

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig | Climate Change,
Environment and Rural Affairs Committee

Fframweithiau cyffredin y DU ar amaethyddiaeth a'r amgylchedd | UK common
frameworks on agriculture and environment

UK 16

Ymateb gan : Undeb Cenedlaethol yr Amaethwyr Cymru
Evidence from : National Farmers Union Cymru

1. NFU Cymru welcomes the opportunity to respond to the Climate Change, Environment and Rural Affairs Committee's inquiry into common UK frameworks that are needed to replace the EU governance structure that are set to disappear upon Brexit.
2. Agriculture as a sector has been very heavily shaped by the UK's membership of the European Union in terms not only of the support the sector receives under the CAP and the policies linked to this support, but also in terms of our trading relationship with EU and the volume of EU derived legislation which impinges on the sector.
3. European Union legislation relating to agriculture is enormously complicated and highly integrated with the governance structures and processes of the European Union. Replacing this EU architecture with common UK frameworks, where appropriate, represents a significant legal and political challenge.
4. The UK's constitutional landscape is now of course very different to that which existed when the UK joined the then EEC. We have long since moved from an arrangement in which powers were vested in the centre to one in which devolved legislatures and executives have law and policy making powers in relation to various matters.
5. NFU Cymru recognises the risk posed to a functioning UK internal market by unconstrained regulatory divergence that could follow from the loss of EU governance structures. In order to avert this risk, we accept the need for common frameworks in order to preserve the integrity of the UK's internal market for agricultural goods and produce, and to ensure that the UK is best placed to agree trade deals with the EU27 and the rest of the world.
6. It therefore follows that what sort of frameworks are required and what they encompass will, at least in part, be a corollary of the type of trade deals that the UK manages to secure.
7. The arguments around placing common frameworks on a legislative basis are most compelling (i) In respect of those areas in which breaches of common frameworks could lead to a breach by the UK of its international obligations, including those incurred in relation to trade and (ii) In respect of those areas which would otherwise risk distorting the operation of the UK single market.
8. NFU Cymru's support for common frameworks has always been on the basis that they must be arrived at by mutual agreement between London and Cardiff, with the

views of the Welsh Government and the National Assembly for Wales fully respected throughout this process.

9. NFU Cymru welcomes the publication of the framework analysis of EU law intersect with devolved competence. We are pleased to see that for most policy areas where action is required, this will be achieved via non-legislative common frameworks, whilst accepting that in some areas legislative common frameworks will be needed.
10. We are pleased that the UK and Welsh Governments reached an agreement on 24th April 2018 on the European Union Withdrawal Bill and the establishment of common frameworks.
11. We would urge the UK Government to continue to work in partnership with the devolved governments and legislatures in order to lay the groundwork for securing legislative consent with respect to any Clause 11 regulations, and indeed any legislation which engages the Sewel convention.
12. NFU Cymru supports the use of 'soft law' such as concordats and memorandums of understanding wherever possible, as a non-legislative means of delivering common frameworks. The use of such 'soft law' should foster better relations between governments and should also achieve a better accommodation for the devolution settlements and reduce the risk of dispute and potential litigation.
13. We of course accept that the operation of such 'soft law' is founded on trust and mutual respect between governments, and will only work to underpin common frameworks where such trust and respect is present, and governments share broadly similar policy objectives.
14. With reference to those areas which require a common approach across the UK, NFU Cymru would support legislative common frameworks, arrived at through common consent between the governments of the home nations in the policy areas that are deemed necessary to secure functioning internal markets.
15. We would anticipate that these frameworks would set minimum common conditions / standards that need to be met to allow for a functioning internal market and ensuring that the UK is best placed to enter into, and implement new trade deals but beyond these minimum common conditions and standards there is the scope for policy divergence.
16. NFU Cymru is aware that both Governments are currently exploring the extent to which legislation could be required in whole or in part for 24 policy areas and that these cover a range of areas including, pesticides, organic farming, fertiliser, animal health and traceability, food and feed safety and feed labelling.
17. The frameworks that are agreed between the Welsh and UK Government must provide sufficient flexibility to allow us to design and implement a bespoke Welsh domestic agricultural policy that recognises the specific challenges faced by Welsh agriculture and helps to ensure that we can support farm businesses to take best advantage of current and emerging market opportunities.

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18. It should of course be borne in mind that even within the parameters of the Common Agricultural Policy framework, governments across the UK home nations have been able to tailor agricultural policies to suit the sort of agriculture taking place within their respective territories.
 19. We have seen different approaches amongst the home nations to the use of coupled payments, areas of natural constraint and the capping of payments as just some examples of policy divergence within the bounds of the CAP have taken place across the UK.
 20. Outside of the CAP (but still within sphere of EU legislation) we have seen divergence amongst the home nations with regard to the rules that operate in relation to the movements of livestock.
 21. NFU Cymru would therefore believe that common UK frameworks should allow for a level of policy divergence amongst the home nations that is akin to that which is currently permitted under the auspices of the CAP regime and EU legislation.
 22. Whilst we would not advocate policy divergence for its own sake, we are mindful of the different types and structures of agriculture that are to be found across the UK, and we believe that each of the home nations needs the flexibility to be able to respond to the differing circumstances of farmers within their respective territories.
 23. The level of policy divergence between the England and Wales post-Brexit need not in our view be any more difficult to manage than the policy divergence we already have under the CAP regime.
 24. To date, there appears to have been little discussion of how common frameworks might be policed and enforced. NFU Cymru believes that consideration now needs to be given to how an oversight and enforcement mechanism for common frameworks might operate and respond to any alleged breaches of agreements.
 25. Any oversight and enforcement mechanism, if it is to be pan-UK or England and Wales in its remit, needs to fully respect devolution. We also see merit in making such a body accountable to the devolved and UK legislatures rather than the devolved and UK executives.
 26. It is worth making the point that many cross-border farmers have faced difficulties under the current CAP regime, and the Union has lent assistance to a number of its members who have faced challenges owing to the fact that their businesses straddle the border.
 27. Fundamentally however, the difficulties faced by cross border farms come down to the timely exchange of information between the respective agencies in England and Wales, and not necessarily to the fact that there is a degree of policy divergence between England and Wales.
 28. There needs to be far greater collaboration and partnership working between Welsh Government and Defra with regards to cross border holdings both between now

and when our participation in the CAP ends in 2020, and thereafter where England and Wales will have devised their own domestic agricultural policies.

I trust that you will find NFU Cymru's submission of interest, if you require any further information then please do get in touch.

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