



CENTRE FOR BREXIT
POLICY

CORRECTING THE DAMAGE CAUSED BY THE NORTHERN IRELAND PROTOCOL

How Mutual Enforcement Can Solve the Northern Ireland Border Problem

FEBRUARY 2021





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THE CENTRE FOR BREXIT POLICY

The Centre for Brexit Policy (CBP) is a cross-party think tank backed by politicians who support the UK leaving the EU. It was formed to propose the critical policy changes enabled by Brexit that will boost national prosperity and well-being in years to come, as well as help ensure that Britain fully 'takes back control'.

The CBP aspires to trigger a deep and wide debate about what Brexit should mean for the UK over the next decade or two. By providing a focus for the development of post-Brexit public policy, the CBP hopes to help formulate an overarching framework for the UK that maximises the opportunities Brexit affords. This will be promoted to Government, Parliamentarians, and the public welcoming contributions from those who want to see Brexit open a new and fruitful chapter in our country's life. We believe that this is absolutely crucial to the UK's successful emergence from the Covid-19 crisis.

The CBP has three core objectives:

- **Identify the benefits and opportunities of Brexit across the full spectrum of economic, trade, social, foreign, defence and security policy areas proposing new policies for the Government's agenda**
- **Continue to make the intellectual, evidence-based case for a 'real' Brexit and provide the Government with clear and constructive advice on how to deal with ongoing negotiation and implementation issues. A 'real' Brexit means regaining full control over our laws, borders, seas, trade, and courts.**
- **Check any attempts to dilute a real Brexit, as well as serving as a catalyst and rallying point for positive news stories that, over time, will be able to persuade and demonstrate the many substantial advantages of Brexit**

Delivery of these objectives is based on professional, substantive fact-based research by experts in their fields leading to authoritative reports, short papers, OpEds, events, and briefing meetings - both within and without Government.

The CBP is supported by a cadre of expert CBP Fellows drawn from multiple disciplines to provide additional expertise and experience in developing an agenda for policy change that will ensure the British people benefit from Brexit. Additional support is provided by a CBP Business Forum to bring a business perspective to shaping CBP's agenda, provide input to policy proposals, and deliver a pro-Brexit business voice.

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FOREWORD

The Rt Hon The Lord Trimble, PC ¹

The border between Northern Ireland and the Republic of Ireland, together with the abuse and misuse of the Good Friday Agreement (GFA), has been used as the Trojan horse by which the European Union (EU) has sought to undermine the UK's attempt to gain back sovereignty. The plan was cleverly crafted, insisting that talks on the future relationship could not commence until three issues were agreed: the UK's contribution to the "divorce bill", rights of EU citizens living in the UK and UK citizens living in the EU, and - critically - the question of the Northern Ireland/Republic of Ireland border.

HOW DID WE GET HERE?

This land border was given an importance out of all proportion. In order to safeguard the integrity of the EU Single Market, it was said, goods flowing across this border would need to be monitored so that the EU could collect any tariffs due and ensure the goods were compliant with EU rules, standards and regulations. It was argued the arrangements to carry out such checks would mean putting a hard infrastructure along the border and this would be a contravention of the Good Friday Agreement (GFA).

The supposed consequences would be catastrophic because they would amount to tearing up an international agreement (the GFA), would alienate nationalists in Northern Ireland, and would give terrorists targets to attack, causing the peace process to collapse and leading to a return of the terrorist campaign in Northern Ireland.

Then came the clever part. The EU claimed and the May Government accepted that the only way of avoiding such a scenario was for the UK to remain part of the EU Customs Union so that there would be no need to collect tariffs and the UK would not be able to do trade deals with other countries which involved standards different from those pertaining in the EU. Furthermore, to avoid the need for regulatory checks, the UK to some extent would continue to apply EU Single Market rules and Northern Ireland would need fully to comply with them.

A BOTCHED SOLUTION

As we all know, the Theresa May deal was rejected by the Boris Johnston administration and a somewhat revised Withdrawal Agreement (WA) with a new Northern Ireland Protocol (the Protocol) was substituted. To simplify, there are two huge implications to UK sovereignty resulting from this:

1. **The astonishing and disturbing fact is that the WA and, in particular, the Protocol clearly rips the GFA apart.** The whole purpose of the GFA was to give stability to Northern Ireland by embedding in this international accord a promise that it was up to the people of Northern Ireland to choose the constitutional status of the country. It stated that the UK and Irish governments "recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland."

The assurance to the Unionists was that the constitutional position of Northern Ireland as part of the UK was guaranteed. The agreement made it clear that "[i]t is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of its people voting in a poll held for that purpose."

¹ Lord Trimble is a former First Minister of Northern Ireland and received the Nobel Prize for his work leading to the Good Friday Agreement.

Since, under the Protocol, the laws governing 60 per cent of economic activity in Northern Ireland would no longer be made at Westminster or by the devolved Assembly, but by an outside law-making body, the EU, and those laws would be subject to interpretation by a non-UK court, clearly the constitutional position of Northern Ireland would be changed without the consent of the people of Northern Ireland as required by the GFA. Furthermore, there is no way in which the people affected by those decisions would even have a say in the making or application of them.

2. **The WA and its associated Protocol is a vital component in the EU strategy of keeping control over the UK - and Northern Ireland is one of the routes through which that control can continue to be exercised.** The means is quite simple. The Protocol keeps Northern Ireland under EU Single Market rules in respect of manufacturing and agriculture. This means that any assistance or support given to these sectors is subject to State-aid rules and, consequently, must be authorised by Brussels. By extension, any firms in Great Britain that trade - or potentially could trade - in Northern Ireland are also drawn into this web of control. Thus, the full range of UK economic policy will be subject to EU State-aid requirements and subject to the ECJ as the final arbiter on the legality of UK government policy. Although there has been an attempt in the Joint Committee to moderate this somewhat, it has been subsequently ignored by the EU.

Those who support the WA argue that, while this is true, it is a necessary consequence of the Brexit referendum result, and that Northern Ireland is still part of the UK. This totally misses the point of what the Union is about. The whole purpose of having a common Crown and common Parliament was to create a common UK market. Article 6 of the Act of Union outlines the economic importance of the Union. Subjects were to be on the same footing with respect to trade and treaties with foreign powers. There were to be no prohibitions on the export of articles or manufacture between England and Ireland. Trade between the countries of the UK was to be duty free.

Thus, the WA and its Protocol, together with the stance adopted by the EU in its negotiations with the UK about future trading relations, illustrates clearly that Brussels is still intent on undermining the referendum result, denying the UK the freedom that it demands, and continuing to keep the UK shackled to EU regulations so that we cannot become its competitor in world trade.

OUR CURRENT PARLOUS SITUATION

When the Government finally got the message that the WA is toxic, it made a ham-fisted attempt to escape some of the damage it could cause to our future freedoms and sovereignty through introducing legislation - the Internal Market Bill and a mooted Finance Bill. But, in the face of opposition from the House of Lords and the Opposition, it pulled back from implementing these safeguards it believed were necessary and that it was entitled to put in place under Article 16 of the Protocol.

Instead, the Government maintained it would use the Joint Committee set up under the Protocol to resolve the issues and subsequently claimed it had achieved the goal of safeguarding the UK internal market through an agreement Michael Gove had reached with the EU through the Joint Committee discussions.

However, nothing could be further from the truth. Leaving aside the broader issues relating to the GFA, there are some critically important issues relating to implementing the required provisions of the WA. For example,

- **First, the issue of State-aid is unresolved.** The UK Government will still find itself bound by EU State aid rules in respect of manufacturing right across the UK, as the Commission made clear in its Notice to Stakeholders about State aid in Northern Ireland published on 18 January 2021.
- **Second, the vexed question of food trade between Great Britain and Northern Ireland, the need for health certificates, and the costs of delays and even bans on food supplies into Northern Ireland has not been resolved.** The issue has been only put off for review in six months' time. This has already led to a number of supermarkets indicating they will not supply goods that come under these requirements to their stores in Northern Ireland. The irony is that the EU is demanding these certificates for foods brought into Northern Ireland by companies who don't even trade in the Irish Republic, where there is no danger of leakage into the EU. Anyhow, UK standards are the same as EU standards. Already some products such as potatoes that are brought in from England and Scotland were banned

from 1st Jan 2021, as are many other plants and seeds brought in from nurseries in Great Britain. We have already seen empty supermarket shelves, especially for fresh fruit and vegetables and products containing meat.

- **Third, the infrastructure to carry out all the checks required has not even been started.** The border posts in Larne, Belfast, and Warrenpoint won't be constructed for some time. There is a long list of procedures and agreements that are incomplete. For example,
 - The officers to carry out the inspections are still being trained and the IT systems to deal with the paperwork are not complete. There is even a dispute about what kind of pallets loads of goods must be carried on.
 - Both sides claim it has been agreed that the level of compliance checks will be minimal. However, whilst the Government claims that there will be checks on less than 5 per cent of all goods moving from Great Britain to Northern Ireland, there has been no codification of what goods will be exempt nor which firms will be required to report. Thus, firms do not know if their goods will be subject to checks or the extent of those checks. No information has been produced that shows how the figure of 5 per cent has been reached.
 - Since the agreement enables the EU to have inspectors at every border post who will have the final say on what loads should be checked, it is impossible to say what the checking requirements will be. The one thing that is clear is - given the size and cost of the posts being planned - the scale of checks envisaged is enormous. For example, the 44,000 square metres, £15m post at Larne in County Antrim does not indicate minimal checks. The same problem will arise when the grace periods terminate on 31 March and 30 June.
 - Ironically an arrangement which was supposed to ensure peace in Northern Ireland has caused significant anger and frustration to the point that goods coming into NI are not being presently inspected because of threats to the inspectors at ports and the withdrawal of those inspectors by local councils, the responsible Stormont Department and the EU
 - There has been no discussion on the application of EU VAT rules to Northern Ireland; already VAT differences with Great Britain are emerging. The application of EU VAT rules to the sale of second-hand cars means Northern Ireland consumers facing a 20 per cent price increase compared with the prices that will apply in Great Britain. Although a temporary fix has been made to this issue by the UK government it has not been agreed by the EU.
 - Aside from the full closure of horticultural supplies to both garden centres and tens of thousands of individuals, there has been widespread frustration as people all across NI are now told that their orders can no longer be accepted by Amazon, eBay and a multitude of other on line suppliers because they no longer send goods to NI as a result of the customs procedures and administrative costs.
 - The one area that the government claims has been settled is the question of tariff payments. It has been agreed that only firms that sell a large proportion of their output will be subject to tariff payments when raw materials, components or finished products enter Northern Ireland from Great Britain. However, this will still add to costs and restrict cash flow. Furthermore, firms are still uncertain as to whether they are subject to this requirement because of the ambiguity around what constitutes 'substantial sales' into the EU.

Therefore, despite Government claims that the work of the Joint Committee has safeguarded the UK internal market, maintained the integrity of the UK, and avoided economic damage to the Northern Ireland economy, the evidence from those who will have to live with the WA is totally different. All the tinkering around the edges cannot undo the fundamental damage that the WA and the Protocol will cause.

Furthermore, there still remains the issue of how the Protocol conflicts with the clear commitment in the GFA that states Northern Ireland will remain an integral part of the UK unless the people of Northern Ireland alone decide otherwise. Placing Northern Ireland under the control of Brussels and subject to laws made in Brussels with those laws enforced by the ECJ clearly changes the terms of Northern Ireland's membership of the UK. Creating barriers to trade with the rest of the country to which Northern Ireland belongs and where its biggest market is, breaks a fundamental condition of the Act of Union. None of these things can be remedied by minor changes to the interpretation of the WA by the Joint Committee.

NEED FOR A RETHINK

Of course, this argument and the sincerity of the EU in advancing the arguments for the Protocol have been totally discredited by the unilateral action taken by the EU last Friday when the Commission used Article 16 of the Protocol to cover its embarrassment in the way it handled the purchase of the Covid vaccine and to deflect the growing anger of citizens across the EU who were angry that they were unable to access the vaccine.

The EU used Article 16 to ban exports of the vaccine from the EU to the UK via the Irish Republic. This would have meant control on goods crossing the Ireland/Northern Ireland border, something that the EU, the Irish government and Remainers had contended was impossible 'magical thinking'. Of course, the EU was entitled to act unilaterally, but only in a case where the "application of the Protocol leads to serious economic, societal or environmental difficulties which are liable to persist".

It was not the Protocol that led to the shortage of vaccines in the EU; it was the incompetence of the EU procurement processes. Despite this, Article 16 was jumped on as a way of preventing Pfizer BioNTech and others fulfilling their commercial obligations to the UK. If this meant controlling the flow of goods across the Irish border, then so be it.

The casual and cynical way in which the EU cast aside one of the fundamental objectives of the WA confirms the view that there never was a problem in policing trade across the border. Furthermore, if the EU could use Article 16 to protect the Commission from having its incompetence exposed, then there is a far greater case for the UK government to change the WA and the Protocol to protect the economic wellbeing of its citizens in Northern Ireland and the integrity of the UK internal market.

Consequently, a fundamental rethink is needed. What is desperately needed is an approach that enables Brexit to be delivered for the whole of the UK and at the same time addresses the EU concerns about the integrity of its single market. Given the problems being experienced and because we have already left the EU, it is essential that the arrangement be put in place quickly.

Fortunately, the Centre for Brexit Policy in July advanced the solution of Mutual Enforcement of regulations by the UK and EU in respect of trade. This approach would ensure - as a matter of UK law - that anyone sending goods into the EU would have to comply with all EU rules and they would face hefty fines in UK courts if they failed to do so. The reverse would apply on goods leaving the republic of Ireland across the land border into Northern Ireland.

The system requires each side to rely on the other to enforce their rules – not on border checks. Any breaches detected on either side could be notified to the authorities in the other jurisdiction. Issues are then dealt with at the relevant exporter (i.e. the source) once they become obvious through checks at point of sale or distribution in the destination.. This is self-policing – it ensures that enforcement effort is focused on those issues that arise in the destination jurisdiction and is also pointed at the exporter as the source of the problem, rather than at everyone in a border control structure. Severe penalties would increase the effectiveness of the regime by acting as a deterrent. Importantly, the UK-EU border would be restored to the land border between Northern Ireland and the Republic of Ireland, where trade is many times less significant than the sea-bridge between Great Britain and Northern Ireland.

Given the incomplete implementation preparations of the current arrangements, the Mutual Enforcement approach as a replacement to the unacceptable WA is workable and can be implemented in a similar time-scale. It delivers on the Government objective of protecting the integrity of the UK and its single market and taking back control. From the EU point of view, it would have both its own resources, as well as those of the UK government protecting its single market. Trade could continue to flow freely - a huge advantage to a trading bloc that has a surplus with the UK.

Therefore, I commend Mutual Enforcement as an alternative to the current half-baked WA arrangements.

INTRODUCTION

In recent weeks, the world has seen in sharp relief the problems inflicted on Northern Ireland by implementation of the Northern Ireland Protocol (the Protocol).

Since the first of January, a myriad of problems have been encountered with regard to goods passing between Great Britain and Northern Ireland, which have caused a political crisis amongst Great Britain, Northern Ireland, and Ireland. It is clear - as Michael Gove's response to the Urgent Question in the Commons this past Tuesday admitted - that many of these problems are not temporary 'teething problems'. The underlying cause of these problems is systemic to the whole notion of how the Protocol currently envisages trade with Northern Ireland. It is asymmetric and as such is unstable and unsustainable.

Furthermore, it also is clear that the actions of the EU this past week - as outlined in Michael Gove's 2nd February letter to Commission Vice President Šefčovič - and the implied threat of similar EU actions in future are intolerable. This leaves aside the undermining of the Good Friday Agreement (GFA) as explained by Lord Trimble in the Foreword to this paper. These threats are unacceptable not only for the UK but for the entire community of nations affected by them.

Therefore, it is time to face up to creating a permanent solution that will stand the test of time in Northern Ireland, Great Britain, and Ireland. As explained by Lord Trimble and also below, the basic precept of an east-west sea-border between Great Britain and Northern Ireland, envisaged by the Protocol, is flawed fundamentally and needs to be rethought. The border needs to be moved back to the Northern Ireland-Ireland land border, which is where it naturally lies, and where the volume and complexity of trade is much lower.

For some time, a solution for such land-border trade has been available that would realise the 'invisible border' required by the GFA. This solution - Mutual Enforcement- was recommended in July of last year by the Centre for Brexit Policy.² It is now time for it to be considered seriously.

The original recommendation from the July CBP paper is reproduced, with minor updates, in the next section of this paper. Although there may be some passages in this recommendation that are dated and aspects that are not fully detailed, the concept is robust and viable. Even at this late stage, Mutual Enforcement provides a better solution than the current flawed concept, which is still far from being implemented and ultimately will prove impossible to implement. Mutual Enforcement can be put in place quickly and yields a robust, long-term, viable solution.

² See page 55: <https://centreforbrexitpolicy.org.uk/wp-content/uploads/2020/07/REPLACING-THE-WITHDRAWAL-AGREEMENT-How-to-ensure-the-UK-takes-back-control-on-exiting-the-transition-period-12-July-20.pdf>

AN INVISIBLE BORDER - ALTERNATIVE ARRANGEMENTS/ MUTUAL ENFORCEMENT³

(Reproduced with minor adjustments from pages 55-62 (with Annex C) of the July CBP paper,
Replacing the Withdrawal Agreement)

The Northern Ireland Protocol reflects the EU's decision (and the UK's acquiescence) to sequence the negotiations. Since the EU was not prepared to negotiate a permanent trade relationship in parallel with the Article 50 exit process, it became necessary to agree an insurance policy, for the EU (since the UK made clear it would never impose a hard border) in the WA. This was meant to have prevented a hard border in Northern Ireland - in all circumstances - even in the event that the future trade negotiation failed.

FAILURES OF THE PROTOCOL

However, the final Protocol did not achieve that. Indeed, the consent mechanism means that it can be unilaterally rejected by a simple majority of the Northern Ireland Assembly. As such, it is not a "backstop" - all-weather or otherwise.

The Protocol does not respect either the UK or the EU's legal order. For the UK it involves conceding large areas of sovereignty over - at least - Northern Ireland and in all likelihood over important aspects of the rest of the UK. For the EU, it involves a potentially permanent arrangement under the inadequate legal basis of Article 50 TEU and ceding control over the border of the single market to the UK.

The Protocol, in order to avoid a land border with the usual customs infrastructure between Ireland and Northern Ireland, places customs checks on trade across the Irish Sea. Through the Protocol the EU seeks to impose its full and elaborate legal and technical customs infrastructure on Great Britain (GB) to Northern Ireland trade, to protect the integrity of the EU single market - despite the obvious consequences for the UK internal market.

In the recent command paper on NI, HMG proposes a set of specific measures to ensure UK sovereignty over NI, focussing on minimising administrative procedures on trade between NI and GB. The result of these proposals is an incomplete and messy set of procedures that neither regains UK sovereignty nor seems likely to meet the EU's expectations for implementation.

The Government paper introduces many far-reaching exemptions for the proposed customs procedures in the Irish Sea, which leads to many 'loopholes' in the external EU border. For example, issues on VAT and excise are not addressed, even though they play a vital role in ensuring UK sovereignty.

The Protocol will not work and needs to be replaced by a new agreement between the UK and EU, governing the trading relationship in NI. That relationship needs to solve the original problem afresh - how to ensure no 'hard border' on the island of Ireland.

OPTIONS FOR AN 'INVISIBLE' NORTHERN IRELAND BORDER

Annex A describes many of the techniques used to operate traditional customs and related border procedures. It makes the point that - given EU political will to do so - such procedures could be employed to operate an 'invisible border' between Northern Ireland and Ireland. Over the past couple of years,

³ CBP would like to thank James Webber, partner of Shearman and Sterling, for his contribution to this section.

several such proposals (generally referred to as 'Alternative Arrangements') have been proposed to the EU by the UK Government and other external bodies in the UK.

Annex A also explains that an FTA between the EU and the UK, like the Trade and Cooperation Agreement 2020 (TCA), cannot change the fundamental need for border operations on the Island of Ireland. An FTA can include a border agreement that simplifies border procedures and facilitates implementation, but an FTA cannot make border formalities unnecessary. The TCA simplifies the situation by providing for zero tariffs but this paper does not assume reliance on those benefits.

Alternative Arrangements

The most advanced and fully developed of these proposals was formulated by *The Alternative Arrangements Commission* in July 2019, which was incorporated in UK Government Policy and formed the basis of detailed UK proposals to the EU.⁴ Unfortunately, the EU was dismissive of such proposals. This ultimately led to the proposed East-West sea border in the Irish Sea, which is unworkable for the reasons stated above.

If the EU had welcomed these proposed Alternative Arrangements and worked constructively to implement them both sides would have benefitted and any need for the Protocol would have fallen away. In theory, such proposals could be revived today, if the EU could find the will to do so. Even so, the most significant aspect of the EU's attempt to use Article 16 of the Protocol to prevent vaccine crossing the Irish border is that it shows controls on goods trade over that border are possible without border infrastructure. However, recent history suggests that the EU may continue to look for excuses not to allow a sensible and minor technical evolution of the application of Common Transit Convention and Border Control Post regulations in the proposals, which would eliminate the need for any border infrastructure.

Mutual Enforcement

Therefore, this paper proposes a completely new approach - Mutual Enforcement. This approach replaces the controversial minutiae of operational and technical procedures with a legal obligation on each side to ensure the enforcement of the other side's rules and standards. Not only does this approach avoid infrastructure at the border and endless haggling about possible gaps, but it also is likely to ensure a high level of compliance since the relevant trader is within the jurisdiction of the government responsible for enforcing the rules. In any case, where compliance is found lacking, the injured party will be able effectively to enforce their rules outside their jurisdiction. Furthermore, Mutual Enforcement meets the criteria the EU has demanded for Northern Ireland border procedures and preserves UK sovereignty.

The remaining sub-sections of this section of the paper describe the Mutual Enforcement concept in detail.

HOW THE MUTUAL ENFORCEMENT CONCEPT WORKS⁵

Mutual Enforcement entails each side making a reciprocal legal commitment to enforce the rules of the other with respect (only) to trade across the border. Each side maintains autonomy - but commits to the enforcement of whatever rules the other seeks to impose in respect of goods crossing the border.

Unlike a customs union or partnership, Mutual Enforcement does not - of itself - remove customs duties; nor does it remove, harmonise, or require the mutual recognition of, standards. It works by inverting the

⁴ Prosperity UK report on Alternative Arrangements: <https://www.prosperity-uk.com/aacabout/>

⁵ The idea was originally described in a paper published by Joseph H.H. Weiler, Daniel Sarmiento and Sir Jonathan Faull on *Verfassungsblog* - <https://verfassungsblog.de/an-offer-the-eu-and-uk-cannot-refuse/>

usual approach to customs enforcement. Obviously, it would be hoped that tariff or other duties can be avoided in so far as possible by a comprehensive FTA, such as the TCA. But duties likely will remain a feature of goods trade under an FTA. They may be, for example, imposed for anti-dumping reasons or due to subsidies that one party shows are injuring its companies or as a result of goods failing to qualify for zero duty under rules of origin. This is the case under the TCA.

Normally, where there are two distinct customs territories - even between those with an FTA - customs border infrastructure is necessary, as it is the first opportunity that either side has to assert their jurisdiction - ie, enforce their rules and collect their duties. The obligation to pay duties and ensure compliance rests with the importer, since this is the party to the transaction that is within the jurisdiction of the importing territory.

Conversely, in a Mutual Enforcement approach, the obligation to comply with the importing territory's rules and pay duties owed is placed on the exporter as a matter of law of the exporting territory. This is the critical ingredient - the border position becomes redundant. Under Mutual Enforcement, the border is no longer the first opportunity to assert jurisdiction because the importing territory has successfully had help in applying its rules beyond its border.

This legal concept can apply to any rule that the importing state wishes to enforce at its border (except obviously those rules that themselves prescribe a particular mode of enforcement at the border). It is "legally operable" and leaves no gaps behind. In this way, it is of a different character to 'Alternative Arrangements', which is essentially a combination of legal, procedural, and technological procedures for each individual transaction.

In practical terms, how would Mutual Enforcement operate for traders who intend to be compliant with the law as contrasted to those who do not?

1. **Traders who wish to comply with the law.** If it is to be unlawful (even a criminal offence) for a trader in Ireland to export a good to Northern Ireland (or vice versa) without complying with the latter's rules and duties, it is obviously important for that trader to have a means of complying with the law.

This can be achieved by using the existing state structures of Ireland and Northern Ireland. For example, should the export of sheep meat from the EU to the UK attract a tariff by the UK that duty would be paid to the Irish Revenue Commissioners for the benefit of HM Revenue and Customs (HMRC). In the opposite direction, HMRC would collect all duties for the benefit of Irish customs authorities.

A Mutual Enforcement approach can be readily used for regulatory compliance as well - eg, confirming that upholstery foam meets fire standards. As a matter of the exporting territory law, the exporter would be required to check that the product complied with the importing territory rules. This could be done via the exporting territory's national regulatory authorities or classification bodies who are required - as a matter of the exporting territory's law - to confirm compliance with the importing territory's rules.

The central control mechanisms to operate a border are the export and import declarations. Both declarations are based on the same transaction, so they could be joined in one procedure. This can lead to additional administrative efficiency. The exporting territory could apply the export procedures of its territory and in addition could apply the import procedures on behalf of the importing territory. The same basic data can be used in both declaration systems. Export customs authorities would also apply the regulations and taxation of the importing territory. There would basically be only one point where checks and inspections would take place. Duties would be collected from the exporter and paid to the importing customs authorities. Authorities would have access to the customs and regulatory declaration systems of the other territory to apply uniform procedures, or work collaboratively so as to provide data in the necessary formats. Import duties collected would be paid periodically to the other territory - or set off against duties owed in the

other direction.

Various schemes already in use could be incorporated into the agreement to help Mutual Enforcement work in a way that is least disruptive to Northern Ireland-Ireland trade by lowering the administrative burden for qualifying firms to comply with the legal requirements Mutual Enforcement introduces. For example, a Trusted Trader scheme could allow qualifying companies to self-certify and account for duty on a periodic basis - rather than in advance of every movement of goods across the border. Such firms would also benefit from fewer audit checks and the scheme could permit movement for temporary storage.

Similar exemption from duties for very small companies below the VAT threshold would essentially remove the compliance burden on those firms - although the attractiveness of such an exemption for fraud and smuggling would require tight eligibility criteria and the ability for either side to suspend the exemption in cases of suspected fraud and police and civil law enforcement cooperation. Alternatively, umbrella services for smaller traders could be provided by those who are trusted traders at subsidised rates and with risks pooled and insured.

It is accepted that compliance with Ireland/EU and the UK's SPS and agrifood rules using Mutual Enforcement could present challenges. This is mainly because food safety rules are politically sensitive in the EU and the EU has chosen, where it suits the EU, to be highly prescriptive as to the method of enforcement - including on the border itself except, for instance, where geographical exceptions are used so that they take place other than at the border crossed, such as intended at Calais/Boulogne for example for seafood imports to the EU from the UK. The risk to the EU's single market from north south trade in SPS goods on the island of Ireland is small, at least initially, because the UK's SPS and agrifood regulations start from a position of alignment, and because north south trade within the island of Ireland is small and much of it managed by regular, trusted traders. However, a Mutual Enforcement approach could be adopted over time in the event of divergence, where sufficient notice should be given to allow EU legislation as well as food producers and processors to adjust. Help can also be given to them to establish any different systems of producing or identifying goods suitable for export. As part of this, an EU-UK border agreement could provide that veterinary, SPS checks, and inspections by NI authorities to the extent necessary are fully accepted as equivalent to those in the EU, and vice versa, thereby avoiding checks at the border.

2. **Traders who want to avoid compliance with the law.** A customs border post with a physical presence on the border provides the importing state with an opportunity to catch and enforce against those who wish to evade their rules. The protection is never absolute, as the importing state must balance enforcement rigour against allowing legitimate trade to pass unhindered.

A Mutual Enforcement structure removes the border post, but rather than increasing smuggling risk, it can be more efficient than a border post at detecting and deterring those traders who do not wish to comply with the law.

- A custom border post is largely a one-shot enforcement opportunity as goods move from one side of the border (where it is lawful) to the other (where it is not). A Mutual Enforcement structure implies constant enforcement on both sides of the border. The good becomes unlawful on the exporting side of the border the moment it is exported in breach of the importing territory's rules. This approach could be expanded to catch inchoate and conspiracy offences as well. The importing territory benefits from the protection of the exporting territory's law enforcement agencies as well as its own.
- The goods with which we are concerned are not illicit goods that are unlawful in each jurisdiction (drugs, counterfeit products, endangered species, etc.). Sheep meat or sofas that do not pay the required duty or comply with the relevant standards will be sold via normal distribution channels. Each side will know where the largest smuggling opportunities are (eg, where the greatest differential in duties or production techniques exists). Customs enforcement can require

evidence as to from where such products were supplied and proof that duty was paid. This can be assisted by recordkeeping requirements, similar to those that exist in tax matters. Such enforcement informs a prosecution on both sides of the border. The supplier of the product is therefore prosecuted as opposed to just the buyer/importer under the normal arrangements. This is a stronger enforcement mechanic than a border post offers.

Operational Legality. Legal provisions for the Mutual Enforcement approach were drafted last summer and can be reactivated.

Compliance with the Good Friday Agreement. Leaving the EU is not a breach of the Belfast (Good Friday) Agreement - indeed the right to peaceful constitutional change is embedded in the GFA. The GFA does not regulate trade in goods. Nor does it require the UK and Ireland's joint membership of the European Union in order to sustain an open border for trade in goods.

However, the GFA does require the UK to remove "security installations" - a term that is not defined but almost certainly includes customs infrastructure - or the security presence required to protect it. This obligation is not reciprocal.

The institutional framework established by the GFA - especially the British Irish Council (BIC) and the British Irish Intergovernmental Conference under Strand Three - provide for the necessary cooperation required to make a Mutual Enforcement structure work. The BIC mandate is very broad - to

"promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands."

Moreover, the BIC anticipates that it can be used to discuss EU issues and comes with an obligation to

"exchange information, discuss, consult and use best endeavours to reach agreement on co-operation on matters of mutual interest within the competence of the relevant Administrations. Suitable issues for early discussion in the BIC could include transport links, agricultural issues, environmental issues, cultural issues, health issues, education issues and approaches to EU issues."

The GFA is affirmed and "protected in all its parts" by the Protocol, even though the Protocol is in fact inconsistent with the GFA. The GFA imposes best endeavours obligations on Ireland and the UK as described above. The use of the BIC therefore to discuss the modalities of a system such as Mutual Enforcement to remove the need for border infrastructure is not merely an option; it is an obligation on both the UK and Irish State.

Compliance with WTO Rules. Were Mutual Enforcement construed to grant favourable treatment to goods entering the UK from the EU unilaterally in the event of 'no deal' (and vice versa in the event of reciprocity under an FTA), the Mutual Enforcement concept as practised would not violate the Most Favoured Nation obligation of GATT Article I. This is because waving through goods at the Irish border is defensible under the essential security provision of Article XXI of the GATT, allowing the reasonable transgression of GATT rules on the basis of safeguarding public order. The Mutual Enforcement procedure may assist in preventing any escalation of conflict associated with a full customs border and would likely be viewed as such by a GATT panel in light of recent WTO case law that demonstrates a deferential approach to Article XXI.

Dispute Process. Breaches of the Mutual Enforcement approach would be subject to the dispute settlement procedures of an FTA (and could be added to the TCA). The arbitration panel could be empowered to order either damages be paid or authorise tariff retaliation by the aggrieved party against the other.

UNDERLYING PRINCIPLES OF MUTUAL ENFORCEMENT

Mutual Enforcement is underpinned by some key principles as described below:

- **The novel feature of Mutual Enforcement lies with the role of the declarant in the exporting country.**⁶ Normally, the declarant in the importing country works on behalf of the importer and checks compliance with import regulations and ensures that all duties will be paid to the importing country. Under Mutual Enforcement, the role of the declarant is turned on its head - i.e., the declarant in the exporting country checks compliance of the exporter and ensures that required duties will be paid by the exporter to the relevant authority in the exporting country (eg, HMRC in the case of the UK) on behalf of the importing country.
- **Mutual Enforcement depends on the trust that each party has in the robustness of the other's legal system.** This was cited as a fundamental defect when the original Mutual Enforcement proposal was published by Sir Jonathan Faull et al. The EU would never "outsource" protection of the single market in this way. This criticism can be dismissed as meritless. All available solutions - whether proposed by the EU or the UK - have this feature:
 - The previous NI Backstop arrangement required the UK and EU to rely on the robustness of each other's legal system to protect the boundary of the Single Customs Territory and apply the "common rulebook".
 - The current Protocol depends on the UK authorities to police the border of the single market at entry points to Northern Ireland - and is frequently cited by EU politicians as a matter of trust.

Under Mutual Enforcement, both customs territories would have to trust each other's enforcement of customs regulations. Thus, a Mutual Enforcement system is fundamentally *mutual*, which increases trust and interdependence relative to the current Protocol where one side is in permanent tension with the other in enforcing asymmetric rights. An important characteristic of this approach is that exporters become liable in their own jurisdiction for failing to comply with the rules of the other jurisdiction.

- **There need be no level playing field provisions of any type arising from the Northern Ireland border.** Since each side retains autonomy over its regulatory sphere, each side retains customs tools (such as anti-dumping and anti-subsidy countervailing duties when the TCA effectively allows for these) to protect their market from unfair competition. These tools do not offer either side the same comprehensive framework as within the single market. This is reflected in the increased trade "friction" that being outside the single market and customs union represents. Mutual Enforcement does not remove this friction - it provides a way for each side effectively to enforce its own rules and collect duties owing beyond its border without the need for customs posts.
- **Law enforcement cooperation will be crucial to the successful operation of the Mutual Enforcement system.** This can and should build on the cross-border cooperation and institutions of the GFA.

⁶ Goods can be declared to customs by the trader himself or he can appoint a representative, a declarant. A declarant makes a declaration based on the available information about the transaction that is mainly found in the accompanying invoice that is normally provided by the exporter.

KEY MUTUAL ENFORCEMENT OPERATIONAL CONSIDERATIONS

There are some operational considerations important to the successful implementation of Mutual Enforcement:

- **Declarants and customs authorities would apply two legal systems.** The declarant in the exporting country makes both the export and import declaration, thereby applying two legal systems and two different customs procedures. Thus, UK customs authorities would apply what is essentially EU law in relation to its exporters (but solely in respect of their actual exports which cross the border). The same would apply to Irish customs authorities who would apply what is in essence UK law on behalf of their exporters. This is a new approach, which will require some training of a limited number of declarants, but it could make logistics more efficient and lead to administrative efficiency, as there would be only one collective procedure for export and import. Partial sovereignty over customs procedures would be delegated to the other jurisdiction but on a mutual basis. Rights and obligations will be in balance since both sides depend on each other's operations.
- **Access to each other's customs systems is necessary, so that import regulations of all kinds are applied to all transactions under the same conditions as elsewhere in the EU.**⁷ UK customs authorities can only apply all relevant customs regulations by processing them through the EU customs systems, which relate to all EU databases that use big data to determine the risk profile of a transaction and instruct the (UK) customs authorities about what checks and inspections should apply to a specific transaction. The same would apply vice versa for the Irish customs authorities needing access to the UK customs systems, for the same reason.

Under this approach, the declarant of a Northern Ireland exporter to Ireland would declare the exported goods and the systems would decide whether the transaction is in compliance with EU regulations and that the appropriate duties/tariffs, etc had been paid to HMRC (or directly to the importing EU country if such a system were to be operated). The reverse process would take place for goods exported from Ireland to NI. Periodically, HMRC and the Irish Revenue Commissioners would net out the two-way payments.

- **Declarations under a Mutual Enforcement regime will also manage import and export VAT so that the existing VIES system will be unnecessary.** Exports are exempt from VAT; VAT is due only on imports. This will obviate the need for the UK to participate in the existing VIES (VAT) and EMCS (Excise) systems, which are essential to prevent the interference of the ECJ on VAT matters. There is no excise levied on the export of excise goods, while excise has to be paid on import. The existing differences in VAT and excise rates will remain. Thus, arbitrage in these goods by consumers and smugglers will not change. In fact, the existing VIES (VAT) and EMCS (Excise) systems will be replaced by declarations under the Mutual Enforcement regime. The UK will introduce postponed accounting, thus simplifying any import transaction because VAT does not have to be paid to the authorities, but can be deferred administratively to the financial administrations of traders. It would be useful if Ireland could also facilitate postponed accounting to facilitate trade.
- **The Transit procedure (see Annex A) will be needed for Irish transports passing through NI and for Northern Ireland transports passing through Ireland.** For this, derogation will be needed for Transit barcodes to be scanned at the border or a replacement can be made, with more modern systems of tracing compliance, either of which can be de-risked by Mutual Enforcement provisions.
- **Duty-free allowances and exemptions will be needed for low value or irregular traders and individuals.** This will eliminate difficult and burdensome pre-payment of duties and proving compliance of goods, and abuse could be covered by the provisions of Mutual Enforcement.

⁷ A declarant has no authority or ability to do a thorough investigation into all legal aspects of a transaction. In general, a declarant has a vocational training and has limited time to process the declaration as costs must be kept low. Based on knowledge and experience the declarant will declare the goods to his best knowledge. There are about 50 laws that are applicable to trade across the border. The outcome of the declaration depends on the algorithms and systems analysis of the data processes that check on these laws and select transactions for further investigation. Thus, the declarant makes the declaration possible, but the declarant cannot certify any declaration. It is the customs system that approves or rejects a transaction. Customs authorities are there to enforce this outcome.

TRADING IS ON A SMALL SCALE

It is important to recognise that these procedures would be operated only for goods traffic crossing the Northern Ireland-Ireland land border - not for the entire UK. Therefore, the trading volume would be very small. For example, Northern Ireland sales of goods and services to Ireland were only £4.2 billion in 2018, accounting for only 6.1 per cent of total Northern Ireland sales.⁸

Importantly, the trading volume across the north-south land border is many times smaller than the volume across the east-west sea border. In 2018, the total value of goods and services passing across the east-west sea border was 3.4 times greater than the value passing across the north-south land border.⁹

Moreover, the complexity of the declarant's task dealing with north-south trade under Mutual Enforcement would be lower than it is for east-west trade under the requirements of the Protocol. Thus, the procedures under Mutual Enforcement would be more manageable. For example, we estimate the total number of declarants required in Northern Ireland under Mutual Enforcement would be in the order of a couple of dozen people. These declarants would work within the company of large traders and for smaller traders could be hired through a forwarding agent or a customs broker.

Of course, it will be necessary for the EU to agree to the Mutual Enforcement approach. We believe there are compelling reasons for the EU to do so.

However, if the EU were not to agree to the Mutual Enforcement concept, the UK could still ensure an 'invisible border' on its side of border. That might, for example, comprise the UK effectively implementing an 'Alternative Arrangements' approach on the Northern Ireland side of the border. This would demonstrate the seriousness with which the UK takes its obligations not to install border infrastructure.

There would then be an implied obligation for the EU to demonstrate similar intent on the Irish side of the border in order not to be the causal factor in undermining the GFA.

⁸ Northern Ireland Broad Economy Sales and Exports Statistics 2018, NISRA, 19th December 2019

⁹ Northern Ireland Broad Economy Sales and Exports Statistics: Purchases and Imports Results 2018, NISRA, 21st May 2020

ANNEX A - OVERVIEW OF HOW STANDARD CUSTOMS AND BORDERS PROCEDURES OPERATE IN THE EU

BASIC CUSTOMS PROCEDURES

The traditional view of a border is that of a place blocked by a border post, where goods are declared on paper forms to customs authorities who decide if the goods may cross the border and what taxes have to be paid. These customs declarations contain structured information about the relevant aspects of the traded goods. This information comes mainly from the invoice that accompanies the goods. Customs declarants 'translate' the business language used on the invoice to the customs language of codes and legal descriptions that is needed for customs. Customs declarants are specialists employed by forwarders and customs brokers who are hired by traders to deal with all administrative and financial customs procedures. As the goods arrive at the border, the declaration is made and presented to customs, which then can decide if they trust the information on the declaration, or if they want to verify this information, by checking the invoice and the goods. So, the verification of the declaration is done as the goods are available. Customs determines if the goods comply with all relevant laws and what taxes must be paid. The declarant acts as a kind of tax advisor and in addition, pays these duties and taxes and charges them to the trader.

The most important trade data needed by customs is information about the kind of goods, the origin of the goods and the value of the goods. Every good can be assigned to a specific tariff number. This can be a very subtle issue. For example, there can be a big duty difference between china and pottery, while the product difference it is not easy to see. Shoes can almost look the same but be made of leather or plastic. Whether meat is free of hormones must be determined in a laboratory.

The origin of products is decisive if the goods can make use of the benefits of a Free Trade Agreement such as lower or zero import duties. The origin of a product is determined on the basis of where it is produced, not where it is shipped from. A lawnmower assembled in the UK with an American engine may still be classified in the EU as being of American origin, depending on the specific regulation. Shirts made of EU cloth, but assembled in Morocco, may be imported into the EU without the usual EU duty on textiles. Origin certificates used to be issued by customs in the country where the goods are produced. Nowadays, the producer can determine the origin of a good himself, taking all regulations into consideration, by simply stating the origin of the goods on the invoice. Still, it is the importing country that takes the final decision on the origin, with the connected benefits.

The value of goods determines the amount of duty to be paid. Customs will want to check if the value on the invoice is the actual price that is being paid. For that reason, customs can also ask for more information from the administration of a trader to verify the value. So, customs also have access to any trade data, up to three years after the import.

DIGITAL CUSTOMS PROCEDURES

Modern customs procedures are fully digitalised. Forms for customs declarations no longer exist. Declarants communicate data to customs exclusively through IT-systems. Customs computers make risk analysis based on big data to decide what goods should be scrutinised by asking for more information or even inspecting the goods. In daily practice the result is that only about 3 percent of all declarations are selected to provide supporting information such as the original invoice or origin information and less than 1 per cent is physically checked if the goods have the declared tariff code. All other declarations are approved by the customs IT-system without interference by any customs officer.

Risk analysis using big data is based on previous information and profiling of (trusted) traders, kinds of (fraudulent) goods or (doubtful) countries of origin, or a combination of these and other aspects. Processing of these data by customs computers is a matter of minutes or even seconds.

INVISIBLE CUSTOMS BORDER

Both the EU and UK customs law make it possible to declare goods at the point of loading or unloading of the transport. This brings the fundamental advantage that goods can be more easily inspected, since they are readily available for a customs officer and do not have to be taken off a truck at a border facility. This requires that mobile customs officers be available to inspect the goods at the premises of the logistic service providers, the exporter or importer. Trusted traders can apply for approval of their premises for mobile inspections. The inspections can be organised based on the pre-departure and pre-arrival information of the digital declaration and thus can become an integral part of the logistic process. So, inspections do not have to take place at the (land) border, resulting in an invisible border where no customs infrastructure is needed.

All these facilities and simplifications of operation are legally available in the present EU and UK customs law. Inland physical inspections are not yet very common in the UK and Ireland as on these islands the customs inspections are traditionally based at (air)ports, and since there was no relevant land border. On the continent the technique of checks and inspections at the point of loading and unloading are much more common.

TRANSIT

To make this system work, in addition it is needed to control the transport from the point of departure to the point of arrival. For this the Transit system is available. Transit is an IT-system provided by the EU to traders and forwarders in the EU and bordering countries such as Switzerland, Norway and Turkey to ship goods under customs control within the EU or between the EU and that neighbouring country. The system is used more than 10 million times a year.

Goods are declared in the Transit system as they are loaded on the means of transport. The digital declaration also must mention the destination where the goods will be shipped to. The system sends this information to the customs authority where the goods will be transported to. The goods must arrive there within a reasonable time of sometimes only one day depending on the means of transport. The declarant is responsible for the correct arrival of the goods. He must provide a bank guarantee to customs authorities so that any taxes on goods that do not arrive can still be collected. If the goods do not arrive at the designated customs destination in time, the declarant will be held responsible. If so, he will do everything he can to track the transport and make sure it is properly declared at the designated customs office. Although this may seem a burdensome procedure, it has become a commodity in forwarding and transport across borders. Transit declarations are available at low cost. The Swiss use it 2.5 million times each year to make their borders transparent and prevent congestion at their frontiers.

Digital customs declarations at points of loading and unloading, in combination with Transit and mobile customs inspections, can provide for an invisible border on the island of Ireland. Any transaction must be declared for export on behalf of the exporter. Only based on such a declaration can 0% VAT be claimed on the transaction. So, if he cannot provide an export declaration when VAT authorities inspect his administration, he will have to pay the applicable VAT rate (and a fine). This is a strong incentive to follow this trade obligation.

Transit declarations need to refer to specific previous export declarations. The Transit declaration in its turn must be followed up by an import declaration in the importing customs territory. The Transit declaration is only finalised when a reference to an import declaration is provided. In this way an administrative chain is created that connects the export transaction in one customs territory to the import transaction in the importing territory. In daily practice, customs professionals are aware of the functioning of this system and apply it correctly. After all, that is their profession.

AGRICULTURAL GOODS

Customs always pays special attention to foodstuffs, as the quality of these products has a direct effect on the health of their citizens. For this reason, the trade and import of these goods is especially monitored by the authorities. In the EU and cooperating countries, the TRACES (Trade Control and Expert System) system is available. TRACES works a bit like Transit in that it follows transactions of produces and traders of foodstuff in the supply chain. Food imported into and traded within the EU must comply with EU standards. Only certified traders and producers that guarantee these standards have access to the system.

Veterinary goods, of animal origin, and other agricultural Sanitary and Phyto-Sanitary (SPS) goods are considered high risk goods when they are imported into the EU. The UK applies the same approach. Additional health certificates and inspections are required when these goods are imported. Countries with (free trade) agreements and their certified producers can issue health certificates for foodstuff and use the Traces system. If the goods are certified, their risk profile is considerably decreased and checks and inspections are only done on a random basis. Thus, trade is considerably simplified and facilitated.

The EU requires veterinary products to be imported and declared at Border Inspection Points (BIP) located at the external border, so they cannot enter the food supply chain without strict checks and inspections. However, if there are certain geographical aspects to a border, these BIPs can be located away from the border. This requirement applies to the NI land border.

Trade across the land border on the island of Ireland consists for a large part of agricultural goods. Most transactions have a repetitive nature as farmers for example supply the same milk every day to the same dairy factory. Producers and traders can be certified according to specific standards so they can sell their goods across the border while inspections can take place at the points of loading and unloading. If necessary, specialised agricultural inspection teams can take samples and analyse them in a centralised laboratory before goods are released for further use in the supply chain.

This scenario would accommodate north-south trade almost as it is now. It would require additional but simplified customs procedures which are available within the present legal framework of the EU and the UK, and wider and deeper use of AEOs as service providers, which could be subsidised by the UK. Customs organisations would have to provide assistance to these procedures using mobile inspection teams and centralised data analysis. Traders would have to comply with customs regulations to get permissions to use these simplified procedures and have access to specialists to apply them. Repetitive traders and forwarders could incorporate these procedures in their daily operations, so they become routine. As a comparison, the cost of customs formalities in Switzerland is well below 1 per cent of goods traded.

Also, in the situation where the UK and Ireland were both members of the EU, a range of formalities were in any case needed to trade across the border. Traders would have to report all transactions monthly to VAT authorities in the VAT Information Exchange System (VIES). Large companies also must provide additional statistical information. Agricultural transactions must be reported in Traces. Agricultural production standards are enforced by veterinary and health authorities. So, trade obligations across the NI land border may change but are not new, and it may be that by means of Mutual Enforcement, as outlined above, compliance can be enhanced and made more efficient and less contentious in cross border operations.

FREE TRADE AGREEMENT

The TCA between the EU and the UK could further simplify operations and facilitate trade on the island of Ireland. But basic formalities of supply of information to the administrative process would not change fundamentally. A Free Trade Agreement, such as the TCA, does not mean that trade is freed of such formalities.

Without an FTA (such as the TCA) there may be all kinds of tariffs to be paid as goods are traded. Duties may have to be paid to customs authorities and charged to traders. Agricultural products may face quotas and high duties. Product requirements can make it necessary to split production processes to comply with the regulations of the importing country.

Thus, trade on the island of Ireland would benefit from an FTA (such as the TCA). There would be no duties on most products. It can be made easy to state the origin of the goods by using the REX-system. This system makes it possible for the producer to simply state the origin of his produce on the invoice without administrative customs approval. An FTA could facilitate the certification of agricultural products according to EU and UK standards by mutual agreement, thus making checks and inspections less frequent. An FTA can also stimulate customs authorities to work closely together to harmonise customs requirements and facilitate cross border permissions. Facilitation for small transactions and small traders could be agreed on. If such trade does not have any significant influence on the internal markets of the EU and the UK, exemptions from formalities and tariffs could be granted. Cooperation between customs authorities to exchange data can improve the quality of risk assessment so illegal trade can more easily be detected.

If no FTA is in place, then the land border formalities could still be facilitated through a border agreement between the customs authorities of the UK and RoI. Simplified procedures and exemptions could apply, based on for example trusted trader permissions, small transactions or trade of companies below the VAT threshold. Such a border agreement would be in line with and use the institutional framework established by the Good Friday Agreement that facilitates the whole island economy.



CENTRE FOR BREXIT
POLICY

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Northern Ireland Border Problem**

© Centre for Brexit Policy 2021

Published by the Centre for Brexit Policy
34 South Molton Street
London, W1K 5RG

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