

# NFU Cymru Consultation Response

---

## **The Senedd Economy, Trade and Rural Affairs Committee – Enquiry into Common Frameworks**

NFU Cymru is the voice of Welsh farming, championing, and representing farmers throughout Wales and across all agricultural sectors. NFU Cymru's vision is for a productive, profitable, and progressive farming sector producing world renowned climate friendly food in an environment and landscape that provides habitats for our nature to thrive. Welsh food and farming delivering economic, environmental, cultural, and social benefits for all the people of Wales whilst meeting our own ambition for net zero agriculture by 2040.

1. NFU Cymru very much welcomes the opportunity to provide the Committee with a submission as part of its examination of the Common Frameworks. We consider the fields of agriculture, the environment, and food to be regulatory and policy fields requiring the closest possible levels of co-operation between the UK Government and the devolved governments, as well as between the UK Parliament and the devolved legislatures.
2. NFU Cymru has long recognised the risk of new intra-GB barriers and distortions to trade arising as a result of the UK's departure from the European Union and its single market. We also recognise the risk which unconstrained intra-GB policy divergence presents in terms of the UK's observance of its international obligations, including those deriving from trade agreements.
3. We see common frameworks as particularly important in terms of securing the twin objectives of minimising barriers and distortions to intra-GB trade and ensuring that the UK upholds its current and future obligations at international law, with the GB home nations refraining from acts or omissions which might prejudice our collective access to international export markets.
4. Although international relations are of course not within devolved competence, the implementation and oversight of some of the obligations international treaties give rise to (particularly as they relate to agriculture, food, feed, and the environment) often is, and this will present a challenge in the absence of agreed limits on actions.
5. For the 575 or so farms which straddle Welsh-English border the prospect of unmanaged regulatory divergence between Wales and England risks eroding their competitive position, and for these businesses effective common frameworks are particularly important.

6. It is very important to Wales' farmers that the equivalent basic regulatory requirements are in place in each of the home nations so that we have a largely level playing field with fair competition for the agricultural sector across the UK, and also to ensure that we continue to be able to access vital markets in England, Scotland and Northern Ireland as well as export markets overseas.
7. NFU Cymru's support for Common Frameworks has been and remains predicated on such frameworks being entered into freely, as the result of mutual agreement between the UK and Devolved Governments, and not by any sort of imposition from the centre.
8. Common frameworks should be about setting, by mutual agreement, pre-defined limits for executive action, allowing for the effective harmonisation and co-ordination of policy choices between those made by the UK Government (in relation to England) and the devolved governments of the other home nations.
9. From our early discussions with officials involved with the development of these frameworks, we have been encouraged by the collegiate and co-operative inter-governmental approach that they have described. We hope that this spirit of co-operation will continue at both official and Ministerial level as the frameworks evolve and are operationalised, and this will lead to a re-setting of what have sometimes been strained inter-governmental relations.
10. A number of common frameworks relating to agriculture were only published last month. These are substantive documents which we are currently in the process of evaluating, that process is both incomplete and at different stages for different frameworks.
11. We are pleased to offer the Committee some general comments and observations based on our consideration of the content of these frameworks so far. We would however add that some of these views will represent our early thinking which may develop and evolve further, particularly as we see and learn more about these frameworks and as they are stress-tested.
12. In relation to the Agricultural Support framework a Market Monitoring Group will be tasked with considering whether an adverse event in the agricultural sector might constitute a crisis and whether some of the market management interventions available to Ministers might be deployed in response.
13. We welcome the fact that there is to be a Market Monitoring Group established under the Agricultural Support Framework. We understand it will be open to NFU Cymru and others to make representations to the Market Monitoring Group on adverse market developments. It is however in our view regrettable that there is no formal involvement in the Market Monitoring group for stakeholders such as NFU Cymru, the NFU and the GB levy bodies, who are in possession of considerable expertise and well-developed member communication channels. We believe that this represents a missed opportunity on the part of the Market Monitoring Group.
14. NFU Cymru would stress the need for the Market Monitoring Group to take a proactive stance in terms of surveying and monitoring market developments as difficulties in the agricultural sector can arise quickly and with little warning. Never has

this been truer than at the current time, with domestic markets currently adapting to life outside of the EU, recovering from a pandemic and facing increased volatility because of geopolitical instability.

15. Further to this it will also be important not only for the group to monitor commodity prices, but also to consider the inputs market. If disruption does occur it is vital that timely and accurate market data is available to ensure the appropriate action (by either government or industry) can be taken as soon as possible.
16. The Policy Collaboration Group will be an important aspect of the Agricultural Support Framework. As with the Market Monitoring Group, NFU Cymru would like to have seen a formalised mechanism whereby stakeholders, such as NFU Cymru, are able to input into this group in the development of its evidence base, rather than the ad-hoc approach that is indicated in the framework.
17. NFU Cymru is of the view that Common Frameworks are living documents which need to be able to adapt and flex in response to a number of factors, including the UK's changing international obligations, and to take account of matters such as evolving scientific knowledge.
18. We therefore welcome the Review and Amendment Mechanism that is outlined and the two types of review which it provides for, the periodic review and the exceptional, issue-led basis. We are of the view that it may be appropriate for reviews to take place on a yearly basis (before moving to the three-yearly basis) for some time, and certainly until the framework is bedded in.
19. NFU Cymru does have some outstanding questions about the dispute resolution provisions contained within the frameworks. Whilst the approach outlined which sees disputes escalated from official level to senior official level, to Ministerial level appears sensible and logical, it is not clear in our mind how an intractable dispute might be resolved if sequential rounds of escalation fail to provide a solution, and who might act as final arbiter in such a dispute. We trust that the publication of an agreed and updated dispute resolution process in the revised Memorandum of Understanding on Devolution will shed some light on this.
20. A key measure of the success of Common Frameworks will be their ability to prevent distortion of the UK's internal market, and to uphold international obligations. Additionally, NFU Cymru believes that the effectiveness of the dispute resolution mechanism will also be a key determinant of the success or otherwise of Common Frameworks.
21. NFU Cymru wishes to comment briefly on the intersect between Common Frameworks and the Internal Market Act 2020.
22. As a Union we recognise that the Internal Market Act does in effect foreclose on a range of devolved policy choices. This narrowing of devolved policy choices arises by dint of the size and scale of the economy of England as compared to the other UK home nations, when considered in conjunction with the market access principles of mutual recognition and non-discrimination, and the narrowly drawn exemptions to these twin principles set out in the Act.

23. We question whether it was necessary to cast the Internal Market Act's market access provisions of mutual recognition and non-discrimination so widely, with only narrowly drawn exceptions. We would suggest that well-designed common frameworks may have sufficed to preserve the functioning of the UK internal market and the observance of international obligations, without the need for the flanking provisions of the Internal Market Act.
24. Under sections 10 and 18 of the Internal Market Act, policy divergence agreed through Common Frameworks may be exempted from the market access principles of Mutual Recognition and Non-discrimination, by the relevant Secretary of State.
25. It remains to be seen if and how such a discretion may be exercised by the UK Government, and we are alive to the possibility that policy divergence agreed through Common Frameworks may not necessarily, in the event, be excluded from the market access principles. Our view is that risks becoming a source of tension between the UK and the devolved governments.
26. NFU Cymru is very aware of the way in which Common Frameworks have developed almost entirely via inter-governmental processes and we are pleased that Common Frameworks are now being subject to scrutiny at the four UK legislatures. We would encourage all four UK legislatures to work together in terms of scrutinising common frameworks.