



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

Corrected oral evidence: Post-Brexit common frameworks

Tuesday 24 November 2020

10.15 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. 3

Virtual Proceeding

Questions 27 - 39

Witnesses

I: Geoff Ogle, Chief Executive, Food Standards Scotland; Aodhán Connolly, Director, Northern Ireland Retail Consortium; Huw Thomas, Political Adviser, NFU Cymru.

Examination of witnesses

Geoff Ogle, Aodhán Connolly and Huw Thomas.

Q27 The Chair: Good morning, everyone. It is very nice to see you this morning. It is good to be able to welcome our witnesses to this meeting of the Common Frameworks Scrutiny Committee. I am delighted to say that we have three experts from around the UK; Geoff Ogle, who is the Chief Executive of Food Standards Scotland; Aodhán Connolly, who is the Director of the Northern Ireland Retail Consortium; and Huw Thomas, the Political Adviser to the National Farmers' Union in Wales.

This session is being broadcast live. A full transcript is being taken and we will make that available to the witnesses at the end of the session. We are very pleased to have witnesses who are at the sharp end of the business of having to design and implement common frameworks. We have had five sessions in private and you are the third group of witnesses we have had who will explain to us how the frameworks are designed and made, their strengths and weaknesses, and how they interact with the internal market Bill.

This morning, we will draw on your expertise in farming and foodstuffs. We have seen the summary framework, which is rich, dense, complex and very important. Many of our questions will be framed with that, and our understanding of what the framework is designed to do, in mind. We will be very grateful for anything you can tell us about your own involvement and the way you see it operating. Again, thank you for coming.

I will start off with a fairly basic question, which I hope will frame some of the questions that you will get from my colleagues around the table. How concerned are you in general about the potential fragmentation of the UK internal market after the end of the transition period? Are you concerned about this in general? Please give me a quick overview of your general problems.

Huw Thomas: Thank you very much—diolch yn fawr iawn. We have some concerns about how things will operate after 1 January. Our members are very clear that they want to be able to trade unhindered across all parts of the UK, so they see the necessity of a functioning UK internal market. About 575 farms straddle the England-Wales border and are in quite a peculiar position.

The word “fragmentation” is a little too strong. The risk is that the market will be destabilised and new frictions introduced when there were none before. We recognise the risks that might arise if we have unconstrained policy divergence. Wales is a big producer of agri-food products. Sixty per cent of the Welsh red meat that we produce goes over the border to England, Scotland and so on, and only 5% is consumed in Wales, so we are reliant on being able to send to the other parts of the UK. Likewise with milk; we produce about 2 billion litres of milk and can only ever process about half of that, so it is essential that we are able to continue to move these goods across borders.

We support the development of measures to try to mitigate some of these potential impacts. A common frameworks programme that has commonly agreed limits on differences coming in would be appropriate. We probably see the internal market provisions as a bit heavy-handed for that purpose. We see it as being about managing divergences that might arise across the UK rather than ensuring consistency.

The Chair: That is perfect. It gives a very clear idea.

Geoff Ogle: Our starting point is that we are leaving the European Union, so alternatives have to be in place for the functions of organisations like EFSA. We have worked with the FSA for at least three years now on the development of the framework. I do not think we are concerned. We certainly need to facilitate a replacement for what we are losing from our membership of the EU.

The EU food law regime has been there for some considerable time and we are very familiar with it. It has operated on a harmonised basis on the principles of co-design in decision-making and how decisions are made. Alongside that, people talk about the importance of exports, but we already have considerable experience of the internal UK market. We have operated in a single market alongside 27 other member states, and in the internal market in the UK, where there is a sizeable chunk of trade.

When you look at the evidence for the volume of divergence, it is quite small. The FSS board, very early on in the FSS's life, decided that we were not going to be different for the sake of being different. We recognise the importance of an effective UK market for Scotland, because Scotland trades with the rest of the UK.

The framework approach has been developed in accordance with international standards. It focuses on consumer interests, which is in line with our legislative requirements. The policy objectives that we are trying to achieve have to be proportionate to the policy objective that we are trying to achieve: they have to be non-discriminatory and supported by equality assessments and any other impact assessments that have to be done. On that basis, we think that the framework, as it has been designed, enables the continuity that we have had for some considerable time.

It is worth remembering that frameworks, as an objective, are not about automatically moving to a point of divergence. The frameworks are there to enable divergence if there is justification for that divergence, which is the important thing. It is not possible to diverge on the basis that you want to be different; you have to justify the case for being different.

So our perspective is that the frameworks that we have worked with achieve what we need to do: they protect the UK's reputation; they are supported and underpinned by important processes like risk analysis; they are based on a model that we know works; and they are underpinned by food law that has been there for some considerable time and which we are familiar with.

The Chair: Thank you very much. That is very comprehensive.

Aodhán Connolly: Bore da. It is wonderful to see some of the Lords and Ladies I have met before, particularly Lord Caine, Baroness Ritchie and Lord Murphy. Good morning to you. It is nice to see you all again.

Northern Ireland, as usual, is bit of an outlier. We have particular problems for our own particular circumstances. On NI to GB, in the retail industry we buy about £2.7 billion of Northern Ireland's agri-food every year. We use around £700 million of that in Northern Ireland and the rest goes to GB. We are 1.9 million people, but we feed around 10 million people.

In essence, any sort of framework that allows that to continue and allows us to continue to be part of things like the Red Tractor scheme and prevents discrimination against Northern Irish goods in the Great British market is hugely welcome. However, the fact is that we are leaving the EU and, de facto, we will be administering the single market in Northern Ireland, but we are still part of the United Kingdom and still part of the United Kingdom internal market. That is particularly important, not just for businesses, agri-food producers and processors in Northern Ireland but for the people of Great Britain who rely on that quality produce coming from Northern Ireland.

On the Great Britain to Northern Ireland angle, this is where it becomes more complicated. As I said, Northern Ireland will be administering the single market and will have those single market regulations as the base setting for our foodstuffs and other items. That will lead to friction. If there is divergence, it is the difference between a paper wall with checks and a brick wall with checks down the Irish Sea.

We have already heard quite hyperbolic discussions about things like hormone beef, chlorinated chicken and that sort of thing coming into GB, which would not be allowed in Northern Ireland. It does not even have to be that sort of big-ticket item; even a small divergence creates friction between Great Britain and Northern Ireland.

About 70% of the value of everything that traverses the Irish Sea from Scotland to Northern Ireland is for retailers' shelves. We are highly dependent on the goods that come from Great Britain. For us there is a grave concern that, if there is divergence, the extra paperwork and the extra friction—you have to remember that friction means cost—will mean that there will be availability and cost rises for householders in Northern Ireland. Householders in Northern Ireland have about half the discretionary income of Great British households, so they cannot afford to absorb any of the cost rises that come from these frictions on divergence. The retail industry is very high volume and very low profit margin, which means that it cannot afford to absorb them.

A helicopter view on this is that the closer the UK stays to the status quo and does not diverge, and if we continue to have reciprocal or mirror-image regulation, the better it will be for the people and businesses in

Northern Ireland and for Great British consumers who rely on those goods coming from Northern Ireland.

The Chair: Aodhán, that was exceptionally clear and very helpful. We will come back to the position of Northern Ireland in later questions. The three of you have given us a very good platform on which to develop further questions, so I am very grateful indeed. Lord Thomas will come in at this point and develop some of those arguments.

Q28 Lord Thomas of Cwmgiedd: I was going to ask you a very general question, but as you have given so many very helpful answers I will ask you a slightly more specific one.

If the level of divergence is fairly low in the common frameworks and as exists in the regimes, do you have confidence that we can build common frameworks that work and do so quickly? It is somewhat disconcerting that it has taken some years to get to where we are now. Geoff Ogle, could you begin by explaining why it has taken so long if there is not that much divergence?

Geoff Ogle: Without going into too much of the history, clearly there was a significant political dynamic in earlier years in relation to what might become common frameworks or not. There has been a lot of political discussion that has clearly had an impact on how they evolve. The JMC then became clear about its approach to the principles, which certainly helped to move things.

How confident are we that it will work? The frameworks for us and the Food Standards Agency are underpinned by a memorandum of understanding that has existed since we have existed. We co-operate with the FSA on a whole range of issues, because both organisations recognise, certainly in our area, that there is an integrated UK market that we need to take account of and consider. A recent example is the changes on allergens, which were a joint effort. We collaborate and talk about science and things like food crime and incident management. There are lots of areas where we work jointly.

My view is the framework development might feel like it has been a tortuous road, but based on the experience of the way the two organisations have worked in the past I have no particular concerns about it not working in the future. The point is ensuring that you have a framework that is enabling and that recognises the possibility of divergence, but the starting point for both organisations is what is in the best interests of consumers. On most occasions, there is overlap and similarity in those consumer interests. There is no difference, for example, in the fundamental principle of food safety or the consumer attitude to wanting food to be safe. So there is an awful lot of commonality, which is the starting point.

You then focus on where there might be divergence and whether there has to be divergence. We may come on to that later. Certainly the Northern Ireland protocol brings a different dynamic to that, but from our

perspective we feel confident that the frameworks that are there can work.

Lord Thomas of Cwmgiedd: Can I ask Huw Thomas the same question about confidence in it, now that we have heard why it has taken so long?

Huw Thomas: Common frameworks have always been NFU Cymru's preferred approach, and that it is a consensual agreement-seeking process between the UK and the devolved Governments. We see that as far preferable to the internal market Bill, which came from nowhere, really; it was not widely trialled until the summer, then it was published, and we are looking at it now. Well-designed and well-operated common frameworks should work. It will probably take longer to get there; they are not as expedient as going down the internal market provisions route. That certainly seemed to be the direction of travel, as I said, until the internal market Bill came from nowhere.

We would be concerned about internal market Bill provisions such as the market access provisions on mutual recognition and non-discrimination being taken forward without corresponding common frameworks. We very much see them as two sides of the same coin whereby the common frameworks set out the baseline standards to which the market access principles then apply. We cannot see why common frameworks cannot be made to work if a bit more time and effort is invested in them, but I realise that, with the end of the transition coming up, time is fast slipping away.

This is obviously a contentious point politically between the UK and Welsh Governments. Our view has always been to build up consensus and not have something imposed from the centre, but I accept the premise of the question: that common frameworks should be able to cope with a level of divergence adequately.

Lord Thomas of Cwmgiedd: Aodhán, can I ask you the same question, but could I also ask you to be fairly brief, because we have an awful lot of questions to get through?

Aodhán Connolly: No problem at all. Let us look at what is good about it. In principle, each nation has said that, where possible, alignment should be sought in the best interests of businesses and consumers. As such, the food and composition standards and the labelling common framework outline a collaborative approach. Again, Northern Ireland being different, because we are, means that, under the Northern Ireland protocol, any changes to EU law will be reflected in Northern Ireland. However, Northern Ireland having a seat around that common framework table allows us to discuss that with officials, Ministers and others under the common framework, so we can feed in. That is the good stuff.

The challenge is how that works in practice and whether one or other of the devolveds want to diverge in a way that sets Northern Ireland completely out of step, which is my great concern.

Lord Thomas of Cwmgiedd: Thank you very much indeed.

Q29 **Baroness Crawley:** Good morning, gentlemen. It is very good to have you with us. I need to declare an interest as Vice-President of the Chartered Trading Standards Institute, which you will be all familiar with I am sure.

In return for the flexibility and the autonomy that these common frameworks bring, there needs to be accountability and adherence to process. How have you been involved in or consulted on the development of these common frameworks, and do you think they will enable the functioning of the UK internal market while acknowledging policy differences across the UK? In other words, is it now clear to you how these frameworks will work in practice, and is there a clear route to resolving disputes in the frameworks when they arise for stakeholders?

Perhaps a quick question to Geoff. As a regulator, is your view that local authorities currently have the capacity to enforce food and feed safety going forward?

Geoff Ogle: There are quite a few points there. The frameworks have been developed as part of a four-country approach. Obviously it is within the framework agreed at the political level between the different Administrations, but we have been fully involved in the development of the frameworks and we have shared them with colleagues in the Scottish Government. We are comfortable with the frameworks. We are comfortable with the fact there is a dispute mechanism in there that does not immediately go to the highest point for resolution; it is a staged approach.

In terms of clarity about the way they will operate, the Northern Ireland protocol brings a sharp focus to the frameworks. With Northern Ireland effectively following EU law, the first thing you will have to do is look at it in the context of the EU law to decide whether that is the common approach across the UK or whether GB will take a different approach. Once you get to that point, you are talking about divergence because you are talking about divergence from EU law.

There are two points about divergence and cost that are worth remembering from a consumer perspective. First, when it comes to business cost, if a business is exporting, for example, it will do what it needs to do to meet the market requirements in that country. I do not always accept that, from a consumer perspective, cost is bad, particularly when the generation of that cost can bring a public health improvement and a public health benefit. Sometimes there is bit of a thing about costs on consumers being a bad thing except where businesses are willing to meet them with regard to an export issue. Sometimes we need to think about why, for example, we are saying that standards that generate costs in the UK have to be considered negative when they are not always a negative.

The other thing about the internal market Bill that worries us, particularly because it is not catered for in the same way as the frameworks are, is the ability under the frameworks to use well-recognised processes on objective justification and "interference in the market where there is a

legitimate objective to do so". The internal market Bill makes no provision for that as far as we can see. That is not in the interests of consumers, because it pretty much removes the capability and ability to make public health improvement. That is not catered for in this internal market Bill but is catered for in the frameworks.

Finally, I think it is fair to say that the capacity of local authorities—I have not forgotten that point—is a real challenge. Covid has certainly brought extra pressures. We work very closely with the local authorities and we have introduced a whole series of changes with Scottish local authorities to improve the efficiency and effectiveness of delivery. However, resources are still a concern and will continue to be, not least because of the demographics of the EH community in Scotland and the lack of new talent coming through. It is a live risk that we are aware of and we are looking to address. Sorry, that was a long answer.

Baroness Crawley: It answered the question.

The Chair: Thank you very much. I wonder whether Huw and Aodhán could pick up that question briefly. Then we will move to Baroness Redfern's question.

Aodhán Connolly: As far as Northern Ireland is concerned, again we share the concerns about the internal market Bill. The frameworks are obviously better.

As for consultation on the frameworks, we have had some from the FSA in Northern Ireland, but that is about it. Given the importance of this to NI to GB and GB to NI, and the fact that we are the people at the coalface, I would have assumed that we would have had a lot more consultation on this.

The other side of things is, as Geoff was saying, the capacity issue. We are now five weeks away from the end of the transition period—five weeks away from fundamental change in how we in Northern Ireland do business. Quite simply, with all these things coming at once on top of Covid, there is little financial, policy or time for us to deal with this. The majority of people who will be working on these common frameworks are also looking at things like export health certificates, SPS checks and what will be needed for us to continue to feed the people of Northern Ireland on 1 January. So the timing on this is not great. I know that is part of the whole process, but it will still be a struggle to get good informative consultation on this, given the constraints of everything else that is going on.

Huw Thomas: I agree with much of what Aodhán has just said. The timetable is obviously quite truncated now, and we do not have much time left if these things are to be operationalised in time for 1 January.

We have had little involvement with the process itself from government. I am obviously aware of the FSA framework that came out last month, but we have not been especially involved. We perhaps feel a little bit in the

dark as to where we are going with this, but obviously we are aware that these things are on the horizon and will need to go live before too long.

On the question of dispute resolution, the most difficult part is how we might address any dispute within a common framework. Until the frameworks are in place, it is difficult to anticipate where those disputes might arise. It is still not entirely clear who will be the ultimate arbiter in a dispute and whether, on a UK level, the Secretary of State will also prevail over the devolved Administrations.

I think that is all I can usefully add on that.

Q30 Baroness Redfern: Good morning, Aodhán, Huw and Geoff. Thank you for attending our meeting and answering our questions. I have two questions.

First, particularly after the UK takes over regulation of food safety, the FSA and the FSS will carry out risk assessments with independent scientific advisers to create advice on hazards, levels of exposure and risk to health. Do you think there is sufficient capacity for the food safety regulators to meet this challenge?

Secondly, within the framework, businesses applying for pre-market approvals and re-authorisations for the GB market submit an application through a single application process, with Northern Ireland businesses submitting to a relevant EU body. Do you think that, in a joint risk analysis approach, there is any substantial risk that could slow regulators?

Aodhán Connolly: It is beyond my paygrade to comment on the capacity within those regulators. As far as the joint risk analysis is concerned, the more we can do jointly on this, especially when you are talking about Northern Ireland having to go into the EU regulatory frame rather than the one for England, Scotland and Wales, the more it is standardised, the better it will be. In fact, for a lot of the retailers that I represent, be it in food or in other sectors such as pharma and electronics, the closer we are regulatorily to each other, the easier it will be. That is not just about standards, but about how those standards are assessed and the applications that we have to make to be able to trade in a common area.

Huw Thomas: I do not have anything that I can usefully say about the capacity within the regulators either. As far as possible, when things are closely aligned it will clearly make things a lot easier, as Aodhán has said. We certainly advocate close working together to try to reduce frictions.

Some of our concerns post 1 January relate to things like export health certification of exports of meat and so on. There is a potential issue there, as we are having to do something that we have never had to do before as an EU member state. There is a capacity issue with regard to the veterinary surgeons and so on who will be needed to do this. It is entirely new and will hit quite hard on 1 January. That is the sort of issue that our sector would be most concerned with.

Geoff Ogle: The process of risk analysis is not new for the FSA or the FSS. The distinction is that a lot of the risk analysis process before was overseen by EFSA.

In terms of capacity, both organisations have had increased resource to deal with some of the consequences of leaving the EU. Both organisations have deliberately focused that additional money and resource into developing risk analysis capacity and, indeed, capability. I am quite satisfied that we will undertake risk analysis in a way that is internationally recognised and is to internationally recognised standards and processes. There is a clear distinction between risk assessment, risk management and risk communication, so I think it is a process that will stand up to scrutiny and will be internationally recognised, which is important.

In that context, the process itself is fine. Clearly, as Aodhán said, once you start diverging between different legal frameworks—in this context, food—obviously the risk assessment and risk management processes kick in, because you have to sure that you are satisfied with the assessment of the counterpart.

That potentially brings in the extension of timeframes. If GB goes down a different route or brings in different standards, it is inevitable that we will need to satisfy ourselves that products are safe and so on. Anybody we want to export to or do business with will also want to have confidence in that process, so there is potential delay there. Having said that, if the process is accepted as meeting standards, that acceptability should be easier. The proof will be in the testing. Obviously EFSA has done a lot of this for us, but this is not a new concept for us.

Baroness Redfern: I am pleased you think there is sufficient capacity. That is interesting.

The Chair: We now move to a group of questions about the internal market and the interaction between the frameworks and the market in operational and practical terms.

Q31 **Lord Bruce of Bennachie:** Good morning. I have a general question that you have mostly answered. It is about a general reaction to the internal market Bill, which I think you have all expressed.

One question that arises then is: do you think the internal market legislation is required? You have all said you recognise there is a need for an internal market and there may be some requirements, but do we need this Bill, or can it be done through common frameworks and any legislation that arises from that?

Another question is: to what extent has the emergence of this Bill, as you say without much consultation and in bit of a rush, impacted on the common frameworks process? Has it driven a greater degree of urgency or has it had the opposite effect of making people feel, "Why are we working so hard on the common frameworks when this piece of legislation has been thrown across it"? Perhaps we should start with

Wales.

Huw Thomas: Thank you for that question. Throughout this process, we have advocated the common frameworks approach, because we see it as consensual and a collegiate approach. The internal market Bill is the imposition of something from the centre. As we have said, a well-designed and well-operated common frameworks programme could work as a standalone here. The risk with the internal market Bill, although it is quite expedient and gives quick cut-through, is that it potentially risks disincentivising work on common frameworks, because it supplants a lot of the work on common frameworks and essentially negates that. It perhaps calls into question the need for common frameworks.

As I said earlier, if we are going down the internal market Bill route, we also have to have the common frameworks setting those minimum standards. We do not want to see an internal market Act adrift from any basis of standards underpinning the market access principles.

This is a difficult issue for us to have a conversation with our members about and to get their views, because of Covid and because of the dry technical nature of the subject matter. Our members certainly want to be able to trade freely and without hindrance into all parts of the UK. As I said, we see the common frameworks programme as the means of achieving that and we are not sure about the necessity for the internal market Bill provisions.

Lord Bruce of Bennachie: It will not be dry and technical when it goes wrong, which is the problem. Clearly there is another dimension in Northern Ireland that we need to address, but perhaps we can get Geoff's view next.

Geoff Ogle: Scottish Ministers are clear about their views on the Bill, so I do not need to repeat those. My concern about the food area is that 95% of our food law is covered by the EU, so it has been a massive transposition for us. There is no evidence yet that the frameworks will not work and, conversely, I do not think evidence has been presented that justifies the provisions in the Bill as they are outlined are needed. We have been in the single market since it operated in the EU, which is a single market of 27 other countries, and in the UK itself as a market. As we said in our consultation response, the Bill is trying to address problems which there is a lack of evidence to suggest are there. Labelling is a good example; there are concerns about it, but when you say, "Point to where there have been differences in labelling that have generated a disproportionate cost to businesses in one Administration compared to others", I have yet to see the evidence to suggest that there have been.

Another concern is that the Bill defines consumer interests pretty much in relation to cost. As I have already said, it makes no provision for public health improvement. The question I would ask from a consumer perspective, which is where we are coming at it from, is: how and where does this Bill facilitate high standards and maintenance of high

standards? On the face of it, as far as we can see and interpret it, it encourages lower standards and deregulation.

From our perspective, because the consumer benefit is defined solely as cost, it means that public health improvement is really difficult. In a way, it does not obviate the need for frameworks, but when you look at it through the lens of a framework you then have to look at it in the context of a Bill. Given that the Bill talks about local markets, you could make changes in the context of a local market, but you have to understand the consequences of it across the piece, because it could be challenged and overturned on the basis that a higher cost due to a public health improvement is discriminatory. It is a real worry that, despite Governments intervening in the market for years and years, this Bill does not do that or allow any provision for it. From a consumer perspective, that is worrying.

Lord Bruce of Bennachie: Northern Ireland is obviously a bit more complicated.

Aodhán Connolly: Just a tad. I shall do as I usually do and give you the positives and then the negatives.

It is exactly the same as the UK Command Paper. The ambitions are absolutely laudable. Non-discrimination and mutual recognition are wonderfully laudable. There are good things in it about Northern Ireland produce going through to GB, and an extra level of protection against non-discrimination. That is the good stuff.

The bad stuff is that this is a political Bill rather than a technical Bill. This is using a sledgehammer to crack a nut. When this Bill was read, it eroded six months of trust with the EU in those negotiations in 24 hours.

There is one thing that I have to clear up and, if I could, I would get this put on a neon sign on the hills of Belfast: the United Kingdom Internal Market Bill does nothing for goods moving Great Britain to Northern Ireland. The number of people who have been saying that this is a catch-all and a get-out-of-jail-free card, and stops any worry about us having to abide by any EU regulations and stuff between GB to NI, is a huge concern.

The other thing is that, by the Secretary of State's own admission, it breaks international law, although in a limited and specific way. It does not matter whether it is limited or specific, and it does not matter that there are opinions out there that say that it does not break the law. The fact is that retailers, responsible businesses, will not be able to break the law. We just cannot do it, given that we have supply chains and business in Europe—or, quite simply, given the principle. So, on moving GB to NI, it does nothing for us.

There is a little bit of light with the protection especially for NI producers and NI processors of things moving to Northern Ireland. But, again, it is a sledgehammer to crack a nut and, quite frankly, we would be safer doing

this sort of thing in a frameworks capacity where there can be conversations about the nature of the non-discrimination and mutual recognition rather than, "This is it. This is the blanket, and this covers all", which it does not.

Lord Bruce of Bennachie: That is great. I do not want to ask another question, but I think we should amplify the point you made about businesses not being able to break the law regardless of section 5 of this Bill. That is quite an important point that needs to be made and loud clear. Thanks very much for all your answers. They are very helpful.

Q32 **Lord McInnes of Kilwinning:** Thank you, everyone, for coming along today, and especially for the Food Standards Scotland briefing on the internal market Bill. That was very helpful, Geoff, thank you.

I would like to go back to the sledgehammer, if you like, to try to feel out and clarify in mind that there is some support for the sledgehammer, because sometimes the nut does need to be cracked. In terms of business, Aodhán, you mentioned the concerns about capacity within the common frameworks and, Huw, you mentioned that your members wish to see the market expedited as best as possible. Would it be fair to say that while we all support the laudability of common frameworks and see as ideal a consensus approach, do you understand that some businesses might see the sledgehammer approach as the best way to provide some certainty for them?

Aodhán Connolly: I am the convener of the Northern Ireland Business Brexit Working Group, which accounts for about 85% of businesses in Northern Ireland, and it is my privilege to be able to bring those people together. Not one of those groups or representative bodies around the table is singing the praises of the internal market Bill. The processors and the farmers are very happy, and rightly so, with Article 43 on non-discrimination with regard to goods going NI to GB.

On balance, what it has achieved in eroding trust and putting back the talks rather than providing legal certainty, which it does not do, it may have cracked a couple of nuts, but there is a lot more that needs to be done and this Bill simply does not do it. I do not think anyone could say that the consensus of business in Northern Ireland is approval for this Bill.

Geoff Ogle: I agree with Aodhán. I do not think it provides legal certainty. In fact, we think it does the opposite: it does not provide certainty for businesses or consumers, actually.

The Bill is drafted such that the law that applies to products at any given instance is the law that attaches itself to the product when it is produced. To put it another way, the law that applies to the products on a shelf is not the country which the products on the shelf sit on; it is the law of the country in which the product was produced.

From an enforcement perspective, that means that enforcers have to be familiar with four sets of legislation. If you had a different labelling

requirement in one Administration compared to another, for example, you would look at it in the country and say, "That label is not compliant with where I am standing", but you then have to check the labelling requirement in the country it is produced in to see if it is there. If it is legally compliant with that, even though it appears not to be compliant with the shop it is being sold in, it is compliant where it was produced. Businesses therefore have to think about what market they are selling in, and then look at whether the requirements are different and whether they want to meet them to sell them. So we do not think that the Bill provides certainty; it provides high levels of potential confusion.

We made this point in our evidence about the requirements. Again, even consumer assurances, such as transparency in labelling, could be undermined by this Bill. Even if you have differences in standards and a lower standard is being sold against a higher standard, if you do not have transparency that makes it clear that one standard is lower than another, the consumer does not have the information they need to make a choice. They might want the lower standard because that is the price they want to pay, but there is a lack of transparency when it comes to standards which this Bill facilitates. Again, from a consumer perspective, it is not helpful.

Huw Thomas: The Bill probably does provide some certainty to businesses, but certainty comes at a cost because it cuts two ways. Obviously it allows businesses to trade freely into the rest of the UK, but it also creates a disincentive for Governments to compete for business by potentially lowering standards, so it could trigger a race to the bottom in terms of standards. As NFU Cymru, standards are something we feel particularly strongly about. You will have seen our campaigns on standards recently. We would certainly be concerned about seeing an invidious race to the bottom started on standards.

As Geoff has said, the labelling issue is also of concern. There might be different methods of production in different parts of the UK. If devolved Administrations cannot keep those out because of the mutual recognition obligations, it looks from reading the Bill as though they will not be able to insist that those products are labelled differently to enable informed consumer choice, and that would be particularly concerning. It is bad enough having an un-level playing field potentially opening up in the UK if there is a race to the bottom on standards, but if the devolved Governments are prohibited from insisting on labelling requirements to differentiate a product and to allow informed consumer choice, that is doubly concerning.

Q33 Lord Foulkes of Cumnock: I thank the witnesses for really excellent information and evidence, not least for reminding us that the European Union common market is all about harmonisation rather than divergence, which I found a good reason for being in favour of it.

Geoff said earlier that we do not want to be different for the sake of being different and that there needs to be justification for one country being different from another. As someone who lives in Edinburgh, works in

London and moves up and down—as I will do later today between the two—I do not want to be poisoned by food at either end. What examples are there of justified differences in these areas between Scotland and England, or between Wales and Northern Ireland, and how does the internal market inhibit any decisions being taken in these areas? Perhaps we could have some specific examples rather than a general idea of how this sledgehammer Bill, as Aodhán described, will inhibit these differences.

Huw Thomas: I am not sure I am necessarily best to give specific examples.

There is some capacity for regulatory divergence within EU law. That has occurred to a degree here but probably not to the degree that is allowed under EU law. We have probably not seen the full extent of the EU law divergence that is available. The issue of raw milk sale is sometimes pointed to as an example; Scotland prohibits the sale of raw milk, but it is permitted in England and Wales.

I do not think anyone has any great appetite to be different for the sake of it. Sometimes peculiar territorial situations arise that might call for a different approach, but I do not think anybody wants to be different for the sake of being different. I point to what happened when we were in the EU; there was probably scope for more divergence than was utilised at the time. I think everybody recognises that we need to be able to trade freely across the UK, and hopefully we will not see unnecessary barriers being put in place.

Aodhán Connolly: There are very few examples of that happening, quite simply because we have been under EU law. I am sure Geoff will be able to give more specific examples.

When it comes to food composition standards and labelling policy in the UK, which we are getting back from the EU—food information for consumers such as fish labelling, dairy designations, information on spreadable fats, casings, cocoa and chocolate product; there is a list the length of your arm—it is hugely important that all products are labelled correctly and the constitution of them is regulated. Something as simple as the Scottish, Northern Irish or Welsh Governments changing their consumer outlook on traffic lights or what warnings go on labelling can have a huge effect. You have to remember that Northern Ireland has 1.9 million people, so if people are selling GB to NI, all those products will have to have a separate label for Northern Ireland and a separate label for Scotland because of different regulations on what consumers need to know if there is divergence. As Huw said, there is very little appetite for that now.

To put that in perspective, a couple of years ago we had an outbreak of avian flu here in Northern Ireland. In the space of about six weeks, all the free-range hens had to come in. Anything that was made with free-range eggs had to get a label on it saying that it was made with barn eggs rather than free-range eggs. In the space of six weeks, it cost over

£7 million to make that change. If you multiply that up by hundreds of thousands of different products for four different constituent parts of the UK, if there is labelling divergence, producers cannot handle that cost, and nor can the retailers. Then the cost goes to the consumers, who cannot afford it either. This is why divergence is not a good thing.

Geoff Ogle: On the first point, the principal basis of food law is that food has to be safe.

Lord Foulkes of Cumnock: Correct.

Geoff Ogle: Whether you are in Edinburgh or London, it will be safe food.

Huw has already mentioned raw milk, so I will not talk about it again. We looked at the possibility of divergence and decided not to do it when we looked at folic acid. The Ministers asked us to look at the possibility of fortifying bread in Scotland. When we did the analysis and the work on it, the solution was disproportionate to the policy objective, so we have worked on a four-Administrations basis to try to get a consistent approach.

Another example of where you might need divergence is Administrations being able to respond to fatal accident inquiries—specific issues like that involving a clear localised example. The death of a child from E. coli in Wales in 2005, for example, led to a number of specific changes in Wales.

I suppose the best example is something like a public health improvement in diet and nutrition. We know that all Administrations in the UK have an issue with diet, and we know that there are issues with overweight populations. We also have examples of Administrations, when we were in the EU, doing different things that have been adopted by the other Administrations in the UK.

Diet and nutrition is a public health issue that is fully devolved. In theory, therefore, Ministers have the ability, on public health grounds, to make changes with regard to labelling, composition or areas where it can be justified. This Bill potentially challenges the ability to do that, because, going back to the point that was made, if that public health improvement generates cost, it can be challenged on the basis of discrimination, because the cost of production in one country is higher than the cost of production for the same product in another country, so there is no level playing field, to pick up that terminology.

Lord Foulkes of Cumnock: That assumes that one country does not want public health improvement. Why do we have to assume that?

Geoff Ogle: This is where the frameworks come into their own, because the starting point is trying to get a common approach to improvements while accepting that, where the case can be justified, divergence might be reasonable. In areas of public health—for example, tackling obesity—countries might want to try different things, and this Bill does not enable that.

Lord Foulkes of Cumnock: In Scotland, we brought in no smoking in public places before the rest of the United Kingdom. Would that be inhibited by the internal market Bill?

Geoff Ogle: That is difficult to know. It is quite possible. The difficulty is that we get into the definition of a local market. If you are a tenancy, it might not affect you, but if you are a national chain, it might. It depends on the definition of a market, I think.

Lord Foulkes of Cumnock: That was a very helpful reply. Thank you very much indeed.

Q34 **Lord Hope of Craighead:** Thank you very much indeed. The evidence of all three of you has been extremely helpful and very interesting.

I would like to start by looking at a paragraph in Geoff's written submission. I do not know whether you have it before you. It is paragraph 28 on page 18 of our brief for members of the Committee. In it, Geoff, you look at the position under the Bill as it stood: "It means that English statutory instruments would operate in Scotland and vice versa, but how they would apply it would require analysis". You end that paragraph by saying, "The Bill encourages rather than guards against regulatory incoherence and would give rise to confusion and uncertainty among potential future trading partners".

That is a preface to a point I would like to take up with you. A few days ago, the Bill was amended to introduce a protection for decisions giving effect to agreed divergences, which is to say that if a decision was made to introduce a regulation that is based on an agreement reached through common frameworks, that would not be subject to the internal market principles. That has meant that that, too, will give rise to confusion and uncertainty, because markets would not know where a particular regulation came from, what its origin was or whether it really was part of an agreed framework. I wonder, Geoff, whether you would care to comment on that and perhaps elaborate a bit on the last sentence in paragraph 28.

Geoff Ogle: The issues are actually to do with transparency and clarity. The issue for us is which legislation applies at which point in a product lifecycle. If you are exporting a finished product but it is a composition of materials from different parts of the UK, what piece of legislation is the relevant legislation? It does not appear that it is the final piece of legislation where it is sold. It appears that the predominant legislation is where the processing was, but, equally, on other issues, it might be to do with the product origin in the first place. So it is difficult to know. If you are exporting, you need to be able to show the full traceability of that product, where it came from, and the law that is applied to it.

At the moment, we have a pretty much standard legal framework for food, which has been transposed from EU law into UK law, and we have one coherent set of legislation that applies right across the UK. In that sense, when countries are looking at what standard is being applied, it is very clear what standard we are applying.

Going forward, if you have difference and divergence, it becomes less clear. In theory, the Bill effectively says that those with the greatest sectoral interest will dominate, which on the face of it would appear to make that question easier. Equally, the Bill also facilitates the difference between local markets and national markets, which I have already talked about. When you are trying to sell a product to an external market, they will want to know the provenance, the legal base and all the things that go with it, because they need to have that assurance for their own consumers. That is where it becomes confusing.

The issue with the internal market Bill compared to the frameworks is that it is not an approach by consensus, and the frameworks are.

Lord Hope of Craighead: Trying to protect the frameworks, given that the Bill exists, will make the situation worse. That is the challenge that we are faced with in this amendment, which may be reversed in the Commons. They will say that trying to protect the frameworks decisions in this way creates uncertainty for traders, because they will not know what law they have to respect.

Geoff Ogle: I am not sure that I accept that, because the framework process is a principle of consensus, and the framework itself ultimately has a dispute mechanism in it, so you get some finality within the framework. It might be a conclusion that one Administration is not happy with, but the conclusion of the dispute would have been on the basis that the Administration that was unhappy at least had the ability to make its case. Its case may not have been accepted, but the dispute mechanism has kicked in and its conclusion would apply. That would give the certainty that we do not have at the moment with this Bill.

Huw Thomas: I tend to agree with what Geoff has said. The principle of preserving the consensus that emerges through common frameworks is so important. There are real tensions across the UK at the moment, and we need to ensure that we can do that. At least the Governments will feel that they have had the opportunity to comment if the dispute resolution has been invoked—that they have had their say.

We expected to see the common frameworks programme progressed, operationalised and developed by consensus. The internal market provisions emerged a bit late on the scene from nowhere really, and I think they took everyone a bit by surprise.

The internal market Bill needs to yield to accommodate the common frameworks approach. We do not want to see an internal market Bill without that sort of underpinning to it.

Aodhán Connolly: I think the other two gentlemen covered it off admirably. I have nothing else to add.

Lord Hope of Craighead: Thank you very much indeed, all of you.

The Chair: We now have a couple of questions on Northern Ireland, some of which Aodhán has already touched on.

Q35 Baroness Ritchie of Downpatrick: Gentlemen, you are all very welcome. I know Aodhán in particular very well. I declare a registered interest: I am a member of the board of Co-operation Ireland, whose work touches on these issues.

There has been much discussion today on the Northern Ireland protocol and all the complexity around that, particularly in the trade in agricultural products and food supplies from Great Britain to Northern Ireland which are vital to Northern Ireland's 1.9 million population. In that context, we are aware that there were discussions between the UK and the EU to see whether something could be done to iron out those difficulties and complexities, because we have prohibited lists for food and allowed lists for food. Lord True told me two weeks ago on the Floor of the House that discussions were ongoing.

My first question has two parts. First, are our witnesses aware of any resolutions so far in that regard? The other issue relates to how you see the common frameworks process intersecting with the Northern Ireland Protocol, particularly taking on board the consensus among the wider retail consortia in Northern Ireland that they just do not like the internal market Bill, particularly on the day of an announcement that five Lidl supermarkets will be built in Belfast over the next two years.

The food and feed safety hygiene framework clearly states in relation to the Northern Ireland framework that businesses applying for pre-market approvals and reauthorisations for Northern Ireland will submit applications to the relevant body as set out in the EU legislation. Obviously, that causes a lot of complexity and extra paperwork. What will be the cost to the Northern Ireland consumer, and will the Northern Ireland consumer have that direct accessibility to food supplies from Britain that we have been used to hitherto? Thank you, Chair, for allowing me that convoluted question.

Aodhán Connolly: It does not matter what sort of free-trade agreement there will be; there will be more cost for consumers in Northern Ireland. There will be friction, there will be paperwork and there will be all these things that have costs bound to them. Like I said, retail is high volume and low profit margin. We have had five years of consumer deflation. There is no wiggle room left for the retail industry. Northern Ireland consumers have the highest level of indebtedness in the UK, the lowest amount of savings, the lowest financial security and half the discretionary income of Great British households, so we cannot afford it.

As for the resolutions, we have always said that this should be a technical process. Unfortunately, the politics of it has muddied the waters. It was supposed to be a separate but parallel process with the FTA on one hand and the joint committee and the specialised committee on the other hand looking at resolutions for Northern Ireland. Unfortunately, they have not done that. The internal market Bill, as I said, eroded trust in those joint committee workings and put a stick in the spokes of the wheel of that process.

By the same token, it looks like politics could be the way out of this. We are in the middle of a tunnel now on that FTA. Hopefully, we will get that FTA. I hope that when the FTA tunnel breaks we will get another tunnel for Northern Ireland with the joint committee and the specialised committee, which, I have to say, have not had a huge amount of engagement with business in Northern Ireland. I would like to see more of that, going forward.

The P and R list—the prohibited and restricted list—which you mentioned is one thing that has been discussed, is on the table and will not be moved upon. None of this stuff will be moved upon until the FTA is done, quite simply because Northern Ireland is too much of a leverage point in the FTA negotiations for either side.

On the common frameworks question, there is a need to stay as closely aligned as possible with Northern Ireland, quite simply because if we do not, there will be divergence. The more divergence there is, the more cost there is, even down to things like labelling, which I spoke on before. If this was a perfect world, we would be asking for a FTA with something like the veterinary agreement that they have with New Zealand. That would mean that there would be 1% checks, which would mean that only seven lorries a day would be checked going across.

It does not look like we will get that. You have to remember that in Belfast we already have 18 hours less shelf life than Bolton or Birmingham just because of geography. If a lorry is late to the boat, it is not 20 minutes or six hours late; in fact, it is over 24 hours late. What happens in the just-in-time supply chain is that a composite load will go across to Northern Ireland and to a picking bay at a distribution centre. If you miss that picking bay, quite simply that produce does not go out at the time it is supposed to.

Our main concern for the consumer in Northern Ireland is cost—inevitably, and we are now trying to remove friction and cost increase as much as possible—and, on the other side, availability. First, we need to get export health certificates for the prohibited and restricted list to allow us to bring fresh meat and produce such as bread and seed potatoes into Northern Ireland. We also need to make sure, again, that friction is lessened as much as possible so that we can prevent delays, cost rises and availability—issues that come with friction.

The Chair: Thank you so much, Aodhán. It is invaluable evidence for us. Lord Caine.

Q36 **Lord Caine:** I will be brief, because the quality of the answers from each of our three witnesses is such that virtually everything I was going to ask has already been comprehensively dealt with.

I was going to ask exclusively about Northern Ireland. Aodhán, it is very good to see you again, albeit in a different guise from previously. I share the deep concerns that, rather than taking back control, in the case of Northern Ireland we are almost in a position of handing more control to the EU on the basis that we will be facing regulations without any

representation, which leads to quite a high risk in the future of divergence. I entirely share the concerns about trade from GB to NI and the friction. I was going to ask you about the extent to which a free-trade agreement with the EU might alleviate some of the difficulties, but you have obviously touched on that in your previous answer.

Obviously, you work very closely with the Northern Ireland Executive now that, thankfully, they are back up and running. Do you have any understanding of the role of the Northern Ireland Office in the common frameworks programme and what it is doing to ensure that Northern Ireland's interests are properly represented at Cabinet level?

Aodhán Connolly: Thank you very much for your question, Lord Caine. Indeed, it is good to see you again.

The FSANI and the Dáil will have some part to play on the common frameworks. The Northern Ireland Executive have been quite late to the table on all this Brexit stuff, simply because there have been very, very differing views. However, the good thing, and I cannot laud this enough, is that the First Minister and the deputy First Minister wrote to the EU a fortnight ago outlining those concerns about making sure that goods, especially consumer goods, can move from Great Britain to Northern Ireland.

That is exceptionally important. We, as the Northern Ireland Business Brexit Working Group, will be writing to the First Minister, the Deputy First Minister and the other Executive Ministers this week to give them the results of our business survey, which has outlined the major concerns that business has about end of the transition period. Hopefully, we can get the Executive to coalesce around messaging that they send to the UK Government and the EU. We have to remember that this is not about beating up the UK Government; this is about getting both the UK Government and the EU to deliver on their pledges and their responsibilities to the people of Northern Ireland.

Given the nature of these frameworks, which devolve to, rather than, as Huw was saying, force things from above as the internal market Bill does, the NIO's role in this will be the same as the Wales Office's and the Scotland Office's—facilitation and communication with the centre. The actual decision-making and the negotiation on the common framework will be for the devolved Assemblies, Parliaments and Governments.

We are having some good negotiations with the NIO at the moment on all this stuff through the Business Engagement Forum. We would perhaps like to see it a bit more formalised and to see a wee bit more workshopping rather than just video calls. With a lot of this stuff, because of the intricacies of it there is a need for us to be able to explain and to tease out some very technical points rather than trying to get everything done in a one-hour session.

Lord Caine: Thank you, very helpful. Thank you.

Q37 **Lord Murphy of Torfaen:** I have been particularly fascinated by all the

exchanges today, especially, of course, the last one.

I change subjects now. How do you see the future United Kingdom internal market operating with respect to international agreements—notably, of course, trade agreements? Do you have any concerns about all this?

Huw Thomas: Speaking from a devolved point of view, international trade is a reserved matter, but obviously it creates obligations that are very often overseen and implemented at devolved level. One of the stated objectives of the common framework programme, of course, was to facilitate international trade. We now have the internal market Bill as well.

The Government's chosen course is to go down this internal market Bill route, I think to give prospective international trade partners the assurance that they would have access to the whole of the UK market were they to sign a trade deal with us, and that the devolved regions would not present a problem in that regard.

One thing we would flag up is that when you overlay international trade with the mutual recognition principle in the internal market Bill, for example, if it were decided that goods were to be admitted into England from a third country—goods produced to standards lower than our own or standards that may actually be illegal in one or more of the devolved countries—the principle of mutual recognition would bite in such a way that devolved Governments would not be able to keep those products out of their territories. As I said earlier, nor would they be able to insist that those products are labelled in a way that would allow informed consumer choice. That would probably be our No. 1 concern with regard to the internal market Bill and international trade.

Anecdotally, speaking to the Welsh Government, it appears that they have quite a good dialogue with the Department for International Trade, which is encouraging. Our agricultural sector is very exposed to international events and trade deals. We are reliant on producing red meat, and there are a lot of competitors out there with a lower cost base because of lower production standards. That would be our biggest anxiety.

Geoff Ogle: From our perspective, it is worth pointing out that the EU already has a number of trade agreements in place with third countries, which allows individual Administrations in the EU to make determinations on matters of public health as long as they are non-discriminatory and supported by evidence. There is evidence that trade deals can be reached and implemented with an approach that enables public health protection. That is the first point.

Huw has already mentioned the general reservation, but there are a couple more points to make. The first is that the common frameworks process accommodates international obligations issues and the interaction with domestic arrangements. We do not think that is a difficulty.

The other thing to remember, of course, is that the phytosanitary policy is a devolved issue. So the answer to having effective trade deals and trade negotiations is to ensure that the devolveds are properly engaged and involved in the development of a UK negotiating position rather than finding that we end up with an agreement that runs counter to issues that are devolved.

Could a trade agreement be a problem? Yes, it could. Can it be avoided? Yes, it can. The issue is how you reach a common UK negotiating position to avoid problems down the line, while recognising, as I have already said, that it is a well-known established international practice that allows divergence in a market where that can be justified. I know I keep making this point, but it is really important for us because of the consumer issues that come with it. For us, it is a matter of approach and handling, not that there is a problem with the frameworks and being able to accommodate them.

Aodhán Connolly: Absolutely—a divergence bar. Northern Ireland will be in the EU single market, or will be administering the EU single market, so if trade deals are done in GB, there will be problems if there is divergence and things coming in. Everyone uses the example of the Frankenstein chicken and all that sort of thing, but there does not have to be that level of divergence for there to be a problem.

The other thing to remember is that, under the internal market Bill, the statutory instrument on goods going Northern Ireland to Great Britain will have a definition for which goods go NI to GB. It is an extremely important protection to make sure that goods can flow into the Republic of Ireland through Northern Ireland and into GB. That mutual level of protection for consumers is also hugely important.

However, the baseline is that the more there is divergence, the more there will be friction between Northern Ireland and the rest of the UK. I have heard some people say that it does not really matter, because Northern Ireland is only 1% or less of UK trade, so it is a rounding error. One per cent may be a rounding error for other people, but for us it is the economy we have.

Lord Murphy of Torfaen: Thank you all very much indeed. That is very useful.

Q38 **Baroness Randerson:** Bore da, good morning. Thank you very much for exceptionally high-quality evidence. I just wish I had received it a couple of days ago before I spoke on the internal market Bill. It would have given me more examples to draw from.

Geoff said earlier that the devolved Administrations being involved in the UK negotiating position was an accepted and reasonable way forward and perfectly doable. Last week, Jeremy Miles from the Welsh Government said that the reason for the internal market Bill was not to have to bother with the common frameworks and to be able simply to impose the provisions of international trade agreements.

Without repeating anything you have said before, do you get any sense from the trade agreements being negotiated at the moment that Jeremy Miles's position is accurate, or do you think the devolved Administrations and common frameworks are being taken into account? I can see Aodhán shaking his head.

Aodhán Connolly: I do not believe they are. Trade agreements have a set of offensive and defensive asks. That is how they work. It is not cucumber sandwiches and Pimm's; it is a blood sport. From the start of trying to get rollover days, it was important to make sure that the particular circumstances of the devolved nations were agreed in those defensive and offensive asks by DIT. I have no knowledge of that happening.

Huw Thomas: Similarly, I do not have much experience in this area. We would be keen to ensure that the devolved Administrations have input into this, because, as has been said, international trade will give rise to obligations overseen at devolved level. If you cannot involve the devolved Administrations in forming your negotiating mandate, you are potentially storing up problems for later down the road. Involving them at an early juncture is one way of heading off that sort of problem. We would certainly like to see more involvement for the devolved Administrations, and for stakeholders such as ourselves.

Geoff Ogle: I am a civil servant, so I will probably avoid commenting on Jeremy Miles's statement.

I will make a couple of points. First, there is a risk that, because of the frameworks' terms of reference, they are seen as divergence as a deliberate objective. The clue is in the title; it is about a common framework that facilitates divergence if it is appropriate and can be justified. Divergence of itself is not an objective, because we all recognise that there is an internal market and that it is in the interests of our businesses in the UK for Scottish businesses to have access to the rest of the UK market, because that is in the interests of Scotland, so it is worth making that point.

Secondly, on the common frameworks, this is a process of consensus, with a contribution from four countries. That is how it has been developed, and it has been worked on on the basis of a shared and common endeavour around a common framework. We gave a comprehensive response to the consultation on the internal market Bill, and we did not even get acknowledgement that we had put in a consultation response. We have never seen any evidence of consideration of our response, and we have never seen any response to our consultation response, so it is difficult to know exactly what has or has not been considered by the UK Government. I will leave it there on the difference of between those two approaches.

Q39 **Lord Garnier:** Thank you, all three of you, for coming to give evidence to us. It is quite clear that none of you are very fond of the internal market Bill, and I must say I have not been very polite about it myself.

I will ask you some questions, probably based in ignorance and from a degree of naivety. Do we need common frameworks to be dealt with by Governments? Can they not be dealt with by trade interests and consumer organisations such as your own? Could we not achieve acceptable economic advantage and free trade within the United Kingdom by people such as you reaching agreements, particularly the technical aspects of them?

Lord Foulkes said that he did not want to be poisoned by contaminated food in Edinburgh or in London, and I dare say that people do not want to be contaminated by poisoned food in Cardiff and Belfast either. It is already a criminal offence to sell contaminated food. Why do we not leave it to organisations, trade interests and consumer organisations to deal with this, rather than creating more conflict by demanding that the devolved Administrations and the United Kingdom Government have to agree everything?

Huw Thomas: I can perhaps see the attraction of doing it that way, but, realistically, some of these common frameworks will imply a legislative approach, perhaps even primary legislation, so you will also have to have the involvement or buy-in of government in that process. You talked about securing agreement among Governments, but stakeholders can fall out very badly as well and not come to agreement, so it is not automatic that you would have a less adversarial approach. You would certainly have a lot of differing interest groups slugging it out as to what they want from this. Some things have to have the political cover of being owned jointly by Governments. So, yes, I can see perhaps the attraction, but I am not sure that it would work in practice.

Aodhán Connolly: As far as I and the Northern Ireland Retail Consortium are concerned, the Government have a role to play in facilitating those. We would want to see continued engagement with stakeholders in these common frameworks, but you have to remember that a lot of these stakeholders will have competing commercial interests, so the Government's role there provides an impartiality, shall we say, and a way to resolve those disputes. That codification also provides certainty to the consumer, and to people such as processors, on what they have to deliver. It gives them the textbook from which they can work.

In short, Governments will lead on these common frameworks, but it is very much the impetus and responsibility of government to make sure that it takes stakeholder views into consideration, because, at the end of the day, these frameworks and whatever bodies come out of them need to be a place where divergence or non-divergence, and the practical implications of that, can be discussed. One of the worst things that we have seen in the transition period over the past year is a lack of understanding of how each of the devolveds will actually be affected by the end of the transition period. Hopefully, these common framework bodies will be able to provide a place for talking these through.

Geoff Ogle: I am a regulator, so you might have anticipated my answer.

We have very high standards of food production and food safety in the UK. The issue comes down to the international reputation of the UK when it comes to food exports, and regulatory assurances are quite important. In the past, we have been within the EU legal framework for food. Going forward, we will be on our own, so you have to have that regulatory assurance.

Another point is the policy process and how we as regulators make decisions. The consultation process with stakeholders, with businesses, the business impact assessments, the quality impact assessments and everything else are all part and parcel of the policy process and the policy development, so those with specific interests need to be able to contribute.

Also, industry and consumer issues and views do not always align—most of the time they do, but not always—so the role of a regulator, and certainly for us, is to decide what is in the best interests of consumers, taking into account all the evidence and all the different views. That is why I think there is a role for us in the common frameworks.

The Chair: Thank you, each of you, very warmly indeed. I think you have already picked up from what members of the Committee have said that we have heard evidence this morning of exceptional value and relevance. In a way, we all wish we had had the opportunity to hear you sooner. It will be extremely important to us going forward, and I am very grateful to you, especially as we have taken a bit of extra time. Thank you very much indeed, again, on behalf of each of us.