

DÁIL ÉIREANN

SELECT SUB-COMMITTEE ON THE ENVIRONMENT, COMMUNITY AND LOCAL GOVERNMENT

Dé Máirt, 17 Nollaig 2013

Tuesday, 17 December 2013

The Select Sub-Committee met at 2.10 p.m.

MEMBERS PRESENT:

Deputy Phil Hogan (Minister for the Environment, Community and Local Government),	Deputy Catherine Murphy,
Deputy Kevin Humphreys,	Deputy Brian Stanley.

DEPUTY NOEL COONAN IN THE CHAIR.

United Nations Convention on the Law of Non-Navigational Uses of International Watercourses: Motion

Vice Chairman: As we have a quorum of three Deputies we will commence the meeting. Is that agreed? Agreed. Apologies have been received from the Chairman, Deputy Michael McCarthy. I remind members to turn off their mobile phones. I also remind them that this meeting will be conducted in public session. It has been convened for the purpose of the consideration of the following order from Dáil Éireann:

That the proposal that Dáil Éireann approves the terms of the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, done at New York on 21st May 1997, a copy of which was laid before Dáil Éireann on 5 December, 2013, be referred to the Select sub-Committee on the Environment, Community and Local Government, in accordance with Standing Order 82A(3)(b) and (6)(a), which, not later than 19th December, 2013, shall send a message to the Dáil in the manner prescribed in Standing Order 87, and Standing Order 86(2) shall accordingly apply.

I welcome the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, and Mr. James O'Connell, assistant principal officer in the water quality section of the Department of the Environment, Community and Local Government. I thank them for their attendance.

The Government agreed to Ireland's accession to the United Nations Convention on the Law of Non-Navigational Uses of International Watercourses on 3 December 2013. As the convention creates a liability for a possible charge on public funds in respect of the cost of any dispute resolution or arbitration procedures involving Ireland under the convention, the approval by Dáil Éireann of the terms of the convention is required under Article 29.5.2o of Bunreacht na hÉireann.

The purpose of the convention is to provide a legal basis where none exists for co-operation among states which share international watercourses on the uses of such watercourses. It provides, *inter alia*, that watercourse states shall: use international watercourses in an equitable and reasonable manner; co-operate in the use and protection of same, regularly exchange data and provide additional information when proposed actions could affect the interests of other states; prevent, reduce and control pollution in international watercourses; and resolve any disagreements through procedures prescribed in the convention, including arbitration where necessary.

Apart from perhaps minor reporting requirements, the convention will impose no new obligations on Ireland, as the EU water framework directive and bilateral legislation with the United Kingdom in relation to the waters shared with Northern Ireland already enshrine co-operation mechanisms equal to or greater than those provided for in the convention.

The convention is not yet in force as 35 states, the minimum number of contracting parties required, have not yet ratified it. However, up to recently, 31 states have ratified it and 16 EU member states are either already parties to or preparing to ratify the convention. Among these, the United Kingdom is waiting for completion of Ireland's procedures to allow for ratification by both countries at or about the same time.

Before calling on the Minister to address the committee, I wish to remind members of the long-standing parliamentary practice to the effect that members should not comment on criticise or make charges against a person outside the House or an official by name in such a way as to make him or her identifiable.

I invite the Minister, Deputy Hogan, to make his opening statement.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank the Vice Chairman and the committee for convening this meeting at short notice to consider this motion. The Vice Chairman has well summarised the context in which this meeting has been called in terms of ratifying what was agreed by Government on 3 December in regard to the accession by Ireland to the UN Convention on the non-navigational uses of transboundary watercourses and this requires approval by Dáil Éireann.

The Vice Chairman rightly pointed out that as the convention creates a liability for a possible charge on public funds in respect of the cost of any dispute resolution or arbitration procedures involving Ireland under it, this is the reason, under the Constitution, that Dáil Éireann must approve these terms of the convention. The purpose of the convention is to provide a legal basis for co-operation among states which share international watercourses on the uses of such watercourses. It is intended to strengthen national measures for the protection and ecologically sound management of transboundary surface waters and ground waters.

The Vice Chairman outlined in detail the provisions of the convention in respect of the watercourse states and what they shall provide but parties that are bordering the same transboundary waters are to co-operate by entering into specific agreements and establishing joint bodies. The convention includes provisions on monitoring research and development, consultations, warning systems, mutual assistance, access to information by the public as well as dispute resolution. The costs of the latter, that is to say arbitration of similar procedures, are to be borne by the parties to the dispute in question and, therefore, the Dáil requires to approve that.

The convention is not yet in force but, as the Vice Chairman stated, a minimum of 35 contracting parties is required to bring it into force. The United Kingdom is ready to ratify it but is waiting for Ireland to do its business this week. Subject to the approval of the committee, hopefully, we will be in a position to do that.

Apart from minor reporting requirements, the convention will impose no new obligations on Ireland as the EU water framework directive and bilateral legislation with the United Kingdom in relation to the waters shared with Northern Ireland already enshrine co-operation mechanisms equal to or greater than those provided from the convention.

Deputy Brian Stanley: I thank the Minister for his introduction.

The United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses seems to be straightforward. There obviously is a need for some kind of legislation and agreement to protect international waters and it seems to be common sense. I do not see any problem with it.

The only question I wanted to ask relates to the committee's role. What is the committee's role? Where do we sit in this? Presumably, we will approve or reject this today. There is a motion here to be approved. Is there primary legislation needed or are there any legislative measures that have to be taken? I note that the convention dates from May 1997 at the United Nations and it seems like common sense and the right thing to do, but the Minister might outline

where is the committee's role in this and what has to happen, or has something already happened in the Dáil Chamber, to give this legal standing.

Deputy Phil Hogan: Under the Constitution, this requires a motion of Dáil Éireann in order to ensure that the UN convention is ratified. It is no more or less than that. It does not have any obligations other than that. Then, because it has a charge on the State, in the event of an arbitration of a dispute resolution, we must get approval from Dáil Éireann for any expenditure in relation to that matter. It is to ratify the convention but also create the heading - the budget line - in the event that there will be any moneys required for dispute resolution.

Deputy Brian Stanley: Does the motion come in the new year?

Deputy Phil Hogan: The committee decides here whatever it wishes and then the motion has to go to the floor of Dáil Éireann for formal ratification, and it is intended to do so on Thursday next.

Deputy Brian Stanley: And Seanad Éireann?

Deputy Phil Hogan: Dáil Éireann only.

Deputy Brian Stanley: I thank the Minister.

Deputy Kevin Humphreys: Could the Minister give a practical example of how this convention would be useful in the Irish context?

Deputy Phil Hogan: Donegal County Council, for example, intends to lay a sewerage outfall pipe in Lough Foyle but the entire lough floor is claimed by the United Kingdom, and this could be a point of difference between Ireland and the United Kingdom, as well as with the neighbouring local authorities. What happens then is that the local authority has to produce an environmental impact statement, the Northern Ireland environment agency has to agree all of the procedures as well as the Irish authorities, and the jurisdiction that could be disputed in Lough Foyle between both Northern Ireland and Donegal County Council could be the subject of a dispute resolution under this convention. That is an example of where one could have a difficulty in the event that there was not agreement between the neighbouring authorities and neighbouring governments in relation to a matter such as Lough Foyle.

Deputy Kevin Humphreys: I thank the Minister.

Vice Chairman: Something similar happened in Carlingford Lough.

Deputy Phil Hogan: I do not know about Carlingford Lough.

Deputy Brian Stanley: The bridge.

Vice Chairman: The bridge at Narrow Water.

Deputy Brian Stanley: The bridge at Narrow Water.

Deputy Phil Hogan: That is one that Deputy Stanley's party is trying to solve.

Deputy Brian Stanley: We provided the funding. The funding has been provided in the North.

(Interruption)

Deputy Phil Hogan: They have not provided the funding.

Deputy Brian Stanley: There is a bit of a block there with the Unionists but we will get over it.

Vice Chairman: More importantly, will it have any impact on the Shannon, for example, and the extraction of water from it?

Deputy Phil Hogan: I knew the Vice Chairman would mention it. No, the only dispute there is between Tipperary and Clare.

Vice Chairman: And Galway.

Deputy Phil Hogan: Galway as well, that is correct. No. Lough Derg is not an international convention matter.

Vice Chairman: As there are no further questions, that concludes our consideration of this order. Is this agreed? Agreed.

Deputy Brian Stanley: Did the Minister state it is due to come up on Thursday?

Deputy Phil Hogan: Hopefully, yes.

Deputy Brian Stanley: At 12.41 p.m. on Thursday, it is due to come up in the Dáil.

Vice Chairman: Yes. I thank the Minister, Deputy Hogan, and Mr. O'Connell for assisting us in our consideration of this order today.

Message to Dáil

Vice Chairman: In accordance with Standing Order 87, the following message will be sent to the Dáil:

The Select Sub-Committee on the Environment, Community and Local Government has completed its consideration of the following motion:

“That Dáil Éireann approves the terms of the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, done at New York on 21st May, 1997, a copy of which was laid before Dáil Éireann on 5th December, 2013.”

The select sub-committee adjourned at 2.35 p.m. *sine die*.