



# Common Frameworks Scrutiny Committee

## Corrected oral evidence: Post-Brexit common frameworks

Monday 13 September 2021

3.30 pm

Watch the meeting

Members present: Baroness Andrews (The Chair); Lord Bruce of Bennachie; Baroness Crawley; Lord Garnier; Lord Keen of Elie; Lord Hope of Craighead; Lord Murphy of Torfaen; Baroness Randerson; Baroness Redfern; Lord Thomas of Cwmgiedd.

Evidence Session No. 15

Virtual Proceeding

Questions 180 - 195

### Witnesses

[I](#): George Eustice MP, Secretary of State for Environment, Food and Rural Affairs of the United Kingdom; Danny Jeyasingam, Deputy Director, Devolution Team, Department for the Environment, Food and Rural Affairs.

## Examination of witnesses

George Eustice MP and Danny Jeyasingam.

Q180 **The Chair:** Good afternoon, committee, and a very warm welcome to our two witnesses. We are absolutely delighted to have with us this afternoon the Secretary of State for Environment, Food and Rural Affairs, George Eustice, and Danny Jeyasingam. We have had some correspondence, but it is extremely nice to see you both in the flesh, as it were.

This is the 15th evidence session of the committee. We have been going for a year and a half. As you know, it is broadcast, and there will be a full transcript.

I assure you that my colleagues and I are extremely pleased to see you. We have had a lot of engagement with the department over the common frameworks, the summaries. You have been very helpful and we are very grateful for that. These are complex documents, as the committee knows very well, and it is really important that we have a very positive engagement with the responsible departments. Obviously, we are looking forward to seeing the final stages of the frameworks as they come forward. We know that the timetable is complex and you are still working on them.

We will be pursuing with you this afternoon some of the issues that make the Defra frameworks such an important part of the programme, and some of the more challenging parts of the programme, not least because there is so much intersection with other legislation that cuts across so much of what the frameworks do. We will be pursuing that sort of question with you.

Unfortunately, we do not have Lady Ritchie or Lord Caine this afternoon. They are deploying their expertise on Northern Ireland in a debate in the House on the protocol, but we will certainly be asking questions about Northern Ireland, given that we have a lot of expertise in Lord Murphy as well. That is one area to pursue.

We are conscious of the issues of process and speed at the moment as the committee is waiting for frameworks to come forward, so this is an opportunity to have a conversation with you to follow up some of the issues. I would like to begin with a very broad question that frames some of the other more detailed questions we will put to you.

Mr Eustice, what are your general reflections on the development of the common frameworks in your department to date? What has it been like trying to bring them to life?

**George Eustice MP:** Thank you very much. The first thing to say is that, perhaps more than any other department in Whitehall, Defra is the most affected by a long way by our exit from the European Union, since 80% of the regulations that we were responsible for came from the EU, and the fact that in many areas we have policy that is devolved. Even when we were in the EU, Defra always prided itself on nurturing very strong, very good collaborative relations with the devolved Administrations.

I think the process has been positive, because we have good working relations within Defra with our opposite numbers in other devolved Administrations. It has taken a bit longer than we had originally intended, which I am sure you will want to come on to. Principally, that is because there are some cross-cutting issues, predominantly around some of the provisions of the UK internal market Bill, which have taken a bit longer to resolve. Generally speaking, as I said, we have good collaborative working with the DAs. The administrative frameworks have been positive. Although they are on a provisional basis at the moment, we have already relied on them and used them in areas such as waste resources, chemicals and pesticides.

**The Chair:** We have had quite a lot of engagement with the Cabinet Office, of course. This might be a question more for Danny than for you. Our impression is that the Cabinet Office is very seized of some of the challenges of putting the frameworks together. Have you been drawing on the expertise of the Cabinet Office to help raise consistency, for example, and quality overall? Has that been a help to you?

**George Eustice MP:** Yes. I might bring in Danny in a moment, because at official level he has worked with the Cabinet Office. I know the Cabinet Office very much recognises that Defra has a strong track record in its relations with the devolved Administrations. As I say, that is due partly to the context in which we have operated in the past. We have been happy to share our thoughts with them.

Some issues have been raised, for instance, on the summary frameworks that were published just before the end of the transition period. The level of detail in some of those varied. Again, we can come on to the reasons for that. Some teams were far more stretched than others when we were in the closing stages of the transition period. We have worked closely with the Cabinet Office. Perhaps Danny would like to come in at this point to say more on that.

**Danny Jeyasingam:** I am happy to pick that up. We have worked very closely with the Cabinet Office and other government departments across Whitehall in developing the frameworks. I would say that it has been a bit of a two-way stream for support. Where our policy teams have been able to provide the sort of portfolio level detail on how different regimes work—chemicals, pesticides, fertilisers and so on—it has been helpful to use Cabinet Office colleagues and their constitution unit counterparts across the UK.

They have been most helpful to us on things such as cross-cutting issues, where we can agree something at technical level within the EFRA sectors, but we then need to ensure that the constitution units are content that we are following the principles agreed in JMC in 2017, and that what we are doing will work at political level across the Administrations. We have lots of cross-Whitehall mechanisms where we work closely with the Cabinet Office and the territorial offices.

**The Chair:** That is very helpful indeed. You have lost sound for the

moment, Danny, so we will leave it there, and I will move on to Baroness Redfern. We may get your sound back.

**Q181 Baroness Redfern:** A warm welcome to you, Minister, and to you, Danny. When we reviewed the 12 Defra framework summaries, we found quite a variation in quality between the summaries being submitted. Subsequently, Minister Chloe Smith responded and said that we would receive some summaries later than other legislatures so as to include more information for committees in the UK Parliament, but when we raised concerns, it appears that the summaries were both late and incomplete. My question to you, Minister, is: can you explain why the frameworks have taken substantially longer than anticipated? What effect has the lack of completed frameworks had in Defra policy areas?

**George Eustice MP:** The first thing to say is that in the summary frameworks that were done at the end of the transition period there were some differences because, as I said earlier, some teams were under far greater pressure as we approached the end of the transition period. For example, all the key people in the fisheries team who would have engaged with that were absolutely swamped in the final stages of the negotiations with the EU on the TCA. I will be entirely honest: that meant that they were not able to prioritise finding the head space, the time and the resource to set aside to develop quite detailed summary frameworks, whereas if you take something such as chemicals, for instance, we had a very clear understanding of what would be required with REACH at the end of the process, so the team was in a better position to be able to draft something.

Of our 14 frameworks, there was one that was late, and that was the organic farming framework. It took a bit longer than the others. It was not ready in line with the others, but it was agreed, I think about a month later, and then published. As I said, the principal reason—I will be very honest about this—was that because Defra was the most affected by Brexit, and we had certain policy areas, in particular things like fisheries, where the teams were under far greater demands, it meant that there was some variation in the detail of those draft frameworks.

**The Chair:** Thank you, Minister. It is interesting that you raise the organics framework, because I think Lord Bruce may want to follow that up.

**Q182 Lord Bruce of Bennachie:** I want to follow up specifically on the organics framework, which was not included, as we understand it, at the beginning. When we asked previously why that was so, we got from Bruno Williams that there was more kicking of the tyres to do, which does not tell us exactly what the problem was. We now understand from informal discussions in the last week or so that it is back in the frame and is likely to proceed.

Could you explain why there was a problem in the beginning, and, if it has been resolved, what the implications are? Will it catch up with all the others, and what are the outstanding issues?

**George Eustice MP:** I think this might have been one of those that could have been complicated a bit because of the Northern Ireland protocol and some of the provisions therein, particularly around organics. The other thing that complicated it is that the European Union itself was in the middle of updating and changing some of its organics legislation, elements of which we intended to follow and elements we did not.

I think there were more issues that we needed to work through on organics, and that is why it was not ready in time. I am told it got the provisional framework in place only about a month later, so it was not a very serious delay, if you like, and it is now in an equivalent position to the others, having been established about a month later. I do not know whether Danny is back with us, and whether there is anything he wants to add to that, as he was leading those discussions.

**Danny Jeyasingam:** I am back. Apologies for dropping out. I think my internet connection went. If you did not hear any of my answer about the Cabinet Office, I am happy to come back at the end of the time. I assume that you can all hear me.

**The Chair:** Yes.

**Danny Jeyasingam:** Thank you. As the Secretary of State said, at the time we were agreeing the frameworks as provisional frameworks, officials worked very hard to get those into a state to go to our inter-ministerial group, which is the forum the Secretary of State attends. The organics framework was about a week late because policy officials were still working on it to get it into the mix. We had a discussion at IMG where, frankly, at the time Ministers were able to agree 13 of the frameworks. They had not yet had a chance to review the organics recommendations from officials. That came after the meeting. As the Secretary of State said, it was about three and a half to four weeks after the others were agreed. It is in place as a provisional framework and is on track alongside the other 13 frameworks. They are all on the same timescale now.

**The Chair:** Thank you very much indeed, Danny.

Q183 **Baroness Crawley:** Good afternoon, Minister and Danny. It is very good to have you with us this afternoon and that you are giving us your time. You have been very candid about what we saw as quite a serious issue of delay and lack of quality in some of your department's summaries that came through to us, and I thank you for being candid.

Not all the summaries were insubstantial. One of the very good ones was the plant varieties and seeds framework, which we thought was extremely good in detail and in explanation. However, to give you a couple of examples, the plant health framework talked about a monitoring group. We were interested in that monitoring group, but from the summary we did not know who was in the group, what they did, or how they interacted with any of the other bodies in the summary. The second example is the zootechnics framework, which failed to mention

the Northern Ireland protocol even though the framework actually had a cross-cutting role with the protocol.

I understand the pressure as far as the department was concerned in the last year, but going forward how do you see the summaries being improved? May I suggest that perhaps the department looks at using a template for summaries, as this committee has suggested in the past?

**George Eustice MP:** Thank you very much. My view on this is that we probably need to separate the summary frameworks that were published towards the end of the transition period—when there was a variation, as we have been very open about acknowledging; that is one issue—from what comes next. Those are the full frameworks that we will publish and that will then go through the parliamentary and scrutiny committee process that is envisaged. That is when the delay becomes a pertinent question. They are different things, really.

The summary frameworks were of mixed levels of detail because of the differing pressures on the teams needed to do them, as I said. The reason for the delay is down to the cross-cutting issues. Across the 14 that we have, I am told that pretty much 95% of the detail is resolved and they are drafted. We are still working on the principal remaining sticking point that has been difficult to resolve and has led to most of the delay. It relates to the provisions in the UK internal market Bill on, for instance, mutual recognition and non-discrimination, and certain provisions of the Act that carry with them the ability for there to be exemption subject to consultation. Agreeing and working out—

**The Chair:** Minister, I am sorry to interrupt you, but I think a Division has been called. I take it that everyone has received a message on their phone. We will adjourn for five minutes to allow Members to vote and then come back to you. I am so sorry. They were very important things that you were saying.

**George Eustice MP:** I shall repeat them when we come back.

*The Committee suspended for a Division in the House.*

**The Chair:** Welcome back, committee. Thank you very much indeed for a prompt return. May I ask the Minister whether he would mind starting his response again? It was so interesting that I think we ought to hear at least part of it twice.

**George Eustice MP:** Thank you, Baroness Andrews. I will try to answer in a shorter way, as I was quite a way through my answer. The point I was making is that we have to distinguish between the varying levels of detail that were in the original 14 framework summaries—I have given an account as to why that was, which was, principally, different pressures on different teams towards the end of the transition period—and what comes next, which is finalising full frameworks in all 14 areas, and putting them through parliamentary scrutiny as was agreed. In that context, I appreciate that there has been a delay.

I want to explain the principal reason for that. First, in each of those 14 areas I am told that the documents are pretty much 95% drafted and agreed. There remain one or two cross-cutting issues that are common to many of them and that we are still working through. The principal one relates to the UK internal market Act, which has provisions on mutual recognition and non-discrimination, and a provision for there to be exemptions from mutual recognition and non-discrimination in certain circumstances.

Working out how that intersects with the frameworks as regards the consultation requirements and the decision-making process when an exemption is deemed appropriate are the bits that we have spent most time trying to work through. It is still not yet resolved, although we are working our way through it with the devolved Administrations. Once we can get that resolved, we will be in a position to finalise the remaining texts on the frameworks and get them to committees for scrutiny.

Q184 **Baroness Crawley:** Thank you for that, Minister. I want to ask a specific second question, but just responding to your reply, do you see the detailed working, particularly around the internal market Act and how it will influence the wording of your department's frameworks, happening, for instance, before Christmas? Are we talking about this year, or are we talking about it going through to 2022?

On the specific question I wanted to follow up with, is there any particular reason why we have not received the framework summary for the fisheries management and support framework, because we understand that it has been signed off by all the devolved Administrations since July?

**George Eustice MP:** On the first point, originally we had hoped to conclude the frameworks and get them going through their various parliamentary scrutiny processes this autumn, with the original intention that they might all be finalised by the end of the year. Because of the ongoing discussions around some of the provisions of the UK internal market Act in particular, and the fact that some of the dimensions of the Northern Ireland protocol—the Command Paper and elements of that—are as yet unresolved, for a number of reasons, it is now, in my view, probably highly unlikely that we will conclude them by the end of the year. I think a realistic timeframe is that we can get them going through their scrutiny processes in the new year, with a view to, hopefully, getting them finalised perhaps in March next year. There has been some slippage on the timings for the reasons I set out.

Your second point was on the fisheries management and support summary. Obviously, the team that dealt with that was highly preoccupied during the final stages of the TCA negotiations. It was also doing a lot of work on the joint fisheries statement, which we felt, because it is all about how the different fisheries' administrations work together, was very much the document that itself would become the actual framework document. I know that that joint fisheries statement, which, unlike the others, is a statutory requirement under the Fisheries

Act, is being worked on, and I think the conclusion that they reached was that that should form the document.

Danny might want to say whether, in addition to that, there is a plan to have a framework summary that might be a separate document but have its roots in the JFS—the joint fisheries statement. Danny, do you want to add anything?

**Danny Jeyasingam:** It is just to clarify a point on the timeline in answer to Baroness Crawley's question. The Cabinet Office is working with its constitution unit counterparts across the UK as we speak, and Ministers are discussing the issues, so we hope there will be a resolution on the cross-cutting text in the next few weeks, which would see us finalise the remaining 5% of the documents and publish those for parliamentary scrutiny and sharing with stakeholders.

Although the timeline is slipping, part of the reason why we think it will slip is because, if everything goes to plan and we publish them in October/November time, we are conscious that it does not give you very much time to scrutinise them, and for us to take on board any feedback before the end of the year. That is why it might slip into early 2022. To reassure the committee, the documents will not just have provisional status, which means that we can still operate under them, but even in the air gap while scrutiny is taking place the systems will still be running. It is not ideal, but it is not as if there will be nothing happening until they are agreed. We will still be operating the systems.

On the fisheries summary, the only thing I would add is that for all the 14 frameworks there will be the outline framework agreement. Notwithstanding what the Secretary of State said about the joint fisheries statement, there will be a document that has a lot of detail on the ways of working and links to the joint fisheries statement, which we hope will be published to the same timescale this autumn as all the other frameworks, so you will be able to scrutinise that, even though the joint fisheries statement will be out for public consultation with a view to getting it in place by November next year, which is the statutory requirement.

**Baroness Crawley:** Thank you very much.

**The Chair:** That is very helpful information for the committee. May I ask Lord Hope to take up the baton, please?

Q185 **Lord Hope of Craighead:** Good afternoon, Minister. My question is about cross-cutting issues again. You have covered quite a lot of ground on that already, but how has a lack of resolution on these issues affected the development of the frameworks? I have a particular question about the Northern Ireland protocol, because you have not really mentioned that so far. Is that a significant cross-cutting issue so far as your department is concerned? If so, could you explain where you are and how it is affecting you?



**George Eustice MP:** I think it is fair to say that the most significant thing for us are the provisions of the UK internal market Act because of the provision for an exemption from mutual recognition. That is the bit that the devolved Administrations have an interest in, and there are obviously questions to resolve about how exactly that power or that easement would be exercised, and in what circumstances.

The Northern Ireland protocol is a factor. Obviously, the Command Paper envisages quite a fundamental reinterpretation, or a different approach to the interpretation of the Northern Ireland protocol beyond what the EU envisaged, and some significant changes to the way certain controls on goods travelling from GB to Northern Ireland would operate in practice. However, in the realm of the frameworks, it would probably be of less significance, because our Command Paper does not envisage that the application of EU law in some of these fields would continue to operate. Most of the Command Paper focuses on the controls and reassurances that would be given to goods travelling from GB to Northern Ireland. As I say, the UK internal market Act is the most significant, but I suppose the fact that things are still slightly in flux on the Northern Ireland protocol complicates it to a certain degree.

Q186 **Lord Hope of Craighead:** May I come to the internal market Act? I think there are two stages in the process. The first is reaching agreement on the common frameworks, and the second stage is the exercise by the Secretary of State of the power under Section 10 and the other section—I think it is Section 13—to grant an exemption. Where is the problem? Is it that it is not possible to reach agreement until you are confident that the Secretary of State would be prepared to exercise that power, or have you not been concerned about that so much as just seeing that the devolved Administrations can agree with each other, having regard to the different policies they have in the different areas?

**George Eustice MP:** Danny might want to come in. The two key sections that are pertinent are 10 and 18. I cannot remember which way round they are now. One of them, as you say, is about the mechanism for consulting the devolved Administrations before a decision on an exemption is made. The other is more the internal wiring of a decision within the UK Government to make such an exemption: questions such as whether it is the portfolio Secretary of State or a single Secretary of State and so forth. Trying to resolve some of the issues about what the consultation looks like and who exercises the authority are the areas where there is still some discussion going on. Danny, is there anything further to add on that?

**Danny Jeyasingam:** It is quite difficult to decouple them, I guess. Again, that is why the texts, and writing the frameworks and the processes, are so critical.

The way we have designed the frameworks is that we have all agreed across the four Administrations that these are areas where some degree of commonality is necessary, in line with JMC principles. That is the starting position. Policy teams will work very closely under the auspices

of the framework to try to reach agreement that we all move in concert, either to a slower timescale or a faster timescale, depending on what the policy issue is. What is hard to decouple is that you can see inherent in that that, if we struggle to agree, we know that there is the additional process, which means that an Administration can say, "Hang on a minute. Although we agree we need to reach consensus, you are able to exclude this policy area from the market access principles. Therefore we could move quicker", or whatever the case may be.

That adds an extra degree of complexity, but what we are trying to do is keep going back to the starting position, which is that we have all agreed that it makes sense to try to do things in a very similar way and to a similar timescale in these areas. Let us focus on that and try to reach agreement, and then, if we cannot reach agreement, what happens next is a second-order issue.

I have probably oversimplified how complicated those discussions will be, and, of course, that is where we hit some of the ministerial and political discussions that need to take place. In essence, you can envisage a world where one Administration would want them to go much faster and other Administrations wanted them to go slower, and trying to broker that is where the frameworks will bear a lot of the weight. It is quite hard to decouple, but I think of it as a first-order/ second-order issue. All our energy is in trying to ensure that all the first order governance is working as well as it can, so that, hopefully, we do not have to get to that stage very often.

**Lord Hope of Craighead:** I think I understand, Minister, what Danny is telling us. Obviously, if there is no agreement, there is no question of exercising the power under the Act. The precondition is that agreement should be reached. I see the value of decoupling the internal administration as to who is to give the final say under the Act from the process of reaching agreement. I hope that is the way things are proceeding: that the concentration is to see that all four nations can agree on the way forward on a particular framework and at least get the framework agreed, and deal with the Act process afterwards. Have I understood you correctly, Danny?

**Danny Jeyasingam:** I think that is a good way of putting it. The Secretary of State said earlier that we are about 95% there for the content of the frameworks. That is the hold-up. At portfolio level, we are largely there. I think 95% is an accurate figure. The remaining 5% is the question that we must answer before we go through parliamentary scrutiny and stakeholder engagement.

In the event that an exclusion process comes into play, how exactly does that work? How does that fit with a dispute resolution process? How does it work with all the different governance we have in place, not only in the framework area but across Whitehall and across Administrations, where, for example, the Scottish and Welsh Governments and the Northern Ireland Executive may need to talk to their counterparts in a similar way to write-round processes? We are down now to that final bit.

That is why I am fairly relaxed about the content of the frameworks themselves. We have a lot of that machinery in place, as you will see when we publish them, but the final 5% is really the sticking point, and we need to get that right. My experience so far after the UKIM Act was passed is that that is the question that comes up most often from policy officials and stakeholders: how exactly does this interplay and what happens in that hypothetical situation? We need to make sure we have that answered properly in these documents. Does that help? Does that make sense?

**Lord Hope of Craighead:** Yes, thank you very much indeed.

**The Chair:** Thank you, Danny. That was a really helpful statement for us. Lord Murphy will pursue the Northern Ireland issues.

Q187 **Lord Murphy of Torfaen:** A very warm welcome to this session, Secretary of State. You have touched already on Northern Ireland on a couple of occasions. Of course, I understand that it is a very challenging situation, from both the British Government's point of view and, of course, the Northern Ireland Executive's point of view. Nevertheless, we have to work in the circumstances we are in.

Given the crossover between Defra frameworks and the protocol on Northern Ireland, can you tell us a bit more about how you have been working with the Northern Ireland Executive in producing these frameworks, and what role you see the Executive playing in common frameworks in the area where the protocol applies? Particularly on a personal level, is it ministerial contact, is it official contact, or is it a combination of both? It is a very difficult situation and it needs to be resolved.

**George Eustice MP:** The key thing to say is that the Northern Ireland Executive and officials in DERA, in our case, have been absolutely plugged into the process. You are right: there is a difference, in that they are obviously bound by some of the requirements of the protocol, which in many areas bind them to legislative changes that the European Union might make, but the fact that they do not have as much discretion as other parts of the UK to make their own laws in these areas does not detract from the fact that the changes in the law they have affect their ability to interact with other parts of the UK, and should be considered and discussed on equal terms.

The fact that they are bound by some provisions coming from the EU under the protocol does not diminish the importance of their role within these frameworks. We very much approached it in that spirit—that they have to be absolutely part and parcel of those discussions. The kinds of conclusions that could come out of that might range from trying to lobby and persuade the EU to take a course that is closer to that of the UK, or finding ways, if they have to bring in certain changes in the EU, to ensure that that does not undermine their ability to trade with the UK. Obviously, we have provided for that through the UK internal market Act as well.

You asked about ministerial level. I regularly talk to Edwin Poots. Most of the frameworks, I have to say, have been developed at official level, because a lot of it is about technical and administrative ways of working, but I regularly discuss this, and other protocol matters, with Edwin Poots, my opposite number.

Q188 **Lord Murphy of Torfaen:** That is very useful. You touched at the very end on personal engagement, which of course is very important, particularly in Northern Ireland. Do you use the NIO at all in engagement with Northern Ireland? It is a question that we have asked the other territorial departments as well, but in this case it is hugely significant.

**George Eustice MP:** Yes, absolutely. Danny may want to come in on the extent to which we engage the Northern Ireland Office at official level. Certainly I regularly discuss some of the issues pertaining to the Northern Ireland protocol, and all the issues around export health certificates and the standstill provisions and so on that we have in place. I regularly discuss those matters with Brandon Lewis, my opposite number in the Northern Ireland Office.

**Danny Jeyasingam:** We engage with all the territorial offices. In the Northern Ireland context, there are two things worth adding. There is a cross-Whitehall forum that meets to talk about the issues from a UK Government perspective. The Northern Ireland Office is represented at that group. There are various other technical groups that they are part of that engage with us on frameworks. At the IMG EFRA, the apex of Defra devolved Administration governance, the territorial office Ministers attend alongside the Secretary of State, so their Ministers are present during some of the multilateral conversations with Minister Poots and the other devolved Administration Ministers.

**Lord Murphy of Torfaen:** Thank you very much.

Q189 **Lord Keen of Elie:** Good afternoon, Minister. Many of the areas where Defra will be engaged in negotiating frameworks touch on environmental issues. In pursuing consensus with regard to the common frameworks, is there a very real risk that environmental issues will take second place, as it were?

**George Eustice MP:** We do not think there is such a risk. It is inevitable to some extent, and there were some objective criteria that were drawn up by the JMC on when we should have common frameworks, which Danny might want to go into in a bit more detail. Broadly speaking, if the question we are trying to answer, as is generally the case, is that once you remove EU single market regulation, where are the gaps, where are the tensions, where is there a need, potentially, through our devolved settlement for the different parts of the UK to establish frameworks for joint working, it is probably inevitable that most of those areas will also be areas that touch very strongly on our own internal market, since if you have removed provisions to protect the EU single market, you are likely to get some tensions around the internal market.

On the environment, for instance, we already had some frameworks for joint working. There is an existing UK biodiversity framework. When we looked at this, the judgment was made that on the environmental front we already had a framework in place for biodiversity that was UK-wide and was working well, so we did not need to reinvent the wheel. The right thing to do is to revise that existing framework, and I think that is what there are plans to do. Danny might want to add a bit about the criteria that were applied for setting up the frameworks.

**Danny Jeyasingam:** Thank you for the question, Lord Keen. The Secretary of State is right. If we go back in time a bit to 2017 when the JMC principles were agreed, we went through a very intensive process of looking at all the powers and functions being repatriated to the UK from the EU, and we took the JMC principles: the functioning of the internal market; protecting our ability to negotiate and implement trade deals; managing common resources, which is billed as an environmental angle; and fulfilling international obligations, which also has an environmental angle.

Four of the criteria applied most to the Defra areas. We went through each one of those powers that were returning and took an objective assessment of whether we thought that a common approach across the UK was desirable, all the way through to essential. There was no hierarchy in any of those principles. We never felt, "These policy areas have a bigger intersect with the internal market or trade. Therefore, they must have frameworks". You can see from the 14 areas we have agreed that they all have an intersect with the internal market, as well as with international obligations and managing common natural resources across the UK. There was never any sort of hierarchy or preference in any of the principles.

Personally, at official level, I do not think we have ever seen a conflict, or been in a situation where we have horse-traded and thought, "This area has more of an economic impact but this area has more of an environmental impact". The direction of policy-making at the moment, helpfully, is to look at natural capital concepts and the interplay between the natural environment and its links from an economic perspective. Certainly, I do not see it as an area of conflict in the future but as an area of strength that the four Administrations already agree that these are areas where we should be taking a common approach. Hopefully, that helps to answer your question, Lord Keen.

Q190 **Lord Keen of Elie:** Thank you, Danny, and thank you, Minister. I wonder whether I could raise what I think is a related issue. The Scottish Government already have legislation in place with regard to animal sentience. The UK Government propose such legislation but appear to be meeting increasing resistance in many areas. If we do not pass legislation of a similar kind to that already in place in Scotland, is that differential with regard to animal sentience liable to give rise to difficulties in agreeing frameworks?

**George Eustice MP:** It is probably unlikely that that particular issue would cause any challenges to the frameworks. Principally, what they have in Scotland is an animal welfare commission, and under that an animal sentience committee. That really just gives policy advice on questions relating to animal welfare.

Animal welfare has always been devolved. Even when we were all in the European Union, different parts of the UK often had quite different legislation and sometimes learned from one another. I think we were the first to bring forward CCTV in slaughterhouses and others followed; in other areas, Scotland or Wales have been the first movers and we have learned from one another. The existence or otherwise of the committee probably does not complicate the framework documents, but we have a manifesto commitment as a Government to recognise animal sentience and we think the model of an animal sentience committee is probably the best way to give expression to what we were trying to achieve.

**Lord Keen of Elie:** Thank you, Minister.

Q191 **Lord Garnier:** A number of the questions already, Secretary of State, have been to do with the timetable and progress that you and other members of the Government have been making in relation to the parliamentary scrutiny of these framework documents. In May, you said you hoped to complete all of this by mid-November; Chloe Smith said in July that it was slipping a bit, but she hoped it would all be done by the end of the year.

I get the impression—tell me if I am being unfair—that there is an atmosphere of *mañana* about all this. I do not hear a great sense of urgency in the answers we are getting from you and your official, Danny. It reflects what we have heard from other members of the Government. Who is in charge of progress on this, and what leadership are you giving or getting from members of the Cabinet to ensure that you stick to the timetable?

**George Eustice MP:** This is a process for which the Cabinet Office has overall responsibility, but each department has responsibility for the frameworks under its jurisdiction, as it were, and we are responsible for these 14 and trying to progress them. The reason for delay across the board is because there have been some cross-cutting issues. It is no secret that leaving the EU has caused a lot of political tensions over the past few years in many different ways, and there have been slightly different perspectives on it in government in different parts of the UK. While there has been great willingness to try to work through those differences and get the agreements in place, it takes time. In particular, resolving some of the cross-cutting issues around the UK internal market Act has taken a little bit longer than we hoped.

As to whether there is urgency, in our view it is better to get these documents right and for them to function properly thereafter. Bear in mind that we are already using them provisionally in many areas, so the summary documents are already the basis of our joint working at the

moment. It is better to get the final documents right than to try to cut corners or leave unresolved issues as loose ends, meaning that when we try to rely on them they do not function properly and become a source of tension rather than what they are designed to do, which is remove tension and create a proper framework in which we work together.

They are of course administrative ways of working. We have been clear from the start that there is nothing in these frameworks that changes the fundamental parameters of our devolution settlement, in that those things that are devolved are, in the final analysis, devolved, and those things that are reserved are, in the final analysis, reserved. If you like, it is a kind of agreed code of conduct about how each of us exercises those respective powers where they could intersect with one another.

**Lord Garnier:** Would you accept that perhaps the Government as a whole, not you personally, were a little gung-ho earlier in the year about setting the timetable? We are now woefully behind. If you look at our grid of frameworks, there is more to do than has been completed. Here we are in mid-September. Your November date is not far away; Chloe Smith's end-of-the-year date is just down the road. Do you think that this time next year we will be having the same discussion, with Ministers saying, "Just give us a bit more time"?

**George Eustice MP:** I very much hope not. I think all of us would want to have these put to bed before then. As I said, we are always optimistic.

**Lord Garnier:** I can see that.

**George Eustice MP:** We challenge ourselves to try to get agreement on these things and get problems resolved. In this case, it has taken a bit longer than was originally expected for the reasons we set out, but I come back to my fundamental point that in the meantime we have the interim frameworks and summary documents that we are relying on and that form the basis of joint working across the UK. There is a sort of interim arrangement in place and we just need to spend the time to make sure that we get the documents right in the final cut.

**Lord Garnier:** Has it surprised you that it has been more complicated than you thought it might have been?

**George Eustice MP:** As we have all learned in the last few years, often things can be more complicated than we thought they might have been. My view, looking at the UK internal market Act, which makes sure that we have a properly functioning internal market, is that some of its provisions have created some issues that we need to work through. It has taken a little bit longer than we had hoped, which means that inevitably there will be some slippage, but we will still work very hard to ensure we can get these in place as soon as possible.

**Lord Garnier:** Thank you.

Q192 **Lord Thomas of Cwmgiedd:** Secretary of State you have been asked a lot about the timetable to date. Can I turn to the future? One of the

important factors will be ongoing scrutiny of the co-operation between the Administrations and the UK Government to ensure these are working and promoting the internal market. What are your plans for the reporting necessary to enable that scrutiny to take place?

**George Eustice MP:** My first meeting this morning was a meeting of the inter-ministerial group—the IMG as we call it—within Defra. That meets once a month. The common frameworks are often on the agenda for that. It is a forum where Ministers in every part of the UK come together to try to resolve differences or tensions or reach collective positions on certain issues. I envisage that within Defra the IMG structure that we have in place will continue to provide a scrutiny role on how well the frameworks operate. We will probably be seeking feedback from our stakeholders about whether they believe they are covering all the areas they should, or whether they should be modified and refined over time, but in Defra I see the IMG as the principal body to keep tabs on progress. I presume that the JMC centrally would perform a similar role.

**Lord Thomas of Cwmgiedd:** But how will you enable the legislatures of each of the four nations to scrutinise the very admirable work you are doing, so that the public retain confidence in the union and that the internal market works to the benefit of us all?

**George Eustice MP:** The reason the timescale is going to slip is that different legislatures have slightly different scrutiny processes. For instance, a point raised with me by the Welsh Administration this morning is that they have different timescales for doing things. That is why this will take a little bit longer than we had originally hoped: because it has taken a bit longer than we had hoped to get the final documents. We will make sure that there is the time we always said there would be for each legislature in every part of the UK to scrutinise and give its blessing to what is agreed.

**Lord Thomas of Cwmgiedd:** So that this does not go wrong in the future, would you be able to write to us with a proposal for ongoing scrutiny—scrutiny of the way in which it is working on a regular basis so that the legislatures can look at it? I think we learn a lot from planning for the future.

**George Eustice MP:** I may ask Danny to come in on this. As well as the inter-ministerial group—the IMG—where it is a regular feature on the agenda, there are proposals for a senior civil servants group to be custodians of the agreement going forward and there is some thought about having technical level discussions about it. Danny, do you want to come in at this point and say a little bit about future oversight that is planned? Or perhaps not. You may be on mute.

**Danny Jeyasingam:** Can you hear me?

**The Chair:** We can, but you are breaking up.

**Danny Jeyasingam:** I am not sure if you can hear me. I think I have a poor internet connection.



**The Chair:** We can hear you, Danny. Can you crack on and we will see how it goes?

**Danny Jeyasingam:** I will turn my video off and see if that helps the connection. Can you hear me now?

**The Chair:** Yes. That is better, I think.

**Danny Jeyasingam:** Each of the frameworks has an inbuilt review mechanism. I think that in the first year of operation most frameworks will conduct their own review of how they are operating. Some frameworks will do that after the first six months of implementation; some will do it after 12 months. Thereafter, they are on a three-year rolling cycle.

After legislatures have scrutinised the frameworks and they are agreed, we can certainly develop some proposals on how we have an ongoing role going forward. I imagine that after the first year, when we have conducted all the reviews, we will prepare a report for IMG. That is certainly something we would advise the ministerial team to share with legislatures across the UK. Because it is a three-year cycle, we would probably take stock after the first year and decide whether or not we wanted to conduct more regular scrutiny. After they have been operating for a while, we hope they will become business as usual, so when you are scrutinising policy-making in particular Defra sectors, you will be able to see the frameworks operating as new policies and legislation are developed going forward. Hopefully, you caught all of that.

**Lord Thomas of Cwmgiedd:** Yes, we did. Thank you very much indeed. We look forward to hearing from you about it.

Q193 **Lord Murphy of Torfaen:** Secretary of State, you have mentioned the role of senior officials in your department, but do they also have a role in providing direction in individual frameworks? Does that differ between frameworks and, if that is the case, why?

**George Eustice MP:** I might ask Danny whether he wants to add to this. My view is that, because these are principally administrative frameworks about working through the issues, a lot of leadership will be provided in each of them by civil servants in all parts of the UK. In GB, we have a one Civil Service approach, which gives important cohesion to government across different Administrations. The way I would envisage these working in practice is that, of course, there will be ministerial engagement when political issues need to be escalated, but as a general rule, given that these are administrative structures, I would see a very strong role for senior civil servants in leading within them to make sure that the process works properly as intended. Danny, do you want to add to that? Perhaps not. We may have lost Danny altogether.

**The Chair:** Yes. Maybe he could write a short note.

**Danny Jeyasingam:** Sorry, my internet connection is going badly. Can you hear me?

**The Chair:** Yes, we can hear you, Danny, but now we cannot. Can I ask you to answer that question in writing to the committee, and fill in from your experience what the Minister has just said?

**George Eustice MP:** Danny has just come across from a different office to join me, so we can probably share the microphone.

**Danny Jeyasingam:** Sorry, I know this is awkward for broadcasting, but I thought it would be easier than losing the connection.

To answer the question about senior officials, each framework is made up of lots of sub-groups. We have technical-level sub-groups, official-level groups and senior official-level groups in almost all the frameworks. To take the fisheries and marine framework, there are sub-groups that look at all sorts of different issues, from finance to trade, science, IT services and so on. There are also technical expert groups that feed into a senior steering group at deputy director level. They meet, and in the case of any disputes or problems they can escalate to a senior officials programme board, which is a group I am part of, at director and deputy director level. That is a kind of Sherpa group that feeds into the IMG that the Secretary of State talked about in answer to a previous question.

Some groups do not necessarily have a standing senior steering group at DD level, and will convene a group as and when necessary. For example, off the top of my head, you will see when we publish the framework documents that the fertilisers framework has technical groups that meet and find consensus very regularly. There is no history of any disagreements or disputes. They will convene a group of senior officials if that is required, but they have not set up a standing senior-level committee, because it would not be occupied sufficiently to warrant that. When you have the documents, you will see that there is a spectrum from technical to senior, and it is the volume and complexity of each policy area that determines whether or not we need a standing senior-level group.

**The Chair:** Thank you. That was very comprehensive.

**Lord Murphy of Torfaen:** Thank you very much.

Q194 **Baroness Randerson:** Secretary of State, I want to ask about transparency and consultation. Some of the lists of consultees have been very limited. When we have taken up the issue, we have been variously told that it was because there was a need for a lot of speed, which clearly is no longer an issue, and that targeted consultation with small numbers of organisations is justified because some common frameworks are very specialised. However, most of those that Defra is dealing with are very general; they are food related and, therefore, they involve a large number of organisations representing farming, environmentalists, the food industry in particular and of course consumers.

Largely because of the limited consultation, there have been accusations of lack of transparency. Would you be open to wider public consultation with stakeholders as part of the review procedure in particular? We

realise that you cannot go back over what has happened already, but the question is whether the issue is put right in the future.

**George Eustice MP:** Obviously, when we publish the final framework documents and put them through the parliamentary scrutiny process, there will be an opportunity at that point for all sorts of other stakeholders to input as well. Our general view was that in part we were trying to expedite this and get the summary frameworks in place in reasonable time, and in part, if we are honest, because fundamentally these are, first and foremost, agreements between the four nations of the UK about how we operate administratively. In the absence of reaching agreement across the four nations of the UK about what should be in them, it made it difficult to go to formal stakeholder consultation.

The third point is that we really did not want stakeholder engagement overload. There is a vast array of areas where our stakeholders are dealing with change as we come out of the European Union and we are bringing forward new policy areas. Our sense is that those stakeholders want to engage at the point when policy is being changed. While they have some interest in how the four Administrations work together, it is, first and foremost, an administrative issue for the four Administrations.

There is an opportunity to engage. We did some engagement with key stakeholders as we were putting this together, but for a number of reasons we have not been in a position to go to formal consultation. Perhaps that is not the right approach given the nature of the documents, in that they are really a concordat between the four nations of the UK.

**Baroness Randerson:** What about the future?

**George Eustice MP:** If in the future we were to revise them, things would, hopefully, be in a steadier state. At that point, I think stakeholders would feel they were in a stronger position to comment on whether policy divergencies within the UK had caused particular issues, and whether the provisions of the UK internal market Act were working in a way that protected their interests and so forth. Once things have settled down, and bedded down, it is possible that, at a point in the future when we are seeking to revise things rather than create things from scratch, it might be much more appropriate to engage stakeholders more.

**Baroness Randerson:** Thank you very much.

Q195 **Lord Foulkes of Cumnock:** Secretary of State, by definition, stakeholders have knowledge of and interest in what you are promoting and producing. Could you give us a couple of practical examples where what stakeholders have said to you has changed the frameworks?

**George Eustice MP:** I might ask Danny to come in.

**Lord Foulkes of Cumnock:** I prefer to hear it from you. We are here to hear from the Secretary of State, and how much you know about what is going on in this procedure. Of course, Danny knows all the detail, but

how much do you know about what is going on?

**George Eustice MP:** The key thing is that the feedback from stakeholders through this process and the engagement we have had is that their main concern is whether anything that is being done has direct policy consequences, because they are most interested in policy change and policy consequences. Generally, they have been reassured to learn that these are about administrative working arrangements between the DAs, and that when it comes to policy change—if we are to have a change in agriculture policy in Scotland or Wales—there will be direct consultation on that run by the relevant Administration in the way they used to. They have been reassured by that. I am told that the engagement we have had with them has not pointed to the need to change these workings very much, given that it does not pertain to individual policy outcomes, and is much more about working relationships.

**Lord Foulkes of Cumnock:** The working relationships between the United Kingdom Government and the three devolved Administrations can affect substantially their way of life and the way they operate in many practical terms. That is why stakeholders have real concern about it. Have you engaged with them in such a way that you have taken on board any suggested changes they have made?

**George Eustice MP:** I am told that we have not had significant changes to the frameworks based on the feedback so far. Most of the questions have been in the form of things that we could readily answer.

The limiting factor in all this is that we have been clear from the outset that nothing in the frameworks changes the fundamentals of our devolution settlement. Have I had farmers in one part of the country raising a concern that Scotland may pursue a policy different from England, and vice versa? Yes, certain anxieties such as that have been raised, but there is nothing in the frameworks that would change that, as we have been clear from the outset that the parameters are that the devolution settlement we have is what it is and we will not be changing it. Once that is understood, and that this is about how we work and have modes of working, it is almost, if you like, a self-denying ordinance that there are certain powers under the devolution settlement, be they devolved or reserved, but we will in all our cases exercise those within a framework that respects others, I think people have been happy and content with what is proposed.

**Lord Foulkes of Cumnock:** I do not think you have given us examples of any changes that you have made as a result of the consultation. I am grateful to you for your honesty.

**George Eustice MP:** I am told there are none, but, if you want, we will look to see whether the stakeholders gave us any specific recommendations for change and I will write to the committee on that.

**Lord Foulkes of Cumnock:** That would be helpful.

**The Chair:** Thank you, Secretary of State. We are always grateful for extra homework.

Thank you for a very good session. We are very grateful for your frank approach. We have learned a lot about the way the department has approached it. We acknowledge what you say and are grateful for your telling us why the summaries were so uneven and, in some cases, lacking in quality. We look forward to that being rectified when we see the frameworks. Incidentally, we hope your resource problems will be solved.

We also look forward to seeing the full frameworks. One of our colleagues said that you are being optimistic, and of course no timetable has yet been met in the common frameworks programme, but we hope that with officials of the quality of Danny you will produce the frameworks as soon as possible—it would be good if it were early in the new year—so that we can finish everything by Easter. The committee would appreciate clarity on that, and we have certainly had more today.

In summary, we are all extremely grateful for the way you have responded. We will continue to engage, and we look forward to that. Can I say a particular thank you to Danny for his clarity, his comprehensive responses and for being so helpful on a series of quite challenging questions? Secretary of State, thank you very much indeed.

**George Eustice MP:** Thank you very much.