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BREXIT, THE IRISH BORDER AND CONSTRUCTION

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Abstract

The Irish Border is one of the most contentious issues relating to BREXIT. The complex nature of negotiations relate to key aspects of European Union (EU) law brought in by the Treaty of Maastricht, such as free movement of people and work. With 208 official Irish border crossings [1], and a substantial number of unofficial ones resulting in an estimated 270, there are nearly double the amount compared with the EU Eastern border (137). Construction organisations tender for work on both sides of the border with current EU laws allowing unrestricted movement of labour plant and materials to carry out the work. What is missing from the current discussions is the perceptions of construction organisations north of the border. This paper seeks to examine this knowledge gap via an on-line survey of consultants and contractors. The findings indicate a mixed response to BREXIT with labour likely to be the element most highly impacted after BREXIT and mortar the construction material most impacted.

Keywords

BREXIT; Irish Border; Construction Labour; Construction Plant; Construction Materials.

1. Background

The Irish Border came into effect because of developments from the Government of Ireland Act 1920 [2] that became law on 3 May 1921. This created two subsidiary parliaments within the United Kingdom (UK) [2]. After a Civil war, the Irish Free State was formed on 6 December 1922 through Royal Assent [3]. The Unionist government of Northern Ireland (NI) in Stormont voted to opt out of the Irish Free State on 7 December 1922[3]. This effectively split Ireland into two jurisdictions creating an international border. The Common Travel Area (CTA) which legally stated that for the purposes of movement for goods and work that the ROI was not a “foreign country” and allowed free

movement of people was implemented in 1922 [3]. This was built into legislation when the Irish Free State became the Republic of Ireland (ROI) in 1949 [3]. As it was in keeping with the Treaty of Maastricht in 1992, it did not leave the statute books when the UK and ROI joined the EU.

With 208 official Irish border crossings [1], and a considerable number of unofficial ones, estimated at over 60, there are approximately double the amount of crossings compared with the EU Eastern border (137). The Customs Union currently allows free trade across the border [9]. Construction organisations tender for work on both sides of the Irish border with current EU laws allowing unrestricted movement of labour, plant and materials to carry out the work. Similar to historical scenarios where ROI law diverged from UK law from the formation of the Irish Border, it is expected that procurement laws within NI and the ROI will diverge post-BREXIT. While the Federation of Master Builders (2017) [11] examined BREXIT from the perspective of small to medium enterprises, those most affected, who have tendered for work over the European Financial Threshold, have not been examined. This paper seeks to address this knowledge gap.

2. Suggested Impacts

Fletcher (2017) [4] suggested the UK total workforce could reduce by 8%, through loss of EU workers, should the UK leave the European Single Market. This paper seeks for the first time to examine BREXIT and the Irish Border in terms of the construction workforce. Furthermore, construction plant and material flows across the border have not been

adequately examined in light of BREXIT, with construction not in the NI Assembly briefing [5]. BREXIT has caused uncertainty as to whether existing CTA arrangements are allowed to remain so materials can travel between the jurisdictions tariff free. Phelan (2017) [7] states that NI will face a challenge in making deals with other countries when the UK leaves the EU if tariffs are imposed on materials or services from the ROI.

The Quarry Products Association of Northern Ireland [8] examine impact on quarrying and suggest it could be an industry impacted negatively by BREXIT as it supports construction, an industry responsible for 10% of NI GDP. NI is a high source of aggregates for other parts of Europe and the UK and uncertainty exists as to the effect of BREXIT. Furthermore, public procurement could be radically changed [10]. In light of this, this paper examines different types of construction materials and the procurement process.

2. Method

2.1 Definition of Survey sample

An examination of the Department of Finance website indicated that maximum population of 55 construction companies, that included contractors and consultancies, who had had tendered for construction work above the European financial threshold existed.

Sample Size =

$$\frac{z^2 \times p(1-p)}{e^2} \div \left(1 + \frac{z^2 \times p(1-p)}{e^2 N} \right)$$

Where **N** is the Total Population Size (55), **e** is the Margin of error (10%), **z** is the confidence level (95%) and **p** is the percentage value as a decimal. Using this formula and values results in 36 completed responses being required for validity. Forty (40) were received resulting in the results meeting the validity threshold. The response rate was 72.7%.

2.2 Survey software used

The Limesurvey™ package was used to distribute the pilot and full structured

questionnaire. The software is a PHP frontend to a MYSQL database, with responses stored and analysed directly via the Limesurvey™ software for basic statistics and further using the Relative Importance Index (RII). Pre-notification and Post-notification took place.

2.3 Analysis Techniques Used

The Relative Importance Index (RII) Formula was used to define rankings. RII is defined as:-

$$Relative\ Importance\ Index(RII) = \frac{\sum W}{A \times N} \quad (0 \leq index \leq 1)$$

Where: **W** is the weighting given to each element by the respondents - '5 Enormous Impact', '4 Substantial Impact', '3 Moderate Impact', '2 Slight Impact', and '1 Little Impact'; **A** is the highest weight; and

N is the total number of respondents.

The closer the result is to 1 the more important it is, allowing a ranking to be determined.

2.4 Survey sample experience and location

The procurement experience of each company participant was determined. Twenty-seven point five percent (27.5%) of respondents had between 0-5 years and a similar number more than 20 years. Twenty percent (20%) had between 6-10 years. Eighteen (18%) of respondents had 16-20 years of experience and 7% had 11-15 year's experience.

All the respondent companies had offices within Northern Ireland. However, 22% also possessed offices in Great Britain, 15% possessed additional offices in the ROI, 6% had other offices across Europe and 5% had additional offices outside the boundaries of Europe.

4. Findings

4.1 Overall BREXIT Impact

The majority of organisations, 57%, considered BREXIT would have a negative effect on their company (additionally 40% - no impact and 3% positive effect). The reason given for being positive was that: "More capital expenditure across the UK and Northern Ireland due to increased expenditure available within our own economy." On the other hand, the negative

comments were mainly to do with EU funding: *“due to the loss of EU funding there will be a loss in business...”* Seventy-five percent (75%) of these organisations considered NI should remain in the Customs Union, 15% were unsure and 10% said no. Sixty percent (60%) consider the EU procurement directive should remain unchanged, 28% are unsure and 12% think it should be replaced. The reason for replacing the EU directive was the process: *“Must be more streamlined and efficient. There needs to be a much greater emphasis placed on the strength of company balance sheets as awarding contracts to companies who become financially untenable is a major problem currently.”*

Fifty-eight percent (58%) considered that BREXIT would have no impact on procurement in their organisation due to UK projects no longer being advertised in the OEJU, with 35% negative and 8% positive impact. The negative impacts that were pointed out by respondents were *“increases in the cost of labour, plant and materials”* and *“harder to find tenders.”* There was also some positive impacts pointed out by respondents, being *“possible reduced time limits”* and *“reduced paper work.”*

BREXIT impact on cross border trade indicated: 65% - negative impact, 33% - no impact and 2% - positive impact. Negative impacts included *“more fees, checks and longer time”* and *“tariffs”* at the Irish border. Positives were: *“The Republic of Ireland relies upon Britain as their main trading partner and will be looking upon Britain to sustain trading agreements with them to enable their economy to survive.”*

4.2 BREXIT with respect to materials, labour and plant

The percentage of labour, plant and materials that respondent organisations send across the border was determined for construction for the first time. Seventy-three percent (73%) send between 0-20%, 23% send between 21-40%, and 2% send between 61-80% and 81-100%. Some companies stated that it would negatively affect the movement of the organisation as it would add *“...frustration (time), which given the frequency will have a financial impact.”* A

few companies were of the opinion it would have no impact to their workforce due to *“having the common travel area from long before the EU.”*

Eighty-five percent (85%) of companies stated that 0-20% of the plant in the organisation is sent across the border, 8% of the companies stated between 21-40%, 5% of the companies stated between 81-100% and 3% of the companies stated between 41-60%.

This included Handheld equipment. Some companies stated that it would be *...“Negative if movement is restricted”* and *“More cost.”* On the other hand some companies stated there would be no affect: *...“Possibly not, the risk for consultants is more to do with accounting requirements and general working protocols.”*

Investigation of BREXIT effect on the movement of cranes and dumpers across the border resulted in mainly negative comments, one company stated *...“This depends on the acceptance of certificates of conformity and regular inspections, as well as acceptance of training qualifications”*. Other companies made comments about it probably having little impact. One company stated: *...“Very difficult to gauge at this time, as the control of the border has yet to be decided...”*

Ninety-two percent (92%) of respondent companies stated that between 0-20% of the materials imported and exported are to and from the ROI. Five (5%) stated between 41-60% and 3% stated between 21-40%. The qualitative responses were mainly negative: *“Any changes to the current border will lead to additional journey times thus increasing the cost of delivery for each unit of material.”*

Sixty percent (60%) of organisations employ Irish Nationals who live and work in NI. One company stated that BREXIT would have no impact because of the *“Common Travel Area.”*, with others highlighting negative issues such as *“pay and tax issues”* and the *“value of sterling”* could be affected.

Types and amounts of imports were evaluated. Table 1 indicates that cement and aggregates

have the greatest percentage of imports, followed by concrete.

Table 1 Material Import values

Material	Import	No Imports	Not sure
Aggregates	20%	75%	5%
Asphalt	13%	83%	4%
Cement	20%	75%	5%
Concrete	18%	78%	4%
Dimension Stone	8%	85%	7%
Lime	8%	85%	7%
Mortar	13%	83%	4%
Silica Sands	10%	80%	10%

Companies were asked how BREXIT would affect the tax structure on labour, materials and plant. Most responses from companies indicated the uncertainty: “*unknown at present. Need more definitive information from Government.*” For aggregates and other materials, expense was highlighted “*Levy will apply if outside customs union.*”, and ...“*different tax rates will cause problems*”. For labour, employees working in the ROI were considered to need to pay additional taxes on their earnings on return if they are over a certain threshold similar to the tax regime in relation to countries outside the EU (70% - yes, 20% - unsure and 10% - no). The only comment made was “*Yes, but not for us as all staff are based in NI.*”

Organisations were asked to rank the effect of BREXIT on material exports and imports. Table 2 indicates the ranking of BREXIT impacts on materials imported from the ROI. Cementitious materials such as Mortar, Concrete and Cement will be most affected by BREXIT.

Table 2 RII Ranking on Imports from the Republic of Ireland most affected by BREXIT

Material Import	RII Ranking	Rank
Mortar	0.6	1
Concrete	0.6	1
Cement	0.6	1
Aggregates	0.555	4
Dimension stone	0.5	5
Lime	0.5	5
Asphalt	0.487	7
Silica Sands	0.48	8

Table 3 indicates that concrete mortar and aggregates are the most effected materials. The

three main areas that need examination are concrete, mortar and asphalt.

Table 3 RII Ranking on Exports to the Republic of Ireland most affected by BREXIT

Material Export	RII Ranking	Rank
Concrete	0.6	1
Mortar	0.512	2
Asphalt	0.5	3
Dimension stone	0.467	4
Aggregates	0.4	5
Cement	0	6
Lime	0	6
Silica Sands	0	6

As expected Cement was at zero as the main producer of cement is in the ROI and NI does not have cement making plants but has ready-mix plants leading to the export of mortar and concrete. It can be seen that there were no exports of lime, cement or silica sands recorded.

Table 4 RII Ranking on the elements of construction most affected by BREXIT

Element	RII Ranking	Rank
Labour	0.665	1
Plant	0.63	2
Materials	0.525	3

Table 4 shows that the free movement of labour across the border will be the issue that the governments need to address on behalf of construction as it was ranked in first position.

5. Conclusions

While BREXIT will have a negative effect on NI construction organisations (57%), some organisations say a positive financial impact will accrue through more construction work being made available to local organisations. Difficulties in cross border trade identified may result in the rise of labour, plant and material costs. This supports the findings of Becket (2017) [9] generally, who also highlights increased complexity and prices as a result of renegotiating a trade deal with the ROI. Funding from the EU no longer being available also concerns NI organisations. Finally, the uncertainty due to a deal not being reached between the EU and the UK means many organisations are unsure of the impact to their organisation financially. This needs to be addressed quickly.

Sixty percent (60%) suggested the procurement process should remain unchanged. However, if changes happen scope for improvements in flexibility, speed and reducing the time limits in the procurement process may be achieved, supporting Moorcroft (2017) [10].

Three quarters of respondents consider NI should remain in the Customs Union. An organisation made the point that as the UK is the ROI's main supplier, the ROI are likely to want to keep a close trading relationship with NI. However, Stennett (2017) shows that the ROI is also NI's main supplier. So it would be mutually beneficial to both to ensure that a deal is completed. The hype around the impact on NI businesses who employ Irish nationals is not borne out in the results with organisations suggesting it will not be an issue due to the CTA.

The majority of companies in the survey believe the EU procurement directive should be retained to facilitate cross border trade. Opinion was divided with focus on economic viability of organisations and speed and flexibility seen as a benefit of a bespoke UK law which contradicts Moorcroft (2017) [10] findings which state that removal of the EU directive on procurement would make the process more complicated and insert obstacles.

Negative impacts on movement of labour, plant and materials were found. The main concerns highlighted were certificates and conformity change due to the changes in legislation. However, other companies emphasised that there may be no impact as the control of the border has yet to be decided.

BREXIT was also shown to impact the import and export of materials to the ROI. Import of cementitious materials such as Mortar, Concrete and Cement will be the most affected by BREXIT. Export of concrete, mortar and asphalt need to be closely examined. It can be seen that there were no exports of lime, cement or silica sands recorded. Cement production is in the ROI. Of Labour, plant and materials, BREXIT will impact on labour most. Further work needs to be carried out into the various legislation options to

assess against the criteria identified in this paper to determine the overall impact on construction.

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