

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.iiea.com)

Introduction

August has gone by with little political activity and with friends and colleagues speaking of “getting together in the autumn.”

Nonetheless, the internal problems of the DUP and of its leader, Sir Jeffrey Donaldson, continue. In a widely quoted article, Lord Empey made reference to the circumstances in which Jeffrey Donaldson resigned from the UUP 20 years ago and made the significant point that that, as the DUP leader for at least the time being, Sir Jeffrey was approaching his own ‘David Trimble moment’ - and that the outcome of the bitter internal struggles within the party will tell us much about where unionism is headed

Section One: State of Play

Latest NI Poll Results

Sinn Fein and the DUP are pulling further ahead of their political rivals as support for the SDLP, Ulster Unionists and TUV falls, according to a new LucidTalk poll for the Belfast Telegraph. The Alliance Party is also on the rise.

Sinn Fein are on 31% (+2%) while the DUP are on 26% (+1%) The Alliance Party are on 15% (+2%). Support for both the UUP – on 10% – and the SDLP – on 6% – has dropped by 1% since the previous poll. Among the smaller parties the TUV have dropped from 7% to 5%, while the Green Party and Aontú are unchanged at 2%. Others, including Independents, are at 3% (-1%).

The unionist parties – DUP, UUP, TUV – have a collective 41 % support. Nationalists and Republicans – Sinn Fein, SDLP, Aontú – have 39 % support. Alliance and Greens are supported by 17% with 3% backing for others, including Independents. An overall 40-20-40 division of political support is clearly established with neither of the two traditional communities capable of establishing an overall majority position and a growing political centre now well established. The Alliance Party case for reform of the Good Friday Agreement provisions on Executive formation is lent credibility by these figures.

Nonetheless, these results point to Sinn Fein clearly remaining the largest Assembly party. The hard line unionists – DUP and TUV – command just 31% of voter support. The Irish News commentator, Brian Feeney, has addressed the situation revealed in the poll, writing that “even if there were unionist unity it wouldn’t matter because there aren’t enough unionists to make a majority”. He controversially went on to ask “Since the raison d’être of unionism, its majority, has gone and partition has made the north the poorest part of the island, what is the point of unionism?”

Chris Heaton Harris at British-Irish Association, 2 September 2023

The Northern Ireland Secretary addressed the British-Irish Association Conference at Oxford on 2 September 2023. He reinforced his commitment to restoring the Stormont power sharing institutions during the speech in which he insisted that the financial problems facing Northern Ireland cannot be remedied simply with a bailout from the UK government. He said:

“My message to the party leaders throughout my time in post has been simple and consistent: you need to get back to Stormont. I am fully aware of the calls for me to step in and take the decisions that the absent Executive is neglecting. But I make no apology for holding firm in my position of believing in devolution, believing in power-sharing, and believing in that historic (Good Friday) agreement that was signed 25 years ago.

We need the Executive back in place so that ministers can take the tough decisions needed to balance the budget and raise the necessary revenue. And this must be supported by a strong Programme for Government, to progress much-needed and long-promised public service transformation which will deliver better outcomes for Northern Ireland. That is why I have urged the party leaders to work with the Northern Ireland civil service to agree a sustainable and credible Programme for Government that will allow an incoming Executive to take action from day one.”

The Tánaiste, Micheál Martin also contributed to the Conference: “I want us to work better together, from Dublin and London, to renew people’s sense of hope in Northern Ireland’s politics.” In the absence of a functioning government in the North, Mr Martin said the two administrations should now co-operate more closely to pool their “know-how” to address everyday issues in the North:

“The first, essential, building block to achieving this is the two governments working in lock-step. When that falters, peace and progress falter. The bilateral relationship [between the Irish and British governments], and our partnership on

Northern Ireland, is, frankly, stronger than it was this time last year. But much more remains to be done." Proper reconciliation in the North "requires us all to be open to doing things differently. There is false comfort to be derived from repeating our failures"

Taoiseach Varadkar in Belfast

The Taoiseach, Leo Varadkar, travelled to Belfast on 9 August to meet representatives of the main Northern Ireland parties and civic, sporting and business groups in Northern Ireland. The visit was seen as part of wider efforts to try to get the Northern Ireland institutions up and running again at Stormont and to end the increasingly damaging political vacuum.

In advance of the visit, the Taoiseach commented on relations between Dublin and London. He said that the relationship between the governments has improved "dramatically" in the past year but is still "not where it should be. "Northern Ireland works best when the two governments are 'hand-in-hand'. That hasn't been the case for a very long time now. We appreciate that the Irish government is not the sovereign government in Northern Ireland, we don't claim to be [...] but we are co-guarantors of the Good Friday Agreement [Belfast Agreement] and we have a role to play."

It is recognised that Relationships have improved under Prime Minister Rishi Sunak. However, Dublin feels that the two governments should be working closely to try to achieve progress, while London is focused on talking directly with the DUP. The DUP shows no sign of going back to Stormont, and after meeting the Taoiseach, DUP leader Jeffrey Donaldson kept his options open, saying talks were continuing with London.

The Taoiseach has argued that if progress is not made soon then attention must turn on both sides of the Irish Sea to the next Westminster election, set to be held at some stage next year. Attempts to restore Stormont would then almost certainly be delayed until after the vote. In the meantime, Northern Ireland's voters would remain without a functioning Executive and Assembly. If this happens, the two governments would have to decide how to respond.

Time is now short and while Varadkar says that he travelled to Northern Ireland "more in hope than expectation" He insisted on the need for the two governments to make one last push to restore the Stormont institutions before those Westminster elections come into view. "I do think though that if that opportunity is missed, if it is the case that the institutions can't be re-established in the autumn well then I do think at that point we have to start having conversations about alternatives, about Plan B."

Chris Heaton-Harris Belfast Talks, 19 July 2023

Chris Heaton-Harris held talks with leaders of the five main political parties in Northern Ireland on 19 July 2023. He commented that "good progress" has been made and described his outlook as "glass half full". Speaking at Hillsborough Castle in Co Down after his party meetings Mr Heaton Harris said the British government was working with the DUP to provide additional clarity on the basis on which the party would return to the Northern Ireland Executive. He said he believed there was a "genuine willingness on all sides" to "establish the conditions for the devolved institutions to work and thrive".

The Democratic Unionist Party (DUP) said on Wednesday there had been no meaningful action from London to convince it to rejoin the Stormont Assembly it scuppered last year over post-Brexit trade rules. "The government committed to taking action to restore our place in the UK internal market but whilst statements and headlines have been in plentiful supply, there has been a lack of meaningful action," Jeffrey Donaldson said in a statement after his meeting with the Northern Ireland Secretary.

Chris Heaton-Harris on Donaldson

Mr Heaton-Harris told the media in Belfast he had "every confidence" in Sir Jeffrey's ability to unite his party and bring it back to Stormont in the autumn. He said: "I have every confidence that Jeffrey Donaldson is leading his party in a strong and robust way, and trying to make sure that, like all political leaders, that he brings his party together. That's a lot of work in any circumstances."

Mr Heaton-Harris added that political parties are "broad churches", and bringing a party together was a difficult task. "On the Democratic Unionist Party, I was the chief of the Conservative Party in the last six months of a Boris government, I'm not going to comment on any other political party's interests," he said. "I just know that political parties are broad churches and it's very difficult for the leadership, for anyone, to keep every single member happy, but it's what leaders of political parties do."

Donaldson on DUP Infighting

The DUP leader, Sir Jeffrey Donaldson e-mailed a letter to all party members expressing frustration and hitting out at some individuals within the party ranks for briefing against the party. According to Sir Jeffrey, such activity

damages the party's electoral prospects and undermines "the cause of the Union":

It is a point of great frustration when I read a fellow unionist manufacturing an attack on this party or other unionists. I use the term 'manufacture', as the attack will lack substance and be driven more by an effort to gain media coverage or advance their personal agenda than any desire to advance Northern Ireland. Sadly this applies to some within our own ranks who brief against their own party and damage our electoral prospects and the cause of the union.

Ultimately the goal of working together must be to maximise the vote of every pro-union voter on polling day. It is frustrating that unionism could have had more seats in the last Assembly election if the transfer rate between unionist parties had been better. Division costs unionism seats and influence.

Years of daily gutting each other on the airwaves had an eroding effect on pro-union voters. Indeed, it drives many pro-union voters to stand back from getting involved in elected politics or voting in elections. This has cost unionism dear and helped pave the way for the success of our opponents.

House of Lords Report on Windsor Framework

The House of Lords Brexit Committee has published an extensive report on the Windsor Framework. The report argues that the Framework improves the original Protocol on Ireland/Northern Ireland ("the Protocol") but does not resolve all its problems.

A key passage from the report reads:

We received a substantial volume of oral and written submissions, and on the basis of the

evidence we have received, we conclude that the Windsor Framework is an improvement on the Protocol on Ireland/Northern Ireland as originally negotiated. Nevertheless, it is evident that the Windsor Framework does not resolve all the problems with the Protocol.

Business representatives and other stakeholders have welcomed the agreement by the UK and EU of a mutually agreed solution, and the potential this provides for problems that arise in the future to be resolved in a collaborative manner. The benefits of the provisions of the Windsor Framework on movement from Great Britain to Northern Ireland via the green lane of retail goods, agri-food produce including chilled meats, parcels, pets and human medicines have been particularly highlighted. However, for some businesses, the processes under the Windsor Framework will be more burdensome than under the Protocol as it has operated with grace periods and easements.

Our witnesses described the technical and legal complexity of the Windsor Framework, and the multiple documents and legal texts that form part of it. They also noted the difference in emphasis between the UK and EU in their descriptions of some of the Windsor Framework's provisions. The Government and the EU have an obligation to explain to stakeholders clearly what the provisions of the Windsor Framework mean in practice. It is incumbent on the UK and EU together to publish a comprehensive summary of the Windsor Framework's provisions, including the consolidated text of the original Protocol as amended by the Windsor Framework. .

The Stormont Brake divides opinion. While some regard it as a genuine and innovative attempt to give Northern Ireland politicians a voice over the application of EU law to

Northern Ireland, others argue that the stringent conditions for its use and the limited scope of its application mean it will have a negligible impact. Time will tell how significant it will prove to be in practice. The proposals for enhanced dialogue between the UK and EU, and engagement with Northern Ireland stakeholders, are welcome in principle. However, the structure for bilateral dialogue between the UK and the EU is more developed than for engagement with Northern Ireland interlocutors, where detail remains lacking. If such engagement is to give Northern Ireland stakeholder a meaningful voice, the UK and EU need to ensure together that it is properly structured and resourced, and that it has substance.

As the continued suspension of the power-sharing institutions demonstrates, political tensions in Northern Ireland over Brexit and the Protocol remain acute. We acknowledge the importance and the difficulty of resolving these issues to the satisfaction of all communities in Northern Ireland. The Windsor Framework is the latest attempt to manage the implications of Brexit for Northern Ireland. The UK and the EU must ensure that they remain in close and productive dialogue, both with each other and with Northern Ireland stakeholders, maintaining a commitment to address all the issues that arise out of the Windsor Framework, and those issues which have yet to be resolved, not least for the benefit of all the people of Northern Ireland.

Irish Times Editorial 26 July 2023.

The Irish Times, on 26 July 2023, published an editorial on the House of Lords report.

Trade rules are notoriously complex. And so the political agreement represented by the Windsor Framework was always going

to take time to bed down. A new report from the UK House of Lords Brexit committee provides some interesting perspectives and a generally balanced look at the issues. Above all, it outlines the work that still needs to be done by Britain and the EU to make the agreement work.

The report, the result of detailed hearings with businesses and representative groups, is clear that the framework is an improvement on the original Northern Ireland Protocol, the hastily- conceived deal to allow the UK to proceed with its exit from the EU. However it adds that it does not solve all the problems which the protocol raised . Nor could it, given the inevitable and inescapable problems created by Brexit in the trade arena.

The framework has helped in key areas, notably by creating the green lane/red lane system, designed to allow goods moving from Britain to Northern Ireland to move freely, significantly cutting bureaucracy. Issues remain to be sorted here the report says and some confusion remains.

There are also specific issues in areas like labelling and livestock movement which need to be clarified .And the rules governing veterinary medicines imported from Britain remain in question. Here a grace period has been given until the end of 2025 but, as things now stand, after this a lot of vital veterinary medicines would not be available.

Reading the report, it is also clear that the smooth working of the framework will depend in large part on how Brexit itself evolves. If the UK as a whole diverges from EU rules in key areas, then businesses in Northern Ireland are worried that they will end up in a kind of " no man's land" as the

EU insists on tighter rules to safeguard the single market. On the other hand, if UK rules do not diverge, then businesses in the North face a much better chance of taking advantage of their unique access to the UK and EU markets. Staying broadly aligned with EU rules would also benefit the wider UK economy, but whether pragmatism wins out remains to be seen.

Section Two: The Evolving Debate

Omagh Bombing Inquiry

Draft terms of reference for an inquiry into the preventability of the 1998 Omagh atrocity in which 29 people were killed by a real IRA bomb have been produced by the UK Government and shared with the Irish Government. It is understood the chair of the inquiry intends to seek the views of those most affected before the final version is published.

Tánaiste Micheál Martin commented:

Officials stand ready to engage with members of the UK's inquiry team as soon as they are appointed. When we have further clarity on the nature of the UK inquiry, I will then consider, along with the Minister for Justice and my Cabinet colleagues, the next steps in this jurisdiction. As has been done in relation to a number of historical inquiries, this State will cooperate fully. Justice for the victims and the families impacted by this atrocity will be at the heart of any action that the Government takes.

Mr Martin said violence in Northern Ireland was never justified.: "The Omagh bomb atrocity showed the appalling impact of violence on communities. The campaign of violence in Northern Ireland was never justified. We must

keep working relentlessly on peace, dialogue and rebuilding trust.”

Business Post Comment on DUP Stance

The Business Post commentator, Deirdre Heenan, has written about the prospect of progress in the ongoing Stormont impasse. Her argument is that the North “remains in no man’s land” and her assessment entirely pessimistic.

Unlike other periods of collapse, there are no official all-party talks, none of the theatrics of the political parties marching up the hill to Stormont Castle to meet the representatives of both governments. Apparently there are ‘talks’ between the DUP and the Westminster government, but these are shrouded in secrecy. Added to this is the fact that it is far from clear what exactly the DUP want.

The British government have repeatedly made clear that the Windsor Framework is a done deal, and they have no intention of re-opening discussions with the EU. Any necessary improvements or tweaks could be made from within the Executive.

Donaldson is faced with a dilemma. Devolution or his party. Some of the big beasts of the party are adamant that there will be no return to power sharing until the British government remove the Irish Sea border. They have zero interest in reviving the power-sharing arrangements. It seems increasingly likely that the DUP will continue to sit on their hands and brazen it out until after next year’s general election. There are no signs that they are gearing up for a return to Stormont.

The DUP have few friends in Westminster

and a Labour government are unlikely to give them a favourable hearing. Significantly, Donaldson is under little pressure from within his base or from the Westminster government to get a functioning government back up and running. Sunak is content to allow this position of drift to continue indefinitely. Why would he want to take on these intransigent unionists when there are no votes in it for him?

There is no sign of any political movement, and many have grown weary of this tedious prevarication. Faith in power sharing is ebbing away. The indications are that Stormont may be in cold storage for the foreseeable future.

Observer 13 August 2023.

The Observer commented on Brexit as a theme in UK political discourse arguing that “if there is one certainty about the coming political conference season it is that considered arguments for and against Brexit will not be aired. The Tories will crow about Brexit being done. The Labour frontbench will solemnly observe that past tense, and avoid the B-word, as if it is a triggering trauma for the party and the country, best left undisturbed.”

An extensive examination of the 2016 referendum appeared in The Psychology of Brexit, written by Brian Hughes, a specialist in stress psychophysiology and a professor of psychology at the University of Galway, Ireland. “Brexit,” Hughes argued, “emerged from psychological impulses, was determined by psychological choices, is construed in terms of psychological perceptions, and will leave a lasting psychological imprint.”

At the heart of the choice, Hughes suggested, were two persistent fallacies.

First, the notion that people ever approach political questions with clear-headed reason. Second, the idea that your opponents have cornered the market in irrationality. "Remain did not have a monopoly on reason. This is because remainers are human beings."

If there is a way through this, he suggests, it is to break down the myths of us and them. "Brexit was obviously never the single will of the people, but also the will of leavers and the will of remainers are very far from homogenous. Politicians need to find ways of foregrounding the diversity of views that people had and have, even if some of them might be very ugly. They need to show the illusion of simple polarisation."

"It would require politicians and commentators to take some of the heat out of the arguments," he says. "That might take a generation, or it might be one of these cyclical trends. For the time being, our Brexit brains are it seems here to stay."

Irish Times Editorial, 20 July 2023

The Irish Times devoted an editorial on 20 July 2023 to the position of the post-Brexit UK in relation to significant international developments.

The departure of the UK from the EU, championed as a means of extending the UK's global influence, has left it outside the door of this week's EU-Latin America and Caribbean (Celac) summit in Brussels and so unable to block a minor diplomatic coup by Argentina. It would not have happened before Brexit.

To the disappointment of British diplomats, the rage of the easily miffed British press, and delight in Buenos Aires, the EU endorsed an

Argentina-backed statement that includes a reference to the Islas Malvinas, the Argentine name for the disputed Falkland Islands (it actually referred to both names) over which Margaret Thatcher fought a war in 1982.

London's protests have been in vain and UK prime minister Rishi Sunak yesterday referred to the statement as a regrettable choice of words". But post-Brexit, the UK was not able to block it. "Regarding the question of sovereignty over the Islas Malvinas/Falkland Islands," it said, in harmlessly reprising otherwise well-established language, "the EU took note of Celac's historical position based on the importance of dialogue and respect for international law in the peaceful solution of disputes." It was endorsed by 32 of the 33 Celac countries, Ireland included, with Nicaragua refusing because of language on Ukraine.

The latest tiff has echoes of the storm surrounding then Taoiseach Charles Haughey's notorious and controversial attempt to embarrass Thatcher by, as he described it in the Dáil (May 11th, 1982), reasserting "our traditional policy of neutrality" in opposing UN and EU sanctions on Argentina over its invasion of the islands. In his speech he referred to "the Falkland or Malvinas islands". Sir Robert Armstrong, Thatcher's cabinet secretary, would describe Haughey's decision as the last straw for the Haughey-Thatcher relationship.

Suella Braverman on European Court of Human Rights

The UK Home Secretary, Suella Braverman, has once again expressed her wish to take the UK out of what she described as the "politicised" European Court of Human

Rights (ECHR) in a statement in which she refused to rule out the mass tagging of asylum seekers, a move one refugee charity said would treat people as “mere objects”.

The Home Secretary’s remarks indicted a return to the political fray, after a summer recess in which some Home Office policy issues had led to speculation that she might be replaced as home secretary in an autumn Cabinet reshuffle.

Braverman stated that government would “do whatever it takes” to send asylum seekers to Rwanda. She has been a repeated critic of the European Court and the European Convention on Human Rights which it oversees and interprets. Her consistent stance brought her popularity among more right-wing Conservative MPs leading to speculation that she could stand again for leader if Rishi Sunak loses the general election.

Continuing her attack on the Convention, Braverman conceded that it was not currently the government’s plan to withdraw from it, but repeated her personal support for such a move. “If we are thwarted by the courts, or indeed by Strasbourg, then we will have to do whatever it takes, ultimately, to ensure that we can stop the boats,” she told BBC Radio 4’s Today programme. Asked if this meant leaving the European court, Braverman said: “My personal views are clear,” while adding that the government was “not thinking about that” immediately.

Amnesty International commented that the Home Secretary was “taking the country down a dangerous path”: “Lashing out at an international convention which has been integral to some of the UK’s most important recent developments – including the full decriminalisation of homosexuality, the

criminalisation of modern slavery and a vital underpinning of the Good Friday Agreement – shows how little the home secretary cares about or respects the law.” The Good Friday Agreement contains several specific references to the Convention including a provision that key decisions are proofed to ensure that they do not infringe the terms of the Convention.

Section Three: Background Material and Further Reading

Background Material

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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