



# Select Committee on the European Union

## EU Environment Sub-Committee

### Corrected oral evidence: Future UK-EU relations: energy, environment and health

Wednesday 3 February 2021

11 am

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Members present: Lord Teverson (The Chair); Baroness Brown of Cambridge; Baroness Bryan of Partick; Lord Cameron of Dillington; Lord Carter of Coles; Lord Cormack; Baroness Jolly; Baroness McIntosh of Pickering; The Duke of Montrose; The Earl of Stair; Lord Young of Norwood Green.

Evidence Session No. 6

Virtual Proceeding

Questions 47 - 57

### Witnesses

I: Rt Hon George Eustice MP, Secretary of State, Defra; Dr Sarah Swash, Deputy Director, Environmental Regulations, Defra; Mark Thompson, Deputy Director, EU Strategy and Negotiations, Defra.

## Examination of witnesses

George Eustice, Dr Sarah Swash and Mark Thompson.

Q47 **The Chair:** Welcome to this second evidence session of the EU Environment Sub-Committee of the European Union Committee of the House of Lords. This is our final evidence session on future UK–EU relations in terms of energy, environment and health. We are very pleased to have with us the Secretary of State for Environment, Food and Rural Affairs and his officials. I will ask them to introduce themselves in a second.

First, I remind everybody that this is a live event. It is being webcast. We are taking a transcript, which will be given to our witnesses; if there are any errors that need to be corrected, please let us know.

If Members have not declared an interest that is relevant to this session in our first session, please could they do so. I am chair of the Cornwall and Isles of Scilly Local Nature Partnership and a trustee of Regen SW. I will now ask our panel of witnesses to introduce themselves.

**George Eustice:** I am the Secretary of State at Defra.

**Dr Sarah Swash:** Good morning, everyone. I am the Deputy Director for Environmental Regulations at Defra.

**Mark Thompson:** I am the Deputy Director for EU Strategy and Negotiations at Defra.

**The Chair:** We will direct our questions primarily at you, Secretary of State. If you want to field them to your officials, please do. I will start with a very general question: what does the Trade and Cooperation Agreement achieve that will benefit the UK's food, fishing and environment sectors? I realise that could take a whole hour on its own, but perhaps we could have a summary to start us off, and then we will get into some more detail in particular areas.

**George Eustice:** The first thing to say is that the Agreement that we have delivers tariff-free trade on all goods. It is fair to say that that will be a relief for most sectors, in particular the sheep sector, which exports a significant amount of its production to the European Union and where MFN tariffs would have been quite high. It secures us tariff-free access for our goods to the European Union. It does so in a way that preserves our regulatory autonomy. In the areas of the environment, agriculture policy and technical conservation measures for fishing, for instance, we have retained full regulatory autonomy, with only the usual commitments to non-regression and co-operation in some of these fields, which are a common feature of free trade agreements.

On fisheries, it commits us to a multiannual agreement, in the first instance for five and a half years. It is fair to say that we did not get everything that we wanted on fishing. To get a final Agreement, compromises were made, but we got a significant step towards an improvement in sharing arrangements in that first multiannual

agreement, with roughly a 25% uplift in fishing opportunities, or with the European Union giving up roughly 25% of what it currently catches in our waters. That leads to some quite significant uplifts in some stocks, such as North Sea cod and North Sea hake, and, in the West Country, significant increases in haddock and cod in the Celtic Sea, albeit from quite a low base in the latter case.

**The Chair:** That fisheries side is perhaps one of the more contentious areas of the Agreement. Let us start our questions there.

**Q48** **Baroness Bryan of Partick:** The National Federation of Fishermen's Organisations has said, "Throughout the fishing industry there is a profound sense of disillusionment, betrayal and fury that after all the rhetoric, promises and assurances, the Government caved in on fish". The Scottish Government's analysis of the figures that you were providing there is that, far from having substantially increased opportunities in the future, the Scottish industry will have access to fewer of these fish than under the existing common fisheries policy. Bearing in mind that level of disillusionment, what are your ambitions for the UK fishing industry after the five-year adjustment period?

**George Eustice:** We always recognised that getting an overall agreement with the European Union that included fisheries probably required a multiannual agreement. I do not think that anyone in the fishing industry expected that we would immediately exclude all access for all vessels. Indeed, it is normal in all fisheries negotiations, even if they took place annually, for there to be an annual discussion on access arrangements and sharing arrangements. We always recognised that we would probably need to have a multiannual agreement of three or five years in the first instance. It is also the case that we knew we would not get to where we wanted to end up, with zonal attachment, which is a modern, scientific sharing approach, overnight. Instead, we needed to aim for year-on-year gains.

Is it the case that we had argued with the EU that there should be larger year-on-year gains in that period? Of course. That was our publicly stated position and what we argued for right through to the end of the negotiations. It is also the case that we had not intended to grant the EU access in the six-to-12 zone; in the event they were granted access in some areas of the six-to-12 zone but not all.

The reality is that this is an important, significant step in the right direction. There is a significant uplift in shares as a quid pro quo for granting some continued access to the European Union. Although I appreciate that it is probably short of what the industry would have hoped in terms of a sharing arrangement after five years, it nevertheless represents a big step in the right direction.

In answer to your question, after the five and a half years we are free to change those access arrangements. You go into a new agreement, which could be annual or could be a further multiannual agreement. During that period, we would be able to change access arrangements. It is open to

us, for instance, to remove the access that the EU has in some of those remaining areas, in our six-to-12 zone, and to make continued access to other parts of our EEZ conditional on further quota transfers and a further rebalancing in the sharing arrangements.

The TCA provides that in such a circumstance it would also be open to the EU to start to introduce some tariffs on some areas of fish exports, if it wanted. However, we have always had the view that, if the choice was really between having control of your fishing grounds and the ability to change sharing arrangements or tariff-free access on fish, you would probably opt for the former rather than the latter. That is why even the backstop, which some of you will remember from the first agreement, which the Theresa May Government tried to get across the line in the last Parliament, envisaged that you might settle for a position where you kept control of your waters but accepted that there might be tariffs on fish.

There is an opportunity to change these things after the five and a half years, and the retaliatory measures, for want of a better term, that the EU would be able to take would not match the ability and the benefits to us of further rebalancing those sharing arrangements.

**Baroness Bryan of Partick:** Could I ask a question that relates to the earlier session we had on energy? There is this concern, which you will be aware of, that energy trading in the future could become linked to negotiations on fishing. Have you any comments on that?

**George Eustice:** We considered that. We think it is actually highly unlikely that the EU would want to be able to do that, since that energy trading is also in its interest. While it did introduce that as an additional feature, we think it is highly undesirable to the EU to use that.

**The Chair:** We are going to stay on fisheries but turn to the trade side, which has also been much in the news recently.

Q49 **Baroness McIntosh of Pickering:** Secretary of State, I welcome you and your team. I congratulate you on achieving the Agreement, which was a great relief to everybody. Since 1 January, two things have happened. We have seen incorrectly completed forms, untested systems and the cost of export health certificates leading to delays, which you have described as teething problems. On 19 January, the European Commission did an absolute blinder by ending the outgoing of shellfish, particularly live bivalve molluscs, from the UK to the EU under so-called new EU hygiene rules. These have been described by a member of the industry as not just teething problems but like having your teeth removed so you are no longer able to eat. When did you first hear about the new hygiene rules? When do you expect the hygiene rules to be lifted? What impact are they going to have, particularly on the inshore fishermen, who are the backbone of much of our fleet, for the under-10s? Against that background, when do you expect us to return to fish exports flowing freely from the UK to the EU?

**George Eustice:** There are a few separate points there. I will take them in turn. The point that I was making on teething problems is that, in the initial couple of weeks, there were self-evidently teething problems with trader readiness to prepare the documentation, the readiness of EU border officials to do their jobs correctly and to correctly interpret their own official control regime, and, indeed, making sure that official vets or fish certifying officers were identifying the right export health certificate and putting the right information on it. There were also some particular issues around groupage: if you had a mixed load, with a consignment that might have several different batches on it, each requiring its own export health certificate, sometimes that was throwing up some issues around who puts the seal on the lorry at the end, for instance.

Lots of people have been trained to do this. We have trained around 1,500 official vets and hundreds of EHOs to do fish certifying. Businesses have done their best to familiarise themselves with the processes. The EU has recruited and trained additional people for the border control posts in France. To summarise, lots of people have been trained, but there are a lot of people who have been trained but do not yet have the experience. There is a big difference between being trained to do something and having the experience to do it in a seamless way. That is what we wrestled with initially. To tackle that, we have been doing some very intensive work—two meetings a week—with industry stakeholders. There have been daily bulletins, picking up on common problems so that they can smooth those out within their businesses. We have had detailed specific technical sessions with the larger seafood producers but also sector-specific ones that we continue to run.

We have also been having regular dialogue with French border officials to iron out particular issues that they have had. For instance, sometimes the French have required things that we think are wrong and are an incorrect interpretation of the official control regime. We have a lot of experience of the OCR. In some cases, the French have accepted that their interpretation was wrong and they have changed it. We have been doing lots of work to smooth out those teething problems.

There is then a separate issue about bivalve molluscs. It is fair to say that the EU has changed its position. It changed its position only towards the latter part of last week. Initially, the issue was that it simply did not have an export health certificate that was designed to accommodate bivalve molluscs, so from the beginning we were working with it to design the form of that EHC so that it could accompany those. It then started changed its position and started to say that it thought there might be a difference in treatment between wild-caught molluscs—wild-caught oysters or mussels, for instance—where it thought it was more problematic, and farmed ones, where it was willing to accept that trade. It then changed its position a third time, late last week, to say that it was not sure that it was going to allow this at all.

We think that, again, is based on a misinterpretation of the EU's own laws and is actually unjustified. Our Animal and Plant Health team is working

up a technical dossier so that we can continue the dialogue to try to get that particular issue unblocked. It is worth saying that the issue here is oysters and mussels that are sent to French wholesalers, or indeed sometimes restaurants and retailers. They often have depuration facilities on-site, and it suits them to bring those in and purify them during storage. They have the equipment to do it. If they remove that, it is not particularly convenient for their own industry either. We think it is unjustified and we are working to try to find a solution to that.

**Baroness McIntosh of Pickering:** What timescale do you envisage? We hear that it will be in place until the end of April, so this is very urgent.

**George Eustice:** Yes, it is urgent. As I said, this is a change in position from the European Union. It has changed its position twice now. It is a change in position that came late last week. We think it is legally wrong, and we are therefore working up the technical dossier to try to unblock the problem. It is something that our Animal and Plant Health team is working on urgently.

**Baroness McIntosh of Pickering:** It is unlikely to be resolved before April, on that timescale.

**George Eustice:** It can be resolved only if the EU changes its current stance. If it does not, there is going to be an air gap before we can establish the capacity to do depuration here in the UK. The French companies that currently do that would have to shut down as well.

**Baroness McIntosh of Pickering:** Is this effectively a non-tariff barrier?

**George Eustice:** It is a non-tariff barrier, yes. We think it is an unjustified one.

**Baroness McIntosh of Pickering:** Perhaps you could keep us informed. Good luck with that.

**The Chair:** We are going to move on from fish—although if we have time I may come back to it at the end—to the broader agri-food trade.

Q50 **Lord Carter of Coles:** Good morning, Secretary of State. Welcome to you and your officials, Mark and Sarah. We had all expected that there would be a period of difficulty and of teething problems; you had spoken to us about it before. One of the keys to getting through it was the mitigating actions we could take. One of the areas, clearly, is SPS. What is going on with the SPS committee? When will it meet? Do you know who the members will be? What will you be seeking to change in its early actions? In the meantime, while we are waiting for that, what steps are Defra and particularly HMRC taking to provide agri-food traders with advice? You might want to say one or two words about the groupage difficulties that have been running from GB to Northern Ireland, and what you might be doing about GB to EU in regard to that.

**George Eustice:** On the specialised committee on SPS, we will be in discussion with the EU about the membership of that. It has not met yet, and the membership is not yet finally settled. I would envisage that this would be a senior official-level group and that our Chief Veterinary Officer would be on it, probably the Chief Plant Health Officer as well, and other supporting officials. The purpose of the committee will be to work through and resolve any bilateral issues there are in the SPS field. We will be working with the Commission on the precise membership of it, but I would envisage it being a senior official-level working group.

In the interim, we have an SPS helpline, manned by specialists at the APHA in Carlisle. That has been receiving in the region of 400 phone calls per day on a range of issues. Around 100 of those were from members of the public and relate to issues around pet travel. Around 200 relate to export health certification. About half of those are on plant health and half are on animal health. We also have locum official vets whom we have employed, who are very experienced in dealing with export health certificates, to step in, roll their sleeves up and try to solve individual problems that occur. We are providing casework support for individual businesses that have individual problems—for instance, with a lorry that might be stuck in Calais, or even the Netherlands, where we have had some issues with pork exports—to try to unblock those technical issues.

We have also had staff from our embassy in France on the ground at Calais to help to resolve some of those issues. Eurotunnel has also recruited some technical veterinary staff, who are at the border where the Eurostar train arrives so that, if they have a particular issue with a consignment, they can also get engaged physically on the ground to try to unblock particular problems. We have a series of things, from helplines to help individual traders to people on the ground, to try to resolve some of the problems that have been encountered.

Groupage has been a bit of a challenge. There are two issues. First, if you have several batches from several different suppliers on the same lorry and you have a difficulty with one of those batches, perhaps with the paperwork not correctly marrying with the export declaration and the pre-notification on TRACES, suddenly the whole lorry has a problem, and that affects everybody who is on that lorry. That has been quite challenging, particularly in the seafood sector, where you tend to have a larger number of smaller businesses exporting smaller consignments direct to retailers.

There is a wider point on groupage, which is how you ensure that the seal can be put on the lorry at the right time. Initially, there were some issues with the first vet who put the first load on sealing the lorry, the seal then being broken and then the subsequent vets, who were having to do the documentation on the second or third batches, not feeling they were able to put the seal on the lorry, because they had not been responsible for the first batch. There were one or two issues like that, which we have been working on. This was an issue in the context of Northern Ireland and trade with the Republic of Ireland. We think we have identified

solutions so that the final vet to put the final pallet on the lorry is able to seal the lorry, provided they have been given the right assurance on the other loads that are in there.

We have been working on solutions to that particular issue, which is an administrative issue more than anything. We think we have identified solutions to that. In the initial 10 days, DFDS, which is the largest distributor of fish, taking fish through the short straits, suspended the groupage model for over a week, because it had so many challenges making it work. It has resumed that. That has been running now for almost three weeks. While there have still been some challenges, it has started to make those groupage loads work, and it is getting through and clearing control posts in France.

**Lord Carter of Coles:** Secretary of State, can I press you on the SPS committee? Can you give us some sense of a date?

**George Eustice:** I might ask Mark Thompson whether he wants to come in on that. I know he was involved in negotiating that element. I do not know whether a timescale has been put on for agreeing a date for it to conclude its membership and meet.

**Mark Thompson:** That is right, Secretary of State. None of the committees under the TCA has yet formally agreed dates to meet. Part of that is wrapped up in the EU's ratification of the deal. We might expect the arrangements to be made in the next few weeks, but, as I say, dates have not yet been set for the committees.

**The Chair:** For clarity, are we saying that none of the specialist committees is able to work until the European Parliament has ratified the deal? Is that the message we are getting back?

**Mark Thompson:** No, they can meet, as I understand, before the ratification, but there is still a lot of process going on on the EU side about how it is setting itself up to implement the Agreement and who will look after the various committees. On the UK side we are also setting up our processes. As the Secretary of State says, we are constantly talking to the Commission and to Member States about issues as they arise, so there is plenty of stuff we can do outside of the committees as well.

**Lord Carter of Coles:** I just wanted to clarify that it was weeks, not months.

**The Chair:** We will move on to Northern Ireland now.

Q51 **The Duke of Montrose:** First of all, I will declare my family livestock farm. Thank you, Secretary of State, for the deal that has been achieved on sheep. The agri-food checks in the Northern Ireland ports have been paused. Can you tell us how Defra is working with DAERA and EU partners on this issue? Particularly, what steps are you taking to ensure that the supply of food can continue after the grace period?

**George Eustice:** You will have seen the coverage. There have been some issues at both Belfast and Larne, I understand, of intimidating graffiti being put on the port, even indicating that some staff working at the port on this work are targets; I think that was the term used in some of the graffiti. This is a security matter. It is very much something for the police in Northern Ireland. I know that they are working very closely with the Northern Ireland Office on that. DAERA, on advice and working with the local authorities, took a decision that for now it should withdraw its staff from doing those physical checks at the border while this is investigated further. We have to wait and see what the conclusion and recommendations are from the police before we know whether that will resume.

The key thing is that in the meantime there are still some documentary checks going on as required. Those elements of the protocol are continuing. Goods are flowing. It is not the case that people cannot send any more. Goods are still flowing through; they are just not undergoing those physical checks at the moment.

We have been having meetings with the European Commission to explain the situation. It understands it. It has also withdrawn its own observers for the same reason. Obviously it is interested in when we can resume, and we will be working on doing that as soon as we are able to. For now, yes, we have communicated it to the Commission and it understands the position.

**The Duke of Montrose:** Is there an element of these checks that could be done before departure, rather than landing it up in Belfast?

**George Eustice:** We had considered that, but it is not something that the European Union was willing to consider at the time, because of its own official control regime, the way it works and how its laws are written. At that point, it was not something that could be considered, and at this stage we do not really have the infrastructure at any of the key ports to be able to facilitate that. It is not a realistic option at this stage.

There is a point, though, about the longer-term solution once the initial easements agreed through the joint committee process expire. What are they replaced with? Michael Gove, as our lead negotiator on the joint committee, has written to his opposite number, Šefčovič, to raise a number of issues and proposals about how we can replace those easements, particularly on export health certificates for large retailers but also on so-called prohibitions and restrictions on things such as processed meats, with longer-term solutions. This is what we had always envisaged once we had that initial agreement through the joint committee. Those negotiations are about to commence.

**The Chair:** We will move on to broader environmental issues.

Q52 **Baroness Jolly:** Secretary of State, how will the Government ensure that new domestic policy measures do not fall foul of the environment and climate non-regression provision? How will you be monitoring for

possible non-compliance within the EU?

**George Eustice:** On the former, there is a commitment to non-regression, but the EU, if it had a concern, would have to demonstrate, first, that there had been an actual regression in our impact on the environment. The first thing to say is that the Environment Bill means that we will be going further than the European Union by way of environmental protection, so it is a largely theoretical concern born out of insecurity that the EU felt about no longer being able to set our laws. Of course, as a country we take our environmental responsibilities very seriously. We have other international undertakings through various conventions. We will be pursuing ambitious targets that we will be setting under our Environment Bill. We have our own Office for Environmental Protection that will be established.

In practice, our policy will abide by environmental principles that we have signed up to in other international conventions, and therefore we do not see this as being a remote possibility. It is important to note that this is about regression, not alignment. Should we choose to adopt a different stance on, for instance, gene-editing, where we know there are not harms to the environment, it is open to us to do that. That would not be grounds for objection by the European Union.

The second thing it would need to demonstrate, even if it felt that there had been regression and even if it could make the case, is that it had some kind of impact on trade. It is quite a high barrier to clear, and it certainly does not amount to regulatory alignment. It really is just a statement that we will continue to abide by our other international commitments.

We will be monitoring what the EU does by way of regulatory change. We will be monitoring closely what is discussed there and what is published in the EU's *Official Journal* to make sure that it does not regress and go backwards. There is a slight issue here: in many of these areas, a lot of the expertise and scientific knowledge was coming from the UK. We had a role in shaping that, so we have to make sure that the EU does not start to behave differently now that we have left. We will be monitoring any regulatory changes that it makes to ensure that they are not breaches of the TCA. We will also be monitoring the extent to which Member States adequately enforce EU law as well, with a view to escalating that to the European Commission if we think that the Member States are falling short of their legal requirements.

**Dr Sarah Swash:** I have one further, minor comment, which is on a detail of the Environment Bill. Clause 19 says that, where a new Bill contains a clause that is about environmental protections, the Minister responsible for that Bill will be required to make a statement to Parliament confirming whether or not the legislation maintains the level of protection that exists at the time the Bill is introduced. As the Secretary of State says, we have many domestic measures, including this explicit one, that retain transparency in respect of our environmental

protection and allow Parliament to see exactly what is under consideration at the point of any new legislation.

**Q53** **Baroness Brown of Cambridge:** Good morning, Secretary of State and your officials. I should declare that I am the vice-chair of the Committee on Climate Change. Article 7.6 talks about the supervisory bodies in the United Kingdom and the European Commission that are going to be responsible for effective monitoring and enforcement of the law with regard to environment and climate. Of course, as you have already said, the OEP is front and centre for that in the UK. Does the Agreement mean that there is going to need to be an additional role and powers for the OEP? Given that the Environment Bill is now delayed until the second half of the year, what provisions do we have in place for effective monitoring and enforcement until the OEP itself comes into legal operation, presumably some time in quarter 4?

**George Eustice:** Colleagues in BEIS are leading on the work to identify what the supervisory bodies are for the purposes of that part of the Agreement. It goes without saying that, in the environmental sphere, the Office for Environmental Protection is the principal one, since it is a supervisory body with both monitoring and enforcement powers. As you will know, the Committee on Climate Change will be developing a memorandum of understanding with the OEP. While the Committee on Climate Change is perhaps more of an advisory body than a supervisory one, it has a very important monitoring function. A lot of the work the Committee on Climate Change does will link into the work of the OEP, and therefore indirectly there will be a role there.

On the implications of the delay of the Environment Bill, we do not think that is significant. It is important to note that the chair of the OEP, Dame Glenys Stacey, has already been appointed and is in post. She is currently in the process of selecting the remaining members of the OEP board. The application window for that has closed and applicants are being considered. She is in the process of procuring the offices for that purpose and so on. There is quite a lot of work going on. It is already able to receive complaints. Until it has its full legal powers, there is a limit to what it can do to act on those complaints. If the European Union wanted to have dialogue with the OEP for the purposes of that part of the agreement, which really is only about co-operating and sharing, there would be nothing to prevent that from happening in this early stage, should it be needed.

It is important to recognise that it is not the case that the European Commission would be able to tell the OEP what it should do, so that it became a function of EU power here. This is very much a mutual sharing of information function. We do not think there is anything to prevent that from happening, should it be needed, and that is probably unlikely before the OEP gains its formal powers.

**Baroness Brown of Cambridge:** Do we have some provisions for enforcement before the OEP gains its powers, or does it have power only to receive complaints?

**George Eustice:** It is only to receive complaints. Bear in mind that there are things that the Bill requires to happen in terms of drafting and agreeing its own enforcement strategy. There are a number of important pieces of work to be done as part of the set-up. A lot of that work can continue, can start and will start. It is just that the formal enforcement powers, with that ability to challenge and investigate a particular government decision and, indeed, to bring a judicial review, will not be there until the Bill receives Royal Assent.

**Baroness Brown of Cambridge:** Article 7.6 refers to both monitoring and enforcement. Clearly, in the Bill the OEP has some enforcement powers related to achieving carbon budgets and being on the path to net zero, but the Committee on Climate Change is the monitoring body, as it reports to Parliament on the progress towards our carbon budgets. Does that imply that the CCC is likely to be a supervisory body in the terms of article 7.6?

**George Eustice:** As I said, at the moment, BEIS is leading on the piece of work to identify which bodies constitute supervisory bodies for this purpose. Our feeling at the moment is that the OEP is probably that body, since it is the one that has the enforcement responsibility for the work that the Committee on Climate Change does by way of monitoring. I suppose it comes down to how you interpret the difference between the words "and" and "or". If it were "monitoring or enforcement", you might interpret that as capturing both types of body, but if it is a supervisory body, the way we would interpret "monitoring and enforcement" is that it means bodies that can do both.

**Baroness Brown of Cambridge:** There is some text in the Bill that indicates that the OEP will not be redoing the Committee on Climate Change's work on monitoring, so the implication would be that it will simply accept the CCC's reports.

**George Eustice:** Yes. There will be a memorandum of understanding between the CCC and the OEP. The question for us, in the context of the Agreement that we have with the European Union, is which organisations constitute the supervisory body for that purpose. It is clear that the OEP would. It is less clear that the Committee on Climate Change would, since it does not have those enforcement powers and those will be exercised by the OEP.

**The Chair:** Thank you very much, Lady Brown. There was some good information there. Secretary of State, you will be well aware that this Committee has been very concerned in the past about REACH and the cost implications to industry. Perhaps it is time to look forward a bit more, so I will ask Lord Cameron to take over.

Q54 **Lord Cameron of Dillington:** Welcome. Good morning. I should declare an interest as a farmer and a food producer, which of course has nothing to do with the UK chemical industry. As you know, most of the chemical industry, and indeed this Committee, wanted the UK to try for associate membership of the EU REACH if possible, but we that turned out to be a

step too far for the Government. The next best thing would be to have a public policy of aligning the UK and EU REACH systems, so there would be a chance of sharing some of the data that EU REACH took 10 years or more to build up, which, with its skeleton staff, UK REACH will take a very long time to acquire. How aligned do you expect the UK and EU REACH systems to be in the short to medium term?

**George Eustice:** I do not agree with all of what you said. The Government tried very hard to get the EU to agree to data-sharing on this, since it is in everyone's interest. There are German and French chemical companies that would want to get the information to be able to register their products on UK REACH as well. The sensible thing would have been to have a data-sharing agreement. The European Union, as was often the case, took the view that it did not want to make any of this easy. It refused to do data-sharing. It was the most sensible thing to do, but it was refused by the European Commission.

The approach that we have taken, as you will know, is to have grandfathered rights. People can simply take their EU registrations, if they are the lead registrant in a UK-based company, and can register them. Upstream users, who would normally have relied on an overseas registrant on EU REACH, will also be able to register those products on UK REACH. So far, we have had just short of 1,250 products registered on UK REACH by the lead UK-based registrant. We have had in the region of 350 additional products registered by upstream users; those are UK companies that are using EU-registered products. The call centre that has been giving advice on this has had around 350 calls, largely linked to the IT system. There has been a gradual, consistent growth in the number of products being registered. As you will know, there is a grace period of 120 days for those lead registrants and 300 days for the upstream users to register. We have deliberately gone for quite long timescales in order to be able to provide the data packages to underpin it.

There is a good prospect that the industry both here and in the EU, given that many companies are in consortia, with different companies being lead registrants on different products, may, when they finally sit down and look at it, realise that there is not much for any of them to gain by trying to hold one another to ransom over data that they might have. It gives the maximum possible time for industry to come up with sharing agreements so that they can all get the data they need to register the products they want to register. None of that prevents us, of course, from keeping an open door to the European Union, should it want to adopt a more constructive stance in this space. That is obviously what we will continue to do.

In summary, yes, there will be great similarities between UK REACH and EU REACH, but there will be a smaller number of products on UK REACH, certainly in the first instance, but it will probably, over time, grow to be quite similar.

**Lord Cameron of Dillington:** The chemicals industry seems to believe that, if you have a public policy of keeping UK REACH aligned with EU

REACH, that agreement that you are talking about would be easier to arrive at. I am just wondering whether a public policy of alignment would be possible for you to state.

**George Eustice:** I might ask Mark to come in on this. My understanding is that we did look at this. It was a clear stance that we had across the board that we could not go for regulatory alignment. It is just not appropriate for an economy the size of the UK to effectively be required to go into some kind of regulatory alignment with the EU. Bilateral agreements are entirely acceptable. Where we are an equal sovereign partner with the European Union, things can be agreed bilaterally. Of course, the EU was not open to that kind of discussion in this instance, and therefore was not willing to even consider data-sharing.

For now, we are where we are, but we have set out a very pragmatic, gradual journey towards providing those data packages that give industry the maximum possible time that it will need to adjust. Mark, did you want to come in from the negotiation point of view?

**Mark Thompson:** One of the things the EU is always looking for, even if we are going to stay relatively close in terms of our laws, is to codify that and have a role for the CJEU and all the other EU architecture. Without that, it would not accept and would not be able to provide that data.

**The Chair:** I think the simple answer to Lord Cameron's question, Secretary of State, was "no".

Q55 **Lord Cameron of Dillington:** You touched on this, Secretary of State. To what extent do you see food certifying officers being used to certify EHCs, as opposed to having to have fully qualified vets, considering we have a shortage of vets? In other words, do you need seven years' training to certify that a crate of fish, a block of cheese or even a bale of wool is fit for consumption?

**George Eustice:** It is a very good point. I have made this point many times. You do not need someone who is qualified to do a caesarean section on a cow to attest to the food hygiene and food safety in a factory. The logical answer is, no, of course you do not, but, as you all know, the reason you do is that the requirement for a formally trained vet is written into EU law. Its export health certificate requires an official vet to sign it off.

However, we can look at certifying support officers, and we are doing so. They will in many cases be able to do a lot of the work and provide a lot of the attestation. It will not remove the need for there to be a vet who does the final sign-off, but there are systems we can put in place that make greater use of other paraprofessionals—people who are experts in that field; they might not be fully trained vets but they can play a part in the process.

Q56 **Lord Cormack:** Secretary of State, I was one of those who helped utter the collective sigh of relief on Christmas Eve. I congratulate you on your part in the deal. You will know that there is still considerable

apprehension and concern in the farming community. I know it is difficult to travel around at the moment, but what plans do you have to travel around the country and visit all the agricultural counties as soon as it is possible for you to do so? They are crying out for reassurance.

**George Eustice:** The short answer is that I would love to get out and start visiting farms again. I hope that, when spring comes and we can start to get out of lockdown, such visits will be possible. We are in regular dialogue with the NFU and other farming groups. It is fair to say that the farming industry is relieved about the trade agreement that is in place. It obviously has some apprehensions around the future direction of agriculture policy, but the document that we published just before Christmas gives further information about what we are planning in that regard. We will have other consultations as well during the spring.

**Lord Cormack:** You will know that many of them fear for their incomes and their livelihoods. Real reassurance is necessary, and only you can really give it.

**George Eustice:** That is a very good point. I have been asked to keep answers short. The answer is, yes, I would love to get back to visiting farms as quickly as I can.

Q57 **Lord Young of Norwood Green:** I am pursuing Lord Cameron's question about the official vets. Many of those come from overseas, from Spain and other countries. It is important to ensure that we have our own supply. You mentioned the use of para-veterinarians to do some of the attestation work. There seems to be an ideal opportunity for creating a vocational route into veterinary services. I wonder what your views are on that. Finally—never mind shellfish—there was a plaintive cry about the export of cheese. I do not know whether that was a temporary problem.

**George Eustice:** We have been running programmes to train both existing vets and other professionals to be certifying officers: official vets, who can do the full EHC, including sign-off, and certifying officers, who can provide a support role. We have been running training programmes to support both local authority and private veterinary practices to build that capacity. We have trained around 1,500 new OV's to be able to do this sort of work. I would be very open to there being some kind of vocational route or apprenticeship in this space to make sure that we have the capacity that we need.

On cheese, there were in many areas certain teething problems; people had issues with export health certificates. A lot of these were linked to the import agents not pre-notifying on TRACES correctly. A common problem in the early days was that they would put the address as the invoice address that they use for accounts purposes, but the EHC would have the dispatched address from the factory. Sometimes, if the addresses did not match, that was causing problems. There were minor things like that, but generally speaking the other sectors have adjusted and got used to this quite well. The sector that has faced the greatest

challenges has been the fishing sector, just because of the sheer perishability and time-critical nature of the delivery routes around it.

**The Chair:** Secretary of State, we only have a couple of minutes left, but perhaps I could just tie up some loose ends, including one on fisheries. On the groupage solutions for GB to NI, are we going to get that same arrangement across the channel?

**George Eustice:** Yes. We think that what we have proposed is entirely consistent with the official control regime, so there is nothing special we are asking of the EU. It is always problematic if you are asking the EU to change its laws, because we know it is a stickler for its legislation and is not very minded to change anything. The proposed solutions that we have been working on are consistent with the OCR.

**The Chair:** I wanted to ask about the Norway fisheries agreement. We obviously have a framework agreement, but, as I understand it, it is still to be sorted out. As you are probably aware, it has now become a trilateral agreement. We have already agreed quota changes between the UK and the EU. The value of fish that Norway fishes out of UK waters was about £250 million in 2019, whereas the value of fish that we get out of Norwegian waters is only about an eighth of that: £32 million. If we have already agreed the EU–UK deal, I cannot see how we can square the circle while making it sensible for the British fishing industry. It is impossible, is it not?

**George Eustice:** No. There will be two components to it. There is a trilateral between the UK, Norway and the EU to set the TACs—the overall quota envelope. That is at quite an advanced stage; they have made quite a lot of progress. Behind that trilateral deal, there will be an EU–UK bilateral which agrees mutual access and sharing arrangements. There will be a UK–Norway bilateral that will agree sharing and access arrangements. Of course, in the case of the EU, those sharing and access arrangements are already settled. The bilateral with the EU that follows the trilateral will be about the annual exchanges, where we offer certain quotas in return for other quotas—back-swaps that we want, if you like—whereas the bilateral with Norway will indeed look at issues around access and sharing arrangements as well. The trilateral is just to set the overall TAC, not the sharing and access agreements.

**The Chair:** I will have to read *Hansard* to sort it out. I cannot resist asking my last question: after the Agreement that was done, are you still speaking to Lord Frost?

**George Eustice:** Yes, regularly. We have much still to iron out on the Northern Ireland protocol. Lord Frost retains his role on international and EU relations as an adviser to the Prime Minister, so of course I am. The negotiations were difficult. It will not have escaped the attention of the Committee that the final week was dominated by arguments about fisheries. Indeed, as usual with fisheries negotiations, it went into extra time and went through several nights arguing about individual stocks. I absolutely commend the way that Lord Frost and his team approached

that, with real rigour, to make sure that we got some of the things that the EU was demanding off the table. Yes, of course, to get the overall Agreement compromises had to be made—that is the nature of these things—but David Frost and his team worked incredibly hard to get the right outcome and fought very hard for fishing interests.

**The Chair:** We are going to have to go through it all again in five years' time.

Secretary of State, we have come to the end of this session. I thank you for your time. As you may be aware, this is the last session that we will have with you, because this Committee comes to an end, as with all EU sub-committees, at the end of March, so this is our last evidence session. We have genuinely appreciated, over the life of the Committee, that, as a Minister and particularly as Secretary of State, you have never hesitated to come before the Committee. We really appreciate that. We may agree with some things and we may disagree with others, but we are very appreciative of your co-operation, and that of your officials and department, with the Committee over this time.

There will be, following on, a general environment and climate change committee in the House. I am sure you will be asked to appear before it in due course. I thank you very much indeed for your co-operation and for the work of your officials today.

**George Eustice:** I thank you as well. As if often the case in the Lords, there is a huge amount of expertise, including people with ministerial experience and experience as chairs of some of our agencies, so the technical knowledge on the Committee has been good. It has been a pleasure to present evidence to you.