



HOUSE OF LORDS

Northern Ireland Scrutiny Committee

Corrected oral evidence: Strengthening Northern Ireland's voice in the context of the Windsor Framework

Friday 13 June 2025

10 am

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Members present: Lord Carlile of Berriew (The Chair); Lord Dodds of Duncairn; Lord Empey; Baroness Goudie; Lord McInnes of Kilwinning; Baroness Ritchie of Downpatrick.

Evidence Session No. 5

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Questions 47 - 52

Witness

I: Dr Steve Aiken OBE MLA, Ulster Unionist Party.

Examination of witness

Dr Steve Aiken.

Q47 The Chair: Good morning, and welcome to this public meeting of the Northern Ireland Scrutiny Committee. This is the fifth evidence session of our new inquiry on strengthening Northern Ireland's voice in the context of the Windsor Framework. We are joined by Dr Steve Aiken MLA from the Ulster Unionist Party. Everybody is very welcome and we look forward to your evidence, Dr Aiken. We would be grateful if you could introduce yourself briefly when you first speak. Today's meeting is being broadcast and, as you know because you have done this before, a verbatim transcript will be taken for subsequent publication. It will be sent to you to check for accuracy. I refer to the list of Members' interests, as published on the committee's website.

Can you assess for us the extent to which the voices of Northern Ireland politicians, officials and stakeholders are currently being heard in the context of the Windsor Framework and the reset?

Dr Steve Aiken: I preface my remarks with a short introduction of who I am and the relationship, because that will be important as we go through the evidence session. I apologise to the learned Lord from east Belfast. He and I have been working on this for a very long time.

The Ulster Unionist Party's position on Brexit was that, right from the beginning, we believed in remain—not necessarily because we had any overall expectations of the European Union but because we anticipated that a lot of these things would happen. I cannot count the times that, along with my learned friend here, we told people from Europe, the United States, London and Dublin, time and again, what the consequences would be if we went forward.

It is very germane that we are having this investigation and committee report at the moment. I again refer to my learned friend, because one of the things that together we put to the then Prime Minister—and particularly to John Bew, who at the time was the lead adviser to the Prime Minister—was the idea of having a committee within the Assembly so that the Assembly could have some degree of oversight. The question always was: in the entire vast EU acquis, where could the Northern Ireland voice be heard, particularly as Northern Ireland is part of the United Kingdom and not part of the European Union any more? How could we have influence in that process and manage to do that?

It is not a question of access, because we have had very good access. We have talked to the EU President and Michel Barnier, and Maroš Šefčovič and I are still virtually on speed dial. We have had all those conversations. We have had good conversations across Whitehall, with the various Cabinet Office officials and the other various officials.

We have not had such detailed conversations with the departments. There is not a lot of understanding of Northern Ireland at the best of times within Whitehall, and now there is even less understanding because of the complexities of EU regulations and where we sit within the unique relationship that there is.

We have had a spotted interrelationship with the Irish Republic. I have said many times that we had a good working relationship with Enda Kenny and Charlie Flanagan—the then Taoiseach and the Foreign Minister. We have had a reasonable working relationship with Micheál Martin and, in some aspects, we are on quite good terms with him. We had an absolutely appalling series of conversations with both Leo Varadkar and Simon Coveney. In much the same way that some people would talk about the bogeyman or something like that, the one way to scare anybody from a unionist background in Northern Ireland is to mention the name Simon Coveney. That part of the relationship was particularly poor.

Since we have access, the question is: is there understanding and are people listening to what we are saying? I am not so sure that they are. I do not believe that it is because of who we are; it is because of the complexities of the issues.

It seems that, even though we were part of the European Union for 40 years, the level of experience of specific issues within the FCDO, all the various departments and the Cabinet Office does not seem to be that great. We seem to have lost a degree of corporate knowledge, and that reads through every time we get an explanatory note that basically says, "There is no issue to worry about". When we then start going down the various lines and talking to the key stakeholders, they say, "Well, there's this issue and that issue". I do not think that there is that level of understanding across the government machine any more about the interrelationship with the EU. That is problematic, and we definitely do not have it within Northern Ireland.

That is a slightly long-winded answer, but it gives you a view. We have access, but are we getting understanding? I am not so sure. Are we able to communicate our problems and are they dealt with? It seems to be only at the last possible moment or if there is a really significant issue that should have been sorted out a long time before. That is where we are.

The Chair: One of our witnesses, Professor Usherwood, suggested to us that the complexity of the arrangements provides some benefits. Do you agree with that view?

Dr Steve Aiken: As I explained to Lord Dodds, we took the Windsor Framework committee across to Brussels for a sort of education process. Bizarrely, the only two people who had ever been to Brussels and knew the European Parliament were me and David Brooks, who ran Lord Dodd's wife's European office in Brussels. So the two people from a unionist background who were part of the committee were the only

people who actually knew Brussels and how it worked. It was quite a surreal experience.

One thing I said was that we needed to talk to the Estonians and the Norwegians. They said, "Why do you want to do that?" I said, "We need to talk to the Estonians because it is a small country that has real difficulties with dealing with the vast body of the *acquis* that comes in. How do they manage it?" The conversation with the Estonians was quite simple. We asked how they manage it and the answer was, "We don't. We accept the tsunami". We had a similar conversation with the Norwegians, who in some respects are fairly analogous to where we are at the moment. We asked them the same question and they said, "We have to prioritise. Basically, we take areas that we have really significant issues in, particularly around agriculture, some of the energy issues and those sorts of single market issues, and we concentrate on those. But we don't have the ability to deal with the others".

We are in a situation where we do not even have any of those mechanisms, even though we have some really good people in Brussels—but we have only two or three of them. We are trying to deal with this volume of information, and we have not set up a proper method of horizon scanning to know what is coming through. That will be a real problem.

Q48 Lord McInnes of Kilwinning: On horizon scanning, how does the committee feel that the Northern Ireland Executive Office in Brussels co-ordinates in giving a Northern Irish view of the policies coming down the lines, and the opportunity for the Assembly to lobby directly on any of those issues?

Dr Steve Aiken: I have known Aodhán Connolly for a long time. Previously, in the business community, I used to be the chief executive of the British Irish Chamber of Commerce, and we worked very closely together. Aodhán is first rate, but there is only one Aodhán. He has two or three secondees from here, but they cannot cover everything, and they do not have that level of expertise. I have to be careful because there is a member of that team working out there at the moment and she is feeling very overwhelmed by issues to do with energy security—that is a background area that I have. We are back-briefing on that. There is not that level of in-depth knowledge and understanding.

I am not sure whether they are that well connected with the overall British position. They get a lot done, by having been there and taking the friendly soft power approach, but there is no formal recognition, in the way the Norwegians have, to say that they are allowed to be an official formal observer on the various committees coming through that are germane. That could possibly be a way ahead, but it is a curiosity that needs to be looked at. It relies an awful lot on walking the floor, which is always a good thing if you are a part of an embassy's staff, but you need access to all the European systems that are coming through. You just need to be an info addressee on the emails.

What you get, and the openness that they manage to get, are useful. But they should have a mechanism to say, "Here are the issues of agriculture and the rest of it. Five people can hot-desk here in our bureau in Brussels. Can I have five people from DAERA who know what this is to come and sit beside us and ask the right questions?" There is not that mechanism or that degree of understanding.

Q49 Baroness Ritchie of Downpatrick: My question relates to the Democratic Scrutiny Committee, of which you are a member—of course, I think we all realise that it is not totally reflective of the membership because my colleagues are not part of that. I would say that maybe you might have a different experience if they had been in Brussels—that is coming from myself. But how would you assess the effectiveness of the Stormont brake and the applicability Motion procedure from your experience of the last number of months?

Dr Steve Aiken: I would add to that the LCM mechanism, because the LCM mechanism, the Stormont brake and the applicability Motion have all failed as items of democratic scrutiny. We had a vote in the Assembly on the applicability Motion, which said that we were not going to proceed with this, which was overridden by the Secretary of State. The Stormont brake was utilised and brought to the fore, and again, the Secretary of State said, "We're not going to do anything with it". So, two of the mechanisms that were supposed to be used as democratic scrutiny and accountability measures have been overridden by the Secretary of State.

I have made it quite clear to the Secretary of State—as you can probably imagine, I am not backwards in coming forwards when it comes to having conversations with our numerous Secretaries of State—and I said this was a huge opportunity lost. What he said he would do by not using the Stormont brake would have matched what would have happened if the Stormont brake was actually applied, rather than then making the next time the Stormont brake is used, it then becomes a matter of existential crisis for the Assembly—quite frankly, it will be; if it is exercised again and it is not acted upon, it will be game over.

Baroness Ritchie of Downpatrick: What needs to be done to improve that mechanism and to improve the ability of the Democratic Scrutiny Committee to do its work? Undoubtedly, you have informed Lord Murphy as part of his review of these issues.

Dr Steve Aiken: I declare my interest: like some other members here, I know Paul very well. We have been involved through the British-Irish Parliamentary Assembly and various associations and we sit in the same committee in BIPA. Our party has been very closely engaged with Lord Murphy on his work. But what I am going to say here will not be any different than what I told Lord Murphy.

The problem with the Democratic Scrutiny Committee is that, by its set-up and arrangement, in a year it has never taken any real action, because every time it comes down to a vote on whether we go to the next level of action, it splits straight down, between those who are

basically unionists, and nationalists and Alliance, on every single vote. The only time we ever came close to looking at anything—I think it was about dental amalgam—was when one of the other members was away. So we had it as the balance was. We need to address a method of taking away that partisanship within the Democratic Scrutiny Committee if it is going to be effective.

Baroness Ritchie of Downpatrick: Have you talked to the Secretary of State about that?

Dr Steve Aiken: Yes.

Baroness Ritchie of Downpatrick: What was the response?

Dr Steve Aiken: It was a bit like this—you probably will not get that on the audio—he was blank. We have talked to the officials. Sorry—I feel your pain, Lord Empey. We have talked many times about the problems.

When Rishi Sunak was Prime Minister and he first put forward the idea of the Windsor Framework Committee and the Democratic Scrutiny Committee, it was designed very clearly to be seen as some form of scrutiny mechanism and a method of looking at this legislation. People do not really understand what the committee does. It is not even a statutory committee; it is very narrow in its focus. It looks only at the acquis that is coming through or the things that have been noted on the European *Official Journal*. It has now become slightly less curious, but it may look ahead. But the people in Northern Ireland, the business community and everybody in Northern Ireland think that we are the people who are looking out for all EU regulation that is coming through. We are not.

Baroness Ritchie of Downpatrick: Is it sifted before it comes to you?

Dr Steve Aiken: Not only that, but we do not get a lot of the stuff. Things that are specifically agricultural, about farmers, go to the other committees, as they are not recognised as part of the Windsor Framework scrutiny process.

Baroness Ritchie of Downpatrick: Is there a link between the other committees here in the Assembly and yourselves, so that you are fully appraised of everything and there is an interconnection or interconnectivity?

Dr Steve Aiken: I would like to say that there is, but there is not. It depends a lot on the committee members. Because I sit in the Finance Committee, when we get quite a lot of legislative process come through, I ask for it and it is always put on the agenda for the other committees so they have it. But if another committee gets it and you do not have somebody saying, "Oh, that needs to go to the Windsor Framework committee", or whatever, it stays there.

We have an example where the TEO, the Executive Office here, produces a risk register of legislation that is likely to come through and the impacts it is going to have. Obviously it is the usual red/green/yellow—it will

probably be useful, my Lord Carlile, if you invited the TEO to provide you with a copy of that to see what it does. But it does not actually cover all the significant issues. Last week, we had an issue about an LCM on digital process, which I think is going through the House of Lords at the moment.

Baroness Ritchie of Downpatrick: The data access Bill.

Dr Steve Aiken: Yes. Chris Bryant, in Parliament, in a written reply to Robin Swann, said, "Oh, everything's been ticked off, and all the Administrations have signed off on it". We had not done it. We are going to be in this situation that there is an LCM going through and we will be saying that Northern Ireland is "noting it". The reason why we are noting it is, because of the complexities of the Windsor Framework, or that is what our Civil Service tells us, it was not able to get the legislation through to us to be able to look at before it was due to go through the scrutiny process. In addition, that is not even on the risk register provided by the TEO.

So, if things like that are falling through the woodwork, we have some quite significant problems. This will have a major impact on where Northern Ireland sits. One of the things we have talked about quite a lot in the past is our concerns about there not just being an Irish Sea border but an Irish Sea digital border, and we are beginning to see that more and more. These are the kind of things we cannot afford to drop away. We are seeing it far too often, I am afraid, Margaret.

Baroness Ritchie of Downpatrick: I am pondering the data access issue. You, or rather the officials, could not facilitate the Assembly approving the LCM Motion. What was their excuse again?

Dr Steve Aiken: I am quite looking forward to listening to Minister O'Dowd's excuse when it comes forward.

Baroness Ritchie of Downpatrick: So am I.

Dr Steve Aiken: Yes, that would be interesting. We had him in front of the committee last week, and we had the Permanent Secretary. For those of you who understand the Northern Ireland Civil Service, we actually had a Permanent Secretary say, "I take full responsibility for this debacle".

The Chair: Gosh.

Dr Steve Aiken: Exactly. I take my hat off to him. He actually said that he did it. But the real issue was that it went through all the statutory bodies, it was going to everybody else, but it never came to the Assembly. The argument was that it spent so long going through the Windsor Framework checking process under Article 2 that they never really got a proper response on it to bring it in front of the Assembly. I am not sure if that is correct or not. We shall await further information.

Baroness Ritchie of Downpatrick: That is utterly bizarre.

Q50 Lord Dodds of Duncairn: Thanks, Steve, for your evidence so far; it is very interesting and illuminating. I just get the impression with a lot of this Windsor Framework stuff that civil servants are overwhelmed. Politicians are overwhelmed, but the Civil Service, which is meant to provide the information, is overwhelmed. There is so much of it across so many areas that, basically, there is no way that information can be provided and on time. Is that your clear impression of what is happening within the Assembly? It is certainly my impression, even in terms of Westminster. A lot of the Explanatory Memoranda just cannot give answers because nobody knows.

We are having this discussion today on the wider implications. We are drilling down into some of the practical details—we had some very interesting examples in our previous session. What is the mechanism within the Assembly or the body, if there is one, which sits down and regularly looks at the overall impact: what is coming up, what is happening, what are the implications of all of this? Does that ever happen within the Assembly, and if not, why is that not happening?

Dr Steve Aiken: This was a particular annoyance of mine. Through the Windsor Framework committee we have a particularly good research team here. They look through the European *Official Journal* and look at areas that have been notified, but they themselves would say, “Well, if we are using the TEO risk register and some of the stuff’s not even on it, how do we look into it?” There are a lot of liaisons with Aodhán in Brussels, but even there, he is only seeing what he sees when it comes down through that pipe. There is no central co-ordinating function. Again, there is an expectation outside Northern Ireland and I talk to the business community regularly; two or three times a week, I talk to business leaders about the Windsor Framework. They say, “You’re supposed to be dealing with this because you are the Windsor Framework—the titles”, but we are not.

If there are any recommendations to be made about this committee, I would say that we first need to put the committee on a statutory basis, so that it has enough power to do it, but we also need sufficient staff behind it because we are in a hybrid form of legislation here and we may not have sufficient bandwidth—pardon the expression—of skill sets to look at it.

Many of you have probably talked to Professor Katy Hayward from Queen’s University, and David Phinnemore. Many of us would have just picked up the phone and said, “Well, what do you think about this?” It is just David Phinnemore now, because Katy is off doing AI or something like that. The level of expertise there is very limited.

The Chair: Can I raise a question related to this? I have been a parliamentarian for literally more than half my life. If, for some of that time, somebody had said to me, “You as a parliamentarian need some training in these technical issues”, I may instinctively have taken offence. But where one has something like this, is there not an argument for trying to give members of the Assembly some training, so that they

understand the sorts of questions that they should be asking of your expert staff? Is that happening at all?

Dr Steve Aiken: My Lord, you have probably been reading all the recommendations and questions that we have been making for about the last four years. I strongly believe that there should be a set of career professional development courses for MLAs. Part of that should be an understanding of the hybrid nature of where we are and how we are trying to manage the European regulations.

Some of us in the room have picked it up over four years of intense involvement. We understand what European thinking is because we sat in the room with Barnier and his team, then went for drinks afterwards or whatever. We sort of got the real story and started to build up that net experience.

Also, you know that there is a sort of parliamentary language for Westminster, which you have to be part of to understand. There is an Assembly language and there is a European Parliament language. You need to understand that, so professional development or training courses on it would be very useful.

I would be the last person to advocate for political tourism, but one thing about the meeting we had when we took the Windsor Framework committee across was that the two unionists who were there were the only ones who had ever been to Europe before and been to Brussels. You need to take people to show them how it works—to walk through the corridors and just see.

People do not really understand the difference between the European Commission and the European Parliament. They do not really understand what the process is and where it goes. They do not understand what the statutory bodies and the commissioners do, and how the triumvirate works. It is only when you stand there, in the middle of the square, that you can see, "Oh, they're way down there. I get it now". If you have not done that, you will not be able to understand that. That might be part of the education process: a two-week intensive course with one week in Brussels.

Lord Dodds of Duncairn: Do you think that that type of training would help overcome this problem that we have? It has been mentioned before within the Democratic Scrutiny Committee. Basically, when issues come, instead of looking at them on their merits across the board, it is just, "We're pro-EU. We just agree with everything" or "We are against". So there would be a proper focus, as I think there should be with all Select Committees, where you set aside party allegiances, to some extent, and say, "We are looking at this issue on its merits, with proper scrutiny across the board". You have put your finger on one of the most fundamental weaknesses, which is that even having this committee is a change of mindset and approach, but you are always going to have a problem.

Dr Steve Aiken: The other thing I would look to do, because it is a hybrid committee so we have a fairly blank piece of paper—[*Interruption*] I apologise; the PSNI is trying to get hold of me, because there are a few local difficulties going on at the moment—is to appoint two lay members, non-voting members, with sufficient experience of the issues, to what would be a statutory committee. That would be very useful, because they would act as the moderators and would have sufficient experience to ask the right questions.

Baroness Ritchie of Downpatrick: Would they be unelected members?

Dr Steve Aiken: Yes as, in that way, they would not have any voting rights. It would build up a level of experience within the committee.

The Chair: We are talking about a different structure that would ensure a higher level of information to those who would be advising the Assembly.

Lord Empey: You are talking about civil servants taking responsibility. Bear in mind that the powers in departments are vested in the departments, not in the Minister. It was a freak thing back in the 1920s, whenever it happened, so I suppose there is a bit of a read-across there. Steve, I want to follow up on the question of the committee because I understand, having been there, that its status is too low.

Dr Steve Aiken: It is, yes.

Lord Empey: It is not even a statutory committee. You know the hierarchy in the system: the juicy committees go to people, then things are pushed further down the list. That of course has implications for the people who staff them. I think there is a status issue that we have to address and make recommendations on. You have come up with a suggestion about having lay people, like non-executive board members, which we all have. Each department has a board—in London, anyway.

Do you have a crib list of recommendations formed from your experience? The other thing we picked up on was the absence of time that your committee has even to make a decision on whether there will be an inquiry into something.

Dr Steve Aiken: The time issue is something that Lord Murphy has latched on to—and that assumes that we will get it when we are supposed to get it. At least two and maybe three pieces—but I would not quote me on there being a third—arrived after the time limit when the decision was supposed to have been made. Two came in from the Cabinet Office, which basically said, “Tough, it’s done. You can’t do anything about it”. The time limit is really quite tight, even if it meets the deadlines.

We have talked about this level of understanding and the horsepower—for want of a better terminology—of the committee itself. Anybody who has been to the EU knows that you get about 900 pages, of which about three are actually relevant, but they are split up in such a way that you

have to read through the entire document to find the three that are actually relevant. I think that I have a pretty good understanding of a lot of areas of legislation, because I have been in the Assembly for quite a long time, I have been the Chief Whip and I have been a party leader, so I have that sort of knowledge but, unless you know how to read round, you will have difficulty picking out the salient pieces. It really needs somebody who understands that European piece.

One of the other ideas that I have discussed is the potentiality of exchange positions between the Northern Ireland Assembly and maybe the European Parliament for a member of staff or one of the staffers, so that we could start building up that experience of Europe here again, on the legislative side. We could have somebody from the EU Parliament come here to see how this place works, so that level of understanding of Northern Ireland will grow in the EU as well. That should not be at the sort of senior level; we need people who are worker bees, who understand how that system is likely to work or is capable of working. That is an idea to try to achieve that.

Lord Empey: In following up all these suggestions, the committee relies heavily on the people who service it. Is it your view that, if you raised it up at least to statutory level, that will make an impact? Do you feel that you have enough people? Committees are staffed roughly on the same level with the same numbers, but you are dealing with such complicated issues. I presume that you think your staff are fairly good, but are there enough of them and do they have a broad enough level of experience?

Dr Steve Aiken: No, we do not have enough. At the moment, our committee is one or two down through sick leave. People are either acting up or not, but we do not have that breadth or volume. In some respects, the committee can tap into a lot of the research activities in the building. I have already said that research here is particularly good—thank you very much indeed for the assistance of the House of Lords Library and the House of Commons Library, because we use them all the time.

The Chair: They are very good.

Dr Steve Aiken: They are very good but, again, you need to know what question to ask to get the answer you want, which is one of the issues. In that horrible German phrase, we do not have enough Fingerspitzengefühl of what is actually happening to be able to ask the right questions.

The other thing is that, if we pull an expert on agriculture out of the Agriculture Committee, that leaves the Agriculture Committee down, and then there are things to do with cyber and AI. When we were having conversations, Reg, with the Europeans, we never expected to be part of the protocol or the Windsor framework. There is a whole raft of things, such as carbon trading rules and the rest of it, that nobody has any expertise on.

The Chair: I want to move on now because we have not got so much

time left.

Baroness Goudie: I would like to go back to what you said about talking with Lord Murphy, both informally and formally. Having given evidence to Lord Murphy, what are your expectations from the report on the Windsor framework? How do you think it is going to help here in the Assembly and wider?

Dr Steve Aiken: Lord Murphy—Paul—knows Northern Ireland very well. Not only that but he understands the nuances. He is also appointed by Keir, and, having talked to Keir on many occasions, I know the report is not going to come out with something that is going to radically shift the issues.

What I would like to see, and I am hopeful of, is that at least there is a recognition of where all the problems lie. If we can do that—bearing in mind that, next year, we have the review of the TCA, and perhaps some of the changes that Lord Murphy recommends can be incorporated into the TCA—we can also look at changing some Standing Orders here. It will come as no surprise that one of the things I have said to Lord Murphy is that we need to have a statutory committee. Everything I have said to you, I have said to him. Those are the kind of things that I think would make substantive changes.

My real concern is that there is a piece of European legislation that is changing at the moment. It is going to have a fundamental effect on Northern Ireland that has not been identified and has not been clearly looked at. It is the changes in the union customs code. The union customs code is going to change everything. Many of the provisions will not be within the remit of the TCA to look at or negotiate, because it is not specifically trade issues, but everything else in it will change fundamentally the relationship between Northern Ireland and the rest of our nation, the United Kingdom. I do not think there is enough recognition of the degree of the problem there is going to be.

If the Stormont brake is pulled on that—I cannot overemphasise that, because I can see Stormont brake written all over this—we could go through the same process we did with applicability motions and the Stormont brake before. I think we are in a really difficult place. I cannot overemphasise that. I have emphasised that to Paul Murphy. He knows that. I have emphasised that to Keir Starmer and to everybody Reg and I have talked to. It is not a great secret, but it is one of those issues we need to look at.

Baroness Ritchie of Downpatrick: What is your understanding of the union customs code?

Dr Steve Aiken: Margaret, if you do not mind me saying, here is the problem: nobody really knows—because it is still going through the stages of the European Parliament—what is in and what is out. All we know is that the scope affects everything, but how much or how little we do not really know.

We had officials in, and it was probably one of the best sessions. We had Northern Ireland departments in front of the committee, I think it was two weeks ago, and they sat down and said, "We are really concerned about this, but we do not know enough information". It was the first time I had seen officials come in front of the Windsor Framework committee, saying "This is going to be a big problem, but we do not have any answers. Nobody can give us any answers".

Q51 The Chair: Can I move us on now? I am thinking of the whole report that we are going to produce, and there are a few issues we need to deal with.

This is something that relates to your experience. At the summit, the UK and the EU announced that they were going to work towards an SPS agreement, linking the EU and UK emissions trading systems and exploring UK participation in the EU internal electricity market, which are big issues of which you have some direct experience. I think.

Dr Steve Aiken: I have, sir.

The Chair: What is your view on those announcements and their impact on Northern Ireland?

Dr Steve Aiken: We as a party have been calling for a UK-wide SPS agreement right from the beginning. If all agriculture still followed the same rules and regulations as the EU, some of the problems would have disappeared.

The problems occur when you start going into the detail of the SPS. Within the SPS there are different sectors, and they will have different impacts. It does not deal with issues such as veterinary medicines, which is still an outstanding issue that needs to be dealt with, and it does not deal with the myriad other agricultural rules that we are now subject to, which of course GB is not.

Divergence happens in two ways. We have been diverging from GB on some significant issues, but also GB has been diverging from the EU, though not on many and not on the same issues. The divergence is not the same. It is not the case that if we were all suddenly back in the SPS agreement there would be no problems. We are still trying to scope this out.

As to the carbon trading scheme, we are in a really interesting situation here because Northern Ireland is part of the all-Ireland market, the I-SEM, and that was written into the protocol. The I-SEM is an energy trading scheme at the moment. As Margaret will know, it is not going to work until they have built a north-south interconnector. At the moment, it is just trading. There is no real physical interconnection between north and south. There are interconnectors between the Republic and Wales, which are vital. There are interconnectors between Northern Ireland and Scotland, which are vital, and there is a new interconnector we want to see coming from Scotland into Northern Ireland. Without the north-south

interconnector, it makes no difference whatever, because it is just a paper exercise.

The really significant issue on carbon trading is that, if we were all part of a European energy market, we could get rid of the provisions of the I-SEM, and that way we could have a more open and flexible trading market across the system.

If you are having real difficulties and you want a mind-puzzler of complexity, go and talk to our excellent utilities regulator, John French, and try to get him to explain to you. I sort of understand it, but my head hurts after about 15 minutes. It is a significant issue. It is not as simple as saying GB joins the European scheme. There are many more complexities in it, particularly with the pricing schemes, particularly within the market here, and how they how they marry up.

The answer is—and I apologise here to Lord Empey—that Northern Ireland should never have been on its own. It should never have had a bespoke energy system and regulator. Wales and Scotland stayed with Ofgem. We should have either been in Ofgem or part of the southern system, and it makes more sense, the way the physical connections are, to be part of Ofgem.

The Chair: That is a very helpful answer. How would you assess the measures announced in the *Safeguarding the Union* Command Paper, such as the working group with the Northern Ireland Executive, the UK East-West council, Intertrade UK and the Independent Monitoring Panel? One of the problems I have been having, certainly as chairman of this Committee, is getting an understanding of what they are doing and if they are doing it—if I can be a little rude about it.

Dr Steve Aiken: Lord Carlile, when you find out, could you send me a note?

I am not sure if they are doing anything, to be honest. I know Baroness Foster has been appointed chair of Intertrade UK, but there is no staff. It is run from the NIO, which means it has no real independence or anything to do. It at the whim of the NIO. It is part of the alphabet soup of east-west, north-south-isms, and I am trying to get my head around what they actually do.

The British-Irish Parliamentary Assembly made a very strong recommendation about the existing east-west regulations set up under the Belfast/Good Friday Agreement—just make them work. We do not need them all; just make the ones we have got work.

The Chair: I should say that Lady Foster would have been here if she possibly could have been. Unfortunately, she has got some family illness to deal with.

Dr Steve Aiken: Please pass on my regards to Arlene.

The Chair: I think she would be coming back to you on that one.

Obviously, your view is very interesting to us.

Just to make sure that we get it in, do you think there is a role for more direct Northern Ireland engagement with EU structures, not so much the very good personal relationships that you and some of your colleagues have built up, but something more structural—for example, between the Northern Ireland Executive and the European Commission or the Northern Ireland Assembly and the European Parliament—maybe going a little further than simply exchanging staff? Do you think there might be a more formal arrangement that would give the Assembly a voice in Brussels?

Dr Steve Aiken: This is very interesting. Robin Swann MP sits on the UK-EU interparliamentary assembly, but there are no people from the regions on it. We have two observers. I think we have Matthew, and I cannot remember who the other one is.

Baroness Ritchie of Downpatrick: I am the other person from Northern Ireland alongside Robin.

Dr Steve Aiken: At least we have two sensible people on it.

What we really need is some formal mechanism of having observer status on the relevant committees about the legislation going through. It would be good to find a way for Members of the Northern Ireland Assembly to be there, because, in our view, the most important part of the UK-EU relationship is the Windsor Framework and Northern Ireland. So having more than observer status for one or two MLAs—potentially from either side, to get a differing set of views—would be a good way to achieve that.

We regularly have ad hoc meetings between parties and the European Parliament—we are always going across and they are always coming here. I give a shout out to Barry Andrews MEP, who is very good at not just fulfilling his party position but covering the whole piece. He also sets up a lot of workshops and working dialogues. The issue, again, is that we need resource and funding to do some of those things, but they would also be useful.

We would like observer status on the committees, but there should also be some formal mechanisms to have MLAs as part of the UK-EU body beyond just observer status.

Baroness Ritchie of Downpatrick: Would they be part of our decision-making structure?

Dr Steve Aiken: Honestly, I am not quite sure how that all works. If I had a better view on it, I would probably give a better answer. Am I right in saying that you have met only once or twice?

Baroness Ritchie of Downpatrick: We have met once.

Dr Steve Aiken: I asked Robin about that, and he said, “Well, just wait until we have done something”.

Baroness Ritchie of Downpatrick: It might be helpful for me to say that it meets twice annually, once in Brussels and once in London. There are sub-committees, but they only convene at the main meetings.

Dr Steve Aiken: Is there a Northern Ireland sub-committee?

Baroness Ritchie of Downpatrick: No. They are more about trade and energy.

Dr Steve Aiken: Could this committee suggest that we have a Windsor Framework-dedicated sub-committee within that space?

The Chair: What about the role of the Northern Ireland Executive Office in Brussels? Is it sufficiently potent?

Dr Steve Aiken: It is very ably led, but it has too few members, and they do not have enough skill sets in that office. There are probably not even the right skill sets in the Northern Ireland Civil Service. The Executive Office needs to have more subject matter experts who are better connected to both the Northern Ireland Civil Service and the departments. They also need to be better connected to the Westminster machine and to know who is doing what and where.

The Chair: How does the able leadership of that office in Brussels feed in the information or concerns it has into our democratic system, either here or in London?

Dr Steve Aiken: Aodhán reports directly back to the Northern Ireland Executive and through the head of the Northern Ireland Civil Service. There are unofficial links that are very useful. For example, I will get a telephone call saying, "Oh, by the way, you need to take an interest in this" or "Were you aware of that?" Those are calls to me as someone on the committee, and they are built up through personal relationships, because there is no formal structure to report.

Everybody says that it is a teething period and that we are only bedding in, but it has been well over a year now, and we are still not resourcing what we need to do effectively. I have said this to the Prime Minister, to Ursula von der Leyen and to others: if we are going to get the Windsor Framework to be seen as effective in Northern Ireland, and to be accepted, even to a degree, Northern Ireland needs to be seen to have a voice. We need to understand what is happening and we need to have a better form of communication so that we know what is going on.

The Chair: You mentioned the Prime Minister a few times. Of course, he has some old professional history here in Northern Ireland.

Dr Steve Aiken: He does.

The Chair: Do you find that he is engaged in these issues?

Dr Steve Aiken: We knew the Prime Minister very well before he became the leader of the Labour Party. He is probably dealing with a huge

avalanche of things that he had not had to deal with before, but anytime we engage with him and Cabinet Office staff, it has been very productive.

Previously, we had a really good working relationship with John Bew. The issue was that John was also the staff officer for Ukraine and for somewhere else. What is needed is a mini secretariat focused entirely on those issues. We had good working relationships with Sue Gray; that is where we thought this work was going, but obviously that has all gone by the wayside. Some form of relationship might be useful.

Q52 Lord Dodds of Duncairn: We are talking about input into the EU–UK Parliamentary Partnership Assembly, all these committees and the role of the NI office in Brussels. However, I was struck by what you said about the Stormont brake and the applicability motion mechanisms, where actual power is given to elected representatives in this place to do something on these issues. Leaving aside all the informal and formal contacts, meetings and influence, we need to talk about a proper legislative process. In both cases, that was overridden.

You then went on to say that that could potentially be existential; I think that was the word you used. It would mean “game over”. Do you think that people sufficiently understand how the Windsor Framework continues to be a very destabilising problem for the Assembly going forward and for politics in general? You have been saying this for a while. Are you making the point that, unless the Assembly is given its place, this could be a source of big political destabilisation for Northern Ireland?

Dr Steve Aiken: Not could—it will. Members here will be fully aware of the daily struggle to keep the show on the road. I have always said, and have said to numerous media outlets, that the thing that will bring this down again will be something that we least expect. It will be when the border customs post opens in Larne in July. Whoever thought of opening it in July in Larne, of all places? But there we go. It will be when the border crossing post is open and somebody is bringing over their pet dog and they do not have their pet passport, and the dog dies on the jetty or something like that—God forbid that that would happen. Something like that will be the trigger mechanism, but there are lots of trigger mechanisms.

There is the fact that, under the uniform customs code there is an exemption of up to €153 for parcels. Now, everybody will have to pay customs inside the United Kingdom if you send a parcel to Northern Ireland. The answer from the Secretary of State is “Oh well, it is a faithful implementation of the Windsor framework, but that is not a problem because you can get the money back.” You get the money back in six to nine months. That is how long it takes to get the money back out of HMRC.

One of the big problems, and my biggest concern, is that people are not identifying the fact that a tsunami is coming down the tracks. It is significant. We had an opportunity when the Stormont brake was raised for something that was quite technical. There was quite a technical

answer, which the Secretary of State said he was going to do, but he did not say he was going to raise the Stormont brake.

The mere fact was that he did not utilise the Stormont brake—I would imagine that was because we are getting near to conversations between the UK and the EU about the new memorandum of understanding—has now created these circumstance. You have always told us that we have the ability to say stop, but we do not—we know we do not, because you have done it on three occasions. You have done it on the occasion of the applicability motion. You have done it on the occasion of the Stormont brake. You are also doing it with LCMs. That is three occasions. Where is the democratic scrutiny and accountability?

We have become large-scale law-takers, and it is fundamentally changing the way Northern Ireland lives, works and does things. I get it in my office every single day—around all the changes that are coming through, which most people are not even aware of, for dog breeders and people bringing in apple trees and so on. There are some really fundamental issues. Under the uniform customs code, generic medicines will be treated differently from medicines within that. Novel medicines will be treated differently. All these issues are coming forward and nobody is looking at what they are doing.

I do not want to make a bleak picture of it. We could make it work. With a few changes, we could actually make it work and work effectively. But I am not happy with it. I do not want to see an Irish Sea border.

The Chair: On that worrying note, we have run out of time. The public element of this meeting is now concluded.