



Select Committee on the European Union

Energy and Environment Sub-Committee

Corrected oral evidence: No deal preparations: energy and environment

Wednesday 3 April 2019

9.40 am

Watch the meeting

Members present: Lord Teverson (Chairman); Lord Cameron of Dillington; Viscount Hanworth; Lord Krebs; Duke of Montrose; Lord Rooker; Lord Selkirk of Douglas; Baroness Sheehan; Earl of Stair.

Evidence Session No. 2

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Questions 23 - 34

Witness

[I](#): Rt Hon Michael Gove MP, Secretary of State, Department for Environment, Food, and Rural Affairs.

Examination of witness

Michael Gove MP.

Q23 **The Chairman:** This is a follow-up to our look at Defra's no-deal preparations. I remind Committee members to declare any interests that they have, and I remind everybody that this session is being transcribed. We will send a copy of the transcription to you, and, if there is anything in it that is wrong, please let us know. I remind everybody that this session is being broadcast.

Secretary of State, welcome back to the Committee. I shall not ask you, as we usually do, to introduce yourself, because I think probably everybody who will be viewing this knows who you are. Let us go straight into the questions, if you do not mind.

This inquiry is around a no-deal Brexit. Obviously, the whole of the scenery in the background changes from day to day, or so it seems from our point of view. I am particularly interested to understand, along with the rest of the Committee, the state of preparedness of Defra at the moment for no deal. Perhaps, as a start, you could give us an assessment of whether you think Defra is going to face a no deal and how that looks at the present moment. That would be useful to us in the Committee as background.

Michael Gove: Thank you very much, Chairman. We have to be ready for every contingency. As you know—and I apologise if all this is familiar to members of the Committee—had we succeeded in passing a withdrawal agreement by last Friday, we would have been on course to leave the European Union in an orderly and timely fashion, with no need to participate in the European elections on 22 May. An extension was available until that point to allow us to do so.

Sadly, the House of Commons did not agree the Withdrawal Agreement last Friday, which means that we now have to go to the European Council, which will take place on 10 April, and request an extension. That extension is in the gift of the EU 27. My own view, and that of the Cabinet, is that any extension that we request should be for as short as possible a period and terminable as soon as any withdrawal agreement is passed—and, ideally, terminable well before we need to take part in those European elections.

However, it is the case that the EU might say that no extension is available. I think that is unlikely, but we have to take account of that as the legal default position. That means that, if the EU at the European Council on 10 April says that there is no extension available, we would leave on 12 April, and we have made appropriate preparations for that contingency.

The Chairman: So the no-deal risk is still very much within the departmental planning at Defra.

Michael Gove: Absolutely, yes.

The Chairman: That is very useful to understand. Secretary of State, as you will know all too well, the National Audit Office report earlier this year, and, indeed, the Institute for Government's look at the work of Defra, raised a number of areas of concern. In terms of the preparedness of business, we have noted that there have been only 40,000 registrations for Economic Operator Registration and Identification numbers, for instance, which you may be aware of, whereas it is estimated that there are some 240,000 EU-trading businesses - so never mind just Defra preparedness but the other side, if you like, the agricultural industry, is probably not as prepared as we would want it to be. What I would really like is an overall update on where Defra is, given those challenges, and a lot of the red/amber areas that came out in that report.

Michael Gove: You frame the challenge very well. The first thing to say is that Defra as a department has taken on board the points that were made by the NAO, and we believe that their challenge was helpful in highlighting areas where we needed to do better—and I believe that we have done better. Our IT systems are now in place, and we have the personnel ready and contingency plans which are appropriate for the event of no deal. But, a challenge remains with business. While the Government can do a great deal, it is obviously the case that there are some things that we cannot control; we can seek to influence but we cannot control.

You are right that the EORI numbers are necessary for those businesses that currently trade with the EU but not beyond it, and which have not required in the past that number, that registration process, and that HMRC clearance for exporting.

We estimate that there are 145,000 or so businesses above the VAT threshold that trade with the EU and then a significant number of others below the VAT threshold. We know that the number of people applying for EORI numbers has increased and that it now runs at around 60,000, but, as you will appreciate, 60,000 out of 145,000 or so is still not enough. One thing that we are seeking to do is to make sure that we communicate as effectively as possible with business so that it knows what it is that it needs to do.

Many of the larger businesses have put in place appropriate contingency plans and are as prepared as they can be, but you are right to point out that it is smaller businesses that may be less prepared at the moment.

The Chairman: Colleagues here will come on to a lot of those other details and sectors in a moment. One question that is not among those that colleagues will ask, but which was the subject of quite a bit of debate as far as the Statutory Instrument was concerned both in the Commons and here, is REACH, for regulating chemicals. That is one of the areas that we have been most concerned about and is not always seen as a core area of Defra, although I am sure that you would disagree with that. Are you satisfied that you have that ready, in terms of systems and everything else, because that really is a core issue for this Committee in

terms of that sector?

Michael Gove: I quite understand, and I know that there were some concerns when the Statutory Instrument came before the House of Lords about the level of preparedness. We have taken account of some of the concerns that the Chemical Industries Association has expressed. We are confident that our approach towards legislation, which may require the laying of another SI, will be absolutely fit for purpose. We also believe that the IT system that we have in place will be appropriate and responsive.

The Chairman: Let us move on to the Earl of Stair.

Q24 **The Earl of Stair:** Good morning. First, I declare my interests as actively involved in agriculture and other things, as laid out in the Register.

When we met in October, I asked you a question about the live export of animals. The response was that we had to be listed as an official third country before anything could happen and that the EU was not prepared to negotiate until then, but you then followed up by saying that it could take, at most, six months, and that it could be done in five days. We are now past the date of the expected leaving. Has the UK now secured listed status to allow animals and animal products to be exported to the EU? If it has not, when would you expect that to be agreed, and what measures would be in place to mitigate the effects of there being a period during which exports cannot take place?

Michael Gove: We have not yet secured formal listing as a third country, but I am confident that we will in time. The relevant EU committee will meet next week—in fact, probably later this week—to ensure that we receive that third country listing. We have done everything that we believe is necessary to be compliant, and everything that we have heard from the EU is that a straightforward third country listing will be granted.

The Earl of Stair: How confident are you that it will come to a beneficial answer? As you know yourself, there are lambs on the ground already waiting to be exported to Europe, and there will be a certain amount of reassurance needed in the industry that there is going to be active progress.

Michael Gove: We have done everything including pledging that, if necessary, we will maintain dynamic alignment with EU rules for the remainder of this calendar year, to ensure that we receive third country listing status. Everything that the EU has said leads me to believe that they will grant that. The formal decision has not yet been made, but we have done everything that we have been asked to, to ensure that that status could be granted. That would mean that not just live exports but exports of all products of animal origin will be appropriately listed and can travel to the EU. You will be aware that tariffs will still be levied in the event of a no-deal outcome, but, nevertheless, we will have that status.

The Earl of Stair: Do you have any plans to offer any form of reassurance to the industry?

Michael Gove: As soon as we know that third country status has been granted, we will absolutely confirm it. We have talked to people in the industry who understand exactly what it is that we need to do to satisfy the EU, and everyone is focused on making sure that there are no impediments to the EU granting us that status—and I see none at the moment.

The Chairman: Is the EU being difficult, Secretary of State—

Michael Gove: No.

The Chairman: Or are they being bureaucratic?

Michael Gove: I think bureaucratic. I do not think that they are being difficult. I think that the EU wants to wait until it is necessary to grant that status. They do not want to do it if there is no need, as it were. But we were confident that they would have done it before 29 March, were we to have left on that date, and I am confident that they will do it in advance of 12 April to ensure that, if the contingency of our leaving without a deal occurs, third country status will be granted.

At different times in these negotiations, people have alleged that something might be in the EU's interest or not in the EU's interest, and that it will behave in a certain way. Not only would it be very firmly in the interests of the EU and its citizens for that third country status to be granted, but conversations that we have had have been very detailed and questions have been asked in such a way to ensure that the EU can grant us that status. Sometimes in negotiations you see people putting out chaff and asking questions in a way that suggests that they are either playing for time or seeking not to say yes. On this occasion, they have been constructive conversations.

The Chairman: That is good to hear. Lord Krebs, did you want to come in on this?

Lord Krebs: If I may, very briefly, Lord Chairman. Following up the final point of the Earl of Stair's question, to think the unthinkable, if the agreement were not reached, what measures have you put in place to mitigate the impact on the industry?

Michael Gove: If the agreement were not to be reached before 12 April, the first thing to say is that I hope it would be reached very quickly thereafter. The second thing to say is that we have developed a number of potential intervention strategies to help vulnerable sectors to weather any economic storm—and that may be required anyway, even in the event of the third country status being granted.

Lord Krebs: Are you able to give us a hint about those preparations?

Michael Gove: I will give you one. One of the sectors that is most vulnerable—the Earl of Stair referred to it in passing—is the sheepmeat sector. One thing that we have in place are proposals to ensure that we intervene to safeguard the income of sheep farmers. As everyone in this

Committee will know, many of them are small farmers and upland farmers, and the margins to which many of them operate are very tight. In the event that we are unable to export—or even in the event that we are able to export, but tariffs mean that the demand for lamb and sheepmeat in the European Union declines, which obviously would have an effect on the price here—we would then intervene and ensure that individual farmers were compensated.

The scheme that we have in mind is to have a form of headage payments for each breeding ewe to ensure that people's incomes are safeguarded. No system is perfect. By definition, some farmers will finish the meat before and, therefore, not have a stock of breeding ewes. We will be flexible at the margins to help everyone we can, but we think that this is the best available means of providing support for those who may be affected.

Baroness Sheehan: You may have answered my question to some extent, but I want to clarify in my mind that you, as Secretary of State for Defra, were content to advocate leaving on 29 March without a deal and in the absence of listed country status.

Michael Gove: I am sorry if I gave that impression; that is not my view. I can forgive anyone for any conclusion that they might draw in a fast-moving and complex area. My hope was that, by 29 March, the House of Commons would have voted for a withdrawal agreement with a clear majority. Had it done so, we would quickly have sought to ratify the Withdrawal Agreement Bill and we would then enter a transition period. Had that happened, we would not have needed third country status. Had it been the case for any reason that we had left without a deal on 29 March, or if it is the case that we leave without a deal on 12 April, we have appropriate mitigations in place, but it is my strong view that we should do everything that we can—even now—to ensure that we do leave with a deal.

Q25 **Viscount Hanworth:** When you last visited our Committee, you told us that one of your biggest concerns was that one-fifth of UK exports currently uses the Dover-Calais crossing and that, if the UK was outside the Customs Union, everything that passed through would need to pass through an Inspection Post. At the time, it seemed that Calais did not have an Inspection Post and was not intent on making one, but, since, they have begun. Can you give us some idea of the state of those preparations, and when that putative or tentative customs post will be operational?

Michael Gove: Since we last met, the European Union and its Member States have made extensive provision for our leaving without a deal. Across the European Union, I think there have been 18 applications for the establishment of new Border Inspection Posts, including at Calais. One is in the process of being constructed, and veterinarians have been recruited. As well as that Border Inspection Post, which is required for products of animal origin and live animal exports, it is also the case that the French authorities have upgraded their customs clearance procedure.

A great deal of work has gone on to ensure that the Dover-Calais route can be as frictionless as possible. That is not to say that there may not be challenges and risks, but everyone on the French and UK side is considerably more confident than they were that the port of Calais has taken appropriate steps to try to ensure that trade is as smooth as possible.

Viscount Hanworth: It has taken appropriate steps, but, clearly, it is not ready. Can you paint us a scenario in which the Border Inspection Post is not ready and the recourse that will be taken in that event?

Michael Gove: Yes. Should the Border Inspection Post not be ready at Calais, products of animal origin would have to be diverted to different ports to be processed. But it is the case that the French authorities recognise the vital importance of making sure that a Border Inspection Post is ready—and, as I say, they have been in touch with traders in the EU and beyond to acquaint them with what is necessary in terms of customs clearance procedures and other factors.

Viscount Hanworth: Will those different ports have the necessary capacity?

Michael Gove: I think it is the case that diversion to other ports would mean that, yes, they would have the capacity to deal with the trade. But it would inevitably add to cost, complexity and delay, if meat were diverted.

The Chairman: Do you know when it will be ready, Secretary of State? I do not know whether it has to go through the typical British planning permission processes, judicial reviews and all those sorts of things. When is it actually going to be built?

Michael Gove: One advantage of the French approach to these things is that the Ministers of State can bulldoze their way—if not literally, then metaphorically—to a conclusion. Everything that we hear from the port authority, the Pas-de-Calais region and the French Government is that they are taking every step to ensure that they are ready.

The Chairman: Do you have an estimate of when that might actually be?

Michael Gove: I hope next week, but I cannot be absolutely certain.

The Chairman: Okay; all right.

Q26 **The Duke of Montrose:** First, I declare my interest as a lifetime livestock producer in Scotland and former president of the National Sheep Association.

Following on from Viscount Hanworth, what were the key findings of the Department for Transport's assessment of the impact of exporters having to use these alternative ports from Dover, and what action is being taken as a result? As you will be aware, if the present level of trade continues,

you would be looking at about 5,000 tonnes of sheepmeat imports and 10,000 tonnes of exports in the next month. Is our system set up to cope with that level?

Michael Gove: To the best of our ability, yes. The Department for Transport and other Government departments have been working, first, to ensure that every lorry that carries a consignment into the European Union knows the documentation that it needs to have, and the clearance procedure required in order to travel safely and cleanly through customs and other checks. It will be the case that, as those lorries head towards Dover, there will be reminders along the way and steps taken to ensure that people recognise what it is that they need.

We cannot prevent someone driving onto a ferry without appropriate documentation; they can do so if they wish. But it is also the case that, if they do, and they arrive in Calais and do not have the documentation to clear customs, the French authorities will hold them in a holding bay and invite them to return when they have the appropriate documentation. So steps have been taken at every point in the journey to ensure that people are aware of what is required. It is already the case that some companies have diverted their supply lines to seek alternative routes to the Continent, rather than going through the narrow Straits.

The Chairman: Which ports do you think will be absolutely key here to get right?

Michael Gove: As the Committee has indicated, Dover-Calais is the most important, but there are ports in the Low Countries, such as Zeebrugge and Rotterdam, which are hugely important as well. There will be other ports, including some in Spain and Denmark, for particular targeted areas of the market.

The Chairman: As for the British ports on the opposite side, has your department and have your officials been liaising with them closely, along with the Department for Transport?

Michael Gove: Absolutely. We have done end-to-end testing—in other words, looking at the IT and other requirements that will be in place with ports. As we know, some of our major ports accept containerised freight, such as Immingham on Humberside, and Felixstowe. But we have also been talking to Southampton and a variety of other ports, including Ramsgate and Newhaven, to ensure that we have as many opportunities as possible to import and export as freely and effectively as possible.

The Chairman: Let us move on to IT systems, and Lord Selkirk.

Q27 **Lord Selkirk of Douglas:** I have a somewhat complex question, but I shall try to make it as straightforward as possible. The systems required to manage imports and exports at the border include IPAFFS, which is the Import of Products, Animals, Food and Feed System, and ALVS, which is the Automatic Licence Verification System. Are those new systems in place and ready to use? What assessment have you made of whether traders are ready and able to use the new systems? That is the first half

of my question. I shall ask the second half later.

Michael Gove: Thank you very much, Lord Selkirk. Yes, IPAFFS was launched on 15 March, and importers have been able to register on that system. So far, we have invited 450 import agents to train on the system. As of 29 March, 272 agents had been trained, and a total of 428 individuals in those agencies had been trained. We have focused on those importers with the most pressing needs. The system is up and running and appears to be working well, and we have engaged with the businesses that need to use it most.

Lord Selkirk of Douglas: The second half of my question is: has agreement now been reached with the EU on maintaining access to TRACES in a no-deal scenario for an interim period? To the best of my knowledge, TRACES means the system of tracing exports, and the other two systems have rather taken over from it.

Michael Gove: Yes, we have talked to the European Union and the Commission about this. It is particularly important for our neighbours in the Republic of Ireland that we continue to have access to this system. While it has not been absolutely confirmed, they have made an offer, which we have accepted, to be able to continue to use the system to minimise friction.

Lord Selkirk of Douglas: Thank you very much.

The Chairman: It is a major "get out of jail free" card in a way, is it not, that we will almost certainly have access to that? What is the motivation from the other side? Is it purely around the Ireland thing?

Michael Gove: It is partly that but, to be fair to the European Union, one thing that it has done is to recognise that there are a number of areas where, in the event of no deal, it would seek in the interests of the EU 27 to minimise friction and any risk. For example, everything from the Common Transit Convention to rapid third country listing and, indeed, access to TRACES has been offered on terms that we think are reasonable and in everyone's interests.

The Chairman: Okay; that is some good news anyway.

Lord Krebs: I have a very brief question. To go back to the conversation about the new Border Inspection Post in Calais and preparations in other EU countries, you said at the very beginning that you very much hoped that no deal would not eventuate. In that case, will those new infrastructure facilities in other EU countries still be required?

Michael Gove: I think that it was the American baseball coach Yogi Berra who said, "I never make predictions, especially about the future". One cannot be certain. If we assume that a withdrawal agreement is agreed and it makes its way through both Houses, we enter a transition period, during which we will negotiate the future economic partnership. It is still possible that, at the end of that, whatever relationship we have with the EU may require the use of Border Inspection Posts. I hope that it

will not and that we have a trading relationship that would obviate the need for them; but it is possible, we cannot rule it out, and it is therefore sensible for all parties to be prepared for that eventuality.

Baroness Sheehan: Secretary of State, in response to Lord Selkirk's first question about IPAFFS, you said that it was working well. However, the NAO has said: "Testing has shown that this system is not user friendly and that some traders may struggle to use it. Defra has identified this as its biggest system-related risk for 'day one'". Could you comment on that?

Michael Gove: As I mentioned earlier, and as the Committee has been kind enough to acknowledge, the NAO report acknowledged the hard work that had been done by civil servants in Defra as well as the significant challenges that we faced. We accepted the honest and constructive way in which those challenges were framed, and that is why additional resource was put into IPAFFS. As I say, it has been met with approval by those trained to use it so far. Again, as with all government IT systems, there is always the potential at any point in the future for unexpected snafus to occur, but, so far, given the fact that there were certainly legitimate concerns in the past, the response from those who have been using the system has been positive.

The Chairman: Perhaps we could go back to TRACES, which we discussed, and which seems to be a really important way forward. What were the EU's conditions on TRACES? Were there any sort of conditions under which that could happen, such as that we would maintain alignment on certain issues?

Michael Gove: One thing, which is associated with third country listing, is that we will maintain dynamic alignment with EU regulations in these areas for the remainder of this calendar year. There are some administrative asks of us, but there is nothing that is a big policy request that requires any pivotal change.

The Chairman: How long might that ability to use that system last for? It is temporary, presumably.

Michael Gove: It is intended to be temporary—again, to the end of this calendar year. But of course it is open to the EU, depending on what happens, to extend that. My hope would be that, were we to leave without a deal, at an appropriate point, as quickly as possible, the UK and the EU would seek to put on a stronger and more stable footing what our future trading relationship would be. It is entirely understandable that the EU will say that we should make these provisions for a time-limited period and have the option, if necessary, to extend them. But let us also try to use that time to ensure that, even though the UK has left without a deal, there is a new trading relationship and free trade agreement in place as soon as possible.

The Chairman: Indeed, okay. Let us move on to fisheries and Lord Cameron.

Q28 Lord Cameron of Dillington: I should declare an interest as a farmer; I am afraid that you are surrounded by them. I am also a trustee on various scientific research institutions, but, as the Chairman says, my question is about fishing.

In the event of a no-deal Brexit, will we stick to the fishing quotas agreed in the December Council? In addition, if we get a no-deal Brexit and are immediately out of Europe, what happens to the fishing rights—both European fishing rights in our waters, within the new limit, and presumably ours in their waters?

Michael Gove: Were we to leave without a deal, at that point we would be an independent coastal state and would have the right, should we wish to, to prevent any foreign vessels fishing in our waters.

The first part of your question points to what I think is the right solution, and one that we have talked to other Member States about, which is to ensure continuity for the rest of this calendar year: to say that the quotas and access agreed at the December 2018 Council should last for the whole of 2019. Obviously, at the end of this year, in the event of a no-deal outcome, we would represent ourselves in fisheries talks with the EU and with other neighbours such as Norway, the Faroes and Iceland, as an independent coastal state. We have a legal right, and it might be necessary—although I hope not—to exercise some of the freedoms under that right. But, as a matter of policy, we would prefer to continue a continuity approach for the rest of this year.

The Chairman: I understand that quota swaps that have already been agreed should stay in situ as well. The other thing—although it is on a smaller scale, it is still significant—is that we fish in other EU waters as well. Are you confident that there would be a mutual recognition there?

Michael Gove: Yes, I think that it is overwhelmingly in everyone's interests that we maintain that approach for the rest of this year, so that people have the predictability of knowing that they can continue to fish for the rest of this year and this season in the way that they have and in the way it was agreed in December 2018.

The Chairman: Thank you; that is good clarity, I think.

Members of this House, like those in the House of Commons, have been very involved in secondary legislation to some degree. I think that you want to pursue that point, Baroness Sheehan.

Q29 Baroness Sheehan: Secretary of State, the last that we heard from you about the 120 Defra-related SIs was that those that would be required for day one would be laid by the end of February. Have all the SIs required by Defra for Brexit now been laid? How many have yet to be approved?

Michael Gove: They have been. There are eight that still require to be approved for exit day, and we are confident that they will all make their way safely through Parliament.

Baroness Sheehan: Do those eight include the extra one on REACH of which you spoke earlier?

Michael Gove: I think they do, yes.

Lord Rooker: On the SIs, before I come to the other question that I want to ask, you are answering strictly for Defra SIs, but the food industry is not covered by just the Defra SIs. It is covered by the Department of Health and the FSA's SIs. Are you up to date with their progress, in terms of laying all the necessary SIs that affect the overall food industry?

Michael Gove: I believe that they have all been laid, but I will come back to the Committee later this day if there is any gap or unnecessary delay in DHSC SIs, which cover the FSA. I am not aware of any, and I am sure that it would have been flagged by my Departmental colleagues if there were, but I will come back to you on that.

Lord Rooker: One of those would have touched, presumably, on the negotiations regarding the Rapid Alert System, on which your department is leading on the negotiations rather than the FSA and the Department of Health. Could you give us an update of where you are on those?

Michael Gove: Obviously, we would be outside that alert system, but we would still share information with European nations in a pragmatic way. Also, we and all the RASFF EU members are part of a broader international system that shares alerts about food safety. But it will be the FSA's responsibility to decide if for any reason we believe that there should be any restrictions on a safety or health basis.

Q30 **Lord Rooker:** While we are on the legislation, it has been a mystery to everybody. Of all the Bills related to Brexit—I think there were seven, including those on nuclear safeguards, trade and everything else—both the agriculture and fishing Bills finished their Committee stage in the Commons four months ago. Why has there been no progress on those Bills?

Michael Gove: The main thing has been our desire to make sure that the Withdrawal Agreement was agreed. If it can be agreed, we can make progress quickly with those Bills. In the event of leaving without a deal, we have laid a number of Statutory Instruments to give us the powers that were required and which were available in the Fisheries Bill in order to ensure that we can operate effectively. And we have existing powers under retained legislation to do everything that we need to do in order to support agriculture and maintain high standards. Like you, I would prefer us to get both those Bills on to the statute book, but, at the moment, they are stacked above the landing zone, waiting for the Withdrawal Agreement to land.

Lord Rooker: The implication of what you are saying, which is the root of the question in a way, is that, in terms of policy changes in the event of no deal, you have locked things down in the SIs.

Michael Gove: Yes, exactly.

Lord Rooker: Let us assume, as it is the assumption in your own answers, that, if it all collapses in the next week and we are out on 12 April, even with the fact that those two Bills are stymied in the Commons, the necessary legal changes are actually covered in the one or more—I suspect more—of the no-deal SIs that have gone through.

Michael Gove: That is exactly right.

Lord Rooker: Okay. That is fine. Thank you. That was the answer.

The Chairman: Absolutely, Lord Rooker.

Lord Rooker: He was clear. He could be hung out to dry on that, because he gave quite a clear answer.

Michael Gove: I think that it was Harold Wilson who said that anyone could come up with a good answer. The real skill in politics is to ask a good question.

The Chairman: Okay, so we are there. There has been some frustration maybe with us getting our teeth into those Bills in due course, but the SIs are there at the moment. Lord Krebs, do you want to move on to environmental protection?

Q31 **Lord Krebs:** After the Secretary of State's last comment—no pressure, then. This is my question. As you know, this Committee has taken considerable interest in the arrangements following our exit from the European Union on enforcement and protection of the environment. We were pleased to see that, in the Bill passed last year, the European Union (Withdrawal) Act, there was a commitment to establish an Office for Environmental Protection. We have seen the draft Environment (Principles and Governance) Bill, which was published a few months ago.

Of course, in the event of no deal, there will be a gap. I think the statement that has been made is: "We are considering what interim measures may be necessary in a no-deal scenario after 29 March 2019 and before the Environment Act is passed and comes into effect". What are those plans? What plans do you have in place to fill the gap created in environmental protection and governance before the Office for Environmental Protection is established?

Michael Gove: We have taken steps to set up a shadow body, and we have approached and secured the agreement of a distinguished environmental lawyer to lead that body. It will be their responsibility to advise us and scrutinise and monitor any breaches of law. Once the Office for Environmental Protection is set up, it can make sure that appropriate enforcement steps are taken. We will be saying a little bit more about the individual who is leading it and the staffing and arrangements that we have, but I am confident that members of this Committee would recognise that, in the suboptimal situation where we leave without a deal,

we have secured the support of an eminent, independent and effective watchdog.

Lord Krebs: Are you satisfied that the resources available to the new shadow watchdog would be sufficient to fulfil its function?

Michael Gove: Yes.

Lord Krebs: What about its powers?

Michael Gove: The principal power that it will have is to advise, monitor and, of course, refer to the Office for Environmental Protection any breaches. One thing is clear: if anyone chooses to break the law in any way or thinks that a no-deal exit creates an opportunity for them to play fast and loose, it will be clear that their activities will be checked and monitored. We will use the full rigour of the law in the interim, and, if there is any need for any part of Government to be brought to book, the shadow body will make sure, when the Office for Environmental Protection comes into being, that appropriate action is taken.

Lord Krebs: Good. Thank you very much.

Q32 **Lord Cameron of Dillington:** I have an environmental question based on an answer that you gave earlier to Lord Krebs's question about mitigation measures in case of the failure of livestock exports. You talked about putting on a ewe headage payment.

Michael Gove: Yes.

Lord Cameron of Dillington: Presumably, you are aware that, in the 1990s, the ewe headage payment under the CAP resulted in huge environmental damage, because farmers immediately overstocked their land.

Michael Gove: Yes.

Lord Cameron of Dillington: Would you like to comment on that?

Michael Gove: Any arrangement would necessarily be an interim one. There are always risks. There are different ways in which one can think about how one compensates farmers. You could make payments at the point of slaughter. You are right that there may be an incentive for some people to overstock, but, overall, the pressure will probably be in the other direction. People will recognise, if there is downward pressure on sheepmeat prices, that they are not likely to game the system simply to increase the number of breeding ewes that they have, when they know that the market for sheepmeat and lamb is constrained.

In any case, such an arrangement would necessarily be temporary, because we would find a new way of ensuring that there was appropriate support for farmers that could help them through the medium to long term. We would also encourage and support people to find new markets for any produce. As I mentioned earlier, we would hope that after an initial period we would conclude with the EU a new free trade agreement,

which would mean that the tariff barriers that had been in place in the immediate event of no deal were either lowered or removed.

Baroness Sheehan: I have a very quick question on the shadow body that you spoke of. I want to be reassured that it has all the resources that it needs in terms of personnel, premises and processes; that it has autonomy; and IT systems that work in place.

Michael Gove: It will be located outside Defra.

Baroness Sheehan: It will be, or it is?

Michael Gove: It will be. There is already space and resource identified for it. As I say, an individual has been approached and agreed. We have not yet done so, but I shall write to the Committee as soon as we can go public with that announcement. As I say, the individual concerned is someone with impeccable environmental and legal credentials.

Lord Krebs: Can I just follow up Baroness Sheehan's point? What will be the status of the shadow body? Will it be a non-departmental public body, or will it be part of Defra?

Michael Gove: It will not be part of Defra, but the people working in it will be civil servants.

Lord Krebs: So will it be a non-departmental public body?

Michael Gove: I think in law it will be, yes.

The Chairman: Non-departmental public bodies are still described, if they get grant-in-aid from Defra, as "Defra family" bodies. If that is the case, is it not important that this body is not seen as a Defra family body?

Michael Gove: It is important that it is seen as truly independent. If it is part of the Defra family, its role will be as godfather rather than anything else.

The Chairman: Okay, because the Department is known as being quite possessive, which is reasonable.

Michael Gove: I think that is fair, but I would say that some NDPBs have an executive and delivery function, such as the RPA, but others, while they have a delivery function, are also properly independent, such as Natural England. I know that there have been some concerns in the past, but I think that most people would agree that the appointment of Tony Juniper as the new chair of Natural England is the appointment of someone who not only has impeccable environmental credentials but who would, if he felt that he was being placed under undue pressure by the Department at any time, be only too happy to speak freely and say so, and speak truth to power. We have taken a similar approach in thinking about who should chair the shadow body, and the individual concerned is someone who people will recognise is nobody's patsy.

The Chairman: That is good, but the Natural England case study is worth remembering.

Michael Gove: Yes, and I recognise and acknowledge that there have been occasions in the past when Defra's relationship with non-departmental bodies has not been all that it might be, despite the best efforts of everyone involved.

The Duke of Montrose: Secretary of State, you have some Environmental Land Management system pilots running. Are you learning any lessons there that would guide the Office for Environmental Protection as to what works and what does not work?

Michael Gove: They are in very early days. Of course, there is a stock of knowledge that we have from the successes and weaknesses of previous Countryside Stewardship and Environmental Stewardship schemes. We are discovering, and this was clear to all beforehand, that some of the rules that operated under the Common Agricultural Policy, such as the precision with which field margins were measured, and so on, and the fact that a tree or a copse was a permanently ineligible feature—some of those almost precise geometrical ways of measuring or enforcing the rules—worked against both sensible farming and good environmental outcomes.

It is clear from the ELMs that we want to build up a relationship of trust. Again, one problem with the way in which the system has operated in the past is that people who have been farming their land for years and who have a deep love and care for the environment were held to account sometimes as if they were naughty schoolboys who had to have—through mapping or inspection—a regime to keep them honest, which was overintrusive and inappropriate, considering the work that they did. Of course, there are always some farmers and landowners who will occasionally need inspection and monitoring, but the overall view that I have is that we need to build up a relationship of trust, working together with farmers and landowners who, after all, have a strong vested interest in making sure that not only do they get the income from the Environmental Land Management schemes but that they hand on their land to their children or the next generation more broadly in an enhanced state.

Lord Rooker: Following up on the perception of independence, would you be able to give a commitment that the chair and chief exec of the new body will not be placed on the Defra management board? That is where you have come unstuck in the past. By sucking in these alleged independent bodies and putting their chief execs and/or their chairs on the Defra management board, Defra owns them, lock, stock and barrel. They are not perceived to be independent, even though they are part of Government - Nothing is fully independent, because the taxpayer is involved. With the environmental body, would you see that the chair and the chief exec should not be on the Defra management board?

Michael Gove: That makes perfect sense to me—absolutely.

The Chairman: We are going down a different route to no deal, which is my fault, but this is an area that the Committee takes a great interest in; perhaps there will be other occasions when we can talk about it further. Let us move on to waste and Lord Krebs.

Q33 **Lord Krebs:** I have here a letter written on 31 January from the RDF Industry Group to the Environment Agency expressing various concerns relating to trade in waste in the event of no deal. I want to focus on two of those. One concerns additional waste storage capacity if we leave the EU with no deal and there are delays and disruption at ports. The second concerns landfill capacity.

My first question under storage is, is there currently a gap between the storage that might be needed and the storage available? In other words, is there enough capacity? The other point is the concerns raised by industry over the Environment Agency dealing on a case-by-case basis with requests to allow contingency storage. Do you have any plans to issue sector-wide guidance? I shall pause there and perhaps come back to the landfill question.

Michael Gove: We expect in the event of no deal that most waste shipments will proceed as normal, but we have contacted the industry. On Monday 25 March, a press notice was issued and emails were sent to 101 contacts at 88 different organisations to alert them to the steps that we were taking in the event of no deal. There has been extensive industry contact, and industry is aware of what might be required. As I say, we expect the overwhelming majority of waste shipments to proceed as normal, but we are taking appropriate steps, and it is the case that the Environment Agency, if it is necessary, for a short period, would allow particular contractors a degree of flexibility over storage. But everything will be done in a way that is entirely compliant with appropriate risk and hazard-based assessments.

Lord Krebs: That was a lovely answer, but I am not sure that it actually answered my question.

Michael Gove: Sorry, I beg your pardon.

Lord Krebs: Is there a gap between the storage capacity that might be needed and the storage available? Secondly, does the Environment Agency intend to issue sector-wide guidance?

Michael Gove: Yes, we do think that there is sufficient storage. If any operator wants additional storage, the Environment Agency will talk to them and allow that to happen. There will be sector-wide guidance, and some of that has already been sent. My apologies.

Lord Krebs: Okay, fine. That is clear. On the other aspect, of landfill capacity, the two questions are about a gap. Is there a gap between the capacity that might be needed and the capacity that could be accessed at short notice? Is there a plan there? Secondly, if, due to disruption at ports as a result of Brexit, operators have to send more waste to landfill, who is going to be responsible for paying the landfill tax?

Michael Gove: On the first, all of us agree that we would rather the waste did not go to landfill, but we do have additional landfill capacity across the UK and in the south-east of England, were it to be required. The capacity is there. It would be the case that operators would have to pay the landfill tax as before.

Lord Krebs: So it would be a charge on the operator and not something that you would subsidise.

Michael Gove: We have no plans to do that at the moment.

Lord Krebs: Thank you very much.

Lord Rooker: In one of our previous inquiries a couple of years ago, when we were dealing with waste, it dawned on us that the reason why so much waste went abroad from this country for either recycling or energy was because of this crazy system that we have of devolving to local authorities. There is no national system, so no one had ever put the capacity in, in terms of the money, to create a system.

In particular, I would ask about farm plastic waste. I think it was yesterday morning that I heard about it; I get a bit hazy at quarter to six in the morning, it is true, and do not fully pay attention to everything on Farming Today. But farm plastic waste is a huge problem. There are volunteer collection systems, but that seems an opportunity where the Department could drive a national system, on the basis of Brexit, and avoid other problems such as landfill, to get either energy out of the waste or recycle the waste, so there is no need to store it or send it abroad. There is quite a big issue around farm waste. That is more for your narrow departmental view rather than for a big Brexit view, but is it something that you could have a think about?

Michael Gove: Yes and, indeed in the waste and resources strategy and various consultations have flowed from that we want to move towards having a minimum national floor that all local authorities have to observe when it comes to recycling. It is the case that we want to ensure that we raise revenue, including from a tax on plastic packaging that has a less than minimum recycled content, and to use that to increase capacity for recycling here in the UK.

Lord Rooker: If it is left to local authorities, where is the incentive for the private sector nationally to put together a scheme, if it is dependent on the whims of local authority contracts which may have sweetheart deals with other companies? It requires a national push on this, surely, if someone is going to put the investment in.

Michael Gove: Yes, we believe—and we have been talking to waste companies as well—that we will create the right set of incentives for them to generate additional capacity and for local authorities to contract with appropriate waste companies. We are consulting at the moment about the best means of proceeding.

Q34 **Baroness Sheehan:** Secretary of State, you have reassured us that

regional capacity exists. Has an audit been done about where that additional capacity is and whether it will be available at short notice?

The Chairman: I must admit, if I could come in here, that I was slightly surprised by the confidence of your answer on this, although I am not saying that it is wrong. Given the fact that there is a huge shortage of storage because of various contingencies by industry at the moment, for both imports and exports, we are delighted to hear that assessment, but I was also quite surprised.

Michael Gove: About 80% of our waste goes through containerised freight, through those ports, so we do not expect any disruption there at all. That is the vast bulk of it. If there is disruption, it is likely to be in the south-east, and we know that we have additional landfill capacity there. It is also the case that the Environment Agency has been in touch with operators to ensure that appropriate steps can be taken for additional storage in specific circumstances. We cannot—what is the word?—foresee and forestall every eventuality, but we have taken steps to talk to all the operators and make sure that we have the flexibility and capacity required.

Baroness Sheehan: For 2 million tonnes per year, if ro-ro is disrupted.

Michael Gove: We think that it will not be the case that you would have that amount in the UK permanently, as it were; the majority would find its way to whichever outlet or market it does, without significant disruption.

The Earl of Stair: Minister, it may well be that you need to come back to the Committee with an answer on that because what struck me about your answer was that, I think, you mentioned that the Environment Agency would be able to allow existing waste storage areas to expand. There are tremendous issues now with a lot of these sites. At one stage a few years ago back in Scotland I was involved with SEPA. The issue with a lot of these sites is not so much about the cubic capacity storage but the groundwater, the leachate, and the bits and pieces that come out of it. To make a rather sweeping statement saying that there is plenty of capacity without taking into account those types of issues is a little general. It would be interesting to know what the Government policy might be on assisting to contain leachate and runoff from those sites, rather than just saying that there is extra capacity. That may well be something that needs to be thought about.

Michael Gove: I am very happy to write back at short notice, with more information. Indeed, I, and I am sure the chief executive of the Environment Agency, would be very happy to come before the Committee to go into this in greater detail.

The Chairman: That would be very useful indeed. Secretary of State, we have come to the end of the questions that we want to ask. As always, thank you very much for your direct answers. We would appreciate a follow-up on a couple of those other areas.

Michael Gove: Of course.

The Chairman: I bring this public session to an end.