

European Scrutiny Committee

Oral evidence: Regulating after Brexit, HC 125

Wednesday 8 March 2023

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Watch the meeting

Members present: Sir William Cash (Chair); Richard Drax; Margaret Ferrier; Mr David Jones; Craig Mackinlay; Gavin Robinson; Greg Smith.

Questions 106-155

Witnesses

[I](#): Vicki Hird, Head of Sustainable Farming, Sustain, Marnie Lovejoy, Head of Environmental Law Research, British Association of Shooting and Conservation and Nick von Westenholz, Director of EU Exit and International Trade, National Farmers Union.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Examination of witnesses

Witnesses: Vicki Hird, Marnie Lovejoy and Nick von Westenholz.

Chair: Good afternoon and thank you very much to our witnesses for appearing to give evidence. From today's session we seek to gain a better understanding of post-Brexit UK environmental and agricultural regulation, broadly construed; how and where the UK has freedom to regulate differently after Brexit; and the regulatory constraints the UK faces due to the Northern Ireland Protocol and common frameworks.

The Windsor Framework is of course a recent development and is being pored over by lots of people. We certainly do not expect you to be able to give a concrete determination as to how that will affect the sector—you may be relieved on that point.

We will also look at the Government's plans for regulating differently after Brexit, to understand if they are holistic or perhaps more ad hoc, or less well formed, at this stage.

Before we get started, and for those watching at home, would you briefly introduce yourselves?

Vicki Hird: My name is Vicki Hird. I am the head of farming and supply chains at Sustain, the alliance for better food and farming. I have been working on farm policy for 30 years. The organisation I work for has about 105 member organisations, ranging from farming groups to public health groups, animal welfare groups and environmental groups. It is a large range, all interested in a better food and farming future. I work specifically on agricultural policy and supply chains, and fairness in supply chains.

Marnie Lovejoy: My name is Marnie Lovejoy. I am the head of the evidence and environment law team at the British Association for Shooting and Conservation.

Nick von Westenholz: I am Nick von Westenholz. I am director of trade and business strategy at the National Farmers Union, representing around 55,000 members in England in Wales.

Q106 **Chair:** Thank you very much indeed. As a matter of protocol, if I or any of my colleagues address a question to one person, it is for that person to answer; if I address a question generically, we will deal with it accordingly. My first question is to all of you. When the UK was a member state, how was the agricultural sector regulated by EU rules?

Nick von Westenholz: Very heavily, obviously. If you look back at UK membership of the European Community and the EU, before accession agriculture was clearly the core aspect of the EEC. In the early '80s, well over two thirds of the budget was spent on agriculture, so it was clearly



HOUSE OF COMMONS

very much farming-centric. Now, only about a quarter of the EU budget is spent on agriculture. I think that gives a flavour of the focus of the EEC and then the EU on agriculture over many years.

Of course, after a while, during the '80s, the environment also became a major focus for the Community. Again, that clearly impacted on land managers and farmers. Most of the rules and regulations under which farmers in England and Wales, and across the UK, were operating during our membership of the EU were derived from the EU.

Q107 Chair: As the NFU, you are a specialist in this. Would I be right in saying that, basically, an enormous number of EU regulations—I could not put a precise figure on it—in the entirety of the law of the EU were directed towards agriculture? There is a huge amount of it, isn't there?

Nick von Westenholz: Yes, absolutely.

Q108 Chair: The other thing relates to the question of subsidies and how they functioned in terms of what farmers got, not only in this country but in other countries as well, and whether they got more subsidies than we did. Could you give us an insight, from your recollections, as to how that amount of money would be made available for us, as compared to other countries?

Nick von Westenholz: It was distributed in different ways. There was a certain amount of freedom for countries to distribute their CAP funding through different pillars. Some countries tended to use most of their budget for direct payments—direct land-based payments. Others put more into environmental schemes, and there was the ability for Governments to fund those as well.

In the UK, roughly £3 billion was the total envelope, of which I think around about £2.2 billion to £2.3 billion was spent on direct payments and the remainder was spent mostly through pillar 2, on environmental payments and other related schemes. The budget was obviously significant, even for English and Welsh farmers.

Chair: Marnie, do you have a view on that? Would you like to answer that question?

Marnie Lovejoy: Yes, I would like to add the perspective from the shooting sector. The shooting sector obviously goes hand in hand with farming. Shooting very often provides farmers with a lifeline during the bleakest months of the year. It is an area of diversification for farming and so on.

From a shooting perspective, how things were influenced by EU membership was very much based on the influence of the birds and habitats directives and, even more so, the interpretation of the rules of those directives by European courts. What we have seen in the last few years is that the judicial interpretation of the rules set out by the directives—which are usually not new and are just implementing other international treaties, such as the Berne Convention—became more and



HOUSE OF COMMONS

more restrictive, and more and more precautionous, in an attempt by European courts to unify a very complex area of environmental law. That has had enormous impacts on almost all areas of shooting. This is not just about recreational shooting in itself, but about habitat and land management, which is linked to shooting activities, and even about areas of research linked to shooting activities. The impact was immense during EU membership, and this is a continuous issue from the shooting perspective.

Chair: Thank you. And Vicki Herd, please.

Vicki Hird: We are coming at this from an environmental, livelihoods and public health perspective. As Nick said, we have subsidies of a certain amount now, but over the years they have been increasingly decoupled from production. Originally, there were things like price support and target prices, and that was heavily influencing what farmers grew, leading to surpluses, wine lakes and so on.

However, over the years, since the 1990s, it has been decoupled, and we now have subsidies that, I would say, are very much more based on what each individual country needs, within an overarching framework to reduce any uneven playing field. Notwithstanding what Marnie has just said, I think there has been an enormous ability for countries to design the rural development programme, in particular, and the varying requirements of the main subsidies, in a way that suits that country. That can lead to diversified systems, but within an overarching framework, which made sure that you didn't get too much unfairness within the system.

I think our Government did not necessarily always make the right decisions in that respect, but there was such a difference in farm structure, size and design across Europe that that inevitably led to countries having very different support schemes, in terms of rural development support. But the CAP payments were set within a framework, so there was an element of fairness there once they were decoupled.

It is also worth mentioning that there are many other areas. Marnie mentioned the birds directive. We also have the water framework directive and the nitrates directive. We have rules around food and labelling. I don't know if you want to talk about that—maybe we are just talking about agriculture—but they also have a big impact on trade. We also have rules around pesticide authorisation, use and residues in food; antibiotic use; and, obviously, genetic engineering, which we are coming on to.

As Nick rightly said, a whole range of regulations were in place to improve the farming situation—productivity, the environmental impact and the animal welfare impact. In fact, we should also mention all the animal directives—the laying hens directive and so on. Animal welfare rules were coming in thick and fast to try to remove cruelty, poor health and possible zoonoses related to our farming system.

Q109 Richard Drax: Before I ask the question, I refer Members to my entry in the Register of Members' Financial Interests. Good afternoon to you all.



HOUSE OF COMMONS

Since the UK's EU exit, what progress have the Government made on new environmental protection and food safety regulation affecting agriculture? I will start with you, Nick.

Nick von Westenholz: There obviously has been legislative progress. We saw the Environment Act, which has been enacted, and we are beginning to see some of the outcomes of that. The environmental principles are being developed, the Office for Environmental Protection is being set up and so on. It is one area where there has been movement. We are still in the fairly early stages of how the Environment Act itself will have an impact on land managers and farmers.

Beyond that, obviously most of the environmental regulations that farmers and land managers operate under, or have operated under for decades, are still essentially in place. The specific environmental regulatory environment has not changed very much, because the withdrawal Act brought most of the existing EU regulations over into domestic law. We are soon to be going through the process in the retained EU law Bill. That will review and reform some of those potentially. Who knows? We will see what happens there. But at the moment, in terms of specific environmental regulations that farmers are operating under, there has not really been a great deal of change.

Q110 **Richard Drax:** Are you saying the Government should move faster on behalf of farmers, who are still tied down with EU regulation? Is that EU regulation still applicable, or should regulations be made by our own Government? That is why we left the EU. Is there massive room for improving, changing or even getting rid of some of the EU legislation?

Nick von Westenholz: We would certainly support reviewing and amending some of the environmental regulations. When we were a member of the EU, the NFU often criticised certain environmental regulations—not their existence, but usually the way they operated and the balance that they struck between providing environmental protections and allowing farmers and growers to carry on their farm businesses. Often, we did not find that the balance was properly struck, and we now have an opportunity to review that. I would not necessarily say that speed is a critical aspect of that. We would not want to rush something and botch it. We have the opportunity now. The retained law obviously exists now in domestic law. We certainly think there is a job to do, but we find it more important that that is done properly and robustly, rather than necessarily speedily, although we would not advocate any undue delay.

Q111 **Richard Drax:** Is there anything specific now that you would like to be changed that would give British farming a huge lift?

Nick von Westenholz: There are a number of things. In our written evidence we listed a few areas that certainly could be reviewed. I want to be careful not to suggest that changing now would suddenly revolutionise farming; often it would not. These are small adjustments, but collectively they could have an important impact. We look at things such as the habitats directive, which makes it difficult for farmers to invest and develop their businesses, often in ways that might be climate-friendly and



quite helpful to move to more sustainable farming. They struggle because of that.

The nitrates directive is another one. It is an important framework to protect water from nitrate pollution, but is the way that it operates now the best way of doing that? It imposes burdens on business, and it is not clear that it gets the best outcomes in terms of water quality. Those are the sorts of areas that we could certainly start reviewing, and there would be a benefit to British farmers, but I would not want to oversell it—it is not suddenly going to be the difference between viability and not. It is clearly going to add to the overall benefit of a lighter-touch regulatory regime for farmers.

Q112 **Richard Drax:** Marnie, what progress have the Government made from your perspective?

Marnie Lovejoy: The progress has started, but it is stifled by the fact that the UK Government are still bound to the birds directive and habitats directive through our habitats regulations, and similarly bound by extant European case law on these matters. What has happened is that the habitats regulations, or the interpretation of the habitats directive by EU law, is so restrictive that it tries to find one common denominator to regulate all sorts of different activities, whether those are, to put it placatively, building a nuclear power plant or regulating the wildfowler who wants to shoot a goose on the foreshore. The thresholds for both those activities are the same.

What that does is twofold. First, it undermines the very conservation objectives that regulators want to support, because it deters people who have undertaken conservation work, as practitioners on the ground, many years before nature designations were in place. It also leads regulators to microregulate activities, so their clearly finite resources are being used almost exclusively for regulation. Those funds should be available for nature recovery.

In terms of progress, I think that the Defra nature recovery Green Paper highlighted some avenues where progress could be made and where environmental protection could move away from this regulatory enclave protection to a more outcome-based approach, which would benefit the environment on a larger scale. However, similarly, the Environment Act set out the environmental principles, with new, more proportionate interpretation, for example, of the precautionary principle. But, again, that does not change the fact that we are still bound by exactly the same regulatory framework, including the judicial interpretation of these rules.

Let me give you a practical example. The Environment Act set out the environmental principles. Defra has just issued a policy statement around the interpretation of these principles. For example, the interpretation of the precautionary principle is now again aligned with the Rio declaration, which is how it should be, in my opinion. It has a threshold of irreversible and significant harm. It respects the principle of proportionality. It is set out and interpreted in a way that does not hinder innovation and would



HOUSE OF COMMONS

allow sustainable land use of different forms. However, this principle is applicable only to new ministerial policy. So we will have a framework where we have a dichotomy, in that we have ministerial-level policy that is governed by the new legal framework—for example, the Environment Act—and then we have regulatory formal assessments on the ground, such as habitats regulations assessments, which are still bound by and operate under the exact same framework set by the EU or the European Court. That is something we have to bear in mind.

I stress that, by saying we need to change the habitats regulations, we are not saying we need to diminish environmental protection. The problem is that, at the moment, only 38% of our protected sites are in good condition, under directives that have been in place for over 30 or 40 years. Clearly, something is not working. We need to find new avenues to nature recovery that deliver outcomes.

Q113 Chair: Before Vicki comes in, I would be grateful if I could intervene at this point. What you are really saying is that there is a need for a newer regime to make it more practical, to put it in simple language, and benefit the environment etc, as you explained so well.

However, the fact is that to get there you would need to ensure you have new laws that are consistent with the policies that the people of this country really wanted. Therefore, having it locked into retained EU law—albeit that we are out of the European Union—does not solve the problem. They are the same principles we continue to apply.

To put it in a nutshell, you would say that actually the retained EU law arrangements for the revocation of EU law, the supremacy of the Court and the supremacy of EU law principles would be best disposed of so that we can then do it on our own footing, so that it works for us. Is that the way you might summarise it? I am sorry to put it in those terms, but would you agree?

Marnie Lovejoy: That is a correct summary. It links to regulation 9 of our habitats regulations, which currently requires our public authorities to comply with the birds and habitats directive and, obviously, extant European case law that interprets that.

Chair: That is very kind of you, thank you.

Q114 Richard Drax: I would have thought if we were going to have European case law and our own law, there is bound to be—just by sheer logic—chaos, confusion and all the rest of it. We do not want that; we want simplicity, where farmers and others understand what is expected of them and what is expected of them is reasonable, fair and proportionate etc.

Marnie Lovejoy: Yes.

Vicki Hird: As you can imagine, a lot of our members are major environmental conservation organisations, and they are extremely worried about moving away from those directives, which have provided a level of protection and oversight to our nature.



Q115 Richard Drax: Vicki, can I be very rude and interrupt you? I have heard this before. Why are we not capable of making our own laws to protect our own environment, made by people who actually live and work in this country?

Vicki Hird: That is a fair question. The problem is we do not know that that is going to be done in a way that will actually deliver for nature. In so many instances, other interests hold sway. That is true across Europe, as it is here.

As Marnie said, it has not always been successful. Our rivers are in a terrible state right now, and we are the most nature-depleted country in Europe. We have not necessarily applied European law in a way that has been particularly helpful. That does not mean that we should be sweeping away all the objectives in those directives under the aegis of actually deregulating.

A lot of work has been done over the past six years around how the regulations should work and be enforced. That requires resources—it requires access to data and information. For instance, if we were talking about the pesticides work, there is a huge body of evidence and a huge amount of resource in the European legislative process and structures that we will not have access to anymore. We will have to do it all and understand it all ourselves, and that just will not be possible. We will lose a lot in that respect. When it comes to nature, we should have the capacity to do it well here, but there is a huge amount of concern that vested interests will hold sway.

At a local level, if you have a truly democratic process of deciding on targets for nature restoration, river restoration and food production, that would be brilliant. There is a huge amount of concern about losing that control without having something better in place. We want to be better. I agree with what you just asked me: we definitely want to do it better. Is that by sweeping it away and starting again, or by looking at the best of what we have got? Some of the case law will be good and some will be bad. I suggested numerous people the Committee should be talking to who have a lot of case studies to give you examples of where it has been really helpful.

Q116 Greg Smith: Before I ask my question, in the interest of transparency I should say that I am a member of BASC, which is represented by one of the witnesses.

My question is predominantly to Nick. A couple of weeks ago, at the NFU annual conference, we heard that there is a presumption that British farmers are being “battered” by post-Brexit changes to support payments, among other things. I acknowledge that the detail may be lacking, but is the system that has been established under the Agriculture Act, with the principle of a shift to public money for public good, a suitable replacement for the Common Agricultural Policy?

Nick von Westenholz: I would say that it depends how much emphasis is put on that principle alone. After the EU referendum, the NFU set out



HOUSE OF COMMONS

how it thought a future support policy should be structured. Essentially, there are three elements to that. There is what we call the environmental element—the equivalent of public money for public good. There is a productivity element to help farmers improve their productivity and efficiency, which of course also has sustainability gains through resource use efficiency. Then there is a volatility element, which is really about stability, resilience and managing difficulty in supply chains—the sorts of things we are seeing right now in the horticulture sector, with shortages on shop shelves and so on.

For us, those are three important elements, and they all needed to be covered by a future framework. We said that the proportion in each of those depends on the pressures on farming at any one time. It was obviously at a time of great uncertainty, and we still are in a time of great uncertainty.

I would argue that where we have got to through the Agriculture Act process—it does have measures around things like productivity, although very little, frankly, on volatility and stability—is that the lion's share of the focus is on public money for public good. In itself, that is fine. We do not take issue with the notion of farmers being rewarded for delivering public good and being incentivised to do positive work for the environment and so on when the market is not going to reward that itself, but you potentially miss other very important things. We may come on to some of the trade issues later.

There is likely to be more competition in our domestic market through those, so UK farmers will have to improve their competitiveness and productivity. There is a bit—not a lot—about how we can work with the Government to do that. As I say, right now we are seeing some really exceptional market conditions. We are seeing what Minette Batters at the conference described as market failure—certain foods are not on shop shelves. We had the same with eggs before Christmas. The Agriculture Act has a provision for intervention in the case of exceptional market conditions, but Defra has been reluctant to even discuss using that. It is not clear under what circumstances that sort of provision would be used. It would be good to understand exactly what that is for.

As I say, at the moment, the focus is only on the public money for public good bits. We think that productivity and resilience are also important, and they are missing from the picture at the moment.

Q117 Greg Smith: Okay. The Agriculture Act clearly evolved a long way from the original Bill to the final Act. Do you think food production, which of course was not spoken of at all in the original Bill, has now been locked in enough—as opposed to many of the other aims that the Agriculture Act seeks to get to, such as the environmental goals—or is there still an element lacking on food production?

Nick von Westenholz: I would say that there is still an element lacking, certainly from a statutory perspective. We have had some good signals recently. The food strategy published last summer spoke about the



HOUSE OF COMMONS

importance of domestic food production and had an ambition certainly not to let our current self-sufficiency, which is around 60%, fall any lower. We would like it to go higher, but that was something. The Prime Minister has committed to having a food security summit to look at some of the domestic production issues this summer as well. So there has been an important improvement in the recognition of food production and farmers as food producers and not just land managers. That is perhaps not surprising given the global situation right now—the war in Ukraine and other things that have brought food security very much back into focus.

But if you look at the more formal, legal, statutory approaches, we would still find those lacking. We have some stated environmental targets, under things such as the Environment Act, that will have an impact on land use, but there is nothing similar or commensurate when it comes to using land for the production of food, which I hope we would agree was one of the uses it should be put to. There is an imbalance there, and all we offer is that food should be considered alongside other objectives in land use targets and policy.

Q118 Greg Smith: One question off the back of that, and then I will bring the other witnesses in. In the post-EU environment, the Agriculture Act has replaced the framework of subsidy. Would you say that the greater challenge to food production and maintaining or increasing self-sufficiency comes from the provisions of the Agriculture Act or from other pull factors—anything in other retained EU law or other pressures on land use from planning reform, housing numbers, solar farms and so on? In this post-EU world for agriculture, where are the pull factors coming from?

Nick von Westenholz: When it comes to food, they are not really coming from anywhere. That is our concern. As I say, there are things such as the Environment Act, and there are pull factors on other land uses, but not food production. For all the criticism that can be reasonably made of the CAP and the payments under that, clearly it did have a focus, and still does, on farming and the production of food. Even if, as Vicki rightly says, that has been decoupled—there is not a specific lever for it—it is related to land under farming.

The current system is improving—the plans for ELMS and the sustainable farming incentive under the Act. They are clearly trying to tie that more to farming practices and trying to encourage sustainable farming practices, which is important, but certainly there is not a very clear lever, in terms of statute or Government policy, for the use of land as a food-producing resource. As I say, it is really just putting it on a similar footing to other land uses, such as planning, environmental targets, biodiversity targets and those sorts of things, so that you can have a balanced discussion and debate about what you are going to do with the finite resource that is land in the United Kingdom.

Q119 Greg Smith: Thank you. Marnie, do you have a view on that?



Marnie Lovejoy: Nick and Vicki are better placed to answer this question, because it is more related to farming. A couple of remarks—there is obviously still a lot of uncertainty regarding what ELMS will look like in actual fact. Considering that a lot of land management projects are long-term investments, that is quite difficult. What is important is that different sustainable land uses have to be married together with nature conservation. We cannot exclude one or the other, so we have to find solutions that are more innovative than enclave protection so that land use works in harmony with nature recovery.

Vicki Hird: There are a number of issues there. To touch on that last comment, we have been promised a land use framework that could help deliver what all three of us would want, which is a logical, sustainable framework for deciding what land is for, without dictating what individual landholders do. That could be a really useful opportunity to assess what we want from the land, so that is one part of it.

I have been working on the Agriculture Act for many years, both the first iteration and the second. What surprises me is that people aren't calling for some of the elements in the Act that could really help. I agree with Nick about the productivity; millions of pounds have been delivered over the last couple of years for productivity grants, research and development and enhancing productivity, with, we hope, sustainability in mind.

The environmental elements are all about protecting the very resource we need to protect to grow food—the soil, the natural systems, the ecosystems—and also potentially reducing costs for farmers. For instance, an integrated pest management standard, which farmers will be able to access this year, could really reduce their costs, such as their spending on pest control products, by making a more knowledge-based and integrated system. That is just one example, but there is nutrient management, as well.

Those kinds of things are really important for farming, as well as for the environment. I don't think we should be separating them. I think it is really unhelpful when people start to say that it is either environment or food production. I know Nick and Marnie aren't saying that, but that is sometimes the dialogue and it is not helpful. What is amazing is that the first SFI that has been available for all farmers in receipt of BPS—the basic payment scheme—has been a soil one. Soil is obviously a private as well as a public resource; a public good and a private good.

In the Agriculture Act, there were provisions for transparency and fairness in supply chains, neither which we have seen a manifestation of yet. We haven't seen a new supply chain code of practice for any of the sectors that were promised. We understand the dairy one is imminent, but they keep saying that. Transparency in supply chains, which was supposed to give farmers more power within supply chains to negotiate with more power, understanding where the costs and profits lay, has still not been implemented yet. So we have provisions within a good Agriculture Act, which really improved over time, that have not been implemented yet.



HOUSE OF COMMONS

When they are, we will start to see, ideally, a marketplace that is rewarding farmers better and more fairly for what they do, both as food providers but also in allowing them to do the kind of things they need to do with agriculture transition towards environmentally friendly farming practices. So a supply chain measure could be really critical if it is done well, and that means listening to farmers and what they need in terms of their contracts and deals. There are a few elements of the Agriculture Act that have not been implemented, as far as I am aware, although there has been work.

Q120 Gavin Robinson: Good afternoon, all. I will stick with you, Vicki, on this one, given some of the answers you gave to Mr Drax's earlier question. How well equipped do you feel UK regulators are in assuming the responsibilities and roles that EU regulators had prior to the powers coming home?

Vicki Hird: That is a really good question. We are very concerned about the reduction in capacity. For instance, the number of environmental health officers across the country, who check on issues relating to food, health, restaurants and things like that, has dropped by 32%. One piece of research estimates that the number of staff employed by local authorities to enforce food law fell by 38% in the last 10 years.

Funding for the FSA fell by 51%. I imagine that has been increased recently because of all the requirements for Border Force, but I am hearing anecdotes all the time about produce getting in that just is not fit for consumption. The more we have problems with borders, the more that lack of capacity will lead to scares and problems, and potentially huge problems for UK farmers, for instance when it comes to porcine health—pig health. We could be letting in diseases that could decimate our farming of pigs, so we are really concerned about food health and environmental oversight.

We all know what the problem is now with rivers and the Environment Agency not having enough resources to enforce the regulations and take land managers or others to court where required. I think it is a really good question. I don't think we do have the capacity. As I mentioned earlier, our capacity in terms of pesticides and chemicals is severely short compared with what we had when we were part of Europe and had access to, for instance, REACH and pesticide organisations there, which have a huge amount of data and staffing.

Q121 Chair: Before the next question, could I just say this? You think Europe does things better than we can in this country. Is that right?

Vicki Hird: It is a capacity issue. Over the years, they have built up a huge amount of capacity and understanding and a research-based database on many of the aspects related to farming, and they are particularly good in talking about chemicals, which I know you are going to talk about. Although REACH doesn't cover pesticides, they also have a huge pesticide understanding. It's that we lose that; we don't have access to that any more once we leave. I don't think "better" or "worse" is

necessarily part of that equation; it's just a case of not having capacity to access that expertise and staffing.

Q122 Gavin Robinson: To build on that again, the databases that the European Union have access to were informed by information and data supplied by member states. Therefore, I imagine that the data that is most relevant to us is either within our ownership or available to us. But your point is about capacity in the sense of environmental health officers going out into the field and carrying out checks in line with the regulations that we have. I take your point about the resources of environmental health officers, food safety officers and all the rest. Perhaps they are as under-resourced as other parts of the public sector. But the question is more about the capacity to develop new frameworks, new regulations or new legislative environments now that the responsibility rests with us, which is probably more a policy question than an operational enforcement question.

Vicki Hird: I think it is putting a lot on, for instance, the HSE—the Health and Safety Executive—to take on board all the new regulations that they will have to develop, notwithstanding all the work they are having to do right now on the REUL Bill, which is distracting them from that, although there are some links, obviously. We can see there has not been adequate capacity to put in those regulatory processes, notwithstanding the fact we have a new environmental improvement body led by Dame Glenys Stacey. There has been a huge amount of staffing available for developing ELMS. It has been very slow and tortuous, but impressive as well. There has been a lot of staff doing good work there. On that side of it, there is some good work, but on the regulatory side, I think most people would say there isn't enough capacity to develop the new frameworks and regimes.

Q123 Chair: The suggestion that you are making does not seem to take account of, for example, the work done by the Environmental Audit Committee, which quite clearly demonstrated—this became a matter of enormous public concern—the degree of water pollution that has been created within the framework of the very rules that you seem to think are so wonderful.

Vicki Hird: You have misunderstood me. The rules are good; it is their enforcement that hasn't been adequate. I would be interested to see what Nick says about the nitrates directive. Clearly, that is a problem, as is the three-crop rule, which comes under the greening requirements under the basic payment scheme. That is one of the reasons why farmers were probably very keen to come out of Europe—to get away from the nitrates directive and greening requirements. But I would say that we have not necessarily been applying them that well—obviously, as you can see. You may argue that we will do it better ourselves.

Chair: I think that's a fair assumption.

Vicki Hird: Given that we haven't actually done enforcement and any fining adequately at all, which is very clear in the evidence, I am not sure that is going to be the case, but maybe you are right.

Chair: Gavin, do you want to stay on that question?

Gavin Robinson: No, I will not pursue that any longer.

Q124 **Mr Jones:** I want to ask you all further questions about the retained EU law Bill, which of course is passing through the House at the moment. Nick, perhaps you could start. In what respects, other than those you have already mentioned in response to questions from Richard Drax and others, do you feel that we should be diverging further from EU rules and standards? In what respect do you think it would be helpful to retain current ones? Could you also say how important it is to your union for the retained EU law Bill to pass through this House as quickly as possible?

Nick von Westenholz: I would not look at it from the perspective of how important it is to diverge or not. The important thing for us, in the service of our members' interests, is how to ensure they operate under the best regulatory environment. There are existing regulations carried over from the EU that are fine and operate perfectly well—they do not cause much bother.

Q125 **Mr Jones:** Could you give some examples of those?

Nick von Westenholz: There are 1,700 regulations, and a lot of them are very specific. A lot of the food marketing regulations I do not think farmers would be particularly aware of. They do not impose any extra burden than might otherwise be required. A lot of those are fairly uncontroversial, I would say. However, there are areas of regulation—you are probably looking at a number of regulations within each area—that we do not think operate properly. We have talked about the habitats directive; the nitrates directive would be another. We will probably go on to talk about precision breeding and gene editing, as well as the pesticide regulation regime. All of those, in our opinion, can be improved. Whether there is then significant or modest divergence is another consideration—there may be impacts of that or not.

The important thing at the outset is: what is the best regulatory environment? It is very rare that we would say there is no need for any regulatory approach here whatsoever. There is usually some potential harm that needs addressing; that harm may be environmental, to human health or commercial competition-type harm. The reason you address it is because there is also a benefit from the activity, for example, an economic benefit, or a benefit to food production. The best regulations do the job of meeting the protection of that harm, but they do so with as little commercial impact on business as possible—and with as little impact on innovation and those sorts of things. With lots of the regulations we look at, that balance is not properly struck. But it may not require a huge amount of change to improve those regulations. The key test is better regulation, rather than deregulation or divergence.

The broad idea behind the Bill is one that we would support; let's have a review of a significant body of retained EU law to see if we can do it better. As I have said, there are some areas where we definitely think we can do it better. The actual process set out in the Bill is one that we are



HOUSE OF COMMONS

concerned about. We are concerned about the timeframe, and the fact that decisions have to be made on every single piece of REUL. Defra now has 1,700 individual regulations to look at by the end of this year. To us, that runs the risk of potentially losing regulations—regulations being revoked—and we might not know what those are, and some point in the future somebody might rely on them. Equally, the time and the opportunity might not be taken to have a really good look and decide what needs reforming and improving on. For us, we support the process of having a systematic review of retained EU law and amending and reforming retained EU law where appropriate. Why impose an arbitrary deadline of the end of the year to do that? It might be a rushed job; that is our concern.

Q126 **Mr Jones:** Is your office in touch with Defra about this?

Nick von Westenholz: Yes, we are.

Q127 **Mr Jones:** Presumably you are actively offering advice as to which regulations you feel it would be helpful to retain, and which to get rid of?

Nick von Westenholz: We are. We are carrying out a fairly extensive internal project at the moment—much to the annoyance of many of our policy staff within the NFU, who would argue they have other things they would like to be getting on with. I suspect it is a similar situation in many organisations and in Whitehall, but we are doing that so that we can be in a position to advise Defra and others on how they might approach this.

Q128 **Mr Jones:** But they might get their reward—

Nick von Westenholz: They might, which is why we are going through it. Of course, from an internal management point of view, the fact that this is having to be done right now at a very significant speed is a problem, so we have argued that it is the timeframe and the speed that is problematic. We could do the same job and a better job if that timeframe was not so—

Q129 **Mr Jones:** How long do you think it should be?

Nick von Westenholz: To be honest, I don't think there needs to be a deadline.

Q130 **Mr Jones:** Except that you need to move out of the EU law system and into a domestic legal system, which at the moment we do not have. We have a hybrid system that ultimately cannot be satisfactory.

Nick von Westenholz: We would do that, and I think you can introduce softer ways of making sure the process is ongoing and that it does reach an end point—reporting requirements, whatever that might be—but without imposing this strict, sudden deadline. Yes, we would want to make sure that it did move forward.

Q131 **Chair:** If I may interject at this point, there is also the question of the timing of a general election. Changes could be made while the Bill was currently in force. It is going on in the House of Lords now, and they are making a great deal of argument about all this, not to mention the fact that as far as the United Kingdom is concerned, it is already fairly well



HOUSE OF COMMONS

understood that you do not want to have two different statute books and a supremacy of law principle being applied, and the case law, within the framework of something that we have left.

For practical purposes, there is a timeframe within which it can be done and a timeframe within which it has to be done. If we wait until a new Government comes in—they have already expressed their concerns about it, and there is the Parliament Act to be thrown into the equation as well—you might find that you would not get any of the changes, which I think both of you have already accepted as a matter of principle. It will improve the position, albeit that it might be a matter of timing, but the timing is constrained by the actual provisions of, for example, EU law making and the fact that we have a general election coming up quite soon. It's just a thought.

Nick von Westenholz: Obviously, there is a heavy political element to this aspect of the discussion. We would take the view that whichever party is in government, we would be lobbying for reform of regulations where we think they do not operate properly, either under the process set out in this Act or, if it were to fall and a new Government of a different colour came in, we would still be making the case to them. It would be a political—

Chair: With great respect, Nick, I don't think that is quite what I am saying. What I am saying is that there is a fundamental difference as to whether or not it should be done at all. You are not facing that question. You are facing the question of whether it would ever happen. Anyway, we ought to move on. What is your next question, David?

Q132 **Mr Jones:** I just wondered whether Vicki or Marnie wanted to contribute.

Marnie Lovejoy: I have mentioned already that where we would like to see divergence is in the interpretation of the rules of the habitats directive. The precautionary principle and the very restrictive way it is applied in formal assessments poses a real problem and, in certain circumstances, undermines conservation objectives. Linked to that is the question that was posed before about the capacity of regulators. At the moment, regulators are tied down in micro regulation that has no capability to deliver for the environment. A change of that could free up resources, which could then be invested in the development of a policy of reform that can truly deliver for nature recovery. In terms of timing, it is not just the political aspect, but the environmental targets in the Environment Act. For example, there is the halt of species decline by 2030, so there is another element of timing linked to this. As I said before, the status quo clearly doesn't work, otherwise we would not have only 38% of our protected sites in good condition. We need to act, and we need to act now to make a change.

Vicki Hird: I think you should be talking to ClientEarth and the wildlife trusts, because they would probably have a very different position on this. However, as Nick was saying, everyone in the alliance is extremely concerned about the sunset clause and the speed with which this is happening. We can do an awful lot to improve the state of our rivers and



HOUSE OF COMMONS

nature right now, if we put the resources into it. It wouldn't be limited by the REUL Bill or anything else, if we put the resources in and properly enforced the protection of particularly protected sites, which are poorly protected right now. We could do that; there is nothing stopping us. I would refer to other organisations on the specifics, but we are very worried about the sunset clause.

Q133 Mr Jones: Just for clarification, do you accept that now we have left the European Union, we need to rid our statute book of EU law, and in particular the supremacy of EU law?

Vicki Hird: Some EU law is extremely helpful in protecting us, and our environment and health.

Q134 Mr Jones: Forgive me, but that is not the question. As you know, under the Bill, laws can be kept. It is not a question of them all disappearing. The point I am making is about the supremacy of EU law. Do you agree that is an anomaly in the current circumstances?

Vicki Hird: It is not something that I would want to say absolutely. It is very difficult for me to say that no EU law should now apply here, as you can imagine, because a lot of it is the only thing keeping us from protection or not.

Q135 Craig Mackinlay: Mr von Westenholz, you said earlier that we haven't seen much change since we left the EU. One thing that could be a fairly big change is the Genetic Technology (Precision Breeding) Bill, which is going through the Lords end at the moment. We are fairly land constrained in this country. We have various pressures on our land, not least, as my colleague Mr Smith said, solar farms and all the rest of it potentially taking good agricultural land out of use. In the 1980s, we were producing around 80% of the food that we ate. That is now down to 60%. There are lots of reasons for that. It could be that our tastes have changed. Our out-of-season tastes are different, with exotic fruits and all the rest of it. That is quite a lot in itself.

I am a supporter of the APPG on shooting and conservation, and my first degree was in zoology and comparative physiology, which may have some relevance. Do you think that the Genetic Technology Bill has upsides or downsides? I am interested to hear your views. I would have thought that one of the main things is to maximise yields. That was an aim of the old CAP and everything else, but with the various stewardship schemes being promoted by Defra, we have moved away from just maximising yields towards environmental protection. When we are trying to maximise yields, that is also minimising pesticide use, potentially using natural predators. I am interested to hear from Ms Hird on the CO₂ savings from less use of fertilisers, which are very CO₂ heavy. What are your upsides and downsides? Perhaps I could hear from you first, Mr von Westenholz.

Nick von Westenholz: We support the Bill. There are certainly potential upsides from having a more enabling approval regime for gene-editing technologies. As you say, maximising yields may be one of them.



HOUSE OF COMMONS

However, we would put the emphasis on productivity rather than production, so getting more out of less or more out of the same, which is good both from a business point of view as it is potentially more profitable, and from an environmental impact point of view.

As you say, there are many other potential benefits. It may be that you can breed varieties that require less pesticides or are more drought resistant. You may be able to breed nutritional benefits into them and so on. So there are lots of potential benefits. We need to be careful to say that this is not the answer to all our problems. We want to create an environment where seed-breeding companies can potentially bring new varieties to the market quicker.

Clearly, they still need to be proven to be safe—you need a regulatory approvals environment that assesses that—and there needs to be a market. Ultimately, farmers need to be willing to buy, plant, grow and sell. But for us generally, these new techniques are just new ways of doing a very old thing, which is breeding new varieties of, for instance, cereals that have traits that we want. As long as you have a regulatory system that can ensure that these are safe—that the environmental harm, and, equally, any public health harm, is minimised or overcome—we think it would be a good thing. A lot of the Bill will depend on how the secondary legislation that comes from the Bill is brought forward and what that says, so we need to watch that closely.

Q136 Craig Mackinlay: We have been doing selective breeding in one way or another since good old friar Gregor Mendel in the 1800s. Ms Hird, do you have a viewpoint on this, on the upsides and the downsides?

Vicki Hird: On the Bill itself, I am not working that closely on it, but I have been following it and I have a background in pest management. Back when I did my master's 30 years ago, we were hailing the great new genetic technologies, which have not really delivered. There is no evidence at all yet that you will see reduced pesticide use. None are commercially available that have seen reduced pesticide use.

The problem with the Bill is that it leaves an awful lot to secondary legislation and to a ministerial say-so. That is a big downside. It removes parliamentary oversight, which, I would have thought, is really seriously problematic. It also defines a new form of genetically modified organisms—precision-bred organisms—and deregulates without adequate protections, which Nick just outlined. We need to be sure that if there is contamination and it is problematic, we will be able to sort that out. We need to know that there will be traceability of that product throughout a supply chain from producer through to processor to retail. The traceability should be there, and it is not there in the Bill. I think the democratic oversight of novel technologies should absolutely be down to our democratically elected representatives, and that is not in the Bill any more. There are big problems with it.

The upside could be that, at some point in the future, we have these miraculous crops and/or animals that deliver what has been heavily



promoted as an upside, but there is no evidence yet to suggest that that is the case.

I think there is a real risk—another downside, I am sorry—regarding compliance with the European Union or other trading blocs or countries on legislation related to genetically modified organisms. It is possible that Europe will change its regulations, which, obviously, a lot of people do not like, but it is unlikely to change them for animals, so we would be diverging very heavily from Europe. The Bill already diverges us massively from European legislation as it stands. I think we would be very unlikely to see Europe changing it in relation to animals, so we would be diverging very much in terms of our meat and dairy products being able to be sold over there, unless there is absolute traceability, which is not in the Bill.

Q137 Craig Mackinlay: Let me get this straight: if this had come from Brussels in the first place, it seems that you would have been in favour of it. That seems to be the interpretation that—

Vicki Hird: No, not as it is. You have to have proper oversight. We have been very concerned about the way in which genetically modified organisms have been designed to continue the current model of very intensive monoculture agriculture. None of it is reducing fertiliser use or any of these. There are other systems that do, but the gene technology has mostly been about being resistant to herbicides or other pest-resistant properties, but eventually, pests very quickly become resistant to that—diseases as well—because they are very good at that. We have seen that across America, where genetically modified crops are increasingly failing because the weeds and so on are becoming resistant, because the chemicals are being overused.

It is not something we were particularly in favour of because of the kind of systems that genetically modified products were being used for. In some wonderful future—as I said, I am a sceptic, not a denier—they could be useful as part of a very strong agri-environment system that protects diversity within the system, but they tend to be about monocultures on a very large scale, producing very cheap raw materials for the food industry.

Craig Mackinlay: Most of our farming has gone up the monoculture route.

Vicki Hird: It has, and the kind of monoculture diet that we eat has been a big problem for our soils and our water. We think we are eating hugely diverse diets, but, in fact, an awful lot of it is a small number of crops. That is globally, but here as well. We increasingly eat processed foods and ultra-processed foods, and that is what has driven farmers along the routes they have gone down. In the past, they very much knew how to do much longer rotations and build in fertility using fertility-building crops or mixed farming using livestock within the system, and so on.

I am not saying that we should go back to some nirvana where we produced much less, but there is a balance that could be struck. We could produce very sustainably and also tackle things like food waste, so that we



HOUSE OF COMMONS

didn't need the kind of rises in food that everybody is suggesting we do. We waste so much food, and we put it into cars and intensive livestock systems. That is not sustainable in the long term.

Q138 Craig Mackinlay: I very much agree with your thoughts about food waste. I also always have concerns about food miles. One of the big things that hits all MPs' inboxes is whenever there is discussion about neonics—everybody seems to go bananas about that. You're saying that you don't see any evidence that new genetic breeding would improve that situation. I can but imagine that the Government have got to this situation because we want higher yields, fewer pesticides, drought resistance and less use of fertilisers—as I mentioned, making fertilisers is massively heavy on carbon dioxide output. If it can be proved that these things are beneficial and food quality is just the same, and there is testing and tracing and all the rest of it, would you feel a little more comfortable with that?

Vicki Hird: Yes, I am a scientist by background, but I have been waiting 30 years for those nitrogen-fixing crops and drought-resistant crops. Every now and then, you get some flare-up of a research report that says, "We've invented it!", and then it just disappears, because nature is not like that. Single genetic modifications do not tend to deal with all the many needs that a crop has when it is growing within a system.

However, we do have wonderful solutions at our fingertips. We know that farmers can do things very well. If you talk to the Nature Friendly Farming Network, they will tell you how they are massively reducing fertiliser use and cutting out insecticides entirely, which is managed through cultivation techniques and using breeds that are adapted to resist particular pests or diseases. Having plants that are well nourished through a really good rhizobium in the soil—the rhizosphere in the soil—means they are more resistant to attack. Farmers know and knew all those kinds of things, but they have lost them as a result of the huge reliance on chemical input.

Q139 Craig Mackinlay: This whole field of technology is not just for UK production and growing; it could put Britain in the front field for international exports of new types of rice and staple crops around the world that have all the good features that I just described. Do you think that there is an opportunity for the UK to become a world leader in this area, which would help to diminish global poverty and reduce all those inputs of pesticides and fertilisers? I would have thought that is a really good goal to go for.

Vicki Hird: That absolutely is a goal. Poverty is a difficult one, though—that has to do with many things other than access to food. We produce enough food now to feed 11 billion people; we just don't choose to do it, and we don't have the incomes to do it in the countries where it is needed. That idea about the UK feeding the world—I think that we have the potential to be leaders in research, but that can be done in many ways. For instance, we have been very good at Rothamsted at developing the push-pull technologies of pests and using multiple cropping systems. There are ways that we could do that, such as potentially, in the future,



HOUSE OF COMMONS

through gene technologies, but I have yet to see any that will deliver for the poor of the world or reduce impacts. Yet, as I said, we have solutions that do that, but we choose not to put the research and development into them.

Craig Mackinlay: I will leave that there, Mr Chairman. Thank you.

Chair: Thank you very much. Margaret, would you like to just come in on that one?

Q140 **Margaret Ferrier:** Yes, I will; thanks, Chair. I will come to you first, Vicki, if you don't mind. The Government recently diverged from EU policy on the use of neonicotinoids on sugar beet. In what other ways have the Government diverged on pesticide policy so far post Brexit, and what direction should they take to improve regulations?

Vicki Hird: As I understand it, we have not really diverged, unless you are talking about the last two weeks, because, up until two weeks ago when there was a European Court of Justice ruling on neonics derogations, what we were doing here with our derogations was happening across Europe. France had derogations on the use of neonicotinoid insecticides, so that was available to us under Europe, as were many derogations and many options on how we applied our policies across the board. We chose not to use them. But I do know that there has been a European Court of Justice ruling on the derogations, which means that they probably will not be able to do that any more. That is because, since 2013 when the first ban came in, the evidence has become absolutely overwhelming of the harm of the use of neonicotinoids in a field situation. That impact is on not only pollinators—on our wild bees as well as our honey bees, which have an economic impact—but the higher organisms that depend on them.

Diverging from pesticide regulation and approvals—pesticide residue limits—is a real risk. It is a real risk in terms of our markets—I could just say that alone. It is a real risk to our farmers' ability to export to their nearest market, if we diverge on maximum residue limits, for instance, on pesticides, or if we start to authorise pesticides that are not authorised for use in situations in Europe. We will not be able to sell. Potentially, you could sell somewhere else, but, as the harm from those chemicals becomes increasingly well known, we will have to see how we can find markets that will take that produce. We have a real risk if we diverge from that.

I think that we should be going further. We should have an actual action plan. We have been waiting for that for years. It is very hard to tell right now what is going to happen because we do not have an actual action plan. We have the REUL Bill, which could open up the rules relating to pesticides that we banned 20 years ago. It is a big unknown and it is very scary.

Q141 **Margaret Ferrier:** Would you like to come in, Mr von Westenholz?

Nick von Westenholz: I agree with Vicki that there has not been a divergence there, as far as I am aware. The approach to derogation in the



UK was, as Vicki said, something that has happened in the EU as well. The ban exists, but it can be derogated from if certain conditions are met. That is the decision that the UK Government made in this instance, and that decision has also been made elsewhere in Europe. Neonicotinoids have also been used in certain situations across the EU. So, at the moment, there isn't any divergence.

Vicki and I will probably disagree on how you approach pesticide approvals. The EU has a very precautionary approach compared with most other systems around the world. That is also the UK approach. It is what we would call a hazard-based, rather than a risk-based approach. The upshot of that is that there are generally many fewer pesticides available for farmers in Europe than there are in most countries around the world. Obviously, some would argue that that is a good thing, because pesticides are harmful. Farmers, though, tend to use pesticides no more than they need to. They use them for good reasons: to protect their yields and to protect against pests and diseases. It would be a concern if otherwise safe pesticides—when I say safe, I mean where the risk can be appropriately managed in the way that they are used—were unavailable to UK farmers, but were available to farmers we are now competing with all across the world. That is a summary of the situation.

Vicki makes a good point about the risks of divergence when the EU remains our largest market. If we were to go down what you might call the North American or Australian route in how you approve pesticides, that might create barriers to trade with our nearest market, so we would need to be careful about how we did that. I think that we can improve our approvals regime without changing its fundamentals—the speed of assessments, bringing new, safe products to market more quickly, and having a better, smoother regulatory system. We do not have that at the moment, but that would be where the focus needed to be. That does not really run the risk of divergence, but it improves the outcomes for farmers.

The final point to make is that farmers will produce for the market. Australian farmers use pesticides that are banned in the EU. They still sell into those markets, because they make sure that they do not use those products if they are going to sell into the EU market. So you do not get a de facto ban by divergence. Of course, if that is the case, you might argue, what is the point in diverging if you are not going to avail yourself of the use of it because you cut off your markets? It is a complex and balanced issue.

Q142 Gavin Robinson: I am not sure who has expertise in REACH. Marnie, I am not sure whether this is a fair question for you, given your shooting and conservation background—I know that Vicki mentioned REACH earlier. This question is about UK access to the database, and how important it is that a UK-EU data sharing agreement is reached on chemical regulations. I look to you, because you have not had a lot to say, but it may not be for you.



HOUSE OF COMMONS

Marnie Lovejoy: It is not a question to which we have a lot of exposure. The only exposure in relation to EU REACH and UK REACH for the shooting sector is about lead ammunition and the potential ban on lead ammunition. In that instance, there has been data sharing between EU REACH and UK REACH. There was no problem with data sharing; the problem was more about the quality of the data that was shared with the HSE dossier. I have limited experience, so I am happy to give the floor to Nick and Vicki on this question.

Nick von Westenholz: I will pass this on to Vicki. I do not have a lot to say on that specific issue. I suspect that the HSE and the regulator would be helpful in saying what problems arise in that, but I do not have any insight into the specific problems that they might be finding.

Q143 **Gavin Robinson:** Vicki, you mentioned REACH earlier. Do you know what the impediment is to having a data-sharing arrangement?

Vicki Hird: No, I am sorry; you would have to talk to others about that. I know that we have the chance to have a common chemicals policy in the UK with a UK REACH system that encompasses our understanding of the impacts of chemicals used across the board, such as PFAS—the really harmful polyfluorinated chemicals. They are used in agriculture and in other areas, so having a common UK understanding of those would be an advantage. But at the moment, REACH does not cover pesticides. I'm afraid that I am not familiar with the legal side of it, but in terms of having access to that database and expertise, it would be a real loss if we do lose it.

Gavin Robinson: I think we have taken that as far as we can.

Q144 **Chair:** I would like to address one question to Marnie, if I may, in light of what you were saying earlier. With respect to the question of Brexit and Brexit opportunities in the context of what we have been discussing, is the current deviation more opportunistic and ad hoc than providing for Brexit opportunities? Do you have a view about that? I think you were putting the case that there were advantages in getting it within the framework of our own legal system. The others have expressed a view on that, and I wanted to get your view.

Marnie Lovejoy: The question is whether it is more ad hoc or opportunistic where divergence happens, or whether it should be more ad hoc.

Q145 **Chair:** The simple question I am trying to put is, do you think that there are opportunities in terms of having your own law making? That is really what I am saying.

Marnie Lovejoy: Absolutely. If we go back to the start, biodiversity, conservation and environmental law are very complex areas and very diverse areas. What has happened, with good intentions, through the interpretation of the habitats and birds directive is that European courts have tried to uniform these very complex areas.



HOUSE OF COMMONS

The outcome, because it is the smallest common denominator, is a very restrictive approach. It does not deliver for nature, or for nature recovery, because it is too focused on detail and short-sighted approaches. What we need is a change of the habitats regulations to diverge on this area, so that we have the opportunity to create better environmental laws that are designed for our needs in the UK specifically.

At the end of the day, every environmental regulation has to be evidence led, proportionate and capable of delivering for nature or nature recovery. If it does not, it is unnecessary red tape. It ties up resources unnecessarily, which could be used to further our environment.

Chair: I just wanted to get that clear. We are looking at a time factor now, and I want to ask Gavin to ask a question on the Northern Ireland Protocol. Gavin is a Member of Parliament from Northern Ireland.

Q146 Gavin Robinson: The Chairman helpfully said at the start that we are not going to explore the Windsor Framework, but the Northern Ireland Protocol has been imposed on us since 2019 and was implemented in January 2021. I am really keen to hear your views on the complications arising for agriculture across the United Kingdom.

Nick, we had colleagues of yours with us last night from the Ulster Farmers Union. That was the more contemporary conversation we are having, but could you give us a sense of the complications, impediments, barriers and difficulties that you and your members have experienced since the implementation of the Northern Ireland Protocol?

Nick von Westenholz: We work very closely with our colleagues in the Ulster Farmers Union and have obviously had a number of conversations on this issue with them. There have been some specific problems with the operation of the Protocol for farmers, particularly those farmers in Britain who trade directly into Northern Ireland.

I will not talk for the Ulster Farmers Union and the problems they have experienced in Northern Ireland, which I am sure they have shared with you, but from a GB perspective—particularly that of Welsh and English farmers, who are absent—there have been problems specifically with things like seed potatoes and trees. There are some things that they have not been able to trade into Northern Ireland. In other areas there has been some additional cost and friction, but in many areas the grace periods and the unilateral decision to extend them has obviously minimised those to quite a degree.

We were particularly concerned about what would happen if there was not some kind of accommodation and agreement reached, and those grace periods fell away. We know that there have been lots of issues around fresh meats and prepared meats—sausages, for example, which did benefit from a grace period. If that had fallen, it would have obviously been a very particular problem. There have been some problems, and we were particularly concerned about those problems becoming much more if we did not reach some sort of agreement.



HOUSE OF COMMONS

I should say that the other aspect of this is that we are concerned about the level of trade between Great Britain and the EU at the moment. Exports in agrifood between Britain and the EU are significantly down. If you look at the figures from 2019—pre-pandemic—to 2022, there has been about a 25% reduction in the volume of agrifood exported into the EU. We need to resolve that. That is really important, and a lot of that is the trade barriers that we are now facing into the EU.

We are quite hopeful that reaching an agreement on accommodation—I won't comment on the specifics of it, and obviously I am aware that there are politics around it—will enable a broader agreement on accommodation between the UK and the EU on total UK/GB to EU trade so that we can get that back on to a better keel. It is an important market for UK food producers and farmers.

Q147 Gavin Robinson: Marnie, are there any conservation angles on the Northern Ireland Protocol?

Marnie Lovejoy: No, very limited. The question could be whether nature recovery and conservation law should have a UK focus, or whether it should focus on the home nations. That is a very difficult question to answer.

In certain areas, such as species protection of migratory birds, which are moving, it obviously makes sense to look at it from a UK perspective, or even at a flyway level. At the same time, we have environmental laws that are devolved, so we have to respect the sensibilities in the devolution agreements. I have very limited input from my side.

Gavin Robinson: Vicki, you muted yourself when you were in transit.

Vicki Hird: Sorry, I have been booted out of the room I was in. I am in a noisy area now, so apologies. I don't have anything to add.

Q148 Gavin Robinson: Okay. You are an environmental expert. Apart from in "Lord of the Rings", are you aware of any trees that have uprooted themselves and walked across borders?

Vicki Hird: They have an incredible capacity to walk across borders through their seed dispersal. I just hope I am still going to be able to get my Bailey's from Ireland.

Q149 Gavin Robinson: What?

Vicki Hird: I do like Bailey's. There were cross-border issues relating to Bailey's.

Gavin Robinson: Apologies, that's fine. I thought you said "babies". Bailey's is actually made in Northern Ireland, so you have no difficulty.

Vicki Hird: Oh, right. I thought it had to cross the border.

Gavin Robinson: Don't get sucked in with the Irish branding.

Q150 Margaret Ferrier: The United Kingdom's exit from the EU has resulted in



HOUSE OF COMMONS

several powers that were previously held in the EU being returned to the UK. Many of them are within the Environment, Food and Rural Affairs policy areas, and they intercept with the competences of the devolved Governments. Looking at common frameworks, how important is it that the home nations remain aligned with each other on regulation? What problems could arise from diversion?

Nick von Westenholz: We respect the fact that agriculture is broadly devolved, so the four home nations will want to look at things relevant to their nations and create their laws and regulations appropriately. It is very important to us that there is not too much disruption to the UK's internal market. Producers in one part of the UK should be, by and large, free to sell into other parts of the UK. Clearly, if there is divergence within the UK on something like gene editing, GMOs or even pesticide approvals, that could create internal barriers within the internal market, and we would be concerned about that.

It is important to have common frameworks, and I guess a framework above that by which discussions can be had constructively between the four Governments to make sure there is as little friction on trade within the UK as possible.

We have talked about support schemes and the development of ELMS in England. Wales, Northern Ireland and Scotland are taking very different approaches to how they replace the Common Agricultural Policy and the support schemes for their farmers. That already risks creating competitive disadvantages between farmers within the UK, who receive Government support in very different ways. Some of them will be cross-border farmers too. We think there is a job to be done in trying to reduce that divergence within the UK's internal market.

Q151 **Chair:** We are getting to the end now. I want to enlarge on one aspect. You were talking about EU trade and UK trade and so forth. There seems to be increasing evidence that beef has been doing really quite well recently in terms of exports. Is that right?

Nick von Westenholz: I do not know off the top of my head. The beef price generally has been reasonably strong over the past few years.

Q152 **Chair:** I thought there were some really quite significant figures that came out quite recently in terms of the exports of beef products.

The other one is cheese. Some people say that they prefer to work with the EU, which is not to be excluded all together anyway, but actually—looking at some of the export figures for cheese elsewhere in the world—there have been some incredible increases in the exports according to some of the cheese makers that one has read about. There were quite extraordinary increases in the export of cheese in other parts of the world.

Nick von Westenholz: Certainly. We have an ambition to grow our exports by the end of the decade by 30%, and a lot of that growth would be outside the EU and in the rest of the world.



HOUSE OF COMMONS

Q153 **Chair:** Knowing farmers as we do, they would really want to look for markets where they can actually sell. There are parts of the world where there are actually huge opportunities.

Nick von Westenholz: We would not discriminate between EU and non-EU—the rest of the world. They are all export markets, and we would like to be selling into all of them as much as possible.

Q154 **Mr Jones:** Just on that point, are you noticing any other export markets being developed or growing as a consequence of or after our departure from the EU?

Nick von Westenholz: It is very early days—not so much after our departure, but after the pandemic and the big supply chain disruption there. We are almost just going back a year or a year and a half, so it is quite difficult to detect.

If we look at total agrifood exports, there has been a small improvement from 2019—maybe 1% I think, off the top of my head—with exports to the rest of the world. That is a very small improvement, but the Government have been making efforts. We are now able to export sheep again to the US, for example, so there are prospects there for that. We are hopefully doing a trade deal with the Gulf Cooperation Council, which could certainly be a market for sheep meat.

Q155 **Mr Jones:** I have noticed that sheep farmers from my constituency in north Wales are actually looking increasingly to the middle eastern market.

Nick von Westenholz: Exactly. There are certainly prospects there that we want to grow. As I say, we are not discriminating between one place and another; it is really about looking at where we can, and where there are markets and demand. That includes both EU and non-EU markets.

Chair: Thank you very much indeed for coming, all of you. It has been an interesting session, and I look forward to being able to consider all this in the next few weeks.