

Conservative Home article on Northern Ireland Protocol

Sir John Redwood is MP for Wokingham

Brexit was a vote to take back control. Remain tried to turn it into a narrow discussion of trade and trading arrangements, denying much more constitutional significance to the EU. Brexiteers wanted our country back. We knew that greater prosperity and freedom as a result would depend on what use Parliament made of the freedom to make our own choices. The public, in anger at the way the 2017-19 Parliament tried to undermine the verdict of the people and tie us back into much of the EU's laws and arrangements, voted for the big Brexit majority in 2019.

Given the hassle and the anti-democratic efforts of so many in a Remain-dominated establishment to keep us close to the EU, it was understandable that the Prime Minister would rush through a Withdrawal Act before the last election when he was still hamstrung by the absence of a Brexit majority.

After the Conservative win, he speeded up negotiations on a future relationship. The EU had insisted on a two-stage process, agreeing terms of withdrawal, leaving and only then negotiating a future relationship. A possible trade agreement to supplement WTO most favoured national trading that would otherwise apply helped them more than us, but was used by the Remain establishment to keep us closer to EU rules.

The EU broke its own interpretation of EU law which it said necessitated this phased approach by inserting a Northern Ireland Protocol into the Withdrawal Agreement which did tackle some future relationship issues which were meant to be out of bounds at that stage.

The Protocol it drafted was contradictory and ambiguous. It contained a lot of clauses requiring Northern Ireland compliance with the EU Single Market, but it also included clear statements that Northern Ireland would be part of the UK's internal market and would benefit from UK free trade deals, and that Northern Ireland's status as part of the U.K would be confirmed.

Both sides recognised the the Protocol did not represent the final answer, which is why it included Article 13.8 which provided for cancelling or replacing it in due course. It was assumed by many there would be a clearer statement in the future relationship treaty. When it did not produce one, Northern Ireland was left facing an uncertain future. Conflicting jurisdictions in the EU and U.K took very different views of what the contradictory and ambiguous document meant.

The EU decided on a maximalist interpretation, imposing or seeking to impose a vast array of controls and checks on internal U.K. trade passing between Great Britain and Northern Ireland. The U.K. politely spent two years asking for some give as well as take from the EU with no success. The Unionist

parties in the recent Stormont elections suffered from the damage done to Great Britain/Northern Ireland trade, and to the sense of identity of the Unionist community in Northern Ireland by the intrusion of the EU into their lives.

The U.K according to the EU cannot change VAT in Northern Ireland when we change it for Great Britain against EU laws. Northern Ireland has to accept an avalanche of new law from the EU every year while Great Britain does not have to accept or legislate for anything similar. Northern Ireland gets no vote or voice on the laws the EU imposes

As a result, unionist members of Stormont are refusing to join an executive or government in Northern Ireland until the Protocol is removed or substantially amended. They see an EU understandably on the side of its member state, the Republic of Ireland – out to govern against their wishes and interests, forcing on them an unwanted border between Great Britain and Northern Ireland and many costs and impediments to Great Britain/Northern Ireland trade. The U.K. has refused to implement all of them, but the ones already in place are damaging enough.

The Government needs to take action to remedy this big problem. The Belfast Agreement which established peace in Northern Ireland after years of violence is important and is rightly backed by the President of the USA. This agreement has now been undermined by the Protocol . Both the unionist and the nationalist communities need to give their consent to any major decision in Northern Ireland. The Unionists do not consent to the Protocol which they think undermines the Act of Union and deprives them of full and equal membership of the Union of the U.K.

As the EU seems to delight in forcing Northern Ireland against its will into dependence on EU laws and rules that the Government must act soon and unilaterally to remedy this. The EU mouths its meaningless and wrong soundbite that the UK and Northern Ireland have to stick to an international treaty and must not break their law. The truth is that the EU is failing to carry through the parts of the Protocol it does not like and has damaged the Good Friday Agreement. It is controlling parts of tax policy in Northern Ireland and stopping British supermarkets delivering food to Northern Ireland's shops.

The U.K. anyway has the power to legislate independently reserved carefully in the crucial Clause 38 of our Withdrawal Act which is the only form of the Treaty which has power in U.K. law. That Article reserves the right for the U.K. to assert its sovereignty over any of these matters if it needs to. The Government could also operate legally under the terms of the Protocol itself as Article 16 allows us to take unilateral action where the other party has damaged the economy and society of Northern Ireland and or where trade with the U.K. has been impeded. Clearly, both tests have been met.

Many British businesses have stopped selling into Northern Ireland or have streamlined what they sell faced with ridiculous EU imposed checks. More importantly, the delicate balance between the two communities has been fractured with unionists wanting their country back. It is important that the

Government upholds the Belfast Agreement. That means explaining all this to US Democrats who do not understand the Unionist position or the legal background

It means acting unilaterally and fairly to take control of Great Britain/Northern Ireland trade whilst guaranteeing the full force of the state to prevent non-complaint goods travelling into the Republic. It means standing up to the EU as it mouths falsehoods and threatens illegal responses. Brexit is not done all the time it does not extend to Northern Ireland. Our Union is not safe all the time the people who believe most in it are treated so badly.