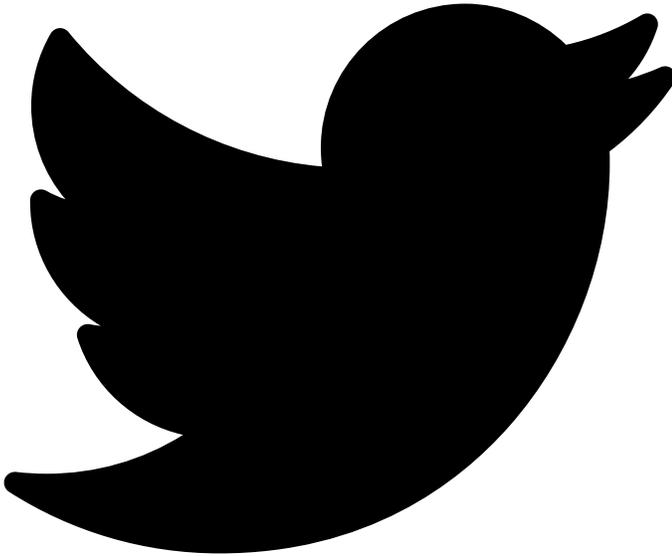# The EU referendum and the Irish border

Last updated: 31 May 2016

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In brief

Claim

There would have to be border controls between Ireland and Northern Ireland if the UK left the EU.

Conclusion

That's a matter of speculation at the moment. Some sort of customs checks on goods crossing the border would be needed, but not necessarily passport checks or stopping everyone.

> **"**There would have to be border controls but not a prevention of genuine Irish from coming in across the border"
>
> Lord Lawson, Vote Leave campaign, 10 April 2016 (http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/10041601.pdf#page=5)

> "I think that the land border we share with Ireland can be as free-flowing after a Brexit vote as it is today"
>
> Theresa Villiers, Secretary of State for Northern Ireland, 17 April 2016 (http://news.sky.com/story/1680182/ireland-border-brexit-fears-scaremongering)

> "The fear in Dublin is that our border towns would become a backdoor into the UK. In that instance what sort of fortress would the Northern Ireland border have to become to close that backdoor?"
>
> Phil Hogan, European Commissioner for Agriculture, 9 May 2016 (http://www.theguardian.com/politics/2016/may/09/brexit-irish-border-new-calais-eu-commissioner-phil-hogan)

Nobody can be sure what would happen to borders between the Republic of Ireland and the UK if we vote to leave the EU. Claims that there would or wouldn't be border controls on the island of Ireland are predictions, not facts, at this stage.

We can show why it's been raised as a real possibility, though.

Movement between Ireland and the UK now

Northern Ireland being part of the United Kingdom (https://www.ordnancesurvey.co.uk/blog/2011/08/whats-the-difference-between-uk-britain-and-british-isles/), there's a land border (http://www.irishborderlands.com/irishborder/index.html) between the UK and another country, the Republic of Ireland.

In the past, the need for customs (http://www.irishborderlands.com/living/customs/index.html) and security (http://www.irishborderlands.com/living/troubles/index.html) checks meant that the border was a physical as well as legal and political reality. Nowadays, it isn't a barrier (http://www.irishborderlands.com/living/today/index.html) in any practical sense.

People can also move freely around the UK, Ireland, Isle of Man and Channel Islands within the Common Travel Area (http://www.legislation.gov.uk/ukpga/1971/77/section/1). That means there are no official passport checks (http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2012112700071?opendocument#WRU03250) for someone travelling from Dublin to Belfast to London.

The Common Travel Area, despite the capital letters, is a pretty informal arrangement that existed (https://kar.kent.ac.uk/234/1/Common_Travel_area.pdf) before the UK and Ireland joined the EU in 1973 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:1972:073:FULL&from=EN#page=9).

Why might the open border change if we left the EU?

The UK could leave the EU as a result of the referendum on 23 June, but Ireland has no plans to follow suit. Brexit would mean that the UK's only land border would also be an external border from the EU's point of view.

That matters for two reasons. One is immigration and the other is trade in goods, neither of which have many controls on them within the EU.

We don't know what kind of new arrangements would be worked out on those issues if the UK left, so whether border controls would have to be re-established is a matter of speculation.

Checks on immigration are possible but it's hard to forecast

World War II aside, there have never been (https://kar.kent.ac.uk/234/1/Common_Travel_area.pdf) controls on migration between the UK and Ireland.

The Common Travel Area means "minimal or non-existent border controls (http://www.oireachtas.ie/parliament/media/committees/euaffairs/Agreed-Report-UK-EU-Future-Relations_Updated.pdf#page=20)", in the words of an Irish parliamentary report.

In practice the land border is almost completely open, but airlines (https://www.ryanair.com/gb/en/useful-info/help-centre/faq-overview/Travel-documentation#0-3) and ferry operators (http://www.irishferries.com/uk-en/faq/passports-identification/) require photo ID, so passports are still needed when going across the Irish Sea. Passengers are also asked for passports at airports where immigration officers can't tell (http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2012112700071?opendocument#WRU03250) that they've come from within the Common Travel Area.

Nevertheless, people can use (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257182/cta.pdf#page=4) the open border to travel illegally from Ireland to Northern Ireland and on to the rest of the UK, and likewise in the other direction.

This is currently addressed by "Operation Gull (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/267511/cta1.pdf#page=4)", in which immigration officers check passengers on routes between Northern Ireland and the island of Great Britain. This is designed to compensate for the lack of checks on unauthorised travel across the north/south border.

It depends whether the UK puts restrictions on EU immigration

Claims that this wouldn't change if the UK left the EU assume that these measures would still be enough to police the open border. Leave campaigners point out (http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/10041601.pdf#page=5) that the Common Travel Area was in place before the EU even existed.

That's true, but there's never been a situation where Ireland accepted free movement of people and the UK didn't.

If the UK wanted to put restrictions on EU immigration or short visits after leaving, that might generate more illegal cross-border movement. At the moment, Operation Gull only has to catch unauthorised migrants from non-EU countries.

It's at least possible that increased pressure on the border force could lead to a demand either for passport checks at the north/south border, or passport checks between Northern Ireland and the rest of the UK. Northern Irish politicians report (http://www.publications.parliament.uk/pa/cm201617/cmselect/cmniaf/48/48.pdf#page=31) that heavier policing at ports and airports, rather than the land border, would be the government's preferred solution.

Either would be politically (http://www.oireachtas.ie/parliament/media/committees/euaffairs/Agreed-Report-UK-EU-Future-Relations_Updated.pdf#page=16) difficult (http://www.theguardian.com/uk/2009/jan/15/uk-irish-republic-border-passports), but we really don't know at this stage whether it would be thought necessary.

To be clear, a beefed-up border to keep out people who aren't from the British Isles is different to there being restrictions on migration for British and Irish citizens. There's been no suggestion that Irish people might lose the right to live and work in the UK, or vice versa.

Checks on goods are a more likely outcome

The official government position (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504216/The_process_for_withdrawing_from_the_EU_print_ready.pdf#pafe=21) is that "outside the EU's Customs Union, it would be necessary to impose customs checks on the movement of goods across the border". This is echoed by researchers at Open Europe (http://openeurope.org.uk/today/blog/how-might-the-impact-of-brexit-on-ireland-and-northern-ireland-be-managed/) and FactCheckNI (http://www.factcheckni.org/facts/would-brexit-lead-to-a-customs-frontier/), while there have also been concerns

(http://www.oireachtas.ie/parliament/media/committees/euaffairs/Agreed-Report-UK-EU-Future-Relations_Updated.pdf#page=16) raised (http://www.huffingtonpost.com/john-bruton/united-kingdom-european-union_b_2323058.html) in Ireland (http://www.irishtimes.com/news/politics/brexit-would-see-return-of-physical-border-between-republic-and-north-1.2152951).

This is because if there were no EU-UK agreement on free trade in goods, there would be some British taxes on imports (/europe/eu-facts-behind-claims-trade-rules/) from Ireland, and vice versa.

If there were such a deal, it would be confined to goods originating in the UK or the EU. This is the pattern for the EU's free trade agreements with countries such as Norway (http://www.efta.int/sites/default/files/documents/legal-texts/eea/the-eea-agreement/Protocols%20to%20the%20Agreement/protocol4.pdf) and Canada (http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154329.pdf#page=549).

Without these 'rules of origin', and a way of enforcing them, goods made in a country like China could be imported through Ireland, avoiding UK import taxes.

So with or without a trade deal, you would need some way of checking on the goods being taken across the border, either to work out the taxes due on them or to verify that they don't need to be paid.

Customs checks aren't a big problem on the Norway/Sweden border

These checks could be fairly light touch. Because Sweden is in the EU and Norway is not, there are customs checks (http://www.tullverket.se/en/aboutcustoms/contactus/visitus/customsclearanceoffices.4.38650ad8116b036be928000385.html) between those two countries.

They are spot checks (http://www.nordicwelfare.org/PageFiles/4737/LavikNordlund.pdf#page=15), though, and don't involve the checking of all vehicles.

Vans and lorries carrying imports could be told to attend a customs depot, which needn't be at the border, with spot checks of commercial vehicles near the border as a deterrent against evasion. It might also be possible to use technology (http://eureferendum.com/blogview.aspx?blogno=86001) to reduce or eliminate the burden of physical checks.

Update 26 May 2016

We updated the article to include a reference to a report (http://www.publications.parliament.uk/pa/cm201617/cmselect/cmniaf/48/48.pdf) by MPs on the Northern Ireland Select Committee.

By Conor James McKinney

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