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Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: LG/2051

Mike Hedges MS
Climate Change, Environment and Rural Affairs Committee
Welsh Parliament
Cardiff Bay
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29 June 2020

Dear Mike

Climate Change, Environment and Rural Affairs Committee's report on the Legislative Consent Memorandum on the Agriculture Bill 2019-21

Thank you and members of the Climate Change, Environment and Rural Affairs Committee for your consideration of the Legislative Consent Memorandum (LCM) on the Agriculture Bill which I laid before the Senedd on 12 February. I have reflected on the Committee's Report, and my response to each of the 28 recommendations raised is provided in the annex to this letter.

I would like to take this opportunity to provide the Committee with an update on the progress of the Bill. On 13 May, the Bill completed its passage in the House of Commons, where amendments were made to a number of provisions relating to Wales to ensure their operability. Details of these amendments are provided in the Supplementary LCM laid before the Senedd on 11 June. The Bill had its First Reading in the House of Lords on 18 May, the Second Reading on 10 June, and the first two dates for Committee Stage have now been confirmed as 7 and 9 July.

During the Bill's Second Reading in the House of Lords, a significant number of Peers raised concerns regarding the absence of legislative protection for UK's agricultural standards in future trade agreements. We have always been clear with the UK Government no future trade agreement should undermine our domestic legislation or the high product and production standards we have in Wales. On 12 June, I wrote to George Eustice MP, the Secretary of

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

State for Environment, Food and Rural Affairs, setting out the Welsh Government's position on animal health and welfare, as well as key Sanitary and Phytosanitary matters in respect of future trade agreements. Food safety along with animal health and welfare are devolved matters, and the Welsh Government's policy is clear that high food safety, animal welfare and environmental standards must be maintained in Wales.

I remain committed to introducing an Agriculture (Wales) Bill in the next Senedd term. Building on our two consultations, *Brexit and Our Land* and *Sustainable Farming and Our Land*, I intend to publish a White Paper later this year to set out the Welsh Government's plans for the future of agriculture in Wales and pave the way for the Agriculture (Wales) Bill.

As stated in my LCM on the UK Agriculture Bill, powers are being taken for Welsh Ministers as a temporary measure to allow us to continue supporting farmers in Wales and to ensure agricultural sectors across the UK can operate effectively once we leave the EU. During this period of unprecedented uncertainty when we continue to prepare for our departure from the EU while dealing with a crippling global pandemic, the Bill is an important legislative vehicle to provide much needed continuity and stability for Welsh agriculture.

Yours sincerely

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

Lesley Griffiths AS/MS

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Minister for Environment, Energy and Rural Affairs

ANNEX

Response to the Climate Change, Environment and Rural Affairs Committee's Report on the Legislative Consent Memorandum in relation to the UK Agriculture Bill 2019-21 (published 14th May 2020)

Committee's Recommendation	Welsh Government's Response
Food and agricultural markets (Part 2)	
<p>Recommendation 1</p> <p>The Welsh perspective must be reflected in the methodology for assessing the UK's food security. The Welsh Government should clarify how it will contribute to the development of the food security report and how the views of food producers and stakeholders will be reflected.</p>	<p>Noted</p> <p>The Welsh Government, alongside the other Devolved Administrations, continues to work closely with Defra on their assessment of the UK's food security, playing an active role in commenting on plans and assessments. There is an established cycle of activity and infrastructure in place to obtain the views of food producers and stakeholders.</p>
<p>Recommendation 2</p> <p>The reporting frequency on food security matters set out in the Bill is inadequate. The report must be prepared and published annually or biannually.</p>	<p>Accept in principle</p> <p>Clause 17 places a duty on the Secretary of State to report on food security at least once every five years but this does not preclude more frequent reporting where this is considered necessary. I accept more frequent reporting may be necessary given the potential pace of development in this area. Officials will monitor the situation and discuss with Defra what reporting frequency is most appropriate in different circumstances.</p>
<p>Recommendation 3</p> <p>The Minister should clarify whether she believes it would be desirable to prepare an annual report focused on food security in Wales to inform the development of food policy.</p>	<p>Reject</p> <p>Food, in raw, processed, or fully manufactured form, ingredients and components necessary to process and manufacture food, to raise animals or grow crops, moves around the UK irrespective of internal borders. The only meaningful boundary for Wales' food security is the UK's external border with the rest of the world. There is no concept of 'the food supply of Wales' or 'Welsh food security' because they are integral to the UK's food supply and food security. I do not believe such a report would be desirable as it would have no meaning or value in relation to the production, processing, manufacture, and sale of food.</p> <p>A Wales report could potentially mislead the development of food policy, and its production would misdirect resource which could otherwise be utilised to address the questions of how to improve the productivity and</p>

	<p>sustainability of Wales’ primary and secondary food businesses, how to strengthen and grow routes to market, how to add value to products, and how to address the questions of public benefit concerning healthier diets and the affordability of food for people of limited means.</p>
<p>Recommendation 4</p> <p>The Bill should be amended to require the UK and Welsh Governments to publish a response to, and take appropriate action in respect of, the food security report proposed in the Bill. If an amendment to give effect to this is not forthcoming or agreed, the Minister should give a commitment that she will publish a response to any matter in the report that relates to Wales and devolved policy areas. The Minister should ensure that the Senedd has sufficient opportunity to consider the food security report and response and must ensure that a debate in the Senedd Chamber takes place.</p>	<p>Accept in principle</p> <p>I agree the UK Government should be expected to respond to issues raised by a food security report but I do not consider that an amendment is required. As stated in the response to recommendation 1, I would expect the Welsh Government to continue to be involved in the formulation of a UK response.</p> <p>I consider an amendment to place a duty on the Welsh Ministers to be unnecessary as Ministers are already held to account and scrutinised by Senedd Members in many other ways. Periodically the Welsh Ministers make statements to the Senedd about the food and drink sector, our strategy and plans, and as part of this I would comment on or respond to Welsh specific food security issues should those arise.</p>
<p>Transparency and fairness in the agri-food supply chain (Part 3)</p>	
<p>Recommendation 5</p> <p>The Minister should clarify what assessment she has made of the impact of the provisions on fair dealing on food producers in Wales. The Minister should also clarify whether she has considered that businesses which do not reach a certain threshold of turnover should be exempt from certain requirements in relation to data collection.</p>	<p>Noted</p> <p>The impact of the Covid-19 pandemic has highlighted some of the issues faced with the current contractual arrangements which operate in the agricultural industry, in particular, the dairy sector.</p> <p>The Welsh Government, in conjunction with the other UK administrations has recently launched a joint consultation to explore views on the potential introduction of mandatory written contracts in the dairy industry.</p> <p>The Welsh Government would consider the impact on businesses from any request for data in line with relevant data protection requirements.</p>
<p>Recommendation 6</p> <p>The Minister should explain whether she is content that the fair dealing provisions are included in the Bill as an enabling power rather than a duty.</p>	<p>Noted</p> <p>I am content the fair dealing provisions (clause 27) are included as an enabling power rather than a duty, exercisable by the Secretary of State. This will allow the UK Government to consider whether the power needs to be used to address specific circumstances of inequality</p>

	following investigation and consultation, where appropriate, with the industry.
<p>Recommendation 7</p> <p>The Minister should respond to the points made by stakeholders about the potential for extending the powers of the Grocery Code Adjudicator in relation to fair dealing with agricultural producers.</p>	<p>Noted</p> <p>The fair dealing provisions will provide an appropriate mechanism to consider issues of fair dealing with agricultural producers. The remit of the Groceries Code Adjudicator was reviewed in 2018, and a decision was made not to extend this remit. This is because the Adjudicator’s ability to work effectively on her current remit would be weakened by any extension to indirect suppliers in the agri-food chain.</p>
<p>Matters relating to farming and the countryside (Part 4)</p>	
<p>Recommendation 8</p> <p>The Minister should set out, and give reasons for, her position on the appropriateness of the Agriculture and Horticulture Development Board being the body identified to lead on the new Livestock Information System. In particular, the Minister should explain in detail how the problems in relation to the lack of accountability of that Board to the Welsh Government will be addressed.</p>	<p>Noted</p> <p>The Agriculture and Horticulture Development Board (AHDB) is a non-departmental public body (NDPB) accountable to the UK government and is the delivery body for the multispecies project in England. Although AHDB is not directly accountable to Welsh Government, the Welsh Ministers have joint responsibility in the appointments of the AHDB board as well as levy matters, approving the annual report and accounts and lay them before the Welsh Parliament.</p> <p>My officials are working closely with the UK Government and the other DAs to put in place a high level of governance to protect Welsh data and Welsh keepers' interests at every stage. I will seek to ensure Welsh data is only collected with Welsh Ministers’ approval and with clear data sharing agreements in place.</p> <p>To this end, my officials are working with Defra to progress an amendment to clause 32 of the Bill which will require the Secretary of State to obtain consent from the Welsh Ministers before assigning functions under this provision in relation to Wales.</p>
<p>Recommendation 9</p> <p>The Minister should provide an update on her understanding of how the new Livestock Identification System will interact with EIDCymru and the work she is doing to ensure that the two systems are compatible.</p>	<p>Noted</p> <p>Officials from Livestock Information Limited as well as the Scottish Government and the Northern Ireland Executive are collaborating to ensure, as far as possible, the development of our respective systems are compatible and the transfer of reporting arrangements from the current GB cattle and pig systems is managed effectively to ensure the highest levels of traceability.</p>

	<p>Monthly meetings are being held across the four administrations to update on developments and to work through common issues. A series of task and finish groups are also being introduced.</p>
<p>Recommendation 10</p> <p>The Minister should give a commitment that any new funding arising from the red meat levy will be used to supplement, rather than replace, Welsh Government funding for Hybu Cig Cymru.</p>	<p>Noted</p> <p>The purpose of spending associated with funding arising from the Red Meat Levy is set out in the Red Meat Industry (Wales) Measure 2010. The Agriculture Bill explicitly states that a payment made under the repatriation scheme is to be treated by the levy body receiving it as if it were red meat levy collected by that body (clause 33(4)).</p> <p>Spending associated with new funding arising from the red meat levy is separate from any additional funding applications made by Hybu Cig Cymru to Welsh Government.</p>
<p>Marketing standards, organic products and carcass classification (Part 5)</p>	
<p>Recommendation 11</p> <p>The Minister should set out the extent to which the Welsh Government was involved in developing the provisions on organics in the Bill and how they reflect her aspirations for the sector in Wales.</p>	<p>Noted</p> <p>Provisions on organics in the Bill are required for the creation of new Welsh organic standards following the end of the EU Transition Period.</p> <p>My officials have worked closely with counterparts in the UK Government and other Devolved Administrations to develop the provisions which will enable the Welsh Government to maintain the integrity of the organics sector in Wales.</p>
<p>Recommendation 12</p> <p>The Minister should set out her position on future equivalence or compliance with EU organic regulations and provide an update on how this is being reflected in discussions with the UK Government.</p>	<p>Noted</p> <p>This administration has been very clear about the importance of alignment with EU regulations and maintaining high standards in any future trade agreement between the UK Government and the EU.</p>
<p>Recommendation 13</p> <p>The Minister should explain how she will seek to ensure that current Welsh organic standards are not undermined by future trade deals. The Minister should set out whether the Bill gives enough protection in this regard.</p>	<p>Noted</p> <p>Wales' organic producers currently uphold some of the highest organic standards in the world and this must continue. To protect our organic standards, my officials are working with Defra to progress an amendment to clause 37 of the Bill which will require the Secretary of State to obtain the consent of Welsh Ministers before making regulations in respect of organic products under clause 36, to the extent those regulations make provision within the executive competence of the Welsh Ministers</p>

	(as defined by reference to the legislative competence of the Senedd).
<p>Recommendation 14</p> <p>The Minister should set out whether she believes that common organic standards should be maintained across the UK.</p>	<p>Noted</p> <p>Having common organic standards across the UK is of benefit to the industry. The desire for common organic standards, however, should not mean Wales is forced into lowering its own standards.</p> <p>Officials are in discussion with Defra and the other devolved administrations on this matter.</p>
<p>Recommendation 15</p> <p>The Minister should provide further information about the Welsh Government's involvement in the four-nation organic group, including its purpose and membership. This should include an update on its work to date.</p>	<p>Noted</p> <p>The Four Nations Organic Working Group is made up of officials in each of the UK administrations. The group is a forum to discuss policy and issues in the organic sector and to agree on positions at official level.</p> <p>With new pressures to the organic sector arising from the Covid-19 pandemic, the Group is holding weekly teleconferences to coordinate information and responses to the crisis.</p>
<p>Recommendation 16</p> <p>The Minister should clarify whether she believes the Bill needs to be amended to include safeguards to ensure that market standards in Wales are not undercut by imports in any future trade arrangements. Further, the Minister should provide an update on any discussions she has had with the UK Government on this matter.</p>	<p>Noted</p> <p>We have always been clear with the UK Government that no future trade agreement should undermine our domestic legislation or the high product and production standards we have in Wales. I wrote to the Secretary of State on 12 June to set out the Welsh Government's position on animal health and welfare, and key Sanitary and Phytosanitary matters in respect of future trade agreement. Food safety along with animal health and welfare are devolved matters, and the Welsh Government's policy is clear that high food safety, animal welfare and environmental standards must be maintained in Wales.</p>
World Trade Organisation Agreement on Agriculture (Part 6)	
<p>Recommendation 17</p> <p>The Minister should provide an update on any discussions she has had with the Secretary of State about amending the clauses in relation to the World Trade Organisation Agreement on Agriculture to strengthen the bilateral agreement.</p>	<p>Noted</p> <p>I remain satisfied the bilateral agreement provides strong mechanisms for Welsh Ministers to express their views and have those views taken into account by Parliament and by the UK Government in its dealings with the WTO.</p> <p>I asked the Secretary of State for confirmation of his commitment to working with the DAs on the use of these powers and the responsible</p>

	<p>Minister made a statement on this in the House of Commons on 13 May 2020.</p> <p>I am pleased to report officials from across the UK are working together to prepare the regulations and concordat giving effect to these powers. This work is at an early stage but I can confirm UKG has been receptive to the views of the DAs, and Welsh Government is playing a key role in influencing the drafting of the regulations and the concordat.</p> <p>I have asked officials to keep me informed of progress and will discuss this with the Secretary of State if I consider there is a need to do so.</p>
<p>Recommendation 18</p> <p>The Minister should provide an update on discussions she has had with UK Government counterparts about amending or strengthening the bilateral agreement.</p>	<p>Noted</p> <p>See response to recommendation 17.</p>
<p>Agricultural tenancies (Schedule 3)</p>	
<p>Recommendation 19</p> <p>The Minister should publish the response to the Welsh Government's consultation on agricultural tenancies, which ended in July 2019.</p>	<p>Accept in principle</p> <p>The summary of responses to the Agricultural Tenancy Reform Consultation will be published as soon as is practicable given the impact of the COVID-19 response.</p>
<p>Recommendation 20</p> <p>The Minister should respond to the view expressed by stakeholders that agricultural tenancies requires its own Senedd Bill in future.</p>	<p>Noted</p> <p>The Legislation (Wales) Act 2019 places a duty on the Counsel General and Welsh Ministers to prepare a programme setting out what they intend to do to improve the accessibility of Welsh law.</p> <p>Proposals to bring together different pieces of legislation on agriculture and related policy areas, such as agricultural tenancy, for the proposed Agriculture (Wales) Bill would contribute to the ongoing process of consolidating and codifying Welsh law, rendering the law more easily accessible.</p> <p>Maintaining a resilient tenanted sector, which accounts for approximately 30% of the farmed land in Wales, is important to the Welsh Government. Reform of agricultural tenancy policy in Wales will be considered as part of the development of the Agriculture (Wales) White Paper. This will provide the mechanism to evaluate the need for any future agricultural tenancy legislative change in Wales.</p>

<p>Recommendation 21</p> <p>The Minister should explain why certain aspects of tenancy reform have been prioritised over others for inclusion in the UK Bill.</p>	<p>Noted</p> <p>The elements of tenancy reform brought forward within the Bill are those which stakeholders considered were achievable and necessary in order to maintain support to this sector. The reforms were developed collaboratively with Defra.</p>
<p>Recommendation 22</p> <p>The Minister should explain the rationale for the provisions in the UK Bill applying to 1986 Act holdings and not 1995 Act holdings. The Minister should set out her views on whether the provisions should be extended to cover 1995 Act holdings.</p>	<p>Noted</p> <p>Agreements under the Agricultural Tenancy Act 1995 (1995 Act) are modern commercial agreements negotiated more recently than those under the Agricultural Holdings Act 1986 (1986 Act). They also tend to run for shorter periods and are reviewed more regularly than agreements under the 1986 Act.</p> <p>This means tenants with agreements under the 1995 Act have the opportunity to renegotiate and vary the terms of their agreement, which is not available for 1986 Act agreements.</p>
<p>Provisions relating to Wales (Schedule 5)</p>	
<p>Recommendation 23</p> <p>The Committee has called for the establishment of an inter-governmental mechanism to secure a long-term agreement for funding of agriculture across the UK. The Minister should provide an update on discussions with the other UK governments about this matter.</p>	<p>Noted</p> <p>The Minister for Finance and Trefnydd already has established mechanisms in place with the UK Government and other devolved administrations. A key focus of these interactions is to secure replacement funding for the agricultural and wider rural sector. My officials meet regularly with representatives of HM Treasury, Defra and other devolved administrations, as do I with the Secretary of State. We are continuing to press the UK Government for confirmation of full replacement funding in respect of the Common Agricultural Policy, and all other funding which is being lost to Wales as a result of leaving the European Union</p>
<p>Recommendation 24</p> <p>The Minister should give a commitment that she will provide the Committee with secondary legislation arising from this UK Bill in draft and provide enough time for scrutiny in the Senedd.</p>	<p>Accept in principle</p> <p>I am committed to the principle of transparency and the legitimate role of the Senedd in scrutinising activity of the Welsh Government. I commit to laying secondary legislation before the Senedd in accordance with Standing Order 27.</p>
<p>Recommendation 25</p> <p>The Minister should set out the circumstances where she envisages the powers in relation to intervention in agricultural markets would be exercised.</p>	<p>Noted</p> <p>Powers available to the Welsh Ministers in relation to intervention in agricultural markets may be exercised where exceptional market conditions exist (Part 2 of Schedule 5 to the</p>

<p>Further, the Minister should set out what mechanisms are in place to ensure that Welsh and UK Governments work together in such circumstances. The Minister should also set out whether the provisions will apply not only to short-term, but also to longer-term problems affecting agricultural markets.</p>	<p>Bill). These are where there is a severe disturbance in agricultural markets or a serious threat of a severe disturbance in agricultural markets, and the disturbance or threatened disturbance has, or is likely to have, a significant adverse effect on agricultural producers in Wales in terms of the prices achievable for one or more agricultural products.</p> <p>When such measures are being considered, the four administrations of the UK consult each other through the UK Agricultural Market Monitoring Group, as provided for through the proposed Agricultural Support Common Framework.</p> <p>Market intervention is for use in exceptional short-term circumstances and is not intended for use as a long-term support mechanism.</p>
<p>Recommendation 26</p> <p>The Minister should provide an update on progress of developing UK common frameworks in relation to animal health standards.</p>	<p>Noted</p> <p>My officials are continuing to work with their counterparts in Defra and the other devolved governments to develop a framework for animal health and welfare. The framework is currently within phase two of the process which is focused on detailed policy development. In particular, work is progressing on the draft Framework Outline Agreement which sets out the proposed arrangements.</p>
<p>Recommendation 27</p> <p>The LCM states that there are outstanding concerns regarding the provisions in the Bill for the identification and traceability of animals, agricultural tenancies, and the regulation of organic products. The Minister should set out in detail what those concerns are and provide an update on progress in resolving them.</p>	<p>Noted</p> <p>On the identification and traceability of animals and the regulation of organic products, I am concerned with the absence of express requirements for the Secretary of State to obtain the consent of Welsh Ministers when exercising powers under these provisions. My officials are working with the UK Government to progress amendments to put consent requirements for these provisions on the face of the Bill. This is explained in more detail in the responses to recommendations 8 and 13.</p> <p>When the LCM was laid, there were also a number of technical amendments needed to ensure it is possible, when appropriate, to introduce bovine electronic identification and open the door to pre-movement reporting. These have been made at Committee Stage, following the Welsh Government's request.</p> <p>The concern around agricultural tenancies relates to the referral of disputed requests for landlord's consent or variation of terms to arbitration or for third party consideration</p>

	<p>where those requests are in connection with tenant's access to schemes of financial assistance. It is considered that the Agriculture (Wales) Bill, to be brought forward in the next Senedd term, would provide a more appropriate legislative vehicle to ensure access to new schemes for tenant farmers in Wales. Further consideration will be given to what provision is needed in due course.</p>
<p>Recommendation 28</p> <p>The Minister should explain how she intends to use the broad powers provided to Welsh Ministers in the Bill, including in relation to the collection and sharing of data; market intervention; and marketing standards.</p>	<p>Noted</p> <p>All powers conferred on the Welsh Ministers in the Bill shall be used in an appropriate way, with the objective of supporting farming and food production in Wales.</p> <p>The collection and sharing of data will be carried out in compliance with relevant data protection requirements. Collection of data will be required to maintain sanitary and phytosanitary standards and to ensure any market intervention conducted by the Welsh Government is based on verifiable evidence, in keeping with the law.</p> <p>Market intervention powers may be used in the event of a severe disturbance in agricultural markets, or the serious threat of such a disturbance, which has or is likely to have a significant adverse effect on agricultural producers in Wales in terms of the prices achievable for one or more agricultural products. Recent examples include the Covid-19 pandemic and may include extreme weather conditions, if there is a significant adverse effect on agricultural producers in Wales in terms of the prices achievable for one or more agricultural products.</p> <p>Powers over marketing standards will be used to maintain and improve high standards in the agri-food supply chain, to ensure food safety and to sustain consumer confidence in food bought in Wales.</p>

