

Julie James MS
Minister for Climate Change

16 May 2023

Dear Minister,

The provisional common framework in relation to the UK Emissions Trading Scheme

The Committee considered the provisional common framework in relation to the UK Emissions Trading Scheme in its meeting on 29 March. The Committee agreed that I should write to you concerning several issues.

In January 2021, the UK governments committed to a UK-wide emissions trading scheme for a ten-year period, with provisions for review at designated points. The framework governs the collaborative management of the scheme and the administration of its legislative and non-legislative elements.

The Framework acknowledges that the establishment of a UK ETS engages both reserved and devolved competence. The majority of the policy areas are covered by the Climate Change Act 2008. However, some provision is required via the Finance Act 2020. The framework document states that the UK and Welsh governments disagreed on which matters are reserved and which are devolved during its passage through the UK Parliament in 2020.

- How might the ongoing competence dispute between the UK and Welsh governments impact future legislation and policy decisions within the UK ETS framework?
- Can you elaborate on the specific provisions in the framework that set out how disagreements on competence will be managed, and how the legislatures will be consulted on competence disputes?

The framework details a process for resolving disagreements and disputes between the four governments, with disputes escalated to Ministerial level if necessary. As a last resort, Ministerial disputes can be escalated to intergovernmental structures.

- How does the Welsh Government plan to monitor and evaluate the effectiveness of the UK ETS in achieving its objectives, particularly in terms of reducing greenhouse gas emissions?
- Are there any provisions in the UK ETS framework to address potential regional disparities in the implementation and outcomes of the scheme across the four UK nations?

In January 2022, the UK and devolved governments completed the Intergovernmental Relations Review (IGRR), replacing the Joint Ministerial Committee with new methods for working and resolving disputes. The framework should align to the review's outcomes.

- How does the UK ETS framework align with the Intergovernmental Relations Review, and how will the outcomes of the review be integrated into the framework's governance and dispute resolution processes?

The framework establishes new ways of working between officials and Ministers from all four governments. Various governance structures, including the "Resources Pool," manage the framework on a daily basis, with working groups, a senior officials board, and the Net Zero, Energy and Climate Change Inter-Ministerial Group (IMG) handling policy discussions and decision-making.

- Can you provide more clarity on the role of the 'resources pool' of officials and explain how it relates to other groups established by this framework?
- How does the framework ensure that the 'resources pool' of officials effectively supports the coordination and implementation of the UK ETS across the four UK governments?
- What specific responsibilities will be assigned to the senior officials board, and how will their decision-making process interact with other governance structures?
- Can you elaborate on the principles outlined in the framework for decision-making processes, particularly regarding the internal clearing processes and expedited processes for the four governments?
- What measures are in place within the UK ETS framework to ensure transparency and accountability in decision-making processes across the four UK governments?

The framework outlines the roles of UK environmental regulators, the Financial Conduct Authority, courts, and the Climate Change Committee (CCC) in the operation of the scheme and the framework.

- Can you provide a copy of the Memorandum of Understanding between the Environment Agency and devolved environmental regulators, and the Welsh Government's view on how its arrangements will impact the operation of the UK ETS?

- How does the UK ETS framework address potential discrepancies in the implementation and enforcement of the scheme across the four UK nations, particularly in terms of environmental regulators and compliance?
- What role will the Climate Change Committee play in the operation and oversight of the UK ETS framework, and how will its recommendations be integrated into policy decisions?

The framework lacks provisions for stakeholder engagement but details evidence-gathering for policy decisions and the potential for stakeholder input in dispute avoidance.

- What strategies are in place to ensure meaningful and inclusive stakeholder engagement in the development, implementation, and review of the UK ETS?
- Can you provide more information on the stakeholder input process in the dispute avoidance section of the framework?

The framework outlines arrangements for existing international obligations, such as the Kyoto Protocol, Paris Agreement, and CORSIA. For future obligations, the governments will use the frameworks to assess the impact of international trade, develop the UK's international policy formulation, and implement international obligations. The 2012 Devolution Memorandum of Understanding and International Relations (IR) Concordat will guide these arrangements.

- What strategies are in place to ensure that the UK ETS framework supports the UK's international policy formulation and implementation of international obligations, such as the Kyoto Protocol, Paris Agreement, and CORSIA?
- How will the four UK governments coordinate their efforts to assess the impact of international trade on managing UK policy divergence and consider any implications within the UK ETS framework?
- The International Relations Concordat cited in the framework was not concluded as part of the Intergovernmental Relations Review discussed above. In the absence of this concordat, is it your view that intergovernmental cooperation on international relations continues to be governed by the 2001 MoU on devolution?
- In your view, does the Framework offer the Welsh Government more opportunities to inform and participate in UK foreign policy and international relations work?

The framework discusses the Northern Ireland Protocol's dual carbon pricing system and the Trade and Cooperation Agreement (TCA), which confirms that both parties will each have their own effective carbon pricing systems. The UK and EU will cooperate on carbon pricing, and will consider linking their systems. The framework acknowledges that ETS may be discussed in relevant TCA forums and that implementing a linking agreement could fall within devolved competence.

- Can you provide more information on the potential implications of a linking agreement between the UK ETS and EU ETS, particularly in areas of devolved competence?
- Does the Welsh Government support linking the UK and EU ETS?
- How does the framework address potential challenges arising from the phase-out of ozone-depleting substances and the management of industrial and air emissions within the context of the UK-EU 'level playing field'?
- In the context of the Trade and Cooperation Agreement, how will the Welsh Government work with the other UK governments to monitor divergence and alignment to/from EU standards, including to avoid potential retaliation measures?

Retained EU law (REUL) refers to the EU legislation converted into domestic law at the conclusion of the Brexit transition period. The UK and devolved governments can modify REUL within their competence, potentially leading to disparities between UK and EU rules, and rules between UK nations. The frameworks aim to manage such differences, referred to as 'divergence.' Unlike other frameworks, the UK ETS framework does not reference REUL, nor does it include a list of REUL within scope.

- Can you clarify the interaction of the UK ETS framework with the Retained EU Law Bill and identify REUL within competence that underpins the framework?
- Could you provide the Welsh Government's assessment of the Retained EU Law Bill's impact on the framework?

The framework outlines the monitoring and review process, with a comprehensive review within three months of the UK ETS agreed review period in 2023 and ad-hoc reviews as needed. However, it does not specify consultation parties or legislature engagement during the review process.

In its report on the air quality and chemicals and pesticides framework, this Committee recommended the Welsh Government should explain when and how stakeholders will routinely feed into frameworks and ensure frameworks do not limit the role of stakeholders in the development of law and policy.

This Committee has also previously called for the Welsh Government to produce annual reports on the frameworks' operation and to seek intergovernmental agreement for a clearly defined role for UK parliaments in reviewing frameworks, a view supported by the Senedd's Economy, Trade and Rural Affairs Committee and the House of Lords Common Frameworks Scrutiny Committee.

- How does the Welsh Government plan to incorporate the recommendations from the Committee regarding the role of legislatures and stakeholders in the review and amendment of frameworks?
- Can you provide more information on how the UK ETS framework will be reviewed and amended, particularly in terms of stakeholder and legislature involvement?

- How does the framework address the Committee's call for the production of annual reports on the operation of the frameworks?
- What are the criteria for triggering ad-hoc reviews of the UK ETS framework?

I should be grateful for a response by Tuesday 27 June 2023.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

