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**To: All Assembly Members**

**4 September 2025**

Dear Member

On 9 January 2025 the Secretary of State for Northern Ireland, Hilary Benn MP, commissioned an independent review of the Windsor Framework to be conducted by Lord Murphy of Torfaen.

I have today received correspondence from the Secretary of State confirming that Lord Murphy's review has now been completed and given the key interest in this report, across all sections of the Assembly, I am circulating a copy to all Members. I will also arrange for this to be placed in the Assembly Library.

Yours Sincerely

**EDWIN POOTS MLA  
SPEAKER**

# **Independent Review of the Windsor Framework**

**Presented by the Rt Hon Lord Murphy  
of Torfaen**

**09 July 2025**

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## **ACKNOWLEDGEMENTS**

I would like to extend my gratitude to all the individuals and organisations that facilitated this report through their generous support and collaboration. I am particularly grateful to the academics at Queen's University Belfast, whose insight (as well as their gracious hosting) was invaluable in assisting me to carry out the Review.

Additionally, I express my thanks to Cooperation Ireland, the Londonderry Chamber of Commerce, the Centre for Cross-Border Cooperation, and the Dean of Armagh and the Keeper of Robinson Library for graciously hosting discussions that provided invaluable insights and fostered meaningful dialogue, as well as their individual contributions to the Review. I would like to thank the clerks at the Northern Ireland Assembly for facilitating our sessions with the political parties.

I also give my appreciation to the Secretariat team from the Cabinet Office for their ongoing support throughout this process.

Finally, I would like to thank everyone who contributed to this Review, on whose time and input this report relies.

# **INTRODUCTION**

## **BACKGROUND TO THE REVIEW**

### **The Reviewer**

The Rt Hon Lord Murphy of Torfaen is former Secretary of State for Northern Ireland and former Secretary of State for Wales. He was Minister of State for Political Development at the time of the Good Friday Agreement and chaired Strands 1 and 3 of the negotiations. He was the Labour MP for Torfaen for twenty-eight years and is a former Co-Chair of the British-Irish Parliamentary Assembly.

### **Legal Basis for the Review**

#### **Article 18 of the Windsor Framework**

Article 18 of the Windsor Framework (originally known as the Northern Ireland Protocol) sets out that Northern Ireland should be afforded the opportunity to provide “democratic consent” four years after the Framework began to apply. This opportunity would take the form of a vote within the Northern Ireland Assembly on the continued application of Articles 5-10 of the Framework. This process was set out in the unilateral declaration concerning the operation of the ‘Democratic consent in Northern Ireland’ provision of the Protocol on Ireland/Northern Ireland made by the United Kingdom on 17 October 2019.

Pursuant to Article 18, there are three possible outcomes to such a vote:

1. The vote passes, and with the support of both communities\* - the current arrangements would continue to apply, and the next vote would take place in 8 years time;

2. The vote passes, but without the support of both communities\* - the current arrangements would continue to apply, and the next vote would take place in 4 years time;
3. The vote does not pass - the arrangements cease to apply after 2 years. Following this, joint UK-EU structures would make recommendations on necessary measures.

**\*Cross community support is defined as:**

- a. a majority of those Members of the Legislative Assembly present and voting, including a majority of the unionist and nationalist designations present and voting;
- b. a weighted majority (60%) of Members of the Legislative Assembly present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.

**Schedule 6A to the Northern Ireland Act 1998**

Part 6 of Schedule 6A to the Northern Ireland Act 1998 gives effect to the Independent Review process. Where the consent vote does pass, but without cross-community support, the UK Government must seek to commission an **Independent Review into the functioning of the Windsor Framework**. The Review must conclude within 6 months, and must provide a report of its conclusions to the UK Government. The UK Government then has a further 6 months to formally respond to the report's recommendations.

### **This Review**

On 10 December 2024, the Northern Ireland Assembly held its first “consent vote”. The vote passed, but without the support of any unionist Members of the Assembly (MLAs), and therefore lacking cross-community support.

On 09 January 2025, the Secretary of State for Northern Ireland, the Rt Hon Hilary Benn MP, formally commissioned me to lead the Independent Review. As per the statutory duty, I have provided my report of conclusions to the UK Government by 09 July 2025.

### **Terms of Reference**

The Terms of Reference for the Review have been provided at **Annex A**.

## **THE WINDSOR FRAMEWORK: CONTEXT**

### **The Windsor Framework and the Good Friday Agreement**

Whatever one's views on Brexit, there is little question that Northern Ireland has been affected by the UK's decision to leave the European Union more than any other part of the UK due to its land border with the EU, and its unique history with that border.

The Good Friday Agreement was negotiated whilst both the UK and Ireland were members of the EU, and the North-South bodies were formed on the basis of our common membership which ensured free flowing trade. The acute problems the UK's exit from the EU would pose for Northern Ireland were evident immediately after the referendum, with the need to respect the 1998 Agreement and prevent a hard border appearing as one of the three pillars of the withdrawal negotiations in 2017.

The post-Brexit arrangements for Northern Ireland have undergone significant changes and permutations since the introduction of the original Protocol in 2021. But one only needs to consider the number of scrutiny and review bodies that are currently examining the Framework (including the Independent Monitoring Panel, the Horticultural Working Group, the Veterinary Medicines Working Group, this Review, multiple Parliamentary Committees and one in the Northern Ireland Assembly) to see how live post-Brexit issues remain in Northern Ireland.



The success of the Good Friday Agreement can be attributed to the fact that the politicians representing the people of Northern Ireland made the Agreement themselves. Imposition never works. It is more than possible that, had the institutions of devolved government been operational whilst the Protocol negotiations were ongoing, that they could have played a significant role in negotiations and some sort of consensus between NI political parties, the UK Government and the EU could have been agreed.

The fact that the devolved institutions were not operational at the time and did not play a role in negotiations resulted in a solution being imposed on Northern Ireland without elected representatives being able to ensure crucial buy-in from both communities: the effects of which are still being felt today, with the Framework and other post-Brexit outcomes still weighing heavily on the politics of Northern Ireland.

### **Consent and Parity of Esteem**

So many of the disagreements in this area stem from the idea of “consent” - and how one community or another has not been afforded it at various points during the process. The term "consent" is used a great deal when talking about the Framework (for example, when the Assembly votes to continue the application of Articles 5-10 of the Framework). Technically, "consent" in the context of the 1998 Agreement refers to a vote of the people of Northern Ireland on a poll on whether or not Northern Ireland remains in the UK. What seems to have been overlooked is the "parity of esteem" concept enshrined in the Agreement. It is worth quoting directly:

*"...there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of civil, political, social and cultural, of freedom of discrimination of all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities."*

The political landscape may have changed since 1998, with, for example, increasing support for Alliance and more people not wanting to identify as either nationalist or unionist, but the principle of parity of esteem remains. It is absolutely clear that there is a divide between unionists and nationalists regarding the Framework, and proper respect should be accorded to everyone.

In this Review, I have constantly tried to ensure that parity of esteem lies at the heart of my deliberations and discussions. I believe the UK Government agrees with this approach and I hope the EU does as well. Northern Ireland has come out of many decades of terrible conflict: no other region that had been part of the EU has quite the same story, and the EU, to its credit, has contributed substantial funds to try to bring peace and rebuild a community which was torn apart.

### **My approach to the Review**

When I accepted the invitation of the Secretary of State for Northern Ireland to carry out the Independent Review of the Windsor Framework, I realised it was not going to be an easy task. There are deeply divergent views on the Framework: unionists are firmly against the arrangement while some nationalists see it as a necessary, if imperfect, solution to the problems which faced Northern Ireland as a result of Brexit.

The Alliance Party and some others, whilst supportive of the arrangements in principle, believe that they could go further in mitigating the effects of Brexit.

Obviously, those who are not in favour of the Windsor Framework would have liked me to have had a wider remit, but I am constrained by the Terms of Reference of this Review.

I completely respect the rights of the different parties to express their views and to pursue them politically. As set out in the Terms of Reference for this Review, my key aim is to obtain consensus on improvements to the current arrangements, in an aim to build cross-community support for the overall settlement. That includes the deficiencies caused by the so-called "Democratic Deficit" and the obvious burdens placed on business by the complexity of border checks and customs. (It is worth noting that the recent agreement between the UK and the EU, particularly on the SPS arrangements, should help reduce many of these checks once these arrangements apply).

As required of me by the Terms of Reference, I have spoken to the Northern Ireland political parties, to businesses large and small, to the various trade organisations and trade unions and to civil society generally. You will see an non-exhaustive list of those with whom I have spoken in the annexes of this report. I also received over 500 written submissions, which I have incorporated into my feedback.

Due to the highly technical nature of many elements of the Framework, a six month review is unlikely to be able to comprehensively evaluate the full range of changes

needed. The matters at stake involve economic, constitutional and legal considerations which prove difficult to address adequately within such a short time frame. I have nonetheless done my best to make recommendations which, if implemented, I hope will try to improve the effectiveness of democratic input and simplify and improve the practical workings of the Framework.

I sincerely hope, however, that my recommendations can bring people together to improve the understanding and working of the Framework, because I have nothing but admiration and affection for all the people of Northern Ireland.

## ASSESSMENT & RECOMMENDATIONS

### THE POLITICAL PROBLEM

The terms of reference of the Review ask that I “*examine issues required to be addressed for the Windsor Framework arrangements to command cross-community support.*” This is not straightforward due to the considerable divide between unionism and nationalism/non-affiliated citizens over the Framework.

Polling conducted by Queen’s University Belfast indicates a persistent lack of support for the Framework among unionist communities. Unionism in general is opposed to the Windsor Framework; although on an individual basis, some consider it an enhancement compared to the Protocol.

The written submissions from unionist parties, alongside the points articulated during numerous discussions at Stormont and Westminster, emphasise the constitutional ramifications of imposing checks or restrictions on the movement of goods between Great Britain and Northern Ireland. They contend that such measures weaken Northern Ireland’s place in the United Kingdom. There is a prevailing sentiment that Northern Ireland was regarded as “an afterthought” during the Brexit discourse, with the current arrangement perceived as “the worst of all worlds.” Confidence in the Framework’s efficacy to prevent trade diversion or to provide Northern Ireland with a voice in the laws applicable to it is very low. Some advocate alternative solutions such as “mutual enforcement,” while others assert that the Framework contravenes the spirit of the Good Friday Agreement.

In stark contrast, the view from nationalism, whilst rarely expressed as strongly, sees the Framework as overall a positive arrangement, one that helps to maintain cross-border links. Alliance in particular, as well as others who supported the “Remain” vote in 2016 see the Framework as necessary to limit the impact of Brexit on Northern Ireland. They both have frequently highlighted that insufficient emphasis has been placed on Northern Ireland’s unique dual access to both EU and UK markets. Furthermore, the recent UK-EU agreements announced at the May summit are expected to alleviate substantial portions of the challenging SPS checks, a perspective that is also shared by certain unionists.

Regarding the concerns over the constitutional position of Northern Ireland, I firmly believe that the principle of consent embodied in the Good Friday Agreement gives solid reassurance on the position of Northern Ireland in the UK. That principle was embodied in the 1998 Northern Ireland Act, which, as Minister of State, I steered through its stages in the House of Commons, and which is worth quoting here:

*Status of Northern Ireland*

*It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1<sup>1</sup>*

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<sup>1</sup> Section 1, Northern Ireland Act 1998

I realise that unionism was not sufficiently reassured with the Framework's provisions on the place of Northern Ireland within the UK, and that is why the previous Government produced the *Safeguarding the Union* Command Paper, which contained a number of commitments designed to strengthen Northern Ireland's place in the UK with respect to the Windsor Framework, and formed the basis of a deal with the DUP to return to power sharing. The current Government has committed to taking forward policies set out in the Command Paper - and they currently claim that 89% of the Windsor Framework related commitments that it contains have been delivered to date.

Despite the differing views of the Northern Ireland parties on the Windsor Framework in general, they have put forward important and practical suggestions on how improvements to its operation could be made.

## **THE DEMOCRATIC DEFICIT**

One of the main problems of the original Protocol arrangements that the Windsor Framework was designed to address has been the so-called "Democratic Deficit" created by Northern Ireland being subject to legislation made in Brussels, but without taking part in EU law-making. The question of "having a say" or having influence in formulating such regulations came up many times in my conversations.

### **Democratic Scrutiny Committee**

Central to dealing with the "Democratic Deficit" is the Windsor Framework Democratic Scrutiny Committee (DSC) of the Northern Ireland Assembly. It is a standing committee of the Northern Ireland Assembly established under Schedule 6B to the Northern Ireland Act 1998.

They play a key role in assisting the implementation and oversight of Article 13(3a) and 13(4) of the Windsor Framework for scrutiny purposes and to determine the impact of those proposals, if they are applied in Northern Ireland. They assess proposed EU laws which may have relevance to Northern Ireland under these Articles to determine if they may have a significant impact on everyday life in Northern Ireland. It is clear the members have a really important role to play and I was fortunate enough to meet with them during my visit to Stormont. Members from all parties explained the serious challenges they face and, as a Parliamentarian myself, I sympathised with their concerns.



The Committee has often struggled to gather evidence on proposed EU regulations due to the lack of relevant information from Northern Ireland Executive departments and other official bodies, especially for discussions concerning reserved matters. An example of this is detailed in a letter I received from the Committee - which can be found in **Annex C**.

A number of parties expressed the strong view that improvements should be made in the operation of the Committee. There was a consensus that the following should be changed and therefore I recommend that:

- **As it stands the Committee has five working days to decide whether to hold an inquiry into an EU act. This is often far too little time to make this decision - especially in the case of complicated and far-reaching legislation. The Committee should be allowed ten working days instead (in practice two weeks), to make this decision.**
- **There should be additional expert staffing available to advise the Committee.**
- **There should be more coordination between Whitehall and Belfast in advising the Committee, and Northern Ireland Civil Servants especially should be empowered, as far as possible, to provide appropriate and good advice to the Committee, even in areas of reserved competence.**
- **There should be additional capacity and support from the UK Government for the Northern Ireland Civil Service and the Committee itself, to allow for:**

- **access to timely and relevant information;**
- **the Committee to make better use of the expertise of the Executive's office in Brussels;**
- **the Committee to engage with Northern Ireland stakeholders in an expanded capacity.**

For many of the people I spoke to who have had direct experience with the Committee, there was a prevailing sense that it could be taking a more “strategic” view of the EU legislation applicable under the Framework. This would mean focusing on the acts which would have the greatest impact (both positive and negative), rather than reiterating the well-known positions on the application of EU law.

### **Democratic Scrutiny Mechanisms**

Within the unionist community, I found that there are concerns regarding the perceived limitations of both the Applicability Motion and the Stormont Brake mechanisms. There exists considerable doubt over whether it either truly offers an effective way to block the application of EU law in Northern Ireland, which was only exacerbated by the Secretary of State for Northern Ireland's decision in January 2025 to reject the first use of the Stormont Brake by MLAs. I, therefore, recommend:

- **That the UK Government continues to work with all Northern Ireland parties, ensuring that it is transparent about the functioning of the Brake (and related mechanisms). It should also go further to**

**acknowledge the impacts EU legislation is having on Northern Ireland, and where it has acted to address these concerns.**

### **Influencing of EU Legislation**

A hugely important aspect of trying to give Northern Ireland more influence and say over EU legislation is to examine those acts at every stage, crucially at the earlier stages while the EU is still consulting on proposed regulations. One way of doing this is by having an enhanced presence for the Northern Ireland Executive office in Brussels. I, therefore, recommend:

- **That further NICS staff be seconded or added to the Northern Ireland Executive Office in Brussels, especially to deal with new EU regulations.**

### **Joint UK-EU Forums**

The UK meets with the EU in the Withdrawal Agreement Joint Committee at Ministerial level, together with the First and deputy First Minister of Northern Ireland, while the Specialised Committee on the Implementation of the Windsor Framework consists of officials from the UK and the EU, joined by officials from the Northern Ireland Executive. It has been suggested that there should be greater transparency and openness in the work of these groups. I recommend:

- **That the UK Government should look to broaden its inclusion of stakeholders into the meetings of the various fora.**

### **Other suggestions**

Some of the parties put forward suggestions on this topic. As I could not find a broad consensus amongst everyone, I cannot claim they would enjoy cross community support - however I believe that they are worth noting here. The UUP suggested that a formal Memorandum of Understanding should be agreed with UK Government departments on how to best operate in Northern Ireland's interests, and that the DSC should have powers to call for written evidence and to summon witnesses. They also advocated for designated Windsor Framework/EU Ministers in the Executive and/or in the NIO.

Sinn Fein, the SDLP and Alliance also made suggestions, including the presence of a European Commission office in Belfast, some form of Northern Ireland observer status at the European Parliament and the use of other Assembly committees to deal with Framework issues.

## **ISSUES FOR BUSINESS AND TRADE**

Generally, businesses welcomed the Windsor Framework as an improvement of the original Protocol, describing it as the "least worst option" and "better than no agreement at all" - with the effects of a "no deal" Brexit with no special arrangements for Northern Ireland posing existential threats to many of Northern Ireland's companies.

### **UK-EU SPS Agreement**

The recent "reset" between the EU and the UK is also greatly welcomed by businesses, especially with regard to the announced SPS agreement, which could see large swathes of checks on food and plant goods moving from Great Britain to Northern Ireland being eliminated. There is still much uncertainty in Northern Ireland about the timescale of the implementation of this aspect of the agreement, and so I recommend:

- **That businesses in Northern Ireland and Great Britain be constantly engaged about both progress and timelines for any future UK-EU SPS agreement.**

### **Impact on businesses in Northern Ireland**

I spoke with a large number of businesses and trade associations from across Northern Ireland, covering all major industries and sectors. Further to this, I received a number of written submissions, setting out their views in great detail. The effect the Framework was having on businesses also arose in many of my other engagements.

The overall message I received was that Northern Ireland business and industry were faced with administrative and costly burdens due to the Windsor Framework. Broadly speaking, larger companies were able to absorb any new costs, and in the case of manufacturing businesses, the dual-market access was often proving to be of immense benefit to them.

Major problems however, are faced by small and medium sized companies which collectively, represent the bulk of Northern Ireland business. These companies find themselves often bewildered by the processes, and experience difficulties in obtaining effective and straightforward advice and guidance. They complain that "plain English" is often not used.

There were mixed views about the different bodies which have been set up to deal with issues arising from the operation of the Windsor Framework. The Trusted Trader Scheme/UK Internal Market Scheme (designed to simplify the process of moving goods from Great Britain to Northern Ireland) was viewed as very costly to set up and not helpful to smaller businesses. The Duty Reimbursement Scheme (a process by which businesses importing into Northern Ireland can reclaim duties/tariffs where the EU's tariff is higher than the UK's) was almost universally regarded as slow, which led to serious cash-flow problems - this is especially serious due to the threat of reciprocal tariff measures from the EU on US products moving into Northern Ireland. On this, I recommend:

- **The Duty Reimbursement Scheme be revisited by the UK Government, to assess if any changes may be made to expedite reimbursement.**

The Customs Duties Waiver Scheme (allowing businesses to avoid paying duties on goods imported into Northern Ireland regarded as “at risk” of then entering the EU) was seen as helpful in this regard for smaller businesses - although there was low awareness amongst the businesses I spoke to.

### **Guidance available for businesses**

There is evidence that many companies that move goods from Great Britain to Northern Ireland find the process so burdensome that they give up dealing with Northern Ireland altogether. Certain EU regulations, such as the General Product Safety Regulation, were raised on numerous occasions, with businesses noting the complexity of complying, and consumers noting the lack of product availability in Northern Ireland. The UK Government does in fact offer support on a range of these issues, but despite this, there was almost no mention of certain support mechanisms such as the Northern Ireland Customs & Trade Academy by the businesses I spoke to.

Many of the businesses I spoke to are finding it increasingly challenging to navigate the complexities of which EU laws are applicable to them, leading to significant uncertainty and inefficiencies in their operations. This confusion not only hampers business decision-making but also consumes valuable time and resources as companies attempt to research and comprehend the relevant regulations. It is clear that enhanced support from the Northern Ireland Executive, in collaboration with the UK Government, is essential to streamline access to information and guidance on

EU legislation. There would appear to be a case for more obvious advice and guidance where all businesses can go to, so I recommend:

- **That the UK Government works to make Windsor Framework related guidance all accessible in a single “all-in-one service”, and that more work is done to signpost businesses towards this support. This should be tailored especially for the benefit of small to medium sized businesses.**

### **Dual-market Access**

One of the most obvious benefits attributed to the Windsor Framework is the dual-market access to both the United Kingdom and the EU. The larger companies, especially in manufacturing, stress this advantage, as do some political parties. However, little is made of this unique opportunity provided to Northern Ireland, and it is clear more investment could be attracted as a result, so I recommend:

- **That both the UK Government and Northern Ireland Executive continue to emphasise and publicise the commercial benefits of dual-market access.**

### **Haulage and Logistics**

Haulage companies in particular were keen to make clear the issues they faced in moving goods from Great Britain to Northern Ireland, and especially the economic impact checks were having on their businesses. It is worth noting that the Government introduced new customs arrangements for freight and parcels at the



beginning of May, although many businesses said it was too early to judge their effectiveness. Given that the logistics businesses underpin the vast majority of goods moving between Great Britain to Northern Ireland, I recommend:

- **That the UK Government looks at all possibilities to reduce frictions for logistics and haulage businesses, especially any solution that might reduce checks such as a “trusted haulier” scheme. The Government should continue to monitor the effectiveness of its new customs arrangements against the experiences of logistics businesses.**

### **Supply of Medicines**

The new EU-UK Agreement will hopefully lead to much simpler arrangements for certain Northern Ireland businesses, but it did not resolve certain key issues that will persist even after any deal comes into play. Veterinary medicines is a particularly important one, especially for a country which relies so heavily on farming, and it was unfortunate that this was not dealt with at the same time as human medicines.

Shortly before the end of the Review, on 19 June, the Government announced a set of facilitations to ensure the continued supply of veterinary medicines from the end of 2025, but in any case, I would recommend:

- **That the UK Government continues to do everything in its ability to guarantee a reliable source of veterinary medicines within Northern Ireland.**
- **Noting the importance of the supply of human medicines, the UK Government should continue to work closely with stakeholders and**

**industry to ensure that divergent UK and EU regimes do not impact on availability of medicines.**

### **Existing trade bodies**

I met with the Windsor Framework Independent Monitoring Panel (IMP) whose remit is to assess the performance of the “Internal Market Guarantee” over six-monthly reporting periods. This 'Guarantee' was made within the Safeguarding the Union Command Paper by the UK Government and commits that more than 80% of all freight movements from GB to NI will be treated as moving within the UK internal market system (including those that are “not at risk” of moving onwards to the EU).

This meeting took place during the initial stages of the IMP's first reporting period (01 January to 30 June 2025), and on the basis of their work to date, their initial assessment of the 'Guarantee' is positive. However, further analysis and data is required to determine the full picture over the six month reporting period. The IMP will report on this in due course.

I also met with IntertradeUK, another body created by the Safeguarding the Union deal. They are tasked with advising on how best to strengthen trade within the UK's four nations, with an obvious role to play within Northern Ireland. Given the considerable concern raised with me about the impact of “trade diversion” (where businesses in Northern Ireland choose to switch away from buying supplies from businesses in Great Britain, and instead look to Ireland, or the EU more generally because it is more straightforward or economically viable), the work they are

undertaking, if effective, will be invaluable for building trust amongst communities and businesses. Both bodies are still relatively new, so I would recommend that:

- **That the UK Government continues to support both the IMP and IntertradeUK to the fullest possible extent, to assist them in their stated purposes.**

## OTHER CONSIDERATIONS

### **Article 2**

Article 2(1) of the Windsor Framework states:

*"The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms."*

The Good Friday Agreement contains three pages devoted to "Rights, Safeguards and Opportunities". I chaired this aspect of the negotiations on behalf of the UK Government, and this resulted in the relevant parts of the 1998 Northern Ireland Act.

The consent vote of December 2024 which led to this Review may have only covered Articles 5-10, but human rights and equality are very much a part of the Framework. Consequently, I met with both the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland. Both were concerned that in both London and Belfast, insufficient attention is being paid to Article 2 when legislation is being drafted, and that engagement between the commissions and the Northern Ireland Executive could be improved. There exists a sentiment that both the UK and EU view matters relating to Article 2 as either too complicated or too sensitive, and as a result it was consistently overlooked. They

stressed that in certain areas of equality law, Northern Ireland lagged behind the rest of the UK and Ireland. The Equality Commission was especially concerned about the EU Pay Transparency Directive. I would recommend:

- **That the UK Government and the Northern Ireland Executive have due regard to Article 2 of the Windsor Framework when drafting legislation, and monitors all relevant EU legislation in this respect.**

### **Article 11**

This Article states that implementation of the Framework should not impair North-South cooperation which was covered by Strand 2 of the Good Friday Agreement. To examine the practical realities of this, I visited Armagh and met with a number of organisations who are concerned with cross border matters.

For many of these organisations, the problems they were encountering were not a direct consequence of the Framework (although the impact that impaired movements of goods is having on charities and civic groups should not be ignored). However, they felt several issues that had arisen since the UK's exit from the EU were not being sufficiently addressed, and in the case of Northern Ireland these were actively harming North-South cooperation and impacting lives lived in a cross border context. They highlighted as particular issues:

- The mutual recognition of qualifications;
- The fact that social enterprises were very similar to businesses in the bureaucracy they encountered;

- The fact that services were not covered like goods, so that cross border insurance proved difficult to obtain;
- That credit unions operated differently and;
- That it was imperative that PEACE funding should be maintained.

In addition, the Electronic Travel Authorisation (ETA) system (an electronic visa system which is required for visitors to the whole of the UK - although not for Irish citizens) was almost universally raised during all of my visits, and there is no doubt it is extremely unpopular and affects the tourist and hospitality industries in particular.

Whilst the scope of this Review does not cover areas outside of the explicit provisions of the Windsor Framework, I believe that it would be prudent for the UK Government and Northern Ireland Executive to take careful note of the issues I have listed here if their goal is to ensure the broadest possible support for post-Brexit arrangements in Northern Ireland.

## SUMMARY

Throughout the Review, and through my recommendations, I have tried to ensure I only put forward suggestions which can command cross-community support.

However, any proposals for the future must acknowledge the reality of Northern Ireland's political landscape. This wide divergence in views inevitably constrains the scope of potential reforms which can be agreed upon. The Review has focused on what is achievable, proportionate, and grounded in the political and legal realities of Northern Ireland after Brexit.

As shown during the original set of negotiations following the EU referendum in 2016, Northern Ireland occupies a distinctive economic and constitutional place within the UK. The new SPS agreement between the UK and EU represents a significant advancement, promising practical improvements for Northern Ireland. While Northern Ireland has not always been given the consideration it deserves in the past, it is important that it is not marginalised in the evolving UK-EU relationship, and the UK Government should consistently champion Northern Ireland's voice and thoroughly assess the potential impacts of any following agreements.

A key voice in shaping this Review are those of businesses, whose experiences of Brexit have been varied and wide-ranging. Many, while acknowledging the imperfections of the Framework, generally agree that it represents a more favorable outcome than a no-deal Brexit, and that it continues to offer a degree of beneficial assistance. But there is no doubt that in many ways they have taken on a considerable number of extra burdens. This Review has recommended ways to

simplify administrative processes for businesses and improve regulatory clarity. Many of the challenges voiced could be eased through enhanced guidance, transparency of processes, and a more responsive relationship between the UK Government and Northern Ireland's business sector.

A key concern raised repeatedly throughout this Review has been the ongoing “democratic deficit”. Despite the Framework’s partial mitigation of this issue—through the establishment of the Democratic Scrutiny Committee, I recognise there are still some gaps in how Northern Ireland can meaningfully influence the EU laws that apply to it. I have addressed these issues in my Review and hope that my recommendations will help bridge the gap between the Government and Stormont.

Ultimately, the success of these proposals depends not just on their design, but on the Government's actions. The Government's response to this Review must be rooted in sustained dialogue with all communities and stakeholders, and reflect a genuine commitment to shared governance. The next democratic consent vote in 2028 will serve as the clearest indicator of whether the Windsor Framework can command the confidence of both communities in Northern Ireland.

It has been an honour to conduct this Review and to engage directly with such a wide range of individuals and organisations. I hold deep respect for Northern Ireland and its people. Their insights, experiences, and aspirations have shaped every aspect of this work. I look forward to returning to Northern Ireland and to continuing speaking to people after this Review. I extend my sincere gratitude to all those who dedicated their time to share their perspectives and engage in discussions with me.



# ANNEXES

## ANNEX A: INDEPENDENT REVIEW - TERMS OF REFERENCE

### 1. BACKGROUND AND PURPOSE

- 1.1. The Independent Review (the ‘Review’) is established under the terms of Schedule 6A to the Northern Ireland Act 1998. It also aligns with the commitments made in the *Declaration of 17 October 2019 concerning the operation of the ‘Democratic consent in Northern Ireland’ provision of the Protocol on Ireland/Northern Ireland* (the Unilateral Declaration) as well as the *Safeguarding the Union* Command Paper published by the UK Government in January 2024.
- 1.2. The Review follows a consent motion passing in the Assembly (under the terms of Schedule 6A) by a majority of the Members of the Legislative Assembly voting but not with cross-community support<sup>2</sup>.
- 1.3. The Review’s purpose is to provide the Government with a report of its conclusions on the functioning of the Windsor Framework arrangements and its implications on social, economic and political life in Northern Ireland.
- 1.4. The Review’s sponsoring department is the Cabinet Office.

### 2. MEMBERSHIP

- 2.1. A single person will be appointed by the Minister for the Cabinet Office on the advice of the Secretary of State for Northern Ireland to carry out the Review (‘the Reviewer’).

### 3. FUNCTIONS

- 3.1. The Review will be carried out in line with requirements set out in the Part 6 of Schedule 6A and the Unilateral Declaration, and will examine issues required to be addressed for the Windsor Framework arrangements to command cross-community support.
- 3.2. Accordingly, the Review may include the consideration of any effect of the Windsor Framework in the Withdrawal Agreement on:

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<sup>2</sup> Cross-community support is defined as a majority of the MLAs present and voting, including a majority of the unionist and nationalist designations present and voting OR 60% of MLAs present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.

- 3.2.1. The constitutional status of Northern Ireland, and;
  - 3.2.2. The operation of the single market in goods and services between Northern Ireland and the rest of the United Kingdom.
- 3.3. If the Independent Monitoring Panel has reported, the Review may also consider whether and how the UK Internal Market Guarantee (As set out in Para 88 of the *Safeguarding the Union* Command Paper) has been met and to provide recommendations on the steps the Government should take to ensure the guarantee is met permanently.
- 3.4. Where the Review identifies issues or challenges attributable to the current arrangements, it shall also provide practical recommendations to the Government on how these issues may be addressed. Recommendations should reflect the context that the Windsor Framework is an international commitment to which the Government has committed to implement in good faith.
- 3.5. In making recommendations to the Government in its report, the Review must give consideration to and set out how any recommendations:
  - 3.5.1. will command the support of both communities in Northern Ireland;
  - 3.5.2. would be achieved in a practicable and sustainable manner;
  - 3.5.3. may support trade within the United Kingdom internal market;
  - 3.5.4. are consistent with the need to protect North-South cooperation and the guarantee of avoiding a hard border on the island of Ireland; and
  - 3.5.5. account for the wider UK-EU trade relationship, and relevant or prospective developments within it, to the extent it is relevant.

#### **4. CONSULTATION & INFORMATION SHARING**

- 4.1. In the course of the review period, the Reviewer will specifically consult with:
  - 4.1.1. Northern Ireland political parties,
  - 4.1.2. businesses,
  - 4.1.3. civil society groups,
  - 4.1.4. representative organisations (including of the agricultural sector), and

4.1.5. trade unions.

- 4.2. The Review may also engage with the Independent Monitoring Panel established to provide independent oversight of the operational implementation of the Windsor Framework.
- 4.3. The Reviewer must seek substantive discussion and engagement with the UK Government in the course of the review and prior to the publication of the Review's report.
- 4.4. Where confidential information is provided to the Reviewer, the Reviewer may not disclose that information without the consent of the person from which it originated.

## **5. THE REPORT**

- 5.1. The Reviewer commissioned to carry out the Review must provide to the Secretary of State a report of its conclusions no later than six months after having been commissioned.
- 5.2. A draft copy of the Review's report must be made available to the Secretary of State in good time ahead of the finalisation of the report, so that factual or technical comments may be provided for the Reviewer's consideration.
- 5.3. Following receipt of the Review's final report by the Secretary of State, the UK Government will:
  - 5.3.1. publish the report;
  - 5.3.2. lay a copy of that report before Parliament; and
  - 5.3.3. transmit a copy of that report to the Speaker of the Assembly.

## **6. SECRETARIAT**

- 6.1. The Review shall be provided with a secretariat function. The Secretariat to the Review shall, in discharging its functions and supporting the drafting of the Review's report, operate with full regard to the independence of the Review.
- 6.2. To support the good operation of the Review, the Secretariat shall also be available to provide reasonable administrative assistance including the arrangement of travel for the Reviewer and the management of correspondence.

## **ANNEX B : LIST OF ORGANISATIONS ENGAGED (NON-EXHAUSTIVE)**

- Alliance Party
- AICES
- AM Logistics
- Arts Council Northern Ireland
- ASDA
- British Retail Consortium
- Castle Leslie
- CBI
- Centre for Cross Border Cooperation
- Church of Ireland Archbishop of Armagh
- Committee on the Administration of Justice
- Consumer Council
- Cooperation Ireland
- Democratic Unionist Party (DUP)
- Development Trusts Northern Ireland
- DFDS
- DPD
- Dublin Belfast Economic Corridor
- Dunbia
- East Border Region
- Environmental Justice Network Ireland
- Foyle International
- Federation of Small Businesses
- Galgorm Melts
- Henderson Group
- Homeless Connect
- Hospitality Ulster
- Human Rights Consortium
- Hunter Apparel Solutions Limited
- Independent Monitoring Panel
- Intertrade UK
- Institute Of Directors
- Irish Centre for European Law
- Irish Congress of Trade Unions
- Irish Council of Churches
- Irish Environmental Network
- Irish Rural Link
- Logistics UK
- Longford Women's Link
- Lycra
- Makers Alliance
- Manufacturing Northern Ireland
- Methodist Church in Ireland
- Middletown Autism Centre
- Musgrave
- Northern Ireland Chamber
- Northern Ireland Dairy Council
- Northern Ireland Environment Link
- Northern Ireland Equality Commission
- Northern Ireland Grain Trade Association

- Northern Ireland Human Rights Commission
- Northern Ireland Meat Exports Association
- Northern Ireland Veterinary Association
- Northern Ireland Council for Voluntary Action
- Northern Ireland Executive
- Northern Ireland Rural Women's Network
- Old Mill Saddlery
- Presbyterian Church in Ireland
- Queens University Belfast
- Rainbow Project (NI)
- The Royal National Institute of Blind People (RNIB)
- Robinson Library
- Roman Catholic Archbishop of Armagh
- Rural Community Network
- Sainsbury's
- Seagate
- Sinn Féin
- Smart Customs
- Social Democratic and Labour Party (SDLP)
- Social Justice Ireland
- Tesco
- Traditional Unionist Voice (TUV)
- TST Group
- Ulster Farmer's Union
- Ulster Unionist Party (UUP)
- Ulster University
- Unison
- Vertiv
- Women's Resource and Development Agency

## **ANNEX C: LETTER FROM MRS CIARA FERGUSON MLA TO LORD MURPHY**

Lord Murphy, a chara,

### **Windsor Framework Democratic Scrutiny Committee consideration of reserved matters**

At its meeting on 1 May 2025, the Windsor Framework Democratic Scrutiny Committee (DSC) agreed that I should write to you to highlight the issues it is experiencing when seeking to scrutinise EU acts and proposed EU acts which cover matters reserved to the British Government.

At this meeting, the Committee considered a proposed EU Regulation on the safety of toys. The Committee has made various attempts to gather evidence on this proposal. Following a request for an initial assessment of impact, the Executive Office advised that Northern Ireland departments would be unable to provide information on the proposal. They stated that product safety is the responsibility of the Office for Product Safety and Standards (OPSS) under the Department for Business and Trade, and stated that there is no direct counterpart for the OPSS in Northern Ireland. They highlighted that responsibility for product safety sits with local councils. Therefore, the Committee wrote to local councils, the British Government, and the Consumer Council to seek their views on the likely impact of the proposed act.

While SOLACE NI responded on behalf of local councils, it advised that they were unable to offer any additional insight and suggested that the OPSS would be best placed to advise on the proposal. The Consumer Council stated that it does not have any statutory remit in relation to product safety, nor any consumer data or research on this topic. It informed the DSC that it had highlighted the Committee's request to the OPSS, who confirmed that

“queries in relation to reserved matters such as product safety should be directed to the Windsor Framework Task Force which will consult OPSS and other relevant departments to gather information on the impact of proposals”.

The Committee had contacted the Windsor Framework Task Force, which responded by pointing to the British Government’s Explanatory Memorandum (EM) which was produced in November 2023. It stated that the Department for Business and Trade would produce a further EM to support scrutiny after the proposal completes its legislative passage and is published. However, this does not assist the Committee in its current task of gathering evidence and considering the potential impact of the proposal.

The Committee awaits a response from the First and deputy First Minister to its request that, for EU acts which deal with matters that are reserved, excepted, or the responsibility of councils, a structured solution is found to identify the most relevant Northern Ireland department to engage with the Committee.

The Committee has therefore, to date, been unable to properly scrutinise this proposal, and has not been able to question those with responsibility for this policy area.

As you are undertaking the Independent Review of the Windsor Framework following the democratic consent vote, the Committee agreed to write to you to highlight this unsatisfactory situation. This example is of one of a number of occasions where the Committee has experienced difficulty in gathering information and exercising its scrutiny functions in relation to reserved matters.

The Committee had previously written to the Executive Office to highlight the importance of their engagement with the DSC: it expects officials to attend when the EU act under consideration is relevant to a department, regardless of whether the policy area is reserved. The DSC does not consider the fact that a replacement EU act relates to a reserved matter to be a barrier to departments in providing an assessment of impact in relation to the sectors for which it has responsibility. However, the Committee recognises that sometimes departments will not be able to provide detailed and comprehensive analysis of certain matters.

When you met with Members of the Committee in March, we discussed engagement on reserved matters. A possible solution could be direct engagement and occasional remote attendance of officials from the British Government and relevant statutory bodies, who would be able to brief the Committee, and answer Members' questions.

The Committee would welcome your consideration of this matter as part of the Independent Review.

I am copying this letter to Tonia Antoniazzi MP, Chair of the Commons Northern Ireland Affairs Committee, and Lord Carlile of Berriew CBE KC, Chair of the Lords Northern Ireland Scrutiny Committee.

Le meas,

A handwritten signature in blue ink, reading 'Ciara Ferguson'.

Ciara Ferguson, MLA

**Chairperson, Windsor Framework Democratic Scrutiny Committee**



## **ANNEX D : RECOMMENDATIONS**

### **THE DEMOCRATIC DEFICIT**

- The Democratic Scrutiny Committee should be allowed ten working days (in practice two weeks) to decide whether to hold an inquiry into an EU act. (Page 15)
- Additional expert staffing should be made available to advise the Democratic Scrutiny Committee. (Page 15)
- There should be more coordination between Whitehall and Belfast in advising the Democratic Scrutiny Committee, and Northern Ireland Civil Servants should be empowered to provide good and appropriate advice. (Page 15)
- There should be additional capacity and support from the UK Government for the Northern Ireland Civil Service and the Democratic Scrutiny Committee itself to facilitate access to timely and relevant information, better use of the Executive's office in Brussels, and expanded engagement with Northern Ireland stakeholders. (Page 15)
- The UK Government should continue to work transparently with all Northern Ireland parties regarding the functioning of the Stormont Brake and related mechanisms, acknowledging and addressing the impacts of EU legislation on Northern Ireland. (Page 16)
- Further Northern Ireland Civil Service staff should be seconded or added to the Northern Ireland Executive Office in Brussels, especially to deal with new EU regulations. (Page 16)
- The UK Government should look to broaden its inclusion of stakeholders into the meetings of the various UK-EU fora. (Page 17)

## ISSUES FOR BUSINESS AND TRADE

- Businesses in Northern Ireland and Great Britain should be constantly engaged about both progress and timelines for any future UK-EU SPS agreement. (Page 19)
- The Duty Reimbursement Scheme should be revisited by the UK Government to assess if any changes may be made to expedite reimbursement. (Page 20)
- The UK Government should work to make Windsor Framework related guidance accessible in a single “all-in-one service” and do more to signpost businesses, especially small to medium-sized businesses, towards this support. (Page 21)
- Both the UK Government and Northern Ireland Executive should continue to emphasise and publicise the commercial benefits of dual-market access. (Page 22)
- The UK Government should look at all possibilities to reduce frictions for logistics and haulage businesses, especially any solution that might reduce checks such as a “trusted haulier” scheme. The Government should continue to monitor the effectiveness of its new customs arrangements against the experiences of logistics businesses. (Page 22)
- The UK Government should continue to do everything in its ability to guarantee a reliable source of veterinary medicines within Northern Ireland. (Page 23)
- The UK Government should continue to work closely with stakeholders and industry to ensure that divergent UK and EU regimes do not impact on the availability of human medicines. (Page 23)

- The UK Government should continue to support both the Independent Monitoring Panel (IMP) and IntertradeUK to the fullest possible extent to assist them in their stated purposes. (Page 25)

## **OTHER CONSIDERATIONS**

- The UK Government and the Northern Ireland Executive should have due regard to Article 2 of the Windsor Framework when drafting legislation and monitor all relevant EU legislation in this respect. (Page 26)