

BREXIT BRIEF

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Tony Brown

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.iea.com)

Introduction

"If the last 25 years were about peace, the next 25 years should be about helping Northern Ireland complement that peace with increased prosperity." These were the remarks of the Vice-President of the European Commission, Maroš Šefčovič, as the EU and UK jointly adopted the new arrangements set out in the Windsor Framework. In their Joint Statement on the adoption of the Framework, the EU and the UK spoke of, "A constructive atmosphere building on the excellent cooperation between the UK Foreign Secretary, James Cleverly, and the Vice-President, Mr Šefčovič, over recent months."

The action of the EU and UK administrations in formally adopting the Framework moves

the ongoing debate over the post-Brexit arrangements for Northern Ireland and the future of the devolved Good Friday institutions to a new phase. In the words of the Leader of the SDLP, Colum Eastwood, "The deal is done" and attention should now be directed towards full restoration of both the Assembly and the Executive, and the day-to-day concerns of people in Northern Ireland – jobs, healthcare, education, and the cost of living.

In all of this, the position of the DUP is crucial. On 22 March 2023, the DUP – along with a small number of Tory MPs – voted against the government resolution on the Stormont Brake aspect of the Windsor Framework, arguing that the party would continue to "seek clarification, change and re-working" of the new agreement. DUP

politicians in Westminster strongly object to the application of EU laws in Northern Ireland and continue to put pressure on the DUP Leader, Sir Jeffrey Donaldson to stand firm on refusing to commit to the restoration of Stormont.

As the 25th anniversary of the Good Friday Agreement, a visit to Belfast by the President of the United States, Joe Biden, and the Northern Ireland local government elections all approach in the next two months, a period of intense debate and controversy lies ahead in what will likely be a moment of challenging political engagement.

Section One: State of Play

EU - UK Formal Agreement

On 24 March 2023, the European Union and the United Kingdom held the tenth meeting of the Withdrawal Agreement Joint Committee and the second meeting of the Trade and Cooperation Agreement Partnership Council in London. The Committee and Council adopted the arrangements set out in the Windsor Framework. In a joint statement on behalf of the UK and the EU, UK Foreign Secretary Cleverly and Vice-President Šefčovič agreed to work together intensively and faithfully to implement all elements of the Windsor Framework and to jointly resolve any future issues that may emerge.

As the delegations gathered in London, Mr Šefčovič issued the following statement

The EU-UK Joint Committee will adopt the necessary decisions relating to the Windsor Framework. The Partnership Council will give a positive signal to our cooperation. This is a major achievement because we are bringing our partnership to the level it deserves and is needed in today's world.

That is a partnership: based on trust, driven by cooperation, and delivering benefits for the people on both sides. Given our historic bond, our shared values and our challenges that are global in nature, this simply makes sense.

House of Commons Vote on Stormont Brake

On 22 March 2023, the House of Commons voted by 515 votes to 29 to approve a key element of the Windsor Framework, the Stormont Brake. The 29 negative votes were cast by 22 Conservative MPs, 6 DUP MPs and one independent member, Andrew Bridgen MP. Former Prime Ministers, Boris Johnson and Liz Truss, as well as former Conservative Party Leader, Iain Duncan Smith were among Conservative MPs who voted against the Stormont Brake.

In the Commons Debate, key contributions were made by the Northern Ireland Secretary, Chris Heaton-Harris, as well as the Shadow Northern Ireland Secretary, Peter Kyle. Mr Heaton-Harris praised the Stormont Brake as offering a “robust change” from the original Protocol on Ireland/Northern Ireland, which he said resolves the democratic deficit by giving the UK a veto over alignment with EU rules that apply in Northern Ireland. Mr Heaton-Harris also emphasised the importance of restoring the Northern Ireland Assembly and Executive:

These regulations make the case for functioning devolved institutions in Northern Ireland even more compelling. The measures will become operable only when the institutions are restored. Denying the people of Northern Ireland will not only deny them the basic right to an effective, stable Government but will deny them full democratic input into the

laws that apply to Northern Ireland, and that denial cannot be justified.

Mr Kyle reiterated the Labour Party's support for the Windsor Framework, which he said mitigated many of the problems caused by the original Protocol. Mr Kyle also called for the British Government to build a stronger relationship with Ireland:

...[W]e need to work towards a strong, trusting relationship with the Irish Government, because when our two countries work together closely, it eases the anxiety that some people in Northern Ireland feel regarding their Irish or British identities, and creates the conditions for economic progress across the island of Ireland.

DUP Leader, Sir Jeffrey Donaldson, voiced his Party's opposition to the Windsor Framework during the Commons Debate, on the grounds that the deal provides for the continued application of EU law in Northern Ireland which, he argued, would inhibit Northern Irish businesses from trading within the UK internal market. On this basis, Sir Jeffrey refused to make any commitments on the restoration of Stormont, which has been dissolved since his party collapsed power sharing in February 2022. He said:

To be clear, I want to see the restoration of devolved government in Northern Ireland. My party is a party of devolution; we believe that delivering effective government for our people is the best way forward, working alongside this House and this Parliament. That is where we want to get to, but we have to get it right.

...

My party is committed to...protect[ing] Northern Ireland's place within the internal market of the United Kingdom, and to ensure that where EU law is applied to facilitate cross-border trade, it does not impede our ability to trade with the rest of our own country in the internal market of our own country. That is the bottom line for us, and until that is resolved, I cannot give the Government a commitment to restore the political institutions. It is what I want to do, but we need to get this right. I want Stormont to be restored on a sustainable and stable basis, where there is cross-community consent and consensus, but that does not exist at the moment. We need that consensus to be restored.

The Leader of the SDLP, Colum Eastwood, also spoke during the Commons Debate, stating that his party would vote for the Windsor Framework despite some of their misgivings over the Stormont Brake. He added:

There have been parts of every single agreement that we have not liked, but we have had to stomach them for the greater good of the people of Northern Ireland. We see the Unionist concerns; we see many of them—most of them—addressed in this agreement; and we are prepared to make the decision on that basis. However, let me make something very clear to this House: if the DUP still refuses to go into government after all of this, I can guarantee that more and more people will figure out that the best way to make the north of Ireland work is within a new Ireland. That is where this is going, and people should be very aware of that.

EU Ministers Adopt Windsor Framework

The EU General Affairs Council, meeting on 21 March 2023, adopted two decisions related to the Windsor Framework, issuing a Statement in which the Framework is referred to as “a new joint way forward on the Protocol on Ireland/Northern Ireland on which the Commission and the UK government reached a political agreement in principle on 27 February 2023.” The decisions adopted by the General Affairs Council allow the EU (within the Joint Committee and the Joint Consultative Working Group set up under the EU-UK Withdrawal Agreement) to agree the main elements of the Windsor Framework, thereby making them legally binding.

The Council President - Swedish EU Affairs Minister, Jessika Roswall – commented:

The adoption of the acts demonstrates the EU's commitment to implementing the joint solutions that have been found to address practical difficulties in implementing the Protocol on Ireland/Northern Ireland on the ground. The agreement on the Windsor Framework is a truly positive achievement ahead of the 25th anniversary of the Good Friday Agreement. It will benefit people and businesses in Northern Ireland and should allow the EU and the UK to open a new chapter in our relations. The member states stand united behind the European Commission in their support for the agreed solutions and look forward to their swift implementation in good faith.

Following the Council meeting the Irish Minister of State for European Affairs, Peter Burke TD, remarked:

With the Windsor Framework, the EU and the UK agreed a series of practical and sustainable measures that address, in a definitive way, the concerns raised in Northern Ireland. I hope that this consensus can provide momentum toward getting the institutions of the Good Friday Agreement up and running as soon as possible, across all three strands.

President Biden at St Patrick's Day Reception

The week leading up to St Patrick's Day, during which Irish and Northern Irish political figures traditionally travel to Washington DC, saw much attention and comment on the Windsor Framework.

US President Joe Biden spoke about the Windsor Framework at the St Patrick's Day Reception for the Taoiseach, Leo Varadkar, referring to the deal as an important step towards strengthening and preserving the Good Friday (Belfast) Agreement just before its 25th Anniversary. He stated:

In the past few weeks, I've shared my support for the Framework with European Commission President von der Leyen, as well. And I join the people across Northern Ireland in looking forward to seeing the return of a devolved government.

It was an important show of unity. A refusal to return to violence. Even after nearly 25 years, we can't take for granted a shared future built on peace in Northern Ireland. We can't fail in our effort to seek

compromise and cooperation for the good of everyone. And I want each of you to know that the United States will remain your strong friend and partner in the work that lies ahead.

Taoiseach at Ireland Funds Gala, 15 March 2023

The Taoiseach, Leo Varadkar, speaking at the Ireland Funds Gala in Washington DC, recalled the role of the United States in brokering the Good Friday Agreement, referring to Northern Ireland as “one of the most significant success stories in American foreign policy” and America as “the third guarantor of the [Good Friday] Agreement”. On the subject of the Windsor Framework, Mr Varadkar added:

I welcome and endorse the recent agreement between the EU and the UK, the Windsor Framework which amends the Protocol to make life easier for citizens and businesses in Northern Ireland. As people give careful thought and reflection to their response, I hope that they take the path that leads towards the restoration of the institutions. People in Northern Ireland want the people they elected to office, working to find solutions to the most pressing matters – health, housing, cost-of-living, economic development.

Jeffrey Donaldson on Windsor Framework ‘Failures’

Speaking before a series of meetings with congressional leaders on Capitol Hill, Sir Jeffrey Donaldson stated that the Windsor Framework “does not deal with some of the fundamental problems at the heart of our current difficulties” and there remain “key areas of concern which require further

clarification, re-working and change as well as seeing further legal text.”

He argued that the Framework failed to address “at least” five of the key unionist criticisms of the previous arrangements contained within the original Protocol, which placed post-Brexit checks at ports of entry into Northern Ireland, rather than along the 310-mile land border with Ireland, an EU Member State. Sir Jeffrey claimed that, “Enforcement of the ‘Irish Sea border’ had boosted all-Ireland trade, as Irish nationalists want, at the expense of previous suppliers based in Britain.”

Sir Jeffrey also said that the Windsor Framework failed to reverse the undermining of Northern Ireland’s constitutional union with Britain; wasn’t sufficiently clear on how goods staying in Northern Ireland could avoid any checks at ports via the proposed “green lanes”; and left Northern Ireland at risk of growing regulatory incompatibility with the rest of the internal UK market.

He added that the Framework still obliged Northern Ireland firms to observe EU laws on goods even if those firms “only trade within the United Kingdom.” Crucially, he argued that the government’s reassurance to unionists — that a revived Northern Ireland Assembly would gain powers to block the rollout of new EU goods laws in the region — might be amount to very little in practice. However, Sir Jeffrey stressed that the DUP was committed to securing changes and additions to the Windsor Framework through ongoing discussions with the UK government.

The DUP leader strongly denied being pressured by US politicians to sign up to the new Brexit deal on trade for Northern Ireland. He maintained that the US administration and other political figures in Congress had

been “very understanding” of his party’s desire to seek further assurances from the UK government following the signing of the Windsor Framework.

DUP to vote against Windsor Framework Brexit Deal

The DUP indicated that it would oppose the British government in the first parliamentary vote on the new Windsor Framework.

Announcing the party’s “unanimous” decision to vote against the Stormont Brake element of the Windsor Framework ahead of the Commons vote, Sir Jeffrey said that his party had ongoing concerns and would need to see further progress secured before it would be in a position to support any agreement.

Meanwhile, the leader of the UUP, Doug Beattie, said that the Windsor Framework represents “an important steppingstone towards achieving a lasting solution to the many issues and challenges with our post-Brexit trading relationship with both Great Britain and the European Union.” However, he also argued that, “It’s clear that questions around moribund EU laws remain and significant points of clarity surrounding the red and green lanes have yet to be answered. These are where we must focus our efforts in the short term in order to get clarity and find solutions.”

Seanad Éireann Motion on Windsor Framework

On 8 March 2023, Seanad Éireann adopted a Motion on the Windsor Framework, which welcomed the securing of an agreement between the EU and the UK before the 25th anniversary of the Good Friday Agreement. Seanad Éireann called for the Windsor Framework to be implemented, noting the

economic opportunities it could bring for the all-Ireland economy, and for the restoration of the Northern Ireland Assembly and Executive in line with the wishes of the majority of people in Northern Ireland as expressed in the May 2022 Assembly Elections.

Section Two: The Evolving Debate

Tony Blair on Political Disruption

On 16 March 2023 the former UK Prime Minister, Sir Tony Blair, participated in a session of the House of Commons Northern Ireland Committee on the anniversary of the Good Friday Agreement. He spoke of current divisive debates in Northern Ireland, warning of the negative effects of “constant disruption” for unionism. Sir Tony argued that unionism is the status quo and that, to the extent that people are comfortable with the status quo, they will not be inclined to change it. The current political disruption in Northern Ireland, in Sir Tony’s view, risks destabilising unionism in Northern Ireland and may work in favour of Irish nationalism.

Sir Tony went on to express his own belief in the Union and to argue for the restoration of Stormont, saying:

...I come at it from the point of view of someone—you know, I want my country to stay strong. That is why I am opposed to the SNP in Scotland and why my preference is that Northern Ireland remains part of the Union. But it can only be that way, in my view, if people feel the status quo is something stable. When you ask me what I think about the politics now, the important thing is to get over this problem of the Protocol; if at all possible, to get an agreement to re-form the Executive; to get back into

power; and then, over time, to deal with these issues. But the less stability there is in the system, the more it makes me anxious about the future.

US Senate Leader at Ireland Funds Gala Dinner, 15 March 2023

The US Senate Leader, Chuck Schumer, along with the Taoiseach, Leo Varadkar, was among the speakers at the Ireland Funds Gala Dinner on 15 March 2023. He was speaking to a gathering which included former President of Ireland, Mary Robinson, PSNI Chief Constable, Simon Byrne, and the US Special Envoy for Northern Ireland, Joseph Kennedy III. Also in attendance were the leaders of the five largest Northern Ireland political parties: Mary Lou McDonald and Michelle O'Neill, Sir Jeffrey Donaldson, Doug Beattie, Naomi Long, and Colum Eastwood.

Mr Schumer praised the slow and "sometimes spluttering" progress made to achieve peace in Northern Ireland, before urging the Stormont institutions to be restored:

We all want to see an open Irish border, and other vital parts of the good Friday Agreement, continue to deliver the dividends of prosperity that derive connectivity and democracy and self-government. This is why it is so vital that we soon see a power-sharing and elected Assembly and Executive government at Stormont back up and running.

I am pleased that the most recent developments are positive and encouraging. I believe that the new Windsor Framework is a strong step in the right direction...

And now that the Windsor Framework has been announced, I sincerely hope that it

clears the way for the DUP to join Sinn Féin in a power-sharing government, as was decided by the people of Northern Ireland in the last election. I say to all parties in the North, but especially to the DUP: let's get to the peoples' business."

New Opinion Poll

A poll from the Institute of Irish Studies at the University of Liverpool for *The Irish News* shows a 1.6% increase in support for Sinn Féin from the May 2022 Assembly election to lift its vote share to 30.6%. The poll suggests that the DUP has also slightly increased its share of the vote from last year by 2.6%, from 21.3% to 23.9%. Likewise, the polling indicates that the Alliance Party has further increased its support from its record 13.5% last May (a result which made it Northern Ireland's third biggest political party for the first time), to 15.4%.

The poll also shows that the UUP vote remains stable, increasingly slightly from 11.2% to 11.3%, while the SDLP vote has fallen from 9.1% to 6.7%, and support for the TUV has fallen from 7.6% at the Assembly election, to 4.8%.

Meanwhile the poll also sampled opinion ahead of the 25th anniversary of the Good Friday Agreement, revealing that 23% of respondents give unqualified support for the historic accord, 37% support it but believe it would work better if reformed, 13% believe the structures are no longer a basis for regional government and should be substantially changed, and 7.2% believe the structures should be removed. In terms of community background, 67.2% of nationalists back the Agreement 25 years on, 57.5% of unionists back the Agreement in some form, and 58.2% of others also support it.

Finally, the poll also shows that people in Northern Ireland who support Rishi Sunak's post-Brexit deal vastly outnumber those who oppose it. Asked if they opposed the Windsor framework, just 16.9% of voters said yes, suggesting there is a desire to move on from political battles over trading arrangements. Overall, 45% of voters did not oppose the revised deal, with around a third neither agreeing nor disagreeing. Nationalists were slightly more opposed to the deal than unionists – 19.1% versus 15.7% – underlining a widespread belief the Windsor Framework is a victory for unionism.

Section Three: Background Material and Further Reading

Background Material

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Further Reading

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The Institute of International and European Affairs,

8 North Great Georges Street, Dublin 1, Ireland

T: +353-1-8746756 F: +353-1-8786880

E: reception@iiea.com W: www.iiea.com