

BREXIT AND THE BORDER



MANAGING THE UK/IRELAND IMPACT

A Discussion Paper

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The Senator George J. Mitchell Institute for Global Peace, Security and Justice, &
The Centre for International Borders Research

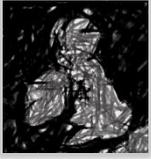


**BORDERS IN
GLOBALIZATION**

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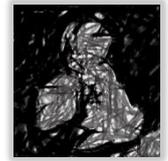
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THE CONTEXT



“BREXIT MEANS BREXIT” AND “OUT IS OUT”

1. There will be a fundamental change in the UK’s relationship with the European Union (EU)
2. The Reform Deal negotiated in February is off the table
 - a) Agreements **made redundant** by UK exit:
 - Removal of ‘ever closer union’ from Treaties
 - Red card mechanisms for national parliaments to block EU legislation
 - b) Agreements **likely to be upheld** regardless:
 - Restrictions on out of work benefits for newly arriving EU workers
 - Aim to reduce administrative burden of EU membership
 - c) Agreements **likely to have to be renegotiated**:
 - Gradient of access to non-contributory in-work benefits for EU workers
 - Indexing social security benefits to country of residence of dependents
 - d) Areas not agreed to that may be **key targets for Brexit** wishlist (as harder negotiating stance than Cameron’s):
 - Repatriation of social and employment law
 - No child benefit payments for non-resident dependents
 - Entitlement of EU workers who lose their jobs to unemployment benefit
 - No change to rules of internal market, including regulation of financial institutions
3. The UK and Republic of Ireland will no longer have shared status as EU member-states
 - a) The UK/Ireland borders will have a new status for the EU itself as external borders
 - b) A change to the status of UK/Ireland borders necessarily means an adjustment to north/south and east/west relations in these islands
 - c) A change to the status of those relations (Strands 2 and Strands 3) has consequences for Strand 1 relations within Northern Ireland (unionist/nationalist)
4. It is also important to bear in mind that the EU itself is also in flux
 - a) Measures of change in relation to temporary border controls, immigration quotas, and the rise of the ‘security union’ increase motivation for change to the management of borders inside and external to the EU
 - b) Rise of anti-EU parties within member-states and the connection made between concerns about immigration and terrorism means that member-state governments increasingly under pressure vis-a-vis national border controls

KEY POSITIONS & PRIORITIES

1. European Level

a) European Council

- Separately, the heads of MS may wish to ensure a better trade deal for post-Exit UK than the Commission
- At the same time, they will not be wishing to give ammunition to Euroscepticism within their own states.
- 'Hard' border talk of EU is an effort to balance this. "Europe needs to work out ways to achieve a more effective control on its external borders." (President Tusk)¹

b) European Commission

- No access to Single Market without Freedom of Movement
- At same time, increasing security of external borders: "We will defend our borders with strict controls on everyone crossing them." (President Juncker)²
- Importance of close ties with Britain on security and defence, and in counter-terrorism intelligence (Chief Negotiator, Michael Barnier)

c) European Parliament

- The fundamental freedoms are inseparable, no hierarchy between them (President Schulz and Chief Negotiator for the European Parliament, Guy Verhofstadt).³
- Want UK out of EU by 2019 in time for new cycle of European Parliament elections and business.

2. Governments

a) British Government

- Article 50 to be triggered by end March 2017.
- Brexit mandate being interpreted as primarily about reducing immigration (thus border controls on persons)
- Movement of goods/services/capital at risk of being sacrificed for constraint on movement of persons
- Repeal Bill will see incorporation of EU law into domestic law with Ministerial power to select exceptions
- Promise that devolved administrations will "have their say" but no veto
- PM May, Sec of State Brokenshire, Minister David Davis have expressed support for an open Irish border.

b) Irish Government

- Concern to preserve 'peace and prosperity' in Northern Ireland is at front of their EU-facing position on Brexit
- Preservation of Common Travel Area (CTA) is a priority
- Concerns about criminal justice, immigration, policing and security arising from change to UK borders
- Possibility of Irish unity by consent (i.e. change to the constitution of the UK) as enshrined in 1998 Good Friday (Belfast) Agreement (GFA) has also been raised as an important consideration.
- An all-Ireland forum for 'conversation' on Brexit between parties, civil society to be held in November 2016.

3. Regional level

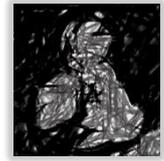
a) Northern Ireland Executive

- Seeks full access to intergovernmental talks
- Border to not be an impediment to movement of people, goods or services
- Businesses must remain competitive (no additional costs), and have ease of access to EU member-states
- Access to unskilled as well as highly skilled labour
- Securing continued access to promised EU funds (13.5bn 1994-2014, 3.5bn 2014-2020)
- Protecting interests of agri-food sector: CAP (10% UK CAP receipts go to NI) and barriers to trade on exports
- Border related issues of crime, trade, employment, energy, most urgent
- But fundamentally different positions on Brexit itself.
 - DUP: object to the supranational nature of the EU itself (especially power of the Commission), constraints on national sovereignty and the costs of the UK's contributions to the EU's budget.
 - Sinn Féin: concern to protect all-Ireland cooperation, the GFA (inc, potential border poll), human and employment rights, EU funding. Plus need for Government to respect majority Remain vote in N. Ireland.

b) Northern Ireland Opposition

- Jones Cassidy Brett solicitors are representing leaders of Alliance, Green Party, SDLP and SF's John O'Dowd, plus figureheads from key civil society organisations in demand for a judicial review prior to triggering Article 50
- UUP: NI wide enterprise zone, access to single market, preservation of CTA, no hard border
- SDLP: ROI should support NI in Brexit negotiations, hard border completely unacceptable
- Alliance: concern divisions in Executive will mean NI's representation will reflect 'lowest common denominator'
- Green Party: campaign most linked into wider UK and EU networks, members most pro-EU⁴

BRITISH/IRISH BORDER REGIMES



THE 'BORDER REGIME'

- The implications of UK EU exit for UK/Ireland borders are not just about the territorial/maritime state boundaries but about the 'border regimes' of each state.
- State borders are rarely non-traversable frontiers but every border that exists requires a specific 'regime' that controls or limits its crossing, and affects treatment within state jurisdiction.
- The rules which determine the permeability of borders (of different types, e.g. for people and goods) are vital for state integrity and power regardless of the fact that globalization means that goods, services and capital are increasingly deterritorialised.
- Border regimes are continually shifting, not just through EU or national law or bilateral agreements, but also because the means of crossing borders and of monitoring them through technology are also changing.
- Border regimes imply not just inclusion/exclusion, but hierarchies of status within a jurisdiction.⁵
- The status vis-à-vis border crossing depends most straightforwardly on the territory of origin (of goods, persons); more complicated border controls are in place when they require a judgement as to the merits and benefits to be brought via entry.
- There can be concentric layers of border regimes; local, regional, national and supranational border regimes may differ in what they permit/include. These are summarised here in relation to:
 - Governance (institutions, structures, management, high level agreements)
 - Flows (particularly in relation to market integration, trade)
 - Citizenship (affecting freedom of movement, diversity, rights)
 - Security (particularly in relation to border controls and information sharing regarding travelers)
- The strands of governance within these islands reflect different layers of border regimes, and it is worth considering how these overlap and diverge. These are:
 - Common border regime as part of the EU (affecting trade, citizenship, rights)
 - Special status of UK/Ireland border regime (affecting travel, immigration)
 - All-island border regime (in practice and principle, reflected in long-standing institutions)
 - Differential UK and Ireland border regimes
 - Differential NI status within the UK

COMMON BORDER REGIME WITHIN THE EUROPEAN UNION

EU membership means that the UK and Ireland have common regimes in relation to:

1. **Acquis communautaire** (body of EU law inc. ECJ decisions, fundamental rights provisions)
2. **Single regulatory regime**
3. **Directives with wider implications**
4. **Regional and infrastructural development** (including across borders)
5. **Participation in EU-wide policing and intelligence regimes** (e.g. Europol)
6. **EU citizenship** (Non-discrimination on the basis of nationality within the scope of EU Treaties)
7. **EU model and context**
 - Formal structures for compromise-based agreements
 - Firmer grounds for bilateral relations (e.g. 1985 Anglo-Irish Agreement "determination of both governments to develop close cooperation as partners in the European Community")

SPECIAL STATUS OF UK/IRELAND BORDER REGIME WITHIN THE EUROPEAN UNION

The UK and Ireland border regimes have a shared distinction from rest of the EU in relation to:

1. **Non-membership of the Schengen Area**
 - a) 26 European countries (including 4 EFTA states) with open borders between them
 - b) Function for the purpose of travel as a single country, no permanent border controls, common visa policy
 - c) Non-membership of the Schengen zone means that UK and Irish citizens can be subject to entry controls at Schengen borders

2. The Common Travel Area

- a) First established in 1923, the CTA is constituted of Ireland, the United Kingdom, the Channel Islands, the Isle of Man
- b) CTA has varied over time (e.g. checks on travelers between NI and GB maintained 1939-1952)
- c) The Area is treated as a common zone for immigration purposes; some variation in relation to Commonwealth citizens, non-EEA visitors.
- d) CTA does not amount to mirror treatment of British and Irish citizens in both jurisdictions, but does give preferential treatment compared with other EU citizens and others
- e) Border controls:
 - Varied among CTA members and across different types of borders (land/sea)
 - Identification requirements for UK and Ireland citizens vary between carriers (not set by state)
 - British concern about Northern Ireland as a backroute for migrants saw 2009 Government proposal to introduce checks between NI and GB (defeated by House of Lords)
 - 2011 Agreement on joint standards for entry and enhanced electronic border systems to identify non-CTA travelers, plus exchange of information on travellers (e.g. biometric) as part of visa issuing process.⁶

3. The British-Irish Agreement Act 1999

- a) *British-Irish Intergovernmental Conference*
 - Guarantees Irish government a say on bilateral interests on matters not devolved to NSMC or to NI
 - Standing Joint Secretariat of officials from the British and Irish governments dealing with non-devolved matters
 - Last met in February 2007; main significance is when devolution suspended⁷
- b) *British-Irish Council*
 - Membership includes representatives of both sovereign governments, devolved regions and crown dependencies.
 - Operates largely indirectly as a policy-transfer facilitator acting "to reach [non-binding] agreement on co-operation on matters of mutual interest within the competence of relevant administrations"⁸
 - Meets biannually. Its work includes creating a common approach to EU issues and much of its remit includes topics that are affected by EU legislation and initiatives (e.g. agriculture, environment, tourism)

ALL-ISLAND BORDER REGIME

1. Governance

- a) *North/South Ministerial Council*
 - Primary intergovernmental mechanism for cross-border policy alignment
 - Discusses common approaches to policymaking in related to agriculture/rural development, education, the natural environment, healthcare, tourism, and transportation
 - Has served to align cross-border policy activities both directly and indirectly – effectively enhancing 'all-island' cooperation and borderlands integration within a limited set of policy arenas.
 - While this has created opportunities for increased integration in the past, the explicitly limited nature of these bilateral arrangements presents very little potential for increasing integration beyond the existing mandates.⁹
- b) *Implementation bodies*, inc. Special EU Programmes Body
 - The remits of these implementation bodies largely reflect the type of areas that are most affected by EU integration and cooperation
 - These agencies and commissions are co-funded by the three governments, and staffed by public servants from both Northern Ireland and the Republic of Ireland – creating an unprecedented, if severely limited, cross-border organisation with both consultative and executive functions

2. Flows

- a) *Single Market*
 - In the early years of EEC membership, this reduction of tariffs and access to the Single European Market (SEM) led to a brief export boom as Northern Ireland's exports to both the south and to Europe expanded dramatically¹⁰
 - The removal of customs duties and protectionist policies finally eliminated the price distortions seen in many common consumer goods (tobacco, alcohol, etc.), reducing the profitability of smuggling operations that had continued across the physical border since its inception¹¹
- b) *Trade*
 - 2/3 of Northern Ireland's sales to the EU are to the Republic of Ireland.¹²
 - The agri-food industry in NI particularly dependent on exports to the EU (Ireland).
 - Of Northern Ireland's total sales in 2014 to the EU, 62.3% (worth £3,599 million) were to the Republic of Ireland alone, making it the single most important destination within the EU.¹³
 - Influx of external capital through inward investment after 1994 ceasefires brought a spurt of economic development to Ireland, though much of this 'peace dividend' was within Dublin-Belfast development corridor¹⁴

3. Citizenship

- a) All born on the island of Ireland are automatically entitled to Irish citizenship if either one of their parents was eligible for Irish citizenship.
 - 2006 referendum and amendment to Bunreacht na hÉireann (the Constitution of Ireland) showed that immigration became more pressing national concern than unity of the island.
- b) Three times as many southern students in NI universities than northern students in ROI universities.

4. Security

- For the borderlands region, securitization of the border until 2002 further impinged market integration.
- Good relationship between key agencies but effectiveness somewhat limited by unwillingness to cross border, different modes of practice, different focuses.

DIFFERENCES BETWEEN UK AND IRELAND BORDER REGIMES

1. Governance

- Ireland has been an independent state since 1922 and left the Commonwealth in 1949.
- Limited integration of the workings of political parties across jurisdictions, and those that are active across borders face some challenges in maintaining a consistent focus and approach in both jurisdictions.

2. Flows

- The UK's non-membership of the Eurozone and different tax regimes mean that there is significant arbitrage across the UK/Ireland land border and there is also a persistent problem with smuggling.

3. Citizenship

- Although British and Irish citizens have special status in each jurisdiction (especially in NI), there are differences in the border regimes of the two states regarding citizenship and immigration (e.g. regarding Commonwealth citizens, non-EFTA citizens).
- Differential for Irish citizenship by naturalization between those in the state's jurisdiction and those in NI.

4. Security

- There are persistent concerns that there are gaps in coordination of security and policing across UK/Ireland borders that allow for blindspots and loopholes for criminal activities.

DIFFERENCES BETWEEN BORDER REGIMES OF NORTHERN IRELAND AND GREAT BRITAIN

1. Governance

a) Devolution

- Scotland has more devolved competences than Northern Ireland
- Northern Ireland's devolved institutions have been suspended and threatened with suspension on several occasions as a means of trying to force major political parties to cooperate within terms of 1998 Agreement.

b) Consociationalism and conflict legacy

- The devolution of legislative powers to Stormont accompanied a *de facto* veto system for both unionist and nationalist communities through the requirement for 'parallel consent' on pre-determined 'key measures'.¹⁵
- The cost of this stability and all-party buy-in has been that the current governance system is stymied by the bifurcated nationalist-unionist paradigm – a paradigm that remains antagonistic.
- Cross-border policy integration hamstrung by partisan opposition – inc. tension between Sinn Féin and the DUP, averse to compromise (e.g. on education, language, and NI Bill of Rights) without external pressure.¹⁶

c) 1998 Agreement

- "All of the institutional and constitutional arrangements... are interlocking and interdependent and that in particular the functions of the (Northern Ireland) Assembly and the North/South Council are so closely inter-related that the success of each depends on that of the other"
- Technical links between NI Act and GFA to EU law.
- Mechanisms for representing NI interests to the UK government, sharing perspectives with other devolved regions (Joint Ministerial Committee; JMC) and with Irish government (NSMC) are designed to find consensus.

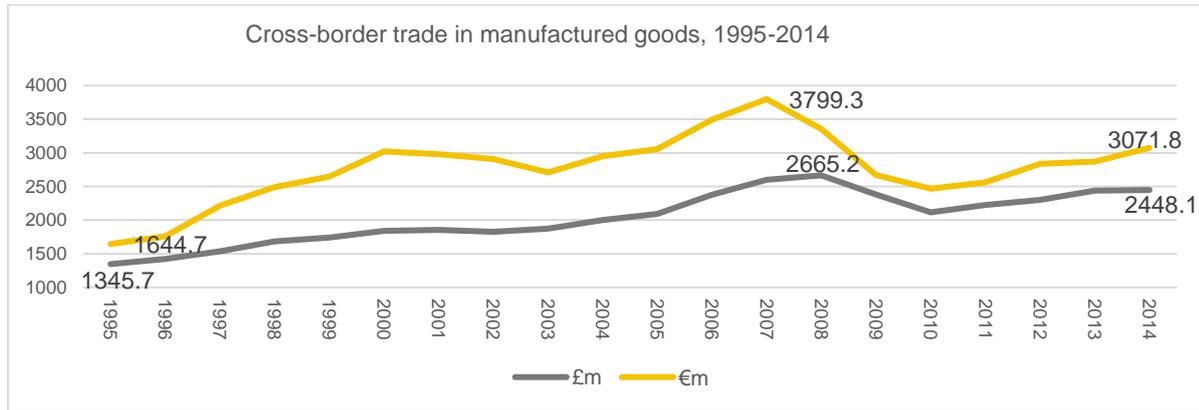
2. Flows

a) Structural fiscal vulnerability

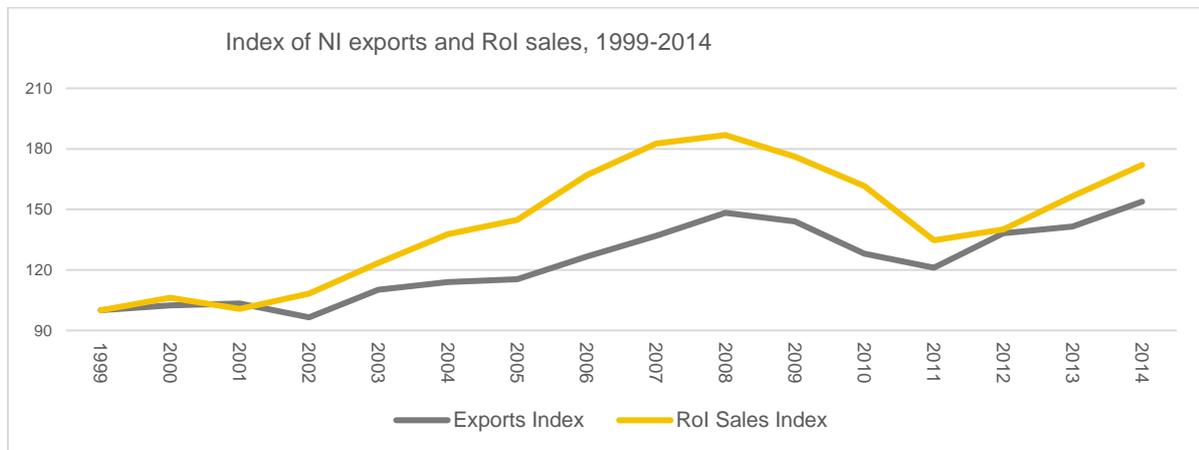
- NI constitutes 3% of UK population and 2% of its economic output.
- Northern Ireland's per capita deficit currently stands at more than twice that of the UK average¹⁷
- Fiscal dependence on British government: the block grant constitutes 93% of NI budget.
- Northern Ireland's elevated fiscal deficit is compounded by its lack of control over revenue sources. It is vulnerable to reductions in fiscal transfers from the British exchequer, which is beyond its control.
- This structural fiscal vulnerability directly and negatively impacts the sustainability of its public services, and most severely in remote, expensive-to-administer regions like the Irish borderlands.
- Fiscal austerity and discretionary controls further limit the ability of Northern Ireland to reallocate resources in order to address regional idiosyncrasies.¹⁸

b) Cross-border economic interests

- Northern Ireland much more heavily dependent on trade with Republic of Ireland.¹⁹



- Growth in sales to ROI much stronger than exports in general.²⁰



- Ability to set corporation tax that matches the Republic of Ireland was hard-won, representing rare cross-party agreement and reflecting a focus on southern model of economic development (which relies on access to Single European Market)

c) Greater reliance on EU funding

- EU funding represents around 8 percent of the region's GDP.²¹
- The region's primarily agricultural economy remains heavily reliant on Common Agricultural Policy (CAP) subsidization.²²
- For every pound earned by Northern Irish farmers, 87 pence comes from the EU'S Single Farm Payment.²³
- Relies proportionately more on EU funding particularly in relation to agriculture and border region.

3. Citizenship

a) A microcosm of close UK/Ireland relations

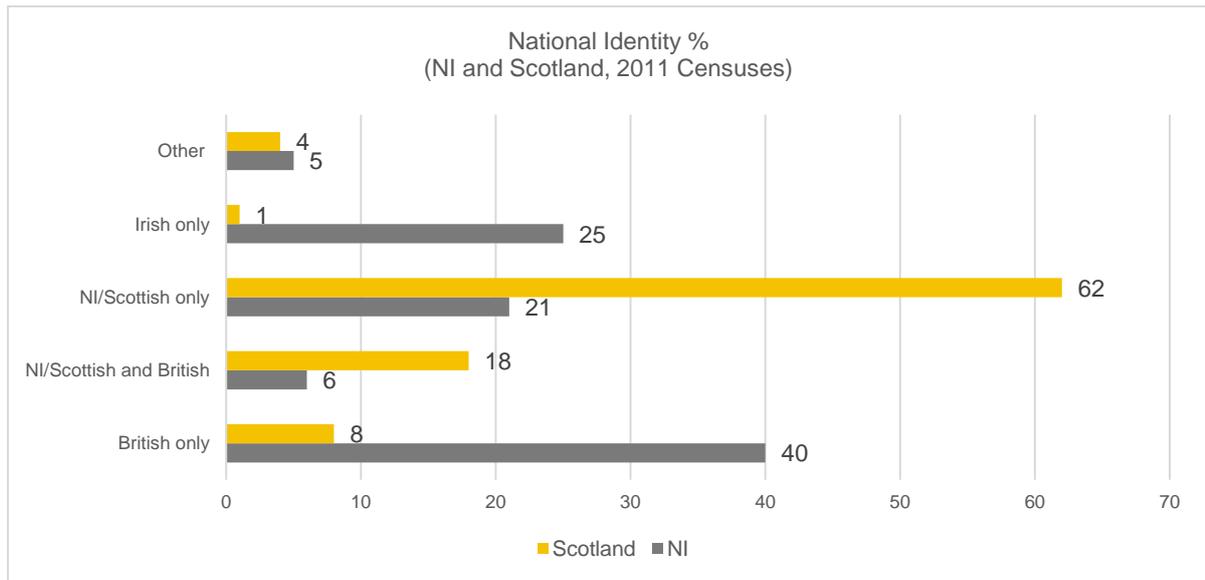
- British and Irish citizenship can be claimed as easily and be of equal standing for residents in NI
- One fifth of potential passport holders in NI are citizens of another EU state (Ireland)
- 4.5% of NI population born outside these islands (2% were born in Republic of Ireland, 6% born in GB)

b) EU citizens

- 2.5% born in other EU member-states (2% in EU accession states)
- Proportion of EU citizens: 2.2% NI (exc Irl/GB); 4.1% Eng/Wales, 8.7% Ireland (inc. the 2.5% British citizens)

c) Complex national identities

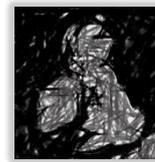
- Strong British-only identity and weak regional identity compared with Scotland
- Irish and British identities have been conceived as not just binary but oppositional. EU membership and the GFA have been what changed that – not the CTA.



4. Security

- Topic of Brexit exacerbates divisions in Northern Ireland, and divides the NI Executive.
- Socio-political and cultural context is one emerging from prolonged violent conflict and enduring continued threat of paramilitary violence and activity.
- Territorially NI continues to be an outpost of the UK and Brexit brings this into sharper relief.

UK/IRELAND BORDER PRIORITIES



THE BORDER REGION

1. History

- 15% of the population of the island live in the 13 districts around the border.
- Ireland's pre-modern history illuminates the centrality of 'core' territory security, and control over territorially-bound resource flows for bordering processes.
- EEC/EU membership meant that policies developing market and governance links were implemented long before social normalization between communities was even a realistic proposition.

2. Structural deficits of the border region

a) Population

- Ageing population
- Lack of population growth
- Low population density

b) Economic

- Concentration of extreme material deprivation in the District Electoral Divisions in closest proximity to the physical borderline²⁴
- Levels of local inter-firm co-operation across the border remain much lower than levels of inter-firm co-operation on the same side of the border.²⁵
- Elevated levels of unemployment, overcrowding, financial dependency, and overrepresentation of declining and low-value added industries.²⁶

c) Integrative

- Differences in policy and administration across the border that hinder local cross-border co-operation (versus local domestic cooperation) in both public and private sectors.
- Policy jurisdiction of local authority-led cross-border groups remains limited to planning and implementing externally-financed tourism and economic development initiatives.²⁷
- Not only are cross-border groups entirely dependent on EU INTERREG funding for operations, but the constraints of the UK's post- 2007/8 austerity program have also left northern local authorities with shrinking resources from which to commit to these collaborative forum.

3. Post-Brexit Vulnerability

- In addition to rural subsidization, the EU has been particularly active in dispersing structural funding for cross-border infrastructure projects and social programmes.
- Endemic economic underdevelopment and peripherality mean that the border region is particularly vulnerable to effects of austerity in provision of public services, withdrawal of significant EU subsidization and loss of EU-funding to infrastructural and community projects.
- Devolved finance ministers meeting in Cardiff, July 2016 noted: 'the potential economic impact on the border region in the North of Ireland, which has greatly benefited from European funding, is of particular concern'.²⁸

CROSS-BORDER ECONOMY

1. Investment plans for cross-border integration

- Significant cross-border dimension to the flood relief investment programme, and also in the energy and communications sectors, which already have high levels of cross-border integration.
- Freedom of movement embodied in the plans for new Greenways and Blueways.
- Irish government commitment:
 - Capital investment in health services and projects in the border region.
 - Commitment of €75m to A5 Western transport corridor.
 - €2.5m to North West Development Fund.

2. EU Funds to 2014-2020

- Around 10% of income to the community and voluntary sector comes from EU programmes (notwithstanding the difference made by the principles of additionality and matched funding, and EU-sponsored networks).
- UK withdrawal from the EU would prevent Northern Ireland from accessing Horizon 2020 and subsequent EU R&D&I funding and could negatively affect its ability to improve its capacities in this area.

EU Funding to N. Ireland 2014-2020 ²⁹	
European Regional Development Fund	308 million
European Social Fund Programme	183 million
INTERREG VA	240 million
PEACE IV	229 million
European Fisheries and Maritime Fund	24 million
Rural Development Programme (CAP Pillar 2)	227 million
CAP Pillar 1	2,299 million

CRIME

a) *Partnership*³⁰

- Joint Agency Task Force (Fresh Start Agreement): PSNI, An Garda Síochána, HM Revenue and Customs, the Revenue Commissioners.
- Six priorities, inc. financial crime, excise fraud, human trafficking.
- Actions of joint partnership approach include the deployment of targeted high visibility operational resources on both sides of the border, e.g. cross-border vehicle checkpoints, and overt/covert intelligence-led operations.

b) *Limits of Partnership*

- However, hot pursuits still end at the border, with one police force notifying the other when suspect crosses.
 - An Garda Síochána don't keep data but according to PSNI, 47 incidents occurred between 2011-2015 (85% of time suspect is not apprehended).
- EU precedent for facilitating the pursuit of criminals across borders (even outside Schengen Art 41), this has not been used by either force.³¹
- The PSNI does not have a collaborative arrangement with An Garda Síochána (AGS) for service provision or policing arrangements.
- The PSNI does have some joint information-sharing agreements in place with the AGS but formal collaboration, as seen in England and Wales, is legislatively not possible.³²

c) *Connections to peace*

- While the bulk of the paramilitary groups engaged in the atrocities of the Troubles have since been demobilized and reduced to sporadic, isolated outbursts of violence, the most extreme elements of both sides continue to rely on black market and smuggling operations to finance their activities.³³
- An increase in demand and profitability of black market smuggling would provide ex-prisoners and at-risk youth on both sides with a powerful economic incentive to become increasingly engaged with the paramilitary groups already engaged in these types of operations.³⁴
- The economic disintegration of Ireland entailed in NI's exit from the SEM is likely to increase the profitability of the smuggling operations conducted by Ireland's remaining paramilitary organizations – increasing the likelihood of both black-market growth and related violence across the borderland region.

ENERGY

a) *Single energy market*³⁵

- The island of Ireland has had a common energy market (and single wholesale electricity market with voluntary harmonised retail arrangements) since 2007; Britain has a separate one.
- Island of Ireland's Single Electricity Market is underpinned by bilateral agreement. A joint regulatory committee implements EU regulation.

b) *Interdependence*

- Three undersea and one offshore pipeline between Ireland and GB; one north/south interconnector and a second North-South 400kV Interconnection Development in progress.
- Ireland is a net importer of energy from Britain (95% of Ireland's gas is imported); NI is a net importer of energy from ROI (insufficient local energy generation); Britain is a net importer of energy from the EU.
- The imposition of tariffs on this energy supply would cause problems for both north and south.

c) *Vulnerabilities*

- Future interconnectors in the Republic are more likely to focus on France than GB/NI
- Ireland's energy market is currently being reformed to comply with EU Target Model, to facilitate more efficient trading with EU member states.
- EU regulation currently ensures that UK has an emergency store of energy supplies that Ireland could draw upon. Could this be put at risk if UK no longer compliant?
- If UK diverges from EU regulation on renewables and emissions reduction, this would cause greater distortion between the markets.

EU BORDER MANAGEMENT



SECURITY UNION

1. Strengthened borders

- At the same time as the UK decides on whether it wants EU citizens to have freedom of movement, the EU is taking steps to clamp down on entry to its territory and monitoring of its borders.
- The shared assumption in both moves is that abuses of the fundamental rights of those in EU countries and threats to internal security are integrally connected to population movement, especially inward migration.
- The response of both the EU and the UK to this threat via and to state 'borders' is enhanced centralised powers of surveillance, restriction on movement of non-EU citizens, increased communication between states and agencies regarding individuals, and physical strengthening of state borders.

2. New measures for the 'Security Union' announced by Juncker in September 2016:

- The accelerated operational delivery of the European Border and Coast Guard
 - Built on Frontex, with the ability to draw on a reserve pool of 1500 border guards and technical equipment.
 - identifying and, where necessary, intervening to address weaknesses before they become serious problems.
 - Trumps national sovereignty in interest of the security union: "Crucially, if an EU country refuses to co-operate with the new Agency to an extent that this puts the proper functioning of the Schengen zone into jeopardy, there will be a possibility for the other EU countries to reintroduce temporary border controls as a last resort".³⁶
- Quick adoption and implementation of an EU Entry-Exit System (EES) (early 2020)
 - Together with a supporting amendment to the Schengen Borders Code, the EU Entry/Exit System (EES) is intended to 'improve the management of the external borders, reduce irregular migration into the EU and ensure a high level of internal security'.
 - The system will collect data on travelers (identity, travel documents and biometrics) and will register entry and exit records at the point of crossing.
 - It will apply to all non-EU citizens who are admitted for a short stay in the Schengen area (maximum 90 days)
- Proposals to create a European Travel Information and Authorisation System (ETIAS)
 - In advance of their travel to Schengen Area, gather information on third country nationals who don't need a visa to assess whether they pose a risk for immigration or security.
- Proposals to further enhance electronic document security and identity document management (e.g. identity cards) to prevent fraud
- To strengthen Europol's recently created European Counter-Terrorism Centre (ECTC)
 - Together with the European Migrant Smuggling Centre and the European Cybercrime Centre, plus access to databases, Europol's counter-terrorism capabilities and its work against migrant smuggling and cybercrime are strengthened. Idea of an information exchange hub to share information related to serious cross border security threats with law enforcement authorities in different states.

3. Juxtaposed border system (as seen in Calais, established by the Le Touquet Agreement) represents the tactics available:

- command and control centre to coordinate police/border force from both countries, monitor CCTV
- 5m high fence topped with razor wire and monitored by CCTV around the port and along motorway to port
- electrified fences and CCTV protect train tracks and tunnels
- heavily manned entrances where police in riot gear can physically check lorries
- roving security patrols with dogs and monitors (heartbeat, carbon dioxide detectors)
- immigration checkpoints at which passports are scanned
- monitoring stops with capacity to x-ray and scan lorries (not physically possible to do each one at busy times), plus checking of documentation by border force
- customs checkpoints
- random checks on trains and vehicle checks once through to other side.

UK/IRELAND BORDER MANAGEMENT

- From 1921-1998 border enforcement policies ran the gambit from 'hard' enforcement (using customs checkpoints and roving patrols) to 'extreme', including the outright destruction of cross-border civil infrastructure by UK military forces during the 1970's border campaign.³⁷
- The securitisation and militarisation of the Irish border – which continued until 2002 – worsened the consistent pattern of local social and political disintegration in the borderland region.
- 'Taking back control' of maritime borders, reimposition of meridian lines, becomes problematic as soon as hit the Irish Sea.

SCENARIOS



European Union

Pros: Receive funding from EU; Full access to single market; Influence and representation in EU institutions; EU members trade substantially more with other EU states than with members of the EEA or EFTA.

Cons: Contribution to budget; Compliance with laws, regulations, rules, enforcement.

European Economic Area

Pros: Access to single market; Reduced contribution to budget; Separate fisheries agreement; No CAP; Autonomous adaptation of EU law.

Cons: Contributes to EU budget (exc CAP); Complies with *acquis communautaire* for access to the single market; Upholds the Four Freedoms so integrates all EU legislation relating to Single Market; Consulted on EU legislation but limited influence; Guillotine clause limits cherry picking; Free movement but citizens have to apply for residency permits in EU MS; No restriction on family reunion for EU citizens; Large public administration growth to manage.

European Free Trade Area

Pros: No required contribution to EU budget; No compliance with CAP rules; Freedom to set own tariff rules and independent trade deals.

Cons: Wide range of sectoral agreements to be negotiated; Budgetary contribution for involvement in aspects of EU, such as research; Need to adopt equivalent regulations to gain access to single market; Need to accept new EU regulations as emerge without means of shaping them; Guillotine clause (all or none) limits cherry picking; Mirror institutions to the EU (CoJ, Commission).

Overseas Territories status (for NI?)

Pros: Channel Islands and Isle of Man not part of EU or UK; Article 355(5)(c) and Protocol 3 of the Treaty on the Functioning of the EU enables them to be part of the EU customs territory.

Cons: Voluntary implementation of appropriate EU legislation or application of the international standards on which they are based.

Customs Union

Pros: No tariffs on goods trade; Control over immigration policy; No contribution to EU budget.

Cons: Product market regulatory harmonisation; Must adopt Common External Tariff; No authority to negotiate trade deals with third party countries.

World Trade Organisation (Most Favoured Nation status)

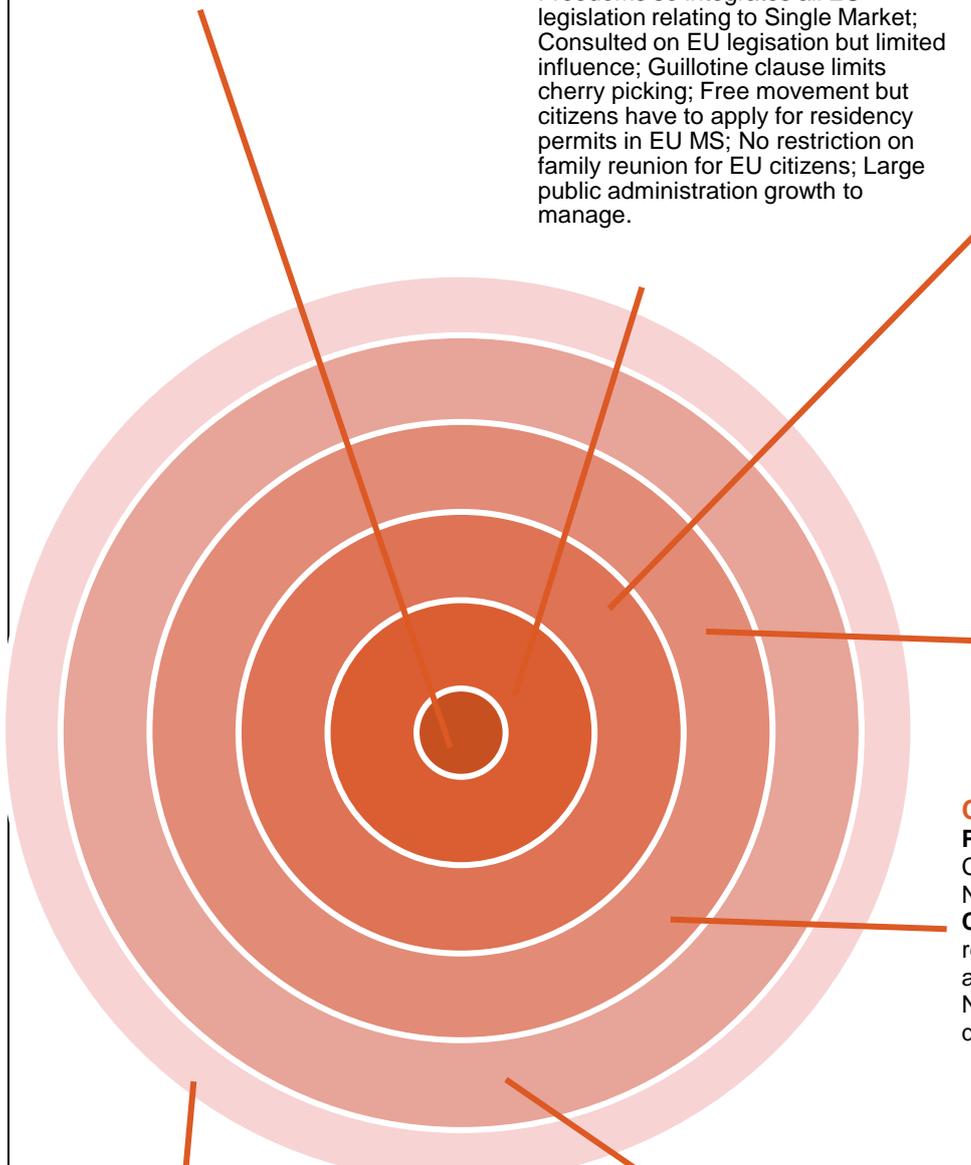
Pros: Purely trade based rules; No contribution to budget; EU must comply with WTO rules.

Cons: Must still comply with EU environmental rules and regulations to access single market; Extraordinarily complicated tariff lines; No influence over EU rules

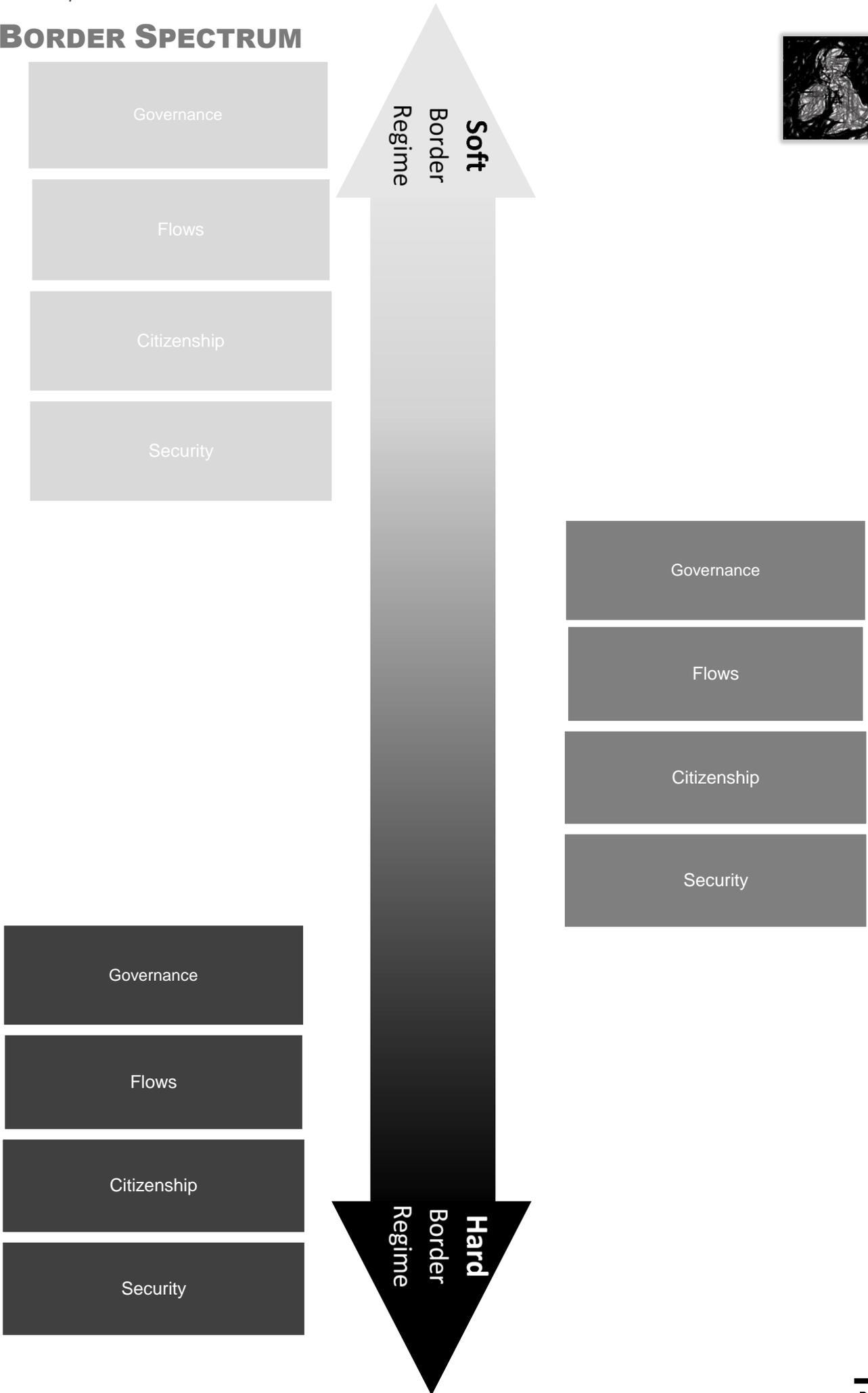
Free Trade Agreement

Pros: No compliance with rules or laws; No contribution to budget.

Cons: No formal consultation or influence on EU; Some shared obligations and standards needed for access to single market; Tariffs apply except where negotiated.



BORDER SPECTRUM



SOFT BREXIT BORDER REGIME

1. Governance

- Minor revision of the GFA and the NI Act
- Still some purging of devolved legislation from compliance with EU law
- Less internal threat to the status quo of local devolved governance
- Will require additional public administration (as will all options)
- Retention of Strand 2 and Strand 3 institutions which can still help to ensure compliance with EU legislation
- No access to EU decision-making, though adherence to (future) EU policies.

2. Flows

a) SEM

- Retains access to the single market and free movement of goods, services, capital and people
- Ireland and UK could even join Schengen and thus enable freedom of movement, but would still require customs controls
- Some customs control and requirement for proof of goods origin needed at borders
- Minimal impediment to trade (import/export) between NI and ROI
- Keeps the level of migrant worker contribution to NI economy
- Contributions to EU budget (albeit reduced) will continue (to come from devolved or central budget?).

b) EU Funding

- Continued access to EU structural funds (ERDF, ESF), INTERREG, and to subsidies through CAP
- Financial commitment from UK/Irish governments to contribute to EU programmes.

c) Cross-border

- There are mechanisms which could see cross-border co-operation within EU funding Programmes with one partner outside EU (e.g. INTERREG VA Sweden-Finland-Norway (Nord Programme) or the Italy-Switzerland Programme model)³⁸
- Ease of continuing cross-border co-operation as is because of potentially less legislative and policy divergence between NI and ROI.

3. Citizenship

- Free movement of people retained (if EEA); citizens' rights to live, reside and work retained (possibly some reform in light of Cameron's deal)
- Fewer rights of British citizens in EU
- Equality legislation: retained but what might the effect of a repeal of the 1998 Human Rights Act (and its replacement with a Bill of Rights) entail for UK, EU and non-EU/UK citizens?
- Continued access to funding such as Horizon2020, benefitting research and development
- No immediate impact on social deprivation, particularly on the border region
- No major prompt for change in identity and border poll preferences.

4. Security

- Full integration into EU systems of policing and security intelligence
- Will require minimal border controls/checks on land and sea borders, notwithstanding strengthened capacity of EU to monitor movement etc
- Continued access to PEACE funding and support for border region projects
- No big changes in the status quo of political preferences and voting behavior.

SOFT BREXIT

Pros

- Less (immediate) change to internal political divisions/alliances
- No major party in Northern Ireland wants to see the re-imposition of a hard border on the island
- Implications for trade north/south and east/west

Cons

- For pro-Brexit unionists: Strain on the integrity of the Union due to continued compliance with EU law and the four freedoms?
- Less control over EU policymaking
- More interest in FDI going to Ireland?

ELASTIC BREXIT

1. Governance

- Differentiated futures with(in) the EU for devolved regions
- a) *Bespoke arrangement for NI* agreed in negotiation with the EU and the UK (and Ireland?), such as:
- NI remains in EU but others leave
 - Or UK remains (inc NI/Scotland) and England/Wales leave (would require devolved competency)
 - New status for NI as overseas territory
 - New status for NI as member of the customs union.
- b) *Reconfiguration of state of Ireland*
- Possibility of federation
 - But Northern Ireland can only 'choose' Irish unification; other forms of association with Ireland would require British government approval
 - Ireland could join Schengen Area.³⁹
- c) *Differentiated treatment of different aspects of the four freedoms*
- Hard borders for people and soft for goods, capital, services
 - Or gradients of 'hardness' for different groups of citizens (exists already to some extent), along lines of work permits and skills rather than nationality
 - Or quotas.

2. Flows

- Decisions around which types of freedoms and border controls and where they should be imposed would reflect priorities of the British government and EU Commission.

3. Citizenship

- Possibility of special status for NI (and other devolved region) residents for freedom of movement within these islands.
- 'With the protections that the CTA has enjoyed under Protocol 20 to the EU treaties no longer operative in the event of Brexit, Ireland will likely face legal and political pressure *not* to extend more favourable movement arrangements to UK citizens than it does to EU citizens.'⁴⁰

4. Security

- Depending on the makeup, will require adjustments to border controls and possibly delineation of different types of borders within these islands (already exists to some extent).

ELASTIC BREXIT

Pros

- Secures future of the UK for medium term by giving recognition of different needs and interests of devolved regions (undermining momentum for independence)
- Addresses cross-border concerns and particular needs of Irish border regime and border region

Cons

- Highly complex negotiations
- Complex institutional and constitutional redrawing
- Irish government will need to be incorporated as an interested party (mechanism for this?)
- Unionists may fear risk of further differentiation within the Union and present it as a sop to nationalist/Remain interests

HARD BREXIT

1. Governance

- Devolution statutes purged from the requirements to comply with EU legislation;
- Possibly retaining the same degree of freedom of movement across the Irish border for Irish and UK citizens (following a renegotiation of the CTA) but stricter border controls for other EU, and especially non-EU, nationals
- How will Equality legislation be redrawn?
- Barriers emerging to cross-border co-operation, relating to greater legislative and policy diversions between NI and ROI. More pronounced in some areas than in others.

2. Flows

a) Trade

- If no access to the single market or membership of the customs union is sought/negotiated then a variety of options exist (e.g. achieving the status of a MFN and trading under WTO rules)
- In passing through an external EU border the approximately 35% of Northern Irish exports (55% of manufactured exports) currently destined for southern markets would be exposed to a significant competitive disadvantage relative to EU-produced goods.⁴¹ This is particularly true for the agricultural goods produced in the rural borderland areas, which have seen exports of animal products to the south drive recent economic growth.⁴²

b) Cross-Border

- Cross-border cooperation is still possible but would require both the political will and provision of financial means.
- It would also entail agreement with EU as negotiation between EU and non-EU member-state across an EU external border.

c) EU funding

- Participation in EU programmes 'would need the consent of the UK Government, which would have to negotiate with the EU on Northern Ireland's behalf and determine whether the necessary financial contributions would come from the central government's budget or from the devolved budget'.⁴³

d) Border region

- Negative economic effect on the border region due to loss of EU funding, especially the ERDF;
- Loss of funding through Horizon 2020 and subsequent EU R&D&I funding. Possible negative effect on ability to improve its capacities in this area.

3. Citizenship

- Until a visa-waiver scheme is negotiated following Brexit, UK citizens will have to adopt a "pay as you go" approach to traveling to EU countries, completing the necessary entry requirements to enable them to travel.⁴⁴
- Impact, through loss of funding, on the community and voluntary sector, which in Northern Ireland plays an important role in addressing social and economic deprivation, training and employment, social enterprise, health and well-being, 'peace building' and building cross-community and cross-border relationships
- Rising applications for Irish/EU passports? Gradual identity change?
- Possible reduction of seasonal migrant and cross-border workers
- Although migration and passport controls can still be coordinated bilaterally if Ireland is not in Schengen, thus allowing freedom of movement across UK/Ireland borders the inability to distinguish between business and personal travel may cause problems from EU point of view as now an EU external border.

4. Security

- A 'hard' EU external border would either run through the island or between these islands (depending on renegotiation of CTA). Border controls, delays at points of entry.
- The price distortions created by a northern exit of the SEM present both a financial and security challenge to policy-makers on both sides of the border. Financially, returning to a disintegrated market would revive the same incentive for black market growth that fuelled smuggling operations across the border prior to EEC accession.
- An increase in demand and profitability of black market smuggling would provide ex-prisoners and at-risk youth on both sides with a powerful economic incentive to become increasingly engaged with the paramilitary groups already engaged in these types of operations (Secretary of State, 2015).
- What will the social effects of a hardening of the border be in terms of public acceptance and opinion, and change in political preferences?
- Loss of PEACE IV funding, targeted at groups most vulnerable to conflict legacy (e.g. ex-prisoners, young people, NEETS), would have a detrimental effect on process of reconciliation and stability.

HARD BREXIT

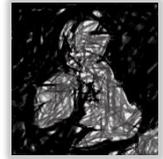
Pros

- Addresses primary EU-focused concerns of Leave voters
- Greater control over immigration
- Clean break, rewriting rules

Cons

- Most economic models predict that this will result in greatest trade destruction (the UK's and NI's largest single trade partner) due to reduced integration with EU policies
- Expected reduction in bilateral trade flows between NI and ROI
- Likely to cost the UK economy more than is gained from lower contributions to the EU budget;
- Stresses on the Union because of imposing overall will on the wishes of different constituent parts;
- Although policy differentiation between the UK's devolved regions may not increase, differential impact of Brexit on economic and political conditions is likely
- The growth of price distortions and resulting black market growth would undermine both consumption tax and import revenues collected by both states.

DISCUSSION POINTS



Priorities

A.

ECONOMIC VULNERABILITIES

Key Points

- Northern Ireland exhibits structural fiscal vulnerability because of elevated fiscal deficit and lack of control over revenue sources.
- Numerous reports suggest that Northern Ireland may suffer greater economic loss as a result of Brexit, relative to the UK as a whole.
- Concern across political spectrum with this question (and in devolved regions, see Cardiff statement).
- It is notable that the economic strategy of the Northern Ireland Executive is to attract FDI, following ROI model, which requires access to EU market.
- Fiscal vulnerability affects sustainability of public services, with amplified effects on the border region.

Questions

- i. Would any changes to existing free trade arrangements affect all trade or only certain sectors?
- Is there scope for sectoral and importer-country-specific tariff free trade (e.g. agri-food to south)? (Leadsom's speech on 3rd Oct seems to imply this is so).
- ii. How far might trade agreements with alternative trade regimes (e.g. European Free Trade Association, North Atlantic Free Trade Agreement) provide significant opportunities for growth in trade for Northern Ireland?
- iii. EU Funding 2014-2020 3.5bn – what substitutes for this and which budget will they come from?
 - Leadsom's speech indicates government support for CAP up to 2020.
- iv. Is continued access to EU structural funds and peace funding possible, especially if leave the EEA? Under what conditions? How can this be negotiated? Will the Irish and UK governments have the capacity and willingness to commit similar levels of financial support?

B.

CITIZENSHIP

Key Points

- Much anticipated new NI Racial Equality Strategy framed within EU law.
- Immigration, including asylum, free movement of persons within the European Economic Area; issue of travel documents are all excepted matters under Schedule 2 of the Northern Ireland Act 1998. This means that it is for Westminster to decide policy on these matters.
- Duncan Smith report (Sept 2016): wanting work permit system to control who, how many and what work. Want light touch on high skilled and restrictions on low skilled labour. In-migration figures from EU citizens as seasonal workers are often not counted because they stay for less than a year.

Questions

- i. How will repeal of the Human Rights act affect equality legislation in Northern Ireland?
- ii. Specifically, how will the rights of each EU, non-EU and non-UK/EU citizens be affected?
- iii. How will the (technically separate but related) process of replacing the Human Rights Act (1998) with a Bill of Rights resonate with, and affect, existing devolved (rights and equality) legislation?
 - o What political consensus/discord could develop around this issue?
- iv. What are the particular implications and problems for this case given 1/5 of residents in NI are Irish citizens, and all have the potential to be Irish citizens?
- v. Is there a case for Northern Ireland pressing for EU workers currently resident in Northern Ireland to have their current rights recognized and upheld in after Brexit?; Could there be a political agreement on this issue.

C.

FREEDOM OF MOVEMENT

Key Points

- The post-Brexit future of the CTA is not dependent on negotiations between the UK and Ireland but on UK - EU agreement.
- It is understood that according to EU law Ireland (as a EU member) is not competent to negotiate on the future of the CTA by itself as a country.

Discussion Points

- At the same time as the UK decides on whether it wants EU citizens to have freedom of movement, the EU is taking steps to clamp down on entry to its territory and monitoring of its borders.
- The Republic of Ireland's borders with the UK are unlikely to be subject to the same measures as the EU's external borders because those are contingent on protecting the Schengen area. There are no plans as yet for Ireland to join Schengen. There is scope, therefore, for Ireland/UK negotiation on border security as part of CTA.

Questions

- i. Common Travel Area
 - To what extent can a CTA agreement secure a 'free-flowing' border and for whom?
 - How will the necessity to differentiate between the movement of non-Irish EU, Irish EU, UK and other non-EU and non-UK citizens be satisfied, without the appearance of a 'hard border'? Can it?
- ii. Cross-border workers
 - What will be the impact of restrictions on cross-border workers on the island of Ireland?
 - What will the effect of restrictions be on local employment and economic activity in border areas?
 - What does a new more restrictive immigration policy mean for employers, particularly those reliant on seasonal migrant labour?

D.

CROSS-BORDER COOPERATION

Key Points

- North/South policy alignment areas (agriculture/rural development, education, the natural environment, healthcare, tourism, and transportation) reflect EU priority areas.
- All parties and both governments want to see a continuation of freedom of movement of trade, services and people on the island.

Questions

- i. EU Funding:
 - What political and legal mechanisms would be needed to maintain support for cross-border programmes, to replace PEACE/INTERREG?
 - What practical considerations are needed for delivery and governance of the current PEACE IV and INTERREG VA Programmes when the UK leaves the EU i.e. financial flows, accountability arrangements, recouping of Irish ERDF and adherence to EU regulations?
 - Prospects for negotiating continued access to EU funds?
 - Effects of loss of EU funding on the Voluntary and Community sector and in infrastructure and border region. What are the wider implications of losing support for civil society organisations?
- ii. In the absence of a shared EU policy/framework directive, what will be the approach adopted on a cross-border basis (between EU and NI) to meet environmental targets in such fields as water quality, marine management, habitat protection and development of priority species?
 - Leadsom's speech implies writing-in of environmental directives but also scope to make policies that meet particular national needs and environment. Will capacity be devolved for this given that environmental needs may be seen to differ within the UK?

E.

PEACE

Key Points

- Commentators have highlighted the danger implied in a Brexit-related revision of the Good Friday Agreement.
- Break up of stable balance of these isles (UK or Irish fragmentation) has implications for political and popular positions.
- GFA is a legal framework holds together a lack of political consensus. Problem here is not legal as such but political, social and cultural – how much trust is there?
- Risk of worsening cross-border criminal activity linked to paramilitarism.

Questions

- i. By unpicking the thread of the GFA is there a risk of other elements becoming unraveled? Could open up questions that there is no political or social agreement.
- ii. How will Strand II (dealing with North-South relations) and Strand III (dealing with inter-governmental relations) be affected?
- iii. Could reviewing the CTA and the GFA lead to unpicking of political relationship and exacerbation of political divisions in the case of Northern Ireland?

Possibilities

F.

PROSPECTS FOR COMMON NORTHERN IRELAND POSITION IN UK NEGOTIATIONS

Key Points

- PM has reassured that Northern Ireland will be 'fully involved and represented in negotiations' and that border will not become an 'impediment to movement of goods, services and people.'
- Given the standoff about the budget and welfare reform that was only resolved with British and Irish Government intervention, the risks of NI not being able to put forward a strong position are exacerbated.
- There is significant divergence of political discourse and positions on Brexit both (a) between Northern Ireland and British government and (b) within Northern Ireland.
- Within the NI Executive, Sinn Féin and the DUP campaigned in different directions in the referendum, but there are differences within these parties, particularly among their support bases. This raises new prospects of vulnerability for the leadership of the main parties.
- Northern Ireland position needs to be made clear on at least three fronts:
 - (a) exit of EU (and status of external borders of EU on the island of Ireland)
 - (b) renegotiation of Common Travel Area,
 - (c) fiscal draw down from the Exchequer post-Brexit (e.g. compensating for loss of EU funds).

Questions

- i. Is there a *necessity* for agreeing a common position within Northern Ireland with respect to representation of its interests in the exiting negotiations?
- ii. How divisive, in political and social terms, has the Referendum been and how divisive/uniting will the process of attempting to come up with a common negotiating position for exit, and the consequent new legislation, be?
 - Does it have to be founded on positive positions rather than vulnerabilities/ fears (e.g. economic risk)?
 - What issues must the common position cover, and to what extent?
- iii. Does representation have to be in relation to all matters or select ones (e.g. EU funding, CAP)?
- iv. What are the precedents of devolved administrations gaining meaningful representation in such negotiations?

G.

UK/IRELAND RELATIONS

Key Points

- The Irish government estimates reduction in bilateral trade flows between the UK and Ireland of around 20% post-Brexit.
- Reactions to the all-Ireland forum indicate persistent political sensitivities regarding Irish government involvement in 'UK matters'.

Questions

- i. How willing would the ROI be to also renegotiate status with the EU, given that otherwise Strand 2 and Strand 3 relationships would no longer be bilateral but EU/non-EU?
- ii. Might the EU be willing to risk the hit to the ROI if hold hard negotiating line regarding the four freedoms and thus nudge UK government towards hard Brexit?
- iii. Will the Irish and UK governments have the capacity and willingness to commit similar levels of financial support to Northern Ireland post-Brexit?

H.

GOVERNANCE

Key Points

- All devolution statutes include strict requirements to comply with EU legislation. If the Repeal Bill is implemented, who is competent to decide at the devolved level what laws will remain and which will change?
- The Sewell convention ensures that UK government will not normally legislate on a devolved matter without the consent of the devolved legislature.⁴⁵
- NI has benefit of several different institutions to represent its interests:
 - (a) Assembly to ensure effective coordination and input by Ministers to national policy-making, including on EU issues;
 - (b) NSMC to ensure coordination on cross-sectoral issues inc EU;
 - (c) NSMC views to be represented at EU level;
 - (d) BIC to discuss EU affairs. What role is there for these?

Discussion Points

Questions

- i. How can consent be given to Brexit from NI?
 - o Would the devolved assembly have to give legislative consent to the UK-wide withdrawal agreement?
 - o How will the Assembly vote, given the divisive nature of the issue and what political fractures will be exposed and widened?
- ii. What needs to change in NI in particular?
 - o Will EU exit mean there will have to be a redrawing of the GFA and all associated legal acts?
 - Is there a new role for strand 3 institutions, or the Joint Ministerial Council?
- iii. Could there be a role for local cross-border institutions in overseeing and facilitating cross-border cooperation and policy coordination post-Brexit? What would this require?

I.

ELASTIC BREXIT?

Key Points

- UK needs to 'get own house in order' before triggering Article 50.
- Independence/'devo max' solutions are likely to be problematic. In Scotland 45% voted for independence (with 62% saying Scottish only and 8% British only identity). In NI around 25% consistently say Irish reunification is their preference (a figure which has not risen greatly since the referendum result) and census results indicate 40% British only identity).
- Divergence between a deal with the EU that would be in the best interests of the UK government and that in the interests of Northern Ireland.
- All protagonists want to see a continuation of freedom of movement of trade, services and people on the island
- Differential layers of 'border regime' already exist within these isles and the EU.
- Imagination needed with regards to conceiving arrangements that recognise needs and differences within the regions of the UK vis-à-vis the EU.

Questions

- i. Can the principle of freedom of movement that is shared across these islands be the basis for a joint Executive position on negotiating a bespoke arrangement?
- ii. What unique status of Northern Ireland could politicians agree on that compromises neither unionist nor nationalist political credibility?
- iii. What flexibility will be possible from the UK and the EU vis a vis the status of Northern Ireland as a region?
- iv. What mechanisms are there for representing the range of main players in NI?
 - o Could the NSMC serve as a platform for the Northern Ireland Executive to contribute to UK/EU policy making with respect to a bespoke arrangement for Northern Ireland?
 - o What potential role can GFA Strand 3 institutions have in this respect?
 - o Is there space for formal input from the Irish government?

J.

BORDER MANAGEMENT

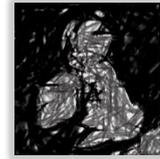
Key Points

- The Republic of Ireland's borders with the UK are unlikely to be subject to the same measures as the EU's external borders because those are contingent on protecting the Schengen area. There are no plans as yet for Ireland to join Schengen. There is scope, therefore, for Ireland/UK negotiation on border security as part of Common Travel Area.
- The Le Touquet Agreement would no doubt be revisited.
- There is clear room for further cooperation between policing and customs agencies on the island of Ireland; would UK non-membership of the EU be an impediment here?

Questions

- i. Will the 'hard border' be a land or sea border?
 - o Would the sea border as an external border of the EU make a difference in practice for UK/Ireland relations?
- ii. What are the various options for a 'hard border' in terms of security/management?
 - o What would this look like in practice?
- iii. The national question – how willing would the ROI be to engage in a different relationship with the North?
- iv. What difference would UK non-membership of the EU make to sharing of intelligence and information and cooperation regarding border security?
- v. What lessons to be learnt from the hard customs and security border already experienced on the island?
 - o How different might this look today?

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ENDNOTES

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- ³ "The fundamental freedoms are inseparable.... I refuse to imagine a Europe where lorries and hedge funds are free to cross borders but citizens cannot. I cannot accept any hierarchy between these four freedoms." President Martin Schulz, Speech at LSE on EU and UK, 23 Sept 2016 <http://www.lse.ac.uk/publicEvents/pdf/2016-ST/20160923-Martin-Schultz-Transcript.pdf>
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- ³⁷ Harvey (2005); Flynn (2009).
- ³⁸ This point is raised by the SEUPB.
- ³⁹ 'Should Ireland enter the Schengen area, it would find itself in an exact parallel to the Nordic Passport Union A hard border would come in practice into existence, requiring both EU immigration and customs law to be applied at the Irish border. Ireland's commitments to the EU, which have been adopted into the Irish Constitution, would take precedent in domestic law over any other treaty-based trade commitment with the UK' (de Mars et al., 2016: 9 – 10).
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- ⁴¹ InterTradeIreland (2016); KPMG (2016).
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