

BREXIT BRIEF

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Introduction

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)

Section One: State of Play

Post-Brexit Troubles

The friction and difficulties of the early post-Brexit weeks are continuing.

Headlines in Britain proclaim that "UK shellfish farmers threaten legal action over ban on exports to EU" and "UK cheese firm boss in despair over minister's export advice".

Meanwhile, in Northern Ireland, a senior DUP figure has argued that Unionism has been "betrayed over and over again" and Loyalist demonstrators violently confront the Police Service of Northern Ireland on the streets of Belfast and Derry. More than thirty officers have been injured over three nights of what has been described as orchestrated violence.

The attacks on the police reflect Loyalist anger and frustration following the controversial decision of the Public Prosecution Service not to prosecute 24 Sinn Fein politicians for attending the funeral of Republican Bobby Storey which attracted more than 2,000 mourners despite COVID-19 restrictions. Unionists and Loyalists had called for the resignation of the PSNI Chief Constable, Simon Byrne, criticising his role in policing the funeral. He has refused to stand down and retains the support of the majority of members of the NI Policing Board.

The DUP and other Unionist parties continue to campaign against the Northern Ireland Protocol. The Traditional Unionist Voice challenge to the Protocol on grounds of breaching the 1800 Act of Union and the 1998 Good Friday Agreement is set to be heard in

the High Court. Unionists, with the support of the hard-line Brexit advocates in the Tory Party, continue to target the EU in Brussels and the Irish Government in Dublin as the sources of the Protocol.

And, now, there is a new cause of anger and frustration – this time with the Westminster Government – which, on 22 March 2021, enacted the Abortion (Northern Ireland) Regulations 2021. Northern Ireland Secretary Brandon Lewis explained that the Government had acted because “women and girls are still unable to access high-quality abortion and post-abortion care in Northern Ireland, in all the circumstances that they are entitled to under the law made by Parliament in the absence of the Northern Ireland Executive, and reconfirmed in the regulations laid last March.” This move by the London authorities has been sharply criticised for by-passing the reconstituted Stormont Executive.

The *Belfast Telegraph* commentator Nelson McCausland has written that “within unionism there is a deeper level of resentment and disillusionment than I have seen in a very long time.” Another writer forecast that the DUP, “having once again marched itself up to the top of the rhetorical hill, will have to claim any EU concessions as a hard-won victory, and try to march back down.”

At the same time, there have been some indications of moves to end the toxic relationships, standoffs and tensions. Senior UK and EU officials have reopened discussions on the Protocol issues, many of them technical, which had led to the unilateral UK moves and the EU legal action, and to the inflamed attitudes among Unionists in Northern Ireland. The Joint statement on the COVID-19 vaccine dispute and the positive outcome of a high-level technical joint committee meeting have given rise to hopes of progress.

In an extensive *Financial Times* interview on 2 April 2021, the Taoiseach, Micheál Martin, called on the UK and EU to “reset” their relationship so they can work together to fine-tune the Northern Ireland Protocol. The Taoiseach “lamented the deterioration in relations between the UK and the EU in recent months [...] describing how the EU was concerned about the tougher stance taken by London in recent months, particularly its decision unilaterally to defer customs checks promised under the Protocol. At the same time, Martin has been arguing to the EU that ‘the only future has to be a constructive UK-EU relationship’.”

Michael Martin told the *FT* that “I’ve made it very clear to our European Union partners that the British-Irish relationship is a unique one, historically rooted. We’re both joint custodians of the Good Friday Agreement and nothing can come between us in respect of making sure that we work constructively together. That’s our aim and our objective as a government – to maintain a constructive relationship with Britain.”

And, on Good Friday 2021, the SDLP’s Conall McDevitt felt able to write: “It’s 23 years since Good Friday 1998, the day our all our lives changed. Whether you supported the Belfast / Good Friday Agreement or not, there is no denying that our region at peace and our island on the long road to reconciliation is much better than what went before.”

Michel Barnier Farewell

On 31 March 2021, Michel Barnier spoke to the “Churchill Europe Symposium” at the University of Zurich. His speech – “Brexit: new realities and lessons learned for Europe” – was, in effect, his farewell speech as 31 March was his last day at the European Commission, “after two mandates as a

European Commissioner and four-and-a-half years working on Brexit. So, it is the perfect day to look back at this experience as Brexit Chief Negotiator. And to reflect on the lessons of this extraordinary negotiation.”

He started with comments on the reality of Brexit:

[...] for many people, the real consequences of the referendum are only now starting to sink in. And it turns out: Brexit really did mean Brexit. You cannot renounce the obligations of a Member State and of the Single Market; leave behind an open market based on an ecosystem of common rules, standards and a jurisdiction; and still maintain the benefits and advantages of the EU and of the Single Market and Customs Union membership.

The reality, which has today become clear for all to see, is that: Brexit means recreating trade barriers that had not existed for 47 years; Customs formalities for all goods exchanged between the UK and the EU; Administrative burdens for traders and logistics and distribution operators; Disruptions to long-established value and supply chains. Brexit means stopping citizens from moving freely between the EU and the UK to study, work or retire. For the UK, Brexit also means renegotiating trade relationships with other global partners. As a country of 66 million people, rather than as a bloc of more than 500 million.

These new realities, and the concrete problems they pose – from difficulties for UK fishermen to sell their products in the EU to impediments to the mobility of musicians – do not result from EU

decisions. They are the direct, automatic, consequences of the UK’s choice to leave the Union, the Single Market and the Customs Union.

He then turned to the Northern Ireland question:

[...] the Withdrawal Agreement includes a solution to deal with the specific situation of Northern Ireland, where the Brexit negotiations were not just about cross-border trade and the economy, but, more existentially, about maintaining peace and stability, given that Brexit would have created a border on the island of Ireland

Finding common ground with the UK on how to achieve a solution to this problem was, as you know, not easy. But the EU was tireless in its efforts. We listened to concerns in Ireland, Northern Ireland and across the UK. We went back to the drawing board many times to find a solution that would reconcile the many different interests at play. First with Prime Minister Theresa May, then with Boris Johnson.

In the end, we managed to square the circle: Avoiding a hard border between Ireland and Northern Ireland; preserving the all-island economy and respecting the Good Friday (Belfast) Agreement in all its dimensions; protecting the EU’s Single Market, and all its guarantees for consumer protection, public and animal health; and respecting the place of Northern Ireland as an integral part of the United Kingdom’s internal market.

This agreement took us two years to reach. It is a balanced and delicate

compromise. It is now of the utmost importance that it is thoroughly applied by each party. Including by putting in place the necessary checks between Great Britain and Northern Ireland. As we agree that there can be no checks across the island of Ireland. It is important the both the EU and the UK live up to their commitment; that they explain their commitment to Northern Ireland.

Michel Barnier concluded with remarks on the reality of Brexit and on some key lessons from the whole experience:

Throughout the negotiation process, we protected the EU and its Single Market. And it worked. Contrary to what many predicted at the time of the UK referendum: Brexit did not trigger the demise of the European Union, but rather its reawakening. A realisation that our unity – our Single Market, our common policies – are what give us scale and clout on the global stage. That pooling our sovereignty where it matters most is exactly what has enabled us to continue promoting our shared interests and values in this fast-changing world. The first months of 2021, however, did not always make that clear to public opinion

In all of this, there are of course also lessons to be learnt from Brexit. Some of the lessons of Brexit are probably specific to the UK. But others are common to many other regions across Europe. The feeling that Europe does not listen enough or is too distant. That austerity went too far in the last decade. That Europe does not protect its citizens or act decisively enough against the negative consequences of globalisation. That it has let some of its industries collapse, and done too little to anticipate technological

change or to help create new, decent jobs. Everywhere in Europe, we should listen to the popular feeling, which is not the same as populism. Everywhere, we need to show that Europe works for its citizens.

New UK Unit and Adviser in Commission

The European Commission has set up a new unit to replace the Barnier Task Force with a new head of unit as Barnier departs from the Commission service. Richard Szostak, with the title of Principal Adviser (EU-UK Agreements) will work within the Commission Secretariat-General in the Directorate for International and External Relations, headed by the Irish Deputy Secretary General John Watson. The unit will “support the efficient and rigorous implementation and monitoring of the Agreements with the UK” and will work on the logistics of the EU’s evolving relationship with the UK, within the parameters of the Withdrawal Agreement and the Trade and Cooperation Agreement.

Mr Szostak’s new role will see him working closely with Commission Vice-President Maroš Šefčovič who continues to lead the EU political interaction with the UK and with the UK Cabinet Office Minister David Frost. Politico comments that “Šefčovič and Szostak will represent two sides of the ongoing Brexit talks. Šefčovič will speak at press conferences and handle the political dynamics Barnier formerly managed while Szostak will be his right-hand civil servant, navigating the choppy technocratic waters.”

Richard Szostak, a UK and Polish passport holder – born in London to Polish parents who fled Warsaw’s communist regime – served in the Cabinet of Commission President Juncker, monitoring the day-to-day

work of the Barnier Task Force on the Brexit negotiations. He had previously served as a policy expert in the Cabinet of Commissioner Viviane Reding and played an expert role in negotiations with Switzerland on complex issues such as migration.

Coveney in Seanad Éireann, 29 March 2021

Foreign Affairs Minister Simon Coveney addressed the Senate on 29 March on the situation in respect of EU-UK relations post-Brexit and on the NI Protocol issue.

Either party imposing its own will unilaterally will certainly not work. The UK's unilateral actions needlessly damage trust with the EU. Agreements must be upheld and respected. Where actions are taken contrary to the terms of the protocol, a negotiated international agreement, it can be no surprise that legal action ensues, with all that that entails. This is not a space for solo runs, no matter the intent or substance of those actions. For solutions to be effective and sustainable, they must be joint solutions. There is a clear framework for engagement and decision-making that must be respected. Let us not forget that those structures were agreed by both sides only a few months ago.

I encourage the UK to take every opportunity to build trust and re-establish itself as a credible partner for the EU. I am pleased that a specialised committee on the protocol took place last Friday, 26 March, and work continues towards a meeting of a joint committee in the hopefully not too distant future. Agreement on a roadmap towards full compliance with the protocol is a key

focus of this process. I acknowledge the positive role being played by the Vice-President of the European Commission, Maroš Šefčovič. It has been really impressive and he continues to show that commitment.

This has been a difficult number of weeks since the start of the year with regard to the protocol. It is unfortunate that the implementation of the protocol and related issues have been a source of tension and polarisation with regard to political opinion in Northern Ireland. We all have an obligation to work to try to reduce those tensions and to rebuild trust and good relations. We can only do that by implementing what has already been agreed and complying with what is now international law. I believe all of that is possible but it has to happen with people working together, not acting unilaterally.

Let us talk about the facts and try to deal with the genuine concerns around how the protocol is impacting on Northern Ireland. I would be the first to try to do that. Despite the fact that I have become somewhat of a bogeyman for some people in the context of the protocol and trying to tell people the truth about it, the irony is that the Government, and my office in particular, has been constantly talking to the European Commission about the need for flexibility, the need to understand the tension in politics in Northern Ireland because of the protocol and its implementation, and the need for pragmatism in terms of implementation.

We will continue to make those arguments and to work with people like Vice-President Šefčovič, who has been extraordinarily understanding and has made himself

available on many occasions to meet representatives from Northern Ireland and south of the Border. The protocol is there, it is in international law and it is not going to be cast aside, but we can, of course, work on implementation in a way that addresses genuine concerns.

Specialised Committee 26 March 2021

The seventh meeting of the Ireland/Northern Ireland Specialised Committee was held on 26 March 2021, via video conference, and was co-chaired by officials from the UK Government and the European Commission. The Specialised Committee on the Protocol on Ireland and Northern Ireland is one of the six Specialised Committees established under Article 165 of the Withdrawal Agreement. Its role is to facilitate the implementation and application of this Protocol and make recommendations to the Joint Committee as regards the functioning of the Protocol

The UK Government issued a Statement following the Meeting which, it said "took place in a constructive atmosphere:

The UK and EU took stock of the outstanding issues raised by both parties and discussed the way forward. The UK made clear that continued progress would require action from the EU as well as the UK. Accordingly, the UK set out its expectation that establishment of an agreed work programme would help to ensure the acceptable resolution of those issues in a way that ensured minimum disruption to everyday life in Northern Ireland.

The UK also welcomed the EU's commitment jointly to engage with business, civil society and other stakeholders in Northern Ireland. They

agreed that there should be further dialogue in the coming weeks. Noting the need for ongoing engagement and the need to make meaningful progress in a constructive fashion, the UK and EU agreed to remain in regular contact over the coming weeks.

In taking this work forward, the UK continues to be clear that the operation of the Protocol must take place in a proportionate and pragmatic way, capable of maintaining cross-community confidence, and consistent with the overriding need to protect the Belfast (Good Friday) Agreement in all its dimensions, including East / West as well as North / South.

The European Commission also issued a Statement following the meeting:

The European Union and the United Kingdom today held their seventh meeting of the Specialised Committee on the implementation of the Protocol on Ireland and Northern Ireland by videoconference. It took place in a constructive atmosphere.

The two sides used the occasion to take stock of all outstanding problematic issues on the implementation of the Protocol, as well as on the state of play on the implementation on the ground. The Commission recalled the legal action launched against the UK on 15 March 2021 for breaching the substantive provisions of the Protocol, as well as the good faith obligation under the Withdrawal Agreement. It called on the UK government to confirm that the common objective is to ensure full compliance with the Protocol and that it expects the UK to reply on time to the political letter sent

by Vice-President Maros Sefcovic to Lord David Frost.

Both parties underlined the importance of joint action, through the joint bodies provided for by the Withdrawal Agreement, to provide stability and predictability for the benefit of everyone in Northern Ireland.

The EU reiterated its commitment to the Protocol, which is the only way to protect the Good Friday (Belfast) Agreement and to preserve peace and stability, while avoiding a hard border on the island of Ireland and maintaining the integrity of the EU Single Market. The EU reminded the UK that there would be a significant reduction in the number of certificates and controls needed, in accordance with the Protocol, between Northern Ireland and the rest of the UK if it chose to have a comprehensive veterinary agreement following the EU's SPS rules.

The EU stands ready to find swift, pragmatic solutions within the framework of the Protocol, and on the basis of a joint list of outstanding issues. For that to happen, the UK needs to provide "a credible roadmap, with clear deliverables and milestones for the implementation of the relevant rules and requirements of the Protocol for which implementation is deficient or delayed", as set out in the above-mentioned letter by the Vice-President.

The EU is expecting to receive the roadmap in the next coming days. Both sides have agreed to remain in contact next week to follow up on today's meeting. Finally, both parties agreed to start joint engagement again with business groups, civil society and other stakeholders in Northern Ireland.

European Parliament ratification of Trade and Cooperation Agreement

The President of the European Parliament, David Sassoli, has indicated that the Parliament will finally give consent to the EU-UK post-Brexit Trade and Cooperation Agreement during the plenary session starting on 26 April 2021. He stated that "there will be no extension" beyond that date.

In March the leaders of the Parliament's political groups decided to postpone ratification following the UK's unilateral extension of grace periods for implementation of the Northern Ireland Protocol. President Sassoli has now stated that ratification of the deal must move forward regardless of the UK's moves and the EU counter measures. The Parliament's Foreign Affairs and International Trade Committees will consider the texts at their April sessions before tabling ratification resolutions for decision by the plenary.

The EU national governments and the UK Parliament have already approved the deal, and the European Parliament's ratification is the final step before the agreement legally comes into full force. The deal has been implemented since January 1 under provisional application, to avoid the consequences of a no-deal, cliff-edge scenario. The EU and UK, in the Partnership Council, have agreed that the date on which provisional application of the Trade and Cooperation Agreement is to cease shall be 30 April 2021.

Joint UK-EU Statement on COVID-19, 24 March 2021

On 24 March 2021, a Joint Statement was issued by the UK Government and the European Commission on cooperation in fighting the COVID-19 pandemic.

We are all facing the same pandemic and the third wave makes cooperation between the EU and UK even more important. We have been discussing what more we can do to ensure a reciprocally beneficial relationship between the UK and EU on COVID-19.

Given our interdependencies, we are working on specific steps we can take - in the short-, medium- and long term - to create a win-win situation and expand vaccine supply for all our citizens. In the end, openness and global cooperation of all countries will be key to finally overcome this pandemic and ensure better preparation for meeting future challenges. We will continue our discussions.

Lord Frost in House of Lords 25 March 2021

Lord David Frost dealt with questions in the House of Lords on 25 March 2021 in his Ministerial role:

My Lords, our expectation is that the trade and co-operation agreement will be ratified by the end of April. We have agreed to that in the partnership council by written process. We look to the European Union to uphold that obligation. The unilateral measures were lawful as part of a progressive and proportionate implementation of the protocol.

Our clear position is that the protocol depends on the consent of all the people of Northern Ireland. As long as that consent is not maintained, it is difficult to see how the protocol can be genuinely durable. We are working to sustain the protocol, but in a pragmatic and proportionate fashion. Our intention is to pursue the issues arising from the protocol through dialogue, both with the Commission and with our European friends.

UK-EU Memorandum of Understanding on Financial Services, 26 March 2021

On 26 March 2021, technical discussions were concluded on the text of a Memorandum of Understanding which had been agreed in a Joint EU-UK Declaration on Financial Services Regulatory Cooperation at the time of finalising the Trade and Cooperation Agreement.

A UK Government Statement said that "Formal steps need to be undertaken on both sides before the Memorandum of Understanding (MoU) can be signed but it is expected that this can be done expeditiously. The MoU, once signed, creates the framework for voluntary regulatory cooperation in financial services between the UK and the EU. The MoU will establish the Joint UK-EU Financial Regulatory Forum, which will serve as a platform to facilitate dialogue on financial services issues." The agreement is seen as positive for the UK as it is a pre-requisite for further EU market-access openings for the City of London.

The *Financial Times* commented that "the conclusion of talks on the MoU marks a successful piece of EU-UK cooperation at a time when the two sides are seeking to ease tensions in other areas."

Section Two: The Evolving Debate

Statement by the Orange Order 25 March 2021

The Grand Orange Lodge of Ireland has ruled out further engagement with the Shared Island Unit. This development comes as anger continues to grow among unionists at the Northern Ireland Protocol.

In a letter to the Taoiseach, the Institution explained: "The current situation regarding the 'Protocol' has, in our opinion, fundamentally

damaged relations between Northern Ireland and the Republic of Ireland. The attitude, actions and words of members of the Irish Government have shown scant regard for the views of the Unionist community in Northern Ireland and an extremely selective regard for the workings of the Belfast Agreement.”

“The Orange family will not play any part in a process that masquerades as two neighbouring jurisdictions improving relationships for the benefit of both countries when in reality, the predetermined outcome of the initiative is normalise and ‘talk up’ the inevitability of a United Ireland. The Irish Government’s attitude in recent times has shown that they have no regard for the Unionist community in Northern Ireland who they view as collateral damage in their political strategy.”

North/South Corridor

Plans for an economic corridor between Dublin and Belfast have been launched today by the eight local authorities it passes through. Four local councils on each side of the border have joined forces to launch the initiative today.

A report - ‘The Dublin-Belfast Economic Corridor: Current Profile, Potential for Recovery & Opportunities for Cooperation’ - has been prepared jointly by Dublin City University and Ulster University. Its findings were revealed in an online event that included contributions from Tánaiste Leo Varadkar and Stormont Finance Minister Conor Murphy.

The four Northern Ireland councils involved are Belfast, Armagh, Banbridge and Craigavon, Lisburn and Castlereagh, and Newry, Mourne and Down. Those in the Republic are Dublin City Council, Fingal, Louth, and Meath. More than two million people live in the eight council areas the proposed economic corridor passes through. The report said the population is

younger and more diverse than any other part of the island of Ireland, with 15% born off the island. It said there is scope for significant collaboration and economic growth. But the authors also acknowledged there will not be any quick fix, describing the approach required as a “slow burn” rather than a “Big Bang”.

Section Three: Background Material and Further Reading

Background Material

GOV.UK statement following the seventh meeting of the Ireland/Northern Ireland Specialised Committee, 26 March 2021. <https://www.gov.uk/government/news/statement-following-the-seventh-meeting-of-the-ireland-northern-ireland-specialised-committee>

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