



## BAB Policy Analysis: – The Windsor Framework June 2023

### What happened:

On 27 February 2023, Prime Minister Rishi Sunak and European Commission President Ursula Von der Leyen announced the UK and the EU had reached a political agreement setting out new provisions for trade between Northern Ireland (NI) and Great Britain (GB). The agreement followed months of negotiations between the UK and EU to address outstanding concerns related to the Northern Ireland Protocol, including on the movement of goods between GB and NI, state aid rules, and medicines, among others. The new agreement, called “The Windsor Framework”, is a significant achievement, and it recognises the economic and political challenges created by the original Northern Ireland Protocol. Let’s take a look at how we got here.

### Timeline – a recap:

2016	<ul style="list-style-type: none"> <li>• Via referendum, in June 2016 the UK votes to leave the European Union.</li> </ul>
2017	<ul style="list-style-type: none"> <li>• Article 50 is triggered. Article 50 of the Treaty on European Union grants individual member states the right to voluntarily and unilaterally withdraw from the EU.</li> <li>• This is also the year the U.S. and the UK start negotiations for a post-Brexit trade agreement.</li> </ul>
2018	<ul style="list-style-type: none"> <li>• The UK and the EU reach an agreement on the UK’s exit terms (the <b>Withdrawal Agreement</b>). The plan includes a ‘backstop’ protocol, an arrangement for the Irish border, intended to protect the Good Friday Agreement (GFA) /Belfast Agreement and keep an open border between Northern Ireland and Ireland after Brexit.</li> <li>• The “EU (Withdrawal Agreement) Bill” will need to be passed before the UK officially leaves the EU on 29<sup>th</sup> March 2019 (the deadline at the time, which will then be postponed).</li> </ul>
2019	<ul style="list-style-type: none"> <li>• The Withdrawal Agreement is rejected by the House of Commons in the UK. One of the main concerns for the UK is renegotiating the Irish border.</li> <li>• The UK and the EU reach a new deal, aimed at replacing the Irish backstop. The new Withdrawal Agreement Bill is introduced to Parliament in December. The plan includes a new <b>Protocol on Ireland/Northern Ireland</b>, aimed at ensuring the avoidance of a hard border between Northern Ireland and the Republic of Ireland.</li> </ul>
2020	<ul style="list-style-type: none"> <li>• The UK’s EU Withdrawal bill becomes law. The UK officially leaves the EU on 31<sup>st</sup> January. A transition period begins, set to end 11 months later, on 31<sup>st</sup> December.</li> <li>• Negotiations start on the future UK-EU relationship.</li> <li>• In December, the UK and EU agree in principle the text of a new <b>Trade and Cooperation Agreement</b>, which creates a new framework for the UK-EU relationship.</li> </ul>
2021	<ul style="list-style-type: none"> <li>• The transition period ends. The UK leaves the EU Custom Union.</li> </ul>
2022	<ul style="list-style-type: none"> <li>• A dispute over the trading arrangements for Northern Ireland hinders the new relationship between the UK and the EU. The UK unilaterally asks for these arrangements to be changed.</li> </ul>
2023	<ul style="list-style-type: none"> <li>• The UK and the EU reach a new political agreement in principle on a new way forward on the Protocol on Ireland/Northern Ireland – the <b>Windsor Framework</b> is agreed.</li> </ul>



**Why it matters:**

Businesses have been steadfast in their support for a negotiated UK-EU agreement which provides regulatory certainty, removes trade barriers within the UK internal market, and upholds the principles of the Belfast/Good Friday Agreement – an ask reflected in BAB’s June 2022 paper *Rebuilding the Bridge*. While recognizing the need for practical amendments to the Protocol, businesses have also called for an end to the uncertainty in UK-EU relations to free up cooperation in other areas like financial services or the Horizon Europe programme.

The Windsor Framework is a welcome breakthrough and an important achievement, and it provides joint solutions to the very real challenges encountered by businesses trading between GB and NI. Before this, the Northern Ireland protocol had created an impasse between the UK and the EU, with continuous tensions between the two parties, which in turn affected trade flows.

**What you need to know:**

In short, there are three main sections of the new agreement where the most important changes from the Northern Ireland Protocol have taken place. These are: the movement of goods between GB and NI; NI’s status vis-à-vis VAT and domestic subsidies; and governance of the protocol.

Firstly, the new system introduced by the Windsor Framework creates “green lanes”, which can be used by trusted traders to export goods from Great Britain to Northern Ireland with minimal checks, if these goods are not crossing into Ireland. On the other hand, goods that may cross the inland Irish border will face full “red lane” controls. Secondly, the new framework loosens EU VAT requirements for NI, with NI’s VAT status conforming more with the rest of the UK. Finally, on governance, the new agreement establishes that the European Court of Justice (ECJ) will continue to maintain direct jurisdiction over EU laws applied under the protocol. However, Stormont will now have the ability to vote on EU laws applied in NI under certain circumstances.

It is also important to note that most of the provisions in the Northern Ireland protocol were never fully enforced, which is one of the main reasons a new agreement was needed.

	<b>Northern Ireland Protocol</b>	<b>Windsor Framework</b>
Movement of goods	<ul style="list-style-type: none"> <li>• Customs declarations required on all goods moving GB to NI through the Trader Support Service</li> <li>• All goods entering NI to comply with EU SPS rules</li> </ul>	<ul style="list-style-type: none"> <li>• Goods intended to stay in NI enter through a ‘green lane’ with fewer checks or controls</li> <li>• Goods moving on to IE/EU or ‘at risk goods’ go through a ‘red lane’ with full controls/checks</li> <li>• Simplified checks/certification for agri-food products</li> <li>• Additional flexibility and simplified certification process for movement of plants from GB to NI (e.g., seed potatoes)</li> </ul>



		<ul style="list-style-type: none"> <li>• Customs data sharing</li> </ul>
Governance & NI institutions	<ul style="list-style-type: none"> <li>• Application of EU law in NI is subject to EU oversight, including through the ECJ</li> <li>• Relevant EU directives and regulation continue to apply to NI, as well as future changes to these rules</li> </ul>	<ul style="list-style-type: none"> <li>• Commitment to further develop existing EU-UK cooperation structures, no change to the role of the ECJ, which is still the ultimate arbiter of EU laws.</li> <li>• Stormont brake to allow NI Assembly to object (under specific circumstances) to changes in EU law that will apply to NI</li> </ul>
Medicines	<ul style="list-style-type: none"> <li>• NI subject to EU medicines rules</li> </ul>	<ul style="list-style-type: none"> <li>• New medicines in NI market will be regulated by the UK MHRA</li> </ul>
VAT	<ul style="list-style-type: none"> <li>• EU VAT and excise rules apply in NI</li> </ul>	<ul style="list-style-type: none"> <li>• NI exempted from certain EU VAT provisions, greater flexibility for the UK to apply different rates in select areas like alcoholic beverages</li> <li>• Specialised committee to review the application of new EU VAT and excise rules in NI</li> </ul>

### Analysis – opportunities and risk

#### Opportunities:

- The new agreement gives the UK more credibility internationally, which in turn would improve trading relationships with global actors, especially the US. Specifically, in a transatlantic context, an agreement between the EU and UK is likely to improve relationships with Washington; the US administration has emphasised the importance of the GFA and power sharing in NI and encouraged both parties to reach a joint agreement. This in turn can create a new window of opportunity for US-UK cooperation, especially after the UK PM’s visit to the US and the publication of The Atlantic Declaration.
- The deal fosters an environment of legal certainty for businesses and investors alike, while also ensuring a political stability and addressing most of the practical issues arisen after Brexit. It addresses many of the challenges businesses faced operating between NI and GB, while also marking a notable, positive shift in EU-UK relations. The framework does not change the fact that some EU laws and regulations will continue to apply in NI, but there have been notable changes made to address the concerns raised by UK government, NI institutions and the private sector.
- The deal has been welcomed as a reset for EU-UK relations, with the hope that a resolution to NI Protocol debates will unblock discussions in a number of other areas like Horizon Europe or financial services regulation.



## Risks

- In terms of its political implications, the deal has yet to bring about the restoration of power-sharing in Northern Ireland. The DUP voted against the Stormont Brake provisions in Parliament in April 2023 and have not committed to returning to Stormont. As such, there is a risk that the protocol might once again become a thorny issue in NI politics, creating political instability and hindering the relationship with the EU.
- Moreover, there are further concerns on the Stormont Brake. While this was a welcome development, it is quite far from what some of the Unionist community in NI was calling for. This could cause further political and sovereignty issues down the line – as such, it is important that the UK and the EU continue to work collaboratively to ensure a smooth application of the framework in all its parts.
- There is also the concern of future regulatory divergence between the UK and EU, and the implications this will have for NI and the Windsor Framework. The Retained EU Law Bill, for example, could deepen the divide between GB and NI, the latter of which would still be subject to EU regulation under the Framework/Protocol. Despite recent reporting indicating a change to the Bill in its current form, it's clear greater consideration must be given to how future regulatory divergence will impact NI and businesses operating between GB and NI. This is because the further Great Britain diverges with EU standards, the larger the risk more barriers with NI will come up.
- The framework also includes significant new labelling requirements which are primarily intended to avoid product moving from Northern Ireland into Ireland. Many food and drink products moving from GB to NI via a “green lane” will need a “Not for EU” label at box and shelf level by October 2023 and specific new product labelling requirements will be introduced on certain products between 2023 and 2025. The UK intends to make these product level “not for EU” labels a requirement for any product sold in Great Britain. Such labelling requirements would create significant costs and it is important that the UK Government (and the EU) work constructively to minimise these, as they could create artificial barriers to trade.
- Finally, with an election on the horizon, there is also a political risk around commitments from both sides. On the one hand, there's a risk that the EU might not want to invest too much time continuing to build a relationship with a government that might not be in power in the near future; on the other hand, the Conservative Party might shift its focus to other issues, given latest predictions on elections outcomes (with Labour in the lead). This might compromise the implementation of the framework.



#### **BAB's recommendations for policymakers**

- Continued EU-UK cooperation through groups/mechanisms established under the Framework: ultimately, the Windsor Framework is an agreement that is continuously evolving, and as the new text comes into full effect, the UK and the EU will need to cooperate closely to manage ongoing political and practical risks.
- Continued dialogue between the EU, UK, NI, business stakeholders to address future challenges that may arise.
- Clear and timely guidance for business on changes to trading terms and clear timeline for implementation. This is because, while a political agreement has been reached, and some action taken at the EU Council and UK Parliament to adopt specific provisions, it seems likely the full implementation of the Windsor Framework will take time, with some aspects of goods arrangements, such as SPS inspection facilities, not anticipated until 2025. Similarly, there will need to be clarification on the delivery of a 'comprehensive tariff reimbursement scheme' for goods shown to have stayed within NI.
- Close engagement with businesses on legislation and guidance, especially those that will be the costliest to organisations. This includes, for instance, labelling requirements.
- Further cooperation between the UK and the EU in areas such as Financial Services, Science/Research etc. While the Windsor Framework is a good starting point, the UK and the EU will need to continue their dialogue on unresolved issues, such as, for instance, the UK's participation in Horizon Europe.
- Continued efforts on both sides to re-build the relationship between the UK and the EU, regardless of UK election outcomes.
- On the UK side, more clarity on the country's strategic policy objectives in its dealings with the EU and European states. The UK needs to set specific priorities on what it wants to achieve in this area, including how it believes it can influence EU policies as a third country, and actions that it will need to take to avoid the implications of regulatory divergence.

Should you have any questions, please contact Francesca Lentini ([flentini@babinc.org](mailto:flentini@babinc.org)).