

BREXIT BRIEF

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The Brief seeks to provide up-to-date information on the progress and content of the UK-EU negotiations, and bring together relevant statements and policy positions from key players in Ireland, the UK and the EU.

The Brief is part of a wider communications programme covering the work of the IIEA's UK Project Group – including commentaries, speeches, texts and event reports – which are highlighted on the Institute's website. (www.iiea.com)

Introduction

A truly remarkable week in early September 2022 saw: on Tuesday- the appointment by Queen Elizabeth II of a new Prime Minister; on Thursday the death of the Queen herself; and, on Saturday, the formal proclamation of King Charles III. The immediate consequences of these events overshadowed ongoing political developments in the UK's post-Brexit relationship with Ireland and the rest of the EU.

Section One: State of Play

Death of Queen Elizabeth II

The death of Queen Elizabeth II led to a period of formal and informal mourning in the UK which effectively paused political activity for a fortnight. Queen Elizabeth –

aged 96 and in the 71st year of her reign – died at Balmoral on 8 September 2022. She was succeeded by Charles III as King of the United Kingdom of Great Britain and Northern Ireland.

Tributes to the Queen were forthcoming from political and community leaders from across the United Kingdom, from the Commonwealth countries, from many counties around the world and, with particular emphasis, from Ireland.

President Michael D Higgins published a wide-ranging tribute and highlighted the Queen's deep commitment to relations between the UK and Ireland:

As we know, the Queen often spoke of how much she enjoyed her own historic

State Visit to Ireland in 2011, the first such visit by a British monarch since Irish independence, and during which she did so much through eloquent word and generous gesture to improve relations between our two islands.

Queen Elizabeth's visit was pivotal in laying a firm basis for an authentic and ethical understanding between our countries. During those memorable few days eleven years ago, the Queen did not shy away from the shadows of the past. Her moving words and gestures of respect were deeply appreciated and admired by the people of Ireland and set out a new, forward looking relationship between our nations – one of respect, close partnership and sincere friendship.

A significant tribute to Queen Elizabeth came from Sinn Fein: "Sinn Fein once again extends our condolences on the death of Queen Elizabeth, whose loss is felt deeply by her family, and many people across our society, particularly within the unionist community. We acknowledge the very positive role the Queen played in advancing peace and reconciliation between our two islands, and the two traditions on our island, during the years of the peace process."

King Charles III

King Charles – with the Queen Consort Camilla – was formally proclaimed as King by the Accession Council, meeting on 10 September 2022. In his address to the Council the King said:

"To all of us as a family, as to this kingdom and the wider family of nations of which it is a part, my mother gave an example of lifelong love and of selfless service. My mother's reign

was unequalled in its duration, its dedication and its devotion. Even as we grieve, we give thanks for this most faithful life.

I am deeply aware of this great inheritance and of the duties and heavy responsibilities of sovereignty which have now passed to me. In taking up these responsibilities, I shall strive to follow the inspiring example I have been set in upholding constitutional government and to seek the peace, harmony and prosperity of the peoples of these islands and of the Commonwealth realms and territories throughout the world."

King Charles in Belfast

King Charles immediately set off on a series of visits to the four parts of the United Kingdom. With the Queen Consort he arrived in Belfast on 12 September 2022. For a programme of public activities planned for some years under the title "Operation Shamrock"

At Hillsborough Castle the King met the leaders of the Northern Ireland political parties. He was formally welcomed by the outgoing Speaker of the NI Assembly, Sinn Fein MLA Alex Maskey who said that Queen Elizabeth had "demonstrated how individual acts of positive leadership can help break down barriers and encourage reconciliation."

He then spoke to First Minister elect, Michelle O'Neill of Sinn Fein, the DUP leader, Sir Jeffrey Donaldson, Naomi Long of The Alliance Party, the UUP leader, Doug Beattie and Matthew O'Toole of the SDLP. The King thanked the Sinn Fein vice-president for her kind words about his mother in the party's message of condolence.

He had a lengthy conversation with Jeffrey Donaldson about the ongoing difficulties surrounding the implementation of the Northern Ireland Protocol. Jeffrey Donaldson was reported as telling the monarch that there were some positive sounds from Brussels and that he was hopeful of early progress.

With the Queen Consort and significant figures from Northern Ireland watching, the King said about the late queen:

"My mother felt deeply, I know, the significance of the role she herself played in bringing together those whom history had separated, and in extending a hand to make possible the healing of long-held hurts. Through all those years, she never ceased to pray for the best of times for this place and for its people, whose stories she knew, whose sorrows our family had felt, and for whom she had a great affection and regard. The Queen made a pledge to dedicate herself to her country and her people, and to maintain the principles of constitutional government. This promise she kept with steadfast faith. Now, with that shining example before me, and with God's help, I take up my new duties resolved to seek the welfare of all the inhabitants of Northern Ireland."

The King and Queen Consort attended a service of remembrance for the Queen at Belfast's St Anne's Cathedral. The congregation included President Michael D Higgins, the Taoiseach, Micheál Martin, and the Minister for Foreign Affairs, Simon Coveney. The Taoiseach sat beside Prime Minister Liz Truss.

Liz Truss takes office as Prime Minister

Liz Truss took office as Prime Minister on 6 September 2022. Only two days after her

appointment by Queen Elizabeth the Queen had died, a new King had been proclaimed and political activity in London came to a sudden halt as official mourning began.

Taoiseach Micheál Martin sent a message to Liz Truss: "Congratulations on your election as Conservative party leader. I look forward to working with you, as Prime Minister of our nearest neighbour, on important issues we face together, both bilaterally and globally." The EU Vice-President Maroš Šefčovič commented: "Congratulations to Liz Truss. A positive EU/UK relationship is of great strategic importance. I stand ready to work intensively and constructively with my new UK interlocutor to foster such a partnership, in full respect of our agreements."

The Biden administration sent a message to the new Prime Minister on her second day in office, congratulating her but warning against "efforts to undo the Northern Ireland Protocol". A day later President Biden and the Prime Minister spoke by phone and the President stressed the importance of upholding the Northern Ireland Protocol and of reaching a negotiated agreement with the European Union on the issue. Downing Street said that the two leaders reflected on the "enduring strength" of the UK-US relationship. A scheduled meeting in London, prior to the Queen's Funeral, was postponed and will instead take place in New York at a later date.

Taoiseach-Truss Meeting 18 September 2022

Taoiseach Micheál Martin met Prime Minister Liz Truss at No 10 Downing Street on Sunday 18 September 2022. Because of the official period of mourning, no formal statement followed the 45-minute conversation.

However, sources on both sides indicated that the leaders had agreed that there is an opportunity to find a negotiated outcome to the dispute over the Northern Ireland Protocol. They discussed the importance and depth of relations between Ireland and the UK.

The Taoiseach and Prime Minister had spoken briefly at the Belfast Memorial Service and earlier by telephone when they agreed to keep in close contact in the coming weeks. In advance of the London meeting, the Minister for Foreign Affairs Simon Coveney had expressed "some cautious optimism that we will see, in a few weeks time, the opening of an honest effort to try to settle some of these issues". Minister Coveney went on to say that such a development would require compromise on the UK side as well as the EU side:

There is a landing zone if there is a real effort to try and achieve it, and if the teams work on that basis. I hope and I suspect that the British government is up for that and that the British prime minister will instruct her team to move in that direction.

Brussels offers to reduce NI border controls

The European Commission Vice-President and chief Brexit negotiator, Maroš Šefčovič, has indicated that he could significantly reduce physical customs checks across the Irish Sea as he expressed hope that the new UK Prime Minister was ready to reach a deal over trading arrangements in post-Brexit Northern Ireland. The system outlined in the Commission paper of October 2021 could be the basis for resuming talks.

The proposal would involve physical checks being carried out only where there is reasonable suspicion of illegal trade, illegal drugs, dangerous items or poisoned food. If the UK guaranteed to provide real-time data on trade movements the data could be downloaded into the system when the goods are loaded on ferries enabling remote processing while sailing to Northern Ireland. Mr Šefčovič said this would typically mean checks on "a couple of lorries a day" and argued that there was almost no difference between the UK demand for "no checks" and the EU offer of "minimum checks, done in an invisible manner."

Maroš Šefčovič's proposal has met with a mixed reception, with DUP leader, Jeffrey Donaldson, insisting that renewed negotiations would still require a "change of stance" from the EU. Taoiseach Micheál Martin said that Šefčovič had demonstrated flexibility and a desire to be "solution driven."

Meanwhile, the UK has told the EU that it will continue with its policy of waiving NI Brexit checks on agri-food and other products entering Northern Ireland from Great Britain. The two sides appear ready to avoid a confrontation with an EU source saying that "That will allow us to continue muddling through." The EU remains insistent that passing the Northern Ireland Protocol Bill would lead to a crisis in EU-UK relations. The Bill will proceed to the House of Lords in October. The lack of agreement in this area continues to freeze UK accession to key EU research and technology schemes such as Horizon Europe.

The continuing impasse on the Protocol, with no progress on Assembly and Executive, means that fresh elections to the NI

Assembly will be called by the Northern Ireland Secretary if there is no progress by 28 October.

Representation at Queen's Funeral on 19 September 2022.

President Michael D Higgins and the Taoiseach, Micheál Martin, represented Ireland at the State Funeral of Queen Elizabeth at Westminster Abbey on 19 September 2022.

Politicians from Northern Ireland's five largest political parties were in attendance: Sinn Féin deputy leader Michelle O'Neill, Democratic Unionist Party (DUP) leader Sir Jeffrey Donaldson, Alliance Party leader Naomi Long, Ulster Unionist Party (UUP) leader Doug Beattie and Social Democratic and Labour Party (SDLP) leader Colum Eastwood. Were at Westminster Abbey. Sinn Féin's Alex Maskey also attended in continuing his role as Speaker of the Northern Ireland Assembly.

Northern Ireland Office Appointments

Prime Minister Truss appointed a new Northern Ireland Secretary and a new Minister of State at the Northern Ireland Office, as among her earliest Government changes.

Chris Heaton-Harris MP was appointed after Sheilesh Vara was 'sacked' after just 62 days in the post. Mr Heaton-Harris is a former MEP and former chairman of the influential pro-Brexit European Research Group within the Tory Party. He describes himself on his website as a "fierce Eurosceptic." He is a qualified football referee.

The leading Eurosceptic MP, Steve Baker, replaced Conor Burns as Minister of State at the NIO. Like the new Secretary of State Mr

Baker has been chairman of the European Research Group and has been an open critic of the Northern Ireland Protocol, describing it as "always unfinished business."

Heaton-Harris and Baker will work with the new Foreign Secretary, James Cleverly, on the protocol issue. This arrangement was described by an EU figure as an "interesting 'good cop, bad cop' dynamic." In Brussels, Foreign Secretary Cleverly is seen as the 'good cop' who has "a conciliatory character and common sense".

The newly appointed NI Secretary visited Belfast on his first full day in office, meeting the DUP and Sinn Fein – and indicating his intention to meet the other Stormont parties within a week. Sir Jeffrey Donaldson, the DUP leader, commented that both Mr Heaton-Harris and Mr Baker "understand the difficulties we face at this time and the challenges we need to overcome." The DUP did not feel under Government pressure to re-enter power-sharing at Stormont. He said there was a prospect of renewed negotiations but a "change of stance by the EU" was required.

Sinn Fein's Michelle O'Neill – First Minister-elect – said that she told the Secretary of State "It's get down to business; work with others, find an agreed way forward. Get an executive up and running and stop pandering to the DUP."

Prime Ministers Questions, House of Commons, 7 September 2022

The new Prime Minister faced PM Questions in the House of Commons on 'Day One' of her term of office. Questions on the Northern Ireland Protocol were asked by the SDLP MP, Colum Eastwood, and the short-lived NI Secretary Sheilesh Vara:

Colum Eastwood asked: "The Prime Minister should know by now that many people in the north of Ireland are starving and freezing in their homes. We need a tailored solution for Northern Ireland, but that is much harder to achieve because the Democratic Unionist party is refusing to form a Government at Stormont. The new Prime Minister has a choice to make: she can either be on the side of the DUP or on the side of struggling people in Northern Ireland. So whose side is she on?"

Prime Minister Truss replied: "I want to work with all parties in Northern Ireland to get the Executive and the Assembly but in order to do that we need to fix the issues of the Northern Ireland protocol, which has damaged the balance between the communities in Northern Ireland. I am determined to get on with doing that and I am determined to work with all parties to find that resolution."

Shailesh Vara asked: "It is standard practice in the European Union that when it cannot get its own way in negotiations with the UK, it plays for time and waits for a new leader who it hopes will take a different view from his or her predecessor. For the sake of clarity, will my right hon. Friend confirm that the UK's preferred option in respect of the Northern Ireland protocol is a negotiated settlement, but that if such a settlement is not forthcoming, we will proceed with the Northern Ireland Protocol Bill which is currently going through Parliament?"

The Prime Minister responded: "Let me first thank my right hon. Friend for his service as Northern Ireland Secretary. He is absolutely right: we need to resolve the issue of the Northern Ireland protocol. My preference is for a negotiated solution, but it does have to deliver all the things that we set out in the Northern Ireland Protocol Bill. What we cannot allow is for this situation to drift, because my

No. 1 priority is protecting the supremacy of the Belfast/Good Friday agreement."

Northern Ireland Questions, 7 September 2022

The new Northern Ireland Secretary, Chris Heaton-Harris, dealt with Northern Ireland Questions in the House of Commons on 7 September 2022 .

The Liberal Democrat MP, Christine Jardine, asked: "What recent discussions he has had with representatives of political parties in Northern Ireland on the Northern Ireland Protocol Bill?"

The NI Secretary replied: "I thank the hon. Lady for her question. I will be speaking to each of the Northern Ireland party leaders this week on a number of issues, including the protocol and, as I may have mentioned, will be urging them to form an Executive as soon as possible."

Christine Jardine then asked: "As the Secretary of State is probably aware, the leader of the Alliance Party of Northern Ireland has claimed that the Government have until now taken a rather differentiated approach to the parties, and only the Democratic Unionist party was consulted on the drafting of the Northern Ireland Protocol Bill. Given the crucial importance of the protocol to our future relationship with Europe, to the future of the United Kingdom and to the people of Northern Ireland, will he do everything that he can to ensure that each party is consulted equally?"

Secretary Heaton-Harris replied: "Forgive me, but I do not think that that is completely correct, because all parties were consulted during the process—but yes, I will talk to everybody as I move forward."

Boris Johnson Farewell Speech, 6 September 2022

The outgoing Prime Minister, Boris Johnson, delivered his farewell speech outside No 10 Downing Street on 6 September 2022. RTE headlined coverage of the speech, "Johnson leaves Downing Street 'like a booster rocket'":

This is it folks. Thank you everybody for coming out so early this morning. In only a couple of hours I will be in Balmoral to see Her Majesty the Queen and the torch will finally be passed to a new Conservative leader. The baton will be handed over in what has unexpectedly turned out to be a relay race. They changed the rules halfway through, but never mind that now. I'm now like one of those booster rockets that has fulfilled its function. I will now be gently re-entering the atmosphere and splashing down invisibly in some corner of the Pacific.

The outgoing prime minister hinted that he intends to fade quietly into the background for now, comparing himself to Cincinnatus, a Roman statesman who - according to legend - returned to his farm after triumphing in battle but later was called upon - and agreed - to return to power in Rome

NI leaders react to new Conservative leader (BBC)

On 6 September 2022, the BBC published the initial reactions of six Northern Ireland party leaders to the election of a new Conservative party leader:

For Sinn Fein, Michelle O'Neill said she wanted to see a "change of tack" from the new prime

minister. She added that "triggering Article 16 will not serve anybody well" and she called on the UK government to find a way to reset relations with the EU. "The opportunity should not be missed and there should be no more pandering to the DUP," she said.

DUP Leader, Sir Jeffrey Donaldson said that even with the new prime minister, there was still no basis for a return to power sharing at Stormont without movement on the Northern Ireland Protocol. "If there is to be renewed negotiation with the EU, then the prime minister needs to be very clear that for the institutions to be restored decisive action is required to remove the barriers to trade and to respect the integrity of the UK internal market," he said. The DUP leader said the "penny is dropping" in Whitehall and Brussels that DUP "won't be pushed around".

Naomi Long, Alliance Party leader, said Ms Truss's performances during the leadership campaign "do not inspire confidence", in particular her stance on the protocol. "However, being new to the role, she has a window of opportunity to put her stamp on the position," she said. "As such she can make a positive impact on Northern Ireland." She urged the new prime minister to reform in the assembly and the executive at Stormont to ensure they could not be collapsed by a single party.

Doug Beattie, the UUP leader, acknowledged that Liz Truss has a "bulging in-tray" but he urged her not to let Northern Ireland slip off the radar. He said: "She has to put time, effort and energy into Northern Ireland, which has been neglected." He said the new administration needs to find "resolute plans" for the Northern Ireland Protocol in order to help restore the institutions at Stormont.

For the SDLP, Colum Eastwood urged the new prime minister to get to grips with the cost of living crisis from day one. "There will be no honeymoon period for the new prime minister," he warned. "Liz Truss must act immediately to address the cost-of-living crisis by freezing energy bills and introducing new direct support schemes for those with oil central heating or prepay meters." He called for the next government to engage in "honest dialogue" with the EU to resolve issues around the protocol.

TUV leader, Jim Allister, congratulated Liz Truss on her victory but stressed she would be judged on her actions on the Northern Ireland Protocol, not her words. "First and foremost the challenge for the prime minister is to take back sovereignty over this United Kingdom," he said.

Section Two: The Evolving Debate

Blair and Ahern 'assisting' work on Protocol

The Northern Ireland Minister, Conor Burns – in his final hours in that position – told the House of Commons in a discussion of the NI Protocol impasse: "I want to place on record, Mr Speaker, in the house today, my thanks to the former Taoiseach Bertie Ahern and the former Prime Minister Tony Blair for their assistance in the work that I have done over the summer."

Hilary Benn How to fix the Northern Ireland Protocol CER

The Labour Party MP Hilary Benn has written a significant paper How to fix the Northern

Ireland Protocol for the London/Brussels/Berlin Think Tank 'Centre for European Reform'. He summarises his paper:

Brexit has meant leaving the EU's single market and customs union, and everyone agreed there would be no border infrastructure on the island of Ireland. That required appropriate checks between Great Britain and Northern Ireland, in order to ensure that goods entering Northern Ireland destined for the Republic conformed to the rules of the EU's single market.

The UK government's current approach to resolving the problems with the Northern Ireland Protocol has been counterproductive and has further undermined trust. But there are problems with the Protocol: some businesses in Britain and Northern Ireland are losing out, and the refusal of the Democratic Unionist Party to join the Northern Ireland Executive or allow the Assembly to meet means that the political institutions of Northern Ireland are not functioning and other pressing issues are not being addressed.

Compromises are achievable.

The EU should:

Accept that just ending the 'grace periods' – which mean that some checks on goods are not being carried out – and implementing Commissioner Šefčovič's proposals would make the situation worse, because these proposals would mean more checks than there are now. Further movement from the EU is needed.

Accept that most supermarket supply chains pose no risk to the integrity of the EU internal market and should allow for few-to-no checks.

Accept that limited divergence by the UK from EU standards and rules for products sold in Northern Ireland should not in practice create risks for EU consumers, and that a veterinary agreement – possibly based on equivalence – would help considerably.

The UK should:

Drop the Northern Ireland Protocol Bill, which is currently making negotiations with the EU impossible, including its confusing proposal that businesses in Northern Ireland should be able to choose between making things according to EU regulations and standards, or to UK ones.

Acknowledge that many Northern Ireland businesses welcome the access to the EU single market that the Protocol gives them and that they will want to stay in step with new EU rules and standards, so they can buy and sell in a market of 450 million people.

Propose a more far-reaching consultation mechanism for new EU laws applying to Northern Ireland.

Both sides should be willing to compromise on issues like how the green/express lanes would work, the sharing of information, VAT, state aid and governance. □ The arguments over the Protocol must not be allowed to drag on. The longer they persist, the more likely they are to cause political instability and economic disruption

on the island of Ireland. But if the arguments can be resolved, the UK and the EU can start to build a more constructive relationship.

Section Three: Background Material and Further Reading

Background Material

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