

The Northern Ireland Protocol

There is a Statutory Instrument on the order paper for the Commons to debate and approve on Wednesday concerning the so called Stormont brake. This is putting the cart before the horse. Parliament first needs to have a full debate on the draft Agreement. I reproduced yesterday some of the questions the European Scrutiny Committee poses over this complex set of changes to our constitution. I have set out before on this site my own concerns about what has been agreed.

The government has still to tell us which EU laws will apply in Northern Ireland, how wide ranging the powers of the European Court of Justice will be, what limits are placed on our ability to impose VAT and Excise taxes, why EU law on many items applies to trade between GB and NI and why it applies to factories and farms in the province not exporting to the EU. They have not yet released the forms traders will need to fill in to send goods from GB to NI or what are the terms of the trusted trader scheme which shippers will need to join and follow.

The brake itself is a burdensome arrangement. If two parties and the requisite number of NI Assembly members want to apply it, the UK government then has to decide if the criteria are met to allow its use and if they wish to use it, bearing in mind the ability of the EU to take retaliatory action. I can imagine UK government lawyers and officials urging caution any time some politicians wished to use the brake. When the EU built up the number of areas that could proceed by majority voting rather than unanimity in the EU we were always told there was the Luxembourg Compromise. This was a self styled emergency brake which we could apply to an item we disagreed with which had gained the necessary majority to become law. The UK never used it and in due course it was deemed to no longer exist. When I wanted to use it as the UK's single market Minister I was blocked from doing so. If we had enjoyed an effective legislative brake on laws we did not like we would probably still be in the EU today. Instead the railroading of laws onto us was one of the main reasons we voted to leave.

The Protocol should not be embedded into UK and international law. The Agreement looks as if it leaves too many EU laws applying to NI, still places obstacles in the way of GB to NI internal trade and does not allow us either a veto over laws nor a unilateral way out of this worrying Agreement.