

10 November 2021 - Lord Frost Statement - Update on EU Relations

As delivered

My Lords, with the leave of the House, I will now make a statement to update the House on various recent developments in the relationship with the EU. The statement will also be made in the other place in due course by my RHF the Paymaster General.

As my Lords will know well, we have two principal agreements with the EU - the Trade and Cooperation Agreement and the Withdrawal Agreement. The first, the biggest and broadest bilateral trade agreement in the world, freely agreed by both parties, is working well. Teething problems have largely been dealt with. Business adjusted well to the new relationship and trade is getting back to normal. Both parties have agreed data adequacy. We are reaching complementary agreements, for example the 17 bilateral aviation agreements that we have reached. The sub-structure of Specialised Committees is functioning - almost all the Committees have now met, the Trade Partnership Committee will meet on 16 November, and we expect a further Partnership Council in December.

There are however two problem areas within the TCA. The first is fisheries and the second is Union Programmes, notably the Horizon scientific research programme.

On fisheries, since we received the necessary applications back in June, we have been engaged in technical discussions about licensing with the Commission, involving also the Governments of Guernsey and Jersey and the French Government.

As is known, we have granted 98% of applications from EU vessels to fish in UK waters – that's nearly 1,800 licences in total. The remaining 2% have not provided the data needed to access our 6-12 nautical mile zone

As we have said consistently, we are ready to consider any new evidence to support the remaining licence applications. Indeed, we granted three more licences on 14 October because the Commission sent new evidence, then another on 26 October. We set out the latest figures in full to Parliament on 3 November.

Licences for Jersey and Guernsey waters are assessed by the relevant authorities in Jersey and Guernsey, not the UK Government. However, we support the approach they have been taking, which has been entirely in line with the provisions of the TCA.

We were therefore disappointed that, faced with these facts, the French Government felt it necessary to make threats which were disproportionate, unjustified, and would have been a breach of the TCA. I welcome France's deferral of the implementation of these measures. I hope they will take them off the table permanently. I spoke yesterday to my friend Clément Beaune in the French Government following our talks in Paris on 4 November. We obviously have different views on the fisheries question but it's certainly our intention to keep working to get to an outcome which is fair to those who are genuinely entitled to fish in our waters.

My Lords, the second difficulty I mentioned is that of the Horizon science research programme, and some other related programmes. We agreed that we would participate in this in the TCA - and we agreed to pay a contribution which is likely to be £15bn over seven years. The TCA is clear. The UK and I quote "shall" participate and the relevant Protocol I quote again "shall" be adopted. That is an obligation. If it were to become clear that the EU did not intend to deliver upon that obligation - and it has not done so so far - or simply to delay *sine die*, we of course would regard the EU as in breach of Article 710. We would of course put together a domestic research programme for our own scientists and universities in its place. But it is in neither ours nor the EU's interests to get to this point and much the best way forward, is to the EU instead to finalise our participation as a matter of urgency.

My Lords, I now turn to the other agreement, the Withdrawal Agreement, which of course includes the Northern Ireland Protocol.

We have been in discussions with the Commission on the changes needed to the Protocol since we published our Command Paper in July, our position was set out then in full and remains unchanged now.

On 13 October, the EU published four non-papers with proposals on: medicines, customs, sanitary and phytosanitary (or SPS) and the engagement of Northern Ireland stakeholders in the operation of the Protocol. Around the same time, we transmitted a new legal text to them, operationalising the proposals set out in the Command Paper in legal form.

Our immediate view of those non papers was that whilst the EU's proposals did not go as far as our Command Paper, nor cover all of the areas that we believe needed to be addressed, in particular the Protocol's untenable governance arrangements, they were worth discussing. We were keen to see if their proposals would at least reduce trade friction in the way they claimed.

Since then we have been in intense discussions with the European Commission. I have met Vice President Šefcovic every week for the last three weeks in Brussels and London, and we will meet again on Friday as part of this week's talks. The aim has been to assess whether it is possible to close the substantial gap between our positions and secure a consensual, negotiated resolution.

So far that has not been possible. This is, at least in part, because the Commission's proposals would not do enough to make the Protocol sustainable for the future, or even indeed deliver what they have claimed. I have heard that view also expressed

by many businesses I have spoken to, in Northern Ireland and in Great Britain. If the talks do in the end fail, we will of course publish in full our assessment of the EU's proposals and set out why they fall short of a durable settlement, but we will not do so until we have exhausted all the negotiating possibilities. For now, I wish to preserve the integrity of negotiations and to remain positive.

Accordingly, we continue to work to see whether the EU position on these issues can yet develop further, and whether it is possible to find a way to deal with the other important matters that are necessary to put the Protocol on a sustainable footing, such as the

interlinked issues of the imposition of EU law and the Court of Justice, state aid, VAT, goods standards, and so on. That work will continue in the talks under way this week.

My Lords, in my view this talks process has not reached its end. Although we have been talking for nearly 4 weeks now, there remain possibilities that the talks have not yet seriously examined, including many approaches that have been suggested by the UK. So there is more to do and I certainly will not give up on this process unless and until it is abundantly clear that nothing more can be done. We are certainly not at that point yet.

If, however, we do in due course reach that point, the Article 16 safeguards will be our only option. We have been abundantly clear about this since July, when we made clear that the tests for using Article 16 were already passed. Nothing that has happened since has changed that. I can of course reassure noble Lords that, if Article 16 were to be used, we would set out our case with confidence and we would spell out why it was wholly consistent with our legal obligations. We would also be ready to explain that case to any interested party - not just the signatories to the Treaty but to those with a broader interest in relations with the EU and the UK.

The EU, however, seems to be arguing something different at the moment. They seem to be claiming that it would be entirely unreasonable for the British Government, uniquely, to use these wholly legitimate safeguard provisions within the Treaty, designed precisely to deal with situations like the current one. They also are suggesting that we can only take this action at the price of massive and disproportionate retaliation.

My Lords, I gently suggest that our European friends should stay calm and keep things in proportion. They might remind themselves that no government and no country has a greater interest in stability and security in Northern Ireland, and in the Belfast (Good Friday) Agreement, than this government. We are hardly likely to proceed in a way that puts all that at risk. If the EU were to choose to react in a disproportionate way, and decide to aggravate the problems in Northern Ireland rather than reduce them, that is of course a matter for them. At that point we would be entitled to come to our own judgement about how much value we could attach to their commitment to supporting the peace process and the people of Northern Ireland as against protecting their own interests.

My Lords, this Government is always going to proceed in the best interests of Northern Ireland and indeed of the whole of our country. That means - one way or another - working towards a balanced arrangement in Northern Ireland which supports the Belfast (Good Friday) Agreement rather than undermining it. We would much rather others joined us on that journey rather than making it more difficult. I do hope, in the short number of weeks before us, the Commission and the EU Member States will look at what we have in common; will look at our collective strategic interests as Western countries; and help us find a stable and sustainable solution so that we can all move on. There is still a real opportunity to turn away from confrontation, to move beyond these current difficulties, and put in place a new, and better, equilibrium. And I urge everyone to take that road - the road not of confrontation but of opportunity - for the sake of everyone in Northern Ireland and beyond.