

# BREXIT BRIEF

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## Introduction

Simon Coveney has said he 'can't believe we are still talking about Brexit'.

The Minister of Foreign Affairs' remark, which he made at a press conference with his German counterpart Annalena Baerbock, is echoed with some feeling as Brexit Brief 144 marks the seventh anniversary of the first Brief, which was posted on 17 December 2015.

The Brexit story in Ireland continues as the Stormont impasse saw the fifth unsuccessful attempt to elect a Stormont Speaker. Then it was indicated that the Northern Ireland Protocol Bill will not return to the House of Lords until the new year at the earliest to allow time for a deal to be struck between the UK and EU. The prospect has been raised of the completion of an EU-UK agreement on Valentine's Day in February ahead of the 25th anniversary of the Good Friday Agreement in April.

## Section One: The State of Play

### Varadkar returns as Taoiseach

On 17 December 2022 Leo Varadkar, leader of Fine Gael, will become Taoiseach for a second time when he succeeds Micheál Martin, leader of Fianna Fail, under the terms of the Coalition Government arrangement.

Speaking as Tánaiste, Leo Varadkar has told reporters that he will seek a meeting over the Christmas - New Year period with the British Prime Minister, Rishi Sunak, to discuss Northern Ireland. He also indicated that he intends to travel to Northern Ireland as Taoiseach to meet party leaders there "first of all to come to an agreement in relation to the protocol so that we can avoid a hard border but reassure unionists about their position in the United Kingdom. But also as well to get the assembly and executive up and running again."

Important decisions on key government roles will be made as Micheál Martin and Leo Varadkar change places. The position of Minister for Foreign Affairs is crucial in the

ongoing protocol debate and controversy. There is some uncertainty about the future of the present Minister Simon Coveney as the intentions of the outgoing Taoiseach remain unclear at this time.

As the Irish political scene undergoes significant change, talks between London and Brussels on the Northern Ireland Protocol will continue.

The European Union is ready to intensify efforts to find a solution for the contested Northern Ireland protocol in the Brexit deal with Britain, the EU's Brexit chief Maros Sefcovic said on Thursday 1 December 2022. "The EU's ready to double down on our efforts to find joint solutions for the benefit of all communities in Northern Ireland. I want to make the most of this clear window of opportunity. Our teams continue to work and we'll speak again soon." Sefcovic said in a tweet following a phone call with Britain's Foreign Secretary James Cleverly.

## Stormont Impasse – Round Five

On 7 December 2022, a fifth attempt to restore power-sharing arrangements at Stormont failed when the DUP refused to support the election of a Speaker. MLAs had reconvened following a recall petition signed by 30 members. A motion on the cost-of-living crisis was submitted for debate but could not take place after the failure to elect a Speaker. The Minister for Foreign Affairs said he was disappointed but not surprised that the attempt had failed.

The Northern Ireland Secretary, Chris Heaton-Harris, responded to this latest block to the restoration of power-sharing by confirming that the salaries of MLAs will

be cut by 26.5% from 1 January 2023. He argued that it was not acceptable to continue full pay for MLAs while they were unable "to conduct the full range of functions they were elected to do."

Meanwhile, a team of top civil servants in nine Stormont departments are carrying out the roles of ministers and overseeing routine work across the entire field of government and administration.

## President Ursula von der Leyen addresses Oireachtas

The President of the European Commission, Ursula von der Leyen, addressed the Joint Houses of the Oireachtas on 1 December 2022:

*The great European John Hume described Europe's role as being 'both practical and inspirational' for the peace process. Our Union was once founded as a peace project. Here, on the island of Ireland, Europe demonstrated this unique power to bring about peace. Europe's role in the peace process brought Europe right back to its roots.*

*This has made Brexit even more painful for all of us. Its consequences are most deeply felt on this island, well beyond the economic dimension. But Brexit has also thrust Ireland and the rest of the EU closer together. Ireland has benefited from the ironclad solidarity of the Union and all its Member States, big and small. All Europeans immediately understood how important it was to preserve peace on the island of Ireland.*

*And after Brexit, our Union has doubled down on its commitment to peace. For instance, we are now providing EUR 1 billion to the border counties in Ireland and to Northern Ireland with our PEACE PLUS programme. Since it was created in 1995, together with the Irish and UK governments, the EU's PEACE programme has replaced border checkpoints with sports venues, schools and community centres. It has brought together people from different communities who lived side by side but had never met each other. Brexit will not become an obstacle on the path of reconciliation in Ireland.*

*And I am glad that today our talks with London are marked by a new, more pragmatic spirit. Because the European Union and the United Kingdom are still members of the same extended family, even if we no longer live in the same house. I can promise you that whenever the European Union sits down with our British friends, we will do so with 'an honest heart, and an open mind', to quote the great Irish band The Saw Doctors. By applying common sense and focusing on the issues that really matter in Northern Ireland, I believe we can make progress in resolving the practical matters surrounding the Protocol. We are listening closely to business and civil society stakeholders in Northern Ireland.*

*But the consequences of Brexit and the kind of Brexit chosen by the UK cannot be removed entirely. The solutions we find must ensure the Single Market continues to function, in Ireland and elsewhere in the EU. If both sides are*

*sensitive to this careful balance, a workable solution is within reach. I believe, we have a duty to find it. My contacts with Prime Minister Sunak are encouraging and I trust we can find the way. And one thing is clear: Ireland can always count on the European Union to stand by the Good Friday Agreement. There can be no hard border on the island of Ireland.*

The Taoiseach, Micheal Martin, replied to the address:

*The part played by the EU in our journey towards peace and reconciliation on this island has been significant. Our European partners also made, and continue to make, their contribution through steadfast support for generous peace and reconciliation programmes. You have stood with Ireland and Northern Ireland as we worked together to manage the unique challenges for this island resulting from the UK's decision to leave the European Union: making the objectives of sustaining peace, avoiding a hard border - I welcome your strong comments again today in respect of that - and protecting the all-island economy a European Union priority from the very beginning of negotiations.*

*I had the opportunity earlier today to once again express to you, President von der Leyen, our appreciation for the European Union's unswerving solidarity with Ireland throughout Brexit. Like you, we want to see a new and vital partnership with the United Kingdom, a constructive one, which will be achieved if we can resolve the issues relating to*

*the protocol. With the right political will, I believe we can achieve that.*

The Minister for Foreign Affairs, Simon Coveney, also replied:

*Ireland knows first-hand the value of European solidarity. Throughout the EU-UK negotiations following the Brexit vote, the European Commission has never once wavered in its solidarity with Ireland in a Union where, increasingly, we look out for one another. Four years ago, when your predecessor addressed this House, my colleagues thanked both him and Michel Barnier for the leadership they had shown through the Brexit negotiations. Today, I want to echo that gratitude by sincerely thanking you and, in particular, Vice-President Šefčovič, for your tireless work in supporting peace in Northern Ireland, for your continued patience and intelligence and for your willingness to continue to look for solutions to the ongoing issues of concern around the Northern Ireland protocol.*

*The United Kingdom is our neighbour. It is our friend and a country that we and the rest of the EU want a deep partnership with, as they travel a new journey outside of the European Union. I hope that with a new UK Prime Minister and, indeed, a new context internationally, we can now grasp the opportunity to resolve our Brexit-related differences in the coming weeks through dialogue and compromise. I too believe a solution is within our grasp if we have a partner to achieve an outcome we can all accept and move on from.*

## **Rishi Sunak Mansion House Speech on 28 November 2022**

Prime Minister Sunak's first major foreign policy speech at the Lord Mayor's Banquet on 28 November 2022 contained a brief reference to Europe:

*We're also evolving our wider post-Brexit relations with Europe [...] including bilaterally and engaging with the new European Political Community.*

*But this is not about greater alignment. Under my leadership we'll never align with EU law. Instead, we'll foster respectful, mature relationships with our European neighbours on shared issues like energy and illegal migration [...] to strengthen our collective resilience against strategic vulnerabilities.*

## **Irish Unity Poll results**

Northern Ireland would vote decisively against a united Ireland if there was a Border poll, according to an Ipsos opinion poll for a new research project into North-South relations and political views on the future of the island.

The poll shows almost twice as many voters who expressed a preference want to remain in the United Kingdom. In the Republic, however, there is a majority of more than four to one in favour of unity, according to a simultaneous and identical poll.

Majorities in both jurisdictions believe that referendums on the unity question should be held, with voters in the Republic more likely to favour a vote in the next five years, while a majority of voters in the North want a Border poll in the next 10 years.

Half of all respondents (50 per cent) in Northern Ireland said they would vote against Irish unity, which included 21 per cent of those from a Catholic background. Just over a quarter (26 per cent) in the North said they would vote for unity, while 19 per cent said they didn't know how they would vote and 5 per cent said they would not vote. The highest percentage of don't knows was among the "others" — those who do not identify as being from a Catholic or Protestant background — where almost a third (31 per cent) are undecided.

The strongest opposition to unity was among those of a Protestant background (78 per cent). Those of a Catholic background were most in favour of unity, though only just over half (54 per cent) of all Catholic respondents said they would vote in favour, with 21 per cent against and 22 per cent undecided. In the Republic, the picture is very different. Almost two-thirds of all respondents (66 per cent) said they would vote for unity, with just 16 per cent against. Don't knows were at 13 per cent.

## EU Internal Rules on Protocol

The European Parliament has finalised a law that will allow the EU to take retaliatory measures, including sanctions, against the UK if it fails to implement the terms of the Brexit agreement. The decision would empower the European Commission to impose restrictions on trade, investment, or other activities if the UK was to breach the terms of its Trade and Cooperation and Withdrawal Agreements.

Officials working on the file argued that the focus was on enabling the Commission

to respond faster to breaches of the Brexit agreements. There was concern avoid a repeat of the Commission's short-lived decision in February 2021 to suspend the Northern Ireland protocol due to concerns over COVID-19 vaccine procurement by giving MEPs oversight over the suspension and sanctions mechanisms.

"Politically, this Regulation is a strong statement of EU unity and readiness to take action if the UK were to breach either agreement, including the Protocol on Ireland/Northern Ireland. Especially if the British government was to refuse to participate in the dispute resolution mechanisms provided for," said Seán Kelly, the Irish MEP who led Parliament's negotiating team.

*Of course, we would prefer if the enforcement mechanisms were not needed. However, while we welcome the more constructive and positive approach from the UK towards the EU under Prime Minister Sunak, we have yet to see that translated into action. The mood music is much better, and while I think we are going in the direction, the reality is the legal situation remains the same. From an Irish perspective, this decision is also essential to protect the all-Ireland economy. There have been positive indications that the UK government wants to repair some of the damage done to its relations with the Irish government. It is in everyone's interests to make the Northern Ireland Protocol work as the only solution to the hard Brexit chosen by the UK. The Protocol's main goal is to prevent the return of a hard border on the island of Ireland and to preserve peace.*

Commission Vice President Maros Sefcovic tweeted: "Today the EU has agreed internal rules that allow us, if needed, to enforce our agreements with the EU. Continued unity = EU Commission / EU Council / European Parliament. The EU is committed to a positive, constructive relationship with the UK." The new provision is set to enter into force early next year. In Dublin, the Minister for Foreign Affairs, Simon Coveney, commented that the EU had to prepare such measures but "we hope it does not come to that."

## **Taoiseach at Shared Island Forum, 5 December 2022**

The Taoiseach, Micheál Martin, spoke about the situation in Northern Ireland in his extensive address to the Shared Island Forum on 5 December 2022:

*And so we stand now, having forged a profoundly difficult but ultimately sustainable and successful way on this island: Going far beyond grudging acceptance of our different identities and the path of history. To a willing combination of our diversity in common cause through the Good Friday Agreement.*

*As a result, a generation of young people has grown up and come of age in peace on this island, with a lived experience that can transcend the divisions of the past. But clearly today, there are also very real challenges:*

*The democratic mandate given by the people of Northern Ireland in Assembly elections last May is still being unacceptably denied; the power-sharing Executive and North South Ministerial*

*Council are not functioning at a time when they are acutely needed;*

*The outworkings of Brexit, more than six years on, continue to strain political and community interactions in Northern Ireland; hinder North/South and Ireland-UK relationships;*

*And, we have to be clear too that - while there has been hugely important progress - the immense potential of the Good Friday Agreement to bring people on this island together has not yet been delivered. There remain degrees of separation both in Northern Ireland and between North and South. We see it in our politics, communities and cultures; our media, social media and mindsets.*

*The devolved power-sharing institutions are at the heart of the Good Friday Agreement. Symbolising the new Northern Ireland that people across all communities affirmed in 1998, and critical in meeting the needs and expectations of the people of Northern Ireland today.*

*The Assembly and Executive cannot sustainably be held hostage by any political party. The Government will do everything that we can, working closely with the UK Government as co-guarantor of the Agreement, with all of the party leaders in Northern Ireland, to get the power-sharing institutions in place again without delay.*

*Progress in the EU-UK negotiations on the Protocol is urgent. And as President Von der Leyen said last week in her address to the Joint Houses of the*

*Oireachtas, by applying common sense and focusing on the issues that really matter in Northern Ireland, progress can be made.*

*As we approach the 25th year of the Good Friday Agreement, it is an utmost political responsibility to safeguard our transformational democratic accord, invigorating all of the relationships in the Agreement; to win another generation of peace and progress for all communities.*

## Supreme Court Hearing on Protocol

The UK Supreme Court has been hearing a legal challenge to the lawfulness of the Northern Ireland Protocol, mounted by a group of unionist politicians. They argue that the protocol - a key part of the UK government Brexit agreement with the European Union - breaches the historic Acts of Union and the Northern Ireland Act.

Earlier this year, the Court of Appeal in Belfast dismissed their challenge on all grounds, with judge's ruling that the Protocol had lawfully overridden part of the Act of Union. This judgement followed a ruling by the High Court which also determined that the protocol was lawful.

## Section Two: The Evolving Debate

### Brexit Debate in UK: Financial Times on Brexit

In a four-part series the *Financial Times* examined the impact of Brexit on key issues in the areas of economics, trade, business, and politics.

Brexit and the Economy: the hit has been substantially negative. Almost two years after Britain left the EU, economists have reached a consensus: Brexit has significantly worsened the country's economic performance. They agree that the vote to leave the bloc has made households poorer, that negotiating uncertainties have taken their toll on business investment and that new barriers to trade have damaged economic links between the UK and EU. While economists and officials do not agree on the precise magnitude of the Brexit effect, they consider it to be large. They also agree that new trade agreements with countries such as Australia and regulatory freedoms gained from leaving the bloc do not come close to offsetting the damage. Andrew Bailey, Bank of England governor, told MPs this month that the central bank assumed that Brexit would cause "a long-run downshift in the level of productivity of a bit over 3 per cent" — most of which had already happened. "We have not changed our view on that so far," he said. The Office for Budget Responsibility, the fiscal watchdog, expects the UK economy to end up 4 per cent smaller than it would otherwise have been — a £100bn a year hit to prosperity — leaving the public finances less sustainable in part due to "a significant adverse impact on UK trade". Some former officials have gone further. "Put it this way, in 2016 the British economy was 90 per cent the size of Germany's," said Mark Carney, former Bank of England governor. "Now it is less than 70 per cent."

Politics and Brexit: Brexit is the hot topic of the moment, as the media, business circles and economists try to unpick why Britain's economy is struggling compared with its competitors. But as public support for Brexit declines, business becomes more agitated

and the trade and investment impacts of EU exit become clearer, there is one group reluctant to discuss the “B word”: Britain’s political elite. Rishi Sunak, the Brexiter prime minister, has shut down a discussion started by anonymous senior figures in his government about whether Britain should build closer “Swiss-style” links with the EU over time. Meanwhile Sir Keir Starmer, the Labour leader who once campaigned for a second EU referendum, delivered a speech to the CBI in November in which he only mentioned Brexit once in passing. Sir Ed Davey, the leader of the pro-European Liberal Democrats, did not mention “Brexit” at all in his biggest speech of the autumn, making only a reference to the need to remove red tape “strangling trade” with Europe. On the face of this it seems as if Britain’s political classes have not caught up with the public. “The truth is Brexit is now probably less popular than it has been since June 2016,” the pollster Sir John Curtice said in November.

*YouGov* reported in November that 56 per cent of voters thought it was a bad idea to leave the EU and only 32 per cent still thought it was a good one. But that does not mean the British public has a huge appetite for reopening the divisive Brexit debate, nor do they think there is much prospect of Britain rejoining the EU. A Redfield & Wilton survey found that only 27 per cent thought it was likely that Britain would apply to rejoin the EU within the next 10 years; only about one-third thought the EU would welcome the UK back.

## **Irish News Survey on Stormont Future**

In early November, with the NI Assembly and Executive unable to operate due to the

refusal of the DUP to activate key cross-community arrangements - the *Irish News* asked the Northern Ireland parties how they would make devolved government function better. With the exception of the DUP all parties provided the paper with ‘platforms’ setting out their views.

For *Sinn Féin*, first minister designate Michelle O’Neill argues that there is widespread desire for ‘*real change*’, but that change should not extend to altering the working of the Good Friday institutions, “for the meantime at least”. “To discard the Good Friday Agreement safeguards and protections or governance arrangements would be a mistake. Democratic self-government is the only show in town. Reform must mean more devolved powers from London so local ministers can take decisions in the best interests of people here. This is something all parties can unite on.”

The *Alliance* leader Naomi Long insists that reform is the only way to break the “cycle of crisis and collapse” and argues that “the ugly scaffolding of the binary system has unintentionally handed the two largest parties the ability to collapse the institutions and hold the people of Northern Ireland to ransom at will.” Alliance advocates amending the process for nominating first and deputy first ministers so that if a party refuses to nominate the entitlement passes to the next largest party. Alliance also supports weighted voting in the Assembly.

Doug Beattie of the *UUP* is critical of changes made to the Good Friday Agreement which “have served to weaken the institutions and undermine the original vision of truly sharing power.” He argues that the current scenario



exits because of the mechanism put in place by the UK and Irish Governments in 'New Decade New Approach' which was intended to improve the sustainability of the institutions. For the UUP the fix lies in returning to the 'factory settings' of the Agreement.

For the *SDLP*, Matthew O'Toole acknowledges the role of the Agreement and its institutions in embedding peace but argues that "no one could credibly argue that they are operating properly – when they operate at all." The question is how to reform them without jeopardising the fundamental principles of power sharing and mutual respect. The 2006 rule changes are "tragic" and "designed to promote tribal vetoes and victories". The *SDLP* advocates that the first and deputy's titles are 'equalised' to end campaigning based on communal victory of one group over another.

The *TUV* leader Jim Allister argues that "with no party big enough to govern on its own, coalition is inevitable. As elsewhere, for it to work, it must be a coalition of the willing. At present none of the parties have to agree about anything before going into government together – hence the inevitable crises and collapse." He writes that those who "meekly accepted three years of Sinn Fein Boycott have only recently become interested in reform" A weighted majority vote to approve the new government and its programme and budget would be the mechanism to ensure cross-community composition.

Gerry Carroll of *People Before Profit* would welcome reform of the institutions to allow for a voluntary coalition but sees that as "only a stopgap measure" which will not cure the "sectarian rot" at the heart of the northern state. "A better future lies beyond the failed states of the north and south but

it will be for our communities to unite and to mobilise to win real change."

The Irish News made reference to the DUP manifesto from the May 2022 election. Beyond its views on the NI Protocol the DUP said it wanted to see politics and government at Stormont "normalised": "We have had a long-term objective of seeing government established by those who can agree to govern together. We remain convinced that a voluntary coalition represents the best long-term option for government in Northern Ireland."

## **A New Britain / Labour Party**

The British Labour Party has published the report of its Commission on UK's Future, chaired by the former party leader and Prime Minister, Gordon Brown. "A New Britain - Renewing our Democracy and Rebuilding our Economy" sets out a wide-ranging set of political goals and detailed policy recommendations, headlined by the commitment to replace the House of Lords with an elected assembly. The paper includes key references to Northern Ireland.

*a new voice and new status, and new powers, for Scotland, Wales, and Northern Ireland as valued parts of the United Kingdom. Our recommendations will give the people of Scotland, Wales and Northern Ireland a new opportunity to benefit from not only a unique and mutually beneficial combination of self-government and shared government but from a new status we propose each of these nations can enjoy within the United Kingdom.*

*We recommend embedding this new principle of shared government in*

*the way Westminster and Whitehall works – giving each part of the Union a respected voice in joint decision making, and creating new ways to drive better co-operation. We recommend strengthening the powers that deliver self-government in the devolved nations of Scotland, Wales, and Northern Ireland – based on the principles that devolved self-government should be permanent, expansive, and each elected body held in equal esteem.*

*The Commission's blueprint is intended to give the people of Scotland, Wales, and Northern Ireland a new opportunity to benefit from the unique and mutually beneficial combination of self-government and shared government that their nations enjoy – the opportunity to pursue faster change within a reformed UK.*

*So, our proposals take us beyond today's binary debate that has focused too long only on which powers are held by whom without thinking of the benefits of co-operation to all. So we set a path for how Scotland, Wales and Northern Ireland, alongside the towns, cities and regions of England can be respected voices in Britain regardless of which party is in Government, and how shared objectives can be delivered by shared institutions. In Northern Ireland, our proposals can help restore and strengthen devolution, consistent with the principle of consent and the commitments of the Good Friday Agreement and at the same time, improve the prospects for economic growth and good employment prospects for the people of Northern Ireland. We support devolution in Northern Ireland, consistent with the principle of consent and the commitments made in the Good Friday*

*Agreement and wish to see it restored and strengthened. Enhanced access to economic resources for Northern Ireland: the British Regional Investment Bank should maximise support for innovation and investment in Northern Ireland, in conjunction with Invest NI and the European Investment Bank.*

## Section Three: Background Material and Further Reading

### Background Material

**European Commission** Address by President von der Leyen to the Joint Houses of the Oireachtas, 1 December 2022. [https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\\_22\\_7347](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_22_7347)

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