

# A Proposal for Northern Ireland Special Economic Zone

By Tom Hayes & Derek Mooney

## Introduction:

We believe that Brexit is a mistake, but we recognise that it was backed by a majority of voters in 2016 and that there is no serious move, at this time, to retest public opinion.

Similarly, though we think that the U.K. can still leave the EU while remaining in the Single Market and ('a', if not 'the') Customs Union and we sense that there is a cross party majority in the House of Commons for this position: it increasingly appears to us that this is an unlikely outcome as the leadership of both main parties seem determined not to pursue this sensible avenue.

In this context of the U.K. leaving the institutions of the EU while also exiting the Single Market and the Customs Union we are concerned with the public debate around the future of a hard border across the island of Ireland.

We are further perturbed by suggestions from pro-Brexiteers that technology is the answer and that the hard land border consequence of a resolutely pro-Brexit policy can be magically softened by "*automatic number plate recognition*" and "*trusted traveller programmes*".

We believe that a possible solution to the border issue in Ireland may lie in Northern Ireland (NI) becoming a *Special Economic Zone* within the UK and, as such, remaining aligned with the EU Single Market and Customs Union.

We do not believe because a region has a different set of economic rules from the rest of the state that implies any form of constitutional divergence. Were NI to be both in the UK and in the EU's integrated, internal market, this could act as a magnet for inward investment giving a major boost to the NI economy.

## Background:

The potential hardening of the border on the island of Ireland between Ireland and Northern Ireland is now, regrettably, front and centre stage in the Brexit process. Remarks by EU Council President, Donald Tusk, in Dublin last Thursday, confirmed this, if indeed there was any doubt beforehand.

Tusk said:

*When I was in London last week, I heard very critical comments by Prime Minister May, and others, about the way the Irish border issue was presented in the draft Withdrawal Agreement.*

*We know today that the UK government rejects: "a customs and regulatory border down the Irish Sea"; the EU Single Market and the Customs Union. While we must respect this position, we also expect the UK to propose a specific and realistic solution to avoid a hard border. As long as the UK doesn't present such a solution, it is very difficult to imagine substantive progress in Brexit negotiations. If in London someone*

*assumes that the negotiations will deal with other issues first, before moving to the Irish issue, my response would be: Ireland first.*

A protocol to the draft Withdrawal Agreement (see [here](#)) puts into legal language the commitments made in the UK-EU Joint Report last December aimed at avoiding the recreation of a border in Ireland after the UK leaves the EU. The key paragraphs in the Joint Report say:

*49. The United Kingdom remains committed to protecting North-South cooperation and to its guarantee of avoiding a hard border. Any future arrangements must be compatible with these overarching requirements. The United Kingdom's intention is to achieve these objectives through the overall EU-UK relationship. Should this not be possible, the United Kingdom will propose specific solutions to address the unique circumstances of the island of Ireland. In the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all island economy and the protection of the 1998 Agreement.*

*50. In the absence of agreed solutions, as set out in the previous paragraph, the United Kingdom will ensure that no new regulatory barriers develop between Northern Ireland and the rest of the United Kingdom, unless, consistent with the 1998 Agreement, the Northern Ireland Executive and Assembly agree that distinct arrangements are appropriate for Northern Ireland. In all circumstances, the United Kingdom will continue to ensure the same unfettered access for Northern Ireland's businesses to the whole of the United Kingdom internal market.*

The Protocol operationalises the option set out in Paragraph 50 of the Joint Report.

#### *The Good Friday Agreement and the Border:*

The Irish border is long and porous. It would be difficult and prohibitively expensive to control in ordinary circumstances. But “ordinary circumstances” do not apply in the case of a border in Ireland because of the absence of agreement between the communities that inhabit the island on definitions of nationality and political allegiance.

The Good Friday Agreement (GFA) acknowledges these differences and enshrines in an international treaty that constitutional arrangements in Northern Ireland can only be changed with the consent of the two communities. The Good Friday Agreement sought to replace what was not just a militarised border, but a militarised border mindset with a cross-border mind-set.

As U.S. Senator George Mitchell, who chaired the NI peace talks, recently warned: the danger of a return of a border comes from the “change in attitude” it brings back to communities on both sides of that border.

Since 1973 both Ireland and Northern Ireland have been members of what is now the European Union and its customs union. Since the early 1990s that has also meant common membership of the EU's integrated internal market and the free movement of goods, services, capital and people. This means that goods, services and data can flow freely between Ireland and Northern Ireland. 30,000 people daily cross the border daily to work, study, socialise, access healthcare, etc.

Taken together with the Common Travel Area between Ireland and the UK, which dates back to 1922, this means that there is no need for any sort of border on the island, hard or soft, visible or invisible.

The absence of any sort of border between the two parts of the island has resulted in integrated economic development, with often complex cross-border and all-island supply chains. Some of these are vividly illustrated in Tony Connolly's book: Brexit and Ireland.

Agriculture is a very good example of a vital and thriving cross border industry. Approx 30% of the NI's total milk pool travels across the border to the Republic for processing, packaging etc on a daily basis. Over 40% of NI's lambs are processed in meat plants in the Republic of Ireland. Conversely 1000s of pigs head to the North daily for slaughter and processing. Procedures that slow down the transportation of milk and lambs to the South and pigs to the North would have a major impact on a sector where 65% of the workforce in the agri-food industry and meat processing plants are migrant labourers.

There has been a major increase in food and drink sector sales from NI since 2005: 96% increase to Great Britain, 114% to the Republic of Ireland and 135% to other EU member states, with milk and milk products, as well as beef and sheep meat, being the most significant contributors to this growth.

Thus, the decision by the UK that quitting the European Union (Brexit) also means quitting the Single Market and the Customs Union implies borders between the UK and the EU, no matter how frictionless, because that is what wider international trade law as, for example, enshrined in World Trade Organization (WTO) rules requires. It is worth noting that the World Trade Organisation book listing tariffs for each country is 22,500 pages long with tariffs up to 50% for some agri-food products;

Borders bring infrastructure and in Ireland such infrastructure carries major political and security significance for contested political allegiances.

The GFA enshrines the principle of consent, not just in law, but in an international treaty between the two sovereign governments: U.K. and Ireland. This guarantees that the constitutional position of NI within the UK can only be changed if the people of NI vote to change it. Constitutional change cannot be imposed on them by outside parties.

#### *The problem:*

The question that has to be answered, as we see it, is this:

*Would a different economic regime for NI as opposed to the rest of the UK after Brexit put the constitutional position of NI at risk?*

If the answer to that question is "no" then the question of a different economic regime for NI as opposed to the rest of the UK comes down to issue of costs v benefits.

The UK government's own analysis, released during the past week, shows that on a range of scenarios, Brexit will leave Northern Ireland between 2% and 12% worse off in terms of Gross Value Added. It would be 2% worse off if the UK were to stay in the European Economic Area (EEA), while a simple Free Trade Agreement would leave it 8% worse off. The situation could indeed be worse as the analysis "does not yet consider region-specific effects of customs and

the impact on the [Irish] economy, including any scenarios including a ‘hard border’ ... all of which would be expected to affect Northern Ireland more than the rest of the UK”

#### *A Special Economic Zone:*

Remember, membership of the EEA just involves Single Market membership, not membership of the Customs Union. The special economic zone we propose would leave NI in both, further mitigating the economic hit that Brexit will involve.

A NI that was in both the UK and the EU could become a very attractive location for businesses that need to be inside the EU. This could be particularly true of many UK service businesses that will face significant barriers when the UK is outside the EU’s markets.

If NI were to be a special economic zone within the UK, aligned with the EU’s Single Market and Customs Union what happens to trade between NI and Great Britain (GB)?

This, in turn, comes down to the simple question of trade from GB to NI, i.e., from outside the EU into the EU. It is entirely a matter for the UK government how it deals with trade from NI to the GB.

Irrespective of the shape of any final deal between the EU and the UK, after Brexit goods flowing from GB to NI, if NI were to be a special economic zone, will have to meet EU standards. GB goods generally enter NI come through a limited number of seaports and airports or via Ireland.

If there are smart IT solutions to border controls, as many in the UK including NI have argued, then, surely, it is easier and cheaper to enhance controls at a very limited number of airports and seaports than along a porous 500km (300 miles) land border with some 280 officially recognised crossings, unlike the Norway/Sweden and US/Canada borders where goods are required to cross at a restricted number of points.

To date, we are not aware of any comparative costing of any of these options. Some infrastructure already exists and there is capacity to expand. Such controls would ensure that goods coming into NI would meet EU standards and could be safely shipped onwards. (See [www.daera-ni.gov.uk/bips](http://www.daera-ni.gov.uk/bips))

Would a different economic regime in NI and checks on goods incoming into NI from GB have any implications for its constitutional position within the UK? Our answer is “No”.

Many countries have special economic zones. For example, Mexico has such zones along the border with the US. Ireland used to have the Shannon Duty Free Zone around Shannon airport. China has two different systems, one in mainland China, one in Hong Kong. Indeed, the UK was instrumental in designing the “one country, two systems” when it handed Hong Kong back to the Chinese.

As Professor John Barry from Queens University points out in this [paper](#) there are already differences within the UK today, and between GB and NI.

Further, the EU is no stranger to special zones as Nikos Skoutaris Lecturer in European Union Law, School of Law, University of East Anglia argues in this [paper](#), a point also made [here](#).

If differences between GB and NI are not a matter of principle, which they cannot be because differences already exist, then differences become a matter of pragmatic judgement. As Dr

Liam Fox, International Trade Secretary, told the recent conference of the British Chamber of Commerce:

*“We need to begin this argument by putting politics aside and do what is in the economic interests of the people we represent.”*

If NI were to be a special economic zone then people in NI would have all the economic benefits they have from being in the EU’s Single Market and Customs Union that they have today, along with unfettered access to the UK market, and still retain the constitutional and political options they have today.

They would still be represented in Westminster, carry a UK (and/or Irish passport) and travel freely between the UK and Ireland. Do IT controls on goods at seaports and airports diminish these rights in any way?

In reality, are not legal differences around, for example, equal marriage, more of a divider and a separator than the scanning of goods?

*Epilogue:*

We offer this proposal as a positive and constructive contribution to the debate. As we stated at the outset we do not suggest that our proposal represents the ideal situation. We strongly believe that the U.K., as a whole, would be better off remaining in both the Single Market and Customs Union, but for as long as this option is not being put on the table then we offer this modest proposal as the least worst solution to the issue of the Irish/Irish border.

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## Notes:

It is worth noting comments in a paper from the UK government, *Additional Data Paper: Northern Ireland Trade Data and Statistics*

The United Kingdom (UK) remains the most significant market for businesses in Northern Ireland – sales to Great Britain were worth one and a half times the value of all Northern Ireland exports and nearly four times the value of exports to Ireland in 2015. Nevertheless, the sale of finished products to Great Britain relies upon cross-border trade in raw materials and components within integrated supply chains meaning trade with both Great Britain and Ireland are vital to Northern Ireland's economy.

The trade in higher value finished products is often dependent on lower value, higher volume, cross-border trade earlier in the supply chain. Over 5,000 businesses in Northern Ireland exported goods to Ireland in 2015, one and a half times as many as sold goods to Great Britain, with just over half the businesses exporting goods and services to Ireland employing fewer than 10 people. This dependency on cross-border trade is most notable in the agri-food sector, where exports account for 27% of Northern Ireland food and drink processing sales, and Ireland is the destination for 53% of export sales from the sector. The first two trade flows are within the island of Ireland, on land. The second two are across water.

While sales to the rest of the UK are not classified as exports, in 2015 total sales to Great Britain of £14.4 billion were higher than total Northern Ireland exports, of just over £10 billion, and represented 20% of total sales by businesses in Northern Ireland.

In turn, the total value of goods purchased in Northern Ireland from Great Britain (excluding farming and fishing) at £11.6 billion in 2015.

NISRA estimates the total value of goods (excluding the farming and fishing sectors) sold by businesses in Northern Ireland to Ireland at £2.7 billion in 2015 (6% of all sales by Northern Ireland businesses and 36% of all exported goods)<sup>15</sup> and the total value of goods imported from Ireland at £1.8 billion over the same period.<sup>16</sup> The value of exports to Ireland has remained fairly stable over the period between 2011 and 2015, fluctuating between a peak of £3 billion in 2013 and a low of £2.7 billion in 2015.<sup>17</sup>