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The Rt Hon George Eustice MP
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Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee
House of Lords
London
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Dear Lady Andrews,

DEFRA COMMON FRAMEWORKS

Thank you for your letters of 21 May concerning the Food Compositional Standards and Labelling framework and the summaries of the Air Quality, Best Available Techniques, and Chemicals and Pesticides common frameworks.

On Food Compositional Standards and Labelling I am grateful that you are content to wait for an updated version before conducting formal scrutiny, and I understand this is also the case in the devolved administrations. This will allow additional improvements to the framework following a further round of stakeholder engagement, a subject to which I will return below.

I am also pleased to provide the additional information that you have requested on the summaries below and to hear of your Committee's interest in scrutinising these three frameworks. I understand you may need to extend your scrutiny beyond 21 sitting days. I will ask my officials to keep in contact with your clerk to assist with your scrutiny planning.

Air Quality and Best Available Techniques

With regards to the Air Quality common framework, the working-level arrangements broadly reflect the liaison arrangements that we were operating previously, but with a new governance structure introduced in order to clarify the roles and responsibilities of each forum, key decision making principles/processes that will be followed and escalation routes in case of disagreements or disputes. Although meetings were already taking place between Defra and the devolved administrations, they are now more structured and aligned to the purpose for which the frameworks are being developed.

The Defra and devolved administration policy teams working on the Best Available Techniques (BAT) and Air Quality frameworks are relatively small. There is therefore overlap between the membership of the two groups and regular contact and liaison between them. In addition, for each administration the same senior official and Minister are responsible for both frameworks, which will further aid coordination. More formal updates on BAT



development and developments under the Air Quality framework will also be shared at key respective meetings.

There is ongoing work to identify interactions between both the BAT and Air Quality frameworks, and cross-cutting issues such as the Northern Ireland Protocol, UK Internal Market Act and UK-EU Trade and Cooperation Agreement. For example, in relation to BAT we have now confirmed with the EU that there are currently four industrial sites in Northern Ireland which will fall within scope of the EU Industrial Emissions Directive owing to their role in the Single Electricity Market. My officials are therefore continuing to work closely with their counterparts in the Cabinet Office and the devolved administrations to develop the detailed arrangements for these aspects.

Chemicals and Pesticides

With respect to the responsibilities of the UK Chemicals Governance Group (UKCGG), its main role (other than in the dispute avoidance and resolution process), is to provide strategic oversight of the various regulatory regimes which operate across the UK to enable the effective regulation of the chemicals sector. This includes:

- strategic decision-making and oversight of decision-making (including reaching consensus where possible, on regulatory decisions escalated to the group);
- oversight of UK and international engagement to ensure that obligations from relevant international conventions (Stockholm, Rotterdam, Basel and Minamata) are implemented effectively across the UK;
- considering priorities and the allocation of resources required to effectively implement the regulatory regimes;
- ensuring all administrations have access to independent scientific and technical advice; and
- reviewing the common framework, and the UKCGG terms of reference.

On the question of timescales for establishing processes for timely and informed decision-making as part of the ongoing development of the Chemicals and Pesticides framework, this is contingent on discussions with the devolved administrations on the interactions between the frameworks and the cross-cutting issues as set out in my letter of 14 May, 2021.

The standalone UK chemicals and pesticides regulatory regimes are live, and the governance structures for decision-making processes under the regimes are in place. However, more work is needed to assess how the cross-cutting issues referred to above under the BAT and Air Quality frameworks, may require changes to decision-making processes.

Food Compositional Standards and Labelling

I am happy to provide in an annex a summary of stakeholder feedback along with actions taken to improve the framework as a result. A more detailed summary was shared with our

stakeholders in advance of a further round of engagement, which took place on 17 June and sought further input in preparation for presentation of the framework for formal scrutiny. The range of stakeholders engaged for these formal sessions was targeted at industry bodies and NGOs deemed most interested and/or impacted by the framework. Engagement was carried out with the recognition that frameworks are primarily about ways of working within Government and between the UK Government and devolved administrations, rather than policy proposals and we have used those that have cross-cutting influence and reach across all areas of the food industry as well as key consumer (Which?) and NGO (Green Alliance) participation. Less formally however, the provisional frameworks, as published, have been brought to the attention of an even wider range of stakeholders through the relevant departments' regular engagement programmes.

I note your concerns regarding the way the framework deals with significant issues, triggering an exceptional review of the framework. It is important that any exceptional review of the framework comes to a resolution that is agreed between all parties. To re-open the same issue immediately would be indicative that such a resolution has not in fact been achieved and the ability to do so would, I believe, render the framework unmanageable.

To your question about the partial inclusion of domestic, non-retained EU legislation in the framework document. It was considered sensible when drawing up the framework to include for discussion items that, while important for the smooth functioning of the internal market, were not part of retained EU legislation and therefore not within the scope of the framework programme. Because they were outside of the scope of the framework programme, resolution of any disagreement or dispute would need to be pursued through other channels, as they are now and were during our EU membership. This is a limited number of provisions, including the Bread and Flour Regulations, the Jam and Similar Products Regulations, the Products containing meat etc. regulations and the Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (England) Regulations 2008.

Your concerns around the UK Internal Market Act 2020 and the Protocol on Ireland/Northern Ireland echo those same concerns in respect of the Animal Welfare framework and for completeness I will respond in a similar fashion here. I have agreed with my counterparts in the devolved administrations that we will seek to achieve sign-off and implementation of final frameworks by the end of 2021. To reach that point all EFRA frameworks will require further development both on their policy-specific elements and the cross-cutting issues already mentioned.

Many of these issues are interlinked and developing, and my officials continue to work closely with the Cabinet Office frameworks team, and the devolved administrations, to resolve them. I understand that Chloe Smith MP, Minister for the Constitution and Devolution, has written to you with an outline of how discussions with the devolved administrations on each of these issues are proceeding. The successful conclusion of those discussions will enable me, my officials, and our counterparts in the devolved administrations to make further progress in completing the EFRA frameworks.

Regarding the UK Internal Market's interaction with the EFRA frameworks, like most frameworks, the one in question here provides structures through which the UK Government

and the devolved administrations could consider whether to exclude regulations from the market access principles (as per Sections 10 and 18 of the Act).

Subject to the discussions with the devolved administrations, I am hopeful that we can agree a general approach to these issues that can be applied to individual frameworks, with adaptation or supplementary detail where appropriate. It is our expectation that we will be in a position to address these issues in greater detail by the time the revised framework documents are provided for scrutiny later in the year.

I am copying this letter to Chloe Smith MP, Minister for the Constitution and Devolution.



RT HON GEORGE EUSTICE MP

Annex: Summary of stakeholder feedback along with actions taken to improve the Framework as a result.

In November 2020 Officials from each UK nation wrote to industry and consumer stakeholders requesting their feedback on a summary of the draft Food Compositional Standards and Labelling framework using the questions below to frame discussion.

- Does the summary framework make clear what areas are in scope and what is out of scope for the framework? If no, in what way might this be improved?
- Do you agree that the framework principles provide a robust basis upon which UK-wide governmental collaboration can be maintained? If no, in what way might this be improved?
- Do you agree that the decision-making and dispute resolution mechanisms for officials are appropriate for the Food Compositional Standards and Labelling policy area? If no, in what way might this be improved?
- Do you have any areas of concern for the proposals?
- Are there any areas where you would like further information?

We received a total of 12 responses from stakeholders around the UK;
Following receipt of this feedback, the following changes have been made to the framework:

- Clarification has been added that some divergence in policy approaches already exists between UK nations in circumstances where this had already been permissible through EU directives.
- Clarification added as to which areas of domestic policy, whilst not in direct scope of the framework, will be discussed through the framework's Policy Officials Group.
- Clarification added on which areas of the EU Food Information to Consumers Regulation, as it pertains to Nutrition and Allergen Labelling, fall outside of the scope of this framework.
- Further information has been given to which Policy Officials will sit on the UK Food Compositional Standards and Labelling Policy Officials Group.
- Principles to guide Official level decision making have been added.
- Further detail has been provided to clarify how Ministers will make decisions, and on what basis Officials will decide whether a decision must be escalated to Ministerial level.
- Further information on how and when Policy Officials will engage with stakeholders in decision making.
- Clarification that Ministerial level discussions will include Ministers from all four UK nations as appropriate.
- Further guidance on the Protocol on Ireland/Northern Ireland has been added.

The following organisations were invited to comment;

- British Retail Consortium (BRC)
- Food and Drink Federation (FDF)
- National Farmers' Union (NFU)
- Hospitality UK
- Provisions Trade Federation (PTF)
- British Frozen Food Federation (BFFF)
- International Meat Traders' Association (IMTA)
- British Beer and Pub Association (BBPA)
- Scotch Whisky Association (SWA)
- Wines and Spirits Trades Association (WSTA)
- British Soft Drinks Assoc (BSDA)
- FWD Federation of Wholesale and Distributors (FWD)
- Green Alliance
- Which?