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Frustrating Brexit? Ireland and the UK’s conflicting approaches to Brexit negotiations

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ABSTRACT While Ireland and Northern Ireland barely featured during the 2016 referendum campaign, they have been central to Brexit negotiations. For some, Ireland’s prominence in talks represents core EU values of solidarity and peace. For others, Ireland has been ‘used’ as a bargaining chip to ‘frustrate Brexit’. In contrast, this paper shows how conflicting policy styles had an impact on the outcome of Brexit negotiations on the border in Ireland. Drawing on the literatures on Brexit negotiations, British policy style, and new intergovernmentalism, it shows that Ireland pursued a deliberative approach, contributing to its negotiating success. This is contrasted with three, relatively ineffectual, British approaches to Ireland, ‘lack of engagement’, ‘magical thinking’, and ‘delayed deliberation’. The paper draws on original interviews conducted with Irish politicians during negotiations, and interviews with senior British political figures contained in the UK in a Changing Europe Witness Archive.

KEYWORDS Brexit; deliberation; Ireland; new intergovernmentalism; policy style; United Kingdom

Introduction

In 2018, then Foreign Secretary Boris Johnson articulated an enduring British view on the role of Ireland in Brexit talks:

The issue of the Northern Irish border is being used... politically to try to keep the UK in the customs union, effectively the single market, so we cannot really leave the EU (Grierson and O’Carroll 2018).
It is true that Ireland shaped the kind of Brexit the United Kingdom (UK) realised. The UK’s decision to leave the European Union (EU) raised prospects of the re-emergence of old barriers across the erstwhile ‘frictionless’ 280-mile border between Northern Ireland and Ireland, evoking fears of a return to conflict and violence (see Hayward 2017). While both Ireland and the UK were members of the EU, the Single Market and Customs Union facilitated free movement across the border on the island. In the absence of an agreed solution, customs and regulatory checks on this new UK land border with the EU would be necessary. To escape this dilemma, Ireland’s preference was the continued regulatory and customs alignment of Northern Ireland with the EU.

This preference was largely realised. In January 2020 the UK and EU signed the EU-UK Withdrawal Agreement which included the Protocol on Ireland and Northern Ireland. The protocol (hereafter) avoids a hard border by keeping Northern Ireland aligned to a “limited set of EU rules related to the Single Market for goods and the Customs Union” (European Commission 2021). It has proven deeply controversial, not least in Westminster. The UK’s former chief Brexit negotiator, David Frost claimed the protocol is unsustainable and implied that it was signed under duress (Forsyth 2021). Although the issue is hardly settled, it is apparent that Ireland secured much of what it wanted out of withdrawal negotiations, while the British government found it difficult to live with the deal it signed.

At first glance, this is unsurprising. A scholarly consensus is emerging that Brexit talks were, generally, a failure, if not an ‘omnishambles’ (Richardson and Rittberger 2020) for the UK side (Figueira and Martill 2020, 1) and a relative success for the EU (Schimmelfennig 2018; Laffan 2019). On Northern Ireland, divided British governments and parliaments struggled vainly with the ‘Brexit trilemma’ (Kelemen 2020), unable to reach an agreement that would see the UK leave the Single Market and Customs Union, while avoiding either a ‘hard border’ in Ireland, or down the Irish sea. Additionally, EU support for Ireland was, perhaps, a given because of core EU values; solidarity with smaller
member states, and the promotion of peace (Laffan 2019); or viewed from Westminster, Ireland was really being ‘used’ as a bargaining chip to ‘frustrate Brexit’.

Yet, despite the contributions of existing Brexit negotiations literature, little has been written about the specific issues of Ireland/Northern Ireland in talks (see Laffan 2018 for a notable exception), leaving some important questions unanswered.² It isn’t clear that EU support for the protocol was automatic, nor that Ireland was needed as leverage. British political division mattered, especially once the Northern Irish Democratic Unionist Party (DUP) gained unprecedented influence in Westminster. However, British negotiators struggled with Northern Ireland before that infamous 2017 election and long after the DUP lost sway.

Thus, this article asks the following question. How did Ireland and the UK attempt to realise their respective preferences on Ireland/Northern Ireland in Brexit negotiations? Answering this question makes it possible to show how conflicting policy styles had an impact on the outcome of Brexit negotiations on the border in Ireland. EU solidarity and UK political division mattered, but this article adds to such accounts by emphasising the agency of Irish and British negotiators in shaping the outcome of talks. Drawing on semi-structured interviews, it shows how both Ireland and the EU approached Brexit negotiations in a deliberative and consensus-building way (Puetter 2016) which advantaged Ireland. In contrast, a dysfunctional (Dunlop et al. 2020) ‘non-deliberative’ British policy style (Richardson 2018) caused the UK to pursue three different, but similarly ineffective, approaches to Ireland, which I label here as ‘lack of engagement’, ‘magical thinking’, and ‘delayed deliberation’. The EU’s openness to deliberation and consensus-building allowed Ireland to successfully ‘frame’ the challenges facing it in a particular way. The UK, on the other hand, proved unable to meaningfully engage with the issue until it was too late.
Brexit negotiations: literature and analytical framework

This section first critically evaluates an important alternative explanation to that of this paper, namely, that EU support for Ireland was a given; a means of ‘frustrating Brexit’. I next draw on the concepts of ‘consensus-seeking’ and ‘deliberation’ found within the literature on ‘new intergovernmentalism’ (Bickerton et al. 2015) together with the literature on the UK’s non-deliberative ‘policy style’ (Richardson 2018; Làrsen and Khorana 2020). These approaches make it possible to develop an analytical framework which shows the impact of Ireland and Britain adopting contrasting policy styles on the outcome of Brexit negotiations on Ireland/Northern Ireland.

Frustrating Brexit?

Existing literature on Brexit negotiations has not focused explicitly on Ireland’s negotiating success, and accordingly, the UK’s negotiating failure regarding Ireland. It’s possible that there is no puzzle to explain here. Why wouldn’t the EU defend Ireland’s interests against a country that was leaving? An unaccommodating stance towards the UK vis-à-vis Ireland can be viewed as an effective strategy of discouraging other EU member states from considering their own exit. Whether motivated by solidarity or a desire to ‘frustrate Brexit’, this explanation takes for granted EU support for Ireland. We don’t need to spend time examining the relative successes or failures of Ireland/UK’s own negotiating strategies.

This explanation cannot tell the full story for the following reasons. First, the EU didn’t really need Ireland as leverage. It was already in a strong position to send a signal to member states about the negative consequences of an exit. The UK made major concessions to the EU, in the sequencing of negotiations, in financial settlement, and access to the Single Market. The market and institutional power of the EU dwarfs the UK, and ‘no deal’ rhetoric aside, access to the EU market was always going to be too important for the UK to abandon without some form of deal (Schimmelfennig 2018).
Second, if Ireland was a bargaining chip, it was a costly one. Risks to the integrity of the Single Market, a fundamental EU interest, are baked into the protocol, and the UK has repeatedly threatened to undermine the agreement since 2021. Third, EU support for Ireland wasn’t automatic. Former Taoiseach Enda Kenny was reportedly “snubbed” by Angela Merkel in 2016 while seeking reassurance that Ireland would be treated as a special case (Mac Cormaic 2016). Ireland’s intensive diplomatic efforts to persuade the 26 EU member-states (EU26) and European Commission of the importance of its circumstances in Brexit negotiations shows it was not taking EU support for granted.

Finally, solidarity with Ireland is one thing, but support for the extensive demands of the protocol is quite another. As Irish negotiator, Rory Montgomery, put it, intensive deliberations between Ireland and the European Commission’s Task Force on Article 50 negotiations with the UK (TF50) were crucial to both the EU and Ireland gradually arriving at this position. There were potentially “avenues which might have been explored” closer to the UK’s preferences in 2017, but these were ruled out due to a lack of engagement from the UK team (Montgomery 2021). This last point, especially, suggests that the different approaches adopted by Ireland and the UK played an important role in shaping the specific solution to the border adopted by the EU.

EU Unity, deliberation, and consensus

Drawing on new intergovernmentalism scholarship (Bickerton et al. 2015, Puetter 2016; Verdun and Laursen 2021), it’s possible to propose that the behavioural norms of ‘consensus-seeking’ and ‘deliberation’ form the basis of an explanation that shows the impact of conflicting policy styles on the outcome of Brexit negotiations. The starting point for new intergovernmentalism is the existence of the so-called ‘integration paradox’ (Bickerton et al. 2015). National governments recognise that certain policy challenges cannot be adequately addressed on the national level. Yet, they are increasingly wary of delegating more power to ‘traditional’ supranational institutions like the Commission (Bickerton et al. 2015, 707-709). This paradox is solved principally through the
behavioural norms of ‘deliberation’ and ‘consensus-seeking’ which have become the default mode in which EU member states interact (Schmidt 2016, 3-4; Puetter 2016, 605). In the absence of strong supranational mechanisms to ensure compliance and implementation (Puetter 2016, 602) collective action is achieved through voluntary commitments to shared policy outcomes that all member states have signed up to (Puetter 2016).

Existing literature on Brexit negotiations has established that deliberation and consensus-seeking among member states were central to the construction of unity among the 27 EU member-states (EU27) in talks. Indeed, it is not difficult to imagine how precarious the EU’s negotiating position would have been as an outcome of hard bargaining among member states. EU27 unity was constructed deliberatively, or via “internal consultations, a willingness to engage in open and interest-based discussions aimed at problem solving, and high levels of transparency” (Làrsen and Khorana 2020, 858). Although the EU negotiated via the supranational European Commission, it did so in such a way that relied upon and encouraged the close involvement of member states (Jensen and Kelstrup 2019, 34-5) who created the negotiating mandate, decided on whether sufficient progress had been made, and had ultimate approval of the withdrawal agreement (see Schuette 2020 2-4).

Section two shows how this worked to Ireland’s advantage. Just as the EU27 and Commission adopted a deliberative approach to constructing a unanimous position on Brexit, so too did the Irish government while lobbying their EU26 counterparts. In addition, the European Commission’s TF50 relied upon consultation with national stakeholders, both for legitimacy and for the provision of nationally specific technical expertise, which allowed Irish stakeholders to gain “privileged access” (Connelly 2018a). This created an opportunity structure for Ireland. Thus, if Ireland approached negotiations in a deliberative way, the following should be observable: a) Irish political actors actively seek to build consensus with other EU member states and EU institutions b) the approach to this consensus-building should be deliberative, i.e., characterised by problem-solving, consultation,
collaboration, openness and transparency and c) we should observe claims from Irish political actors that the specific agreement around a ‘protocol’ type solution was arrived at through consensus-building and deliberation.

**British policy style: hard bargaining over hard borders**

In contrast, existing literature shows that the UK adopted a non-deliberative ‘hard bargaining’ approach to Brexit negotiations (Martill and Staiger 2020; Larsén and Khorana 2020, 859). British hard bargaining is sometimes explained as a product of the need to accommodate hard-Eurosceptic factions within the Conservative party (see Heinkelmann Wild et al. 2020). Yet, knotty as the Brexit trilemma was for British negotiators, it isn’t entirely clear that Northern Ireland should become central to intra-party dispute within the Conservative Party. British public opinion has been consistently indifferent towards Northern Ireland in the context of Brexit. 2018 Polling showed that only 37 per cent of Conservative Party voters thought that Northern Ireland should be part of the UK (Ashcroft 2018). The initial lack of controversy within the Conservative Party over Boris Johnson’s agreement to the protocol in 2019 is testament that *intra-party* conflict was not a hard constraint on agreeing to the protocol. Undoubtedly, the domestic political context was most challenging following the snap 2017 General Election, when Theresa May’s minority government relied upon the DUP for support. Yet, Britain failed to grasp the challenges Brexit posed for Northern Ireland before that election and struggled to solve them long after the DUP lost influence. Westminster politics matters, but it can’t tell the full story of the UK’s difficulties with Ireland/Northern Ireland in Brexit negotiations.

Instead, this paper draws on literature which emphasises how the British negotiating approach was, to an important extent, a product of a dysfunctional, non-deliberative *policy style* (see Richardson 2018; Dunlop et al. 2020; Richardson and Rittberger 2020). A non-deliberative approach to policymaking involves a lack of “careful consideration, of weighing up”, hastiness/impatience, and a lack of “conferring and taking counsel, of reaching out” (King and Crewe 2014, 860). Richardson (2018)
argues that prior to 1979, British policymaking was more deliberative, consensual and bottom up, as different policy communities operating in different sectors worked closely with interest groups to develop policy outputs. From Thatcher on, policy making became much more top-down and impositional, hasty and unsupported by evidence (Richardson 2018, 34, 52) following a “weakening of the civil service, the increasing role of political advisers in government, the arrival of ministers who are deeply committed to a particular set of ideas, and considerable weakening of interest group influence” (Richardson and Rittberger 2020, 660).

This article draws two broad insights from existing literature on Brexit and policy style and applies them to the specific case of the UK’s approach to Ireland. First, the UK approach to Ireland is consistent with this dysfunctional British policy style, in that it is characterised by a ‘lack of engagement’. Policy was created by teams that were too centralised and closed-off, policymakers were unwilling to listen to dissenting voices, and decisions are made despite a lack of expertise in EU affairs (Figueira and Martill 2020). Eschewing domestic deliberation and open consultation, the UK negotiating team relied on “a narrow clique of Eurosceptic MPs” and advisors to develop its initial strategy (Dunlop et al. 2020, 708). We should thus expect interviews with British negotiators to show that a) policy on Ireland was developed by a narrow group in a non-deliberative environment, i.e., one that was closed-off to consultation and expertise on Irish affairs and to dissenting voices, and that this policy should be lacking in detail/unsupported by evidence (Richardson 2018, 54-55).

Second, the UK displayed an approach characterised by what one EU official infamously described as ‘magical thinking’ (Barker and Parker 2017). It was directed by political actors deeply committed to certain ideas (Richardson 2018) who held entrenched yet unrealistic expectations, resorted to narratives of blame and threats, failed to offer detailed information, justification, or argumentation for positions, and adopted an overall adversarial tone (see Martill and Staiger 2020, 2; Larsén and Khorona 2020). We should see evidence from interviews that b) the issue of Ireland is approached
with unrealistic expectations, in an adversarial rather than problem-solving manner and with weak justifications. Overall, interviews should show that a) ‘lack of engagement’ and b) ‘magical thinking’ contributed to policy on Ireland that was hasty, positional, and unsupported by evidence (Richardson 2018).

This section reviewed literature on the UK and EU’s respective approaches to Brexit negotiations to synthesise a framework underpinned by the following propositions. First, Ireland approached Brexit negotiations in a deliberative and consensus-seeking way, and in turn, benefitted from a deliberative approach to the construction of EU unity. Second, a dysfunctional policy style led the UK to approach Brexit negotiations on Ireland in a non-deliberative, hard bargaining manner, which contributed to its relative failure in negotiations on Ireland.3

To support this argument, the following section draws on 9 original semi-structured interviews with Irish politicians conducted, under condition of anonymity, in July 2017 and in April 2019.4 Respondents include a government minister, representatives from government parties, as well as opposition TDs (Irish MPs). Respondents were selected who had some responsibility for EU affairs and were asked for 1) their views on the role of the Irish government in Brexit negotiations, 2) their views on the British approach to negotiations, 3) their views on the EU’s approach to Ireland and how confident they were in EU/EU26 support for Ireland’s position.

Section three analyses 12 semi-structured interviews with senior British political figures within, or close to Brexit negotiations, available via the UK in a Changing Europe (UKICE) Witness Archive, conducted from summer 2020 - 2021. Respondents in this archive include senior cabinet ministers, senior negotiators, speechwriters, special advisors, chiefs of staff, and many other senior figures directly or indirectly involved in Brexit negotiations. Each interview included specific questions about the British approach to Ireland in Brexit negotiations. Interviews are supplemented by publicly
available media statements by British, Irish, and EU political figures, journalistic accounts, together with primary source documents produced by the British government.

Ireland and Brexit Negotiations

This section draws on interviews with Irish politicians to show how a deliberative and consensus-seeking approach was central to Ireland’s relative success in Brexit negotiations. It is structured in three parts. First, the Irish government negotiated cross-party consensus at home. Second, Ireland rallied the EU27 around its interests through an intensive diplomatic effort. Finally, Irish government representatives, officials, and interest groups gained relatively privileged access to the European Commission’s TF50.

Domestic consensus-building

Ireland’s deliberative and consensus-seeking approach to Brexit began at home. Fine Gael was leading a potentially fragile minority government between 2016-2020 yet managed to build a resilient cross-party consensus on Brexit. Interviews with Irish politicians show that protecting the GFA and the Irish economy motivated parties to agree a common position (Interview 2). As one interviewee put it, “there is not a TD [Irish MP] in there [the Dáil]” who has a different position on Brexit (Interview 7). “There are diverse opinions on the EU within the Irish parliament… [but] you have to give them credit for not taking [their opposition to the EU] out for a spin every day” (Interview 8). Opposition TDs I spoke to tended to also “give credit where it was due” (Interview 1) to the government and as a Sinn Féin TD put it, “this isn’t about disputes between parties …there is huge scope for bipartisan support for Ireland’s position on Brexit.” (Interview 3). Another Sinn Féin representative noted “obviously we have major difficulties with government… as regards… basically everything. But [they’ve] been somewhat strong in relation to the border” (Interview 9).
TDs noted that this consensus didn’t happen by accident, “we had to create a position as a government that we could then take to...[the] EU27 and hold with our parliament” (Interview 8). Ministers provided “extensive briefings” and worked closely with Fianna Fáil (who were providing confidence and supply to the government) (Interview 8). Government parties sought to, as a government minister put it, “implicate” (Interview 7) opposition parties in the decision-making process as a way of building unity. Other parties were from “day one” “informed of what was happening”, and “because we didn’t have a majority... the discussions and the backchannel discussions between leaders of parties actually was good and kept everybody [together]” (Interview 7). Consensus building took place in different fora, in “conferences and events... and also Dáil structures [such as] the European Committee [and] the Foreign Affairs Committee” (Interview 8). As one TD put it, “this wasn’t just a Fine Gael or Independent journey – it’s something where the other parties had to be involved” (Interview 7).

Interviews show that the Irish government worked to build a cross-party consensus in parliament as a precondition to strengthening its negotiating position with the EU. This cross-party consensus was constructed in a deliberative way, by “involving all levels of the Irish government and policy system”, via extensive and transparent consultation with opposition parties, and by the early undertaking of detailed technical work on the impact of Brexit on Ireland (Laffan 2018, 570-571).

**EU26 Consensus Building**

Central to Ireland’s negotiating success was its strategic early and intensive diplomatic campaign. As one government TD claimed, Ireland has “played a very strong hand with our EU partners” (Interview 2). In an interview, senior Irish negotiator Rory Montgomery noted that from July 2016 – April 2017 Irish government representatives had “approximately 400 bilateral discussions... with equivalents in EU member states. So, we were really working overtime to get our message across” (Brexit Republic 2021).
A key theme emerging from the interviews is how Irish diplomats have a certain mastery, a “depth of understanding of how you maximise your strength through co-operation with your EU colleagues” (Interview 8). “The Irish government... were centre stage in setting out, day one, the protection of the border, the Good Friday Agreement” (Interview 7). Irish TDs spoke about the “great advantages” Ireland has in diplomacy, “our Department of Foreign Affairs are small but good. Punch above weight, do the ‘hail fellow well met’ thing extremely well... Ireland is front and centre in thinking and framing of EU position on Brexit and we have to give the government some credit for that” (Interview 4). A government TD put it that “what we’ve done is we’ve combined the best of our skills as a country in... linking and working with our European colleagues” (Interview 8). Irish officials are described as “professional, shrewd, and treated with huge respect... I wouldn’t underestimate the skills of Irish ambassadors – in the EU and European capitals – they are top class” (Interview 5).

Nevertheless, EU26 Support for Ireland’s interests was not instantaneous. One Irish diplomat is reported as saying that in 2016, “the fact is, a lot of the 26 weren’t interested [in Ireland’s concerns] at that stage” (in Connelly 2018a, 81). Moreover, there were concerns that too much flexibility on the border could morph into a cherry-picking style solution that would favour the British (Connelly 2018a, 81-82). Indeed, German support for Ireland’s unique position in Brexit negotiations came about gradually. Angela Merkel cautioned in the immediate aftermath of the referendum that Ireland’s voice would be heard “as much as anyone else’s” in Brexit talks (Mac Cormaic 2016).

Ireland did not extract the backing of the EU26 through hard-bargaining, or by threatening to use its veto. Rather, as a senior Irish political figure put it, Ireland adopted a ‘pedagogic approach’ (see Connelly 2018a). Just as opposition parties received extensive briefings on Brexit, Irish officials developed detailed briefings for EU counterparts on the unique circumstances and historical background of the border in Ireland (Laffan 2018, 571). As Rory Montgomery put it, “the great majority of them didn’t have any special knowledge of Ireland and they relied very much on us to tell them
about it” (Brexit Republic 2021). Tony Connelly (2018a) notes how a senior Irish figure circulated a confidential ‘non-paper’ to EU counterparts which explained and framed the peace process as “one of the EU’s greatest successes” (Connelly 2018a). One European Council official is reported as saying, “the Irish were the best prepared of all member states, including the UK which was not prepared. The Irish were among the first to come to us, to underline their situation and their needs” (see Connelly 2018a, 284).

Irish consensus-building among the EU26 was, as Laffan (2018, 571) puts it, a deliberate strategy of ensuring the EU26 “knew what was at stake for the island of Ireland in the Brexit process”. Strategic and intensive as this diplomatic push was, it was nevertheless conducted in a deliberative style. The mode of persuasion was ‘pedagogic’, where European counterparts relied on Irish officials to ‘educate’ them on the challenges facing Ireland, thereby ‘framing’ the challenge facing Ireland in a particular way. That consensus-building and deliberation was the operative policy style at the EU level provided an opportunity structure for Irish representatives to put this strategy into action.

Ireland and the European Commission

The April 2017 European Council summit marked the moment that Ireland’s position on Brexit was unanimously adopted as one of three negotiating priorities by the EU27. From this point on, the European Commission negotiated on Ireland’s behalf. This was most obviously beneficial in that it amplified Ireland’s voice, and as one interviewee put it, “that... was a real strength... as the Commission led, they led on behalf of our viewpoint” (Interview 8). An Irish diplomat is quoted as saying “the aim is that the EU position and Ireland’s position are one and the same on as many areas as possible, so that the idea of an Irish position disappears” (Connelly 2018a, 182).

To ensure EU27 confidence and trust in it as chief negotiator, the TF50 worked closely with member states. This provided an opportunity structure for Ireland in that the TF50 was particularly open to the
provision of local and technical expertise by Irish stakeholders on the likely impact of Brexit on Ireland. Irish Government figures, officials, and interest groups are reported as securing “privileged access” to TF50 and used this access to appraise Commission officials of the impact of Brexit on Ireland on the unique circumstances on the island of Ireland (Connelly 2018a, 171-173).

Finally, beyond agreement on high-level objectives, Ireland secured the European Commission’s support for a specific solution to the border that involved the continued ‘regulatory alignment’ and customs union membership of Northern Ireland with the EU. The Commission is praised in interviews for providing unwavering support as Ireland’s demands strengthened,

There has been no deflection by the EU away from the agreement. I met with…Juncker… and he was more or less saying ‘I’ve told ye how often, and how many ways can I tell ye, Ireland will be protected’ (Interview 7).

Importantly, this position was arrived at through deliberation between Irish and TF50 officials. Ireland and the European Commission had not worked out and agreed on a detailed position on how to avoid a hard border from the outset. Rather, this position evolved from one where technical solutions were still being deliberated on with TF50 (Connelly 2018a, 181; Montgomery 2021) to a relatively demanding position on ‘no regulatory divergence’ by autumn 2017. This is evident from one interview conducted with a government TD in July 2017, “As for the customs issue on the border, I think this is more pragmatic… technology can solve a lot” (Interview 2). Importantly, the Irish position evolved in close dialogue, and through lengthy technical discussions with TF50. As Rory Montgomery put it, “almost by a process of elimination… this idea of alignment emerged as the only way in which it was going to be possible to avoid a hard border” (Montgomery 2021). Thus, Ireland, together with TF50 invited British officials and the Northern Ireland Civil Service to participate in a ‘mapping exercise’ which implicated British negotiators into co-authoring a report that stated avoiding a hard border
meant protecting 142 areas of North South Cooperation, the GFA and the all-island economy from the impact of Brexit. As section three shows, this resulted in an expansive conceptualisation on the impact of Brexit on the border in Ireland which logically implied the need for an ‘insurance policy’ of “no regulatory divergence”.

Interviews show that Irish representatives sought and secured privileged and regular access to the TF50 and that they used this privileged access to provide detailed technical and local expertise. They suggest that deliberative, technical, and collaborative discussions between Irish representatives and the TF50 resulted in the European Commission supporting a relatively demanding solution to the border in Ireland (Montgomery 2021 and see Connelly 2018a).

This section has shown how Ireland approached negotiations with its own parliament, the EU26 and the European Commission via consensus-building and deliberation. Among the EU26 and the European Commission, preferences for an approach to EU27 unity construction that privileged deliberation, the provision of ‘local’ and technical expertise, and creating a negotiating mandate through consensus all worked to the advantage of the Irish government’s own deliberative approach. Interviews suggest that consultation, collaboration, and a technical and ‘pedagogic’ approach were central to securing Ireland’s specific preferences as part of the EU’s key negotiating principles.

**UK approach(es) to Ireland in negotiations**

Ireland’s diplomatic success is not the whole story. British negotiators struggled to realise, and at times, articulate clearly their preferences on Ireland. As discussed in section one, this cannot be explained entirely by domestic British politics. Instead, this section shows how a dysfunctional British policy style is a key part of the story. It identifies three distinctive UK negotiating approaches to Ireland: ‘lack of engagement’, ‘magical thinking’, and ‘delayed deliberation’.
Lack of engagement

Multiple interviewees in the UKICE Witness Archive claim that the border in Ireland did not become a prominent issue for UK negotiators until late 2017 (Davidson 2020, 11; Barwell 2020, 18; Rycroft 2020, 21). Former British Official to the European Commission Jonathan Faull recalls how the focus on Northern Ireland came “far too late... I wouldn’t say we’d thought all that through fully” (Faull 2020, 19). Indeed, within Theresa May’s two October 2016 Conservative Party Conference speeches, the impact of Brexit on Ireland is framed in narrow terms as being only about free movement of people. May’s January 2017 Lancaster House speech is best known for the commitments to leave both the Single Market and Customs Union. Issues linked to Ireland are clearly downplayed as being essentially all to do with the CTA which was “formed before either of our two countries were members of the European Union” (May 2017). A subsequent white paper (HMG 2017a) again discusses the CTA in detail at the expense of possible disruptions to trade. Special Advisor to Theresa May, Denzil Davidson said of this time, “I think all of us were too slow in waking up to the extent of the difficulty, which we shouldn’t have been... I don’t know why we didn’t put what was certainly obvious to the Irish Government together” (Davidson 2020, 15). This lack of engagement contributed to the intractable ‘Brexit trilemma’; committing to a ‘hard Brexit’ while at the same time “failing to understand” how leaving the Single Market and Customs Union would impact Ireland/Northern Ireland (Rycroft 2020, 21). On this, Lancaster House speechwriter Chris Wilkins (2020) comments that,

I can’t remember the issue of Ireland and the border really being discussed prior to Lancaster House. That was one of the first times I remember it being part of the conversation, and there wasn’t a big discussion at that point about what that priority actually meant in practice.

Interviews support the argument that British negotiators approached the issue of Ireland/Northern Ireland in ways that are consistent with conceptualisations of a non-deliberative British ‘policy style’. There is evidence that a lack of expertise, consultation, and understanding of issues related to
Northern Ireland/Ireland shaped the British approach. When Ireland was considered, it was dismissed as a non-problem, or minimised to being solely an issue of free movement of people. Interviews, documents, and speeches clearly show that this lack of engagement contributed to the British government sleepwalking into the ‘Brexit trilemma’, committing to a hard Brexit without fully thinking through the consequences for the border.

‘Magical Thinking’

The UK’s approach to Ireland progressed from a lack of engagement into what a senior EU official famously described as ‘magical thinking’ (Barker and Parker 2017). This approach was characterised by proposals of untested and/or non-existent technological solutions, narratives of blame, and fighting long-lost battles on sequencing. By definition, this approach was highly unsuccessful. As Philip Hammond put it, “we always knew that there was never a potential solution, based on technology, that could be rolled out within this timescale” (Hammond 2020, 27). Three key moments of ‘magical thinking’ are discussed here.

First, after months of limited engagement, the UK’s first detailed proposals for Northern Ireland and Ireland were outlined in an August 2017 policy paper (HMG 2017b). This paper is something of an evolution in that it does recognise that avoiding a hard border in Ireland “cannot be achieved solely through preserving the Common Travel Area” (HMG 2017b, 12). However, it also contains the UK’s first broad proposals to “implement technology-based solutions” (HMG 2017b, 15-16). It flirts with narratives of blame, claiming that while the UK won’t conduct checks at the border, “the EU [must ensure that the] Irish side of the land border, which is subject to relevant EU regulations, is also as seamless and frictionless as possible” (HMG 2017b, 14). The August 2017 proposals were quickly dismissed as unworkable by the EU and by Ireland as one senior EU official illustrates, “what we see in the UK paper is a lot of magical thinking about how an invisible border would work in the future” (see Barker and Parker 2017).
Second, following the December 2017 EU-UK Joint Agreement, the British government explored ill-fated scenarios for ‘alternative arrangements’ that would avoid the need for the recently agreed, yet bitterly opposed by the DUP, ‘Irish backstop’. A Cabinet Working Group led by Brexit secretary David Davis and Northern Ireland secretary Karen Bradley (Seldon 2020, 241) on ‘maximum facilitation’ was set up in May 2018. These efforts culminated in the publication by DExEU of an ‘Alternative Brexit White Paper’ which proposed creating a new customs border between Northern Ireland and Ireland, which, the report assured, could be made relatively seamless through technology, including “electronic customs registration, unobtrusive screening techniques and even the technology behind Bitcoin” (Hayward 2018). These proposals were again rejected by the EU and Ireland, and as negotiations wore on into late 2018 and 2019, repeated rebuffs from the EU clashed with domestic political opposition to backstop-style solutions.

Third, familiar, and some new narratives of blame feature prominently in Boris Johnson’s letters and speeches after he became Prime Minister in July 2019. The notion of an ‘anti-democratic’ backstop emerges, framing it as “weakening the delicate balance embodied in the Belfast (Good Friday) Agreement” (Johnson 2019). Johnson’s government also attempted to replay the fight on sequencing that had been lost years earlier, proposing that solutions to the border in Ireland should be dealt with after a Withdrawal Agreement is concluded. Johnson’s government also submitted previously rejected or newly unworkable measures, such as a ‘decentralised’ customs arrangement, with physical checks conducted away from the border.

Like earlier attempts, Johnson’s ‘magical thinking’ proposals proved unacceptable to Ireland and the EU, leading eventually to agreement on the Northern Ireland Protocol as part of the 2019 Withdrawal Agreement. In a UKICE interview Philip Hammond describes Johnson’s approach as either “naive or
duplicitous” (Hammond 2020, 37) and multiple respondents note that he was never serious about Northern Ireland (Letwin 2020; Davidson 2020).

Interviews show that, once the UK did engage with Ireland/Northern Ireland in more directly, such engagement fit with conceptualisations of a British policy style characterised by an adversarial, positional approach and unrealistic demands. There is evidence that this non-deliberative approach contributed to policy failure due to the high likelihood that ‘magical’ proposals would be rejected by the EU, serving only to run down the clock on negotiations while further eroding trust in the UK. As one TD interviewed in July 2019 put it, “it’s like a fecking …bad record, it keeps playing” (Interview 6).

‘Delayed deliberation’

It would be misleading to claim there were no traces of a deliberative approach to negotiations from the British side. Both during and after periods of ‘magical thinking’ (see table 1 in online supplementary material), the UK did engage seriously with Ireland’s concerns. However, deliberation tended to arise as a last resort, and British negotiators always reverted to a non-deliberative approach once an agreement with the EU was reached. Two key moments of ‘delayed deliberation’ are discussed here.

First, the UK-EU Joint Report of December 2017 introduced the first iteration of the ‘Irish backstop’, a proposal that, in the absence of future alternative solutions, committed the UK to a customs and regulatory border between Northern Ireland and Great Britain. Although greeted with shock by many in Westminster, the Joint Report was preceded by more serious, albeit short-lived, engagement with Ireland and the EU by British negotiators. Between September and November 2017, a ‘mapping exercise’ was jointly carried out by the British Government, the Northern Ireland Civil Service, Ireland, and the European Commission which specified 142 areas of North-South cooperation that were underpinned by EU regulatory frameworks. The mapping exercise, co-authored by the UK, had the
effect of framing the impact of Brexit on Ireland and Northern Ireland in a relatively expansive way. It committed the UK to protecting the GFA, North-South Cooperation, and the all-island economy from the impact of Brexit. Tony Connelly notes that the mapping exercise “obliged London to look way more forensically at what that cooperation was, how it worked, and how it was so frequently enabled by mutual EU membership” (Connelly 2018b).

In a UKICE interview, Joanna Penn recalls that the ‘backstop’, which flowed from this mapping exercise, “blindsided” the UK as it emerged as “a spanner in the works” when it was too late to really do anything about it (Penn 2020, 11-12). A government source is quoted as saying, “we didn’t understand how deeply dug in the Irish were. It was a shock to [some]... to see how intransigent the Irish were being” (Seldon 2020, 347). Comments from Irish political figures in December 2017 show that its apparent intransigence was a response to the British approach to date. Then Tánaiste Simon Coveney said that Ireland “can’t be asked to leap into the dark by simply accepting UK assurances” and that “more credible answers” and no more “fudges” from the British side were needed to move onto phase two (BBC News 2017).^5

Delays due to the UK’s lack of engagement meant that they were unable to propose any alternative to the joint report/mapping exercise as, Denzil Davidson notes, “I think a number of officials felt that our politics would not have allowed us to put forward [an alternative] that was even remotely realistic” (Davidson 2020, 21). Ruparel notes, “By leaving the EU, unchallenged [on the legal text of the joint report] ...that’s what really did for us. Once ...that was entrenched, we were then fighting just to change bits of their text and get them back into a more reasonable position” (Ruparel 2020).

Second, in the lead up to the 2018 Withdrawal Agreement, Theresa May delivered her ‘Mansion House’ speech where she distanced her position from earlier narratives of blame and ruled out “physical infrastructure... it is not good enough to say, ‘We won’t introduce a hard border; if the EU
forces Ireland to do it, that’s down to them’. We chose to leave; we have a responsibility to help find a solution” (May 2018). The fateful July 2018 Chequers Cabinet Meeting followed and led to the publication of a detailed white paper (HMG 2018). In it, the UK commits to a form of customs union and a common rulebook which entails alignment with standards and regulations of the EU. The Chequers plan was ultimately rejected by the EU, but a version of an all-UK backstop appeared in the 2018 Withdrawal Agreement which would have established various level playing field proposals and a single customs territory between the EU and the UK. Although rejected three times in Westminster, the Withdrawal Agreement nevertheless represented a high-water mark for the UK’s meaningful engagement on the border in negotiations. May, who had previously insisted that Brexit would mean leaving the Single Market and the Customs Union, ended up agreeing to a settlement that crossed both red lines, ostensibly to avoid a hard border in Ireland.

This shift undoubtedly occurred as the result of pragmatism. By late 2018 the clock was ticking, and it was clear that the EU wouldn’t accept a withdrawal agreement that went against Ireland’s interests. Yet, interviews show that May’s position shifted also because of a much deeper engagement with Ireland’s concerns throughout 2018 and 2019 than before. Meetings held with community leaders in Northern Ireland before Chequers left a “profound impression” on May, and “focused her mind” on the concerns of the Nationalist community (Barwell 2020, 15-26). Davidson claims that May “absorbed herself with the Northern Ireland brief and spoke to a lot of people. And she was persuaded that no deal would be deeply damaging to people and society in Northern Ireland” (Davidson 2020, 24; see also Lidington 2020, 16; Guake 2020, 9). An advisor is reported as saying “I had rarely seen her as moved as after the last meeting ...later that day, she made a speech where she reaffirmed her personal commitment to Northern Ireland and the Union” (Seldon 2020, 552-3).

At first glance, the ‘delayed deliberation’ approach described in interviews does not fit neatly with the conceptualisations of British policy style outlined in section one. Interviews show that pragmatism at
‘crunch points’ in negotiations, together with more meaningful consultation with communities in Northern Ireland led to the UK side engaging more seriously on the border in Ireland in negotiations. However, instances of delayed deliberation do not undermine the claim that non-deliberative modes predominate. Such examples can be viewed as the result of the UK running out of road in terms of finding a deal that would be acceptable to the EU. Wasted time spent on magical thinking and limited engagement left the UK with little option but to negotiate ‘around the edges’ of solutions acceptable to Ireland and the EU. Ultimately, this approach came far too late, and agreement was only provisional as British negotiators quickly reverted to non-deliberative ‘magical thinking’.

The focus here on policy style doesn’t mean to suggest that domestic politics didn’t also matter. Facing DUP opposition, May’s minority government struggled to secure parliamentary agreement on the 2017 Irish backstop proposal. The 2018 Withdrawal Agreement faced similar hostility from hard-Eurosceptics within the Conservative party. This political context undoubtedly encouraged ‘magical thinking’ proposals from the negotiators and contributed to the short-lived nature of agreements. Nevertheless, limited engagement prior to the 2017 General Election, and Boris Johnson’s reversion to ‘magical thinking’ on the protocol reiterate the importance of taking the impact of the UK’s non-deliberative policy-style seriously.

**Conclusion**

This article shows that EU-Irish deliberation, combined with a dysfunctional British policy style are central to understanding the outcome of Brexit negotiations on the border in Ireland. This argument is directly supported by and builds on existing literature which emphasises the importance of EU27 consensus-building and deliberation to EU negotiating success (such as Laffan 2019; Jensen and Kelstrup 2019) and dysfunctional British policy style to UK negotiating failure (such as Richardson and Rittberger 2020; Dunlop et al. 2020).
It makes the following contributions to existing literature. First, it fills an important gap in the literature on Brexit negotiations. This literature has analysed the repeated errors made by the UK negotiating team (Figueira and Martill 2020; Martill and Staiger 2020), and how the UK’s policy style was dysfunctional and highly politicized (Dunlop et al. 2020; Martill and Staiger 2020). Others have focused on how EU27 unity was forged around common interests to protect the integrity of the Single Market (Laffan 2019), furnishing it with material and institutional advantages (Jensen and Kelstrup 2019; Schuette 2021; Larsen and Khorana 2020). Less attention, however, has been paid to how Ireland attempted to realise its preferences in negotiations, and how the UK navigated Irish demands so ineffectually.

This article has aimed to fill this gap. EU27 unity on Brexit was constructed in a highly deliberative manner. Ireland’s similar deliberative approach built a consensus around its interests and allowed it privileged access to TF50, which it used to frame the nature of the problem and a specific solution to it. In contrast, a dysfunctional, non-deliberative British policy style on Ireland produced unrealistic, adversarial proposals through a lack of expertise and consultation. What this paper has shown is plausibly of significance as negotiations around Brexit and Ireland continue (see Hayward 2021). Since 2021 the UK has unilaterally delayed implementation of the Northern Ireland Protocol (European Commission 2021), Johnson has persisted with narratives of blame and has proposed various technical solutions which have been rejected by the EU. In July 2021 the British government published a command paper which seeks a dramatically new settlement on the protocol and has repeatedly threatened to trigger article 16 to suspend key aspects of the settlement. Fractious negotiations between the EU and UK are ongoing in early 2022. This article plausibly suggests that if magical thinking and limited engagement retain their popularity with British negotiators, serious engagement and agreements reached on the border in Ireland will be ephemeral.
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Notes

1 Notwithstanding the lack of explicit references to the EU in the 1998 Belfast/Good Friday Agreement (GFA), the ‘invisibility’ of the border is widely understood as being of huge symbolic importance to the peace process.

2 While there is an impressive literature on Brexit and Ireland (e.g., Hayward 2021; Murphy 2019; O’Brennan 2019), to date such scholarship has not explicitly focused on negotiations.

3 The article’s central focus is Ireland and the UK’s attempts to realise their respective preferences on Ireland/Northern Ireland. As such, it does not include interviews with EU negotiators, and does not claim to make any direct causal connection between these two approaches and their impact on the positions of the EU. Nevertheless, it draws on/contributes to existing studies which have interviewed EU representatives (e.g., Larsén and Khorana 2020) and includes publicly available statements from EU negotiators (see Connelly 2018a).

4 For more detail on original interviews, see online supplemental material.

5 To clarify, this article views Ireland as negotiating deliberatively with the EU26, the European Commission, and domestic political actors. It does not claim that Ireland always negotiated deliberatively with the UK, indeed, the UK’s non-deliberative approach generally precluded this.

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