



Common Frameworks Scrutiny Committee

Corrected oral evidence: Post-Brexit common frameworks

Tuesday 10 November 2020

10.30 am

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Members present: Baroness Andrews (The Chair); Lord Bruce of Bennachie; Lord Caine; Baroness Crawley; Lord Foulkes of Cumnock; Lord Garnier; Lord Hope of Craighead; Lord McInnes of Kilwinning; Lord Murphy of Torfaen; Baroness Randerson; Baroness Redfern; Baroness Ritchie of Downpatrick; Lord Thomas of Cwmgiedd.

Evidence Session No. 1

Heard in Public

Questions 1 - 14

Witnesses

I: Jeremy Miles MS, Counsel-General and Minister for European Transition, Welsh Government; Michael Russell MSP, Cabinet Secretary for the Constitution, Europe and External Affairs, Scottish Government.

Examination of witnesses

Jeremy Miles MS and Michael Russell MSP.

Q1 **The Chair:** Good morning to my colleagues on the Committee and to our witnesses. We are delighted to see you. This is the first public meeting of the Common Frameworks Scrutiny Committee and we could not have two more distinguished witnesses. I am very grateful indeed for your time this morning. We have no apologies, so we are a very full Committee.

We are being broadcast on live TV and will have a complete transcript available at the end of this. I should also remind people that we should declare any relevant interests at this point in the Committee. I do not think we have anyone with any relevant interests, so thank you very much indeed. Can I therefore introduce our witnesses? Michael Russell is Cabinet Secretary for the Constitution, Europe and External Affairs from the Scottish Government. Jeremy Miles is Counsel-General and Minister for European Transition in the Welsh Government.

We have had six meetings of this Committee in private so far. We have looked at some common frameworks that are partially completed, so we have seen summaries, and we have seen a few completed provisional frameworks. It is clear to us that this is an extremely important process and one that seems to be working robustly and well.

Our questions this morning will be about the processes and the purposes of the common frameworks as you are experiencing them, but also, in the spirit of the times, about how the common frameworks are locking into the internal market Bill in particular and the issues relating to their scope, their implementation and so on. My colleagues know that they are free to ask anything else they want to, and you are free to say anything you would like us to know on the record, now that we have the opportunity to do so.

This is a very basic and predictable question, I suppose. We would like to know, from your perspectives in Wales and Scotland, how the common frameworks process has been working to date. What do you see as the great virtues? What obstacles have you had to deal with? Frankly, where are the challenges? We know that the process has been slow and we would quite like to know why that has been the case. Is there anything you would like to tell us about the process so that we can frame the rest of our questions?

Michael Russell: Thank you to the Committee and your colleagues for the invitation to give evidence today. The biggest advantage of the common frameworks is that they are mutually agreed and voluntary. Their biggest disadvantage for me is that I find it very difficult to see how they can operate effectively if the internal market Bill is to be passed, particularly in its present form.

If I might, I will say a word or two about the history. It is really important to understand where this comes from. I am, regrettably, the only person who has been to every meeting of the Joint Ministerial Committee (EU Negotiations), which explains my rather weary look, I have to say. We

have had 28 of them. This process has grown out of that committee, which was established in an agreement in Downing Street in a Joint Ministerial Committee Plenary as far back as October 2016.

In 2017, there was an agreement that we should seek to find a way, after a rather difficult discussion and process with the first withdrawal Bill, to work together on the frameworks that would be required when the UK left the EU. Scotland did not vote for that. We continued at that stage to look for a compromise, but we accepted that, if it was to happen, there had to be a means by which the four nations could work together across a range of detailed areas.

It is important to point to the communique of the Joint Ministerial Committee in October 2017. In its annexe, it listed the common frameworks, definition and principles, which you will have seen, that were agreed by the Devolved Administrations. They are very, very clear. They say, "Common frameworks will be established where they are necessary", to "enable the functioning of the UK internal market, while acknowledging policy divergence". That is the first principle and that is what we have been seeking to establish. That is why the internal market Bill is such a disruption, because it seeks to do the same thing, but by imposition, not by negotiation and agreement.

We followed from that into a difficult set of discussions over a long period about what those common frameworks would do. That was not helped by the publication by the UK of a list of areas of intersection between EU competencies, devolved competencies and UK competencies without consultation at any stage when that was published about what those were. It took a while to develop that into a list of areas in which we would have to work together—but that was done, through the painstaking work of officials.

Some three years later, we have found ourselves with a coherent set of frameworks, knowing why we are using them, always open to more if they are required, able to consult on those in each of the Administrations and able to take them forward into operation. This is despite a pandemic, which has slowed things down; two periods during which we were preparing for no deal, so that all the work was diverted into preparing for no deal rather than working on frameworks; and an arbitrary date for leaving the EU that has put ridiculous pressure upon all the things we needed to do, particularly during a pandemic.

We have a list of the ones that will be operable by the end of the year. We have the rest in provisional form, so they can operate, and we have made a commitment for them to operate. That is all ready to go. That has not changed my view that Brexit is the wrong thing, should not be happening and should not be imposed on Scotland, but it has created the circumstances in which we can work together after the end of this year.

Therefore, the internal market Bill is the real threat to this. Lord Hope's amendment for a statutory underpinning to the frameworks will perhaps help, but, if the internal market Bill goes ahead as it is, in my view these

frameworks are largely inoperable, frankly, because they can constantly be second-guessed and, indeed, overruled by other actions elsewhere.

I am sorry to be so long, but I thought I would give the background and history to this, because it is very important to understand where we find ourselves and perhaps to avoid a major mistake in imposing the internal market Bill.

The Chair: Thank you very much indeed. Far from being too long, that was very comprehensive and explains why some of the processes have appeared from the outside to have been slow. That was an extremely helpful statement. Mr Miles, will you like to come in at this point?

Jeremy Miles: Thank you for the invitation to give evidence this morning. As Mike was saying, I was not there at the genesis of the common frameworks programme, but the story of common frameworks today is one of remarkable progress. It has not matched to our original ambitions or what we would have hoped to get done by this time, but, as Mike was saying, we have had two periods of no-deal planning, a general election and the absence of Ministers in Northern Ireland.

Despite that, we are in a position where there are 26 frameworks that, admittedly in a provisional sense, will be capable of being operationalised at the end of the transition period. In a sense, that is actually a remarkable achievement against the backdrop of all those different headwinds. It is also quite an innovative process, and it has involved new ways of working. Managing to do that against that context is also important.

In any number of ways, the experience of intergovernmental relations in the context of leaving the European Union and the transition period has been turbulent. That is for reasons that will be obvious to most observers, but, throughout all that time, all those choppy waters, the one thing we have been able to point to as demonstrating the capacity of Governments to work together in a collaborative and productive way has been the common frameworks work stream. That has been consistently an area where we could say, "Look, if we managed to adopt the principles and the common frameworks across the board, it would lead to much better collaboration between the Governments".

The introduction into that landscape of the internal market Bill has really threatened that in the way Mike was describing. I fear that the very, very heavy-handed legislative mechanism that the Bill contains removes any incentive for the UK Government to continue engaging in a constructive way in the common frameworks. At the end of the day, the common frameworks are going to be the best, most flexible, most nimble and most responsive means of managing the complexities of the internal market, as that memorandum of two years ago itself suggests. The introduction to that context of the internal market Bill is an incredibly disruptive influence.

The Chair: From your experience, in the process of the frameworks that

you have been following closely, have you seen the reconciliation of different policies as something that has been warmly embraced? Are many issues arising that remain unresolved or has it been a process where reconciliation has worked?

Jeremy Miles: There have been examples where Governments bring different perspectives to the table. The ETS is an example where, in the document itself, it talks about the different perspectives different Governments have on certain aspects, so it is transparent in that mature way, because Governments will have different perspectives.

The process has allowed, to date at least, a mechanism for identifying those. The frameworks themselves contain provisions to manage dispute avoidance, ideally, and the governance mechanism, recognising that these are complex areas, but that, with good will on the sides of all Governments, they are capable of being resolved.

Q2 **Lord Murphy of Torfaen:** A very warm welcome to Mike and Jeremy. It is great to see you both. Over the last six or seven months, everything has been dominated by the pandemic. It has meant that everything, including common frameworks, is secondary in a sense to what we do with the pandemic. It has also, as you both touched upon in a sense, highlighted devolution. We did not want it to be highlighted in this way, but it has been.

The question I have is about the working relationship between the Scottish and Welsh Governments and the United Kingdom Government over the past months, particularly with regards to common frameworks. If it is like the pandemic, I am sure it has been choppy, but has it improved over the last few months? Where do we see it going? It strikes me that this goes almost to the heart of the devolution settlement. We would all be very interested in your analysis and account of what that relationship has been recently.

Michael Russell: It has certainly not improved in recent months; I have to say the reverse is true. I am very clear that I am not a devolutionist in that sense. I am quite prepared to admit it and it will be no surprise to people here. But I am a member of a Government, and have been for almost 13 years, that has operated devolution. Indeed, I was around when devolution was established.

There is a problem with devolution. That is a lack of understanding of what devolution is, not in Scotland but in Westminster, and particularly in this current Government. It is in the headlines again today in Scotland, with a senior UK government source—there appear to be many of them who are quoted regularly—pointing out that the Prime Minister has, in the words of that source, more pips on his collar than the First Minister and therefore that he outranks her.

It fails to understand what devolution actually is. Devolution is not about a hierarchy of Governments; it is about a hierarchy of Parliaments. The Westminster Parliament regards itself as sovereign and the other Parliaments as not sovereign, so they can be overruled. But the

Governments have specific responsibilities and those are clear. In the case of Scotland, in Schedule 5 of the Scotland Act it is very clear. Essentially, only those things named are reserved; everything else is devolved.

The operation of devolution has become more difficult as the memory of devolution and what it is has faded in Westminster. In a sense David Cameron was right: "devolve and forget". Individuals forgot about why it was established. In giving evidence to PACAC some weeks ago, again with Jeremy, I was very conscious that there is a very confused understanding of devolution, particularly in the minds of politicians who perhaps have been in Westminster for only five or 10 years.

Now we add to that the set of circumstances exacerbated by Brexit. Scotland clearly voted against Brexit. Very early on, in December 2016, we published a set of proposals for compromise. We felt then and feel now that, if the then Prime Minister Theresa May had gathered together all the forces in these islands, made them sit in the same room and asked, "How can we all get something out of this?", we might not have come to the awful situation we are in.

Even so, we continued to try to negotiate on a compromise for a long time, in a very civilised way, in some senses. I pay tribute to David Lidington and Damian Green, who worked very hard in the joint ministerial structure to get something working. I am afraid that came to an end with the current Administration. With the current Administration, we have seen a pretty unbending refusal to compromise or even to discuss constructively.

There is endless discussion, but there is no meaningful discussion or progress presently on any of these issues. That has culminated—I am sorry to come back to it—in the internal market Bill. Essentially, we have there an attempt to impose a solution that undermines devolution, because it second-guesses devolution. No matter what happens, the decisions the Scottish and Welsh Parliaments or the Northern Ireland Assembly can make will not count, because in very clear but wide-ranging areas it is the decision that takes place outside the devolved Administrations that will count.

The relationship is poor. It is regrettable. The one perhaps bright spot is that the relationship between the devolved Administrations has never been closer. That is certainly true of Scotland and Wales. We have different constitutional objectives. Mark Drakeford was originally on the Committee. It is fair to say that Jeremy and I do not share the same constitutional objectives, but we can work together because we understand the importance of ensuring that the powers of devolution and the rights of the people within the devolved Administrations are defended. We have done that constructively and positively, constantly looking for compromise. Unfortunately, we have not found it very often in the places where it should be.

Jeremy Miles: To take the last point Mike made as my starting point, devolution is an inherently bilateral concept, is it not? In the Covid context, we have seen this idea of four nations governance, which is a subtly and importantly different thing and captures more faithfully the kind of relationship between the devolved Governments that Mike was talking about in his remarks, which I would certainly echo.

If you were to stand back and look at the experience, in my case, of the last couple of years, although it has been going on much longer than that, the common thread throughout the unsatisfactory relationship between the UK Government and the Devolved Governments is the absence of institutional resilience. Far too much of the relationship, when it succeeds, depends on good will and individuals who happen to be prepared to make it work. You cannot have a robust constitutional settlement capable of bearing the weight of things such as Covid and EU exit that is so heavily dependent on that dynamic.

If you were to look at the various ways in which we have been working necessarily together over the last few years, we have been talking about common frameworks and you would point to that, broadly speaking, as an area where progress has been pretty good. If you were to look at the question of EU negotiations, that is at the opposite end of the scale. The UK Government's vision for the role of the devolved Governments has been extremely narrow and inadequate. It has not worked well at all.

Somewhere in the middle there is the task of the practical aspects of preparing. That has been patchy. Against the backdrop of all this, you have also had the work on the intergovernmental review, which is important in the context of the common frameworks programme and how that plays into the Bill. In the mapping of machinery and the discussion about dispute avoidance and resolution, in a macro sense, above the individual portfolio areas that the frameworks engage in, this has been pretty positive. We are not there yet, and the internal market Bill has done its best to disrupt that, frankly, but there has been progress in that area.

It is patchy and it ought not to be based on individual good will and collaboration. That is why a programme such as the common frameworks, with the sorts of reforms that the Scottish and Welsh Governments in particular have advocated, in different ways and from different political perspectives, is so important. It provides a robust set of institutional frameworks and mechanisms on which engagement can be built in a much more resilient way.

The Chair: Thank you both very much. Those are very, very helpful answers indeed.

Q3 Lord Bruce of Bennachie: Both of you have made reference to how the internal market Bill has cut across the common frameworks. I have been unpersuaded by the Government's case as to the need for this Bill and quite a lot of concern has been expressed in the Lords. Indeed, in yesterday's debate, not only was Part 5 debated, which was the crunch

issue, but a lot of people expressed concern about the impact of this Bill on the devolution settlements, as you have done.

Why do you think the Government have introduced the Bill, rather than building on the common frameworks? What is your take on the reasoning behind it? What is your view on how they are going about it?

Jeremy Miles: In a sense, we ought to be in a position to give you chapter and verse about why the Bill has been brought forward, because a Bill of this nature ought to have been co-designed. It is entirely disingenuous to see the Bill presented as a commercial endeavour. It is a very significant piece of constitutional legislation, as the Lords Constitution Committee has acknowledged. The fact that it is to be subject to the protected enactment principle gives a clue to that, it seems to me.

The truth is that it was introduced without any co-design with the Devolved Governments. I would not have been able to tell you the contents of it 24 hours before it was introduced. There was a similar picture in relation to the White Paper. We did not know whether it was a Green Paper or a White Paper until a couple of days before. That is how the Bill came forward.

The stated reason is about providing certainty, but it does not provide certainty. It provides a very unhappy blend of uniformity and uncertainty. In any number of ways, it is not clear how the principles will apply. There are many lawyers, including me, on this call. It is going to lead to litigation in any number of ways, and it does not provide the certainty that is claimed for it.

It goes much further than the internal market itself. It provides additional powers for the UK Government to spend in the devolved areas in the devolved nations. That is portrayed as working with us when it is about working around us, in truth. The scope of the Bill is quite considerably broader than it would need to be if it were focusing on the internal market.

I am led to the conclusion that the thinking behind the Bill is simply to make it more straightforward for the UK Government not to have to engage in a messy set of discussions with Devolved Governments in relation to important matters. Our vision for that, the common frameworks, starts from the premise that power is distributed in these areas across the UK and the best means of building that robust internal market is to do it by agreement.

Michael Russell: I cannot put myself in the mind of the current UK Government, but a great deal of this is to do with the prospect of trade deals. There are two lessons you could take from the CETA trade deal, the Canada-EU trade deal. The UK Government have taken the wrong one.

The positive lesson from the CETA trade deal, from that very large exercise, was that Canada put all the provinces in the same room with

the federal Government and they negotiated on the areas for which they were responsible, so the deal could be done and would stick. That was the right thing to do. Unfortunately, the UK Government have taken the other lesson. If you remember, at the very end of that process, one of the devolved Parliaments in Belgium, I think the Walloon Parliament, took exception to something in the deal and almost upset it.

That is the lesson the UK Government have taken: do not allow any devolved Administration anywhere close to a trade deal, because it will only cause trouble. You have to put in place arrangements that stop the devolved Administrations, even though they are dealing with areas of devolved competence, as you well know, Malcolm, such as food safety and welfare. Even though those are devolved responsibilities, it is very dangerous when you come to that type of trade deal. This is an attempt to impose that.

What are they trying to impose? The rhetoric has been about a single market, with arrangements of the type that exist within the EU. What is attempting to be imposed is an arrangement that, if it were the single market, would allow Germany to make all the decisions and for there to be no elements of proportionality or subsidiarity. Germany would simply say, "That is it. We have decided. It is done". That is the problem, because it does not recognise what the Devolved Administrations are and how they operate.

I mentioned the JMC and the *Common Frameworks: Definition and Principles*. I read out the first of them, about enabling the functioning of the UK internal market. Later on, the second principle says that the frameworks will be "based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent".

In actual fact, there was a recognition at the very beginning of this that, if you respected devolution and you were keen to make sure that the internal market could operate, the frameworks were the way to go. That has been overturned in favour of a much cruder instrument. That instrument is seen as necessary, in my view, to achieve the type of bad trade deals that will be the only trade deals on offer.

Q4 Lord McInnes of Kilwinning: Thank you both for coming and speaking to us today. I want to explore a bit more the implication of the motive behind the internal market Bill and how its implementation would affect specific devolved policy areas. Something we as a Committee are wrestling with is the justification from the Government of the Bill based on lacunae that would not be covered by common frameworks while, at the same time, understanding the issues about devolved policy areas. It would be very helpful to hear of some specific policy issues that you believe the UK internal market Bill will interrupt, where it will take over the policy areas from the devolved Governments.

Jeremy Miles: In the context of goods, you could look at the question of food standards. The example we have used is hormone-injected beef, but

there are any number of examples that one could use. There is a pretty common position at the moment across the UK. If one of the Governments decided to deregulate significantly in that space, the Welsh Government's position on that is clear and will continue to be clear. We would be in a position where the legislative preferences in the Senedd could not be enforced on the ground in Wales.

There is a school of thought, which I do not share but is perfectly respectable, that says, "At least tell the consumer and the consumer gets to choose". Because of the non-discrimination principles, it is probably the case that we could not require that to be labelled differently in Wales.

There is an ancillary impact in the context of services, for example. In Wales we have provisions that require the registration of private landlords or the registration of those providing tattooing and acupuncture services. Those latter provisions have not yet come into force. They would quite possibly be captured by the provisions in the service provision parts of the Bill. In the context of qualifications, we currently have a mutual recognition system for teachers' qualifications. If a future Government decided to move away from that, what would that mean?

It is not simply a constitutional argument, although I find those persuasive. There are very practical consequences for individuals. We have talked elsewhere about single-use plastics, which is a very live example, as it happens. The UK Government, on behalf of England, as it were, has indicated a preference for banning the use of only three of the nine in the EU directive. We in Wales are consulting on the banning of all nine. We would not effectively be able to enforce that ban on the extra six if this Bill came into force as introduced.

By the way, single-use plastics are not the subject of a common framework, because they are not within the category of retained EU law. They would be subject to this from day one, unless we do something to exclude them in the provisions of the Bill. They are currently not the subject of a common framework, so there is an issue there that would certainly need to be resolved.

The Chair: Mike, do you have a few equivalent examples?

Michael Russell: I want to pay tribute to the people who drafted the Bill. It is a clever Bill. It does not take any particular devolved area and say, "That is no longer devolved"—with one exception, which is state aid. If you look at the history of this and go back to the documents I quoted, state aid was recognised at the beginning as being a shared competence. This is now being reserved. That is a specific reservation of something within the power of the devolved Administrations that is being taken away.

The rest of it is a clever way of ensuring that virtually every power that the Devolved Administrations exercise could be undermined. There are a number of exemptions within the Bill, but all of those exemptions, in my reading of the Bill, could be overwritten by the UK Government, both by

the Bill itself, which allows that to happen, and by the general principle that the UK Parliament can override the decisions of the other Parliaments.

In every one of those areas—Jeremy has mentioned a wide range of them—it is possible both in the principle of non-discrimination and in the principle of mutual recognition to ensure that a decision of the Scottish Parliament may well stand for Scotland, but will be pointless and completely empty because it will be undermined by something that has happened elsewhere.

Look, for example, at food safety. That is an obvious one. We wish to continue our keeping-pace power with some of the environmental and other standards within the EU, which we are legislating for at the moment. In those areas, a lower standard would automatically be permitted and recognised. In those circumstances, it would at the very least be unfair competition and more likely it would swamp whatever had been decided by the Scottish Parliament.

There are other areas that we never expected to be part of this that we and the organisations are now discovering might well be. For example, there is the work of the General Teaching Council. Many people are familiar with the General Teaching Council. In Scotland we have a system of compulsory registration of teachers, one of the oldest in the world. We now also have a system of compulsory qualification for head teachers. Those are things that we have chosen to do because we believe they are right. In England there is no compulsory registration of teachers and no compulsory training of teachers.

It is a different system. I am not going to enter into a debate about it even though I am a former Education Secretary. The reality of the situation is that the GTC is very worried. The General Teaching Council may find itself in a position where its regulations are pretty pointless, in terms of the recognition of qualifications elsewhere.

We can go through many of those. The Bill, as Jeremy described it, is unnecessary. I regard it as unnecessary too. It is the breadth of the Bill that, in the end, will be the undoing of many things in Scotland, Wales and, to some extent, Northern Ireland.

Q5 **Baroness Randerson:** It is really good to have the opportunity to speak to both of you today. I wanted to pursue the issue of common frameworks in relation to the Government's argument that the internal market Bill provides a necessary umbrella over the whole common frameworks process to fill in the gaps.

We know that, at the beginning of the process, over 100 potential fields were identified and the numbers were narrowed down. From what you have said, I would assume that you would not agree that we need the internal market Bill as a sort of umbrella. Are you aware of any gaps in the common frameworks process? Can you suggest areas where common frameworks really should be developed and are not in the process of

being developed at the moment?

Michael Russell: Lord Callanan in the House of Lords made the contention, and I have heard it from the Conservative spokesperson in the Scottish Parliament, that there is a link in the legislation between the internal market Bill and the common frameworks. You may have another view, but in my view that link is nowhere in the legislation. It may well be the umbrella, but there is nothing underneath the umbrella in these terms. There is no real legislative link there.

If there is no legislative link, it seems to me that the contention that there is a necessity to legislate in this way for the internal market, and that that will allow the common frameworks to operate, is misplaced. There is room for one or the other here. There is room for a wide-ranging agreement, which is already in place and is being developed, or there is room for very heavy-handed legislation. There is not the room for both of those. That is the problem, essentially, as I see it. In my view, it is that voluntary process that will produce results.

I do not think there are any missing areas, although I may be wrong. Some areas have come into contention and gone out again. I am sure the Committee has had access to this, but the latest common frameworks report, *Framework Analysis 2020*, has a very useful appendix, which looks at all the areas being considered, some of which were simply put to one side and some of which are still being put to one side because we discovered we do not need them, and some of which we identified at the very beginning needed legislation—and we have worked on that legislation.

I have made it very clear to Michael Gove on a number of occasions—most recently, Jeremy and I both did at the Joint Ministerial Committee last week—that, if the UK Government identify an area in which they think there should be a common framework, we will be happy to work to ensure that it enters into the provisional list very quickly and then can move into full consideration. The provisional list, as you know, essentially makes the common frameworks active, even though they have not gone through the full process of scrutiny. That only has to be mentioned and we will work on it together. So far, I have had no response to that and no such gap has been identified.

Jeremy Miles: I will not repeat what Michael has said, which I agree with, but I have two brief points. First, on the umbrella point, we do not think the Bill is needed as an umbrella for anything. However, it is inherent in the common frameworks process that some aspects of some frameworks will require some element of legislative underpinning. It is not an allergy to the role of statute in this space, but it needs to be directed to the task in hand, rather than the blunderbuss that this Bill represents.

The second point is on coverage. The Bill is not a default position. It does not provide a final backstop; it provides a first step. The amendments the Welsh Government have been promoting, which I know have found

support in the Lords, have been about putting the common frameworks at the start of the process. You exhaust the common frameworks process and, indeed, that would include identifying any new common frameworks and exhausting that process, if a Government came forward with a credible argument that a new common framework was necessary.

The UK Government have been invited to do that and have not stipulated any areas. We are open to the concept that there may need to be other common frameworks. They would need to be exhausted first, in our contention, before the market access principles were applied.

Q6 Lord Thomas of Cwmgiedd: Could I ask you both a question about state aid and frameworks? It is difficult to argue that there should not be an overall state aid regime for the UK, unless we adopt the European one. The Government's solution is to alter the devolution settlement, it seems to me, quite neatly by the back door. I wondered how you saw the alternative of using a common framework to produce the necessary UK-wide regime. It seems to me that one is in grave risk of having the devolution settlements altered without putting forward some alternative that would address the Government's concern.

Jeremy Miles: The Welsh Government's position in this area is that we absolutely think there should be a UK-wide state aid regime for the reasons you outline. It is preferable for small economies such as ours to be operating in a rules-based environment. That would be our preference, but it ought to be a policy that is agreed between the four Governments.

The state aid approach the UK Government are taking in this Bill highlights a conflict of interest the UK Government face as the Government of the United Kingdom and of the devolved areas, including, for example, the promotion of economic development on behalf of England. In the context of Covid in the last few weeks, the UK Government brought forward a furlough scheme that met the needs of businesses and workers in England and did not reflect the needs in other parts of the UK. That illustrates the inherent tension between their responsibility for economic development and their capacity to act on a UK-wide basis.

If the means to resolving this is a common framework around state aid, we would be very happy to engage in that discussion and to seek a UK-wide position on it. The first hurdle to overcome in that, however, is the refusal of the UK Government to engage on that matter with the Devolved Governments.

Michael Russell: The linkages between state aid provision and issues such as whatever funds replace the social fund and regional fund are crucial. Jeremy has identified this conflict of interest. If the UK Government press ahead, as they appear to wish to, with their so-called shared prosperity fund, which would be administered through the Scotland Office and the Wales Office, and not through the Devolved Administrations and local authorities, as the system works now, the

conflict of interest becomes even worse. Then the conflict of interest is also about disbursing the funding that is part of the state aid regime while essentially reserving the state aid regime rather than having it as a shared competence.

I would have been happier with a continuation of the EU state aid regime. It seems to me that our geographical proximity to the EU makes that useful. If that is not going to happen, a UK scheme that is a shared competency through the frameworks process is the right way to do it. It also allows you to have that shared competence in the funding arrangements going forward. Of course, part of the internal market Bill is also about breaking that issue of ensuring that Devolved Administrations spend money on devolved areas. That is highly dangerous in terms of confusion, policy conflict and wasting money.

The Chair: Thank you very much indeed. Those were really excellent answers.

Q7 Lord Hope of Craighead: Thank you both for your evidence, which I have found extremely interesting and helpful. You have been saying that we do not need the Bill, but the fact is that we have a Bill before us. It has been given a Second Reading. The question is whether it should be amended and, if so, how. That is the essence of my question.

Yesterday I had a meeting with Jeremy in which we discussed an amendment that I drafted, which has now gone in. Michael, I do not think you have seen it, but the way it works is this. The pinch point, as I understand it, of the Bill in Part 1 is where any requirement or provision that inhibits the free movement of goods across borders is struck down and can simply be ignored by traders across the borders.

The question is how can that live with a situation where we have a common framework, under the mutually agreed system that you described at the beginning Michael, we have a decision that has been agreed that allows one of the devolved nations to diverge and make use of the policy divergence principle. It has been agreed, yet it is struck down by this Bill. That seems a complete nonsense to me. My amendment is seeking to protect these agreed decisions from being struck down by saying that the principle should not apply to them. Is that something that either of you think would work to improve the situation and allow the frameworks to proceed as they should?

Michael Russell: I am not a fan of this Bill, clearly. I would be happier if it were not there. To have proceeded with the frameworks as we have done was the right thing to do. However, we are where we are. If the Bill can be amended in a way that makes it less offensive, dangerous and damaging, I support that amending process. We have supported and made it known that we support the amendments brought forward by the Welsh Government. We have supported the amendment that was brought forward on the GTC proposal. Although I have not seen the detail of your amendment, from what you have described, I would be comfortable with that amendment moving forward.

We need to have a recognition that there is no imminent threat to the internal market, absolutely none. If there were to be any threat to the internal market, we have a set of arrangements in place that can cope with that without damaging or undermining the devolved settlement. From how you describe your amendment, that would seem to me to meet those criteria. Therefore, I would be very happy to see it supported.

The Chair: Jeremy, you have already had sight of this.

Jeremy Miles: Yes, I have. Thank you, Lord Hope, for allowing me to have sight of it. The amendment makes it clear that the Bill, as introduced, is not a default provision; it is a blanket position, effectively. Putting the common frameworks programme at the heart of it, as the initial step, is vital. Having exhausted that, there is a need for a backstop. Your amendment puts the common frameworks programme at the heart of that process.

As we have discussed previously this morning, common frameworks have come in and out of scope. We have had a longer list; they have been reduced and occasionally they are added to. There is a flexibility to that programme, which is very helpful in the context of the internal market. Having that as a starting point is essential.

Lord Hope of Craighead: Jeremy, you were very kind to agree with my amendment. It has gone in with the name of Baroness Finlay at the top of it to make sure it is understood that it has the support of the Welsh Government. I should email the amendment to you, Michael, so you can see what we are trying to do.

Q8 **Lord Caine:** On the question of state aid put by Lord Thomas, every speaker referred to a common UK state aid regime. There will not be a common state aid regime for the whole of the UK in all respects, because Northern Ireland will remain subject to EU rules and regulations. The common state aid regime will be for Great Britain.

Moving on, I would like to enter a note of agreement with what Mike Russell said at the beginning about the lack of understanding of devolution within Whitehall, which is something I experienced at first hand over many years in Northern Ireland. You are absolutely spot on about that.

Going back to the internal market Bill, I declare my hand as one of the minority of Members of the Committee who supported the Government last night on the clauses that were put to a Division, because I support Northern Ireland's unfettered access to the GB market. In your opening comments, Mike, you said that, if the Bill goes through in its unamended form, common frameworks become "inoperable". Is it your belief that, essentially, the Bill brings an end to the common frameworks process?

As a supplementary to that, there is probably a suspicion among some of us that nothing would be acceptable in this respect to the devolved Administrations. Are there any circumstances in which you would accept an amended version of the Bill? What would those amendments be? I am

sorry for the long-winded question.

Michael Russell: It would take me a very long time to go through the Bill clause by clause and tell you what the amendments should be. I would be happier if the Bill did not exist at all. I have made that very clear.

Quite clearly, we do not see the need for the Bill. Therefore, if the Bill still exists and we object to it, we would like to see it changed very radically. That is why I have been supporting the Welsh amendments. I do not want to give the impression that I am an absolutist, but I would rather that the Bill was not there, because it seems to be unnecessary and very damaging to devolution. I am glad you agree with me, and I agree with you, on devolution. Part of this is born of a misunderstanding of devolution and how devolution works.

Lord Caine: Is this the end of common frameworks?

Michael Russell: Per force, it is. It is a great shame, because of the amount of work that has been done. As I indicated to Baroness Randerson, the umbrella analogy was a good one, but let me put it another way: it is like a very large tree that will grow up and nothing will grow in its shade. It seems highly unlikely that these frameworks will have any independent existence or be operable, because they can be overruled very, very quickly. I am not saying it is absolutely either/or, but it seems to me that the ability for the frameworks to operate, and operate well, is so massively reduced and second-guessed that they become largely useless.

It is a great pity. I want to pay strong tribute particularly to the officials who have worked on these. The relationships between Governments have been very poor and getting poorer, alas, but the relationship between officials on this matter has been very productive indeed. A huge amount of work has been done and it would be a great shame if that was not allowed to flourish. If the tree grows up and takes all the moisture, all the goodness and all the sunshine, nothing will grow.

The Chair: That is a very powerful analogy.

Jeremy Miles: To all intents and purposes it removes any incentive for the UK Government to continue engaging with the common frameworks. There would be a practical set of consequences if the Bill were to be passed in the form in which it was introduced.

I want to address the point you raised about the suspicion that no amendment would enable the Bill to be acceptable. First, let us recall for one second together that the genesis of this Bill in no way involved proper engagement with the Devolved Governments. It was a fiat when it was introduced. The history since then has been one where constructive engagement has been sought by the Devolved Governments, including to the extent of drafting model amendments to ameliorate the worst excesses of the Bill. I would characterise the relationship as being

flexibility and engagement on the part of the Devolved Governments and the introduction of a political fiat by the UK Government.

We put forward the amendments that we think are needed to the Bill. I am very grateful to Peers for having taken up similar amendments in the House of Lords. If those amendments were to be passed, we would be in a much better place. We are not wedded to the language of any particular amendment. The issues are very clear. They are set out in our legislative consent memorandum. If there are other more creative ways of achieving the same or better ends, we would be very interested in having those discussions and supporting those efforts.

The Chair: Thank you very much indeed. Those answers are very helpful to all of us.

Q9 Lord Foulkes of Cumnock: Can I join others in welcoming Jeremy and Mike? We are really grateful to them. In passing, incidentally, the General Teaching Council in Scotland predates devolution by quite a bit.

I agree with Lord Caine that devolution is not fully understood in Whitehall. While it is unusual for me to have any degree of sympathy with the current Government, the fact that they have to act on behalf of both England and the United Kingdom has been a problem in Covid. It is a problem in this area generally. We have seen the rise of pressure within England, at a regional level with Andy Burnham, Steve Rotherham and others. There needs to be some movement in relation to that, which we need to take account of.

Our consideration of the common frameworks is going to be influenced by the review currently under way of intergovernmental relations. I understand there is going to be a Written Answer in the Commons, in the Lords and in the Scottish and Welsh Parliaments today on transparency and reporting in relation to intergovernmental relations. Is that going to impinge on how we deal with common frameworks?

Jeremy Miles: As I mentioned in passing, progress on the intergovernmental review has perhaps been more positive than we might have thought, subject to the long shadow the Bill casts over it. In a sense, it is complementary to the common frameworks programme. It provides a mechanism for escalating the sorts of disputes that may arise between Governments in the common frameworks programme. It escalates them above a portfolio level into a structure that, we would hope, is much more robust and resilient than the ones we currently work to.

It is part of an overall package. You could have the common frameworks operating at a portfolio level with ministerial quadrilateral meetings on a more universal basis than perhaps currently operate. I expect that those would deal with the vast majority of issues that come up in the common frameworks. The IGR provides an umbrella to that. Proceeding with the Bill in its current form really imperils that possible positive outcome.

Lord Foulkes of Cumnock: We agree with you on that.

Michael Russell: I agree with George. The GTC predates devolution, as of course does the devolved health service. The health service was established on a devolved basis. That is the basis of the work that has been done on Covid. We come from strong roots in each of the countries, but we are willing to work together because it benefits all our citizens.

Mark Drakeford and I both gave lectures at the Institute for Government almost two years ago about how we would take forward the issue of the intergovernmental review, which had been ongoing for some time by then and continued to be ongoing. Transparency is an important issue here, but the really important issue in the intergovernmental review is finding a way in which it reflects devolution at its best, essentially. That means people working together, not in a subsidiary way but as equals, recognising the different roles we have. That is a really important issue.

I go back to this issue of different roles and responsibilities for the Governments, but no hierarchy of Governments. I would be very happy to proceed with the intergovernmental review on the basis of what both Mark and I have put forward. We have tried to do so. We are not yet at the point where we have a set of proposals we can agree. Regrettably, that is because the principle of equity has not yet been fully recognised by the UK Government. I hope it will be, because, when it is recognised, it is possible to put something in place that will work. It will not work if it is simply a mish-mash of what we presently have.

That particularly applies to the Joint Ministerial Committee. Rather interestingly, although I do not wish the end of the transition, at the end of this year I would have thought that the utility of the Joint Ministerial Committee (EU Negotiations) will have finally gone. We had a remit that was established in 2016. It has never been kept to by the UK Government. What is going to take its place and how is it going to operate?

The Joint Ministerial Committee Plenary, which brings together the heads of Administrations, has not met since December 2018. It is meant to meet at least once a year. It simply has not met. Boris Johnson has never convened one. What is going to take its place? We are nowhere close to saying that in the intergovernmental review at present, because the principle of equity has not been accepted.

Q10 **Lord Thomas of Cwmgiedd:** Can I ask a very specific question? I hope, as time is marching on, for a very brief answer. It is in relation to the dispute resolution process in the common frameworks. What would you like? Would you like a uniform one or something more formal? How do you see this interacting with the internal market Bill?

Michael Russell: It has to vary, because each subject is dealt with differently. For example, on a fisheries issue there will be formal negotiation between the Administrations, each of which has a responsibility. Other matters are dealt with informally.

The principle here is that nobody—not us, not the Welsh, not the Northern Irish and not the UK—should be able to veto a decision. That was accepted from the beginning. We need a system in which we can seek arbitration, for example where in the end we will perhaps agree to differ, but we will be very public in that and our Parliaments will have a say in the matter. Finally, there is a linkage to the intergovernmental review, because if you have an overall system of dispute resolution, that informs the subsidiary systems of dispute resolution. I hope that is the pattern that could be set up.

Jeremy Miles: I would echo Mike's comments with two very brief additions. In the context of the IGR, there is a more umbrella set of mechanisms, because they apply on a cross-portfolio basis. We have been pressing for there to be a role for an independent secretariat, which would provide comfort to the four Governments that there was an independent element in how disputes are managed, and a role for independent advice in that process, again to give reassurance that there is some objective measure against which those things have been considered.

The Chair: That is very interesting indeed.

Q11 **Baroness Redfern:** Good morning, Mike and Jeremy. Thank you for coming today and taking our questions. What agreements have you made with your legislatures for scrutiny of provisional frameworks? Are you aware of any concerns about the timetable for this scrutiny? Mike, can you comment on where you are with emissions trading standards? Jeremy, where are you with the scrutiny on food and feed safety and hygiene?

Jeremy Miles: We have supplied summaries of the frameworks that have been through the JMC(EN) process to the relevant committees in the Senedd. They have sent the portfolio Ministers various questions on what they have received. We will provide summaries of the full suite of those frameworks as they emerge between now and the end of this year. It is a matter for the Senedd committees to scrutinise. We are happy to facilitate that. I am not sure what level of inter-legislative discussions there have been to co-ordinate timings between the legislatures across the UK, but we would be prepared to submit to any level of scrutiny that the Senedd wishes in relation to those. One of the documents includes food and feed safety and hygiene, as you suggested, Baroness Redfern, but the others have gone to various committees.

In addition to the frameworks, touching on the point Lord Thomas made earlier, there are the concordats, which provide more meat on the bone in terms of governance, and dispute avoidance and resolution.

Michael Russell: I have just this morning written to the conveners of a number of Scottish Parliament committees, in response to a concern from some committees that the pressure of work will be pretty intense on them, to look at the finished frameworks in the 28-day period we have set, which is analogous with subordinate legislation, and to begin to look

at the provisional frameworks. This is a product of the artificial date for ending the transition period, which could have been extended and would have given people more time. There is concern and I would be foolish to deny it. I am trying to help them understand that we will do everything we can to support them.

You raise a very important point about emissions trading. We have only recently come to understand that the UK Government may wish to abrogate the framework they have already agreed on emissions trading and to replace it with a carbon tax. We hope that is not the case. That is apparently what the UK Government are talking about. There is no agreement to do so, but if it were to be the case it would negate a framework that is well on the way to being operable. It is not quite breaking news, but it is a comparatively recent threat. We will have to be very clear about it. It indicates a view of frameworks that is not as positive as we would want it to be within the UK Government. Perhaps the internal market Bill indicates that too, but it is a worry to us.

The Chair: We will pursue that issue with the departmental Ministers.

Q12 **Baroness Crawley:** Jeremy and Mike, you are very welcome to our Committee. Your answers today have been very helpful to us in our own Committee deliberations. My question is about going forward, on the assumption that the tree that Mike talked about growing up above the common frameworks may be surgically cut away a bit, so that they will not collapse and we will have feasible and credible common frameworks going into the future.

I want to ask about your plans for parliamentary scrutiny of common frameworks once they have been agreed. How will you ensure transparency of future decisions and accountability to your own legislatures? How will you carry on the consultation that has happened up until now regarding the implementation of these frameworks and any new ones with your appropriate stakeholders, be they business, local authorities or consumer groups?

Following on from George's point, Mike, you also made the point that relations with the UK Government are very poor at the moment. What do both of you think needs to be reset, in Michael Gove's words, in your future relationships with the UK Government to ensure the future effectiveness of these common frameworks?

Michael Russell: I am tempted to say that Michael Gove needs to reset the attitude he has taken towards the Devolved Administrations, but perhaps I should not in this company. We have heard a great deal from the UK Government repeatedly over the years. The first time I heard the term "intensifying negotiations" used was at a JMC Plenary in Cardiff in 2017. There has been a lot of intensification, but nothing has really happened.

I would be looking for the UK Government to recognise the principle of equity: that we are able to work together. We can do the right thing together by agreement, but we cannot be dragooned into doing it, still

less legislated into doing it. If that was the change, it would produce results. I have been looking for that change for four years, so I am not holding my breath, but I hope that better sense might still prevail.

In terms of parliamentary scrutiny, there was a five-stage process. You are familiar with it, so I will not go into the detail of how the framework should be taken forward. In the parliamentary scrutiny sphere, you are expecting the relevant committees to consider the frameworks, both the finished frameworks and the provisional frameworks. We will undoubtedly want to bring some of those to a full parliamentary discussion and debate at some stage on the issue of frameworks. We have consulted with stakeholders about a range of them and will continue to do so.

This is truncated, given the timescale that we are now forced into, but we should be very transparent about them and we have tried to be. Each of the Administrations will do that and then we will have a richer experience, because we will be able to continue to develop and build these frameworks. While we will have an operable finished framework, it may continue to evolve. That would be useful. If there are views from stakeholders and from Parliament about how that should change, we should be part of it. We should do it together so that we are adding to it as it goes on. That is a continuing process.

Jeremy Miles: With respect to everybody concerned, it is entirely Kafkaesque to talk about the reset in relationships while still pursuing the internal market Bill in its current form. I will just note that and move on.

To the practical point about review and scrutiny, the result of the frameworks being nimble and responsive is that they will change over time. The plan is more or less across the board to look at them on an annual basis; there may be some exceptions. That will trigger a process by which we will be fully transparent with the Senedd and seek its observations, either through committee or perhaps in Plenary. That will inform the intergovernmental discussions we have.

As we get into the swim of this as four Governments—I hope we will be in a position to do that—alongside intergovernmental arrangements for taking these forward, inter-parliamentary arrangements might also end up being productive. That seems to me practical and sensible. It is a matter for the Parliaments, but the timing of these things will end up being critical if they are to be reviewed on an annual basis. There may be some scope for thinking in that space as well.

- Q13 **Lord Garnier:** This seems to be a story of mounting tension, as far as I can see. It would be interesting to see how you resolve it. Perhaps that tension is exemplified by the international policy and relations sections of the nutrition-related labelling, composition and standards provisional framework, because it shows us how policy straddles the devolved and the UK Administrations. Clearly, we are not like Australia, Belgium or Canada, as federal states. Their states or provinces take part in international discussions alongside the federal Government.

From the Scottish and Welsh perspectives, how would you resolve the tension I have described, in the light of Mike Russell's stark assessment and Jeremy Miles's less than ecstatic assessment of the relations between this United Kingdom Government and your Administrations, today and in September before the Commons Committee on the Future Relationship with the EU? How do your Governments hope—and, more importantly, expect—to be involved? Do you see only dissension or do you see a way forward? Are we dealing with conflicting personalities or are we discussing conflicting politics and ideas about institutions?

Jeremy Miles: It is a mixed picture. In the context of European negotiations, there was a benign route by which Devolved Governments could have been engaged sensibly, in a way where a UK-wide perspective on the key issues in negotiations could have been at least sought. That was never attempted in any significant or material way, in truth.

In relation to the Devolved Governments, or certainly the Welsh Government, agreeing positions on third-country and rest of world negotiations, for example with Japan, the US, Australia and New Zealand, the environment has been much more benign. There has been much closer engagement in relation to some of those negotiations. It is perfectly possible for these things to happen on a sensible basis.

The role of the common frameworks in that is interesting. Bluntly, to adopt the analysis that Mike gave earlier on, the reason for the Bill is to not have to bother with the common frameworks and simply be able to impose the provisions of internal trade agreements. As it happens, the devolution settlements provide some mechanism for doing some of that already. But common frameworks can play a much more positive role in the future, which is to enable the four Governments in the UK to seek agreed positions on negotiations with other countries where these matters are devolved. That would be a very positive role for them to be able to play.

We have advocated a very much more robust set of intergovernmental structures, as have the Scottish Government now; I will leave Mike to talk about that. We published a document called *Reforming our Union* several years ago, which provides a route map for some of this. There are plenty of examples of it working successfully, not least during our membership of the European Union, where, on matters to do with fisheries or biodiversity, seeking to agree a UK-wide position was the task in hand, effectively.

Michael Russell: Let me say at the outset that, in my view, Scottish independence is the logical outcome not just of this process but of the process of change that has been under way for over 100 years. I do not expect a hugely sympathetic audience in this gathering, but it is right that I make that point. That having been said, I can envisage this whole process since 2016 having gone better than it has done. In fact, it would not require much effort to envisage it going better than it has done, because it has gone pretty badly and gone from bad to worse.

Were there and are there ways in which that need not happen? Yes. Indeed, we have tried to engage with those. On the specific example of trade that you gave, which is a good one, and the detail of that particular framework, we published a paper well over two years ago. We have not been blate, as they say in Scots, in publishing on these matters. We have written and published a great deal. We have published a paper on international trade and trade negotiations in the modern world, which talked about a modern understanding of what trade should be.

There is a role for the Devolved Administrations in that, because they have competencies that are being negotiated. It does not have to be a federal structure. The Scottish Parliament and the Welsh Assembly would have to have legal standing, but if you look at the situation in Belgium you see that both the Flanders and the Walloon Parliaments can negotiate international agreements that deal with their competencies. That is not by any means impossible to imagine.

Constitutionally, the barrier to all this comes in the idea of Westminster sovereignty. That is an issue that needs to be discussed and many of us think that is an outmoded concept. If we were to go into that today, we would be here for a long time.

Q14 Baroness Ritchie of Downpatrick: Mike and Jeremy, you are very welcome. Obviously, I come from Northern Ireland. I am a former MP for a constituency there, so I was very conscious of certain issues. In this regard, because of the Northern Ireland protocol, Northern Ireland will have to deviate in terms of food safety and the agri-food industry, due to remaining within the European Union for those areas. I am not unhappy about that. Having said that, it has certain tensions.

Were those tensions evident in your committee discussions? I am very conscious of the fact that Northern Ireland was not always represented via the Northern Ireland Executive, because we did not have one. It would have been represented by officials, who would simply give an official rather than a political line.

You have probably already answered the tail point by saying that the UK internal market Bill has jettisoned devolution and common frameworks. What are your principal concerns about the timeline for delivering those common frameworks? Would it be simply about the UK internal market Bill and the whole area of devolution grab?

Michael Russell: Those are two excellent questions because they go to the heart of the discussions about common frameworks. On Northern Ireland's engagement in the frameworks, there has been a conceptual issue from the beginning. Basically put, if Northern Ireland is in regulatory alignment with the EU but Northern Ireland is also expected to be part of the frameworks, does that mean by extension that the frameworks are in full regulatory alignment with the EU? It is a problem of logic more than anything else, but it would have to work itself out.

It has never been fully addressed, partly because, as you rightly point out, the Northern Ireland Executive were not present for most of the

period that this was being discussed. The Northern Ireland Executive were present with Martin and Arlene at the beginning, and then nobody but civil servants largely, until more recently. That question has not been fully answered: how far the frameworks would relate to Northern Ireland and how far Northern Ireland would be engaged in them. There are specifically Northern Ireland frameworks, but how they would sit in relation to the protocol has never been understood.

Indeed, I have heard the First Minister and the Deputy First Minister of Northern Ireland both making this point. It is not a point that divides anybody in the Northern Ireland Executive. It is not clear how the frameworks would operate. It has not been made any clearer by the UK Government.

That could and should have been addressed. As Jeremy will recall, the JMC in Cardiff at the end of January this year was the first one at which the Northern Ireland Executive returned to the table. An agreement was proposed by the Northern Irish First Minister and Deputy First Minister that there should be a strand within the JMC(EN) looking at this issue and the issues of the protocol. That has never been established by the UK Government. It simply has not happened, as a result of which it is an unanswered question.

However, to give a bit of hope, there are ways of answering it. One way of answering it is to recognise that, in Scotland, we also want to keep pace with some European powers. There may well be the possibility of co-ordinating policies that are different, but recognised in each of the areas. That should be allowed for, and is allowed for within the frameworks, because the frameworks are about devolution and difference, not simply about uniformity. There is a way to do this, but the UK has essentially tried to avoid answering the question, in my opinion.

Jeremy Miles: Common frameworks are not about finding a common policy. They are about a common approach to manage divergence, effectively. One of the key strengths of the process is the elasticity. That is helpful, it seems to me. On the question of whether there is a time pressure and so on, the intention is to have framework outline agreements all in place and completed by the end of this year. We live in uncertain times, so if that were not to happen it would be because of pressure of events, rather than fundamental disagreement.

Even in those circumstances—obviously, Michael speaks for the Scottish Government—we have all effectively committed to saying we would operate whatever is in existence at that point. Presumably, that would happen through an exchange of ministerial letters of some sort. There are very pragmatic solutions if that were not to happen, but the current expectation is that we will have a framework in place by the end of the year.

The Chair: We have come to the end. I have to say, on behalf of the Committee, that it has been an extraordinary session. We have been incredibly well informed by both of you. There has been a wide and deep

range of very challenging questions. We have learned so much more than we had when we began the session. It is extremely helpful to us and it will be helpful to Parliament as a whole to have these exchanges on the record, to lift some of the mystery from around frameworks and to help us interrogate the Bill as we go forward. That will be extremely helpful, given the stage we are at in this House.

Thank you so much for giving us so much of your time, for being so frank and for being so engaged. We reserve the right to come back and pester you in the future, if we may. Thank you very much indeed.