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Brexit and the Irish Question

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When thinking of the Irish question, it calls to mind the partition of the island of Ireland, ratified by the *Government of Ireland Act of 23 December 1920*, which was intended to satisfy the aspirations of the Protestant majority in Ulster, who were in favour of keeping the province under the authority of the Crown. Partition was plotted on the basis of a sectarian calculation to separate the six predominantly Protestant counties of Ulster[1] from the overwhelmingly Catholic Republic of Ireland. It inevitably raises the issue of the border that separates the two jurisdictions, which over the last century has been a symbol of injustice for the Catholic minority and a target for republican paramilitary groups, particularly the IRA. Thanks to the [Belfast Agreement, the so-called Good Friday Agreement in 1998](#), which was the culmination of a long peace process, one might have assumed that the issue of the Irish border would not surface in debate again. But this did not take into account the extent of the nationalist and Europhobic current in England, which would lead to the United Kingdom's withdrawal from the European Union by referendum on 23 June 2016.

THE CULMINATION OF THE PEACE PROCESS

After three decades of conflict, modestly called the *Troubles*, in which the border between the two parts of the island of Ireland was the most militarised zone in Europe west of the Iron Curtain, the Good Friday Agreement of 1998, followed by the [Agreement at Saint Andrews](#)[2] in 2006, marked the culmination of a long peace process and paved the way for political normalisation in Northern Ireland.

Thanks to devolution and in line with the first part of the *Multi-party Good Friday Agreement*, the British province was given a kind of constitution, based

on the principle of shared power and the parity of respect between the two communities, nationalist and unionist, and also in line with the consociational model[3]. A democratic institutional structure was established with a bi-denominational executive and an assembly of 108 members elected by proportional representation. The devolution process has grown stronger over the years and following the St. Andrews Agreement the powers of the Northern Ireland Assembly were extended to include responsibility for police and justice. The Assembly must legislate in accordance with the safeguards designed to ensure that one community does not take precedence over the other, as was the case throughout the 20th century.

The second part of the Agreement, designed to strengthen the links between the two jurisdictions of Northern Ireland and Ireland, established a North-South institutional axis with the creation of a cross border (North-South) Ministerial Council to coordinate joint economic and social actions and policies on issues of mutual interest.

Finally, the third part introduced an east-west axis with the [British-Irish Council](#), in view of in a broader perspective of constitutional change through the devolution of powers from London to the peripheral nations of Northern Ireland, Scotland and Wales. This part of the Agreement aims to promote bilateral cooperation between the British and Irish governments, in accordance with the Bilateral Agreement, which is annexed to the Good Friday Agreement, in which both governments solemnly undertake to support and implement the provisions of the Multi-party Agreement.

[1] Political Ulster differs from geographical Ulster, which is made up of 9 counties. If the 3 counties of Ulster, Cavan, Monaghan and Donegal have not been included, it is for numerical reasons only. In these 3 counties, Catholics were in the majority.

[2] The Agreement at St. Andrews of 13 October 2006 ended the direct administration of the province and restored Northern Ireland's institutions. It allowed the decentralisation of justice and police powers and Sinn Fein recognised the new Northern Ireland Police Force. It underscored the principle of consent to constitutional change and a commitment to peaceful and democratic means.

[3] The constitutionally based democratic mode of governance is a conceptual framework that applies to societies marked by strong ethnic or religious cleavages and different value systems. It is based on the sharing of power according to the principles of proportionality and reciprocity between different political traditions. The disadvantage of such a model is that it institutionalises the confessional cleavage at the level of political elites and does not promote inter-community communication, which remains very limited.

BRINGING THE TWO NORTHERN IRISH COMMUNITIES AND IRELAND CLOSER TOGETHER UNDER THE AEGIS OF THE EUROPEAN UNION

While the United Kingdom's and the Republic of Ireland's joint accession to the European Community in 1973 did not result in increased trade between the two parts of the island due to the conflict in Ulster, Europe, through its political and financial involvement, played a growing role in the process of peace and reconciliation between the two communities, which to some extent mirrored the stages of European integration. After the failure of the Sunningdale Agreement[4] in 1973, other unsuccessful projects aiming for a political settlement followed: the Anglo-Irish Agreement of 1985[5] and, following the establishment of the Single Market, the joint declaration of 1993, which was to initiate the momentum for trade between the two parts of the island and pave the way for the 1998 Agreement. In 2005, seven years after the signature of the Peace Agreements, the four freedoms of movement established by the European Single Market were fully restored and allowed trade to flow freely.

The gradual erasure of the border, with the disappearance of checkpoints, has opened the way for dialogue and consultation in 12 areas of cooperation[6] between the north and the south of the island. This cooperation has grown stronger over the years to the point where it has led to a pan-Irish socio-economic area through the expansion of trade and a partial pooling of resources, benefiting both sides. In the words of Jean Monnet, the scar of history had almost disappeared from the face of Ireland[7]. The primordial role played by Europe in the peace process[8] and the drawing together of the "two Irelands" has spanned several fields of action. Firstly, the desire to ease tensions between the two Northern Irish communities, unionist and nationalist, through a pragmatic approach to problem-solving; secondly, the guarantees provided by the European Union to Northern Irish citizens in support of the 1998 Agreement; and thirdly, its ability to transform relations between two Member States, the United Kingdom and the Republic of Ireland, through institutional innovation. According to Katy Hayward, this approach corresponds to the plural nature of Europe, which allows for a relevant

response to each individual case[9].

Finally, the European Union has played a crucial role through its various aid and development programmes in the economic and social transformation of the province of Northern Ireland and the border areas. In all, its financial contribution totalled €13 billion between 1994 and 2020, which has steadily irrigated the region's economy and played a major role in its socio-economic development. Northern Ireland's agri-food sector, which mainly involves small businesses, has been a major beneficiary of direct payments under the Common Agricultural Policy. In 2018, they accounted for 70% of the total income of Northern Ireland's agricultural sector and, according to Ministry of Agriculture estimates, the majority of farmers were 60% dependent on EU funds for their survival[10]. For 25 years, as part of the rural development policy for cross-border regions, the Interreg IIIA programmes, financed by the European Regional Development Fund (ERDF) and the European Social Fund (ESF), have contributed to the development of a cross-border area of economic and social interest. The European Union has actively participated in the quest for common solutions in the fields of urban, rural and coastal development and environmental management. These European funds are co-managed by Dublin and Belfast. The province of Northern Ireland has received significant financial support through the European programmes for peace and reconciliation. The aim of these programmes is to bring the Catholic and Protestant populations closer together through, among other things, educational projects, as well as to promote economic and social stability. The Peace and Reconciliation Programme (SSPPR) in Northern Ireland and the Border Areas was established in the early 1990s. Through Peace I (1995-1999), Peace II (2000-2006), Peace III (2007-2013) and Peace IV (2014-2020), €1.3 billion was transferred to the province and the border areas of the Republic. The 4th Plan aimed to promote inter-community contacts and to finance educational projects for children from disadvantaged neighbourhoods, as well as for young under twenty-four year olds who lacked skills. The special EU programmes body ([SEUPB](#)) is one of the six cross-border bodies set up in 1999 under the second part of the Good Friday Agreement. Its remit includes

[4] 1973 was the year in which the United Kingdom and the Republic of Ireland joined the European Economic Community (EEC). The Sunningdale Agreement stipulated that the future Council of Ireland was to carry out "important work on the impact of membership of the European Community" and referred to the geopolitical consequences of Ireland's new status as a Member State with regard to the Irish question.

[5] The preamble of the 1985 Anglo-Irish Agreement referred to the Irish and British as "neighbours and partners in the European Community".

[6] The 6 areas of cooperation chosen by the Ministerial Council include agriculture, environment, transport, health, tourism and education. 6 other areas have been added including the river network, food safety, trade and development, specific European programmes, language, aquaculture and maritime issues.

[7] "Jean Monnet considered that borders were "scars of history on the face of Europe".

[8] In 1994, following the ceasefires declared by the Republican and Loyalist paramilitaries, the President of the European Commission set up a working group to study how the Commission could support the peace process in Ireland.

[9] Katy Hayward, "Mediating the European ideal: Cross-border programmes and conflict resolution on the island of Ireland", *Journal of Common Market Studies*, 2007, vol. 45, n°3, p. 675-693.

[10] Frances Mc Donnell, "Northern Farmers ask Johnson to replace CAP payments", *Irish Times*, 31/1/2020.

the financial management of the Interreg and Peace programmes and involves co-management between Belfast and Dublin.

All European programmes that aim to resolving socio-economic issues have provided the province with *peace dividends* that have improved the daily lives of hitherto marginalised social groups[11]. These European cross-border programmes[12] are based on the fully open dimension of the border, concerning both goods and people. The increase in the number of projects they have generated, in particular, intercommunity and cross-border projects, has helped to improve community cohesion, reduce tensions and create a new social fabric within and between communities.

THE THREATS WEIGHING ON THE GOOD FRIDAY AGREEMENT

The British decision, the consequences of which on Northern Ireland were obscured during the referendum campaign in England, was widely perceived on Irish territory as an upheaval that seriously compromised the new order of peace and stability, built with much effort and guaranteed by the European Union. Brexit's approach, based on a withdrawal into identity and a concern to preserve a national cultural specificity, clearly ran counter to the dynamics of exchange and sharing initiated by the Good Friday Agreement. The prospect of the United Kingdom's exit from the country therefore raised a number of complex questions and doubts as to the sustainability of the institutional, economic and political balances that had contributed to the stability and renewal of the province of Ulster and the border areas.

Many researchers and policy makers tried to identify the potential risks that Brexit could pose to Ireland and the province of Northern Ireland. In a [report by the House of Lords European Affairs Committee](#), conducted on a base of extremely extensive hearings, most observers agree that the peace process is under threat and also that some difficulties and imbalances could emerge in the three parts of the Agreement. The major risks identified concern a possible hardening of the border, identity problems for Northern Irish citizens, the loss of

their fundamental rights guaranteed by the European Union and a sharp reduction in European financial support for peace and reconciliation programmes.

The complex and multidimensional institutional system established by the first part of the Good Friday Agreement had, long before the Brexit, revealed its instability and fragility. Its functioning proved to be largely dependent on the state of inter-community relations and the tensions between the two governing parties, representing the unionist and nationalist communities. The frequent suspensions[13] of the Stormont Assembly, due to often virulent disagreements over economic and political projects amongst the political representatives, have meant that for nearly eight years Northern Ireland has not had a devolved government. The situation became more complicated in 2006 when the two moderate parties that shared executive power, the Social Democratic and Labour Party (SDPL) and the Ulster Unionist Party (UUP), were overtaken at the ballot box by more radical parties at the two extremes of the nationalist and unionist political spectrum, Sinn Fein and the Democratic Unionist Party (DUP). The latest suspension, which lasted three years from January 2017 to January 2020, deprived the province of a democratic means of expression in the context of Brexit and rekindled fears about the viability of the institutions and the fragility of inter-community relations. Given the interlocking nature of the various institutions, the political impasse was reflected in the second component of the Agreement and the Ministerial Council did not meet in plenary session during the suspension of the Assembly.

The referendum campaign revived tensions between the two communities, which reproduced by their vote the political divide between the nationalists opposed to Brexit and the unionists, who were mainly in the *leave* camp.

Peace is still fragile in Northern Ireland as highlighted by the number of terrorist attacks in 2019, which according to [Europol](#), totalled 56 out of total of 119 at European level. These attacks were sponsored by groups of republican dissidents whose increased activity may have been a consequence of Brexit. The two Northern Irish communities continue to claim allegiance to two distinct political projects and two different political spaces. Although they are represented side by side and

[11] They have also benefited former prisoners including political prisoners in both communities and improved their chances of social and professional reintegration.

[12] Cross-border regions are sometimes fully integrated socially and economically, as well as in terms of hospital resources, as evidenced by the Derry/Londonderry City Hospital where many people from the Republic come for treatment.

[13] The latest suspension from January 2017 to January 2020 was caused by a scandal associated with a renewable energy project involving Northern Irish Prime Minister Arlene Foster (DUP).

equally in the institutions, they have not succeeded in forging the outline of a common project for the future. The exit of the United Kingdom will necessarily put an end to cooperation between the two jurisdictions. However, under the European Union's Cohesion Policy (REACT-EU), the Peace Plus programme will continue the work of the four Peace programmes over the period 2021-2027 to support peace and reconciliation between the Irish border counties.

In 2017, in the [Joint Report from European and British Negotiators](#), the United Kingdom committed to protect the cooperation that had been initiated and to guarantee it by avoiding the return of a physical border. However, it is clear that Brexit brings the co-management of European funds between Dublin and Belfast to an abrupt end and poses a serious risk to cross-border cooperation and to the functioning of the mechanisms on which it is based. If British policy tends to diverge significantly from European standards and norms, it is questionable to what extent the hybrid status of Northern Ireland, conferred on it by the Withdrawal Agreement, will allow the further commercial integration of the pan-Irish area. It is also questionable as to the future of the bodies set up to ensure this cooperation, whose representatives come from both jurisdictions.

The joint membership of the United Kingdom and the Republic of Ireland in the European Economic Community, and subsequently in the European Union, has played a key role in bringing the two governments closer together on the Northern Ireland issue. Police and judicial cooperation between the two States has been greatly facilitated by the creation of the European Arrest Warrant^[14]. With Brexit, the United Kingdom is withdrawing from the European Arrest Warrant procedure, which will undermine judicial cooperation with the Republic of Ireland, which has proved crucial in combating and limiting Republican terrorism in Northern Ireland. In the aftermath of the Brexit vote, concerns have been expressed among the Irish population about the damaging impact on relations between the Province of Northern Ireland and the Republic of Ireland. Successive British reversals and U-turns over the question of the border have had a negative impact on British-Irish relations and the major

risk is that of growing disagreement between London and Dublin, which would run counter to the common approach to the question of Northern Ireland.

Northern Irish citizens have understood the positive and protective role of Europe, including the legal tools available to them. The United Kingdom's accession to the European Convention on Human Rights, transcribed by former Prime Minister Tony Blair into national law in the form of the Human Rights Act 1998, was a major inspiration for the peace process and the Good Friday Agreement. It means for Northern Irish people that their fundamental rights are guaranteed and, in the event that they are not respected, and once they have exhausted all existing avenues of appeal before the courts of their country, they may have recourse as a last resort to the European Court of Human Rights. If, as he has suggested, Boris Johnson decides to revoke certain points of the Human Rights Act, in particular the length of the working week, for Northern Irish people this would mean the loss of European guarantees for the defence and protection of their fundamental rights and the risk of having a valuable asset in the British judicial system repatriated.

In 1998, the Good Friday Agreement recognised the right of every Northern Irish citizen to choose his or her nationality, including the right to dual British and Irish nationality. It was specified that this right, agreed by both governments, would be guaranteed irrespective of any change in the status of Northern Ireland. Compliance with this decision might be compromised with the United Kingdom's withdrawal from the European Union.

BREXIT: A DECISION AGAINST THE WILL OF THE NORTHERN IRISH

Although Northern Ireland is currently suffering the full impact of Brexit as part of the United Kingdom, 55.8% of the population of Northern Ireland voted in favour of remaining in the European Union. The principle of the consent of the people of Northern Ireland to the choice of their constitutional future is considered to be one of the essential foundations of the Good Friday Agreement^[15].

In 2016, two appeals were lodged in the High Court of

^[14] The European Arrest Warrant is a simplified cross-border judicial procedure, established under the third pillar of the European Union in 2002, which has been in operation since 2004. It allows the judicial authority of the issuing Member State to surrender an individual present in another Member State for trial or execution of sentence. This mechanism, which replaces extradition procedures, has proved to be an essential tool in the fight against terrorism.

^[15] The Belfast Agreement, Constitutional issues, 1, 10/4/1998.

Northern Ireland on behalf of the sovereignty of the province in relation to constitutional review, against the government's intention to trigger Article 50 of the Treaty on European Union (TEU). The plaintiffs, on the one hand a coalition of human rights organisations and politicians from Northern Ireland, and on the other a victims'[16] rights activist, sought a vote in the Stormont Regional Parliament invoking the principle of incompatibility of Brexit with the Good Friday Agreement. They argued that the province had voted overwhelmingly against the Brexit and that the planned exit from the European Union was imposed on them and violated the peace agreements and the principle of consent.

Despite their arguments, the High Court ruled on 28 October 2016 that there was no obligation on the part of the British Prime Minister, Theresa May, to obtain the approval of the local assemblies before she could begin the procedure to break with the European Union. Following an appeal to the UK Supreme Court, the High Court's decision was upheld. On 23 January 2017, the highest court rejected the plaintiffs' application by way of a legal argument. The Supreme Court ruling stated that the devolution laws (which had transferred certain powers to the regional assemblies) "*had been passed on the assumption that the United Kingdom was a member of the European Union, but did not require the United Kingdom to remain a member*". The decision, which provoked outrage among Northern Irish nationalists, would also reopen the debate on the reunification of Ireland.

Brexit is a glaring example of how the future of Northern Ireland was decided by a majority of British people without the free choice of Northern Irish people or consultation with the Republic of Ireland, co-guarantor of the Peace Accords.

The decision to hold a UK-wide referendum without first referring to Belfast means that the British State does not recognise the specificity of Northern Ireland.

HOW SHOULD THE BORDER ISSUE BE SETTLED?

From the outset, the European Commission and the British government declared themselves opposed to the return of a "*hard border*" between Ireland and the province of Northern Ireland, and the European task

force placed this question among the three priority dossiers requiring "*sufficient progress*" in order to be able to move on to the second phase of negotiations. This strong commitment from both sides might have augured a relatively quick and favourable outcome to the Irish border issue[17]. But this was to become part of a wider issue, that of the choice of the future trade relationship between the United Kingdom and the European Union.

Successive UK governments have faced a challenge which they have tried to meet: how to achieve a hard Brexit - exit from the customs union and the Single Market - while ensuring that the Irish border, the only land border with the European Union between one Member State (Republic of Ireland) and a third (Northern Ireland, part of the UK) remains open? If controls proved necessary to guarantee the integrity of the Single Market, how could they be introduced without severing an area of free movement for goods and people or seriously undermining cooperation between the two parts of the island?

The question of the Irish border was decided with two successive agreements comprising a [Protocol on Ireland and Northern Ireland](#), one in November 2018 under the government of Theresa May and the other in October 2019 under Boris Johnson.

After numerous obstacles and surprising turns of events, it was decided, as a provisional solution of last resort (*backstop*) in a first agreement, that the United Kingdom as a whole, and not just the province of Northern Ireland as had initially been envisaged, would remain in a customs union with the European Union and that Northern Ireland would remain in partial alignment with the Single Market. But this first agreement met with hostility from the most ardent *Brexiters* of the British Conservative Party allied with the Unionists of the DUP, who found the option unacceptable and undemocratic and feared that it would imprison the United Kingdom indefinitely in the European Customs Union. Despite three attempts, Theresa May failed to win parliamentary support and was forced to resign in July 2019.

Boris Johnson, who had pledged to finish the Brexit as quickly as possible, was to face the same challenge. After

[16] John McCord, whose son was murdered by a loyalist paramilitary group in 1997, challenged the application of Brexit to Northern Ireland, which he claimed was a radical change to the constitutional provisions of the Good Friday Agreement.

[17] The Withdrawal Agreement concluded on 17 October 2019 included a non-binding political declaration intended to outline future trade relations between the United Kingdom and the European Union. It was revised in comparison with the 2018 declaration.

the failure of an initial proposal deemed unacceptable by the Europeans, followed by a meeting with his Irish counterpart, Leo Varadkar, a second agreement was reached between the two teams of negotiators which shifted the border between the two islands (*frontstop*), a solution that had been firmly rejected at the time by Theresa May and the unionists[18], and introduced a dual system for the Northern Irish province[19] which would continue to be part of the UK's customs area, whilst aligning with a limited series of Single Market rules.

THE CONTESTED ENFORCEMENT OF THE NORTHERN IRELAND PROTOCOL

The customs controls, described in all their complexity in Article 5 of the Protocol, which were to be introduced in the Irish Sea, quickly became a matter of controversy and contention. Goods shipped from Great Britain to Northern Ireland were dealt with in two different ways. Those destined exclusively for the Northern Irish market were taxed and then refunded by the British Government on proof that they did not leave the province (Article 5 §6a). On the other hand, those intended for processing and export to the European Union, particularly through the Republic of Ireland, were subject to EU customs duties and VAT. The goods were to be sorted under the authority of a joint committee based on criteria specified in Article 5 §2b: the final destination and use of the goods, their nature and value, the manner of transport and the risk of subsequent undeclared introduction into the Union. Conversely, Northern Irish exporters will have to declare goods destined for the rest of the UK!

After stating that there would be no customs or regulatory controls between Britain and the Province of Northern Ireland, Boris Johnson conceded that there would indeed be customs or regulatory controls on goods from Britain to Northern Ireland, but that these would be sanitary and phytosanitary controls, concerning agri-foodstuffs, and that they could be carried out during the ferry crossing. It was clear that he was very annoyed by the idea of controls being carried out in the UK, even though they were to be carried out at sea. On 9 September 2020, during the negotiations on the future trade relationship between

the United Kingdom and the European Union, the British government tabled an Internal Market Bill, some provisions of which explicitly violated the treaty concluded in November 2019 and which came into force on 1 February 2020!

Clauses 42 to 47 of the Bill contravened Articles 5 and 10 of the Northern Ireland Protocol on two key points: the movement of goods between Great Britain and Northern Ireland and State aid, both of which the Protocol was intended to regulate based on close cooperation between the two parties and in accordance with a *level playing field*. A general and exclusive competence was given to the British government authorities to regulate the Northern Ireland market so as to avoid any friction within the British market and to decide freely on the financing of any infrastructure or sector of activity.

This breach of international law caused astonishment and indignation among European negotiators and officials, as well as a climate of mistrust that was very damaging to the continuation of the negotiations. A multi-stage procedure designed to obtain the withdrawal of the disputed clauses might have led to a referral to the European Court of Justice, as the United Kingdom was still subject to the obligations of loyal cooperation and good faith of any Member State during the transition period.

Despite a long period of stalemate in the negotiations, which stumbled over three crucial but seemingly intractable issues[20], such was the gulf between the different positions, the British and Europeans finally succeeded in overcoming these obstacles at the last minute, concluding a [trade and cooperation agreement](#) on 24 December 2020. Two weeks earlier, on 8 December, the Chairman and Vice-Chairman of the Joint Committee had found common ground to make the Protocol fully operational and, in view of the solutions reached, the United Kingdom decided to withdraw the disputed clauses 42, 45 and 47 from its bill.

During the first few days the entry into force of the Trade Agreement between the European Union and the United Kingdom, with the application of the Northern Ireland Protocol, on 1 January 2021 was not marked

[18] The Unionists felt betrayed by Boris Johnson in December 2019 when he decreed that there would be a *frontstop* in the Irish Sea after promising never to inflict differential treatment on the province. Some may have regretted having torpedoed the Agreement reached by Theresa May, which was much more favourable to them.

[19] It is important to point out that the Prime Minister was making a concession to the Irish nationalists. This concerns the principle of consent which was originally intended to allow the Unionist Democratic Party (DUP) to veto the renewal of the arrangements for the constitutional future of Northern Ireland. According to the new provision, at the end of four years after the end of the transitional period, i.e. at the end of 2024, the Northern Ireland Assembly could decide, by a simple majority vote, not to extend the application of the Protocol. This principle reasserts the right to self-determination of the people of Northern Ireland.

[20] These were the rules of fair competition, the method of arbitration and settlement of disputes and fishing rights.

by the dreaded traffic jams and queues at Scottish and Welsh ports affected by the transit of freight by ferry from one side of the Irish Sea to the other or through the North Channel. However, as the volume of lorries has increased, new customs procedures and regulatory formalities have led to longer and more cumbersome controls, significantly slowing down the movement of lorries, causing delays and hampering the smooth flow of goods. Hundreds of lorries were temporarily immobilised, waiting for permission to take their cargo to Northern Ireland, where the supply of fresh produce had become problematic.

The process of sorting goods before they enter Ulster, according to the various criteria used, has caused numerous bottlenecks. While some drivers were prepared to give up serving the British market, others of those using the busiest route from Holyhead to Dublin are considering using other ports such as Cairnryan in Scotland, which dispose of more efficient control mechanisms. [Traffic on the Ireland-Cherbourg link](#) has tripled in volume.

It is clear that companies will gradually have to adapt to the complex new freight regulations, but the computerised processing of administrative formalities for "accredited customers" should enable them to register before they embark and so cross the "intelligent" border much more easily thanks to a simple barcode on their customs declaration.

Pending the introduction of these IT facilities, fears of recurrent disruptions in the supply chains of the province of Northern Ireland have prompted unionists from the DUP (Ian Paisley Jr) to invoke Article 16 of the Northern Ireland Protocol, which allows the European Union or the United Kingdom to take "appropriate safeguard measures" - in this case the suspension of controls - "if the application of this Protocol leads to serious economic, societal or environmental difficulties which are likely to persist, or to a reorientation of trade". Alerted to the risk of food shortages, Brandon Lewis, UK Secretary of State for Northern Ireland, was reassuring and said that he would work to ensure the flow of trade. But the announcement on January 27, 2021 of reduced deliveries of vaccines for the European market by the pharmaceutical company AstraZeneca was to trigger renewed tension between the European Union and the United Kingdom. The first reaction of the

European authorities was to use the safeguard clause provided in Article 16 of the Protocol to set up, for greater transparency, a mechanism to control exports of vaccines produced at the Belgian site of Seneffe to the United Kingdom and especially to Northern Ireland. Even if the President of the European Commission was quick to abandon the initiative, this gesture would cause a furore on both sides of the Irish Sea. The British and the Irish governments, as well as all the Northern Irish parties, were united in their opposition to what they saw as an ill-considered act that posed a serious threat to the vital interests of the province. This new controversy would further heighten doubts about the applicability of the Protocol and lead Northern Irish unionists to call for its withdrawal once again, without proposing any other solution.

The intractable "Irish question", which has dominated British political life for the last two centuries and was thought to be gone forever, has returned in force with the UK's exit from the European Union. In the west of Britain, both parts of the island of Ireland are being penalised in several ways by the unilateral decision of the British.

While the return of the Irish border has been avoided, Ulster has to endure the additional customs procedures to protect access to the Single Market imposed on it by the Northern Ireland Protocol. The complexity of its new hybrid status, under the joint authority of the European Union and the United Kingdom, has denied it access to European political institutions and aid programmes while allowing it to be treated as if it were still a Member State participating in the Single Market. As Colin Murray[21], a public law researcher at the University of Newcastle, says, Ulster is at the heart of a Venn Diagram, in this uncomfortable area at the intersection of two entities, which, far from providing "the best of both worlds" as some have said, could very quickly emerge as a deadlock.

As for the Republic of Ireland, which has been able to count on the unwavering support of the European Union[22], it is experiencing serious economic and commercial repercussions as a result of Brexit. With its economy closely interwoven with that of its neighbour

[21] Colin Murray, "Oven-ready or half-baked? Implementing the Northern Ireland Protocol", UK in a changing Europe, 17/2/2020.

[22] Throughout the negotiations, Europeans remained united and in solidarity with Ireland, a country particularly vulnerable to the shock of Brexit.

and its geographical location making it dependent on the United Kingdom for its trade with the continent[23], not only does Brexit jeopardise the smooth functioning of its trade, but also the quality of its relations with its neighbour. Since it is the Member State most affected by Brexit, Ireland has been granted the sum of [one billion €](#) from the [European Aid Fund in compensation for the negative impact of Brexit](#) on its economy.

Would Irish unity be the only sustainable political solution for Northern Ireland after Brexit? The idea of a referendum, whose prospect might have seemed remote before Brexit, has become much more plausible. The people of Northern Ireland would have the choice within a statutory period of time of opting for either a continuation of the *status quo* or attachment to the Republic of Ireland, which would have the advantage

of reintegrating the British province into the European Union. Should a majority in favour of a united Ireland emerge from the ballot, a second referendum would be held. But achieving such a change of status in a concerted and peaceful manner would require a great deal of effort on both sides of the Community divide and the establishment of a genuine dialogue involving all stakeholders.

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[23] The Irish Road Hauliers Association alerted the Irish government in September 2020 to the risks posed by Brexit on freight transport. Since 80% of Irish vehicles use the overland route via Great Britain (UK-landbridge) to reach the European continent, they were subject to security checks that could delay them considerably. This dependence on the British space has led to the development of new ferry lines to link Ireland directly to France. The Swedish company Stena has set up a line that links the port of Rosslare to Cherbourg and the Danish operator is providing a new link between Rosslare and Dunkirk. The crossing usually takes twenty-four hours, i.e. six hours more than if they passed through Great Britain, but the carriers will have the double advantage of significantly saving their driving time, and, on the other hand, not having to leave the European Union

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