

Committee:	Special Conference on the Consequences of Brexit
Topic:	The question of the future of the Irish land border
Chair:	Niall Finnegan
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Summary:

With the United Kingdom's impending departure from the European Union (EU) approaching and the possibility of a so called 'no deal' exit increasing, the question on the minds of the 1.8 million people who call the six counties of Northern Ireland their home, as well as the equally effected 4.7 million south of the invisible border, is what will the future of the 499km crossing look like. Will there be physical border infrastructure which will inhibit the lives of those who cross daily to places of work and education? Will the border region once again become a hotbed of terrorist activity as seen during The Troubles in the province? The Irish Government, British Government along with the European Union agree that the hard-won peace in the province cannot be jeopardised. All sides agree that the frictionless border that exists today must be maintained, but the most prominent question is how can this be done if the United Kingdom is to leave the Customs Union and Single Market, as planned, whilst attempting to maintain the integrity of both the EU and the UK's customs areas be upheld without formal border checks along the soon to be outer frontier of the European Union. Many possible solutions have been rejected such as Northern Ireland remaining within the Customs Union by the hard-line Democratic Unionist Party in the province for the reason that this would create a regulatory divide between Northern Ireland and Great Britain. Another controversial option is the so called 'backstop' included in the EU Withdrawal Agreement, which has been extremely unpopular in the British Parliament. The Backstop is a crucial stumbling block which has been rejected by the UK on several occasions, but the EU maintains it is essential to maintain peace on the island of Ireland. Neither side seems to be able to reach a compromise, meaning the most likely scenario on the 31st of October is the necessity for physical border infrastructure to be implemented. The likelihood of a no-deal exit has increased since the appointment of Boris Johnson as Prime Minister. Johnson has hardened the UK's negotiating approach and has refused to take the threat of no-deal off the table. He has spoken openly about how he doesn't envisage a no-deal scenario as being problematic in relation to the Irish border.

It is upon you delegates to find a workable solution which prevents physical border infrastructure, upholds the integrity of both customs areas whilst also ensuring the United Kingdom's constitutional

integrity and setting the precedent for how other international issues of striking resemblance are dealt with.

Definition of Key Terms:

The Irish Border – The Republic of Ireland–United Kingdom border, sometimes referred to as the Irish border, runs for 499 km from Lough Foyle in the north of Ireland to Carlingford Lough in the northeast, separating the Republic of Ireland from Northern Ireland

Northern Ireland – A part of the United Kingdom in the north-east of the island of Ireland, variously described as a country, province or region. Northern Ireland shares a border to the south and west with the Republic of Ireland. In 2011, its population was 1,810,863 in 2016.

No Deal Brexit – A no deal Brexit means the UK would leave the European Union immediately on 31 October 2019, and there would be no agreements in place about on what their relationship would be like in future, including with regards to the Irish Border. Some argue that The General Agreement on Tariffs and Trade (GATT), a treaty under the umbrella of the World Trade Organization (WTO), would allow a “standstill” in which tariffs are avoided could be the alternative method for exiting the European Union in the event of a no deal scenario

Brexit – The withdrawal of the United Kingdom from the European Union as decided in a 2016 referendum.

Customs Union – The European Union Customs Union (EUCU) is a customs union that consists of all member states of the European Union, with the addition of Monaco, and some dependencies of the United Kingdom which are part of the European Union are not. Within this zone, tariff free trading takes place on goods and services without the need for customs duties to be paid on goods moving between European Union member states, all apply a universal customs tariff for goods imported from outside the European Union and legally imported goods are free to be circulated around the European Union with facing any more customs or agricultural checks.

Backstop – The backstop is a position of last resort, to maintain a seamless border on the island of Ireland in the event that the UK leaves the European Union without securing an all-encompassing deal that would guarantee a similar arrangement.

Single Market – The European Single Market, Internal Market or Common Market is a single market which seeks to guarantee the free movement of goods, capital, services, and labour – the “four freedoms” – within the European Union.

Background Information

Since the June 2016 referendum in which a majority of the voting population in the United Kingdom backed a proposal to leave the European Union, the question of the future of the Irish Border has been a sticking point in negotiations, partly leading to the rejection of the Withdrawal Agreement in the House of Commons. Northern Ireland, as a whole, voted to remain in the European Union, which has led to considerable public anger in the province over the perceived mismanagement of this vitally important issues. The Backstop protocol, negotiated by the Irish Government would create an indefinite customs union between Northern Ireland and the European Union, guaranteeing a continuation of the current border regime, should the UK fail to come up with an alternative solution before the transition period created by the Withdrawal Agreement ends. UK lawmakers were unhappy with this proposal and accordingly rejected the whole Withdrawal Agreement three times, which eventually led to the fall of the British Prime Minister, Theresa May. The United Kingdom is set to leave the European Union on October 31st, and a no deal scenario is looking increasingly likely at this stage of negotiations, which would necessitate physical border infrastructure to uphold customs rules. A physical border would divide communities situated the border, jeopardise peace, severely damage the Northern Irish economy, which relies heavily on trade with the Republic and disrupt ordinary working people's lives.

Major Countries and Organizations Involved:

The United Kingdom

This situation is a result of the United Kingdom's impending withdrawal from the European Union.

The Republic of Ireland

The Republic of Ireland has insisted on protecting the open border between itself and Northern Ireland, which has proved to be a sticking point in Brexit negotiations.

The European Union

The European Union is responsible for handling negotiations between the UK and the other 27 EU countries with regards to Brexit arrangements.

Timeline of Events

Date	Description
1922 – December	The Irish Free State, predecessor to the Republic is founded, creating the border.
1969 - August	Conflict in Northern Ireland begins following a series of riots in Derry between the Protestant Apprentice Boys group and the local population, the majority of which were supporters of reunification.
1971	Cross-community protests take place to protest internment in Northern Ireland where the British Government imprisoned thousands of fighters without trial, often for several years.
1972 – January	A march organised by the NICRA against Internment and the ban on marches took place in Derry. In order to ensure that the march was peaceful the IRA had promised to stay away. British soldiers had put up barricades to prevent the marchers entering the city centre square. A section of the marchers and some observers confronted soldiers manning the barricade. British paratroopers opened fire killing 14 and injuring 13 others.
1972 – August	Following Bloody Sunday there was a rise in support for the Provisional IRA. In February the British Embassy in Dublin was burnt. It was clear that the British government had to do something to try to quieten the situation. As a result, in March the Northern Ireland government was suspended – Northern Ireland was to be directly ruled from Westminster.
1985 – November	Leaders of Britain and Ireland met to discuss the situation. The resulting Anglo-Irish agreement gave Dublin some control over Northern Ireland affairs. Unionists were outraged and the agreement was never fully implemented.
1998 – April	The Good Friday agreement is approved in a referendum held across the island of Ireland. It is accepted, bringing a close to 30 year conflict where thousands were killed.
2016 – June	United Kingdom voted to leave the European Union
2017 – March 29	United Kingdom invocation of Article 50 of the Treaty on European Union
2019 – January 15	First rejection of the Withdrawal Agreement

- 2019 – March 13** A motion is passed in the House of Commons instructing the government to prevent a no deal exit
- 2019 – March 29** Original date of Brexit. This was delayed upon request of the Government.
- 2019 – July 24** Boris Johnson is appointed Prime Minister following his predecessor Theresa May's resignation.
- 2019 – October 31** Supposed date of the United Kingdom's departure from the European Union

Relevant UN Treaties and Events

Article 35 of the United Nations Charter

Northern Ireland Peace Agreement (The Good Friday Agreement)

Previous Attempts to solve the Issue

Proposals for Northern Ireland to remain in the European Union Customs Union (EUCU) were rejected by the Democratic Unionist Party and the British Government.

The backstop protocol, which would prevent a hard border being implemented in the absence of another solution has been rejected by British lawmakers three times mostly due to concerns of the Backstop Agreements implications on the integrity of the United Kingdom. Northern Irish lawmakers have spoken passionately on how the possibility of a so called 'Irish sea' border would leave the province extremely detached from Great Britain. They argue that the threat of a hard border is less of a concern than this scenario. A so called 'technological border' using cameras and other technology to scan goods crossing the border have been rejected as vague and unworkable. A leaked Home Office report in August, summarising the British Governments alternative border arrangements were fraught with issues and not one solution put forward was workable. Customs arrangements in Norway, involving cameras and online customs registration, have been put forward as a possible solution but the technology in use there would not be applicable to Northern Ireland. This is due to Norway being a member of the European Economic Area (EEA) which shares significant customs regulation with the European Union. The divergence between EU and UK rules would make this impossible to implement.

Possible Solutions

Finding a solution to the complex and intricate question of the Irish land border is one that is going to take a great deal of thought, as the situation does manifest itself deeper than a diplomatic relation. A potential solution could be the negotiation of a customs union between the European Union and

Northern Ireland that appeases the wishes of the Democratic Unionist Party, although it is difficult to see how this could be implemented without customs checks from Northern Ireland to Great Britain. If the government fails to adequately address this, it could jeopardise the confidence and supply agreement underpinning the government, which could in turn de-rail Brexit plans. The 'technological' border could be re-examined in greater depth to attempt to create a viable option to prevent a border.

The constitutional status of Northern Ireland could be put to a referendum to decide whether or not to remain part of the United Kingdom, however this would be extremely unlikely to happen due to the Conservative government relying on the Democratic Unionist Party for confidence-and-supply agreement in order to maintain their majority within the House of Commons.

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