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## ***The Origins of the Common Travel Area between Ireland and the United Kingdom and its Fate in an Era of Governmental Concern about Undocumented Migration and International Terrorism***

- Origins of the study – Amsterdam Treaty/CTA, CTA as a ‘mini-EU’ with common or reciprocal rights as well as passport free travel, CTA ‘myths’
- **Outline of this paper**
- Three phases of the original CTA
- The Commonwealth and EEC/EU Contexts
- The CTA and security concerns from the late 1990s; undocumented migration, international terrorism, and the question of Northern Ireland
- Conclusion – need to remember that the CTA began as a common immigration system (core interest for both states) as well as a convenience for peoples linked through history and kinship

# The Original CTA; CTA Mark 1, 1920s and 1930s

- Shared names on ‘Suspect Indexes’ and exchange of information about action taken re anyone on the lists who tried to land
- No-one allowed to land in one state who would not be allowed to in the other
- Landing cards of those allowed to land copied to the other state
- Common visa list

## The Original CTA; CTA Mark 2, 1952-1960s

- Following wartime restrictions, system resumed in 1952
- Similar 'Suspect Index' arrangements
- Similar arrangement about non-landing in one state if not allowed in the other
- Some stricter provisions about information exchange re persons allowed to land
- No common visa list but agreement to coordinate

## The Original CTA; CTA Mark 2 and ½, 1960s-90s

- UK Commonwealth Immigrants Act 1962 – see later
- Single immigration unit revisited in 1966 and 1971-73
- East African Asians – Amendment to Ireland's Aliens Order 1962
- New immigration legislation in UK, 1971-3 an improvement for the Irish – controls no longer 'not used at Anglo-Irish ports' but exempt because of statutory recognition of CTA
- Not much change for next twenty years

# The Original CTA; Irish viewpoint

- Irish assessment of costs and benefits, the latter outweighing the former
- But need in Ireland to appear indifferent to removal of controls in the UK
- Cooperation over presentation

# Commonwealth and EEC/EU Dimensions; Commonwealth nationality

- CTA Mark 1 subset of Commonwealth arrangements
- But from UK, this connected to the common nationality for all – subjects of the UK and Colonies
- Still so after Ireland's new Nationality and Citizenship Act 1935
- Year before Ireland's departure, a new UK nationality law (1948) which recognizes a distinctive Irish nationality

## Commonwealth and EEC/EU Dimensions; first UK restrictions on Commonwealth nationals

- 1948 UK Act welcomed in Ireland, despite some reservations, paving the way for eventual reciprocity of rights
- But separation of British citizens (within the UK) from Citizen of the UK and Colonies for people in Commonwealth countries paved the way for restrictions on entry into the UK, 1962
- Intense diplomatic and political activity to ensure that new rules would not apply to Irish nationals

## Commonwealth and EEC/EU Dimensions; links between the two in 1962 – opt outs from Amsterdam Treaty

- Northern Ireland politicians looking for a voucher scheme for the Irish – to help them keep their Safeguarding of Employment Act as both states made their first EEC applications
- Thereafter most points of interest are about associated rights (esp. access to public sector employment) rather than border controls – until -
- Amsterdam Treaty, agreed 1997, incorporates Schengen Agreement
- Opt-outs for Ireland and UK – differences in motive and presentation

# The CTA and National Security

- Changes to the 80 year old CTA in both states
- Irish and British concerns about undocumented migration through Northern Ireland
- 1997 Irish checks on travellers from the North and occasional checks on passengers arriving from GB
- Already random checks in GB on passengers from the North because of the conflict but Irish passengers still channelled through domestic part of airports

## The CTA and National Security; beginnings of change to the CTA

- Also in 1997, enhanced cooperation between the two sets of immigration officers
- 2006 reintroduction of Irish checks on busses and trains from the north
- And passengers from GB regularly required to show some form of identification at general immigration desks
- Same year, beginnings of preparation in UK for 'e-borders'

# The CTA and National Security; substantial change proposed – legislation required in UK, relevant clause defeated

An electronic CTA – hailed by *Irish Times* as the ‘end of the CTA’

- UK: electronic data collection, raising an ‘alert’, via electronic means, about anyone on a ‘watch list’ – to come into place in 2009
- Taoiseach refers to *increased* cooperation – so an electronic version of the old system?
- Irish Border Information System: carriers to provide advance information to Operations Centre for screening against various ‘watch lists’ and alerts and actions – announced in 2009, to come into place in 2010
- In UK, legislation required, Borders, Citizenship and Immigration Act 2009
- Passport controls for CTA routes in clause 48 (originally 46)
- Clause 48 defeated following opposition led by Liberal Democrats and conservatives – to some dismay in government

# The CTA and National Security; concerns informing objections to clause 48

Range of concerns raised by opponents and in briefing by NI Human Rights Commission

- Lack of evidence of the threat
- New combined border police to carry out 'intelligence- or risk led' on N-S border - in context of 'normalization' of policing in NI
- Risk of 'racial-profiling'
- Effects on daily lives of residents of border areas
- Risks for non-white Irish or British citizens
- Risks for tourism and cross-border commuters
- Possible extension from air and sea ports to 'international' railway stations, affecting not just Belfast Central/Dublin but stations en route used for local travel
- An 'open door' now for full immigration controls in GB on other UK routes - Crown Dependencies and NI

# The CTA and National Security; Policing and Crime Act

- New proposal later in 2009 in Policing and Crime Bill - on customs, rather than immigration matters
- Clause 97 (originally 99) authorized customs officers to ask for passports or other travel documents – no mention of exception for CTA routes
- Two peers, one LD and one Con, hotfoot from BIPA, refer to concerns about the earlier Act, with additional concerns that customs and immigration systems were merging.
- Governmental assurances that their fears about one customs officer ‘changing hat’ into his/her immigration persona sufficient for Baroness Harris to withdraw her amendment

# The CTA and National Security; Northern Ireland

## Belfast/Good Friday Agreement:

- 1. Reinforces border through acknowledging its legitimacy in present circumstances and
- 2. Paves the way for reducing its import as barrier to everyday life

How to 'square the circle' between maintaining a relaxed N-S border and eliminate the NI 'loophole' in common system for stronger external frontiers?

- Treat NI citizens as Aliens at GB ports?

# Conclusion; the end of the CTA or Not?

- Proposal to include CTA in Borders, Citizenship and Immigration Act coincided with further changes in UK law on naturalization and permanent settlement – both in same Act
- Overall context – ‘a politics of unease’ about ‘threats to legal and social order ...’
- But also a counter view – ‘What is a border ... a barrier ... or meeting place?’
- This approach behind GFA and in minds of defenders of CTA
- But public anxieties to which govts. may respond or stoke up
- Clear that UK govt. saw CTA as a single immigration system rather than an arena of meeting places. In that sense, they can claim correctly that their proposal would not have destroyed it.
- But for those seeing the CTA as a convenience for peoples linked through history and kinship, it has been damaged, even without clause 48.