

**British Irish Chamber of Commerce Discussion Paper on the
'Impact of Brexit on the UK & Irish Port and Transit Sector'
(Updated)**



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Introduction:

This is a report on the 'UK- Ireland Ports and Transit Forum' which took place on Friday 25 January 2019, facilitated by the British Irish Chamber of Commerce and hosted at the Port of Cork. This was the second such Forum following on from the initial gathering of stakeholders from the Ports and Transit sector that met in Cardiff in July 2018. The report and the recommendations of that meeting are available at www.britishirishchamber.com/brexit-publications/. This paper will set out the context in which the Forum was held, and the main points raised at the Forum, notably updates on contingency plans and current concerns. At the end of the paper some recommendations for the respective governments and stakeholders are outlined.

Setting the Context of the Meeting:

While the potential of a 'No-Deal' Brexit may be increasing in likelihood, the reality is that the full range of possible forms of Brexit are still available. From the viewpoint of this Forum's participants, however, all but one of the options leads to broadly similar outcomes in terms of the movement of goods. The one option with a significantly different outcome is a reversal of Brexit, which was disregarded for the purposes of this discussion. All other options (EEA/Norway, Customs Union, partial Single Market membership, Canada ++, Withdrawal Agreement) inevitably involve new administrative arrangements for the movement of goods to, from and across the UK, with associated checking procedures, some at least taking place at ports and airports.

The UK has been consistent since 2016 in its key requirements of Brexit; control of its borders, freedom to negotiate trade deals independently, a close and special relationship with the EU, continuation of the Common Travel Area with Ireland, no visible border between Ireland and Northern Ireland, and a frictionless border between the UK and the EU. The EU has been equally consistent, supporting the principle of continued close relations with the UK, while asserting that the removal of border checks within the EU was a major historic achievement, crucially depending on the network of treaties between the members. Any deviation from the treaties undermines the basis on which borderless trade depends, and of course exit from the EU is a departure from (some at least) treaty commitments. The future relationship between the EU and the UK cannot be legally agreed until after Brexit, but the EU has agreed to include in the Withdrawal Agreement a "backstop" or default which gives some assurance in relation to the future position of Northern Ireland, and in relation to future EU-UK trade, both to apply in the event of delay in finalising the long-term future relationship. The accompanying Political Declaration makes clear the commitment of both sides to seek a permanent arrangement that would eliminate the need for the "backstop".

The Withdrawal Agreement drawn up by the respective negotiating teams sets out the many areas where full agreement was reached, e.g. the position of citizens and residents in the UK and the EU, and also sets out, in the Ireland Protocol (backstop), the fullest extent of “borderless” trade that the EU can accommodate. This requires monitoring the origin of goods in Northern Ireland and in Great Britain to permit them to benefit from the absence of tariff and non-tariff barriers to trade. Thus, aside from the question of whether the Withdrawal Agreement will be eventually ratified by the UK, it is clear that the EU position is that the monitoring of goods will be required even in this scenario. While some of this monitoring can in principle take place away from ports and airports, the arrangements for such non-border monitoring are unclear and are likely to be complex, and in the case of food and plant products - sanitary and phytosanitary (SPS) goods — there is no precedent for deviation from border checks.

Border checks can be relatively simple and speedy if all documentation and payments are previously processed and the check is merely to confirm that the goods are as described in the documents lodged. Congestion, cost and delay arise from goods and persons who need to perform some or all of the necessary procedures after arrival at the port or airport. Transit traffic – goods that cross the UK – will also need to be checked as it enters the UK and re-enters the EU. These should be almost exclusively documentary checks, but nevertheless require some provision.

In addition to the movement of commercial freight, ports and airports must deal with the movement of millions of travellers and private transport, including aircraft and vessels. The Common Travel Area should minimise the issue of passport control, although it should be noted that passport control (or identity checking) is currently a feature of air travel with the UK and may become more extensive or onerous depending on future developments. Passengers and private vehicles will however be affected by new restrictions on excisable goods (third country rules by default), and by the exit of the UK from the EU’s VAT regime. Passengers will be able to reclaim VAT paid on purchases which are being exported to or from the UK and would then be expected to declare the goods and pay VAT on the other side. The process of reclaiming VAT and making the necessary declarations would require facilities, and the possibility of non-declaration raises the prospect of checks by customs officers, as currently happens with third countries.

To put it succinctly, even the best foreseeable outcome, including a transition period and close future relationship will nevertheless involve new customs procedures. The major question is when the impact will be felt by ports, airports, transport operators and freight companies; May 2019, October 2019, 1 January 2021, or some later date, by which time detailed procedures and preparations are in place.

‘UK- Ireland Ports and Transit Forum’

On Friday 25 January 2019, the British Irish Chamber of Commerce facilitated its second ‘UK- Ireland Ports and Transit Forum’, at the Port of Cork. The purpose of this Forum was to bring together stakeholders from the UK and Irish Ports and Transit sectors to exchange views and ideas about how to prepare the sectors for the impending change that Brexit will instigate. The British and Irish Ports alongside the ferries, the haulage and freight sectors are an integral part of UK - Ireland trade and trade with continental Europe. It is essential therefore that whatever disruption occurs at the ports is minimised. Attendees at the Forum included representatives from UK and Irish Ports, the British Ports Association, the UK Cross-Government Border Delivery Group, UK and Irish freight and haulage companies, ferries and shipping companies, customs consultants, the British Embassy, Dublin and Welsh Government officials. Specifically, this Forum focused on contingency plans and preparation for both a Central Case Scenario (a ratified Withdrawal Agreement) and a No Deal Scenario. In addition, participants were asked to consider what unilateral actions could be taken by the UK and Irish governments and what supports would the sector require to prepare for Brexit.

Prior to the commencement of the Forum, An Tánaiste Simon Coveney TD, Minister for Foreign Affairs and Trade with responsibility for Brexit, outlined to attendees the work the Irish Government has been doing within the EU in relation to the Brexit negotiations, as well as the work that has been carried out domestically to prepare the Irish economy for Brexit.

For the purposes of this Forum, North – South trade on the Island of Ireland as well as trade between Great Britain and Northern Ireland was not considered. The Forum operated under the Chatham House Rule.

The discussion was conducted under **the following working assumptions:**

- That the Withdrawal Agreement **will not** be ratified nor will Article 50 be revoked,
- There will be no border infrastructure on the Island of Ireland,
- New checks will apply, although the timing and their precise form are unclear.

The following output and recommendations are based on the deliberations of this Forum.

Approach to Customs Processes and Procedures and Outreach Post-Brexit:

UK Perspective:

As the UK would be out of the EU's jurisdiction, it will be free to set its own customs processes within international norms. Participants outlined that it will be the intention of UK customs to facilitate the flow of goods at the ports while maintaining security, protecting revenue and ensuring compliance with standards. In essence, the UK will take a 'risk-based' approach to checks as opposed to a 'routine based' approach so as to not impede trade. In practical terms simplifications to be implemented in a 'No Deal' scenario include:

- The UK will phase in Safety and Security declarations over a 6 month period for all goods arriving from the EU,
- The UK will allow intermediaries to interact with customs directly on behalf of a trader for a limited time period,
- Allow UK based traders who are importing from the EU an opportunity to apply for Transitional Simplified Procedures (TSP) that will allow them to defer customs duties as well as not being obliged to make full customs declarations at the border.

The UK will remain in the Common Transit Convention (CTC) after Brexit. Membership of the CTC will reduce the administrative burdens on traders by removing the need for additional import/export declarations when transiting across multiple customs territories. It also provides cashflow benefits by allowing the movement of goods across a customs territory without the payment of duties until the final destination.

Outreach:

The UK's Cross-Government Border Delivery Group are estimating that there are 240,000 businesses across the UK that currently export to the EU but do not have an EORI number and therefore have not exported to a 'third country' before. They have written to thousands of businesses and have initiated outreach programmes across the UK to equip these businesses with the information they need to trade with the EU.

Supports:

The UK Government has created an £8m support fund for Customs intermediaries and traders completing customs declarations who can apply for grants under this fund for training of their staff and the appropriate IT development.

Irish Perspective:

From the Irish Revenue Commissioners perspective, the UK will be classified as a 'third country' vis a vis the EU. Therefore normal 'third country' applications will apply with the required customs declarations and administrative procedures etc. In addition, further inspections by other government agencies such as agriculture will be carried out. While the UK will take a 'risk-based' approach to Sanitary and Phytosanitary (SPS) checks, Ireland will adhere to EU law and apply the full set of SPS requirements. As a consequence of Brexit, the Irish Revenue Commissioners estimate that:

- Import/Export declarations will increase from approx. 1.6m to approx. 20m,
- Transit declarations will increase from approx. 36,000 to approx. 4m,
- Safety and security declarations will increase from approx. 100,000 to approx. 25m.

Outreach:

The Irish Revenue Commissioners have engaged in an extensive outreach programme over the past two years with a nationwide customs roadshow, detailed user-friendly support page on its website, consultative forums and customer engagement meetings. Irish Revenue have also written to all traders that they have identified as being affected by Brexit recommending steps that they should take.

Supports:

Since the referendum result, the Irish Government has introduced numerous initiatives to support Irish businesses that will be directly impacted by Brexit. Including:

- **Bord Bia** - Brexit Barometer,
- **InterTradeIreland** - Brexit Advisory Service - Start to Plan Vouchers, Tariff Checker, Brexit Service Providers, Funding Support Voucher,
- **Enterprise Ireland** - Brexit: Act on Initiative Programme, Brexit Scorecard, Be Prepared Grant, Strategic Consultancy Grant, Market Discovery Fund, Agile Innovation Fund, Operational Excellence Offer, Customs Insight Course,
- **Local Enterprise Offices** also offer supports for businesses i.e. clinics.

Updated Contingency Planning

UK Perspective:

i. Preparation at British Ports:

British participants from the Ports outlined that it was their on-going engagement with the British Government that led to the agreed customs process that the UK would implement in a 'No Deal' scenario. There are currently no plans to build additional Border Inspection Posts in Britain and most ports are reluctant to make investments in new infrastructure until they are clear what the future trading environment with the EU will be. UK ferry operators will not allow trucks to board their vessels without fully completed customs documentation, this should alleviate some disruption at external ports of entry. One British participant from a prominent UK Port made it clear that without knowing the future relationship with the EU it was impossible to be fully prepared. There was a strong emphasis that an implementation/transitional period was essential for UK Ports notwithstanding the commitments made from the UK Government to facilitate the Ports through Transitional Simplified Procedures. The Ports have been working with and through the British Ports Association at a national level to ensure that stakeholders from across the logistics sector are prepared for the impact of Brexit.

ii. Preparation for the British Freight and Haulage Sector.

Speakers from the UK haulage sector outlined the numerous outreach campaigns that they had been implementing for their members which includes a regularly updated website that acts as a one-stop-shop for their members and a Brexit Checklist that is updated as more information becomes available.

Current Concerns:

British participants at the Forum were uneasy at the fact that while the UK will treat the EU as distinct from other 'third countries' after Brexit, Irish Revenue will not reciprocate such an approach to the UK despite that on Day 1 of Brexit their regulations will be fully aligned. Furthermore, it was noted that under this scenario British businesses will be put at a distinct disadvantage as opposed to their Irish counterparts. While Irish exporters to the UK will have simplified access through UK Ports, UK exporters will have to adhere to the full rigor of 'third country' bureaucracy.

In addition, participants noted with concern that Irish Revenue had not substantively engaged with their UK counterparts on technical issues or issues of mutual concern. However, an Irish participant reminded attendees that the EU was the responsible authority on such matters. It was suggested in keeping with what is occurring between HMRC and French Revenue that Irish Revenue should engage further with HMRC on procedural issues as is the case with French officials and HMRC. Joint outreach programmes were suggested as a possible course of action.

British participants from the freight and haulage sector felt that the UK Government has massively underestimated the scale of change required and lacked the resources and skills to adapt. As a result, customs, traders and large segments of industry are not ready for an immediate Brexit. A participant outlined that hauliers do not have the required information available to know where to invest in new staff or in the training of current staff. Training could require re-training again post-Brexit, either on the same systems or for a totally different set of rules. Hiring of a customs expert while the UK remains in the defacto Single Market during the transition period would make their position redundant. Hauliers and freight forwarders work off a tight margin so hiring of any staff while not a necessity is not feasible for the sector.

There was a strong sense of anguish among British participants that Ireland's necessary implementation of full third country controls would cause disruption to inbound and outbound Ro-Ro Ports. Furthermore, there was a strong consensus from British participants that most British traders with the EU are unaware of their customs obligations post-Brexit.

British participants outlined that there would be no Office of Transit at either Holyhead or Dover and that the functions of the Office of Transit would be carried out during transit on the ferries. However, British participants flagged logistical concerns with this including issues with the strength of WiFi on the ferries.

Updated Contingency Planning

Irish Perspective:

As outlined in the January Paper produced by the Chamber, sailings have already commenced from Dublin Port directly to Continental Europe bypassing British ports through the 'MV Celine' the world's largest short-sea Ro-Ro ship. Irish Revenue will have hired an additional 200 staff to be in place for the end of March regardless of the type of Brexit. A further 400 Revenue officials will be employed should a 'No Deal' scenario transpire. Irish Revenue are also working with Ferry companies to ensure they do not to accept a booking unless they have completed their customs declarations in advance.

i. Preparation at Irish Ports:

Participants informed the Roundtable of the current plans being put in place at Irish Ports. At Dublin Port, there is a €10m development by the Dublin Port Company of its primary inspection facilities and associated ferry terminal reconfigurations to create primary inspection facilities for the required Border Control Post (BCP) specification for State agencies such as Revenue, Department of Agriculture, Food and the Marine (DAFM) and for immigration purposes. This upgrade was to be available and in place by the end of March 2019.

Dublin Port has also made available a 2.1 hectare site with a 43,000 square feet warehouse for temporary BCP inspection facilities. A 3.0-hectare yard is being developed by the Office of Public Works (OPW) under licence from the Dublin Port Company for the use of state agencies to undertake seal checks on a percentage of traffic exiting the Port as well as for the interim queuing for vehicles requiring DAFM inspection. In the short term, the former Bord na Móna 0.5-hectare yard with warehouse facilities has been licenced by the OPW to provide BCP inspection facilities for Revenue. Dublin Port has developed a new traffic management system to manage traffic to/from ferries.

At Rosslare Europort, the Port has been granted a Border Inspection Post (BIP) designation (a recommendation contained within the last Chamber Paper). This new BIP is a multi-purpose compound inspection area that can act as a release valve to relieve potential pressure on Dublin Port. There is provision for 13 inspection bays for trucks coming off ships and parking for 35 trucks, as well as a public office with 6 counters / hatches and accommodation for staff. As Rosslare is only currently using 35% of its Berths, it has the potential to increase its current operational capacity as a Brexit mitigant.

ii. Preparation for the Irish Freight and Haulage Sector.

Like their UK counterparts the Irish freight and haulage sector have run consistent outreach campaigns amongst their members. For example, the Freight Transport Association of Ireland (FTAI) have written to their members with regular Brexit updates, they have also prepared a 'Brexit Preparedness Guide' and have organised Brexit specific seminars.

Current Concerns:

The view from the Irish participants was that despite the best efforts of Revenue and other stakeholders from across Ireland there would be difficulties with small traders in relation to implementing the requirements for import/export declarations. Both the UK and Irish participants were of the belief that the smaller freight and haulage companies would not have the required customs expertise to adhere to their new obligations. Like their UK counterparts, there is little appetite for hiring of additional customs staff with their margins so tight, the notion of hiring additional customs experts when there is no guarantee of when they would be needed. It was also noted that haulage and freight companies are excluded from the numerous Irish Government supports as they are classified as 'service providers'. Concerns were also raised in relation to access for finance for the provisions of customs guarantees needed for transit. Irish Participants noted with concern the impact that the ending of freedom of movement would potentially have on their staff given that 30% of haulage drivers do not have a UK or Irish passport and therefore would not be protected by the Common Travel Area (CTA). In addition, Irish participants raised concerns for the future cabotage post Brexit and possible issues with compliance with EU Tachograph regulations.

Recommendations:

In addition to the recommendations articulated at the previous Ports and Transit Forum, we recommend the following:

HMRC and Revenue Collaboration

While acknowledging that Customs is a formal competence of the European Union and that the UK will by European Law become a 'third country' for customs purposes either in a 'No Deal' scenario or on completion of the transitional period, UK participants reiterated their request that Irish Revenue work more in tandem with HMRC in providing practical support for traders and the transit sector. HMRC already work quite closely with their French counterparts so this should be replicated with Ireland.

The UK should remain in the EU Safety and Security Zone

There is widespread belief amongst stakeholders that the UK will not apply to be part of the EU Safety and Security Zone. The UK is entitled to do so as Switzerland is part of the regime. There are significant bureaucratic hurdles in not being part of the zone, while the benefits of separation are ill defined. Therefore, it is recommended that the UK should remain in the Safety and Security Zone.

Financial Support for the Freight and Haulage 'Intermediary' Sector in Ireland

The freight and haulage sector are at the front line of the logistical difficulties that Brexit will entail, the greatest concern amongst stakeholders is the ability of this sector to cope with the significant bureaucratic burden that will emerge once the UK becomes a 'third country' from an EU customs perspective. As was highlighted within this report the freight and haulage sector currently have a skills deficit in customs expertise and are excluded from Irish Government supports as they are currently considered 'service providers'. It is our recommendation that the Irish Government replicate the support fund that the UK Government has made available for its 'Intermediary' sector.

Agree Permanent Resolution for EU-UK Road Haulage Connectivity

As members of the European Union, UK Hauliers with a Standard Operators International Licence along with a Community Licence can operate across the EU including with limited cabotage. In addition, the European Conference of Ministers Transport Scheme (ECMTS) grants access via quota allocated permit to 43 countries including the EU. In normal circumstances ECMTS permits are the only certain access to and from the EU for UK operators post-Brexit. However, as part of its 'No Deal' contingency, the European Commission has granted UK operators the right to carry out certain transport operations in the EU without any permit 9 months after the 29th March. A permanent solution is needed after this contingency period concludes as the ECMT scheme would only address 10% of the market demand from UK operators.

Accordingly, we are seeking a permanent resolution for EU-UK road haulage connectivity to ensure the continued movements of goods across the EU and UK.

Diversify Port Strategy

Given the strategic importance of Dublin Port and the elevated importance of Rosslare Port in a post-Brexit context, there is an opportunity to increase the connectivity of Ireland's other ports as an alternative gateway. It is recommended that this approach be adopted to ensure no Port is overburdened as a consequence of Brexit.

References:

Brexit FTAI Position Paper

http://www.ftai.ie/export/sites/ireland/.content/downloads/FTAI_Brexit_position_paper.pdf

British Irish Chamber of Commerce 'Ports and Transit Policy Paper'

<http://www.britishirishchamber.com/wp-content/uploads/2019/01/British-Irish-Chamber-of-Commerce-Ports-Policy-Paper.pdf>

British Ports Association <https://www.britishports.org.uk/tags/brexit>

Central Statistics Office (CSO) (2018) Statistics of Port Traffic, 2017

<https://www.cso.ie/en/releasesandpublications/er/spt/statisticsofporttraffic2017/>

Freight Transport Association 'Brexit Centre' <https://fta.co.uk/international-trade/brexit>

HM Revenue and Customs 'Funding Scheme for Customs Intermediaries and Traders

<https://www.gov.uk/guidance/grants-for-businesses-that-complete-customs-declarations>

Inquiry into the implications of Brexit for Welsh ports

<http://www.assembly.wales/laid%20documents/cr-ld11158/cr-ld11158-e.pdf>

Ireland and the UK –Tax and Customs Links

<https://igees.gov.ie/wp-content/uploads/2017/12/ireland-uk-tax-and-customs-links.pdf>

Irish Government 'No Deal Brexit Contingency Action Plan'.

<https://www.dfa.ie/media/dfa/eu/brexit/brexitcontingency/No-Deal-Brexit-Contingency-Action-Plan-December-18.pdf>

Irish Government 'Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019'.

https://merrionstreet.ie/en/News-Room/News/Brexit_Omnibus_Bill.pdf

Road Haulage Association UK (RHA UK)

<https://www.rha.uk.net/policy-campaigning/brexit-and-the-uk-haulage-industry>

SME Brexit special - Your customs checklist <https://www.independent.ie/business/brexit/sme-brexit-special-your-customs-checklist-37017920.html>

UK Government 'How to Prepare if the UK leaves the EU with No Deal: Importing and Exporting'

<https://bit.ly/2HUtQ6y>



BACKGROUND

The British Irish Chamber of Commerce was founded in 2011 ahead of the historic visit of HM Queen Elizabeth II to Ireland and the subsequent State visit of President Michael D. Higgins to Britain. The objective of the Chamber is to champion the €75 billion annual trade between the UK and Ireland which directly sustains over 400,000 jobs. We are a bilateral Chamber, engaging members from across two islands and five legislative bodies in meaningful dialogue with a common purpose.

Excellent networking events help our members to find new suppliers and markets. Sector driven policy committees enable firms to jointly examine opportunities and threats and to think about collaborative growth in Europe and beyond.

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