OFFICIAL REPORT
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Constitution, Europe, External Affairs and Culture Committee

Thursday 2 May 2024

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CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE
10th Meeting 2024, Session 6

CONVENER

*Clare Adamson (Motherwell and Wishaw) (SNP)

DEPUTY CONVENER

*Alexander Stewart (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

*Neil Bibby (West Scotland) (Lab)
*Keith Brown (Clackmannanshire and Dunblane) (SNP)
Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Meghan Gallacher (Central Scotland) (Con)
*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stuart Anderson (Northern Ireland Chamber of Commerce and Industry)
Stephen Kelly (Manufacturing Northern Ireland)
Nichola Mallon (Logistics UK)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 2 May 2024

[The Convener opened the meeting at 09:30]

Interests

The Convener (Clare Adamson): Good morning, and a warm welcome to the 10th meeting in 2024 of the Constitution, Europe, External Affairs and Culture Committee. We have received apologies from Kate Forbes.

Item 1 on our agenda is a declaration of interests. We have a change in membership and Meghan Gallacher is joining the committee, so I invite her to declare any relevant interests.

Meghan Gallacher (Central Scotland) (Con): Thank you, convener—I very much look forward to working with everyone on the committee. I have no interests to declare just now, but should that change, I will notify you and the clerks.

Decision on Taking Business in Private

The Convener: Item 2 is a decision on taking business in private. Are members content to take item 4 in private?

Members *indicated agreement.*

Review of the EU-UK Trade and Co-operation Agreement

09:31

The Convener: Item 3 is to continue to take evidence as part of our inquiry into the review of the trade and co-operation agreement between the European Union and the United Kingdom. This week, we focus on the Windsor framework, including what it means for Scotland and Scottish business and its wider implications for the forthcoming TCA review.

We are joined remotely by Stuart Anderson, head of public affairs for the Northern Ireland Chamber of Commerce and Industry; Nichola Mallon, head of trade and devolved policy at Logistics UK; and Stephen Kelly, chief executive of Manufacturing Northern Ireland. I welcome you all—I know that Stuart and Stephen have both taken part in the committee's work in the past. We have received apologies from Simon McKeever, chief executive of the Irish Exporters Association, who cannot be with us this morning.

I open with a question. What has been the experience to date of the roll-out of the Windsor framework, and what do you see as the key challenges on the horizon? Perhaps Miss Mallon can start.

Nichola Mallon (Logistics UK): I thank the committee for the opportunity to give evidence. We represent the logistics sector, and our members tend to fall into three groups. One group is our members who move goods from Great Britain to Northern Ireland under the green lane, who are currently the most impacted by the new arrangements. Another group is those members who move sanitary and phytosanitary goods through the red lane, who will be impacted by any UK-wide application of the "Not for EU" labelling; I am sure that we will come back to that. We also have a larger group of members who will be impacted by subsequent changes under the Windsor framework in respect of customs and parcels from 30 September this year.

It is still relatively early days for the Northern Ireland retail movement scheme, but some tensions are starting to emerge as the rubber hits the road, and the legal text that has been drafted and agreed meets the real world. As an example, just-in-time supply chains for certain produce are highly complex, with multiple different actors. They move huge volumes from GB to NI, and products are continually changing; branded suppliers have a degree of autonomy in that process.

On occasion, there can be genuine human error—for example, where a lorry is stopped at a port in Northern Ireland, the packing list is checked and there is a product on the back of the lorry that does not exactly match what is on the packing list. As a result, the lorry can be held for several hours, which has implications for the driver, for the haulage operator's schedule and for staff at the depot where the load is going, with knock-on implications for getting the products to retail stores and on the shelves for customers.

We are keen that when such issues emerge—where there is genuine error or it is not possible to provide granular detail in real time—there is a pragmatic approach, based on trust, to resolve those issues swiftly. We are continuing to work with our partners in the Department of Agriculture, Environment and Rural Affairs and the Department for Environment, Food and Rural Affairs, and in the EU.

I will highlight another issue. Recently, Westminster passed a statutory instrument to pass operational responsibility for the ports in Northern Ireland from DAERA to DEFRA. We are waiting to see how the responsibilities and relationships work out on the ground, given that many of our members have very good working relationships with DAERA staff. Again, it is a new area in which we are continuing to watch for impacts.

With regard to Scotland, I highlight the commitment in the safeguarding the union deal between the Democratic Unionist Party and the UK Government that there will be no border control post at Cairnryan. We understand that that commitment is there in order to uphold Northern Ireland's unfettered access to the GB market but, again, we are keen to see how that interacts with the border target operating model when physical checks are introduced on goods coming into the west coast.

There is currently also an impact with regard to "Not for EU" labelling. Retailers that are operating goods from GB to NI can control their branding, but branded suppliers have a degree of autonomy, and we are trying to work through some of the compliance issues in that regard. As I said, the possible UK-wide extension of that will present a number of challenges for businesses in GB that import from and export to the EU as well.

The Convener: I have a small supplementary question on that. Have your members indicated that they might be changing their export model? Are we expecting a greater volume of goods coming through Cairnryan as a result of those changes?

Nichola Mallon: The figures certainly show that Northern Ireland's sales to GB are up. There is currently a huge degree of change in the trading environment. We have had phase 1 of the Windsor framework, and phase 2 is coming in later this year, so that is impacting and changing trade between GB and NI. Of course, the border target operating model will impact the movement of goods from the island of Ireland to GB.

For us, it is a wait-and-see situation but the feedback from our members is that there is a significant impact with regard to the cumulative changes to trading. Obviously, as a result of inflation and other operational pressures, the cost of doing business is a challenge for them.

The Convener: Mr. Anderson, do you want to come in?

Stuart Anderson (Northern Ireland Chamber of Commerce and Industry): Good morning, convener—I thank you for your interest in the subject, which is welcome. I think that it is the third time that I have engaged with the committee over the past couple of years, so I thank you for that.

Nichola Mallon's comments were very comprehensive, but I will add a few points to what has been said. As Nichola rightly indicated, we have only had phase 1 of the roll-out—in October 2023—and that was principally directed towards the retail movement scheme. To date, there will not have been a substantial amount of change to the customer experience, which is a positive. It is a credit to the supply chains, which have continued to work extremely hard against deadlines that were incredibly challenging last summer. Lessons need to be learned from just how challenging those deadlines were.

The NI Chamber of Commerce and Industry uses a number of tools for measuring member sentiment around the implementation of the Windsor framework, among many other things. We did that through our annual trade survey at the end of 2023. The usual caveats and caution apply. However, the data on the issue of buying goods from GB, which has—for want of a better expression—been the sticking point in the post-Brexit trading arrangements, were notable. They showed that, while a majority—37 per cent—of members said that they found that aspect either "manageable or easy", a significant minority of around 31 per cent said that they still "found it difficult". That was after the roll-out of phase 1 of the retail movement scheme and prior to the introduction of phase 2 in October 2024.

At a sector-to-sector level, we hear anecdotally that there are challenges for the carriers, as Nichola Mallon has identified, as they are at the front end of the movement of goods, in particular those red-lane goods for which there is very little change in relation to movements between GB and Northern Ireland, save for some clawback through tariff reimbursement and other schemes—which we will come on to.

Other issues concern retailers who are at the acute end of the roll-out of the scheme in October, as well as the manufacturers—I will let Stephen Kelly talk about that at length. There are those who are particularly dependent on GB-wide supply chains, largely because commercial processing is substantively caught by the "at risk" test. They are therefore subject to the rigours of the checks and controls.

Having said all that, I note that there are those who have found that the stability and certainty has brought real opportunity. A number of members have seen that stability increase over the past couple of years, with improved relationships, and they are beginning to look towards the opportunities. For example, one agri-food firm has relocated its manufacturing presence from GB to Northern Ireland because of the barrier-free trade with Europe. Another member, in the consumer products industry, is able to access both markets and to avail of them through online platforms, and that firm's sales have increased substantially over the past number of years. From a case-by-case analysis, there is no one fixed experience of the roll-out of the Windsor framework.

When it comes to the key outstanding challenges that members identified, context is important. The Northern Ireland economy is, much like Scotland's economy, dominated by small and medium-sized enterprises, although the situation is a little more acute in NI. For example, as many as 99 per cent of our businesses have fewer than 10 employees. It is no surprise, therefore, that for more than half of our members, their number 1 ask is that the guidance needs to be clearer. There is sometimes a disconnect between those who are engaged in policy and those who are undertaking real-world implementation.

The second issue that came up was to do with the efficiency of the new processes, such as the tariff reimbursement scheme and registration for the United Kingdom internal market scheme. While there has been a significant uptake of UKIM applications compared with the previous UKTS or UK trader scheme—I apologise for all the acronyms—our members noted that the UKIM scheme is quite bureaucratic and challenging to get across.

Among the top three issues, the final basket concerns the management of divergence. In particular, the management of emissions trading comes up repeatedly at present. Northern Ireland is currently not part of the EU CBAM—carbon border adjustment mechanism—and the EU would have to request, through the Windsor framework, that Northern Ireland becomes part of it. There is currently a consultation on the UK CBAM scheme, which is slightly different from the EU scheme in its scope and application. Given our interdependence on both markets, that is a case in point that illustrates the challenges ahead.

It is very much a mixed bag. However, we were previously dealing with a protocol that was substantially not being implemented, and we are now dealing with the Windsor framework, on which both sides are committed to implementation, so the dynamic is slightly different from what it was a number of years ago.

The Convener: That is great—thank you for that.

Stephen Kelly (Manufacturing Northern Ireland): One of the benefits of following two excellent colleagues is that it leaves me with very little to say that can add value for the committee. I am very grateful for both of their contributions, which leave me in that position.

The only thing that I will add is about the two purposes of the Windsor framework. The first was to deal with the issues that were identified by traders and others regarding the operation of the Northern Ireland protocol and to find agreement to avoid potential conflict between the UK and the EU. The second purpose was to create a basis for our politics to settle and for our Executive to reform. We have seen that, and there has obviously been additional work, with documents such as “Safeguarding the Union” and so on.

Some 90 days ago, our Northern Ireland Assembly and Executive returned, and we now have in place ministers who are taking decisions on the economy. For the first time in a number of years, we have a budget, approved by the Executive, which gives clarity and certainty for departments on their spending and programmes.

09:45

More important than all of that, the politics sets the mood for the people. Yes, politicians are there to make decisions, hold ministers to account, intervene whenever crises appear and introduce policies that change the operating environment for businesses and citizens. Fundamentally, however, the politics sets the mood, particularly in Northern Ireland, which has had such fractured politics for so long.

When I talk to my members, their expectations about what our politicians can do are, therefore, perhaps muted. More important than anything else, they are very grateful that our Executive is back. We have ministers in place and relationships have improved, and we can begin to have a stable basis on which to move forward.

The Convener: We move to questions from committee members.

Mark Ruskell (Mid Scotland and Fife) (Green): When reflecting on Stephen Kelly’s comments, I was thinking in particular about Cairnryan. What practical changes might be needed in how Cairnryan operates its facilities? I note that there will be no border at Cairnryan, but, given where we are with border checks and agreements, what might need to change to meet your members’ needs at Cairnryan in the future?

Stephen Kelly: There is a famous video of a former UK Prime Minister at a reception waving a piece of paper and saying, “Should anyone ask for any paperwork, phone number 10 and put the paperwork in the bin.” The UK Government gave a commitment that there would be no operational change to how goods from Northern Ireland would travel to the rest of the UK marketplace.

An important part of the work that we, as a business community, have done is to ensure that one part of our dual market access is continued unfettered access to the rest of the UK marketplace. Not having physical checks and controls at the point of arrival from Northern Ireland into Scotland, at Cairnryan, is really important for us.

However, we do not want a scenario in which Irish customers or businesses drive through Northern Ireland to get to the point of control in order to have the same benefit that Northern Ireland has. Dual market access is meant to be for Northern Ireland only; it is not meant to be for Irish businesses. We have a dilemma in that, by necessity, we need to have open, unfettered access into Scotland and the rest of the UK marketplace, but, at the same time, we require some control so that it is not a back door to enable our competitors elsewhere on this island to drive past us into that marketplace.

Our colleagues in agrifood were pretty insistent that they would welcome some control and that, although border control posts might not be necessary, other controls would be put in place to make it more difficult for Irish competitors, over Northern Irish customers, to serve the UK marketplace.

It is unclear what that will look like in practice in the long term. Will it mean that Irish customers might think that it is an easier route to travel through ports in Northern Ireland to Scotland as opposed to travelling from Dublin or other Irish ports directly into Great Britain? We are not so sure that that is happening. I do not have the ports statistics—I am sorry—but the assumption will be that businesses will take the route of least resistance, as all businesses do. If that is via Scottish ports, by necessity, to keep unfettered access to Northern Ireland, I suspect that that will continue to happen.

Nichola Mallon: I very much agree with what Stephen Kelly has said. Cairnryan is a critical route for our members and for the movement of goods between GB and NI, and it is key that unfettered access is secured. Steps are also being taken to prevent things from getting in through the back door. There is a need for a greater flow of information about Cairnryan and west coast operations, checks and facilities. The information needs to be easily digestible for businesses, because, at the minute, they have to navigate so many different gov.uk and devolved Government web pages in order to understand the latest position.

If you do not mind, I will take the opportunity to raise a related point that is of critical importance. There is an increasing shortage of crew to service the domestic ferries that serve GB and NI. At the moment, the way to secure crew, who are largely Polish, is through sponsorship. However, that does not work for seafaring crew, because they do not wish to apply for permanent residency and do not meet the criteria for it. That leaves the frontier worker permit as the only option, but there is a stipulation that applicants for that permit must have worked on a domestic ferry prior to the UK's exit from the EU exit. The further away that we get from that date, the fewer the number of crew members who meet that criteria. Ferry operators run their own UK sea cadet academies, but it has proven to be continually challenging to get domestic seafaring crew. Operators have highlighted that as one of their most crucial challenges.

Having a finite pool of crew means that multiple unforeseen absences could result in a ferry being pulled off a route. It restricts our ability to increase tonnage on existing services between GB and NI, and it limits our expansion and growth plans. Ferry operators, Logistics UK and other organisations have been lobbying for potential solutions. There could be an exemption, as there is for the poultry and horticulture sectors, for example, or the requirement that applicants for a frontier worker permit must have worked previously on a domestic ferry could be removed. That is a key challenge, which has the potential to significantly disrupt trade between GB and NI.

Mark Ruskell: That is useful to know. Are we hitting the buffers in that regard now, or are you anticipating that there will be problems with ferries being taken off routes in the next year or two?

Nichola Mallon: It is a challenge at the moment, because it is creating uncertainty and ferry operators are having to manage the problem. People who qualify for the permits have them until only 2025-26, so there is greater uncertainty beyond that point. That is why ferry operators, Logistics UK and other organisations have been highlighting the issue. We believe that it needs to be addressed through some form of exemption for the domestic ferry industry.

Mark Ruskell: It is useful for the committee to hear such practical, real-world concerns.

Stuart Anderson: I am really pleased that Nichola Mallon has raised that issue. It is important to underline that it is not just a business concern but a cultural concern. We should be working together to address such practical challenges.

The UK as a whole is suffering from a protracted state of low growth, so we must tackle any barriers to trade in any direction. Northern Ireland having unfettered access to the GB market is crucial for GB food security, as Northern Ireland is a key constituent part of the UK food supply chain. As Stephen Kellly mentioned, our agrifood colleagues were insistent on the integrity of their produce in the UK market being upheld, for commercial reasons as well as marketability reasons. Therefore, changes were made to the definition that sought to strike a balance in ensuring that it is NI goods from NI establishments that flow from NI into GB while ensuring that unfettered access is protected and upheld.

As we increasingly look at the challenges with food security, among others, we must consider where we go in relation to an SPS or agrifood agreement with the EU in a future TCA negotiation. That question is raised continually in the circles in which we, collectively, operate.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning. You have all talked about the challenges and opportunities that are appearing because of the framework. Having the Executive back in function will certainly help the process, but when we have had discussions with individuals from different sectors, we have been told about added costs because of wages, staffing, bureaucracy and employing new people.

Stuart Anderson talked about the impact on small companies—the majority of companies are small—and the level of growth, which means that there is a reduced number of opportunities in some ways. We have heard that some businesses have not managed to survive because of the additional burdens. Is that still the case now that the Executive is up and running and doing things, or are there opportunities to negotiate and discuss what can be achieved now that the Executive is trying to support Northern Ireland in this process?

Stuart Anderson: I will answer that question in two parts. Collective political buy-in to Northern Ireland's unique dual market access status was always missing. However, a number of our businesses continued to quietly go about their business and avail themselves of the opportunities. Such opportunities have presented themselves in health and life sciences, and in other areas, as can be seen in the statistics. Some of our members certainly made the most of those opportunities.

We are now seeing a consolidation of support, because we have a stable agreement in which both sides are committed to implementation. As a result, we have the Executive in place, and layered on top of that is Invest Northern Ireland—our economic development agency—which is actively exploring what dual market access means for each sector.

However, I get a little bit uncomfortable when the situation is presented as a panacea, because it is not. The opportunities are unique to certain sectors. There are no benefits to businesses that operate in only GB-NI supply chains and manufacturing, for example, so it is important to contextualise where the opportunities are. They are relative and real, but it is not a panacea with regard to all our growth problems. There are many other issues to consider.

Alexander Stewart talked about ensuring that the Executive plays its role in supporting our members with resources and staffing. We do a quarterly economic survey, and some interesting trends emerged from Q1 of this year, particularly in relation to manufacturing. Northern Ireland had some of the poorest-performing indicators in manufacturing. For example, relative to other UK regions, we were the worst performing in terms of operating at full capacity. Added to that are the challenges of operating on the island of Ireland. Our corporation tax rate is double the rate that is paid by those who are just across the border. Stephen Kelly is up in the north-west, literally just a few miles from the border, where there is full access to the European pool of labour, lower corporation tax and access to skills.

Our unique status in the UK creates an additional challenge to deal with, but migration is a reserved matter, so it is very much an issue for the Westminster Government to deal with.

Alexander Stewart: Nichola Mallon, can you give a flavour of what you see? As I said, we need to consider the logistics of putting things together. You have already touched on the potential issue relating to ferries. Do other sectors face the same potential problems coming down the road with visas, staffing and the logistics of moving people and commodities around?

10:00

Nichola Mallon: In the logistics sector, we had a very well-documented shortage of drivers not that long ago. Our feedback from members suggests that the situation has eased somewhat, but the challenge in recruiting mechanics and technicians continues to present a problem to the logistics industry in Northern Ireland and across GB. That is the case without the advancement of technology and alternatively fuelled vehicles, which will require a whole new skill set, so we need to get ready now by nurturing and developing those skills. Those are the key pinch points in relation to workforce challenges and capabilities.

In the logistics industry, we are very keen to promote our industry to a new generation. Logistics UK is working with the Department for Transport and other departments on the Generation Logistics campaign, because we are firmly focused on ensuring the sustainability of our industry and increasing diversity and inclusivity in our workforce.

However, our members already operate within very tight profit margins, and the cost of doing business has increased. Although the price of fuel is somewhat stabilising, it is a significant outlay for our members, and there have been wage increases to try to recruit and retain drivers and so on. I am sure that we will come on to this but, on top of existing costs, there will be potential additional costs in relation to how GB-wide “Not for EU” labelling might manifest, as we might need to segregate runs, have additional storage space and so on.

It has been a challenging environment, but the logistics industry has a very agile workforce. The industry has absorbed many challenges and shocks, and it is trying to get on and do what it does best: getting goods to where they need to be in the shortest possible timeframe.

Alexander Stewart: Stephen Kelly, we have heard that extra burdens are being placed on the manufacturing sector. Trying to manage that will be, and already is, a big challenge. You have no doubt seen some companies that have not survived the process and others that have found new opportunities. It would be good if you could give us a flavour of how it all works.

Stephen Kelly: We have not seen any companies not surviving the process, but we have seen many companies grow quite significantly. Stuart Anderson outlined it well. The Windsor framework has no real benefit for businesses in Northern Ireland that manufacture goods and are wholly dependent on a UK supply chain and do not export. However, 90 per cent of manufacturers sell externally to Northern Ireland, so it benefits the vast majority.

The costs are significant, and the burdens add to the cost of doing business. However, they pale into significance compared with the outcomes of the policy choices that have been made at UK level, whether that is the impact of the rise in national minimum wage—not to the wage itself, but in relation to the wage differential that has to be maintained in manufacturing businesses, particularly those that have an organised workforce—environmental taxation or the raft of other policies that are beginning to unwind and apply to business. The UK is quickly becoming one of the most expensive places in the world in which to do business as a result of all the policy choices that the UK Government has made, and more are on the way, particularly in and around decarbonisation and so on. In summary, it is a case of all costs being unwelcome, particularly administrative costs, which are not value added costs.

The biggest challenge remains access to labour. Northern Ireland is essentially at full employment. Our unemployment rate at the end of January was 2.3 per cent, whereas the UK's is 3.9 per cent and Ireland's is 4.5 per cent. Many of our members were rushing to use the UK's migration system to meet their labour demand, in order to meet their customer demand, but, since 1 April, that has been altered to a point where it is no longer available to our members. Many had rushed to ensure that they got their certificates of sponsorship so that they could bring in specialists such as welders from India, the Philippines or South Africa. The whole system ground to a halt in the first quarter of this year, and businesses missed the deadline for bringing in those people.

One important statistic gives an insight into how things here are different from the position in the rest of the UK. In March, our economics research agency published information showing that Northern Ireland's economy is just short of 6 per cent larger now than it was before the pandemic, whereas the UK's is just over 1 per cent larger than it was before the pandemic. That is an indicator that Northern Ireland's economy is healthier than that of the rest of the UK.

Meghan Gallacher: I am hoping to pick up on the concerns about supply of veterinary medicines. I know that discussions on the matter are on-going, but could the panel provide an update on any progress that has been made on engagement among the UK Government, the European Union and, of course, people in that sector? What role and remit have the Northern Ireland Executive and Assembly in monitoring progress on and trying to come to an agreement on the veterinary supplies issue? Stuart Anderson, do you have any insight into that?

Stuart Anderson: A little. I must admit that I am not actively involved in it, but I have some information that I hope will help with your analysis. There are divergent views, in both the UK and Europe, on what the current grace period is for, which presents a challenge in itself. The EU's position is very much that we have until 2025 to shift to its supply chains, whereas I think that the UK position—it is certainly that of the industry—is that we must work collectively to resolve matters. The reality is that there is an interdependence here. There is a food security issue and also an animal and human health issue, given the interdependence on both the UK and EU markets, with particular reference to the Republic of Ireland.

As for the position that the UK Government has taken, it is welcome to see steps forward—a working group was established following publication of the "Safeguarding the Union" policy paper. I do not sit on that group, so I cannot give much insight into where it has got to. However, I know that politicians sit on it, as does the Ulster Farmers Union. From the Northern Ireland Executive perspective, our chief vet and our Minister of Agriculture, Environment and Rural Affairs are actively involved in it.

That issue comes up repeatedly. Although a veterinary agreement would not suffice as the solution to the problem, it sits in the basket of issues that require a common approach by the EU and the UK to resolve them in everyone's interests.

Meghan Gallacher: Thank you. Nichola Mallon or Stephen Kelly, do have you anything to add to what Stuart has just said?

Stephen Kelly: I have a quick comment. It is not an area that we engage with directly, but it is an example of an issue in which it is in the interests not only of Northern Ireland farmers and pet owners but of those in the EU, and specifically in Ireland, to resolve. The supply chains to Ireland are also largely linked to those of the rest of the UK, so our challenges on licensing and packaging of veterinary medicines will have an impact on Ireland, too. The issue is really one that should be resolved by the UK and EU in partnership, because it is in the interests of the populations of both places to do so.

Meghan Gallacher: We are all hoping that an agreement will be reached but, if it were not, how would you assess the risks to food supply chains for Ireland and Northern Ireland and access to the EU single market?

Stephen Kelly: I am a city boy, so I do not know much about farms—or about farm animals, for that matter—but I trust our colleagues with whom we work in the Ulster Farmers Union and the agrifood sector, and they are clearly saying that it is an existential issue in respect of all the issues that you just outlined.

The problem has been identified for a long time. The end of the grace period has been pushed back until 2025, which is conveniently after the next UK election, and potentially a change of Government. That is perhaps what was in the thinking of both parties when they agreed to extend that period until the end of 2025.

Meghan Gallacher: Thank you. It is definitely in everyone's interests to reach an agreement as quickly as possible, then.

Neil Bibby (West Scotland) (Lab): This morning, we have heard that sales from Northern Ireland to Great Britain are up, and—I think that Mr Kelly said this—that the Northern Irish economy is 6 per cent larger in comparison with 1 per cent larger for the UK as a whole over recent years. We have heard about the benefits of unique dual market access, but we have also heard that that is not a panacea and that there are additional costs. There are also concerns about problems facing the Scottish economy and the wider GB economy.

We have been looking at a number of issues with regard to potential changes in relation to closer alignment, veterinary agreements and mutual recognition of professional standards. We just heard about the example of veterinary medicines, on which an agreement needs to be negotiated at UK-EU level.

On the issue of reviewing the TCA and the potential for closer alignment, I appreciate that, in Northern Ireland, there are always political views on these matters one way or the other. Nevertheless, are there any measures on which GB is looking to negotiate a trade and co-operation agreement or closer alignment with the EU that would be met with resistance from businesses or the economy in Northern Ireland because they would potentially dilute those unique benefits from the dual market access that Northern Ireland currently has?

Stephen Kelly: I will start on that. I will begin with the numbers. In 2022-23, goods exports from Northern Ireland increased by 16.6 per cent; in the same period, goods exports from the UK declined by 2.7 per cent. That is the difference that dual market access is making in terms of the impact on the Northern Ireland economy.

In any adjustments or changes that may happen in the relationship between the whole UK and the EU, we, as a business community, want to protect that benefit that we have. That 16.6 per cent rise is a source of good, hard cash from external sources into the Northern Ireland economy, which, until now, has been largely dependent on the public sector. We need to shift that situation and move to an economy that creates more wealth, because that will create wealth throughout households and homes across Northern Ireland. We need more people working in the private sector as opposed to the public sector, and so on.

Having said that, I note that there is a requirement to review the TCA, which is not working in a way that is in the interests of either the UK or the EU. We engage with ambassadors and consular representatives from across Europe, and we hear that European businesses struggle to trade with the UK, which is damaging those businesses. We know that UK businesses are struggling to trade with the EU, which is damaging them also.

I will point to two specific areas in which a review of the TCA, and an amendment or agreement, would be incredibly helpful for us. The first area is in relation to SPS and the veterinary agreement—colleagues can talk more about that. An agreement would significantly remove some of the frictions that we have been talking about this morning, particularly in the GB to Northern Ireland supply chain.

10:15

The second area is how goods of EU origin are treated in the UK. I will give a practical example. We sell lots of engineering equipment, and we have members who purchase an engine for those products from an EU country. That engine comes from a German factory, which sends it to its sister factory in England. It travels there tariff free. When it arrives in England, a radiator is fitted to it—at the German company's own subsidiary factory—before it travels to Northern Ireland. However, because, as far as the EU is concerned, the moment that the engine leaves its customs union the origin is no longer the EU and because sufficient processing is not done in England to give it a UK origin, it arrives in Northern Ireland with a 4.8 per cent tariff.

Therefore, despite having dual market access, we have goods of EU origin at risk of entering the EU with a tariff being applied because it is travelling through Northern Ireland. I am sure that that is not an outcome that the EU anticipated. It is certainly not an outcome that EU manufacturers were expecting and it is certainly not what the headline says about dual market access, which is that our goods should be in free circulation and free of tariffs, rules of origin and so on. That is a TCA issue that needs to be resolved. It is also a Windsor framework protocol issue that needs to be resolved. It is an example of the fact that the TCA, particularly in relation to the rules of origin, is operating neither in the interests of EU customers or EU businesses nor in the interests of UK businesses.

Neil Bibby: Thank you. That is really helpful. Do any other witnesses have thoughts on that?

Stuart Anderson: I will build on that but answer in a slightly different way. The world has changed dramatically, not only since the referendum but taking into account Covid and the Russia-Ukraine crisis. How the world has changed and the challenges that the UK and Europe collectively have with regard to low growth and the cost of living crisis should shape any future TCA review. The mindset should be about how we tackle unnecessary barriers to our near markets, whether that is GB, Europe or wherever they might arise, particularly where there is no value added as a result of the barriers that have arisen through the texts that have been agreed to date.

We can think about baskets of issues, such as energy and climate change. The UK and the EU are both signed up to the Paris agreement to reach net zero by 2050, yet we have two competing schemes around emissions trading when it comes to CBAM. That position does not work in anyone's favour, so some thought is needed around how those schemes can be linked, as a case in point, and how they co-operate with those schemes to reduce costs and manage and meet the end goal of reaching net zero by 2050.

There is also the issue of food security and the exponential rise in food prices since the Russia-Ukraine crisis. I think that, previously, those countries controlled around one third of global wheat trade. Again, we have got to think about where the barriers are to near markets. We can see that with BTOM being rolled out and concerns about food inflation in the UK.

With regard to an SPS arrangement, political decisions need to be made about what that looks like but with the end objective of securing food security in our near market. On the issue of human and animal health, again, there must be discussions about the issues that relate to veterinary medicines.

The world has changed and we must think about how we address the common challenges that we face, particularly that of low growth.

Keith Brown (Clackmannanshire and Dunblane) (SNP): I thank the witnesses. We heard earlier in the inquiry—

The Convener: I am sorry to stop you, Keith, but Nicola Mallon wants to come in on Neil Bibby's points, so we will do that first. I am sorry about that.

Nichola Mallon: I fully endorse Stephen Kelly and Stuart Anderson's points about the SPS agreement and veterinary medicines in terms of reducing trade friction between GB and NI, but also in relation to GB trade with the EU, and on the need to manage divergence, both passive and active.

In addition to that, I make the point that the Windsor framework happened because there was political willingness on both sides and there was a shared objective to reach agreement. At this stage, it is crucial that the UK and the EU's approach to the TCA goes beyond being a simple technical review and focuses on the removal of barriers to trade to the mutual benefit of the economies involved.

My other point is about what we have learned from the Windsor framework: it is not a deal that is just done and dusted; it is a living agreement and framework that needs to evolve. Through the structures that have been created, there needs to be a joint approach to problem solving and horizon scanning, and meaningful, on-going dialogue and engagement with businesses that are at the coalface.

Key principles need to be embedded in the review of the TCA if that is to produce results that benefit the economies in the UK and benefits the single market as well.

The Convener: Thank you, Nichola Mallon. Sorry about that, Keith. You can come in now.

Keith Brown: Earlier in the committee's inquiry, we heard, mainly from Scottish stakeholders, that the Windsor agreement has been pretty disastrous. I think that, across the UK, £140 billion has been lost to the economy. We have heard of Scottish companies that have gone bust—which, from what you have said, has not happened in Northern Ireland. We have heard of Scottish companies that have stopped exporting to the EU completely, because it is too prohibitive. We have seen job losses and so on. We have also heard of Scottish companies that have been taken over—in one example, by a German company—because that makes it easier to trade with the EU. It seems that the experience in Scotland has been pretty disastrous given the additional costs of doing business, the friction, the regulations and so on. In fact, we heard that, for some businesses, it is more difficult to deal with the EU than to deal with Russia.

Your experience seems to be different, which is, no doubt, partly due to the dual market access that Northern Ireland has, although you have also said that the UK is becoming one of the most expensive places in the world to do business. Do you think that, where the Windsor agreement is working, it is working to the advantage of Northern Ireland and thereby to the disadvantage of Scotland? Both Scotland and Northern Ireland voted to stay in the EU, but we have had very different paths since then. If that advantage exists, will you seek to protect it as the TCA evolves?

Nichola Mallon: The Windsor framework is a significant improvement on the Northern Ireland protocol. As with all these things, challenges will emerge when there are complex supply chains moving fresh produce. We have to work through those issues in relation to implementation while taking a pragmatic, solution-focused approach that is based on trust and on building that trust over time.

Of course businesses in Northern Ireland will want to protect the dual market access. However, it is true that, as you said, GB-based businesses—Logistics UK is a UK-wide trade representative body—are encountering barriers to trade in the new, post-EU-exit trading environment. That has come into sharp focus with the border target operating model, the second phase of which went live on Tuesday. We have certainly been concerned about the cumulative cost impact of that, particularly for smaller operators and importers, given all the additional charges and fees.

We know from looking at the evidence that, in the period after EU exit, there was a fall in UK exports to the EU, which was driven largely by sole exporters and smaller businesses—those with between one and nine employees—that were exporting. The disproportionate impact on smaller operators is certainly a concern, and that also has consequences for product availability and the prices that consumers in Scotland and across GB end up paying for their produce.

There are certainly concerns, which is why it is crucial to build on the positive relationship between the UK and the EU emanating from the Windsor framework. It is really important that the opportunities in the review of the UK-EU TCA are maximised to reduce barriers and to address issues such as CBAM. That is really important because trade thrives when there is certainty and stability, and when there are simple, affordable border processes.

Stuart Anderson: What needs to be understood around the Windsor framework is that dual market access is, in effect, a by-product of what was agreed, rather than something intentional in the text. Businesses being what they are, they have seized opportunities where those exist and where they have been able to do so, and we are seeing some benefits there. That has been largely a defence mechanism within what is a highly integrated agri-food supply chain in Northern Ireland and across the island of Ireland. Taking dairy as an example, around a third of NI milk is processed in the Republic.

That is not without its challenges, however. The simplicity of the argument about businesses in Northern Ireland doing well relative to businesses in GB needs to be carefully considered in context. GB is Northern Ireland's biggest market, much as it is for Scotland. Therefore, if Northern Ireland is really to thrive, there must be a real focus on the TCA—first, on the mobility and service challenges, and also in respect of regulatory challenges with trading goods with GB.

As I said, businesses have moved ahead and seized the opportunities. We are at an early stage of implementation. We have had phase 1 and, as I said at the outset, a majority of businesses are saying that they are managing the situation. Any analysis of performance will be subject to review as we see the implementation phases being rolled out.

We fully believe that both sides are committed to the agreement. With reference to what Nichola Mallon talked about, we would like to see an approach to the Windsor framework that is evolutionary and that allows review to take place. There is a reference in the legal text to the Windsor framework arrangements being subject to constant review, but we need to see a commitment to that at a joint committee level. I will give you an example. There is a carve-out for commercial processing whereby processors for the "at risk" goods are deemed to be not at risk where turnover is under £2 million. Over time, inflation alone will render that redundant.

We need to see evidence of the joint committee moving in a space that is solutions focused, that goes beyond the black-letter text, and that takes the relationship as a whole, encompassing the TCA and the Windsor framework. One of the biggest flaws in the process of agreeing the original protocol in the TCA was the failure of both sides to understand how the two documents interacted with each other. We had numerous examples of TCA issues impacting on the implementation of the protocol.

It is in Northern Ireland's interests that the rest of the UK thrives. While we may appear to have a relative advantage, it is sector specific. It is to our advantage that the UK as a whole thrives.

Stephen Kelly: As Stuart Anderson said, the dual market access is an accident of the outcome rather than part of the design. Even for manufactured goods, we are not in the EU's single market for goods; a series of administrative processes have been removed—or we have been excluded from them—which means that our goods can circulate freely. Our manufacturing members cannot directly lead on public procurement contracts anywhere in the EU. The products that they make can be part of the solution for an EU public sector buyer, but businesses in Northern Ireland cannot lead on that. There are quirks throughout the arrangements, even in the areas where we benefit.

10:30

The UK marketplace continues to be and always will be a vital part of Northern Ireland's success.

Equally, geography means that access to the EU market is critical for us, which is why the business community here was so intent on ensuring that our voice was heard in relation to the potential outcome of Brexit and what it would look like. For the first couple of years, we had political dispute about the status that we found ourselves with. That meant, for example, that investors heard from the UK Government and some politicians in Northern Ireland that this was the best place in the world to do business while, at the same time, hearing from others in the UK Government and the Northern Ireland Executive that this was the worst place in the world to do business. That was terribly confusing for them, but that was the political approach that was taken.

In our new Executive, all the parties are united to ensure that we capitalise on the dual market opportunity. Our minister for the economy has set out four pillars: good jobs, regional dispersal of jobs, driving productivity in industry, and decarbonisation. Wrapped around all of that is the dual market opportunity. He has been very clear about going out to sell the space that Northern Ireland has found itself in, and all the parties in the Executive support that. That has begun to be backed up with good, solid evidence that can be provided to potential investors and people who are keen to trade with Northern Ireland.

Our Department for the Economy is doing a really powerful piece of work on regulatory intensity. It has looked at all the EU rules and their volume, but also at how far those EU rules reach into either marketplaces or individual businesses. For each industry and even down into individual product codes, it has measured the intensity with which those regulations apply to UK and Scottish businesses that are trading with the EU, but do not apply in Northern Ireland. That is beginning to give a very visual representation of the fact that, where there is dual market access into the EU market, Northern Ireland has that really strong, unique proposition, which we can take through our investment and trade agencies. It can even be provided as part of pitch decks for individual firms that can say to their customers and their competitors' customers, "Because of the outcome that we found ourselves with, the regulatory intensity is too strong for businesses in the UK to trade with you, but those issues don't exist for us in Northern Ireland."

That work is beginning to create really powerful tools that we can capitalise on, not just at the wider economy level but down at the individual firm level. It needs to expand into the levels of regulatory intensity and the barriers that exist for EU companies trading with the UK, so that we can divert EU customers away from selling to the UK and towards selling to Northern Ireland customers for them to sell to the rest of the UK.

None of that work had been done when the Assembly and the Executive were not sitting or in operation. Before it was done, the dispute around where we had ended up caused terrible confusion for traders, customers and potential investors. Now, everyone is aligned in one direction. We want to capitalise on the opportunity that exists in order to provide that work and wealth for people across Northern Ireland.

The Convener: As committee members have no further questions, I will ask a final question, which I will put first to Nichola Mallon.

Nichola, you mentioned the change in the Assembly's position with regard to the relationship of DAERA and DEFRA and some of the responsibilities moving to the UK Government, and you also mentioned how important it is to build relationships with colleagues in the EU and in the UK. The committee has heard on many occasions, including from colleagues in other devolved Parliaments and Assemblies in the UK, that it can be difficult to locate the political responsibility and get UK Government ministers to be agile and responsive and to give evidence.

Given the importance of the matters that we have been discussing, do you have concerns about whether those relationships are in place and whether, when it comes to the review of the TCA, the UK Government ministers who are involved will have a full picture of the problems and challenges in Northern Ireland?

Nichola Mallon: To speak very honestly, one of the challenges that we have experienced throughout the process for the Windsor framework and the border target operating model is that guidance, information and technical detail from Government have too often come too late. That is not good as it has not enabled businesses to plan, prepare, test and implement. One of the associated challenges is that there is quite a high turnover of ministers and officials. Businesses and trade representative bodies often find themselves going back to square 1 and trying to explain the whole situation, with the complexities and nuances, again. That is an on-going challenge.

As I said, there is complexity in Northern Ireland in that responsibilities for port operations have been taken over by DEFRA. I appreciate that DEFRA colleagues are under an awful lot of pressure, but it can at times prove frustrating to get timely responses from DEFRA to business-specific queries.

The fundamental point is about relationships. Building trust is key between GB and NI and also between the UK and the EU. That trust, those relationships and the institutional memory across Government are all key to resolving things and making progress as quickly as we can.

The Convener: Stuart, do you want to comment?

Stuart Anderson: Yes. I entirely agree with what Nichola Mallon said. That was one of the challenges last summer. Businesses are calling for clarity all the time, to the point of fatigue.

When the Windsor framework was announced, there was a real desire to see guidance rolled out quickly. With respect to the officials, they were trying to grasp what had been agreed on paper and how that actually translated into practical application. However, the business community has always said, “Get this out to us early and work with us as quickly as you can—the longer we have to prepare, the quicker we can see some movement.” Unfortunately, more than 100 days passed between the signing of the Windsor framework and the roll-out of the first guidance across the summer period. That was certainly very challenging for our retailers in particular.

As Nichola Mallon said, the civil service in both Scotland and Northern Ireland, and indeed in GB, has been suffering from churn, which has taken away some institutional memory. We have seen that in the business community as well, with members moving on from their engagement with the Brexit implementation process.

As we look ahead to the UK general election, every political party should have its ear to the ground as to what matters in every constituent part of Northern Ireland. Given the fact that there is a democratic deficit when it comes to Westminster and Northern Ireland, it is crucial that every party listens to the challenges that exist here, which can potentially be addressed, or at least significantly mitigated, through the TCA review.

We have also seen some of the new bodies, such as the East-West Council, which met in skeleton form in March. Those bodies need to be utilised well in order to provide a benefit.

I understand that Nichola Mallon wants to come in, so I will let her in.

Nichola Mallon: I was just going to ask whether I could come in at the end to make a separate point, convener, so I am happy for you to go back to Stuart Anderson.

The Convener: Were you finished, Stuart?

Stuart Anderson: I was indeed—go ahead, Nichola.

The Convener: Does Stephen Kelly want to comment on the question first?

Stephen Kelly: First, I thank the committee for your attention to the subject. You have been very engaged with it for a while now, and Stuart Anderson and I have met many of you previously, which we greatly appreciate and value. I want to say thanks to our Celtic cousins for your care and attention, for which we are very grateful.

Secondly, as Stuart said, there is significant fatigue here. This is just an opinion, but I suggest that there are probably people in Whitehall who would love, with a different Government, to have a better relationship with the EU in order to resolve problems jointly rather than have conflict with each other. This has been an incredibly exhausting experience for the last number of years—we are exhausted, people in Whitehall are exhausted and our political system is exhausted. It is about what is in our collective interests in Northern Ireland, Scotland, the UK and Europe, and how we can make lives better for everybody. We do so by making offers to each other rather than demands, and by making agreements rather than creating conflict. I suggest that a better relationship would be in all our interests.

Despite our tiredness with all that stuff, we are absolutely determined to capitalise on the opportunities that are presented to us, which will likely mean more frictions and bumps along the way. However, the prize is a stable, peaceful and prosperous Northern Ireland, which is the outcome that we are all trying to achieve.

The Convener: I will bring Nichola back in, and I would welcome any final comments from Stuart, too.

Nichola Mallon: I fully endorse Stephen’s comments of appreciation to the committee.

It would be remiss of me not to mention quickly the importance of the A75 to GB-NI trade. Our members are very keen to see upgrade work and parking facilities along that critical route. I did not want to have the opportunity to be before the committee and not raise that particular issue. Thank you for indulging me.

The Convener: Thank you. That is very welcome. Stuart, do you have any final thoughts?

Stuart Anderson: I just want to echo the sentiment that has been expressed. Thank you for your continued interest in the matter. I hope that we can continue to come back to you on it, because we share an interest in achieving the objectives.

It is probably fair to say that there has been a mixed experience in the past couple of years and that there will be challenges as well as opportunities ahead. However, as Stephen Kelly said, we could approach those common challenges collaboratively to try to achieve those objectives together. We could have an open mind and understand that black-letter law does not necessarily always work in the real world and that we need to allow things to evolve over time. If we can all get into that space, we will continue the momentum that has been built up to date.

The Convener: I thank you all for your contributions this morning. The session was really helpful. I think that it was Nichola who mentioned that this is not an event as such. We have all learned that it is a process that will continue, and we look forward to working on it with you again in the future.

10:43

Meeting continued in private until 10:55.

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