SECTION 2

2.0 Summary

Taoiseach Enda Kenny, speaking in Brussels on 2 March 2017 said:

> “the Good Friday Agreement contains the opportunity to put in these negotiations language that has already been agreed in internationally binding agreement, that at some future time were that position to arise, that if the people by consent were to form a united Ireland that that could be a seamless transfer as happened in the case of East Germany and West Germany when the Berlin Wall came down.”

At the McGill Summer School in July 2016 the Taoiseach stated in relation to the upcoming Brexit negotiations that “the EU needs to prepare for a united Ireland”. The Taoiseach also said at that time "The discussion and negotiations that take place over the next period should take into account the possibility, however far out it might be, that the clause in the Good Friday Agreement might be triggered."

Therefore the precedent set out in the reunification of West and East Germany will need to be included as part of the final Brexit agreement between the European Union and the United Kingdom. In the event of the people of Ireland voting in favour of a reunified Ireland as provided for in the Good Friday Agreement the Government needs to ensure that Northern Ireland will be entitled to automatically become part of the EU without the necessity for an application or accession process. This declaration by the EU now will be important to avoid any doubt of EU status for the people of Northern Ireland. Such doubt on EU membership was one of the factors that led to the loss of the Scottish Independence Referendum.

Some of the other elements that should be included in the final agreement between the EU and UK are included in this report. These include the treatment of trade, where the example of the trading relationship between East and West Germany up until reunification where the European Economic Community trade rules were not applied needs to be followed. Such equal treatment of trade between the North and the South of Ireland on a similar basis would assist the people of Northern Ireland and ensure the stability of the economy of the whole island and thus the stability of the Peace Process. Professor Markus Kotzur of Hamburg University’s submission to the Joint Committee on the Implementation of the Good Friday Agreement is included in full in this section.

The Oireachtas Library and Research Service have provided information on EU Agreements with their overseas territories and countries which has been included in the online appendix of this section.

2.1 Recommendations

Welcome the declaration agreed to by the European Council on 29 April 2017 which provides for Northern Ireland automatically becoming part of the EU in the event of a future united Ireland.

This declaration known in Brussels as 'The Kenny Text' is similar to that of Commission President Jacque Delors in January 1990 on the issue of German Unification 'East Germany is a special case'.

2.2 German unification, Europe & precedent

The following section outlines the process by which East Germany was allowed to become part of the European Community without the necessity of going through an application or accession process. The key phrase was that East Germany was a 'special case'. It is very clear that Northern Ireland is also a 'special case' which was outlined by a motion passed by Dáil Éireann on 15 February 2017. This motion is available in full in the online appendix of this section.

German Unification, and thus the inclusion of the GDR (East Germany) into the EC, posed many unprecedented problems and questions. This was why European Commission President Jacques Delors described GDR as a 'special case' at a speech addressing the European Parliament on the 17 January 1990. As such, the process merits in depth analysis.

'The European Parliament and German Unification' is a report commissioned by the Directorate-General for the Presidency of the European Parliament. It outlines the situation facing East and West Germany. The entire chapter from the 'The European Parliament and German Unification' report is in the online appendix at the end of this section. However we highlight some of the key issues here and the parallels to the Irish situation below;

It is apparent that the various bodies of the EC were taken completely unawares by this question: although at the inception of the EC, West Germany had insisted on including the possibility of a revision in a treaty statement the EC had no plan or project to prepare for this eventuality.[202]

The European Commission did not explicitly comment on the German Question until its President Jacque Delors, addressed the EP in a speech on 17 January 1990, which can be seen as the turning point in the European Community's position on German Unification. Delors stated that "East Germany [is] a special case …… there is a place for East Germany in the Community should it so wish". The GDR was now seen as an exceptional case for which accession to the EC was now a genuine possibility. The European institutions began to take initial measures to prepare for

[202] Directorate General for the Presidency of the European Union, 'The European Parliament and German Unification' (2009), Cardoc Journal, <http://www.europarl.europa.eu/pdf/cardoc/23369_CARDOC_Reunification_EN_WEB.pdf> accessed 10 February 2017, p.7.

it.[203]

The victory of the Christian-conservative coalition ‘Allianz fur Deutschland’ at the GDR’s (East Germany) elections which had been brought forward to 18th March 1990, paved the way for unification”.’[204] The victory of the Allianz fur Deutschland who were a pro unification party would be the equivalent of the people of Northern Ireland voting under the provision of the Good Friday Agreement for a reunified Ireland.

“Paved the way for German unification under Article 23 of West Germany’s Basic Law.”[205] Articles 2 and 3 of the Irish Constitution which outlines the constitutional obligation of achieving a united Ireland is the equivalent of West Germany’s Basic Law Article 23.

At a special European Council meeting in Dublin on 28-29 April 1990, the Council approved a proposal from the European Commission whereby EU law would be introduced in the GDR by means of a three stage procedure consisting of an interim, transitional and final phase. The European Commission was officially instructed to present “as part of an overall report, proposals in view of the adoption of any transitional measures deemed necessary”.[206]

The part played by Ireland in German Unification was outlined in 2010 by Foreign Minister Guido Westerwelle when he met his Irish counterpart Micheál Martin in Berlin to commemorate the Dublin Castle Summit 20th anniversary. The extraordinary summit in 1990 cleared the way for the territory of then East Germany to join the European Community as part of a unified Germany later that year.

A statement from the East German People’s Assembly on the 23 August 1990 in favour of joining the Federal Republic of Germany under Article 23 of the Basic Law. Discussion then took place between the two Germanys to decide on how to proceed with unification. The unification date was set as 3 October 1990.

[203] Directorate General for the Presidency of the European Union, ‘The European Parliament and German Unification’ (2009), Cardoc Journal, <http://www.europarl.europa.eu/pdf/cardoc/23369_CARDOC_Reunification_EN_WEB.pdf> accessed 10 February 2017, p.9.

[204] Directorate General for the Presidency of the European Union, ‘The European Parliament and German Unification’ (2009), Cardoc Journal, <http://www.europarl.europa.eu/pdf/cardoc/23369_CARDOC_Reunification_EN_WEB.pdf> accessed 10 February 2017, p.12.

[205] Directorate General for the Presidency of the European Union, ‘The European Parliament and German Unification’ (2009), Cardoc Journal, <http://www.europarl.europa.eu/pdf/cardoc/23369_CARDOC_Reunification_EN_WEB.pdf> accessed 10 February 2017, p.7.

[206] Directorate General for the Presidency of the European Union, ‘The European Parliament and German Unification’ (2009), Cardoc Journal, <http://www.europarl.europa.eu/pdf/cardoc/23369_CARDOC_Reunification_EN_WEB.pdf> accessed 10 February 2017, p.13.

Confronted with this fait accompli, the European Commission had no choice.[207]

The agreement by East and West Germany was the same as a vote in the North and South of Ireland under the Good Friday Agreement for a reunified Ireland.

It has been argued that while EC support for a reunified Germany was obviously welcome, it had already been allowed for and envisaged in the declaration made by the German delegation at the Treaty of Rome.

There were 3 key foundations to East Germany becoming part of the European Community:

1. The Treaty of Rome

2. Article 23 of the German Basic Law

3. Article 227(1) of the EEC Treaty: Community law implicit in Article 79 of the ECSC Treaty

These are dealt with in the publication 'The European Dimension of German Reunification: East Germany's Integration into the European Communities'[208] which is available in full in the online appendix at the end of this section.

2.3 Constitutional provisions on reunification and European integration

The Preamble of the Basic Law ended with the reunification clause, calling upon the entire German people "to prefect in free self-determination the unity and freedom of Germany". This clause, which was deleted by Article 4 (10) of the Treaty between the Federal Republic of Germany and the German Democratic Republic on the

[207] Directorate General for the Presidency of the European Union, 'The European Parliament and German Unification' (2009), Cardoc Journal, <http://www.europarl.europa.eu/pdf/cardoc/23369_CARDOC_Reunification_EN_WEB.pdf> accessed 10 February 2017, p.14.

[208] Directorate General for the Presidency of the European Union, 'The European Parliament and German Unification' (2009), Cardoc Journal, <http://www.europarl.europa.eu/pdf/cardoc/23369_CARDOC_Reunification_EN_WEB.pdf> accessed 10 February 2017, p.7.

Establishment of the Unity of Germany (Unification Treaty), had imposed a binding constitutional obligation (Attorney General Brady 2002-2007 outlined the same provision in an Irish context) on the political organs of the Federal Republic to work for reunification. They were left with a broad political discretion concerning the means by which to achieve the goal.[209]

Declaration concerning reunification of 28 February 1957:

The German delegation chief at the negotiations resulting, in the Treaties of Rome made the following declaration on 28 February 1957, which he had entered in the record:

> “The Federal Government proceeds from the possibility that in case of a reunification of Germany a review of the Treaties on the Common Market and on EURATOM will take place.”[210]

The declaration was not made part of the Treaties, even though it did not meet with any protests, but was acknowledged as self-evident by all state parties.[211]

In any event, the formal status of the declaration was a matter of dispute.[212]

In Ireland’s case it would be prudent, to avoid doubt on EU membership (as was the case in the Scottish independence referendum in 2014), for the North of Ireland in the event for a vote for reunification as provided for under the Good Friday Agreement. Therefore, the future Brexit treaty between the EU and the UK should include a clause that would allow Northern Ireland to be automatically part of the EU as happened in the case of East Germany on Germany reunification.

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[209] Thomas Giergerich, ‘The European Dimension of German Reunification: East Germany’s Integration into European Communities’(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.393,394.
[210] Thomas Giergerich, ‘The European Dimension of German Reunification: East Germany’s Integration into European Communities’(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.398.
[211] Thomas Giergerich, ‘The European Dimension of German Reunification: East Germany’s Integration into European Communities’(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p. 398.
[212] Thomas Giergerich, ‘The European Dimension of German Reunification: East Germany’s Integration into European Communities’(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.399.

2.4 Declaration concerning citizenship of the Federal Republic of Germany

The reunification clause in the preamble of the Basic Law obligated the West German organs to preserve the common German citizenship of East and West Germans[213]

> "All Germans in the sense of the Basic Law of the Federal Republic of Germany are to be considered as citizens of the Federal Republic of Germany."

Despite the fact that this was merely a unilateral declaration, it produced legal effects because the Treaties leave it to the member states to define their own citizenship within the bounds of international law. The declaration's legal effects consisted in the GDR citizens opportunity to avail themselves of all the freedoms of Common Market citizens.[214]

This provision has a particular relevance to Ireland due to the right under the Good Friday Agreement for the people of Northern Ireland to be citizens of Ireland and therefore the EU. The precedent set by this in the German case should be examined further to ensure similar practical provision for those in Northern Ireland as part of the final Brexit Agreement between the EU and the UK.The following is information supplied from Brian Crowley MEP in relation to the manner in which the EU treats the members of the Turkish Cypriot Community as EU Citizens even though they live in Northern Cyprus which is not under the control of the Cypriot Government. There could be parallels to the Irish situation found in the precedent in the Cypriot case.

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[213] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p. 400.

[214] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.400.

2.4.1 The Cyprus Case

Turkish Cypriot Community, European Commission Representation in Cyprus.

“The whole of Cyprus is EU territory. However, in the northern part of the island, where the Government of Cyprus does not exercise effective control, EU legislation is suspended in line with protocol 10 of the 2003 accession treaty.
“Since 1974 the "Green Line" separates the two parts of the terms under which persons and goods can cross this line, which is not an external border of the EU.
“The main practical effect is that the northern areas are outside the EU's customs and fiscal territory – but this does not affect the personal rights of Turkish Cypriots as EU citizens. They are citizens of an EU country even if they live in a part of Cyprus not under government control.
“The situation will change once a Cyprus settlement enters into force and EU rules apply over the whole of the island.”
Protocol No 10 on Cyprus, Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, Official Journal L 236 , 23/09/2003 P. 0955 - 0955.
Answer given by Mr Rehn on behalf of the Commission, Parliamentary Question E-5223/2008, 3 November 2008.
“On 1 May 2004, Cyprus joined the European Union. However, in the areas of the Republic of Cyprus which are not under the effective control of the Government of the Republic of Cyprus, the application of the acquis communautaire is suspended, in accordance with Protocol 10 to the 2003 Act of Accession.
“This suspension does not affect the personal rights of Turkish Cypriots as EU citizens. They are citizens of the Republic of Cyprus, even though they may live in the northern part of Cyprus, and are therefore entitled to EU passports issued by the Republic of Cyprus according to its legislation.
The issues raised by the Honourable Member underline the urgent need for a rapid solution of the Cyprus problem. The Commission is fully committed to supporting the efforts of the leaders of the Greek Cypriot and the Turkish Cypriot Community under United Nations auspices to this end.”

[215]

2.5 Conclusion: buried hope and beginnings

Forty Years after the enactment of the Basic Law the reunification goal, though still counted among the fundamentals of West Germany policy, was not given priority on the political agenda, nor was it actively pursued because the general political climate did seem favourable. The German question was simply kept open. [216]

[215] Brian Crowley MEP, ‘The Cyprus Case’ (2017) Submission to this report.
[216] Thomas Giergerich, ‘The European Dimension of German Reunification: East Germany’s Integration into European Communities’(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.403.

2.6 Protocol on German internal trade and connected problems

Trade

Trade between West and East Germany was transacted as internal trade when the EEC was founded. The Community set up a customs union with a Common Customs Tariff levied at its external frontiers and introduced a system of refunds on exports and price adjustment levies on imports regarding products subject to a common organization of the market. If the pertinent provisions of the EEC Treaty had been strictly applied, the border between the Federal Republic and the GDR would have become a customs frontier, and intra-German trade could no longer have been treated as domestic trade. Pursuant to Article 227 (1) of the EEC Treaty, the Treaty covered the territory of the Federal Republic but not the territory of the GDR which was neither a part of the Federal Republic nor a European territory for the external relations of which the Federal Republic was responsible (Article 227 [4] of the EEC Treaty).

It would, however, have been unacceptable to the Federal Republic, and moreover constitutionally impossible in view of the reunification mandate of the Basic Law to subject intra-German trade to EEC norms and competences regarding external trade. The problem had already come up when the ECSC Treaty was concluded in 1951. At that time it was solved by Article 22 of the Convention on the Transitional Provisions of 18 April 1951, which accorded to the Federal Republic the power to regulate intra-German trade in agreement with the Commission. But the Commission, apparently with the tacit consent of the other member states, never participated in the decision-making so that the West German Government could in fact act autonomously. With regard to the EEC, the member states took a different course when they agreed on the Protocol on German Internal Trade and Connected Problems of 25 March 1957, and made it an integral part of the Treaty (Article 239 of the EEC Treaty). The Protocol determined chiefly (1) that the application of the EEC Treaty in Germany did not require any change in the existing system of intra-German trade, which was conceived as a German domestic matter;

(2) that, however, all other member states could take appropriate measures to prevent difficulties which might arise for them from the organization of that trade. The Protocol had the effect of releasing the Federal Republic from its obligation to apply EEC law

to intra-German trade, but did not transform the latter into intra-Community trade. Its purpose was to guarantee that the implementation of the EEC Treaty would not aggravate the partition of Germany. The fate of the Protocol was put up for discussion in view of the completion of the internal market projected for the end of 1992. Discussion intensified when, after the revolution in the GDR, a closer cooperation or even confederation between the two German states with the accompanying expansion of intra-German trade was expected. With reunification on 3 October 1990, the Protocol became obsolete.[217]

This section seems to offer a precedent for Northern Ireland to have a special status as was provided to East German when trading with West Germany.

2.7 The community law obligation of consultation, coordination and adaptation in the reunification process

> "It [West Germany] insisted that the integration of the GDR [East Germany] in the European Communities would not formally be treated as an accession of a new member state, which would have caused delay and uncertainty in view of the cumbersome admission procedure but handled according to the principle of moving treaty boundaries."[218]

> "The solution seems to lie in a rule of Community law implicit in Art.79 of the ECSC Treaty, Art. 227(1) of the EEC Treaty and Art.198 of the EURATOM Treaty leaving acquisition of territory, and consequently all steps leading to it, within the domain reserve of the member states."[219]

During the intra-German negotiations on the establishment of an economic and monetary union, the Commission insisted that it had to be fully involved from the outset in the process of German unification and that there was a need to move from information and consultation on the part of the German authorities to real concerted action. Irrespective of the legal substance of that claim the Commission actively participated in the subsequent negotiations resulting in the Unification Treaty. On the other hand, the Commission

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[217] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.401, 402.
[218] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.406.
[219] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.411, 412.

never expressly claimed that the conclusion of the State Treaty, or the Unification Treaty, was subject to the prior consent of the EC even though both Treaties strongly affected community jurisdiction, nor was such consent ever given in a formal legal instrument although it in fact existed. As the treaties went clearly beyond German internal trade separated out of the EEC framework by the pertinent Protocol, one cannot base the argument that they constituted a German domestic affair on that Protocol. Nor did the West German declaration concerning reunification by itself work a change in the competences between the Federal Republic of Germany and the EC but at best gave West Germany a right to demand corresponding Treaty amendments.[220]

The Commission's position

2.8 The basic assumption: automatic community enlargement and automatic extension of community law to GDR territory [East Germany] after German Reunification

The Commission proceeded from the basic assumption that the integration of the territory of the GDR into the Community by way of German reunification constituted a 'special case' so that Article 237 of the EEC Treaty relating to the accession of third states did not apply. On the other hand, this integration would involve practical problems on a par with those posed by the most recent enlargements of the community. It would quite similarly have to proceed by stages, requiring transitional measures to facilitate the gradual application of the 'acquis communautaire'.

The Commission expected the integration to be possible without the need to amend the Treaties, which would with reunification extend to the eastern part of Germany automatically i.e. without the consent of the other member states being required.[221]

Moving treaty boundary rule in community law

The automatic extension of the Treaties could be considered as an application of the international legal principle of moving treaty boundaries. The Commission, however, assumed that the automatic extension would be effected by a norm of Community law not further specified. Thus it was not compelled to deal with the question as to

[220] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.411.
[221] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.418,419.

whether and how far the present international law of succession recognizes the above mentioned principle. Since all the member states as well as the GDR were agreed on the mode of integration, the international law problem did simply not arise. According to Article 79 of the ECSC Treaty, Article 227 (1) of the EEC Treaty and Article198 of the EURATOM Treaty, the treaties apply to the whole of a member state's (European) territory, notwithstanding a limited number of exceptions.[222]

2.9 Automatic community enlargement and extension of the European treaties

Precedents: Saarland and St. Pierre-et-Miquelon

Two earlier cases of territorial expansion of a member state were handled as if there was a moving treaty boundary norm in EC law. It is uncertain, however, if the member states then had an opinio juris to this effect, or rather acted according to a political rationale. Apart from this, neither of the two cases reached an order of magnitude comparable to German reunification. The first case occurred in 1957 when the Saarland was incorporated into the Federal Republic of Germany under a treaty with France. At that time, the member states of the ECSC were apparently agreed that the ECSC Treaty would subsequently cover the Saarland as a part of the Federal Republic, while it had earlier been included as part of the French economic territory. [223]

The second case concerned the French islands of St. Pierre-et-Miquelon off Canada that had originally been treated as overseas territories not covered by the EEC Treaty (Article 227 (3) of the EEC Treaty and Annex IV). On 19 July 1976, the islands' status was changed by a French law into one of an overseas department which would bring them within the area of application of the Treaty if Article 227 (1) of the EEC Treaty was interpreted dynamically. The EEC Treaty was not amended and, though there was no express confirmation as to its automatic extension, St. Pierre-et-Miquelon was later omitted from the list of French overseas territories.[224]

[222] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.419.
[223] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017,p.420.
[224] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.421.

Result: legal uncertainty removed

Before German reunification, neither the text of the relevant Treaty provision, nor legal literature, nor the Communities practice offered a compelling argument for or against the extension of a moving treaty boundary rule in EC law. The reunification case has now settled the matter. The EC Commission expressed a legal opinion as to the extension of a moving treaty boundary rule of community law, and the Council did not object but proceeded accordingly, nor was there any objections from individual members states.[225]

[225] Thomas Giergerich, 'The European Dimension of German Reunification: East Germany's Integration into European Communities'(1990) <http://www.zaoerv.de/51_1991/51_1991_2_a_384_450.pdf> accessed 10 February 2017, p.421.

2.10 Motion passed in Dáil Eireann 15 February 2017

"That Dáil Éireann: notes that:

— on 22 May 1998, voters in Northern Ireland voted to accept the Good Friday Agreement, GFA, by 71.1% to 28.9%, and in Ireland by 94.39% to 5.61%;
— since the GFA was ratified and the restoration of power-sharing in 2007, the European Union, EU, has been a critical partner for peace, providing substantial political and financial aid, which has led to greater economic and social progress on an all-island basis;
— on 23 June 2016, a referendum on the UK's continued membership of the EU took place;
— a majority of voting citizens in Northern Ireland, namely 55.8%, voted to remain in the EU;
— the British Government has now made clear that they will trigger Article 50 of the Lisbon Treaty by the end of March 2017, and begin the exit process, and will also be seeking to leave the single market in a so-called 'hard Brexit'; and
— this situation is unprecedented, as no member state has left the EU and single market before now;

recognises that:

— under the terms of the GFA there is an inherent right for those born on this island to Irish citizenship, and by virtue of that right, citizenship of the EU as well;
— Northern Ireland is being forced to leave the EU against the expressed wishes of its people;
— this represents a major set-back for the political process in Northern Ireland and directly challenges the integrity of the GFA, and will have huge consequences for the protections contained within it, especially the principle of consent;

the pursuit of a 'hard Brexit' may well impose the amendment of the Northern Ireland Act 1998, which gives legislative competence and authority to the GFA;

— the Oireachtas Joint Committee on European Union Affairs, in its June 2015 report, UK-EU Future Relationship: Implications for Ireland, recommended that 'the Irish and UK Governments negotiate bilaterally to have Northern Ireland recognised (in an EU context) as having "a special position" in the UK, in view of the Good Friday Agreement. Recommends further that special arrangements be negotiated at EU level in that context, to maintain North-South relations and Northern Irish EU citizenship rights and protections attached to such rights.';
— the EU has shown itself to be flexible in coming forward with pragmatic arrangements for dealing with complex territorial situations; and
— a special status relationship for Northern Ireland outside of the EU would do little to deal with the massive political, social and economic challenges thrown up by Brexit;

concludes that:

— a 'hard Brexit' would undermine the institutional, constitutional, and legal integrity and status of the GFA; and
— the GFA political institutions, human rights guarantees, all-Ireland bodies, and the constitutional and legal right of the people to exercise their right to self- determination and a united Ireland through consent, by referendum north and south, must all be protected; and

calls on the Government to:

— enter any forthcoming negotiations to defend the democratic mandate of the people to remain within the EU and act in Ireland's national interest;
— report to the Houses of the Oireachtas, on a quarterly basis, regarding developments in the Brexit negotiations; and
— negotiate for Northern Ireland to be designated with a special status within the EU and for the whole island of Ireland to remain within the EU together."

2.11 Report for the Irish Parliamentary Committee on the Implementation of the Good Friday Agreement

Submission by Markus Kotzur on the German reunification process

I. The Public International Law Framework: German Reunification and State Succession

- The German Reunification process brought about the essential question of the position of the former German Democratic Republic (GDR) and of unified Germany vis-à-vis the then European Communities (today the European Union). In particular, the method of fully extending the Community Treaties to the ex-GDR had to be clarified. From a public international law perspective, the theory of geographical extension of the area of territorial application of treaties could have paved the way of automatically applying the Community Law to the whole of the territory of the two Germanies immediately after Reunification and without the need for the ex-GDR to formally apply for EC Membership of its own. Whether or not that theory was applicable depended on
- the way the unification came about according to German Constitutional Law;
- the relevant provisions of public international law;
- the provisions of then EC law.
- If the merger of the former GDR and FRG would have resulted in the creation of a new State, that New State would have had to newly apply for EC-Membership, to meet all criteria of accession (as today enshrined in Art. 49 TEU) and to undergo the complete accession process. If the reunified Germany would have been identical (State continuity) with the former Federal Republic of Germany, that would not have been necessary.
- In political terms, soon an agreement had been reached between Germany and the other EC-Member States to avoid any amendment of the Treaties

let alone new accession. The political perspective was supported by State practice in the cases of a merger of States. E.g., in case of the merger between Tanganyika and Zanzibar, the new State automatically replaced the old one in international organizations. However, attempts undertaken by the ILC to codify the major parts of the laws of state succession have failed and thus no clear codification exists until today. What nevertheless can be applied following customary international law is the principle of "moving treaty boundaries" combined with the concept of extinction of the former GDR as a subject of international law. The united (reunified) German State is held to be identical with the former Federal Republic since unification represents all Germany and is bound as a member of multilateral conventions and of international organizations such as the then EEC/today EU in respect to its entire territory, including both the former territory of the Federal Republic and the territory of the former GDR (principle of state continuity).

II. The Constitutional Law Framework: Art. 23 Basic Law (old version) and Art. 146 Basic Law (old version)

- German constitutional law valid at the time of reunification was very responsive to the principle of state continuity in the case of reunification. Art. 23 Basic Law (old version) provided other than the Western Länder but still de jure German states, initially not included in the field of application of the Basic Law (namely Thuringia, Brandenburg, Saxony, Saxony-Anhalt, Mecklenburg-Vorpommern), with the right to declare their accession (Beitritt) at a later date. Art. 23 expressly held: " For the time being, this Basic Law shall apply in the territory of the Länder of Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Württemberg-Baden, and Württemberg-Hohenzollern. In other parts of Germany it shall be put into force on their accession.
- When the Eastern German Communist regime fell in 19989/1990, use was made of Art. 23 (and not Art. 146) Basic Law. Following the first free elections, the Parliament of the former GDR declared the accession of the GDR to

the FRG. That declaration of accession not only included the East German territories into the field of application of the Basic Law but also activated the public international law principle of "moving treaty boundaries".

III. The Union Law Framework

- Since – even before Reunification – East German Citizens, according to Art. 116 Basic Law, were seen as German Nationals, they enjoyed the freedoms within what today is the EU´s internal market (at the time being the common market). To some but limited extent, the former GDR could be seen as a "quasi-EC" Member. In a declaration to the "Treaty Establishing the European Economic Community as Amended by Subsequent Treaties, Rome, March 25, 1957", the Government of the Federal Republic of Germany had provided the following definition of the expression "German national": "All Germans as defined in the Basic Law for the Federal Republic of Germany shall be considered nationals of the Federal Republic of Germany". Also during the complete negation process of the EEC Treaty, the Federal Republic had been concerned to make sure that none of its commitments would put a barrier for a potential later Reunification.
- Nevertheless, the old EEC-Treaty had not expressly foreseen the Reunification option. On the contrary, its scope of application was expressly limited to the territory of the FRG as it existed at the time when the EEC-Treaty was concluded. The ECJ in Case 14/74 stated that no treaty protocol provision had "the result of making the former German Democratic Republic part of the Community, but only that a special system applies to it as a territory which is not part of the Community." All in all, Community law had been relatively silent on the Reunification issue and the problem had to be appropriately dealt with by public international law.
- Not surprisingly, there had been some debate in doctrine whether the accession of the former GDR to the Federal Republic would lead automatically to the application of the EEC Treaty to all of Germany or whether the significant change in territory and population would require the

unified German State newly accede to European Communities. However, consensus was soon reached that the principle of “moving treaty boundaries” (see I.) applies without any difficulties also to the German membership in the European Communities.

- To avoid any such uncertainties respectively controversies in the Irish case, it would be suitable to insist in the course of the Brexit negotiations on an additional protocol expressly stating that in case of an Irish Reunification Reunified Ireland will be considered the same state as Ireland (state continuity) and that the EU Treaties will be without any further amendment be applicable to the whole territory of the reunified country.

Literature:

Friedrich, German reunification: historical and legal roots of Germany’s rapid progress towards unity, 22 New York University Journal of International Law and Politics 253-317, 1990

Jacqué, Forum: International and European Aspects of German Reunification, EJIL 2(1991), pp. 1

Johnson, International Law Aspects of the German Reunification: Alternative Answers to the German Question, Adelphia Law Journal 12 (1997), pp. 93

Oeter, Stefan, German Unification and State Succession, in: ZaöRV 1991, pp. 349

SECTION 3

3.0 Summary

The research paper entitled 'Brexit- a view from the Chambers in December 2016' by the German-Irish Chamber of Industry and Commerce looked at the various analysis done on the impact of Brexit on Ireland. This paper had a specific overview of the impact on Northern Ireland and is available in full in the online appendix to this section.

The German-Irish Chamber of Industry and Commerce has a unique view on the impact of Brexit on Ireland in light of the German reunification experience and view that "The Irish peace process is lauded internationally as an exemplar to other regions where there is conflict, however, Brexit could undermine the work of reconciliation and destabilise the region."[226]

The German-Irish Chamber of Industry and Commerce also commented that

> "Brexit and the challenges it poses cannot be allowed to undermine cross-border cooperation, economic reconstruction and growing rapprochement after centuries of division on the island of Ireland. In 1990, Ireland's European presidency was central to agreeing a common EU approach to the issue of German unification after the historic divisions caused by the Cold War. In 2010, on the twentieth anniversary of the landmark Dublin Summit, Germany's then foreign minister Guido Westerwelle said that his country would "never forget" how Irish diplomacy helped fast-track the way for the territory of then East Germany to join the European Union as part of a unified Germany. A key question for decision-makers in the EU today is can agreement be reached in a similar spirit of diplomatic pragmatism to ensure that the unique circumstances of the island of Ireland."[227]

It is widely recognised that the effect of Brexit on the island of Ireland will be profound and will require 'diplomatic pragmatism' by key EU decision makers as outlined by the German-Irish Chamber of Industry and Commerce. The effect of

226 Ralf Lissek, Dr. Brian Murphy & Dr. Volker Treier, 'Brexit-a view from the Chambers in December 2016' (2016) German- Irish Chamber of Industry and Commerce, <http://www.german-irish.ie/uploads/media/German_Irish_Brexit_Report_01.pdf> accessed 8 February 2017,
227 Ralf Lissek, Dr. Brian Murphy & Dr. Volker Treier, 'Brexit-a view from the Chambers in December 2016' (2016) German- Irish Chamber of Industry and Commerce, <http://www.german-irish.ie/uploads/media/German_Irish_Brexit_Report_01.pdf> accessed 8 February 2017, p.24.

Brexit will also be long term, and one of the potential long term solutions would be the fulfilment of the Constitutional obligation of a reunified Ireland.

The economic analyses of a unified Ireland as an option are few on the ground. There was economic analysis of a united Ireland based on the economic modelling of German unification carried out in 2015 entitled ‘Modelling Irish Unification’. This report is available in full in the online appendix to this section. However, it could now be considered to be out of date due to Brexit. In the analysis, one of the modelling scenarios in the report estimates a boost in the all island GDP of €35.6 billion over eight years with the North benefitting significantly.

3.1 Recommendations

It is recognised that World Trade Organisation rules and a hard border would have a detrimental impact on Ireland North and South & Further impact assessment is required on the economic impact of reunification.

The Committee urges that the matter of EU funding for Northern Ireland and the border region remains high on the agenda and an expeditious solution is found for successor programmes after 2020.

3.2 Economic modelling of unification

In this section we look at the economic analysis done in the 2015 publication 'Modelling Irish Unification'.

One key finding of the report is that borders matter. "Numerous studies done in a variety of settings (the US and Canada, among Canadian provinces) demonstrate that 'borders matter' to a much greater degree than most observers would expect."[228] The return of a hard border on the island will obviously be detrimental. However, the most aggressive unification scenario in the report estimates a boost in all-island GDP of €35.6 billion over 8 years with the North benefiting significantly more. As the authors of the report point out, in the case of German unification the smaller partner (East Germany) benefited more that the larger one.

In the report Irish Unification is modelled as impacting the economics of Northern Ireland and the Republic of Ireland through five channels and these are outlined in this section. These building blocks of the analysis are then combined into three unification scenarios which are also outlined. One of the central concerns of a reunification project is the issue of Northern Ireland's deficit, possible ways of dealing with this are discussed in the 'Modeling Irish Unification' report and are outlined here. It is also dealt with in another section by Congressman Boyle.

This Oireachtas report has previously dealt with the lack of data available for Northern Ireland and the impact on the policy making response to Brexit. Clearly the Irish Government needs to invest in securing accurate data so that it can formulate an appropriate response to Brexit and possible unification. In the conclusion of the report 'Modelling Irish Unification' it states "The German Unification case is the most prominent example of the importance accompanying policy plays in economic and political unification."[229] The conclusion is reproduced in full as part of this report.

In the Executive Summary of 'Modeling Irish Unification' prepared by Professor Steven Raphael Professor of Public Policy, UC Berkeley, California, there are a number of statements made that in a post Brexit situation need to be re-examined. The economic modelling used by the research team is similar to the one used to study German

[228] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Xi.
[229] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.60.

Unification. As such this report gives an insight into the possible benefits of unification. This Oireachtas report recommends the Irish Government needs to carry out its own cost and benefits examination of the achievement of the constitutional obligation as defined by Attorney General Brady (2002 -2007) of Article 2 and 3 of the constitution.

> "Political and economic unification of the North and South would likely result in a sizable boost in economic output and incomes in the North and a smaller boost in the ROI. The key factors driving this conclusion are the following."[230]

> "In the long run, unification would involve the adoption of the Irish tax system, greater openness in the North to Foreign Direct Investment, and diminished trade barriers between Northern Ireland, the ROI, and other countries in the Eurozone. A period of economic catch-up is likely to ensue whereby the Northern Irish economy would shift structurally from low value-added industries to high value-added industries. Additional benefits would derive from lower trade costs across the north-south border. These changes are projected to increase GDP per capita in the long run by 4 to 7.5 percent in Northern Ireland and by 0.7 to 1.2 percent in the Republic of Ireland."[231]

This next paragraph from the report was made prior to Brexit, but a scenario of a currency devaluation was partially allowed for in the study by Professor Nolan in the subsequent paragraph.

> "In the short run, unification would result in the North's adoption of the euro. At current exchange rates, this would effectively devalue the currency for the North, causing a shift in international terms of trade that would favor Northern Ireland relative to the U.K. and relative to other countries in the Eurozone. The consequent increase in exports is projected to initially increase per-capita gross domestic product in the North by 5 percent, and then fade back to the long-run growth path within seven years"[232]

Professor Nolan stated on the issue of currency:

[230] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Executive Summary Vii.
[231] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p. Executive Summary Vii.
[232] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p. Executive Summary Vii.

"However, it should be noted that the effective devaluation that the adoption of the euro might represent today may not be a permanent state of affairs. For example if the Bank of England mismanaged UK monetary policy, it could lead to a large depreciation of the pound, and the adoption of the euro would amount to an effective revaluation of the currency for NI. In this case, there might be offsetting benefits to the adoption of a better managed currency, however. Trade creation exceeds trade diversion confirming that the net impact is a boost to the efficiency of the two partners. This latter effect is driven by fundamental complementarities and should not be contingent on the level of the exchange rate."[233]

"Computable general equilibrium" or "CGE models have been used to study the economic consequences of German Unification as well as to simulate the potential economic gains form the unification of North and South Korea."[234]

"CGE models employ economic theory and statistical analysis to model the economic relationships driving production, consumption, wages, price, exports and imports, and ultimately, the output of an economy."[235]

3.3 Executive summary from 'modelling Irish unification'

In the report "Irish Unification is modelled as impacting the economics of Northern standardization Ireland and the ROI through the following channels":[236]

1. **Harmonization of the tax systems across the Island, with the North adopting the tax rates and regulations of the south**. This harmonization of taxes would involve both changes in adoption of activity taxes as well as taxes on imports, commodities, and institutional taxes. These changes would likely foster greater FDI in the North and contribute to economic growth.

[233] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Marcus Noland Xi.
[234] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Executive Summary vii.
[235] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Ibid
[236] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Executive Summary vii.

2. **Diminished trade barriers and greater access of Northern Irish firms to the common market.** The modeling in the KLC report assumes that unification would lower trade costs associated with transport and currency transaction between Northern Ireland, the Republic of Ireland, and other Eurozone countries. This reduction in transactions costs is projected to increase per-capita income.

3. **Adoption of the Euro in the North.** Given the current strength of the pound against the euro, adoption of the Euro in the North would provide a short run boost to economic output associated with an improvement in Northern Ireland's terms of trade.

4. **Productivity Improvements.** Currently there is a sizable productivity differential between Northern Ireland and the Republic of Ireland. This differential is driven in part by differences in the industrial structure of the two economies, which in turn, is partly caused by the different political and economic institutions. Convergence of productivity levels in the North to those of the Republic of Ireland would directly the impact of the output in the North and indirectly impact output and incomes in the Republic of Ireland through higher trade volume.

5. **Fiscal Transfers.** Northern Ireland currently and historically runs a fiscal deficit that is financed by inter-governmental transfers from the UK. Unification would require that this deficit be financed and assumed by the Republic of Ireland. However, unification would also eliminate the need for two parallel governmental structures in many domains and likely result in public spending in the North that diminishes over time. In the short run, reductions in public spending may reduce output and per-capita output to the extent that labor and capital once employed in the public sector are not reallocated towards other uses. In the longer running, public sector savings may be reinvested in the private economy or in public projects that enhance the long-term productivity of the country.[237]

"Modeling Irish Unification"

Marcus Noland Executive Vice President and Director of Studies

Peterson Institute for International Economics August 2015

[237] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Executive Summary Viii.

Unique among American economists in having devoted serious scholarly effort to the problems of North Korea and the prospects for Korean unification. He was previously a senior economist at the Council of Economic Advisers in the Executive Office of the President of the United States.

Why the question matters

> "Northern Ireland (NI) is falling ever further behind the Republic of Ireland (ROI) in terms of economic development."[238]
>
> "Yet in the medium-term future the relationship between these two parts of Ireland potentially could become more problematic due to the possibility of the United Kingdom's withdrawal from the EU (the so-called "Brexit").Hence it is an opportune moment to examine the possibility of the two parts of Ireland not envisioning separate development trajectories, but rather in the words of Bradley (2006) planning "a coming together in order to build on natural island economic strengths and remove barriers and weaknesses so that genuine synergies can be realized for the mutual benefit of both economies." 'Modeling Irish Unification' is a path-breaking analysis of the economics of Irish unification, demonstrating the benefits to both Irelands of closer economic and political relations."[239]

[238] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.X.
[239] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.X.

3.4 Basic modeling challenge

"Analysts attempting to address the issue of Irish unification immediately confront the problem that as a subnational jurisdiction, much economic data necessary to conduct the analysis may not be collected for Northern Ireland as an independent reporting entity"[240]

"One drawback of the CGE approach and it is not a drawback of the approach but rather how we interpret the results, is a possible tendency toward spurious precision. The models are an abstraction of reality, embodying many assumptions. In the case at hand, some of the underlying data has been estimated or constructed and may not be precisely accurate."[241]

"In other cases, the authors use informed adjustments to the UK data to construct admittedly more speculative estimates of the Northern Ireland figures." [242]

3.4.1 Incomplete data : modelling unification

As with the lack of data available for the analysis of the impact of Brexit on Northern Ireland, the same lack of data poses a challenge for the economic modelling of Irish unification.

The researchers for the publication on 'Modeling Irish Unification' stated they had a problem with accurate data.

"The problem is that little information is available on the potential economic effects of a unification policy, and there are therefore little means to numerically gauge its effectiveness. This is further complicated by the data deficit in the North."[243]

"This makes CGE highly sensitive to the quality of data that is entered into it. Data quality therefore impacts on the results."[244]

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[240] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.X.
[241] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.X.
[242] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Ix.
[243] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.3.
[244] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-

3.5 Fiscal transfer

"Fiscal transfer into NI, which covers the short-fall between government revenue and Expenditure is modeled as a revenue source and doesn't impact government gross- fixed capital expenditure."[245]

"NIROI is coded with alternative incidences in fiscal transfer. These include:

1) a scenario that assumes a 50% split between GB and Brussels (REUZ) in the incidence of fiscal transfer, followed by a 5% annual increase in the funds paid from Brussels and a commensurate decrease in funds paid by GB;

2) a 50% split of the transfer, in the policy year, between ROI and Brussels, with annual increase of 5% in funds by the ROI and a commensurate decrease in funds paid by Brussels."[246]

3.6 German unification

"As has been found in past analyses of mergers of partners where one partner is significantly smaller, poorer, and more distorted initially than the larger partner (e.g. Germany, the prospective case of Korea), the results are uniformly more profound for the smaller partner.

"This is less likely to be important in the Irish case because cross-border flows of labor and capital are already significantly open, so the impact from increased cross- border factor flows which was quite important in the German case, and would also be significant in a prospective Korean case, is less salient in the case at hand."[247]

irish-unification/report.pdf> accessed 8 February 2017, p.6.
[245] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.31.
[246] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.32.
[247] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.X.

3.7 Border matters

> "Numerous studies done in a variety of settings (the US and Canada, among Canadian provinces) demonstrate that "borders matter" to a much greater degree than most observers would expect. As a consequence, increased integration created by the adoption of a common tax code, a common currency, and a centralization of government functions is likely to deliver a much bigger boost to intra-island exchange than occurs in these model simulations."[248]

3.8 Unification scenarios

"These building blocks are then combined to into three unification scenarios."[249] These three are reproduced in full here from the report.

> "After presenting the modeling outcomes of the various policy components we now turn to our unification scenarios that look more in-depth into the combination of several policy components. We distinguish overall three scenarios that differ in the way unification efficiencies are being used as well as in the way effects of a common FDI- regime and thus a common tax regime are modeled. Scenario 3 is the most advanced scenario in that it contains the most comprehensive modeling assumptions."

[248] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Xi.
[249] Kurt Hübner, 'Modelling Irish Unification', (2015) KLC Consulting, <http://prcg.com/modeling-irish-unification/report.pdf> accessed 8 February 2017, p.Xii.

3.8.1 Unification scenario 1

Unification in combined scenario 1 means that the unified Ireland pays 100% NI government deficit, harmonization of functions of government reduces NI government expenditure by 2% annually from 2018-2025, and adoption of ROI's tax regime and foreign investment policy platform in NI has no effect on returns to productivity in NI.

Figure 1. Northern Ireland Combined: Simulation Relative Benchmark, Scenario I

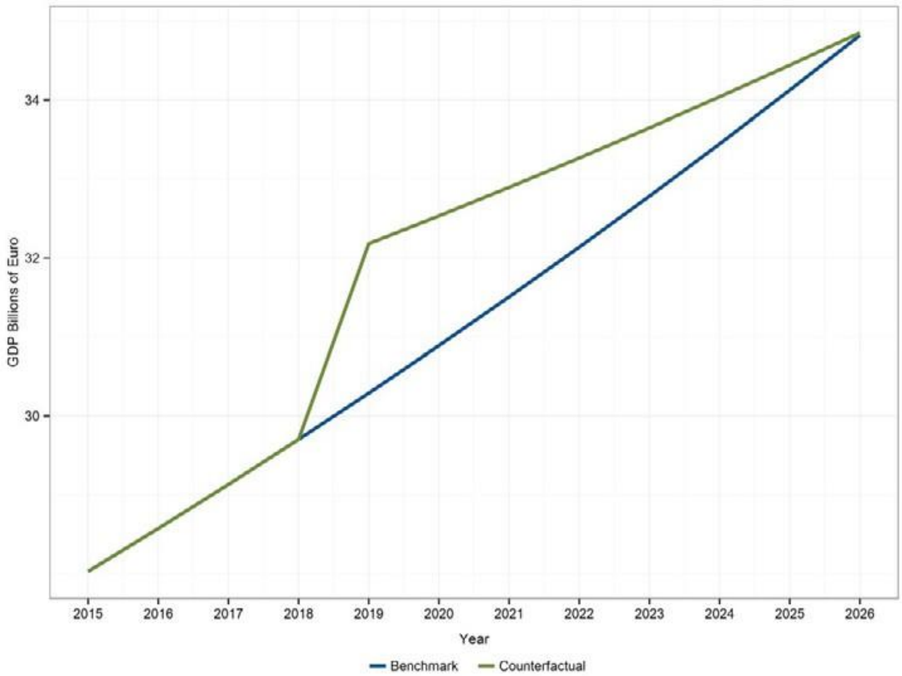
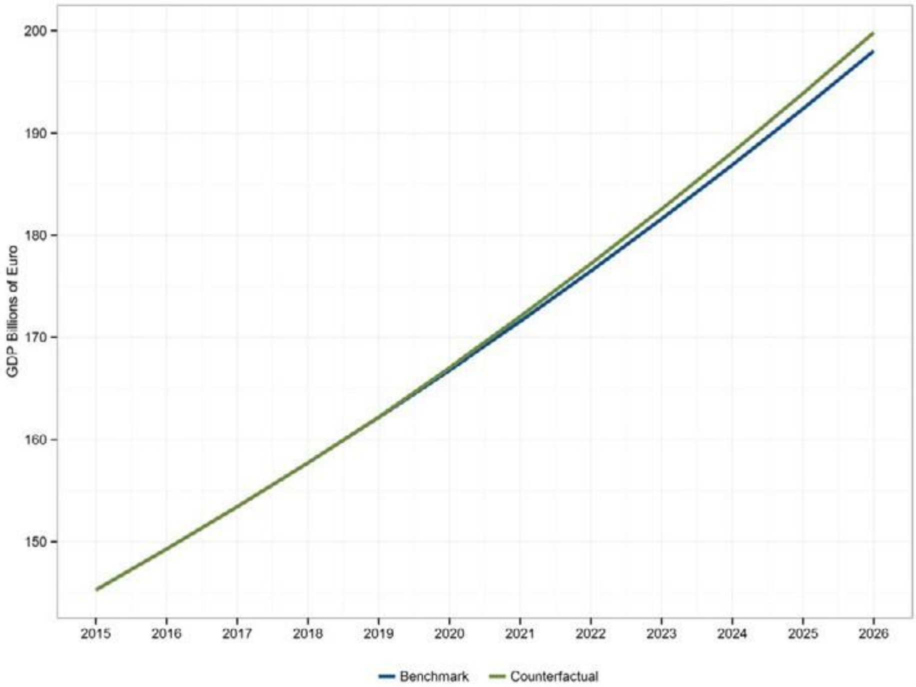


Figure 2. Republic of Ireland Combined: Simulation Relative Benchmark, Scenario I



"The combined scenario 1, with a reduction to government expenditure in NI as a result of harmonization of functions of government, boosts NI GDP in the policy implementation year, yet the percentage gain declines until the counterfactual trend returns to the benchmark output path. As discussed earlier, the decline is a result of reductions in government expenditure, which not only demand higher private sector savingsbut also have a negative multiplier effect. The gain in 2018 of 2.2 billion Euro in NI GDP accumulates to 8.8 billion Euro by 2025, while the 2018 ROI GDP gain of only 30 million Euro accumulates to 1.8 billion Euro by 2025. Total island change in GDP across the 8 year counterfactual climbs to 15.8 billion Euro."

Table 1. Change in GDP/Capita and GNP/Capita, Scenario I

CHANGE IN GDP/CAPITA (EURO)									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**TOTAL**
NI	1,199	1,037	873	707	539	369	196	21	4,942
ROI	3	44	87	131	176	223	272	322	1,259
All-Island	1,202	1,081	960	838	716	592	468	343	6,201
CHANGE IN GNP/CAPITA (EURO)									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**TOTAL**
NI	1,238	1,076	911	744	576	405	231	55	5,235
ROI	3	44	87	131	176	223	272	322	1,259
All-Island	1,241	1,120	998	875	752	628	503	377	6,495

Table 2. Percent Change in GDP/Capita and GNP/Capita, Scenario I

PERCENT CHANGE IN GDP/CAPITA									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**AVERAGE**
NI	5.1	4.4	3.6	2.9	2.2	1.5	0.8	0.1	2.6
ROI	0.0	0.1	0.3	0.4	0.5	0.7	0.8	0.9	0.5
PERCENT CHANGE IN GNP/CAPITA									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**AVERAGE**
NI	5.1	4.4	3.7	3.0	2.3	1.6	0.9	0.2	2.6
ROI	0.0	0.1	0.3	0.4	0.5	0.7	0.8	0.9	0.5

3.8.2 Unification scenario 2

"Unification in scenario 2 means ROI pays 100% NI government deficit, harmonization of functions of government reduces NI government expenditure by 2% annually from 2018-2025, and adoption of the ROI's tax regime and foreign investment policy platform in NI attract a higher presence of multinational firms, which catalyzes returns to productivity in NI. Over a 15 year period NI's productivity structure converges with that found in the ROI."

Figure 3. Northern Ireland Combined: Simulation Relative Benchmark, Scenario II

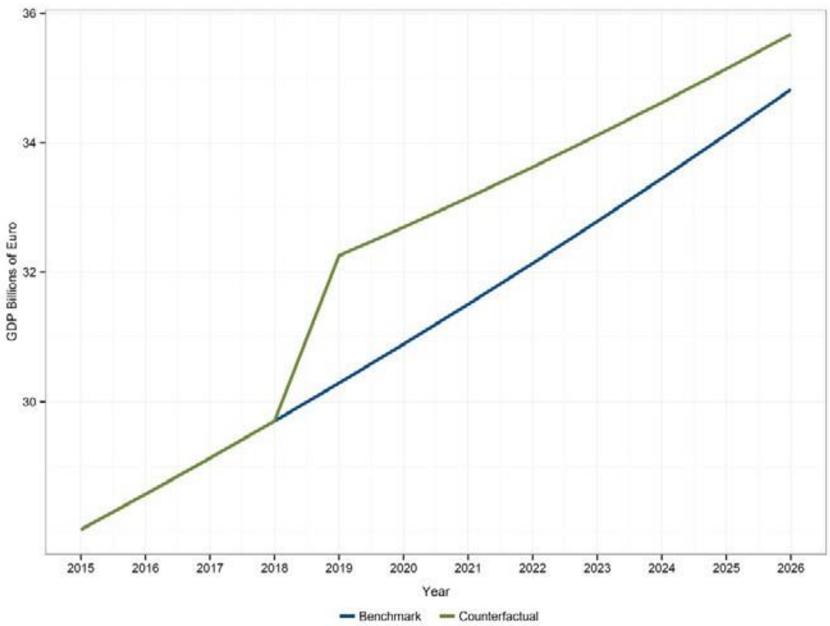
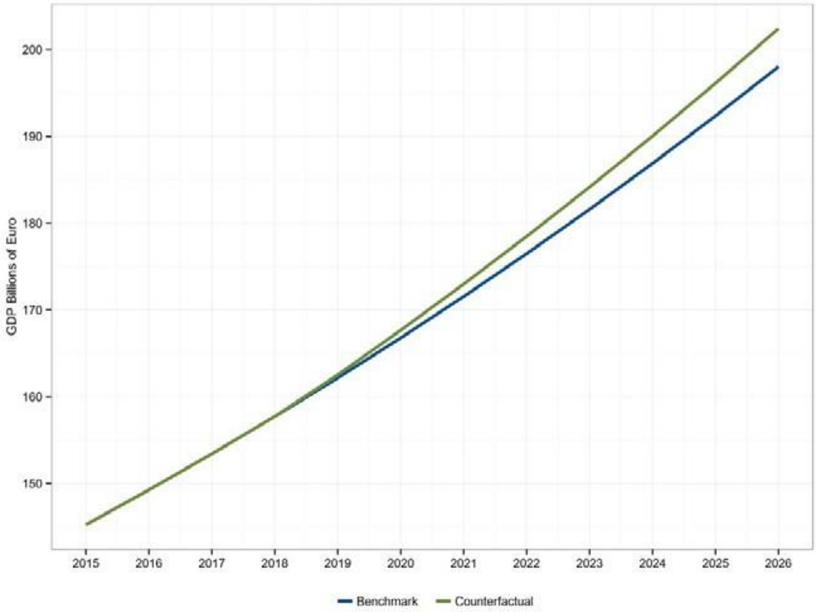


Figure 4. Republic of Ireland Combined: Simulation Relative Benchmark, Scenario II



"Improvements to productivity in NI have a strong positive effect on GDP. While the reduction in government expenditure in NI still negatively affects NI's GDP, the productivity gain somewhat offsets the negatively sloped percentage change trend-line for the policy implementation years. As a result, the NI GDP counterfactual rises above the bench by 2.2 billion Euro in 2018 and accumulates to 11.27 billion by 2025. The ROI's GDP gain is only 349 million Euro in 2018 but accumulates to 18.5 billion Euro by 2025. The all-island effect on GDP accumulates to 31.2 billion Euro by 2025."

Table 3. Change in GDP/Capita and GNP/Capita, Scenario II

CHANGE IN GDP/CAPITA (EURO)									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**TOTAL**
NI	1,273	1,192	1,113	1,036	960	884	808	732	7,997
ROI	74	188	302	416	531	647	764	882	3,804
All-Island	1,347	1,380	1,415	1,452	1,491	1,531	1,572	1,614	11,801
CHANGE IN GNP/CAPITA (EURO)									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**TOTAL**
NI	1,309	1,224	1,142	1,062	984	907	829	752	8,210
ROI	64	165	266	368	470	574	679	785	3,370
All-Island	1,373	1,389	1,408	1,430	1,454	1,481	1,508	1,537	11,581

Table 4. Percent Change in GDP/Capita and GNP/Capita, Scenario II

PERCENT CHANGE IN GDP/CAPITA									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**AVERAGE**
NI	5.4	5.0	4.6	4.2	3.9	3.5	3.2	2.8	4.1
ROI	0.2	0.5	0.8	1.1	1.4	1.7	2.0	2.2	1.2
PERCENT CHANGE IN GNP/CAPITA									
REGION	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**AVERAGE**
NI	5.4	5.0	4.6	4.2	3.8	3.5	3.2	2.8	4.1
ROI	0.2	0.5	0.8	1.1	1.4	1.7	2.0	2.3	1.3

3.8.3 Unification scenario 3

> "Unification in combined scenario 3 means the ROI pays 100% of NI's government deficit, harmonization of functions of government reduces NI's government expenditure by 2% annually from 2018-2025, and adoption of the ROI's tax regime and foreign investment policy platform attract a higher presence of multinational firms, which catalyzes returns to productivity in NI. Government savings are not applied to deficit reduction, but are spent to expand and improve functions of government. Over a 15 year period NI's productivity structure converges with that found in the ROI."

Figure 5. Northern Ireland Combined: Simulation Relative Benchmark, Scenario III

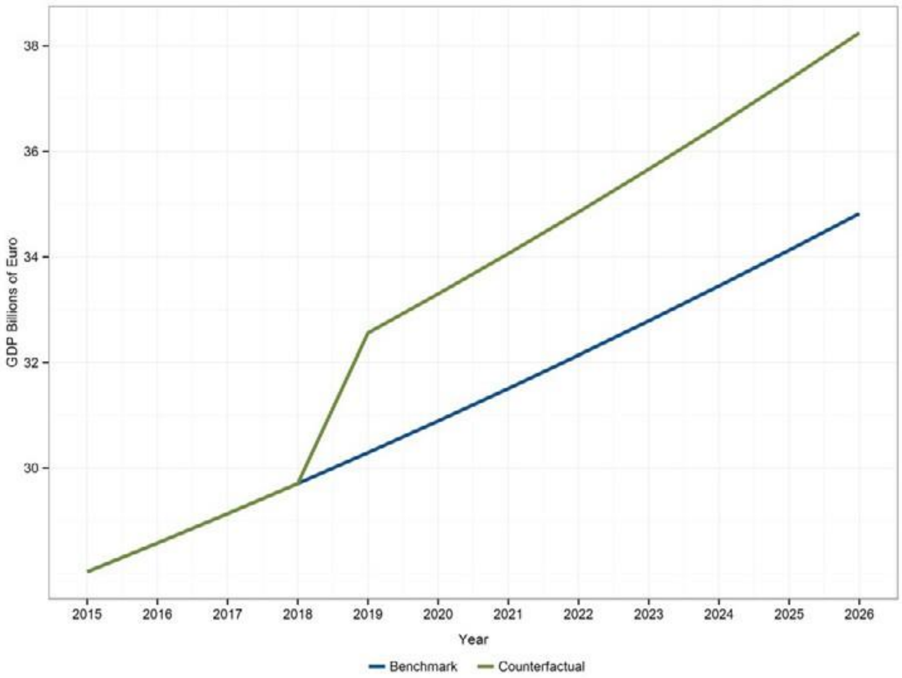
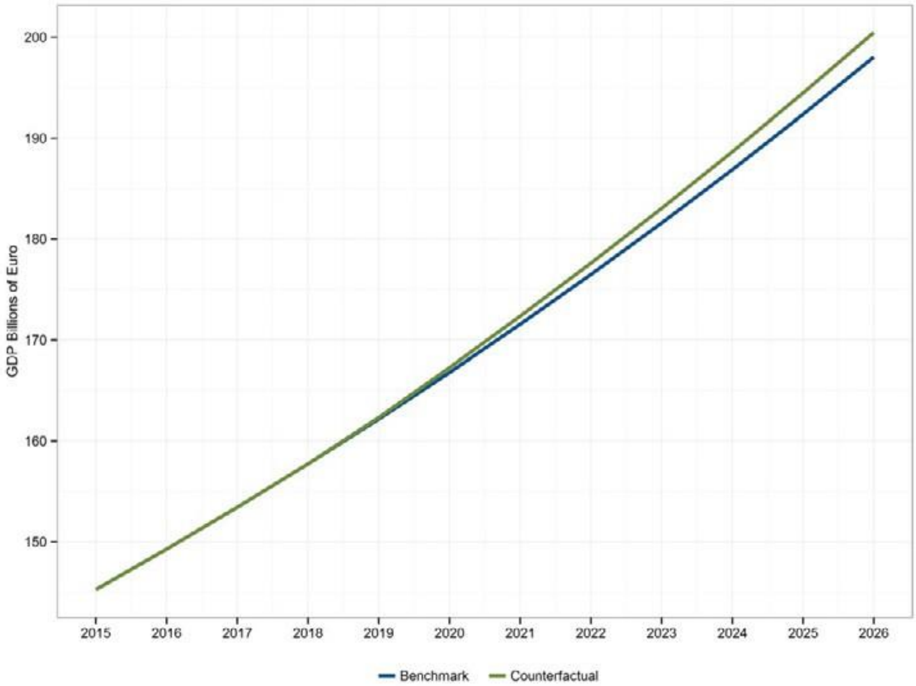


Figure 6. Republic of Ireland Combined: Simulation Relative Benchmark, Scenario III



"Redirecting NI government savings into expenditure boosts NI's GDP but negatively effects the ROI's GDP, relative the scenario where NI's government expenditure cuts are applied to deficit reduction. While GDP gains from unification in NI grow from 2.6 billion Euro in 2018 to 25.3 billion Euro in 2025, the ROI's growth, beginning in 2018 at 152 million Euros, accumulates to only 10.33 billion Euros. The net effect on all-island GDP is a gain of 2.7 billion Euros of GDP in 2018, 6.3 billion Euros of GDP in 2025, and an accumulated gain of 35.6 billion Euros of GDP across the policy timeline of 8 years."

3.9 Conclusion of Modeling Irish Unification

To generate the results displayed in this paper, we customized an existing CGE model to fit the multi-regional case with 54 industrial sectors, 4 ROW regions, and representative public and private institutional sectors. In the paper, we detailed our methods for extracting a regional level SUT from the national level, and for compiling SAMs for both the ROI and NI, then outlined the circumstance surrounding our scenarios and scenario components and explained how they fit to the model. Finally, we demonstrated and analyzed critical parts of our numerical findings.

NIROI shows positive net effects on output for NI as well as for the ROI. The bulk of positive net effects are centered in NI, and this was to be expected given the gap in economic development between the ROI and NI. Exports from NI to GB increase by as much as 43.8 billion Euro by 2025, while total NI exports increase by as much as 49.4 billion Euro. Imports into NI from GB increase by 22.2 billion Euro, between 2018 and 2025, while imports from the ROI into NI increase by as much as 560 million Euro. Total imports into NI increase by as much as 49.4 billion Euro, by 2025.

While total exports from the ROI are predicted to decrease by 1.8 billion Euro and total imports into the ROI to decrease by 1.7 billion Euro, total trade creation is still expected to be positive, accumulating to 81.1 billion Euro by 2025. The model also suggests unification will raise GDP in NI by 2.1 to 2.6 billion Euro in the year the policy is implemented, depending on the extent to which NI government expenditure is cut and the amount of FDI attracted by the new tax regime. These gains could accumulate to as much as 25.3 billion Euro in the first eight years following unification.

GDP in the ROI could rise by 30 million to 152 million Euro in the year of policy implementation, again subject to the same assumptions. Across the first 8 years of unification, GDP gains in the ROI could rise from 10.3 billion Euro to 18.5 billion Euro. In total, Irish unification could boost all-island GDP in the first eight years by as much as 35.6 billion Euro.

The positive effects of our economic simulation exercise are strongly driven in the short-run by NI's change-over from the British Pound to the Euro. However, in the long-run they are the result of a common FDI regime that prompts NI's industrial activities to mirror the ROI's industrial structure. In theory, the common FDI regime attracts capital into NI and forces movements along the production possibilities frontier from low value-added industrial output to high value-added industrial output. But what works automatically in the model is in the real world a combination of economic and political policy that is neither easily defined nor implemented. Krugman (1997) and Bradley (2006), for example, explain the dynamics that turn an inward oriented FDI regime into output. We relay some of those aspects here.

Attracting FDI is not only about implementing globally competitive tax rates but also, and in many ways more importantly, about restructuring an entire policy framework to attract and feed high value-added enterprises. This process catalyzes an initial clustering of similar industries, which generate a skilled and knowledgeable workforce. Skilled and knowledgeable human capital attracts more cluster growth through FDI, leading to information spillovers and, with the help of improvements in physical infrastructure, further investment. This process is fostered and supported with political action. High-value economic activities ask for high-end professional training, and thus for a forward-looking education system, an open labor market that makes efficient use of labor mobility in the EU, and active state based provisions that ensure excellent infrastructure, to name only the most prominent policy actions. In other words, successful economic unification, in terms of output, can't be expected from a solely market-driven process. The process needs to be closely monitored and guided with economic policies. In other words, magnifying already positive unification effects is part of an accommodating state policy.

The German Unification case is the most prominent example of the importance accompanying policy plays in economic and political unification. Across the life cycle of German Unification, currency valuation, wage setting, fiscal transfer, and industrial policy, among a myriad of other significant policies, each strongly influenced the accounting and opportunity costs paid by taxpayers.

In the case of German Unification, given that both entities had their own currencies and the currency of the former German Democratic Republic was not convertible, a decision had to be made about an adequate exchange rate. Rather than following underlying economic fundamentals, the decision was guided by political considerations. The conversion rate of roughly 1:1 implied a 400 % appreciation of the former currency of the Democratic Republic, and this enormous cost-push drove substantial parts of the economic sectors of the East into insolvency. Moreover, in the German case, the also politically motivated initial move to adapt the system of industrial relations of the West, and to put East Germany on a wage path that was close to the one of the West, contributed further to undermining gravely the price competitiveness of the Eastern industrial sector. Unlike the first mistake, however, the second one could be reversed, but this revision was time-intensive. Finally, in a positive way, German unification can be seen as a case where ongoing accommodating policies for the relatively weaker region in the economic union paid off over time. Only substantial fiscal transfers from West to East made it possible for Eastern Germany not to lose out in the unification process.Our modeling of Irish unification underplays potential positive effects of a political union as our key modeling assumption in regards to the public sector only considered the reduction in expenditures due to synergies but did not further assume that labor and capital employed in the public sector would be channeled to more effective use outside the public sector. Such a ‘peace dividend’ (Noland) seems plausible but also requires efficient reallocation processes that we excluded in our modeling. Rather, we opted for a conservative modeling that focuses on structural drivers. It seems fair to assume, though, that the positive effects of our modeling may even be a bit stronger then shown.Two lessons for an Irish unification can be drawn. First, uniting two separated economies requires careful and reflective public policies that deal with fall-outs on the one side and foster adjustments on the other. Second, securing and strongly improving the skill levels of the workforce and providing a complementary industrial policy will not only reduce the fiscal cost of unification but also will also potentially attract genuine FDI and reduce the opportunity cost

Our modeling exercise points to strong positive unification effects driven by successful currency devaluation and a policy dependent industrial turn-around. While these effects occur in a static global economic environment, under ideal political conditions, they underline the potential of political and economic unification when it is supported by smart economic policy.

An Coiste um Fhorfheidhmiú Chomhaontú Aoine an Chéasta

Committee on the Implementation of the Good Friday Agreement