



Department
for Environment
Food & Rural Affairs

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Thank you for your letter of 24th October proposing a number of amendments to the Agriculture Bill. I value your consideration of the Bill's provisions and reiterate my open offer for the Scottish Government to legislate in this historic Agriculture Bill and provide for Scottish farmers and crofters similar certainty to that being afforded farmers in England, Wales and Northern Ireland.

Agriculture is devolved and the Bill is explicit about this. Some areas do require UK Ministers to act on behalf of the UK where specific powers are reserved to the UK Parliament. I am disappointed we have a difference of view based on a different understanding of three parts of the Bill with UK extent, but I'm pleased that our officials are working to seek a compromise so that we can overcome this.

Producer Organisations, Fair Dealing and the WTO clauses

Clauses relating to the recognition of Producer Organisations are outside the competence of the Scottish Parliament because they relate to competition law in that they seek to regulate anti-competitive practices, a matter which is reserved to the UK Parliament. With regard to the clause on fair dealing, this is similarly reserved as it also relates to the regulation of anti-competitive practices and agreements, and abuse of dominant positions.

The WTO clause is also outside the Scottish Parliament's legislative competence because it relates to functions that necessarily apply UK-wide. The Scottish Parliament could not legislate in isolation, unilaterally, on this matter. The provision for amber box limits has to have effect across the whole of the UK in order for the limit allocated to each part of the UK to be set taking account of the other parts.

WTO compliance is a reserved area under the foreign affairs reservations in each of the devolved settlements. The purpose of the powers in the Agriculture Bill is to ensure the UK complies with the Agreement on Agriculture: responsibility for compliance at international level, as opposed to observation and implementation, lies with the UK Government as a matter of foreign policy and regulation of international trade policy.

I agree that we need to reach a satisfactory position on the reserved clauses but I do not think your proposed amendments are the right approach. Our officials continue to discuss a pragmatic compromise on the WTO clause, as you know. I think we should give this process sufficient time over the next few weeks to achieve results. I believe we can reach a position that properly recognises the devolved interest whilst ensuring that the UK can meet its obligations in the unlikely event consensus cannot be reached on 'Amber Box' allocations or scheme classifications. As I've mentioned before, the first subsection of the clause shows that it can only be used for the purpose of ensuring compliance with WTO rules, not to block scheme types arbitrarily: to do so would be outside the scope of the power and leave a Secretary of State open to legal challenge. In addition, the clause makes provision for a dispute resolution process to be established, and I know officials in each of the four administrations are due to discuss very shortly precisely how this should work.

We are also keen to collaborate in due course on regulations under the Producer Organisation and fair dealing clauses, to ensure that these operate to your satisfaction whilst preserving a UK-wide exemption from competition law, which is reserved to the UK Parliament. I would urge you to reconsider the need for these amendments and ask you to reiterate your support for officials to continue to work on a reasonable compromise.

Geographical Indications

An opposition amendment on Geographical Indications has now been tabled and will be debated by the Agriculture Bill Committee. As you know, the UK Government's focus is on delivering functioning UK geographical indications (GI) schemes on Day 1 of EU Withdrawal, and continuous protection for our stakeholders. The devolved administrations have always played an important role in the promotion of the schemes and support of applicants, which we're keen to see continue. A Memorandum of Understanding setting out the governance structure of the new UK schemes is being co-developed with devolved administrations. The MoU outlines how all four of the UK's administrations will work together to administer various aspects of the new UK GI schemes. I am confident that this MoU is the right mechanism to give the devolved administrations a meaningful role in the administration and development of GI schemes, while respecting the current devolution arrangements, and so I do not think your proposed amendment to the Agriculture Bill is appropriate or necessary.

Red Meat Levy

You will be aware that backbench Committee members tabled an amendment on the red meat levy on the 24th October. I hope you can agree that this achieves a sensible solution to this long-standing concern. I am minded to lend it the Government's support but I've asked my officials to work with yours to ensure there is nothing in the text of the proposed amendment that would prevent you recommending legislative consent.

Funding commitments

I have been very clear on this Government's funding commitment, which provides certainty to farmers across the UK until the end of this Parliament. Within this commitment, Lord Bew will undertake his review and will make recommendations that can be considered when making future funding decisions at the 2019 Spending Review.

Standards

We have discussed previously your belief that we should legislate to ensure that our producers will not be unfairly undercut by imports which are produced to lower standards. As you know, I fully support your policy ambition: the UK Government is proud of the high food safety and animal welfare standards that underpin our high-quality UK produce. I can assure you that the Government has no intention of undercutting the reputation of UK products for quality by lowering our food and animal welfare standards in pursuit of future trade agreements. We are clear that such agreements must work for consumers, farmers, and businesses in the UK. However, Parliament will have the opportunity to approve, and scrutinise in the round, every trade deal that is negotiated: the Agriculture Bill is not the right place to address this issue.

I also want to confirm that a number of government minor and technical amendments have been tabled: these were discussed with your officials in advance, recognising the close working between our two governments and in light of our continuing offer for provisions to be extended to Scottish Ministers.

Thank you again for your letter.

With every good wish,

*and thank you to you and your officials
for their close co-operation*

Michael Gove

Ms
