



OFFICIAL REPORT
AITHISG OIFIGEIL

Constitution, Europe, External Affairs and Culture Committee

Thursday 7 March 2024

Session 6



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**CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE
6th Meeting 2024, Session 6**

CONVENER

*Clare Adamson (Motherwell and Wishaw) (SNP)

COMMITTEE MEMBERS

- *Neil Bibby (West Scotland) (Lab)
- *Keith Brown (Clackmannanshire and Dunblane) (SNP)
- *Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
- *Mark Ruskell (Mid Scotland and Fife) (Green)
- *Alexander Stewart (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Ed Barker (Agricultural Industries Confederation Scotland)
- Jonnie Hall (NFU Scotland)
- Sarah Millar (Quality Meat Scotland)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 7 March 2024

[The Convener opened the meeting at 09:00]

Review of the EU-UK Trade and Co-operation Agreement

The Convener (Clare Adamson): Good morning and a very warm welcome to the sixth meeting in 2024 of the Constitution, Europe, External Affairs and Culture Committee. Since our last meeting, our deputy convener, Donald Cameron, has resigned as an MSP in order to take up a ministerial post in the Scotland Office. I record our thanks to Donald for his contribution and commitment to the committee during this session. We wish him well in his new role.

We have received apologies from Neil Bibby MSP.

Agenda item 1 is a reconvened item. I apologise for our having had to postpone the item earlier in the year. It is a continuation of our evidence taking in the committee's inquiry into the review of the European Union and United Kingdom trade and co-operation agreement. We are joined by Ed Barker, who is the head of policy and external affairs at the Agricultural Industries Confederation Scotland; Jonnie Hall, who is the director of policy at NFU Scotland; and Sarah Millar, who is the chief executive of Quality Meat Scotland. I offer a warm welcome to you all, and thank you for your written submissions to the committee.

I will start with a general question. In your written submissions, you highlight specific sanitary and phytosanitary issues, and issues to do with logistics, but will you give us a brief overview of the biggest challenges? We will start with Jonnie Hall.

Jonnie Hall (NFU Scotland): To go back a wee bit further than the TCA, NFU Scotland was very clear in our opinion that the UK's departure from the EU would present significant challenges for Scottish agriculture and the agrifood sector. Many of the challenges were unknown, but we felt that there would be challenges and issues. Without going over the history in too much detail, I guess that the whole process from 2016 to 2021 was fraught with political uncertainties and, therefore, practical uncertainties in terms of the implications of withdrawal and what the TCA would look like.

At the time, there was lots of discussion and debate about what sort of model would be best for the UK and Scotland—in particular, for Scottish agriculture and the agrifood sector. Having watched the machinations—if that is the right word—around not only the European Union (Withdrawal) Act 2018 but the development and negotiation, if you like, of the TCA, we were very clear that, when it came to trade issues, we wanted something that was tariff free and quota free. However, we were also mindful that whatever came out would not be friction free.

I will get to my point. Since then, the TCA has not afforded us the same trading relationship with the EU as we had when we were a member state. The headline might be that it is tariff free and quota free, but it is certainly not friction free. In various ways, that has caused challenges and issues—which, I am sure, we will go on to explore and think about. I will not go into the details right now but, fundamentally, that has been the big issue.

That said, over the past four or five years, other geopolitical events—as I call them—and domestic challenges have probably meant that the TCA and its consequences have not been as high on the agenda of priorities for NFU Scotland and Scottish agriculture as might otherwise have been the case.

Ed Barker (Agricultural Industries Confederation Scotland): The vast majority of our work at the moment relates to EU exit. As Jonnie Hall said, when we exited the EU, the initial issue was the shock that it meant for UK and Scottish agencies, Government personnel, and importing and exporting of goods.

We were initially trying to muddle through a way of working that out. Now that we are four or five years on from that process, we are experiencing the pulling apart through divergence, which we are really starting to feel. AIC businesses, which come before farms in the supply chain—although grain merchants are post-farm—are having to work out for themselves, with help from us and other trade bodies, what divergence means. We are, in effect, having to work out the way through it.

There can be divergence in policy. For example, there is divergence in areas including precision breeding in England, which also creates internal-market challenges. There are divergences in carbon border adjustment mechanisms, farming policy and support, which are all starting to come through. Deforestation is another interesting legislative area, because we have to work out what that means for moving goods in both directions.

There is also divergence in technical standards. There are always individual products, such as

herbicides, animal feeds and regulated products that are facing either withdrawal or ending of their licences. Those small misalignments happen all the time and can be really niche and specific. For example, a herbicide for oats has been suddenly withdrawn from the EU but is being maintained in Great Britain. We have to try to keep up with every single one of those changes. There are also issues with maximum residue limits.

Those things are happening across all sectors. We have so many examples of tiny little technical standards. Divergence is taking up the majority of our time; you can probably gather that the AIC is dealing with that, more than anything, at the moment.

Sarah Millar (Quality Meat Scotland): The biggest challenges for the red-meat chain are the added cost and risk. Instead of the European market being treated in the same way as the domestic UK market, which would allow us to freely access those markets, the big change for us has been that every time a product crosses into the European community it must now be signed off by a vet and given an export health certificate, which comes at significant cost to business. That comes at a time when labour-market challenges in recruiting vets into the UK, and into Scotland in particular, mean that we do not have enough vets to do that, which adds risk.

From a business perspective, the European market cannot be treated as it was before. There is now a need for anyone accessing that market to build in a significant amount of business-risk capital. That is particularly difficult for small businesses. Scotland's red-meat supply chain specialises in high-value premium products, which means that we are not always trading in large volumes. There is now no cost-effective way to get a lot of those high-value low-volume consignments into Europe, which has locked some businesses out of the European market. Larger businesses have been able to consolidate; processors that have multiple sites across the UK can do their own grouping and consolidation and have therefore been able to maintain market access.

The broad picture is that our exports to the EU have recovered, after an initial dip. Beef exports are within 4 per cent of where they were and lamb exports are within 0.5 per cent. However, the balance of what we are trading has changed. There is a specific challenge with meat preparations such as sausages and mince. We cannot export those into the EU at all, so there has been a change in how some of our exporters manage those products to ensure that they can still service the contracts that they have.

At the broadest level, the changes have added significant cost, which has, along with other increasing on-costs in the past four years, created

a really challenging business environment, especially for our processors and manufacturers.

The Convener: Thank you for those opening statements.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): In your written evidence, and in some of your comments today, you have outlined where there have been non-tariff barriers or other challenges. QMS has said that the change in the rules for exporting processed meats to the EU market has meant that Scottish suppliers are no longer able to export fresh mince and meat preparations, such as sausages, to the EU.

To what extent have those impacts changed what the agriculture sector in Scotland is focused on? Have you seen a significant shift in the mix of agricultural produce that farmers and so on are focused on, and have you seen any impact on the domestic market? In other words, is the agriculture sector trying to create more of a market in Scotland in order to avoid having to export?

Sarah Millar: The red-meat sector is almost unique in that, although we are a manufacturer, we are the exact opposite of other manufacturers—car manufacturers, for example—in that we start with whole carcasses and the trick to maximising its value is in splitting it into as many pieces as possible and finding the right market for each of the individual products. The challenge with EU exit and the change in product balance is that it affects the carcass balance element.

The impact on producers has been limited, to a degree, but the change has created additional cost and complexity at the processor level, at which work has had to be done to rebalance the carcass products into different markets. Meat preparations and the sausage market are the easiest places to do that. Those products tend to be traded more widely because they represent a larger amount of the carcass. Now, we are seeing bone-in whole sides or other whole parts of the beef carcass being traded into Europe, then minced over there. There has been a realignment of the supply chain, rather than a change in what is happening at farm level. That cost has been borne by the post-farm-gate supply chain, in our case.

Jonnie Hall: To complement Sarah's comments, and looking at the agricultural profile of Scotland and what we produced pre-Brexit, pre-TCA and what we are producing now, I agree that there is very little change at farm level. There has not really been a material change in what Scottish agriculture does, and there are various reasons for that.

The profile of Scottish agriculture is determined more by topography, weather and domestic agricultural support than it is by our trading

arrangements with the EU. Nevertheless, pre-TCA we were all mindful that EU exit might have a significant impact on certain sectors—in particular, those that are of importance to Scottish agriculture. At one point, we were all thinking that the sheep-meat sector—in particular, production and exporting of lamb—would be decimated. We were all planning for that, but that has not transpired because of other market forces and issues.

On the question whether Brexit has had a direct impact on what farmers are doing, I would say that, largely, it has not, but some sectors of Scottish agriculture are still struggling because of the lack of movement of people and labour issues. I am referring to soft fruit and vegetable production. Fruit and veg are extremely high-value crops that are very important to the total output of Scottish agriculture. Approximately 1 per cent of Scotland's land mass is used for soft fruit and veg, but that accounts for about 16 per cent of total output from agriculture.

The sector is crucial and is reliant on seasonal workers. We know there have been challenges and issues with that for producers, which is, arguably, forcing their hand, to a degree, in respect of what else they might do. It would be relatively easy—because of uncertainty around movement of people—simply to stop producing high-value fruit and veg and to grow grain instead, for example. Therefore, there are some inherent risks that we are aware of.

That is only about the farm side of the farm gate: there are other challenges and issues beyond the farm gate for the processing sector and into the supply chain related to movement of people. I am sure that we will go on to discuss that this morning.

Ed Barker: To finish off, I say that we have seen challenges, particularly in the cereal sector, where there was a big opportunity five or six years ago for more growers to consider growing break crops. In Scotland and the UK, we are quite reliant on two crops—wheat and barley. The supply chain would like a more diverse cropping rotation, which is good for soil and great for farm management. However, because of a number of market-based issues, there has been a push towards those two crops.

09:15

EU exit has definitely made growing what we call minor-use crops or break crops a lot more difficult. Those crops include oil seeds and pulses, which obviously have a huge benefit for the soil and for which there is a growing market. Because of EU exit, we have to register our chemicals separately under the GB system for registration,

evaluation, authorisation and restriction of chemicals. The costs of importing high-quality seeds has gone up, and we also need to export seeds so that there is a two-way flow of trade. If we try to move into other crops, it is disproportionately expensive to bring them into GB. Because it is a smaller sector, it is more expensive for the wider agribusiness sector to support it. That is what we are finding all the time.

Growing of oats is another good example. It is, of course, hugely significant for the Scottish economy. We also know that a number of seed businesses in Scotland are not offering contracts to individual farmers because they are worried about being able to find a market in the EU if they cannot complete orders in GB. There has probably been a consolidation towards two crops, despite the fact that we are, for a number of reasons, doing all that we can to diversify.

Kate Forbes: I will ask a follow-up question. Do you see any positive changes happening? For example, are the non-tariff barriers becoming smoother? Do you see any hope on the horizon that issues around costs will reduce?

I will also put to you a controversial question that I have asked other people who have given evidence. Do you have confidence that decision makers are going to be more inclined to make changes because of what the sector is saying, or will it just boil down to straight-up politics?

Ed Barker: On the first question, I would say that things have improved, but that is largely a result of the attitude of businesses in trying to resolve the problems that they have faced. I am always amazed by how AIC members work through issues, especially when an issue is presented to them for the first time.

A number of businesses in Scotland are quite export-oriented. Animal feeds is a high-value area, but the volume of animal feeds is small, particularly if they are composite products. Being able to work with and have dialogue with EU member states' versions of Food Standards Scotland and Science and Advice for Scottish Agriculture has helped individual businesses, which have, in turn, helped the wider sector just by being the first to undertake the leg work and go through certification. Of course, there are still fundamental challenges.

On the second question about confidence, it is inherently political when we have discussions at operational level with civil servants or agency staff. They understand that, but there is also a lack of necessary resource, given that we are, in effect, replicating many functions that were once done by the European Commission and its agencies. There is a focus on just doing what can be done in the here and now, rather than on taking a step back

and looking at the wider picture of how we can work together across all sectors and agencies and come up with a fundamental approach. That is why we support the prioritisation of a veterinary agreement with the EU.

Jonnie Hall: I do not think that the direct implications of the TCA on individual agricultural businesses is of significance at the moment. The implications are more in the space where AIC and QMS are.

Nevertheless, to pick up a point that Ed Barker made in his initial comments about regulatory divergence, that has always given me cause for concern. If I may say so, without my being political, the situation does become slightly political. Since the UK has withdrawn from the EU, we are starting to see examples, which Ed referred to, of regulatory divergence from the EU. The Scottish Government's commitment to remaining aligned with the EU, where possible, and to keeping pace with changes in the EU, has started to expose tensions and pressures—not necessarily in trade between Scotland and/or the UK and the EU, but within the UK internal market.

I am—noting the provisions in the United Kingdom Internal Market Act 2020 on non-discrimination, mutual recognition and so on—mindful of what it might look like if we start to get significant divergence in regulation and agricultural support within the UK. I am conscious of where that might place Scottish agricultural businesses in the internal market as much as I am of anything to do with our arrangements for trade with the EU—or, indeed, of the impact of free-trade agreements with non-EU countries, which also comes into the equation.

Sarah Millar: Have things improved from the perspective of our businesses? On day zero we were talking about embedding a whole set of new processes and an approach to dealing with a significant part of the market. Things could only improve from where we were on day zero.

Even in the past nine months, two lorries were held up at a checkpoint in France in one weekend, which meant that about £250,000 of stock had to be written off. They were carrying a fresh product that is not easy to store. Meat, in particular, needs to be held at certain temperatures. Any time that is challenged will involve large volumes and large values of products. Going back to the risks that businesses face in accessing the market, I would say that things have got better, but the issues are not totally resolved.

Ed Barker mentioned the veterinary agreement. At the moment, at least 15 per cent of shipments have to be checked: that is the EU baseline. To give an example, I point out the EU's veterinary agreement with New Zealand, which means that

only 2 per cent of its imports are checked, which will reduce to 1 per cent. Even with the new border target operating model, we will not get down to 2 per cent, but it would certainly help our businesses in reducing cost and reducing risk to move towards the 2 per cent level that such a veterinary agreement would give. We would definitely view that as favourable.

Mark Ruskell (Mid Scotland and Fife) (Green): I have a couple of follow-up points. Ed Barker and Sarah Millar spoke about the need for a veterinary agreement. Are we quite far away from striking a veterinary agreement? There are already models in place—you mentioned New Zealand and Switzerland—and it is a relatively short leap to securing an agreement that could help the sector.

I should declare that I am an honorary associate member of the British Veterinary Association.

Sarah Millar: The issue is twofold. Part of the challenge is that, until now, goods coming into the UK have not been subject to any level of check or inspection, which has created a very unequal operating environment for businesses. The border target operating model will give a level of checks for imports, so there will probably be less of a need, in some people's eyes, to have a veterinary agreement: they will see the border target operating model as offering part of what an agreement would offer.

The operating model will reduce the current level of checks from 15 per cent, but where we would like to be—the 2 per cent level that some of our competitors are afforded—is still a long way off. On the question of what we can do to reduce the risk and the cost to businesses, that lower level is certainly what we would like to see, but without increasing risk to consumers. Ultimately, the checks and balances exist to protect consumers. It is a matter of striking a balance and creating an equal trading environment for businesses in Scotland.

Mark Ruskell: Is the point that the border target operating model needs to be bedded in and assessed before the argument might switch towards the potential need for a veterinary agreement?

Sarah Millar: Having the border target operating model will help to even out the playing field for imports, but I do not think that we should rely on it to level the playing field for exporting.

Jonnie Hall: I would add, however, that the border target operating model is much delayed—it is way overdue. As Sarah Millar said, we have been dealing for a number of years with an asymmetric situation regarding imports from the EU and exports to it. That should have been addressed a long time ago. It will still take some

time to bed in—if that is the right expression—and to ensure that we have equity in the flow of goods and services.

Mark Ruskell: Do you see a potential conclusion to that bedding in ahead of the TCA agreement being fully revised? I am trying to work out where the issue sits within the agenda for that negotiation and whether there will be certainty as to what an appropriate model is and evidence to back that up.

Jonnie Hall: It is very difficult to predict how long it will be until that process is really working to its best effect for all the interested parties. It is very difficult to put a timeframe on that. If there are any moves to review or revise the TCA, would those be based on what will still be a very fluid and imperfect situation? I do not know. That is difficult to predict.

We are moving in the right direction. As I said, we have all been calling for that to be put in place, but we are still not there yet, it is still not fully implemented and there are still the outstanding issues that Sarah Millar referred to. The more work that we can do in that respect, the better.

We also still have questions about what resources will be put into the border target operating model and about resources for the UK Border Force. From a biosecurity point of view, illegal imports—if that is the right expression—remain a significant concern. It is one thing to do the right and appropriate checks on legitimate consignments, but other things may be coming into the UK too. There are serious risks, such as the risk of African swine fever from illegal imports of pork products. That remains a significant concern for us all.

Ed Barker: It is probably worth adding that the target operating model is designed to take the same approach to all third countries, with the EU and North America all being treated in the same way. That is an understandable principle if you are to be outside the EU. However, as Jonnie Hall said, it has taken a long time to phase that in across different products. I have lost count of the number of delays that we have had—I think that we are up to five or six—or how many iterations there have been of the operating model.

Because there are so many product types, import destination types and locations, the guidance has to keep being revised and reissued. A lot of the operators at points of import, such as border control posts, are private entities, so the guidance has to keep evolving. Even though we are likely to have further checks later this year, there is a constant flow of information and questions with industry and organisations that represent business in areas such as fresh produce or pet food, particularly those that have

phytosanitary and health certification requirements. There is an on-going process, because we are trying to start something very new that has been introduced in a piecemeal fashion.

To go back to Mark Ruskell's question about a veterinary agreement, that should start as soon as possible. Nothing moves through the EU at pace, which is understandable. Veterinary agreements are serious things to organise and negotiate. We can look at other countries that have negotiated those: Switzerland has a number of mini agreements and New Zealand is another. We have to begin that discussion right away and from first principles, because that discussion and agreement will not happen quickly.

It is possible to have our own operating model with the rest of the world while still having a separate veterinary arrangement with the EU, which is our biggest trading customer for agricultural goods. The two can work side by side.

Mark Ruskell: I have other questions, but I can come back in after Alexander Stewart.

Alexander Stewart (Mid Scotland and Fife) (Con): You have outlined the challenges that you all face and the difference between where you are now compared to where you were or might have been. There was huge speculation at the beginning about where we would go and what would happen.

Your organisations have been tremendously resilient as you have managed that potential crisis and averted some of the other crises that might have happened during the process. My feeling from what you have said today is that we are in a slightly better place than where we could have been, but that we are still nowhere near where we want to be, and that we are trying to balance that.

09:30

From what QMS has said, it seems that larger organisations managed to be more resilient but smaller ones were captured in the crossfire of it all. Has change now started to materialise or have we lost the small people completely? Have they managed to survive, or have they been taken over by other organisations? It would be useful to hear how the sector is working.

Mr Hall spoke about the potential decimation of farming. We know that the future of the soft fruit and vegetables sector presents major issues. What measures are still required to ensure that inroads continue to be made and that the sector can thrive? We all want that to happen; we do not want to hear that those crops are not being processed or picked. We need to find solutions to those problems. It would be good to get a flavour of your views on that.

Sarah Millar: I will take the first question. We have some businesses that are no longer exporting to the EU and have removed themselves from that market. I have had to look at new distribution routes in the UK for product that previously went to customers such as the highest-value Michelin-starred restaurants that were looking for prime Scotch beef fillet, which we know is in high demand overseas. Those meat businesses have had to look at other markets.

As Jonnie Hall alluded to, in the intervening year, we have seen wider geopolitical movements. We are short of beef globally, never mind in the UK, which has meant that those markets are there at the moment. However, in the long term, those developments have in effect removed a level of resilience from businesses. We would not like to see that, but at the moment they have a solution to a degree.

As we alluded to, the big challenge in planning for day zero on EU exit back in 2019 was all about the lamb market. We are a net exporter of lamb to the EU. Almost every year since we came out of the EU, and this year in particular, there has been record trade in the sheep sector. Again, that has been driven by wider geopolitical movements. In the past 12 months, though, we have had a reduced lamb crop and Europe has also seen such a reduction, so lamb meat is in demand. We have been able to increase the volume of our whole-carcass exports to the EU, but that would have happened anyway.

We had not experienced that set of circumstances previously, but it has now occurred because of those wider movements. We might use that old saying, "Events, dear boy, events." There are the challenges of EU exit, there is friction and there is cost, but there is also demand in that market. However, that is not to say that, in a different set of circumstances, things might not have been as they are just now.

Jonnie Hall: From an agricultural point of view, time and again over decades, Scottish agriculture has exhibited extraordinary resilience and adaptability in the face of economic, environmental and political challenges. It is difficult to separate the implications of where we are—whether the TCA operates effectively, whether it is better than it could have been, and other hypothetical questions—from many other factors that we know are having a significant impact on Scottish agriculture. Not the least of those are the big rise in input costs that we have witnessed over the past two years, which in many ways has been caused by global forces, plus the changing environment in which we operate, in terms of our climate, and the significant uncertainty about future support, what will replace the common agricultural policy and how it might bed in.

Nevertheless, I remain confident that Scottish agriculture will adapt and, ultimately, thrive whichever situation presents itself. My plea to policy makers and decision takers is that we should focus on what we do really well and do that to the best of our ability. We must also think about our domestic markets, by which I mean the UK market as much as anything else. How do we make the most of those, as well as other export opportunities?

Our trading relationship with the EU is not the be-all and end-all. Therefore, yes, it is an important issue—I am not dismissing it in any way—but many other things will influence our agri-food sector in Scotland, and we need to be mindful of those other influences whenever we look at whether the TCA could be improved or changed, or whatever it might be.

Alexander Stewart: You talked about the friction that has occurred. There has continued to be friction in the sector. There has even been a call to arms in the agriculture sector to stand up and shout the case. There have been demonstrations and protests, and all that has put the sector into a slightly different vein with regard to managing and engaging with policy makers or decision makers. That has been challenging for you, but you have also wanted to be heard, and it is important that you are.

Jonnie Hall: There is absolutely no doubt that farmers and crofters across Scotland—indeed, across the UK—are feeling threatened to a degree, but I put very little of that threat and pressure down to things such as the TCA. Lots of other issues are driving those concerns, including things that we can address with the right engagement at political level with industry and so on. We are doing that to a large extent. We are looking at how well our supply chains function internally, ensuring equity in those supply chains and so on.

There is a great opportunity in Scotland through things such as the Good Food Nation (Scotland) Act 2022. We have the Agriculture and Rural Communities (Scotland) Bill, which is concerned with how agriculture will be supported and enabled to deliver high-quality food production alongside delivering on climate and biodiversity targets. Getting those things to align will be far more important to the future prosperity of Scottish agriculture—and, indeed, the agri-food sector, which is so important to Scotland's future—than things that could or could not be improved about the TCA.

As I said, I am not dismissing the importance of the TCA, but there are so many other things that we need to take into account. It is very difficult to say that, if we sorted out the TCA, everything else would be okay—far from it.

Sarah Millar: Jonnie Hall makes a really important point because, in essence, alongside triggering the TCA, EU exit generated a raft of legislative and regulatory change. For a business at the centre of that, it is about not just how you trade but how you do business. The rate of change during some of the geopolitical movements that we have had since 2020—Covid, the cost of living crisis and war—has created a really difficult business environment. Who would ever have thought that we would look back at 2019 and think that the situation then looked certain? However, it does, compared to where businesses are now. We must be mindful that, if you are running a business with that risk profile, you look to de-risk wherever you can.

Jonnie Hall: Sarah Millar just talked about a lack of certainty or the degree of uncertainty. That feeling really is running right through agriculture. I cannot stress enough that that is probably a bigger driver for individuals thinking, “What do I do next?” Uncertainty is not good for business in any sense. EU exit, the TCA and various other things around that have exacerbated that uncertainty in recent times. We need to get to a place where we are dealing with a more certain environment, although I totally accept that things are never completely certain.

It is ironic, in some ways, that we bemoaned the EU and everything that it gave us through the common agricultural policy and the bureaucracy and regulation, but it gave us absolute certainty in many ways. We knew the parameters that we were working within, and we got on with it. Now, it is actually quite a brave new world in which we have to do an awful lot of thinking ourselves, and that is quite challenging in some ways.

Keith Brown (Clackmannanshire and Dunblane) (SNP): I apologise for being late, convener, and I apologise to the panel as well. Even from the part of the meeting that I have listened to, the situation seems disastrous, to be honest. Continual issues of guidance and regulation make for a very hard environment to work in.

However, to stick with EU departure and the TCA, I have two points. First, you mentioned that the lack of any kind of formal monitoring of divergence by the UK Government was crucial. The committee tries to carry out such monitoring, and the Scottish Government is committed to doing that, too. Are those commitments irrelevant? Does the UK have to do that monitoring, because of the relationship with the EU?

Secondly, on the point that you made about uncertainty, I think that most people never saw Brexit coming—not far in advance, anyway—and I predict that most people will not see what will happen next. Things may change very quickly. For

example, would going back into the single market change things? It would be disruptive, of course, as a further change, but would it eliminate some of the current problems, or is full EU membership required in order to effect such a change?

Those are my two questions. The first is, is there value to your organisations in committee and Scottish Government monitoring of divergence and the attempt on the part of the Scottish Government to limit divergence, or does it have to be the UK that monitors that? The second is, what might the effect be of going into the single market?

Ed Barker: The monitoring work is really valuable and should not be underestimated, whether it concerns large policy issues that emerge between the EU and Scotland or more detail when it comes to specific standards that are introduced; for example, if the EU withdraws a key substance or product, we have to keep track of that. The work that has taken place in organisations such as SASA and Food Standards Scotland has been very valuable.

Jonnie Hall touched on a really important point: the internal market of the UK. Northern Ireland, which we have not yet mentioned, is a huge part of a lot of AIC Scotland members’ export business. That has been curtailed massively—particularly in animal feeds, for example, and seed.

We also have to look at whether the internal market is on top of EU-Scotland and EU-UK divergence. The origin of that probably has to be Whitehall, because that is where the on-going work has to take place.

The vast majority, if not all, of AIC Scotland member businesses are, almost certainly, trading within other parts of the UK. That is the reality. Inevitably, a lot of them have other offices around the UK, will simply be buying from English farmers, or will be buying from Scottish farmers and selling into England where there is a market—particularly in seed, for example. For us, therefore, that monitoring work is at least the starting point, because, at the moment, nothing is being measured in that regard and we have no idea about the total divergence that has taken place. We in business are having to do that. The work in Scotland to look at divergence is very welcome, but it is limited to only a part of AIC business more broadly.

The situation is very piecemeal. Other projects are taking place elsewhere. Northern Ireland has been doing some work, as have some parts of the Food Standards Agency in England. That is fine for certain products and scope, but action is completely lacking for whole other parts of the economy. It needs to be co-ordinated. That is the starting point that we need.

On things such as moving towards a single market, discussions are very political. Clearly, the single market makes it easier to trade goods but, as we said, a veterinary agreement is probably the best way to start that process—almost to platform it, if you like, as a lead-in, because we should not underestimate the impact of the divergence of the past four or five years. It would take considerable time to converge, if you like, from where we have been, because divergence has been either wilful, by the UK Government, or passive, whereby the EU has carried on regulating, which is understandable, and we have done nothing either in Scotland or the UK, purely because we have not had a mandate to do anything.

Jonnie Hall: I agree with Ed Barker that monitoring of divergence is absolutely critical. I am not really sure whether there would be any advantage or disadvantage depending on whether that takes place through the Scottish Government and this Parliament or is a Whitehall function, but it should probably be done at UK level, first and foremost. It is critical to understand the implications.

09:45

I appreciate that my other point is somewhat political, but, if Scotland were to return to the EU and re-enter the single market, I think that would be a very different single market. That is partly because it is not a matter of if, but of when the likes of Moldova and Ukraine become EU members, which will change the agrifood dynamic of the single market. I am not saying that that will be a bad thing, but the context will change significantly.

Keith Brown: Mr Barker said that you, rather than Government or anyone else, would be aware of points of divergence. Is there any point of divergence on which you have made representations to the Scottish Government and that the Government would be able to address?

I appreciate the huge breadth of the issue and that, even if you do nothing at all, you will diverge, because of the reasons already mentioned. Is there any obvious point of divergence that has caused you concern, that you have made representations on and that might be within the gift of the Scottish Government to address?

Ed Barker: There are times when we talk specifically to the Scottish Government. Fish feed is a good example: we have a £600 million fish feed sector, which is predominantly based in Scotland. When sectors are particularly concentrated in Scotland, our representations are more impactful when made through the Scottish Government. It is the same for the grass seed and forage sectors.

The Scottish Government, particularly through Food Standards Scotland, has been really supportive and helpful in working with us to identify specific product sectors. There is a general range of products across the livestock and fish sectors, but we have to be specific and targeted, because the agencies within Scotland have limited resources to deal with a volume of work. As Sarah Millar said, we have limited veterinary capability, which has impacted on fish feed exports from Scotland to the EU and Scandinavia. That is a resourcing issue and we cannot move past it.

Information sharing is valuable, but, when dealing with either the European Commission or with individual EU member states, Westminster is the sovereign representative of the UK and can make representations through the TCA. I would argue that that is not really functioning as an approach to SPS issues, which are often dealt with bilaterally between individual member states. Given how long that takes, either we or the member country will just get on with it and try to do it directly ourselves, because that is how business tries to operate.

Mark Ruskell: I am interested in your overall views about the direction of policy within the European Union at the moment. I am hearing that divergence causes friction for trade and that having different standards can cause issues at borders. Do you feel that the decisions on regulatory standards that are being made in Europe at the moment are moving in the right direction for your sectors, or do you feel that there is policy divergence?

I can give one example. I know that beekeepers across the UK and Europe are concerned about adulterated honey and have called for country of origin labelling for honey. The European Union has moved quite quickly on that, through the honey directive, and is also looking at other import issues connected with the breakfast directives. However, there seems to be no appetite from the Department for the Environment, Food and Rural Affairs to move towards introducing that sort of regulatory standard.

That may be quite a niche example, but what are your overall thoughts? I should declare an interest because I am a beekeeper, although I do not produce honey in any volume for export. The issue has been raised with me and is one example of an area where the European Union is taking a stand and moving forward with regulation.

Ed Barker: I am afraid that it is a time and resource issue, certainly within DEFRA and Westminster. The European Commission covers multiple sectors at the same time. AIC is a member of three European associations, and I sit on the board of one of them. There is a constant

volume of new regulated issues coming through, whether that is on policy, such as the farm to fork strategy and the EU's green deal, or very niche-specific sectors such as honey.

An interesting example involves new technologies for regulated products or novel foods, such as the use of insects in animal feeds. Regulated products can also be cannabinoid products. The EU is regulating on those products because it has the European Food Safety Authority and the resources to do that. We are finding that, within DEFRA—and, by extension, the FSA and FSS—there is not the time available to put all of those new applications through the system. Although FSS could regulate by itself, that does not go that far because that would leave Scotland—but not the rest of the UK—able to use certain products or regulate in certain areas. Businesses such as ours see that as a very small market to operate in, and we would also have to respect the United Kingdom Internal Market Act 2020.

It comes back to the issue of prioritisation and the immediate issues that need to be resolved. The aspirational, forward-looking regulatory policies are simply joining the back of a very long queue. We worked out that, at the current rate that applications are getting through the FSA, it will take about 18 years to get a regulated product through, so that gives you an indication.

Mark Ruskell: Therefore, you are saying that we are getting divergence, but there is a lack of capacity to deal with all of those multifarious issues, of which I have raised one, that exist within the food sector.

Ed Barker: Yes.

Jonnie Hall: I agree. There is a raft of regulations in and around agriculture, the environment related to that, animal health and welfare and everything that you can think of in relation to the food supply chain. I do not think there has been capacity in DEFRA and other departments to deal with those issues. Again, I am probably straying into politics, but that might have been one of the reasons why the Retained EU Law (Revocation and Reform) Act 2023, which was introduced in Westminster two years ago, was trying to achieve a rapid move to a point where the UK could say, "This is what we do not need any more, but we will keep this." That gave us significant cause for concern, because that was going to be a rush job. There was meant to be a sunset clause attached to that, but we thought, "Hang on a minute—you are not going to do that particular piece of work justice if you do it simply through political expediency", if I can be allowed to say that. There are big causes for concern there.

It is also somewhat frustrating when we look at what is happening in Europe around things such as emissions trading schemes and the carbon border adjustment mechanism. In many ways, that was and is happening and would have been relatively easy to adapt to if required, yet DEFRA in the UK—and, to a degree, the Scottish Government—are having to replicate something similar, but not quite the same. It is frustrating that we are doing an awful lot of things that Europe is doing, in order to keep pace with Europe, but doing so seems to absorb an awful lot of resource, time and energy. Maybe I am just frustrated in my own capacity. I apologise for straying off track.

Sarah Millar: I will build on that from a slightly different angle. The area of livestock welfare is absolutely paramount in everything that we do. The health and welfare of the livestock is what results in Scotland's high-quality produce. One of the challenges is that a lot of the medicines that we use come from global pharmaceutical companies. Previously, authorisations for those medicines were granted on a European basis, but now, we have a British regulator. However, in some cases, businesses have looked at the size of the British market and said, "That adds a cost level for our business that means that the market is not worth going into," which then limits the availability of products to our farmers and increases the prices of existing products that are left on the market. There have also been, at times, shortfalls of specific products at pinch points in the year, such as last year's lambing time.

That is an example of a side of the coin that we have not explored. The ability to produce good food is reliant on non-food imported products coming in through some of Ed Barker's supply chain. The challenges that those businesses face in coming in—not just in getting across the border, but also on the regulatory side—result in a bigger challenge for other businesses to use them.

Mark Ruskell: Is that a policy divergence, or is the fact that we need different regulatory regimes just the consequence of Brexit? The registration, evaluation, authorisation and restriction of chemicals is an example of a duplicate regime running alongside another one. Are there any fundamental differences between the EU and the UK around how we regulate and go forward with policy, or is the issue more about the fact that we have duplicate regulatory structures and friction and, as has been said, a lack of capacity to then keep pace with all the things, from honey production to fertilisers and everything else?

Ed Barker: It is about the duplication, essentially. Of course, we are doing things slightly differently. We are slightly out of sync around active substances, herbicides and pesticides, with different withdrawal limits and timings of when the

renewals come up. However, the information and data that is used in a lot of those assessments is still fundamentally the same. We have not completely changed our regulatory approach overnight, and the EU has not made a fundamental change either.

As Jonnie Hall said really well, the issue is about certainty. For the past few years, we as an industry have been reliant on quick fixes and patch-ups for things that have been sprung on us at short notice. Last year, we had this issue with imported seed treatments—that is, seed treated with a herbicide or pesticide, which is particularly important in the maize sector. The National Farmers Union, the NFUS and the whole industry had to fight to get Westminster to extend the rules on registrations of treated seed for another two years, or we would have had a cliff edge from 1 January this year, which would have had a massive impact on the dairy sector.

We had an issue, too, around the renewable energy directive relating to exporting cereals into the EU for biofuels—trying to negotiate a fix with the EU on that market access took the best part of six or seven months of our lives last year. Those incremental patch-ups really do not help with the long-term security and predictability that the supply chain needs.

Mark Ruskell: Are there fundamental policy differences in any of those spaces?

Ed Barker: There are some, but I would say that they are the minority. The UK might well choose to actively diverge from CBAM, for example. I would argue that there has been active divergence in precision breeding and gene editing—the EU has approached its NGTs in a slightly different way than Westminster has. Deforestation—with imports of goods such as soya and cocoa—is another area where we are doing the same thing but implementing it differently. I do not think that the fundamental policy aspirations are different, but, in some cases, the mechanisms to get there are, which might be wilful.

Kate Forbes: I do not know whether this question is directly relevant, but it is in the general scheme of things. Are there any winners in Scottish agriculture when it comes to the free trade agreements such as those with Australia and New Zealand?

Jonnie Hall: From the primary producer's point of view, no. In the longer term, given that whisky will clearly benefit from them, you could argue that FTAs will provide certainty and confidence for those growing malting barley for the whisky industry. However, as far as we are concerned, for most sectors that will be impacted by the cumulative effects of the free trade agreements,

particularly with Australia and New Zealand—especially around red meat, dairy and horticulture and grain to a degree—there is no win in relation to the FTAs.

10:00

Sarah Millar: From a red meat perspective, I second that. Two things concern us. Jonnie Hall has picked up on one of them, which is the cumulative effect of multiple FTAs giving access to a large proportion of our market.

The second part is the carcass balance piece, which I spoke about earlier. Again, it is about looking not just at what is coming in but at what part of the carcass it is displacing. It might well be that imports from Australia and New Zealand look to displace a lower end of the value chain—so, maybe not your strip loins and fillets—but because you need the whole carcass value to be maximised, those imports actually reduce the total carcass value, particularly as the FTAs have not been done on a whole-carcass basis. That means that Australia and New Zealand could fill containers full of strip loins, for example, and send them over here, and if that challenged part of our market, it would impact our whole-carcass sale, if that makes sense.

Those two things are unique but really important, because of how the red meat supply chain works. There absolutely are opportunities for Scotch beef, Scotch lamb and specially selected pork in high-value markets across the world, but there are risks, which I have described today, around getting those products into those markets. Accessing other parts of the world is, in some cases, easier than accessing the European market, but costs—not just to business, but also to the public purse—are associated with all those markets.

At Food Standards Scotland, we rely on having well-funded bodies to be able to carry out those functions to enable our businesses to export. We have touched on that today: if we really want to become that outward-looking global trader, we need to invest in infrastructure in Scotland, too, to enable us to do that. Our products are in demand, and that is a good thing. However, we need to be able to get those products out into the world at a cost-effective base point.

Kate Forbes: It sounds like you are all in agreement with the Australian Deputy Prime Minister, who said that the big winner was Australia, full stop.

The Convener: There are no further questions from members. It has been a really helpful session.

I have to say that part of my role in the committee is to attend the parliamentary partnership assembly with Europe. Although a time is set for a review of the TCA, there is no consensus on what that means. There is a lot of hope in some areas, but obviously, the Windsor agreement opened up some areas of contention, such as the horizon programme, so we really do not know what the extent of that review might be and how it might help.

Thank you very much for your evidence this morning.

Meeting closed at 10:02.

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