

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

The world of politics and public concern has been dominated by the horror of Gaza and by the recognition of the need to seek, and find, paths of reconciliation in divided societies.

On 25 October 2023, the Tánaiste, Micheál Martin, gave the keynote address to the Shared Island Dialogue on "accommodating national identities." His concluding words raised significant issues and posed relevant challenges for communities across the shared island of Ireland:

Today's dialogue is necessarily challenging. It poses questions on matters that can be intensely personal and intensely political. So my

ask is that we are authentic and kind to each other as we set to the task and strive to find generous, inclusive answers to questions such as:

How do we take undimmed pride in our own traditions and culture, while making it unacceptable that they are ever used to exclude, diminish or divide people?

Can we do better at highlighting the common values and connected heritage of our distinct traditions?

Can we be confident enough to encompass in our respective national identities, symbols and traditions that at this moment in time seem challenging, but matter for others?

How do we harness our greater ethnic and cultural diversity today, so it is an integral part of Irish identity? and,

How can we affirm a collective identity for all on this island - Irish, British, both and neither - that is deeper and broader than any community, creed or political aspiration?

Through the Decade of Centenaries, North and South, we sought and found better, more inclusive ways to remember who we were, at a pivotal and tragically divisive times in the history of this island. Now, with commitment and generosity, we have a chance to look to tomorrow, to take a similar approach and to accommodate diverse identities on this island, in ways that are truly transformational for all, and transformational for our country. I believe that we can.

Section One: State of Play

King Charles' Speech

King Charles III gave his first King's Speech at the State Opening of Parliament at Westminster on Tuesday 7 November 2023. The Speech set out the legislative programme of Prime Minister Sunak's Government for the year ahead. With the coming General Election as its priority, the Government gave priority to key issues of public concern, such as inflation, cost of living, health, education and crime.

The Speech, which contained reference to 'taking advantage of Brexit freedoms' spoke also of the Government promoting "the integrity of the Union and strengthening the social fabric of the United Kingdom".

Significantly, it made no mention of restoration of power-sharing in Northern Ireland. In recent weeks there had been an expectation that the UK Government would use the Speech to address some of the concerns of the DUP by setting out legislative plans to secure the position of Northern Ireland within the UK internal market.

RTE's Northern Ireland Editor, Vincent Kearney, commented that negotiations between the DUP and the UK Government will continue but went on to say that the absence of "a specific mention of planned legislation to safeguard Northern Ireland's position within the internal market" might be indicative of more significant gaps, or indeed "a strategy to put pressure on the DUP to compromise." The reference to 'gaps' arises from a comment by Jeffrey Donaldson who spoke recently of 'significant gaps' remaining in the negotiations.

Suzanne Breen, in the *Belfast Telegraph*, made note that the lack of progress in negotiations between the DUP and Prime Minister Sunak's government meant that there was little to no mention of Northern Ireland in the King's Speech, particularly regarding a return to Stormont in the near future. She wrote:

That there was not a single direct mention of Northern Ireland in the King's Speech speaks volumes about the political paralysis, and the chances of it swiftly shifting. Just a few weeks ago, there was talk of new legislation being announced by the monarch as part of the government's effort to bring the DUP back to Stormont.

There was speculation about a possible law which would be sold as

'strengthening Northern Ireland's place in the UK'. Just as there is a Section 75 statutory duty to encourage public authorities to address inequalities, so there would be a duty to assess the impact of decisions on the Union, it was rumoured. But the lack of progress in negotiations between the DUP and Downing Street on the Windsor Framework meant the government revealed nothing new yesterday.

Micheál Martin's Ard Fheis Speech

Tánaiste Micheál Martin gave the Party Leader's Address to the Fianna Fail Ard Fheis in Dublin's new Royal Convention Centre on 4 November 2023. In a wide-ranging speech he dealt with issues related to "securing peace, reconciliation and unity in our island."

He did not mention the Stormont impasse in his address but spoke in subsequent media interviews of the importance of dialogue between Dublin and London on the implications of the continuing DUP stand-off. He said that he understood that negotiations between the UK Government and the DUP had "more or less come to a conclusion" and expressed concern that the prospects of an imminent breakthrough look to have waned. The Irish Government would be seeking clarity from London on what the next steps will be on governance in Northern Ireland if there is no return to power-sharing. Mr Martin also commented on the importance of Ireland's membership of the European Union and the damage that "anti-EU politics" can cause, as seen in the UK.

One of the great challenges for this generation remains building a lasting peace and reconciliation on our island. We believe passionately that the

brightest future for all would be for us to be united – yet we accept and understand that the first priority has to be to build understanding, respect and engagement between communities who have for too long drifted apart.

The Shared Island Initiative represents the first time in our history that sustained work is being done. Under its three strands of dialogue, research and investment, it is deepening understanding on our island and showing what we can achieve by engagement and cooperation. There is no doubt that over time the Shared Island Initiative will be seen as marking a decisive and lasting move forward for peace and reconciliation on our island.

Absolutely central to our development as a country has been the decision to join the now European Union. Fianna Fáil's leaders had to take their case to the Irish people that the only way to secure our future, to promote Ireland's interests in the world, was to join with a strong and active Union. And we should all be deeply thankful that they won that fight.

And at this moment, when the Union faces dramatic threats, there must be no doubt where we stand. Ireland must stand with Europe. Ireland must stand against the corrosive euroscepticism and anti-democratic regimes which seek to undermine the Union. We can see in our nearest neighbour the damage which unchecked anti-EU politics can cause. We respect their right to leave, but we must never, ever allow euroscepticism to go unchallenged."

Jeffrey Donaldson and the Newsletter

The DUP leader, Sir Jeffrey Donaldson, wrote to the *Belfast Newsletter*, responding to the paper's editorial on 1 November 2023 (See Background Material for full article). The editorial titled: 'Few unionists will see victory in a return to Stormont, regardless of any government pledge' discussed the DUP possibly leaning towards a return to Stormont, the DUP's stance on the Irish Sea border and the party's application of its 'seven tests'.

It is a long time since I have read such a defeatist and negative editorial. Support for the Union was at its highest in Northern Ireland when we had fully functioning devolution.

In a Northern Ireland that is changing, unionists need to broaden support for the Union, and this will not be achieved by retreating to the narrow ground implicit in the editorial. Stable devolution laid the foundations for further peace and prosperity. It allowed us to change the image of Northern Ireland and to open our doors to the world, attracting new hi-tech businesses, many of whom have re-invested again and again.

I still believe in devolved government. [...] Time and again, Westminster has imposed laws upon us that are not in tune with the needs or wishes of the people of Northern Ireland. You cannot on the one hand repeatedly condemn successive governments for letting us down and then argue with credibility that we are better off in direct rule from Westminster. The strength of the Union is in the way that it accommodates the diversity of its constituent parts.

Northern Ireland is a distinct place with its own sense of identity and values. Having no say in our future will not be a recipe for success.

Our system of government is far from perfect and when it returns, we must collectively dedicate ourselves to ensuring – even when it is difficult – that decisions are taken that make a real difference to the lives of the people we represent.

Whilst your editorial seems to concede defeat, we did not enter these negotiations to fail. We are continuing to work for arrangements that unionists as well as nationalists can support. We have a record of saying yes, and leading from the front, when it's right to do so. Equally, we will not be afraid to say no if we conclude that what is on offer does not adequately deal with our fundamental concerns and is not in the best long-term interests of our place in the Union.

Taoiseach on Border Poll

The Taoiseach has said he believes a Border Poll on Irish unification is a "quite distant" prospect for the future, adding that the proposal would be likely to be defeated now and would be "fraught with risk" in terms of creating division.

The Taoiseach was asked in Brussels about the suggestion by Northern Ireland Minister of State Steve Baker, that a "supermajority" in a Border Poll – rather than a simple 50 per cent plus one majority – should be required to bring about Irish unity. Leo Varadkar said: "I understand the argument in favour of a supermajority [...] 50 per cent plus one would not be the most desirable outcome."

We would much rather see a convincing majority in favour of unification if and when a border poll comes.”

Mr Varadkar stated that he did not think “the time is right” for such a poll to take place. “I think it’s quite distant in fact ... I suppose the difficulty with a supermajority is how long could you keep the status quo in place if consistently a majority of people didn’t want that status quo.”

Mr Varadkar stated that he does not know how far away a border poll might be but said that at the moment “the indications are it would be defeated and it would also be divisive.” He remarked that the focus for now should be on getting Northern Ireland’s institutions running again in line with the Good Friday Agreement.

Mr Varadkar reflected on the consequences of such a referendum failing, but also the necessary inclusivity measures that would need to be put in place should the referendum pass:

I think having a referendum on such an important matter that you may not win is fraught with risk – defeat will bring division. And if we’re going to win a referendum on that matter, a huge amount of work has to be done to convince the British people in Northern Ireland, those of British identity, that they’re welcome and wanted – and that a United Ireland would be a warm home for them. There’s not enough talk about that.

Tánaiste on Reconciliation

In an interview with the *BBC*, Tánaiste Micheál Martin has said that the potential for communities to reconcile as part of the Belfast Agreement has not been fulfilled.

He declined to say whether he believed he would see a united Ireland in his lifetime, but said he had no doubt there would be “new political configurations” across the island. He argued that there needed to be a political focus on reconciliation and said that: “We didn’t really fulfil the potential of the Good Friday Agreement on reconciliation, full reconciliation between traditions and communities. We’ve the hard, practical work of that to do yet.”

Asked if he believed he would see a united Ireland in his lifetime, Mr Martin said: “How long do you think I’m going to live? Will it be in my lifetime? I heard that in the 1970s, I heard the Taoiseach then being asked that.”

Mr Martin said there would be “new political configurations” but that the focus should be on “unifying people”. The Tánaiste remarked: “I’m a republican, I’m of the Wolfe Tone tradition, which basically means uniting.”, Mr Martin spoke about the ethos of the Irish revolutionary figure and said it involved the coming together of “in his day Protestant, Catholic and dissenter; in the modern era, by the way, you can add a few more to that. Irish-British people have defined themselves as Northern Irish, you have 20 per cent of the population in the Republic, not born on the island of Ireland, who are now residents, citizens and so on, like that.”

Mr Martin reiterated that reconciliation across the island is essential: “the fundamental point is, nothing matters unless we reconcile. We do need to learn how to live together, how to share the space that we all call home.”

Tánaiste on DUP and Windsor Framework

Tánaiste Micheál Martin has said unionism should have “claimed victory” on the Windsor Framework. He told the BBC that the majority of what the DUP was trying to achieve was awarded in the Framework. Mr Martin said the DUP leader Sir Jeffrey Donaldson wanted to return to government but should have done so after the Windsor Framework was announced.

I take in good faith Jeffrey Donaldson's commitment that he wants the executive and the assembly back. I think the Windsor agreement was a major milestone, I think actually unionism should have claimed victory on the Windsor agreement. Much of what they campaigned for, the vast majority of what they campaigned for was delivered in the Windsor agreement. I think it was a missed opportunity because things were provided for in the Windsor agreement that unionism was told couldn't be provided for two years ago.

Asked if he believed it was a mistake by Sir Jeffrey not to endorse the Windsor Framework, Mr Martin said “I do”.

The Windsor Framework, introduced by British Prime Minister Rishi Sunak, sought to alleviate these concerns through the creation of a red lane, green lane system to minimise checks on goods coming from the UK to Northern Ireland not intended for further travel into the EU. The DUP declined to return to government following the Windsor Framework announcement and is currently in negotiations with the British government to seek further legislative assurances of Northern Ireland's trading position within the UK.

Section Two: The Evolving Debate

Key LucidTalk Poll Findings

Fresh research by LucidTalk for the *Belfast Telegraph* has revealed that a majority in Northern Ireland believes the Secretary of State should make clear the criteria for holding a vote on Irish unity. Some 55% of respondents say the basis under which a referendum on Northern Ireland's constitutional future will take place should be clearly spelled out. However, 39% of those surveyed oppose laying out the border poll criteria.

According to the 1998 Good Friday Agreement, the Secretary of State can call a border poll “if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland”. The British government has consistently refused to specify what this might mean in practice, despite repeated calls to set out the criteria.

A majority of respondents also believe that a simple 50% plus one vote is enough to determine the outcome of a border poll, but seven in ten unionists disagree and support a ‘supermajority’.

Asked what criteria should be taken into consideration for a border poll, a quarter of people think it should be nationalist candidates securing a majority of votes in an assembly election, or a majority of MLAs elected being nationalist. One in five people believes the criteria should be a majority vote in the assembly for a border poll, while 17% say nationalists making up the largest group in Stormont. Some 15% think the Secretary of State's decision should be

based on opinion polls continually showing 40-50% in favour of Irish unity, while 18% believe the level of support in polls should be continually over 50%.

Party Support Update

The LucidTalk poll also covered party support and suggests that while Sinn Féin remain in the lead with 31% of support, the DUP have narrowed the gap to 28%, up two points from a previous poll in August. The poll found that Alliance is up one point to 16%, the UUP is on 8%, down two points, the SDLP remains on 6%, and the TUV is down one point to 4%.

Kane - Feeney on the Protocol

In recent Irish News articles, Brian Feeney and Alex Kane, who are widely read and respected commentators on Northern Ireland, exchanged thoughts and insights on the Protocol's impact on Northern Ireland's place in the United Kingdom.

Brian Feeney argued that "As an artificial British creation, the north, like Israel, never gained legitimacy or security, never will. Despite appearances to the contrary the north is, in the words of former French foreign minister Dominique de Villepin, like Israel, 'a historical parenthesis', an artificial construct, its days numbered."

Mr Feeney contended that unionists already know this. He said: "The Irish Protocol sent a shiver down unionists' spines because it's a visible reminder of the temporary nature of this sub-polity, of its ineluctable demise."

Mr Feeney noted that The Protocol did not affect unionists' constitutional position in that "The Supreme Court predictably decided that the protocol is no constitutional threat because only a referendum on reunification can alter the constitution. And there you

have the nub. Unionists' 'constitutional position' is entirely contingent."

Brian Feeney concluded in his exchange with Alex Kane that:

The protocol is a reminder that the north is and always has been a place apart from Britain, but ominously worse, part of the island of Ireland. That's how everyone else in the world sees it. Unlike any other part of the UK, the north has the legal right to secede, and remember, in 1998 a majority in the north voted for the right to secede, thereby acknowledging the temporary nature of this sub-polity.

So of course unionists 'feel' the protocol undermines their position because, while they know this place is different and its existence contingent, they naturally don't like physical evidence that reminds them of that. It seems they'd rather live in denial of their impermanence, illegitimacy and insecurity, preferring wishful thinking rather than a British government reminding them that when the chips are down, they're disposable.

In his response to Mr Feeney, Alex Kane began by pointing out that Northern Ireland now finds itself in a "bespoke limbo" where unionists' sense of identity has been tampered with. Mr Kane acknowledged that it is not just the DUP who are against the Protocol and Windsor Framework, but all unionist parties. He argued that Northern Ireland is no longer fully part of the UK and thus the constitutional position of unionists has been weakened:

It struck me as extraordinary that both governments and the EU gave their joint imprimatur to the creation of an entirely

new arrangement which placed NI in what might be best understood as a bespoke limbo: neither fully in the UK, nor properly in the EU. And then, having done that, jointly insisted that this didn't represent a constitutional threat to NI's position within the UK or unionists' sense of identity as full citizens of the UK.

[...] it's worth remembering that not a single unionist party, or representative at Westminster, assembly or council level, supports the protocol or framework. This isn't just about the DUP. There is a tendency in some quarters to suggest that unionists should stop complaining, because NI 'has always been a place apart'. There has also been a tendency to accuse unionists of bringing the problems upon themselves: "You voted for Brexit and the DUP always wanted the hardest form of it." Well, 40% of unionists voted Remain.

Even if all of unionism had voted Remain and Brexit had still carried the day, it would still have had a problem with the fallout from the civil war within the Conservative Party and the rise of a new English nationalism which doesn't give a toss about the Celtic fringes.

Perception is a key factor in politics. What people believe is true often trumps what might be true. The dominant perception across political/electoral unionism is that the protocol/framework has undermined its constitutional position. It has certainly weakened and altered it because NI is no longer fully in the UK. Something very significant has happened to the terms and conditions of my citizenship: and it concerns me greatly.

Newton Emerson on US Trade Visit

Newton Emerson commented in the *Irish News* on the visit of a US trade delegation to Belfast. Mr Emerson drew on UUP leader Doug Beattie's words that it was "absolutely embarrassing" that government was suspended in Northern Ireland during the visit of a US trade delegation. Mr Emerson made comment that the reception for the delegation, led by US special economic envoy Joe Kennedy, resembled that of a "Stormont Simulation". The 'simulation' gave way to the question: "If Donaldson can do this now, why not just do it for real?"

It was also a little embarrassing, not to say exasperating, that Stormont still managed to put on a show. The delegation, led by US special economic envoy Joe Kennedy, was treated to a reception in the Great Hall hosted by Sinn Féin speaker Alex Maskey – still in office in the absence of a replacement, despite no longer being an MLA.

Party leaders entered the hall by processing down the stairs. Michelle O'Neill and Sir Jeffrey Donaldson were side by side, all smiles, accompanied by Naomi Long. Beattie was behind. Out of shot in the few photos distributed to the press was SDLP assembly leader Matthew O'Toole, whose party was consigned to opposition by last year's election.

So this was not so much a Stormont reception as a Stormont simulation of the assembly and executive to be.

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](http://www.iiea.com)