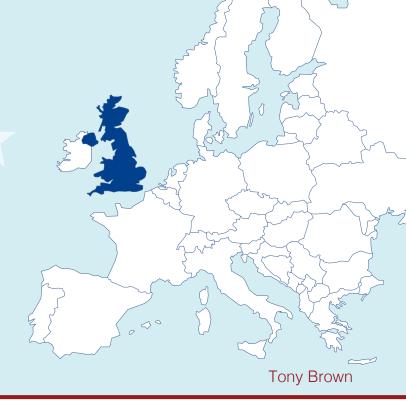


Brexit Brief Issue 165 14 December 2023





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

Eight Years of Brexit Brief

With this Brief the series reaches its eighth anniversary, having appeared for the first time in December 2015. The Brief was launched to cover the campaign leading to the June 2016 referendum on UK membership of the European Union which, it was confidently predicted would see a 'Remain' victory and a final, celebratory Brief!

Instead, rather than celebrating, the Brief has sought to review the era of Brexit, which continues with its entirely negative and divisive impact on the political, economic, and communal life of the island of Ireland, and on the vital relationship with the neighbouring island. Brexit threatens the great achievements of the Good Friday

Agreement (GFA) and has also created a new vocabulary, such as "Withdrawal Agreement", "TCA", "NI Protocol", "Windsor Framework" and "Border in the Irish Sea"!

Section One: State of Play

Heaton Harris makes Government Offer

The UK Government has offered Northern Ireland a financial package of up to £2.5bn on condition that the Stormont Executive is revived.

Northern Ireland Secretary, Chris Heaton-Harris, made the offer at a meeting of the five party leaders on 11 December 2023, against the backdrop of the political impasse, budget overruns and struggling public services. The move is intended to



increase pressure on the DUP to abandon its long boycott of power-sharing, paralysing the Stormont Executive and Assembly and leading to a growing fiscal crisis.

Downing Street hopes the package, combined with the ongoing negotiations with the DUP over post-Brexit trading arrangements, will persuade the DUP leader, Sir Jeffrey Donaldson, to restore Stormont after almost two years of the party's stance. Sir Jeffrey immediately welcomed the offer as a "first step" but ruled out any immediate breakthrough.

This is a process and I don't believe it is a process that is going to be corralled into a few days here. I think it puts on the table an offer that begins to address some of the issues that are at the heart of the shortfall in our budgetary arrangements. Does it go far enough? No. Is more work required? Yes it is.

With party leaders to return to Hillsborough for further talks on Tuesday and Wednesday, Sir Jeffrey said he did not view that as a deadline.

Other party leaders said the financial package was insufficient but that they could lobby for improvements if the Assembly and Executive at Stormont were revived.

With reference to this, Michelle O'Neill, Vice President and Stormont leader of Sinn Féin, said: "You can't understate the underfunding and what that has meant for public services here [...] All of that is academic with the question of, is there going to be an executive restored? That question remains unanswered."

Colum Eastwood, the SDLP leader, urged Sir Jeffrey to act: "We've had enough now of waiting for Jeffrey, it's time for him to lead." The UUP leader, Doug Beattie, predicted that

talks between the government and the DUP would continue into next year, leaving the Secretary of State and civil servants to run the region on a form of autopilot. Finally, the Alliance party leader, Naomi Long, argued that Northern Ireland needed long-term solutions: "For us this is not about a short-term fix, it is not about dangling baubles at us before Christmas and getting everybody to rush back and say that this will be resolved immediately."

Irish Times Poll

The Irish Times has published the results of the 2023 ARINS/ Irish Times survey on attitudes to possible referendums on Irish Unification.

In 2023, 30% in Northern Ireland said they would vote in favour of unification (compared to 27% in 2022) and 51% would vote to stay in the UK (compared to 50% last year) with the remainder saying, "don't know" or "will not vote". Three-fifths of Northern Irish Catholics say they would vote for Irish unity while four-fifths of Protestants say they would vote to stay in the UK.

In the Republic of Ireland, 64% said they would vote for unification compared to 16% who said they would vote for Northern Ireland to stay in the UK. 13% said they "did not know" while 7% would not vote.

A significant finding of the survey was that the proportion of respondents in Northern Ireland who say they would find a vote on Irish unity "almost impossible to accept" has declined since last year, suggesting that hardline unionist opposition to a united Ireland may be waning. There is no indication in the survey data that a successful unity referendum in Northern Ireland is likely at present. This is the precondition for a Border Poll set out in the (GFA).



British Irish Intergovernmental Conference

Ameeting of the British-Irish Intergovernmental Conference (BIIGC) took place at Farmleigh House and Estate in Dublin on 28 November 2023. At the meeting, the Government of Ireland was represented by the Tánaiste, Minister for Foreign Affairs and Minister for Defence, Micheál Martin TD. The Government of the United Kingdom of Great Britain and Northern Ireland was represented by the Secretary of State for Northern Ireland, the Rt Hon Chris Heaton-Harris MP.

At the meeting the "the critical importance of restoring the Northern Ireland Assembly, Executive and North South Ministerial Council to full operation" was discussed. In the communiqué it stated that both governments agreed that the people of Northern Ireland deserve to have a "stable, locally-elected and accountable government" and discussed the effects on the people of Northern Ireland of the absences of an Executive. The Conference also reviewed the importance of close cooperation under the GFA, and security in both Northern Ireland and Ireland.

The Conference agreed to continue close co-operation in accordance with the three stranded approach established in the Belfast / Good Friday Agreement.

The Conference examined the current security situation in both jurisdictions. They welcomed the excellent ongoing cooperation between the PSNI and An Garda Síochána in tackling terrorism, paramilitarism and associated criminality.

Other areas that were discussed included the work of the Independent Reporting Commission (IRC) and "the central importance of effective policing and criminal justice efforts to tackle paramilitary activity, as well as measures to address serious socioeconomic issues in affected communities". governments acknowledged additional steps should be put in place to ensure that "the issue of paramilitarism is not allowed to be perpetuated for this and future generations" following the IRC'S analysis.

> The Conference discussed the IRC's recommendations potential on mechanisms to support the transition of paramilitary groups to disbandment. Governments agreed the IRC's recommendation for the appointment of an Independent Person to engage and report in detail on the question of the possible establishment of a formal process of comprehensive group transition had the potential to make a positive contribution, and agreed to continue to engage on this recommendation.

Finally, the communiqué explained the discussions that took place regarding continued bilateral cooperation between the UK and Ireland. There was a specific emphasis on Research and Innovation, including the rollout of the first research cocentres in climate and sustainable, resilient food systems, and encouraging Horizon Europe National Contact points to work together. The Conference also discussed further developing the existing relationships between funders in the UK and Ireland, and advancing funder-to-funder dialogue.

^{1.} The Conference was established under Strand Three of the Good Friday (Belfast) Agreement "to promote bilateral cooperation at all levels on all matters of mutual interest within the competence of the UK and Irish Governments".



British-Irish Council Summit

The British-Irish Council (BIC) held its 40th Summit meeting on 24 November 2023, hosted by the Government of Ireland. The meeting was chaired by Taoiseach, Leo Varadkar, on behalf of the Government of Ireland. The meeting was attended by the First Ministers of Scotland, and Wales, and the Chief Ministers of Jersey, and of the Isle of Man. The UK Government was represented by Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, Michael Gove, in the absence of Prime Minister, Rishi Sunak.

The Council issued a Communique which highlighted the main points of the discussion. These points included the impacts of the Agreement and the work done thus far by the British-Irish Council following its establishment under the GFA in 1998. At the meeting, the BIC discussed topics of bilateral interest, including: "the situation in Israel and occupied Palestinian territories, the Russian invasion of Ukraine, shared climate objectives, the EU-UK relationship, and the cost of living."

One of the major topics discussed was recent political developments in Northern Ireland and the need for the restoration of its institutions in the near future. Additionally, the Council acknowledged the importance of tackling child poverty and improving child wellbeing overall. According to the communiqué, tackling these issues will "help to achieve broader economic and social benefits."

Finally, the Council highlighted the meetings of the BIC Indigenous, Minority and Lesser-Used Languages and Early Years work sectors, the importance of sharing experience on community cohesion, and

possible reform of the thematic activity of the Council. The next BIC Summit will be hosted by the Isle of Man Government.

Sir Jeffrey Donaldson Message to the DUP

In an internal message to DUP party members, the party leader, Sir Jeffrey Donaldson, defended the DUP's withdrawal from the Executive. He noted the Party's determination to strength Northern Ireland's place as part of the United Kingdom, particularly when it comes to trade. Sir Jeffrey also commended the work of his party for bringing about discussion on the Northern Ireland Protocol, which he claimed would not have happened had the DUP remained in Stormont.

Whilst some are fixated with timelines, we are not calendar led. We are single-mindedly focused on our aims and objectives. We are determined to secure further progress. Our objectives include restoring and future-proofing in law our Article 6 rights under the Acts of Union, thus ensuring our ability to trade freely within the UK internal market, as well as securing further measures that will strengthen Northern Ireland's place within the Union.

I am most mystified by those who argue that there was no need to withdraw from the Executive to bring matters to a head. This is revisionism rather than reality. Let's be quite clear, without the DUP's decisive action in February 2022, Brussels would never have come back to the table. Remember we had been campaigning for two years about the fact that not one unionist MLA supported the NI Protocol but we were repeatedly told the protocol would be 'rigorously implemented'. Indeed, the



Alliance Party, Sinn Fein and the SDLP supported such calls from Brussels. Having people back at the table, however, is not enough. We want to get an outcome that unionists as well as nationalists can support. By so doing, we will have a solid basis for Northern Ireland to move forward.

Hansard 22 November 2023 / Northern Ireland Questions

On 22 November 2023, debate on the Windsor Framework took place in the House of Commons at Westminster. Jonathan Gullis, MP for Stoke-on-Trent North posed a question on the Border in the Irish Sea:

Does the Secretary of State accept that for as long as there are customs declarations, physical searches and ID checks for businesses moving goods from Great Britain into Northern Ireland, even in the green lane, the Prime Minister's view that there is no "sense of border in the Irish sea" will ring hollow?

Sir Jeffrey Donaldson commended Mr Gullis on his question and expressed that Northern Ireland's place in the market of the UK needs to be repaired and protected. Further to this, Sir Jeffrey also stated that goods moving from Great Britain to Northern Ireland should not be subjects to EU customs processes and that this has to be guaranteed.

...Our objective is to ensure that Northern Ireland's place in our biggest market, the United Kingdom, is restored and protected in law. Will the Secretary of State work with us to ensure that, where goods are moving from Great Britain to Northern Ireland, they are not subject to EU customs processes

that are neither necessary nor fair and right? Save for reasons of animal health and the risk of smuggling, there should not be checks on those goods.

Secretary of State for Northern Ireland Chris Heaton-Harris responded by highlighting the good working relationship he has with Sir Jeffrey and that they are working together to achieve the aims he had set out. The Secretary of State stated that resolutions regarding the Windsor Framework need to be found as soon as possible so that the Executive and Assembly at Stormont can be devolved again.

We have so far gone a long way in this space with the Windsor framework, but I look forward to continued engagement with him in the next few days, because we do need to find a resolution to these issues that also means we can reform Stormont and deal with the other domestic issues in Northern Ireland.

Northern Ireland Affairs Committee – new Chair elected

The new chair of the House of Commons Northern Ireland Affairs Committee, Sir Robert Buckland, says he will engage with Sir Jeffrey Donaldson and other party leaders to restore Stormont.

Sir Robert said he wanted to see a "flourishing Northern Ireland", which was only possible "with an effective and efficient executive". He told the *BBC* he "enjoyed good relations" with the DUP leader.

I am more than happy to carry on that work to engage directly with him and other leaders. I believe it's in the best interests of those of us, like me who believe passionately in the union and unionism, to take the reins of responsibility again.



Northern Ireland Office on Irish role in Stormont

Responding to an Alliance Party statement arguing that the continuing stalemate on the restoration of the Stormont institutions requires urgent action by the Westminster Government and consultation with the Irish Government as co-signatory of the GFA, the Northern Ireland Office issued a brief statement on 6 December 2023:

The structures governing the role of the Irish Government in Northern Ireland affairs are set out in the Belfast (Good Friday) Agreement. We are clear that there is no role for the Irish Government in matters relating to the Strand One institutions and that joint authority is not being considered. The UK Government remains committed to upholding the Agreement in all its dimensions and to restoring the Northern Ireland Executive as soon as possible.

Section Two: The Evolving Debate

Northern Ireland Affairs Committee Report

On 29 November 2023, The House of Commons Northern Ireland Affairs Committee published a major report on *The effectiveness of the institutions of the B/GFA*, arguing for serious engagement on the future development of the institutions and advancing serious ideas about timely changes aimed at improving effectiveness.

The Introductory Section of the document began by reflecting on the GFA and the institutions that came from it. It was acknowledged that the GFA came after lengthy dialogue, and that the end result was a power-sharing government system that would allow for the needs of both Unionists and Nationalists to be addressed which would end the conflict in Northern Ireland.

The leaders of the Northern Ireland parties, supported by the British and Irish governments, determined to end the conflict and establish a system of power-sharing government based on mutual consent and the parity of esteem of the Unionist and Nationalist traditions.

However, the Introductory remarks were not all positive. The Committee noted that "Northern Ireland's political institutions lie dormant, with the timetable for their return still unclear."

The report highlighted that although the Strand 1 political institutions in Northern Ireland have a number of "cross-community safeguards to ensure the interests of the two traditions were always accounted for in reaching important decisions...", there is now a growing population of people living in Northern Ireland who do not classify themselves as either Unionist or Nationalist. The Committee went on to discuss the negative impacts of these safeguards and how those can be addressed.

The safeguards have also contributed to institutions which are unstable and prone to collapse, with a single party effectively given a veto in circumstances such as the election of the Speaker of the Assembly and the formation of an Executive. While the Strand One institutions have produced a significant legislative output, their pervasive instability has led to a number of critical policy issues in Northern Ireland being insufficiently addressed. This can be rectified only by elected representatives



in Northern Ireland working within functioning institutions, and not by MPs in Westminster or civil servants.

The report stresses that Strands Two and Three institutions could be utilised more to allow for cooperation on the island of Ireland and Great Britain.

While there has been pragmatic cooperation between the Northern Ireland Executive and the Irish Government outside of the North South Ministerial Council and its implementation bodies, there has been insufficient commitment to realising the possibilities Strand Two created.

Similarly, the Agreement clearly foresaw the British-Irish Council and the British-Irish Intergovernmental Conference as fora for mutual cooperation on matters of shared interest across the British Isles, but these have often been treated frivolously or as mere support structures for the Strand One institutions. The recently improved relationship between the British and Irish governments provides an ideal opportunity for a broader realisation of Strand Three's scope to address a number of shared policy challenges.

The Committee stated that recent research shows that there is "widespread public dissatisfaction with the stability and effectiveness of the Strand One institutions, alongside growing dissatisfaction with cross-community safeguards". Thus, the introduction of the report concludes on this, that public engagement is needed to dictate the future of the Northern Ireland institutions and calls for a Citizens' Assembly on the topic in the new future.

The Committee called upon the UK Government to carry out a formal, independent review into the effectiveness of the institutions. Importantly, the report highlighted that this should be done in close collaborations with the Government of Ireland and the political parties in Northern Ireland. In addition to this, the Committee urged the UK Government to make changes to the Strand One institutions to encourage a return to Stormont.

...we also urge the Government, in close consultation with the Government of Ireland and the Northern Ireland parties, to institute changes to the Strand One institutions that could facilitate their restoration and relative stability for at least the short to medium term. To this end, we argue that reforms should focus on the nomination processes for the Speaker of the Assembly and the offices of the First and Deputy First Minister.

Newsletter and Irish News Editorials December 2023

The Belfast *Newsletter* and *Irish News*, from different political viewpoints, published editorial responses to the Northern Ireland Affairs Committee report.

The Belfast Newsletter editorial titled, There is still time for London-based unionists to show they care about threats to the union, discussed the proposed changes by the Northern Ireland Affairs Committee. The editorial began by saying that the proposal to change the name of first and deputy first ministers into them both being dubbed first minister, is logical because "the two positions are the same".

The editorial continued with a negative tone on the committee's proposals, commenting on the governance structures suggested in the report.



NI will still have no 'prime' minister, meaning stalemate in a policy split. And the plan doesn't address problems such as a party that does not want Northern Ireland to exist always being in power. The committee wants speakers and first ministers elected by a two-thirds majority. Advocates of such action say that by making non-unionist and non-nationalist parties eligible for the top posts it will disadvantage unionists no more than Sinn Fein. But they must know they are removing minority protection as soon as unionists are in the minority.

The editorial considered the position of the chairperson of the Committee, Sir Robert Buckland, a Conservative MP, comparing him to the previous chair, Simon Hoare who was considered "anti-unionist".

The NI Affairs Committee is chaired by a Tory MP, Sir Robert Buckland. He is unlikely to be perceived as anti-unionist as unionists considered his predecessor Simon Hoare to be, but even so, the Conservative and Unionist Party shows little concern over where Northern Ireland is being allowed to go.

The editorial concluded with the need for action from the UK government on the topic of Northern Ireland:

Set aside the constitutional abomination of the Irish Sea border for a moment, other problems should concern London-based unionists. Nationalists sneer that London doesn't care about NI. This government still has a year, and coming talks proposals, to prove them wrong.

Irish News also responded to the Committee's report in an editorial titled, *Time for the GFA institutions to be reviewed*. It is therefore no

surprise that the article began by agreeing with the need for reform, and questioned the DUP's right to withdraw from Stormont and block power-sharing when they "only won a little over a fifth of the vote at the last assembly election". The author argues that this "is a clear sign that something is deeply wrong" and compared it to the collapse of government in Northern Ireland by Sinn Féin from 2017 to 2020.

The editorial highlighted that the "dysfunction in the current system" has denied Northern Ireland a stable government that the people deserve. The *Irish News* article, also made reference to the Committee's proposal to have joint First Ministers rather than a First Minister and a Deputy First Minister, however unlike in the *Newsletter*, the author of this article did not give personal comment on the proposal.

The author of the editorial also made note of the Committee's recommendation to change how the first ministers and the speaker are elected, explaining that this would mean moving away from the established method, which calls for votes from a majority of MLAs within both the nationalist and unionist traditions. The change would mean a move towards a two-thirds 'supermajority' and would effectively "equate to cross-community consent". The author did make note that: "this would at the very least allow some Stormont functions to operate, even if the DUP maintains its executive boycott."

In response to the Committee's recommendation for the mentioned independently led review into the institutions' operations, the editorial boldly remarked that "More engaged governments in London and Dublin would already have conducted such an exercise."

The Irish News editorial ends on a positive



note acknowledging the "leadership and bravery shown by those who negotiated the Good Friday Agreement", however it suggests that the DUP is unlikely to make efforts to return to Stormont:

There has been little evidence that Sir Jeffrey Donaldson's DUP is prepared to summon even a measure of that vision and courage and allow Stormont to return to work. Whether or not unionism's largest party is able to accept wider, changed political realities, a review would seem sensible.

House of Commons - Questions for Prime Ministers on 15 November 2023

In the House of Commons at Westminster on 15 November 2023, Sir William Cash MP, asked the Prime Minister, Rishi Sunak, for reassurance that the new Foreign Secretary, Lord David Cameron, would handle EUrelated affairs in line with the Government's 2019 election manifesto. He also queried Lord Cameron's commitment to "UK parliamentary sovereignty, self-government and democracy in accordance with the Government's subsequent legislation".

Prime Minister Sunak assured Sir William and the rest of the House that Lord Cameron, is indeed working in accordance with the Government's 2019 election manifesto is "seizing the opportunities of Brexit, with his advice and support". He also gave praise to the passing of the Retained EU Law (Revocation and Reform) Act 2023 and the signing of new trade deals which the new Foreign Secretary has been involved with.

We passed the Retained EU Law (Revocation and Reform) Act 2023 to ensure that we can regulate our growth industries more competitively, and we have signed trade deals with the fastest growing regions

across the world including, most recently, the comprehensive and progressive agreement for trans-Pacific partnership. It is this Government who are delivering the benefits of Brexit to every part of our country, and long may that continue.

German leader on closer UK-EU links

A leading figure in Germany's ruling Social Democratic Party (SPD) has called for far closer links between the UK and EU amid rising concerns that the Brexit divide is harming efforts to solve international crises, including mass migration.

Martin Schulz, a former SPD leader and candidate to be chancellor of Germany, said it was vital that regular meetings, known in EU jargon as "structured dialogue", be set up to bind the UK closer to the EU, and particularly Germany, once again. This could involve regular contact between government figures and citizens to discuss policy issues of common concern, though outside the EU's ambit. In an interview with Observer, Shulz stated that: "The distance between the member states of the EU and the institutions of the Union, and the UK, has increased during the last three or four years. Every day, it is a little bit more."

Sunak and von der Leyden

UK Prime Minister, Rishi Sunak, has rejected the suggestion that the UK could rejoin the EU after Ursula von der Leyen claimed that the UK was on a "clear direction of travel". The Commission President admitted that the EU had "goofed up" over the UK's departure and suggested that a younger generation could "fix it". The Prime Minister responded that he did not believe that Brexit was in peril and that he was focused on making a success of the freedoms arising from the UK status outside the EU.



Section Three: Background Material and Further Reading

Background Material

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Further Reading

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The IIEA acknowledges the support of the Citizens, Equality, Rights and Values (CERV) Programme of the European Union



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