



The EU's External Border and the Brexit Negotiations

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Although the EU's external border is one of the main problems in the Brexit negotiations, it is relatively absent from the wider public discourse. Media attention is drawn mainly to border on the island of Ireland. The larger problem, however, is the impact of future border procedures on economic exchange between the UK and the EU, and the position of the Republic of Ireland following Brexit: both in relations with its British neighbour and within the EU itself.

The British-EU border consists of several sections. Although there are specific problems with each of them, the UK-EU post-Brexit arrangements concerning immigration, customs, procedures, and the phytosanitary regime are necessary for all of them. At the same time, the issue of the land border on the island of Ireland has direct impact on the House of Commons majority supporting the UK government.

The Results of the Phase One Negotiations. With the EU sticking to conditionality in the talks, the main challenges concerning the external border were postponed until the second phase of the talks. Until now, only the border on the island of Ireland¹ has been discussed. Although the UK side agreed to the EU's demand to maintain harmonisation of law on the island after Brexit, it also stipulated maintaining the integrity of Northern Ireland as part of the UK. In the *Joint Report from the Negotiators of the European Union and the United Kingdom Government on Progress during Phase 1 of Negotiations*, published on 8 December last year, the parties refrained from naming specific technical solutions and the document is not legally binding. As a result, the European Council indicated in its summit conclusions of 15 December last year the need to give legal effect to these political arrangements in the UK exit treaty.

Main Challenges. There are no disputes regarding the maritime border. Moreover, it can be crossed directly between the continental EU (EU-26) and Ireland. However, it constitutes the economic centre of gravity in future EU-UK relations and, consequently, will have much political significance. Crossings of the English and St. George channels constitute the main transit routes between the UK and the EU, and between Ireland and the EU-26, including the Trans-European Networks (TEN-T, TEN-E). The routes also serve the majority of bilateral exchange between the UK and Ireland (East-West axis), with Ireland the fifth-largest export market for the UK (£16.7 billion, or about 6% of UK exports) and the UK constitutes the second-biggest market for Ireland (£12.5 billion, or about 13% of Irish exports).

On the other hand, the border on the island of Ireland, amounting to some 500 km, is of great political importance despite its limited economic impact. The significance of the border results from the historical division of the island (in 1921), the conflict in Northern Ireland (1960s-90s) and then the peace process (1990s–2000s). The land border impacts mostly the local economy, especially sectors integrated within the island based on the Belfast and St. Andrews agreements (North-South axis), namely transport, energy, and agriculture. Nevertheless, the land border has limited impact on East-West exchange. UK-Ireland trade amounts to about 20% in Northern Ireland, but about 60% of North Ireland exports (£14.6 billion) are directed to the rest of the UK, some 12% (£4.6 billion) to the Republic, and only around 7% (£2.6 billion) to the EU-26.

¹ P. Biskup, "Brexit Negotiations: An Agreement without a Breakthrough," *PISM Spotlight*, no. 78/2017, 12 December 2017.

Importantly, both the UK and Irish governments are determined to continue with the Common Travel Area (CTA) established in 1921. The CTA entitles the citizens of both countries to a visa-free regime, as well as to work, settle and acquire civic rights on the other country's territory. The CTA is also the main reason why Ireland remains outside the Schengen area, but it does not prevent the restoration of the so-called "hard border" on the island.

The land border between Gibraltar and Spain, although only 1.2 km long, is also in dispute. Spain claims the island as its territory. It also complains the island operates as a tax haven and smuggling centre (e.g., according to the European Anti-Fraud Office, or OLAF, Spain's and EU's combined losses from tobacco smuggling in 2009-13 alone amounted to €730 million). Officially, Gibraltar's economy is based on tourism, gambling, and financial services (it has about 28,000 companies and 33,000 inhabitants). Although Spain seeks to selectively tighten the border, the autonomous Gibraltar Government and the Spanish Government want to preserve the easy flow of supplies and workers from Spain onto the peninsula (about 30,000 people a day) and preserve Gibraltar investment in Spanish real estate. The territory also houses a UK military base, which allows control of large swaths of the Atlantic and the Mediterranean, including the straits (airport, seaport, and storage facilities). Thus, in the Gibraltar case, the negotiation challenge is to work out border procedures that would allow the sides to preserve the benefits of cooperation while eliminating the losses to the Spanish and EU customs and inland revenue.

Lastly, the border between the UK Sovereign Base Areas of Akrotiri and Dhekelia (SBA) and the Republic of Cyprus influences the functioning of the UK's most important overseas military installations. Although the SBA's legal status limits their commercial use, in all other respects they constitute, as the name implies, UK integral territory. The SBA's importance stems from the combination of geographical location, enabling power projection to the Middle East and the Mediterranean, with logistical potential (airport, seaport, and warehouse infrastructure). The UK made use of the bases, among others, for action against ISIS, electronic reconnaissance, evacuation of citizens from the region (e.g., Lebanon in 2006), and cooperation with allies. In the negotiations, from the Cypriot and EU point of view, the bases play an important role in transit and in Greek-Turkish relations on the island.

Limits of Compromise. The UK must reconcile its desire to preserve its territorial integrity with the risk of restoring a physical ("hard") border on the island of Ireland. The easiest solution would be to continue with the EU-UK customs union after Brexit, but in the eyes of Brexiters such a solution would contradict the basic objectives of exiting the EU. An alternative could be granting the parties a special status at the border on the island of Ireland (e.g., the creation of simplified procedures for local border traffic and economic sectors integrated within the island). Naturally, such a solution would require leniency from the EU. However, the Union must in turn balance its desire to protect the integrity of the single market with protection of the fundamental interests of the Republic of Ireland, which would be very difficult and costly without the UK's willingness to cooperate.

The lack of a UK-EU agreement would cause serious problems for both the British and EU exclaves. Although the UK would have to provide additional financial support to Northern Ireland and Gibraltar (now financially independent), the EU would have a similar problem with Ireland. In addition, the EU has announced it will prioritise the peace process in Northern Ireland, and would therefore be in an awkward position if, in the absence of an agreement, the UK unilaterally refused to rebuild border infrastructure. Moreover, respect for Ireland's and Spain's special interests related to the EU's external border is guaranteed by the veto power they hold over the final UK-EU settlement. On the British side, the interests of Northern Ireland and Gibraltar are defended by the Democratic Unionist Party (DUP), a UK government coalition partner. At the same time, the lack of an "invisible border" after Brexit would strengthen separatism in Northern Ireland and weaken DUP's position, which in effect could easily undermine its support for Theresa May's Conservative government.

Conclusions and Perspectives. The issue of the external border is technically and politically the most complex issue of the first phase of negotiations, and neither side has a clear advantage in this respect. Both the EU and UK have vital interests that can only be served within the framework of cooperation, while the lack of compromise would be economically and politically the most expensive option for both. Noteworthy, the argument that the EU has a proportionally larger share of the UK exports is offset by the EU's trade surplus (£80–90 billion) and the issue of the UK's continued contributions to the bloc's budget.

The current arrangements concerning the land border on the island of Ireland should be seen as a prelude to the settlement in the second phase of the talks of the issue of transit from Ireland to the EU-26 and between the UK and EU. These solutions will play a key role in agreeing a border regime for Gibraltar and Cyprus. Generally, on Cyprus and Gibraltar, the status quo can be expected to carry on, except for access to the single market for companies in Gibraltar's financial sector.

From the Polish perspective, the customs, procedural, and phytosanitary regulations on the future EU-UK border will be central. Poland has a surplus of about £4 billion in trade with the UK. However, a significant share of it is perishable goods (e.g., fresh food) and transport services (including cabotage), the profitability of which depends on timely border checks.