

April 3, 2023

## The Windsor Framework

On February 27, the United Kingdom and the European Union announced an important agreement to resolve disputes over the Irish border. The arrangement, referred to as the Windsor Framework, has been hailed by British Prime Minister Rishi Sunak as a step toward restoring trust between the EU and U.K. However, despite assurances from Sunak, the agreement fails to address the key concerns of Northern Ireland's Democratic Unionist Party (DUP), which wants border checks and other trade hurdles between mainland U.K. and Northern Ireland completely removed from the Brexit agreement.

This report explores how the Windsor Framework changes the U.K.- EU relationship. We begin with a brief summary of the Good Friday Agreement and the Northern Ireland Protocol. We then focus on the details in the framework and why they fall short of the DUP demands. We conclude with a summary of the possible financial and political ramifications of the agreement.

## The Troubles and the Good Friday Agreement

The ultimate purpose of the Windsor Framework is to prevent a return to the Troubles, one of the most violent periods in Northern Ireland's history. From 1968 to 1998, Northern Ireland was ravaged by violent sectarian conflict between Protestant Unionists and Catholic Nationalists. The former wanted Northern Ireland to become part of the United Kingdom, while the latter

preferred to unify with the Republic of Ireland. [The conflict between the two sides led to over 3,500 casualties, of which 52% were civilians.](#)

The violence spurred a multilateral effort to resolve the conflict. The United States joined the U.K. and Ireland to mediate peace talks between the two warring sides. These talks paved the way for a landmark accord known as the Good Friday Agreement that established peace in Northern Ireland for the first time in 30 years. The arrangement allowed for both sides to share power in Northern Ireland's provincial government. It also [led Ireland to cede its territorial claim and the U.K. to yield its direct rule of the region.](#) Although the deal with Northern Ireland allowed for the region to be part of the U.K. constitutionally, [it also granted an option for reunification with the Republic of Ireland if the majority voted for it.](#)

Britain's membership in the EU at the time played a key role in securing peace within Northern Ireland. Since Ireland and the U.K. were both members of the EU, people in Northern Ireland could trade and travel freely between the two countries without much issue. This blurred the line as to whether Northern Ireland was British or Irish territory and removed the need for a hard border separating the northern and southern areas of Ireland. As a result, citizens of Northern Ireland had a relatively positive view of the EU. During the U.K.'s Brexit vote in 2016, Northern Ireland was one of three regions that voted to remain in the EU and had the third-highest percentage of "remain" supporters among the 12 voting blocs.

### The Problem with the Brexit Deal

Britain's exit from the EU sparked a resurgence of the debate over what to do with Northern Ireland. U.K. and EU officials feared that a complete split between Northern Ireland and the Republic of Ireland would lead to a return of the violence seen before the Good Friday Agreement. As a result, the two sides sought an alternative arrangement for Northern Ireland that would grant it access to EU markets without isolating it from Great Britain. This ambitious goal proved to be easier said than done.

The issue over how to solve the Northern Ireland problem without imposing a hard border stalled negotiations over the U.K.'s Brexit treaty with the EU. Under former Prime Minister Theresa May, [the EU proposed putting a backstop in place](#). The measure would allow Northern Ireland to remain in the EU customs union as other parts of the U.K. exited. This arrangement was ridiculed by the DUP, the Tories' coalition partners, who viewed the backstop as Northern Ireland's exit from the U.K. The lack of support from the DUP helped sink May's administration when she was unable to produce a better alternative.

May's successor, Boris Johnson, had an easier time but faced similar criticism. His solution to the problem was an addendum to the Brexit treaty called the "Northern Ireland Protocol." The details of the plan were murky and somewhat convoluted, but essentially it allowed Northern Ireland to comply with EU rules, thus removing the need for checks on goods crossing the border with the Republic of Ireland. It also permitted the free travel of goods transferred from Northern Ireland into the U.K. The catch in the agreement was that goods transported from the U.K. to Northern Ireland were subject to checks, effectively

placing a soft border in the Irish Sea between the U.K. and Northern Ireland.



(Source: Bloomberg)

Unionist parties were outraged over the deal. They argued that the protocol would isolate Northern Ireland from the rest of the U.K. and effectively draw it closer to the Republic of Ireland. Trade figures reinforced those fears as Northern Ireland imports of [Irish goods rose 127% in 2022, suggesting firms may have shifted some of their business ties away from the U.K. to Ireland](#). Due to the complexity and sensitivity around the Irish issue, the protocol had an emergency escape clause in place to placate critics. If either the EU or the U.K. felt that the arrangement was causing "economic, societal, or environmental difficulties," then they could suspend the protocol.

Lacking the votes needed to prevent the protocol from being implemented as part of the Brexit agreement, unionists turned to obstruction. They warned members of the British parliament that the deal could lead to an end of the peace arrangement. As a sign of its discontent with the protocol, the Loyalist Communities Council, an association that represents several loyal paramilitary groups, formally withdrew its support for the Good Friday Agreement. Meanwhile, [the DUP decided to refrain from](#)

[participating in the Northern Ireland Assembly](#). The tensions led Prime Minister Boris Johnson to consider a unilateral withdrawal from the protocol, which paved the way for new talks.

### **A New Agreement**

The road to improve the Northern Ireland Protocol was very contentious and damaged the EU-U.K. relationship. In June 2022, then-Foreign Secretary Liz Truss introduced a bill that would allow the British Parliament to unilaterally rewrite parts of the Brexit agreement dealing with the protocol. Although [the bill riled Brussels](#), which argued that the legislation violated international law, it provided the groundwork for the new arrangements outlined in the Windsor Framework. Truss's legislation [focused on four key areas](#): transport of goods, the role of the European Court of Justice (ECJ), EU control over state aid, and the option for businesses to choose between EU or U.K. rules when placing goods on the market in Northern Ireland.

Critics of the bill argued that it would supplant parts of the Brexit agreement, an international treaty. Their argument is supported by the [“pacta sunt servanda”](#) rule articulated in the Vienna Convention, which prevents states from using domestic legislation to override international law. Supporters rebutted that the bill is protected by the [“doctrine of necessity,”](#) which allows states to act in the event of risk to essential interests.

Distrust and political uncertainty in the U.K. caused a delay in resolving the dispute over the Northern Ireland Protocol. Brussels was angered by the bill and refused to work with Prime Minister Johnson as it did not trust that he would act in good faith. Because his successor, Liz Truss, had such a brief time in office, she was unable to secure a final

agreement. It was Rishi Sunak, Britain's third prime minister in less than two months, who was finally able to reach an agreement with the EU over changes to the protocol. However, Eurosceptics believe the Windsor Framework leaves much to be desired.

The new arrangement improved many of the flaws in the Northern Ireland Protocol but fell short of a complete removal of the soft border in the Irish Sea. [Sunak's version includes “green lanes”](#) for goods that are traveling from the U.K. to Northern Ireland but will not be continuing to the Republic of Ireland. A “red lane” for goods going across the border to the Republic of Ireland will have full checks. It also allows for most disputes to be settled in the Northern Irish courts, with the ECJ being the ultimate arbiter of EU law. Lastly, it creates a “Stormont brake” in which 30 members from two parties can petition the U.K. to veto changes in the EU single market. Despite these changes, Eurosceptics believe that the bill falls short of preventing a possible warming of relations between Northern Ireland and the Republic of Ireland.

DUP leader Sir Jeffrey Donaldson insists that the agreement still needs changes, but he did not completely reject the deal. His reluctance suggests the party does not feel confident that it can secure a better deal, and therefore, it may be willing to live with it, albeit begrudgingly. At the time of this writing, it does not appear that the party will be rejoining the Northern Ireland Assembly, but the party has until January 18, 2024, to return to power-sharing. If the group [fails to comply by that time, then new elections will likely be called](#).

### **Implications**

Nothing in life is perfect, and the Windsor Framework is no different. Unionist pleas

for a Brexit agreement that will complicate Irish reunification efforts will not come to fruition. If it was not clear with Theresa May or Boris Johnson, then the latest effort from Rishi Sunak should make it obvious—London is not willing to sacrifice its relationship with the EU to protect unionist interests. Hence, the latest agreement is likely the best deal they are going to get.

Now that the Windsor Framework has [passed through parliament with overwhelming support](#), unionists have few options if they want to contest the change to the Brexit agreement. The power-sharing agreement is likely their only leverage, but their ability to utilize it will fade with the prospect of new elections. A survey conducted by *The Irish News* and the University of Liverpool's Institute of Irish Studies showed that [only 17% of voters opposed the Windsor Framework](#). The deal's popularity suggests that the DUP could suffer at the polls if it continues to hold up the Northern Ireland Assembly over the framework.

Assuming that the agreement is at least tacitly accepted by the DUP, the deal should offer support for British financial assets. The Windsor Framework bolsters investor confidence that London has enough sway

with Brussels to work out disagreements within the Brexit deal. Therefore, it shows that the U.K.-EU trade relationship will likely continue. Additionally, the DUP's acquiescence to the deal would mean that London would have one less region to worry about breaking away from its orbit, with another threat coming from Scotland. The potential stability should support the British pound (GBP) and equities.

That said, the unionists' inability to change the agreement does not mean that there is no downside risk to the framework. The deal may still lead to a return to paramilitary violence similar to what was seen during the Troubles era. Militant vigilante groups remain active in Northern Ireland, and these groups may take matters into their own hands if they feel the agreement does not remove the threat of reunification. Any resulting instability could make holding British assets less attractive. At this time, though, we believe the agreement is a positive step forward for EU-U.K. relations.

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*This report was prepared by Thomas Wash of Confluence Investment Management LLC and reflects the current opinion of the author. It is based upon sources and data believed to be accurate and reliable. Opinions and forward-looking statements expressed are subject to change without notice. This information does not constitute a solicitation or an offer to buy or sell any security.*

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