

The Northern Ireland Protocol negotiations

There is considerable discussion and much misinformed commentary on a possible EU/UK deal on this outstanding disagreement.

The Protocol itself was an agreement to disagree, a temporary holding position pending the full Trade and Co-operation Agreement between the UK and NI. Then there was the failure to resolve the outstanding issues even at that later stage. It left unclear the interactions of EU and UK law and of the respective internal markets.

The Protocol does make clear the primacy of the Good Friday Agreement, which the opening of the Protocol says "must be protected in all its parts." Yet the Protocol now is the main cause of dissent, preventing the resumption of devolved government and cross community working which lies at the heart of the Good Friday Agreement. . The Protocol does not enjoy the consent of the Unionist community, yet the Good Friday Agreement requires the consent of both communities to important matters covered by the Protocol. Most people of good will want the Good Friday Agreement to continue to provide a secure future for NI, and are worried by the current impasse over attendance at the Stormont Assembly.

The Protocol states support for the "shared aim of avoiding controls at the ports and airports of NI to the extent possible in accordance with applicable legislation" . It is to have regard to "the importance of maintaining the integral place of NI in the UK's internal market". Article 1 "respects the essential state functions and territorial integrity of the UK". NI is recognised as part of the customs territory of the UK. Article 6 is dedicated to the protection of the UK single market.

The truth is the EU negotiating mandate does not allow a solution, because it violates these crucial features of the Protocol and does not respect the legitimate concerns of the Unionist community. So far we read the UK may share more of our trade data with the EU concerning internal trade within the UK, with no reciprocation. We hear the UK is considering border control points at ports and airports in violation of the Protocol to avoid checks on internal UK trade into NI. None of this makes any sense, as it will annoy the Unionist community more.

Those wishing to help resolve this need to understand these simple points. Nothing can work in NI without the consent of both communities. The Protocol does not have Unionist consent. It is not just a matter of trade issues. The Unionist Community does not wish to be subjected to EU law with no rights to reject or amend it. The EU and UK should not seek to force a solution on NI that one community rejects.

The UK has been very generous is seeking to meet the legitimate concern of the EU, namely the protection of their single market. The UK could secure

this for them by the method of UK legislating to say it would be an offence for anyone in NI to seek to export into the EU products that do not meet EU laws and regulations. There is no case to justify barriers to GB to NI trade, nor the imposition of EU laws on NI now the UK has left the EU. Of course the UK should supply all data concerning exports to the EU that the EU wishes to see. The checks and controls on exports to the EU need not be made at the border but can be made at the farm, factory or warehouse from which the consignment is despatched.

Article 13.8 envisages the amendment or ending of this Agreement. Article 16 allows either side to take unilateral remedial action in a wide range of problem circumstances, and seeks to outlaw trade diversion which imposing barriers on internal GB/NI trade can create.