

# A hard Irish border is quite possible, a frictionless one is an oxymoron



*The prospects for 'frictionless' and 'invisible' solutions for the Irish border after Brexit are limited. Dr Katy Hayward (Queen's University Belfast) outlines a 'practical' summary of the difference that would be made by a 'hard' Brexit to the movement of goods across the Irish border.*

Michel Barnier's dismissal of [the notion of 'frictionless' trade](#) between the UK and EU after Brexit has direct ramifications for one of the most complex problems faced by the Brexit negotiators: how to manage the Irish border. The UK government has frequently emphasised its desire to see the continuation of the ['seamless frictionless border'](#) with the Republic of Ireland [after Brexit](#) and, more recently, David Davis has affirmed the UK government's desire to maintain an ['invisible border'](#) between the UK and Ireland. For its part, the European Union has expressed a commitment to ['working hard to avoid a hard border'](#) and a desire to find 'flexible and imaginative solutions' to achieve this.

## **'hard' border is a real possibility, and a 'frictionless' border is almost an oxymoron**

The cautious realism of the EU on this front is notable: a 'hard' border is a real possibility, and a 'frictionless' border is almost an oxymoron. This is especially true given that the overall logic of Brexit is interpreted by the UK government as being to 'take back' control of immigration, laws and trade. A so-called 'hard Brexit' would mean that the Irish border would be a frontier to the free movement of people, goods, services and capital that is a feature and condition of membership of the EU. For the UK's land border with the EU to remain frictionless and seamless whilst its sea borders are more heavily controlled after Brexit, would mean one of three things: Northern Ireland would hold a different position within the UK (i.e. its territory would be treated differently from those in Great Britain), the Republic of Ireland would have a different position in the EU (i.e. its territory would be treated differently from the rest of the Single Market), or the EU would 'relax' its rules regarding freedom of movement and the integrity of its legal order.

## **The Irish government has been consistent in its commitment to full EU membership**

Barnier's recent statement confirms that this latter option is nowhere near the negotiating table – it is a move that would be seen as turning Brexit into an act of self-harm for the EU itself. The Irish government has been equally consistent in its commitment to full EU membership. Any bespoke arrangements for Northern Ireland would have to be a matter for parallel, careful negotiation with the parties to the 1998 Agreement, including both governments. The current suspension of the talks between Northern Ireland parties does not bode well for the forward-thinking, creative and bold conversations that would have to be held in a re-working of the Agreement for the purposes of agreeing on a unique NI-centred arrangement. It is perhaps for such reasons that the language of the UK government has moved away from promises of a 'frictionless' border towards one focusing on the possibility that it may be 'invisible'.



Border &amp; Customs at

Strabane Northern Ireland, Ulster (1968), image by [henrikjon](#), licenced under (CC BY 2.0)

The physical manifestation of the Irish border has taken various forms over the course of its 95 year history – customs posts on both sides, military checkpoints, dumping grounds of marker dye ‘laundered’ by criminals from agricultural use diesel (a messy but lucrative form of duty evasion) – but for the most part it has been an imperceptible line that winds through fields and over rivers, even across farmyards. Its legacy is marked now not by boundary lines but by the lingering economic disadvantages of the mainly rural regions through which the border runs. The common UK and Irish membership of the EU Single Market did much to remove the visibility and friction associated with the Irish border. Membership has removed customs tariffs, harmonised regulation and indirect taxation, and created a more level playing field for trade and competitiveness across the border. The Republic of Ireland is Northern Ireland’s most important export partner (31% of all Northern Ireland’s exports, and 56% of its trade to the EU).

### **UK and Irish membership of the EU Single Market did much to remove the visibility and friction associated with the Irish border**

The risks posed by Brexit to cross-border relations on the island of Ireland thus not only have fraught symbolic resonance but also starkly concrete implications. The movement of goods is a particularly complicated matter if the border is to remain ‘invisible’, if not ‘frictionless’. The future designation of goods originating in Northern Ireland will affect the nature of the controls required on them in crossing the Irish border. Such controls will be necessary to uphold the integrity of the customs regime on either side of this border. Technological solutions in this area are limited and tend to rely on features that will be difficult to implement in the case of the Irish border. These include effective IT systems for traders to make customs declarations and for customs enforcement to perform risk analysis on these declared goods, on the predominance of single load containers for tracking (rather than those containing a range of products for delivery), on designated entry points along a land border for tracking/stopping the movement of goods, and on large spaces for customs inspections (for undeclared items, duty evasion or dangerous goods) to be performed. There are problems associated with all these ‘solutions’ when applied to the context of the Irish border. Some of these problems arise from the nature of cross-border trade on the island (groupage, Just in Time logistics, the predominance of SMEs with small capacity and no experience of customs declarations, agri-food supply chains). Others arise from the nature of the border itself, with over 250 crossing points and an historical symbolism that would make any physical piece of monitoring equipment or customs checkpoint a security target.

Maintaining a truly invisible border if there is to be ‘friction’ in the movement of goods across the EU’s external border on the island of Ireland would pose three major areas of risk:

- The first comes in terms of the effectiveness of border management: how can compliant trade and

illegitimate trade be distinguished, and how can one be facilitated and the other be stopped, with absolutely no physical infrastructure and a complete reliance on the traders themselves to comply with the complex systems of customs controls on both sides of the border?

- The second comes in terms of the risks to the economy and to citizens on both sides of the border if there is a growth in black market activity across the border – something that will become incredibly lucrative.
- The third comes in terms of the rising capacity for surveillance and electronic monitoring that may accompany the growth in a state's desire to be able to track movement across a border in 'hidden' ways.

None of these three things are in any way desirable in the Irish context – indeed, they only exacerbate the existing dangers and difficulties in the border region. If a frictionless border is impossible, and an invisible border undesirable, all hope lies in the capacity of all players for flexibility and imagination.

*This article gives the views of the authors, and not the position of LSE Brexit, nor of the London School of Economics.*

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