

# The Irish border is not a technical issue but a political one



*At this stage of the exit negotiations, the border between Northern Ireland and the Republic is not a technical issue but a political one, argues **Katy Hayward (Queen's University Belfast)**. She explains exactly why the Northern Irish/Irish issue is a block preventing the Brexit talks from progressing, and provides suggestions on how to shift it.*

It is quite clear from communications from the EU this past week that there has been insufficient agreement across all three of the priority issues (citizens' rights, financial liabilities, Northern Ireland/Ireland) for the Brexit negotiations to move into the next phase of talks. Of these three areas, the one centring on the Irish border appears to be particularly complex and thorny. In order to assess the prospects for (and means of) progression on this matter, it is important to acknowledge what has already been achieved.

First, we should not underestimate how significant it is that the EU and UK government share several core principles when it comes to Northern Ireland/Ireland issues. They are agreed on the need to protect the peace process, to uphold the 1998 Good Friday (Belfast) Agreement 'in all its parts', and to avoid a hard border across the island. Although each side may interpret these aims differently, the fact we have the same language being used is a strong starting point for negotiation.

Added to this, we also seem to have had significant progress on the preservation of the Common Travel Area. Agreement on the Common Travel Area means that there will be no new immigration controls for British and Irish citizens moving between these islands. It also allows for necessary bilateral cooperation between Ireland and the UK on these matters. Although not comprehensive (the question as to what rights these citizens will enjoy in the different jurisdictions is still to be decided), it is welcome progress.



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Now to the topic that appears to be growing as an obstacle to progress: the Irish border. The UK government believes it quite impossible to offer further detail on the subject until the future customs relationship is clear; it sees the EU's intransigence as mere game-playing. For its part, the EU believes that it has already made a significant concession in being willing to allow a 'flexible' solution for a region that will be outside the EU; it is waiting for the UK to reciprocate with a flexibility of its own.

There is a logic to both positions; the reason they are failing to meet in the middle is that they are coming from fundamentally different interpretations of two core elements in those shared principles. First, the meaning of a 'hard border' and, secondly, what is needed to 'uphold' the Good Friday Agreement.

To take the matter of a 'hard border' first. The logic of the EU's Single Market and Customs Union has been to create frictionless and seamless borders; it is the common rules and standards (and the means of enforcing these) that have removed the need for border checks on goods.

Despite propositions for a 'customs partnership' or 'streamlined customs arrangements', the Prime Minister explicitly stated in her Florence speech that the EU and UK will have different economic goals, achieved through different means. She also said, "when we differ from the EU in our regulatory choices it will be because we want rules that are right for Britain's particular situation." Not 'if' but 'when'.

### **If Northern Ireland is wholly part of the UK's economic choices there has to be a hard border across the island of Ireland**

If Northern Ireland is wholly part of the UK's different economic goals, means and regulatory choices, there has to be a hard border across the island of Ireland as a means of protecting the integrity of the EU's internal market. The only way of avoiding such a hard border is to allow for rules (and their enforcement) in NI that continue to match those operating in the EU.

This does not automatically mean a block to goods moving from NI into the rest of the UK, nor does it mean the imposition of barriers to all goods coming from GB into NI. The details as to which goods this would apply to (and how) can be worked out in Phase II of the talks, Barnier has conceded this. Instead, what is sought from the UK government is acknowledgement in principle of the need for (limited, specific) flexibility in the treatment of NI.

Such flexibility can be seen as correlated with the means of moving the second blocking point, that of interpretation of the 1998 Agreement. The [EU's guiding principles](#) on Ireland/Northern Ireland published in September states:

"A thorough understanding of the *other issues beyond customs arrangements* which are relevant to the border is also required in order to move forward".

The EU is looking for the UK to directly address the political, security, and societal dimensions of the post-withdrawal arrangements for NI.

There are resonances here of the standoff between the UK and the rest of the EEC regarding the [Haagerup Report of 1984](#), in which the European Parliament made its first venture into addressing the conflict in Northern Ireland. The British government loudly protested such external 'interference' in what it considered to be a 'domestic' matter. However, within a short time, it too was recognising the necessity of an 'Irish dimension' in any 'solution' to the conflict; the Anglo-Irish Agreement of 1985 encapsulated such an approach, much to the anger of Unionists at the time.

### **The EU wants the UK to directly address the post-withdrawal arrangements for NI**

Unionists have been much happier with the 1998 Agreement and its successors. The 1998 Agreement formally recognises the strands of relationships – Nationalist/Unionist, north/south, British/Irish – that together determine the stability and peace of the region. It is with this in mind that the Agreement should be centre stage of the next steps in moving the Northern Ireland/Ireland issue on in the Brexit negotiations.

The longer this issue remains a block on talks, the deeper the uncertainty among peoples most directly affected by any change to the UK/EU relationship. The UK government has an incredible responsibility here, and the economic and political future of Northern Ireland depends on how it is exercised.

*This post represents the views of the author and not those of the Brexit blog, nor the LSE.*

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