

## Interim Written Evidence: Inquiry on Common Frameworks for the Economy, Trade and Rural Affairs Committee

*This evidence is written by Dr Mary Dobbs (law) from Maynooth University, Dr Viviane Gravey (political science) from Queen's University Belfast, and Dr Ludivine Petetin (law) from Cardiff University. We are part of the [Brexit & Environment network](#), which brings together academics analysing how Brexit is affecting the UK and EU environments. We share relevant expertise in environmental and agri-environmental issues, as well as trade.*

We intend to provide a fuller document for submission to this inquiry before 1<sup>st</sup> April, but we would like to highlight one point at this stage for the earlier deadline of 9<sup>th</sup> March. In light of the Internal Market Act 2020, **in developing and considering the common frameworks, the devolved nations and this Committee should reflect on what related aims, policies, measures etc that they may have introduced since the Act came into force and/or wish to introduce in future and how the common frameworks can support these.**

### **Reasoning:**

The UK Internal Market 2020 contains ‘market access’ principles of mutual recognition (Section 2) and non-discrimination (Section 5) that are to apply across Great Britain (and to some extent to Northern Ireland). Looking just at mutual recognition for the moment, the Act provides that any product produced or *imported* into one part of Great Britain and permitted to be used or sold there would be permitted to be used or sold anywhere across Great Britain – without being bound by new ‘relevant requirements’ (introduced since the Act came into force), such as production methods, environmental standards, identification or tracing procedures and food characteristics (Section 3). New requirements likely also include substantial amendments to existing requirements.

Consequently, in seeking to maintain an open internal UK market, this principle **impacts significantly on the effectiveness of any devolved nation’s policies** – new requirements can be introduced, but would have very limited scope if any other part of GB does not have similar requirements. To use a recurring example, if England were to permit the sale of chlorine-washed chicken, then other parts of the UK could not introduce rules to prevent the import and sale of this chicken.

There are **very few limitations to this principle of mutual recognition**. There are some exclusions under Section 10 & Schedule 1, e.g. to prevent the spread of pests diseases that pose threats to human, animal or plant health. This is a narrow list and **can only be amended by the Secretary of State.**

### **Potential to expand the limitations:**

Crucially, Section 10(2) provides for the Secretary of State to regulate to amend Schedule 1 (exclusions from application of the market access principles), including now under Section 10(3) ‘to give effect to an agreement that (a) **forms part of a common framework agreement,** **and** (b) provides

that certain cases, matters, requirements or provision should be expressly excluded from the application of market access principles’.

This provides some limited opportunity to help bolster devolved policy and legitimate objectives. **Consequently, as stated above, in developing and considering the common frameworks, the devolved nations and this Committee should reflect on what related aims, policies, measures etc that they may have introduced since the Act came into force and/or wish to introduce in future and how the common frameworks can support these.**

Common Frameworks at the inception of the programme in 2017 may have been perceived as potentially curtailing devolved policy-making. The adoption of the Internal Market Act changes this - they are now a potential instrument to protect devolution. They offer the possibility to (a) either formally limit the scope of the Market Access Principles if the Secretary of State agrees to do so (this needs to be tested to see if it likely to occur and in which circumstances) or (b) informally help shape policy development in England/the UK in a similar direction (and thus hopefully enhance standards and reduce the risk of a deregulatory race to the bottom).

These comments are based on our on-going work, including:

Ludivine Petetin and Mary Dobbs, *Brexit and Agriculture* (Routledge, 2022), Chapter 5.

Viviane Gravey and Colin Reid, ‘Taking back and sharing control? Brexit and the common environmental frameworks’, *Brexit & Environment* 2018  
<https://www.brexitenvironment.co.uk/2018/03/12/common-environmental-frameworks/>

9<sup>th</sup> March 2022.