

# The future of the EU-UK relationship: from bad to worse to catastrophic?

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In the Political Declaration, the EU and the UK agreed to aim for a future relationship that is “an ambitious, broad, deep and flexible partnership across trade and economic cooperation with a comprehensive and balanced Free Trade Agreement at its core, law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation”. Two years later, the relationship is far away from that ambition. While a free trade agreement was concluded at the end of 2020, the Trade and Cooperation Agreement (TCA), this has not heralded a stable and frictionless relationship, let alone the more ambitious partnership envisaged in the Political Declaration. There has been near continuous political friction, with a variety of flashpoints including on trade, security cooperation, fisheries and, most intractably, on the Northern Ireland Protocol (NIP). At the beginning of the process, London signalled strongly that it would be willing to leave without a deal and, now, the threat to bring down the whole agreement if certain demands are not met still stands in the room.

## Current conflict

The current iteration of the dispute centres around the NIP, with a UK threat to trigger Article 16, a safeguard clause only to be used in case of serious difficulties, which would effectively suspend parts of the existing arrangements. While the UK Government (UKG) claims that the thresholds for its use have been met, the EU disagrees and has warned that there would be serious consequences for the entire relationship, including the TCA. There are ongoing negotiations around a set of concrete proposals from the EU to ease implementation but this stands in contradiction to the more fundamental implications of a UK Command Paper, which implies a need to renegotiate elements of the protocol and to remove the reach of the European Court of Justice (ECJ) on the Single Market provisions now in force in NI. Indications are that the UKG will be guided in its action by this Command Paper, rather than the mutually agreed provisions enshrined in the NIP.

While UKG threats should be taken with a pinch of salt – in the end, both in the



Withdrawal Agreement and NIP and in the TCA negotiations, the UKG discarded its red lines to get a deal – it demonstrates that the EU-UK relationship is not in a good place. Some have stipulated that these are inevitable teething problems, in part caused by the painful experience of the negotiations and divorce, but that, over time, the relationship will improve, sharing at its core continued economic interdependence and common interests and objectives at the global level.

A brighter future?

In this more optimistic scenario, the current dispute on the NI Protocol will be settled and, crucially, the solution will be sold jointly by the Commission and the UKG in NI, in particular with the unionist community, providing a stable basis for the future, which could lead to further cooperation across a range of other areas. Over time, the memories of the painful divorce will fade, providing a new model of cooperation between the EU and a European third country. This would enable the EU and the UK to jointly tackle the many areas of shared interests and values, including on migration, internal and external security, foreign policy, climate action and multilateralism, where a joint approach is more needed than ever in an increasingly contested global environment.

Unfortunately, this is highly unlikely, at least in the short to medium term. The EU will remain united on this issue and will not simply give in to UK demands. Neither UK divide-and-conquer tactics, nor the use of threats as a negotiation tool have worked in the past or will move the EU on its red lines in future. Much trust has been lost, and most, if not all, member states believe that the UK acted in bad faith during the negotiations and in its aftermath, for example with regard to implementing the compromise enshrined in the NIP. In particular, the agreement of the UK to the sequencing of the negotiations, i.e. concluding on the withdrawal issues before negotiating the long term relationship, has been de facto negated by the UK going back at this stage to question the NIP. Consequently, the willingness to compromise and accommodate the UK is extremely low, especially in those countries where the dispute with the UK impacts on domestic politics. EU positions and likely actions and reactions continue to be misunderstood and disregarded by the UK, with diplomatic relations damaged by grandstanding of UK officials for their domestic audiences.

The dispute on the NIP has been rolled up in the wider UKG 'sovereignty-first-Brexit' agenda, as evidenced by the questioning of the role of the ECJ, an issue far removed from the concerns that have been raised in NI. There is a real question about what future the current UKG envisages. At best, there is a (mistaken) view that threats and non-cooperation help the UK to get what it wants, at worst there is an ideological opposition to cooperation with the EU (or both), with a more constructive approach seen by many in UKG as a sign of weakness. Either way, for domestic political reasons, it is unlikely that the UKG will switch to a more cooperative mode any time soon, even if a compromise on NI is found. The future will remain precarious as there is no willingness on the UK side to confront the reality of this form of Brexit: that there are significant unavoidable political and economic costs that will have to be borne by the UK.

### **A downward spiral**

But the situation could easily deteriorate even further. If the UK decides to trigger Article 16, potentially in the mistaken belief that this will force further concessions from the EU, undoubtedly the EU and individual member states will put counter-measures in place. This will be both at the formal level, including targeted tariffs, and, potentially, in terms of the practical implementation of the TCA, for example altering the level and speed of border controls in certain EU ports. The EU

has made it clear that the agreement on NI is a precondition for the operation of the TCA, and anything that threatens Ireland's place in the Single Market will result in a strong reaction.

Such a situation also carries the potential of an escalation, driven by domestic political reactions on both sides. This could result in the TCA being effectively suspended, resetting the EU-UK economic and political relationship almost to a no-deal type of state, especially if the separate and binding legal provisions of the NIP are not honoured. None of this will help to resolve the issues in NI, which, even if there is a significant deterioration in the TCA, will still be bound by the NIP enshrined in the Withdrawal Agreement. It remains to be seen in how far the UK is willing to break an international treaty it has signed, with the global fall-out that would entail, and in particular the negative reaction this would draw from the Biden Administration.

### **The end of the road?**

Of course, it doesn't have to come to that. But even in the best possible future, we will see the continuation of the difficult relationship that has been deteriorating ever since the UKG chose a path of maximum divergence and confrontation. At worst, the underlying difficulties will erupt into open conflict, even leading to the suspension of the TCA. For the EU, this implies that, beyond working towards a constructive solution, there also needs to be contingency planning to deal with a breakdown in this precarious relationship, which might go from bad to worse to catastrophic in a very short time.

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