



# Common Frameworks Scrutiny Committee

## Corrected oral evidence: Post-Brexit common frameworks

Tuesday 2 February 2021

10.30 am

[Watch the meeting](#)

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. 6

Virtual Proceeding

Questions 67 - 78

### Witnesses

I: Dr Viviane Gravey, Lecturer in European Politics, Queen's University Belfast; Sean Kelly, Development Manager, Northern Ireland Environment Link; Victor Chestnutt, President, Ulster Farmers' Union.

## Examination of witnesses

Dr Viviane Gravey, Sean Kelly and Victor Chestnutt.

Q67 **The Chair:** Good morning, everybody. It is very good to be able to welcome to the Common Frameworks Scrutiny Committee three very distinguished witnesses from Northern Ireland. We have Dr Viviane Gravey, who is a lecturer in European politics at the Queen's University Belfast; Sean Kelly, the development manager for the Northern Ireland Environment Link; and Victor Chestnutt, who is from the Ulster Farmers' Union.

I welcome you with particular warmth this morning, because we have found as we have progressed through our committee's work both in dealing with the common frameworks that have been published—we have seen seven or eight of them now, in summary and in final draft—and, alongside that, in speaking to people with particular interest and expertise in the subject, that the Northern Ireland element has been more difficult to understand, for the obvious reasons of the slightly complicated relationship that continues with the European Union and the Northern Ireland protocol.

It was our intention to have a session specifically on Northern Ireland to get to grips with some of the realities on the ground as they were emerging, once the frameworks were in preparation and up and running. Many of them, of course, concern aspects of the environment, whether it is safety or food production, and have a particular relevance for Northern Ireland for that reason.

This morning, our questions will begin with me asking you some rather general questions about the frameworks and the way they operate. The following questions will be asked by my colleagues, who, as you heard in the private introduction to the committee, include people who have had distinguished careers in Northern Ireland or who are from Northern Ireland. They will go into more detail, and I am sure we will understand a great deal more by the end of the session.

At a point in the session, I shall hand over the chair to my colleague, Lady Crawley, in what will be a seamless transition.

This is a very basic question but one that we need to ask you. You will have seen us not only dealing with the frameworks themselves and having the discussions, as I have said, but doing so before the Christmas wrestling, not to put too fine a point on it, with the internal market Bill and all the issues that that raised about the process, politics and policy, and the variation we have seen in the frameworks themselves.

What have you made of the purpose and the process of the common frameworks so far? What do you think are their strengths and weaknesses, especially from your point of view in Northern Ireland? Viviane, could you answer this question first, and then I will move to Sean and Victor?

**Dr Viviane Gravey:** Thank you very much for inviting me today. It is indeed a very broad question.

It is important to think, first, about where the common frameworks sit in the current relationship between the four Administrations in the UK. I would say that there are four legs to that chair: the internal market Act; the still unpublished intergovernmental review of intergovernmental relations across the UK, which is the leg that is really critical to the chair standing correctly; the trade and co-operation agreement with the European Union; and the protocol to the withdrawal agreement.

So we have the UK-EU leg, which is new and is struggling right now, as we have seen with the issues with the application of the protocol and the fact that no one really knows yet how the new relationship will work in practice, the common framework and the internal market Act. We are still missing the review of intergovernmental relations, but the other three legs are still very recent. This is all a bit up in the air and no one really knows how the different elements are going to work together.

When it comes to common frameworks themselves, if we look back to the start of the process and the Joint Ministerial Committee communiqué of October 2017, we were talking then of the common frameworks as potentially having common standards and common approaches. Now, we are hearing from civil servants that the common frameworks are mostly about process. They are not about policy any more; they are a discussion between the four Administrations to manage divergence and to mitigate the regulatory collateral damage from one Administration choosing to diverge from the others, so we are not even completely sure what these are. They started as a way of potentially having some kind of common approach across the UK, and now we are just talking about mitigating divergence and the impact of divergence on the others.

There is a lot of uncertainty. On the question of success and whether they have been good or bad, that can be measured quite differently. What do we compare the common frameworks to? Do we compare them against the arrangements pre-Brexit or against other plans put in place in that Joint Ministerial Committee in October 2017?

If you compare them to the UK Administration plans, we have had quite a lot of delay. A lot of this has of course been due to Covid, which has put major strain on civil servants across the four Administrations, so it is normal that it has been delayed on this point. However, it is important to realise that most frameworks are provisional frameworks, which means in most cases that they have been given very limited scrutiny by Parliament and there has been very limited engagement with stakeholders.

When we talk about engagement with stakeholders, we are talking about the Administration choosing who they think it is relevant to engage with. That is very different from what came before the common frameworks—the EU directives. The EU directives were debated publicly in the European Parliament and in the Council of Ministers, with stakeholders who could decide for themselves whether they felt they were affected, whether they wanted to speak about this topic and whether they wanted to influence it. So there have been delays, and there are big issues with conservation.

The bigger issue when it comes to transparency is that very few legislative or non-legislative frameworks will be built. The four Administrations decided that no framework was required for most of the 150-something issues that were first identified, but the justification for no framework being required for environmental issues such as water has not been made public. We do not know why the four Administrations decided that, when we already know that England is planning to diverge under the 25-year environment plan and when Wales and Scotland have cross-border rivers.

We do not know why the Governments have decided not to diverge. I think that is where scrutiny has to come in, especially by a committee like yours, which does not comment just on specific frameworks but on the whole framework infrastructure. A lot of the points we need to make include, "Don't just tell us about the frameworks you decided to make. Tell us about the framework you decided not to make". That is where my concerns about transparency really are.

Even though I have a lot of qualms about the process, I understand why we need frameworks. We need some ways of working together. In many ways, the UK, for a long time, because of the overlap between what was Europeanised and what was devolved, did not really have to figure out how to work all four Administrations together, and now there is this catching up.

Of course it is not going to be perfect the first time we start doing it. It is good that the process is there, but we have to make sure that we do not end up agreeing to a process that is basically just Executive to Executive, with a very limited role for Parliament and for stakeholders, and that this becomes the norm for the four nations, the four Administrations, working together in the future. Brexit was about taking back control but also about having open government, and these common frameworks are not an example of open government. I think that is all for my opening sally.

**The Chair:** That is a terrific opening sally, because you have touched on so much that is absolutely fundamental to the principle and in the context of all those governmental relationships, which are still in the process of being formed, as well as what is below the surface of those frameworks, which have not even surfaced. You raise a lot of important issues there, which I know my colleagues will want to follow up. It is very helpful context indeed. Thank you very much, Viviane.

Sean, you are on the ground dealing with some of this as it is actually going through, so it is not process to you; it will have real impacts. Can you tell us about your experience so far and how the frameworks appear to you?

**Sean Kelly:** Thank you, Chair, and thank you once again for the opportunity to address the committee.

I will make a general point first, because I will probably reiterate some of this later on in my evidence as well. The committee will already have

received written evidence submitted by Greener UK in agreement with the four country environment links from Northern Ireland and our colleagues in England, Scotland and Wales. We see great potential in the common frameworks, but at the same time it is very early days and only initial common frameworks are being produced for some of the areas.

In the submission we set out the criteria that, whatever the common frameworks might be, they would have to be measured or tested against. We believe that in the four countries the common frameworks could help to deliver through a co-ordinated trans-boundary approach, the management of shared environmental resources, the production of minimum common standards, basically to encourage a race to the top and therefore try to avoid a race to the bottom, and also help the UK deliver on its international commitments. Last but not least, they also need to be tested against accountability, transparency and access to justice.

So far, and Viviane has already referred to this in her answer, there has been very little transparency in things for us to comment upon. As regards the frameworks that have been published, I think that frameworks on chemicals and pesticides have been circulated at the UK level, and there has been one on air quality. In Northern Ireland, we were certainly asked to comment upon the UK emissions trading scheme and so on, but only at a very general level, and once again, as Viviane has mentioned, it seems very process-orientated.

I know you have asked me about my experience on the ground, but we have not seen anything yet. It is hard to comment upon something that you have not seen—again, Viviane has mentioned this—and why some areas are covered by frameworks and others are not, but, overall, I think there needs to be something in relation to ambition. What is our ambition? What are we trying to achieve? I would argue that it needs to be a high-level ambition, but there has been no discussion or chance for an input around that. That, for me, is important.

The ambition would be timely, obviously, because we have a couple of very important international summits on climate and on biodiversity, and if we accept, as I think each of the countries has, that there are climate and biodiversity crises, where does all this fit in? As I said, it seems to be very driven by process at the moment, so it is hard to comment on what you have not seen. Certainly, an engagement process needs to be rolled out in the four countries as a matter of urgency, and importantly between the four countries as well, so that we can get that ambition.

Lastly, I think that in Northern Ireland we have fallen behind on environmental standards and the upholding of and compliance with environmental law and so on. I think the common frameworks extend the opportunity for us to raise the level of ambition within Northern Ireland and throughout the four countries.

I will try to finish on a positive note and say that there is potential, but we are a long way from where we want to be yet.

**The Chair:** Thank you very much indeed. Just one question: you have obviously very strong continuing relationships with your counterparts across the UK in the four countries in the environmental link, and that has been sustained over some time, I imagine, so you are in a position to know how the other countries are also reacting and trying to conceive and manage their relationship with the common frameworks.

**Sean Kelly:** Yes, indeed. We are in regular contact with them. We have established meetings every month for updates particularly on environmental issues in terms of devolution et cetera, common frameworks, the NI Protocol and so on. A lot of that is information sharing, but in this case I think I can say on behalf of all the links and Greener UK that there is a dearth of information on anything other than process. In many ways, we can understand that.

Information about a lot of the things that would have impacts upon common frameworks, whether it be the protocol or the trade agreements, has come forward very late in the day. Once again, I appreciate the huge resources this takes within Defra, DAERA and other government departments, but at the same time the point remains that there is a lack of information and certainly a lack of a chance to input. We are certainly doing our best across the countries to input where we can and to provide whatever help, encouragement and advice that we can.

**The Chair:** That in itself is very good news. The picture you painted is very familiar to us, of course, because we hear this from all sides and our own experience is of lack of transparency and of information very late in the day.

Mr Chestnutt, so many issues in Northern Ireland revolve around farming, and the frameworks themselves impact on farming processes and food production in many different ways. Can you share your experience to date with us?

**Victor Chestnutt:** Yes, thank you, Baroness, and let me again thank you for the opportunity to come here to give evidence today.

On the common frameworks, okay, having common frameworks is dead on, but we need different rules here in Northern Ireland. Across the UK there are different farms, different scales, different structures, different environmental challenges, and that needs to be recognised in our common frameworks. We do need common frameworks, but they need to be bespoke for the area we are putting them in.

I will take you down to the ground and talk about the situation in Northern Ireland with farmers. We are quite a small region in Northern Ireland; we are half the size of the county of Yorkshire. We have 24,000 farmers, many of them small, part-time farmers, but we produce enough food to feed 11 million, who are mostly UK consumers, so we are very proud of that fact.

The majority of our land is owner-occupied, and about a third of our land is rented. The majority of that rented land is rented from neighbours who may have left the business, but that means that there is great thinking among our farmers about leaving the ground and your environmental footprint in a better condition than when you got them. You would be hard-pressed to find farmers that do not think about it that way around. Having said that, there is a lot we can learn. We are learning constantly, and some of the ways we did things in the past were contrary to our environmental outcomes. I see huge talk in the Ulster Farmers' Union and among our farmers of the higher importance of the environment—how we farm the environment and how that affects the environment. But a lot of our farms are very similar to my own, which is a fifth-generation farm and my son is coming into the business. You are not going to destroy it, but there is always learning to be done.

On the common frameworks, we are concerned that if one region lowered its environmental standards it could give it a competitive advantage, and we have to guard against that. Also, our land border and our competition with the other side of Ireland is really in food and food exports. It is so much about our food that all of Ireland has integrated processing; a pile of their pigs comes north for slaughter, a pile of our sheep goes south for slaughter, 40% of our milk goes south for processing and then some of it comes back north. That integrated supply chain means that we need to keep a very close eye on the European rules and what is happening there, because we cannot have an advantage or a disadvantage over what they are doing.

On the ground, on the environment side I think that farmers are up for change. At the minute, our environment committee is designing a new environmental farming scheme, which is designed from the bottom up, not the top down. We had a countryside management scheme that was very successful in Northern Ireland for a number of years. It had 11,500 members in it. Government produced a new environmental farming scheme. The numbers in it are pitiful, maybe in or around 1,000 in total, and in the last tranche there were only 300 applicants. We need to do better, and that is why we are putting our efforts into designing one from the bottom up.

**The Chair:** Thank you very much. That gives us a very graphic picture of the actuality on the ground. We are very grateful for that. We move now to Lord Caine and Lady Ritchie, who have questions from their own experience of Northern Ireland.

Q68 **Lord Caine:** Good morning, again, everybody. I am afraid I cannot help but begin by noting that we meet against a backdrop of quite extraordinary events over the weekend regarding the protocol, and waking up this morning to the news that staff have been withdrawn from Belfast and Larne and inspections have been suspended. I do not know whether anybody might want to comment on that just briefly.

To some extent you have touched on my specific questions already, but how important is regulatory alignment as far as possible between

Northern Ireland and Great Britain through common frameworks? What do you see as the greatest practical pitfalls for Northern Ireland over possible divergence from common frameworks as a result of the protocol?

**Dr Viviane Gravey:** On what happened this weekend and the suspension of inspection that was announced, we always knew that implementing the protocol in practice would be difficult, especially because preparing for the implementation of the protocol was again delayed due to the Covid crisis. I think the last few days have shown that we can have very practical challenges both in Brussels and on the ground, and that it will take a lot of good will and patience from all sides, which might be a tall order considering how the relationships are currently. We will see. I think Michael Gove is speaking later today about what happened this weekend, so it will be very interesting to hear what he has to say on this.

We are still finding out what part of the Commission was responsible for drafting a piece of legislation very poorly without thinking carefully at all about it. I lost my train of thought, so could please repeat your question?

**Lord Caine:** How important is regulatory alignment between GB and NI as far as is practically possible, and what are the pitfalls over divergence that might come about as a result of the protocol?

**Dr Viviane Gravey:** Regulatory alignment currently does not exist. In lots of areas we already have the four Administrations with slightly different rules. Interestingly, that has perhaps not really been taken into account. The trade and co-operation agreement, for example, speaks of UK standards for environmental law as if we have one standard. We do not.

However, there is also the question of how much more divergence we can have. The common frameworks are not really about agreeing common standards; they are really about managing that divergence. These frameworks could just be the first draft, the first version. They could be provisional frameworks, and the bigger frameworks after parliamentary scrutiny and involvement could then have these common frameworks. I think a lot of people would like common frameworks, common standards, especially if you are thinking of businesses having certainty about what the rules of the game are.

The critical element for me, speaking as someone who works in the environmental sector, is first having a regulatory baseline. It is okay if we have just a common baseline of standards that we cannot go under. Then perhaps you can innovate, you can do things a bit differently and have more ambition in different parts of the UK, but we need to be careful not to have a race to the bottom that will put a lot of pressure on economic actors and on citizens. We should all be able to expect, as people living in the UK, to have clean water across the UK.

This is especially important for Northern Ireland, for two reasons. First, it is a small Administration, and a poor Administration, and the ability to diverge meaningfully will require a lot of effort on the part of civil

servants even to be able to prepare a case for divergence. In many ways, it is likely that Northern Ireland will not be at the forefront of divergence.

It will be stuck, of course, because there will be areas covered by the protocol where it has to keep pace with the EU. Chemicals is one of the areas that has a common framework and it is in the protocol. The common frameworks can really help to make sure that the protocol applies in Northern Ireland, but it is for the four nations to consider. Through that common framework we will be able to see that the rest of the UK has to take into account what it means for Northern Ireland to keep pace with the EU. Will GB—Wales, Scotland and England—decide to follow suit with what changes Northern Ireland has to make in order to make sure that there is not this increasing divergence?

There is a specific case that is coming up, which is the ban on lead shots in wetlands, which has just been agreed by the European Union. That is an amendment to REACH, the chemicals rules, so that is covered in the protocol. Critically, these are banned currently but differently in Northern Ireland and Scotland, and not in Wales and England, so we are going to see these kinds of practical links between how the protocol and the common frameworks fit together in the coming months or years when Northern Ireland has to revise its rules on lead shots, for example.

**Sean Kelly:** Thank you for the question. Once again, I would reiterate what Viviane has said. To approach the question in a different way, we definitely need alignment, because one way of looking at it is that, if we do not have alignment between Northern Ireland and GB, or if we do not have alignment full stop, even between any of the countries in the UK or any of the regions in the UK, we will have a state of confusion, with the different countries going their own way.

I can understand and I take Victor's point that there have to be regional differences. It is not one size fits all, but at the same time I think we are going to need a common approach, because if we do not have a common approach, as Viviane says that will lead to a race to the bottom and it will be to a region's advantage to deregulate if it gives it a competitive advantage. I am not saying that the countries would necessarily think of it like that, but it would give them a competitive advantage.

Alignment is very important, but where appropriate it will have to be alignment in terms of targets in law. It will have to be law, law where it is necessary, because if we get a lot of voluntary agreements that can lead to further confusion about the rules and what happens if you break them, and so on. In some instances, if we do not have alignment and it is not put down in legal terms, we could end up with a long wish list of what we are trying to achieve, rather than what we have to achieve. I made comments earlier about the level of ambition within that.

Viviane has also talked about the resources. Our elected representatives here and the civil servants—I know DAERA has a small team—will have to look at the common frameworks and see how they interact with the environment. They will also have to look at the Northern Ireland protocol

and see what areas are affected by it and the areas that are affected by the common frameworks and the Northern Ireland protocol, and then they will have to work out what areas are affected or that could have implications for the Good Friday agreement and the north-south operating bodies. There will be a lot of work. It just shows how complex it will be here, which is why in this case it will be important that we put alignment into law and to try to get alignment as tightly controlled as we can.

**Lord Caine:** That is very interesting. Victor, just to round off.

**Victor Chestnutt:** Thank you, Lord Caine, or maybe Jonathan. I am not sure what you go by.

**Lord Caine:** Jonathan is fine, thanks.

**Victor Chestnutt:** Yes, thank you. I will just take a minute to go to the weekend events about the protocol. First, I would just say that at the farmgate there is an increasing level of frustration at checks and blocks that we did not realise were coming.

I am going off-piste a little, but I will give you a couple of examples. In Northern Ireland we had a small family farm, so we punched well above our weight in pedigree livestock. If we go over to the UK mainland to sell our wares and for some reason one is not sold, it cannot come back into Northern Ireland for six months now because it is seen as not being six months resident within the UK. We have a fully traceable system in Northern Ireland. There is no risk of that going over into the EU. To me, the answer is for a joint committee to get up and running as quickly as possible to sort these things out. That residency should be able to take place in Northern Ireland. It is a sensible solution. Our traceability system is second to none. It can have a block on it from going on into the south.

Also, because of the farm size in GB mainland, quite a lot of our machinery is second-hand machinery brought in from the UK mainland. I have a friend who used to be a potato grower. He got MS. Many a person would be sitting in the house trying to look after himself but he always had an interest in machinery, so he runs a small one-man-band business buying machinery over the internet and bringing it into Northern Ireland. He rang six suppliers there just last week. Not one of them will deal with him now because he is in Northern Ireland. They said, "Listen, Brian, we value your trade. Nothing against you, but we're just not going through this paperwork".

The problem is that, before this, everything had to be clean before it came into Northern Ireland. That was checked at Larne port by our group staff. Now you need a veterinary certificate for every piece of equipment. Where does the common sense come in there? We need to inject some common sense. There is frustration building in Northern Ireland about the unnecessary hiccups, and the sooner a joint committee gets up and running and tackles these issues one at a time—I think there are

solutions to them all—the better, because otherwise we are heading to a very dark place if we cannot get checks going.

We are concerned about staff not being there to do the checks. Our stuff has to go out to GB, other stuff has to come in. Some ingredients for different products need to come in. If there are no checks, are they going to be sailing straight through without checks or are they just not going to come? That is the question we are looking at today. Sorry, for going off-piste a little bit on that.

On regulatory alignment and where the potential pitfalls are, I would say that there are certainly pitfalls. Yes, we need an overarching regulatory alignment, but there are circles that are difficult to square. On plant protection products, for example, we are now going to be under EU rules. Roundup, for instance, looks as if it is set to be banned in the EU, but it looks as though the UK might continue to use it. That will put our arable farmers, who are quite a small sector in Northern Ireland, at a disadvantage.

That is just one example of ways in which this could affect different regions. We need an overarching regulatory alignment because of our link to the EU and being in the EU regulatory zone, but it could cause issues for us here in Northern Ireland. I will leave it at that.

**Lord Caine:** That is really helpful. I could come back on that, but I am conscious of time, so I will pass over to Baroness Ritchie. Thank you very much, everybody.

Q69 **Baroness Ritchie of Downpatrick:** Thank you, and good morning again. How should common frameworks relate to the Northern Ireland protocol, and what role should common frameworks play in responding to changes in EU law covered by the protocol? I note that Victor has already referred to the issue of Roundup and the whole issue of pesticides, and the whole issue therefore of feed for animals and the need for some form of realignment in relation to that, because a lot of the feed is imported from Britain but there is also the north/south component. I am conscious of time, Chair, so if I may I will go to Victor.

**Victor Chestnutt:** Yes, thanks. I will keep this brief, Baroness Ritchie. Nice to meet you again.

**Baroness Ritchie of Downpatrick:** Yes, we have had many a conversation.

**Victor Chestnutt:** I will just say that what we need is no duplication. We need clear boundaries and clear pieces of legislation. I will leave it at that.

Baroness Ritchie of Downpatrick: Thank you. Sean.

**Sean Kelly:** Thank you, Baroness Ritchie. Once again—

**Baroness Ritchie of Downpatrick:** You are all very formal today, but

anyway.

**Sean Kelly:** Thanks, Margaret. It is an interesting question. I listened last week or the week before to the Committee for Agriculture, Environment and Rural Affairs evidence session with DAERA officials up in Stormont. They also highlighted the fact that in some ways it is still early days and that a lot of clarity needed is still needed about the implementation of the protocol and how it interacts with the common frameworks.

To be frank, some of these are political decisions. We—me, Victor and Viviane—can give our viewpoint on it, and are very happy to do so, but they will be political decisions. I would support what Victor said about trying to keep it as simple as possible, although that might not always be easy.

In terms of how the areas and issues interact, I think the Governments will have to try to see what consistency they can bring in. It is not going to be easy. Reconciling all this is something that the common frameworks are possibly designed or set up to try to help us to deal with.

To me, there are a couple of options, maybe more. Under the Northern Ireland protocol, if there is an issue, say, with pesticides, we have no option but to follow the Northern Ireland protocol ruling on this one and to follow the EU rules. If GB does not do the same, there is obviously the possibility, or likelihood, of divergence. Either they have to follow the EU rules or else they have to try to design their own rules, and try to do so, hopefully, in a way that causes the least friction—well, friction might not be the right word to use at the moment—or, rather, makes it easier for Northern Ireland to try to fulfil its UK commitments as well.

I think the challenge there will be: what can be done? What is the consistency? What can the four Governments put forward? It will have to be a political deal, so to speak. I am sorry that I cannot go into it more, because I am afraid, like a lot of things to do with this, it depends. That is the answer really, and it is not much of an answer. I think that the Governments will therefore have to take the lead and try to smooth the waters as much as possible.

**Dr Viviane Gravey:** On a lot of these issues, such as pesticides and the Roundup issue, for example, we will have to be aware of the possibility of divergence. France has just agreed to reintroduce Roundup for beetroot and sugar beets, so even on the EU side it is not a one size fits all. You have national regulations that might differ, and there will be the possibility of divergence even within the rules for special treatment of certain sectors. Therefore, we will have to be very careful

It could be that there is no problem there. It could be that there is enough flexibility in the UK frameworks and the EU overall frameworks—be it a regulation, be it a directive—that Northern Ireland ends up with the ability to be in them both at the same time without any problem.

This will be on a case-by-case basis, and there will be a lot of pressure on stakeholders and on civil servants, because we will not know, until we actually see new rules coming from the EU and divergence starting from the UK, how much of this will be a problem in practice.

**Baroness Ritchie of Downpatrick:** Thank you.

*Baroness Crawley took the chair.*

**Q70 The Chair:** Baroness Andrews has now had to leave the meeting. We will now move on now at a bit of a brisk pace, if we can. I am Christine Crawley, by the way. I am very happy for you to call me Christine.

My question is about stakeholder involvement in particular, which Viviane just referred to. This committee and others in the devolved Administrations have been very concerned about the thin and patchy engagement so far between the development of common frameworks and stakeholders, such as you.

I suppose this question is particularly for Sean and for Victor. What is your view of the stakeholder engagement so far in creating common frameworks? Have you been consulted on any common frameworks?

As you know, there have been 14 Defra frameworks so far on issues such as agricultural support, fertiliser regulations, animal health and welfare, food labelling, plant varieties and seeds. Have any of these come across your desks at any point in the development of these frameworks, and would you expect them to, and what would your contribution be if they had come across your desks?

**Sean Kelly:** Thank you for the question. In short, interaction in terms of consultation and so on and a chance to engage are very piecemeal across the UK. As an environment sector in Northern Ireland, we were certainly asked to come in on one, which, if I remember rightly, was on the UK emissions trading scheme. That was the only one that I remember coming from Northern Ireland. To be fair to the AERA committee up in Stormont, it too has received very little information.

My understanding is that, until the provisional frameworks themselves are signed off, by England, Scotland and Wales as well, they cannot even be shared with the committee so that they can look at them and start its scrutiny process. There may be also issues and delays there with the forthcoming elections and so on.

There is very limited engagement, and we do not have a timetable for that engagement at the moment, so if, when and how it will start is the problem. Something that I think we would very much call for is for each of the frameworks to have a timeline, to be published and to give us a chance to engage within Northern Ireland, and I am sure between the countries as well.

On the question of concern about the engagement process and so on, I believe that the DAERA, understandably given the importance of the agricultural industry in Northern Ireland, undertook its own prioritisation

process around June last year. I know that some of the environmental frameworks, particularly in relation to the natural environment and biodiversity, were, and as far as I know still are, rated as low risk. I think the intention was that they would be dealt with in time when resources are available.

I may not have the latest, most up-to-date information. I have not heard anything more on that, so what I am saying is that the frameworks are vitally important, and the environmental ones are obviously very important, given today's subject area and the level of interest in them. I do not have any indication of any work having started within the department, certainly nothing that has been shared or can be shared.

Those are my concerns and, as I said, there has not been the chance to engage at the highest level as regards what should or should not be in the frameworks. What should the level be? As I said before, I would have thought that there needs to be an overarching common framework on ambition. That would have been a good start. What are we trying to achieve? Otherwise, it is very important, we do need to get down into the detail, but detail to achieve what exactly?

**The Chair:** That is a very good question. I think your comments underline our frustration with the timelines. There should be templates, for instance, across frameworks, so that everyone involved in their development knows that they are starting from the same point. All these aspects of it are very frustrating. Victor.

**Victor Chestnutt:** Thank you, Christine. The short answer to your first question, on whether we have been consulted, is no. The answer to the next question, on whether we have concerns about transparency in the common frameworks to date being applied without having been published, is yes, we do have concerns. Just to elaborate on that a little bit, we do not seem to be being involved, and if you do not build the thing from the ground up it will not succeed. That would be our comment. Just to give a proper place to our own establishment, we do have engagement with our DAERA establishment under the AERA committee in Stormont.

On future support, we are starting as an industry to work with people like the Andersons Centre to look at different sectors to see how they would go forward. Once we get each sector finalised, we present that to our Minister, who, by the way, is headed into hospital today, so there is an interim person in charge. But, yes, we are feeding in at that level.

**The Chair:** Thanks very much, Victor. That is very useful to know, particularly about your engagement with Stormont. As a committee, we have already begun the process of talking to the consultative committee in Stormont that deals with common frameworks, so that is very useful. Thank you very much. Viviane, did you want to come in?

**Dr Viviane Gravey:** Yes, because as Sean said, there was a very recent update from DAERA to the AERA committee in Stormont. I was surprised

when the Chair said that you had received seven summaries. The AERA committee has been sent 12 summaries from DAERA, including six oral briefings and four written briefings to build up. In general, I think the officials there were very keen. They said, "We've welcomed your scrutiny". This for me stands in very sharp contrast to the letters that Chloe Smith MP sent to the House of Commons Public Affairs Committee, in which she said that there was no plan for scrutiny at earlier phases, so there is no plan for parliamentary scrutiny until the fourth phase in the programme when the frameworks are published.

There is quite a bit of difference in how the scrutiny is going. It is apparently going quite well in Scotland. There is some issue in Wales with civil servants having to have ministerial approval before they can share with the Welsh Senedd. This is also something for a committee like yours to look at. We need to make sure, of course, that there is scrutiny in parallel in the four nations and that you have access to the same material. It does not make sense that it is considered to be perfectly fine to share with the parliament in one part of the UK and not with others.

**The Chair:** Thanks very much, Viviane. You are absolutely right that it does not make sense, and we grapple with this as a committee, shall we say. Lady Redfern will continue the questions on this particular aspect of engagement.

Q71 **Baroness Redfern:** Your introductions touched partly on my couple of questions, but if I may I will turn to Viviane first. Viviane, you mentioned process and limited scrutiny and how it impacts on transparency. Could you elaborate a little on that, and on the frameworks being applied without being published?

**Dr Viviane Gravey:** Yes, of course. The common frameworks are one of the ways in which the four Administrations are working together. We know that it is one of the ways in which they are working quite positively together. There is strong support for common frameworks in all four Administrations, which is not the case with the internal market Bill or the EU-UK trade and co-operation agreement.

In many ways, this should become the flagship. This is the four Administrations' Working Together programme, yet this is very much Administration to Administration. It is an Executive-led process, with Parliament being involved very little and very late and stakeholders being involved very little and very late. That is very worrying in terms of the standards it sets for intergovernmental relations in the UK, because it really tells us that it is just a story of civil servants working together. That is great if they can work together, but we need to make sure that there is some transparency and some legitimacy to the process.

If you end up with a proposal for divergence being put forward by a Minister, with support from one of the legislatures, which ends up having to be rolled back because it would have an impact on other Administrations—and the decision to cut it back and to rephrase it is just taken civil servant to civil servant or Minister to Minister—there is a big

issue there in terms the devolved nations but also England being able to meaningfully diverge. The decisions to diverge from EU standards should be done in the light of day in parliamentary settings and not between Ministers.

**Baroness Redfern:** Thank you very much, Viviane. I will now go to Victor. Before I ask you to respond, Victor, I should say that I welcome your response about guarding against reducing standards, particularly environmental standards and obviously animal welfare standards. Anyway, Victor, thank you, and I await your response.

**Victor Chestnutt:** Yes, thanks. Our experience is that we really need to be consulted on these things. We are not being consulted, so that is what we would like to see being done differently. We have a close relationship with the NFU, but it is very important that the NFU is not seen to be speaking on behalf of all four farming unions, because of those regional differences. I will just leave it at that. Thank you.

**Baroness Redfern:** Thank you, Victor. I will now move to Sean. You mentioned in your introduction my question regarding frameworks being published and so on.

**Sean Kelly:** Yes, I referred to that earlier, and both Victor and Viviane have made some of the points that I was going to make. The other thing that I would say about the process and provisional frameworks that have been published not having had any scrutiny and so on is that, I think I am right in saying, the common framework areas intersect more of Northern Ireland's devolved competence than other parts of the UK. That is my understanding. Basically, that they are impacting more on environmental areas here than in other parts of the UK. Therefore, the level of scrutiny from Northern Ireland and the point about not having the opportunity to provide input will be a bit of a concern if it is going to impact us most.

I believe, for example, that the committee has written to the First Minister and the Deputy First Minister. I know that the Executive office here in Northern Ireland has an overarching responsibility, and that within that there is a Civil Service team and stuff as well. What I have not seen, and I am not sure it is in the public domain, is any level of input or what has been put forward or proposed. That may be because the opportunity has not been there, but either way it is a concern.

If it affects us most, surely we should be at the front of the queue in some ways in trying at least to influence or to ensure—to put our best foot forward—that it takes in Northern Ireland's concerns. They should be up there front and centre, but, as I said, there has been nothing on that.

In terms of scrutiny, I will put in a plug for civil society as well. Northern Ireland Environment Link, the other link organisations and Greener UK would be very keen to engage with whomever, whatever, across these islands, whether at parliamentary level or beyond, to try to get the system right. What with leaving the European Union and the European

Union obviously setting the common standards, which all of us were signed up to collectively, this is a new beginning, so we have to make sure that we are putting our best foot forward when it comes to the environment.

**Baroness Redfern:** Thank you very much, Sean.

Q72 **Lord Foulkes of Cumnock:** I have one question. I think Sean is probably the person it is principally directed at. He said in his written evidence that common frameworks need to be supplemented by further agreement on overarching environmental ambition, and he repeated that again in his evidence today. What he has not said is how that is achieved in practice and what the mechanism would be.

I think it was also said earlier that overarching regulatory alignment should be put into law, but that begs the question: by whom? Is it by the UK Parliament or by the devolved parliaments? The \$64,000 question that nobody has answered: how do we agree what should be decided at a UK level and what is better left to be decided at a devolved level? What kind of mechanism would you advocate?

**Sean Kelly:** Thank you, Lord Foulkes, for that question. There is quite a lot there, so forgive me if I do not answer one of them. I think there was a question about ambition. I think the onus is on the UK Government, working with the devolveds, to try to set that level of ambition. I say that, because each of the Administrations have said that they are determined to leave the environment in a better state than they found it, or sentiments to that effect. In Northern Ireland, for example, I know the Minister has said that no one wants to see any backward steps in environmental protection.

We have those stated levels of ambition, but what we do not have is a commitment to what that should be in law. I am not saying for a moment that everything needs to be tied down and that there have to be reams and reams of legislation. I think we need minimum targets, or minimum targets that still give each of the regions the opportunity to go beyond that, because there should be no ceiling in environmental improvement.

There has to be an overarching, shared ambition that we have to sign up to. We have had various talks on the UK internal market Bill and other discussions about protocols and so on, and all these things refer to the environment without actually saying what that standard needs to be. That needs to be delivered by the Government in consultation with the wider sector. The process needs to be joined up, because, whatever your level of ambition, a lot of this will come down to resources and so on as well.

**Lord Foulkes of Cumnock:** Have you thought that the ambition as to how it is resolved is different at a United Kingdom level and at a devolved level, either in Scotland, Wales or Northern Ireland? That is the big question that we are facing.

**Sean Kelly:** In some cases it could, for example, be built around the continuation of international agreements on biodiversity loss, climate change and so on. A lot of that can be used as the basis for our overarching ambition, but what needs to be made sure is that each of the devolved regions are actively playing their part in delivering that ambition.

This is perhaps going off on a bit of a tangent, but for example in future trade deals or whatever the case may be, the UK needs to be able to say, if it is going to say something: "That is the minimum" or "That is the UK standard". I realise that a lot of it is a political process and that it will have to be through negotiation, but without that it remains a wish list. Whatever the standard is, be it environmental or anything else, the UK may be the international signatory to a lot of these international agreements, but you are only ever as good as your weakest link.

**Lord Foulkes of Cumnock:** Thank you, Sean. I think I am being unfair. I have been asking you to resolve a problem that we are working hard on but which none of us has been able to resolve yet. But thank you very much.

**The Chair:** Thank you very much, George. We will move on briskly to Lord Murphy.

Q73 **Lord Murphy of Torfaen:** I understand that politics and government in Northern Ireland are totally dominated by Covid and by the protocol at the moment, but I would like your impression of the Northern Ireland Executive's engagement with the whole programme of common frameworks. Is it engaged at all, bearing in mind the other things it has to deal with? I will ask Viviane to answer first, but if either Sean or Victor wish to comment, obviously they can do so.

**Dr Viviane Gravey:** The protocol process started while there was no Assembly sitting. It was just civil servants representing Northern Ireland and being able to speak only on points of fact and clarification. They could not put forward any kind of political view on the process. In many ways, that has meant that local politicians have had to play catch-up with the rest of the UK in engaging with this process.

I do not have a strong impression that the two heads of our Executive have spoken publicly about common frameworks, or have really engaged with it. Again, it might have happened Government to Government, and I am sure that through the Joint Ministerial Committee we have a representative from Northern Ireland involved in this, but it has not made the news in a way it has in Scotland and Wales. There are political statements on the process, how it works and whether there is trust between the Governments, but I have not seen any similar kind of high-level statement from the Executive.

Q74 **Baroness Randerson:** Viviane will probably want to continue a little bit with the theme she was developing. My specific question is that the divided nature of the Northern Ireland Executive might prevent them

triggering the dispute mechanism in frameworks once things go from being mapped out to actually being applied on the ground. We know that Northern Ireland is lagging behind on this, but do you think that, once these things are applied, the Executive are in a position to unite on an issue when there is a real problem?

**Dr Viviane Gravey:** Of course, we do not know, but if we can try to cast our minds on it, I think it depends on whether the problem is because of the protocol and an area where there is divergence. If Northern Ireland ends up having different rules than GB because of the protocol and is being impacted negatively by that—if, for example, our farmers are negatively impacted by this—I would assume that if there is an economic cost to this the Executives would step up and agree. In lots of areas, as long as this is not extremely politicised and the discussions are not between the three main Executives, I do not think it would be a problem. The problem is if it becomes the political topic of the day. In that case, that might be more difficult.

**The Chair:** Thank you very much. That is a fascinating small discussion there. Lord Thomas is heading up the next set of questions.

Q75 **Lord Thomas of Cwmgiedd:** A very quick question, which I want to address to Victor Chestnutt. UK Defra has promised to publish 14 frameworks relating to the environment, agriculture and similar matters. None has yet come. Can you tell us very briefly the two or three that you are most concerned about and why?

**Victor Chestnutt:** Yes, thank you, Lord Thomas. Just before we move on, can I go back to the last question on the divided nature of the Northern Ireland Executive, please? The Ulster Farmers' Union has good relationships with all the parties. I had the two main parties out with me inspecting mosses and bogs and seeing the state of our peatlands, and in the afternoon we went to dairy farms and beef farms. Both those parties were able to do that in the one visit, which is encouraging to know. So I think that, when there is a common aim, we in Northern Ireland can work together. Sometimes people on the other side of the water who are not used to Northern Ireland think that we are at each other's throats all the time, but that is not necessarily the case. The parties can work together. I just want to reassure the members here that that does happen in Northern Ireland.

Back to your question, Lord Thomas. The big concern for us in Northern Ireland is probably future support, simply because about 80% of our Northern Ireland farm businesses' income is support-related. Some years, that is a little higher. Some years, it is a little lower. Given the size and the scale of our farm businesses, new agricultural support packages are highest on our agenda. Having said that, there are all environmental things that we have to tackle. Northern Ireland is a livestock region, so the clean air strategy and our issue with our land mass are also on the agenda.

I always think that Scotland is very fortunate, because it has the highlands attached to it, which gives it a bigger landmass that allows it to be more intensive in the south and the south-west of Scotland. We do not have that in Northern Ireland, so we are seen as livestock intensive. A consultation on our ammonia emissions strategy is just about to be launched, and we as an industry are tackling how to get around that because of the intensity of our livestock production. I hope that covers your question on where our concerns are.

**Lord Garnier:** There has been such a full explanation from our three witnesses that, to save time, I will not ask a question. Thank you very much indeed.

**The Chair:** That is very good of you, Edward. Thank you. Lord Bruce has the next question.

Q76 **Lord Bruce of Bennachie:** The Environment Bill seems to be being pushed back and back, and I wonder what you think the impact of that delay is, given how many agricultural and environment common frameworks are to be prepared, which surely would wish to take account of whatever is being proposed in the Bill as and when it happens. Incidentally, is there perhaps a concern that the UK Government are deliberately discouraging transparency because they are concerned that they will reveal the amount of divergence the UK is seeking and that it will create a backlash from the EU, which would put Northern Ireland in the crossfire really? That might be one for Viviane.

**Dr Viviane Gravey:** Yes. On the Environment Bill, I think it is fascinating that at the beginning of the process we had the impression that England was rushing ahead and leaving the devolveds behind in fixing the governance gaps for the environment.

What we are seeing now, of course, is that Scotland is the only part that has passed the legislation in its new scrutiny body for the environment. Of course, we have interim arrangements for England and Northern Ireland, and we have to remember that delaying the Environment Bill again and again does not just matter for the Office for Environmental Protection and principals in England. It also matters for Northern Ireland, because Northern Ireland is the only devolved that has chosen to join that OEP.

The delay to the Bill is very worrying, although in many ways, because the delay to the Bill has gone hand in hand with the delay to the proper development of the frameworks, the delay to the frameworks is not too bad because everything is delayed. It is very worrying, but I think it goes back to what Sean was saying about prioritisation. We saw in the way the common frameworks were mapped out that we were already prioritising trade, and we are seeing again in the order in which the frameworks are being put forward that we are prioritising trade.

In theory, the Environment Bill was the lone star of the Government. It was like the key, the centrepiece of regulatory divergence and regulatory

autonomy after Brexit, and it keeps on being pushed back. That puts into question the credibility of the Government when they talk about a green Brexit. That has just been put back on the backburner so many times.

**Lord Bruce of Bennachie:** Thank you. I suspect Sean would like to comment, but I am not sure there is time, and so back to you, Chair.

**The Chair:** May I ask our contributors this morning if we are okay to go over our time by about five to 10 minutes? Then, perhaps, you might not feel under so much pressure. Thank you very much.

We finish our discourse this morning on the important issues of the internal market and of divergence. Lord Hope has the next question.

Q77 **Lord Hope of Craighead:** My question does indeed relate to the relationship between the market access principles in the internal market Act and the common frameworks. I think it is a question for you, Victor, because you expressed concern in your introduction about the risk of people undercutting by various means, and you expressed the concern in Northern Ireland in relation to your different ways of farming, the climate and all the rest of it. Are you confident that the common frameworks will be able to prevent that kind of undercutting and discrimination, in a way that will be effective from your point of view?

**Victor Chestnutt:** Thank you, Lord Hope. Yes, that is one of our concerns: that the cost of production would be affected. If the cost of production is affected negatively for us, we have to adhere to that different regulation and the rest of the UK does not. The new joint committee could add new legislation, and that needs to be taken into consideration, so it is a very real concern of ours. I am not sure that the joint frameworks will address that. It is a very real concern of ours in Northern Ireland that we could be left with a higher cost of production and the same marketplace as the UK.

**Lord Hope of Craighead:** Viviane, do you have a comment on that? Do you think the frameworks will provide a mechanism for preventing that kind of disadvantage to Northern Ireland?

**Dr Viviane Gravey:** I do not think so. The issue for Northern Ireland will be in areas where Northern Ireland has to keep higher standards. Even if there is a common framework, you could have divergence when going into the rates of GB.

If Northern Ireland is stuck in these higher standards in areas covered by the protocol, you could have push for derogating in areas outside the protocol to try to make up for that downgrading, for the dumping in GB, so you could have a vicious circle of deregulation on both sides of the sea, which we do not want to see.

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

Q78 **Lord McInnes of Kilwinning:** Following on from Lord Foulkes's

question, it seems that there is this tension between convergence and divergence and perhaps a difference of view between Sean and Victor's view in their particular sectors. The whole point of the common frameworks was to be able to address that nuance and to allow flexibility across the UK in policy areas.

Victor and Sean, how do you think the common frameworks programme could be improved to allow that nuance that would provide flexibility but at the same time—going to Sean's point—avoid confusion by the divergence being too great?

**Victor Chestnutt:** That is a big question and a good question. The frameworks just need to take into consideration where Northern Ireland finds itself on the cost of production. They need to find other ways of mitigating that effect if they are going to be successful. I do not like you saying that I am not on the same page as Sean, because we are both trying to aim at the same thing: a sustainable environment going forward. We may see slightly different ways of getting there, but we are a region and our farmers are in a region that produce food and look after the environment, but if we are left with a higher cost of production some mechanism has to be found that negates that going forward.

**Lord McInnes of Kilwinning:** Thank you. Perhaps I exaggerated the difference. Sean, just very quickly, do you have any points on that?

**Sean Kelly:** Thank you for your question. I would not disagree with what Victor says. At the end of the day, we have the shared thing: we want a sustainable agricultural industry. I think it is important to say, because it is often missed, that in terms of the environment, certainly in Northern Ireland, we need farmers farming, so it is in all our interests.

One of the things we have to look at is the need for high standards. We need high standards for the environment and for farming, and we need to drive forward the commitment to try to do that. That is why it is important right across Northern Ireland's environmental and agricultural sectors and so on that there is not the opportunity for it to be undercut and undermined by lower standards elsewhere or food imports from elsewhere at a lesser standard, whatever it is. I think there is actually a lot more in common there. There is a lot more that unites than divides, I would say.

**Lord McInnes of Kilwinning:** Thank you very much.

**The Chair:** Thanks everybody. We have had a very fascinating discussion on these issues of standards, timelines and transparency. What has been really helpful this morning has been learning about the reality on the ground for what we are looking towards as a new UK internal market. That has been fascinating. I thank our contributors Viviane, Victor and Sean for your time and for your expertise and genuinely for your insight. You have been excellent witnesses.

We know that Northern Ireland, post-Brexit, is becoming key to ongoing UK economic and political discussion and that the spotlight will be on

Northern Ireland for many years to come to see how this works out. Thank you for the clarity of your answers. You have helped us very much to compose our thoughts for our report when we report from this committee at around about Easter, so thank you and goodbye to our witnesses. I will now formally end the meeting.