

From: [REDACTED]

Sent: 24 September 2018 11:31

To: [REDACTED]

Subject: RE: UK Agriculture Bill - update as at 24 August

Hi **[REDACTED]**

Please see expanded answer below:

“The UK government introduced its long awaited Agriculture Bill on 12 September. This Bill completely fails to deliver on the promises that the UK Government made to Scotland during the EU referendum campaign, most notably the lack of any guarantee in law that rural Scotland will continue to receive funding at the current levels. In addition, despite the many promises to engage fully with us on the development of this Bill, and despite many hours of discussion at official level, we were only given sight of the final version of the Bill the evening before it was introduced.

The Bill itself in fact rides roughshod over the devolution settlement. Indeed, I have serious concerns that as drafted it allows the UK government to impose unwanted policies and rules on Scottish farmers, in areas of competence that are, and must continue to be, devolved to Scotland. Nobody questions the need for the UK as a whole to comply with WTO rules on farm payments, but the clause in the Bill gives the Secretary of State unilateral powers to set rules that could constrain Scotland’s choice of policies and schemes. Other clauses would let Defra set rules unilaterally on Scottish farmers’ commercial interactions with their customers, and on Producer Organisations in Scotland. Agriculture is a devolved policy area and for the Bill to create UK-wide powers in this way is completely unacceptable”

Cheers,

[REDACTED]

[REDACTED]

UK AGRICULTURE BILL

Top Lines

- The UK Government's agriculture bill completely fails to deliver on promises made to Scotland during the EU referendum.
- This includes the promise from the UK government that Scottish farmers would continue to receive at least the same level of funding as they currently do.
- It rides roughshod over the devolved settlement.
- We have serious concerns that the UK Government could impose unwanted policies and rules on Scottish farmers in areas of devolved competency.
- Until the attempts to grab key powers that impact on farming and food production are addressed we cannot and will not bring forward legislative consent motions for primary Brexit legislation like this.

The UK Agriculture Bill means that the UK government could impose unwanted policies and rules on farmers in areas of devolved competency

- It attempts to grab key powers which impact on farming and food production.
- For example, as drafted, this bill could potentially affect the Scottish Parliament's ability to provide support for active beef and sheep farmers.
- It could also impact on Less Favoured Area Support for farmers working in the toughest areas.
- Defra asserts that the UK-wide powers in its Bill only affect reserved areas, but Scottish Government refutes this absolutely.
- Defra has offered only perfunctory responses to Scotland's arguments.
- For example, Defra asserts that everything to do with World Trade Organisation rules is reserved.
- However, it has always been clear that implementing international obligations in devolved policy areas is a devolved matter.
- We will not be bringing forward legislative consent motions until this is resolved and the Sewell convention is made operable again.

The Scottish Government is considering its options for future legislation against the background of this wider legislative consent issue

- We are not opposed to UK-wide frameworks when in Scotland's interests. We have taken part in discussions in good faith.
- However, frameworks must be agreed, not imposed and must happen in a manner that respects and recognises devolution.
- The Agriculture Bill fails that test and must be amended so that any provisions applying across the UK have been agreed with the devolved administrations.

We are aware Wales published a joint progress report with Defra on discussions to create a UK farm support framework and is taking powers through the Defra Bill.

- As Welsh ministers have acknowledged, Wales is in a very different place from Scotland because Wales voted to leave.
- Scotland voted to remain and our position must be guided by that
- Powers over farm support are devolved and we are clear they should stay devolved
- Just as each part of the UK operates distinct and different CAP schemes now, so we can continue to operate farm support schemes which best support our farming and food production needs and interests in the future.

[REDACTED]

Background

The UK Government introduced its Agriculture Bill on 12 September 2018. It:

a) creates powers in England to create a new policy to replace the EU Common Agricultural Policy after Brexit, and to manage the transition from the CAP,

b) creates similar powers, at their request, for Wales and Northern Ireland (in the case of Wales, as a stopgap till the Welsh Assembly legislates), and

c) creates UK-wide powers in three policy areas which UKG asserts are reserved.

These three areas are:

1. Rules on farm payments needed to comply with WTO obligations;
2. Rules on giving special status to groups of farmers ('Producer Organisations') to exempt them from some parts of competition law;
3. Powers to create statutory codes of fair conduct in agri-food supply chains.

[REDACTED]

Defra previously announced that in England all farm income support will be removed in favour of environmental payments, and the Bill confirms that income support in England will be phased out over 7 years starting 2021.

From: [REDACTED]
Sent: 13 August 2018 17:35
To: [REDACTED]
Subject: FW: UK Agriculture Bill - update

[REDACTED]

Thanks and best wishes,
[REDACTED]

From: [REDACTED]
Sent: 10 August 2018 16:06
To: [REDACTED]
Subject: RE: UK Agriculture Bill - update

[REDACTED]

Best wishes,
[REDACTED]

From: [REDACTED]
Sent: 09 August 2018 18:20
To: [REDACTED]
Subject: RE: UK Agriculture Bill - update

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 09 August 2018 09:46
To: [REDACTED]
Subject: FW: UK Agriculture Bill - update

Colleagues

[REDACTED]

Thanks in advance for your views.

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 08 August 2018 11:26
To: [REDACTED]
Subject: RE: UK Agriculture Bill - update

[REDACTED]

Mr Ewing has noted with thanks. [REDACTED]

Many thanks

[REDACTED]

From: [REDACTED]
Sent: 26 July 2018 15:05
To: Cabinet Secretary for the Rural Economy
Cc: Cabinet Secretary for the Environment, Climate Change and Land Reform; Cabinet Secretary for Government Business and Constitutional Relations; Minister for Rural Affairs and the Natural Environment; [REDACTED]
Subject: RE: UK Agriculture Bill - update

Cabinet Secretary

This is to give you a further update on Defra's Agriculture Bill.

As you know from the 5 July ministerial meeting, Defra are now aiming for the **Bill to be introduced in September**. Today Defra officials told us that introduction may be in w/c 10 September, which would put it before the next ministerial meeting scheduled for 17 September in London.

The **latest Bill text** we have received is attached, which Defra describe as a **near-complete draft** Bill. However significant parts of the Bill are still missing, including for example any provisions on internal market/distortion of competition or on marketing standards.

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 28 June 2018 17:01
To: Cabinet Secretary for the Rural Economy [REDACTED]
Cc: Cabinet Secretary for the Environment, Climate Change and Land Reform
[REDACTED]; Cabinet Secretary for Government Business and Constitutional Relations
[REDACTED]; [REDACTED] Minister for Rural Affairs and the Natural Environment

████████████████████ Cabinet Secretary for Government Business and Constitutional Relations
████████████████████ REDACTED]

Subject: RE: UK Agriculture Bill - update

Cabinet Secretary

Officials took part in a further two and a half hour teleconference on the Agriculture Bill today with Defra, Wales and Northern Ireland. [REDACTED]

In relation to a number of areas, devolved officials noted that the intention seemed to be to give the **Defra Secretary of State powers to take decisions affecting devolved policy**, implemented through secondary legislation. [REDACTED]

There was a great deal of discussion about **process**, [REDACTED]

Defra have suggested a further official-level teleconference on 3 or 4 July. This may be after we have submitted to you the briefing pack for the 5 July ministerial, in which case we will send an addendum following the teleconference.

[REDACTED]

From: [REDACTED]

Sent: 21 June 2018 08:05

To: Cabinet Secretary for the Rural Economy and Connectivity

Cc: Cabinet Secretary for the Environment, Climate Change and Land Reform; Minister for UK Negotiations on Scotland's Place in Europe; [REDACTED]

Subject: RE: UK Agriculture Bill - update

Cabinet Secretary

As foreseen in my note from Monday, officials took part in an all-day (10.00 to 17.00) teleconference with Defra, Wales and Northern Ireland yesterday, 20 June [REDACTED] This note is to summarise the discussions at the teleconference; advice on how SG might respond will be prepared separately in collaboration with relevant teams including CUKR and DEXA.

Timetable and process

Defra officials said the Bill is to be introduced on 12 July or during the week commencing 16 July, i.e. either three or four weeks from now.

[REDACTED]

Within SG, officials will urgently prepare advice on how SG might respond to the Bill, taking account of earlier discussions involving SpAds and SGLD on the potential legislative routes for Scottish Ministers to get agriculture policy powers.

Proposed content of the Bill

The number of draft clauses shared with DAs still stands at three. Compared Monday's note, Defra shared one additional draft clause (on WTO compliance) but they withdrew one of the three that had been shared previously. [REDACTED]

Transition provisions

Defra said the Bill will contain the powers they expect to need to manage their planned post-Brexit transition in England. This means principally powers to amend retained EU law in relation to Pillar 1 direct payments, Pillar 2 rural development, and the 'horizontal' CAP rules that apply to both Pillars. However they seem to envisage also using this Bill to ensure there is no risk of hiatus in Pillar 1 payments immediately on Brexit (or after an EU-UK transition period if one is agreed). A draft clause had previously been shared on direct payments, no further clauses were shared. DAs noted that the CAP 'horizontal' regulation includes a complex mixture of rules that apply to individual farms, to individual paying agencies or to an entire member state.

[REDACTED]

[REDACTED]

From: [REDACTED]

Sent: 18 June 2018 16:19

To: Cabinet Secretary for the Rural Economy and Connectivity

Cc: Cabinet Secretary for the Environment, Climate Change and Land Reform; Minister for UK Negotiations on Scotland's Place in Europe; [REDACTED]

Subject: UK Agriculture Bill - update

Cabinet Secretary

1. You are aware that Defra recently began inviting devolved officials to telephone discussions about the UK Agriculture Bill. This note is **to update you on the information we have received from Defra to date, and to alert you to what may be a significant acceleration this week.**

2. [REDACTED]

Information received to date

3. To date officials have been involved in two teleconferences with Defra, Wales and Northern Ireland, and one bilateral phone call with Defra – the latest of which took place last Friday, 15 June.

4. [REDACTED]

[REDACTED]

MINISTERIAL MEETING BRIEFING: FERGUS EWING

[REDACTED]

UK Agriculture Bill

The UK Government's agriculture bill completely fails to deliver on promises made to Scotland during the EU referendum, and rides roughshod over the devolution settlement.

I have serious concerns that the Bill could allow the UK Government to impose unwanted policies and rules on Scottish farmers in areas of devolved competency.

For example, as drafted, in terms of WTO compliance it grants the Secretary of State unilateral powers to set rules that could constrain Scotland's choice of policies and schemes.

[REDACTED]

UK AGRICULTURE BILL

Top Lines

- The UK Government's agriculture bill completely fails to deliver on promises made to Scotland during the EU referendum.
- This includes the promise from the UK government that Scottish farmers would continue to receive at least the same level of funding as they currently do.
- It rides roughshod over the devolved settlement.
- We have serious concerns that the UK Government could impose unwanted policies and rules on Scottish farmers in areas of devolved competency.
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The UK Agriculture Bill means that the UK government could impose unwanted policies and rules on farmers in areas of devolved competency

- It attempts to grab key powers which impact on farming and food production.
- For example, as drafted, this bill could potentially affect the Scottish Parliament's ability to provide support for active beef and sheep farmers.
- It could also impact on Less Favoured Area Support for farmers working in the toughest areas.
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- Defra has offered only perfunctory responses to Scotland's arguments.
- For example, Defra asserts that everything to do with World Trade Organisation rules is reserved.
- However, it has always been clear that implementing international obligations in devolved policy areas is a devolved matter.
- We will not be bringing forward legislative consent motions until this is resolved and the Sewell convention is made operable again.

The Scottish Government is considering its options for future legislation against the background of this wider legislative consent issue

- We are not opposed to UK-wide frameworks when in Scotland's interests. We have taken part in discussions in good faith.
- However, frameworks must be agreed, not imposed and must happen in a manner that respects and recognises devolution.
- The Agriculture Bill fails that test and must be amended so that any provisions applying across the UK have been agreed with the devolved administrations.

We are aware Wales published a joint progress report with Defra on discussions to create a UK farm support framework and is taking powers through the Defra Bill.

- As Welsh ministers have acknowledged, Wales is in a very different place from Scotland because Wales voted to leave.
- Scotland voted to remain and our position must be guided by that
- Powers over farm support are devolved and we are clear they should stay devolved
- Just as each part of the UK operates distinct and different CAP schemes now, so we can continue to operate farm support schemes which best support our farming and food production needs and interests in the future.

The picture being painted, of the choice between a no-deal Brexit or the Chequers Agreement, is a false one

- The NFUS are right to point out that a no-deal Brexit would be disastrous for Scottish farmers.
- But no-one should be fooled into thinking that this makes the Chequers agreement in any way acceptable.
- We will continue to vigorously make the case for continued membership of the EU single market and customs union.

Background

The UK Government introduced its Agriculture Bill on 12 September 2018. It:

- a) creates powers in England to create a new policy to replace the EU Common Agricultural Policy after Brexit, and to manage the transition from the CAP,
- b) creates similar powers, at their request, for Wales and Northern Ireland (in the case of Wales, as a stopgap till the Welsh Assembly legislates), and
- c) creates UK-wide powers in three policy areas which UKG asserts are reserved. These three areas are:
 1. Rules on farm payments needed to comply with WTO obligations;
 2. Rules on giving special status to groups of farmers ('Producer Organisations') to exempt them from some parts of competition law;
 3. Powers to create statutory codes of fair conduct in agri-food supply chains.

[REDACTED]

Defra previously announced that in England all farm income support will be removed in favour of environmental payments, and the Bill confirms that income support in England will be phased out over 7 years starting 2021.

[REDACTED]

UK Agriculture Bill

Top Lines

- We have been pressing the UKG for details of this Bill, which at present – and unless Scottish and Welsh Government amendments to the EU (Withdrawal) Bill are adopted – would seem to affect the policies of the DAs.
- Despite repeated requests, we have received nothing further from Defra regarding either the content of the UKG Agriculture Bill, or details of the proposed transition period.
- ***[REDACTED]***

Background

- The details of the UKG Agriculture Bill, which was announced in last year's Queen's Speech, will greatly affect post-Brexit planning for the agricultural industry.
- ***[REDACTED]***

MINISTERIAL MEETING BRIEFING: FERGUS EWING

[REDACTED]

ANNEX A

[REDACTED]

ANNEX B

Speaking Note

Sent under separate cover.

ANNEX C

DEFRA AGRICULTURE BILL

SG FACTUAL SUMMARY BASED ON VERSION SENT TO DEVOLVED ADMINISTRATIONS 17 JULY 2018

PURPOSE OF THE BILL

The purpose of this Bill is as follows;

1. To give the Defra Secretary of State powers to modify, amend or repeal retained EU Law for England in order to accommodate the measures Defra plan to adopt for an agricultural transition period in England following exit from the EU and the CAP, such as phasing out and replacing direct payments.
2. To give the Defra Secretary of State powers to introduce new financial support schemes etc, in England to facilitate the delivery of a new long-term policy for England along the lines outlined in Defra's Health and Harmony consultation document.
3. Extend some of the powers to Wales and Northern Ireland as requested.
4. To grant the Secretary of State with UK wide powers in areas that the UKG considers are reserved, such as the WTO Agreement on Agriculture, and Producer Organisations. SG does not agree with the UKG assertion that these are reserved issues, see separate note on the Lord Advocate's legal opinion in relation to these issues.
5. Although not a Brexit related issue Defra are planning to include a clause on the Red Meat Levy in the Bill. This clause may not be ready by the time the Bill is

introduced, but Defra have intimated that it will be included as an amendment during the Bill's progress.

PART 1 - NEW FINANCIAL SUPPORT POWERS

Clauses 1 to 3:

These clauses give the Secretary of State powers to make payments to farmers and other rural businesses in several areas, including:

- improving the environment;
- enhancing cultural and natural heritage;
- increasing productivity in agriculture, forestry and primary processing;
- improving animal health and welfare;
- supporting access to the environment;
- climate change prevention and mitigation;
- supporting businesses or communities in rural areas;
- compensating farmers in designated upland areas; and
- supporting persons and groups growing, processing, marketing and distributing edible produce.

These powers, which relate to England only, are intended to cover both the short-term transition period and long-term future policy, and include rules on the forms and conditions for granting support, and on monitoring and enforcing compliance with these rules.

PART 2 - FINANCIAL SUPPORT UNDER COMMON AGRICULTURAL POLICY

DIRECT PAYMENTS

Clauses 4-11:

This section relates to CAP Direct Payments for England, and includes powers for the Secretary of State to allow for the rolling over and continuation of the current basic payment scheme post Brexit, termination of the scheme at the end of its last full scheme year, and a transition period during which direct payments would be phased out and replaced.

This fits with Defra's policy intention of rolling over the direct payment scheme on exit from the EU and phasing out and replacing direct payments during a transition period. These clauses allow the Secretary of State to amend or revoke any legislation relating to direct payments at the end of the transition period in order to facilitate a new policy. Future support payments beyond the end of the transition period would be covered under the Financial Assistance powers in Part 1.

PART 2 - ENGLAND: ABOLITION OF AID FOR FRUIT AND VEGETABLE PRODUCER ORGANISATIONS.

Clause 12: Modification of retained direct EU legislation relating to aid for fruit and vegetable producer organisations: revocation in relation to England

This clause grants the Secretary of State the power to modify retained EU Law in relation to aid for fruit and vegetable producer organisations with the aim of ending of such financial aid. We understand that Defra plan to continue to provide support to fruit and veg producer organisations, but once the already-approved programmes have finished this will be done under the Financial Assistance powers in Part 1 of the Bill.

This clause only relates to financial support for POs, which under the CAP is limited to the fruit and vegetable sector. It does not cover other issues relating to POs, such as their status under competition law – this is dealt with elsewhere in the Bill.

PART 2 - RURAL DEVELOPMENT PROGRAMME

Clause 13: Support for rural development: modification of retained EU law in relation to England.

This clause allows the Secretary of State to modify retained EU law relating to support for Rural Development, to ensure it no longer has effect. Defra plan to provide support for Rural Development in future, and this will be done through the financial assistance powers in Part 1.

PART 3 - COLLECTION AND SHARING OF DATA

Clauses 14-18:

These clauses give the Secretary of State power to ask for information connected to an agri-food supply chain, for such purposes as helping increase productivity, encouraging fairness and transparency, etc., and to impose penalties on those failing to provide such information. This power is intended to be UK wide, and covers both the initial transition period and long term policy.

[REDACTED]

PART 4 – ENFORCEMENT OF [AGRICULTURAL AND ENVIRONMENTAL LAW]

Clauses 19-20: Enforcement powers

These clauses give the Secretary of State powers to enforce regulatory requirements in England, both in the initial transition period and in the long term. A range of methods are specified, from penalties, restrictions and inspections, to powers of entry, prosecution and appeals, and these apply to wide definitions of land, heritage, water, air, plant health and animal health and welfare. The power is also given to establish a regulatory body in order to carry out these functions.

PART 5 – INTERVENTION IN AGRICULTURAL MARKETS

PUBLIC MARKET INTERVENTION AND PRIVATE STORAGE AID: MODIFICATION OF EU LEGISLATION

INTERVENTION & C POWERS: RESPONSE TO DECLARED CRISIS IN AGRICULTURAL MARKETS

Clauses 21 – 26:

[REDACTED]

The clauses convey powers to the Secretary of State to modify retained EU law in relation to public market intervention and private storage aid. **[REDACTED]**

- **[REDACTED]**

PART 6 – COMPETITION

PRODUCER ORGANISATIONS

Clauses 27- 32: official recognition of producer organisations etc. and associated exemptions from competition law

The CAP currently makes provision for the official recognition of producer organisations and interbranch organisations, which gives them certain benefits, and the rules governing the operation of these organisations. An interbranch organisation is similar to a producer organisation but, in addition to farmers, it includes other parts of the supply chain (e.g. farmers plus abattoirs). The benefits of official recognition are: exemption from some elements of competition law; and the ability in certain circumstances to make rules which apply not just to their members but to other producers in the same sector.

These clauses give the Secretary of State power to amend or revoke retained EU law in relation to producer and interbranch organisations, and to introduce new legislation regarding the recognition of and rules governing such organisations, including the extension of the rules to non-members and exemption from competition law. Defra are taking the view that, as this relates to competition law, this is a reserved area. SG and Wales have contested that view **[REDACTED]**

PART 6 - WTO AGREEMENT ON AGRICULTURE

Clause 33: WTO Agreement on Agriculture: regulations

This is an area that Defra argue is reserved as it relates to international obligations. SG and Wales have contested this, and have also questioned the necessity for this clause given that the requirement to meet international obligations is already enshrined in the Devolution Acts.

The clause grants the Secretary of State powers to gather information to allow for the classification and reporting of agricultural support to the WTO. The powers also allow the Secretary of State to set out the total amount of domestic support for agriculture for the whole of the UK, and for England, Scotland, Wales and NI separately. The powers allow

the Secretary of State to define a process for how farm support should be classified for WTO purposes, including dispute resolution. **[REDACTED]**

PART 6 – FAIR DEALING WITH AGRICULTURAL PRODUCERS

Clause 34: Fair dealing obligations of first purchasers of agricultural products ('Statutory Industry Codes')

This clause gives the Secretary of State powers to promote fair contractual dealing by the first purchasers of agricultural products. It is intended for the whole of the UK, and covers both the transition period and longer term policy. It allows obligations to be imposed on the purchaser, including written contracts which may relate to matters such as the quantity and quality of the product, pricing mechanisms and payment, and variation of the contract, as well as the enforcement of compliance with such obligations through a complaints procedure and/or imposition of penalties. It also gives the Secretary of State a duty, before making regulations, to consult either a representative of those likely to be affected, or another appropriate person.

SG is contesting Defra's assertion that this clause is entirely about competition law and is therefore wholly reserved.

PART 7 – FINAL PROVISIONS

Clauses 35-38:

These are general clauses relating to the interpretation and legislative procedures of the Bill. They enable the powers to make regulations to be exercisable by statutory instrument, and set out negative and affirmative resolution procedures. They also state that the Act will come into force two months after the day the Bill is passed, although there are 2 clauses which this commencement is subject to which have not been included in the current draft.

NOT PRESENT IN THE 17 JULY DRAFT, BUT DRAFT CLAUSE CIRCULATED IN LATE AUGUST

Marketing standards

Defra are proposing an England-only clause to establish new marketing standards and carcass classification rules tailored to suit the domestic agricultural market, with these standards superseding the existing European ones over time. Their intention is for these powers to be wider and more flexible than those currently in EU law, so that the Secretary of State can make changes either to keep pace with changes in EU standards made after Brexit, or for internal policy reasons.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ANNEX D

[REDACTED]

ANNEX E

[REDACTED]

ANNEX F

[REDACTED]

From: [REDACTED]

Sent: 24 August 2018 14:21

To: Cabinet Secretary for the Rural Economy [REDACTED]

Cc: Cabinet Secretary for the Environment, Climate Change and Land Reform

[REDACTED]; Cabinet Secretary for Government Business and Constitutional Relations

[REDACTED] Minister for Rural Affairs and the Natural Environment

[REDACTED] [REDACTED]

Subject: UK Agriculture Bill - update as at 24 August

Cabinet Secretary

Further to my email below, this note is to update you on latest developments in relation to the Defra Agriculture Bill.

Summary and process

Defra still say they are hoping to reach agreement with the DAs before their Bill is introduced in w/c 10 Sept. They are now hoping for:

- a) confirmation of whether each DA would or would not like any of the England-only provisions in the Bill to be extended to them;
- b) agreement on the provisions in the Bill which are intended to put in place what Defra sees as the necessary legislative elements of a UK framework on farm support; and
- c) agreement on a policy statement which they have recently decided it would be desirable to issue alongside the Bill.

[REDACTED]

[REDACTED] SG officials have signalled that SG's position on any extension of powers to Scotland is bound up with the wider position on legislative consent for Brexit-related Bills, and that agreement on the framework issues will not be possible if Defra maintains its current stance. More detail is given later in this note.

[REDACTED]

Detail

On a), the possible extension of powers to DAs, as flagged up in my last update, a submission looking at options for Scotland has been drafted and is out for comment before it comes to you. Defra officials have said that if the legislative consent issues were to be resolved this autumn, and if SG were to decide that it would like powers to be extended to Scotland with consent, then this could be done via an amendment to the Bill provided the decision were taken by around the turn of the year.

On b), UK framework issues:

- Defra are now asserting that three issues are fully reserved, and therefore that they can unilaterally adopt provisions in the Bill which will apply UK-wide

and for which powers will rest solely with their Secretary of State. The issues are: compliance with the WTO Agreement on Agriculture; granting official status to farmer producer organisations, which gives them special treatment under competition law; and the power to impose compulsory codes of practice on sectoral supply chains. SG and Wales are both contesting the assertion in relation to the WTO. **[REDACTED]**

- Defra have still not made clear their position on marketing standards, and on market intervention. In these areas, the approach we expect Defra to take is relatively close to what the DAs would want, and so it is possible that agreement could ultimately be reached in these specific areas.

[REDACTED]

Defra say they are drafting a Bill clause on the red meat levy (which is of course not a Brexit issue) as per the agreement at the July Defra/DAs ministerial meeting, but that it may not be ready by the time the Bill is introduced. If that turns out to be the case, they say it would be added later via a government amendment. DAs have said it would be necessary to make this clear at the time of introduction.

Conclusion

You are invited to note this update, **[REDACTED]** and ministerial correspondence from Defra on their Bill. Out of scope

[REDACTED]

From: [REDACTED]

Sent: 31 August 2018 16:13

To: [Redacted]

Subject: Defra Agriculture Bill: Ministerial phone call on Monday

Directors

You'll be copied into the briefing pack for Monday's Ewing-Gove phone call on the Agriculture Bill, but this note is to give you a little additional flavour and to highlight some issues that may have wider implications.

[REDACTED]

The main remaining issues within the Bill are that Defra have drafted a number of clauses to apply UK-wide based on an assertion that they are reserved, **[REDACTED]** If neither side backs down then the outcome may be that Defra introduces the Bill knowing that SG opposes those elements of it. Such an outcome would seem to reduce even further the likelihood of SG wanting to take powers through the Defra Bill, which has implications for the work on options for legislation here in Scotland which I am taking forward principally with ARE and Marine. **[REDACTED]** is that the legislative consent convention is triggered and we will need to table a legislative consent memorandum in the Scottish Parliament quite quickly (but not, or at least not yet, a legislative consent motion).

There are also some related issues which are not actually in the Bill but are worth highlighting.

[REDACTED]

Things are moving fast **[REDACTED]** so watch this space for further updates next week. Also next week we will need to prepare SG's handling plan for when the Bill is introduced.

[REDACTED]