Written Evidence

Brexit: Agriculture, Forestry and Fisheries

Scottish Land & Estates is a member organisation representing landowners and land-based businesses across Scotland. Given that much of the regulation and financial support affecting land use originates in the European Union (EU), Scottish Land & Estates is keenly interested in the consequences of the vote to leave the EU and welcomes the opportunity to provide evidence to the Rural Economy & Connectivity Committee.

What follows focuses on the issues surrounding the decision to leave the EU. We have not focused on the consequences related to the proposed second independence referendum, although some of the issues, such as the future of trading relationships, are similar, and our broad position on the direction of future policy and support for farming and forestry is likely to be similar under the range of potential options facing Scotland.

In broad terms, Scottish Land & Estates believes that whatever happens—whether we leave the EU, become a completely independent country or become an independent country within the EU—there is a need for a much more strategic vision and public debate about where Scottish rural policy should be heading in the future. We believe that this debate cannot wait until we have clarity on Brexit negotiations or independence. We need to start thinking about the future of rural policy now because there is a danger, with all the focus on wider constitutional issues and arguments about where power lies, that the other parts of the UK will have moved ahead in shaping policy before we have even started thinking about our own priorities.

As we look forward to what future farming and rural land management policy might look like, Scottish Land & Estates believes that defending the status quo is not an option. It seems clear to us that rural and agricultural support policy needs to change and Scottish Land & Estates wants to make the case for reform so that policy helps our land-based industries become more profitable and sustainable.

BREXIT & AGRICULTURE

The extent of devolution of agricultural policy and budgets

Given devolution, the return of powers to the UK from Brussels has created a great deal of debate. What will happen to the powers that currently reside in Brussels? Will they return to Scotland or should some other UK policy framework be put in place to replicate the current arrangements under the CAP?

Scottish Land & Estates takes the view that there will be a need for some sort of UK wide agricultural policy framework. At present we have a UK-wide agricultural system and we believe that it is important that this system is maintained and that,
ultimately, some degree of policy coherence will be required to achieve that end. Importantly, in advocating a UK wide agricultural policy framework we are not suggesting that agricultural and rural development policy should be reserved to Westminster. There are different ways that policy coherence can be achieved and we remain open to supporting whichever route secures the best outcome for Scottish farmers and land managers.

The current situation

Under devolution, agriculture and rural development are devolved to the Scottish Government. In effect Scotland makes its own decisions about how to support agriculture and rural development, which is why there are differences in how farming is supported across the different nations in the UK. Scotland does not, however, have absolute control because the framework within which Scottish decisions are made is set by the Common Agricultural Policy at the EU level. Scotland is able to tailor implementation of the policy, not unilaterally decide on its own policy.

We accept this situation because the CAP provides the policy consistency across the EU that allows tariff-free trade, from which we benefit. An over-arching policy framework provides a degree of consistency, for example on the nature of direct support to farmers, so that there is a level playing field that enables open markets. In effect we agree to share power over agriculture and rural development because of the benefits to our farmers of having access to financial support and access to large markets. We recognise that this policy area is about give and take; we give up absolute control over agriculture and rural development because we gain in other ways.

Returning powers – the policy problem

When we leave the EU, the powers that reside in Brussels, which effectively set the envelope within which our choices on agriculture and rural development are made, will return to the UK. If those powers were to straightforwardly return to Scotland, then the Scottish government will see an enhancement in its position as it will gain absolute control over agriculture and rural development: it would be able to make its own choices about how to support farming and wider land management without reference to the other parts of the UK (although, realistically, what the Scottish government could do would be limited by what trading partners would accept to maintain trading relationships).

This is the Scottish government's assumed position. The UK government has, however, been more reticent on the return of powers from the EU and this has led to the headlines about 'power grabs', with some claiming that Westminster is attempting to regain control over agriculture and rural development. Behind the headlines, however, there are potentially policy problems on at least two fronts.

Firstly, if we assume that the UK will actually leave the EU and that Scotland remains part of the UK, the division of responsibilities under devolution creates a potential problem. On the one hand the UK government will be responsible for trade deals and foreign affairs and on the other the Scottish government will be responsible for agriculture and rural development. This potentially creates a problem because the
UK government will be seeking to negotiate trade deals (which will almost certainly include trade in food and agricultural products) whilst not having a coherent agricultural policy position for the UK as a whole. One part of the UK having absolute control over agriculture and rural development and potentially making choices without regard to UK policy and trade needs could make it difficult for the UK to agree trade terms with other nations.

Secondly, at the moment, with all the countries of the UK operating under the CAP, we have a UK-wide agricultural system. If the Scottish government were to gain absolute control over agriculture and rural development and be able to make policy choices without reference to the other parts of the UK, it is possible that internal barriers to trade or distortions in the market could be created. For example, if England was to dramatically reduce the level of direct support to farmers whilst Scotland chose to maintain direct support, there would no longer be a level playing field and in that sort of scenario it is easy to envisage English farmers seeking trade barriers to protect themselves from more heavily subsidised Scottish imports. This may appear far-fetched, and we have to acknowledge that there are already differences in approach across the UK (albeit within the envelope provided by the CAP), but a lack of policy coherence brought about by the different parts of the UK acting independently could create problems for the functioning of the UK-wide agricultural system.

These two problems suggest to us that there will be a need for some sort of UK wide agricultural policy framework and that the best outcome is likely to be found in the middle ground between two equally unattractive extreme positions. On the one hand there is a scenario where agriculture and rural development are re-reserved to Westminster. This is unacceptable. At the other extreme, there is Scotland exercising its power in such a way that it creates problems for UK trade with other countries and for trade within the UK. Somewhere in the middle of these two extremes is a position that involves the different parts of the UK working together in some way.

A UK-wide agricultural policy framework

If the suggestion that we should seek to maintain a functioning UK agricultural system is accepted, the question of how to achieve that desired outcome follows and there are potentially different routes forward in this regard.

The Scottish government’s approach is to argue that all powers should be returned entirely to Scotland, so that the Scottish government could then negotiate with the rest of the UK on those parts of agricultural policy that need coherence. This is clearly politically attractive because it would put the Scottish government in a powerful position because it could use its ability to withhold agreement on certain areas as a negotiating tool to achieve other Scottish government objectives. From the perspective of the land-based industries this could be attractive because the Scottish government could be seen as fighting for the needs of the industry within the UK. Indeed it may even be the best way to get the best outcome for Scottish agriculture, although there is also a risk that Scottish farming could find itself used as a political football or bargaining chip in wider constitutional debates.
An alternative approach would be for the constituent parts of the UK to work together to establish an over-arching UK policy framework which effectively replicates the current EU arrangement at the UK level. This would mean that there was a high level statement of agricultural and rural policy objectives that applied across the UK, together with a financial support framework within which each part of the UK would retain the ability to tailor how that framework was implemented. This mirrors the current situation for Scotland under the CAP and would not, we believe, represent Westminster grabbing power provided that any over-arching policy was created with equal collaboration across all of the devolved countries. Any UK policy or framework could not be driven by Westminster; it would have to be jointly developed. In a similar way to the existing arrangements under the CAP it would involve give and take; we would have to accept sharing power to some degree because of the wider benefits that doing so would deliver to Scottish land managers. Unfortunately, at the moment the relations between UK and Scottish governments would appear to prevent a move in this direction.

A key problem with this approach revolves around the nature of devolution in the UK. Unfortunately, while Westminster does perform over-arching UK functions, it is also responsible for England and the concern around Westminster having any influence over Scottish agricultural and rural policy is that it would actually put the needs of England first. For a UK-wide agricultural policy framework to work it could need the creation of a separate body or agency that takes it out of the politics of the relations between the different governments and ensures fairness in the development of policy and the allocation of budgets.

A complicating factor – powers and money

At present, Scotland receives 17% of the total UK CAP budget. This is a position that is favourable to Scotland given Scotland’s population share. If population share was used to allocate the budget, Scotland would receive around 8% of the CAP budget. This raises the question about how future agricultural budgets will be allocated and decisions about this allocation are likely to intersect with questions about where power lies and whether or not there is an over-arching UK policy.

Although there is no certainty around this issue, there is a concern that if Scotland rejects an over-arching UK policy and pushes for absolute control over agriculture and rural development, the response from the UK government could be to simply add agriculture into the Barnett formula thereby effectively reducing the funds available to supporting farming and land management (although it is important to acknowledge that any future Scottish government could choose to allocate funds how it sees fit and could maintain funding at something akin to present levels, although here governments would face difficult choices as agricultural funding would be competing with the funding for other public services). Equally it could be argued that if Scotland pushes for absolute control over agriculture and rural development then Scotland would be in a better position to bargain with the UK government to achieve a good outcome in terms of share of the budget i.e. the price of Scotland’s participation in a UK policy would be a good share of the budget.
Scottish Land & Estates position on devolved powers

As we have said, Scottish Land & Estates takes the view that there will be a need for some sort of UK wide agricultural policy framework. This is simply a pragmatic position based on our belief that it is important to maintain a functioning UK-wide agricultural system. We believe that, ultimately, some level of UK cooperation or policy co-ordination will be required and that it should be possible to achieve that without Scotland losing any powers. We acknowledge, however, that there are different ways to reach the goal of UK policy co-ordination, whether it is via Scotland gaining total control and then bargaining or via an agreement to share power through a CAP replacement. We would simply say that our interest is solely in how to achieve the best outcome for rural Scotland and we remain open to supporting whichever route best achieves that goal.

Targeting future agricultural support

Scottish Land & Estates is developing its thinking on what the future of agricultural support should look like and has recently produced a paper setting out a broad position prior to moving on to look at the detail of how future support can be structured and delivered. In broad terms, Scottish Land & Estates believes that rural and agricultural support policy needs to change. We believe that defending the status quo is not an option.

While farm support payments account for the lion’s share of public financial support to land management in rural areas and these payments are vital to many businesses, the system is far from perfect. It can be difficult to justify when other areas of public expenditure are suffering such major budgetary pressures and there are questions around whether the current level of expenditure on farming provides value for money, around what it actually delivers and how the funding is distributed.

In the context of pressure on all public budgets, Scottish Land & Estates believes that the best defence of support to farming is to reform agricultural support frameworks so that the support demonstrably delivers outcomes that are in the national public interest. This would be to create a new contract between farmers and land managers and society as a whole.

We do, however, have to start from where we find ourselves today and we do face some severe challenges, not least the lack of profitability of many businesses and the dependence on farm support payments. As such, we would emphasise that any move away from current approaches should be gradual rather than abrupt. Many businesses do need to change, but given the dependence of many on direct payments, radical change could be very disruptive to the farming industry.

In more specific terms relating to targeting support in future, Scottish Land & Estates emphasises three key areas: enhancing profitability; avoiding land abandonment and delivering public goods.

There is a real need to enhance the performance of Scottish agriculture. Scottish government figures show that in 2014-15 58% of farm businesses had a Farm
Business Income of less than £20,000 and that 22% had an income of less than zero. Additionally, while the average was £23,000, once grants and subsidies are accounted for, it was a loss of £17,000, emphasising the dependence of many farm businesses on public financial support. Scottish Land & Estates therefore believes that government support to farming and land management should be focused more on helping the industry change. Funding should be available to support the adoption of innovative approaches, marketing, diversification, advice, knowledge exchange and facilitation and to help facilitate exit from the industry for those that want to leave.

There will also be a need to support farming and land management in those areas where there is a risk of land abandonment. There are some areas where farming will always be challenging, but where that farming activity performs several important functions. In addition to providing a living and producing food it provides habitats for wildlife and water and landscape management. It also has an important social and community impact in terms of keeping people in remote rural areas. If support were removed and land abandoned we would be likely to witness negative social and environmental trends. It will, therefore, be important to consider continuing to support farming and wider land management at higher than safety net levels in order to ensure the continuation of the land management and the associated contribution to the local environment, economy and community.

At the same time, while we believe that there will be a need for some level of ongoing future direct support and for additional support to disadvantaged areas, Scottish Land & Estates does believe that rural funding needs to change so that it more clearly delivers tangible benefits in return for the large amounts of public money invested in rural areas. As such, the support regime should move in the direction of putting greater emphasis on paying land managers for the delivery of public goods.

The amount of ‘red tape’

Scottish Land & Estates readily acknowledges that regulation is necessary. As a society we establish laws and regulations so that individuals do not harm the wider public interest, for example through polluting water courses. Yet while, as a society, we need regulation, from the land manager’s perspective it can feel like a sometimes excessive burden given that almost everything they do has some form of regulation associated with it. While our members respect the need for regulation, many feel that at the moment there are times when the system of rules that they have to operate within is too complex, for example with respect to the rules associated with direct farm support or woodland creation, and that sometimes the regulations are so inflexible that they get in the way of doing good things. As such, Scottish Land & Estates is keen to emphasise that it is important to find the right balance between protecting the public interest and allowing individuals to run businesses and manage the land.

Brexit will create the opportunity to look again at our regulatory framework and some have suggested that it is an opportunity to somehow drastically reduce the amount of red tape. Scottish Land & Estates believes, however, that caution is required. While some may want to grab the opportunity to re-write the laws that underpin the red-
tape, it is important to acknowledge that land managers also need certainty about what the rules are. Scottish Land & Estates therefore welcomes the UK government’s stated intention to introduce a Bill to remove the European Communities Act 1972 from the statute book and convert the body of existing EU law into domestic law. Effectively rolling over the regulation means that the framework that farmers operate within will stay the same in the short to medium term. It will be possible to look again at opportunities to streamline regulation in future as we develop new approaches to agricultural support.

Scottish Land & Estates would like to emphasise, however that in the longer-term a change of approach would be beneficial. Scottish Land & Estates would like to see a shift from regulators being enforcers to regulators adopting a much more enabling attitude. When regulators simply wield a big stick relations with those regulated—the land managers—tend to be poor and communication about the rules, wider goals and issues of implementation tend to be hampered. When regulators take a more enabling approach—as SEPA did recently with its approach to tacking diffuse pollution through Priority Catchments—the relationships between farmers and SEPA improved and outcomes improved as a result. There was still a regulatory backstop that the regulator could use if required, but more was achieved as a result of constructively engaging with land managers than simply threatening with regulatory penalties.

Trading relationships and tariffs

Assuming that we do leave the EU, successful trade policy will be vital. A great deal is at stake. If the UK faces new barriers to its exports and at the same time opens its markets too much then the consequences for the UK’s farming sector could be immediate and severe. Effective trade policy enables good businesses of all sizes to prosper. Getting it wrong will lead to business failures.

Achieving trade deals that work for Scottish farmers will be a delicate balancing act involving several different considerations. If UK trade policy is too protectionist food prices on the supermarket shelf could increase dramatically. This must be avoided. However, if UK trade barriers to imports are removed unilaterally it could lead to a dramatic drop in food prices that may have short term benefits to consumers, but would damage domestic producers disproportionately and would not be sustainable.

Trade policy is a vital part of achieving food security in the UK. Strong exports help to ensure domestic farming is productive. Imports ensure that enough food is available to meet population needs ensuring consumers have choice and access to a balanced diet all year round, and is particularly important for the times when the country suffers from poor harvests or other shortages.

The UK operates to high animal welfare standards. These standards must be maintained so that UK produce continues to be sold domestically and to the world on the basis of its high quality and ethical credentials. Much more should be done to market these facets of our food. Any trade policy must not lead to unfair competition in the domestic market from products produced to lower standards.
Crucially, in taking trade negotiations forward, Scottish Land & Estates believes that the Prime Minister and the First Minister of Scotland must state their commitment to securing robust trade deals for food and farming as a specific priority of our trade negotiations. The danger is that because agriculture contributes a relatively small proportion of our total economic output, agricultural trade could be seen as a bargaining chip that could be used to secure deals in relation to other industries that contribute more to the economy. Scottish Land & Estates wants to see farming and food addressed as a priority rather than as a minor issue.

Scottish Land & Estates believes that the new Department for Exiting the European Union and the Department for International Trade must have a dedicated team of experts and trade negotiators in place, supporting a minister with a specific responsibility for securing the best deal and policy outcomes for agriculture and the wider rural economy.

Five objectives for future trade policy for food and farming could be:

- **Grow existing markets at home and abroad** - Ministers must enter discussions with the EU with a clear objective and plan for negotiating tariff-free access to the EU market for UK food, drink and wood products. The government must also develop an industrial strategy that delivers growth in consumption of domestically produced food within the UK.

- **Open new markets** - Exiting the EU will free the UK to establish new bilateral trade deals with markets across the world. Ministers must ensure that wherever these deals are struck they are creating opportunity for UK food producers, food manufacturers and foresters.

- **Deliver the best deals for UK consumers** - Consumers deserve the highest quality food at the best possible price. UK trade policy must strike the right balance, maximising opportunity for people to buy British food alongside the best produce from around the world.

- **Equip businesses to compete** - The future of the food, farming and forestry sector outside the EU will be a success if the trade conditions are right, but businesses also need to have the skills, knowledge and ambition to seek out markets elsewhere in the world.

- **Improve farmer resilience** - Trading in a global marketplace brings significant opportunity, but there are also risks. Climate change is affecting what can be produced where and our geopolitical situation is changing access to markets. Faced with this the government must provide its farmers and foresters with a robust foundation that helps them to manage volatility and make the investments necessary to increase efficiency and productivity.

**EU migrant labour and freedom of movement**

Freedom of movement for people to live and work across the European Union has delivered benefits for businesses across the rural economy. This larger pool of potential employees has provided rural businesses with greater flexibility, certainty
and security. However EU membership has led to reduced opportunities for workers from outside the EU as restrictions on non-EU nationals have been increased to accommodate freedom of movement for EU workers.

It is in the farming and tourism sectors that the potential impact of changed migrant labour policies are likely to be most keenly felt. In farming EU migrant labour plays a critical role in harvesting, production and processing across the food supply chain in tourism we understand that one in four workers within the tourism and hospitality sector is a non-UK national.

As we prepare to leave the EU it is vital that a dedicated strategy is put in place to ensure rural businesses can attract the talent and skills they need. This means ensuring opportunities are in place to attract the best, highest-skilled practitioners in the world into our research centres and universities; as well as ensuring that there is sufficient supply of reliable skilled labour working in our farming industry.

Scottish Land & Estates believes that it is vital that the UK Government takes the following actions to provide certainty to farmers and other rural businesses about the security of the labour force.

- Confirm the status of EU migrant workers already resident in the UK – across the rural economy businesses are employing skilled and experienced workers that they would like to retain. The sooner the long term prospects of these workers are confirmed the better for all concerned.
- Establish appropriate sector specific schemes that ensure availability of seasonal and skilled labour – assuming that after UK exit from the EU free movement of labour is removed it is vital that there is continuity in the supply of workers in agriculture in particular. Successful schemes were in place before the expansion of the EU and can be updated and reinstated.
- Ensure the UK’s position as a destination to participate in research and development is maintained – across our agricultural and other sectors the UK is a destination point for the best minds from across the globe. This must remain the case after the UK exits the EU.
- Develop an immigration policy that ensures that the supply of workers across the rural economy is sufficient to ensure businesses can invest and grow – a number of factors will be weighed in determining future immigration policy, but it is critical that the end result is that there are sufficient workers available with the right skills and commitment to support businesses across the rural economy.

**Seasonal workers**

A seasonal workers scheme allows individuals to enter a country to undertake a specific role with a specific employer for a set period of time. At the end of this time period the individual leaves the country. There is no right to remain to take up another offer of employment. Typically these schemes have applied to agriculture but other sector based schemes for food processing and hospitality have existed in the UK previously.

The schemes often have a limit or quota of the number of people who can enter the country, for example, in 2013 the Seasonal Agricultural Workers Scheme had a limit.
of 21,250. As part of the agreement with the employer the employees are often provided with accommodation and other benefits during their employment. A licensing scheme for businesses seeking to employ seasonal workers creates significant opportunity to enforce safeguards relating to workers’ rights, safety and other welfare standards.

The Seasonal Agricultural Workers Scheme was removed in 2003 following the removal of freedom of movement restrictions on workers from Romania and Bulgaria. A reintroduction of a scheme of this kind would be vital in the event of removal of freedom of movement after the UK exit from the EU. It would have to be in place before the end of freedom of movement restrictions.

**Skilled permanent workers**
Across the food supply chain there are a number of people that have built up skills and experience that are invaluable to the businesses they work for. It would be severely damaging to remove these people from existing businesses and if there is consent from the employee and the employer then they should be able to remain employed in the UK.

It is also important for the UK to attract the best skill and experience from across the world to manage modern farms, processing and production facilities and to bring their knowledge to our research and development sector. Attention must be given to ensuring qualifying criteria for immigration systems (such as a points based system proposed by leave campaigners in the EU referendum campaign) properly accounts for the needs of this vital sector. Also opportunities should remain for people to come and take part in the world-leading education and training opportunities afforded by our educational institutions.

**FORESTRY**

Scottish Land & Estates’ members have a strong interest in forestry, with 57% of woodland in Scotland in non-public ownership. If targets for woodland expansion are to be met, it will be vital that private landowners are encouraged and supported to plant more trees. Supportive statements from the Scottish government about the future of forestry are very welcome but there are a few key points that we would make.

**Certainty**

Landowners thinking of planting need to have a high level of confidence that the funding will be available for forestry and that the bureaucratic system through which they will have to operate is fit for purpose. At present neither of these is certain.

With regard to funding, the forest and timber industry needs a continuity and consistency of support because fluctuations can be difficult to accommodate in the nursery and processing sectors and in the timber market. The industry needs stability. Unfortunately, while the Forestry Commission did its best to bridge the bureaucratic gaps, this stability has been lacking in recent years as the industry has had to adapt to forestry support being handled through the EU’s rural development
programmes. The prospect of another potentially damaging hiatus in forestry support is worrying.

If we do leave the EU, funding will stop and although the UK government has committed to honour funding commitments made before we leave the EU, and the Scottish Government has been very positive about the importance and future of forestry, there is no clarity on future funding. Importantly, given that new planting schemes can take 1-2 years to get approval, this means that some guarantees will be needed from the Spring of 2017 (assuming that Article 50 is triggered in March 2017 and that the UK leaves the EU in March 2019). If this sort of guarantee is not forthcoming there could be a reduction in planting applications as applicants await some certainty about the availability of support for their schemes. Given the size of the forestry budget requirement (compared to the farming budget) the Scottish Government could simply guarantee ongoing support to provide the stability the industry needs.

Forestry and integrated land use policy

Scottish Land & Estates would like to see an integrated approach to land use. Our members are frequently involved in diverse activities and they seek to manage their land holdings in an integrated way where different activities complement each other. Integrated land management is at the heart of what our members do. Yet many of our members find themselves receiving contradictory signals from government policy and are desperate for more coherent, joined up and rational policymaking.

Government policy tends to drive land use because of the financial frameworks that surround the policy, but that policy is frequently designed in different silos where farming, forestry, energy and rural development policy, for example, are developed separately. Although moves in the direction of greater integration are being attempted, for example in attempts to encourage farmers to plant more trees, it is not easy. The Scottish Land Use Strategy has the potential to provide a mechanism that enables a more coherent approach to getting the most out of the land, but this does not appear to be central to the government’s approach to land use.

What seems clear is that if it is managed in an integrated way, the land can deliver more in the way of outcomes to society. It can be used to produce food, timber and energy, but it can also help mitigate flooding or climate change and protect biodiversity. An integrated approach will help to get the most out of the land to the benefit of all.

An important element of any move towards a more integrated approach must be an acceptance of change. In recent years there has been disquiet about the loss of agricultural land to forestry. This is unfortunate. While prime agricultural land should be avoided, a change in use can represent a rational approach to getting the most out of the land. Our land policy should enable a rational approach to land use decision-making rather than simply preserve a certain land use structure in aspic.