



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Wednesday 27 June 2018

Session 5



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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
22nd Meeting 2018, Session 5

CONVENER

Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Donald Cameron (Highlands and Islands) (Con)

*Finlay Carson (Galloway and West Dumfries) (Con)

Richard Lyle (Uddingston and Bellshill) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

Alex Neil (Airdrie and Shotts) (SNP)

*Alex Rowley (Mid Scotland and Fife) (Lab)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

The Rt Hon Michael Gove MP (Secretary of State for Environment, Food and Rural Affairs)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Wednesday 27 June 2018

*[The Deputy Convener opened the meeting at
10:04]*

Decision on Taking Business in Private

The Deputy Convener (John Scott): I welcome everyone to the 22nd meeting in 2018 of the Environment, Climate Change and Land Reform Committee. We have apologies this morning from the committee convener, Graeme Dey, and from Alex Neil and Richard Lyle.

Before we deal with the first item on the agenda, I remind everyone present to switch off mobile phones, as they might affect the broadcasting system, and I advise members that we will move to committee room 3 to consider the third item on the agenda. I also declare an interest as a farmer.

The first agenda item is for the committee to consider whether to take in private item 3. Shall we take item 3 in private?

Members *indicated agreement.*

Implications of the United Kingdom's Departure from the European Union (Environment)

10:04

The Deputy Convener: Item 2 is on the environmental implications for Scotland of the United Kingdom's departure from the European Union. We are delighted this morning to hear evidence via video link from Michael Gove MP, the Secretary of State for Environment, Food and Rural Affairs in the UK Government, on those implications.

Good morning, Mr Gove. We are grateful to you for taking the time to speak to us. Because time is limited, it has already been agreed that we will move straight to questions. The first question is from Finlay Carson.

Finlay Carson (Galloway and West Dumfries) (Con): There is a politically driven message in this place that there is little, or an unsatisfactory measure of, engagement between our two Governments. Can you tell us what procedures the Department for Environment, Food and Rural Affairs has put in place to ensure effective engagement with the Scottish Government on Brexit?

The Rt Hon Michael Gove MP (Secretary of State for Environment, Food and Rural Affairs): I meet regularly with representatives of the Scottish Government and the warmth of the relationship between me and Roseanna Cunningham and Fergus Ewing on an operational level belies what you might hear about some of the political tensions that are supposed to exist. I saw Fergus Ewing informally just last week at the Royal Highland Show, and every month to six weeks we have formal meetings with the UK Government and representatives of all the devolved Administrations to discuss all the issues that fall within our respective remits. At those meetings there is very rarely a cross word and I commend the constructive and pragmatic way in which the Scottish Government, its officials and its ministers engage with the day-to-day business of Government.

Finlay Carson: What sort of information does DEFRA share with the Scottish Government to help us to plan for life after Brexit?

Michael Gove: We do everything we can to share all the information that we can. For example, we share with the Scottish and Welsh Governments draft clauses for future legislation. We try to give the Scottish Government and the other devolved Administrations advance sight of white papers or command papers. It is also the

case that, when it comes to drafting secondary legislation, we try as much as possible to share not just the broad outlines but the working detail.

Sometimes, of course, as is natural between Governments, and as is natural sometimes between Government departments, people would prefer to have slightly more time and slightly more detail but, as a general rule, I have instructed my department to lean in and to share as much information as possible as early as possible. Indeed, we have benefited, on occasion, from advice that we have had.

I will mention one thing in particular. It is not a controversial bill, but the Ivory Bill, to ban the sale of ivory, is now making its way through the House of Commons, and we had very good engagement with the Scottish Government on that. The Scottish Government is on the same page as us and wants the legislation to be brought forward on a UK-wide basis. It made us aware of one or two potential constitutional wrinkles, but we worked collectively to iron those out.

Finlay Carson: Thank you for putting that on the record.

The Deputy Convener: What progress is being made on the negotiations for the areas within the committee's remit that will require a UK legislative framework? How do you see policy frameworks emerging and developing?

Michael Gove: As Mike Russell will have informed the committee in a different context, there have been a number of deep dives, with close, collaborative, thoughtful engagement at official level in the areas for which my department and those of Fergus Ewing and Roseanna Cunningham are responsible, because we wanted to ensure that there are UK-wide frameworks in a number of areas.

When it comes to environmental principles overall, we accepted at a previous meeting of the UK Government and devolved Administrations a draft text on a guiding approach that had actually been drafted by Lesley Griffiths on behalf of the Welsh Government, with support from Roseanna Cunningham. We were very happy with that as a rules-of-the-road guide to help us to shape the frameworks.

On the environment overall, all four Administrations are more or less in the same position: we all want to ensure that there is no diminution in environmental protection as we leave the European Union.

The Deputy Convener: What is your view of the nature and scope of the UK legislative framework for the implementation of the EU emissions trading system? How are we getting on with that?

Michael Gove: The emissions trading system is, principally, an area that falls within the remit of the Department for Business, Energy and Industrial Strategy. Again, I do not want to say too much at this stage, because the emissions trading system is a matter for my colleagues Claire Perry and Greg Clark, and I do not want to trespass on to their territory. However, I am not aware of any obstacle or impediment to good working between the UK Government and the devolved Administrations. I will check with my colleagues at BEIS after this meeting and if for any reason there are difficulties, I will write to the committee to let you know what they are and what we are doing to overcome them.

The Deputy Convener: How are you developing your thinking on waste packaging and product regulations?

Michael Gove: We hope to publish a UK Government waste and resources strategy in the autumn. We have sought to learn from Scotland and, in particular, Wales. Wales has very high levels of recycling and England can learn lessons from it about how we drive up recycling rates overall.

As well as addressing recycling, the UK Government has ambitions to have a deposit return scheme. The Scottish Government was out of the traps earlier in outlining the importance of a DRS. We want to work collaboratively with all the devolved Administrations in order to ensure that a deposit return scheme works effectively. Recycling is managed at a local government level, but we would want to ensure that there were no discontinuities at the border between Scotland and England that meant that the operation of a deposit return scheme was less than smooth.

Angus MacDonald (Falkirk East) (SNP): You will perhaps be aware that, this morning, the Scottish Government launched a public consultation on the design of a deposit return scheme. Given the strong public support and the importance to the environment of reducing plastic pollution, can you assure the committee that you are doing everything that you can to support the Scottish Government in its work? Are any discussions on-going between the UK, Scottish and, indeed, Welsh Governments on system design and timing?

Michael Gove: Yes, absolutely. You are right that there is widespread public concern about plastic waste and the tide of toxic plastic that finds its way into our rivers and oceans. All the Governments of the United Kingdom are united in recognising that we need to work individually and together to deal with the problem.

As I mentioned very briefly earlier, the Scottish Government was brave and right to stress that a

deposit return scheme would be an important part of resolving the issue. We have been working collaboratively with Roseanna Cunningham and the Welsh Government to ensure that the proposals that Scotland brings forward dovetail with the proposals that we will introduce in the rest of the United Kingdom.

Angus MacDonald: The new EU targets for the recycling of packaging, particularly for plastic, are more ambitious than what is currently being achieved. Do you agree that an ambitious deposit return scheme will be needed to achieve those targets, and that it will need to be comprehensive in relation to plastic drinks containers? We have heard rumours that you are looking simply at an on-the-go deposit return scheme.

Michael Gove: I do not want to pre-empt our consultation, but my view is that the more comprehensive the scheme the better. You are absolutely right on that. We are all aware—you quite rightly reminded us of the need to be aware—of the scale of ambition that is required to deal with the problem. Our reliance on plastic across our economy needs to be tackled. A deposit return scheme would be a critical way to ensure that all of us—consumers and producers—play our part in making sure that we deal with the pollution and waste problems that that reliance has generated.

10:15

Angus MacDonald: The EU has adopted a package on the circular economy that includes targets to increase recycling. Is the UK Government committed to achieving at least those standards and targets, even if Brexit means that they would no longer be binding on the UK?

Michael Gove: Yes. We are committed to the higher level of ambition to which the EU is committed. As I have said, we want to make sure that, once we are outside the European Union, there is no diminution in our commitment to environmental protection; indeed, in some areas, there is the potential to go further.

Angus MacDonald: That is good to hear. I am aware of the time constraints, so I will move on and explore the issue of non-legislative common frameworks. What progress has been made in the development of non-legislative frameworks for environmental issues such as air quality, biodiversity and waste management?

Michael Gove: In all those areas, work is going on between the devolved Administrations and my department. On air quality, I hope that people will recognise that we have published an ambitious aim to ensure that, across the UK, we end our reliance on the internal combustion engine. There will be no new conventional petrol or diesel cars

sold after 2040, and they will all be off the road—with one or two exemptions—by 2050. I know that the Scottish Government has a high level of ambition in that area, and we applaud any country that wants to have such high-level ambitions. We have created what we consider to be an effective backdrop against which all the countries of the United Kingdom can make progress.

On the other areas that you have mentioned, we consider it necessary to have effective collaboration. That is in all our interests. There are no issues of principle between us. There may be other areas where our Governments may have a divergent view about what the right future should be, but on all the matters to which you referred and the broader environmental agenda, I do not think that there is any real divergence between the ambitions of the Scottish, Welsh and UK Governments.

Angus MacDonald: You mentioned the possibility of divergent views. How would disputes be resolved?

Michael Gove: At the moment, we are resolving the means by which we can ensure that we respect the fact that the environment is a totally devolved competence. One of the things that we are setting out to do through the establishment of the frameworks—and the collaborative way in which we do that—is to respect and strengthen the devolution framework. There is not a single power that the Scottish Government exercises that we want to remove from it. It is quite the opposite—we see the potential outside the European Union for each of the parts of the United Kingdom not only to collaborate together but to make the decisions that they consider are right for their own jurisdiction.

Mark Ruskell (Mid Scotland and Fife) (Green): I want to ask about the frameworks that are being developed in relation to trade negotiations and how those may impact on environmental standards. It is clear that the UK Government could go in two different directions. In the DEFRA consultation you talk about maintaining high standards, but the UK Government's economic impact assessment on Brexit talks about a deregulatory agenda for consumer protection and the environment. Which one is it? How will you ensure that the devolved Administrations and, indeed, your own Parliament are able to scrutinise what comes out of any trade deal?

Michael Gove: I think that it would be the case that any trade deal that is secured would have to make its own way through the House of Commons; I think that it is also the case that the involvement of the devolved Administrations in making sure that we get the right trade deal is central.

I do not believe that the tension that you describe is there. We have been clear at a UK Government level—this view is not very different from the view of the Scottish or Welsh Governments—that we need to maintain high environmental standards, and high animal welfare standards for that matter, in any trade deal that we conclude. We want to do that not just because it is right morally but because it is the pragmatic, economic thing to do. Britain and the individual nations of the United Kingdom will succeed in the future on the basis that the products that we produce are known worldwide for the high-quality standards that lie behind them, and there is no future for the United Kingdom in trying to lead a race to the bottom. The future for us, economically, is in being the home of quality, whether that is in the food and drink that we produce or in areas such as ultra-low-emission vehicles, which effective, targeted and tough regulation can help to sustain.

Mark Ruskell: Does that mean that environmental standards should be off the table in trade negotiations?

Michael Gove: It means that environmental standards have to be maintained in the course of trade negotiations. They absolutely need to be defended. One of the things on which we need to be clear with our trading partners is that although, of course, free trade brings many, many benefits, we do not believe that in order to secure the benefits of free trade we should trade away environmental protection.

Mark Ruskell: Is that a view that is shared across the Government?

Michael Gove: Yes.

Donald Cameron (Highlands and Islands) (Con): Mr Gove, I want to continue to ask about UK-wide frameworks, taking perhaps a slightly longer-term view. What UK-wide processes of collaboration do you envisage might be needed in future, for example when dealing with changes to international obligations?

Michael Gove: It is critical that we make sure that all the constituent nations of the United Kingdom feel that their interests are effectively represented. As I said, at DEFRA at the moment, what started as an informal arrangement is becoming an integral part of our way of working and, I think, the Scottish, Welsh and Northern Ireland Governments' ways of working.

Whether we do it through the joint ministerial committee structure or the structures that we have set up, the most important thing to ensure is that we operate with courtesy towards one another and share as much information as possible. We must also recognise that the work that has been undertaken by the Chancellor of the Duchy of

Lancaster and the UK Cabinet Office, to ensure that we can resolve some of the issues in a civilised way, bears fruit.

Finlay Carson: I will move on to funding. The executive summary of "Health and Harmony: the future for food, farming and the environment in a Green Brexit" sets out a funding guarantee in the context of the replacement of the common agricultural policy. It says:

"We will maintain the same cash total funding for ... farm support under both Pillar 1 and Pillar 2 of the current CAP."

I have three questions about that. Does the UK Government funding guarantee cover funding for pillar 1 and pillar 2 in their entirety? Will replacement funding be based on annual averages or spending projections? Does the funding guarantee cover payments under multi-annual agreements with land managers that are to be made after 2022?

Michael Gove: The funding guarantee covers pillar 1 and pillar 2 and does so right up until 2022. It is also the case that if we have entered into contracts with land managers and those contracts extend until after 2022, they will be honoured.

Finlay Carson: Will funding be based on annual averages or spending projections?

Michael Gove: I will have to come back to you on that, because we have not definitively ruled on the issue.

Alex Rowley (Mid Scotland and Fife) (Lab): Mr Gove, I think that you said that not a single power will be removed from the devolved Administrations. You will be aware that there is concern in Scotland about what has been described as a "power grab" by the UK Government. Many of the powers in question are to do with the environment. What do you say to people who say that a power grab is taking place and that powers that should be coming back to this Parliament are not doing so?

Michael Gove: People talk about the so-called "power grab", but I have not seen anyone enumerate a single power that the UK Government wants to exercise that involves taking power back from the Scottish Government or the Scottish Parliament—quite the opposite. I have absolutely no desire to exercise powers that are currently exercised by Roseanna Cunningham or any of her colleagues in the Scottish Government. If the case is being made that the UK Government wants to do that, I do not know a single UK Government minister sitting around the UK Cabinet's table who wants to take power away from the Scottish Government. No one has ever identified one.

Alex Rowley: The UK Government has suggested that there could be a significant

increase in devolved autonomy in certain areas, including the environment. Do you have any view on where more powers and more autonomy in relation to the environment will be coming to the Scottish Parliament?

Michael Gove: It is the case that the environment is fully devolved, ditto agriculture and fisheries. We will of course need to have UK frameworks on agriculture and fisheries to make sure that Scotland's producers have the opportunity to have the same unfettered access to consumers in England that they do at the moment.

However, I can see circumstances in which, as Fergus Ewing hinted last week, he decides to develop support for Scotland's farmers in a different way from the way we do it south of the border. That could also be the case in other areas of environmental innovation or ambition—we were talking about a deposit return scheme earlier and we have been talking about Scotland's desire to move further and faster in supporting ultra-low-emission vehicles.

Of course it helps if we all work and move together on the environment, because our air knows no boundaries and we are bounded by the same seas. It is important that we recognise how critical it is to work together. However, I would say that Roseanna Cunningham—when it comes, for example, to the reintroduction of native species—has been thoughtful in considering some of the ways in which Scotland could go further faster. I applaud that level of ambition and would never want to do anything other than encourage the Scottish Parliament and Government to flex its muscles in those areas where it has competence.

Alex Rowley: I think that there is an acceptance in Scotland that there is a need for common frameworks in areas such as agriculture and fisheries. The question is whether, in your view, Scotland is coming to the table to negotiate those common frameworks as an equal, or whether the UK Parliament in charge of them. At the end of the day, who has the final say?

Michael Gove: I regard it as a partnership. The union is a partnership. There are constitutional principles on where sovereignty ultimately lies that are well understood, but the day-to-day, week-to-week, year-to-year working between the UK Government and the Scottish Government and, for that matter, the Welsh and Northern Ireland Administrations, is, I believe, a partnership of equals. It is one from which we in the UK Government can learn sometimes. The Scottish Government, whatever political complexion it may have, will do things that we in the UK Government might want to listen to and learn from.

More than that, it is in the nature of the fact that, when it comes to fisheries, a majority of the fish

that are caught in UK waters are caught by Scottish boats and landed in Scottish ports. Also, given the landscape of the United Kingdom overall, it is the case that some of our most important habitats and some of our most important food production sectors are in Scotland. We cannot have a successful UK food strategy or UK farming strategy without treating Scotland as an equal. I am sure that everyone around the table appreciates that two of our single biggest exports from the UK are salmon and whisky. Both of them depend on us making sure that we have a proper respect for Scotland's unique needs, and part of that, particularly when it comes to salmon, is making sure that we have the right environmental standards as well.

The Deputy Convener: Stewart Stevenson has a supplementary.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I think that the tensions between the Governments over powers boil down to powers in the European Union (Withdrawal) Act 2018, which was just passed at Westminster. Section 15 basically gives a period of time during which the UK Government can take a different view from the Scottish Government and enforce that view over Scotland. This morning, you are coming across as a very reasonable man, and we know that you have good relationships with Scottish ministers—I accept that. How do you think that those powers might be exercised? That is the area of tension that exists at the moment between the Parliaments and ministers.

10:30

Michael Gove: I completely understand that. I also understand that my colleague David Lidington sought to ensure that there would be a shared understanding. Of course, there was a difference of understanding, which I respect, between the Scottish Government and David Lidington with regard to how the withdrawal bill should eventually take shape. David Lidington's view was that there might be circumstances in which the UK Government has to act in order to safeguard the safe workings of the union. My view is that I can understand why that power is there and that my Cabinet colleague was right. However, notwithstanding the different interpretations of what the best way forward was with regard to that legislation, my job is to try to build trust, daily, weekly and monthly, between the UK Government and the devolved Governments as we leave the EU, so that, even though that power is there, it will, I hope, not be used in the way that some have feared.

I understand the sincerity with which the concerns are held. However, I hope that we can prove that we want to ensure that the Scottish

Government is fully involved in all the conversations that we need to have to make our exit work. Even if we disagree about what our eventual destination should be outside the EU, I want to make sure that we work together as well as we possibly can in our day-to-day practical arrangements.

Angus MacDonald: I have been listening closely to the assurances that you are giving this morning, and I am intrigued by your assertion that we have a partnership of equals. Given the comments that were made by Liz Truss yesterday, which put in doubt whether there is collective responsibility in the UK Government at all, how can we take anything that you are telling us today as gospel?

Michael Gove: I do not think that you should take anything that I say as gospel because, by definition, I am not an apostle or a disciple. I am not Matthew, Mark, Luke or John; I am just Michael—I am not even St Michael.

All levity aside, you should judge this Government by our actions. The key thing that I would say is that, if we look back over the course of the past year, we will see that, although Minister Ewing, Minister Cunningham and I might have different views on different issues, we have sought to work together collaboratively.

To take a case in point, Minister Ewing is, quite rightly, concerned about the operation of the discard ban on hake with respect to the Scottish fleet. He has been working with my colleague George Eustice and me in order to ensure that we can take a common view to the European Commission and that, in the run-up to the December fisheries council, we can get the EU position to change. Fergus Ewing is the one who raised that issue, and he was absolutely right to do so. We want to work with him. It affects the Scottish fleet more than any other, but we believe that we have a responsibility to act. I hope that Fergus will say that, whatever else, when he raises such concerns, we do everything that we can to ensure that we respect them and work together.

Angus MacDonald: I appreciate that, Mr Gove.

We have covered a wide range of subjects this morning but, given that you have just mentioned fisheries, I wonder whether we could briefly look at wild fisheries, specifically the Atlantic salmon populations.

We know that a decline in Scotland's native salmon population is continuing, and the North Atlantic Salmon Conservation Organization, which is an intergovernmental organisation, has done some good work with regard to recent Faroes and Greenland fisheries closures. However, our membership of NASCO is via our membership of

the EU. Does our membership of NASCO continue during the transition period? What are the UK Government's intentions with regard to longer-term membership of NASCO?

Michael Gove: During the transition period, all the legal obligations and relationships that the UK has with other parties continue as before—that is the purpose of the transition period, so you are quite right to mention it.

Once we leave the EU, we want to continue to be members of NASCO and regional fisheries organisations in order to ensure that we can manage stocks in a sustainable way.

You are absolutely right that there are concerns about the future of salmon. Those relate partly to climate change and in some cases to agricultural practices in particular countries. It is critical that we all—Scotland, Norway, Iceland and other concerned nations—work together to ensure that salmon stocks are sustainable, and you are absolutely right that NASCO is critical to that.

Claudia Beamish (South Scotland) (Lab): I want to dig a little deeper into the structure of the environmental principles. You will be aware of this, but I will set it out briefly for the *Official Report*. The environmental principles were not in the initial European Union (Withdrawal) Bill, and a House of Lords amendment was rejected by the House of Commons. A new amendment was then made, requiring the secretary of state to publish within six months a draft bill setting out the environmental principles and certain duties on the secretary of state to publish statements and to deal with enforcement arrangements.

The environmental principles are extremely important to the committee and across the UK. Mark Ruskell and I, along with others, addressed in our backstop bill, the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, the issues relating to the precautionary principle and other issues. Given the amendment on maintaining the environmental principles, what plans are there to ensure compliance, and will the provision apply to the Scottish devolved competences?

Michael Gove: You are absolutely right about the process. You did a great job in clarifying what has been a complex legislative process to get us to this point, and you put your finger on the most important thing, which is that, during our time in the European Union, certain principles have been developed in different European Union regulations and legislation that we need to ensure apply as we leave the European Union. I am talking about things such as the precautionary principle and the polluter-pays principle.

In accordance with the amended European Union (Withdrawal) Bill, we intend to introduce

legislation to set up a new environmental governance body or watchdog to replicate the functions that the European Commission has and, at the same time, to lay out the principles in primary legislation and say that the UK Government must, every year, produce a policy statement outlining how it intends to give effect to all those principles.

The position that I have taken with respect to the devolved Administrations is, I hope, an accommodating one. I am completely open to thinking from Scotland, Wales and Northern Ireland about how our shared commitment to those principles and to appropriate governance should be given effect at a devolved level. I have no prior preference as to how we should do it; the important thing is that we reassure all our citizens that the principles will be respected.

Claudia Beamish: That is encouraging. You say that you have no prior view as to how that commitment should be developed, but can you make a commitment today that you will consult the Scottish devolved Administration and perhaps even that the arrangements for the consultation will be drawn up in partnership?

Michael Gove: That is a very fair point. My view is that we have to make this work across the United Kingdom, and I will do everything that I can to work with the Scottish Government to ensure that an ambition that I believe we share can be given effect in a way that respects the devolution settlement.

Mark Ruskell: Will you say a bit more about what form the independent body for upholding environmental standards is likely to take? The critical question is what teeth it will have to hold Governments to account.

Michael Gove: We think that it will have considerable teeth. It will have the capacity to enforce compliance with the law if, for example, a Government is found to be operating with respect to air quality in a way that is in breach of the law. The body will have the power to issue advisory notices initially, but it will ultimately have the power to take the Government to court, if it is in error, to ensure that it is brought into line with the law. We envisage that the body will also have the power to conduct investigations and issue reports.

We want to replicate all the necessary disciplines that have grown up during the time that we have been in the European Union and that have been exercised through the institutions of the European Commission and the European Court of Justice. There are analogies and parallels with bodies such as the New Zealand Parliamentary Commissioner for the Environment, because he or she has the capacity to launch investigations, hold ministers to account and ensure that the

Government does not backslide on its environmental commitments.

Mark Ruskell: That remit sounds wide ranging. Perhaps I can focus on one area of Government policy. The UK Government has faced repeated court appearances, alongside the Scottish Government, in relation to air quality and the failure to meet legally binding European air quality standards. The UK Government decided this week to expand Heathrow airport by building a third runway, but there is a strong argument that that will impact on air quality and the Government's ability to meet those legal air quality standards. Do you believe that the new body should have the power to call in, or even reverse, a decision such as that?

Michael Gove: No, I do not. You are absolutely right to say that the decision to authorise or support a third runway at Heathrow—indeed, any decision to expand airport capacity—will have air quality implications that we will need to take into account. However, it is not so much aviation as the ground transport in and around an expanded Heathrow that will pose the biggest air quality challenges. I think that we can more than meet the standards by changing the way in which people travel to and from a hub airport such as Heathrow.

When it comes to calling planning applications in, the process is well understood. The new environmental watchdog could offer advice about how planning processes might change in the future and how they could be improved, but I do not think that that body should second-guess individual planning decisions.

However, if a Government is in breach of its legal obligations, to which you have rightly referred, the body could say to the Government, "Sorry, but you do need to—and it's time that you did—face up to the law and act in accordance with it."

Mark Ruskell: You do not believe that that power should be extended to individual decisions that a Government makes about developments or policy that could make an air quality problem worse.

Michael Gove: The power should extend to a Government's policy decisions but not to individual planning decisions. That is an important distinction, because there are already—as there should be—protections in planning law and procedures to ensure that environmental considerations, of which air quality considerations are a subset, are met.

Mark Ruskell: Surely, the proof of the pudding is in the eating, is it not? If a third runway gets built at Heathrow and there are major air quality problems in the surrounding area and mitigation measures prove to be unsuccessful, that will be an

error on the part of the Government. What redress could be there be in that situation? What role could the new body have in challenging the pathway that the Government has chosen?

Michael Gove: Taking Heathrow as an example, the approval will depend on the application satisfying certain legal principles on air quality and habitats protection that are very clearly laid out. The development will therefore go ahead only if it respects existing environmental provisions. If the operator breaks the law with respect to environmental or other provisions, appropriate steps can be taken. However, it is important to draw a distinction between the planning process, development control or what might happen after a planning application has been granted and the primary purpose of a body such as the proposed one, which is to ensure that the Government acts, overall, in accordance with the law.

Mark Ruskell: What discussions have been held with the devolved Administrations about a UK governance process?

10:45

Michael Gove: I outlined in meetings with ministers who represented all the devolved Administrations our approach to environmental principles and governance, and I made a point that was similar to the point that I made to Claudia Beamish. I am agnostic—in the best sense of the word, I hope—about whether we should have a UK-wide body or respect the devolution settlement and have watchdogs that operate at a devolved level. My view is that we should work together. I will not attempt to second-guess the Scottish ministers or lead them towards a particular conclusion; I am happy to work together to give effect to whatever they think is the best way of ensuring that we all collectively meet the expectation that our citizens have that those standards will be maintained.

Stewart Stevenson: Mr Gove, my colleague Angus MacDonald introduced one pan-European body. A number of others are part of the EU and some are not. The European Environment Agency, the European Atomic Energy Community, the European Chemicals Agency and the European Maritime Safety Agency are just some of the bodies that the committee might be interested in. What are the UK Government's plans for and beliefs about future membership of, or collaboration with, those bodies? Monsieur Barnier is trying to make some fairly discouraging statements in that regard. How do you respond to that?

Michael Gove: Monsieur Barnier is a tough negotiator on behalf of the EU27 and reflects the

European Commission's position accurately at this stage in the negotiations. Stewart Stevenson asked about a range of agencies. We have said that we would like to have associate membership of some agencies, and there are some arrangements, such as our relationship with Euratom, in respect of which we have laid out how we believe things could work in the future. We have said, as a Government, that we would like to be part of the European Chemicals Agency, the European Medicines Agency and the European Aviation Safety Agency on an associate membership basis. We believe that that is in the EU's interest as much as in our interest.

As the negotiations go on, we will see how the EU responds, but it is fair to say that the position that the EU27 or individual member states may take at this stage of the negotiations is not necessarily the position that they will take at the end. We have seen constructive movement from Monsieur Barnier, during the negotiation process, on everything from scaling down the contributions that he wanted from the UK after we leave the EU to the governance arrangements for EU citizens after we leave the EU. One should not necessarily take the opening bid or statement as a thick red line.

Stewart Stevenson: Nonetheless, it is clear that the UK Government wants to make its own arrangements in some areas, which is perfectly reasonable. What progress is being made in establishing replacement bodies that will assume responsibilities that are currently exercised on environmental issues? Fundamentally, what involvement has the Scottish Government had in that process so far?

Michael Gove: You are absolutely right: there are some areas in which existing agencies in the UK will take on additional responsibilities or in which new infrastructure will be needed. My approach to all the devolved Administrations, including the Scottish Government, has been twofold—to lay out our proposals bit by bit and to say that I am more than happy for the Scottish Government, for example, to say to me that it knows what I want to achieve or what is in the interests of Scotland and it believes that the best thing to do is X. I am happy to look at any proposal on a pragmatic basis. If, purely for the sake of argument, Mr Ewing were to say that he wished to see Marine Scotland exercise particular responsibilities and he believed that it would be better if it were to exercise them in such a way, we would look at that entirely pragmatically in the interests of Scotland's fishing fleet and the health of Scotland's marine environment.

Stewart Stevenson: I am also a member of the Rural Economy and Connectivity Committee. We may return to fishing in that context.

Michael Gove: Of course.

The Deputy Convener: We are drawing to an end the questioning that we had envisaged for you, Mr Gove. Thank you very much for your positive and constructive approach. Before we finish, is there anything that you wish to add to what you have already said by way of a conclusion?

I have just been passed a note by my clerk to say that Angus MacDonald would like to ask a final question before you do that.

Angus MacDonald: I very much appreciate it, convener. The issue of rewilding has been getting a lot of coverage in recent months and, as we have you here, I am curious to hear your views on the reintroduction of the lynx. Can you provide farmers on both sides of the border with reassurance that, if the lynx were reintroduced, that would not be to their economic detriment or the detriment of their livestock?

Michael Gove: Absolutely—the point is well made. Like Roseanna Cunningham, I am always interested in the possibility of the reintroduction of, or better provision of support for, native species that have either disappeared or come close to extinction. I have encouraged the reintroduction of the beaver south of the border, in a controlled way and in specific sites. However, the reintroduction of the lynx raises a whole barrel load of other issues of which I am all too well aware.

At this stage, it is for Natural England, as the appropriate body, to look at any application. Quite a high bar would have to be cleared and, exactly as you say, one of the aspects of that bar would be making sure that local farmers felt confident that there would be no economic or other damage as a result of the reintroduction. That very high bar would be policed by an independent body, not by me.

The Deputy Convener: There being no further questions, is there anything that you would like to say before we hand over to the next committee?

Michael Gove: I just want to thank you for the opportunity to give evidence—I am grateful for your flexibility. I hope that there will be an opportunity for me to give evidence to you again before we formally leave the European Union, if you would like me to do so. I always enjoy visiting Scotland, so I will do everything that I can to make sure that I do that in person.

The Deputy Convener: Thank you very much for that, and thank you for taking the time to be with us today.

The committee expects to meet next on 4 September, when we will hear from stakeholders as part of our scrutiny of the draft budget for 2019-20.

It was agreed earlier that the committee will continue in private session in committee room 3. Our thanks to you, again, Mr Gove.

10:52

Meeting continued in private until 11:18.

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