

General comments

1. As highlighted in previous submissions to the Committee, the Farmers' Union of Wales (FUW) believes that the UK should remain within the Single Market and Customs Union, given that neither issue was consulted upon explicitly during the EU referendum and the potential implications of leaving both for Wales' economy.
2. Moreover, whilst the FUW respects the EU Referendum outcome, it is not believed that the 52% majority in favour of Brexit should be extrapolated to equate to a majority in favour of leaving either the Single Market or Customs Union, given people's understanding of those issues at the time of the vote.
3. Given the nature of this Committee inquiry and the UK Government's Frameworks Analysis, and notwithstanding the loss of the UK's say over changes to EU law, it is notable that remaining members of the Single Market and Customs Union would negate the need for changes in relation to the majority of those areas of EU law that intersect with devolved competence.
4. It is also notable that the EU Referendum did not equate to a consultation on changes to the balance of powers between the devolved nations and Westminster. As such, and in the absence of direct consultations regarding such changes, moves which significantly shift powers to or away from the National Assembly for Wales cannot be said to be mandated by the electorate.
5. In terms of this written response, we have attempted to keep comments relevant to both the remit of the Committee and the FUW's key areas of expertise. As such, the observations provided below are not exhaustive in terms of possible areas of concern which fall within the Committee's remit.
6. Whilst it is proper to consider which areas should require common or legal frameworks, it is equally important to consider how the creation, policing and enforcement of frameworks will be governed in a way which respects devolution and is sufficiently robust.
7. Given the fluid situation in relation to Brexit and uncertainty in relation to how we will operate outside the EU, it is also important to ensure that frameworks can be created rapidly where needs for such frameworks are identified.
8. As stated in previous submissions to National Assembly for Wales Committees, the FUW believes mechanisms should be found to ensure sensible mutual agreement can be reached between the UK administrations in terms of the development, implementation and governance of frameworks, and arbitration of any disputes.

The UK Government's Provisional Framework Analysis

9. Whilst we would generally agree with the UK Government's Provisional Frameworks Analysis, we would suggest that some of the 49 areas where it is believed no further action is required may in fact require common or legislative frameworks to ensure fair competition between regions while also respecting the devolved settlements.
10. Whether or not such frameworks will be required may depend upon the outcome of current negotiations, and what happens in the longer term regarding areas of EU law which are transcribed into UK law.
11. Examples particularly relevant to Welsh agriculture and Wales as a whole include areas of the law currently covered by the Environmental Impact Assessment Directive, flood risk management, water quality, water resources and forestry.

In which policy areas are legislative and non-legislative common frameworks needed

12. Like many organisations throughout the UK, the FUW does not have sufficient experience of dealing with the creation and enforcement of UK frameworks to definitively state which areas require legislative frameworks, and which require non-legislative common frameworks, Memorandums of Understanding etc.
13. Moreover, we would emphasise that whatever form a framework takes, whether legislative or not, the intention must be for all nations to respect that framework, and mechanisms must exist to arbitrate where nations allege or contest breaches.
14. Notwithstanding the above, the propensity for breaches of non-legislative frameworks to be instigated deliberately for political reasons should also be borne in mind.
15. It also stands to reason that the arguments in favour of legal frameworks are strongest where breaching a framework in one nation:
 - a. Could equate to breach by the UK of international treaties or trade deals, thereby resulting in sanctions against all UK nations
 - b. Would result in trade distortion and/or unfair advantages within the UK single market, thereby undermining producers and the economy in other UK nations
 - c. Would have other adverse impacts on a neighbouring nation (for example by causing pollution in a neighbouring nation)
16. As such, from an agricultural perspective it is essential that enforceable frameworks are put in place regarding all aspects of farming, food and rural policies, similar to those frameworks currently in place under the Common Agricultural Policy and other EU legislation.
17. Notwithstanding other important areas identified by the UK Government, we would highlight the need to ensure frameworks are in place which guarantee the continued and improved collection and publication by all administrations of statistical information in uniform formats, such that economic and other data can be compared directly. Moreover, the provision of

such information will be important in terms of identifying compliance with or breaches of other frameworks.

Rural Policy Frameworks

18. The FUW believes a UK agricultural framework should be put in place which prevents unfair competition between devolved regions and secures and protects adequate long term funding for agriculture and rural communities, while also respecting devolved powers over agriculture and the need for flexibility within that framework which allows devolved governments to make decisions which are appropriate for their regions.
19. Whilst some may argue for greater devolved powers in terms of flexibility within such frameworks, it must be noted that such flexibility could well work against the interests of Wales, as it would also apply to those against whom Welsh producers compete.
20. In a similar context, Welsh and other Governments should not adopt inward-looking mentalities, given that we will continue to compete against producers from outside the UK. A UK framework must therefore be drawn up with the development of other non-UK frameworks in mind – in particular the next EU CAP. Such a framework should also respect WTO rules in order to minimise the risks of trade disputes with other countries and trading blocs.

Financial, support and other frameworks

21. Agricultural and rural development funding is currently split into two main categories: Pillar 1 funding, at least 85% of which must go to farmers through direct support or other forms of support (for example for young farmers); and Pillar 2 funding, which can be spent on a broad range of rural development measures within specific funding limits: For example, at least 30% of the budget must be spent on the environment and mitigating climate change, while Wales has opted to spend around 56% of its budget on such measures. Similarly a Member State can allocate up to 8% of its Pillar 1 budget to directly support agricultural production (for example, beef production), but no more.
22. As such, there is a funding framework in place which proscribes what proportion of the total budget in any EU Member State can be spent in different areas, but also allows flexibility. This helps prevent divergence between regions by ensuring direct agricultural support and expenditure on specific issues does not differ too much, and is aligned with overall policy objectives.
23. There is no reason to believe that, given more freedom post-Brexit, UK nations would not further diverge policies in line with differing political objectives in ways which either assist or disadvantage producers in certain sectors and regions, thereby increasing, possibly many fold, distortion between producers.
24. The FUW therefore believes that, post-Brexit, a funding framework must be put in place which ensures relative uniformity in terms of expenditure in specific areas, while also recognising devolution and therefore the need for a degree of flexibility - otherwise major differences between areas of expenditure will emerge, resulting in gross market distortion.

25. Current EU Regulations provide a relative balance between uniform principles and flexibility for regions and Member States to implement payment regimes, rules etc. suitable to their farming systems and terrain.
26. For example, all regions must implement some form of Basic Payment Scheme and the Cross Compliance rules associated with this, but an array of options are available as to how these are implemented within strict thresholds and in accordance with set formulae.
27. Post-Brexit, as well as the need for a funding framework, there is also a need for a legislative framework which ensures rules such as those relating to standards, eligibility requirements, penalties, support levels etc. do not differ to the extent that markets are distorted and unfair advantages develop.
28. Similar arguments apply in relation to a host of other areas where unfair advantages might develop, for example in relation to organic and standards and genetically modified organisms, while for obvious reasons uniform standards relating to animal and plant health are needed to protect health and welfare as well as international trade.