEA Treaty. This scenario offers the opportunity to devise different provisions to protect nature and bathing waters – more or less ambitious than current EU standards. Currently, protected areas solely under UK legislation– such as SSSIs or ASSIs under the Wildlife and Countryside Act of 1981² – offer a lower level of protection than areas protected under the EU’s Natura 2000 framework.

Under a ‘hard’ Brexit deal, most EU environmental legislation would cease to apply. Regulations, which have direct effect and thus have not been transposed in UK law, will stop to have effect immediately; while legislation used to implement EU directives will be up for grabs. This will raise question both of capacity – the sheer amount of UK and NI legislation implementing EU directives will take considerable amount of time to comb through – and of direction of policy change. Will a ‘hard’ Brexit be used to diminish the levels of environmental protection across the UK? And will the different administrations move in different directions, with increasingly diverging environmental standards in Wales, England, Scotland and Northern Ireland?

Critically, even if the choice is made in the short term to keep environmental standards constant, leaving the EU is likely to lead to weaker environmental governance arrangements (in terms of monitoring, as loss of membership of the European Environmental Agency and other specialized EU agency; in terms of legal remedies with loss of access to the European Court of Justice etc.) as well a reduced funding (LIFE funding, Interreg etc.).

Finally, the geographical situation of Northern Ireland, and its shared border with the Republic raise specific challenges for environmental policy after Brexit. This is perhaps most apparent in the water sector – with for example the shared management of the Neagh Bann River Basin³ – but will also be critical regarding transboundary waste management and energy provision. This creates additional constraints on the margins for maneuver of the NI Executive, as sharp policy differentiation from EU rules currently applied in both NI and the Republic may render transboundary cooperation more difficult.

The environmental area will prove a challenging one for Northern Ireland

1. Brexit should provide the ideal opportunity for the United Kingdom to determine the scope and timing of environmental regulation that suits it. Will it be able to do this?

¹ For more details on both Hard & Soft Brexit see <http://ukandeu.ac.uk/wp-content/uploads/2016/08/The-Environment-under-Soft-or-Hard-Brexit.pdf>

² http://www.ieep.eu/assets/2000/IEEP_Brexit_2016.pdf

³ <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/working-together-managing-our-shared-waters-neagh-bann-2008.PDF>

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2. What would UK environmental policy outside the EU look like?
3. What happens to existing EU environmental law (both directives and regulations) in the event of Brexit? Would they be annulled? How simple would this process actually be – as some UK laws already in place prior to EU legislation and other British laws go further than EU legislation?
4. What happens in cases where EU laws implement UK obligations under international conventions – e.g. the Convention on International Trade in endangered species of wild fauna and flora?
5. The European Commission currently co-ordinates much scientific and technical research which forms the basis for EU environmental policy. Would the United Kingdom still follow Commission research or fund its own research or contribute to Commission's costs?
6. Is UK influence in drafting international environmental agreements likely to be stronger or less influential outside the EU?
7. Is the Northern Ireland executive developing its own take on environmental policy?
8. Is there a North/South dimension on environmental policy?