



HM Government

Provisional UK Common Framework on Plant Health

Provisional Framework Outline Agreement and Concordat

Presented to Parliament
by the Secretary of State for Environment, Food and Rural Affairs
by Command of Her Majesty

February 2022

CP 612



HM Government

Provisional UK Common Framework on Plant Health

Provisional Framework Outline Agreement and Concordat

Presented to Parliament
by the Secretary of State for Environment, Food and Rural Affairs
by Command of Her Majesty
February 2022

CP 612



© Crown copyright 2022

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at:

Any enquiries regarding this publication should be sent to us at **Defra, Seacole Building, 2 Marsham Street, London SW1P 4DF.**

ISBN 978-1-5286-3051-1

E02698077 02/22

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by HH Associates Ltd on behalf of the Controller of Her Majesty's Stationery Office

Content

Plant Health Framework Outline Agreement	1
Purpose	1
Outline	1
Section 1: What are we talking about	1
Policy Area	1
Scope	1
Definitions	2
Relevant International Obligations	2
Protocol on Ireland/Northern Ireland	2
Geographic Scope	3
Interdependencies	3
International Trade and WTO (SPS requirements)	4
Policy/Legal Responsibility	5
Section 2: Proposed Breakdown of Policy Area and Framework	5
Proposed Approach	5
Detailed Overview of Proposed Framework: Legislation	7
Detailed Overview of Proposed Framework: Non-legislative Arrangements	7
Detailed overview of areas where no further action is thought to be needed through the Framework	8
Section 3: Operational Detail	9
Proposed operational elements of the Framework	9
Decision-making and Cooperation	9
Roles and Responsibilities of each Party in the Framework	10

All Parties	10
Defra	11
Welsh Government	11
DAERA	12
Scottish Government	12
Forestry Commission	12
Roles and responsibilities of existing or new bodies	13
Monitoring and enforcement	13
Audits of third countries	13
Audits by third countries	13
Review and amendment	13
Dispute resolution	15
Annex 1: Policy Objectives	16
Policy rationale and objectives	16
Annex 2: High Level Principles	17
High level principles	17
Annex 3: Plant Health Governance Structure	19
Annex 4: Summary of UK NPPO and UK PHRG	21
UK NPPO Group	21
Representation:	21
Key Purpose:	21
UK Plant Health Risk Group	21
Representation:	21
Remit	21
UK Plant Health Policy Group	22

Representation:	22
Purpose	22
UK Plant Health Concordat between the UK Government, Scottish Government, Welsh Government, and Northern Ireland Executive	23
1. Introduction	23
2. Scope	24
3. Joint Principles	25
4. Decision-making and Governance	26
5. Managing Divergence	26
6. Dispute Resolution	27
7. Review	27
Annex 1- Governance Structure for the UK Plant Health Service	28

Plant Health Framework Outline Agreement

Purpose

- 1.1 This document provides an outline for the UK-wide plant health Common Framework. It is intended to facilitate multilateral policy development and set out proposed high level commitments for the UK Government, Scottish Government, Welsh Government and the Department for Agriculture, Environment and Rural Affairs (DAERA) (hereafter referred to as ‘the Parties’) and Forestry Commission; it should be viewed as a tool that helps policy development, rather than a rigid template to be followed. The document may be developed iteratively, and amended and added to by policy teams as discussions progress.

Outline

Section 1: What are we talking about

Policy Area

- 2.1 Plant health policy includes: Requirements in relation to the import into, and internal movement of, plants and plant products, including wood and wood products, within GB and the UK where appropriate, whilst respecting the Northern Ireland Protocol (NI Protocol); UK risk assessment of new plant pests and outbreak management; assurance and auditing of policies across GB to protect plant biosecurity; and exports of plants and plant products from the UK.

Scope

- 2.2 While the UK was a member of the EU, the elements of EU law that intersected with devolved competence included:
 - Regulation (EU) 2016/2031 on protective measures against pests of plants (the ‘Plant Health Regulation’ or ‘PHR’).
 - Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (the ‘Official Controls Regulation’ or ‘OCR’).
- 2.3 These EU rules and standards, which continue to apply to Northern Ireland and are retained in England, Scotland, and Wales by virtue of the European Union (Withdrawal) Act 2018, (the EU Withdrawal Act), aim to maintain plant health protection and allow the trade/movement of regulated plants and plant products (within the UK). This includes policies covering: prevention of pests and diseases (entering the UK) by controlling imports of high risk plants and plant products; movement of high risk plants and plant products (within the UK); control of harmful pests and diseases through outbreak response; surveillance of harmful pests and diseases in the UK; auditing of compliance with the rules and standards and reporting and notification to the Commission on plant health risks and outbreaks within Northern Ireland.
- 2.4 Plant health is devolved. Within Northern Ireland, plant health legislation implements the PHR’s requirements based on the common EU list of harmful pests and high-risk hosts which is the starting point for controls. The PHR’s Protected Zone provisions

allow Northern Ireland to implement additional control measures on pests and diseases where necessary to protect plant health (subject to the UK's international obligations under the World Trade Organisation (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures). Within GB, equivalent arrangements apply based on provisions from EU regulations retained by virtue of the EU Withdrawal Act. The technical case for changes to regulations and requirements is usually presented to the UK Plant Health Risk Group before the decision to proceed is taken by the Party in question.

- 2.5 In terms of delivering plant health policy, APHA operates in England and Wales; SASA and Scottish Forestry operate in Scotland; Forestry Commission operates in England and in Wales and Scotland for cross border activities; and DAERA Forest Service Plant Health Division operates in Northern Ireland.

Definitions

- APHA - Animal Plant Health Agency; executive agency of Defra
- CD - Crown Dependency; Guernsey, Jersey, Isle of Man
- CPHO – Chief Plant Health Officer
- DG - Devolved Government
- DAERA - Department of Agriculture, Environment and Rural Affairs,
- GB - Great Britain; England, Scotland, Wales
- NGO's – Non-government organisations
- NI Protocol - Northern Ireland Protocol
- SASA - A Division of the Scottish Government Agriculture and Rural Economy Directorate
- UK - United Kingdom; England, Scotland, Wales, Northern Ireland
- UKG- UK Government
- UKNPPO – UK National Plant Protection Organisation
- UKPHRG – UK Plant Health Risk Group

Relevant International Obligations

- 2.6 Decisions made under the Framework must respect the UK Devolution settlements which outline the specific implications for trade. Decisions must also be in line with the UK's international obligations, including those under the International Plant Protection Convention (IPPC), WTO requirements (in particular the WTO Sanitary and Phytosanitary (SPS) Agreement) and trade agreements to which the UK is a party.

Protocol on Ireland/Northern Ireland

- 2.7 The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK's custom territory, Northern Ireland will remain aligned with the EU. The following paragraphs of Annex 2 of the Northern Ireland Protocol are relevant to this framework.

“41. Plant health

- *Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community*

- *Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC”*

- 2.8 This Framework reflects the specific circumstances in Northern Ireland that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all Parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.
- 2.9 Where one or more of UK Government, the Scottish Government or the Welsh Governments propose to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.
- As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.
 - Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.
- 2.10 Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue as set out in the dispute resolution process at section 3 (4.38) of this document.
- 2.11 To note, under the Northern Ireland Protocol, the EU’s plant health regime continues to apply to Northern Ireland, with the ability to implement national measures in response to risks.

Geographic Scope

- 2.12 The Concordat will be UK-wide.

Interdependencies

- 2.13 The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Common Framework

- 2.14 This Framework is without prejudice to the framework on UK Plant Varieties and Seeds and the Memorandum of Understanding for the Cross-Border provision of Forestry Functions including Research Delivery and Plant Health (forestry)¹. The UK Plant Varieties and Seed Framework focuses on variety registration and marketing. There will be some crossover in stakeholders and every effort will be made to ensure stakeholders have sight of both.

International Trade and WTO (SPS requirements)

- 2.15 There is regular engagement between the Scottish Government, Welsh Government, Northern Ireland Executive, Trade Officials and Defra counterparts on Rest of World (RoW) and EU trade negotiations through Defra's EU and RoW Trade Engagement Group. This group provides a forum for detailed discussions between the participants on trade agreement topics relevant to the environment, food and rural affairs policy portfolio. These discussions include relevant policy specialists from all four governments. Input at these discussions feed into UK Government negotiating positions.
- 2.16 The Common Frameworks Principles agreed at JMC (EN) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the Parties on reserved matters that significantly impact devolved responsibilities in common frameworks.
- 2.17 Common Frameworks will allow the Parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All Parties to the framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.
- 2.18 International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations Concordat. International obligations will be implemented in line with these agreements. In this respect, the Parties will automatically use any updated International Relations Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations
- 2.19 There is a separate operating model which covers UK Government, Scottish Government, Welsh Government and Northern Ireland Executive engagement on the WTO SPS Agreement, which has been agreed at official level. This operating model also follows Department for International Trade guidance on Scottish Government, Welsh Government and Northern Ireland Executive engagement with WTO Committees.
- 2.20 Notifications to the WTO will be coordinated through the Plant Health Policy Working Group.
- 2.21 The policy area covered by this Common Framework intersects with the EU-UK Trade and Cooperation Agreement (TCA) and therefore topics relevant to the framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council. Where a UK-EU meeting agenda includes an item concerning

¹ Note these agreements are GB wide

implementation in an area of devolved competence, UKG should facilitate Scottish Government, Welsh Government and Northern Ireland Executive attendance of a similar level to that of the UKG representatives with final discretion as to the UK delegation a matter for the UK co-chair. UKG should engage the Scottish Government, Welsh Government and Northern Ireland Executive as fully as possible in preparation for these meetings regardless of attendance, and on all relevant implementation matters.

2.22 The TCA intersects with this Framework in the following key areas including:

- Article 75: Import conditions and procedures
- Article 77: Transparency and exchange of information
- Article 78: Adaption to regional conditions
- Article 80: Notifications and consultation

Policy/Legal Responsibility

2.23 The UK Government is responsible for plant health matters in England, the Welsh Government for Wales, Scottish Government for Scotland and DAERA for Northern Ireland. Although plant health policy is devolved and so the Parties are free to take differing approaches to a specific pest where there is a differing position or mitigating circumstances, all the Parties work within the framework of plant health law (EU in relation to Northern Ireland and retained EU provisions in relation to GB) and work collaboratively to build consistent approaches to the implementation of plant biosecurity.

Section 2: Proposed Breakdown of Policy Area and Framework

Proposed Approach

- 3.1 Prior to EU exit, UK plant health legislation was derived from EU law which resulted in the adoption of common rules to protect plant health across the UK. These common rules included the regulation of imports of plants, plant products and other objects from third countries, and the movement of plants, plant products and other objects within the EU, (and therefore within the UK), in a manner which ensured that regulated plant material could be moved within the UK and created a 'level playing field' for businesses operating within the UK.
- 3.2 The EU Withdrawal Act converted and preserved EU law at the end of the Transition Period into domestic law in Great Britain (making it "retained EU law"). It also provided for amendments to be made to address deficiencies arising from EU exit. Under the NI Protocol, EU plant health legislation continues to apply to Northern Ireland.
- 3.3 The purpose of the UK Plant Health Framework is to maintain common rules to protect plant health across the Parties whilst facilitating international trade and trade in regulated plant material within and between England, Scotland, Wales, and Northern Ireland and respecting the potential for divergence, provided that divergence is technically justified and consistent with the JMC(EN) Principles². This includes restrictions and controls affecting the movement of regulated plant material to facilitate

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

trade within England, Scotland, Wales, and Northern Ireland. It also includes trade in Qualifying Northern Ireland Goods (QNIGs) from NI to GB and trade in regulated plant material between the Crown Dependencies and GB.

- 3.4 The Framework will outline how the Parties will continue to work together with common rules to protect plant health and facilitate trade in regulated plant material.
- 3.5 The Framework will act as a statement of intent, and should not be interpreted as a binding arrangement. It is not intended to constitute a legally enforceable contract or create any rights or obligations which are legally enforceable.
- 3.6 The UK Plant Health Service comprises Defra, together with the Forestry Commission and the Scottish Government, Welsh Government and the Northern Ireland Executive. The UK Plant Health Service works to ensure that the views of all Parties are taken into account in dealings with international bodies, non-EU third countries, and EU Member States and the European Commission, on plant health matters.
- 3.7 Plant health and forestry are devolved matters. In relation to forestry, the Forestry Commission is responsible for forestry in England, including the protection of forest trees and timber (including all forest products) from attack by pests. On 1 April 2013, the Welsh Ministers became the competent authority for tree health when the Forestry Commission Wales merged with other agencies in Wales to become Natural Resources Wales. In Scotland, forestry and land management functions were conferred on the Scottish Ministers on 1 April 2019 and two new bodies (Forestry and Land Scotland, and Scottish Forestry) were established on 1 April 2019 to deliver these functions. In Northern Ireland, the Minister for the Department of Agriculture, Environment & Rural Affairs (DAERA) has responsibility for plant health matters across agriculture and forestry.
- 3.8 The Framework will set out the longer-term arrangements for joint working across the UK Plant Health Service, building on existing ways of working between Defra, Forestry Commission and the Scottish Government, Welsh Government and the Northern Ireland Executive.
- 3.9 The Framework will be entered into in a spirit of co-operation and mutual respect, and in recognition of the shared aim to ensure the effective collaboration between the Parties to protect plant health in the UK. The framework, along with the retained EU law in place across governments, seeks to maintain the adoption of common plant health rules across GB/UK, whilst respecting the potential for divergence and managing the ability for one Party to take a different approach provided it is technically justified, and is consistent with the JMC(EN) frameworks principles.
- 3.10 The Framework will help deliver the UK Plant Health Service's shared vision of protecting the current and future health status of crops, trees, ornamental and other plants in GB/UK, including:
 - A joint strategic approach to tackling existing and future threats and developing appropriate risk mitigation approaches for England, Scotland, Wales and Northern Ireland.
 - Collaboration on the development of pest risk analysis and contingency plans and the response to plant pest outbreaks in England, Scotland, Wales and Northern Ireland.
 - Optimising the implementation of the current plant health strategies and developing a culture that drives improvements in plant health protection and decision making in England, Scotland, Wales and Northern Ireland.

- Facilitating the exchange of information to ensure the most efficient and timely plant health information on the situation in UK and the timely and efficient reporting of plant health incidents to the UK Plant Health Service.
- Coordination of press and publicity matters.
- Providing a mechanism for reviewing and improving working arrangements to ensure they remain effective and practical.
- Providing full and open access to relevant information.
- Proactive forward planning of resources and services.

3.11 Northern Ireland follows EU rules in protecting plant health under the terms of the NI Protocol, with specific arrangements for Qualifying Northern Ireland Goods.

Detailed Overview of Proposed Framework: Legislation

3.12 The legislation set out below will underpin the Plant Health framework in GB. While DAERA continue to transpose EU legislation, they also have the powers to make Statutory Rules to provide the necessary legislative support which accounts for the NI Protocol requirements. The Scottish Ministers and Welsh Ministers have their own domestic plant health legislation that supports the framework. The statutory Instrument (SI), The Plant Health (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/79) defines requirements for QNIGs entering GB.

3.13 Relevant legislation includes:

- UK primary legislation: Plant Health Act 1967
- Retained EU law comprising of (and including legislation made under):
- Retained Regulation (EU) 2016/2031: the Plant Health Regulation
- Retained Implementing Regulation (EU) 2019/2072: the Phytosanitary Conditions Regulation
- Retained Regulation (EU) 2017/625: the Official Controls Regulation

3.14 In addition to the legislation referred to above, the following further, relevant Domestic Legislation includes:

- Wales: The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020
- Scotland: The Plant Health (Official Controls and Miscellaneous Amendments) (Scotland) Regulations 2019,
- England: The Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019
- Northern Ireland: Plant Health (Official Controls and Miscellaneous Provisions) Regulations (Northern Ireland) 2020

3.15 The framework itself will be a non-legislative agreement.

Detailed Overview of Proposed Framework: Non-legislative Arrangements

3.16 The Framework will cover the following non-legislative arrangements, building on existing ways of working to deliver a continued high level of GB/UK biosecurity whilst facilitating UK trade.

- Agreed policy objectives setting out the objectives and rationale/purpose of the framework which seeks to respect devolution whilst maintaining the adoption of common plant health rules across GB/UK with divergence as necessary where technically justified. See further details in Annex 1.

- High level principles for how the governments of GB/UK will work together and co-operate in relation to EU powers returned to GB that intersect with areas of devolved competence. See further details in Annex 2.
- Maintenance of risk-based approach to protect biosecurity whilst facilitating trade and sustainable economic growth. This risk-based approach ensures that effort is based on an assessment of the overall costs and benefits to society thereby ensuring that intervention to protect plants from new pests and diseases are proportionate and targeted to make best use of the resources available.
- Joint decision-making mechanisms - focusing on building consensus based decision-making, dispute prevention and dispute resolution processes for where agreement cannot be reached, or where one administration of the UK is considered not be adhering to the framework arrangements.
- Dispute resolution process – aiming to resolve issues at the earliest stage through working level discussions.
- Monitoring and review arrangements – ensuring the Framework is a live document and remains up to date.

Detailed overview of areas where no further action is thought to be needed through the Framework

- 3.17 Fees and Charges, and Sanctions – each Party will continue to establish its own fees and charges for services delivered. Northern Ireland remains under the EU Framework in respect of fees and charges.

Section 3: Operational Detail

Proposed operational elements of the Framework

Decision-making and Cooperation

- 4.1 This section sets out the working arrangements to maximise co-operation and collaboration, thereby ensuring value for money, by making the most effective use of resources, as well as to protect biosecurity in England, Scotland, Wales and Northern Ireland, specifically:
- (i) Provision of Information – the Parties will endeavour to provide each other with full, open and timely access to information which the other may need in order to effectively discharge its responsibilities, whether through the groups set out in Annex 3 or through correspondence. They will keep each other informed of contacts with third countries on relevant trade related matters and liaise on press and publicity matters (through the Publicity and Awareness Raising Sub-Group). They will keep each other informed on matters of mutual interest, including opportunities for collaboration and sharing of resources, for example in research projects and developments. They will also inform each other on significant contact with stakeholders and external communications. Northern Ireland’s unique position in relation to EU engagement will be respected.
 - (ii) Collaboration – the Parties will work together to develop policy on matters of mutual interest, and will endeavour to reach agreement and work together to resolve disagreements (see dispute resolution procedure). One forum for this is the Defra-DA Policy Working Group set out in Annex 3. They will contribute to UK policy positions for international meetings and international standards, including timely reporting of outcomes, and liaising on proposals emanating from them. Northern Ireland’s unique position in relation to EU engagement will be respected.
 - (iii) Coordination – the Parties will consult each other on their timetables and plans to implement legislation to deliver changes in policy on regulated plant material and pests. Where parallel legislation is to apply, participants will consult each other on draft instructions for lawyers and exchange copies of draft and finalised legislation.
 - (iv) Trade promotion and cooperation – This will be coordinated by the UK Plant Health Market Access Working Group. The Market Access Working Group reports directly into the NPPO which all Parties are members of.
- 4.2 The governance arrangements focus on building consensus-based decision-making. Annexes 3 and 4 show the different groups and their roles in these working arrangements.
- 4.3 The UK Plant Health Risk Group, (attended by Defra, Scottish Government, Welsh Government, Forestry Commission and DAERA and observed by CDs) is the main decision-making body. It:
- takes decisions on protecting biosecurity in England, Scotland, Wales and Northern Ireland, including as regards Qualifying Northern Ireland Goods;
 - advises on technical matters relating to Northern Ireland, supporting decision making by DAERA, in the context of the NI Protocol;

- assesses new and emerging plant health threats and proposals for changes to policy, and takes decisions on these proposals;
- leads on technical risk assessments and decisions on updating lists of pests and high-risk plants, including adopting measures for provisional quarantine and quarantine pests
- propose Amendments to Retained EU legislation;
- when considering a proposal or recommendation for divergence in one or more nations, the UK Plant Health Risk Group will also consider the impact divergence would have on plant health protection in GB / UK, consumers, UK trade and international obligations; and
- is supported by:
 - Technical sub-groups that draft policy proposals for decision at the UK Plant Health Risk Group
 - The UK Plant Health Policy Group which provides day-to-day support to this Framework and leads on Reviews and Amends as detailed in Section 12.

- 4.4 Stakeholders will continue to be engaged early in the decision-making process to gather views and opinions that will feed into the UK Plant Health Risk Group decision making process.
- 4.5 If the issue or recommendation under consideration has wider policy, stakeholder or business/trade implications, the UK Plant Health Risk Group will ask the UK NPPO Group for a decision.
- 4.6 The UK NPPO is the strategic level plant health group and sits above the UK Plant Health Risk Group. It provides strategic review and direction and ensures all UK Plant Health Service activities are coordinated and aligned to policy objectives (Annex 1).
- 4.7 If necessary, the UK NPPO Group will ask their respective Ministers for a decision.
- 4.8 If one Party to this Framework thinks that a new policy or measure agreed by the UK Plant Health Risk Group and/or the UK NPPO Group, is not consistent with the aims of the Framework, it can trigger the dispute resolution mechanism (see Dispute Resolution below).
- 4.9 See Annex 3: Plant Health Governance Structure.

Roles and Responsibilities of each Party in the Framework

- 4.10 The roles and responsibilities of each Party to the framework are outlined below.

All Parties

- 4.11 All Parties are responsible for confidentiality, to ensure that information that they each may provide is subject to appropriate safeguards and that the confidentiality and sensitivity of such information is respected. Therefore, without prejudice to the requirements of data protection and freedom of information, unpublished information will not be disclosed to third parties without written permission of the Party which provided the information, subject to the requirements of the law.
- 4.12 All Parties are also committed to the avoidance of conflicts of interest during decision-making, in line with the ways of working arrangements set out in the Framework.

Defra

- 4.13 In England, Defra is responsible for strategic oversight, policy development, legislation and for ensuring that appropriate governance structures and resources are in place to underpin the framework, such as coordination of risk assessment and policy development across the UK. Forestry and woodlands policy is determined by the Secretary of State with guidance from Defra officials, supported closely by the Forestry Commission.
- 4.14 Defra is also responsible for representing the agreed UK view at international meetings, including under the governing bodies of the IPPC.
- 4.15 Defra provides the Secretariat for the various governance bodies such as the UK NPPO Group which is responsible for strategic oversight of plant health issues at the domestic and international level. This Group takes policy decisions on plant health issues affecting GB and where appropriate the UK as a whole and provides direction to, and oversight of, the work of the UK Plant Health Risk Group and the FTA and TCA Coordination Group (see Annex 3). It pursues objectives set out in the framework on introducing and maintaining common policies and approaches to ensure protection of the UK's plant health status and to facilitate trade within and beyond the UK.
- 4.16 APHA's Plant Health and Seeds Inspectorate (PHSI) is the responsible official body for implementation of plant health regulatory functions, including inspection work and surveillance in England and Wales but excluding specific Plant Health (forestry) activities. APHA currently delivers scientific licensing, import and export controls and plant passporting controls for the forest nursery sector.

Welsh Government

- 4.17 The Welsh Government has responsibility for plant health issues in Wales and provides strategic policy advice, development of legislation, and implementation of official controls on plant and tree health, and plant and seed certification, playing a major part in UK representation on all matters relating to Plant Health.
- 4.18 APHA's Plant Health and Seeds Inspectorate (PHSI) is the responsible official body for implementation of plant health regulatory functions in Wales on behalf of the Welsh Government.
- 4.19 Regular liaison takes place through formal and informal means with partners in the UK Plant Health Services. It is represented on the various governance bodies that underpin the framework including the Plant Health Risk Group monthly meetings and the arrangements underpinning the framework. APHA inspections include points of entry into England and Wales, surveys of the wider environment and the monitoring of farms, nurseries, garden centres, retailers and other premises where plants and plant products are grown, stored or traded.
- 4.20 Plant health (forestry) functions are being delivered by Natural Resources Wales and the Forestry Commissioners under an Agreement under section 83 of the Government of Wales Act 2006. Natural Resources Wales carries out terrestrial disease control and surveillance. A Memorandum of Understanding has been agreed between respective Governments to deliver a range of cross border activities. For further detail on forestry and cross-border activity, see below section on Forestry Commission.
- 4.21 Wales makes use of GB framework contracts for import and export inspections and audits of Professional Operators.

DAERA

- 4.22 In Northern Ireland, the DAERA Plant Health Division under the overall direction of the Minister for Agriculture, Environment & Rural Affairs, has authority and responsibility for plant health matters including policy, legislation and the implementation of official controls across agriculture, horticulture, forestry and wood products. This includes responsibility for: the implementation of official controls for plant health; import and export inspections; plant passporting; phytosanitary certification to facilitate trade; in country surveillance; certification services for seed potatoes; and regulation & enforcement across agriculture, horticulture and forestry.
- 4.23 Scientific support and evidence is provided under an Assigned Work Programme with the Agri-food and Biosciences Institute (AFBI). The Plant Health Division work with partners in the UK Plant Health Service and the Government of Ireland to evaluate and manage the risk of priority pests and diseases identified on the recently published Northern Ireland Plant Health Risk Register. DAERA is represented on the various governance bodies that underpin the framework, including the Plant Health Risk Group, where that Group can advise on technical matters to support decision making by DAERA, having due regard for the NI Protocol. DAERA also contributes to UK-focused discussions within such groups including matters which affect UK and international trade and trade in Qualifying Northern Ireland Goods. For matters concerning trade and international strategy, DAERA will contribute through representation on the NPPO and the Market Access Working Group.
- 4.24 Formal North South Ministerial Council arrangements provide a context for mutual cooperation and a shared responsibility for plant health on the island of Ireland. A Plant Health & Pesticides Steering Group oversee an annual work programme, which enables DAERA and the Department of Agriculture, Food and the Marine (DAFM) to develop shared strategic partnership approaches.

Scottish Government

- 4.25 In Scotland, Scottish Ministers have responsibility for tree and plant health policy and legislation and official controls. Scottish Forestry provides advice and implements plant health forestry policy. SASA provides policy advice on plant health and plant and seed certification and plays a major part in UK representation on matters relating to seed potato certification. It is also responsible for the UK Potato Quarantine Unit (UKPQU) as well as the Seed Potato Classification Scheme for Scotland. It is represented on the various governance bodies that underpin the framework.
- 4.26 Inspection for imports, export and surveillance is undertaken by Scottish Government inspectors, except that some functions are undertaken by Forestry Commission inspectors, on behalf of Scottish Ministers, as described below in section 4.26.
- 4.27 A Memorandum of Understanding has been agreed between Governments, including the Scottish Government, and the Forestry Commissioners to deliver a range of Plant health (forestry) cross border activities, including in Scotland. For further detail on forestry and cross-border activity, see below section on Forestry Commission.

Forestry Commission

- 4.28 The Forestry Commission is responsible for Plant Health (Forestry) and Forest Reproductive Materials matters in England, including import controls on wood and wood products and most of the operational delivery of tree health policy such as surveillance, responding to outbreaks and advice. It is represented on the various governance bodies that underpin the framework. It delivers Cross-Border Plant Health (forestry) functions on behalf of Great Britain, as detailed in Schedule 3 to the

Memorandum of Understanding for the Cross-Border provision of Forestry Functions and Research Delivery. Schedule 3 sets out the arrangements for the delivery of Plant Health (Forestry) and Forest Reproductive Materials by the Forestry Commission on behalf of England, Scotland and Wales. This schedule establishes an agreed framework for the roles, responsibilities, relationships and co-operation between the Users and the Forestry Commissioners in relation to the regulation of Plant Health (Forestry) and Forest Reproductive Materials.

Roles and responsibilities of existing or new bodies

- 4.29 See Annex 4 for a summary of the UK Plant Health Risk Group, the UK Plant Health Policy Working Group and the UK NPPO.

Monitoring and enforcement

- 4.30 The UK NPPO will meet quarterly to strategically monitor the framework. The purpose of the meeting is to assess:
- intergovernmental cooperation and collaboration as a result of the framework;
 - whether Parties are implementing and complying with the framework;
 - whether divergence has taken place in contravention of the Common Framework principles; and
 - whether harmful divergence has taken place that impacts on the policy area covered by the framework.
- 4.31 The outcome of this meeting will be used to inform joint decision-making going forward and the next review and amendment process. If there is an unresolved disagreement, the dispute avoidance and resolution mechanism outlined in the framework should be used.

Audits of third countries

- 4.32 GB/UK audits of third countries will be developed/managed by the Import Threats and Horizon Scanning group (ITHS) and overseen by the Plant Health Risk Group. UK/GB SPS experts for audits will be drawn from across the UK plant health service.

Audits by third countries

- 4.33 The UK/GB will continue to be subject to audits by third countries and the European Commission. The process for co-ordination and management of inward audits from third countries is still being developed centrally. The ambition is for all aspects of plant health audits to be managed by the Import Threats and Horizon Scanning group with oversight from the PHRG and UK Plant Health Market Access group. Management of inward audits has historically been delivered by Defra's international policy team in collaboration with the Scottish Government, Welsh Government, Northern Ireland Executive and Forestry Commission.

Review and amendment

- 4.34 Introduction
- The UK Plant Health Policy Group will maintain an overview of the operation of the Framework and, in consultation with the Parties, may seek to amend it, guided by advice from the UK NPPO Group.
 - The Review and Amendment Mechanism (RAM) ensures the framework can adapt to changing policy and governance environments in the future.
 - There are two types of review which are outlined below. The process for agreeing amendments should be identical regardless of the type of review.

- The RAM relies on consensus at each stage of the process from the Ministers responsible for the policy areas covered by the non-legislative agreement.
- Third parties can be used by any party in the framework to provide advice at any stage in the process. These include other government departments or bodies as well as external stakeholders such as NGOs and interest groups.
- At the outset of the review stage, parties to the framework must agree timelines for the process, including the possible amendment stage.
- If agreement is not reached in either the review or amendment stage, parties to the framework can raise it as a dispute through the framework's dispute avoidance and resolution mechanism.

4.35 Review Stage

- A periodic review of the framework will take place every two years (or when all parties agree there is a need to review the arrangements sooner), in line with official or ministerial level meetings.
 - The first review will take place two years after the Framework has initially been signed
 - The period of two years starts from the conclusion of a periodic review and any amendment stages that follow.
 - During the periodic review, parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous two years need to be reflected in an updated non-legislative agreement.
- An exceptional review of the framework is triggered by a 'significant issue'.
 - A significant issue must be time sensitive and fundamentally impact the operation and/or the scope of the framework.
 - The exceptional review may include a review of governance structures if all parties agree it is required. Otherwise, these issues are handled in the periodic review.
 - The same significant issue cannot be discussed within six months of the closing of that issue.
 - The amendment stage can only be triggered through unanimous agreement by ministers. If Parties agree that no amendment is required, the relevant time period begins again for both review types (for example, it will be two years until the next periodic review and at least six months until the same significant issue can trigger an exceptional review.)

4.36 Amendment Stage

- Following agreement that all parties wish to enter the amendment stage, Parties will enter into discussion around the exact nature of the amendment. This can either be led by one Party to the framework or all.
- If an amendment is deemed necessary during either type of review, the existing framework will remain in place until a final amendment has been agreed.
- All amendments to the framework must be agreed by all Parties and a new non-legislative agreement signed by all Parties.

4.37 If Parties cannot agree whether or how a framework should be amended this may become a disagreement and as such could be raised through the framework's dispute avoidance and resolution mechanism.

Dispute resolution

- 4.38 The dispute resolution process may be triggered when the proposed policy measure is perceived to have a negative impact, such as where the proposal:
- is unachievable and not technically justified;
 - would result in creation of an advantage or disadvantage of certain businesses geographically;
 - conflicts with the policy of a Party;
 - would compromise the functioning of the UK internal market; or
 - is contrary to international obligations including the NI Protocol.
- 4.39 The aim of dispute resolution will be for issues to be discussed and resolved at the earliest stage possible. In the first instance, if a dispute resolution process is triggered, the UK NPPO Group would seek to resolve it at the earliest opportunity. If necessary this Group would escalate to the senior officials programme board and, if this fails, they would escalate to Ministers in each government. This is shown in Annex 3.
- 4.40 Once all the other options outlined above have been exhausted, and if a disagreement has still not been resolved, the disagreement may be referred to the appropriate intergovernmental structures. This is expected to be a method of last resort to be applied for only the most serious issues incapable of being resolved at portfolio level, as there may be significant implications for the relationships between governments, if all other alternatives have been exhausted.
- 4.41 The dispute resolution process will abide by the JMC (EN) principles from October 2017.

Annex 1: Policy Objectives

Policy rationale and objectives

1. Plant health is a devolved policy area, but is governed by retained EU law (in GB) which has resulted in the adoption of common plant health rules across GB/UK. Divergence is enabled where technically justified, or based on EU legislative divergence as it applies to Northern Ireland, under the WTO SPS Agreement. The policy aim of the UK Plant Health Framework is to maintain (within the context explained below) common rules to protect plant health across UK and facilitate trade in regulated plant material within GB and between NI and GB (as regards QNIG), whilst respecting the potential for divergence.

It sets a framework for:

- a) The adoption of common rules affecting the movement of regulated plant material within England, Scotland, and Wales and, where appropriate UK
- b) A single UK Government, Scottish Government, and Welsh Government import regime for regulated plant material.
- c) Consideration of divergence (including technical justification and enabling the functioning of the UK internal market
- d) Timely implementation of changes in UK Government, Scottish Government, Welsh Government, and Northern Ireland Executive policy on regulated plant material and pests to protect the GB/UK biosecurity.
- e) Timely responses to pest outbreaks.
- f) The adoption of plant health measures in a manner that is consistent with the UK's international obligations (see section below).
- g) Effective and bio-secure arrangements for the trade in QNIG between NI and GB.
- h) Effective and bio-secure arrangements for trade in regulated plant material.

Annex 2: High Level Principles

High level principles

The high-level principles for how the four governments of the UK will work together and co-operate are outlined below:

- All governments to work collaboratively and in partnership, and agree the importance of preserving the principles agreed by the Joint Ministerial Committee (EU Negotiations) (JMC (EN)) Communiqué in October 2017³ for the establishment of Common Frameworks to:
 - 1) Enable the functioning of the UK internal market, while acknowledging policy divergence.
 - 2) Ensure compliance with international obligations.
 - 3) Ensure the UK can negotiate, enter into and implement new trade agreements and international treaties.
 - 4) Enable the management of common resources.
- Respect will be paid to the devolution settlements and the democratic accountability of the devolved governments, including the provisions of the Belfast/Good Friday Agreement and encompassing the North/South dimension in Strand 2 of that Agreement. Current devolution arrangements will be preserved and enhanced.
- The Framework enables the identification, assessment, management, control and enforcement of plant health risks using co-ordinated procedures based on a common set of plant health rules across GB/UK whilst recognising the ability for policy divergence where technically justified or based on EU legislative divergence as it applies to Northern Ireland and in line with WTO/SPS requirements and/or trade agreements to which the UK is a party.
- Without prejudice to data protection requirements and intellectual property considerations, the governments will share information, survey data and scientific research in a spirit of openness and transparency, and to facilitate effective operation of the framework to protect plant health.
- The governments may establish information/data sharing protocols, including transferring data on notifications and inspections carried out at points of first arrival in order to prevent barriers to trade.
- The Framework serves the protection of plant health within GB/UK, as well as for GB/UK as a whole, through co-operation and collaboration, including in areas where a different policy approach has been taken, or is required.
- The Framework serves the continuation of trade for all parts of the UK including those where priorities for one or more nations differ.

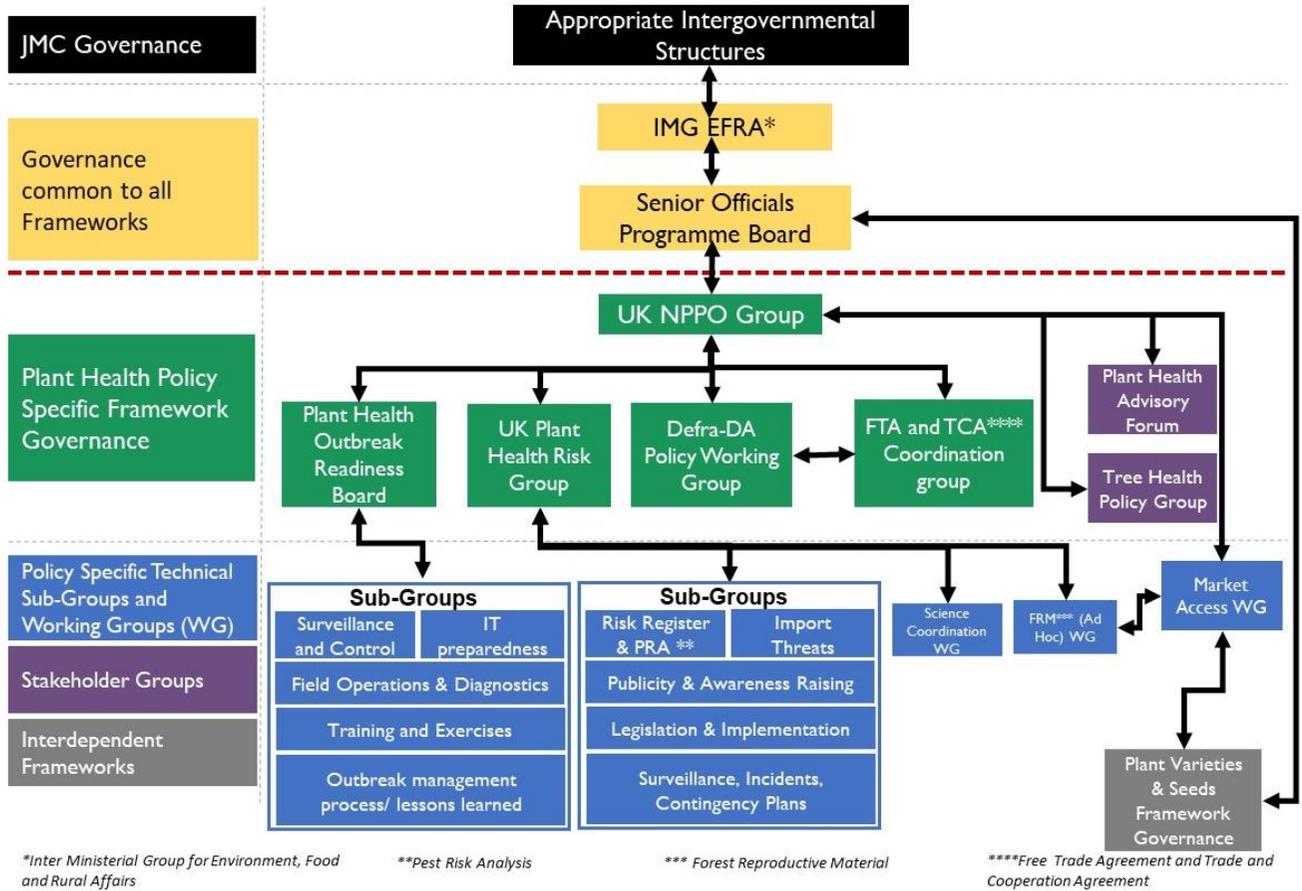
3

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

- The dispute resolution process should be utilised only when genuine agreement cannot be reached, such as where divergence would impact negatively on the ability to meet the JMC (EN) principles.
- As set out in the dispute resolution process, any Party to the framework can seek legal counsel. In the unlikely event of the dispute resolution process being necessary, and if legal counsel is sought, all parties agree to give due consideration to the findings of advice from legal counsel or other sources. This consideration will be included when making recommendations to their Chief Plant Health Officer, senior officials or Ministers to inform decision making and resolution of the dispute.

Annex 3: Plant Health Governance Structure

Corresponds with the overarching MOU on Devolution



Plant Health Common Framework

This diagram shows how the Plant Health Risk Group, Plant Health Outbreak Readiness Board, including all their subgroups and technical working groups, report into the UK NPPO. The NPPO escalates any issues or disputes to the Senior Officials Programme Board which in turn reports into IMG EFRA which feeds into the Joint Ministerial Committee.

If you need an accessible version of this diagram, contact: planthealth@defra.gov.uk

Annex 4: Summary of UK NPPO and UK PHRG

UK NPPO Group

Representation:

CPHO England (and UK)
CPHO Scotland
CPHO Wales
CPHO Northern Ireland
Forestry Commission– Head of Tree Health and contingency (co-ordinating forestry views at a GB level)

Secretariat: Defra

Key Purpose:

The UK NPPO group provides a strategic overview of plant health issues at the domestic and international level. It takes policy decisions on plant health issues affecting the UK as a whole and provides direction to, and oversight of, the work of the UK Plant Health Risk Group. It pursues objectives set out in frameworks and MoUs on introducing and maintaining common policies and approaches to ensure protection of the UK's plant health status and to facilitate trade within and beyond the UK.

UK Plant Health Risk Group

Representation:

Core Defra
APHA
Forestry Commission
Scottish Government
Welsh Government
DAERA

Secretariat: Defra

Remit

To advise the UK NPPO Group of new and emerging plant health threats with recommendations for actions. To utilise and maintain the UK Plant Health Risk Register to facilitate risk assessment and consultation on risk management measures against plant pests and pathogens which pose a potential risk to UK crops, trees and ecosystems. To inform the development of policy by providing technical/scientific advice and analysis:

Does not cover in detail pests and diseases for which there are separate arrangements, such as Defra's Tree Health Policy Group/Scottish Tree Health Advisory Group. The outcomes from such groups feed into the Risk Group and vice versa as appropriate, to ensure consistency and inform UK positions.

Reports relevant outputs to (and receives information from) other areas, such as INNS and animal health, as appropriate.

Maintains an overview and offers advice on outbreak situations as appropriate, but does not duplicate the work of Incident Management Teams, where established.

UK Plant Health Policy Group

Representation:

Defra
Forestry Commission
Scottish Government
Welsh Government
Northern Ireland

Secretariat: Defra

Purpose

The aim of the UK Plant Health Policy Group (UK PHPG) is to provide policy support to the UK NPPO Group, the UK Plant Health Risk Group (UK PHRG) and, as necessary, to its underpinning working groups. A particular focus of this Group is to ensure the effectiveness of the UK Plant Health Framework in maintaining common policies and approaches to protect plant health across the UK.

UK Plant Health Concordat between the UK Government, Scottish Government, Welsh Government, and Northern Ireland Executive

1. Introduction

- 1.1. This concordat, between the Department for Environment, Food and Rural Affairs (Defra), Forestry Commission, the Department of Agriculture, Environment and Rural Affairs (DAERA) Scottish Government (SG), and Welsh Government (WG) ('the Parties'), concerns the UK Common Framework on Plant Health ('the framework').
- 1.2. The framework sets out arrangements and principles that will guide joint working; provides a dispute avoidance and resolution mechanism; provides a review and amendment mechanism; and facilitates fulfilment of the Common Framework principles agreed at the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16 October 2017⁴ that apply to this policy area. It is not intended to constitute a legally enforceable contract or create any rights or obligations which are legally enforceable.
- 1.3. The framework puts in place agreed ways of working between the parties to facilitate consistent policy approaches in the areas within scope of the framework (where agreed by the parties), recognising that businesses and consumers in all four nations, as well as international trading partners, often benefit from consistent plant health legislation. It also sets out commitments to communication and cooperation between the parties regarding decision-making and dispute resolution.
- 1.4. The framework recognises and operates in accordance with the appropriate intergovernmental structures. It formalises arrangements between the parties in line with those set out in the Plant Health Framework Outline Agreement.
- 1.5. The framework has been developed in line with UKG and Devolved Governments joint central guidance on Common Frameworks⁵. In line with this central guidance and the appropriate intergovernmental structures, the arrangements set out in policy divergence recognise that there will be instances where it may be appropriate for the parties to take different approaches to risk-based plant health controls.
- 1.6. The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK's custom territory, Northern Ireland will remain aligned with the EU.
- 1.7. This Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all Parties to the

4

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

⁵ JMC(EN) communique of 16 October 2017

Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland. The following paragraphs of Annex 2 of the Northern Ireland Protocol are relevant to this framework.

“41. Plant health

- *Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community*
- *Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC”*

- 1.8. Where one or more of UK Government, the Scottish Government or the Welsh Governments propose to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.
- As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.
 - Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.
- 1.9. Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue as set out in the dispute resolution process at section 3 (4.38) of the Framework Outline Agreement and also section 6 of this concordat.

2. Scope

2.1. The framework applies to retained European Union plant health legislation. This includes:

- a) Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants (and legislation made under it)
- b) Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official

activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (and legislation made under it).

2.2. Additionally, international law intersects with the framework:

- a) UK's international obligations, including International Plant Protection Convention (IPPC), World Trade Organisation (WTO) requirements (in particular the WTO Sanitary and Phytosanitary (SPS) Agreement) and trade agreements to which the UK is a party
- b) Obligations under the EU-UK Trade and Cooperation Agreement as defined in the Plant Health Framework Outline Agreement

2.3. The policy aim of the framework is to maintain (within the context explained below) common rules to protect plant health across the UK and facilitate trade in regulated plant material within GB and between NI and GB (as regards QNIG), whilst respecting the potential for divergence. It sets a framework for:

- a) The adoption of common rules affecting the movement of regulated plant material within GB and, where appropriate the UK, subject to the NI Protocol.
- b) Consideration of divergence (including technical justification and enabling the functioning of the UK internal market)
- c) A single GB import regime for regulated plant material.
- d) Timely implementation of changes in GB/UK policy on regulated plant material and pests to protect the GB/UK biosecurity.
- e) Timely responses to pest outbreaks.
- f) The adoption of plant health measures in a manner that is consistent with the UK's international obligations
- g) Effective and biosecure arrangements for the trade in QNIG between NI and GB.
- h) Ensure the UK can negotiate, enter into and implement new trade agreements and international treaties.

2.4. Trade promotion and cooperation will be coordinated by the UK Plant Health Market Access Working Group and will follow the principles set out in the Plant Health Framework Outline Agreement on international relations. The Market Access Working Group will consult Defra trade officials prior to third country engagement and as needed throughout. The Market Access Working group reports directly into the NPPO which all parties contribute to.

3. Joint Principles

3.1. The Parties agree to the following principles to underpin shared ways of working while respecting and enhancing the devolution settlements and the democratic accountability of the devolved legislatures:

- a) Processes for decision making should respect the JMC (EN) principles on Common Frameworks, devolved responsibilities and accountability across the UK
- b) The Concordat enables policy divergence where technically justified or based on EU legislative divergence as it applies to Northern Ireland and

- in line with WTO/SPS requirements and/or trade agreements to which the UK is a party.
- c) Governance arrangements should be transparent, effective and proportionate whilst keeping administrative complexity and burdens to the minimum.

4. Decision-making and Governance

4.1. Ministers representing each of the parties ⁶ will take decisions on changes to all areas of retained European Union plant health law, after recommendations from the UK Plant Health Risk Group and UK NPPO as set out in the Plant Health Framework Outline Agreement. This will include both technical changes made through secondary legislation as well as any amended, or new, primary legislation. A summary of the decision-making process is set out in Annex 1. The Parties agree that:

- a) The Parties should aim to implement policy decisions at approximately the same time.
- b) All Parties should be informed of the recommendations made in the other nations (whether for common or divergent approaches) and the underpinning rationale.
- c) A consensus should be sought among the Parties on the approaches to take, and efforts made to resolve any disputes that occur (see section 6).
- d) GB-wide legislation will only be taken forward where consent has been sought of Scottish Government, Welsh Government and the Northern Ireland Executive Ministers (as is the case at present) and parliaments as required under respective devolution settlements.

5. Managing Divergence

5.1. In respect to decisions made within scope of the framework, the Parties will seek to implement common policy approaches where appropriate.

5.2. Where it is considered that a common approach is not the most suitable, the following principles for managing divergence will be followed:

- a) Where one or more Parties wishes to diverge from a four nations approach to any area within scope of the Concordat, before divergence can happen, the Parties must first seek to agree a common approach that accommodates the desired outcomes of all the Parties.
- b) Where a common approach cannot be agreed, and divergence is not considered acceptable, then the dispute resolution mechanism should be engaged.

⁶ With the exception of Ministers in Northern Ireland for issues that fall in scope of the Ireland/Northern Ireland Protocol and where European Union Plant Health legislation will apply in Northern Ireland.

6. Dispute Resolution

6.1. The dispute resolution process may be triggered when a proposed policy measure is perceived to have a negative impact, such as where divergence between Parties is not agreed.

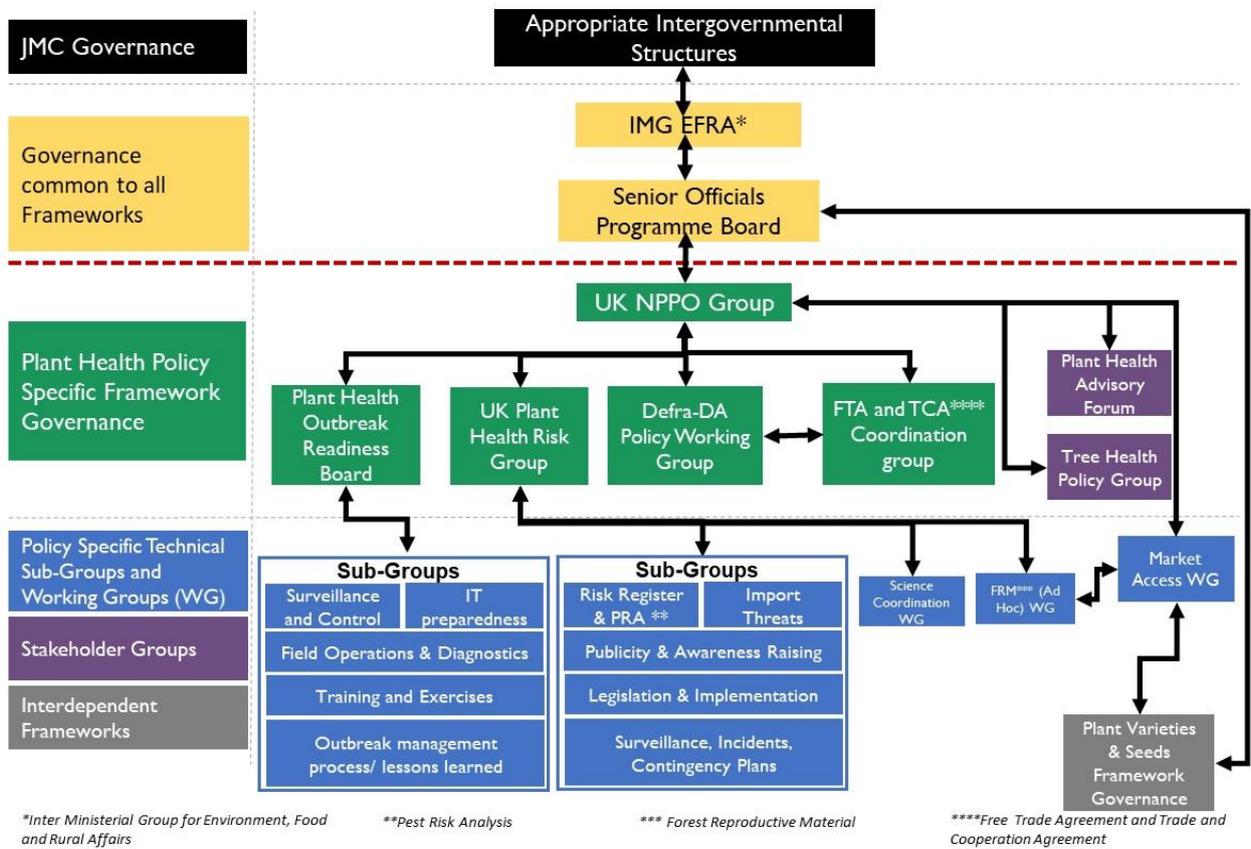
6.2. The aim of dispute resolution will be for issues to be discussed and resolved at the earliest stage possible. In the first instance, if a dispute resolution process is triggered, the UK NPPO Group would seek to resolve it at the earliest opportunity. If necessary, this Group would escalate to the Senior Officials Programme Board (SOPB) and, if this fails, SOPB would escalate to the Inter-Ministerial Group (IMG) EFRA. This is shown in Annex 1.

6.3. Once all the other options outlined above have been exhausted, and if a disagreement has still not been resolved, the disagreement may be referred to the appropriate intergovernmental structures. This is expected to be a method of last resort to be applied for only the most serious issues incapable of being resolved at portfolio level, as there may be significant implications for the relationships between governments, if all other alternatives have been exhausted.

7. Review

7.1. This framework will be formally reviewed at two yearly intervals (or when all parties agree there is a need to review this arrangement sooner). Any changes to the framework must be agreed by all Parties.

Annex 1- Governance Structure for the UK Plant Health Service



This diagram shows how the Plant Health Risk Group, Plant Health Outbreak Readiness Board, including all their subgroups and technical working groups, report into the UK NPPO. The NPPO escalates any issues or disputes to the Senior Officials Programme Board which in turn reports into IMG EFRA which feeds into the Joint Ministerial Committee.

If you need an accessible version of this diagram, contact: planthealth@defra.gov.uk

978-1-5286-3051-1
E02698077