



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

London

SW1A 0PW

Tel: 020 7219 8664

hlcommonframeworks@parliament.uk

23 March 2022

The Rt Hon George Eustice MP
Secretary of State for Environment, Food and Rural Affairs
Department for Environment Food & Rural Affairs
Seacole Building
2 Marsham St
London
SW1P 4DF

Dear George,

Thank you for the Chemicals and Pesticides Provisional Framework that was published on 3 February and considered by the Committee on 22 March. We appreciate this framework being privately shared with our secretariat before its publication so we could prepare for scrutiny in a timely fashion. Whilst I want to confirm the Committee's intention to produce recommendations for this framework, there are several areas where we would first welcome more information.

We were concerned that little to no detail was given about the majority of the working groups outlined in the framework and displayed in the diagram under the 'Decision making' heading. On page 31, the framework states that "Decisions made at the working group will mostly be routine or technical; full details are set out in the terms of reference (ToR) for each group." Page 11 also refers to groups having terms of reference. However, no terms of reference are provided. Could you provide the terms of reference for all of the working groups that appear in the diagram? Additionally, we are extremely concerned about the sheer number of working groups outlined and the risk that this framework could become overly bureaucratic. This is a problem we have seen repeatedly in a number of DEFRA frameworks. Could you clarify if these working groups were already in operation before the development of the framework?

We were very concerned about how this framework deals with dissatisfaction from the Northern Ireland Executive on decisions made relating to GB-only proposals. In other frameworks, we note the NIE have been given the opportunity to trigger the full dispute resolution process if they have serious concerns about decisions made concerning a GB-only proposal. For example, the Fertilisers framework, Plant Varieties and Seeds framework, and Organics framework, all state that "Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue as set out in the dispute resolution process." In the course of the dispute resolution process, the NIE is represented at each stage, and therefore plays a role in the final decision. However, in this

framework, we read that NIE Ministers will have the right to trigger a review of an issue in a way that is “akin to the dispute resolution mechanism, albeit that the final decision will rest with the UKG, SG and WG.” This seems to contradict the JMC principle that frameworks “will lead to a significant increase in decision-making powers for the devolved administrations.” Why should the NIE not play a role in making the final decision? Why does this framework approach this issue differently to other DEFRA frameworks?

We also note with concern that this framework is unique in that it references Article 16 of the Protocol on Ireland/Northern Ireland: “Should a significant difference arise, which would lead to economic, societal, or environmental difficulties for Northern Ireland, under Article 16 of the Northern Ireland Protocol this would trigger a ‘significant issue’ review of the Common Framework to address and see if any amendments are required”. In light of the political tension surrounding Article 16, we are concerned that reference to it might be interpreted as intention for it to be triggered. Could you clarify when this section of the framework was written? Could you also clarify why this framework refers to Article 16 while other DEFRA frameworks we have so far considered do not?

We were not clear on the initiation of the dispute resolution process. On page 14, we read that “If officials do not agree in day-to-day discussions when making decisions ... issues discussed at a working level can be escalated initially to the CDB, PDB, BDB or UKCGG, or to senior officials in line with the Common Framework’s dispute avoidance and resolution mechanism.” However, this is not reflected in the governance arrangement diagram on page 47, where no senior officials appear, and it is not clear why senior officials are listed as an option on the same level as working groups. Page 14 causes further confusion, as it outlines that if the UKCGG cannot make a decision, it should be “escalated to senior officials” who can then escalate an issue to the Senior Officials Programme Board. This contradicts page 38, which outlines that the UKCGG escalate straight to the SOPB. It is also unclear what the difference is between senior officials and the SOPB. Could you clarify how the dispute resolution process operates?

We note that the framework states that “The Parties will collaborate to develop criteria to determine when regulatory decisions, issues, or information should be escalated to the UKCGG, or to the working groups sitting under it. These will be developed, agreed, and reviewed by the UKCGG as required.” Could you confirm if this collaboration has begun yet? If it has, could you give details of any criteria that have been drawn up?

Finally, we welcome that the framework contains information on areas that will be monitored. Could you confirm who will be responsible for monitoring?

In order to facilitate the swift scrutiny of this framework, we ask that you respond within 5 working days.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee