

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

The Northern Ireland local government elections on 18 May 2023 produced a result which has been described as “reshaping the politics of Northern Ireland”, with Sinn Féin becoming the largest party in local government in Northern Ireland for the first time. Following Sinn Féin's success in last May's Assembly elections, for the first time in Northern Ireland's history a nationalist party now holds the largest number of seats in both the Assembly and at council level.

This came about following a “local election campaign that had nothing to do with local matters.” The media campaign, in particular, focused almost entirely on the on-going Stormont impasse and this was reflected in remarks made by the party leaders, who

presented their individual views on the DUP boycott and their proposals for ending it and getting back to day-to-day politics.

Writing in *The Irish Times*, unionist commentator Newton Emerson said that the three elections in 2019 “were about Stormont, and... gripped public attention”, but that this year “a sense of repetition and falsity may explain the current weary mood. Everyone is exhausted by unionism's Brexit drama, unionists included.” This mood was reflected in differential turnout on polling day, which averaged at 54.7%.

The results of the election were highly significant for the political parties – large and small –for the Good Friday institutions, and for the economic and societal development of Northern Ireland. Decisions and actions by

the Northern Ireland parties and by the UK and Irish Governments – as co-guarantors of the Good Friday Agreement – will be watched with great interest and concern. The growing UK debate on the negative economic and political impact of Brexit is of particular significance.

In a response to the final results, commentator Deirdre Heenan wrote, in *The Business Post*, on 21 May 2023:

Regardless of the election results, the political system in the North is completely dysfunctional. This latest fiasco of abandoning the responsibility to govern has seriously damaged trust and confidence in devolution. It has shone a spotlight on the North's defective political system and set out its fundamental flaws in glorious technicolour.

So, it appears that more of the same just won't cut it. Disenfranchising the population has exacerbated disillusionment and disengagement, and there is an overwhelming sense of "a plague on all your houses."

Section One: State of Play

Local Election Results

With the final counts concluded, Sinn Féin has emerged as the largest party in both the Northern Ireland Assembly and local government. Winning 144 seats in the local councils – an increase of 39 seats from their previous 105 – and achieving 31% of first preference votes puts Sinn Féin in a remarkable position of power and influence. The DUP confronted the threat of 'punishment' for their Stormont boycott with a strong campaign which saw them win 122 seats – equalling its total from the last local government election in 2019 – thus consolidating its position as

the leading party of unionism. The Alliance Party, with 67 seats – an increase from 53 – is clearly established as the third party in the system. Deep problems exist for both the SDLP and the UUP, who lost more than 40 seats combined, while the smaller parties such as the TUV, Greens, People Before Profit, the PUP, and Aontú, made little progress.

Immediate responses from the parties saw Sinn Féin argue that voters in Northern Ireland have now spoken twice in one year to show that they expect the parties to work together in both Assembly and Executive. The party placed its northern leader, Michelle O'Neill, front and centre of the campaign, highlighting her claim to the First Minister's office, which has thus far been blocked by the DUP. Writing in *The Belfast Telegraph*, journalist Suzanne Breen remarked that, "Michelle O'Neill's smiling visage looks down from lamp posts all over Northern Ireland, and she's not even standing in the council election."

Speaking after the final results were announced, Ms O'Neill called on the British and Irish governments to arrange a meeting of the British Irish Governmental Conference to establish a plan to restore the Stormont power-sharing institutions. Alliance also called for a return to power-sharing, pointing out that almost 75% of voters had favoured parties who backed an immediate return to Stormont.

For their part, the DUP claimed a good outcome, with no "meltdown". Speaking after the final results, the DUP leader, Sir Jeffrey Donaldson, said that while the DUP had a "good election", there were lessons to be learned by unionism in general on how to win more seats. The DUP wants to see sustainable devolution with a positive

response from Westminster to Sir Jeffrey's demands on the Protocol on Ireland/Northern Ireland ("the Protocol") and the Windsor Framework.

Both SDLP and UUP recognised that they had had difficult campaigns with disappointing results. The SDLP leader, Colum Eastwood, said that the nationalist community had overwhelmingly backed Sinn Féin in order to send a message to the DUP that they want to see the Northern Ireland institutions back up and running. Doug Beattie, leader of the UUP, said that it would take several election cycles to change the direction of Northern Ireland politics, and emphasised that he had no plans to resign.

The Northern Ireland Secretary, Chris Heaton-Harris, tweeted that, "Stable and accountable local government is the best way of delivering on the issues that matter most for the people of Northern Ireland."

What Next?

In the initial discussion of the next steps following the election, Ms O'Neill's call for everybody to return to Stormont on 'Monday morning' was highlighted. This call to return to power-sharing was echoed by Mr Heaton-Harris, who, in a thinly veiled reference to the DUP, insisted that "real leaders know when to say yes."

The DUP argue that the pathway for returning to Stormont runs through Westminster, and that the UK Government must make changes to Northern Ireland's post-Brexit trading arrangements. Sinn Féin MP, John Finucane, agreed that the British and Irish governments have a key role to play in ending the political stalemate in Northern Ireland, insisting that failure to reach an early, workable

solution to the current impasse could make the problem virtually irredeemable. Alliance representatives repeated the party's call for reform of the Good Friday arrangements to end the situation in which unionists and nationalists possess a veto on institutional developments.

A discussion on BBC Northern Ireland's *Sunday Politics* heard a suggestion that the DUP would agree to remove its boycott on returning to government by late September. The party's position as clear leader of unionism can offer Sir Jeffrey Donaldson an opportunity to move in a direction he is believed to favour. He is understood to be seeking a reason to go back to Stormont, albeit with no hurry, and he is looking to the Northern Ireland Secretary, Chris Heaton-Harris, to provide one.

In a House of Commons reply, Mr Heaton-Harris made reference to the search for solutions and to the need for realism:

...[T]he one thing I have learned in my role as Secretary of State for Northern Ireland is that deadlines are deadly and it is pointless setting timelines on things. The right thing to do is to get the job done properly so that when the Executive come back, they can be there for a very long time, and that is what everyone is working towards.

Local Elections Manifestos

All NI parties published manifestos prior to the 18 May local elections. While these documents devoted most of their content to addressing the issues of local concern and the on-going Stormont impasse was highlighted in both the published texts and in the remarks of the party leaders when launching their respective manifestos.

The DUP leader, Sir Jeffrey Donaldson, speaking at a press conference at his party's manifesto launch, said that the DUP's position was strong and that his party retained the support of unionist voters who wished to see Northern Ireland's place within the Union secured. Sir Jeffrey also reiterated his stance that changes need to be made to the Windsor Framework:

Let me be clear, we are pledged to continue to stand firm after this election until we have properly secured and protected our place within the United Kingdom. While the Windsor Framework undoubtedly represents significant progress across a number of areas, it does not deal with some of the fundamental problems at the heart of our current difficulties.

The Sinn Féin President, Mary Lou McDonald, argued that people in Northern Ireland want politics to work for them and their families. She said that this included investment in healthcare, childcare, education and local services as well as realising economic opportunities for young people. Referring to the results of last year's Assembly election, Ms McDonald noted that voters in the North want a working Executive, led by Michelle O'Neill as First Minister. She highlighted the importance of the local government elections in sending a message to the DUP and the Conservative-led British Government that people in Northern Ireland want to see progress.

At Sinn Féin's manifesto launch, the First Minister designate, Michelle O'Neill, stated that the party "...has been ready to form an Executive since last May's Assembly election." She then urged people to vote Sinn Féin to "send a clear signal" to those blocking the restoration of power-sharing

and "to show support for a party that is ready to get the Executive up and running".

In her foreword to the Alliance Party's manifesto, party leader Naomi Long, delivered a similar message, saying that voters "have an opportunity to send that message loud and clear once again: that you deserve an Executive and Assembly that works".

For the UUP, party leader Doug Beattie addressed the problems and challenges of the Protocol and the Windsor Framework. He said that restoring the Stormont Executive would be the best way for unionists to leverage in any future negotiations with the UK Government:

What we cannot afford is for decisions that impact Northern Ireland to continue to be made over our heads. That is why there's a firm belief in the Ulster Unionist Party that the Assembly and the Executive must be restored to deal with the challenges still posed by the Windsor Framework and to grasp the genuine opportunities.

The SDLP manifesto also pledged to "continue to fight for the restoration of the Assembly and Executive". The party leader, Colum Eastwood, believes the DUP will return to power-sharing sooner rather than later, partly because a long-term absence of devolution would fuel debate about an alternative, including a United Ireland:

I think he (Sir Jeffrey Donaldson) will eventually go back (to Stormont) and I think Michelle O'Neill will be First Minister. I think that's inevitable, because the DUP are bound to realise that it is not in the interests of unionism to starve people of good government,

or any government at all. It is not in the interests of unionism to have many, many people thinking... about Plan B.

NI Secretary of State: Guidelines on Decision-making for NI Departments

The Secretary of State for Northern Ireland, Chris Heaton-Harris, has published draft guidance which is intended to support Northern Ireland departments in taking decisions in the absence of a functioning Executive.

The UK Government recognises that, in the absence of an Executive, there will be some decisions that it should take, such as introducing legislation in Parliament setting out departmental budget limits. In this context, the UK Government recognises that, while efforts to form an Executive continue, Northern Ireland departments will need to take decisions and exercise functions in order to uphold governance and protect the public interest. This guidance is intended to support NI departments when considering taking decisions and exercising departmental functions in the absence of NI Ministers and a NI Executive.

The paper provides a basis for considering whether there is a public interest in taking, or not taking, a decision. It indicates the principles to be taken into account, including control and management of expenditure, exercise of a function where failure to do so might have certain negative effects, and normal continuance of former policy directions. Decisions must continue to comply with relevant statutory guidance and legislative requirements. The paper further provides that Permanent Secretaries of

departments remain ultimately responsible for decisions taken by senior officers in line with normal practice.

EU Ambassadors set out hopes for post-Brexit relations with Britain.

EU capitals have signalled their desire to reset relations with the UK, seven turbulent years on from the seismic Brexit vote. The ambassadors to the United Kingdom from all 27 member states, along with UK-based high commissioners representing Brussels, set out this view in a contribution to *The Guardian* on Monday, 8 May. The authors expressed their desire to “develop further ties between the EU and the UK” after the signing of the Windsor Framework, and noted that “great strides had been made towards a new relationship” between the EU and the UK following Russia’s invasion of Ukraine.

The piece was written ahead of 9 May, the date on which the EU marks Europe Day. It was on this day in 1950, in the aftermath of the Second World War, that the French foreign minister, Robert Schuman, proposed the creation of the European Coal and Steel Community with the goal of building a Europe free from conflict, based on economic cooperation and integration. The ambassadors’ contribution to *The Guardian* noted that the modern-day EU has moved beyond coal and steel, and now promotes security, economic development, human rights, and fundamental freedoms throughout the world. The ambassadors remarked that these are objectives that are still shared by the UK:

Nowhere is this more evident than in our common response to the outbreak of war on the European continent: the Russian invasion of Ukraine.... The EU and the UK have risen to the occasion in this hour of

need. The UK deserves special mention among those international partners. As on past occasions, London's voice and efforts, from the outbreak of the conflict and even before, have been strong in defending international legality and providing determined support to Ukraine.

The authors also said that one of the EU's key goals today is to arrive at joint solutions to the challenges Brexit has created for the Good Friday Agreement:

Focused engagement with the UK has succeeded in producing collective and, at times, imaginative solutions listening to, and respecting, all communities in Northern Ireland. Rediscovery of common interests and concerns have led to the Windsor framework and to a much welcome and necessary regain in trust in EU-UK relations.

The task ahead, it is made clear, is to build on this reengagement in a way that is mutually advantageous and profitable to the UK and the EU. The letter concludes by recognising that, "A strong UK and a strong EU are valuable partners."

UK Ministers to ditch deadline to scrap retained EU laws

The UK Government has abandoned its plan for thousands of EU-era laws to expire automatically at the end of the year, in what had been described as a "post-Brexit bonfire". The Business Secretary, Kemi Badenoch, told the House of Commons that there would be a greatly reduced list of 600 laws to be replaced, amending the terms of the Retained EU Law Bill ("REUL Bill") which is making its way through parliament.

The original list of 3,700 laws to be replaced produced strong opposition from business

interests, environmental groups, trade unions, and from the EU. They argued that this list was unrealistic and would create "legal uncertainty" for businesses. The Labour Party commented that, "After wasting months of parliamentary time the Tories have conceded that this universally unpopular bill will damage the economy."

The Government insisted that, with its reduced list, the REUL Bill will enable the country to further seize the opportunities of Brexit by ensuring regulations fit the needs of the UK. However, Brexiteers within the Conservative Party have reacted negatively to the announced changes, with Jacob Rees-Mogg MP calling it an "admission of administrative failure" and a triumph for "the blob" – a term used by some Tory MPs to describe the Whitehall establishment.

Brexit Debate in the UK

Brexit, and its implementation across political, economic, and social sectors, has become the subject of increasing public debate and contention. *The Telegraph* addressed the issue in an Editorial on 17 May 2023, insisting that talk of factory closures in the UK's car manufacturing was not an inevitable consequence of Brexit and that the UK's future prosperity does not rely on establishing a closer relationship with the EU:

Remainers might like to imagine that the only meaningful policy change that could boost UK prosperity is rejoining the Single Market or customs union (or admitting yet more migrants), but that is economic defeatism which could have been counteracted by a government committed to exploiting the practical benefits of our new freedoms.

Recent administrations, *The Telegraph* argues, have failed to take advantage of the UK's new freedoms:

If manufacturers fear their operations will be rendered uneconomic by EU tariffs, surely the onus is on ministers to help to cut their costs in other ways...if Britain is gaining an unfortunate reputation as a difficult place in which to invest or do business, surely the Government should be acting immediately to correct this.

The Editorial argues that the UK Government has hampered trade by increasing corporate tax, prioritising environmental goals, and imposing new regulations, concluding:

Is it any wonder, then, that Nigel Farage now says the project (Brexit) has failed, blaming "useless" Tory politicians for mismanaging the UK's exit from the EU? Or that Sir Keir is preparing the ground for Brexit's at least partial reversal?

Section Two: The Evolving Debate

Northern Ireland Questions in the House of Commons, 10 May 2023

The Northern Ireland Secretary, Chris Heaton-Harris, took Questions in the House of Commons on 10 May 2023. On the subject of the current Stormont impasse, Mr Heaton-Harris said:

The Government are working tirelessly towards the return of devolved government. The Windsor framework delivers stability for the people of Northern Ireland and protects its place in the Union. I remain in close contact with all the political parties and will continue to do everything I can to facilitate the restoration of the Executive.

Asked for his assessment of the impact that the lack of government is having on the day-to-day lives of the people of Northern Ireland, Mr Heaton-Harris replied:

There is a great effect on the delivery of public services in Northern Ireland, which is ongoing. That is why everyone is working hard to try to get the Executive restored and the Assembly sitting; it is so that Stormont can work and so that decisions about public services across the piece in Northern Ireland can be made by people elected by the people those public services affect.

The SDLP leader, Colum Eastwood, asked whether the UK Government would consider greater involvement of the Irish Government in the affairs of Northern Ireland. Mr Heaton-Harris replied that he understood and respected Mr Eastwood's point of view, but said that "...the right thing to do now is to work hard with all the political parties, including his, to get the Executive restored." Asked whether he would set out what he is doing to restore power sharing, the Northern Ireland Secretary stated that there is an ongoing pattern of formal talks with the parties, but emphasised the importance of confidentiality in these discussions.

The DUP leader, Sir Jeffrey Donaldson, intervened to express his concern about the application of EU law to Northern Ireland, which he worried might result in divergence between Northern Ireland and the rest of the UK. Mr Heaton-Harris replied:

I thank the right hon. gentleman for his point, which he has made to me in no uncertain terms on a number of occasions... As he well knows, there are things that I think we can do as a Government that can exemplify and

amplify how we can solve the problem behind his question, and I look forward to having further engagement with him on these matters.

Sir Jeffrey then responded that issues arising from the Windsor Framework needed to be resolved before Stormont could be restored, specifically that unionists needed to have their place in the union enshrined and protected under UK law. Mr Heaton-Harris said that he could give Sir Jeffrey that assurance from the dispatch box, but that further engagement and conversations were needed before he could make any assurances in other terms.

Carmakers call for changes to Brexit Deal

UK carmakers have called for changes in Brexit trade arrangements, seeking an extension of a trade deadline for three years to avoid a tariff on exports next January. They have joined major car-making firms in Germany and France in lobbying for change. The European Automobile Manufacturers' Association has linked with individual manufacturers in a public call for the changes, a move which involves names such as BMW, Mercedes-Benz, Volkswagen, Vauxhall, Fiat, Peugeot, and Jaguar Land Rover.

Their case was summed up by Mike Hawes, CEO of the UK lobby group SMMT:

The UK-EU trade and co-operation agreement provided the basis for tariff-free trade and unlocked some pent-up investment. However the rules of origin for batteries pose a significant challenge to manufacturers on both sides of the Channel with the prospect of tariffs and price increases which discourage consumers from buying the very vehicles

needed to achieve climate change goals. At a time when every country is accelerating their transition to zero emission transport and global competitors are offering billions to attract investment in their industries, a pragmatic solution must be found quickly.

The UK Prime Minister, Rishi Sunak, has indicated that UK officials are "engaged in a dialogue" with the EU about the issue.

EU-UK Trade Developments

A report from the House of Commons Library service has updated the position on EU-UK trade in the post-Brexit period.

The report points out that the UK left the EU single market and customs union at the end of 2020. Since then, UK-EU trade has taken place within the provisions of the Trade and Co-Operation Agreement ("TCA"). The TCA this allows tariff-free trade in goods between the UK and EU, but trade barriers are higher than before.

The statistical section of the report reveals that, in 2022, the UK exported £340 billion of goods and services to the EU, amounting to 42% of total UK exports. The UK imported £432 billion from the EU, which was 48% of total UK imports. Therefore, the UK had a trade deficit of £92 billion with the EU compared to a £5 billion surplus with non-EU countries.

The report pointed out that total UK exports (goods and services combined) to both the EU and non-EU countries were lower than their 2019 level in both 2020 and 2021. In both cases, exports exceeded 2019 levels in 2022 – noting that figures are not adjusted to reflect the current high levels inflation. Similarly, the report found that imports of goods and services from

both EU and non-EU countries have now exceeded 2019 levels in current prices.

Looking at longer term trends, the share of UK trade accounted for by the EU has fallen. Between 1999 and 2007, the EU accounted for 50-55% of UK exports. By 2022, this figure had fallen to 42%. The share of UK imports from the EU has also fallen since 1999, although by less than for exports.

Section Three: Background Material and Further Reading

Background Material

GOV.UK Draft Guidance on decision-making for Northern Ireland departments 2023, 10 May 2023. <https://www.gov.uk/government/publications/draft-guidance-on-decision-making-for-northern-ireland-departments-2023>

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Local Government Elections 2023 NI Party Manifestos

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UUP <https://www.uup.org/>

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Green Party NI <https://www.greenpartyni.org/manifestos>

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Further Reading

Russell and James The Parliamentary Battle over Brexit. Oxford UP

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