

**Brexit, Borders, and Balance: The Northern Ireland Protocol, Windsor
Framework, and the UK's Global Trade Strategy**

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This thesis appears at a pivotal moment, as my country continues its challenging but hopeful journey toward European integration. In the face of uncertainty and change across the continent, I dedicate this work to my homeland – Georgia, with pride in its resilience and belief in its future.

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Abstract

This research is significant because it investigates the complex ramifications of Brexit within the context of the United Kingdom's evolving global strategy. It focuses on the legal and political aspects of the Northern Ireland Protocol and its revision under the 2023 Windsor Framework. Under these arrangements, Northern Ireland follows many of the European Union's rules for goods, even though it's still officially part of the UK's customs territory. This unusual setup has created a de facto internal border in the Irish Sea, separating Northern Ireland from the rest of the UK in practical trade terms.

This situation touches on unresolved questions about the UK's constitutional integrity and the unity of its internal market. Both, the Northern Ireland protocol and Windsor Framework truly align with the spirit of the 1998 Good Friday Agreement, particularly in areas like keeping the border open, maintaining cross-community support, and ensuring political stability in Northern Ireland.

Key areas of analysis include the UK's post-Brexit trade policy choices, the strategic implications of pursuing new trade agreements, and the country's re-engagement with the World Trade Organization. The thesis highlights how Brexit has transformed the UK's trade governance model and assesses the long-term impact of these arrangements not only on UK-EU constitutional arrangements but also on the UK's global economic strategy.

The study also situates how recent trade agreements, notably a revamped UK-EU trade deal and new UK-US Economic Prosperity Agreement, signal a more pragmatic and flexible trade posture. Rather than taking an all-or-nothing stance, the UK is now pursuing targeted partnerships with major allies, reflecting a more mature and realistic view of its role in the global trading system.

AUTHOR'S DECLARATION

I, the undersigned, Ketevan Karichashvili, candidate for the LL.M. degree in Global Business Law and Regulation declare herewith that the present thesis titled “Brexit, Borders, and Balance: The Northern Ireland Protocol, Windsor Framework, and the UK’s Global Trade Strategy” is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography.

I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person’s or institution’s copyright. I also declare that no part of the thesis has been submitted in this form to any other institution of higher education for an academic degree.

Vienna, 16 June 2025.

Ketevan Karichashvili

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Chapter I: Introduction

1.1 Britain's Early Relationship with Europe and the Path to Brexit

The United Kingdom's decision in 2016 to withdraw from the European Union has had far-reaching consequences across Europe and the international community. Since its inception with the Treaty of Paris in 1951,¹ and the Treaties of Rome in 1957,² the EU has been guided by the principle of an "ever closer Union" among its Member States.³ The 2016 Brexit referendum was not just a product of David Cameron's political strategy, but the culmination of Britain's long-standing ambivalence toward European Integration. From the early postwar period, the UK maintained a cautious distance.⁴ Churchill, though supportive of a united Europe, saw Britain as its "friend and sponsor" rather than a member.⁵ This was somehow reflected in the UK's decision to stay out of the European Coal and Steel Community (1951) and the European Economic Community (1957), as well as its limited engagement with the proposed European Defense Community.⁶

This historical skepticism set the stage for the eventual decision to leave the EU. Despite the European Council's considerable efforts to meet then-Prime Minister David Cameron's pre-referendum demands, including a special February 2016 deal that offered the UK a more distinct strategic decision.⁷

¹ Treaty establishing the European Coal and Steel Community (adopted 18 April 1951, entered into force 23 July 1951) 261 UNTS 140.

² Treaty establishing the European Economic Community (EEC) (adopted 25 March 1957, entered into force 1 January 1958) 298 UNTS 11.

³ Harold D Clarke, Matthew Goodwin and Paul Whiteley, *Brexit: Why Britain Voted to Leave the European Union* (1st edn, Cambridge University Press 2017) 1
<<https://www.cambridge.org/core/product/identifier/9781316584408/type/book>> accessed 16 June 2025.

⁴ Steve Corbett, 'The Social Consequences of Brexit for the UK and Europe: Euroscepticism, Populism, Nationalism, and Societal Division' (2016) 6 *The International Journal of Social Quality*.

⁵ Winston S Churchill, *The Sinews of Peace* (Cassell 1948) 198.

⁶ Benjamin Martill and Uta Staiger (eds), *Brexit and Beyond* (UCL Press 2018) 4.

⁷ European Council, New Settlement for the United Kingdom within the European Union (19 February 2016) EUCO 1/16.

While Michel Barnier led the negotiations, it was the European Council's distinct status within the EU, the British public still voted to leave the Union in the June 2016 referendum.⁸ That vote set in motion a new chapter in EU-UK relations. When the UK formally triggered Article 50 of the Treaty on European Union in March 2017, the process of withdrawal officially began.⁹

The central argument is that Brexit should not be interpreted solely as a British phenomenon, but rather as a specific expression of broader, Europe-wide tensions that have shaped the process of European integration since the 1950s. From a continental perspective, while the challenges posed by Brexit may appear exceptional in their scale and complexity, the EU has faced a series of major crises throughout its history, often sparked by countries pushing back in the name of national identity and self-interest. These moments represent the idea of an “ever closer Union” and expose the ongoing tensions built into the European project. The same forces that fueled the Brexit campaign and shaped the referendum result speak to two long-standing issues that have influenced European politics since the very beginning of integration.¹⁰

1.2 The Irish Border as a Central Issue in Brexit Negotiations

In Ireland, the main concern over the Brexit discussion has been avoiding a hard border on the island. This concern has driven strong support for a backstop arrangement to ensure that the outcome is protected. The expectation is that this safeguard will be secured within the framework of the Withdrawal Agreement, prior to the commencement of the transition phase.¹¹

⁸ Peter Snowdon, ‘David Cameron Will Be Remembered for More Than Just Brexit’ (*TIME*, 14 July 2016) <<https://time.com/4405933/david-cameron-legacy-biographer/>> accessed 16 June 2025.

⁹ ‘Article 50 to Be Triggered on 29 March’ (*GOV.UK*) <<https://www.gov.uk/government/news/article-50-to-be-triggered-on-march-29>> accessed 16 June 2025.

¹⁰ Martill and Staiger (n 6) 47.

¹¹ UK in a Changing Europe, *UKICE Transition Report* <https://media.ukandeu.ac.uk/wp-content/uploads/2018/09/UKICE-Transition-Report.pdf> accessed 13 April 2025

It must be noted that nowhere are the implications of Brexit more deeply felt than in Ireland, where the border between the Republic and Northern Ireland encapsulates the legal, political, and economic tensions arising from the UK's withdrawal from the European Union.

Right from the outset, the EU made it clear that Ireland wasn't going to be treated as just another issue in Brexit talks, it was a top priority. Alongside citizens' rights and the UK's financial settlement, the situation on the island of Ireland was one of the three core areas that had to be addressed before any discussions about the future relationship could even begin. This was a strategic decision. While Michel Barnier led the negotiations, it was the European Council that set the boundaries, and they weren't willing to move forward until the particularly sensitive matter of the Irish border, given its history and significance was properly resolved. But one thing was non-negotiable: Ireland's interests had to come first.¹²

1.3 The roadmap to the thesis

This thesis begins by tracing the historical and political foundations of Brexit, with particular attention to the United Kingdom's evolving relationship with European integration. It situates the 2016 referendum within a broader continental context, framing Brexit not as an isolated event but as part of an ongoing tension between national autonomy and tactical cooperation. The opening chapter introduces key themes such as the UK's uncertainty toward EU membership, the legal implications of Article 50 of the Treaty on European Union (TEU), and the specialties surrounding Northern Ireland.

The second chapter turns to Northern Ireland, exploring its unique constitutional and geopolitical position. It assesses the role of the European Union in supporting peace and cross-border cooperation under the Good Friday Agreement and examines how the Brexit process

¹² Nicholas Wright, 'Brexit and Ireland: Collateral Damage?' in Benjamin Martill and Uta Staiger (eds), *Brexit and Beyond* (UCL Press 2018) 105 <<https://www.jstor.org/stable/j.ctt20krxf8.17>> accessed 15 June 2025.

reshaped these dynamics. This chapter introduces the Northern Ireland Protocol and explains how it was designed to maintain an open border while accommodating the UK's departure from the EU. The analysis considers the Protocol's impact on identity politics and economic integration.

Chapter three provides a detailed legal and political analysis of both the Northern Ireland Protocol and the 2023 Windsor Framework. It examines the mechanisms of the dual regulatory alignment, the jurisdiction of the European Court of Justice, and the principle of democratic consent. Particular attention is given to the UK Supreme Court's 2023 ruling, the implementation of the "green lane" and "Stormont Brake", and the challenges of aligning UK sovereignty with EU legal oversight. This chapter also reflects on how these instruments attempt to balance peace commitments with regulatory autonomy.

The final chapter broadens the focus to the UK's global trade posture. It assesses the reconfiguration of the UK's role in the World Trade Organization, the launch of a national tariff regime, and the strategic logic behind the recent trade agreements. Special attention is given to the 2025 UK-EU trade agreement and the UK-US Economic Prosperity Deal, which together illustrate a shift from Brexit-era isolation toward a more tactic-driven model. This chapter argues that the UK's post-Brexit trade strategy prioritizes targeted cooperation over ideological separation.

Together, these chapters provide a multidisciplinary analysis of Brexit's legal, economic, and geopolitical consequences, illustrating how the UK is reshaping its political identity within a global order that demands both autonomy and collaboration.

Chapter II: Historical and Political Context: Northern Ireland at the Crossroads of Brexit

2.1 The UK's EU Membership and Peacebuilding

The UK's membership in the European Union from 1973 to 2020 facilitated strong economic integration, especially in areas such as trade, regulatory harmonization, and the free flow of goods and services.¹³

This framework dramatically reshaped the UK's trade relationships. By the 2010s, the EU accounted for nearly half of UK trade, with over 40% of exports and more than 50% of imports linked to EU member states.¹⁴ Sectors such as automotive manufacturing, pharmaceuticals, agriculture, and financial services were deeply embedded in cross-border supply chains that relied on common standards, free movement of goods, and regulatory harmonization.¹⁵ These arrangements not only lowered the cost and complexity of trade but also helped establish the UK as a strategic base for multinational companies operating across Europe.

Northern Ireland's position within this framework was especially significant. As the only part of the UK sharing a land border with an EU member state (the Republic of Ireland), it became a key site of EU-supported cross-border cooperation, particularly following the 1998 Belfast/Good Friday Agreement.¹⁶ EU membership played a pivotal role in bringing the island of Ireland closer together, not just economically, but also by helping to keep the border open

¹³ World Bank Group, *Trade and Investment Implications of Brexit* (World Bank, Washington, DC 2016) <https://openknowledge.worldbank.org/entities/publication/7f3a784f-d8b1-5350-8143-0cbea7821aff> accessed 13 April 2025.

¹⁴ Thomas Sampson, 'Brexit: The Economics of International Disintegration' (2017) 31 *Journal of Economic Perspectives* 163.

¹⁵ Davor Jancic, 'Regulatory Strings That Bind and the UK Parliament after Brexit' (2022) 20 *Comparative European Politics* 566, 566 <<https://link.springer.com/10.1057/s41295-022-00296-3>> accessed 16 June 2025.

¹⁶ 'Political Identities amongst the Belfast/Good Friday Agreement Generation in Northern Ireland' (Queen's University Belfast) 2 <<https://pure.qub.ac.uk/en/studentTheses/political-identities-amongst-the-belfastgood-friday-agreement-gen>> accessed 15 June 2025.

and invisible, which was crucial for peace after the conflict. EU programs like INTERREG and PEACE provided funding for community projects and infrastructure, all of which helped support and strengthen the peace process.¹⁷

2.2. The Brexit Referendum and Irish Border Dilemma

The 2016 Brexit referendum, however, disrupted this arrangement. While concerns over sovereignty, immigration, and EU bureaucracy dominated the political debate in Great Britain, the unique situation of Northern Ireland received minimal attention.¹⁸

For the EU, maintaining the integrity of its internal market requires customs and regulatory checks on goods entering from outside its borders. For the UK, avoiding any infrastructure on the island of Ireland was both a political necessity and a peace process obligation. The tension between these objectives would eventually lead to the formulation of the Northern Ireland Protocol, a mechanism aimed at preserving the open border while allowing the UK to exit the EU's trade structures.¹⁹

Thus, the UK's exit from the EU did not simply mark a withdrawal from a trade bloc, it raised fundamental questions about identity, sovereignty, and the fragility of the peace in Northern Ireland. The economic ties forged during the decades of EU membership became inseparable from the region's political stability and cross-border cooperation, making Brexit far more than legal or commercial separation.²⁰

¹⁷ Katy Hayward and Mary C Murphy, 'The EU's Influence on the Peace Process and Agreement in Northern Ireland in Light of Brexit' (2018) 17 *Ethnopolitics* 276 <<https://www.tandfonline.com/doi/full/10.1080/17449057.2018.1472426>> accessed 15 June 2025.

¹⁸ Anand Menon and John-Paul Salter, 'Brexit: Initial Reflections' (2016) 92 *International Affairs* 1297 <<https://academic.oup.com/ia/article-lookup/doi/10.1111/1468-2346.12745>> accessed 15 June 2025.

¹⁹ Council of the European Union, 'Windsor Framework explained' (21 March 2023) <https://www.consilium.europa.eu/en/policies/windsor-framework-explained/#protocol> accessed 17 April 2025

²⁰ Mary C Murphy, 'Northern Ireland and Brexit: Where Sovereignty and Stability Collide?' (2021) 29 *Journal of Contemporary European Studies* 405 <<https://www.tandfonline.com/doi/full/10.1080/14782804.2021.1891027>> accessed 15 June 2025.

The Northern Ireland Protocol emerged from a joint UK-EU commitment to prevent the return of a hard border on the island of Ireland an otherwise likely consequence of Brexit. As stated in Article 1(3), this objective is closely related to addressing Northern Ireland's unique circumstances and safeguarding the 1998 Belfast Agreement in all dimensions. While the Protocol was shaped by the immediate political rupture of the UK's withdrawal from the EU, it also reflects deeper historical and constitutional concerns. It represents a complex attempt to reconcile two competing imperatives: the UK's political decision to leave the EU's single market and customs union, and the EU's legal obligation to protect the integrity of the internal market. This arrangement is not only a political compromise, but also a moral responsibility to avoid undermining a peace process that has enabled decades of relative stability. Avoiding a hard border is thus seen less as a direct response to the threat of renewed violence, and more as an effort to maintain the delicate balance of identities, alliances, and institutions that the Good Friday Agreement was designed to manage in a deeply contested and historically sensitive region.²¹

2.3 The Good Friday Agreement and Its Fragile Balance

After years marked by violence, deep division, and heartbreaking personal loss, the Good Friday Agreement officially titled *The Agreement Reached in the Multi-Party Negotiations* (Department of Foreign Affairs, 1998) finally offered a real path forward for Northern Ireland.²² For decades, the region has been gripped by the troubles, that claimed over 3,600 lives, left tens of thousands injured, and tore communities apart. The Agreement didn't come easily. It was the result of long, painful negotiations involving not only the British and Irish governments but also a wide range of political parties from across Northern Ireland. In the end, it won the backing

²¹ Federico Fabbrini (ed), *The Law & Politics of Brexit Volume IV: The Protocol on Ireland / Northern Ireland* (Oxford University Press 2022) 6 <<https://doi.org/10.1093/oso/9780192863935.001.0001>> accessed 15 June 2025.

²² *Agreement Reached in the Multi-Party Negotiations* (10 April 1998) (Belfast/Good Friday Agreement).

of both governments and eight of the main parties in the region, a remarkable achievement given the deeply entrenched divisions. The deal didn't unite everyone. The Democratic Unionist Party (DUP), led by Ian Paisley, and the UK Unionist Party (UKUP), led by Robert McCartney, rejected the Agreement. Their primary concern was the involvement of Sinn Féin, given its historic ties to the Irish Republican Army (IRA). To ensure the Agreement wasn't just words on paper but something that could truly lead to a more peaceful future, the UK and Ireland signed a formal deal alongside it. This step helped to turn promises into action and to set the stage for meaningful, lasting change in people's everyday lives.²³

A fundamental element of the Agreement is the principle of consent, affirming that any change in the constitutional status of Northern Ireland requires majority approval in a referendum. It also recognizes the right of people in Northern Ireland to identify as British, Irish, or both and to hold citizenship accordingly. Alongside, the GFA led to the reform of policing, the decommissioning of paramilitary weapons, and significant investment in peacebuilding measures and new institutions for power-sharing governance. These provisions reflected a careful balancing of the dual identities in Northern Ireland and a commitment to exclusively democratic and peaceful means of resolving differences. Subsequent research on the post-1998 generation in Northern Ireland suggests that these identity provisions have had a lasting effect, as younger people navigate their British, Irish, and dual identities shaped by the peace process.²⁴

The GFA was deeply rooted in the context of shared UK and Irish membership in the European Union, which helped facilitate soft borders, legal harmonization, and a broader framework of

²³ 'The Good Friday Agreement: A Promise Unfulfilled' (*Counterfire*) <<https://www.counterfire.org/article/the-good-friday-agreement-a-promise-unfulfilled/>> accessed 16 June 2025.

²⁴ Agreement Reached in the Multi-Party Negotiations (10 April 1998) (Belfast/Good Friday Agreement).

cooperation.²⁵ EU institutions were not merely observers, but also contributors to peace and reconciliation efforts through funding and integration of mechanisms.

The central principles of the GFA, particularly the maintenance of an open border, power-sharing, and dual identity, proposed significant challenges in the context of Brexit. The UK's decision to leave the EU Single Market and Customs Union raised the possibility of a hard border between Northern Ireland and the Republic of Ireland. This was widely viewed as incompatible with the spirit of the GFA.²⁶

Brexit posed significant challenges to the core principles of the Good Friday Agreement, especially the commitment to an open border, shared governance, and the recognition of both British and Irish identities. By choosing to leave the EU's Single Market and Customs Union, The UK risked bringing back a hard border on the island, a move widely seen as undermining the Agreement's intent.²⁷

The Northern Ireland Protocol was essentially created to address the complex issue of the Irish border after Brexit. Its main goal is to maintain the open, invisible border between Northern Ireland and the Republic of Ireland, which is crucial for peace and daily cross-border life, while also respecting the UK's decision to leave the EU. To achieve this, Northern Ireland remains aligned with specific EU rules on goods, which allows trade to continue without checks at the land border. Instead, customs checks take place in the Irish Sea, between Great Britain and Northern Ireland. This arrangement helps protect the delicate balance of cross-border trade and cooperation without reintroducing a hard border on the island.²⁸

²⁵ Katy Hayward, 'The Pivotal Position of the Irish Border in the UK's Withdrawal from the European Union' (2018) 22(2) *Space and Polity* 238

²⁶ *ibid.*

²⁷ Katy Hayward and Mary C Murphy, 'The EU's influence on the Peace Process and Agreement in Northern Ireland in Light of Brexit' (2018) 17 *Ethnopolitics* 280, 280-84.

²⁸ Christopher McCrudden (ed), *The Law and Practice of the Ireland-Northern Ireland Protocol* (Cambridge University Press 2022) 78.

Although the Protocol was deeply debatable, particularly for many in the Unionist Community, it was an attempt to make these principles of the Good Friday Agreement work in practice. Unionist leaders pushed back hard, arguing that it weakened Northern Ireland's place within the UK, and even took the case to court. But in 2023, the UK Supreme Court upheld the Protocol, ruling that it was lawful and didn't violate either the 1998 Agreement or the Acts of Union.²⁹

It's notable that the Protocol directly refers to the Good Friday Agreement in its very first article. Both the UK and The EU make it clear that they're committed to upholding the Agreement in all its parts. That is reflected in protecting cooperation between Northern Ireland and the Republic of Ireland, supporting the peace process, and safeguarding the rights promised to people under the Agreement. In doing so, the Protocol shows just how central the Good Friday Agreement still is. It's not just a historical milestone, but an essential reference point for navigating one of the most delicate and complex challenges of Brexit.³⁰

²⁹ HM Government (UK), 'Northern Ireland and Ireland: Position Paper' Cmd. 247 (16 August 2017), 3-5.

³⁰ Katy Hayward, 'The Pivotal Position of the Irish Border in the UK's Withdrawal from the EU,' *Space and Polity* 22, no. 2 (2018): 238-254 (arguing that any hardening of the Irish border because of Brexit would fundamentally undermine the Good Friday Agreement's framework and the stability it brought to Northern Ireland).

Chapter III: The Northern Ireland Protocol and the Windsor Framework - Legal Aspects and Implementation Challenges

3.1 Dual Legal Status and Trade Regulation

The Northern Ireland Protocol, part of the EU-UK Withdrawal Agreement signed in 2019, was meant to solve a tricky problem: how to let the UK leave the EU's Single Market and Customs Union without bringing back a hard border in Ireland.³¹ Under the Protocol and Windsor Framework, Northern Ireland occupies a unique legal position: it remains within the UK's customs territory while continuing to follow a substantial portion of EU law, particularly in relation to goods regulation. This mechanism reflects the carefully constructed balance between maintaining an open border on the island of Ireland and upholding the EU's internal market rules.³²

Under Article 5 of the Protocol, EU customs Duties apply to goods entering Northern Ireland from Great Britain if those goods are deemed “at risk” of subsequently moving into the EU. The criterion for determining risk is set jointly by the UK-EU Committee, a body established by Article 164 of the Withdrawal Agreement. This system ensures the EU's internal market is protected while avoiding checks at the Irish land border.³³

Moreover, Annex 2 of the Protocol lists provisions of EU law that continue to apply in Northern Ireland. These include areas such as customs legislation, product standards, SPS rules, VAT on

³¹ UK Government, Department for Exiting the European Union, Revised Protocol to the Withdrawal Agreement (17 October 2019) https://assets.publishing.service.gov.uk/media/5da863ab40f0b659847e0184/Revised_Protocol_to_the_Withdrawal_Agreement.pdf accessed 14 April 2025.

³² ‘Dynamic Regulatory Alignment and the Protocol on Ireland/Northern Ireland - Three Year Review | Participation for Protection (P4P) | Queen's University Belfast’ <<https://www.qub.ac.uk/sites/post-brexite-governance-ni/ProjectPublications/Explainers/DynamicRegulatoryAlignmentandtheProtocolonIrelandNorthernIreland-ThreeYearReview/>> accessed 15 June 2025.

³³ Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (adopted 19 October 2019, entered into force 1 February 2020) [2020] OJ L29/7, arts 5 and 164

goods, and state aid control.³⁴ As part of the complex and overlapping framework of rights and jurisdictions operating in Northern Ireland, including devolved institutions, UK and NI courts, and supranational bodies such as the European Commission and Court of Justice of the European Union (CJEU), EU regulatory oversight continues to retain a supervisory role. This enduring role of EU institutions, particularly the CJEU, has caused significant political friction within the UK, particularly among unionists who view this as undermining UK sovereignty.³⁵

3.2 Democratic Consent and Implementation Challenges

Legally, the Protocol's provisions contain built-in flexibility and safeguards. Article 16, for instance, allows either the UK or EU unilaterally to take "safeguard" measures if applying the Protocol Leads to "serious economic, societal or environmental difficulties that are liable to persist, or to diversion of trade". Such measures must be restricted in scope and duration and are not intended to suspend the Protocol wholesale.³⁶ To date, despite political threats, Article 16 has never been formally invoked by either side, reflecting its role as an emergency backstop. Another critical provision is Article 18, the "democratic consent" mechanism, which requires the UK to "provide the opportunity for democratic consent in Northern Ireland to the continued application of Articles 5 to 10" of the Protocol.³⁷

The first such vote took place on 10 December 2024, four years after the end of the transition period. Under UK law, the vote was decided by a simple majority of MLAs in the Northern Ireland Assembly. This gave Northern Ireland a prospective veto over core trade provisions,

³⁴ Protocol on Ireland/Northern Ireland, annex 2 to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (adopted 19 October 2019, entered into force 1 February 2020) [2020] OJ L29/102

³⁵ Fabbrini (n 21) 90.

³⁶ Institute for Government, 'Northern Ireland Protocol: Article 16' (26 July 2021) <https://www.instituteforgovernment.org.uk/article/explainer/northern-ireland-protocol-article-16> accessed 26 April 2025.

³⁷ House of Lords European Union Committee, "Brexit: the revised Withdrawal Agreement and Political Declaration", HL 4 (2019-20) Ch 13, para 289

emphasizing that the Protocol's legitimacy in Northern Ireland must be actively and democratically maintained.³⁸

As of December 2024, the Assembly voted 48 to 36 in favor of maintaining Articles 5-10 for another four years. Because support fell short of cross-community endorsement, the UK Government is required to commission an independent review into the Windsor Framework's implementation, and the next consent vote is due in 2028, rather than in eight years.

According to Hayward, the Protocol on Ireland/Northern Ireland is a product of the region's unique political and demographic context. It represents an attempt to reconcile the UK's departure from the EU with the need to avoid a hard border on the island of Ireland. This means it places Northern Ireland in a distinctive legal position that bridges two regulatory systems, reflecting a form of constitutional accommodation demanded by the peace process and the region's contested identity.³⁹

Early implementation faced practical difficulties. Businesses in NI and GB reported confusion about customs declarations, certification processes, and supply chain disruptions. The United Kingdom in a Changing Europe report in 2018 foresaw those tensions, predicting that the Protocol would entail ongoing political and administrative challenges.⁴⁰

The so-called "sausage wars" in 2021, which centered on the movement of chilled meats from Great Britain to Northern Ireland, really underscored how inflexible the Protocol could be,

³⁸ Amanda Ferguson, 'Northern Ireland Lawmakers Back Brexit Rules, Unionist Opposition Triggers Review' *Reuters* (10 December 2024) <https://www.reuters.com/world/uk/northern-ireland-lawmakers-back-brex-it-rules-unionist-opposition-triggers-review-2024-12-10/> accessed 15 June 2025.

³⁹ Fabbrini (n 21) 48.

⁴⁰ UKICE Transition Report (n 11).

especially in areas like agri-food trade. The dispute made it clear just how difficult it was to align the UK and EU's different sanitary and phytosanitary (SPS) rules.⁴¹

Beyond meat products, other industries faced acute challenges. The pharmaceutical sector, for example, warned that without adaptation, Northern Ireland could suffer medicine shortages or delays, since new drugs approved for Great Britain might not be immediately authorized for NI under EU rules. In response, the EU amended its legislation in April 2022 to ensure the continued long-term supply of medicines from Great Britain to Northern Ireland.⁴² Nevertheless, veterinary medicines remained a concern, with grace periods extended to the end of 2022 to avert an immediate crisis.⁴³ On the agri-food front, officials projected that once existing grace periods expired, Northern Ireland would be required to perform an enormous volume of Sanitary and Phytosanitary (SPS) checks, potentially “approaching the same number of...checks as the entire European Union” due to GB-NI trade flows.⁴⁴ Such sector-specific problems underscored the practical complexities of applying EU rules in NI and added urgency to finding mitigations within the Protocol's framework.

In response to these pressures, the UK government unilaterally extended grace periods for certain categories of goods, prompting the European Commission to launch infringement proceedings against the UK in March 2021. The House of Lords later criticized the UK's actions as legally questionable and warned that they risked breaching international law.⁴⁵

⁴¹ Peter Foster, ‘Why “Sausage Wars” Illustrate How Both Sides Are Now on a Collision Course over Northern Ireland’ *Financial Times* (10 June 2021) <<https://www.ft.com/content/5e9f0436-fc54-4f1e-b22e-903c4cff70b5>> accessed 15 June 2025.

⁴² ‘NI Could Face Medicine Shortages, Warns Pharmaceutical Body’ (21 October 2024) <<https://www.bbc.com/news/articles/c07n452895lo>> accessed 16 June 2025.

⁴³ House of Commons European Scrutiny Committee, *Sixth Report of Session 2022-23: Northern Ireland Protocol: Veterinary Medicines* (HC 119-VI, 25 July 2022) para 1 <https://publications.parliament.uk/pa/cm5803/cmselect/cmeuleg/119-v/report.html#heading-0> accessed 1 May 2025

⁴⁴ David Young, ‘NI “Faces Same Number of Agri-Food Checks as Entire EU When Grace Period Ends”’ (*Irish Examiner*, 4 March 2021) <<https://www.irishexaminer.com/news/arid-40237895.html>> accessed 15 June 2025.

⁴⁵ House of Lords European Affairs Committee, *The Protocol on Ireland/Northern Ireland* (HL 117, 2022).

3.3 Legal Contests and Judicial Clarifications

The UK Supreme Court in 2023 ruled that the Protocol was consistent with the constitutional framework of the UK and did not violate the Acts of Union 1800 or the principle of consent under the Good Friday Agreement.⁴⁶ The Supreme Court's judgment in *Allister and others v. Secretary of State for Northern Ireland* (Feb 2023) offered a definitive legal interpretation of the Protocol's status in UK law. The Court unanimously held that the Protocol, as implemented by the EU (Withdrawal Agreement) Act 2020, prevails over earlier domestic statutes (such as the Act of Union 1800) to the extent of any conflict, by virtue of Parliament's clear intent.⁴⁷ It rejected arguments that the Protocol unlawfully undermined Northern Ireland's constitutional status, affirming that Article VI of the Acts of Union 1800, which guarantees equal footing for trade is "modified" by the Protocol for the period during which the Protocol is in force.⁴⁸

It also ruled that the Northern Ireland Act 1998 is not breached, since the Protocol does not alter the constitutional status of NI. The Good Friday Agreement's principle of consent is quite specific. It only covers whether Northern Ireland stays as a part of the UK or chooses to join a united Ireland.⁴⁹ This ruling confirmed the Protocol's legality, albeit at the expense, as some critics noted of effectively "suspended" part of the Act of Union's economic provisions while the Protocol operated.⁵⁰ The Court acknowledged these novel constitutional implications but made it clear that they had been approved by Parliament. For unionists who were unhappy with

⁴⁶ *Allister and Others v Secretary of State for Northern Ireland* [2023] UKSC 5.

⁴⁷ DCU Brexit Institute, 'The UK Supreme Court Northern Ireland Protocol Judgement: A Return to Pre-EU Membership Orthodoxy?' (13 February 2023) <https://dcubrexitinstitute.eu/2023/02/the-uk-supreme-court-northern-ireland-protocol-judgment/> accessed 3 May 2025.

⁴⁸ DCU Brexit Institute (n12) (discussing the Court's reasoning that Act 2018 expressly modified the Acts of Union 1800).

⁴⁹ *ibid* (explaining how the Supreme Court rejected the challenge based on Article VI of the Acts of Union, noting the issue had become academic; see paras 74-85)

⁵⁰ Mark Elliot, Nothing to See here? *Allister in the Supreme Court* (Public Law for Everyone, 6 July 2023) <https://publiclawforeveryone.com/2023/07/06/nothing-to-see-here-allister-in-the-supreme-court/> accessed 5 May 2025.

the outcome, the message was subtle but firm: the place to challenge it was in politics, not in the courtroom.⁵¹

3.4 The Role of the European Court of Justice (ECJ)

The Protocol also confers jurisdiction on the CJEU (Court of Justice of the EU) to interpret and enforce the EU laws applicable in NI. That kind of legal oversight is highly unusual for a region that's part of a country outside the EU.⁵² This means that NI-related disputes involving EU law can ultimately be referred to the EU's courts in Luxembourg, a reality that unionists and the UK government found difficult to accept. In 2021, the UK made it clear it wanted to take the European Court of Justice (ECJ) out of the picture. In official documents and public speeches, Lord Frost argued that having EU law apply in Northern Ireland without the consent of people was causing problems and that giving the ECJ such a direct role, was "highly unusual". He suggested using a different kind of dispute resolution instead.⁵³

But in this case, the EU pushed back, insisting that the ECJ's role was essential in protecting the integrity of the Single Market. In the end, both the original Protocol and the 2023 Windsor Framework kept the ECJ in its oversight role, underling the EU's firm stance that if Northern Ireland follows Single Market rules, only its court can have the final say on how those rules are interpreted.⁵⁴

⁵¹ 'The UK Supreme Court Northern Ireland Protocol Judgment: A Return to Pre-EU Membership Orthodoxy? - Brexit Institute' (13 February 2023) <<https://dcubrexitinstitute.eu/2023/02/the-uk-supreme-court-northern-ireland-protocol-judgment/>> accessed 16 June 2025.

⁵² 'Rewrite or Resolve? The Future of the Protocol | IIEA' <<https://www.iiea.com/blog/rewrite-or-resolve-the-future-of-the-protocol/>> accessed 15 June 2025. (noting that, "as a result of the Protocol, TFEU rules continue to apply in Northern Ireland").

⁵³ HM Government, *Northern Ireland Protocol; the way forward* (CP 502, July 2021) 19 https://assets.publishing.service.gov.uk/media/6109b4be8fa8f5042d17a2d9/CCS207_CCS0721914902-005_Northern_Ireland_Protocol_Web_Accessible_1.pdf accessed 14 June 2025

⁵⁴ House of Lords European Affairs Sub-Committee on the Protocol on Ireland/Northern Ireland, *The Windsor Framework* (HL 520, 2023) <https://committees.parliament.uk/publications/41064/documents/199962/default/> accessed 15 June 2025

3.5 The Breaking Point: The Northern Ireland Protocol Bill

In 2022, the UK introduced the Northern Ireland Protocol Bill,⁵⁵ aiming to override parts of the Protocol in its own domestic law. This move triggered a sharp response from the EU and raised serious legal concerns. At first glance, it was seen as a clear violation of the UK's international commitments. The bill made several changes to how goods move between Great Britain and Northern Ireland. Most notably, it removed the need for customs checks on goods staying within the UK, creating a “green lane” for those products, while a separate “red lane” remained in place for goods heading into the EU. It also gave businesses in Northern Ireland the opportunity to follow either UK or EU rules when placing goods on the market, a dual regulatory approach that aimed to reduce friction. Beyond trade, the bill went further by suspending key parts of the Protocol related to state aid and tax rules. Perhaps, most controversially, it stripped the European Court of Justice (ECJ) of its role in overseeing Protocol-related matters and blocked Protocol's provisions that allowed EU officials to operate in Northern Ireland's ports.⁵⁶

Tensions were high, but rather than letting things fall apart, both sides chose to come back to the table. Those renewed negotiations eventually paved the way for the Windsor Framework in 2023, a compromise designed to restore trust and offer a more practical, balanced way forward.⁵⁷

In essence, the Northern Ireland Protocol Bill would have dismantled the entire Protocol that the UK and EU had spent years negotiating. Although it preserved a few key parts – specifically the sections on individual rights, the Common Travel Area, and cross-border cooperation (Articles 2,3, and 11), the rest of the Protocol was sidelined. The bill even changed the 2018 EU Withdrawal Act, which originally gave the Withdrawal Agreement legal force in UK law,

⁵⁵ Northern Ireland Protocol Bill, 13 June 2022.

⁵⁶ Federico Fabbrini (ed), *The Law & Politics of Brexit Volume V: The Trade and Cooperation Agreement* (OUP 2024) 16.

⁵⁷ Sampson (n 14).

to explicitly state that this legal effect no longer applied to most parts of the Protocol. While the bill included a promise not to create a hard border between Northern Ireland and the Republic of Ireland, it still gave powers to ministers. They could unilaterally suspend or override parts of the Protocol and even replace them entirely if a new agreement with the EU emerged.⁵⁸ This bill certainly marked a sharp departure from the core idea of the original agreement and replaced legal certainty with political power.⁵⁹

Although the Northern Ireland Protocol Bill was introduced in June 2022 and successfully passed through the House of Commons, it was never enacted into law. The bill faced significant legal challenges, particularly in the House of Lords and from the European Union, which viewed it as a breach of international law. As negotiations between the UK and EU progressed, with the announcement of the Windsor Framework in February 2023, the UK formally dropped the legislation, opting for a more pragmatic approach to reforming the Protocol.⁶⁰

3.6 From Crisis to Compromise: Toward the Windsor Framework

The Windsor Framework brings together some practical aimed at easing tensions and making the Northern Ireland Protocol more workable. One of the most functional changes is the introduction of a green and red lane system for goods coming into Northern Ireland. If the goods are staying in Northern Ireland, they go through the “green lane”, with fewer checks and less paperwork. But if they’re headed into the EU single market, they go through the “red lane”, where full customs procedures still apply. The goal is to reduce red tape and make everyday trade straightforward for businesses.⁶¹

⁵⁸ Fabbrini (n 55) 16.

⁵⁹ *ibid.*

⁶⁰ *The Windsor Framework: A New Way Forward* (Dandy Booksellers Ltd 2023) 26.

⁶¹ *ibid.*, 22.

What makes the Windsor Framework’s “green and red lane” system more effective than the earlier proposal in the Northern Ireland Protocol Bill is that it is jointly agreed.⁶² While the Bill sought to impose similar challenges unilaterally, the Windsor Framework delivers them through cooperation with the EU.⁶³ This avoids the legal uncertainty and reputational damage that would have followed the Bill’s enactment.⁶⁴

Instead of relying on ministerial powers to override parts of the Protocol, the Windsor Framework offers a rules-based solution. It gives the UK flexibility over internal trade. In short, it turns a politically risky idea into a pragmatic approach.

Another important feature is the introduction of the “Stormont Brake”, which gives the Northern Ireland Assembly the power to object to the new EU laws under certain conditions. This is something designed to give local voices more say in how rules are applied.⁶⁵ These changes are mostly about trying to ease unionist concerns and giving them more of a say, while still holding on to what really matters: protecting the Good Friday Agreement and keeping the border open on the island of Ireland.⁶⁶

The real test of this new understanding isn’t just about what’s written on the paper, it’s more about what’s carried out in practice. Political and legal frameworks can only go so far, but what truly matters is whether both sides stay engaged, remain flexible, and approach implementation in good faith. Without that, even the most well-designed agreement can collapse. In a place as

⁶² European Commission, The Windsor Framework (24 March 2023) (adopted by EU-UK Joint Committee).

⁶³ Protocol Bill (n 55)

⁶⁴ ‘The Windsor Framework – What Has Been Agreed and What It Means for the Northern Ireland Protocol’ <<https://institute.global/insights/geopolitics-and-security/windsor-framework-what-has-been-agreed-and-what-it-means-northern-ireland-protocol>> accessed 16 June 2025.

⁶⁵ Leigh Gibson, ‘The Stormont Brake in Action’ <<https://commonslibrary.parliament.uk/the-stormont-brake-in-action/>> accessed 15 June 2025.

⁶⁶ David Torrance, ‘Northern Ireland – The Stormont Brake’ 22 <<https://commonslibrary.parliament.uk/research-briefings/cbp-9757/>> accessed 16 June 2025.

politically sensitive as Northern Ireland, trust is everything and once that begins to erode, even the best intentions can quickly face serious obstacles.

3.7 Legal and Economic Dimensions of the Windsor Framework

The Windsor Framework, unveiled in February 2023, represents a significant recalibration of the original Northern Ireland Protocol. Announced jointly by UK Prime Minister Rishi Sunak and European Commission President Ursula von der Leyen, the framework is designed to address the most challenging aspects of the Protocol, especially those affecting trade between Great Britain and Northern Ireland, while preserving the integrity of the EU Single Market and the delicate balance set out in the Good Friday Agreement.⁶⁷

One of the most notable aspects of the Windsor Framework, in my view, is the introduction of a dual-lane system for goods. This approach seems to offer a more workable solution for businesses, particularly for those dealing in food, medicine, and everyday consumer goods. It directly responds to many of the implementation issues raised under the original Protocol.⁶⁸

The Windsor Framework shows a legally careful and politically sensitive approach. Rather than replacing the Northern Ireland Protocol, it works by adapting and expanding it through Joint Committee decisions, interpretative declarations, and domestic UK legislation. This approach makes it possible to introduce real changes without reopening the complex and sensitive Withdrawal Agreement. It strikes me as a pragmatic way to navigate legal limitations while trying to preserve diplomatic stability.

Economically, the Framework was well-received by business groups in Northern Ireland, particularly in the agri-food, retail, and pharmaceutical sectors. It provides greater legal

⁶⁷ 'Q&A: political agreement on the Windsor Framework' (*European Commission - European Commission*) <https://ec.europa.eu/commission/presscorner/detail/es/qanda_23_1271> accessed 16 June 2025.

⁶⁸ Professor David Phinnemore and Dr Lisa Claire Whitten, 'The Windsor Framework: How Green Is the "Green Lane"?' (*Queen's Policy Engagement*, 2 August 2023) <<https://qppl.qub.ac.uk/the-windsor-framework-how-green-is-the-green-lane/>> accessed 16 June 2025.

certainty, reduces trade friction, and preserves NI's dual market access. According to the Confederation of British Industry, the changes are expected to enhance Northern Ireland's attractiveness to investors seeking access to both UK and EU markets. Early economic data reflected this optimism. By late 2023, Northern Ireland businesses had clearly improved. A Q3 survey showed that nearly half of local firms felt positive about what the Windsor Framework meant for the economy, while only a small piece, just 13% viewed it negatively.⁶⁹ Taken together, these early signs suggest that, despite ongoing political debate, the Windsor Framework built solid economic foundation for Northern Ireland.

In this sense, companies felt more confident about investing, and many observers noted that supply chains from Great Britain to Northern Ireland were smoother, thanks to the new "green lane" system starting to settle in.⁷⁰

3.8 Political Responses and the Stormont Brake

Politically, the response to the Windsor Framework was anything but unified, especially among unionists. The Democratic Unionist Party (DUP) remained firmly unconvinced. For them, the changes didn't go far enough, and they felt like the foundation of the Northern Ireland Protocol was still in place, with EU law continuing to apply in key areas and the UK Parliament lacking full control. Because of this, the DUP chose not to rejoin the Northern Ireland Executive, which meant that the power-sharing government remained on hold throughout 2023.⁷¹

Their position only hardened later in the year. DUP leader Sir Jeffrey Donaldson acknowledged that while the Framework had made some progress, it didn't pass the party's "seven tests" for

⁶⁹ British-Irish Council Secretariat, QES Report Q3 2023 (BIC, Quarter 3 2023) <https://www.bdoni.com/getmedia/a0ed7f75-1379-4f85-bd6b-d4e082856e0e/25234L-QES-Report-Q3-2023-Smaller-02.pdf>

⁷⁰ *ibid.*

⁷¹ 'Northern Ireland: Does New Deal Pass DUP's Seven Tests?' (31 January 2024) <<https://www.bbc.com/news/uk-northern-ireland-68158201>> accessed 15 June 2025.

a workable replacement to the Protocol. He warned that: “Our position in the United Kingdom is not going to be restored” if the current terms remained unchanged.⁷²

On March 20, 2023, Donaldson confirmed that the DUP would vote against the deal, arguing that EU law still had too much influence in Northern Ireland and that the new veto power, the so-called “Stormont Brake” was too limited to change that reality.⁷³ Because of this, the party stayed away from the Northern Ireland Assembly as well. In contrast, nationalist leaders and business groups welcomed the deal and called for the swift return of power-sharing. They focused on the potential for greater stability and economic growth. Sinn Féin MLA, Declan Kearney noted: “We now have unprecedented economic opportunities... The boycott of the Assembly by one party must end now.”⁷⁴

Meanwhile, in Westminster, Prime Minister Rishi Sunak faced only mild resistance when the deal came up for approval. High-profile Brexiteers like Boris Johnson and Liz Truss did vote against the Windsor Framework, but only 22 Conservative MPs rebelled in total. The crucial “Stormont Brake” provision passed comfortably by 515 votes to 29, owing to broad cross-party support.⁷⁵ The relatively small rebellion made it clear that Sunak had secured solid political backing in Parliament, even if consensus in Northern Ireland remained vague.

3.9 Rebuilding Trust and Remaining Challenges

To me, the Windsor Framework felt like a real turning point in EU-UK relations. After years of tension, legal battles, and public disagreements, it finally signaled a shift back to constructive diplomacy. It wasn’t just about fixing technical trade issues; it was more about rebuilding trust.

⁷² ‘DUP: Jeffrey Donaldson’s Windsor Framework Dilemma’ (17 October 2023) <<https://www.bbc.com/news/uk-northern-ireland-67076620>> accessed 15 June 2025.

⁷³ Simon Carswell, ‘DUP Says It Will Vote against “Stormont Brake” Aspect of Brexit Deal’ (*The Irish Times*) <<https://www.irishtimes.com/politics/2023/03/20/dup-says-it-will-vote-against-windsor-framework-brexit-deal/>> accessed 15 June 2025.

⁷⁴ Nicola Newson and Sarah Tudor, ‘King’s Speech 2023: Devolved Affairs’ <<https://lordslibrary.parliament.uk/kings-speech-2023-devolved-affairs/>> accessed 15 June 2025.

⁷⁵ HC Deb 22 March 2023, vol 729, cols 386-406.

EU leaders seemed to welcome it as a fresh start for how to handle future Brexit-related problems.

What's particularly interesting is how the Framework worked within the bounds of international law without tearing everything up and starting over. Legal scholars have pointed out that it used mechanisms like the Joint Committee to subtly reshape how the Protocol functions, without having to rewrite the treaty itself.⁷⁶

The Windsor Framework is far from being perfect. One of the biggest uncertainties lies in the so-called "Stormont Brake". As discussed, it hands the Northern Ireland Assembly a greater say over how EU rules apply locally. But in practice, it rests on a foundation of political cooperation and mutual trust, the aspects Northern Irish politics have often lacked. If the brake is ever pulled, it could trigger fresh tensions in the UK-EU Joint Committee or even create new grey legal areas that haven't been tested.⁷⁷

It must be highlighted that the sovereignty question hasn't been solved, only softened. EU law still applies in parts of Northern Ireland without direct UK legislative oversight, a sticking point that continues to frustrate unionists and Brexit supporters. Still, despite its flaws, the Windsor Framework appears to be a pragmatic compromise. It attempts to balance a range of competing priorities: preserving the peace process and an open border on the island of Ireland, reasserting elements of UK regulatory autonomy, and safeguarding uniformity of the EU's Single Market. At its core, the Framework represents a legal and political modification. This is not a complete reinvention, it's more an adaptation of existing mechanisms and these adjustments are mainly

⁷⁶ Colin RG Murray and Niall Robb, 'From the Protocol to the Windsor Framework' (2023) 74 Northern Ireland Legal Quarterly 2 <<https://nilq.qub.ac.uk/index.php/nilq/article/view/1081>> accessed 16 June 2025.

⁷⁷ 'Stormont Brake: The Windsor Framework' (*Institute for Government*, 10 March 2023) <<https://www.instituteforgovernment.org.uk/explainer/stormont-brake-windsor-framework>> accessed 16 June 2025.

shaped by interpretative flexibility, negotiated compromise, and the imperatives of political pragmatism.

Though it does not fully satisfy all parties, the Framework provides a viable approach to the complexities of post-Brexit governance. Its value lies not in offering a final resolution, but rather in creating space for ongoing discussions and gradual adjustments, in a political and legal context that remains unsettled and deeply contested.

Chapter IV: Global Trade Redirection – From WTO Principles to Strategic Partnerships

4.1 Finding the UK's Place in the Global Trade World

Following its departure from the EU, the United Kingdom regained full control over its trade policy and sought to re-establish itself as an autonomous actor within the multilateral trading system. This reorientation required the UK to redefine its role in the World Trade Organization (WTO), revise its tariff schedules, and negotiate new free trade agreements (FTAs) while ensuring the continuity of its international obligations.⁷⁸

One of the first things the UK had to do after Brexit was get its own trade schedules approved by the World Trade Organization. Even though these schedules mostly copied what the UK had previously agreed to as part of the EU, some countries, like the United States and Australia pushed back. They were concerned about how things like tariff rate quotas and access to the UK's agricultural market were being handled, and they didn't think the new setup gave them a fair deal.⁷⁹

Figuring out how to separate the UK's trade obligations from the EU's wasn't easy. It highlighted just how complicated it is to take back control of trade policy and the world where economies are so closely linked. At first, the UK and EU came up with a clear idea to divide the EU's existing import quotas between them, but that didn't go over well. In 2018, countries like the US, Australia, and New Zealand pushed back hard, arguing that the split would leave

⁷⁸ Marley Morris, Towards a UK Trade Strategy (Institute for Public Policy Research, January 2025) 18.

⁷⁹ Department for International Trade, UK Goods Schedule Certification Process (GOV.UK, 7 December 2018) <https://www.gov.uk/government/publications/uk-goods-and-services-schedules-at-the-wto>

them with less access and less flexibility in how they could trade with both the UK and the EU.⁸⁰

This “*strident rejection*” forced London and Brussels back to the table to apportion quotas more generously. The UK ultimately had to negotiate settlements and offer compensation in some cases with a range of partners to secure acceptance of its new WTO goods schedule.⁸¹

After Brexit, the UK took a big step toward opening its trade policy by launching its own Global Tariff regime. The idea was simple, to cut tariffs on a wide range of goods to help bring down prices for consumers and make it easier to import products. On paper, that sounds like a win, but for many UK industries, it wasn’t so straightforward. Without the safety net of the EU’s defense tools, like anti-dumping duties or emergency safeguards, some sectors started to worry. They feared they’d be left more exposed to cheap imports and unfair competition, without much protection in place.⁸²

4.2 WTO Rules and Real-World Exceptions

From a World Trade Organization (WTO) law point of view, the Protocol and the Windsor Framework have sparked some discussion about whether they align with the principle of fair treatment for all countries. According to Article I of the General Agreement on Tariffs and Trade (GATT), if a country offers a trade benefit to one WTO member. It’s supposed to offer the same benefit to all other members too. This rule is known as the Most-Favored-Nation (MFN) principle, and it’s all about making sure no one gets special treatment.⁸³

⁸⁰ Daniel Boffey, ‘Resistance to Joint Proposal to WTO Leaves UK and EU Divided’ *The Guardian* (25 April 2018) <<https://www.theguardian.com/politics/2018/apr/25/resistance-to-joint-proposal-to-wto-leaves-uk-and-eu-divided-us-australi-reject-brexite-trade-plans>> accessed 15 June 2025.

⁸¹ Etain Tannam, *British-Irish Relations in the Twenty-First Century: The Good Friday Agreement, Brexit, and the Totality of Relations* (UKTPO Policy Brief No 63/1, University of Sussex 2021) <https://blogs.sussex.ac.uk/uktpo/files/2021/11/BP63-1.pdf> accessed 30 May 2025.

⁸² Emma (TRADE) Hammond, ‘Public Consultation: MFN Tariff Policy – The UK Global Tariff’.

⁸³ ‘Will a Hard Brexit Lead to a Hard Border? WTO Law and the Backstop - Brexit Institute’ (16 October 2018) <<https://dcubrexitinstitute.eu/2018/10/will-a-hard-brexite-lead-to-a-hard-border-wto-law-and-the-backstop/>> accessed 15 June 2025.

That said, GATT Article XXIV makes room for some exceptions to the usual rules. It allows countries to form special trade partnerships, like customs unions or free trade areas, even if they offer better deals to each other than to other WTO members. The catch is that these deals need to cover most of the trade between the countries involved and shouldn't end up making trade harder for everyone else.⁸⁴

The EU-UK Trade and Cooperation Agreement (TCA) fits within an exception allowed by the WTO, which permits special trade deals like free trade areas, even if they offer better terms than what's usually allowed under global trade rules.⁸⁵ That's how zero-tariff trade between the EU and the UK is legally possible under WTO law. Northern Ireland's unique status, staying in the EU's regulatory zone while still being in the UK's customs territory has been treated as part of this broader EU-UK arrangement under both the Withdrawal Agreement and the TCA.⁸⁶

So far, no other country in the WTO has challenged the Northern Ireland Protocol or the Windsor Framework. This suggests that, at least for now, the global trading community accepts them as consistent with WTO rules. Still, experts have pointed out that Northern Ireland's position is highly unusual. It hasn't yet been tested through any official WTO disputes, and in theory, another country could argue that goods from Great Britain going to Northern Ireland then on the EU get better treatment than their own exports. But considering how politically sensitive the situation is, that kind of legal challenge doesn't seem likely.⁸⁷

⁸⁴ *ibid*, noting that "exceptions such as ... the frontier tariff exception under Article XXIV:3 GATT 1994 will not apply".

⁸⁵ Trade and Cooperation Agreement between the European Union and the United Kingdom [2021] OJ L149/10.

⁸⁶ *ibid*.

⁸⁷ Michael Gasiorek and Anna Jerzewska, The Unresolved Difficulties of the Northern Ireland Protocol (UKTPO Briefing Paper 41, June 2020), 6; WTO, 'Dispute Settlement Status Chart' (2025) <https://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm> accessed 16 June 2025.

4.3 Balancing Priorities: Reconnecting with the EU and Partnership with the US

Nowadays, in the era of globalization, building on this multilateral foundation, the UK has taken deliberate steps to translate its regained trade autonomy into a broader, future-oriented strategy. This shift is most clearly reflected in its 2025 trade agreements with the European Union and the United States, which mark a new phase in the UK's external economic relations, one driven by pragmatism, strategic partnerships, and global ambitions.⁸⁸

The United Kingdom's trade relationships with both the European Union and the United States are not only unavoidable but also essential to its economic stability and global influence. Post-Brexit, the UK cannot afford isolation, it must stay connected to major markets to support jobs, growth, and economic security. The EU remains the UK's largest trading partner,⁸⁹ while the US is a key partner in areas like digital trade and defense.⁹⁰ Rather than choosing one over the other, the UK must strategically engage with both, balancing sovereignty with global cooperation. Modern trade is more about technology, climate, and security.⁹¹ In this context, active partnerships ensure the UK remains a competitive and influential global player.

However, being part of the EU also meant giving up some control over rules and legal decisions to shared European institutions. This was a long-running source of political tension. The 2016 Brexit referendum revealed the extent of public discomfort with these trade-offs. Following its formal withdrawal in 2020, the UK faced significant economic disruption, particularly in sectors such as agri-food, services, and manufacturing. The post-Brexit period has therefore

⁸⁸ *UK-EU Strategic Partnership Agreement* (19 May 2025); *Economic Prosperity Deal between the United States of America and the United Kingdom of Great Britain and Northern Ireland* (8 May 2025).

⁸⁹ Dominic Webb and Matthew Ward, 'Statistics on UK-EU Trade' <<https://commonslibrary.parliament.uk/research-briefings/cbp-7851/>> accessed 16 June 2025.

⁹⁰ 'General Terms for the US-UK Economic Prosperity Deal' (n 88).

⁹¹ 'Trade Can Benefit Climate Action, Says This Major Report' (*World Economic Forum*, 6 December 2022) <<https://www.weforum.org/stories/2022/12/trade-is-a-force-multiplier-for-climate-action/>> accessed 16 June 2025.

been defined by efforts to renegotiate trade access to the EU without re-entering its institutional frameworks.⁹²

Parallel to its European orientation, the UK has long maintained a close economic relationship with the United States. Referred to frequently as the “Special Relationship”, the connection between the two countries goes well beyond defense and diplomacy. The US has regularly been the UK’s top export destination outside of the EU, especially in key service sectors such as finance, insurance, legal advice, and technology.⁹³

Nevertheless, unlike the EU, the UK has never had a formal free trade agreement (FTA) with the United States. Trade has historically operated under the World Trade Organization (WTO) rules and sector-specific arrangements. Efforts to negotiate a comprehensive UK-US FTA began prior to and shortly after Brexit, but political transitions in Washington, divergent regulatory standards, and protectionist trends have slowed progress.⁹⁴

Despite this, the UK continues to view the US as a key partner in its Global Britain strategy, with potential cooperation in emerging sectors such as digital trade, cybersecurity, biotechnology, and clean energy. The Economic Prosperity Deal (2025) is the most recent expression of this ambition, signaling a shift toward a more structured and strategic economic partnership.⁹⁵

⁹² Matthew Keep, ‘Brexit: The Financial Settlement – in Detail’ <<https://commonslibrary.parliament.uk/research-briefings/cbp-8039/>> accessed 15 June 2025.

⁹³ HM Government, *Global Britain in a Competitive Age: The Integrated Review of Security, Defence, Development and Foreign Policy* (CP 403, March 2021).

⁹⁴ Department for Business and Trade and Department for International Trade, *The UK’s approach to trade negotiations with the US* (Policy paper, GOV.UK, 2 March 2020).

⁹⁵ ‘General Terms for the United States of America and the United Kingdom of Great Britain and Northern Ireland Economic Prosperity Deal (Web Accessible Version)’ (GOV.UK) <<https://www.gov.uk/government/publications/us-uk-economic-prosperity-deal-epd/general-terms-for-the-united-states-of-america-and-the-united-kingdom-of-great-britain-and-northern-ireland-economic-prosperity-deal-web-accessible-v>> accessed 15 June 2025.

As the UK finds its footing in the global trading system, both the EU and the US remain key partners, but for very different reasons. The EU is the UK's economic anchor. They are interlinked and essential to everyday trade.⁹⁶ The US, on the other hand, offers strategic opportunities as a partner that shares many values. This aspect is increasingly important in fast-growing and security-focused industries.

The signing of two major trade deals in 2025, the renewed UK-EU agreement and the UK-US Economic Prosperity Deal marks a clear shift in the UK's post-Brexit strategy. Rather than continuing the political fights that defined the early Brexit years, these agreements reflect a more mature, pragmatic approach. Each deal is different in structure and scope, but together they show the UK trying to balance its global identity, strengthening ties on both sides of the Atlantic.

The UK's 2025 trade agreement with the EU reflects a broader shift towards practical cooperation. While it doesn't reverse Brexit, it shows a recognition that close economic ties with the EU remain essential. The deal focuses on restoring stability, easing trade frictions, and rebuilding confidence, especially for businesses that struggled with the uncertainty of the post-Brexit years. It illustrates a more measured approach, where the UK maintains its independence while re-engaging key partners in areas where integration makes economic sense.⁹⁷

This new direction moves away from the more rigid and confrontational stance of the past. Instead, it embraces a flexible, targeted model of bilateral trade, where deals are tailored to the UK's strengths and interests. These agreements help define how the UK sees itself on the world stage. At a structural level, the UK-EU agreement is regulatory in tone and enforceable in application, aiming to simplify trade procedures and restore market stability after years of

⁹⁶ Webb and Ward (n 89).

⁹⁷ 'PM Secures New Agreement with EU to Benefit British People' (GOV.UK) <<https://www.gov.uk/government/news/pm-secures-new-agreement-with-eu-to-benefit-british-people>> accessed 15 June 2025.

disruption following the Brexit referendum. It introduces specific mechanisms such as streamlined sanitary and phytosanitary (SPS) rules, integration into the EU's Emissions Trading System, and facilitation of border processes for food, animals, and plants.⁹⁸

By contrast, the UK-US EPD serves not as a legally binding treaty, but as a political declaration. It's more like a blueprint for future cooperation. That arrangement gives both sides flexibility in working things out as they go, which is especially helpful given the political realities in the US and the UK after Brexit. It leaves space for adjustments without getting tangled in legal red tape.⁹⁹

Despite differing in form, both agreements share broad objectives. They aim to encourage economic growth, enhance job creation, and safeguard national interests through international cooperation. However, their policies diverge significantly. The UK-EU agreement is remedial in tone. It responds directly to the practical costs of Brexit: disrupted trade flows, regulatory divergence, and border frictions. Measures such as the removal of certain SPS checks and the facilitation of cross-border flows between Great Britain and Northern Ireland serve not just to promote commerce but to mend the economic geography fractured by the Brexit settlement.

Meanwhile, the UK-US EPD is more strategic. It outlines a shared vision for a future-facing trade architecture, where digital trade, cyber-security, investment screening, and strategic industrial policy come first. It covers “economic security” and “critical supply chains” related issues and a shared concern across the UK and the US about shifting global power dynamics, especially with China's growing economic influence and the weaknesses in global supply chains that the COVID-19 pandemic made impossible to ignore.¹⁰⁰

⁹⁸ *ibid.*

⁹⁹ ‘General Terms for the US-UK Economic Prosperity Deal’ (n 88).

¹⁰⁰ General Terms for the US-UK Economic Prosperity Deal’ (n 88).

Both the UK-EU and UK-US agreements show that the UK is still serious about keeping control over its own rules after Brexit, but they go about it in very different ways. With the EU, it's more of a balancing act, because the UK sticks to its own path but chooses to align with EU standards in practical areas like food exports and emissions trading. It's a way of staying connected where it makes sense, without fully rejoining the Single Market or Customs Union. The government has been clear that these deals don't cross any of the Brexit "red lines", they're more designed to protect domestic control while still making room for cooperation.¹⁰¹

Conversely, the UK-US Economic Prosperity Deal takes a different approach to sovereignty. It's more about working strategically with a close partner, especially in areas related to national security. The deal even touches on US Section 232 investigations, which are tools the US uses to justify tariffs when it believes imports could pose a risk to its security. Rather than pushing back, the UK chooses to engage with this framework, aiming to protect its own industries while building trust with the US on shared security priorities.¹⁰²

The UK decides to stick to this framework, which means negotiating targeted exemptions for key industries like steel, aluminum, and automotive parts, if it meets American standards on supply chain security. In this context, partnership between UK-US means retaining control, while building trust based on shared values and mutual risk management.

The UK-US Economic Prosperity Deal broadens the conversation to cover areas like digital infrastructure, secure government procurement, and economic security. One of the most remarkable matters is that it covers issues like intellectual property rights, forced labor, and access to critical materials, such as pharmaceuticals.¹⁰³ These elements suggest that the deal

¹⁰¹ 'UK-EU Deal Unpacked: All the Brexit Red Tape Set for a Chop' (*POLITICO*, 19 May 2025) <<https://www.politico.eu/article/uk-eu-deal-unpacked-brexite-agrifood-energy-climate/>> accessed 16 June 2025.

¹⁰² General Terms for the US-UK Economic Prosperity Deal' (n 88).

¹⁰³ *ibid.*

isn't just about trade, it's also about shared values and ethical standards. In many ways, it hints at the UK and US trying to shape a kind of rules-based alliance, where commerce is tied to principles like fairness, transparency, and human rights.

On the other hand, The UK-EU deal is more traditional. It focuses on making trade and travel easier, cutting red tape, improving access to EU markets, and smoothing out everyday issues like border checks, eGate use for travelers, and even bringing back pet passports. While it does cover security with steps toward better cooperation on criminal databases and some access to EU defense funding, it mostly stays in safe areas.¹⁰⁴ The focus is on practical, everyday fixes to economic issues rather than trying to reinvent the relationship from the outset.

One of the clearest differences between the two deals is how they handle digital trade. The UK-EU agreement is mostly quiet on the topic, aside from some steps toward digitizing customs processes.¹⁰⁵ Contrary, the UK-US Economic Prosperity Deal puts digital trade in front. It lays out ambitious plans for things like online financial services, paperless trade, and fully digital customs systems, showing a clear push to modernize how trade works in a digital economy and make it more efficient. This reflects not only the US leadership in global tech governance but also the UK's attempt to position itself as a global hub for fintech and digital services post-Brexit.¹⁰⁶

What really stands out in these recent trade deals is how the UK's approach has matured, moving away from political point-scoring toward something more practical and focused on real-world outcomes. The new deal with the EU doesn't try to reverse Brexit, but it offers businesses and consumers the stability and clarity they've been waiting for. Instead of reopening

¹⁰⁴ 'PM Secures New Agreement with EU' (n 97).

¹⁰⁵ *ibid.*

¹⁰⁶ General Terms for the US-UK Economic Prosperity Deal' (n 88).

old political debates, it focuses on fixing the day-to-day trade issues that have lingered since the UK left the EU.¹⁰⁷

At the same time, the UK-US agreement feels like a long-term strategy. It's not just about moving goods across borders, it's about strengthening an important relationship, working together in key sectors like tech and defense, and helping the UK stay competitive in a challenging global environment.¹⁰⁸ What's clever about it is that it avoids the EU-style rules that often raise concerns about sovereignty. Instead, it shows the UK can build strong partnerships while keeping control firmly in its own hands.

From my perspective, the UK's trade approach in 2025 shows that it's starting to settle into a more flexible role after Brexit. It's no longer just about breaking away or making big political statements, instead, it's about re-engaging where it makes sense and doing so on the UK's own terms. The trade deal with the EU seems focused on stabilizing the relationship and easing some of the economic strain, while the UK-US framework leans more toward innovation and deeper strategic cooperation.

In addition to that, these deals reflect a clear and, in some ways, careful strategy. First, they aim to maintain control over trade policy, avoiding broad, inflexible commitments and instead targeting specific gains through tailored one-on-one partnerships. To me, this is what Global Britain is starting to look like: not turning inward but finding new ways to adapt. It's no longer driven by ideology but by practical aims. And rather than retreating from the world, it's redefining how it engages with it.

¹⁰⁷ 'PM Secures New Agreement with EU' (n 97).

¹⁰⁸ General Terms for the US-UK Economic Prosperity Deal' (n 88).

Conclusion

This thesis has explored the profound consequences of Brexit through the lens of the Northern Ireland Protocol, the Windsor Framework, and the UK's evolving trade relationship. Brexit hasn't just been a political moment; it's become a long process of reshaping the UK's place in the world. It's raised deep questions about what sovereignty really means, how the country sees itself, and how it wants to engage internationally. Nowhere are these challenges more visible than in Northern Ireland, because of its history and location. It has become central to some of the most complex and politically complicated issues that have arisen after the Brexit vote.

The Northern Ireland Protocol, later refined through the Windsor Framework stands as a remarkable and unprecedented effort to reconcile deeply conflicting goals: to keep the Irish border open in line with the Good Friday Agreement, while enabling the UK's departure from the EU's Single Market and Customs Union. This dual-regulatory system has placed Northern Ireland in a distinctive way of handling laws and politics, meaning it's still closely aligned with EU rules on goods, while still within the UK's customs territory. This arrangement has provoked significant political friction, particularly among unionist communities who view it as a threat to Northern Ireland's constitutional place in the UK. The 2023 UK Supreme Court ruling, which upheld the Protocol's compatibility with the UK's constitutional framework, underscores the legal durability of this compromise.

Introduced in 2023, the Windsor Framework marked a clear shift in policy. Rather than scrapping the Northern Ireland Protocol, it added practical tools like the "green" and "red" lanes for goods and the "Stormont Brake" to give local representatives a say over new EU rules. These changes aimed to ease trade tensions and improve democratic accountability in Northern Ireland while protecting the EU's internal market and hard-won peace on the island of Ireland. The Framework reflects a more realistic and cooperative approach. Its long-term success hinges

not just on legal fixes, but on rebuilding political trust, especially the restoration of Northern Ireland's power-sharing government, which, at this moment, remains on hold.

More broadly, Brexit has been a turning point in how the UK sees and shapes its place in the global economy. As explored in Chapter IV, the country has transformed into an independent player, one that now negotiates its own deals, manages its own trade rules, and navigates the world of global trade through the WTO. The early steps in this shift were largely technical: resetting WTO schedules, introducing a new tariff regime, and dealing with disputes over market access. It's notable that the UK has also been working to craft strategic partnerships with major allies that reflect its evolving priorities and values outside the EU.

The 2025 UK-EU trade agreement and the UK-US Economic Prosperity Deal capture the UK's evolving trade strategy in action. The updated EU agreement centers on restoring economic stability: easing SPS checks, integrating emissions markets, and reducing red tape, particularly for businesses in Northern Ireland. It signals a clear move away from the tense political climate of early Brexit toward a more stable, trust-based relationship. Meanwhile, the UK-US Economic Prosperity Deal isn't about slashing tariffs, it's more about shaping a strategic, forward-looking partnership built around digital trade, cybersecurity, critical infrastructure, and shared values like labor protections and supply chain standards.

Taken together, these agreements point to something deeper: a shift in how the UK engages with world trade. The earlier era of absolutism is giving way to something more flexible mindset that values cooperation where it makes sense. Rather than choosing between Brussels or Washington, the UK is working with both and in ways that reflect its own priorities. The process is less about picking sides and more about building bridges where they're needed. In that sense "Global Britain" feels like a real strategy, one that tries to balance the UK's independence with the realities of a deeply connected world. This kind of grounded approach might be exactly

what's vital at this point. It illustrates a UK that's shifting to focus less on making bold statements and more on making things work. These above-mentioned partnerships aren't about proving a point, they're more about getting results that are mutually beneficial for every side.

In the end, Brexit hasn't been a dramatic collapse. Instead, it's led to an ongoing process of legal adaptation, political tension, and strategic rethinking. The Northern Ireland Protocol and the Windsor Framework show how the UK has tried to navigate its own internal divisions. And the actual trade agreements signed in 2025 suggest that the UK is starting to use its sovereignty not by standing alone, but by working together with trusted partners in more pragmatic ways. Instead of being a clean break or a clear success, Brexit has felt more like a long, a bit frustrating process, which is more work in progress than a finished chapter.

The road ahead is still uncertain and likely to stay politically charged. Public opinion remains divided, businesses continue to adapt, and politicians are still negotiating what "taking back control" really means in practice but if the patterns outlined in this thesis continue, the UK could begin to shape a new role for a confident, mid-sized country that values both independence and cooperation. In doing so, the UK could position itself as an actor, capable of shaping trade relationships that reflect both national priorities and global realities.

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