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Testimony to House Foreign Affairs Subcommittee on Europe, Eurasia, Energy & the Environment hearing on “Protecting the Good Friday Agreement from Brexit” to be held on Tuesday, October 22nd at 2:00pm in the Rayburn House Office Building, Room 2172.

I am testifying regarding the impact of Brexit on the Good Friday Agreement, and the peace process in Ireland. I am a professor of political science and international affairs at George Washington University.

The complex relationship between Brexit and peace in Northern Ireland has been at the heart of many of the negotiating disagreements between the United Kingdom and the European Union. Now, the European Union and United Kingdom have reached a provisional deal on the terms under which the United Kingdom will leave the European Union. Below are the key points that I believe are most helpful for understanding the current relationship between Brexit and the Good Friday Agreement.

Brexit was inevitably going to stress the Good Friday Agreement

The Good Friday Agreement was helped by the fact that both the Republic of Ireland and the United Kingdom were members of the European Union. This took much of the poison out of the territorial disagreement - both states were part of a broader European political system. The Republic of Ireland became a modern country, confident in its own identity, rather than being, as the Irish political scientist Basil Chubb called it, an “island behind an island,” locked into an unhealthy relationship with the United Kingdom. The shared framework of the European Union provided a new context for identity clashes between Northern Ireland’s nationalists and unionists, and created incentives for politicians from both sides to cooperate in seeking European Union benefits for their shared constituents. Finally, the European Union’s Single Market and Customs Union meant that there were no customs posts, making it easy to build economic relationships across the border.

Together, these helped make it easier to negotiate the Good Friday Agreement, and easier to maintain it. The final Agreement explicitly seeks to “develop still further the unique relationship between [the peoples of these islands] and the close co-operation between their countries as friendly neighbours and as partners in the European Union.”

When the United Kingdom decided to leave the European Union, all of this was called into question. Relations will be more complicated when the United Kingdom is no longer be a European Union member state, while the Republic of Ireland is. Clashing national identities will no longer be blurred by a common European context. Indeed, England has defined a stronger national identity in contradiction to European identity. Finally, the customs and border relationship between Northern Ireland and the Republic of Ireland will be more difficult if the United Kingdom is no longer a European Union member. Any border controls and customs

posts would become a target for dissident republicans who want to destabilize the agreement in order and resume terrorist hostility.

Peace in Northern Ireland was a key question during the Brexit negotiations

There was little discussion of Northern Ireland's status in the run-up to the Brexit referendum. However, much of the negotiations over the exit of the United Kingdom from the European Union focused on the border between Northern Ireland and the Republic of Ireland. The European Union decided early on that the security and integrity of Ireland was a key question that would have to be resolved as part of an exit deal. This led the United Kingdom and European Union negotiators to converge on the idea of a 'backstop,' a set of arrangements that would ensure that customs and Single Market rules did not undermine political stability in Northern Ireland. The 'backstop' would operate until both negotiating parties came up with a more satisfactory agreed arrangement.

Initially, the backstop proposal was uncontroversial. However, as time went on, pro-Brexit politicians in the United Kingdom, including members of the ruling Conservative Party, came to detest it. Two basic variants of the backstop were discussed at different stages in negotiations, each of which was politically problematic for pro-Brexit politicians. If it covered the whole of the United Kingdom, it would keep the United Kingdom closely aligned with the European Union's Single Market and customs arrangements, making it difficult for the United Kingdom to negotiate new trade deals. This helps explain the difficulties that Theresa May had in getting the first proposed deal between the United Kingdom and the European Union through Parliament, and the continued efforts of UK negotiators to remove the backstop or make it time limited. If it just covered Northern Ireland, it might be seen as driving a political wedge between the 'mainland' of the United Kingdom and Northern Ireland. This was seen as unacceptable by the Democratic Unionist Party, whose support was necessary to keep the Conservative government in power.

A "no deal Brexit" would be a disaster for peace in Northern Ireland

Many people feared a "no deal" Brexit, where the United Kingdom left the European Union without any agreement. The unpredictability of British politics means that this is still not impossible. There is general consensus that it would be a disaster for peace in Northern Ireland. The border between Northern Ireland and the Republic would immediately become a source of major instability. The Irish government would be faced with the unenviable choice of creating border controls or breaking European Union law. Any new border controls would be a target for terrorist groups. There would be massive disruption to the economies of Great Britain, Northern Ireland, and the Republic of Ireland, with a much increased chance of political unrest. Supply chains between the North and the Republic would be badly damaged, and perhaps torn asunder.

Some United Kingdom and Democratic Unionist Party sources suggested that new technologies would allow for a nearly invisible border between North and South, but they failed to explain in

detail how they would work. Irish government officials and EU negotiators concluded, not unfairly, that these proposals were less a serious solution than an effort to discover if Europe was prepared to accept a deal that papered over the real problems.

The shadow of a no-deal Brexit has hung over negotiations since they began. At times, the United Kingdom appeared to believe that the risk of a no deal Brexit strengthened its negotiating position, since some EU member states, especially Ireland, would be badly affected. However, the British prime minister, Boris Johnson, has ended up agreeing to a deal that makes substantial concessions to the EU in exchange for a cleaner possible break for all of the UK except Northern Ireland.

The proposed replaces the backstop with a frontstop

The draft deal between the United Kingdom and the European Union replaces the ‘backstop’ with a ‘frontstop.’ The backstop was a stopgap agreement, intended to serve only until the EU and UK could agree on something better. The deal on the table describes a long term set of institutional arrangements. Northern Ireland will legally fall under UK customs rules – allowing it to be part of future UK free trade agreements – but in practice will still operate using EU rules. This will require some checks between Great Britain and Northern Ireland, but will mean no hard border between Northern Ireland and the Republic of Ireland. This means that economic and political chaos are less likely, and that terrorists will not have an easy target in new border posts.

However, even though the deal was designed to recognize the UK customs union in principle, it weakens it in practice. This will make economic relations between Great Britain and Northern Ireland more complicated. Companies in Northern Ireland who want to export to Great Britain will need to complete export forms, while companies that want to import goods from Great Britain to Northern Ireland may have to pay tariffs, although they can claim the tariff back if they can prove that the product is being sold in Northern Ireland. This is supposed to stop Northern Ireland from becoming an easy way to smuggle goods back and forth between the European Union and the outside world.

It helps protect peace but there are risks

The willingness of EU negotiators and the Irish government to accept the deal signals that they think it is a good bet that the deal will support the Good Friday Agreement, and peace between the different communities in Northern Ireland. The deal on the table is far better for peace than the no-deal Brexit that many feared was likely. It moreover affirms that the Good Friday Agreement “should be protected in all its parts.”

However, there are still real dangers. Most importantly, the Democratic Unionist Party and some other unionists oppose the deal. They wanted an arrangement under which the unionist community would have an effective veto power over the deal and its implementation. For support, they pointed to the Good Friday Agreement, which said that many key decisions would

require cross-community support from both nationalists and unionists. Thus, the Democratic Unionist Party argued that any new arrangement for Northern Ireland needed the express consent of both communities.

This proved unacceptable to the Irish government, and to European Union negotiators. Instead, the European Union and the United Kingdom agreed that the Northern Ireland Assembly would have a different kind of opportunity to express its democratic consent to the deal. If a majority of members of the Assembly agree to the deal, it will continue in operation for another four years before consent needs to be renewed through a new vote. If both the nationalist and unionist communities express support, it will continue in operation for eight years. However, the Assembly has not met for over two years, because of continuing deadlock between nationalists and unionists, and it is not clear when it will resume operation.

The lack of a unionist veto has led the Democratic Unionist Party to complain that a “coach and horses” has been driven through the consent principle that underlies the Good Friday Agreement. However, David Trimble, the unionist politician who helped negotiate the Good Friday Agreement (and received a Nobel prize) has described the deal as a “great step forward,” which “provides a mechanism for the consent of the people of Northern Ireland.”

The hope of negotiators is that the deal provides a durable long term framework for Northern Ireland’s relationship with both the United Kingdom, of which it remains part, and the Republic of Ireland, which commands the loyalties of many Northern Irish people. It is written so as to affirm and cement the role of the Good Friday Agreement, and the fundamental principle of consent under which there will be no change to Northern Ireland’s status without the agreement of Northern Ireland’s people.

The risk is that the framework depends on the repeated consent of the Assembly, and ideally cross-community consent. The requirement to revisit these basic questions may create increased stresses on community relations that are already dysfunctional, and institutions that are currently not working.

The outcome is a set of arrangements that is far better than no-deal Brexit, but that is also far from the ideal. Instead of disaster planning, there is something to be worked with.

What the US can do

There is broad and continuing bipartisan support for the Good Friday Agreement. The US has played a crucial and beneficial role in building and maintaining peace in Northern Ireland. In addition to continuing its existing support and activities, Congress and the administration can contribute in the following ways, if it wishes to prioritize the peace process in Northern Ireland.

Express their support for peace in Northern Ireland

The deal that has been reached has clear benefits for peace in Northern Ireland. Although its

economic repercussions are complex, it takes difficult and destabilizing problems off the table. However, it still needs to be ratified, and faces political challenges in the House of Commons. US statements that affirm the importance of peace in Northern Ireland and the continuing US commitment to the Good Friday Agreement will provide helpful signals to British politicians trying to navigate their own set of complex political tradeoffs.

Reaffirm their broad support for the principle of consent

Some Unionist opposition is motivated by the fear that Northern Ireland's situation might change without their consent, and that the principle of consent is being undermined by the current deal. These fears are often based in a misunderstanding of the Republic of Ireland's motivations. If there is one thing that the Republic's government has learned from Brexit, it is that broad political changes will lead to political instability if there is not equally broad consent among the relevant public.

It is reasonable for the UK and European Union not to condition a broad arrangement for exiting the European Union on the veto of one community. The Good Friday Agreement was never intended to apply to international economic and trade relationships, because no-one anticipated anything like the present circumstances. However, US reaffirmation of the importance of democratic consent to any change in Northern Ireland's constitutional circumstances may help to allay fears within the unionist community.

Support a customs and trade agreement between the UK and European Union

Once the United Kingdom and European Union finalize the withdrawal process, they will need to begin a new set of negotiations on the future relationship between the two political and economic systems. There are many complex and unwieldy aspects to the new customs arrangements for Northern Ireland. The United States should encourage the United Kingdom and European Union to strike a broad deal on trade and customs quickly, with clear, and straightforward terms. The less complex the future relationship between the United Kingdom and European Union, the fewer difficulties for Northern Ireland, and the lower the risk of future political turmoil.