



Environmental audit committee

Oral evidence: [Assessment of EU/Uk Environmental Policy](#),
HC 537

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Members present: Huw Irranca-Davies (Chair), Peter Aldous, Mary Creagh, Geraint Davies, Luke Hall, Carolyn Harris, Peter Heaton-Jones, Mr Peter Lilley, Caroline Lucas, John McNally, Rebecca Pow

Questions 52 - 111

Witnesses: **Dr Diane Mitchell**, Chief Environment Adviser, National Farmers Union, **Angus Evers**, Member and Co-convenor of the Waste Working Party, UK Environmental Law Association, and **Martin Harper**, Director of Conservation, The Royal Society for the Protection of Birds, gave evidence.

Q52 Chair: Welcome to this afternoon's public session of the Environmental Audit Committee, which is part of our inquiry into EU/UK environmental policy. We apologise for the delay: we have been signing off on a report, and it took a little longer than expected. So thank you for your patience in waiting for us; we are very pleased you could join us.

We have Dr Diane Mitchell, chief environment adviser to the National Farmers Union; Mr Martin Harper, director of conservation at the Royal Society for the Protection of Birds; and Mr Angus Evers, member and co-convenor of the waste working party, UK Environmental Law Association. You are all very welcome indeed.

Let me begin by asking you to what extent you think member states have been able to influence EU environmental policy and the environmental policy-making process, and to shape policy in accordance with national interests. I do not know who wants to kick off, but what are your thoughts on that?

Martin Harper: I think the UK has a good track record of engaging well at European level. We can claim credit for being the architects of some of the important pillars of environmental legislation, such as the European nature directives. Stanley Johnson felt that the UK played an important role in drafting that legislation when he was in the Commission. By and large, we have a good track record of engaging positively and constructively in

sharing our experiences and trying to shape legislation that we think will work. There are occasions when we act as a drag, and perhaps from an environmental perspective we do not go as far as we would like, but by and large the UK should be proud of the role it has played in shaping the European debate.

Q53 Chair: Do you share that view, Dr Mitchell and Mr Evers? Has the UK perspective been positive in terms of shaping policy on environmental legislation?

Dr Mitchell: I would agree that it has been positive. Obviously, there is a very comprehensive set of environmental legislation in place, much of which originates from the EU. Farming's environmental performance has been significantly improved, particularly in the past 20 to 30 years. Over that period, the EU has perhaps not been the only influence on farmers' performance; many changes have taken place in the industry. There is increased environmental awareness among farmers, they have increased their efficiency in the use of resources and inputs, and there has been a great increase in adoption of best practice. Of course, farmers also respond to what their customers want.

Q54 Chair: So the UK and the farming community have had a positive influence on the policy-making process. That is good to hear. Mr Evers?

Angus Evers: I agree with my fellow witnesses. We must remember that the UK is in itself a large and influential country in the EU in terms of its population and the size of its economy. It has made huge steps during its period of EU membership, from being sometimes maligned as the dirty man of Europe in the 1970s and 1980s to becoming one of the leaders of European environmental policy alongside other member states, such as the Netherlands, Germany and the Nordic countries. On climate change, the UK is not only a leader in Europe but globally.

Q55 Chair: Very good. May I flip that round and ask to what extent the EU Commission and the Commissioner have been good at engaging with stakeholders at UK level? Is their track record good on getting involved with us?

Martin Harper: There are many parallels with the UK situation in that you have an evidence-led process then a political process, and sometimes politics trumps the environment; at European level, that is pretty much the same. The access is good. The extra complexity of the three institutions means that at times it is quite difficult to keep track of negotiations when they get into the black box of interchange between the Council, the Commission and the Parliament, but the Commission and the EU as a whole are good at recognising the value of good stakeholder engagement and the principles of good governance. They have built that into some environmental law, such as the water framework directive and the nature directives. How you engage people in meeting those environmental challenges is a strong hallmark of good European law.

Dr Mitchell: That engagement with stakeholders has really improved from the Commission's perspective over the past few years in which I have been involved in EU policy. A recent example of good practice I would point to took place during the Commission's review of the birds and habitats directive. In addition to our engaging with the

UK Government and going to Brussels to engage with the Commission, the Commission actually visited the UK and engaged in discussions here, which we managed to get involved in. That was really positive and we would certainly encourage more of that. Building on that example, in addition to the public consultation that usually takes place, they also invited us to provide some quite detailed evidence as part of that review. Again, that was really positive development. We all have very good experiences of how these directives work, and we could provide that evidence for the review.

Q56 Chair: That would be very helpful. It is quite encouraging. Mr Evers, is your take similar?

Angus Evers: My view is that the Commission is much more open and transparent in talking to stakeholders than it used to be, and I say that from the perspective of UKELA, in terms of the engagement we have had with the Commission, and from the perspective of my day job, which is as a solicitor in private practice advising a wide range of clients who are affected by European legislation and need to engage with the Commission on certain issues. If you take the recent example of the circular economy package, which was published a couple of weeks ago, the Commission held two public consultations on that this summer and a stakeholder engagement day in Brussels, which I believe more than 500 people attended.

Q57 Peter Aldous: At the outset, I should emphasise that I am a partner in a family farm who are members of the National Farmers Union. How good do you feel the EU is at ensuring that its legislation is both implemented and enforced? Mr Harper, you might want to go first.

Martin Harper: Earlier today, there was a meeting of the EU Environment Council. People have been talking about, for example, progress towards meeting the biodiversity commitments, and in passing member states have had an opportunity to offer their view about the role of the European nature directives—the birds, habitats and species directives. It is great that all member states, including the UK, today said that they had no desire to renegotiate the directives but wanted to put a focus on implementation.

Everyone is saying the same thing, and I think they are saying the same thing for two reasons. The first reason is that although we would conclude that most forms of environmental legislation have helped to raise environmental standards, from an environmental point of view they are still not sufficient. Although we have good evidence to say that membership of the European Union has helped to drive up the recovery of certain threatened species—for example, by being part of the birds directive—unfortunately we are still seeing ongoing declines in lots of species, so there is a lot of work to be done in that area.

Equally, I would suggest that some of the challenges that businesses have encountered in engaging with pieces of legislation are to do with poor implementation. The UK Government came to the same conclusion when they reviewed the habitats regulation. It is right to put a focus on the need to both implement from an environmental point of view and make it more navigable for some businesses.

Dr Mitchell: This is a very interesting point. To follow on from what Martin said about implementation, I think a lot of effort goes into implementation of environmental policies. One of the things we have found is that perhaps we are not very good at our messaging to farmers on key priorities and—

Q58 Peter Aldous: You or the EU?

Dr Mitchell: Generally—Government and even the farming industry themselves. Farmers are bombarded with lots of different messages about what they should be doing at different times, and I think we could all be much better and joined up in our messaging. It is about clearer communication and making sure that if farmers are in a priority area, they only get messages in relation to that priority area and what they can do to make improvements, rather than bombarding them with lots of information about what they can do at different times, which can be conflicting.

Q59 Peter Aldous: Can that be improved through the EU, or is it down to member states in their implementation?

Dr Mitchell: It is probably down to implementation, but the EU needs to be aware that there are lots of asks of farmers at different times. One of the hardest messages that we try to get across at EU and at national level is that farming can sit alongside the environment. Quite a lot of people think that they are two separate issues and cannot be reconciled, but I know of so many farmers who feel very passionately about the environment and what they do for the environment, so yes, it is possible to do them both; we just need to be careful in our messaging.

Angus Evers: You have to look at the implementation and enforcement issues slightly differently. As I see it, implementation within the EU largely relies on member states self-reporting how they have transposed particular directives or regulation into their national law—by national law I mean the black letter law. In terms of enforcement, you can have the black letter law in place in your national legislation, but if it is not enforced, that is a completely different matter. Again, the Commission does not really have the resources to police that. Sometimes it does: if it has not been notified of implementation by a member state, it can ask questions about whether the member state has actually implemented it and, if not, why not; but if that law is not being enforced on the ground, it is largely reliant on being informed of that by complainants, who might be litigants who want to rely on European legislation in private or public litigation within a particular member state, or representations might be made by NGOs.

It is partly a mix of the Commission being responsible for enforcement after being told of breaches by particular member states, but also by the relevant authorities within the member states to ensure that the legislation is enforced on a national basis. Those might be, in a UK context, bodies like the Environment Agency, Natural Resources Wales and Natural England or, indeed, the courts, as we have seen recently in the ClientEarth litigation, which I am sure the Committee will be aware of.

Q60 Peter Aldous: Is there anything that you would do to improve that balance to make it work better?

Angus Evers: I think the only thing that realistically could be done would be to provide the Commission with more resources to assist with enforcement, but I know how tight resources are at the moment in the Commission.

Peter Aldous: Dr Mitchell, did you want to come back on that?

Dr Mitchell: In enforcement at member state level, perhaps we could make better use of our resources. The NFU is quite keen to see some progress on co-ordination of a single farm inspectorate body. That is being led primarily by the APHA, but I think there could be some work to do in co-ordinating the sharing of information—data—and removing some overlap and duplication. That is one area where we would like to see some progress. Perhaps some progress could also be made on earned recognition—basically, rewarding the good performers so that inspections can be targeted more intelligently.

Q61 Peter Aldous: Mr Harper, as the representative of an NGO, do you think that this works properly? Do you think that the EU gives you a fair hearing?

Martin Harper: Yes, I think so. We get involved in something like 750 planning applications a year, skewed nearly entirely towards protecting species and habitats of European importance. So we have a lot of experience of engaging in big public inquiries and we obviously have a track record of taking cases all the way to the European Court of Justice and, as a result, perhaps changing the interpretation of the law. You have to invest in it to make sure the right outcomes are found. We have to choose our battles carefully, and there are only so many organisations that can really get stuck into that, but when you do get stuck in, actually the law is smart. We have found that businesses have found their way through and have decided to invest in understanding the law, which is important.

Chair: Peter, you have a short supplementary question.

Q62 Peter Heaton-Jones: May I pick up on something that Dr Mitchell said? Having spoken to my local farmers in north Devon, I absolutely agree with what you say about the feeling of being bombarded with so much information and messaging. I want to explore briefly what you think the effect of that is. Is it that some EU environmental policy is simply then ignored or not being implemented or, despite what you say about the over-messaging, do farmers manage to find a way through it so that they do it eventually? What is the effect of that problem?

Dr Mitchell: Farmers want to do the right thing and they want to be able to comply fully with legislation. It is not that they do not do it; perhaps they find it difficult to find their way through all the information that is out there. It is about being clearer on our messaging to farmers, so that they concentrate on doing the things that are needed rather than being distracted by lots of other messages.

Q63 Peter Heaton-Jones: So through their own good endeavours, they are doing it, almost despite the fact that we are sending out mixed or confusing messages.

Dr Mitchell: They certainly comply with regulation, but they often complain about the barrage of information that is sent to them and differing priorities.

Q64 Caroline Lucas: Do you think the right balance has been struck in EU environmental policy making between the objective of setting a common EU framework and, at the same time, allowing for distinct approaches at the national level?

Angus Evers: There is an appropriate balance. Most EU environmental legislation is in the form of directives rather than regulations. Directives set the general goals and objectives that a member state has to achieve and then leave it to the member state to choose the means for achieving those objectives or goals. In their innate nature, there is a lot of flexibility for member states to implement directives.

Even if we look within the UK itself at how the devolved Administrations have implemented the revised waste framework directive, we can see that in some respects there is a divergence in the approach taken by Wales and Scotland, and the approach taken in England. Obviously, they all have to comply with the overall framework of the revised waste framework directive but, within that framework, they have all taken slightly different approaches to implementation.

Q65 Rebecca Pow: Is one better than the other? With your UKELA hat on, who is doing that better?

Angus Evers: That is a very difficult question. Are you asking me whether the Scots are doing a better job than the Welsh who are doing a better job than the English?

Rebecca Pow: It is interesting to hear of different approaches because it is happening in many areas. Forestry is one example, but we are talking about water here.

Angus Evers: I am not sure if I can express a view on behalf of all UKELA members. The view of my own working party within UKELA is that the Welsh and the Scots are being more ambitious than the English.

John Mc Nally: I rest my case. *[Laughter.]*

Chair: You've made two of us very happy, Rebecca. You shouldn't have asked that.

Rebecca Pow: No, it is interesting—

Q66 Caroline Lucas: Hopefully there are some further answers. I do not know if everybody agrees with Mr Evers.

Angus Evers: That is just in the context of waste, I have to say.

Dr Mitchell: I think commonality is reassuring for some of our members but we need to bear in mind that quite often we might need to depart from that in some situations, depending on local conditions. Our experience is that perhaps some directives are not particularly flexible—I think particularly of some of the older pieces of legislation directives, such as the nitrates directive. That tends to be more process-driven than outcome-led and we find that quite frustrating; it is quite prescriptive and you cannot really deviate from some of the prescriptions in the directive, so there is not much leeway for member states to take a different view. It tends to be the more modern pieces of legislation, such as directives and frameworks, that have more flexibility. *[Interruption.]*

Sitting suspended for a Division in the House.

On resuming—

Chair: If we can finish off Caroline’s question, then I will intervene as the Chair with a suggestion.

Q67 Caroline Lucas: Dr Mitchell was halfway through the answer and, if I am not going to be allowed to ask my supplementary, I will throw it in now. While the two of you who have not yet answered are answering, will you also address this question? Certainly in days gone by there was criticism that EU environmental standards acted as a ceiling rather than as a floor. Is that still the case, particularly because some countries feel constrained from going further because that would be against the single market? If you could weave that into your answer somehow, that would be lovely. Dr Mitchell, you were halfway through your answer.

Dr Mitchell: I was saying that framework directives, which tend to be more modern directives, do allow greater flexibility. They include principles and tests like exemptions and derogations and they are particularly important for our members. I think there have previously been some concerns about the use of these—sticking your head above the parapet perhaps, and fear of greater scrutiny. So we have got to bear that in mind: they are there to be used, but perhaps there is a fear of repercussions if they are used.

I think we can certainly learn from each other on interpretation and implementation. I was very interested in what Angus just said about the waste framework directive implementation. One of the points that came up in the recent review of the habitats and birds directive is that we can learn from each other on implementation and interpretation. It is a good thing to exchange best practice.

On environmental standards, in the examples that we come across the impacts that they have on our members can be quite restrictive—I am thinking about some of the standards set in the water framework directive for priority substances and so on. It means that in some cases—I think particularly of chemicals in water—that can have knock-on impacts on water treatment, and it can also have an impact on our members, because quite often they are using some of these plant protection products. Our members’ products can be restricted because of a standard that is set out in a directive—there are not necessarily any health impact or

implications; it is just that a threshold or standard has been set, perhaps without considering the risk, so it is about hazard rather than risk.

Martin Harper: I will try to be brief. I will give a couple of good examples and one bad example. So two good examples: everyone wants a level playing field and no member state should be trashing environment and gaining competitive advantage. I think the mitigation hierarchy in the nature directives is a great common framework—a set of key tests that developers follow in order to work out whether the development should proceed. The flexibility, for example, in design of agri-environment schemes devolved to national level within the UK, for countries to be able to design their own schemes, means that they can be tailored to the different geography and farm situations.

For the bad example, my feeling is that the framework directives have given too much discretion and too much derogation to member states. For example, on the water framework directive, the WWF, for example, have mounted two legal challenges over inappropriate uses of derogations whereby water bodies, because they have got economic interest, are no longer obliged to meet particular good ecological status. So I would argue that too often some of the economic considerations have meant that the environmental objectives get watered down, and I am not aware of any example where member states are exceeding the environmental legislation standards being set. Certainly, various reviews that the UK has done have not found that we are gold-plating our implementation of legislation at all.

Chair: I am going to pause. I apologise to members of the Committee, to you and to those who have already found this to be a fascinating session. Unfortunately, events have conspired against us today, so because we have to proceed on to the second session, for individual reasons with members of the second panel and I do not think that we can do this justice simply in an exchange of correspondence, I suggest that we bring you back by arrangement. Thank you for discussing this with me as we ran off to vote. We will liaise with you and continue this as a one-off session on the UK aspects some time in very early January, if you are content with that. We would love to finish this today, but I don't think we can do the issues justice. Would you be happy with that?

Witnesses: Yes.

Chair: Thank you very much, and thank you for kicking us off today. You'll have time to think about what we will come to in the next session. Apologies for messing you around. Have a great Christmas.

Examination of Witnesses

Witnesses: **Professor Hans Bruyninckx**, Executive Director, European Environment Agency, **Pieter de Pous**, EU Policy Director, European Environmental Bureau, and **Martin Nesbit**, Senior Fellow and Head of Environment and Climate Governance Programme, Institute for European Environmental Policy, gave evidence.

Chair: Welcome to the second panel in this afternoon's session of the Environmental Audit Committee on EU/UK environmental policy. My apologies for starting slightly late; it has been a little crazy today, because of some of our arrangements, and with votes going off as well. We will try to do your session justice, although I know that some individuals have, literally, to fly from us.

Apologies for my pronunciation—it is partly because I am trying to interpret things as Welsh—but we have with us Professor Hans Bruyninckx, executive director, European Environment Agency, Mr Pieter de Pous, EU policy director, European Environmental Bureau, and Mr Martin Nesbit, senior fellow and head of environment and climate governance programme at the Institute for European Environmental Policy. You are all very welcome.

Q68 Rebecca Pow: Thank you and welcome, everybody. To what extent have member states been able to influence the EU environmental policy-making process and shape it so that our national interests are represented? I will put that to Professor Hans—that is what I am going to call you.

Professor Bruyninckx: I think the whole policy-making process in the EU is, in essence, a reflection of what the member states bring to the EU level. Of course, the initiative is often from the Commission, but the Commission does that based on working groups and working parties, and working with member states, civil society and business associations, and then they come with a proposal. Then it goes to the Parliament, where you, of course, have national and ideological representation. And it goes to the Council, and the Council is playing, probably, an increasingly important role in the shaping of the final result of this whole process. So I would say, throughout the whole process, it's member states that jointly shape the EU policies—that is the essence.

In our core business, which is the knowledge base that feeds into the climate and environment policies, but also into the implementation-type knowledge, it's the same thing: we have a management board where all the countries—all the member states—are represented; we work with a scientific committee that is open for all member states; and we work with our core network, where all the member states come together in about 25 expert meetings. So also at that level—in an evidence-based policy-making system, it is important that you have a trustworthy, transparent system of where the knowledge is coming from—there is deep involvement of the member states.

Pieter de Pous: One of the things that is specific to environmental policy is that, in general, the Commission has the right of initiative and can decide what it wants to do. In the case of environmental policy, the Commission has the tradition of adopting environmental action programmes, in which it basically lays out what it is going to do. Since the last two environmental action programmes, it has done that in a way that it is a negotiated text between member states, the European Parliament and the Commission, and it commits the three institutions to a joint agenda. There is already, at the strategic, general level, an exchange on how we are going to shape the environmental agenda. The current one is the seventh environmental action programme, which was agreed two years ago.

Once the Commission starts getting on with making proposals—or not—the whole process kicks in. The Commission tends to consult extensively with the member states—in our view, sometimes so much that it starts to apply self-censorship to its proposals because it fears that they may not be adopted. There is a strong element of that. Once the Commission proposal is out, formally it is the European Parliament that should take a position first, then the Council adopts its position, taking into account the Parliament's position. The reality is that, when the Parliament takes a position, the Council actually goes further away from the position than it may otherwise have had, so the influence of member states on the outcome is considerable.

Q69 Rebecca Pow: Mr Nesbit, you are on the climate governance side. How much do member states get involved in that? Obviously it is very topical, given that Paris has just happened.

Martin Nesbit: Indeed. I should probably say a couple of words about my background, so that Members have the relevant context. Although I am posing as a think-tank expert, I spent 25 years working in the UK Government on environment and agriculture policy issues, including on negotiations in those areas. That is the experience on which I will draw in answering these questions.

On the general question, as Professor Bruyninckx explained, member states essentially have to be in agreement with legislation for it to get a sufficient majority in Council and for it to be adopted. It is very much shaped by the process of member states being able to amend Commission proposals and being able to provide advice to the Commission before it tables proposals.

I think the way in which you look at member state influence on proposals from the Commission is very much determined by your national perspective. We tend to be more aware of issues when it feels that something is being imposed on us without particular support from the UK. If you look, for example, at the evidence from Professor Andreas Kraemer from the Ecologic Institute in Berlin, he has got some very interesting examples of cases where the legislative direction is very much set by the UK and follows the UK's priorities. One example of that is the introduction of the emissions trading approach to the delivery of climate targets—to get back to your specific climate question—which was very much a UK priority. The UK was able to influence the Commission in that direction. The ETS, as it exists, would not be there in that form without the UK's influence. Whether the ETS is actually working adequately yet is an open question, but it is certainly a clear example of UK influence.

Q70 Rebecca Pow: That is interesting to hear. We often get the impression that the UK is the bad boy always trying to upset the apple cart. Are we seen that way, or are we seen as leaders in any of these environmental fields? You mentioned emissions, but is there anything else in which we play a really valuable role and bring our ideas to the table? I am thinking of greening in the agricultural sector.

Martin Nesbit: I think it is more relevant to hear from Hans and Pieter on that, rather than from someone who used to be in the UK Government. Certainly in agriculture negotiations, the UK is seen as an environmentally extremist outlier in Council discussions.

Q71 Rebecca Pow: Really? “An environmentally extremist outlier”—meaning?

Martin Nesbit: We tend to be much more in favour of focusing CAP expenditure on environmental outcomes than most other member states.

Chair: And the two other witnesses?

Professor Bruyninckx: I think the complexity of the current environment and climate policies do not allow us to make an overall ranking of where a country is. There is not a single country that is top in everything or bottom in everything. But we made a comparative analysis based on the latest data in our state and outlook of the environment report, which I will leave behind for the Committee. There are a number of elements where the UK is top: top two in NOx emission reductions under the NEC directive; top four in Europe in Natura 2000 designated areas; and top three in resource productivity—which, of course, under the circular economy package and also under global pressures of resource demand is extremely important.

At the same time, you are also ranking near the bottom in other areas, if I might say so—for example, in organic farming, renewable energy share and nutrient concentrations in rivers. So it is a mixed picture, but overall we look at the UK as a country in our core business—the knowledge components, the evidence-based part—that is one of the pushers of solid evidence underlying the policy enterprise, which I think is very much in line with the strong tradition of knowledge institutions, both at the governmental and the private and public level.

Q72 Rebecca Pow: So you would be sad to see us leave on that ground, would you?

Professor Bruyninckx: Not only on that ground.

Pieter de Pous: Let me put it like this. I think is a very mixed picture. There are some cases where the UK has been leading, and CAP reform has been one. We have noticed, though, that when push came to shove and things went down the wire, that did not last until the moment that it really mattered, and countries like France or Germany just put their foot down. We have seen it in the debates around some of the unintended consequences of biofuel policies. The UK was in the forefront to try to address them.

The general concern we would have as an environment NGO with the UK Government is more in the areas linked with governance and flexibility, where the UK Government generally tries to have as much flexibility—generally weak governance. On climate, yes, they are leaders on climate, provided that it is only one target and one instrument, ETS. We do not do renewables, and we do not do efficiency in a meaningful way. So it is a rather mixed picture. It would make a difference, though, if you left, because of the other countries that would take up that place.

Chair: Peter, you can usefully follow on from this, I think.

Q73 Peter Aldous: How good do you feel the EU is at ensuring that its legislation is both implemented and enforced?

Pieter de Pous: It really depends which legislation you are talking about. If you look at some of the headlines recently about Google, Gazprom and McDonalds being taken on by Vestager on competition charges, and if you look at the fact that the Commission can send inspectors to Brazil to a farm to check the farm hygiene of Brazilian beef producers, the Commission can be very serious and very effective in the enforcement of these policies. They are not doing this on the environment.

Q74 Peter Aldous: On something like that, when the EU sends its inspectors to Brazil, do you think that they have got the right scientific expertise in the Commission to do that, and the right evidence base?

Pieter de Pous: The Brazil example was taking place during the referendum in Ireland on the Lisbon treaty and it helped Irish beef producers, so there was a slight political motivation there. The capacity to do that was developed in response to crisis—the foot and mouth crisis at the time. Of course, very often in the case of crisis in the Commission we decide to step above our shadow and do something. The obvious question now is what is going to happen after the Volkswagen crisis. Are we going to look into how we are enforcing the kinds of emissions standards we ask our car industry to comply with?

Q75 Peter Aldous: Have you got the capacity and the expertise to do that?

Pieter de Pous: My organisation is an NGO, so obviously we do not. The Commission clearly does not. Providing the expertise and the capacity is a political decision that is a difficult one to take at this point in time.

Q76 Peter Aldous: How should they address that?

Pieter de Pous: Like I said, it is a political decision. We make our case, and we need to see where it goes.

Professor Bruyninckx: I would say that, as the European Environment Agency, we are responsible for a large part of the evidence base that can be linked to the implementation of policies and the evaluation of what is actually happening. We do that in several ways. First of all, of course, we look at the state of the environment, which shows the impact of the policies. I think the evidence base is rather solid there, because we work with all the member states in a binding way based on a number of indicator sets and data that we gather and compare, which are calibrated and discussed highly professionally. In those terms, the evidence base is rather solid.

When you look at what is driving the pressures on the environment, you come to a different set of analyses. You need to make the link with agriculture, the energy system and the

mobility system. It is a building exercise, where we work together with Eurostat and other institutions such as the OECD on some issues. So they are solid institutions.

In terms of response to the policies, it is important to understand where implementation and performance are coming from. Sometimes there is a large time lag effect, because if you have policies on biodiversity that needs to rebound, that might be 10, 20 or 30 years down the road. So good implementation requires a sophisticated, well understood and evidence-based approach. In the agency, we are trying to do two things: on the one hand, responding with the evidence base for the immediate annual reporting of where we are, and on the other using the broader evidence base to have a better understanding of why we are where we are. When we look two decades into the future, we use that same evidence base to make more sophisticated analyses.

Martin Nesbit: I would just add that it is a process that is developing and improving as the years go by. I think the Commission has progressively moved from a focus on infringement proceedings against member states to a more co-operative approach. You can see that underpinning the current seventh environmental action programme to some extent, with its focus on implementation. Also—this is perhaps slightly more controversial—there is the letter that Commission President Juncker wrote to Commissioner Vella on his appointment as the Environment Commissioner, which essentially says to him, “Don’t bother coming forward with new legislative proposals. Let’s focus on what’s already there and getting that right.”

That move away from a focus just on infringement responsibilities is slightly challenging for the Commission, because of its treaty obligations to take action where it sees failings, but there are a number of areas where that is being taken forward at working level. For example, the IMPEL network of environmental inspectorates across Europe is a very good forum for exchanging information on implementation challenges, and there is a joint UK, Netherlands and Germany programme of work called the “Make it Work” project, which is looking at sharing experience among member states on improving implementation.

Professor Bruyninckx: May I add that there is also a network of the heads of the EPAs of Europe? I think that is important for the UK, because the heads of the four EPAs are represented. It is important because implementation, and understanding how policies are shaped by more local components, is clearly represented there. It is the highest level of professional exchange on policy implementation and on better regulation—there is a working group on that that produces very good papers, primarily driven by the UK representatives. So there are all sorts of international, European-level exchanges on implementation and performance.

Chair: Geraint, you have a specific follow-up on this theme, I understand.

Q77 Geraint Davies: Just a very quick one. Professor Hans—if I can call him that too—mentioned the issue of NO_x in Britain. We know that something like 32,000 people die each year from diesel emissions, and obviously we have had the problem of defeat devices in VW.

I was wondering what the European Environment Agency was actually going to do about that, if anything at all.

Professor Bruyninckx: For years we have been reporting on transport and environment-related matters. That is to do with emissions of different chemicals, of course. What we have written for a number of years is that our estimate is that the real driving conditions and the lab conditions for CO₂ emissions were about 20% to 35% off—the larger the car, the larger the difference. For other chemicals, like NO_x, we have made estimates of five to eight times, but we are the knowledge institution; we are not the enforcers or the control body. We have our mandate. We have been writing about these things. I have given testimony in the European Parliament to both the Transport Committee and the Environment Committee on these issues, and we have been consulted by the Commission on these matters.

Q78 Geraint Davies: Before I bring Mr de Pous in, you will know that in 1998 the Environmental Protection Agency in America brought a case against the diesel lorry producers, which were found to have these devices in them then and were fined \$1 billion. Why has Europe done nothing about this? It is absolutely preposterous. Do you want to make a comment or some sort of defence?

Pieter de Pous: Not in defence. One of the interesting things is that what happened was not actually secret. The scandal broke because Volkswagen wanted to go into the US market through diesel, and someone—a very small NGO, in fact—managed to buy a few cars, do some testing and send the results to the EPA. The EPA in the US has enforcement powers, which is the difference with the Environment Agency in Copenhagen. We, as the EU, have taken a political decision that their job is to do science, and we have taken a decision not to create a similar body to do the kind of work that the EPA does.

There is a very good question: why was it the US regulators that discovered this? In the case of Germany, it is a very small body that reports to the Transport Ministry that would have been the one to discover this, and they just had no incentive to do that because Volkswagen is a national industrial champion, so they would not take that up. There is now a debate, at least, on this issue, to try to move forward. From what we have heard, the Commission is coming up a proposal to try to solve this.

Geraint Davies: On that point, there was some suggestion that Chancellor Merkel was saying to David Cameron, “Go easy on Volkswagen,” and all that sort of stuff. Does the Environment Agency have no power to do anything about this? This is criminal activity. In 1998, it was all discovered, but it’s all happening here again, and 30,000 people are dying, so what is happening?

Q79 Chair: To come back to the thing we started with, are we doing well enough on not only the monitoring but the enforcement? Is there something better that needs to be done?

Professor Bruyninckx: It is clear that for the national bodies that check on the car industry, there is no overarching European governance system to make sure that they are, indeed, functioning. Again, I say that from the knowledge I have. This is not part of our

mandate. I would like to point out that we do not do science. We link knowledge to policy makers; we are not a scientific institution.

Q80 Chair: Mr Nesbit, did you want to come in on that?

Martin Nesbit: Just with an observation. In essence, we have here one of those cases where the intergovernmental nature of the implementation of legislation within the EU may not work as effectively, but whether that means there is sufficient political will to move to a much more centralised system, I rather doubt. Mr Aldous referred earlier to the EU sending its inspectors. By and large, the EU does not send inspectors. Its member states inspect the implementation of legislation or the implementation of agriculture policy.

Professor Bruyninckx: Which is what the member states wanted.

Chair: Interesting.

Q81 Rebecca Pow: I think it was mentioned that we were leaders on NOx emissions, yet I believe the UK has not met its air pollution targets. We are now coming to Europe and are going to have pay some massive fines. Would you say that that is working well, or would you say it is not constructive and that the money would be much better spent sorting out the problem?

Chair: Or is that a good example of where Europe does actually follow through with enforcement?

Rebecca Pow: We could be fined. We have targets set by Europe, basically.

Professor Bruyninckx: Air pollution is, of course, not one or two pollutants; it is a whole set of pollutants. In many urban environments, especially in Europe, it is fine particulate matter that is a big problem—ground-level ozone in some other parts, but not in the UK, because of climate and weather issues. Hardly any member states in Europe reach all of the targets. If you then link them to the World Health Organisation's targets, there is quite a big distance. The one big issue there is, indeed, transport in urban environments. That is absolutely clear.

Chair: Okay. We won't get bogged down in that sector for a moment.

Q82 Carolyn Harris: Do you think that the right balance has been struck in environmental policy between the objective of setting a common European framework and allowing for distinct national approaches?

Professor Bruyninckx: Yes, I do think that is the case. The EU sets policies at three different levels. On the one hand, there are overarching, broader policy packages. You can think of the circular economy package as the most recent, but there are also the climate and energy package and the energy union—those are the big three, you could almost say macro-

societal, directions that are taken. Then you have the framework directives that often hang under them, and then you have the very concrete directives and regulations. I think the essence of the first two is that, indeed, member states are co-creators of those sorts of packages. There is quite a bit of leeway in how they are implemented, which is why on the waste directives, for example, there is a huge difference in implementation modalities, which is also normal. A rural area in northern Finland is not the same as a highly densely populated area in the southern part of England, so I think there is a need for that differentiation, and that scope is there.

Q83 Carolyn Harris: You talk about the framework criteria, but you are leaving the choice of implementation up to the member states. Is it flexible enough?

Professor Bruyninckx: I think in most of these directives and frameworks there is a lot of national discretion. In the climate and energy package, it is quite clear where the emphasis is on the choice for the energy mix, for example. That is completely in the hands of the member states, which is a crucial decision in the light of longer-term climate and energy objectives and the transition of an energy system. So yes, I do think that, in most cases, there is a lot of discretion at national level.

Q84 Chair: Do our other two guests have anything to add either in agreement or on points of difference with what we have heard?

Martin Nesbit: I would say that the difficulty is in addressing these questions across the whole of the environmental acquis. Quite often, I'm afraid my honest answer is, "By and large yes, but it depends." European legislation does a number of different sorts of things. In some cases it sets environmental outcomes. So for example, on the total CO₂ emissions for a member state and the effort-sharing decision, sometimes it sets product rules governing what is then tradeable within the internal market, and then it also sets point-source emissions requirements for things such as large combustion plants. The level of flexibility differs in those different pieces legislation. Generally, the legislation that sets overall outcome requirements for member states is pretty permissive and does allow a range of different policy approaches that are responsive to national circumstances. For product legislation, you don't actually want that much flexibility for member states, because a product is a product and can move across borders. For point-source emissions, I would say that the record is mixed. From my point of view, I would say that you could potentially have more allowance for policy experimentation at national or regional level in different ways.

Q85 Chair: Can you give an example of the sort of policy area?

Martin Nesbit: For example, the large combustion plants directive was renegotiated at the beginning of the 21st century, and there was a debate about what requirements should be imposed on old coal-fired power plants. There might have been potentially greater flexibility allowed within that directive, within a limited scope, for emissions across a member state and whether you could allow more time for some of those plants to close down and end their process. There was a lot of discussion within Council about exactly what impact that had on competitiveness, and we didn't end up with much flexibility.

Pieter de Pous: I was going to say that I agree with Mr Nesbit, except on the last point, so perhaps I will answer on that. It is correct that it depends on a case-by-case basis, but we really see the whole issue of experimentation as something that has to be done on top of the minimum requirements that we have all agreed to in Europe. The whole debate about gold-plating in that respect is quite dangerous, because you are basically referring to a right that member states secured for themselves when they negotiated the EU treaty—in certain cases, they are allowed to go beyond the minimum standards, even if that has implications for the single market. There are some conditions to that, but it is where the experimentation, innovation and new ideas can come from.

Q86 Chair: In going further?

Pieter de Pous: In going further. That is how we would like to see it, and we see that as a good thing. The fact that we are all discussing gold-plating as something that we shouldn't be doing is seriously reducing that kind of thing. We were talking earlier about the leaders in environmental policy—the UK, the Netherlands and Denmark—but that is changing and they are moving away from that, which means that the room for experimentation, innovation and new ideas on governance is no longer there. That is a negative thing, in our view.

Q87 Mary Creagh: What do you fear most from a potential UK exit from the European Union? What detrimental effect do think that would have on the quality of environmental decision-making and thought leadership throughout the European Union?

Professor Bruyninckx: For the UK, or for the Union?

Mary Creagh: No, not for us; for the other member states.

Professor Bruyninckx: For the core business in which we are engaging, we would be lacking essential knowledge components for understanding the cross-border dynamics of most of these issues, because they are cross-border. At the same time, I believe that the UK would remain a member of most of the knowledge networks, so you would be contributing without defining the rules in the same way. I also think that the consequences of not being involved in the Union would come on both sides in the international sphere. If you look at the Paris COP, at the biodiversity negotiations, and all the negotiations that take place internationally, it would weaken the position of both the EU and the UK if the two were not linked. That would not be a good thing for Europe.

Q88 Mary Creagh: Can you expand on how the EU's position would be weakened in, for example, the Nagoya process?

Professor Bruyninckx: I think in several ways. Of course, the UK is a big member state that historically has been a strong partner in, for example, multilateral negotiations. It is also clear that the UK is one of the greats at diplomacy on this planet, so if we do international negotiations, not having the support of UK diplomacy would weaken the EU position overall. As a big member state, the UK has a particular inroad and even an influence

on parts of the world that perhaps other member states do not have, so on a global level I do think it would weaken the EU position, and the other way around.

Q89 Mary Creagh: Does anyone have anything to add?

Pieter de Pous: The question of course also depends very much on what the relationship would be like after you had left—for example, if you were to become like a Switzerland or a Norway and implement all the policies that we agree without deciding on them at all. A major source of concern is the precedent of fact, but that goes much broader than the environmental field. Once the UK leaves, there is a concern that lots of other countries will start to think, “Well, maybe that’s something for us as well.”

Q90 Mary Creagh: So you think we could start a chain reaction of other countries exiting.

Pieter de Pous: That is a concern that a lot of people have, but it is not specific to the environmental field. It is a more general concern.

Q91 Geraint Davies: Following directly on from that, if Britain’s ambition was to maximise the prospect of the Paris agreements being fulfilled globally, would you agree that the best strategy for doing that would be to take leadership in Europe so that, as a bigger player in the global environment, Europe can in turn influence the world? The alternative scenario would be us pulling out and perhaps leading to the disintegration of Europe, which would have the opposite effect. What would you see as our best strategy on delivering Paris through being in Europe or otherwise?

Professor Bruyninckx: It is clear that the EU, with 28 member states and in a binding fashion, has been by far the leader in climate policy instrument development and also delivery. Since 1990, the EU economy grew by 46% and the emissions are now at -23%, so we have demonstrated that decoupling in an absolute way is actually possible. We have been leaders in developing tools and technologies. A recent study illustrates quite nicely that where we are stronger than north America and Asia—in terms of patents, innovation and development of new technologies—is exactly in those sectors. Now that the playing field has been levelled on a global scale—because everybody now has to do climate policy—jointly in Europe we have by far the strongest network in knowledge, but also in policy instruments and in industrial and research capacity to make use of this global market that is opening up and the need for that type of technology.

Q92 Geraint Davies: And Britain is a driver in keeping EU leadership on a global scale?

Professor Bruyninckx: The UK, throughout this whole process on the climate negotiations, has been a solid partner, yes. You could go into the details of the different components of the climate policy, the energy debate and the renewables, and all of that, but on the fundamentals of binding it globally and in line with the science, the UK has been a solid partner in this.

Martin Nesbit: It is certainly true, as Hans Bruyninckx explained, that the UK has been one of the member states that has been most keen on climate ambition. That has been true since the politician after whom this room is named, and it remains more or less true now. Were you to have the UK departing, the balance of climate ambition amongst the remaining 27 member states would shift away from climate ambition and there would be more chance of blocking minorities on legislation to influence some of the Paris objectives. Certainly that would be a concern. I would say that the EU has been an interesting microcosm demonstrating the potential for economies to deliver together on environment ambitions.

Moving away from climate, I would say that the UK tends to have a reputation as a rather scratchy, resistant, obstructive and awkward negotiator, usually focusing on how the legislation is going to be implemented, and sometimes genuinely helping to ensure that those implementation questions are addressed during the negotiation of the legislation—I have to say that, because that is what I was doing for much of my life. Were the UK to be outside the EU, you would end up in a situation where the UK was required to implement legislation without having that sometimes quite healthy influence of focusing on implementation during the writing of the legislation.

Chair: Mr Nesbit, I have to point out as a former negotiator—and I do recall your involvement as well—that we were never scratchy or awkward. We were gorgeous and lovely—or tidy, as they say in Wales.

Q93 Mr Lilley: There are two aspects of addressing any environmental policy. One is: is it a good policy in terms of its effectiveness and cost? The other is: who should make it? There is the principle of subsidiarity in Europe, which implies that environmental policy should be made at the European level only if there is a cross-border aspect. Are there any European environmental directives or regulations which, on that basis, could be returned—even though they are perfectly good policies—to member states?

Pieter de Pous: We almost had a soil policy, but we didn't and one of the reasons was exactly the argument you made. We think that it could be seen in a bit more of a broader sense, looking at the function of an issue such as soil protection in the broader context of food security, biodiversity, ecosystem services, and there is a case for that. The question is debated on a case-by-case basis, and all the policies that finally saw the light of day and were agreed went through that debate. I couldn't give you an example of—what sometimes happens is that policies develop further. In the waste field, there was a directive that dealt with a certain aspect of batteries, which is being addressed in a more general waste framework directive, so there are examples of where things move on and become obsolete and may be taken off the books.

Professor Bruyninckx: My view is that policy is usually a long, complex process of setting a norm and then implementation. The question is more relevant to the level at which part of a policy best takes place. That is why we speak about multi-level implementation and multi-level governance in the environment and in climate. For some issues, that is the urban setting; for others, it might be regional or Alpine. There are many approaches

The same goes for multi-actor issues. There is a debate about public, private and civil society. A more sophisticated approach to what should happen at what level and with what combination of actors is definitely worth having, not only at the European level but in many national settings. I think we need a more sophisticated approach than a national or European dichotomy.

Martin Nesbit: I would say that there is a broad spectrum. There are certainly a number of areas that are clearly less well suited to European legislation. They tend to be those areas where European legislation has had least impact. There is some legislation on noise, but it tends not to be binding and constraining. There is also relatively little European intervention in the land use planning systems of individual member states.

Although the cross-border context might not be particularly relevant to the environmental medium, I would suggest that competition concerns will be relevant in some cases. In order to be able to make progress towards the sorts of environmental standards that populations across the EU would like to see, it will be easier for member states to do that together rather than separately and individually. It is not necessarily an argument that will wash with everybody, but it is one of the reasons for a number of the areas in environmental legislation.

The discussion that we were having earlier about gold-plating demonstrates some of the difficulties that member states face in making further environmental progress. In a sense, the opportunity to be more ambitious in environmental terms is precisely one of those flexibilities that the European system allows the UK, yet the UK voluntarily decides that it does not want to make use of that flexibility. Essentially, it is making that decision because it is concerned, I guess, about the impact on the competitiveness of its businesses. In a sense, that demonstrates that concerns about business competitiveness can hold back environmental progress.

Q94 Mr Lilley: You obviously know far more about what environmental legislation exists at a European level than I do. I am very ignorant about this, but I have heard of water standards. What is the cross-border reasoning for water standards being uniform across Europe, rather than each country deciding its own water standards? The same goes for beach standards. There are no British rivers that pass through other countries, so why should river quality be determined supra-nationally rather than nationally? What about the mineral waste directive—slag heaps and all that? I don't want slag heaps, and I am sure the mineral waste directive is something we would transpose into British law even if it did not exist in European law, but I don't see why we have any interest in other countries' mineral waste directives. Those are just a few examples that spring to my mind where I can't see any cross-border reason.

Chair: There's your challenge.

Pieter de Pous: The rest of Europe is, of course, not an island, and most European countries do share cross-border river basins. A lot of these countries are the ones demanding the action. When, about 15 years ago, the Elbe river was flooding, the German Chancellor went to Brussels and said, "I want a floods directive to make sure the Czechs do their bit of the work in flood defences."

Mr Lilley: I understand that.

Pieter de Pous: So the fact you can't address water problems in a localised manner was one of the reasons. We have tried it, actually, before. We had the water—

Q95 Mr Lilley: But we could in the UK, couldn't we?

Pieter de Pous: You could, as the UK.

Mary Creagh: Can I come in?

Mr Lilley: Sorry, I wasn't asking you the question.

Mary Creagh: Sorry, okay.

Chair: Hold back.

Pieter de Pous: The other reason why a lot of things are being done Europe-wide is simply the single market and the fact that we are creating a single market whereby—

Q96 Mr Lilley: Water standards, the mineral waste directive, beaches?

Pieter de Pous: Pollutants, products. The pollution of beaches comes from everywhere. Plastic waste—a major pollutant of beaches—comes from everywhere, and if you want to start making a dent in that—

Q97 Mr Lilley: So how do we control it, then, if it comes from elsewhere?

Pieter de Pous: Well, that's where, in the end, you need a global solution, but the EU has the economic weight and economies of scale so that it actually makes a difference already if the EU does something. Secondly, it has an impact on the rest of the world. The EU is a global standards setter, unlike, for example, the US. So 70% of the car industry in the world follows EU standards and rules, not the US. Now, that is before Volkswagen happened, and we will have to see how people react to that, but that is evidence for the fact that the EU's policies and standards matter and make a difference. Individual member states—even Germany, or the UK of course—would not have that influence.

Mr Lilley: So you can't really think of any cross-border reasons for most of these directives.

Q98 Chair: Maybe I can flip it around. Is there an area the EU is currently involved with that could actually be tackled simply on a member state basis?

Professor Bruyninckx: If you pose the question in that way, there could be many areas, but the question is, is that the smartest choice? Is it the smartest choice for the environment? Is it the smartest choice for the economy, in terms of creating a level playing field for products and services? Is it the smartest choice in terms of building a knowledge

network in Europe? Does it position us in the best way in a globalising world, where Europe is increasingly a small portion of that world? You could make all sorts of choices, but you should frame the question as, where are the costs and where are the benefits of those choices? Those are terribly important. There is a reason why countries like Norway follow most of our legislation—because they see a lot of benefits. Actually, they are among the best implementers of our legislation. Could they do it in another way? Yes, they could, but they see the benefits of this.

Chair: Thank you. We are going to move on. Previously today, we have heard praise for the Picts and the Celts around the room. John, over to you.

Q99 John Mc Nally: Thanks for that, Chair. I have to say thanks very much to the two panels. Their information has been enlightening, and I have been very impressed with it. You probably didn't know you had another job as a futurologist. As you heard, we mentioned how the Picts and the Celts are doing. As you are aware, in recent decades the UK has become a lot more devolved in its structure, with legislation and legislators in Scotland and Wales. How do you think this restructuring of the legislation in the UK has affected the implementation and evaluation of EU policies? What effect has it had or could it have? Mr Nesbit, would you like to go first?

Martin Nesbit: No, but I will.

Chair: You do have some experience of this from your previous background.

Martin Nesbit: Pre-devolution, there was an existing process where the Scotland Office, Wales Office and Northern Ireland Office were responsible for implementation. Clearly there was a fairly significant element of democratic deficit in that. We have now moved to a much more logical system. It is now easier to ensure that the challenges faced, particularly in the highlands and islands of Scotland, are addressed at an early stage in negotiations on legislation, because there is that level of political engagement from the devolved Administrations.

To be honest, I have not seen that much evidence of a particular process of learning from the different approaches to implementation within the devolved Administrations, because in a sense it is simply adding to the number of examples of different approaches to implementation that you already have at member state level across the rest of the EU.

The “Make it Work” project that I referred to earlier recently had an interesting meeting in Scotland hosted by SEPA. That was a valuable opportunity to hear about the Scottish approach to implementation of a range of environmental legislation. Authorities talking to each other and exchanging views is very much part of the normal process of implementation.

Q100 John Mc Nally: I do think that we can learn from each other, as was mentioned earlier. That is of great value. Last week we had a debate here on ancient trees and woodlands. We are doing some things in Scotland that are different from in England, and we are learning from one another.

Professor Bruyninckx: Of course, the UK is not the only country in which that is taking place. My own country, Belgium, is probably the strongest case of devolved competences, but Spain and Germany are other examples. The sort of general devolution was followed by the competences that came with it. There was not necessarily an environmental reason for it to be devolved—it follows the political devolution overall.

From working with different devolved entities in Europe, it is clear that this is partially seen as a response to more adapted approaches to implementation and policy setting. At the same time, we see a learning from that. If you look at the four entities of the UK that are part of the EPA network, it is clear that they come with rather different and inspiring examples, and that is enriching for the network. As a consequence of that, there is probably more innovation in UK policies overall.

Q101 John Mc Nally: Do you think the devolved Administrations can react more quickly to the relevant areas? Is that what you are saying?

Professor Bruyninckx: I would have to see serious research to answer the question of whether they do it more quickly. I have the impression that they focus on things that are probably more relevant, either on environment issues proper or on a sort of broader governmental approach. For example, the Welsh approach to wellbeing and sustainability in its environment policies is an overarching governmental choice that is reflected in the environment. Scotland has been paying a lot of attention to the evaluation of ecosystems in its approach. That is an overall approach to how you value public intervention and public capital. These different approaches are reflected in the environmental policies that we see. In a way, that is enriching to the debate.

Chair: I want to carry on, but Professor Bruyninckx, you have to leave. I am doing my best job of chairing.

Professor Bruyninckx: Okay. I hope that has to do with my flight.

Chair: Indeed; you have to leave, and you do so with our best wishes.

Professor Bruyninckx: I am very happy that you are the guardian of my time.

Chair: Thank you very much for your time. All the best for your journey back. If we do have anything else to ask you, we may follow up with you in some email correspondence.

Professor Bruyninckx: Absolutely, or video link—anything.

Q102 Chair: May I ask our other witnesses, are you okay to stay for another 15 or 20 minutes? Yes? Thank you. Pieter, was there anything you wanted to add to John's point before I bring Geraint in briefly?

Pieter de Pous: The question of how you divide your competence, of course, is mostly a national issue. One complication it creates is that the authorities that implement policies are not the ones negotiating the policies, and one effect you see in Brussels is that the regions that are not at the negotiating table invest a lot in very big representations. The representation of Bavaria is in the biggest mini-castle, right next to the Parliaments, so they need to invest quite a bit in that. There are drawbacks there.

The water framework directive is widely seen as a Scottish directive, because it seems to be working so well in Scotland.

Q103 Geraint Davies: A point was made previously about devolving power back to nation states. Do you agree that devolved Administrations and nation states have so much flexibility over how to implement things, or indeed how to show leadership or innovation in areas such as flood risk management, that that balances out the people who want to leave Europe so that we can decide our own way of doing things? In a way, we already have a great deal of flexibility on the ground to do things in our own way.

Pieter de Pous: If there would be more flexibility after you have—

Geraint Davies: No, I am just asking whether you agree that the variation in the way flood risk management, for example, is done between Scotland, England and Wales, let alone across Europe, shows that there is a lot of flexibility in the system and that people who say it is all imposed on us by the Commission are in fact getting the wrong idea.

Chair: Would you like to answer, Mr Nesbit?

Martin Nesbit: While Pieter is thinking, I will say that you had an interesting piece of written evidence from, I think, someone at Dundee University, whose name escapes me, pointing to the fact that you do have this different approach to implementation in different devolved Administrations, but that the underpinning of EU legislation is critical to ensuring that there is some commonality in the results aimed at by the different parts of the UK, and expressing concern about a situation where you did not have that underpinning at European level. That is one thing you might want to look at.

Q104 Chair: My observation is that there is indeed flexibility among devolved nations—not simply within the UK, but elsewhere with devolved governance—over the interpretation of various framework directives. That exists not only at national level—in our example, for the UK—but in terms of what Scotland does and what Wales does. Whether it involves our approach to uplands or the way in which we implement measures on air pollution in individual cities and regions, that flexibility does exist—some of that flexibility exists.

Martin Nesbit: It is not so much flexibility around interpretation; it is flexibility around the means to achieve a particular set of objectives and ensuring that that can be done in the way that makes most sense in the regional circumstances.

Q105 Chair: But you always have to track it back up to what the directive is stipulating you should be aiming for.

Pieter de Pous: Yes. I agree with you that there is a lot of flexibility. One difficulty is that most member states like to have a lot of flexibility for themselves, but not too much for the neighbours. Air pollution is a classic case: a lot of air pollution comes into the UK from France, but the UK sends a lot on to the Netherlands, and the Netherlands sends it on—it goes in both directions, depending on the way the wind blows. If you want to do something about that, you of course need some stringency in terms of outcome. I am Dutch myself and I know the Dutch situation reasonably well, and one difference between the Dutch system and the EU system is that in the Netherlands it is more about effort—as long as we all try, that is good enough—whereas in the EU system you do need to deliver at the end of the day.

The debate is about whether you set very stringent outcome targets and then everyone can decide themselves how they will achieve them, or do you have more stringent procedural requirements, measures and so on? That is like two communicating barrels. If you have more stringency on the target, you can be more flexible on the measures. If you are very unclear about your targets, you might need to be more clear about the measures.

Chair: Which brings us quite neatly on to your point about implementation, Luke.

Q106 Luke Hall: Yes. You talked a bit earlier about how good the EU is at ensuring that legislation is in place and in force. Do you think there are any specific steps that can be taken here in the UK to improve implementation and enforcement of EU policies in the UK?

Martin Nesbit: I would certainly say that there is scope for doing that, and there is a lot of effort in DEFRA and DECC going into looking at how implementation can be improved—for example, how you can reduce the quantity of guidance that you expect businesses to read and digest before working out how to comply with legislation. The NFU was saying earlier that providing people with too much information can be a constraint on their making the sorts of decisions that you want them to reach.

Certainly there is scope for improving how we go about implementation, and for continuing to try to find the best ways of doing that. There is also the potential for making much better use of the digitisation of Government services to deliver that, and making much better public use of the information contained within systems on compliance and enforcement at individual installation level. I know that there is some very interesting experience of the Irish Environmental Protection Agency introducing a new IT system bringing together all their environmental permitting, and making that information publicly available. That appears to have been successful. On the other hand, this stuff takes a lot of time, effort and often public investment, at a time of restraints within the UK and most other countries. *[Interruption.]* I hope that noise isn't an indication of budgetary constraints affecting Parliaments.

Chair: My apologies for that noise on the speakers. You did well to keep your train of thought. Carry on.

Martin Nesbit: It takes time, people and money.

Pieter de Pous: Member states have the main responsibility for making sure that laws are enforced; the Commission needs to make sure it then does its part. As we discussed earlier, there is a lot more that needs to be done apart from putting resources in it, because there is no way around it: it doesn't happen by itself. Laws are as effective as the chance of their being controlled. The farming sector is actually one of the sectors with the least controls, compared with most other sectors.

One interesting thing is the role of new technologies. The kind of technologies you see in precision farming, for example, could be used for enforcement purposes as well, but also for other activities in other sectors. There is a lot to be improved. On whether we let member states or the Commission do it, we are open to both options as long as it gets done.

Chair: I will bring Mary in on a specific question.

Q107 Mary Creagh: The EU recently adopted a new circular economy package—that is what our brief says. Perhaps we are wrong. In your opinion, will the adoption of this package be a force for good—for better environmental protection? Can you say something about the timescales for implementation and any early indications that you have about how different member states may be choosing to implement it, or is it too early to tell?

Chair: And if we are missing a contribution from Professor Bruyninckx now, by all means tell us.

Martin Nesbit: Pieter probably knows much more about the package than I do, but at the moment it is a proposal that has been put on the table by the Commission.

Mary Creagh: Oh, so it hasn't been adopted.

Martin Nesbit: It is now starting the process of negotiation in the Council of Ministers.

Mary Creagh: So it has got to go through all its stages?

Martin Nesbit: It will take some time before it is adopted, if it is adopted as a piece of legislation. I'm afraid I'm not the expert on the detail.

Pieter de Pous: I can say a couple of things about it. First, a structured economy package was proposed in 2014, and what happened with it—the fact that it was withdrawn and re-tabled—tells a very interesting story about the new Commission, its political priorities and how it has adjusted them to events. I think the Commission underestimated the general level of support for the package, not only from environment NGOs but sectors of business too.

The bad news is that the Commission wasted a whole year in basically recycling a policy proposal. We are one year ahead, with not many fundamental differences between the two. That doesn't look good; it is as simple as that. On the other hand, the Commission has looked very deeply into the matter now. This is one of the few areas in which the Commission has been changing its political priorities and moving them away from, "These are the 10 things we are going to do, and the rest we will stop." The circular economy is an issue that has made its way into the Commission's thinking. It now sees it as part of the solution, coming back to jobs and growth.

There have been benefits from the whole exercise, even though it does not look very good for the EU as such. On the substance of the proposal, it is a proposal for new recycling targets in municipal solid waste and a number of other waste streams, which makes a lot of sense. It is slightly less than the original one, but it is at a level that is achievable that cities and regions have been able to achieve in the past. It will be subject to negotiations now. That is going to start now. There is a whole other element to the package, which is what they call the action plan. Again, it is a recycling of things that the Commission would have done anyway, including setting standards for water reuse, which is more of an industrial policy. Instead of putting your waste water into the river, taking it out and cleaning it, you shorten the circle by cleaning the waste water without putting it into the river and reusing it straight away, so you have gains in that respect.

There are things linked to best available techniques, but the really interesting bit—this is sometimes another subject of controversy—is the whole eco-design set of measures, such as the work done around vacuum cleaners, shower heads, et cetera, and trying to use those kinds of instruments to look at aspects other than energy without changing the functionality and effectiveness of the products. It is particularly about looking at repairability and planned obsolescence.

Those are the kinds of things that the Commission is looking into, but it is only looking into them. It still needs to come forward with new proposals, and, again, that will depend on what member states think about it.

Q108 Geraint Davies: What changes do you see in the environment in Europe, due to both climate change and changes in urban development, and how do you see them as drivers for new environmental policy? You have 10 seconds.

Pieter de Pous: There are a number of political drivers. There is the Paris agreement and the New York agenda—"Transforming our world: the 2030 Agenda for Sustainable Development". There are a number of global commitments. Another driver is resource scarcity and the prices of certain commodities as competition gets more severe. There are more and more scientific insights into how the environment is influencing what is going on around the world.

Finally, there is technology and the need to catch up with technological innovations. Every new technology brings in new risks that you don't know about because the technology is new and does new things that we are not aware of. That requires new ways of risk assessment, risk

management and, of course, regulatory measures. Nanotechnology is a clear example. We have been massively subsidising research into nano-materials. We have been very slow in figuring out whether there is a nice way of assessing any new risk coming from those materials, but the fact that there is technological development does mean that there is a need to look into these things.

Martin Nesbit: That's a much better answer than I have. I think there is a reasonably mature body of legislation on environmental media, and the focus will now increasingly shift towards the quantum of our society's impact on the environment and the quantum of our use of resources and our total greenhouse gas emissions. There will not be so much focus on specific local environmental outcomes but more on the overall impact of the European economy.

Q109 Chair: May I ask you to look ahead a little bit? Based on what has happened with environmental policy over the last decade within Europe, which includes pressures to do with better regulation, the streamlining of decision making, greater involvement of member states and all of that, and the wider context of pressures on the EU itself, where do you see environmental policy at EU level going five years or 10 years hence? What will be the role of member states within that? What is going to be different?

Pieter de Pous: This is back to being a futurologist. I think that one of the reasons for the way in which the Commission operated in the last year—effectively deprioritising the environment—was an immediate reaction, “Okay, we have to fix the economy,” so it went back to the old-fashioned idea that the economy and the environment are mutually exclusive: “It is mostly a drag and a liability, so let's not do that.” I think there are some good reasons why it may not remain like that. The international commitments we talked about earlier are one reason, and the fact that a lot of the issues we are addressing are part of a bigger picture is another. The kinds of political instabilities that we have are very much linked to competition for resources and the impact of climate change. Syria suffered a record drought, which of course was not the only reason but was a factor that contributed to everything else that happened there.

A realisation of the need still to keep a big picture perspective and to remain committed to the global agenda for change that we agreed to in New York can be a reason why things may change. It is not very clear that the Commission is going to do it. In fact, in early January my organisation will publish a revised set of priorities to sort of do it for them, but we hope to see a debate going in that direction. The main uncertainty in the next six months, of course, is what will come out of the renegotiations that Mr Cameron will have with the rest of the member states. My organisation reacted to a proposal from Chancellor Osborne to introduce EU-wide deregulation targets, cutting red tape. That has been in place in the UK for a number of years, but it doesn't apply to the implementation of EU rules. It is the same in a number of other countries. The moment we introduce that at EU level, it will be a completely different story. Whether that proposal will be taken up, and in what form, will have huge implications, and not in a good way—I was trying to be a bit more optimistic.

Q110 Chair: Better regulation is not compatible with good environmental protection?

Pieter de Pous: It depends how you do it. I think there are some good intentions behind better regulation—the effort to be more evidence-based, to be doing stakeholder consultations, et cetera—but the way that the UK has gone about it, for example, raises issues and makes it go very far. The way that the agenda evolves matters enormously.

Chair: Right. It is the way you do it.

Geraint Davies: It is deregulation.

Q111 Chair: Deregulation. Mr Nesbit, what will EU environmental policy look like in five years or 10 years?

Martin Nesbit: I think that the intention within the current Commission to ensure that they take a very corporate approach to the development of new proposals, and to limit the number of proposals that are tabled, will continue to be interesting. I would say that a good impact assessment process can be enormously helpful, provided it is used as an aid to political decision making, rather than as a replacement for it. Cost-benefit assessment is an imperfect science, and it won't get you to a tick or cross answer—you still need that process of political decision making.

The other element in this that matters is that quite often in discussions, both at member state level and at European level, the people engaging most on the industry side of the debate are the largest incumbent players with potentially the most to lose. They often have very important and entirely justifiable points to make, but they are not the whole picture in terms of the impact on the European economy. You tend not to focus on the smaller players with new products and innovations that are attempting to change the way that the UK and the EU economy functions. I hope to see the Commission focus much more on facilitating and encouraging that innovation and on ensuring that the interests of those players are reflected in the decision-making process, too.

Chair: Very good. Thank you both very much. Before we close, is there anything that we haven't covered on which you would like to add something? No. Thank you very much. I thank Committee members, too. This was a very interesting session. Thank you very much indeed. If there is anything else that you subsequently consider would be worth putting in front of us, please write to us and keep in touch.