



HM Government

Ozone-Depleting Substances and Fluorinated Greenhouse Gases 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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Framework Outline Agreement

This is the Framework Outline Agreement for the Ozone-Depleting Substances and Fluorinated Greenhouse Gases UK Common Framework.

This document has been developed collaboratively between officials from the UK Government (UKG), Scottish Government (SG), Welsh Government (WG) and the Department for Agriculture, Environment and Rural Affairs (DAERA(NI)), hereafter referred to as the 'Parties'.

Section 1: What we are talking about

Policy Area

Ozone-Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gases).

Scope

ODS and F-gas legislation under the EU regime

Regulation (EC) No 1005/2009 on substances that deplete the ozone layer (the ODS Regulation) and Regulation (EU) No 517/2014 on fluorinated greenhouse gases (the F-gas Regulation) and related implementing acts restrict the use of ODS and F-gases respectively, in order to protect the ozone layer and mitigate climate change.

The ODS Regulation bans all ODS, with derogations for essential uses and where no technically feasible alternatives are available. Producers and users of ODS must apply to the European Commission each year for quota which, if granted, sets a quantitative limit on the amount they can use for certain permitted uses. All imports and exports of ODS between the EU and third countries must be licensed by the Commission and companies must report to the Commission on their use of ODS annually. Through the ODS Regulation, the EU (previously including the UK) comply with their legally binding obligations under the United Nations Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol) (see further detail below).

The F-gas Regulation requires a 79% cut in the use of hydrofluorocarbons (HFCs) between 2015 and 2030 in order to mitigate climate change. The Regulation achieves this through phasing down the amount of HFCs that can be placed on the EU market by allocating steadily-reducing quotas to HFC producers and importers. This quota allocation process is the main mechanism by which the EU (previously including the UK) will meet their international obligations to phase down HFCs under the Kigali Amendment to the Montreal Protocol, which came into force in 2019. The EU calculates individual companies' quota entitlement, based on the historical amount placed on the market. Quota is required for placing bulk gas and products and equipment containing HFCs on the market.

The Regulation also bans F-gases in certain applications and sets requirements for leak checks, leakage repairs and recovery of used gas. In addition, all technicians handling F-gases must be trained in their safe use and be certified. Member States are required to recognise valid F-gas certificates issued elsewhere in the EU.

Under the EU Regulations, Member States are required to implement their own enforcement and penalty provisions, as well as designate the bodies which provide F-gas technicians with certification and training. The UK previously complied with that obligation through associated domestic enforcement ODS and F-gas Regulations made with the consent of devolved government Ministers. The domestic enforcement regulations provided powers to regulators in each administration to enforce the EU obligations. See further details on the domestic enforcement regulations below under 'Intersection with devolved competence and divergence'.

The legislation within scope of this Framework is set out in Annex I.

ODS and F-gas systems under the EU regime

The European Commission manages an IT system that allows companies to register, apply and be granted HFC quotas. It includes the functionality to transfer quotas and authorisations/delegations (for pre-charged equipment). The European Commission also manage IT systems that grant ODS quota licences and ODS lab use authorisations directly to companies.

The European Environment Agency (EEA) manages an IT system that companies use to report on F-gas activities e.g. quantity produced, imported, and exported. The European Commission then provides this information to the UN on behalf of all Member States (previously including the UK) for Montreal Protocol purposes. The EEA also manage an IT system that companies are obliged to use to report on ODS activities e.g. quantity produced, imported, and exported, as well as that used for feedstock or destroyed. The European Commission then provides this information to the UN on behalf of all Member States (previously including the UK), again for Montreal Protocol purposes.

The specific systems are:

- HFC Registry – registration and quota allocation
- HFC Reporting
- ODS Licensing System
- ODS Laboratory and Analytical Registry
- ODS Reporting System

UK arrangements from 1 January 2021

Following the UK's exit from the EU, Northern Ireland (NI) remains subject to the directly applicable EU ODS and F-gas legislation and continues to operate under the EU ODS and F-gas systems, in accordance with the terms of the Protocol on Ireland/Northern Ireland (NI Protocol). The provisions of the EU ODS and F-gas legislation have been retained in UK law as it applies in Great Britain, and separate ODS and F-gas systems operate in Great Britain.

Intersection with devolved competence and divergence

Environment and climate change are devolved matters. The regulation of ODS and F-gas is within the devolved competence of the devolved legislatures and Ministers, in accordance with the devolution settlements (Scotland Act 1998, Government of Wales Act 2006 and Northern Ireland Act 1998). However, prior to the UK's exit from the EU, ODS and F-gas policy was governed by EU derived legislation. The EU ODS and F-gas regulations (as set out above) were directly applicable across the UK, and therefore required a common approach across the UK with limited scope for divergence.

The enforcement of the ODS and F-gas legislation falls within devolved competence and was previously delegated to the UK as an EU Member State. It was therefore the only area within ODS and F-gas policy where divergence across the UK was previously possible whilst under the EU regime.

Despite the devolved nature of enforcement, the Parties agree that a level of commonality is beneficial, particularly for those businesses that operate across internal UK boundaries, and therefore have chosen to have a common UK approach that is implemented through domestic enforcement legislation (see Annex II). The domestic enforcement regulations set the enforcement and penalty provisions in the UK, and designate the bodies which provide F-gas technicians with certification and training. The domestic regulations give powers to regulators in each administration to enforce the provisions of the principal ODS and F-gas Regulations and related implementing acts, including the use of civil (in England and Scotland only) or criminal penalties.

The domestic enforcement regulations were made by the UK Government using powers under the European Communities Act 1972 according to section 57(1) of the Scotland Act 1998 with agreement of Scottish Ministers, and paragraph 5 of Schedule 3 to the Government of Wales Act 2006 with agreement of Welsh Ministers. The domestic regulations extend to Northern Ireland only insofar as they deal with import and export controls and trade with any place outside the UK, within the meaning of paragraph 20 of Schedule 3 to the Northern Ireland Act 1998. Northern Ireland has separate domestic enforcement legislation that introduces offences and penalty provisions designed to comply with the requirements of the ODS and F-gas legislation.

Areas of devolved competence not previously governed by EU law, including enforcement, are not formally within scope of the Framework. However, where it is appropriate for an issue to be discussed between the Parties (in line with the 2012 Devolution Memorandum of Understanding) the engagement fora set out in this Framework (see 'Decision-making fora') will be utilised, without prejudice to the competence of the devolved Ministers.

Reserved competencies

The following competencies in the principal ODS and F-gas Regulations are reserved to the UK Government:

Principal ODS Regulation:

- Article 8(5)
- Article 14(4)
- Article 15(3)
- Article 17(3) and (4)

- Article 18 (1), (3), (4), (5), (6), (8) and (9)
- Article 20(3) and (4)
- Article 26(3)
- Article 27(9)

Principal F-gas Regulation:

- Article 14(4)
- Annex V (“necessary adjustment value”)

The following competencies in the domestic enforcement regulations are reserved to the UK Government:

Domestic ODS Regulation:

- Regulation 18
- Regulation 19

Domestic F-gas Regulation:

- Regulation 7
- Regulation 8
- Regulation 19(4)
- Regulation 19 (A)
- Regulation 28(2)

Areas of reserved competence are not formally within scope of the Framework but where it is appropriate for an issue to be discussed between the Parties (in line with the 2012 Devolution MoU) the engagement fora set out in this Framework (see ‘Decision-making fora’) will be utilised, without prejudice to the competence of the UK Government.

International obligations

The UK has international obligations under the UN Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol) to:

- phase out the use of ozone depleting substances (ODS) and phase down hydrofluorocarbons (HFCs), the main type of F-gases, by 85% by 2036 (Article 2);
- establish and implement a system for licensing imports and exports of these controlled substances (Article 4B); and
- monitor compliance through annual reporting to the UN (Article 7).

Under the Montreal Protocol, ODS have largely been phased out in developed countries (Non-A5 Parties). ODS are permitted only in essential applications where no alternatives are available, such as fire extinguishers in ships and aircraft, laboratory and analytical uses, and as feedstock for other chemicals. Their use is tightly controlled and monitored: imports and exports must be licensed and annual reports on production and consumption must be submitted to the UN Ozone Secretariat.

F-gases have largely replaced ODS and although F-gases do not harm the ozone layer they are powerful greenhouse gases. They are used in refrigeration, air-conditioning,

insulation foams, electrical equipment, aerosol sprays, medical inhalers, solvents, fire extinguishers and other industrial applications. The 2016 Kigali Amendment to the Montreal Protocol requires developed countries (Non-A5 Parties) to begin to phase down HFCs (the main group of F-gases) from January 2019. The EU decided to take action before agreement was reached at the UN and began reducing the use of HFCs from 2015. The emission reductions that the F-gas Regulation will deliver through the HFC phase-down and action on F-gases more widely are factored into the UK's carbon budget calculations and emissions reduction targets under the UK Climate Change Act 2008. HFCs are also included in Scotland's statutory climate change targets set out in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, and within the Welsh Government's Prosperity for All: A Low Carbon Wales.

Previously, the UK met its international obligations under the UN Montreal Protocol through directly applicable EU legislation and systems (as set out above). Under the Protocol on Ireland/Northern Ireland, Northern Ireland remains in and subject to EU ODS and F-gas Regulations and systems. Separate ODS and F-gas legislation and systems apply in Great Britain.

The UK continues to comply with its international obligations under the Montreal Protocol in its entirety, despite the complex nature of separate NI (EU) and GB systems for ODS and F-gas. In order for the UK in its entirety to report to the UN, arrangements will be put in place to gather NI data. DAERA(NI) will need to report annually to the European Commission on the reporting requirements set out in Article 26 of the EU ODS Regulation. This information will also need to be reported to the Environment Agency.

In addition, NI consumption data for controlled substances will also need to be collected. Initially, such data will be gathered through the implementation of an administrative, voluntary requirement on businesses to provide data on placing HFCs and ODS on the market in NI. More robust, longer term measures will be agreed by the UK and European Commission. The UK will have data for consumption in Great Britain through the annual reporting requirement set out in legislation.

This Framework and the concordat will facilitate UK decision-making, information sharing and cooperation and will ensure that the Parties continue to work together to deliver these international obligations.

The international conventions within scope are set out in Annex III.

Interdependencies with other Frameworks

There are no other Frameworks, policy areas, or elements of policy areas which are inextricably linked.

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), Customs, Movement of Goods; and

- Annex 2, 26. Environment, Energy Efficiency of the Protocol on Ireland / Northern Ireland apply.

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 of this document.

Definitions

“GB ODS and F-gas legislation” or “Retained EU law” refers to the principal EU Regulations for ODS and F-gas (Regulation (EC) No 1005/2009 on substances that deplete the ozone layer (“the ODS Regulation”) and Regulation (EU) No 517/2014 on fluorinated greenhouse gases (“the F gas Regulation”)) and related implementing legislation, as retained in UK law, as amended by:

- The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2019, and The Fluorinated Greenhouse Gases (Amendment) (EU Exit) Regulations 2021, which correct operability deficiencies and transfer powers and functions previously held by European Institutions (including the European Commission and European Environment Agency) to the appropriate UK authorities and regulators; and
- The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2020, so that the UK retained EU legislation on ODS and F-gases does not apply in Northern Ireland and only applies to and in England, Scotland and Wales (Great Britain).

“GB system” or “GB-wide system” refers to the single ODS and F-gas registration, quota, licensing and reporting systems in England, Scotland and Wales administered by the

Environment Agency from 1 January 2021, subject to the consent and direction of functions by the Scottish and Welsh Ministers.

Section 2: Breakdown of policy area and Framework

Summary of proposed approach

EU legislation on ozone depleting substances (ODS) and fluorinated greenhouse gases (F-gases) continues to apply directly in Northern Ireland in accordance with the terms of the Ireland/Northern Ireland Protocol (NI Protocol). The provisions of the EU legislation on ODS and F-gases apply in GB as retained EU law. This retained EU law will provide the legislative context for regulating ODS and F-gases in Great Britain.

The environment and climate change are devolved matters, therefore regulating for ODS and F-gas is within the devolved competence of the devolved legislatures and Ministers. The Parties have agreed to work together to establish common approaches, known as Common Frameworks, in some policy areas of devolved competence and previously governed by EU law (and for NI, in some areas, continue to be governed by EU law). ODS and F-gas policy is one of those areas.

The development of such Common Frameworks is informed by the Common Frameworks principles agreed by the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16 October 2017 (see further detail below).

The jointly agreed ODS and F-gas Common Framework sets out a common approach for areas of the policy where it is agreed to be desirable (see 'Proposed common approach (policy specific elements)').

The Framework is implemented by a non-legislative arrangement in the form of a concordat. The concordat sets out the governance arrangements, including the decision-making and dispute resolution process, provides the basis for managing and maintaining commonality in approach and minimum standards, as well as enabling the Parties to discuss and manage any policy divergence.

The GB ODS and F-gas legislation provides for concurrent exercising of functions by Ministers and regulators. Therefore, in order to practically administer the regime on a GB-wide basis, Scottish and Welsh have provided consent to certain functions being administered on their behalf by the Secretary of State and directed the Environment Agency to administer functions on behalf of regulators in Scotland and Wales. Ongoing working arrangements are needed where functions are exercised by one Party on the behalf of others. This will ensure ongoing oversight by SG and WG and devolved regulators and ensure oversight remains accountable to Ministers in Scotland and Wales and the Scottish Parliament and Senedd Cymru.

The arrangements relating to the GB ODS and F-gas legislation and systems do not apply to Northern Ireland.

The Framework operates in accordance with the principles outlined in the overarching 2012 Devolution Memorandum of Understanding (2012 Devolution MoU) (currently under review as part of the "cross government Intergovernmental Relations Review") and is

consistent with, and complemented by, other guidance on common working arrangements, notably the Common Frameworks principles agreed by JMC(EN) on 16 October 2017.

JMC(EN) Framework Principles

The Parties agree that the proposed approach outlined in this section is desirable according to Section 1 of the JMC(EN) Frameworks Principles (see Annex IV for the full list of principles):

- enable the functioning of the UK internal market, while acknowledging policy divergence; and
- ensure compliance with international obligations.

Further detail on the justification for the agreed common approach can be found in Annex V.

Proposed common approach (policy specific elements)

Ministers from the UKG, SG and WG have agreed to operate single ODS and F-gas systems across GB, subject to the consent and direction of functions by the Scottish and Welsh Ministers (see Annex VI). The GB-wide systems cover ODS and F-gas registration, quota, licensing and reporting arrangements. The systems are based on common targets and trajectories. See further detail on the GB system and arrangements for potential divergence under ‘Detailed overview of proposed Framework: non-legislative arrangements’.

Ministers from the UKG, SG and WG agree that current standards of the GB ODS and F-gas legislation will be maintained as a minimum.

Detailed overview of proposed Framework: legislation (primary or secondary)

The arrangements within this Framework do not require new additional primary legislation.

GB ODS and F-gas legislation in the form of retained EU law provides the legislative context for regulating F-gases and ODS in Great Britain, from which UKG, SG and WG can choose to make alternative arrangements in the future.

Secondary legislation corrects the retained legislation to ensure operability in GB. This includes:

- The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2019 (the EU Exit Regulations 2019) and The Fluorinated Greenhouse Gases (Amendment) (EU Exit) Regulations 2021 (the EU Exit Regulations 2021), which correct operability deficiencies and transfer powers and functions from the European Institutions (including the European Commission and European Environment Agency) to the appropriate UK authorities and regulators; and
- The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2020 (the EU Exit Regulations 2020), which reflects the circumstances of NI under the terms of the NI Protocol, so that the retained EU law on F-gases and ODS does not apply in Northern Ireland and only applies to and in Great Britain.

The GB ODS and F-gas legislation includes concurrent powers for Ministers and regulators, which enables functions to be administered jointly across England, Scotland and Wales or by the appropriate authorities and regulators within UK Government, Scottish Government or Welsh Government.

In practice, the UK Government, Scottish Ministers and Welsh Ministers have agreed to single GB-wide ODS and F-gas registration, quota, licensing and reporting systems, administered by the Environment Agency from 1 January 2021. This is following the receipt of final consent to the GB-wide systems provided by the Scottish and Welsh Ministers in January 2021. This involved a process of consent and direction, which is set out in the legislation (see Annex VI).

Where a Minister in Scotland and Wales has given consent to the Secretary of State to exercise functions in a devolved area, or given direction to the Environment Agency to exercise functions on behalf of devolved regulators, working arrangements will continue to involve the Party in order to provide and maintain oversight of such functions.

The UKG, SG and WG have the competence to establish and operate separate systems if they choose to diverge in the future. The management of any such divergence and the minimum standards that will still need to be adhered to are set out below.

Detailed overview of proposed Framework: non-legislative arrangements

The non-legislative element of the Framework agreed by the Parties will take the form of a concordat.

Rationale for a non-legislative approach: Whilst it is desirable to have shared common ODS and F-gas systems (which in practice Scottish Government and Welsh Government have agreed to), it is unnecessary to introduce new additional primary legislation (in addition to the retained EU law) to bind the Parties. All Parties are already bound to meeting the UK's international obligations under the Montreal Protocol via the devolution settlements.

The concordat provides the basis for managing and maintaining commonality in approach and minimum standards and managing divergence when needed. The concordat sets out agreements including governance arrangements, the decision-making and dispute resolution process, and working arrangements for collaboration and coordination.

Future policy approach

The UK Government, Scottish Government and Welsh Government are committed to taking additional action in the future to meet international obligations and climate targets. Approaches to achieving this will be agreed between the Parties through the Working Group and Governance Group (see 'Decision-making fora').

The following two sections will be set out in the 'Principles of working together' section of the concordat.

Principles of the GB system

The UKG, SG and WG agree to operate single ODS and F-gas systems across GB, subject to the ongoing consent and direction of functions by the Scottish and Welsh Ministers (see Annex VI). The GB-wide systems cover ODS and F-gas registration, quota,

licensing and reporting arrangements. The systems are based on common targets and trajectories.

Where SG and WG has given consent to the Secretary of State to exercise functions in a devolved area, or direction to the EA to exercise functions on behalf of devolved regulators, working arrangements will continue to involve the SG and WG as they remain accountable to respective legislatures. SG and WG will be involved at all levels (Working Group up to Ministerial level) to ensure overall oversight for effective implementation, and to ensure agreement with any proposed implementing regulations made using powers in the GB ODS and F-gas legislation.

The UKG, SG and WG agree to adhere to and apply the provisions of the GB ODS and F-gas legislation in the operation of the GB-wide system and agree that current standards of the GB ODS and F-gas legislation in England, Scotland and Wales will be maintained as a minimum.

Where UKG, SG or WG considers a potential change is required to the administrative arrangements for the GB-wide system or the legislative underpinning, which may go beyond/differ from the existing GB ODS and F-gas legislation, the Party will first discuss the rationale with the Working Group during meetings, or by other appropriate means of communication e.g. e-mail. The Party will aim to seek agreement and consensus on the evidence and justification.

If UKG, SG or WG considers a change is required to the provisions of the GB ODS and F-gas legislation outside of the GB systems, such as leak check requirements, record keeping and the use of certified personnel, the Party will first discuss the rationale with the Working Group during meeting, or by other appropriate means of communication e.g. e-mail. The Party will aim to seek consensus on the evidence and rationale.

It may be agreed by the Working Group (and Governance Group as necessary) that the change should be made GB wide, in which case the UKG, SG and WG will agree next steps for implementation on a GB-wide basis and make common recommendations to Ministers. However, it may be agreed that a change in England, Scotland or Wales is acceptable, in accordance with the principles agreed at JMC(EN) in October 2017.

If a common recommendation supporting policy divergence is agreed, officials will provide Ministers with an explanation of the differing approaches and a summary rationale setting out why it is appropriate to diverge.

The Parties will aim to reach decisions by consensus at all stages, using the decision-making process set out in Part 8. If agreement cannot be reached, then the dispute resolution process set out in Part 13 will be initiated.

The concordat defines the requirements UKG, SG and WG should adhere to if they wish to diverge from the GB ODS and F-gas legislation and systems, and instead put in place separate new arrangements (see below).

Divergence from the GB legislation and systems

If a UKG, SG or WG wishes to diverge from GB-wide ODS and F-gas legislation and GB-wide systems, they should:

- Consult the other Parties through the Working Group and Governance Group;
- Continue to comply with the governance arrangements set out in the concordat to ensure ongoing engagement and coordination between the Parties, to ensure the Common Frameworks principles agreed by JMC(EN) continue to be met;
- Give reasonable notice, suggested 18 months minimum (unless agreed otherwise by all Parties), to allow alternative systems and the following arrangements to be developed as necessary for the proposed divergence;
- Agree with the other Parties a split of responsibilities under the UN Montreal Protocol to ensure the UK continues to fulfil its international obligations, including baselines and quota (restricting production and consumption), requirements for imports/exports and annual reporting;
- Agree with the other Parties a robust reporting mechanism in every Party that is comparable and facilitates a single report to the UN Ozone Secretariat;
- Have operable systems developed and resources available to manage the Party's separate system;
- Agree with the other Parties the arrangements for the movement of gas and equipment between UK boundaries, including the approach to support and enable the functioning of the internal market;
- Ensure any new arrangements enable the UK to continue to fulfil its commitments under the EU-UK Trade and Cooperation Agreement;
- Ensure any new legislation required is ready and will come into force at the appropriate time;
- Withdraw relevant consent and direction of functions for operating GB-wide systems;
- Inform businesses of new system(s) and requirements as soon as possible.

Section 3: Proposed operational elements of Framework

Decision making

NI's status in the decision-making process

DAERA(NI) will be a member of the Working Group and Governance Group to support the sharing of information and policy development process, and for matters relating to international obligations, negotiations and trade.

Where one or more of the UK Government, Scottish Government or 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.

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.

EA's status in the decision-making process

The Environment Agency (EA) will be a member of the Working Group and Governance Group to support the sharing of information and policy development process, to provide advice and expertise, and for matters relating to operational issues.

Decision-making fora

The guiding principle for decision making is that the ODS and F-gas Working Group and ODS and F-gas Governance Group will be the fora through which the Parties collectively develop policy recommendations and exchange information.

All Parties will aim to reach consensus in relation to matters considered by the:

- ODS and F-gas Working Group (hereafter referred to as the Working Group); and
- ODS and F-gas Governance Group (hereafter referred to as the Governance Group).

The Working Group and Governance Group will adhere to the agreements and requirements set out in Section 2 – in particular the principles relating to the GB legislation and system and potential divergence.

The Working Group and Governance Group will also advise on technical matters relating to Northern Ireland, enabling decision making by DAERA(NI), in the context of the Northern Ireland Protocol.

Decisions and recommendations of the Working Group, and decisions of the Governance Group, will be specific, evidence-led and transparent.

Governance Group

The Governance Group is formed of senior policy representatives of the Parties and a senior representative of the Environment Agency.

The Governance Group may, by consensus of the Parties, make decisions in respect of recommendations made by the Working Group, operating in accordance with the Group's Terms of Reference.

Working Group

The Working Group is formed of policy representatives of the Parties and the Environment Agency. The Working Group may, by consensus of the Parties, consider policy issues or disagreements or, in specific cases, make recommendations in respect of policy to the Governance Group, operating in accordance with the Group's Terms of Reference.

The Working Group may, by consensus of the Parties, decide whether representatives of bodies (stakeholders) that are not Parties to this arrangement may attend meetings.

The Parties shall seek to agree common recommendations through Working Group meetings (multiple meetings if required), allowing time for the gathering and consideration of necessary evidence and advice from relevant sources on which to make those recommendations.

The development of evidence base could be carried out through:

- Commissioning further evidence from analysts
- Commissioning further evidence from legal teams
- Seeking advice from external bodies
- Engagement with industry (possibly through consultations, working groups etc.)

Where evidence is being gathered this will, where possible, be shared between the Parties. Where evidence is commissioned from non-governmental organisations, Parties will ensure that issues of accountability and transparency are adhered to, with the avoidance of conflict of interests.

Issues discussed by the Working Group that cannot be resolved, can be escalated to the Governance Group, and then the Senior Officials Programme Board (SOPB) if required. The Working Group shall reconvene and consider any alternative approaches suggested by senior officials before making revised recommendations to the Governance Group. Issues shall only be escalated to Ministers if necessary, in line with the Framework's dispute avoidance and resolution mechanism (Annex VII).

The Working and Governance Groups will also oversee the maintenance of any consent and direction of functions by Ministers in SG and WG to the Secretary of State and to the Environment Agency. The Working Group will ensure that SG and WG continue to be sighted on operational aspects relating to the overall effectiveness of the regime where administered by the Environment Agency, and are involved in discussions on policy development that will be exercised by the Secretary of State.

Ministers

This Framework makes clear that it is ultimately for Ministers to make substantive decisions on policy in relation to this policy area, such as those requiring legislation. Where Ministerial decisions are needed, submissions shall be put to Ministers in the relevant Parties and, if necessary, meetings may be arranged between Ministers to discuss the issue, and to seek resolution to a potential disagreement, if needed.

Regulators

The arrangements between regulators for administering arrangements in England, Scotland and Wales, in particular where Ministers in SG and WG direct the Environment Agency to administer functions on behalf of devolved regulators, are not set out in detail within this Framework. The regulators will determine what joint working arrangements are appropriate so that, whether they are exercising functions or not, all are informed on the delivery of the overall GB system.

The regulators may wish to convene their own discussions as a group in respect of the GB systems. Regulators would have an opportunity to escalate any issues, in the first instance via the Working Group.

The Parties recognise that a large volume of operational decisions required within the GB system will be of a technical nature and will be taken by the relevant regulator. The Parties agree that regulators should be able to take a high number of day-to-day decisions, as defined in legislation, based on evidence and previously agreed policy.

Roles and responsibilities of each Party to the Framework

Officials – Working Group

The Working Group hold day-to-day discussions on the policy covered by Frameworks and put advice to their respective 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. The Working Group will convene to discuss policy issues as appropriate and to keep

colleagues regularly informed of any ramifications that policy will have across the Parties. If there are disagreements at Working Group level, such issues can be escalated to senior officials in line with the dispute avoidance and resolution mechanism. Annex VII gives further detail on the role of this group.

Senior officials – Governance Group and Senior Officials Programme Board

Senior officials (e.g. Deputy Directors and Directors) provide strategic direction on the policy areas governed by Frameworks and take key operational decisions. The Governance Group will review any issues escalated to them by the Working Group as set out in the dispute avoidance and resolution mechanism. Should the Governance Group not be able to resolve a dispute or if Ministers have rejected advice from officials in the first instance, in another attempt to reach agreement, this will be raised with the Senior Officials Programme Board.

Ministers

Ministers may receive advice from their officials either concurrently across Parties as issues arise or in the course of business as usual for an individual Party. Ministers may accept advice, or they may reject it. If work is remitted to senior officials and an issue remains unresolved, the issue may be escalated to Ministers via the IMG-EFRA. 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.

A diagram setting out how this governance will work in practice is at Annex VII.

Commitments on regular meetings

The Parties and EA will commit to meeting regularly, as set out in the terms of reference for the Working Group and the Governance Group.

Information sharing

The Parties are responsible for sharing information with one another in relation to the scope of this agreement. The Parties will endeavour to provide each other with full, open and timely access to information and data.

Information sharing may include but is not confined to:

- Policy issues;
- Stakeholder views;
- Preparations for and outcome of reviews, consultations and research;
- Media interest and lines to take;
- Emerging issues and intelligence (UK/EU/International);
- International obligations and negotiations;
- Compliance and enforcement issues; and
- Illegal trade.

The Parties recognise that co-operation is necessary to meet their respective policy and business objectives, including their collective responsibility to meet statutory reporting requirements.

Information should be shared on a regular basis through planned meetings of the Working Group and Governance Group or as and when required by the most suitable communication mechanisms e.g. e-mail. The Parties will keep each other informed on matters of mutual interest, including opportunities for collaboration and sharing of resources, for example in research projects and developments.

Stakeholder engagement

The Parties agree that clear communication with stakeholders is important to ensure the smooth development and implementation of policy.

The Parties agree to deliver timely messages to stakeholders that align with decisions of the Governance Group and of Ministers.

Methods for engagement with industry and other stakeholders will be considered and agreed by the Working Group, to ensure messaging is coordinated and consistent where needed.

Confidentiality

The Parties are responsible for ensuring information that they each may provide is subject to appropriate safeguards and that the confidentiality and sensitivity of such information is respected. Therefore, without prejudice to the requirements of data protection and freedom of information, unpublished information will not be disclosed to third parties without written permission of the Party which provided the information, subject to the requirements of the law.

International negotiations

International negotiations is a reserved competence under the devolution settlements, but the Parties have a legitimate role in contributing to and helping to shape the UK position in international negotiations under the Montreal Protocol on Substances that Deplete the Ozone Layer.

The Parties will have the opportunity to contribute to UK policy positions for these international negotiations and those attending such negotiations will report outcomes from them to the Working Group.

The Parties will liaise with each other as needed to consider proposals which result from international negotiations.

The Parties will keep each other informed of contact with other countries on matters relevant to the core work of the Montreal Protocol.

Under the terms of operation described in Part 8: Decision-Making the views of all Parties will be given due consideration in the development of UK policy positions for the purposes of international negotiations within the scope of this arrangement.

Participation of the Parties in delegations formed for the purposes of such negotiations will be determined in accordance with the 2012 Devolution MoU (currently under review) and Supplementary Agreements between the UK Government, Scottish Ministers and Welsh Ministers without prejudice to the outcomes of the Intergovernmental Relations Review (IGRR) or any existing arrangements.

International Relations (IR) and Trade

The Common Frameworks Principles agreed at JMC (EN) state that Frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the Parties on reserved matters that significantly impact devolved responsibilities in Common Frameworks.

Common Frameworks will allow the Parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All Parties to the Framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.

International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations 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 IGRR, as the basis for such international considerations.

EU-UK Trade and Cooperation Agreement commitments

The UK has cooperation and non-regression commitments on ODS and F-gases and the Montreal Protocol under the EU-UK Trade and Cooperation Agreement (TCA), specifically Article 7.2 and Article 8.5.3 of the TCA.

ODS and F-gases policy is largely devolved. The Parties will make decisions in line with the arrangements set out in this concordat as required, in order to fulfil UK implementation obligations under the TCA.

The policy area covered by this Common Framework intersects with the EU-UK Trade and Cooperation Agreement and therefore topics relevant to the Framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council. Where a UK-EU meeting agenda includes an item concerning implementation in an area of devolved competence, UK Government should facilitate the attendance of the Scottish Government, Welsh Government and Northern Ireland Executive of a similar level to that of the UK Government representatives with final discretion as to the UK delegation a matter for the UK co-chair. UK Government should engage the Scottish Government, Welsh Government and Northern Ireland Executive as fully as possible in preparation for these meetings regardless of attendance, and on all relevant implementation matters.

Roles and responsibilities of existing or new bodies

The Environment Agency (EA)

Under this Framework, the UKG, SG and WG agree to operate GB-wide systems for ODS and F-gas, subject to the consent and direction of the Scottish and Welsh Ministers. The GB system includes the following:

- Registration to ODS and F-gas systems

- Licensing of imports and exports of ODS and the use of ODS for laboratory and analytical purposes
- HFC quotas, which will use the same phasedown set out in the EU F-gas Regulation, and similar mechanisms for transferring and authorising quotas
- ODS quotas
- Reporting requirements for ODS and F-gas

The Environment Agency administers the GB system on behalf of Defra, the Scottish Government and the Welsh Government, subject to the direction of the Scottish and Welsh Governments. The EA also sits on the Working Group and Governance Group.

The arrangements between regulators for administering GB wide arrangements, in particular where Ministers in SG and WG direct the EA to administer functions on behalf of devolved regulators, are not set out in detail within this Framework. The regulators will determine what joint working arrangements are appropriate so that whether they are exercising functions or not, all are informed on the delivery of the overall GB system.

Scottish Environment Protection Agency (SEPA)

Scottish Ministers have given direction to the Environment Agency (EA) to exercise certain administrative functions on behalf of SEPA, in particular those relating to GB-wide ODS and F-gas systems. These include: working out companies' F-gas quota, administering the GB F-gas Registry, issuing ODS licences etc. SEPA continues to exercise functions that Scottish Ministers did not include in their direction of the EA, predominantly those relating to compliance and enforcement of provisions such as leak checks, record keeping, use of banned substances, inspections, ensuring qualified personnel etc.

Natural Resources Wales (NRW)

Welsh Ministers have given direction to the Environment Agency (EA) to exercise certain administrative functions on behalf of NRW, in particular those relating to GB-wide ODS and F-gas systems. These include: working out companies' F-gas quota, administering the GB F-gas Registry, issuing ODS licences etc. NRW continues to exercise the functions of an appropriate regulator that Welsh Ministers did not include in their direction of the EA. Enforcing authorities in Wales, including NRW, retain their roles, predominantly those relating to compliance with provisions such as leak checks, record keeping, use of banned substances, inspections, ensuring qualified personnel etc.

Northern Ireland regulatory bodies

European institutions, such as the European Commission and the European Environment Agency, manage the EU system in respect of Northern Ireland.

Northern Ireland Environment Agency (NIEA) (an Agency within the Department of Agriculture, Environment and Rural Affairs (DAERA)) and district councils are the regulators for the application and enforcement of the EU ODS and F-gas Regulations in Northern Ireland.

The working arrangements between NI and GB regulators are not set out in detail within this Framework. The regulators will determine what joint working arrangements are appropriate. For example, to facilitate information sharing where needed and to support the effective implementation of the EU regime in NI and the GB regime in GB.

Offshore installations

The Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) is the regulator for the application of the ODS and F-gas Regulations to offshore installations in the UK.

Monitoring and enforcement

The Working Group will monitor the Framework on an annual basis or more regularly if required, and will assess in particular the effectiveness of the implementation of the GB system through the administrative arrangements conducted by the Environment Agency, and any exercising of functions by the relevant Ministers. It will also monitor whether the cooperation between the Parties, including on the broader domestic and international policy, is working as intended and identify any potential remedial action if needed.

The conclusions of such monitoring by the Working Group will be used to inform decision-making going forward and the next review and amendment process. If there is an unresolved disagreement, the dispute avoidance and resolution mechanism should be used.

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 Parties will review and amend this Framework as necessary from time to time. The Parties may only amend this by consensus.

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, the 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, the Parties to the Framework can raise it as a dispute through the Framework's dispute avoidance and resolution mechanism.

Review stage

The Framework will undergo periodic review one year and three years after implementation; and thereafter at three-year intervals. The period of three years starts from the conclusion of a periodic review and any amendment stages that follow.

During the periodic review, the 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 years need to be reflected in an updated non-legislative agreement.

The Parties, with agreement of the Governance Group, may conduct an exceptional review of this Framework in response to a 'significant issue'. A significant issue must be time sensitive and fundamentally impact the operation and/or scope of the Framework. Such a significant issue may include but not limited to:

- Reviews required by the GB ODS and F-gas legislation (such as the comprehensive review of the F-gas Regulation due by 2022) and any resulting policy changes, including those that require legislation;
- Changes to policy or legislation that occur internationally, which could have an impact on the UK;
- A Party to this agreement calls for a review due to a change in Ministerial position (e.g. wish to set up and administer separate systems for reducing F-gas emissions and controlling ODS);
- Northern Ireland wishing to join the GB regimes.

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, overseen by the Governance Group.

Amendments may be made to this Framework in light of the cross-government Intergovernmental Relations Review (IGRR).

If an amendment is deemed necessary during either type of review (periodic or exceptional), 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 all Parties cannot agree whether or how the Framework should be amended this may become a disagreement and as such could be raised through the Framework's dispute avoidance and resolution mechanism.

Dispute resolution

NI's status in the dispute resolution process

DAERA(NI) are a member of the Working Group and Governance Group to support the sharing of information and policy development process, and for matters relating to international obligations, negotiations and trade.

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.

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 below.

EA's status in the dispute resolution process

The Environment Agency (EA) is a member of the Working Group and Governance Group to support the sharing of information and policy development process, to provide advice and expertise, and for matters relating to operational issues.

Overview

All action available at policy level should be taken to avoid a dispute where possible. In order to reduce the potential for disputes to arise, the Parties recommit themselves to the principles of good communication and cooperation set out in the 2012 Devolution MoU (currently under review).

The dispute resolution process may be triggered where:

- consensus cannot be reached on a common recommendation at official level; or
- Ministers do not agree to a common approach following receipt of a recommendation.

A common approach or recommendation to Ministers may be a GB-wide approach or divergence. The fact that it is common means that the relevant Parties have reached consensus.

Such disagreements and disputes may occur if a proposed policy is not in accordance with the principles agreed at JMC(EN) in October 2017. For example, if the proposed policy measure would compromise the functioning of the UK internal market; or is contrary to international obligations.

Where disagreements/disputes do occur, consensus of the Parties should be sought on the precise scope and nature of the issue in dispute, as well as on the approach to take and the degree of urgency in reaching a resolution.

Consensus of the Parties should also be sought on the adequacy and content of the evidence base being relied upon. Disputes should be handled in accordance with agreed principles e.g. evidence-based decision making, transparency and timely resolution.

In the event of a dispute, the relevant policy officials and any departmental leads responsible for maintaining intergovernmental relations between administrations should be informed. This dialogue should be maintained during any subsequent discussions and throughout the dispute resolution process at the policy level.

Consensus cannot be reached on a common recommendation (official level)

The Parties will aim to resolve disputes at the earliest possible stage in the process.

The Parties intend to resolve the majority of issues through the Working Group meetings, including the views of senior officials via the Governance Group where necessary.

If a resolution cannot be agreed at policy level (Working Group and Governance Group), it should be escalated to the Senior Officials Programme Board (SOPB) for further consideration.

In the event of a dispute being escalated to Ministerial level, this would be considered by the Inter-Ministerial Group for EFRA.

Once all of the other options outlined above have been exhausted, and if a dispute has still not been resolved, the dispute may be referred to the overarching dispute resolution mechanism outlined in the 2012 Devolution MoU (currently under review). This is expected to be a method of last resort to be applied for only the most serious issues which cannot be resolved at portfolio level.

Ministers do not agree to a common approach following receipt of a recommendation

Even if a decision is agreed at official level and senior official level, Ministers may not agree with the recommendation.

Senior officials through the Governance Group, and SOPB where needed, will reconvene and consider any alternative approaches, and further revise the recommendation before re-submitting to Ministers.

Senior officials may seek input and further evidence from the Working Group and third parties, before considering alternative approaches.

Third party advice

Other officials/experts (e.g. regulatory bodies) may provide evidence or advice to support the resolution of disagreements and disputes and this will be commissioned by the Working Group or Governance Group.

The dispute avoidance and resolution processes are set out in a diagrammatic format in Annex VII.

Concordat

Introduction

1. This concordat is provisionally agreed between the UK Government (UKG), Scottish Government (SG), Welsh Government (WG) and the Department for Agriculture, Environment and Rural Affairs (DAERA(NI)), henceforth referred to as the “Parties”.
2. This concordat gives effect to the Ozone-Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gases) Common Framework (the “Framework”) and sets out the principles that will guide joint working of the Parties including the decision-making process; the international obligations that apply to this area; a dispute avoidance and resolution mechanism; and a review and amendment mechanism.
3. The Framework has been jointly developed by the Parties to support the effective regulation and administration of ODS and F-gases across the UK, following the UK’s departure from the European Union (EU). The regulations relevant to this policy area are set out in the ‘Scope’ section of this concordat.
4. This concordat is an expression of political commitment and is not intended to be legally binding or enforceable. The Framework operates in accordance with the overarching 2012 Devolution: Memorandum of Understanding (2012 Devolution MoU)¹. (currently under review) and is consistent with, and complemented by, other guidance on common working arrangements, notably the Common Frameworks principles agreed by the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16 October 2017² (see Annex IV).
5. This concordat provides for full and continuing involvement of all Ministers and officials of the Parties as appropriate in policy formulation, negotiation and implementation.

Scope

6. The Parties agree that this concordat is prepared in response to the UK’s exit from the EU and establishes the governance arrangements and basis for managing and maintaining commonality in approach and minimum standards for ODS and F-gas policy, as well as enabling the Parties to discuss and manage any policy divergence.
7. Northern Ireland remains subject to EU ODS and F-gas legislation (Regulation (EC) No 1005/2009 on substances that deplete the ozone layer (the EU ODS Regulation) and Regulation (EU) No 517/2014 on fluorinated greenhouse gases (the EU F-gas Regulation)) and related implementing legislation and continues to operate under the EU ODS and F-gas systems, in accordance with the terms of the Protocol on Ireland / Northern Ireland (NI Protocol) (see ‘The Protocol on Ireland / Northern Ireland’).

¹ [Devolution Memorandum of Understanding and Supplementary Agreements – September 2012](#)

² [Joint Ministerial Committee \(EU Negotiations\) Communiqué - October 2017](#)

8. Relevant legislation provides the legislative context for regulating ODS and F-gas in England, Scotland and Wales (Great Britain). This includes the principal ODS and F-gas Regulations (Regulation (EC) No 1005/2009 on substances that deplete the ozone layer (the ODS Regulation) and Regulation (EU) No 517/2014 on fluorinated greenhouse gases (the F-gas Regulation)) and related implementing legislation, which apply in GB as retained EU law.
9. Secondary legislation has been made to correct the retained EU law and ensure its operability in GB. The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2019 (the EU Exit Regulations 2019) and The Fluorinated Greenhouse Gases (Amendment) (EU Exit) Regulations 2021 (the EU Exit Regulations 2021), correct operability deficiencies and transfer powers and functions from the European Institutions (including the European Commission and European Environment Agency) to the appropriate UK authorities and regulators. To reflect the circumstances of NI under the terms of the NI Protocol, the Regulations were amended by the Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2020 (the EU Exit Regulations 2020), to reduce the scope from UK to GB.
10. The ODS Regulation and the F-gas Regulation restrict the use of ODS and F-gases respectively in order to protect the ozone layer and mitigate climate change. The ODS Regulation bans all ODS, with derogations for essential uses and where no technically feasible alternatives are available. Producers and users of ODS must apply each year for a quota which, if granted, sets a quantitative limit on the amount they can use for certain permitted uses. The retained ODS Regulation requires that all imports and exports of ODS between GB and third countries must be licensed, and companies must report on their use of ODS annually.
11. The F-gas Regulation requires a 79% cut in the use of hydrofluorocarbons (HFCs) between 2015 and 2030. The Regulation achieves this through phasing down the amount of HFCs that can be placed on the market by allocating steadily reducing quotas to HFC producers and importers. The Regulation also bans F-gases in certain applications and sets requirements for leak checks, leakage repairs and recovery of used gas. In addition, all technicians handling F-gases must be trained in their safe use and be certified.
12. Through these regulations the UK is able to comply with its legally binding international obligations under the United Nations Montreal Protocol on Substances that Deplete the Ozone Layer. The HFC quota allocation process is the main mechanism by which the UK will meet its international obligations to phase down HFCs under the Kigali Amendment to the Montreal Protocol, which came into force in 2019.
13. The retained F-gas Regulation and ODS Regulation that apply in England, Scotland and Wales (Great Britain), as set out above, are described in this concordat as the 'GB ODS and F-gas legislation'.
14. The legislation within scope of the Framework is set out in Annex I. The international conventions within scope are set out in Annex III.
15. A number of provisions within the GB ODS and F-gas legislation and the EU ODS and F-gas legislation as it applies in NI are reserved to the UK Government. Areas of

reserved competence are not formally within scope of the Framework. However, where it is appropriate for an issue to be discussed between the Parties (in line with the 2012 Devolution MoU) the engagement fora set out in this concordat (see 'Governance') will be utilised, without prejudice to the competence of the UK Government.

16. The enforcement of the GB ODS and F-gas legislation in England, Scotland and Wales and the EU ODS and F-gas legislation as it applies in NI is within devolved competence, in accordance with the devolution settlements (Scotland Act 1998, Government of Wales Act 2006 and Northern Ireland Act 1998). Despite the devolved nature of enforcement, the Parties agree that a level of commonality is beneficial, particularly for those businesses that operate across internal UK boundaries, and therefore have chosen to have a common approach that is implemented through domestic enforcement legislation (see Annex II). The domestic enforcement regulations were made by the UK Government using powers under the European Communities Act 1972. The domestic enforcement ODS and F-gas Regulations (The Ozone Depleting-Substances Regulations 2015 S.I. 2015/168 and The Fluorinated Greenhouse Gases Regulations 2015 S.I. 2015/310) extend to Northern Ireland only in so far as they deal with import and export controls and trade with any place outside the UK, within the meaning of paragraph 20 of Schedule 3 to the Northern Ireland Act 1998. NI has separate domestic enforcement legislation that introduces offences and penalty provisions designed to comply with the requirements of the EU ODS and F-gas legislation.
17. Areas of devolved competence outside of the provisions of the GB ODS and F-gas legislation and EU ODS and F-gas legislation as it applies in NI, such as enforcement, are not formally within scope of the Framework. However, where it is appropriate for an issue to be discussed between the Parties (in line with the 2012 Devolution MoU) the engagement fora set out in this concordat (see 'Governance') will be utilised, without prejudice to the competence of the Scottish Government, Welsh Government and Northern Ireland Executive.

Principles of working together

High-level principles

18. The environment and climate change are devolved matters, therefore regulating for ODS and F-gas is within the competence of the Scottish Government, Welsh Government and the Northern Ireland Executive. However, the Parties have agreed to work together to establish common approaches, known as Common Frameworks, in some policy areas which are of devolved competence and previously governed by EU law (and for NI, in some areas, continue to be governed by EU law).
19. The jointly developed ODS and F-gas Common Framework is implemented by this concordat and will provide the governance arrangements and basis for managing and maintaining commonality in approach and minimum standards, as well as enabling the Parties to discuss and manage any policy divergence.

20. This arrangement is intended to give all Parties the assurance that working relationships will be conducted in a manner that is both collaborative and helpful, aiming, where possible and appropriate, to achieve consensus on policy.
21. Where common recommendations may be made, Ministers will retain the right to take individual decisions for their Party. For those areas within the scope of the Framework the opportunity for consistency of approach across Parties will be sought in the first instance.
22. The Parties retain the right to diverge on areas within scope of the Framework in accordance with the Common Frameworks principles agreed by the JMC(EN) in October 2017. Any such changes would be considered by the Parties through the processes set out in this concordat.
23. The Parties agree to respect the arrangements set out in this concordat including the decision-making and dispute resolution processes. Every effort will be made to resolve any disagreements at the earliest opportunity. Where consensus cannot be reached the dispute resolution process will be initiated.
24. The devolution settlements will be respected as well as the provisions of the Belfast Agreement, with the inclusion of the North/South dimension highlighted in Strand 2 of that Agreement.
25. Open communications will be maintained, and information shared, to the extent permitted by law, at the earliest appropriate opportunity. This may include but is not confined to: policy issues; stakeholder views; preparations for, and outcomes of, consultations and research; media interest and lines to take; emerging issues and intelligence; enforcement issues, and illegal trade.
26. The Parties acknowledge there are stakeholders that are not Parties to the Framework who have a key interest and role in delivering ODS and F-gas policy, including but not limited to environmental regulators, third sector organisations and relevant trades associations and businesses.
27. The Parties are committed to taking additional action in the future to meet international obligations and climate targets. Approaches to achieving this will be agreed between the Parties in line with the arrangements set out in this concordat.
28. The UK is committed to non-regression and cooperation with the EU under the EU-UK Trade and Cooperation Agreement (TCA). Decisions required to implement TCA commitments relating to ODS and F-gas policy will be discussed and agreed between the Parties, where relevant, in line with the arrangements set out in this concordat.

Governance

29. The Parties have jointly determined the governance arrangements needed for the Framework for ODS and F-gas. To this aim the following groups have been set up:

the ODS and F-gas Working Group (hereafter referred to as the Working Group); and

the ODS and F-gas Governance Group (hereafter referred to as the Governance Group).

30. The Working Group is formed of policy representatives of the Parties and the Environment Agency. The Working Group may, by consensus of the Parties, consider policy issues or disagreements or, in specific cases, make recommendations in respect of policy to the Governance Group, operating in accordance with the Group's Terms of Reference (see Annex VIII).
31. The Governance Group is formed of senior policy representatives of the Parties and a senior representative of the Environment Agency. The Governance Group may, by consensus of the Parties, make decisions in respect of the recommendations made by the Working Group, operating in accordance with the Group's Terms or Reference (see Annex VIII).
32. Although some of the arrangements within this Framework do not apply to NI in the same way as they do to GB, DAERA(NI) is a member of the Working Group and Governance Group to support the sharing of information and policy development process, and for matters relating to international obligations, negotiations and trade.
33. 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.
34. 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 below.
35. The Parties will consider changes taking place in NI as a result of changes to the EU rules, determine the extent to which it represents divergence between NI and other parts of the UK, and consider the impacts and potential action needed to be taken by the Parties.
36. The Environment Agency (EA) is a member of the Working Group and Governance Group to support the sharing of information and policy development process, to provide advice and expertise, and for matters relating to operational issues.
37. The Working Group and the Governance Group will adhere to the principles of this concordat.
38. Terms of reference for the Working Group and Governance Group set out in detail their membership and attendance; purpose; remit; mode of operation; chair and secretariat roles; and reporting and linkages (see Annex VIII, included for information only).

Principles of the GB system

39. The UKG, SG and WG agree to operate single ODS and F-gas systems across GB, subject to the ongoing consent and direction of functions by the Scottish and Welsh Ministers. The GB-wide systems cover ODS and F-gas registration, quota, licensing

and reporting arrangements. The systems are based on common targets and trajectories.

40. Where SG and WG has given consent to the Secretary of State to exercise functions in a devolved area, or direction to the EA to exercise functions on behalf of devolved regulators, working arrangements will continue to involve the SG and WG as they remain accountable to respective legislatures. SG and WG will be involved at all levels (Working Group up to Ministerial level) to ensure overall oversight for effective implementation, and to ensure agreement with any proposed implementing regulations made using powers in the GB ODS and F-gas legislation.
41. The UKG, SG and WG agree to adhere to and apply the provisions of the GB ODS and F-gas legislation in the operation of the GB-wide system and agree that current standards of the GB ODS and F-gas legislation in England, Scotland and Wales will be maintained as a minimum.
42. Where UKG, SG or WG considers a potential change is required to the administrative arrangements for the GB wide system or the legislative underpinning, which may go beyond/differ from the existing GB ODS and F-gas legislation, the Party will first discuss the rationale with the Working Group during meetings, or by other appropriate means of communication e.g. e-mail. The Party will aim to seek agreement and consensus on the evidence and justification.
43. If UKG, SG or WG considers a change is required to the provisions of the GB ODS and F-gas legislation outside of the GB system, such as leak check requirements, record keeping and the use of certified personnel, the Party will first discuss the rationale with the Working Group during meetings, or by other appropriate means of communications e.g. e-mail. The Party will aim to seek consensus on the evidence and justification.
44. It may be agreed by the Working Group (and Governance Group as necessary) that the change should be made GB-wide, in which case the UKG, SG and WG will agree next steps for implementation on a GB-wide basis and make common recommendations to Ministers. However, it may be agreed that a change in England, Scotland or Wales is acceptable, in accordance with the principles agreed at JMC(EN) in October 2017.
45. If a common recommendation supporting policy divergence is agreed, officials will provide Ministers with an explanation of the differing approaches and a summary rationale setting out why it is appropriate to diverge.
46. The Parties will aim to reach decision by consensus at all stages, using the decision-making process set out in this concordat. If agreement cannot be reached, then the dispute resolution process will be initiated.

Roles and responsibilities of regulators

47. The Environment Agency (EA) administers the GB system on behalf of the UKG, SG and WG, subject to the directions of the Scottish and Welsh Ministers. The GB system includes the following:

- Registration to ODS and F-gas systems;
 - Licensing of imports and exports of ODS and the use of ODS for laboratory and analytical purposes;
 - HFC quotas, which will use the same phasedown set out in the EU F-gas Regulation, and similar mechanisms for transferring and authorising quotas;
 - ODS quotas; and
 - Reporting requirements for ODS and F-gas.
48. Scottish Ministers have given direction to the Environment Agency (EA) to exercise certain administrative functions on behalf of the Scottish Environment Protection Agency (SEPA), in particular those relating to a GB-wide F-gas quota system and ODS licensing regime. These include: working out companies' F-gas quota, administering the GB F-gas Registry, issuing ODS licences etc. SEPA continues to exercise functions that Scottish Ministers did not include in their direction of the EA, predominantly those relating to compliance and enforcement of provisions such as leak checks, record keeping, use of banned substances, inspections, ensuring qualified personnel etc.
49. Welsh Ministers have given direction to the Environment Agency (EA) to exercise certain administrative functions on behalf of Natural Resources Wales (NRW), in particular those relating to a GB-wide F-gas quota system and ODS licensing regime. These include: working out companies' F-gas quota, administering the GB F-gas Registry, issuing ODS licences etc. NRW continues to exercise the functions of an appropriate regulator that Welsh Ministers did not include in their direction of the EA. Enforcing authorities in Wales, including NRW, retain their roles, predominantly those relating to compliance with provisions such as leak checks, record keeping, use of banned substances, inspections, ensuring qualified personnel etc.
50. EU institutions such as the European Commission and the European Environment Agency manage the EU system in respect of Northern Ireland. Northern Ireland Environment Agency (NIEA) (an Agency within the Department of Agriculture, Environment and Rural Affairs (DAERA)) and district councils are the regulators for the application and enforcement of the EU ODS and F-gas legislation in Northern Ireland.
51. The arrangements between regulators for administering GB wide arrangements, in particular where Scottish and Welsh Ministers direct the Environment Agency to administer functions on behalf of devolved regulators, are not set out in detail within the Framework. The regulators will determine what joint working arrangements are appropriate so that whether they are exercising functions or not, all are informed on the delivery of the overall GB system.
52. The working arrangements between NI and GB regulators are not set out in detail within the Framework. The regulators will determine what joint working arrangements are appropriate. For example, to facilitate information sharing where needed and to support the effective implementation of the EU regime in NI and the GB regime in GB.

Decision-making

53. The Working Group may, by consensus of the Parties, consider policy issues or disagreements or, in specific cases, make recommendations in respect of policy to the Governance Group, operating in accordance with the Group's Terms of Reference.
54. The Governance Group may, by consensus of the Parties, make decisions in respect of recommendations made by the Working Group, operating in accordance with the Group's Terms of Reference.
55. The Parties shall seek to agree common recommendations through Working Group meetings (multiple meetings if required), allowing time for the gathering and consideration of necessary evidence and advice from relevant sources on which to make those recommendations.
56. Where evidence is being gathered this will, where possible, be shared between the Parties. Where evidence is commissioned from non-governmental organisations, Parties ensure that issues of accountability and transparency are adhered to, with the avoidance of conflict of interests.
57. The Working Group shall reconvene and consider any alternative approaches suggested by senior officials before making revised recommendations to the Governance Group.
58. Issues discussed by the Working Group that cannot be resolved can be escalated to the Governance Group, and then the Senior Officials Programme Board (SOPB) if required.
59. Issues shall only be escalated to Ministers if necessary, in line with the dispute avoidance and resolution mechanism set out in this concordat.
60. The Working and Governance Groups will also oversee the maintenance of any consent and direction of functions by Scottish and Welsh Ministers to the Secretary of State and to the Environment Agency. The Working Group will ensure SG and WG continue to be sighted on operational aspects relating to the overall effectiveness of the regime where administered by the Environment Agency, and are involved in discussions on policy development that will be exercised by the Secretary of State.
61. The Parties agree it is ultimately for Ministers to make substantive decisions on policy in relation to this policy area, such as those requiring legislation. Where ministerial decisions are needed, separate submissions shall be put to Ministers in the relevant administrations and, if necessary, meetings may be arranged between Ministers to discuss the issue, and to seek resolution to a potential disagreement, if needed.
62. The decision-making process is set out in a diagrammatic format in Annex VII.

Divergence from the GB legislation and systems

63. If UKG, SG or WG wishes to diverge from the GB-wide ODS and F-gas registration, quota, licensing and reporting systems, or the wider aspects of the GB ODS and F-gas legislation, they should:

- Consult the other Parties through the Working Group and Governance Group;
- Continue to comply with the governance arrangements set out in this concordat to ensure ongoing engagement and coordination between the Parties, to ensure the Common Frameworks principles agreed by JMC(EN) continue to be met;
- Give reasonable notice, suggested 18 months minimum (unless agreed otherwise by all Parties), to allow alternative systems and the following arrangements to be developed as necessary for the proposed divergence;
- Agree with the other Parties a split of responsibilities under the UN Montreal Protocol to ensure the UK continues to fulfil its international obligations, including baselines and quota (restricting production and consumption), requirements for imports/exports and annual reporting;
- Agree with the other Parties a robust reporting mechanism in every Party that is comparable and facilitates a single report to the UN Ozone Secretariat;
- Have operable systems developed and resources available to manage the Party's separate system;
- Agree with the other Parties the arrangements for the movement of gas and equipment between UK boundaries, including the approach to support and enable the functioning of the internal market;
- Ensure any new arrangements enable the UK to continue to fulfil its commitments under the EU-UK Trade and Cooperation Agreement;
- Ensure any new legislation required is ready and will come into force at the appropriate time;
- Withdraw relevant consent and direction of functions for operating GB-wide systems; and
- Inform businesses of new system(s) and requirements as soon as possible.

Information sharing and confidentiality

64. The Parties are responsible for sharing information with one another in relation to the scope of this concordat. The Parties will endeavour to provide each other with full, open and timely access to information and data.
65. The Parties recognise that co-operation is necessary to meet their respective policy and business objectives, including their collective responsibility to meet statutory reporting requirements.
66. Information should be shared on a regular basis through planned meetings of the Working Group and Governance Group or as and when required by the most suitable communication mechanisms e.g. e-mail. The Parties should commit to attend regular meetings (including by teleconference) to discuss the broad and specific areas of ODS and F-gas policy.
67. The Parties will keep each other informed on matters of mutual interest, including opportunities for collaboration and sharing of resources, for example in research projects and developments.
68. The Parties are responsible for ensuring information that they each may provide is subject to appropriate safeguards and that the confidentiality and sensitivity of such information is respected. Therefore, without prejudice to the requirements of data protection and freedom of information, unpublished information will not be disclosed to

third parties without written permission of the Party which provided the information, subject to the requirements of the law.

Stakeholder engagement

69. The Parties agree that clear communication with stakeholders is important to ensure the smooth development and implementation of policy.
70. The Parties agree to deliver timely messages to stakeholders that align with decisions of the Working Group and Governance Group, and ultimately those of Ministers.
71. Methods for engagement with industry and other stakeholders will be considered and agreed by the Working Group, to ensure messaging is coordinated and consistent where needed.

International obligations and negotiations

72. The Common Frameworks Principles agreed at JMC (EN) state that Frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the UK Government and the Devolved Administrations on reserved matters that significantly impact devolved responsibilities in Common Frameworks.
73. Common Frameworks will allow the Parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All Parties to the Framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.
74. International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations 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 Protocol on Ireland / Northern Ireland

75. 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), Customs, Movement of Goods; and
 - Annex 2, 26. Environment, Energy Efficiency of the Protocol on Ireland / Northern Ireland applies.

76. 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.
77. 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.
78. 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 of this concordat.

Montreal Protocol obligations

79. The UK has international obligations, under the UN Montreal Protocol on Substances that Deplete the Ozone Layer, to:
- phase out the use of ODS and phase down hydrofluorocarbons (HFCs), the main type of F-gases, by 85% by 2036 (Article 2);
 - establish and implement a system for licensing imports and exports of these controlled substances (Article 4B); and
 - monitor compliance through annual reporting to the UN (Article 7).
80. Northern Ireland remains in and subject to EU ODS and F-gas legislation and systems, in accordance with the NI Protocol. There are separate ODS and F-gas legislation and systems in Great Britain. The UK continues to comply with its international obligations under the Montreal Protocol in its entirety, despite the complex nature of separate NI (EU) and GB systems for ODS and F-gas.
81. In order for the UK in its entirety to report to the UN, arrangements will be put in place to gather NI data. DAERA(NI) will need to report annually to the European Commission on the reporting requirements set out in Article 26 of the EU ODS Regulation. This information will also need to be reported to the Environment Agency.

82. In addition, NI consumption data for controlled substances will also need to be collected. Initially, such data will be gathered through the implementation of an administrative, voluntary requirement on businesses to provide data on placing HFCs and ODS on the market in NI. More robust, longer-term measures will be agreed by the UK and the European Commission. The UK will obtain data on consumption in Great Britain through the annual reporting requirement set out in legislation.
83. This concordat will facilitate UK decision-making, information sharing and cooperation on these international obligations.

Montreal Protocol negotiations

84. The Parties have a legitimate role in contributing to and helping to shape the UK position in international negotiations under the UN Montreal Protocol, although international negotiations is a reserved competence under the devolution settlements.
85. The Parties will have the opportunity to contribute to UK policy positions for these international negotiations and those attending such negotiations will report outcomes from them to the Working Group.
86. The Parties will liaise with each other as needed to consider proposals which result from international negotiations.
87. The Parties will keep each other informed of contact with other countries on matters relevant to the core work of the Montreal Protocol.
88. Under the 'Principles of working together' section of this concordat, the views of all Parties will be given due consideration in the development of UK policy positions for the purposes of international negotiations within the scope of this arrangement.
89. Participation of the Parties in delegations formed for the purposes of such negotiations will be determined in accordance with the 2012 Devolution MoU (currently under review) and Supplementary Agreements between the UK Government, Scottish Ministers and Welsh Ministers without prejudice to the outcomes of the IGRR or any existing arrangements.

EU-UK Trade and Cooperation Agreement commitments

90. The UK has cooperation and non-regression commitments on ODS and F-gases and the Montreal Protocol under the EU-UK Trade and Cooperation Agreement (TCA), specifically Article 7.2 and Article 8.5.3.
91. ODS and F-gases policy is largely devolved. The Parties will make decisions in line with the arrangements set out in this concordat as required, in order to fulfil UK implementation obligations under the TCA.
92. The policy area covered by this Common Framework intersects with the EU-UK Trade and Cooperation Agreement and therefore topics relevant to the Framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council. Where a UK-EU meeting agenda includes an item concerning implementation in an area of devolved competence, UK Government should facilitate the attendance of the Scottish Government, Welsh Government and Northern Ireland

Executive of a similar level to that of the UK Government representatives with final discretion as to the UK delegation a matter for the UK co-chair. UK Government should engage the Scottish Government, Welsh Government and Northern Ireland Executive as fully as possible in preparation for these meetings regardless of attendance, and on all relevant implementation matters.

Dispute avoidance and resolution

Principles

93. The principles of DAERA(NI) and the Environment Agency's involvement in the dispute avoidance and resolution process with regards to the GB ODS and F-gas legislation and systems is set out in 'Governance' section of this concordat.
94. All action available at official level should be taken to avoid a dispute where possible.
95. In order to reduce the potential for disputes to arise, the Parties recommit themselves to the principles of good communication and cooperation set out in the 2012 Devolution MoU (currently under review).
96. The dispute resolution process may be triggered where:
- consensus cannot be reached on a common recommendation (GB-wide approach or divergence) at official level; or
 - Ministers do not agree to a common approach (GB-wide approach or divergence) following receipt of a recommendation.
97. Where disputes do occur:
- consensus of the Parties should be sought on the precise scope and nature of the issue in dispute, as well as on the approach to take and the degree of urgency in reaching a resolution. Consensus may include agreeing to disagree on a matter;
 - consensus of the Parties should be sought on the adequacy and content of the evidence base being relied upon and should be handled in accordance with agreed principles e.g. evidence-based decision making, transparency and timely resolution; and
 - the relevant policy officials and any departmental leads responsible for maintaining intergovernmental relations between Parties should be informed. This dialogue should be maintained during any subsequent discussions and throughout the dispute resolution process at the policy level.

Consensus cannot be reached on a common recommendation (official level)

98. The Parties will aim to resolve disputes at the earliest possible stage in the process.
99. The Parties intend to resolve the majority of issues through the Working Group meetings, including the views of senior officials via the Governance Group where necessary.

100. Other officials/experts (e.g. regulatory bodies) may provide evidence or advice to support the resolution of disagreements and disputes and this will be commissioned by the Working Group or Governance Group.
101. If a resolution cannot be agreed at policy level (Working Group and Governance Group), it should be escalated to the Senior Officials Programme Board (SOPB) for further consideration.
102. In the event of a dispute being escalated to Ministerial level, this could be considered by Ministers individually or through the Inter-Ministerial Group for EFRA.
103. Once all of the other options outlined above have been exhausted, and if a dispute has still not been resolved, the dispute may be referred to the overarching dispute resolution mechanism outlined in the 2012 Devolution MoU (currently under review). This is expected to be a method of last resort to be applied for only the most serious issues incapable which cannot be resolved at portfolio level.

Ministers do not agree to a common approach following receipt of a recommendation

104. Where Ministers disagree with the recommendation that has been agreed by the Working Group and the Governance Group, the recommendation will go back to the Governance Group for further consideration.
105. The Governance Group, and SOPB where needed, will reconvene and consider any alternative approaches, and further revise the recommendation before re-submitting to Ministers.
106. The Governance Group may seek input and further evidence from the Working Group and third parties, before considering alternative approaches.
107. The dispute avoidance and resolution processes are set out in a diagrammatic format Annex VII.

Entry into effect

108. Prior to implementation, the Parties must be confident that the arrangements set out above are sufficient, facilitating their approval to the arrangements via signing the concordat.
109. Until such a time that agreement to this concordat is secured, the Framework will remain provisional.
110. The concordat should not be interpreted as a binding agreement. It does not create legal obligations between the Parties.

Review and amendment

111. The Parties will review and amend the concordat as necessary from time to time. The Parties may only amend this by consensus.

112. At the outset of the review stage, Parties must agree timelines for the process, including the possible amendment stage.
113. If agreement is not reached in either the review or amendment stage, the issue can be raised as a dispute through the dispute avoidance and resolution mechanism.
114. The Framework will undergo a review one year and three years after implementation; and thereafter at three-yearly intervals. The concordat will thereafter be amended as a result of the review of the Framework.
115. The Parties may conduct an exceptional review of the Framework in response to a 'significant issue', to be undertaken by the Governance Group. A significant issue must be time sensitive and fundamentally impact the operation and/or scope of the Framework. Such a significant issue may include but not limited to:
- Reviews required by the GB ODS and F-gas legislation (such as the comprehensive review of the F-gas Regulation due by 2022);
 - Changes to policy or legislation that occur internationally, which could have an impact on the UK;
 - A Party to this concordat calls for a review due to a change in Ministerial position (e.g. wish to set up and administer separate registration, quota, licensing and reporting systems for reducing F-gas emissions and controlling ODS);
 - Northern Ireland wishing to join the GB regimes.
116. Following agreement to enter the amendment stage, the 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, overseen by the Governance Group.
117. If an amendment is deemed necessary during either type of review (periodic or exceptional), the existing Framework and concordat will remain in place until a final amendment has been agreed.
118. All amendments to the Framework must be agreed by the Parties and a new concordat signed by the Parties.

Annexes

Introduction to the annexes

The annexes that follow are common to both the Framework Outline Agreement and the Concordat.

All annexes are included to aid understanding of the Framework Outline Agreement and Concordat. Terms of reference included within these annexes will be updated from time to time by the Working Group and Governance Group and are included here for reference only. They should be considered accurate at the time of publication.

The following annexes are included –

1. Legislation within scope
2. Domestic enforcement legislation
3. International conventions in scope
4. Joint Ministerial Committee (EU Negotiations) Communique – October 2017
5. Justification for an ODS and F-gas Common Framework in accordance with the JMC(EN) Framework Principles
6. Consent and Direction process
7. Joint Decision-Making, Dispute Avoidance and Resolution
8. Terms of Reference of the Governance Group and the Working Group (included for information only)

Annex I: Legislation within scope

The following legislation applies in Great Britain as retained EU law, and directly applies in Northern Ireland in accordance with the Protocol on Ireland/Northern Ireland.

- Regulation (EC) No 1005/2009: The principal Regulation to reduce ozone-depleting substances (ODS) and protect the ozone layer. Implements our international obligations under the Montreal Protocol. Introduces obligations, restrictions, quota and licensing for ODS.
- Regulation (EU) No 517/2014: The principal EU F-gas Regulation which aims to cut use of hydrofluorocarbons (HFCs) by 79% by 2030 to meet international commitments under the Kigali Amendment to the Montreal Protocol and help meet domestic climate change targets.
- Commission Regulation (EU) No 291/2011: Covers essential ODS uses for laboratories.
- Commission Regulation (EU) No 537/2011: Mechanism for the allocation of quantities of ODS controlled substances allowed for laboratory and analytical uses.
- Commission Regulation (EC) No 1497/2007: F-gas leakage checking requirements for fire protection systems.
- Commission Regulation (EC) No 1516/2007: F-gas leakage checking requirements for refrigeration, air conditioning and heat pumps.
- Commission Regulation (EC) No 304/2008: F-gas certification for fire protection. Relates to personnel qualification standard and mutual recognition of qualifications.
- Commission Regulation (EC) No 306/2008: F-gas certification for solvents. Relates to personnel qualification standard and mutual recognition of qualifications.
- Commission Regulation (EC) No 307/2008: F-gas certification for mobile air conditioning (i.e. vehicles). Relates to personnel qualification standard and mutual recognition.
- Commission Implementing Regulation (EU) No 1191/2014: F-gases reporting format. Sets out the format for businesses to report on F-Gas production and use as required by Regulation 517/2014.
- Commission Implementing Regulation (EU) 2017/1375: Amends/updates the reporting requirements of Regulation 1191/2014.
- Commission Implementing Regulation (EU) 2018/1992: Amends/updates the reporting requirements of Regulation 1191/2014.
- Regulation (EU) 2019/522: Amends/updates the reporting requirements of Regulation 1191/2014.
- Commission Implementing Regulation (EU) 2015/2065: Format of notification of the training and certification programmes. Relates to personnel qualification standard and mutual recognition of qualifications.
- Commission Implementing Regulation (EU) 2015/2066: F-gas certification for electrical switchgear. Relates to personnel qualification standard and mutual recognition.
- Commission Implementing Regulation (EU) 2015/2067: F-gas certification for refrigeration, air conditioning and heat pumps and trucks and trailers. Relates to personnel qualification standard and mutual recognition.

- Commission Implementing Regulation (EU) 2015/2068: F-gas labelling requirements. Enables functioning of the EU (and GB) F-Gas quota system.
- Commission Implementing Regulation (EU) 2016/879: Requirements for the F-gas declaration of conformity for pre-charged equipment. Enables functioning of the EU (and GB) F-gas quota system.
- Commission Implementing Regulation (EU) 2019/661: General, operational requirements for registration in the registry. Introduction of 'beneficial owner' provisions.
- Commission Implementing Regulations (EU) 2019/522: Amends/updates the reporting requirements of Regulation 1191/2014 with regards to data on production and imports and exports of polyols containing HFCs.

The following secondary legislation corrects the retained EU law and ensures its operability within Great Britain.

- The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2019: Corrects operability deficiencies and transfer powers and functions from the European Institutions (including the European Commission and European Environment Agency) to the appropriate UK authorities and regulators (as originally drafted).
- The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2020: Amends the Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2019 to reflect the circumstances of NI under the terms of the NI Protocol and to reduce the scope from UK to GB.
- The Fluorinated Greenhouse Gases (Amendment) (EU Exit) Regulations 2021: Corrects operability deficiencies and transfer functions from the European Institutions (including the European Commission and European Environment Agency) to the appropriate regulators (within GB).

Annex II: Domestic enforcement legislation

- The Fluorinated Greenhouse Gases Regulations 2015: Domestic legislation providing enforcement and penalties provisions and other measures, for offences under the F-gas regime set out in the principal F-gas Regulation and related implementing acts. Covers Great Britain and extends to NI only in so far as it deals with import and export controls and trade with any place outside the UK.
- The Fluorinated Greenhouse Gases (Amendment) Regulations 2018: Domestic legislation amending the Fluorinated Greenhouse Gases Regulations 2015. Covers Great Britain and extends to NI only in so far as it deals with import and export controls and trade with any place outside the UK.
- The Ozone-Depleting Substances Regulations 2015: Domestic legislation providing enforcement and penalties provisions for offences under the ODS regime set out in the principal ODS Regulation and related implementing acts. Covers Great Britain and extends to NI only in so far as it deals with import and export controls and trade with any place outside the UK.
- The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2015: Domestic enforcement legislation providing enforcement penalty provisions and offences in NI, designed to comply with the requirements of the EU F-gas Regulations.
- The Fluorinated Greenhouse Gases (Amendment) Regulations (Northern Ireland) 2018: Domestic enforcement legislation amending the Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2015.
- The Controls on Ozone-Depleting Substances Regulations (Northern Ireland) 2011: Domestic enforcement legislation providing enforcement penalty provisions and offences in NI designed to comply with the requirements of the EU ODS Regulations relating to the control of emissions of ODS.
- Ozone-Depleting Substances (Qualifications) Regulations (Northern Ireland) 2011: Domestic enforcement legislation providing enforcement penalty provisions and offences in NI designed to comply with the requirements of the EU ODS Regulations relating to qualifications required for persons working with equipment containing ODS.
- The Fluorinated Greenhouse Gases and Ozone-Depleting Substances (Amendment) (Northern Ireland) (EU Exit) Regulations 2019: Amends the domestic legislation that applies in NI relating to F-gases and ODS, so it no longer refers to NI or the UK as being a Member State of the EU.
- Fluorinated Greenhouse Gases and Ozone-Depleting Substances (Amendment) (EU Exit) Regulations (Northern Ireland) 2020: Revokes the amendments in the Fluorinated Greenhouse Gases and Ozone-Depleting Substances (Amendment) (Northern Ireland) (EU Exit) Regulations 2019. This is to ensure that EU law continues to apply in NI under the terms of the NI Protocol.

Annex III: International conventions in scope

Montreal Protocol on Substances that Deplete the Ozone Layer

The Montreal Protocol is an international agreement to phase out the use of ozone depleting substances and phase down the use of hydrofluorocarbon greenhouse gases globally.

Under this treaty, the UK and all other Parties have the legally binding obligation to phase down the production and consumption of ODS and HFCs according to a schedule set out in the Protocol, restrict trade with non-Parties, license imports and exports and annually report data to the UN. The Montreal Protocol continues to be amended and adjusted over time in the light of new scientific, technical and economic developments.

The Meeting of the Parties is the governance body for the Protocol, with technical support provided by an Open-ended Working Group, both of which meet on an annual basis.

The Montreal Protocol operates a unique funding mechanism called the Multilateral Fund (MLF) to help developing countries meet their compliance obligations. The UK Government contributes around £9m annually to this fund. The MLF is managed by the Executive Committee, which meets twice a year and on which the UK holds a rotating seat.

Vienna Convention for the Protection of the Ozone Layer

The Vienna Convention serves as a framework for efforts to protect the world's ozone layer. The purpose of the Convention is to promote cooperation among nations by exchanging information on the effects of human activities on the ozone layer. The Montreal Protocol sits under this convention.

The countries involved meet once every three years to make decisions on important issues including on Research and Systematic observations of the health of the ozone layer, as well as financial and administrative matters.

Under the Vienna Convention, the UK Government contracts the Met Office and the University of Manchester to monitor the health of the ozone layer at sites in the UK.

Annex IV: Joint Ministerial Committee (EU Negotiations) Communiqué – October 2017

Joint Ministerial Committee (EU Negotiations) Communiqué - October 2017

The fifth Joint Ministerial Committee (EU Negotiations) met today in 70 Whitehall. The meeting was chaired by the Rt Hon Damian Green MP, First Secretary of State and Minister for the Cabinet Office.

The attending Ministers were:

From the UK Government: the First Secretary of State and Minister for the Cabinet Office, Rt Hon Damian Green MP; the Secretary of State for Exiting the EU, Rt Hon David Davis MP; the Secretary of State for Wales, Rt Hon Alun Cairns MP; the Secretary of State for Scotland, Rt Hon David Mundell MP; and, Parliamentary Under Secretary of State for Northern Ireland, Lord Bourne of Aberystwyth.

From the Welsh Government: Cabinet Secretary for Finance and Local Government, Mark Drakeford AM.

From the Scottish Government: the Minister for UK Negotiations on Scotland's Place in Europe, Michael Russell MSP.

In the absence of Ministers from the Northern Ireland Executive, a senior civil servant from the Northern Ireland Civil Service was in attendance.

The Chair opened the meeting by summarising the bilateral engagement and political developments that had taken place since JMC(EN) last met. The Secretary of State for Exiting the EU provided an update on the previous rounds of negotiations with the EU and the Committee discussed forthcoming priorities and the future relationship with the EU. The Committee discussed the establishment of Common Frameworks.

Ministers noted the positive progress being made on consideration of Common Frameworks and agreed the principles that will underpin that work (attached).

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 Parties 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;
 - 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;
 - 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 V: Justification for an ODS and F-gas Common Framework in accordance with the JMC(EN) Framework Principles

Compliance with international obligations under the Montreal Protocol

HFC target and phase down:

- If different administrations pursued different targets and trajectories, it would still need to add up to the UK's commitment under the Montreal Protocol.
- Establishing differing trajectories in the UK would require splitting up UK obligations and would have trade implications across the UK.
- Differing phase down schedules would misalign the quota and would require different control systems – introducing the need to control and check the movement of goods across GB boundaries.
- Different end points to phase down schedules could also introduce relative advantages/disadvantages to some administrations.
- The level of environmental outcome should not be reduced, especially given the UK's wider climate agenda and level of ambition, including the UK Government's commitment to Net Zero carbon emissions by 2050. A reduction in ambition and outcome could have a reputational impact on the UK's global leadership.

ODS target and phase out controls:

- Different targets and trajectories would still need to add up to the UK's commitment under the Montreal Protocol.
- The ODS regime is mature and a common approach across GB is essential to ensure the maintenance of low levels of ODS.
- Different approaches across GB may require trade within the UK to be monitored or restricted.
- Setting up separate systems would also be an administrative burden and, given the number of companies in GB, would not be an efficient approach.

Quota:

- If all parts of GB did not choose to use the same quota system for producers and importers of F-gas and ODS, this would create internal trade barriers and have implications for the functioning of the internal market.
- A common approach across GB provides certainty for businesses, many of which have already invested on the basis of the current phase down trajectory and quota system.
- The base/core measure should only be changed, for example, as the result of future cost-benefit analyses, if there was a significant economic or environmental value in doing so.

Licensing:

- ODS import and export licensing is already a reserved matter.

Reporting:

- If different administrations had separate systems, a robust mechanism for reporting would be required to enable the UK in its entirety (a single report) to fulfil its obligations to report to the UN Montreal Protocol.

Enabling the functioning of the UK internal market, while acknowledging policy divergence

Quota:

- See above.

Product or usage bans:

- It would be desirable to agree to a core ban range across GB with the capacity for some administrations to go further.
- However, banning a product in one administration but not others could create complexities for businesses and implications for the internal market.

Leak check obligations and leak detection systems:

- Commonality is desirable to provide regulatory simplicity and consistency for businesses operating across GB, however the consequences of divergence are less severe than some other areas.

Enforcement and penalties for ODS and F-gas:

- A common approach to enforcement is desirable to provide regulatory consistency for businesses operating across GB and the same disincentives to avoid creating perverse incentives.
- However, there is already divergence, with England and Scotland having civil penalties that do not extend to Wales or Northern Ireland.

Other areas where divergence across the UK may have implications for the internal market:

- Recovery obligations and deliberate release of gas
- Servicing and sales restrictions
- Producer responsibility schemes
- Training standards and certification
- Labelling requirements

Annex VI: Consent and Direction process

In order to operate GB-wide systems, consent may be provided by Ministers in SG and WG under paragraph 1 of article 25A or paragraph 1 of article 25B of (the retained EU law) Regulation (EC) No 1005/2009 (substances that deplete the ozone layer), to the exercise of any function by the Secretary of State once or more than once. Consent may be modified or withdrawn at any time. The Party will provide reasonable notice of their intentions to the other Parties before effecting any such modification or withdrawal of consent, and will seek to make the change through consensus with the other Parties, so that the impacts or risks of divergence are identified and managed appropriately.

Direction and/or guidance may be provided by Ministers in SG and WG to the appropriate regulator under paragraph 3 of article 25A or paragraph 3 of article 25B of (the retained EU law) Regulation (EC) No 1005/2009 (substances that deplete the ozone layer), and may relate to the exercise of a function once or more than once. Directions and/or guidance may be modified or withdrawn at any time. The Party will provide reasonable notice of their intentions to the appropriate regulator before effecting any such modification or withdrawal of directions and/or guidance, and will seek to make the change through consensus with the other Parties, so that the impacts or risks of divergence are identified and managed appropriately.

Consent may be provided by Ministers in SG and WG under paragraph 1 of article 24A or paragraph 1 of article 24B of (the retained EU law) Regulation (EC) No 517/2014 (fluorinated greenhouse gases), to the exercise of any function by the Secretary of State once or more than once. Consent may be modified or withdrawn at any time. The Party will provide reasonable notice of their intentions to the other Parties before effecting any such modification or withdrawal of consent, and will seek to make the change through consensus with the other Parties, so that the impacts or risks of divergence are identified and managed appropriately.

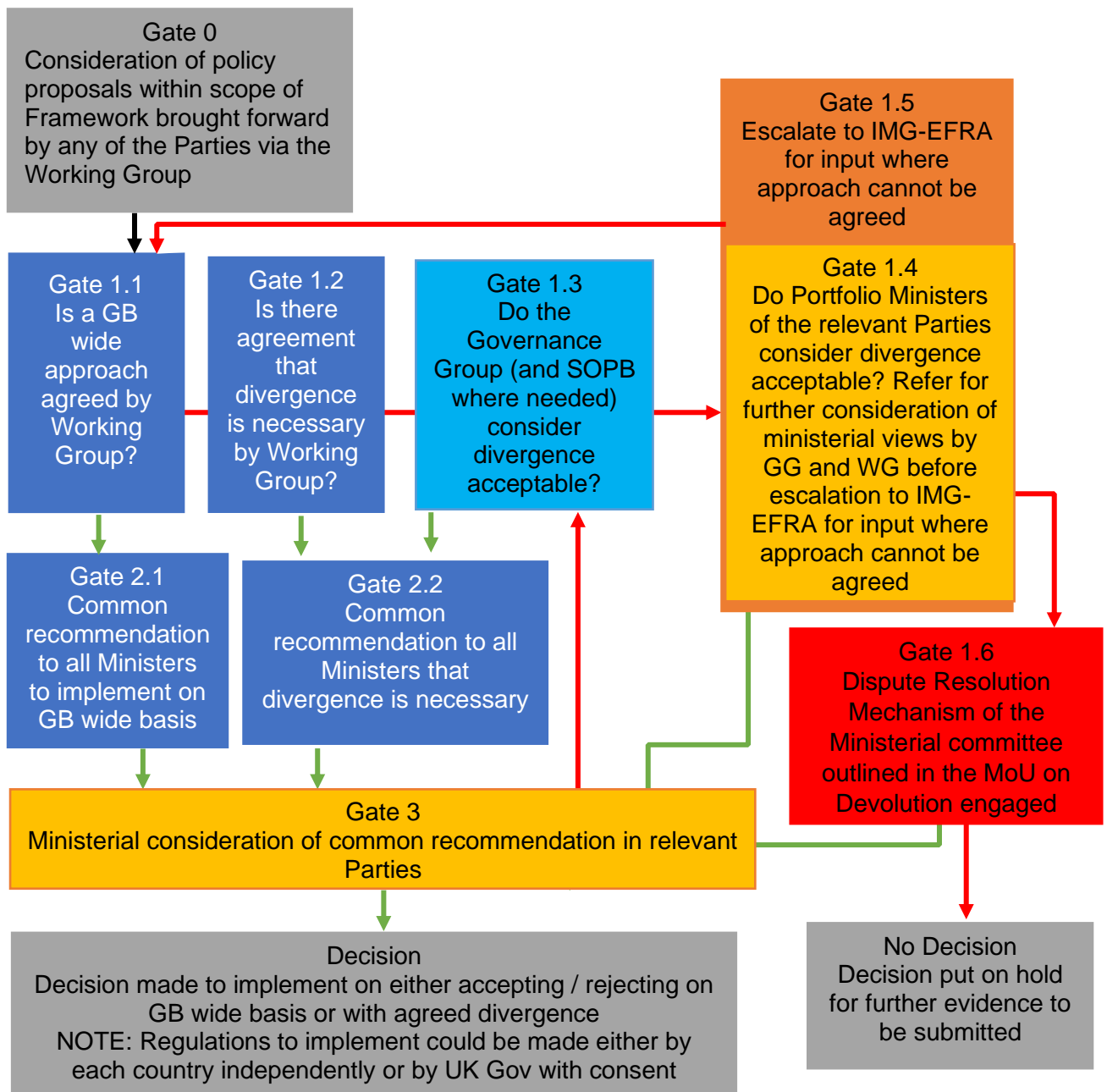
Direction and/or guidance may be provided by Minister in SG and WG to the appropriate regulator under paragraph 3 of article 24A or paragraph 3 of article 24B of (the retained EU law) Regulation (EU) No 517/2014 (fluorinated greenhouse gases), and may relate to the exercise of a function once or more than once. Directions/guidance may be modified or withdrawn at any time. The Party will provide reasonable notice of their intentions to the appropriate regulator before effecting any such modification or withdrawal of directions and/or guidance, and will seek to make the change through consensus with the other Parties, so that the impacts or risks of divergence are identified and managed appropriately.

Annex VII: Joint Decision-Making, Dispute Avoidance and Resolution

Overview

Key	
	Inputs/Outputs
	Officials
	Senior Officials
	Portfolio Ministers
	Secretary of State
	The ministerial committee outlined in the MoU on Devolution

→ = Agree
→ = Disagree



Decision-making process – Disagreements or disputes do not occur

Gate 0

- A policy proposal is put forward by a Party via the Working Group.

Gate 1.1 - 1.2

- The Working Group consider the proposal and agree that GB approach or divergence is acceptable.

Gate 2.1 – 2.2

- With clearance from the Governance Group, common recommendations on the GB approach or divergence are made to Ministers in the relevant Parties.

Gate 3

- Ministers in the relevant Parties consider the common recommendations.

Decision

- Ministerial decisions on the implementation of the common recommendation.

Dispute resolution - Consensus cannot be reached on a common recommendation at official level

Gate 0

- A policy proposal is put forward by a Party via the Working Group.

Gate 1.1

- The Working Group consider the proposal and whether a GB approach is agreeable.
- If the Working Group agree on a GB approach, proceed to Gate 2.1.

Gate 1.2

- If the Working Group disagree on a GB approach, the Working Group will consider whether divergence is agreeable.
- If the Working Group agree on divergence, proceed to Gate 2.2.

Gate 1.3

- If the Working Group disagree on divergence, the Working Group may escalate the issue to the Governance Group.
- If the Governance Group agree on divergence, proceed to Gate 2.2.
- If the Governance Group disagree on divergence, the Governance Group may escalate the issue to Senior Officials Programme Board for input, particularly where matters are constitutional or sit wider than the specific policy area.
- If the Governance Group agree on divergence following input from the Senior Officials Programme Board, proceed to Gate 2.2.

Gate 1.4

- If the Governance Group disagree on divergence (following input from the Senior Officials Programme Board where relevant), the Governance Group may escalate the issue to Portfolio Ministers in the relevant Parties.
- If Portfolio Ministers agree on divergence, proceed to Gate 3.

Gate 1.5

- If Portfolio Ministers disagree on divergence, Portfolio Ministers may escalate the issue to Secretary of State and DA senior Ministers for input.
- The issue may also be escalated to Inter Ministerial Group for Environment, Food and Rural Affairs (IMG-EFRA) following input from the Senior Officials Programme Board, particularly where matters are constitutional or sit wider than the specific policy area.
- If Portfolio Ministers agree on divergence following input from senior Ministers or IMG-EFRA, proceed to Gate 3.

Gate 1.6

- If Portfolio Ministers disagree on divergence following input from senior Ministers or IMG-EFRA, the Dispute Resolution Mechanism of the Ministerial committee outlined in the MoU on Devolution will be engaged.
- If agreement is reached following the Dispute Resolution Mechanism of the Ministerial committee outlined in the MoU on Devolution, proceed to Gate 3.

No Decision

- If agreement is not reached following the Dispute Resolution Mechanism of the Ministerial committee outlined in the MoU on Devolution, the decision will be put on hold for further evidence to be submitted.

Dispute resolution process - Ministers do not agree to a common approach following receipt of a recommendation

Gate 3

- Ministers in the relevant Parties receive common recommendations put forward via the Working Group (and the Governance Group where relevant) and do not agree with the common recommendation (GB approach or divergence).

Gate 1.3

- The Governance Group reconsider the common approach to address potential issues or identify alternative approach.
- The Governance Group may escalate the issue to Senior Officials Programme Board for input, particularly where matters are constitutional or sit wider than the specific policy area.
- The Governance Group may ask the Working Group to reconsider the common approach and advise Governance Group accordingly - additional evidence may be required.
- If the Governance Group agree on the issues or alternative approach following input from the Senior Officials Programme Board and/or the Working Group, proceed to Gate 2.1 – 2.2.
- If the Governance Group disagree on the issues or alternative approach following input from the Senior Officials Programme Board and/or the Working Group, proceed to Gate 1.4.

Annex VIII: Terms of Reference of the Governance Group and the Working Group (included for information only)

Ozone-Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gas) Governance Group Terms of Reference

Purpose

This document sets out how the Ozone-Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gas) Governance Group (henceforth referred to as the “Governance Group”) will operate.

The prime purpose of the Governance Group is to oversee the effective operation of the ODS and F-gas Common Framework (the “Framework”) across the UK, ensuring the appropriate governance, assurance and decision-making arrangements are in place.

Background

The four governments of the UK have agreed to work together to establish common approaches, known as Common Frameworks, in some policy areas which are of competence of the Scottish Government, Welsh Government and Northern Ireland Executive and were previously governed by EU law (and for NI, in some areas, continue to be governed by EU law). ODS and F-gas policy is one of those areas.

A jointly agreed concordat gives effect to the ODS and F-gas Framework and sets out the principles that will guide joint working, including a decision-making process; the international obligations that apply to this area; a dispute avoidance and resolution mechanism; and a review and amendment mechanism.

Under the Framework, a Working Group and Governance Group are established. The Working Group and Governance Group will be the fora through which the four governments collectively develop policy recommendations, exchange information and seek to resolve any potential difference of views, within scope of the Framework.

Some of the arrangements set out in the Framework will not apply to Northern Ireland (NI) in the same way as they do to Great Britain (GB). This is due to the separate legislation and systems under which NI and GB will operate, in accordance with the Protocol on Ireland / Northern Ireland.

Membership

A Deputy Director representative (or equivalent) from each of the four governments and the Environment Agency will form the membership of the Governance Group:

- UK Government (UKG): Department for Environment, Food and Rural Affairs (Defra)
- Welsh Government (WG): Department for Environment and Rural Affairs
- Scottish Government (SG)
- Department for Agriculture, Environment and Rural Affairs (DAERA (NI))
- Environment Agency (EA)

The specific membership list is set out in Annex A.

Attendance

To allow the Governance Group to fulfil its role, if unable to attend the meeting, members should field a suitably empowered deputy to act on their behalf.

Where a deputy is required to attend on behalf of a member, they must be briefed in advance and have delegated authority to make decisions.

The Governance Group, by consensus, may decide to invite members of the ODS and F-gas Working Group to meetings, however these are not members and cannot make decisions.

The Governance Group, by consensus, may decide to invite representatives of bodies, that are not members of the Governance Group or Working Group, to meetings. For example, representatives of the regulatory bodies in Scotland, Wales and Northern Ireland, and finance, IT or comms experts. However, these representatives cannot make decisions. Representatives should disclose any conflict of interest.

NI's status

DAERA(NI) will be a member of the Governance Group to support the sharing of information and policy development process, and for matters relating to international obligations, negotiations and trade.

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.

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.

EA's status

The EA will be a member of the Governance Group to support the sharing of information and policy development process, to advise the Governance Group and provide expertise, and for matters relating to the operation of the GB-wide ODS and F-gas systems.

Role

The role of the Governance Group, in accordance with the Framework, is to:

1. Pursue the principles set out in the Framework
2. Maintain and oversee of the GB-wide and UK-wide aspects of the Framework

3. Enable members of the Group to represent and explain the policy of their respective administrations
4. Take certain decisions on ODS and F-gas issues, including those escalated by the Working Group, recognising that it is ultimately for Ministers to make key policy decisions in relation to this policy area
5. Where consensus cannot be reached, or where matters and decisions sit outside ODS and F-gas policy, seek advice from the Senior Officials Programme Board (SOPB)
6. Advise the Working Group on how to manage potential divergence and implement alternative arrangements
7. Consider and seek to resolve disagreements and disputes escalated from the Working Group and, where necessary seek advice from the SOPB
8. Ensure decisions, advice and recommendations are specific, evidence-led and transparent, enabling Ministers to take decisions based on sound analysis
9. Ensure decisions that are made by the Working Group and Governance Group itself are in accordance with the Common Frameworks principles agreed by Joint Ministerial Committee (EU Negotiations), including:
 - to enable the UK to continue to meet its international obligations under the UN Montreal Protocol; and
 - to enable the functioning of the UK internal market, while acknowledging policy difference
10. Ensure oversight of any consent and direction of functions by the Scottish and Welsh Ministers, including the operational aspects administered by the Environment Agency, and policy development or regulation-making that will be exercised by the Secretary of State on behalf of GB
11. Ensure consideration by the four governments of any changes taking place in NI as a result of changes to EU rules, in order to determine the extent to which it represents divergence between NI and other parts of the UK, and to consider the impacts and potential measures to be taken by the four governments
12. Ensure effective data and information exchange
13. Promote timely and coordinated (where appropriate) stakeholder engagement by all four administrations
14. Ensure provision of advice on technical matters relating to Northern Ireland, supporting decision making by DAERA(NI), particularly in the context of the Protocol on Ireland / Northern Ireland
15. Provide strategic direction to the Working Group
16. Have regard to wider environmental impacts in respect of ODS and F-gas policy and wider climate and environment strategies of the four governments

17. Take additional action in the future as appropriate to meet international obligations and climate targets
18. Contribute to the joint GB review of the F-gas Regulation (and ODS Regulation) and ensure it remains on course to deliver its outcomes
19. Ensure UK implementation obligations under the EU-UK Trade and Cooperation Agreement relating to ODS and F-gases are fulfilled and discussed through the Framework arrangements as required.
20. Monitor progress and delivery of strategy and report to Ministers as necessary
21. Discuss risks that threaten the GB ODS and F-gas systems' status (and the EU system as it applies in NI) and mitigate against them
22. Discuss and agree necessary contingency planning and emergency response capability
23. Monitor and review and amend the Framework and concordat in accordance with the processes set out in the Framework

Ways of working

- Meet six-monthly, or more frequently if required, either by online meetings or physical meetings
- The Governance Group will meet during the first six months following the end of the transition period
- There will be Chair and Secretariat roles for the Governance Group which will rotate annually across the four governments, with the same government to that of the Working Group
- The Secretariat will draw up an agenda of issues to be discussed and addressed by the Group based on current priorities. These will be agreed with members before meetings
- The agenda and all associated papers will be circulated electronically at least two working days prior to the meeting
- Draft meeting minutes will be circulated no later than two weeks after the meeting to members of the Governance Group and Working Group
- Members should cascade information and decisions from the meetings to affected teams and individuals
- The Governance Group may review and amend the Terms of Reference as required and by consensus.

Reporting and linkages

The Working Group will update the Governance Group as appropriate, with particular regard to:

- Status of implementation of GB ODS and F-gas systems
- Status of EU implementation in NI
- Proposed policy updates
- Relevant external policy considerations

- Risks and issues
- Any policy divergence under consideration.
- Disagreements or disputes

The Governance Group will have an advice giving and challenge role in respect of the Working Group.

The Governance Group may direct the Working Group to take further action on particular matters as appropriate, and report back at a subsequent meeting or other agreed timescale.

Annex A: Governance Group members list (to be completed outside of this concordat)

Name	Government / Agency and role	Contact details

Ozone-Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gas) Working Group Terms of Reference

Purpose

This document sets out how the Ozone-Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gas) Working Group (henceforth referred to as the “Working Group”) will operate.

The prime purpose of the Working Group is to manage the effective implementation of the ODS and F-gas Common Framework (the “Framework”) across the UK, with a focus on the operation of the GB legislation and systems, but also the broader UK aspects of the Framework.

Background

The four governments of the UK have agreed to work together to establish common approaches, known as Common Frameworks, in some policy areas which are of competence of the Scottish Government, Welsh Government and Northern Ireland Executive and previously governed by EU law (and for NI, in some areas, continue to be governed by EU law). ODS and F-gas policy is one of those areas.

A jointly agreed concordat gives effect to the ODS and F-gas Framework and sets out the principles that will guide joint working, including a decision-making process; the international obligations that apply to this area; a dispute avoidance and resolution mechanism; and a review and amendment mechanism.

Under the Framework a Working Group and Governance Group are established. The Working Group and Governance Group will be the fora through which the four governments collectively develop policy recommendations, exchange information and seek to resolve any potential difference of views, within scope of the Framework.

Some of the arrangements set out in the Framework will not apply to Northern Ireland (NI) in the same way as they do to Great Britain (GB). This is due to the separate legislation and systems under which NI and GB will operate, in accordance with the Protocol on Ireland / Northern Ireland.

Membership

An official representative(s) from each of the four governments and the Environment Agency will form the membership of the Working Group:

- UK Government (UKG): Department for Environment, Food and Rural Affairs (Defra)
- Welsh Government (WG): Department for Environment and Rural Affairs
- Scottish Government (SG)
- Department for Agriculture, Environment and Rural Affairs (DAERA(NI))
- Environment Agency (EA)

The specific membership list is set out in Annex A.

Attendance

To allow the Working Group to fulfil its role, if unable to attend the meeting, members should field a suitably empowered deputy to act on their behalf.

Where a deputy is required to attend on behalf of a member, they must be briefed in advance and have delegated authority to make decisions.

The Working Group, by consensus, may decide to invite representatives of bodies, that are not members of the Working Group or ODS and F-gas Governance Group, to meetings. This includes representatives of the regulatory bodies in Scotland, Wales and Northern Ireland. However, these representatives cannot make decisions. Representatives should disclose any conflict of interest.

NI's status

DAERA(NI) will be a member of the Working Group to support the sharing of information and policy development process, and for matters relating to international obligations, negotiations and trade.

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.

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.

EA's status

The EA will be a member of the Working Group to support the sharing of information and policy development process, to advise the Governance Group and provide expertise, and for matters relating to the operation of the GB-wide ODS and F-gas systems.

Role

The role of the Working Group, in accordance with the Framework, is to:

1. Pursue the principles set out in the Framework
2. Enable members of the Group to represent and explain the policy of their respective administrations
3. Discuss day-to-day policy and operational issues and agree positions and actions where needed
4. Provide a forum to discuss potential changes to the administrative arrangements of the GB-wide system or the legislative underpinning, with the aim of reaching consensus where possible

5. Provide a forum to discuss potential changes to the wider aspects of the GB legislation (retained EU law) outside of the GB system, with the aim of reaching consensus where possible
6. Ensure consideration by the four governments of any changes taking place in NI as a result of changes to EU rules, in order to determine the extent to which it represents divergence between NI and other parts of the UK, and to consider the impacts and potential measures to be taken by the four governments
7. Discuss and agree common recommendations to Ministers (with the appropriate clearance)
8. Where consensus cannot be reached, or decisions require more senior sign off, make policy recommendations to the Governance Group, recognising that it is ultimately for Ministers to make key policy decisions in relation to this policy area
9. Ensure decisions, advice and recommendations are specific, evidence-led and transparent, enabling Ministers to take decisions based on sound analysis
10. Ensure decisions that are made by the Working Group are in accordance with the Common Frameworks principles agreed by Joint Ministerial Committee (EU Negotiations), including:
 - to enable the UK to continue to meet its international obligations under the UN Montreal Protocol; and
 - to enable the functioning of the UK internal market, while acknowledging policy difference
11. Discuss and manage potential divergence and agree the process for developing alternative arrangements
12. Consider and aim to resolve disagreements and disputes, and where necessary escalate to the Governance Group in accordance with the dispute avoidance and resolution process
13. Ensure oversight of any consent and direction of functions by the Scottish and Welsh Ministers, including the operational aspects administered by the Environment Agency, and policy development or regulation-making that will be exercised by the Secretary of State on behalf of GB
14. Share information on a regular basis through meetings of the Working Group or as and when required by the most suitable communications mechanism e.g. e-mail
15. Consider and coordinate (where appropriate) timely messages to stakeholders that align with the decisions of the Working Group, Governance Group, and ultimately Ministers
16. Ensure stakeholders who have a key interest and role in delivering ODS and F-gas policy, are considered and consulted (where appropriate), including but not limited to environmental regulators, third sector organisations and relevant trades associations and businesses

17. Discuss outcomes from international negotiations and if / how they impact domestic policy
18. Share views in the development of UK policy positions for international negotiations in scope of the Framework
19. Contribute to the joint GB review of the F-gas Regulation (and ODS Regulation) and ensure it remains on course to deliver its outcomes
20. Ensure UK implementation obligations under the EU-UK Trade and Cooperation Agreement relating to ODS and F-gases are fulfilled and discussed through the Framework arrangements as required.
21. Advise on technical matters relating to Northern Ireland, supporting decision making by DAERA(NI), particularly in the context of the Protocol on Ireland / Northern Ireland
22. Seek updates from the UK regulators on their compliance and enforcement activity and share views and ideas on best practice
23. Have regard to wider environmental impacts in respect of ODS and F-gas policy and HMGs wider climate and environment strategy
24. Deliver the strategy as agreed by the Governance Group and provide support to the Governance Group to enable efficient and informed decision-making
25. Monitor progress and delivery of strategy and report as necessary to the Governance Group
26. Discuss risks that threaten the GB ODS and F-gas systems' status (and the EU system as it applies in NI) and mitigate against them
27. Discuss and agree necessary contingency planning and emergency response capability
28. Monitor and review and amend the Framework and documentation in accordance with the processes set out in the Framework.

Ways of working

- Meet monthly, or more frequently if required, either by online meetings or physical meetings
- The frequency of meetings will be reviewed by the Working Group during the first six months after the end of the transition period. Following this review, if a new meeting frequency is recommended, this will be agreed, by consensus, by both the Working Group and Governance Group
- There will be Chair and Secretariat roles for the Working Group which will rotate annually across the four governments, with the same government to that of the Governance Group
- The Secretariat will draw up an agenda of issues to be discussed and addressed by the Group based on current priorities. These will be agreed with members before meetings

- The agenda and all associated papers will be circulated electronically 2 working days prior to the meeting
- Draft meeting minutes will be circulated no later than two weeks after the meeting to members of the Working Group
- Members should cascade information and decisions from the meetings to affected teams and individuals
- The Working Group Terms of Reference will be reviewed as required and by consensus

Reporting and linkages

The Working Group will update the Governance Group as appropriate, with particular regard to:

- Status of implementation of GB ODS and F-gas systems
- Status of EU implementation in NI
- Proposed policy updates
- Relevant external policy considerations
- Risks and issues
- Any policy divergence under consideration.
- Disagreements or disputes

Annex A: Working Group members list (to be completed outside of this concordat

Name	Government / Agency and role	Contact details

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