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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  
SW1A 0PW

2 November 2021

Dear Baroness Andrews,

## **DEFRA COMMON FRAMEWORKS**

Thank you for your letter of 23 June regarding the summaries of the Fertilisers, ODS and F-gas, and Resources and Waste frameworks which were considered by the Committee.

### **Fertilisers Framework**

I am writing to provide you with further information in relation to your queries. In relation to your first question surrounding the level of detail included within the Fertilisers Framework summary provided, I can confirm that this is not due to a lack of detail or fullness in development of the Framework and can clarify further detail on the elements you mention.

In relation to how decisions will be made within the Framework, this will depend on what type of decision needs to be made, for example a legislative or non-legislative decision, and to what geographical extent that decision will relate to. For matters that require a collective decision, for example decisions to jointly legislate, agreement on a UK-wide approach or jointly drafted documents, the issue should be sent to all members of the UK Fertilisers Regulatory Committee (UKFRC) as early as possible with a reasonable timeline for review or response. If discussion is necessary then the issue should be brought up at either the quarterly meeting of the Committee, or at one of the monthly meetings, or *ad hoc* meeting if the issue is urgent. Following discussion, and unless further discussion is necessary, a decision should be taken by all relevant parties. Decisions should always be confirmed in writing, whether by the agreed minutes of the meeting, or by written agreement after the meeting. In situations where policy related to fertilisers, but that is out of control of the UKFRC, impacts upon fertiliser policy, the UKFRC should discuss the issues and take a view on those impacts to inform other policy areas of the Committee's view. When considering an issue that may impact on divergence in one or more nations, as an additional element to its opinion, the Committee should consider the impact divergence would have on each nation and the UK as a whole. Any disputes should follow the dispute resolution process and would be referred to a Senior Officials Programme Board and if it still could not

be resolved it would be referred to the Inter-Ministerial Group (EFRA). Decisions will still be subject to Ministerial steers in each nation where necessary.

Regarding your question about 'other relevant bodies' and their role in the operation of the framework. Defra and the devolved administrations are currently planning a review and consultation of the future regulatory framework for fertilisers. It is for this reason that we have purposefully left this scope open to remain as flexible as possible going forward. For example, it may become necessary to gather independent UK wide evidence to inform policy, and this may require a new or existing body to provide this evidence base in an independent manner. The FRC is the main body that has been formed and it will be within their remit to decide whether any decision-making powers or operational roles will be delegated to other bodies, either existing or new, in the future as part of the functioning of any new regulatory framework.

In relation to the monitoring and enforcement of the framework I can confirm that in the first instance the UKFRC would be expected to monitor the progress of the framework and develop it where necessary. If a dispute arises or agreement can't be reached within the group it would then follow the dispute resolution process.

I can confirm that the UKFRC began its work in earnest directly after EU Exit in an informal capacity but is now formally established. Conclusion of the framework depends upon further discussion on remaining areas, a second round of consultation with stakeholders, and finalising the Framework Agreement. It is proposed by Officials that the Framework should be concluded in the autumn of 2021.

In relation to your question about the brevity of the list of stakeholders engaged, this was due to the first round of stakeholder engagement being a high-level initial scoping of stakeholders' views with the intention to do a second round of consultation as the Framework develops. The list of stakeholders was made by each nation deciding who needed to be consulted initially and use of a jointly agreed consultation document ensured consistency. The second round of consultation is currently being planned with the Welsh, Scottish and Northern Irish administrations in advance of the conclusion of the framework in autumn 2021.

## **ODS and F-gases Common Framework**

The UK government, the Scottish Government and the Welsh Government have agreed to operate a single GB-wide system from 1 January 2021, subject to the consent and direction of functions by the Scottish and Welsh Ministers, which they have provided. The system is administered by the Environment Agency (EA) and includes the following:

- Registration of businesses to ODS and F-gas systems;
- Licensing of imports and exports of ODS and the use of ODS for laboratory and analytical purposes;

- Hydrofluorocarbon (HFC) quotas, which will use the same phasedown set out in the EU F-gas Regulation, and similar mechanisms for transferring and authorising quotas;
- ODS quotas; and
- Reporting requirements on businesses for ODS and F-gas.

Where the Scottish and Welsh Ministers have given consent to the Secretary of State to exercise functions in a devolved area, or have directed the EA to exercise functions on behalf of the devolved regulators, working arrangements will continue to involve the Scottish and Welsh Governments (as well as the Department of Agriculture, Environment and Rural Affairs in Northern Ireland) as set out in the Framework, given they remain accountable to their respective legislatures.

Although Scottish and Welsh Ministers have directed the EA to exercise certain administrative functions on behalf of the Scottish Environment Protection Agency (SEPA) and Natural Resources Wales (NRW), certain functions will continue to be exercised by SEPA and NRW. The regulators will need to cooperate, but their detailed working arrangements are not set out in the Framework. The regulators will determine what joint working arrangements are appropriate.

The Framework Working Group and the Governance Group have responsibility for the delivery of the F-gas and ODS systems. The EA sits on these Groups (with 'observer' status in respect of any final decision-making), to support the sharing of information and the policy development process. Matters relating to the internal, day-to-day operation of the GB systems, is within the remit of the EA.

### **Resources and Waste Common Framework**

Consideration of further areas of resources and waste policy for inclusion within the framework's scope will be undertaken by the Working Group in the first instance. Any additions will be through agreement between the UK government, the Scottish Government, the Welsh Government and the Northern Ireland Executive. The decision-making and dispute resolution mechanisms set out in the framework will be invoked where necessary. With regard to the loss of access to EU advisory groups and research reporting, there are not, as yet, any specific measures in place to replace them, but collaboration already takes place across the administrations on many areas, including sharing of research to support policy work and development.

I do hope these answers satisfy your questions but please do write to me in future if you have any more queries.

**RT HON GEORGE EUSTICE MP**