

Welsh Affairs Committee

Oral evidence: Brexit: Agriculture, Trade and the Repatriation of Powers, HC 402

Tuesday 24 October 2017

Ordered by the House of Commons to be published on 24 October 2017.

[Watch the meeting](#)

Members present: David T. C. Davies (Chair); Tonia Antoniazzi; Chris Davies; Geraint Davies; Glyn Davies, Paul Flynn; Ben Lake; Anna McMorris; Liz Saville Roberts.

Questions 40 - 92

Witnesses

I: Dr Jo Hunt, Reader in Law, Cardiff University, Dr Viviane Gravey, Lecturer, Queen's University Belfast and Dr Nerys Llewelyn Jones, Managing Partner, Agri Advisor Legal LLP.

Examination of witnesses

Witnesses: Dr Jo Hunt, Dr Viviane Gravey, and Dr Nerys Llewelyn Jones

Chair: May I welcome Dr Hunt, Dr Gravey and Dr Llewelyn Jones? Thank you, all three of you, very much indeed for coming along this afternoon. May I ask Ms Tonia Antoniazzi to begin the questions?

Q40 **Tonia Antoniazzi:** We are here today to focus on the European Union (Withdrawal) Bill's impact on the Welsh devolution settlement. Could you start by briefly highlighting which provisions in the Bill you think are necessary, followed by the areas in which it falls short?

Dr Gravey: The Withdrawal Bill is needed to address three major questions. What rules will be in place as the UK exits, or the question of legal certainty and making sure that we know the rules of the game? Who will be competent to revise these rules? How will revision work and who will be doing this revision? If you look at it from that side, I think the Withdrawal Bill does do the trick: it does tell us who will be in charge and what the rules will be.

However, there are two broad sets of concerns around the Bill. The first one falls under the idea of a power grab, and the other about the idea of a problem with copy-pasting and the risk of what has been called "zombie legislation" by the Environmental Audit Committee. The power grab issue is around the power of the devolved powers—whether Westminster is keeping too much power—and then there is also the question of power grabs between the Executive and Legislative branch. Is the Executive, the Government, getting too much power from the Legislative branch? I am sure the other respondents here will have much to say on this.

As I come from an environmental and agricultural policy background, I am also very interested in the other area of concern, which is the copy-pasting of EU environmental and agricultural law. Is it being done well? Are we missing out? Are there going to be gaps in that exercise? Here there are concerns in terms of potential gaps in terms of principles, for example, that are not copy-pasted across—the idea of the precautionary principle, the idea of the "polluter pays" principle—that may be falling down and the idea that if there is any error in how the UK is currently applying EU law, these errors will be kept on and there will be no way of checking back against the original piece of EU legislation.

Finally, there is the idea of the governance gap. There is currently a huge amount of governance structure in the EU—the role of the Commission, the role of the European Court of Justice. There have been clear concerns that in many ways the Bill as it stands allows a Minister to decide which public authority should be in charge of these previous EU functions and whether that function should be replaced, abolished or otherwise modified. This is very important, because if a reporting obligation under an EU directive is just abolished, then in terms of citizens knowing, for example, what the quality of their water is, there can be a very, very big



HOUSE OF COMMONS

gap. There are clear concerns by many NGOs, for example, that it would allow Ministers basically to mark their own homework. That would be my key concern.

Dr Hunt: If I can pick up on some of the constitutional issues and then perhaps more specialist input from Nerys on the agriculture side, just to reflect on what we have heard, this Withdrawal Bill is supposed to be about getting us in a position for post-Brexit life and smoothing the way out of membership of the European Union. It is supposed to be, to some extent, a temporary fix. There is a lot in here that is framed in terms of being transitional and we see the various sunset clauses and things like that. Of course when we come to the devolution clauses, then there is nothing on the face of the Bill that guarantees that there is anything transitional about it and there is nothing that guarantees that these are holding arrangements and that they will be just that.

There is the concern that this is in effect setting a new constitutional framework and a new constitutional ordering for the UK that sees a recentralising of powers. Just as we have the Wales Act provisions coming into force next spring around moving to a reserved powers model, this looks potentially like something that is going to take us back to a conferred powers model. Clause 11 is effectively taking things back and they can then be returned to the devolveds as the decisions are taken that we do not need commonality and we do not need common rules in those particular areas. You can see the rationale for clause 11. You can understand it if you come from the perspective of these common frameworks and understand what it is trying to achieve.

If we are trying to steady the ship and make sure there is continuity and a smooth transition as we come out of the European Union, then you can see why there is a suggestion that we should restrict the opportunity for those common frameworks that we have inherited from EU, which we have at the moment, across policy areas to underpin our internal market within the UK as a consequence of EU law and common frameworks, whether that is in employment law, agricultural law or environmental law. There should not be the capacity to unpick them yet. It is only when there is an agreement later that we do not need to have commonality that there can then be that shift back and powers can be opened up, they can be unlocked in those areas.

What we have is a situation where the devolved Administrations, the devolved legislatures, cannot change these things without consent elsewhere; they are dependent on the consent. If there is a decision from Westminster to change these common frameworks—if we go down the Act of Parliament route—there will be input for the devolveds through the Sewel Convention, for whatever that is worth. But if there is any attempt to change these common frameworks through ministerial powers, there are no guarantees and no protections. Some of the concerns we have around the ministerial powers we have within the legislation are that the use of those powers by the devolveds is limited and subject to all sorts of



HOUSE OF COMMONS

constraints, but the use of those powers in devolved areas by UK Ministers—Whitehall Ministers—are not so constrained. There is that general concern about the legacy that this supposed transitional holding arrangement may have for the future.

Dr Llewelyn Jones: My concern is about the bits that are not dealt with within the Withdrawal Bill and the proposed Act that is going to be put in place. For example, in terms of directives, the actual directives themselves are not going to be transposed into our legislation, it will be the legislation that has been already implemented within that region. To give you an example, in agriculture the actual nitrates directive itself will not be part of our law. It will be the implementation or the implemented regulations that have already been part of our law that will be with us. That causes us definitional issues going forward. There will be issues in terms of how some of these aspects will be interpreted going forward, so I have a concern in relation to that.

My other concern is of course we are not adopting the EU treaty that contains all these principles and has that framework element to it, in terms of how things work at a European level. From a common agricultural policy point of view, and from a common agricultural framework going forward, some of the fundamental aspects of that common agricultural policy at a European level are in that treaty—they are part of that—and at the moment there is not a mechanism to put that in place. We will probably talk about frameworks going forward, and that is obviously a key element as to what we need to do. Practically those are two things, from a legal point of view, that are missing in terms of what this Withdrawal Bill provides as it stands at the moment.

From a Welsh point of view, obviously there are concerns in relation to section 108 of the Government of Wales Act as amended by the Bill and the competencies provided to the Assembly to modify EU retained law. That obviously has significant impacts for us in Wales and from an agricultural point of view, in terms of farming in Wales going forward. There are various inconsistencies there. For example, paragraph 1 of schedule 2 first of all gives power to the devolved regions to deal with it in the first subsection and in the second subsection it says no, it has to be jointly acting with the Minister of the Crown. There are inconsistencies within the Bill itself as well as to what powers are being given and what the position is. Clarity in terms of how that will work in practice and what that means in terms of creating new legislation and policy is quite important.

- Q41 **Chair:** Can I just pin something down? It is correct to say, is it not, that there is nothing that the Assembly can do now that is being taken away from it. I think it was you, Dr Hunt, who talked about returning things. The point is though, is it not, that there is no power that is being taken away from the Assembly at the moment. It is rules that are currently set by Brussels that will be set by London.



Dr Hunt: The context in which these powers are being exercised is changing fundamentally. It is vital we recognise that. At the moment we have this multi-level system of governance and we have the devolveds operating within that. It is not a top-down imposition of rules necessarily; there are those participatory processes for making those rules.

Q42 **Chair:** What you are suggesting then is that Wales would have more influence over how those rules are set in Brussels than it would over London?

Dr Hunt: There is a regional dimension. There is respect for the principle of subsidiarity that is constitutionally written through EU governance. Wales alone, within 28 member states, may not have a very loud voice, but when it stands with the other regions and the regional dimension—whether that is writing in a regional dimension to legislation and creating the space for that—then there are structures, processes and principles that are at play within a EU framework that are not secured and are not guaranteed as we go forward.

Q43 **Chair:** In a nutshell, what you are saying is that Wales would have a greater influence working with other regions—that Wales has a greater influence over what goes on in Brussels than it does over what goes on in London.

Dr Hunt: There are stronger guarantees for the regional and devolved voice within governance structures.

Chair: That is your opinion, thank you for that.

Q44 **Glyn Davies:** Referring to a comment Dr Hunt made about the permanence of the position that would follow the introduction of the Bill—we are probably having a discussion about the sunset clause later on in the session, so I do not want to go into that—how do you think that could be dealt with? Clearly if the legislation got through, it involves the transfer to the UK Government. Your concern seemed to be that this might not be a temporary transfer; this may well be permanent. That seemed to be the thrust of it. I think that is what you are suggesting. What are you suggesting are ways of dealing with that? I am reluctant to talk about the sunset clause, because we want to talk about that later and another member is going to bring that up, but there must be some reason raised in your mind in which one can deal with that and stop it being permanent.

Dr Hunt: The way this is presented at the moment is that it relies on a great deal of trust going forward.

Glyn Davies: It does, yes.

Dr Hunt: At the moment, it seems to be demanding trust on the part of the devolveds without a lot of guarantee that it is flowing back. We could just turn it on its head and remove clause 11 and trust the devolveds to operate in such a way, using the structures we already have and using the process of legislative consent. We always have the power of



HOUSE OF COMMONS

Westminster parliamentary sovereignty to move in if that is necessary. Either we just remove it and operate that way or we maintain clause 11. As you say, sunset clauses—whether they would have particular use in this area, and there are some political concerns about how they might not be particularly useful here—would at least recognise that the default position is one of devolved powers rather than of re-centralised powers.

The other thing we could do is that there is a practice within the Welsh Assembly of statutory instrument consent motions. They are within the practices of the Assembly. There are situations where the statutory interventions of UK Ministers have to be consented to. It might be that it is not known that is a practice that has taken place in Wales and only the Welsh Assembly is very aware of it. However, why are those things not being written into this legislation? When we look at the exercise of ministerial powers within devolved areas around these frameworks, there are some opportunities for scrutiny and control over those. There are various ways we could be involving, incorporating and creating inter-governmental and inter-parliamentary working around these things.

Q45 Liz Saville Roberts: I know we are in uncharted territory with regards article 50, but a third of the time that we know is allowed for negotiations has passed. What is your view on the time that remains to us, that we know of, and what needs to be done? Is the Government likely to get everything lined up and ready to go?

Dr Llewelyn Jones: We are unlikely to be in a position where there will be a deal at the end of that period of time. We have to be in a position as an industry to be able to prepare for that and to have the information available to be able to prepare for that. A lot of the discussion should be more focused on what the international dimension is here. At the end of the day we are going to be working within an international trading market. Information about what that means, the implications of that and how that works in practice needs to be passed down to those who will be directly affected by this from a trading point of view.

If you are asking me in terms of preparation, we should be looking at what frameworks we need to be putting in place in the context of that international legislation and then looking at how you can facilitate people to put their businesses in a position that will allow them to prepare for that adequately.

Q46 Chris Davies: This goes back to Dr Hunt's point. I was very interested to hear how you arrived at your conclusion that Wales would have more power and influence in the EU than it does over the Westminster Government. As far as I was aware—tell me if I am incorrect on this—it is only Belgium that has three regions that have parity with the national Government there. Therefore they have parity—a full share—in the voting system. In Britain that does not happen. Therefore why do you arrive at the conclusion that Wales would have more power in the EU?



HOUSE OF COMMONS

Dr Gravey: The CAP is a very good example of this. It is a policy that has to fit all kinds of agriculture across a whole continent. That means Wales can work with other regions with a similar type of agriculture to get the voice of sheep farming heard, for example, in reforms. Wales has been quite successful in finding allies across the continent and getting that voice heard, as has Scotland. The First Minister of Wales, talking to the House of Lords two years back, said this quote—which I found fascinating—that he felt it would be disastrous for Welsh farmers if the CAP was replaced with something run from London.

Chris Davies: That is the First Minister's comment?

Dr Gravey: The First Minister of Wales.

Chris Davies: Tell us something we do not know.

Dr Gravey: "I have dealt with Defra and its impression of farming is large arable farms, large units. It does not really get, for example, sheep farming". What he says is that, "From our point of view it is much easier for us to be able to be part of a larger system where different types of farming are more recognised".

A key point is that farmers in Wales, Scotland and Northern Ireland are worried that perhaps their specific types of farming are better recognised in the EU system, where they also happen in other countries, than within the UK. That is something that Defra has to reassure them on.

Dr Hunt: It does not come down to necessarily a vote for or a vote against something. When you are looking at how power is exercised, there are all forms of soft power, co-ordinating with other regions and other states that might have similar interests. We know we have a common agricultural policy today that, to some extent, fits the interests of Welsh sheep farmers perhaps because we have a strong French lobby. If this was simply taking place within the UK, it would look very different and perhaps we would have rolled back subsidies many, many years ago. It is part of an overarching system.

On any particular issue we do not know how politically things might fall, but the point I want to make is that as a system, as a structure, the EU system affords particular constitutional guarantees for the position of regional and local Administrations and governance in a way that we do not have such guarantees anchored and secured within our own system. We have the principle of subsidiarity, so now there is a system where decisions are taken at the lowest most effective level. That is constitutionally protected within the system. When legislation is being adopted by the European Union, it has to make the case that subsidiarity is being complied with.

We know that over the past 10 years we have seen a marked reduction in the amount of legislative output from the European Union, as things like subsidiarity and proportionality checks have really kicked in for what it does and how it does it. They have a role for national Parliaments and



HOUSE OF COMMONS

also devolved Parliaments for participating in that process of reviewing subsidiarity. There are formal channels and formal structures that can be used, but there is a general orientation to accommodating that diversity.

With something like genetic modification, at the moment there is a very strong regional campaign to move together to create carve-outs from the EU. There are issues over fitting it into the wider WTO structures, but there was a regional campaign that Wales was able to be part of. Therefore it is seeing it within both hard law and soft law policy structures in that way.

Dr Gravey: As Jo was saying on GMOs, for now Wales, Scotland and Northern Ireland have opted out, while England has not. That is something that has been allowed within EU rules and within a concordat between different powers. But there is a question, especially if we move on to trade, whether the regional specificities on GMOs will be allowed to continue in order to fit with trade policies.

Q47 **Glyn Davies:** I could stay on this topic for hours, but we do not have that time. The power for Ministers of the devolved Administrations is significantly more constrained than those of the UK Ministers, so it is alleged. Would you like to confirm whether that is the case or not, and say what those constraints are and whether they are justified?

Dr Llewelyn Jones: In terms of the Bill, the constraint is if the Minister of the Crown disagrees or is in competition, then the Minister of the Crown has the ultimate power. That is the reality within the Bill. The wording in the Bill is "if they are in competition". That is quite interesting wording, in terms of how that would be interpreted. Is that a disagreement as to certain aspects of it, and so on? Also, the powers contained in every provision within that regulation, if made at the devolved level, have to be within the competence as well. That is an additional burden or curtailing of power as well from a Welsh Minister point of view.

Dr Hunt: As far as UK Ministers are concerned, on the face of this legislation there is very little they cannot do. The Bill is all about giving them the powers to respond effectively and appropriately to whatever it is we are confronted with as we continue through this withdrawal process. Necessarily it is about equipping them with as much power as possible. It is framed in quite general terms. We have heard, no doubt, the concerns about how 7, 8 and 9 are drafted in terms of what is appropriate rather than what is necessary.

There are very few limits on those ministerial powers, and as I have already mentioned, in terms of how they can be used in areas of devolved competence to change legislation in devolved areas—to change devolved legislation, to change the devolution statutes—there are no constitutional protections on the face of the Bill for the Government of Wales Act, for the Scotland Act. There is no requirement of any consent. These are surprising things to see. I would say, absolutely, the UK



HOUSE OF COMMONS

ministerial powers are significantly greater and framed more broadly than the counterpart powers for the devolved Ministers.

Q48 **Ben Lake:** I was wondering if you had any thoughts on the potential scope for the National Assembly to introduce its own continuity Bill and whether there are any potential merits for that kind of approach.

Dr Gravey: First on the previous question, it is important that these powers have been considered as unique in peacetime by the Delegated Powers and Regulatory Reform Committee in the House of Lords. I do not think the House of Lords calls powers “unique in peacetime” easily. It is important to realise what is happening in terms of the power to Ministers. That is where there is the question of perhaps having a Welsh continuity Act, but also in Scotland and Wales. The constitutional settlement as it is means that Westminster is both the UK and the English Parliament. It means that what you have is that when you give greater power to UK Ministers, and you give power only to UK Ministers, but not to the devolved counterpart, you are de facto giving power to favour English interests when it comes to set a level playing field over the devolved interests, because they will not be represented and their Ministers will not have the equivalent powers. That is why there are key questions, and perhaps we need to have similar Bills going through the devolved Assemblies as well. I am based in Northern Ireland and that would raise significant problems of course without an Assembly if we need to have the Assemblies working.

Q49 **Chris Davies:** As a point of clarity, you are saying giving UK Ministers greater powers. All that is happening is those powers from Europe are being transferred back to those Ministers—not back to Wales, because they have never had them, but just transferred back from Europe, which they have been passed to over the last 40 years, to UK Ministers. Is that correct or incorrect?

Dr Gravey: What I mean by giving greater powers is that during that period planned in the Withdrawal Bill, UK Ministers will be able to change the law that has been given back from Brussels, but the devolved will not. There is then a question of whether any changes made will be in the interests of the whole of the UK or just of England.

Q50 **Chris Davies:** We are coming on to frameworks later on, but they would come back in that framework for a period of time until—

Dr Gravey: But of course, especially powers to set and create institutions, even if they curtail in time—once you start setting up institutions they can last for a very, very long time.

Q51 **Liz Saville Roberts:** Dr Hunt and Dr Gravey, you have both touched on an interesting point there, which has struck me anew now. It is this potential clash between English interests in the existence of devolved settlements and UK interests that will lie in the gift or whatever of the same Minister. Could you flesh that out some more, please?



Dr Gravey: Perhaps with agriculture it is quite clear.

Dr Llewelyn Jones: There is not an independent voice for English interests either when you think about it in that context. In some ways Wales, Scotland and Ireland are in a better position in that respect. I do not think it is the case that a UK Minister would not be looking at the benefit of the whole. Obviously he has to be looking at that as part of his role, but I think there is not that independent voice.

You were asking about the evidence of influence. The evidence is in the output. We have significantly different implementation in the four regions on agriculture. There is significant variation now in that area, also in planning and in the environment. The evidence is in the output in terms of what is happening. There is a reason for that and there is a reason why the English implementation is different to the Welsh one. We should celebrate those differences and not be afraid to talk about the fact there needs to be differences between the different regions.

Q52 **Liz Saville Roberts:** We risk returning to an era of dark lobbying as opposed to transparent structures.

Dr Llewelyn Jones: Yes, exactly.

Dr Hunt: There is an issue around the continuation legislation and the proposals that have been particularly pushed by Plaid Cymru in Wales. We have had two votes in the Assembly that have shown support: that, if necessary, there would be a Welsh intervention that would codify this EU law and occupy the field, essentially, before the retained law could take effect and to protect that opportunity for the diversity and difference that has been experienced to date.

As I have said before, I think it is a profoundly unfortunate position we are in that that is even being discussed—that part of the UK would have to think seriously about taking this step because it does not feel as though it is secure enough in the existing inter-institutional structures within the UK to see that its interests would be able to be followed through post-Brexit. We do not have that underpinning respect for the devolved interests within the constitutional order as it stands.

Chair: We had better move on a little bit. This is a good discussion, but possibly we might all have to be a bit more concise as we are only on the third question.

Q53 **Paul Flynn:** I will set you an example then, Chair. The whole of the devolution process has been a grudging gift from the British Parliament to the devolved institutions. It is very power retentive. Everything that has been devolved has been done with ill grace. Do you think it is right that devolved institutions should look with great suspicion at what is happening and refuse to believe they can trust the Government, which is what is being suggested? Would it not have been better and simpler to have devolved the powers to the devolved bodies straight from Europe rather than having this peculiar halfway house?



HOUSE OF COMMONS

Dr Llewelyn Jones: Trust is an excellent thing and that is what all relationships should have as their basis, isn't it?

Q54 **Paul Flynn:** Yes, but, "I am the Government, you can trust me," is not something that has universal approval.

Dr Llewelyn Jones: Exactly, yes, but I think when you deal with disputes on a daily basis, which I do, you have to have that underpinning contract or written agreement as to what the position should be if there is a dispute or if there is uncertainty as to what the course of action should be. I think trust should be the basis of every relationship if you can achieve it, but there always has to be that fall-back position. We do not have that fall-back position, I do not think, adequately covered in terms of what happens if there is discontent or disagreement between these institutions as to what the way forward should be. I do not think there is sufficient provision in there for both sets of institutions to be feeding in as well in that decision-making process.

Q55 **Paul Flynn:** The Government have introduced this legislation unexpectedly. They did not plan for it. They are in a state of high panic and fear because of divisions within their own ranks and the fact that the clock is ticking, the fact that the legitimacy of the referendum is being questioned, quite rightly, in my view. They have been driven by urgency and it is rushed legislation, which in almost every case history teaches us is bad legislation. Isn't this attempt to remove powers from Wales or to take over powers that Wales has something that the Welsh Assembly and the devolved bodies have a duty to sabotage as far as they can?

Dr Gravey: It is important when we are talking about environment and agriculture these are areas that do not stop at borders. These are areas in which we need to collaborate between nations and between the four nations of the UK in any case, but then how to do it and whether that collaboration should be bottom up from the devolved deciding to work together or top down. What is interesting is looking at the fact that the Joint Ministerial Committee only meets when the UK Government want it to meet.

Q56 **Paul Flynn:** They do have borders. The problems with agriculture in Wales and the opportunities are very different to what they are in England. In England, £1 out of £5 paid goes to either millionaires or billionaires. They support huge estates. In Wales we have a priority, because the areas that benefit from the subsidies are the ones where the Welsh culture is living at its richest. This is understood in Europe. There are many countries in the world where that is the case—where the culture of people in many northern areas and countries is precious and agriculture is supported as a cultural priority because they want to keep up the old traditions and cultures of the past. That does not happen in England anyway. It is not nearly as—



Dr Gravey: It definitely does not, but on issues like animal health and animal welfare, it would be odd to have different standards across the UK. Going back to your environmental—

Q57 **Paul Flynn:** Badger killing?

Dr Gravey: Yes, badger standards; it is much better to have the same standards. If you have the precautionary principle or the “polluter pays” principle that applies to Welsh industries but not to English industries, that would be a problem as well. On these kinds of grand principles, there is definitely cause for common frameworks, but these are policies. What is interesting is that the institutions where the Governments get together and decide things jointly do not exist or only exist when the UK Government decide that they should meet.

The fact that there was eight months between the last two meetings of the Joint Ministerial Committee on European Negotiations is concerning. The fact that on the British-Irish Council you have the Taoiseach, you have the First Ministers and you very rarely, if ever, get the UK Prime Minister to show up to those meetings shows perhaps a different level of engagement or even respect for these institutions, and that is very concerning, because we would need institutions that should meet regularly, not just when it suits London.

Q58 **Paul Flynn:** The sunset clause is what I should be asking you about. The claim is that this is a crude piece of legislation that is coming up. It was simplest to do it this way: you bundle them all together and give the powers here. Although it is meant as a transitional arrangement, there is not anything, as I understand it, that would put a sunset clause in it and say there is a limit to the time, so that suspicion must remain. Should there be a sunset clause? We need a sunset clause on the Government, really.

Dr Hunt: It is the one set of provisions that does not come with a sunset clause at the moment, which is an oddity. We know politically why there is not one: if it was there, then there is a concern that we would sit back and not make agreement until the sunset clause had lapsed. The fact that it is not there is problematic and indicative of an approach to devolution and a view on devolution from London that has not kept track with 20-plus years of devolution practice.

Q59 **Chair:** Would it help then if the Government, instead of a sunset clause, were to spell out which powers they expected to go to the Assembly and over what time period? Do you think that would go a long way to resolving the problem?

Dr Llewelyn Jones: That would give some certainty and a better understanding as to what is intended. At the moment there is no indication as to what the intention is, and I think that is concerning from a business point of view.



Dr Hunt: We want transparency around this. There are all sorts of areas where we do not yet know what is coming out. We know that there is going to be sectoral legislation running alongside the Withdrawal Bill. We have not seen any of that yet. Whatever the Agricultural Act is dealing with, whether that is dealing with a new basis for subsidies, whether that has any regulatory standard setting within it, we do not yet know.

Chair: We are coming to that, don't worry. I do not want to take everyone else's questions.

Dr Hunt: Regional policy is not listed as one of those areas—the 111, the 64—so what is going on there that is not part of an open debate at the moment? Again, there are concerns there about openness and transparency and good governance.

Q60 **Glyn Davies:** There are a huge number of amendments to be debated on this Bill, quite a few of them put forward by the Welsh and Scottish Governments. There is the issue of the case for those amendments, whether they amount to vetoes. That is going to be the debate about that. Can you give us a view here on what you think of the proposed amendments from the Welsh and Scottish Governments and what impact they would have and how they might be approached slightly differently to have the same effect? Your view on the amendments is what I would like to hear.

Dr Hunt: The key one from the Scottish and Welsh Governments of course goes straight to the heart of clause 11 and we strike that out. They are not even countenancing the idea of a sunset clause because it is quite simply antithetical to their standpoint on that. Why wouldn't it work? Why couldn't we approach it in that way? Why not have the trust in the system that way around? Why not work on those structures? When we talk about whether this is transitional, whether this is holding, at some point we are going to have to make agreements on these things. What are the structures for doing that? At the moment, we work within that context of EU governance. We have shared governance structures around that. We should be thinking about what those new structures are.

The particular provisions point to this and to remedying it as much as can be remedied as things stand—of improving the position of the devolved Ministers and of limiting and controlling the ministerial powers of UK Ministers—and all of this seems entirely appropriate. Of course, I do not know if you have seen, but the Welsh Assembly has put forward its own suggested amendments as well—the particular committee that deals with Brexit issues, the EAAL. It rehearses a lot of what we have already seen, but also has an additional dimension about getting the Parliaments and the legislatures involved in this. We know that there should be greater inter-parliamentary working around this. They are indicative of an approach and a vision to shared governance going forward that I think we need to grapple with. The EU and our EU membership has provided a scaffolding for all of this for so long, and I think there are some significant questions we need to address.



HOUSE OF COMMONS

Q61 **Glyn Davies:** Would it be fair to call that straightforward federalism, where you have four Governments having control, having veto over certain things?

Dr Hunt: That is one model. That is one option, but there are other ways of achieving that. There are other ways of—

Q62 **Glyn Davies:** That is what I was looking for. Clearly I can see the objective that we have looked at these amendments for, but are there other ways? To do it on the basis of trust is a big ask and that is what people are challenging.

Dr Hunt: Both ways.

Q63 **Glyn Davies:** I can understand why people might challenge the trust—trust both ways, mind you. The structure we are talking about is one that effectively gives veto to any particular part on development. Is there any other way of looking at this?

Dr Llewelyn Jones: It is a structure similar to the Commission, isn't it? At European level we have a Commission, and there is the ability there to table legislation, to bring things forward. It is an institution or a mechanism similar to what we are looking for, which allows all different parts of the UK to input into that. It is a very similar model to that at European level. That is what we are looking for.

Dr Gravey: As well when you come to trust, what we have is three devolved powers and Administrations that are weaker than the UK Government, of course. We are asking the weaker parties to trust the stronger party to decide for the rest of them, and if we have the opposite system—where we have the power in the devolved system, but you still have Westminster sovereignty in the end—that means if there is a problem, then the stronger party can act. But until then, until there is a problem, you trust the devolved Administrations to do it.

Dr Llewelyn Jones: But there is an enforcement element here as well, isn't there? There is an implementing and enforcement role that needs to be played here going forward as well, in terms of what happens. If these rules are not followed through, what is the enforcement mechanism?

Glyn Davies: Yes, quite.

Dr Llewelyn Jones: I think we need to have an independent body somewhere in the new matrix.

Q64 **Glyn Davies:** That is the whole point, isn't it? Who is going to be this independent body? Are we introducing somebody else, another factor into the equation to enforce the rules, if you like?

Dr Hunt: Yes. It is a continuation of the court. In the EU system we have the operation of the EU's internal market—so, powers are exercised with a view to ensuring compliance with those non-discrimination rules—but that has leeway. That does not mean that everything has to be the same



by any means. There is scope for difference there. You replicate that at a UK level and there would be space for some diversity and difference there. We have a system where there is ex-ante control in the law-making process at various points—subsidiarity checks, for example—and then you have a court performing a function afterwards to have a look at laws that have been made. Just as we have the Supreme Court playing that legislative review function as things already exist, that could be a role that it has.

Q65 Glyn Davies: Can I ask about this court, Chair? This is an interesting issue in my mind that I have not thought through before. There needs to be the judge in the end. The Supreme Court acted at some stage over a devolution issue to do with wages—I think that did happen, so we know that is there. That is a pretty cumbersome way of having to deal with issues that could crop up quite often and be fairly small scale. Are you envisaging a new court? Not the European Court of Justice, I know, but—

Dr Llewelyn Jones: We have mechanisms for judicial review, except that the difficulty there is accessibility in terms of access to justice for normal businesses and normal people, but also within the Withdrawal Bill as well there is a curtailing of the ability to challenge certain aspects and certain decisions that are made as a result of this Bill. There are restrictions on which decisions of the UK Government can be challenged in the courts in this Bill as well, and that is a concern. There is a mechanism for that, but it is a costly mechanism, and also the courts at the end of the day do not have the power to fine Governments. That is a mechanism that the European Commission has been providing at an EU level, which is something that we do not have post-Brexit here. I am not suggesting that we enact that, but I think it is an important thing to remember in terms of what is missing when we are post-Brexit.

Chair: Can I just make a suggestion? Maybe Ben Lake could ask his question now, because we are encroaching into another couple of questions and I wanted to come in. I have been saving myself up for this, but I will have to adapt them slightly.

Q66 Ben Lake: You mentioned there are about 64 policy areas identified by the UK Government that will probably need a UK-wide common framework. I just wondered if you could give your view on potential pitfalls and opportunities of those common frameworks and where you would suggest they would be most important.

Dr Gravey: Perhaps the fact that we do not have the same powers devolved to the different devolved regions is creating an issue there. You said 64. If we are talking of Scotland it is 110 and then Northern Ireland it is again another number. So what happens then? Do we have something similar to a Council of Ministers, in that if it is not a devolved area, the Welsh representative is there but does not voice an opinion or has less power if it comes to a vote? We do not know, because we do not have an institution that works like that for now. So just the fact that you have the 64 and 110 creates issues.



HOUSE OF COMMONS

The Joint Ministerial Committee that happened last week was very interesting when it came to the idea that it could be perhaps common principle—it could be mutual recognition, it could be common instruments. That is where we realise the sheer complexity and amount of work that is needed going forward, because these are extremely complex frameworks in terms of policies, and from one area to the other you do not need the same amount of common rules. In some areas, perhaps it is fine that there are very little common rules. In others, it will need many. We will not get this right the first time around, so we need to be very careful that there are opportunities to revise this and that they are sufficiently set in stone that it is worth implementing them and that we have time to implement them, but not enough that we are stuck with bad law.

Dr Hunt: One way of approaching it is presumably when we are looking at these different areas they have not just been thought up as, “It would be nice to have common rules in these areas,” but we have looked at where the EU law already exists. Where do we already have a set of rules that are derived from EU law? If you look at it that way, we already have these common frameworks. What we are grappling with is a situation that we have had a tendency to draw a bright line and say, “It is devolved/it is not devolved,” where of course in all of these areas there are all sorts of overlapping and interlocking areas of competence. Now we are coming back to what has essentially been a binary understanding of devolution and bringing these areas back to the UK that do not neatly fall one side of the line or the other. There are different roles and different responsibilities for the different levels of Government and the different legislative bodies within these different areas, so it is about then translating that.

It might be that you look at any one of these areas and some of them will give a lot of space for a regionally differentiated response. There are lots of spaces. There is no reason for there to be a harmonised, uniform rule. Some of these areas may be drafted and written in a more clear, uniform, top-down, regulatory way, as has been mentioned. There are all sorts of ways that we can do this and that EU law does work in these areas.

With those common frameworks, assuming that we are inheriting them, it is perhaps less damaging to our understanding of devolution and the constitution if you approach clause 11 as saying that what it does is say, “We are protecting this existing body of law—those existing frameworks—until such a point as we decide whether we want to change policy.” If we do want to have big policy changes in those areas, then if it is done through an Act of Parliament, fine, because we have the Sewel Convention, we have the various guarantees of input there. But if it is done through ministerial intervention, then there is a problem, because of the lack of control and the lack of scrutiny in the exercise of those powers.



The list itself seems to be the same way that we operate with the Wales Act—just go and find out from the different Departments what they might have on their list. There are some things that seem to be missing. As I said, regional policy does not exist on that list, but we know that there is stuff going on in that area. Similarly, there are some aspects of free movement, free movement of healthcare, but free movement of students is not on this list. Then some things are framed in such wide terms: land use—what is the understanding of that? Rather than these being new areas where we might want to do something, it is rather what we have inherited.

Dr Llewelyn Jones: Can I give you a different approach? I think we are missing a step in that process in terms of creating the common frameworks, because I do agree we are going to have to have frameworks at some level. Initially, we need a common strategy to overarch all of these. It is a simpler way. It is a very simple idea, I suppose, in terms of approach, but what we need is a common framework, common set of principles, common agreement as to how we should deal with all different areas of the law that we create and the policies that we create. We are looking at fundamental things more than specifics. Then that provides a framework or a strategy that enables you then to have more detailed rules at a regional level to suit the implementation applied in those different areas.

Dr Hunt: Absolutely, because what we have seen is that these are rules that are a product of the European Union that is necessarily explicit about its aims and its objectives and the focus on creating an internal market, but it is not simply an internal market without any other underpinning values and qualities there. There are mainstreaming provisions; protection of the environment; there is mainstreaming of gender issues; there is commitment to subsidiarity. There are all those principles about where that law has come from and the framework that it has been made within. We have not asked those sorts of questions about what the UK is for and what the common endeavour is within the UK. We talk about that internal market, but when we think about a UK internal market, at the moment it seems very shorn of anything other than no barriers. The EU market allows for barriers if they can be justified in various grounds, whether that is protection of the environment—a host of grounds; all sorts of things. You can justify why you would have what are essentially barriers.

Q67 **Chair:** That might lead me nicely on to my point there, because what I am going to ask you is this. To reverse things a bit, if we did have barriers and slightly different rules and regulations in the different parts of the United Kingdom, would it be fair for me to suggest that it would effectively give the nation states a veto or at least a huge say over any future trade arrangements that were made? To give you a hypothetical situation, supposing the Welsh Assembly decided they would not allow chlorinated chicken under any circumstances in Wales and they had the power to do that. Supposing the British Government wanted to do a free



HOUSE OF COMMONS

trade deal with America and America said, "You must have chlorinated chicken," effectively that would be giving the Welsh Assembly a veto, wouldn't it? Am I right in thinking that therefore this would be giving Wales a veto over future trade policy?

Dr Llewelyn Jones: I think one of the fundamental things is that, whatever laws or frames you put in place going forward, they are in accordance with international law. As long as we are in accordance with international law, that is the first stage, and then an internal market within those rules does not cause difficulty.

Q68 **Chair:** Yes, but at the moment we do not allow chlorinated chicken into the UK. If we devolved that power to Wales, Wales will have that power to say, "We do not want chlorinated chicken." In fact, that is the case at the moment. They could say it, but this is a hypothetical situation. Supposing the UK Government said, "Yes, we will have chlorinated chicken in return for a trade deal," and Wales continues to say no, hypothetically then we have a situation where Wales has a veto over future trade deals. Am I right in thinking this? Or it would work vice-versa.

Dr Llewelyn Jones: I think we are in that position already with GM, though, aren't we? I do not think it is a thing that we are not coping with at the moment.

Chair: Okay, that is a good answer.

Dr Llewelyn Jones: I would have to give it some more thought in terms of legal mechanisms.

Chair: Fair play. No, I am genuinely trying to think through the implications of it all.

Dr Gravey: Of course the US and Canada both have very different rules within their internal markets, and they are big trading nations negotiating trade deals, so that does not prevent them from doing so.

Dr Hunt: We already have difference internally. There are already different approaches on various things. On products, there are certain products that—

Q69 **Chair:** But within an overarching framework set by the EU at the moment?

Dr Hunt: Yes.

Dr Llewelyn Jones: Another example would be TB and the different approach to animal welfare between England and Wales at the moment. I think that is a very good example as well. That potentially could be an issue for trade going forward. If the TB eradication programme in England works and we get rid of TB in England and the same reciprocal does not happen in Wales, what impact does that have on trade going forward? Animal welfare is tabled very often as one of the areas that we



HOUSE OF COMMONS

must have a common framework on at a UK level, but when you look at the practical day-to-day position at the moment, we are already in a position where we have very different rules on animal welfare within different regions. It is an interesting question, but I am not sure if there is a veto going forward.

Q70 **Chair:** I am thinking of the Belgian example, where I think the regional Government in Flanders was very concerned about—

Dr Llewelyn Jones: Yes, I see.

Dr Hunt: But that reflects a different constitutional status for the regions in Belgium than we have in the UK. As things stand, there is not that veto power, so whatever trade deal was done would be done with whatever consequences. Whether Wales then introduced legislation to ban the sale or ensure a certain type of labelling, or whatever, it might be that the trading partner would consider the market was big enough without Wales.

Q71 **Chair:** If we were to accept that there needs to be a common framework and the argument is how that is arrived at, do you go along with the idea that it should be something like a Council of Ministers, where representatives of Wales, England, Scotland and Northern Ireland essentially decide it between the four of them? Because that is, I think, the model that is being put forward by the Welsh Assembly at the moment.

Dr Gravey: Of course, in a Council of Ministers there is voting involved.

Q72 **Chair:** Yes, and my next question is going to be what happens if they are split down the middle?

Dr Gravey: Yes. I think that is the problem with the way the UK constitution is set up right now: that it would be very politically problematic perhaps to have England impose on the other three a position or the other way around.

Chair: Or the other three, who would be 9 million imposing on 50-odd million.

Dr Gravey: Absolutely.

Dr Hunt: I think the proposal from the First Minister in the Wales and devolution paper was England or UK plus two, so England plus two to carry any vote.

Q73 **Chair:** But that would give two nation states the opportunity to block anything, so it could mean that representatives of 4.5 million people were preventing something that representatives of 56 million people wanted.

Dr Gravey: No, because it would be UK plus two, you said. No? It had to be so you can have it blocked by—

Dr Hunt: By two, as you could with 28 member states and—



Q74 **Chair:** Okay, but then to throw something back that you said earlier on, Dr Hunt, you gave me the impression you believe that at the moment the European Union is far more able to heed the concerns of the regions than the UK Government would be. What mechanism do they use to consult with the regions and would it be useful for us to use that model, whatever it is? I think they have a Committee of the Regions, and I may have even attended one or two of their functions over the years. I have a feeling from my memory that I did not feel that they were taking that much notice of what I had to say.

Paul Flynn: Surely not.

Dr Llewelyn Jones: There are four institutions at European level as well. There is the Council, the Commission and Parliament, and then you also have the European Court of Justice. I am sorry to labour the point, but I do think there is a role for a body similar to the Commission. I am not sure whether it is similar to the Council of Ministers or Council more than it is Commission, because I would rather see a new body to do two jobs, not one. I would rather them to be doing both elements, the implementation and the enforcement side of it.

Dr Hunt: There is also an orientation even within the institutions that reflect state interests. Yes, there are specific ones for regional voices, whether that is the Committee of the Regions, and also the situation where you have the Welsh MEPs in the European Parliament. There are various structures there. But even in the Council, which is the member states, of course a large number of EU member states are themselves either federal or they have that background and that orientation that takes seriously the devolved and regional dimensions. By its nature it is a type of organisation that has that commitment to the regional and respect for that within it.

One of the concerns I have around this is when we talk about the general principles, those that are going to flow forward and those that are not, we have had this principle of subsidiarity within our system, within the UK system, for the last 20 years as a consequence of EU membership. As we leave, we stand to lose that principle because it is unclear where that would be secured as things stand under the Withdrawal Bill. You could try to make a case for it being a general principle, but the court itself has not necessarily ever articulated it explicitly in that way, so get in touch now.

Q75 **Chair:** Do you think that either England or the English regions should also have some mechanism for feeding into whatever it is that gets set up?

Dr Gravey: One of the ways of addressing all we are talking about is from the House of Lords. In terms of representation, if we are moving towards a more federal system, then the second Chamber should be representing the different regions. Then you could see perhaps different representation as well for England.



To go back to the difference between the EU and the UK system, in a way we are taking a group of policies from the EU to the UK and what we are seeing is a completely different political system. The EU is overall a consensual system. You need very large majorities to get anything through and it takes a very long time to realise policies. That means you have a lot of time for civil society, for farmers, for the devolveds and for everyone to chip in and to try to influence legislation. Westminster can work much more quickly and also, within that Bill, it can be in the power of Ministers. That is where the key concerns are.

Q76 Liz Saville Roberts: I would like to take you back to something that you have touched upon. Michel Barnier, the chief negotiator, has announced today that the UK is most likely to end up with a Canadian-style free trade agreement. What would a CETA-plus model look like or what would the results possibly be for Welsh agriculture?

Dr Llewelyn Jones: It is difficult, isn't it, to think ahead as to what that would mean for Welsh agriculture. It is very difficult to answer that question without being able to refer to factual evidence as to what the position would be under that. If it assists, I can try to get that information and pass that back to the Committee.

Liz Saville Roberts: A broad-brush answer, I think, because it is in the air—it is a definite model; it is something we should address.

Dr Llewelyn Jones: My concern would be on what the deal is in terms of the non-tariff rate quota amount—what is allowed in without paying tariff and where does the tariff kick in. If there is going to be some element of kick-in of tariff, what volume are we talking about at what times of year? There are very practical issues like that from a Welsh sheep farmer point of view. There are issues in terms of lamb, but also in terms of beef and other products that the farmers produce. You are not looking at an issue in terms of probably the dairy sector, because of liquid milk and things like that, but you are probably looking more at that livestock sector and whether there would be an implication there. I would be more than happy to have a go at putting figures to that to show what the impact would be in reality.

Q77 Liz Saville Roberts: I take it from your answer that if this is now in the air, we need to do an awful lot more work in relation to how that could factor out in terms of Welsh agriculture. I imagine the nature of what Canada is interested in and its relationship with Europe is somewhat different to what the UK's interest would be and Wales's specific interest would be.

Dr Llewelyn Jones: Where does agriculture fit in the wider deal? Because there are other services and other goods being part of that agreement as well, and where does agriculture fit within that? Is it going to be discussed in the way that we would like it to be discussed as farmers in Wales?



HOUSE OF COMMONS

Dr Gravey: The Canada part would be just the EU-UK deal, but the impact on Welsh agriculture would of course depend on then the deal between the UK and New Zealand at the same time and potentially hitting Welsh farming from two sides.

Dr Llewelyn Jones: I was told last week that the price of lamb is going to reduce by 30% in Wales on Brexit.

Chair: That depends surely on whether there is a deal or not.

Dr Llewelyn Jones: That is the scoping work that is being done at the moment in terms of what they think the impacts are and that is if we are outside the single market. That is the estimation. When you are a sheep farmer, you have to base it on the information that is available to you in terms of what that modelling looks like. We need to see that modelling. We need to see that statistical analysis to see if there is a deal, if we are still within the single market, if we are still within the customs union, what that position is.

Q78 **Liz Saville Roberts:** Just to reiterate Viviane's point, that would be the agreement between the UK and the EU, and then the new international agreements that we might make and the obligations that might flow from that. With reference to New Zealand, where they moved away from subsidies, what would their expectation be about the level that we would be subsidising farming within the UK—that that might be factored in? What sorts of products might we be expected to be importing and at what level from New Zealand, from the US?

Dr Llewelyn Jones: But you are talking about the New Zealand trade deal as being a negative thing. It could be a positive thing, in that the time of year when New Zealand lamb is available is different to the time of year that our Welsh lamb is available. There is a deal to be done there between New Zealand and Wales from a Welsh farming point of view as well. The difficulty is the unknowns about these agreements and to what extent they are going to be implemented and when that will take effect in terms of what we are thinking.

Q79 **Liz Saville Roberts:** One of the things I took away from meeting with the Farmers Union this summer—and that is several months ago now—is this real sense of urgency on their behalf. They are uncertain, the uncertainty is damaging and yet we are now well into October. I remember Glyn Jones saying that they desperately wanted politicians to be coming around the table and discussing what could be more definite, because of the state of uncertainty. If we are facing such changes, you cannot change this overnight.

Dr Llewelyn Jones: But you have to plan for the worst, don't you? If it turns out to be better than that, then that is a good thing, but you have to plan for the worst-case scenario and build your business around that worst-case scenario. The difficulty with agriculture is that it is not something that you can change short term. If we are talking about lamb prices in March 2019 onwards, we need to be thinking about that in the



HOUSE OF COMMONS

coming months, in terms of what lambs we are keeping, what we are doing for next year, what ewe lambs are we keeping, whether we should be decreasing our flock sizes or whether we should be looking at other markets. There are lots of things to be thinking about. The difficulty at the moment is the lack of information and the lack of certainty about what is happening and what the position is going to be going forward.

- Q80 **Chair:** We can quote reports as much as we like, but the NFU were strongly in favour of staying in and produced a report from Wageningen University, which is available online. It says—and it surprised me—that even sheep farmers would be better off on a free trade arrangement, in other words, a no-deal scenario, providing support continues at 100%. I have it here and I have quoted it many times, because it surprised me how positive it was, given that this is an organisation that was very much against Brexit.

Dr Llewelyn Jones: In a free trade agreement position?

Chair: Yes, that is the free trade agreement.

Dr Llewelyn Jones: There is a difference between a free trade agreement position and a WTO position. What I am talking about is a WTO position, which is tariff based, which is where there is no free trade agreement in place. If there was a free trade agreement in place, then obviously that has an impact in relation to what those prices are going to be.

- Q81 **Chair:** They look at various different models. I am quickly looking at it; it is here in the summary of it: sheep farmers will be better off. This is the Wageningen report.

Dr Llewelyn Jones: That was when we were talking about Brexit last year, but in the AHDB report, which was out a couple of weeks ago, there is a different set of modelling out there now in terms of what the position is going to be going forward. It is that up-to-date information—

- Q82 **Chair:** That suggests nobody is certain.

Dr Llewelyn Jones: Exactly.

- Q83 **Chair:** Nobody should be taking any of these and saying they are absolute rubbish, because I would have my doubts as well about sheep farming. I think that is a challenge, but it just goes to show there is room for a lot of difference of opinion.

Dr Llewelyn Jones: That is the message. We need to be getting better information, better modelling, better statistical analysis on what the implication can be.

Dr Gravey: A complementary answer here would be that there will of course be uncertainties. No one has tried such a process before. There are uncertainties built in, but there is uncertainty both about the content of the policies, but also about the process, on how we agree on the



HOUSE OF COMMONS

policies. While the content is perhaps years in the future to defining that, we can already make lots of headway in terms of agreeing on a process so that farmers know who they have to go and speak to to make sure that their voices will be heard, and the environmentalists as well. We need to know who will be in charge so that we can make sure that the policies work for everyone.

Chair: Chris, you were next, although we are probably getting through these questions one way or another. We have considered this question.

Chris Davies: I can happily ask away on a couple of other themes.

Chair: Maybe I should ask Tonia first, although we have touched on this.

Chris Davies: Can I just ask on the issue of the lamb agreement though, if I may, before you jump in there?

Chair: I think maybe Tonia should ask the lamb question first—it was her question—and then we can come back to you. I have one to come in on.

Q84 **Tonia Antoniazzi:** Nerys has touched on it, but the First Minister for Wales, Carwyn Jones, recently said that free trade with Australia and New Zealand would decimate the Welsh agricultural industry. To what extent do you agree?

Dr Llewelyn Jones: It depends on the deal and it depends on what the position is. There is scope for us to work with New Zealand, who are obviously experts at exporting, to look at how they work, their methods, in terms of our export opportunity into China and into other countries. There is an opportunity to work together with them as well. But the comment was made in relation to the vast quantities of lamb that come in at times of the year when we could be providing that lamb ourselves within the Welsh agricultural industry.

Also there are issues in terms of shelf life and issues in terms of the ability to freeze lamb as well. We do not have the capacity within Wales at the moment to do that. There are no facilities to do that—there are no facilities to do it in the UK, let's be honest about it. There are concerns about that tonnage coming in and it coming in at significant levels, if it is coming in without there being a tariff imposed on it. I think that is the concern.

Q85 **Chair:** At the moment of course New Zealand could send a lot more than they do, couldn't they, without paying a tariff.

Dr Llewelyn Jones: Indeed, but we obviously take a significant portion of the non-tariff rate quota that is available for the EU in any event. It is a case of needing to develop our industry as well to suit the needs of the customers that we are servicing.

Q86 **Liz Saville Roberts:** What about taking Australia?

Dr Llewelyn Jones: Australia is in a similar vein. Because of the scale of the country that we are talking about, the ability to work together in the



same way is not there. There is more of an issue for me in terms of Australia, because I do not think we would have the parity in terms of having that ability to work together in the same way because Australia is a bigger nation to forge those relationships with.

Q87 Ben Lake: I will just go for a brief moment here. If we were to think of the best-case scenario when it came to trading and for Welsh agriculture, what would it roughly look like in terms of the relationship or an agreement with the EU, and then also the other markets—New Zealand we mentioned already, but perhaps also the Middle East somewhere or the United States?

Dr Llewelyn Jones: Access to the single market unfettered is the best-case scenario. I do not think anybody can dispute that in terms of what the position is. The question is: what is the best-case scenario if that does not happen? There are various schools of thought on that. Under the WTO model, I think we forget sometimes there are export tariffs for us to export, but there are obviously export tariffs for people to import into the UK as well. There are reports that the milk price is going up by 45% and potential opportunities for farmers in terms of their domestic market.

From a milk sector point of view, probably poultry as well and beef, I do not think we have a major issue, because we may be able to look at developing our domestic market, because there will not be the ability for people to import in because of the tariff position between us and them. Having said that, from a lamb point of view, we do not as a population eat enough lamb within the UK. That is an issue for us to overcome, because obviously we need to be thinking about that.

In terms of statistics, in terms of into the EU, 96% of our exports on sheep meat goes into the EU at the moment—that is significant in terms of that—and 93% of our exports on beef. That is a significant proportion of our production. That is within the single market.

Q88 Chair: But there is more beef coming in to us, isn't there, than is going out.

Dr Llewelyn Jones: Exactly, and that is the opportunity then, and whether there is an opportunity there to increase our domestic supply of that market.

Liz Saville Roberts: Where we can.

Dr Llewelyn Jones: Yes, where we can.

Q89 Chris Davies: Can you give your legal opinion as to the detail of the New Zealand lamb agreement? There seems to be quite a lot of concern about an influx flooding the British market of New Zealand lamb. How do you see it from your perspective?

Dr Llewelyn Jones: At the moment there is an agreement between the EU and New Zealand.



HOUSE OF COMMONS

Chris Davies: Bearing in mind that we took that into the EU, because it was arranged here in the 1950s.

Dr Llewelyn Jones: Yes, but it is now an agreement between the EU and New Zealand. We are not an independent party of that agreement legally.

Q90 **Chris Davies:** Because we took it in, would you see us as being liable to take it away with us?

Dr Llewelyn Jones: As I understand it, that has been the political discussion about it, but I do not think that I have seen anything that suggests that we are liable in law to take on that responsibility going forward on exit. There have been lots of political discussion around that, but I have not seen anything legally that suggests to me that we are legally bound to take that proportion of that non-tariff rate quota. But at the moment a significant proportion of it comes into our UK market in any event. But there is a difference between political discussion about that and what the legal position is under that agreement.

Q91 **Chair:** We have had an hour and a half of your time, ladies. The question I keep on coming back to—and forgive me for this— is this. One day when we had a Welsh Select Committee visit to the Welsh Assembly, I remember speaking to a learned professor, who said, regarding devolution, that he was telling his students, “We are now in the most exciting times in any legal academic’s career because of Brexit and because of devolution.” Is that the way you see it at the moment? Because for some of us, it is getting quite tedious trying to make our way through this, yet every lawyer and every academic that seems to come in front of us has their own view and seem to be quite animated about the direction that we are going in.

Dr Llewelyn Jones: If a lawyer says something is interesting, it really means it is going to be very expensive. If a lawyer thinks something is interesting, it tends to be something that is going to be quite costly to deal with and expensive to do.

The reality is we have to find a practical way of putting a legal framework and a legal position in place. That is a challenge and it is something that we have to rise to, let’s be honest about it. There has not been this kind of requirement on constitutional lawyers within the UK for a very long time before now, so it is an interesting period.

Q92 **Chris Davies:** You think the lawyers are seeing the opportunities out there and not seeing it as a problem?

Dr Llewelyn Jones: I heard a talk by a person who was an economic director at HSBC, and he said that lawyers were the only people who would make money out of Brexit. I have still to see any of that money, so I do not know whether it is true or not.

Chair: Thank you very much indeed. That did drag on for a bit more than



HOUSE OF COMMONS

we thought. It is not a subject I find tedious; I am really enjoying this. I do appreciate it, Drs Hunt, Gravey and Llewelyn Jones. Diolch yn fawr iawn; thank you very much.