

# European Affairs Committee

## Protocol on Ireland/Northern Ireland Sub-Committee

### Corrected oral evidence: The Northern Ireland Protocol Bill

Friday 21 October 2022

2.20 pm

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Members present: Lord Jay of Ewelme (The Chair); Baroness Goudie; Baroness O'Loan; Baroness Ritchie of Downpatrick.

Evidence Session No. 7

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Questions 54 - 59

### Witnesses

**I:** Lyle Pyper, Managing Director, EA Martin and Son Ltd; Ashley Pigott, Managing Director, AJ Power, Craigavon.

### Examination of witnesses

Lyle Pyper and Ashley Pigott.

Q54 **The Chair:** Thank you very much for being with us today and for giving us a chance to hear from you. This is part of the inquiry that the committee is undertaking into the Northern Ireland Protocol Bill, which, as you know, has gone through the House of Commons and is now in the House of Lords. We have been to Newry, where yesterday we saw representatives from civic society and businesses, and we have seen political leaders this morning informally. We are very glad to have a chance to see you this afternoon. This is a formal evidence session, so we will send you a transcript shortly just to check that we have quoted you properly.

It is very good to see you. Perhaps I could start by asking you to summarise the impact of the protocol as it currently operates on the businesses with which you regularly engage, and to try to distinguish between the positive and negative elements of the protocol—assuming that there are both—as it currently operates.

**Ashley Pigott:** I will just give you a very short history company-wise.

**The Chair:** That would be very helpful.

**Ashley Pigott:** I founded AJ Power in 2003. We manufacture diesel-generating equipment. The business was formed with some of my former colleagues, and we were essentially betting the house on our collective abilities. The largest manufacturing plant for diesel generation at that time was based in Northern Ireland, essentially on our doorstep. Regrettably, they announced very recently that they are going to stop production. We have subsidiaries in Sweden and South Africa, and a branch office in Dubai. We sell to in excess of 80 countries in the world, and we have 80% UK content. That summarises it reasonably well.

**Lyle Pyper:** I come from a third-generation family business called EA Martin and Son, which has been selling hand tools into the whole of the Ireland market for the last 90-plus years; in fact, we are closer to 100 years than 90. We are a small business.

You asked how this impacted us from a positive and a negative perspective. Being an all-Ireland business, the key thing here is whether we are at risk. That definition in itself causes concerns and issues, because being at risk in the Northern Ireland market and being in a very competitive market means that those who are doing the same thing but solely in Northern Ireland now have a much greater competitive edge, particularly if the green and red route methodology is to be deployed. The bureaucracy of it looks good in theory, but in operational terms it would put me out of business.

That is how clinical it is, because 70% of what I do is Northern Ireland; 30% is the Republic of Ireland, so we are simply an all-Ireland business. Like my colleague here, 80% of what we procure for the purpose of resale comes from Great Britain, so in effect we have 80% moving from east to west.

There are many positives per se, but there are absolutely more negatives. Those negatives include—and you have probably heard this at many of your sessions—the time, the cost and the layers of bureaucracy involved. I could go through each of those in detail, but the biggest issue I have is that we have taken away the very crux of a small business. That is the adrenaline and the positive buzz that keeps us looking strategically to continue growing and flourishing in a market such as Ireland, which is wholly reliant on small businesses.

There are a few positives. You could say that it makes it easier, keeping within Europe, to get source of supply, but that is not strictly true because it is a longer freight to get it to us. Therefore, there are more costs, so you probably end up at a breakeven point.

Our biggest negative is that we do not feel that anybody is listening. I represent a number of wholesalers and I believe that, rather than green and red, there is a simpler solution to all of this. It is centred around

Intrastat, how it was used pre Brexit and how it could be used post Brexit. It could be extended like a VAT return to enable the same collective collation of data facilitating the duty. As a small business, I do not want to be any better than my counterparts in the Republic of Ireland or my counterparts in Northern Ireland. I just want to be treated the same and in a fair way. Intrastat enables that through extension. I can get into the detail of that, but that is not what I am here for today.

In terms of the proposal, I have met with Šefčovič's team. I have met with Members of the House such as Minister Burns and Michael Ellis. The real question is whether anyone is listening. From a small business perspective, the Northern Ireland protocol is not the concern. The politics of that can be concerning to those who want it to be, but here is the little phrase. If you take the international trading terms out of the middle of the Irish Sea and put them down the middle of our businesses, and allow the tools that we had pre Brexit, and we still have post Brexit, to do their job, we do not have an issue with the protocol.

**The Chair:** Thank you very much for that. You say that no one is listening, but you say you have spoken to Conor Burns and other Ministers. Who is not listening?

**Lyle Pyper:** Where is the feedback? Where is the outcome?

**The Chair:** You feel that you are making your points, but no one is really thinking, "That's an interesting idea. Let's work out how it might work".

**Lyle Pyper:** Yes, or at least giving some feedback as to why it is not a reasonable idea. That is the other side of the coin. I met with Jozef Hupperetz, who is part of Šefčovič's team. I had a lot of great feedback from that team.

**The Chair:** The EU is giving you feedback, but you are not getting anything from the British side.

**Lyle Pyper:** No, not as much. You get acknowledgement and thanks, but that is where it ends. It is trying to get us to a position where at least we know why not, if not.

**Ashley Pigott:** I had better answer your question.

**The Chair:** I was not going to let you off the hook.

**Ashley Pigott:** I did not think you were. As for the positives, we do not have to use a form called T1 to transact into Europe, which would mean that the consignee would essentially be paying VAT on receipt. As for the negatives, we have 15,251 components in our manufacturing system. Those are all coded and were all done pre the introduction of the protocol. It is really quite simple; for every pallet, box and trailer we have a cost line today of between £30 and £50, so the value of what is in that box does not matter—we are paying £30 to £50.

If you look at the pre-introduction of the protocol, on the basis of our material cost as it relates to our accounts, which effectively gives us our gross margin, we saw a 3.7% increase. Some 2.4% or 2.5% could be explained by material inflation; the rest is protocol-related.

We have a situation where, when we look at it against our UK competitors, we are typically 1.25% worse off for what we classify as essentially zero benefit. We are a British engineering company. A lot of our distributors in the world market very heavily on the basis of British engineering because of its reputation. It is not possible for us to start sourcing materials in Europe because of CE certification, et cetera. You just cannot do it. It is like saying to Jaguar, "Change the engine in your car and begin production in a couple of weeks' time". It just does not work like that.

The impacts are huge, in our eyes, and I just cannot see any real solution to it in the short term. The protocol is very damaging to our business. If it hurts us with 15,251 components, what is it to a really large manufacturer? I am fairly fortunate; it is my business and I can speak. If you work for a multinational, particularly an American multinational, you cannot make any political statements. They have codes of conduct, et cetera. I am just trying to call it as it is and say how it has affected us. There are enough challenges today with component supply and inflation, and you keep having to come back to work on the protocol.

**The Chair:** Thank you. That is a sobering set of remarks. We will come back to some of those in a moment.

Q55 **Baroness Ritchie of Downpatrick:** You are both very welcome. I have two separate questions. Lyle, you have already encapsulated the issues for you in terms of the red and green dual-regulatory zone and the actual operation of your business under the protocol. How significant an issue is the protocol compared to other opportunities and challenges that your businesses have encountered pre protocol and since the protocol?

**Lyle Pyper:** I will break that down. We are a small business, so labour turnover is not big. Labour is not significant for me, although I will come to that. My colleague here has alluded to the cost element. It impacts everything that goes into our business. I concur about that £45 or £50 per pallet. Put that across hose fittings and all of a sudden a hose fitting in a shop goes from £1.15 to £1.25, and everybody thinks it is to do with the Far East, oil, Brexit, or whatever. They just think it is an amalgamation, but in effect we know that the east-west movement is costing that in itself.

The protocol is my number one concern by far, for three reasons. One is the cost of logistics, because if the east-west issue was taken away and replaced by taking us as trusted traders and putting it down in the middle of our businesses, we would not have at least £35 of that £50, if not £40. The biggest cost element is getting it across the Irish Sea.

I do not know how close you are to the TSS system or to duties clearance, but I do the ENS, the SFDs, the SUPs, I know the GVMS, so I am very familiar with it. I have done about 990 of them as I speak here today. It takes me an average of an hour of my time as the managing director of the company. I am no longer using that to drive the company forward. There are only so many hours in the week. I cannot get home to see my wife.

At the very start, allow me to describe it as personally very difficult and stressful. Now it has become the norm, but I am still doing seven days a week and I am still playing catch-up, particularly at the weekend, to do what is required for TSS. Can I afford to give that to a clearing agent at the port? No, and there is no reverse of that. If I get a container or a pallet in that is incorrect, can I send it back and get my duty back? Can I send it back and get my logistics costs back? No, so everything is east-west, but there is nothing west-east to offset that.

I will give you one example, and I will keep it short. If I bring in very simple high-vis jackets, there is a 12% duty. I am an at-risk business. I go over all 32 counties of Ireland, and I am very proud to do so. My colleagues who are in competition with me in Northern Ireland, only doing the six counties, and are not at-risk businesses do not have the 12%. The Government will say, "Oh, but you can reclaim that". Yes, but at what cost? I have had all the administration costs and all the layers to get it in. I then have to do a reclaim with more layers, and all of a sudden I might as well have paid the 12%.

When I go into the shop to sell it, can I sell it 12% dearer? No, there is no way. For me, that is clinical. If you wanted to call Northern Ireland her own market, I call Ireland my market, so do forgive me. At the same time, that is just in the context of the green and red lane. Put that down the middle of my business and, as a trusted trader and as a VAT-registered business, there is no reason why I cannot detail exactly what we have sold back into Europe, be that Ireland, France or Germany. I can tell that very clinically through the Intrastat return.

I go back to labour. Why am I doing it as the managing director? Because I do not have the skill elsewhere on the team. It is as simple as that. To buy that skill, I could not afford it at the margins we operate at in this wholesale sector.

**Ashley Pigott:** I think you can guess by my age.

**Baroness Ritchie of Downpatrick:** I would not make any assumptions.

**Ashley Pigott:** I have lived through big recessions in 1983, 1991, 2000 and 2009. I know how to manage a business through adversity. We are a company that has just one mode of operation: growth. Essentially, everything that we try to do is based on growing the amount of product we sell, and we spread by both sectors and geography.

The protocol adds a stress level into the business that is completely unnecessary. I will give you an example. Our largest supplier is a company based in England. They sent us a letter on 1 February that said, "Until further notice, we are unable to supply you with certificates of origin". It does not seem like very much. That was the lights-out moment, essentially. We would have to pay 4.2% duty on a business with which, this year, our spend will be eight digits. You can do the mathematics: 4.2% on the lowest number. What could we do?

Their problem was essentially component supply and logistics. This is a billion-pound company that could not supply us with certificates of origin. That would bring in further complications if we had to pay 4.2% duty. It would be under most favoured nation—MFN—classification of WTO, and we would then lose access to any of our UK trade agreements, so we would be looking at situations of 20% duty. I do not need that stress in life. Like Lyle, we are spending an inordinate amount of time doing things that add absolutely zero value.

**Baroness Ritchie of Downpatrick:** Do you mean the bureaucracy?

**Ashley Pigott:** The bureaucracy is just huge. My concern is with interpretation of legislation. I am not sure exactly what TSS is costing, but I believe that it will be somewhere in the region of £350 million. What I can see coming down the tracks is that the Government will stop doing it and will privatise it. TSS is essentially the first half of the CDS customs system, so if we are left with a situation of having documentation other than an invoice and a packing list, we will not have all the rest of it, but we will still have those costs, which are detrimental to manufacturing in Northern Ireland.

Q56 **Baroness Ritchie of Downpatrick:** What is your overall assessment of the UK Government's approach to the protocol, including bringing forward the protocol Bill, and do you think that the protocol Bill represents a viable means to address the issues that have arisen and that you have encountered under the protocol?

**Ashley Pigott:** I have tried to read it and I know that you, my noble Lords, are much more knowledgeable than I am in respect of legislation. You have the terminology—"an enabling Bill"—and it is very much down to a Government Minister, so in some ways you are into an element of trust there. I think the legislation has to come forward, because you are not going to be treated well in a negotiation unless you are negotiating from a position of strength.

Will it solve our problems? I very much doubt it, because it is down to how things are interpreted. At the start, as I am sure Lyle would agree, everybody just looked at the words "at risk". It has since been defined: if it is a machine tool and screwed to the floor, it is not at risk. Everything else that is not screwed to the floor is at risk. That is the sort of problem we encounter.

**Lyle Pyper:** As an at-risk business, I have declared myself not at risk very openly, with HMRC as well, so everything has been done above board. For me, the protocol Bill is not about the Bill in itself. I totally concur with the legislative side of it. It is about the "how"; it is about the mechanics and methods of operations; it is about taking the costs out of it but keeping transparency, accountability, the ability to audit and an even playing field with European as well as with UK businesses. I am very clinical about that.

**Baroness Ritchie of Downpatrick:** What is your assessment of the UK's approach in relation to the protocol, particularly in bringing forward the protocol Bill? Has that helped your situation or hindered it?

**Lyle Pyper:** It is the status quo in many respects, but it probably has the potential to hinder more than help it. It is a fine dividing line. Again, it comes down to how it is implemented and the workings of it. For the 990 movements that we have had into us, it took me over 990 hours. I kept an eye on the timeclock when I was doing it. The methodology that I am using based on Intrastat takes me less than half an hour for a whole month, irrespective of the number of movements I have east to west, because that data is already there. With a bit of extra information, we are there. I do not know if those sitting around the table are aware that Intrastat has changed to include country of origin and different elements, so it completes and almost circles what is required for the declaration of duty.

**Baroness Ritchie of Downpatrick:** Could you share your information on Intrastat with the committee?

**Lyle Pyper:** I can share it very openly. I have done with Minister Burns. I will do again with anybody who asks me.

**Baroness Ritchie of Downpatrick:** Could you do that and send it to our clerk?

**Lyle Pyper:** I have already sent your officials an attachment of the basic principle of what I am talking about, but I am quite happy to talk through it because it might bring it to life.

Q57 **Baroness Goudie:** Good afternoon, gentlemen. What is your overall assessment of the EU's approach in relation to the protocol and in particular its response to the Bill? Is the EU going far enough in addressing the problems that have arisen under the protocol for both your businesses?

**Ashley Pigott:** I come from a purchasing-related background where negotiation is absolutely key. You always want to be negotiating from a position of strength. Going back to Brexit, and I am quite open about this, I was very agnostic about it. There were lots of trade associations pushing people to try to encourage votes in certain directions. I did not do any of that. People's decisions are their own.

Three months after the decision was taken, at the chamber of commerce, Simon Coveney came up and addressed the audience. To precis it, he said, "The UK is not going to pick off each individual European country". Then he finished with the statement, "This is not about the money". Whenever anybody says that to me, I always have the reverse thought. At the end of the day, it is about the money.

Do not get me wrong: there are faults on both sides, but the EU's actions have very much been to protect Ireland. They have got what they want. How are you going to change that dynamic? The only way is essentially to be in a position of strength. How is that created? It is not for me to say, but I think the Bill is one element to it. I know that it upsets them for sure, but this situation just cannot continue. If you look forward in Northern Ireland, you might be aware of it, but state aid is very important to all the regions of the United Kingdom. You are getting into the situation now where manufacturing businesses, particularly for FDI, will start looking at the numbers. When they start seeing costs with no value, we are at high risk with those companies.

The EU has not behaved very well across the board. Things could have been done a lot better. To a certain extent, we were collateral damage in the original agreement. That is just my honest opinion.

**Lyle Pyper:** Going back to the very early days, I was a participant in the shaping of TSS, as you are aware. In terms of how I see it and how it was perceived, it was top-down, not bottom-up. All of a sudden, we were having put upon us what was deemed to be the right thing to do, as opposed to doing the right thing, with no understanding of the domino effect or the impact of that at a day-to-day operational level. From my perspective, it was the wrong approach on both sides.

Having been a participant in a few committees on both the United Kingdom side and the European side, I get the same feedback from both parties. I often scratch my head and ask, "Why can't they just agree?" I do not think it is so much about the protecting of trade. It is more about the protecting of politics, but, again, that is outwith my remit.

From the perspective of pre and post, prior to Brexit a Northern Ireland company was part of the United Kingdom and it was also part of Europe. Post Brexit we are part of the United Kingdom, and guess what? We are also part of Europe. What has changed? It is a border, a line somewhere. I will keep repeating this, because I am very passionate about it. Take that line, put it down the middle of our businesses, allow us, as we were pre Brexit, to be trusted by the European Union and by the United Kingdom Government, and allow us to do what we are good at. Being fair to our colleagues in the Republic of Ireland, predominantly, because that is the big market, we have to be on the same level playing field. I think we can be quite easily. That is my personal view.

Q58 **Baroness Goudie:** Now that the talks have started again between the United Kingdom and the EU, how realistic is it to expect a mutually agreed settlement with the EU? Do you see how you could describe a



potential landing zone for compromise and agreement between the two sides?

**Ashley Pigott:** I do not see any. I think the talks will end in failure. Again, you have political weakness and I do not think they are going to be very balanced. Our basic issue here is simply the costs that we incur, and I do not think they will be addressed. It is very regrettable, but I do not see anything moving forward in the next six months.

**The Chair:** If they end in failure, that presumably could well mean that the EU would then take measures against the United Kingdom because it had not implemented the protocol. Would that affect your business?

**Ashley Pigott:** No, not really. If you break our business down, it covers 80 countries. The European element of our business is 10% of our turnover. We export 80%, but 70% goes to the rest of the world. We are working in markets such as New Zealand, Australia and Vietnam, all the way through to people in Chile and Bolivia. We are not overly concerned about that element of the EU and potential retaliation. If they do not get their way, they will always threaten to retaliate. The very simple question is whether they want this resolved for the betterment of the people of Northern Ireland. If I am sitting in their shoes, they have everything they wanted. Why do they have to give?

**Lyle Pyper:** The Attorney-General, referring to the European view of Northern Ireland, described it as being a fly on the hip of an elephant. Yes, we are small. We are probably insignificant in the big picture in terms of Europe. We are on the periphery. We are probably a pain in the side of the United Kingdom, but we are human beings. We are businesses. We get on with it. There has been too much work done in going down channels that will be very hard for the Government to retreat from within the United Kingdom. There has been quite a precautionary stance in respect of what we will and will not do on the European side.

I have given the landing ground today; I am sincere in that. The landing ground is enabling the very people you are talking to and the businesses we represent to be trusted post Brexit, using tools that exist and that will not cost an awful lot to extend, because they are in our computer systems from before Brexit. I come from 29 years in the drinks industry, working across the excise side of things, and I think that with a bit of a will that can capture probably 95% or 96% of the transactional movements to Europe from Northern Ireland. That cannot be a bad place to land.

**Baroness O'Loan:** Can I be absolutely clear, Lyle, on what you are saying about moving the border from the middle of the sea to the middle of your business?

**Lyle Pyper:** I am going to take the word "border" out of it, if you do not mind. I would talk about taking the international trading terms out of the middle of the Irish Sea and into our businesses. I want to be very clear about that. That is the incoterms, as we would all talk about them. The

reason for that is that veterinary checks and food checks must go on. I am a European. We must protect the European side of things. Those spot checks can still take place.

I come from a farming background, so all of that good stuff must go on, but done in a way that is agreed in the landing zone we have with the European Union and the United Kingdom Government, by spot only, and that is respected in terms of the penalties thereafter. However, if we take the international trading terms out of the middle of the Irish Sea and put them down the middle of our businesses, we have totally free movement. We can say, "Let's raise a purchase order, get a goods receipt note and process it on our computer". We are back to where we were, full stop, for all Northern Ireland businesses, whether they are at risk or not.

**Baroness O'Loan:** Just so I fully understand, you are saying that this would apply to 96% of products delivered to you or dispatched by you.

**Lyle Pyper:** I would say 96% of businesses. The service sector is the one I have to be mindful of, but for the production, operation and manufacturing sector this would apply to the majority.

**Baroness O'Loan:** This would then have an immediate impact in reducing prices.

**Lyle Pyper:** Yes, 110%.

**Baroness O'Loan:** It seems so simple.

**Lyle Pyper:** It is so simple.

**Baroness O'Loan:** I have to ask you the question.

**Lyle Pyper:** Keep asking me, because I want someone to catch me out and say, "This won't work".

Q59 **Baroness O'Loan:** It will not be me. My specific question is this. What impact is the continuing political uncertainty around the protocol having on the economic climate in Northern Ireland? What impact will the protocol Bill have on this economic climate, if and when it comes into law? You have addressed that very nicely in the course of evidence, but is there anything you want to add?

**Lyle Pyper:** Brexit is being cloaked by events happening elsewhere, from Putin and the Far East logistics right through to the instability of our current Government in the United Kingdom. There is a reality that if Brexit gets hidden, it will be like that fly that the Attorney-General talked about. It will come back and get us in the tail if we do not address those underlying costs, processes, layers of skill and layers of bureaucracy in terms of the protocol and how it is being implemented.

I will come back to the "how". I think there is a political landing ground. There is a will in all businesses to make this work. There are successes to be had when it does work. They are not as clinical as, dare I say it, some politicians will make them seem, because at the end of the day Northern

Ireland is wholly dependent on imports from the UK, from Europe or from afar. We have very little source in our own right, other than agriculture, which is a big element here, but to sustain agriculture requires all of those elements as well. I trust that answers the question.

**Baroness O'Loan:** It does, thank you.

**Ashley Pigott:** To take the question in two parts, we do not wake up in the morning and start thinking about the politics of Northern Ireland. We had relief for three years when we did not have to listen to Radio Ulster. I think you understand what I am saying exactly there. We just do not think about it at all.

All I would ever say is that, very simply, actions have consequences. If there are actions politically that lead to legislation, there is always a consequence. I have a duty of care to all my employees, to my supply base employees, and to the shareholders of the business. That comes first across the board.

If the Bill comes forward, you will see quite a pushback, particularly from trade associations, because the narrative has been very much in support of the protocol. It has mainly been from a lot of people who do not really understand the technicalities of what is involved, because they are not actually running businesses. I hate to say it, but next year will be my 50th year working. I started in the coal miners' strike. They do not understand, and you are starting to see politics trying to be translated into the economics of the protocol. I tend to stay away from anything that is constitutional and so that just does not come on to my radar. It is just a question of duty of care to my employees in particular and trying to grow the business as quickly as we can.

**Baroness O'Loan:** What do you think will be the impact on your sector and on the economy as a whole of the proposed dual regulatory regime? You have considered that. Is there anything you want to add?

**Ashley Pigott:** Dual regulation is not an issue. Today, we have to meet standards in various countries, for example SONCAP certification in Nigeria. GOST-R, which we now do not need, is a Russian standard like the old-fashioned British kitemark. We do this on a constant basis, but even inside Europe, although everyone thinks Europe acts as one, there are local ordinances. There are differences between Sweden and Denmark on fuel and things like this. We work with and understand that reasonably well. It is not a major concern for us at all.

**Lyle Pyper:** In terms of the dual regulation, I see myself as being responsible to the UK Government, but also to the European Union, because of the privilege we have of being classed as both at this point in time. Dual regulation from that perspective does not bother me.

What bothers me is when I see brands that I represent making changes to their labelling, to try to protect the movement of that product from Northern Ireland back into the EU. All of a sudden, as a 32-county

business, that is beginning to give me extra worry, because I have already had some customers ring up and tell me that the revenue in the Republic of Ireland is saying, 'You can't sell that spray paint any more, simply because it doesn't have a UK address on the labelling, registering that company in Ireland or in the EU'.

That is taking place already. I am sitting in a green shed in the middle of nowhere and I am asking, "Whose idea was this? What's this about?" I spend two hours trying to get to the bottom of it, but I am none the wiser, other than that I know that it is happening. There is implementation of regulations happening. At times I wonder, "Have they been authorised or have they not? Why don't I know about them?"

I have no problem with dual regulation. I think all VAT-registered businesses in the United Kingdom and in Europe will duly comply with the legislation. I just think that we have to be brave, in the UK Government and in the European Union, and say to ourselves, "Let's have a bit of mutual respect here and get back to the trusted trader for the Northern Ireland businesses", to allow that landing ground, which is us, to take shape.

**The Chair:** Thank you very much indeed, both of you. That has been a very sobering session, if I may say so, and given us a great deal to think about in terms of both the problems you face and the potential solutions. We are very grateful to you, and I promise you we are listening.