



HM Government

# **Agricultural support common framework**

## Provisional framework outline agreement and concordat

February 2022

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## Provisional framework outline agreement and concordat

Presented to Parliament  
by the Secretary of State for Environment, Food and Rural Affairs  
by Command of Her Majesty

February 2022



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# Agricultural support framework outline agreement

## Section 1: What we are talking about

### 1. Policy area

The policy area under consideration is agricultural support.

Agriculture is a devolved policy area under the Devolution Settlements for Scotland, Wales and Northern Ireland. Following the UK's departure from the EU, Ministers of the UK Government (UKG), Scottish Government (SG), Welsh Government (WG), and Department of Agriculture, Environment and Rural Affairs (DAERA) (hereafter referred to as the 'Parties') agreed to develop a non-legislative framework for UK collaboration, coordination and cooperation on agricultural support. This would build upon commitments already developed between the Parties to work together at a UK level.

The scope of the framework covers working arrangements for future agricultural support now that the UK has left the EU and the Common Agricultural Policy (CAP). Specific elements of agricultural support covered in this outline agreement are:

- Agricultural spending and associated regulation and enforcement;
- Marketing standards;
- Crisis measures, Public Intervention (PI) and Private Storage Aid (PSA);
- Cross border holdings (within the UK);
- Data collection and sharing

The mechanisms of the Agricultural Support Framework will also be used to share necessary information in order for the Parties to meet their obligations under the World Trade Organisation (WTO) Agreement on Agriculture, via Agriculture Act 2020 regulations and the associated concordat (for example, classification of schemes).

## 2. Scope

### EU law

The EU law in this area that intersects with devolved competence is the Common Agricultural Policy (CAP) legislation as it has effect as retained EU law following the UK's withdrawal from the EU under the terms of the European Union (Withdrawal) Act 2018.

The CAP is broadly divided into four subject areas, each governed by one or two directly applicable EU regulations. These regulations are also known as the “basic acts”. There are five basic acts in the current CAP, two covering rural development, with the others covering direct payments, the Common Market Organisation (CMO) and the general financing, monitoring and management of all CAP payments, as set out below:

- Regulation 1305/2013 (“the Rural Development Regulation”): This Regulation establishes support for Rural Development by the European Agricultural Fund for Rural Development,
- Regulation 1303/2013 (“the common provisions Regulation”): This Regulation lays down common provisions on EU funds, and in particular on the European Agricultural Fund for Rural Development,
- Regulation 1306/2013 (“the Horizontal Regulation”): This Regulation covers the financing, management and monitoring of the Common Agricultural Policy, and in particular it provides for cross-cutting measures that apply to all areas of the CAP,
- Regulation 1307/2013 (“the Direct Payments Regulation”): This Regulation establishes rules for Direct Payments to farmers under support schemes within the framework of the CAP, and
- Regulation 1308/2013 (“The Single CMO Regulation”): This Regulation establishes a common organisation of the markets in agricultural products (“CMO”).

In addition, Regulation 1370/2013 provides for measures in respect of, and rules on, aid and refunds and similar matters as regards agricultural products and the CMO.

There is a body of EU subordinate legislation in the shape of delegated and implementing acts made under powers in the basic acts, which set out further detailed provisions in relation to the CAP. These 'basic acts' and subordinate legislation, with significant amendment, are now retained law.

### **UK Government, Welsh Government, Scottish Government and Northern Ireland Executive Competence**

Agriculture is a devolved policy area under the Devolution Settlements for Scotland, Wales and Northern Ireland. Each government therefore has the ability to design and implement agricultural policies for their own territories.

In practical terms retained law on agricultural matters is implemented through domestic legislation, including statutory instruments made by the UK Ministers for England and Ministers in Scotland, Wales, and DAERA. The relevant departments in each government (Defra - England, the Scottish Government – Scotland, the Welsh Government – Wales and DAERA – Northern Ireland) administer this legislation. Each government makes decisions on providing advice and monitoring compliance with agricultural policy and providing financial support. The Framework and Concordat build upon commitments already developed between the Parties to work together at a UK level.

Under EU law, the specific elements of agricultural support covered by this framework were managed at an EU level under the CAP, as outlined above. Agricultural support is administered at a devolved level and Scotland, Wales, and DAERA can apply market support measures in certain conditions. However, the ability for the Parties to diverge within the UK is currently constrained by the policy frameworks for agricultural support which include adherence to some elements of existing EU policy (e.g. CAP).

There are clear links between this Framework and the following Frameworks:

- Plant Health Framework;
- Organics Framework;

- Fertilisers Framework;
- Chemicals and Pesticides Framework;
- Plant Variety and Seeds Framework;
- Zootechnics Framework;
- Animal Health and Welfare Framework
- Food Compositional Standards and Labelling Framework

These links provide for close ongoing engagement with relevant officials via the Senior Officials Programme Board, and between the relevant policy officials within each administration. International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations (IR) Concordat. International obligations will be implemented in line with these agreements. In this respect, the Parties will automatically use any updated IR Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations

The international obligations that apply to this area are as below.

## **WTO**

The World Trade Organisation Agreement on Agriculture (the AoA) establishes a number of general rules and commitments, mainly in three areas sometimes called the “three pillars”. These are: market access, domestic support and export competition. A separate concordat accompanies the Regulations which derive from Part 6 of the Agriculture Act 2020. The Regulations are intended to ensure compliance with UK obligations on domestic support arising from the WTO Agreement on Agriculture, and the concordat is a working-level agreement of how obligations arising from the Regulations will be delivered. The concordat primarily deals with commitments on domestic support, although some aspects of export competition (export subsidies for example) fall within this bracket. It supports the Parties to work together to comply with the AoA and is complementary to this framework – the Policy Collaboration Group is key to linking the two concordats.

## **The Protocol on Ireland/ Northern Ireland**

The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK's custom territory, Northern Ireland will remain aligned with the EU. The following sections of the Northern Ireland Protocol are relevant to this framework.

- Article 5(4) - which provides for EU law to apply in respect of a number of areas including agri-food marketing standards;
- Article 10 - which sets out the provisions relating to state aid;
- Annex 5; and
- Annex 6 with specific regards to the issue of agricultural support.

This Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all Parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.

Where one or more of UK Government, the Scottish Government or the Welsh Governments propose to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.

As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.

Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of

any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.

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 at section 13 of this document.

In basic terms, as a result of Article 10, EU state aid requirements will continue to apply in Northern Ireland as they relate to EU laws identified in Annex 5 of the Protocol – it should be noted that these requirements apply to goods but not services. These requirements apply to trade between Northern Ireland and the EU. Agricultural support is exempt from the application of EU state aid rules as set out in Annex 5 but the level in terms of maximum ceiling of support for agricultural production and trade will be subject to approval by the UK-EU Joint Committee.

### **3. Definitions**

Definitions for the key terms in this policy area are as follows:

Crisis measures in the context of retained EU legislation are broadly of two types: 1) emergency measures taken by governments to counter market disturbances (market disturbances can be caused, for example, by significant price fluctuations or where there are threats of such); and 2) measures to deal with the market impact of measures taken to combat the spread of animal disease or serious market disturbances caused by a loss of consumer confidence as a result of public, animal or plant health and disease risks, or to resolve specific problems. These measures can take the form of:

- financial assistance to producers (e.g. grants, loans, guarantees);
- Public Intervention (PI) or Private Storage Aid (PSA) (can be used in response to crisis conditions when they may be adjusted to respond to the particular crisis);
- suspension of competition law in specified areas; and
- any other form appropriate to address the crisis.

As provided by the Agriculture Act 2020 crisis measures in England, Wales and Northern Ireland are available where there are 'exceptional market conditions'. These may exist where there is a severe market disturbance (or serious threat of such) in the agricultural markets, which is likely to have a significant adverse effect on agricultural producers due to prices achievable to their product. These measures can take the form of:

- financial assistance to producers whose incomes are, or are likely to be, adversely affected (e.g. grants, loans, guarantees); or
- PI or PSA, as described below.

For Scotland, the powers under Articles 219 to 221 of the Single CMO Regulation (1308/2013) are available to the Scottish Ministers, as that Regulation has effect in Scotland under section 3 of the European Union (Withdrawal) Act 2018 .

For Northern Ireland Articles 219 to 221 of the Single CMO Regulation (1308/2013) continue to apply.

PI and PSA are market management schemes that can be used to stabilise the market when prices of certain products become weak. Both schemes involve taking products off the market to support market prices. Mandatory PI for certain commodities (wheat, butter, skimmed milk powder) is opened for a fixed time on an annual basis to support production. These schemes may be used in response to crisis conditions, where they may be adjusted to respond to a particular crisis.

Data collection is needed for market monitoring purposes. The Parties will continue to collect agricultural commodity market information on behalf of the UK, similar to the arrangements under the CAP. This predominantly refers to price data. It will be supplemented by other information, including price trends and softer intelligence from industry and other sources.

Marketing standards are regulations that lay down the definitions of products, minimum product standards, production methods, sales descriptions, product categories and labelling requirements etc. They are also used to protect consumers from unfair and harmful trading practices. Existing EU Regulations covering carcass

classification for pigs and beef will be retained in domestic legislation in the UK from January 2021.

Cross-border holdings are farms with land in more than one part of the UK, whether the land physically straddles the border or not. This only includes farms where all land is inside the UK. Land situated within Ireland is not considered to be part of a cross-border holding for the purpose of this concordat. Consideration of regulation and enforcement policy would be relevant to discussions on cross border holdings.

## Section 2: Proposed breakdown of policy area and framework

### 4. Summary of proposed approach

#### Legislation

Following discussion between the Parties on the goal of this framework, and the most appropriate vehicle for giving effect to this agreement, it has been decided no new legislation beyond amendments to retained EU law and associated powers in the Agriculture Act 2020 is necessary to implement the framework.

#### Non-legislative agreement

The framework will primarily be implemented through a non-legislative agreement – the concordat – setting out how the Parties will make decisions and work together. The framework and concordat will recognise the shared aim to ensure effective collaboration on future agricultural support now that the UK has left the EU and the CAP.

#### JMC(EN) Frameworks Principles

The Parties agree the approach summarised above is necessary according to Section 1 of the JMC(EN) Frameworks Principles (see Annex A for the full list of principles):

1. enable the functioning of the UK internal market, while acknowledging policy divergence.
2. ensure compliance with international obligations.
3. ensure the UK can negotiate, enter into and implement new trade agreements and international treaties
4. enable the management of common resources
5. administer and provide access to justice in cases with a cross-border element; and
6. safeguard the security of the UK.

The reason this policy area falls under these principles is to enable the Parties to develop agricultural support policy in a way that does not prevent the functioning of the internal market, hinder the UK from negotiating and implementing new trade deals, or prevent the compliance with international obligations, given the potential for some types of divergence in agriculture policy to do so.

The principles also recognise the need to respect the devolution settlements and the democratic accountability of the devolved legislatures, and to ensure recognition of the economic and social linkages between Northern Ireland and Ireland, as Northern Ireland is the only part of the UK that shares a land frontier with the EU. Frameworks will also adhere to the Belfast Agreement.

### **5. Detailed overview of proposed framework: legislation (primary or secondary)**

It has been agreed by the Parties that no new legislation is required in this area, and as such, an administrative framework to co-ordinate collaboration and information sharing has been agreed.

Any further Primary or Secondary legislation that is judged appropriate will be introduced by each Party (jointly, where agreed) to provide agricultural support in England, Scotland, Wales, and Northern Ireland.

### **6. Detailed overview of proposed framework: non-legislative arrangements**

The Parties to this framework have agreed that a non-legislative agreement or concordat will be used to implement the framework.

### **Contents**

The Parties have agreed that a concordat will cover the following:

1. Introduction: context, purpose and relevant contacts
2. Scope
3. Mechanisms for coordination and governance
4. Agreed Principles for working together
5. Dispute Avoidance and Resolution Mechanism
6. Review and Amendment Mechanism

7. International obligations

**7. Detailed overview of areas where no further action is thought to be needed**

Nothing identified

## Operational detail

### Section 3: Proposed operational elements of framework

#### 8. Decision making

##### **Key joint decisions that will be made through this framework**

Once the framework is in operation, the key joint decisions that may be taken by the Parties to this framework include:

- deciding which policy recommendations are to be escalated to Ministers individually or collectively, if a difference of view, negative impact or proposal contrary to the JMC (EN) Principles is identified and (if necessary) referring issues to the overarching dispute avoidance and resolution mechanism outlined in the MoU on Devolution;
- deciding that no issues need be escalated if a new or changing policy causes divergence and the level of divergence is acceptable, and to agree mechanisms and frequency of sharing updates for collaboration on best practice;
- deciding where an expert view would be beneficial to assess any contradiction with JMC Principles flagged by a Party;
- deciding whether, when and in what form a crisis-specific group should be established, and when it is no longer needed; and
- reviewing and recommending amendments to the framework, or deciding which can be made without recourse to more senior fora.

##### **Decision-making fora**

The main fora for official level discussion and decision-making will be the UK Agriculture Policy Collaboration Group (PCG) and the UK Agriculture Market Monitoring Group (MMG). Terms of Reference for these groups are set out in Annex B and C.

### **UK Agriculture Policy Collaboration Group (PCG)**

The PCG's role is to share knowledge, information and good practice proactively between Parties and to discuss and coordinate policy innovation and developments in relation to agricultural support schemes, marketing standards, market disturbances and emerging crises, agricultural regulation and enforcement (R&E), and to share information pertaining to cross-border holdings. Its members will consider if a new or changing policy, leading to divergence between Parties, will have an unwanted impact on another Party and make recommendations to Ministers or senior officials accordingly.

If the PCG or MMG deem there to be a crisis, the PCG can establish a crisis-specific sub-group on an ad-hoc basis, with policy, analytical and senior representation as necessary. This will be crucial to ensure that the right people are having the necessary conversations to work at pace to deal with the crisis at hand. The crisis-specific sub-group will report to the PCG.

For the framework to operate most effectively, it is envisaged that recommendations about the impact of divergence from the PCG will be agreed at official level. It is therefore essential that an appropriate evidence base is developed at this level. The development of an evidence base could be carried out through:

- commissioning further evidence from analysts (including the MMG);
- commissioning further evidence from legal teams;
- seeking advice from external bodies; and/or
- engagement with industry, via the proposed 'Farming Conference UK' or other working groups.

### **UK Agriculture Market Monitoring Group (MMG)**

The MMG's role is to share information and to analyse and coordinate evidence on the impact of market developments across the UK. The MMG will decide on issues to be escalated to the UK Agriculture Policy Collaboration Group (PCG)

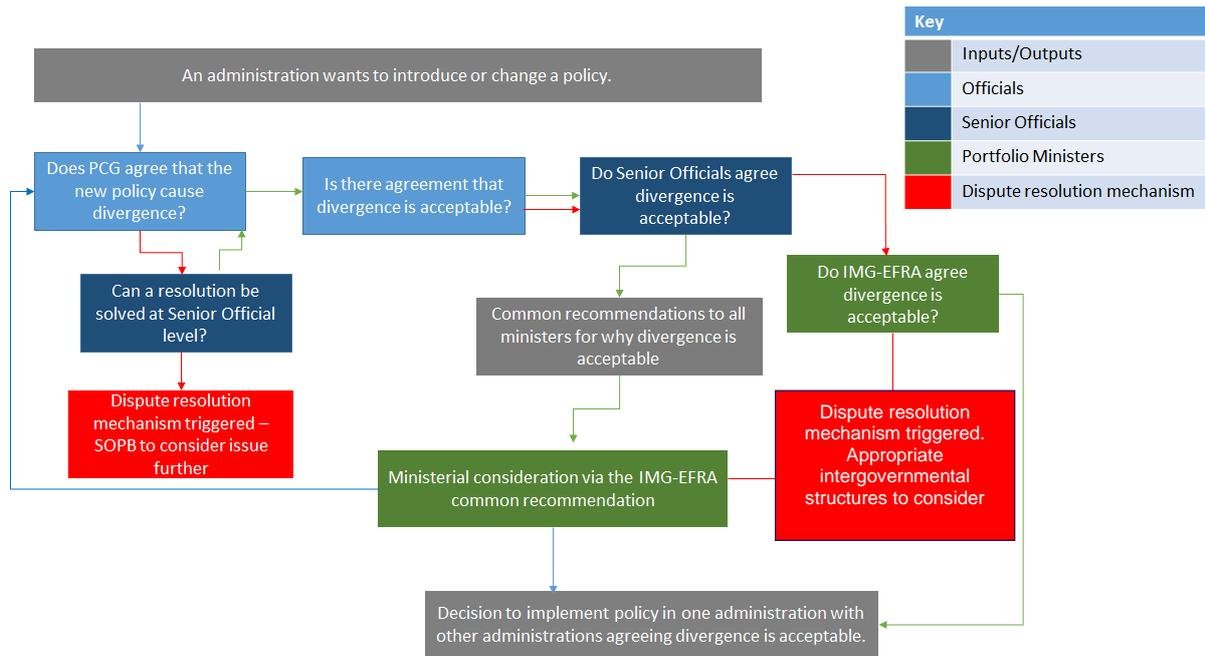
The membership of the MMG will be decided by the Parties who will each nominate analytical officials to join the MMG. The MMG will decide on the issues to be escalated to the PCG. In making their decisions, the MMG will determine the main factors driving the development of the market and assess the short- and long-term impacts of these factors.

Evidence used by the MMG will consist of analysis of a mixture of quantitative market price and production data, market intelligence, industry representations and political lobbying, amongst other factors.

The MMG will provide a consistent evidence base to advise Ministers of market developments. Officials from each Party will be responsible for briefing their respective Ministers. The MMG may commission further evidence from analysts, including analysts and experts external to governments. Where evidence is being gathered this will, where possible, be shared between Parties.

The MMG will alert the PCG of market developments to allow recommendations to be developed about any market intervention that may be necessary in one or more parts of the UK. The MMG secretariat will share their findings by correspondence with the PCG a week after their meeting, or immediately and by other means if necessary.

The membership of both the PCG and MMG will be Deputy Director (SCS1) level, with an expectation that routine business may be delegated to officials at a lower grade and in the case of MMG, analytical officials. Where escalation is needed the delegated members can request the Senior Civil Service members to convene (as a form of escalation) to discuss and attempt to resolve in a policy-specific forum – without the need to create a separate standing group – before escalation to the cross-cutting senior forum (the Senior Officials Programme Board) if agreement cannot be reached.



### Diagram showing the dispute resolution process

- An administration states that it wants to introduce a change or policy. This will be discussed by the PCG to assess if it causes divergence.
- If there is agreement that any resulting divergence is acceptable, then this is referred to Senior Officials for their agreement.
- This will lead to common recommendations being made to portfolio ministers explaining why any divergence is acceptable.
- Ministers will consider the recommendations at the Inter-ministerial Group (Efra). If ministers agree that the divergence is acceptable, the policy will be implemented.
- The dispute resolution mechanism will be triggered if agreement cannot be reached at the PCG. In the first instance, the issue will be referred to the Senior Officials Programme Board (SOPB) to try to reach agreement.
- If an agreement cannot be reached by SOPB, the issue will be referred to the IMG (Efra) for decision. If the issue remains unresolved, it will be referred to the appropriate intergovernmental structures to consider.
- Agreement will lead to the policy or change being implemented.

## **Disagreements**

Fundamentally, the Framework is for the Parties to coordinate with each other and work together at a UK level. The escalation routes in place focus on dispute avoidance rather than resolution – officials will be trying to identify any potential issues early.

The Parties to this framework have agreed that in the case of disagreements within the group that arise over issues raised in the PCG, the parties commit to maintain the distinction between:

- a difference of view (which has no impact on decisions taken by another Party);
- a disagreement (which requires some resolution, ideally at official level); and
- a dispute (which must be escalated from MMG and PCG level for resolution and/or refers to a decision made by one Party that has been made with an unwanted impact on another Party).

In the event of a disagreement the PCG should attempt to resolve any issue, the Parties agree to recommit themselves to the principles of good communication and cooperation as set out in the MoU. The above distinctions should be used to ensure issues are escalated appropriately and the burden on dispute resolution processes are minimal. For example, if there has been a disagreement between the Parties, officials will first seek further evidence in order to inform their discussions, review the disagreement again with the new evidence and have further discussions to ensure the disagreement has been fully explored. If the issue cannot be resolved, Parties will follow the dispute resolution process outlined in section 13 of this document.

Any issues between Parties will be recorded as this may help to inform the review and amendment process when it is next conducted.

## **9. Roles and responsibilities of each party to the framework**

The following sets out the role and responsibilities of officials and ministers in this framework.

## Officials

Officials across the Parties will convene via the MMG every two months or via the PCG every three months (or more frequently if required) to discuss market evidence and policy issues as appropriate and to keep colleagues regularly informed of any ramifications that new or changing policy will have across the Parties. The MMG will be supported by a standing Defra secretariat and the PCG will be supported by a rotating secretariat.

Officials will also hold day-to-day discussions on the policy covered by frameworks and put advice to ministers with the rationale for the approach taken within a policy area (e.g. a UK/GB-wide approach), or why divergent policies may be necessary.

If officials disagree on where divergence is problematic and this cannot be rectified at official level, these can be escalated to senior officials in line with the framework's dispute avoidance and resolution mechanism.

## Senior Officials

Senior officials (e.g. Deputy Directors and Directors) provide strategic direction on the policy areas governed by the UK Agricultural Support Framework and take key operational decisions where practical that does not require a Ministerial decision. They may review an issue as per a framework's dispute avoidance and resolution mechanism if officials are not able to agree an approach within PCG or MMG, or if ministers have disagreed with advice from officials in the first instance, in another attempt to reach agreement. Senior officials should convene to discuss issues as appropriate, either by regular meeting or on an *ad hoc* basis.

## Ministers

Ministers may receive advice from their own officials either concurrently across the Parties as issues arise or in the course of business as usual for individual the Parties. Ministers may agree or disagree with the advice. If work is remitted to senior officials and an issue remains unresolved, the issue may be escalated to Ministers. Where Ministers are considering issues as part of the framework's dispute avoidance and resolution mechanism this could be via several media, including inter-ministerial meetings or by correspondence.

## **Information sharing**

As per the current MoU on Devolution, each Party will aim to provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties.

## **Stakeholder communication and engagement**

On 1 October 2020 the Parties outlined the detail of the UK Agricultural Support Framework to approximately 33 stakeholder bodies from across the UK. A summary of the Framework was shared in advance to give stakeholders the opportunity to provide feedback on the document and share their thoughts on how the agricultural support framework should work.

Alongside ongoing, proactive engagement with stakeholders on agricultural support issues, the Parties will inform stakeholders of updates to the framework and continue to seek stakeholder feedback.

## **10. Roles and responsibilities of existing or new bodies**

The Parties agree to continue to submit to Defra, Rural Payments Agency (RPA) and the UK Coordinating Body (UKCB) data that was previously compiled and sent to the EU. The Parties are also responsible for identifying notifications that are not sent collectively through a single UK-wide body.

Connections will be maintained between policy and operational teams via informal but regular mutual updates between the Agricultural Support Framework's Policy Collaboration Group and the Paying Agency groups under the auspices of UKCB.

## **11. Monitoring**

Officials from the Parties agree to monitor the framework annually, where not monitoring in the course of routine business. The purpose of monitoring is to assess:

- intergovernmental cooperation and collaboration as a result of the framework;
- whether Parties are implementing and complying with the framework;

- whether divergence has taken place in contravention of the common framework principles; and
- whether harmful divergence has taken place that impacts on the policy area covered by the framework.

The outcome of this monitoring will be used to inform future joint decision-making and the next review and amendment process. If there is an unresolved disagreement, the dispute avoidance and resolution mechanism should be used.

## **12. Review and Amendment**

### **Process**

- The Review and Amendment Mechanism (RAM) ensures the framework can adapt to changing policy and governance environments in the future.
- There are two types of review which are outlined below. The process for agreeing amendments should be identical regardless of the type of review.
- The RAM relies on consensus at each stage of the process from the Ministers responsible for the policy areas covered by the non-legislative agreement.
- Third parties can be used by any Party to the framework to provide advice at any stage in the process. These include other government departments or bodies as well as external stakeholders such as NGOs and interest groups.
- At the outset of the review stage, Parties to the framework must agree timelines for the process, including the possible amendment stage.
- If agreement is not reached in either the review or amendment stage, Parties to the framework can raise it as a dispute through the framework's dispute avoidance and resolution mechanism.

## Review Stage

- A review of the framework will take place one year after the agreement has been signed where not monitored in the course of routine business. Further reviews will continue to take place annually at which point it can then be reviewed every three years. Reviews will also take place after the introduction of new primary legislation relating to agriculture (or any material change to that legislation) by one of the Parties, or every three years (whichever is sooner), in line with official or ministerial level meetings.
  - The period of three years starts from the conclusion of a periodic review and any amendment stages that follow.
  - During the periodic review, Parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous three years need to be reflected in an updated non-legislative agreement.
- An exceptional review of the framework is triggered by a 'significant issue'.
  - A significant issue must be time sensitive and fundamentally impact the operation and/or the scope of the framework.
  - The exceptional review may include a review of governance structures if all Parties agree it is required. Otherwise, these issues are handled in the periodic review.
  - The same significant issue cannot be discussed within six months of the closing of that issue.
- The amendment stage can only be triggered through unanimous agreement by ministers. If Parties agree that no amendment is required, the relevant time period begins again for both review types (for example, it will be three years until the next periodic review and at least six months until the same significant issue can trigger an exceptional review.)

- The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Common Framework

#### Amendment Stage

- Following agreement that all Parties wish to enter the amendment stage, Parties will enter into discussion around the exact nature of the amendment. This can either be led by one Party to the framework or all.
- If an amendment is deemed necessary during either type of review, the existing framework will remain in place until a final amendment has been agreed.
- All amendments to the framework must be agreed by all Parties and a new non-legislative agreement signed by all Parties.

If Parties cannot agree whether or how a framework should be amended this may become a disagreement and as such could be raised through the framework's dispute avoidance and resolution mechanism.

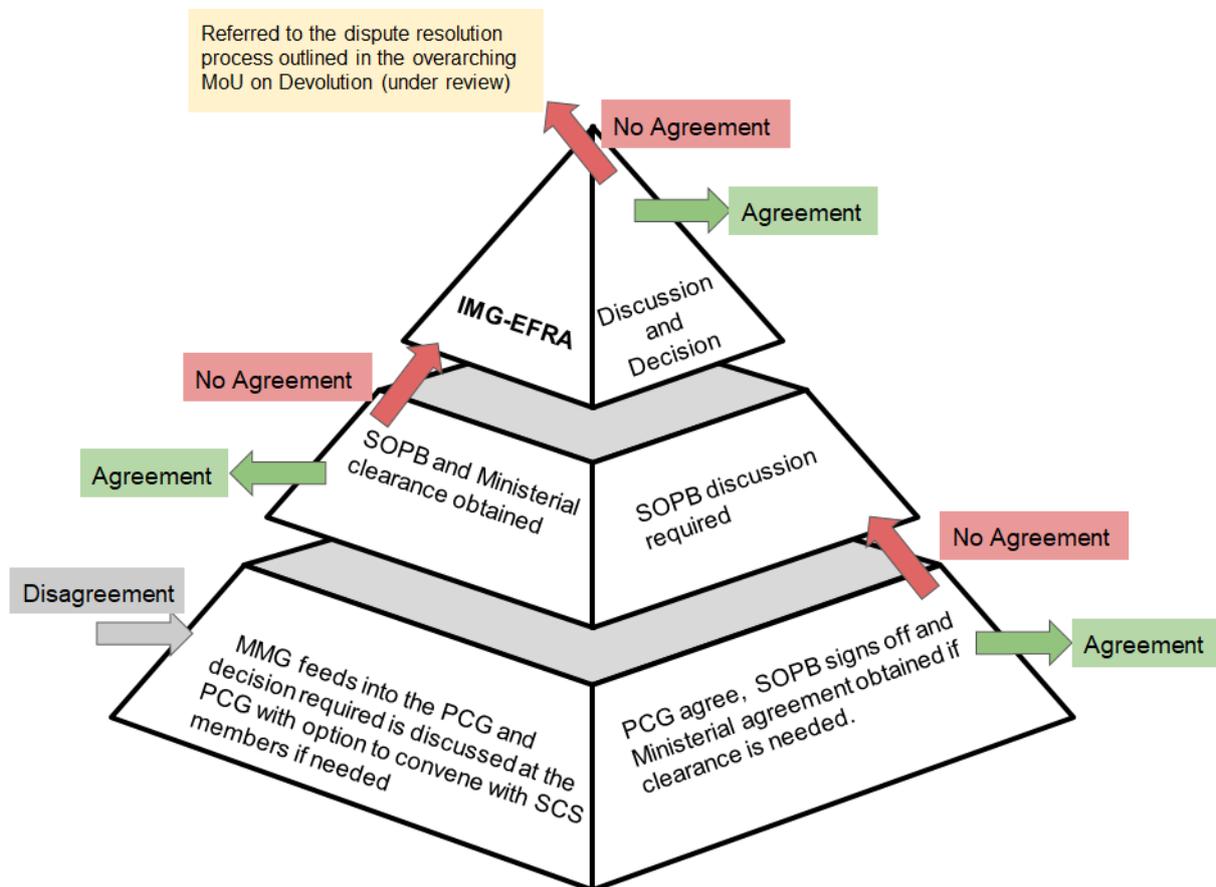
### **13. Dispute resolution**

#### **Process**

- A disagreement between Parties to this framework becomes a 'dispute' when it enters the formal dispute avoidance and resolution process set out in the overarching MoU on Devolution, The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Common Framework
- The goal of this dispute avoidance and resolution mechanism is therefore to avoid escalation to this point, by resolving any disagreements at the lowest possible level.

- This mechanism will be utilised only when genuine agreement cannot be reached and divergence would impact negatively on the ability to meet the Common Frameworks principles. In those areas where a common approach is not needed in order to meet these principles an "agreement to disagree" could be considered an acceptable resolution.
- The working groups within this framework are the MMG, PCG and Senior Officials Programme Board (SOPB).
- The below diagram states the levels of escalation of a disagreement to a dispute and the interaction between each level.

**Diagram displaying the dispute resolution process**



- The official level working group discuss the disagreement. If this results in the disagreement being resolved at official level, the senior level group signs off the agreement. Ministerial clearance will be obtained if needed.

- If agreement is not reached, the issue will be escalated to the senior level group. Ministerial clearance will be obtained if this group reaches agreement.
- If there is still no agreement, the issue will be referred to ministers for discussion and decision. If an agreement can still not be found, then the dispute will be referred to the dispute resolution process in the overarching MoU on Devolution, which is under review.

### **Timescales for escalation**

When a proposal is raised at official level, consideration will be given to the urgency of the proposal (i.e. how quickly a decision is required). This assessment will guide timescales for escalation of disagreement within the governance structure, with decisions requiring a more immediate resolution being escalated more quickly.

### **Evidence gathering**

At each stage further evidence may be requested from the preceding forum before the disagreement is discussed.

### **Third parties**

Third party experts may be called by mutual agreement if the Parties agree that such input would help to reach resolution (for example to assess the extent to which a proposed or existing measure is undermining the functioning of the internal market).

## Annex A - Joint Ministerial Committee (EU Negotiations) Communiqué, October 2017

### **Common Frameworks: Definition and Principles**

#### **Definition**

As the UK leaves the European Union, the Government of the United Kingdom and the devolved administrations agree to work together to establish common approaches in some areas that are currently governed by EU law, but that are otherwise within areas of competence of the devolved administrations or legislatures. A framework will set out a common UK, or GB, approach and how it will be operated and governed. This may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented by legislation, by executive action, by memorandums of understanding, or by other means depending on the context in which the framework is intended to operate.

#### **Context**

The following principles apply to common frameworks in areas where EU law currently intersects with devolved competence. There will also be close working between the UK Government and the devolved administrations on reserved and excepted matters that impact significantly on devolved responsibilities.

Discussions will be either multilateral or bilateral between the UK Government and the devolved administrations. It will be the aim of all participants to agree where there is a need for common frameworks and the content of them.

The outcomes from these discussions on common frameworks will be without prejudice to the UK's negotiations and future relationship with the EU.

#### **Principles**

1. Common frameworks will be established where they are necessary in order to:
  - enable the functioning of the UK internal market, while acknowledging policy divergence;
  - ensure compliance with international obligations;

- ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
- enable the management of common resources;
- administer and provide access to justice in cases with a cross-border element; and
- safeguard the security of the UK.

2. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:

- be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
- maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules; and
- lead to a significant increase in decision-making powers for the devolved administrations.

3. Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

## Annex B - Terms of Reference for UK Agriculture Policy Collaboration Group (PCG)

### **Purpose**

The PCG brings together the UK Government, officials from the Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland, the Scottish Government and the Welsh Government to discuss agricultural support and make joint decisions that uphold the JMC(EN) Frameworks Principles.

The PCG will consider what actions should be recommended to Ministers and officials will advise their respective Ministers, to ensure market support schemes are better designed and enable rapid responses to changing market conditions.

### **Operation**

The PCG will normally meet every month (or more frequently if the need arises), be supported by a standing Defra secretariat, and initially be chaired by Defra. The Chair will then rotate between the Parties. Meetings will be held virtually but in person if practical e.g. if attendees are already in the same location for other meetings. Further discussions will be necessary to review the frequency of meetings.

### **Objectives**

The PCG will:

- share thinking on ideas and plans for new policy, schemes and standards or changes to existing ones;
- review recommendations coordinated by the MMG and identify and evaluate possible options for intervention measures;
- consider if a new or changing policy where divergence occurs in one Party, will have an unwanted impact on another Party and make recommendations to Ministers or senior officials accordingly;
- agree recommendations for buying and selling prices, and amount of product to be bought in cases of a UK- wide PI/PSA scheme, or parallel schemes; and
- share information needed to meet obligations to each other and third parties.

The PCG may also be used as a forum to establish an appropriate communications and stakeholder engagement plan regardless of whether the same policy or crisis measures are implemented across the UK. The PCG may also consider other issues for communication to stakeholders.

The PCG will comprise officials from the Parties working on different policy areas, allowing for a broad range of discussion. This will allow for the sharing of views at the policy formulation stage and the overview of potential use of powers, impacts and practicalities. Officials will also have the opportunity to offer mitigations where proposed action could undermine a functioning internal market. Delivery bodies from England, Scotland, Wales, and Northern Ireland may be invited to attend as appropriate.

If the PCG or MMG deems there to be a crisis, the PCG can establish a temporary, crisis-specific sub-group on an ad-hoc basis to deal with the specific crisis. The temporary group will be set up by PCG officials who will be able to identify suitable policy, analytical and senior official representation from their respective governments who are knowledgeable in the particular crisis. The crisis specific group will report to the PCG.

When an agricultural policy directly impacts another Party, Parties will share with the PCG plans for the policy as early as possible, in confidence, to allow all Parties to consider the implications for their nation. This includes the sharing of relevant information about proposed changes to marketing standards and agricultural spending to ensure:

- the functioning of the internal market, while acknowledging policy divergence;
- the UK's ability to negotiate trade deals;
- the UK's compliance with international obligations including the World Trade Organisation box limitations<sup>1</sup> under the Agreement on Agriculture (AoA)<sup>2</sup> (see separate concordat on WTO AoA); and
- the impact in relation to the Northern Ireland Protocol is fully understood.

The types of proposed action by a participant to be raised for discussion at the PCG include, but is not limited to:

- **Action with regard to Marketing Standards:** each Party should be able to refer all changes in marketing standards made by another Party. While all marketing standards are in scope for the PCG, some markets of principal importance are:
  - i. Milk and milk products;
  - ii. Spreadable fats;
  - iii. Beef and veal;
  - iv. Poultrymeat;

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<sup>1</sup> In WTO terminology, domestic support subsidies are identified by "boxes". 'Green Box' subsidies must not distort trade, or at most cause minimal distortion. They must be government-funded and must not involve price support. 'Amber Box' subsidies are considered to distort production and trade. 'Blue Box' subsidies meet the criteria of 'Amber Box' subsidies, with the additional criteria that they require farmers to limit production. 'Red Box' subsidies are forbidden.

<sup>2</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag.pdf](https://www.wto.org/english/docs_e/legal_e/14-ag.pdf)

- v. eggs
- vi. Fruit and vegetables.
- vii. Olive oil;
- viii. Hops and hops products;
- ix. Wine
- **Action with regard to Agricultural spending:** each Party should share plans for new policy and/or schemes with the other Parties before implementing the proposed policies and/or schemes. Rather than notify every single type of agricultural spending, only specific types of subsidy should be referred to the PCG. These have been identified as:
  - i. Market price support
  - ii. Payments based on output or linked to production;
  - iii. Payments based on variable input use; and
  - iv. Support that is explicitly designed to subsidise a product that could be sold outside of that part of the UK.
- **Action with regard to Cross-border holdings:** sharing of information relating to new policies that will have an impact on cross-border holdings.

The types of proposed action listed above will serve as the standing agenda for the PCG meetings, although other policy areas may be raised as appropriate.

When sharing information through the PCG, consideration will be given to the circumstances in which information sharing and/or consultation is required and the timing for such an activity (for example, a commitment to notify all other Parties 90 days before consulting on a proposed change to marketing standards, including an explanation of its purposes).

## Annex C – Terms of Reference for UK Agricultural Market Monitoring Group (MMG)

### Scope

The following sectors will fall under the scope of the UK MMG discussions as markets of principal importance:

- Cereals and other arable crops (including sugar)
- Pig meat
- Poultrymeat and eggs
- Milk and milk products
- Beef
- Sheep-meat
- Fruit and vegetables

The UK MMG has the scope to monitor and coordinate information on all other commodity markets as and when appropriate. It could also decide that markets listed above are not of principal importance.

### Purpose

The UK MMG role is to analyse and coordinate opinion on the impact of market developments rather than take decisions. This will include:

- Reviewing and analysing market information from government, industry and other sources
- Determining the main drivers affecting the development of the market and assessing whether they are short or long run impacts
- Identifying and assessing cross sector impacts of market developments

- Identifying whether there are specific regional issues or variations to be noted
- Providing advice to senior officials and Ministers on developments in the market
- Providing a forum for the discussion of market impacts across the UK.
- Providing a platform for Policy Leads to consider UK MMG evidence at the separate UK Agriculture Market Policy Group (UKAMPG) in order to:
  - assess potential problems/issues;
  - follow up on intelligence outside UKAMMG meetings to assess the impact of possible solutions, including any delivery issues
- Providing any residual reporting of information to the EC.

### **Role of the UK MMG**

The UK MMG's role is to assess and coordinate opinion on the impact of market developments across the UK, to foster agreement and consensus and to inform Ministers of such developments.

### **Operation of the UK MMG**

The operation of the UK MMG, including frequency of meeting, attendees and information is set out in the Rules of Procedure for the UK MMG.

## Annex D - Terms of Reference for the Defra-DA Senior Officials Programme Board (SOPB)

### **Purpose and Scope**

The Senior Officials Programme Board for Environment, Food and Rural Affairs oversees the engagement between the four administrations across the EFRA portfolio.

Areas of shared interest cover agriculture, fisheries, environment, forestry and rural affairs and include the policy, delivery, technical and legislative matters where administrations have determined to engage on a multilateral basis.

The SOPB provides coordination, oversight and direction to the work programme agreed by the Inter-Ministerial Group EFRA and promotes greater cooperation in areas of shared interest between the four UK administrations.

SOPB will carry out work and provide advice on issues within its remit and that of the working groups (see annex for list) as instructed by IMG EFRA. It will support groups to identify areas where joint working is beneficial to achieve shared priorities and UK-wide solutions, when and where appropriate. On behalf of IMG EFRA, the SOPB can also establish new official-level fora as necessary and dissolve any fora that are no longer required. The SOPB also oversees the common policy frameworks on behalf of IMG.

SOPB will consider any leadership and learning issues such as capability building on intergovernmental working where it advances cooperation between administrations on those matters which are agreed to be of shared interest.

Like the IMG EFRA, SOPB is designed to complement and not replace existing overarching inter-governmental structures, decision-making and dispute resolution processes and principles, including any future agreed inter-governmental structures between the UK government and devolved administrations. SOPB does not replace bilateral discussions between administrations which should continue in the usual way.

In pursuance of building on positive and constructive relations SOPB conducts its business by the principles for good relations as set out in the Memorandum of Understanding between the UK Government and the Devolved Administrations, notably those of communication, consultation, and co-operation.

SOPB operates in line with the devolution settlements and can consider both reserved and devolved matters, where either has the potential to impact upon another UK administration. This includes, though is not limited to; where there is devolved competence; where devolved administrations have implementation responsibility; and where matters are reserved but there is a devolved interest. Such matters can be tabled for discussion by any senior official representing their administration.

SOPB operates with dispute avoidance in mind and will act as a forum to reach agreement if differences or disputes have arisen where attempts to resolve these through other channels, such as at policy level, have not been successful. In most cases, it would be expected that every effort has been made to resolve differences at policy official level before escalation to the Board. The Board will consider whether any dispute should be escalated to IMG EFRA.

## **Responsibilities**

The Senior Officials Programme Board for EFRA will:

- a) support the IMG EFRA to discharge its responsibilities in line with its scope and purpose and the activities set out in the IMG EFRA programme of work;
- b) make sure that effective structures and governance are in place to support delivery of the work programme and monitor against delivery;
- c) commission the four administrations' engagement and working groups to look into matters arising; provide a paper or an update on the work programme progress; and join SOPB meetings to participate in discussions on relevant topics.

- d) on behalf of the IMG EFRA, the Board will make sure that information is shared with both existing and any future wider intergovernmental forums if required, and with external stakeholders if it is agreed to do so;
- e) each member is responsible for ensuring information flows and join up within their own administrations;
- f) recommend to IMG EFRA the direction and benefits of any future new activities;
- g) monitor progress and provide direction on the ongoing development, implementation, operation, review and adjustments of any agreed common frameworks;
- h) provide a dispute resolution mechanism for common frameworks and wider EFRA policy, prior to escalation of any disagreements to IMG EFRA;
- i) respond to any unforeseen matters, such as civil contingency issues arising from disease outbreak, where joint action is agreed as being beneficial and/or necessary. This will not replace or interrupt the responsibilities of each Administration nor other agencies who may be responding to civil contingency matters e.g. arm's length bodies such as the APHA; and
- j) identify interdependencies and risks to the effectiveness of IMG EFRA or joint working underway between UK administrations and consider and implement any preventative and mitigating measures.

Where input has been sought in developing a UK-wide position, the board will seek to ensure that meaningful feedback and evidence is provided as to how positions and representations have been taken into account. This feedback could be either direct or via the appropriate reporting group.

### **Communications**

Discussions will take place in a confidential setting with no information relating to discussions being shared with third parties unless agreed jointly. This includes sharing of meeting papers and responding to media enquiries.

The UK and Scottish governments have a responsibility to update their parliaments on intergovernmental working and IMG EFRA may be mentioned as part of that process. As a courtesy, when this takes place, Board members will be informed.

The Board will support the production and agreement of the published communique subsequent to each IMG EFRA.

### **Constitution**

Membership of the Board will include senior officials from each UK administration who hold an EFRA or intergovernmental working portfolio. Current core membership:

Defra - Deputy Director of Devolution

Scottish Government - Rotation of officials holding the following portfolios, Deputy Director Future Environment, Deputy Director Agriculture and Rural Economy, Deputy Director Food & Drink, Deputy Director Marine Scotland.

Welsh Government - Director of Land, Nature and Food; Deputy Director EU Exit and Strategy.

Northern Ireland Executive - Head of Food and Farming Group; Transition Policy Director.

All administrations may bring additional officials to support agenda items and secretariat support. Attendance of the core membership is important but in exceptional circumstances deputies may attend with prior notification to the Chair. Deputies should have full delegated authority to make decisions and approve documentation on behalf of the appropriate member.

In addition, with the agreement of administrations, officials from other organisations (governmental or otherwise) may be invited to attend to support specific discussions.

### **Meeting Protocol**

The Board will meet monthly with attendance of all core members or their deputies. Extraordinary meetings may be convened as necessary in exceptional circumstances to address urgent issues. The Board meets virtually via an agreed

platform but may also choose to meet face to face. The chair of the meeting will rotate in line with the IMG EFRA meetings.

### **Secretariat**

The secretariat function will be carried out by the hosting administration. Board members will be provided with:

- Agenda;
- Note of the key decisions and actions from the previous SOPB meeting, and minutes from the previous IMG EFRA meeting and accompanying Action Log; and
- Any progress reports from across the work programme e and any additional papers which support agenda items.

The agenda and proposals for papers will be agreed by all administrations, typically by email 1 week in advance of the Board meeting. The secretariat will commission papers following direction from the Board and papers will aim to issue these 3 working days before the Board meets. In recognition of the resources required to support discussions, each administration will play its part in drafting papers for the Board.

The secretariat will share notes and action points within 3 days of each meeting.

### **Review**

The Board Terms of Reference will be reviewed following any changes to the IMG EFRA Terms of Reference or annually whichever occurs first. Any changes will be agreed jointly.

## Annex: key four administrations governance groups (type/category)

- Trade Engagement Group (Policy coordination group)
- Environmental Policy Working Group (Policy coordination group)
- Net Zero contact group (to be established)
- Defra-DA Frameworks Sub-Group (Cross cutting issues group)
- NI Boundary Steering Group (Cross cutting issues group)
- Legislation Issues Working Group (Cross cutting issues group)
- Four Nations CVOs Group (Technical group)
- Four Nations Organics Group (Technical group)
- Trade Measures and WTO Operations Board (Technical group)
- The UK Agriculture Policy Collaboration Group (PCG) (Agricultural Support framework)
- Animal Disease Policy Group (ADPG) (Animal Health & Welfare framework)
- Animal Welfare Policy Group (Animal Health & Welfare framework)
- Aquatic Animal Health Policy Group (AAH PG) (Animal Health & Welfare framework)
- UK Chemicals Governance Group (UKCGG) (Chemicals and Pesticides framework)
- Fisheries and Marine Senior Steering Group (SSG) (Fisheries framework)
- UK National Plant Protection Organisation (NPPO) (Plant Health framework)
- Plant Varieties and Seeds Committee (PVSC) (Plant Varieties and Seeds framework)
- Resource & Waste Senior Officials (Resources & Waste framework)
- Air Quality Governance Group (UKAQGG) (Air Quality framework)
- BAT Governance Group (Best Available Techniques framework)
- UK Fertiliser Regulatory Committee (UKFRC) (Fertiliser regulation framework)
- Organics Four Nation Working Group (FNWG) (Organic farming framework)
- Ozone-Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gas) Governance Group (ODS & F-gases framework)
- Zotech Policy Working Group (ZWG) (Zootechics framework)
- NI Programme Board (XWH/OGD group)

- Border & Protocol Delivery Group ((XWH/OGD group)
- Frameworks Working Group (XWH/OGD group)
- UK-EU TCA Structures including Level Playing Field for Open and Fair Competition (XWH/OGD group)

# Agricultural support concordat

## Explanatory Note

1. This concordat has been agreed between Ministers of the UK Government, Scottish Government, Welsh Government, and Department of Agriculture, Environment and Rural Affairs (hereafter 'the Parties'). The purpose of this concordat is to provide a non-legislative framework for UK collaboration, coordination and cooperation on agricultural support. This concordat has been drafted following the UK's departure from the European Union on 31st January 2020.
2. This concordat has been developed collaboratively between officials from the Parties.
3. Agriculture is a devolved policy area under the Devolution Settlements of Scotland, Wales and Northern Ireland. Each government therefore has the ability to design and implement agricultural policies for their own nations. The concordat builds upon commitments already developed between the Parties to work together at a UK level. This includes the Common Frameworks Principles agreed at the Joint Ministerial Committee for EU Negotiations (JMC(EN))<sup>3</sup> and the Devolution Memorandum of Understanding (MoU) (2013)<sup>4</sup>.
4. This concordat agrees the establishment of the UK Agriculture Policy Collaboration Group (PCG) and the UK Agriculture Market Monitoring Group (MMG).
5. This concordat establishes an agreed framework between the Parties on working arrangements for future agricultural support now that the UK has left the EU and the Common Agricultural Policy (CAP). Specific elements of agricultural support covered in this agreement are:

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<sup>3</sup> [Joint Ministerial Committee \(EU Negotiations\) Communiqué - October 2017](#)

<sup>4</sup> [Devolution Memorandum of Understanding and Supplementary Agreements – October 2013](#)

- i. Agricultural spending
  - ii. Marketing standards
  - iii. Crisis measures, PI and PSA;
  - iv. Cross border holdings (within the UK), including regulation and enforcement;
  - v. Data collection and sharing
  - vi. Linkage with the Food Compositional Standards and Labelling (FCSL) Framework Outline Agreement and World trade Organisation (WTO) Agreement on Agriculture (AoA) concordat
6. This concordat is not intended to constitute a legally enforceable contract or to create any rights or obligations which are legally enforceable. It is a statement of the principles that will guide relations between the four Parties.
7. This concordat has been developed subject to the Common Frameworks principles agreed at JMC(EN) that common frameworks will only be established where they are necessary in order to:
  - Enable the functioning of the UK internal market, while acknowledging policy divergence;
  - Ensure compliance with international obligations;
  - Ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
  - Enable the management of common resources;
  - Administer and provide access to justice in cases with a cross-border element; and
  - Safeguard the security of the UK.
8. In line with the JMC principles, frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:
  - Be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
  - Maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules; and

- Lead to a significant increase in decision-making powers for the devolved administrations.

9. Frameworks will also ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

10. This concordat:

- Will be effective once it has been signed by all Parties;
- Will work alongside any forthcoming legislation or cross-cutting issues relevant to frameworks and policy areas included in this concordat;
- Has been developed without prejudice to what is decided in any future subsidies regimes;
- Will work in line with current MoUs between the Parties, and with recommendations following the Inter-Governmental Relations Review<sup>5</sup>;
- Will reflect commitments to transparency in the appropriate intergovernmental structures; and
- Is intended to work alongside the agreements entered into by the Parties and their agencies as well as other administrative bodies.

11. The scope of this concordat is restricted to the agricultural policy which previously fell under the CAP in EU law.

12. This concordat is without prejudice to the views of the respective governments about the arrangements they may require in the light of the UK's relationship with the EU.

## Mechanisms for coordination and governance

13. The Parties agree to establish the UK Agriculture PCG and the UK Agriculture MMG. Both the PCG and MMG will comprise officials from each of the Parties.

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<sup>5</sup> <https://www.gov.uk/government/publications/draft-principles-for-intergovernmental-relations>

14. The PCG will share knowledge and information (e.g. good practice, lessons learned, examples of issues and developments affecting the agricultural sector etc.) proactively between administrations, discuss and coordinate policy innovation and developments in relation to agricultural support schemes, marketing standards, market disturbance and emerging crises, agricultural regulation and enforcement (R&E), and share information pertaining to cross-border holdings. The PCG will consider if a new or changing policy, where divergence occurs in one Party, could have an unwanted impact on another Party and make recommendations to Ministers or senior officials accordingly.
15. The MMG will act as a technical group to provide information on market developments and to coordinate views from across the Parties on the impact on affected markets. The MMG will provide a consistent evidence base for officials to use in advising Ministers of market developments and in deciding on the issues to be escalated to the PCG. (See Annex B). Officials from each Party will be responsible for briefing their respective Ministers.
16. The PCG will operate a 'no surprises' policy (i.e. keeping members appropriately informed about policy development initiatives and announcements) to encourage transparency between all Parties. The PCG will review recommendations coordinated by the MMG and evaluate options for intervention measures. Elements of agricultural support to be discussed at the PCG include coordination for cross-border holdings, data collection for auditing and enforcement purposes, agricultural spending, marketing standards and crisis measures, PI and PSA. The PCG will discuss changes to agricultural support that impact the internal market; this includes new financial assistance, PI and PSA schemes.
17. If the PCG or MMG deems there to be a crisis, a crisis-specific policy coordination sub-group can be formed by the PCG on an ad-hoc basis to deal with a specific crisis at hand. This will have policy, analytical and senior representation as necessary.
18. Decisions arising from PCG and MMG discussions can be taken jointly by the parties – where no further recommendation to Ministers is required - or in the case of a dispute, decisions can be escalated to the Senior Officials Programme

Board (SOPB) and, if not resolved, to Ministers at the Inter-ministerial Group for the Environment, Food and Rural Affairs (IMG-EFRA).

## Agreed Principles

19. The Parties agree to meet the following objectives and principles:

- The Parties commit wherever possible to conduct business relevant to this concordat in an open and collaborative manner, primarily via the PCG and MMG but reserve the ability to use other channels and approaches where necessary.
- For example, in a crisis situation and if a full meeting of the PCG or crisis-specific sub-group cannot be convened quickly enough, issues concerning two Parties might be discussed bilaterally, or communication might be coordinated by one Party in sequence, with the PCG or its sub-groups updated subsequently.

20. The Parties will share data as necessary on matters of mutual interest. This is to meet policy objectives and to coordinate operational changes that affect cross-border businesses.

### **Dispute avoidance and resolution for the PCG and MMG**

21. The escalation routes in place focus on dispute avoidance rather than resolution – officials within the PCG and MMG must try to identify any potential issues early. In the case of disputes within the group over whether a new or changing policy would cause an unacceptable level of divergence, the Parties commit to maintain the distinction between:

- A difference of view (which has no impact on decisions taken by another Party);
- A disagreement (which requires some resolution, ideally at official level);  
and
- A dispute (which must be escalated from PCG and MMG level for resolution and/or refers to a decision made by one Party that has been made with an unwanted impact on another Party).

22. In the event of a disagreement the PCG or MMG should attempt to resolve any issue and the Parties agree to recommit themselves to the principles of good communication and cooperation as set out in the MoU. The above distinctions should be used to ensure issues are escalated appropriately and the burden on dispute resolution processes are minimal.
23. If the PCG or MMG cannot resolve a disagreement or dispute they should then be escalated internally within each administration. If disputes are unable to be resolved at the policy level, they can be considered at a Senior Official level through the SOPB. The SOPB will convene a meeting of officials from the Parties involved and ask them to set out their position and discuss options for resolving the disagreement and criteria for an agreed outcome. The result of these discussions will be one of: a proposal put to the relevant Ministers for their agreement; a progress report to the relevant Ministers seeking their agreement for a further round of official level discussions; agreement that a request should be made for an independent third party report.
24. In the event of a dispute being escalated to Ministerial level this could be done at the IMG (EFRA) or if more suitable, bilateral discussion between the Parties involved in the dispute.
25. Any issues between the Parties will be recorded as this may help to inform the Review and Amendment (RAM) process when it is next conducted.

## Review and Amendment

26. The Parties agree that this Concordat will be formally reviewed one year after the agreement has been signed. As a living document, its implementation will be monitored by all Parties as part of the routine business of partnership working. Reviews may be held outside of prescribed periodic intervals if certain criteria are met as described below.
27. Further reviews will continue annually. It can then be reviewed every three years. Reviews will also take place after the introduction of new primary

legislation relating to agriculture (or any material change to that legislation) by one of the Parties, or every three years (whichever is sooner).

28. An exceptional review of the framework is triggered by a 'significant issue'. A significant issue must be time sensitive and fundamentally impact the operation and/or the scope of the framework. The exceptional review may include a review of governance structures if all Parties agree it is required. Otherwise, these issues are handled within the periodic review. The same significant issue cannot be discussed within six months of the closing of that issue.

29. The framework can be amended following agreement that all Parties wish to enter the amendment stage. If an amendment is deemed necessary during review, the existing framework will remain in place until a final amendment has been agreed. If Parties cannot agree whether or how a framework should be amended this may become a disagreement and could be raised through the frameworks dispute avoidance and resolution mechanism.

## Signatories

## Annex A: Definitions

31. **Crisis measures** in the context of retained EU legislation are broadly of two types: 1) emergency measures taken by governments to counter market disturbances (market disturbances can be caused by, for example, significant price fluctuations or where there are threats of such); and 2) measures to deal with the market impact of measures taken to combat the spread of animal disease or serious market disturbances caused by a loss of consumer confidence as a result of public, animal or plant health and disease risks, or to resolve specific problems. These measures can take the form of:

- Financial assistance to producers (e.g. grants, loans, guarantees);
- Public Intervention or Private Storage Aid (can be used in response to crisis conditions when they may be adjusted to respond to the particular crisis);
- Suspension of competition law in specified areas; and
- Any other form appropriate to address the crisis.

32. As provided by the Agriculture Act 2020, crisis measures in England, Wales and Northern Ireland are available where there are 'exceptional market conditions'. These may exist where there is a severe market disturbance (or serious threat of such) in the agricultural markets, which is likely to have a significant adverse effect on agricultural producers due to prices achievable to their product. These measures can take the form of:

- Financial assistance to producers whose incomes are, or are likely to be, adversely affected (e.g. grants, loans, guarantees); or
- PI or PSA, as described below.

33. For Scotland, the powers under Articles 219 to 221 of the Single CMO Regulation (1308/2013), as that Regulation has effect in Scotland under section 3 of the European Union (Withdrawal) Act 2018 will be available to the Scottish Ministers.

34. For Northern Ireland, Articles 219 to 221 of the Single CMO Regulation (1308/2013) continue to apply.

35. **PI** and **PSA** are market management schemes that can be used to stabilise the market when prices of certain products become weak. Both schemes involve taking products off the market to support market prices. Mandatory PI for certain commodities (wheat, butter, skimmed milk powder) is opened for a fixed time on an annual basis to support production. These schemes may be used in response to crisis conditions, where they may be adjusted to respond to a particular crisis.
36. **Data collection** is needed for market monitoring purposes. The Parties will continue to collect agricultural commodity market information on behalf of the UK, similar to the arrangements under the CAP. This predominantly refers to price data. It will be supplemented by other information, including price trends and softer intelligence from industry and other sources.
37. **Marketing standards** are regulations that lay down the definitions of products, minimum product standards, production methods, sales descriptions, product categories and labelling requirements etc. They are also used to protect consumers from unfair and harmful trading practices. EU Regulations covering marketing standards, including carcass classification for pigs, sheep and beef have been retained in UK legislation from January 2021.
38. **Cross-border holdings** are farms with land in more than one part of the UK, whether the land physically straddles the border or not. This only includes farms where all land is inside the UK. Land situated within Ireland is not considered to be part of a cross-border holding for the purpose of this concordat. Consideration of regulation and enforcement policy would be relevant to discussions on cross border holdings.

## Annex B: UK Agriculture Policy Collaboration Group Terms of Reference

39. The Parties agree to the establishment of the UK Agriculture Policy Collaboration Group (PCG).

### **Purpose**

40. The PCG brings together the Parties to discuss agricultural support and make joint decisions that uphold the JMC (EN) Frameworks Principles.

41. The PCG will consider what actions should be recommended to Ministers and officials will advise their respective Ministers, to ensure market support schemes are better designed and enable rapid responses to changing market conditions.

### **Operation**

42. The PCG will normally meet every month (or more frequently if the need arises), be supported by a standing Defra secretariat, and initially be chaired by Defra. The Chair will then rotate between the parties. Meetings will be held virtually but in person if practical e.g. if attendees are already in the same location for other meetings. Further discussions will be necessary to review the frequency of meetings.

### **Objectives**

43. The PCG will:

- Share thinking on ideas and plans for new policy, schemes and standards or changes to existing ones;
- Review recommendations coordinated by the MMG and identify and evaluate possible options for intervention measures;
- Consider if a new or changing policy where divergence occurs in one Party, will have an unwanted impact on another Party and make recommendations to Ministers or senior officials accordingly;
- Agree recommendations for buying and selling prices, and amount of product to be bought in cases of a UK- wide PI/PSA scheme, or parallel schemes; and

- Share information needed to meet obligations to each other and third parties.

44. The PCG may also be used as a forum to establish an appropriate communications and stakeholder engagement plan regardless of whether the same policy or crisis measures are implemented across the UK. The PCG may also consider other issues for communication to stakeholders.

45. The PCG will comprise officials from the Parties working on different policy areas, allowing for a broad range of discussion. This will allow for the sharing of views at the policy formulation stage and the overview of potential use of powers, impacts and practicalities. Officials will also have the opportunity to offer mitigations where proposed action could undermine a functioning internal market. Delivery bodies from England, Scotland, Wales, and Northern Ireland may be invited to attend as appropriate.

46. If the PCG or MMG deems there to be a crisis, the PCG can establish a temporary, crisis-specific sub-group on an ad-hoc basis to deal with the specific crisis. The temporary group will be set up by PCG officials who will be able to identify suitable policy, analytical and senior official representation from their respective governments who are knowledgeable in the particular crisis. The crisis specific group will report to the PCG.

47. When an agricultural policy directly impacts another Party, Parties will share with the PCG plans for the policy as early as possible, in confidence, to allow all Parties to consider the implications for their nation. This includes the sharing of relevant information about proposed changes to marketing standards and agricultural spending to ensure:

- The functioning of the internal market, while acknowledging policy divergence.
- The UK's ability to negotiate trade deals;

- The UK's compliance with international obligations including the World Trade Organisation box limitations<sup>6</sup> under the Agreement on Agriculture (AoA)<sup>7</sup> (see separate concordat on WTO AoA); and that
- The impact in relation to the Northern Ireland Protocol is fully understood.

48. The types of proposed action by a participant to be raised for discussion at the PCG include, but is not limited to:

- **Action with regard to Marketing Standards:** each Party should be able to refer all changes in marketing standards made by another Party. While all marketing standards are in scope for the PCG, some markets of principal importance are:
  - i. Milk and milk products;
  - ii. Spreadable fats;
  - iii. Beef and veal;
  - iv. Poultrymeat;
  - v. Eggs;
  - vi. Fruit and vegetables;
  - vii. Olive oil;
  - viii. Hops and hops products; and
  - ix. Wine.
- **Action with regard to Agricultural spending:** each Party should share plans for new policy and/or schemes with the other Parties before implementing the proposed policies and/or schemes. Rather than notify every single type of agricultural spending, only specific types of subsidy should be referred to the PCG. These have been identified as:
  - i. Market price support;
  - ii. Payments based on output or linked to production;
  - iii. Payments based on variable input use; and

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<sup>6</sup> In WTO terminology, domestic support subsidies are identified by "boxes". 'Green Box' subsidies must not distort trade, or at most cause minimal distortion. They must be government-funded and must not involve price support. 'Amber Box' subsidies are considered to distort production and trade. 'Blue Box' subsidies meet the criteria of 'Amber Box' subsidies, with the additional criteria that they require farmers to limit production. 'Red Box' subsidies are forbidden.

<sup>7</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag.pdf](https://www.wto.org/english/docs_e/legal_e/14-ag.pdf)

iv. Support that is explicitly designed to subsidise a product that could be sold outside of that part of the UK.

- **Action with regard to Cross-border holdings:** sharing of information relating to new policies that will have an impact on cross-border holdings.

49. The types of proposed action listed above will serve as the standing agenda for the PCG meetings, although other policy areas may be raised as appropriate.

50. When sharing information through the PCG, consideration will be given to the circumstances in which information sharing and/or consultation is required and the timing for such an activity (for example, a commitment to notify all other Parties 90 days before consulting on a proposed change to marketing standards, including an explanation of its purposes).

## Annex C: UK Agriculture Market Monitoring Group Terms of Reference

### Establishment

51. The Parties agree to the establishment of the Market Monitoring Group (MMG).

### Scope

52. The following sectors will fall under the scope of the UK MMG discussions as markets of principal importance:

- i. Cereals and other arable crops (including sugar);
- ii. Pig meat;
- iii. Poultrymeat- and eggs;
- iv. Milk and milk products;
- v. Beef;
- vi. Sheep-meat; and
- vii. Fruit and vegetables.

53. The UK MMG has the scope to monitor and coordinate information on all other commodity markets as and when appropriate. It could also decide that markets listed above are not of principal importance.

### Purpose

54. The UK MMG role is to analyse and coordinate opinion on the impact of market developments rather than take decisions. This will include:

- Reviewing and analysing market information from government, industry and other sources;
- Determining the main drivers affecting the development of the market and assessing whether they are short or long run impacts;
- Identifying and assessing cross sector impacts of market developments;
- Identifying whether there are specific regional issues or variations to be noted;
- Providing advice to senior officials and Ministers on developments in the market;

- Providing a forum for the discussion of market impacts across the UK;
- Providing a platform for Policy Leads to consider UK MMG evidence at the separate UK Agriculture Market Policy Group (UKAMPG) in order to:
  - assess potential problems/issues;
  - follow up on intelligence outside UK MMG meetings to assess the impact of possible solutions, including any delivery issues; and
- Providing any residual reporting of information to the EC.

### **Role of the UK MMG**

55. The UK MMG's role is to assess and coordinate opinion on the impact of market developments across the UK, to foster agreement and consensus and to inform Ministers such developments.

### **Operation of the UK MMG**

56. The operation of the UK MMG, including frequency of meetings, attendees and information is set out in the Rules of Procedure for the UK MMG.

## Annex D: Agricultural Spending and Marketing Standards in relation to the functioning of the internal market

### Agricultural Spending

57. Since 31 January 2020, the UK is a fully autonomous, independent member of the WTO and must abide by its AoA commitments. A coordinated approach to agricultural spending is therefore required between the parties, given that Defra took powers in the Agriculture Act 2020 to make new schemes, DAERA and the Welsh Government took powers to maintain or amend existing schemes and the Agriculture (Retained EU Law and Data) (Scotland) Act (2020) also contains powers to amend existing schemes.
58. The Agriculture Act 2020 provides a power to set ‘Amber Box’ domestic support ceilings for the Parties in order to ensure compliance with the UK’s AoA commitments. WTO regulations were laid in November 2020. A draft concordat to sit alongside the regulations is currently being developed. However, the Act does not prevent a participant from giving potentially trade distorting subsidies as long as those subsidies remain within Amber Box allocations. Therefore, the Agriculture Act 2020 does not provide the means for minimising all potential internal market distortions. As specified in paragraph 81, the Northern Ireland Protocol places constraints on support provided in Northern Ireland and is designed to prevent higher relative levels of support or trade distorting support in Northern Ireland compared to the EU.
59. The Parties note that Article 10(1) of the Northern Ireland Protocol provides that the EU State aid rules stated in Annex 5 apply to the UK “in respect of measures which affect that trade [in goods] between Northern Ireland and the European Union.” Article 10(2) and Annex 6 of the Northern Ireland Protocol set out the conditions for when spending that supports “the production of and trade in agricultural products in Northern Ireland” will be exempt from the State aid rules that apply to the UK by virtue of Art 10(1) and Annex 5. This exemption may be used only up to a maximum overall limit, and as long as a minimum percentage of that exempt spending is within the WTO ‘Green Box’ spend. That maximum limit, and minimum percentage, has been determined under Article 10.2 of the Protocol.

## **Marketing Standards**

60. The Parties also have brought forward legislation – either in their own legislatures or the UK Parliament – to set marketing standards. Any changes made need to consider their potential impact on the functioning of the UK internal market and the obligations of the Northern Ireland Protocol, while recognising policy divergence. This is in line with the Common Frameworks principles (See paragraph 9, p.3).

## Annex E: Crisis Measures, Public Intervention and Private Storage Aid (PI/PSA)

### PI and PSA

61. All Parties will continue to use as appropriate retained EU legislation to operate PI/PSA. The Agriculture Act 2020 gives powers to England, Wales and Northern Ireland to modify this retained legislation for either or both of the following purposes:

- i. Securing that provisions of such legislation cease to have effect in relation to their respective nations (except in relation to their use in exceptional market conditions in England and Wales); and
- ii. Altering the operation of provisions of such legislation, so far as they have effect in relation to their respective nations (pending the achievement of the purpose in paragraph (i) in relation to those provisions).

62. The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 retains the PI/PSA provisions in retained EU law, but provides a power to amend this legislation in its application to Scotland for the following purposes:

- (a) Securing that provisions of such legislation cease to apply for a period;
- (b) Securing that provisions of such legislation cease to have effect; and
- (c) Simplifying or improving the operation of provisions of the legislation.

63. For as long as retained EU legislation applies in each part of the UK unmodified, the following periods apply for PI:

- Common wheat and barley<sup>8</sup>: from 1 November to 31 May;
- Beef and veal: throughout the year; and
- Butter and skimmed milk powder: from 1 March to 30 September.

64. During the periods specified, PI must be open for common wheat, butter and skimmed milk powder.

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<sup>8</sup>Quality criteria for these products may restrict the use of these schemes

65. PI may be open for barley if the market situation requires so. PI for beef and veal may be opened if the price of the product is below the 85% reference threshold over a representative period of 2 weeks.

66. PSA is discretionary, with no triggers in legislation, but in making the decision to open PSA the retained EU legislation provides that the appropriate authority must take into account average prices and the reference thresholds, producer costs and/or the need to respond to a particularly difficult market situation, or developments with a significant negative impact on margins.

67. Where support is required across two or more of the Parties, the Parties' preference is to implement the same measures where possible and appropriate. Notwithstanding this, it is recognised that implementing the same support measures may not always be possible or appropriate and that the Parties shall implement the most appropriate measures in their situation, whilst also seeking to minimise any impacts on the functioning of the UK internal market.

68. It is therefore recognised that there are four different outcomes where support is implemented.

- Market disruption occurring at a UK-wide scale or across multiple Parties and the Defra Secretary of State acts with the consent of the other parties to implement a UK-wide financial support and/or PI/PSA scheme<sup>9</sup> (UK-wide scheme). This may also happen across multiple Parties but not all.
- Market disruption occurring at a UK-wide scale or across multiple Parties where each adopts the same financial support and/or PI/PSA independently (parallel schemes).
- Market disruption occurring across multiple Parties and each adopts different support measures (unilateral schemes).

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<sup>9</sup> Where changes have been made to the operation of PI/PSA in England, Wales and/or Northern Ireland under the powers in the Agriculture Act 2020 in a way that is not available to Scotland under retained EU legislation, it will not be possible for the Secretary of State to legislate on behalf of the other parties in this way if the changes relate to the commodity to be supported.

- Market disruption occurring at an England, Scotland, Wales or Northern Ireland only scale and measures are implemented by the relevant Party (individual scheme).

69. Officials from the PCG will advise their respective Ministers on intervention schemes but the decision to open such schemes ultimately rests with Ministers.

70. In cases of a UK-wide PI/PSA scheme, or parallel schemes, the Parties shall agree recommendations at the PCG for buying and selling prices, and amount of product to be bought in, and advise Ministers accordingly.

71. If one Party decides to open a PI/PSA scheme in its own nation, the other Parties must be kept abreast of the situation through the PCG and MMG, particularly as implementation of market support measures could potentially have unintended consequences for other Parties.

72. When the appropriate authority buys product into PI, they must make regulations setting out the buying-in prices for the products and the quantitative limitations where buying-in is carried out at a fixed price.

73. Schemes can be delivered via individual Parties' delivery bodies or at a UK level. Regardless of whether a single UK-wide scheme or multiple different schemes are implemented, a primary consideration will be whether the relevant delivery body, or bodies, has the capacity to deliver the scheme(s). If there is insufficient capacity, then reprioritisation of workloads or sourcing of an alternate delivery body may be required. For this reason, early engagement with the delivery body is essential. Where specific capacity issues arise, discussion may be required at the PCG.

74. It is expected that the RPA will continue to administer any national mandatory arrangements on behalf of the Parties, however, any request for divergence by any one or more body will be decided on a case-by-case basis. Any requests for change to anything that the RPA currently does for the Scottish Government, Welsh Government and DAERA should be raised with the RPA in the first instance.

## **Crisis Measures**

75. For England and Wales, the crisis measures in retained EU legislation have been dis-applied and replaced by measures in the Agriculture Act 2020

76. The crisis powers in the Agriculture Act 2020 can be made available when 'exceptional market conditions' exist as defined in the Act. In the event of a crisis, the Defra Secretary of State (for England) and Welsh Ministers (for Wales) will have powers to:

- Make a declaration that there are exceptional market conditions in the agricultural markets. The Defra Secretary of State/Welsh Ministers must consider that there is a severe disturbance or a serious threat of such in the agricultural markets. The disturbance must have, or be likely to have, a significant adverse effect on prices achievable by agricultural producers in England/Wales for one or more of their products, and it must justify making the powers to give financial assistance or to use PI/PSA available for use;
- Once such a declaration has been made, to give financial assistance to agricultural producers in England/Wales whose incomes are being, or are likely to be, adversely affected by the exceptional market conditions, and/or to use PI/PSA mechanisms; and
- Modify direct retained EU legislation concerning PI/PSA by altering the operation of provisions of such legislation as it relates to exceptional market conditions declared as described above, in relation to England and Wales.

77. In Northern Ireland, DAERA has the existing Common Market Organisation (CMO) powers through EU law available to it. It also has powers in the Agriculture Act 2020 which are available to England and Wales, except the power to change retained EU law on PI/PSA in relation to exceptional market conditions (as DAERA is able to do this under EU law).

78. The Scottish Ministers will continue to operate on the basis of the crisis measures provisions of the Single CMO Regulation (1308/2013) as retained EU law.

79. For a UK-wide crisis scheme, the criteria set out in the Agriculture Act 2020 must be satisfied, and a declaration made in England and/or Wales before action can take place.
80. Where there is agreement on the crisis measure to implement, and this involves the use of PI/PSA, the first consideration is whether the existing law on PI/PSA requires amendment. If not, the Defra Secretary of State may act with the consent of the other Parties within the constraints of the retained EU legislation.
81. If the retained EU law on PI/PSA does require amendment (e.g. to extend the product coverage), each participant would have to agree to make any necessary modifications to the retained EU law on PI/PSA, as applicable, for their respective nations. In England this would be done by the Defra Secretary of State. In Northern Ireland and Scotland, it is likely that this would be done using Article 219 of the CMO Regulation. PI, under Article 13 of 1308/2013, or PSA under Article 17 of 1308/2013 would then be opened by the Defra Secretary of State acting as the 'appropriate authority', with the consent of the other Parties as appropriate, covering eligible products originating in the UK in accordance with Article 9 of 1308/2013. In Wales appropriate legislation would need to be made.
82. Alternatively, a number of the Parties may decide to act in parallel. Where this occurs, the relevant Parties shall work together through the PCG to design and implement the scheme.
83. If Parties choose to implement different crisis measures, or the same measures subject to different rules, the rationale for the difference should be made clear in discussions at the PCG. In such situations, consideration should be given to what this means for any cross-border farms as well as the potential for fraud, or double-counting. Relevant Ministers will be made aware of any scheme divergence and the impact that divergence may have on the functioning of the UK internal market.
84. If a crisis is occurring at a sub-UK scale any collaboration is highly likely to be focused between the affected Parties, however other Parties should be kept

abreast of the situation, particularly where the implementation of market support measures may potentially have unintended consequences for other Parties.

## Annex F: Cross-border holdings

85. The Parties agree to coordinate and collaborate on sharing information and exploring opportunities for taking consistent approaches on issues of land holdings that straddle borders or are in different Parties' areas, These issues include but are not limited to:

- Support schemes, including Direct Payments;
- Environmental and agri-environment schemes;
- Productivity, new entrants and innovation schemes;
- Audit of support payments;
- Regulation and enforcement;
- Quality and impact of advice and guidance to farmers and land holders;  
and
- Data sharing.

86. The Parties agree each to appoint one or more lead officials who will form the Cross-border Group (CBG), to coordinate on cross-border issues and between the Parties. The CBG will meet quarterly with ad hoc meetings if required.

87. The CBG will collaborate to discuss cross-border issues, discuss impacts of new policy on cross-border farms and be a voice for cross-border farms within their respective Parties. As well as discussing ongoing cross-border issues the meeting will regularly focus on specific topics to share ideas and good practice to aid all Parties' approaches on policy areas of common interest.

88. The PCG will retain overall responsibility for the cross-border group, defining and reviewing its terms of reference, and commissioning it to look into issues.

89. The location for the meetings may change, with a rota of each Party alternating the hosting of meetings or, if circumstances require, virtual meetings may be held. Minutes for each meeting will be produced jointly by the Parties in attendance.

90. The Defra lead official will propose standing agenda items, with ad-hoc items added depending on external attendees. The agenda below is an indication of what could be discussed:

- Introductions;
- Summary of progress and developments since previous meeting;
- Issues raised by officials, farmers and farming unions (which could include any policy areas covered at paragraph 106);
- New or amended policy and potential cross-border impacts ;
- Actions; and
- AOB.

91. Lead officials from Welsh Government and Defra may choose to have more frequent bilateral meetings if the quarterly meeting discussion suggests further discussion between the Defra and Welsh Government is necessary – reflecting the higher number of farms on the English-Welsh border than any other border.

### **Direct Payments**

92. The Parties have each agreed that the concept of cross-border applications for direct payments should be removed now that the UK has left the EU. This would mean that farmers with land in two parts of the UK would need to submit two separate applications, and that the applications would be treated as separate and processed by the relevant party. The Parties agree to work together to remove the concept of a cross-border application.

93. It may be beneficial for the Parties to share data in certain circumstances, e.g. to verify land boundaries and to avoid double payment.

94. In England and Wales, changes are also being made to minimum claim size rules. Some cross-border farmers who currently meet the direct payments minimum claim size will not do so once their land in other parts of the UK is excluded from the application. To avoid disadvantaging such farmers, Defra and the Welsh Government intend to introduce an exemption from the minimum claim size for these farmers whilst BPS is still in operation.

**Future schemes: agri-environment, productivity, and innovation (and any other relevant schemes administrations may bring forward)**

95. In England, new schemes will be established following the phasing out of direct payments. These include the Environmental Land Management (ELM) scheme, productivity schemes and an agricultural research and development package. In Wales, a Sustainable Land Management (SLM) scheme will be introduced. In Northern Ireland, DAERA is working to develop a tailored support regime that will help farmers to become more productive and to maximise the sustainable returns they can achieve from the assets at their disposal. These assets include the environmental assets on the farm and therefore the delivery of environmental outcomes will form a major part of the overall support framework going forward. Scotland has a commitment to provide Stability and Simplicity until 2024. A new Scottish Agriculture Bill will be brought forward in 2023 to provide a replacement for the CAP. Starting in Spring 2022, Scotland will run a National Test Programme which will ensure that the right tools and support are in place when, from 2025, the climate and biodiversity performance of businesses will be a central objective of agricultural policy in conjunction with income support to food producers.

96. In Wales a white paper published in December 2020, ahead of the introduction of an Agriculture (Wales) Bill which will include powers to transition to the new agricultural support schemes designed around sustainable land management principles.

**Sharing selections/ Audit of support payments**

97. UK Government, Scottish Government, Welsh Government, and DAERA agree to sharing selections/auditing of cross-border holdings and these should be coordinated between Parties and delivery bodies wherever possible.

**Regulation and enforcement**

98. The Parties agree that cross-border holdings will be treated like any other holding in relation to regulation and enforcement. Each authorised enforcement body would inspect the land in their Party against their own scheme rules or enforcement model. Enforcement of common regulations applying to cross-

border holdings should be coordinated between Parties and delivery bodies wherever possible.

99. Defra will reduce cross compliance inspections and enforcement through payment deductions in England at the point of delinking. The intention is to replace this with new regulatory inspections and enforcement such that monitoring compliance can be maintained. The Welsh Government propose to retain current cross compliance standards and enforcement as well as developing and consulting on a new regulatory framework as part of the introduction of an Agriculture (Wales) Bill, which will include clear minimum standards, smarter monitoring of compliance and a revised system of enforcement. DAERA will retain the current cross compliance standards and approach to enforcement. However, this will be reviewed as part of the development of Northern Ireland's future agricultural policy. The Scottish Government will retain cross compliance and has reviewed the associated verifiable standards as part of the Stability and Simplification programme for the period 2021 to 2024. Inspection rates and penalties for Direct Payment schemes have also been reviewed as part of the Stability and Simplicity programme. It is the intention of all Parties to work more directly with claimants to ensure compliance with scheme conditions which will include in some circumstances a reduction in on the spot controls.

100. The Parties agree that existing legislation is generally sufficient to allow enforcement of issues caused in one part of the UK and identified in another e.g. water pollution. The Parties commit to holding discussions through the PCG on whether existing powers and processes are sufficient or whether a new system of referrals should be put in place. This system could be instigated where information is needed e.g. on the nature and severity of a pollution incident located across a border.

101. The Parties commit to retaining the current levels of communications between agencies to facilitate the exchange of data and the ability to effectively inspect and enforce regimes.

## **Data sharing**

102. The Parties agree to maintain the current levels of communications between the agencies involved in enforcement and regulations. A system for referrals may be created if needed to enable joined up enforcement of regulatory and scheme standards on cross border farms.

## Annex G: Data Collection and Sharing

103. The Parties agree to abide by the principles on data sharing set out in the Devolution MoU (2013)<sup>10</sup>. This includes:

- The commitment of all Parties to the principle of good communication with each other; and
- Cooperation on matters of mutual interest.

104. The Parties are referred to the WTO AoA regulations and concordat on schemes for WTO reporting purposes.

105. The MoU also includes the aim of all Parties to provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties, all exchanges being subject to restrictions and requirements. This reflects recognition by all Parties that cooperation is necessary to meet their respective policy and business objectives whilst also contributing to the provision of statistical advice and information in relation to both reserved and devolved matters.

106. Outside the EU it remains important that the UK is able to continue producing UK-wide production statistics where required, for example to inform trade discussions with the EU and other countries.

107. The Parties also recognise that the responsibility for the administration of the single website for publishing data of beneficiaries of agricultural support will fall on the relevant authorities from across the UK jointly.

108. The Agriculture Act 2020 gives the Defra Secretary of State, Welsh Ministers and the DAERA Minister the power to collect data in England, Wales, and Northern Ireland, respectively, by requirement, from persons within or closely connected to the supply chain. This new data will help address gaps and enable

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<sup>10</sup> [Devolution Memorandum of Understanding and Supplementary Agreements – October 2013](#)

the production of statistics that each Party currently does not have the power to collect data on.

109. The purposes of these powers cover a broad range of policy areas, including supply chain transparency, animal and plant health, and minimising the waste and environmental impacts of activities in the agri-food supply chain.

110. The Agriculture (Retained EU Law and Data) (Scotland) Act I gives the Scottish Ministers similar powers to collect data, by requirement, from persons within or closely connected to the supply chain.

111. The powers in the Agriculture Act 2020 apply to England, Wales and Northern Ireland respectively, however, if each Party intends to gather similar data, there may be benefits in voluntary collection to ensure a collaborative approach (including with Scotland if appropriate), but if the statutory powers are involved that can only be done by the relevant Party.

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