MAY 2017
Foreword by John McGrane

On behalf of the British Irish Chamber of Commerce and our event sponsors Eversheds Sutherland, I am delighted to present to you the event report from our recent seminar 'Brexit: Preparing for Change'. Since the referendum result and the subsequent evoking of Article 50, the Chamber has worked on behalf of our members with both the UK and Irish governments, as well as our European partners, to ensure that the successful and mutually beneficial trading relationship between the UK and Ireland will not be unduly disrupted as a consequence of Brexit. This work is being carried out through our eight sectoral policy committees and our Brexit Negotiating Committee which bring together the expertise of our members, representatives from government agencies and thought leaders from the world of academia. This event is an example of the on-going work that the Chamber is committed to – addressing the issues that will arise as a result of Brexit and formulating solution based responses. This report will be circulated to attendees, government officials and wider stakeholders as part of our on-going deliberations on these matters.

I am delighted that the Taoiseach Enda Kenny, in his first public event since announcing his resignation honoured us by giving the keynote address. The Taoiseach stated eloquently and decisively that there would be 'no return to borders of the past' and that Ireland's place was within Europe. It is to his credit and that of the officials of the Department of An Taoiseach and the Department of Foreign Affairs and Trade, that the 26 other Member States support Ireland's call to be accorded priority for the Ireland/Northern Ireland position in the Article 50 negotiations. I join the Chamber's President in thanking the Taoiseach for his service to the nation and wish him and his family the very best for the future.

This Seminar was successful in its objective by cutting through the rhetoric to identify the actual legal and practical difficulties that will arise as a result of a 'Hard Brexit'. Now, the focus must turn to developing 'negotiation ready solutions'. To this end, the Chamber is bringing together organisations representing employers and employees on both islands to enable bilateral relations, trade, investment and employment to continue with least disruption post-Brexit.

I would like to take this opportunity to thank our sponsors Eversheds Sutherland, in particular Alan Murphy for his continued support of the Chamber. I would also like to acknowledge our expert panellists who gave of their time- Owen Brennan, Tony Buckley, Pat Cox, Stephen Donnelly TD, Ros Kellaway, Ann McGregor, Professor Joseph A. McMahon, Edgar Morgenroth and Sean Ryan.
Eversheds Sutherland is pleased to sponsor such a constructive and wide ranging dialogue on Brexit for the British Irish Chamber of Commerce. We hope that you find the contents of this report a useful record of the deliberations that took place during the seminar. The contributions, not just from our high level expert panellists, but from the audience enabled a stimulating and informative event that has brought to the fore the challenge that a Hard Brexit would mean for Ireland, the UK and indeed Europe as a whole.

We are delighted that our colleague Ros Kellaway could travel from the UK to lend her expertise to this event. Ros has researched and spoken extensively on the subject of Brexit to numerous organisations over the past twelve months and her insights, from a UK perspective, offered a unique addition to proceedings. We are particularly grateful to the Taoiseach, Enda Kenny for delivering the keynote address only a few hours after announcing his resignation from office.

Since the historic referendum result in the UK in June of last year, the Eversheds Sutherland Brexit Unit, led by partner Sean Ryan, has been keeping clients informed of key developments, as well as highlighting issues that the firm identifies as potential ‘watch-outs’. This event is just another example of that on-going work.

Eversheds Sutherland will be beside its clients on every step of the Brexit journey, and will continue to bring fresh thinking to the issues that they face. We have had a mutually beneficial relationship with the British Irish Chamber of Commerce for over five years now and we look forward to working together over the coming months and years to address the challenge that is Brexit.

I would like to add my thanks to all the presenters, panellists and the audience for their contributions throughout the day.
Introduction and Context

This Report draws on the discussions from the recent British Irish Chamber of Commerce Seminar: 'Brexit: Preparing for Change', which took place in the RDS, Dublin on 18 May 2017, kindly sponsored by Eversheds Sutherland.

The Seminar set out to draw a realistic picture of what the trading relationship between the UK and Ireland would look like in the event of the EU and UK failing to reach agreement on Article 50 of the Treaty of European Union (TEU) (the article providing for the formal exit mechanism for a country wishing to leave the EU). The 'divorce settlement', and the ensuing discussions on Article 218(3) will shape the future trade arrangements between the EU and UK and, because of its comprehensive nature, is likely on the EU side to be a mixed agreement requiring the approval of the EU institutions and all 27 member states. The second half of the Seminar considered what a good deal for Ireland might look like consequent to the outcome of negotiations and how we should go about achieving it.

Emma McNamara, RTÉ, moderated the Seminar:
Launching the Seminar, Eoin O'Neill, President, British Irish Chamber of Commerce noted that the entire focus of Chamber is to support the constructive development of trade and to that end, in the context of Brexit, the over-riding concern is to maintain maximum trading enablement between Ireland and the UK. He further observed that open and high-level flows of trade constituted the best protections for sustaining and fostering the peace settlement.

Presenter 1 - Professor Joseph A. McMahon - UCD Sutherland School of Law

Panel 1- Owen Brennan- Devenish Nutrition, Tony Buckley – Customs at Revenue, Ros Kellaway- Eversheds Sutherland (UK), Sean Ryan- Eversheds Sutherland (Irl)

Presenter 2 - Dr. Edgar Morgenroth – ESRI

Panel 2- Pat Cox- Former President of the European Parliament, Stephen Donnelly TD - Fianna Fáil Spokesperson for Brexit, John McGrane - British Irish Chamber of Commerce, Ann McGregor, Northern Ireland Chamber of Commerce
In introducing the Taoiseach as keynote speaker (in one of the Taoiseach’s last engagements in office), the Chamber President referenced the Taoiseach’s concern for clear-eyed strategic solutions which offer the greatest good for the greatest number. He expressed his and the Chamber’s appreciation for the huge achievement of the Irish Government in ensuring that the pursuit of imaginative and flexible solutions towards avoidance of a hard border between Ireland and Northern Ireland coupled with the maintenance of bilateral agreements between the UK and Ireland were one of the three EU priorities for the Article 50 negotiations. The President referenced Seamus Heaney ‘remember everything, and keep your head’ in acknowledging that the Taoiseach in difficult economic circumstances of the recent past showed both courage and leadership, and it is to his credit that Ireland has been the fastest growing economy in Europe for the last four years, a distant hope back in 2012.

The Taoiseach, welcomed the Seminar as an important source of ideas which could inform ongoing negotiations on the relevant TEU Articles, noting that the all-Island Civic Forums had been a substantial input in informing the Government position and inviting the Chamber to reflect on options and submit any proposals it formulates for consideration by Government. He observed that Brexit poses unprecedented challenges. Consequent to the Brexit vote the UK and Ireland will follow different paths. There will be no return to the past. We want to maintain access to talent and to the single market. The best place for Ireland is in the Eurozone, a place affirmed by the Irish electorate in voting for the Fiscal Stability Treaty, with Ireland seeing its role as remaining a strong central figure within the EU. He further acknowledged the support of 26 other member states for Ireland’s call to be accorded priority to the Ireland/Northern Ireland position in the Article 50 negotiations.

‘Nonetheless, the working relationship with Prime Ministers Cameron and May was and is strong, reinforced by state visits and maturing relationships. The Taoiseach cited the working relationship between Elizabeth I and Grace O’Malley “There is space for us both” as an early pragmatic example of mutual respect and co-existence. He expressed his hope that the parties in Northern Ireland would sit down for talks post-election to re-operationalise the Northern Irish Executive.

Both he and PM May agree that the default- direct rule- is not a desirable outcome.
There are many unknowns that will arise from Brexit and we have to approach the challenges of negotiation and outcomes with creativity and imagination. Our goal is a seamless border with Northern Ireland. The position is as yet unclear about tariffs, but there will definitely be two different jurisdictions. The context of the border issue in Ireland – what will be the land border between the EU and a third country – is distinct and already the subject of an international binding agreement. It is now explicitly clear that should a majority of people in Northern Ireland vote to join the Republic at some future date the outcome will be as with the former East Germany – automatic inclusion in the European Union on foot of becoming an integral part of a united Ireland.

The Taoiseach further noted that the outcome of negotiations on trade is vitally important and that brinkmanship and bad blood in the process of those negotiations would help no one. He disapproved of the emergent talk from the working dinner in Downing St. The food, retail and tourism sectors would face particular challenges. Financial services companies are unlikely to be passive about their future strategic locations if discussions stall in repetitive circles. For Ireland, the objective is to maintain the value and volume of trade, as per the thrust of the just published Enterprise Ireland Strategy 2017-2020 with its focus on supports for companies to scale up and expand their reach. The Enterprise Ireland online analysis box was cited as a useful measure for any business to assess its level of preparedness for Brexit.

The Taoiseach welcomed the election of President Macron and a re-energised relationship between France and Germany. The larger and smaller countries within the EU working together is a win for everyone. He supported a re-invigoration of those aspects of the Transatlantic Trade and Investment Partnership that would work. He had suggested to Prime Minister Trudeau that Canada might route investment in the EU through Ireland.

The Taoiseach concluded by noting that economic opportunities would result from Brexit and we needed to realise these. But we would need assistance from the EU to deal with the immediate consequences of Brexit – we are making common cause with the Netherlands and Denmark as other member states with a very significant level of trade with the UK. We need to diversify markets and activities, to sustain and enhance competitiveness, protect jobs and provide for the most vulnerable regions. He referenced the wider aspects of uncertainties we face – pressures on our fiscal policy, more unstable global geopolitics, what might emerge from the renewed Franco-German alliance.

Finally, the Taoiseach observed that people from business are best placed to identify issues, particularly sectoral issues, and invited the Chamber to consider existing options post-Brexit or indeed come forward with additional proposals.
Panel 1- Looking at the WTO and Customs Implications of a Hard Brexit

**Emma McNamara** introduced the first panel discussion on the theme, Looking at the WTO and Customs implications of a Hard Brexit, noting the focus of the discussion on the 'What if' scenario in the event that there is no comprehensive Free Trade Agreement between the UK and the EU. To set the context, this panel discussion began with a presentation by Professor Joseph McMahon, Dean, UCD Sutherland School of Law, who outlined the process involved should the UK adopt its own independent WTO schedule for goods and services covered by WTO trading rules. In addition to Prof. McMahon the other panel members were:

- Owen Brennan, Executive Chairman, Devenish Nutrition
- Tony Buckley, Assistant Secretary, Corporate Affairs & Customs, Revenue Commissioners
- Ros Kellaway, Partner and Head of EU Competition and Regulatory Group, Eversheds Sutherland (UK)
- Sean Ryan, Partner, Corporate and Commercial, Eversheds Sutherland (Irl).

Prof. McMahon instanced Bob Dylan’s *A Hard Rain’s Gonna Fall* as suitable shorthand for the situation if there were to be no EU-UK trade agreement. What would happen is that the UK would adopt its own WTO schedule on tariffs and domestic support commitments re agricultural products and on services as the basis for negotiating a network of free trade agreements with other countries.

Although the UK is a WTO and GATT member the process is not straightforward as it has not had a separate schedule since accession to the EU in 1973. It would therefore need to create its own schedule and submit it to the Director General of the WTO. In principle, this requires approval by other WTO members but in practice, the Director General certifies the schedule. Resolution of any objections to items in the schedule will be dealt with through bilateral discussions between the UK and the objecting party under Article XXVIII of the General Agreement on Tariffs and Trade 1994 and if no mutually satisfactory solution is agreed, recourse can be had to the WTO dispute settlement process.

It is not anticipated that issues would arise with regard to tariffs on industrial products which now average about 3-4% globally. The tariffs for agricultural products, however, are set much higher, with several of these running higher than 100%. The UK, a net food importer, will have to schedule its proposed tariffs on agricultural goods. It might intend to set these at a lower level. A complication is that tariff quotas currently belong to the EU. An issue is how and if these could be apportioned between the EU27 and UK, and if this is to be accomplished during the exit negotiations. The UK would have to list its agricultural supports in its schedule consistent with WTO principles. The EU would also need to submit a new schedule – it is possible, but unlikely, that WTO members would object to reductions in the level of agricultural support.
Services (except for governmental authority and air traffic rights) now come within the remit of the WTO, on foot of the General Agreement on Trade and Services (GATS). The GATS distinguishes between four modes of supplying services: cross-border trade, consumption abroad, commercial presence, and presence of natural persons. The regulatory framework for trade will change. In the absence of an EU – UK Trade agreement WTO schedules will apply. These are based on twin principles – Most Favoured Nation (MFN), and National Treatment (NT). The core objective is equality of competition but there are a limited number of possible exceptions, notably measures necessary to protect human, animal or plant life. So, the UK could use the exceptions to change the existing regulatory framework for example on animal health, and genetically modified foods measures.

With specific regard to the position of Northern Ireland Prof. McMahon posited one potential future route – availing of the EU provision that “If two or more countries are involved in the production of goods, the concept of "last, substantial transformation" determines the origin of the goods”. The damaging impact on trade and the economy of a ‘Hard Brexit’ might be alleviated through astute use of this principle. A large number of agricultural goods travel north and south – if the last substantial processing takes place in the Republic these goods are classified as Irish. It would also be possible for British companies generally to make use of the potential for this.

In the ensuing exchange of views, the China exemplar (China and Hong Kong, etc.) was postulated as a possible good deal for Northern Ireland – i.e. that Northern Ireland be declared a special customs territory where exactly the same tariffs as the EU apply while the North remains politically part of the UK. If this option were to be explored that would take place as a strand of the Article 50 negotiations.

1) Most-favoured-nation (MFN): treating other people equally. Under the WTO agreements, countries cannot normally discriminate between their trading partners. Grant someone a special favour (such as a lower customs duty rate for one of their products) and you have to do the same for all other WTO members. This principle is known as most-favoured-nation (MFN) treatment. https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm

2) National treatment: Treating foreigners and locals equally. Imported and locally-produced goods should be treated equally — at least after the foreign goods have entered the market... National treatment only applies once a product, service or item of intellectual property has entered the market. Therefore, charging customs duty on an import is not a violation of national treatment even if locally-produced products are not charged an equivalent tax. https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm

Prof. McMahon also explained the position re Air Traffic Rights – on foot of European Court of Justice (ECJ) decisions this is an area of mixed competence between the EU and member states and a lot of competences will revert to UK post-leaving. The recent ECJ decision on the Singapore trade agreement identified an increasing competence by EU but in the case of the UK this will, of course, return to the country. On state aids the UK will be subject to WTO rules but will be in a better position to make use of state aids than member states of the EU.

Prof. McMahon further clarified that on foot of Brexit an additional number of jurisdictions (e.g. Gibraltar) would exit the EU and it would be a matter for the UK to establish and agree with the EU the relevant terms for each of these.

Owen Brennan noted the challenges arising post-Brexit with regard to: the much-intertwined nature of food processing on both islands, the perishable nature of the product, and the very long supply chain implications. Research takes place cross-border with a huge amount of collaboration. Food has and will have a great role to play in promoting good health, e.g. through functional foods- prevention rather than cure.

Animal and plant health are no respecter of borders and effective mechanisms, e.g. an all-island animal health policy, need to be in place to deal with issues such as avian influenza as these emerge. A separate sectional agreement might be the way to deal effectively with this but it was noted that this, if happening, would be agreed under the Article 218(3) negotiations rather than the Article 50 negotiations.

He also noted that there were many uncertainties and all you could do was allow for contingencies for the circumstances you could anticipate. Food and Agriculture are very large employers in particular outside large urban centres and provide significant opportunities throughout the economy.

He welcomed the Taoiseach’s invitation and the opportunity to respond and alert the Government to particular sectoral issues.

Ros Kellaway observed that whatever happened post-Brexit the UK and EU were not starting from divergent positions as the Great Repeal Bill would incorporate all EU law into UK law.

Tony Buckley gave an overview on how customs checks work. The EU is fundamentally about trade and that includes the abolition of customs borders. The EU is the largest trading bloc in the world without customs. This is an enormous achievement, given that it is immensely complex to persuade countries to pursue fair trade between themselves. In the event of dissent from this, the fundamental trust is removed and a monitoring system restored.
Free-flowing trade is good but post-Brexit it will be legally and technically impossible for the UK to remain in the Customs Union. Customs is not a significant fiscal instrument in EU given the global trend for tariffs to decline. What Customs are focused on is supply chain protection – protection against counterfeiting, criminality and unfair competition.

The Ireland brand is very valuable and requires vigilant protection – e.g. infant formula produced in Ireland accounts for 10% of the global market. Even within the EU goods may not be branded properly. We need to operate the external border to maintain our own position, to protect EU territory and regime.

With regard to customs checks, the key principle is who makes the declaration – the economic operator. The status of authorised economic operator is very valuable – a trusted trader has access to all simplifications. However, implementation of customs checks is a matter for a member state – 'you can do anything you like as long as you are prepared to pay the price'.

Flexibility and automation – self-assessment and audit, are the operational provisions for the Customs Service. Post-Brexit, cars will not be stopped and searched- normal private crossings will continue. Monitoring for economic reasons and ensuing actions will of course arise but there will be no permanent checkpoints. We start with two relative advantages - trade with Northern Ireland is only 2% of Ireland’s trade and we are at the end of EU supply chain.

Tony referenced the aforementioned suggestion of the status of special customs status for Northern Ireland. He noted it as an interesting suggestion but observed that it would be neither simple to negotiate nor a panacea, if negotiated. For a start, the EU can only negotiate with a sovereign state.

In response to a question from the floor, he gave an account of what actually happens with regard to a customs declaration, he specified that it 'is lodged with both Customs authorities and submitted to a risk analysis'. Often, additional documentation may be required. There is provision of simultaneous scanning of ancillary documents with the customs application. A significant factor is that 133 of authorised economic operators account for 85% of trade – physical checks can take place on the site of these operators, not at the border. There are, of course, some risky products and traders – but there are physical checks on no more than 2% of crossings, with documentary checks on a further 6%.

With regard to a 'Special Customs Area status for Northern Ireland', it might be possible to finish a financial services product within the Republic where it could avail of financial services passporting within the EU. However, it is not yet known what the outcome will be on passporting and whether the UK could launch a WTO schedule, which might include such services – it is a political rather than a legal problem.
In any event, the supply chain has to remain legal and traceable. With a special status designation, it could perhaps be possible to stipulate different tariff rates applying within constituent jurisdictions of the UK. Regardless, it is relevant that a massive amount of border crossings take place daily. While a special status designation would impact on tariffs—the issue is about keeping the flow going.

Prof. McMahon observed that with devolution and the return of the Executive it could in principle be possible for politicians in Northern Ireland to agree the goal of designated status and pursue this.

Seán Ryan observed that commercial contracts entered into post-Brexit will have to operate within the confines of the Trade Agreement ultimately agreed between the EU and the UK, but it will probably be more so a change in the environment within which such commercial contracts have to operate rather than any fundamental change in the terms of commercial contracts. He further observed that the Common Travel Area (CTA) between Ireland and the UK is recognised as a bilateral arrangement effectively giving reciprocal rights but free movement of persons had superseded it. While there is no guarantee that the CTA will be maintained it is part of the Article 50 discussions and recognised as a priority. It should be an 'easy give'.

Seán further observed that while there is in principle a two-year timescale for negotiation of the Article 50 agreement, when provision for ratification is built in the actual space for agreement is considerably shorter.

He also noted that it would be helpful to pitch any proposals clearly as not impacting on others from the EU27.

Ros Kellaway reiterated the point while the UK would no longer be bound by EU regulations the Great Reform Bill, on enactment, will take into domestic law every existing EU provision with the intention of these continuing to apply. This should facilitate the swift conclusion of a Free Trade Agreement as there will be no change of policy from current EU rules at the point of exit. Moreover, providing negotiations are successful in principle and because its unlikely everything will be concluded inside the very short timetable, a transition period which takes effect from exit and which gives time to negotiate a Free Trade Agreement during that transition period is likely. The EU has always favoured a transition period to allow for a major change and this would retain the status quo until a deal can be concluded.
This Panel was contextualised by a presentation by Dr Edgar Morgenroth, ESRI, on The macro-economic implications for Ireland of a 'Hard Brexit' (outside the Single Market and Customs Union). The Panel focused on identifying what a good deal for Ireland would look like and how the Irish Government can go about achieving this?

In addition to Dr Morgenroth this Panel was composed of:

- Pat Cox, Former President of the European Parliament
- Stephen Donnelly TD, Fianna Fáil Spokesperson for Brexit
- John McGrane, Director General, British Irish Chamber of Commerce
- Ann McGregor, CEO, Northern Ireland Chamber of Commerce

Dr Morgenroth summarised the context as:

- Brexit is almost certain to happen.
- Brexit may be hard or very hard.
- Uncertainties abound with regard to outcomes.
- There is a need to assume particular outcomes to estimate effects.
- ESRI has modelled different outcomes.
- There is no certainty that Art 50 discussions (i.e. the Divorce settlement) will be successful.
- Article 218(3) is concerned with trade and will require a second-stage set of dedicated negotiations after Article 50 settlement.

Dr Morgenroth noted that the fact that the UK will retain, at least initially, all EU regulations and standards under the Great Repeal Bill is not important for negotiations – the EU will want to know how the UK will deviate from its existing status, and negotiate accordingly. The UK will have to decide what it wants to change. The options are:

- A soft Brexit, as per the Norwegian model; within the Single Market.
- The Swiss model – a compendium of bilateral trade agreements, free movement and Swiss participation in the EU research and student programmes – Horizon 2020 and Erasmus - no passporting of financial services.
- A hard Brexit – outside Single Market and Customs Union

It is trade that denotes the different scenarios.

A very hard Brexit would see the UK leaving the Customs Union and negotiating agreements with other third countries at lower tariffs – e.g., beef from Brazil. In undertaking its studies the ESRI has worked on simulations done from UK models from NIESR (National Institute of Economic and Social Research).

It is relevant to note that Brexit impacts on other member states so there will be an indirect as well as direct effect on Ireland, for example, if no financial passporting rights are agreed for the UK some shift of financial services is likely from the UK to other member states including Ireland. There is very significant migration within the EU of persons wanting to work in an English-speaking country. Post-Brexit more young people might want to migrate to Ireland. This could be good for the Irish economy but there may be issues of absorption capacity.
Brexit may be a rupture or have a longer term ten-year impact – the break-up of Czechoslovakia offers some comparison as a model. Some products are more price-sensitive than others and some more susceptible to the impact of WTO rules should these transpire. The bad news is that all Brexit simulations suggest a negative outcome with only bad or worse news and a significant negative impact on exports – possibly of the order of 10% for UK, 4% for Ireland and 2% on average for the EU.

A further point of relevance is that all 27 member states must ratify the draft agreement on the future trade relationship between the UK and the EU under Article 218 assuming one emerges. So all 27 countries will effectively have a right of veto but some could make separate demands on unrelated issues in order to agree.

What’s necessary is to plan for the worst scenario, and the Government should try to make the best happen. Tools such as the Enterprise Ireland Brexit readiness scorecard are helpful as planning aids. The state agencies are developing and refining their advice to firms in specific sectors. The good news, relatively, is that Ireland is by far first out of the blocks in preparation. In addition, it is possible that, as mentioned in the earlier panel discussion, exporting from UK and re-exporting from Ireland will help deal with some risk.

Stephen Donnelly, in his intervention, urged that the State should help businesses mitigate risks, and also seize the immediate opportunities “Is there a bunch of businesses that Ireland could do the last stage of processing on” to allow for a major change and this would retain the status quo until a deal can be concluded.

He observed that, in the context of Ireland losing its preferential corporation tax rate, industry and State need to work together. In particular, they should start thinking about moving beyond the Anglo-Saxon world. To all intents and purposes, the UK is an internal market for us. Only 13% of exports from Ireland are from Irish companies. The State should turn the challenge of Brexit into a national response to the rest of world. What’s needed is an incredible effort by business, political and state agencies. There is also a need for an all-Island response on animal health issues and for sustained agreements on infrastructure. The island of Ireland should be marketed as a single entity for investment.

Stephen concluded that Brexit was the biggest single argument for unification of Ireland and that special status for Northern Ireland for ongoing access to EU should be pursued. The language of the negotiation priorities says nothing about this. He recollected that he himself had asked Michel Barnier about continuing access to Erasmus and Horizon 2020 for Northern Ireland and Barnier had responded that this would be very difficult but not impossible to do on a sector-by-sector basis.
Ann McGregor referenced the position of business in Northern Ireland, noting that businesses there were very insecure. The concern was a disorderly, rather than a hard or soft Brexit. A large part of economic activity results from the public sector, exports are concentrated from inward investment companies, and the universities are worried about diminished access to talent and research opportunities. There are concerns around potential labour supply – 65% of employees in agri-food are EU nationals. As for political leadership “One half have their head in the clouds, the other half are back at war.”

Ann further observed that while exports from Northern Ireland account for only 2% of imports to the Republic, the Republic is destination for 30% of Northern Ireland’s exports. Fintech has been doing well, but the future of passporting of financial services is uncertain. There has been some growth due to the depreciation of sterling but Northern Ireland Chamber is advising businesses to look at risks, take advice, consult with Intertrade Ireland.

Pat Cox, former President, European Parliament, commented that the situation is serious but not desperate. Brexit is a two-act drama. Article 50 is the divorce settlement, but trade will follow. Article 218(3) will be the basis for EU negotiation on trade with the UK as a third country. Despite the popular impression in the UK that the UK is repealing all EU law, the Great Repeal Act (actually a Great Retention Act) will retain all EU law. Therefore, Ireland should encourage a staying of the hand and discourage deviation from the existing norm to optimise the point of departure for those Article 218(3) negotiations between the two parties to ensure they start from as similar a place as possible.

Pat noted that the evolution of product standards over time would be the knottiest part of the trade deal. There would be a need for a dispute resolution mechanism. He also noted that the outcome on Northern Ireland’s status could not be unilaterally determined by the Republic. We should “seek to do as much as we can together” but identity politics are alive and well and we must not release demons whose genies have been put in the jar.

Ireland is not decoupling from the UK but partnering with other countries. And the significance of the relationship lies in practice rather than rhetoric. Look at trade links with the EU. The UK exports 44% of its trade to EU, but 9% to Commonwealth. British / US relations are already at gold standard level. These structures and substances will not be superseded by polemics.

John McGrane welcomed the recognition of the uniqueness of Irish circumstances in the context of Brexit as seen in the priorities for Article 50 negotiations. He observed that if we approach the next stage of negotiations in a fatalistic way we will lack creative effort. We need instead to build on the work of diplomats and government to help us achieve our necessary goals consistent with EU law. Lives and wellbeing depend on it. In addition, there is substance and mutuality to build on to realise opportunities: we import 34% of our goods from the UK.

The aim of the Chamber is to have ready by mid-June a response to the Taoiseach’s invitation. The chamber aims to collate a portfolio of proposals and work with diplomacy, commercial nous and pragmatism to inform political outcomes.
Pat Cox further observed that what would constitute a good deal is maintaining the greatest level of openness in as many sectors as possible. It’s not that the EU will allow sectoral fracturing but it may be that each side will give to the other a strategic win.

Ann McGregor commented that while it will be great to get informed proposals, particularly broken down by sector, she suggested it might travel further, particularly in Northern Ireland, if it was not badged as a response to the Taoiseach’s request – “take out politics and make it economic”.

Dr Morgenroth observed that the very best outcome for Ireland is the same for the UK, bar a few specific Northern Irish issues. We do not know how far the UK wants to go from the existing model. There may be possibilities in Europe for substitution for UK exports, and there is a common need between the agri-food sectors in Ireland and Northern Ireland such that there is opportunity to form a common policy and programme.

Ann McGregor echoed the point with regard to a completely all-island commonality of interest in the food sector – “There isn’t a dairy in the North that’s owned by a Northern Irish company. Northern Ireland agri-companies are looking to Ireland for support on opportunities for cooperation, branding, etc.”

Ros Kellaway noted that the public understanding of the Great Repeal Bill in the UK is very limited. In consulting nationally on Brexit there has been a lot of listening on the part of Government but the UK Government has made no commitment to make policy changes after Brexit. The UK Government will do its utmost to conclude a Free Trade Agreement with its neighbours and major trading partners.

Conclusion

In winding up the seminar Yve O’Driscoll, British Irish Chamber of Commerce, thanked the Taoiseach for his contribution and the staff of his Department and the Department of Foreign Affairs & Trade for their assistance. She expressed appreciation to Emma McNamara for moderating a lively and highly informative seminar. She further thanked Eversheds Sutherland for their co-sponsorship of the seminar and the Chamber staff for their assistance throughout preparation and delivery. She advised that a record of the proceedings had been taken and a note distilled from that would be circulated to members and serve as a significant input to the Chamber’s response to the Taoiseach’s invitation to submit a set of suggestions to inform the Brexit negotiations and outcome.
BACKGROUND

The British Irish Chamber of Commerce was founded in 2011 ahead of the historic visit of HM Queen Elizabeth II to Ireland and the subsequent State visit of President Michael D. Higgins to Britain. The objective of the Chamber is to champion the €60 billion annual trade between the UK and Ireland which directly sustains over 400,000 jobs. We are a bilateral Chamber, engaging members from across two islands and five legislative bodies in meaningful dialogue with a common purpose.

Excellent networking events help our members to find new suppliers and markets. Sector driven policy committees enable firms to jointly examine opportunities and threats and to think about collaborative growth in Europe and beyond.

Contact:

Head of Sectoral Policy
Paul Lynam
T: +353 (1) 1 400 4323
M: + 353 (0) 86 0499252
E: paul.lynam@britishirishchamber.com

Head of Brexit Research & Support Services
Katie Daughen
T: +353 (0) 1 400 4324
M: +353 86 865 1928
E: katie.daughen@britishirishchamber.com
Member Benefits

When you join the British Irish Chamber of Commerce you can opt for a range of benefits from a broad menu. Talk to us to create a bespoke package that’s perfect for your needs.

Choose from:

• A seat on the Council of the British Irish Chamber of Commerce with rights to attend meetings of both Dublin and London Chapters

• Access to all areas of Chamber activity, including membership of Sectoral Working Groups (currently Energy, Agri-Food, SME, ICT, Finance & Professional Services, Culture, Arts, Sport and Tourism, Brexit, Life Sciences, Higher Education and Research) with full voting rights on policy direction.

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• Priority booking for fast selling high profile events including President’s Gala Dinner, Annual Conference Dinner and Charity Lunch

• Opportunities to host and/or sponsor events and deliver keynotes

• Availability of Chamber Executives to address your events

• Co-branded events for a diverse audience and strong attendance

• Opportunities to bring clients to events

• A dedicated Customer Relationship Manager; regular personal engagement, bespoke plans

• Complimentary tickets for Annual Conference

• High visibility on the Chambers website

• Introductions to trading partner opportunities

• Opportunities to partake in Trade Missions

• Complimentary membership of British Irish Gateway for Trade- BIG

To join the Chamber please contact: Yve O’Driscoll
Director Corporate Relationships | E: yve.odriscoll@britishirishchamber.com | Mobile: +353 (0) 86 041 1831

T: +353 (0) 1 400 4322 | E: info@britishirishchamber.com | W: britishirishchamber.com
T: +353 (0) 1 6644220 | E: info@eversheds-sutherland.ie | W: eversheds-sutherland.ie