ARD Stakeholder Group Meeting

13 November 2018

Attendees:

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Ian Davidson (Chair)	Head of Agriculture Policy Division – Scot Gov
Andrew Wright	Institute of Auctioneers and Appraisers in Scotland
Brendan Callaghan	Forestry Commission Scotland
Claudia Rowse	SNH
Drew Ratter	Highlands & Islands Agricultural Support Group
George Milne	NSA
Jamie Farquhar	Confor
John Raven	Historic Environment Scotland
Jonnie Hall	NFUS
Kirk Hunter	Dairy UK
Martin Morgan	Scottish Association of Meat Wholesalers
Neil McCorkindale	Scottish Beef Association
Penny Montgomerie	Scottish Association of Young Farmers
Ross MacLeod	Game and Wildlife Conservation Trust
Steven Thomas	sruc
Stuart Ashworth	Quality Meat Scotland
Vicki Swales	RSPB
Angus Leigh	RPID, SG
Annabel Turpie	RPID, SG
David Barnes	EU Hub - SG
Harriet Houlsby	RESAS, SG
Jackie Hughes	SASA – SG
Kirsten Beddows	CAP, GM & Agricultural Climate Change – SG
Rachel Smith	CAP, GM & Agricultural Climate Change – SG
Shirley Graham	CAP, GM, & Agricultural Climate Change – SG
Stephen Sandham	RPID, SG

Apologies (and/or organisations not represented at meeting):
Agriculture and Horticulture Development Board, Agriculture Industries Confederation, Central Ass. Of Valuers, Committee of Scottish Bankers, Convention of Scottish Local Authorities, Dairy Co, Deer Farmers James Hutton Institute, Highlands and Islands Enterprise, Linking Environment and Farming, Royal Society Protection of Birds, Soil Association, Scottish Beef Association, Scottish Crofters Federation, Scottish Enterprise, SEPA, Scottish Land and Estates, Scottish Organic Producers Association, SE Link, Scottish Tennant Farmers

1. Welcome and introductions

1.1 Ian Davidson (ID) welcomed everyone and informed the group there would be a presentation from Bob Frost, Policy and Practice Project Manager in Forestry Commission Scotland, on the Scottish Government Forestry Strategy. ID also introduced Shirley Graham, who had recently joined Kirsten Beddows' team to work on the SRDP and LFASS policy, and Harriet Houlsby joined RESAS as an Assistant Economist. ID also welcomed Angus Leigh, who was work shadowing Ian from the

Dumfries Area Office. ID informed the group that Annabel Turpie, Chief Operating Officer for Rural Payments Operation, would join the meeting at the break to meet with the group. ID also informed the group that Ian Muirhead has replaced Kevin Mills from AIC. Kevin recently retired, and ID noted that he was a very regular attendee and valuable source of advice and information. He wished Kevin all the best in his retirement, and would welcome Ian in due course.

2. Minutes and actions of the last meeting

2.1 Minutes of the last meeting (17 July) had been circulated. There were no further comments and so these would be posted on the ARD SHG website.

2.2 There weren't many outstanding actions;

o Para 3.2 - A member mentioned the convergence funding and whether there was going to be a second industry letter written. ID explained that NFUS took this action to produce the letter and gather industry signatures, but due to timing constraints, there was a letter sent directly from NFUS. Still interest from stakeholders for a joint industry letter. Action for SG to speak to NFUS. **Update: There was a time constraint that forced this letter to go quicker than planned. Things have moved on significantly. UK Government (UKG) have now announced the review of the allocation of funding and we are in the process of getting this setup and underway despite some continuing difficulties.**

o Para 6.4 - One member wanted assurances that the woodland creation budget was going to be provided for FGS. ID confirmed that is high on the agenda, and would know more in due course. Action: to provide an update at the next meeting. **Update: No further update at present. There is a budget but we're going through a budget review where every line is being scrutinised. Forestry is still very much one of Programme for Government, Scottish targets.**

3. Pillar 1 and Pillar 2 Updates:

31. Kirsten Beddows (KB) gave the Pillar 1 update and highlighted the payment schedule document, which gives the position of where we are with all the various different schemes. The payment figures are significantly better than last year which KB highlighted was due to the massive amount of work and effort from RPID, and another year of the computer system bedding in. ID also added that we shouldn't underestimate the effort that has gone in to get to these figures, still facing challenges with the mapping system. Some cases are having to be reworked as changes are loaded into the system. The way the system is built, if a change is made now, it looks back to 2015, to look at the effect - we were severely criticised by audit previously that it didn't look back. One member wanted to know when the remainder of FGS payments would be made. Stephen Sandham (SS) informed the group that RPID are working to get these out by Christmas. Now at 70% of claims paid and 59% by value paid. The aim is to complete the vast majority of outstanding payments before Christmas. There are two schemes that RPID are aware they are behind on; FGS and AECS. Everything else is in a pretty healthy position. At 99% of beef efficiency claims paid, over 95% of LFASS, 97% of LMO and almost 80% rural priorities claims paid. So AECS and FGS are the priority. One member asked what was holding up AECS. SS informed the group that RPID had to focus on the Pillar 1 payments before June, because of the penalties we could incur, and this had a knock on effect on other schemes. He reiterated that RPID are aiming to have the vast majority paid before Christmas. Another member asked for an update on the data freeze and whether there was any progress. **ACTION: to provide an update on this.**

3.2 KB then moved on to give the Pillar 2 update and referred members to paper that had been issued to the recent Rural Development Operational Committee (RDOC). KB informed the group that this is the SRDP governing group that meets twice a year and recently met on 24 October 2018. The papers can be found online. KB gave a few high level updates, stating that the main message that came out of the RDOC was fairly positive, the schemes are doing well, and that the European Commission officials that attended the RDOC were pleased with the level of spend. However, it was noted that budget pressures continued to feature with the Scottish Government (SG) spending review for the 2019/20 financial year underway. This is expected to have a bearing on the SRDP with the draft budget due to be published in December. In light of budget – new entrant schemes are suspended – in a previous modification SG increased the allocation for new entrants and this money has been committed which is a positive. One member wanted to know whether members can get back into the Beef Efficiency Scheme if they leave, and whether there would be a report on the benefits and value of participation in BES that will be rolled out to others? SS took this as an action to find out. **Action: to find out and update the group.**

3.3 In regards to Funding Guarantee position, SG has confirmation from UKG that all contracts entered into until the end of 2020 for the SRDP, will have the EU element funded in full for the lifetime of that project. Asked members to pass on this information to the wider industry**.** KB touched on LFASS, informing the group that looking forward, the Cabinet Secretary for the Rural Economy, Fergus Ewing, has confirmed that for the 2018 scheme year, payments will go out in 2019 as normal. For the 2019 scheme year, he announced back in June, that payment rates will be at 80% of the current rates. That's the maximum that Europe will allow us to do, it's either that or turn to ANC. The feeling was, 80% of what you know, is better than 100% of what you don't know. So the payments received in 2020 will be at 80% of the current rates. For 2020, the EU regulations say we either have to move to ANC or the payment rates go down to 20%. The Cabinet Secretary has made it clear on a number of occasions that this is not acceptable and would have a massive impact on the industry and the purpose of LFASS. There is still uncertainty at the moment, and options are being explored.

3.4 This generated a discussion about savings from schemes. Members want to see any savings retained in the programme and wondered whether there was any scope to utilise a saving from one scheme and put this into another scheme – i.e. new entrants. ID explained that it's slightly more complicated than saving in one area then putting it into something else. The SRDP is a programme budget, it operates as an overall programme. All 14 schemes in the SRDP have indicative allocations, and lots of schemes under pressure with big targets to meet. ID also reminded members that we had to make a cut last year, which meant there was £25 million a year less in the SRDP budget which needs to be taken into account. KB added that Ministers are aware of the pressures and demands, and that the EU element of the budget is protected, but the SG element isn't – so there are massive pressures on the spending review. Another area of uncertainty is that we still don't have written clarity of what UKG mean by farm support. The general consensus from the group was the sooner we have assurances for the 2020 scheme year the better, as businesses need assurances to prepare.

3.5 ID added, in regards to the Pillar 2 element, that the Rural Development regulation comes to an end at the end of 2020 - hearing rumours from Europe that they are looking at a transition period again, similar to what happened last time. Working on a draft options paper for 2021 onwards for Ministers, on where we want to go next, what do we want for the rural economy - but this will be determined by what funding we have available.

4. Stability and Simplicity update

4.1 ID updated the group that SG has now received 137 responses to the consultation which have been analysed, and will shortly be publishing the results. There has been relatively positive feedback from that. Part of the consultation was setting up the Simplification Taskforce, and Douglas Petrie, Head of Area Offices and ID are responsible for seeing this through. The Taskforce will be announced shortly. Area office staff were asked for ideas for simplification and this generated around 350 ideas. ID plans to present the taskforce with categorised ideas, split up into minor changes and then the issues that are going to require regulatory adjustments. We probably won't be in a position to make adjustments until 2021. When SG is looking towards post 2024, it's important that simplification is at the heart of this. It's not just simplification of the policy, but simplifying the delivery. In terms of gathering evidence, SG has had the responses from the consultation, has spoken to farmers, and has also met with SEPA, SNH and FCS, our delivery partners in this. Initially a lot of the simplification is going to be in the delivery. Part of the post 2021 work on stability and simplicity will be looking for ideas around trials and pilots as we move towards what comes after 2024. So far have been very encouraged by people's engagement. One other aspect SG is doing, is looking at all the land court cases, over the past 5 years, as we thought it would be useful, especially for cases where the judgement has been found as wanting – might be in terms of our clarity of guidance. ID encouraged members to come forward if they have any ideas that might make a difference, we want to hear them. **Action: Secretariat to circulate contact details for Marcus MacKenzie, who is project managing this.**

5. Brexit Update

5.1 DB started by detailing what was going on within Scotland. Recently the Cabinet Secretary for the Rural Economy, Fergus Ewing, has video conferenced into the Westminster Scottish Affairs committee and appeared before the REC committee in the Scottish Parliament (SP). DB referred members to the official record of the parliamentary proceedings to see what Mr Ewing said. DB summarised what was discussed; concerns have been expressed around the fact that in the Agriculture Bill there are powers for England, NI and Wales, but no powers in there for Scotland. Defra has said it is still open to Scotland to take powers via this Bill. Some have expressed concern around whether this puts farm payments into jeopardy, particularly in a no deal scenario. That concern is, happily, unfounded. The EU(W) Act, or the Scottish Continuity Bill (now in front of the Supreme Court) will take EU law roll it into domestic law on exit day - that includes the CAP. This turns the CAP regulations into domestic law at the moment of exit - so we can carry on making payments and funding schemes on the current basis. There is therefore no risk to continuity. However that also means that without new powers to make changes (beyond the discretion already provided for within the CAP) it, we're left with the current policies and schemes.

5.2 In the event of a deal, we might not be in a position to make changes until a later date anyway, Eg start of 2021, depending on negotiations with the EU. Even in a no deal scenario, the Cabinet Secretary has already said he would rather keep things stable for 2019/20 anyway and not change things. So the earliest he would like to change things is 2021 onwards. DB informed the group that Scotland therefore doesn't need any new powers on exit day to ensure payments can continue, this will have been sorted out by the Withdrawal act/Continuity Bill and the technical amendments to SIs that are that are now going through parliament. Depending on the wording of the withdrawal agreement there might be a technical issue to sort out, but broadly speaking it is for 2021 onwards, when we want to change things, that we will need powers.

5.3 In terms of getting these powers for that longer term, Scotland is still able to take powers through the Defra Agri Bill, but to do that, SG would have to recommend that SP gives its consent to the Bill. Scottish Ministers don't feel they can do that at the moment – because of the three areas in the Bill where Defra has drafted something as applying to the whole of the UK, asserting that policy is reserved, but SG believes based on legal advice that these areas relate to devolved matters. Scottish Ministers have been working with Defra to try and resolve these matters, but until this is sorted out, it makes it very difficult for SG to recommend that SP gives its consent. The alternative is there would have to be a Bill through the SP. Given when we might need the powers – late 2020 at the earliest – there's still time for that to happen. Realise that there's still uncertainty, but want to explore the possibility of finding resolution for the Defra Bill before going down the Scottish option. Preparatory work on a contingency basis within SG started some time ago.

5.4 DB updated the group on the Defra Agriculture Bill. SG still haven't resolved any of the three areas where we are disputing; Producer Organisations, Fair dealing obligations of first purchasers of agricultural products and WTO agreement on agriculture. There have been exchanges of letters between the Cabinet Secretary and the Secretary of State (SoS), and SG has submitted amendments to the Bill - thus far UKG has not accepted these. SG is working with UKG in the hope that we can resolve these three areas of disagreement. In a previous update DB mentioned things that were not in the Bill, but SG felt should be – written amendments on these have been submitted. On one of these omissions, SG thinks we are making progress with UKG, this is on the red meat levy. More than one amendment was tabled, a back bencher MP picked up the amendments in the Cabinet Secretary's two letters and tabled them in Westminster. SG can't table amendments in Westminster, but a backbencher has done so with all of our amendments, including the red meat levy. SG is working closely with Defra to look at the other red meat levy amendments that have been tabled to see if we can come up with something that satisfies everybody. We are reasonably hopeful that we get a good outcome. As red meat levy isn't a Brexit issue, SG position on consent for Brexit related bills, wouldn't apply to the red meat levy.

5.5 Other aspects that weren't in the Bill but SG felt should have been, were long term funding guarantees, something to deliver the UKG promise that our producers won't be undercut by imports of lower standards, and something on the geographical indications scheme and the future of protected food names scheme to give DA's a role. As things stand on all three of those, unfortunately UKG have so far resisted our amendments – but they have also been tabled by the backbench MP so we await the outcome. There was a discussion around why there is resistance on the designated products. DB explained that this is a reserved / devolved issue again – intellectual property is a reserved matter. SG wants to get the maximum Scottish influence over a scheme, but intellectual property is reserved. It's a question around where the boundary goes, where the level of influence is appropriate. SG's job is to obtain the maximum.

5.6 DB went on to provide an update on the budget and payments. If Brexit were not happening, Scotland would have European law that fixes the policies and the budgets for a seven year period. As the P1 payments are claimed in a scheme year, they are paid out of the budget in the following year, there is a one year time lag. The budget has been set up to and including 2020 through Europe, but the 2020 budget in terms of direct payments, only pays the 2019 scheme year. So if Brexit wasn't happening, the expectation is that like the last 7 year cycle, Europe would treat 2021 as a transition year, and member states would have to start drawing down money from the new 7 year budget in 2021, to fund the payments under the old P1 schemes in 2020. The chances are, Brexit will happen before Europe sort this out, therefore the European rules we roll into domestic law, will probably only provide for payments up to the 2019 scheme year. SG hasn't yet seen the latest draft of the withdrawal agreement. The previous version mirrors this budget issue, it states that EU law will carry on applying in the UK until the end of 2020, except for direct payments law will not apply from the 2020 scheme year onwards. So once we've rolled the CAP rules into domestic law, there's a need to amend that to say that direct payments can continue until 2020 onwards. It is not yet known how exactly UKG will address this, which may or may not be via their Agriculture Bill, and therefore whether legislation in Scotland might be needed, but SG will ensure payments continue in 2020.

5.7 DB moved on to discuss negotiations in EU and started by referring to the Withdrawal Agreement, which came out almost a year ago. We were told it was essential to have it signed off by March, then by June and we're now in November. What that effectively said was, that the UK definitively leaves the EU in March 2019, but there would be a period roughly until the end of 2020, which UKG calls the implementation period. During this time, even though the UK has left, it will still feel like we are a Member State. European law will continue to apply, with the exception of the direct payments, and the UK will be able to continue to trade under current terms, the UK would continue to receive and pay into European budget. The end of 2020 is a neat end date for that period as it coincides with the end of the seven year budget period. SG understands there is a long, complicated updated version of this Withdrawal Agreement that UK and EU negotiators have been talking about, members of the UK Cabinet have apparently been shown this confidentially but SG colleagues don't have access to it. Therefore, can't confirm whether it's the same as the previous version.

5.8 The intention on both sides, during that period of up until the end of 2020, is that negotiations would continue, to work out what the long term relationship is going to be – the trading relationship and other elements of partnership. On this front, UKG have said that they would like it to look like the 'Chequers' approach, which would treat trade in goods differently from trade in services. On trade in goods, the UKG Chequers proposals is to have a common rulebook with the EU so that trade doesn't get subjected to delays and obstacles. The EU side think this doesn't respect the indivisibility of the four freedoms of movement – goods, people, capital and services. The focus as far as we can tell, has been sorting out the Withdrawal Agreement rather than negotiating these longer term issues. As far as SG is aware, there is no obvious answer as to where the longer term end up. This is where the issue of a backstop comes in. Both sides have said that whatever happens, they don't want there to be a hard border on the island of Ireland. The EU have said that in order for this to happen, they want a backstop agreement. Both sides hope between now and the end of 2020, that they will have negotiated an agreement for the long term that avoids a hard border on the island of Ireland, but if not, then the backstop means that the UK wouldn't just break off and a hard border be put in place –the UK would remain in some form of close relationship with the EU for a bit longer until they do get this sorted out. That's the backstop that the EU wanted. The PM seems to have accepted that that is ok. It could be achieved by saying that NI alone has to remain in a close relationship with Ireland and the other EU27, or by saying the whole of the UK needs to. The PM has said that the we would do this for the whole of the UK and do it by staying in the customs union. This poses an issue for pro-Brexit individuals, who say that if we go into the backstop arrangement, and it takes decades to figure out something to replace it, we'd end up being trapped in this close relationship with the EU27 and they don't want that. So in their view the UK must have the ability to unilaterally say at some point in the future: this has gone on long enough and we're pulling out. The EU side say that if we were to do that, the consequence would be a hard border on the island of Ireland – and this is not acceptable to them. The EU will not accept the UK being able to unilaterally pull themselves out of the backstop. This appears to be what is holding everything up at the moment.

5.9 DB informed the group to watch out for 'weasel words' regarding borders. Border checks are normally needed not only for customs rules but for other purposes such as animal health, plant health, food safety. Therefore 'no customs checks at the border' does not mean 'no checks at all at the border'. Also, even if new technology and processes can be devised which enable checks to take place away from the border itself, this would still mean a cost to industry, which is why SG view is that staying in the customs union and single market is the best approach if Brexit is to happen.

5.10 One member had a question around trade and used sheep tagging as an example . The member wanted to know whether SG will be allowed to make changes to our domestic legislation, accepting that for export to an EU member state or to another country post-Brexit, we'll need to meet other standards – but for domestic trade in Scotland, can we have our own rules. DB explained there's two ways of dealing with these requirements. The classical way of doing it, is each country is free to do what it likes inside its own territory, but if it wants to export something to another country, the product that gets exported has to respect the rules of that country it's going to, so the importing country will have to check it to make sure the rules are being met. The thing we've got used to in the EU, is the single market approach, where we have the same rules everywhere, all EU28 have common rules, e.g if product goes from France to Italy it doesn't need to be checked because they know it's the same rules.

5.11 In the future, if we going to try and have that approach in the UK, it then becomes complicated, who do we align with – the EU27, or other countries who we are we going to do trade deals with - or are we going to go back to the classical system where everyone can do as they like, provided the exported product meets the importing country's standards If the UK were to do that, it's harder to minimise the border checks because the less you are aligned to the country you are exporting to, the more the exporting country is going to say they want to check this before it comes in. A related question is, do we need something like a UK internal market set of rules that are not dissimilar to the single market rules that we are coming out of. We understand UKG are doing thinking on this, BEIS and Treasury are in the lead. SG has asked what is going on, and are getting very little information. SG is concerned that we can't just assume they will properly respect devolution. On 26 November the next Defra/DA ministerial meeting is scheduled and this is something we should be raising.

6. WTO Schedule Process Update

6.1 ID read a note provided by George Burgess, Head of Food, Drink and Trade. Update circulated to members on 28 November.

6.2 This led to a discussion on where UKG are on the Customs Bill, as members pointed out that inspections are required under trade, and asked if Scotland is going to try to piggy-back on the EU international ports for inspections for products coming in. DB explained that this trade colleagues would be better placed to answer this. **ACTION: To speak to trade colleagues for detail on this.**

7. Forestry Strategy Consultation

7.1 Bob Frost (BF) provided an overview of the Strategy and Scottish Government's forestry ambitions. The Strategy will be a long term framework for SG and supports the land use strategy and climate change plan. Scottish Ministers are required to prepare and publish a new strategy under the Forestry and Land Management (Act) 2018. The strategy sets out a number of key foundations on which its vision are based. These include the promotion of sustainable forest management; better integration of forestry with other land uses and businesses; commitment to multi-purpose forestry etc. A Forestry Strategy Reference Group that includes key external stakeholders such as SLE, NFUS, ConFor and Scottish Environment Link has been informed and helped shape the Draft Strategy. BF informed the group that the consultation launched on 20 September and closes on 29 November.

8. AOB

8.1 KB updated the group on the EU proposal for seasonal clock changes, which would be implemented in 2019. The European Commission are proposing the cessation of the seasonal clock change and the UK can choose what time it retains, but have no choice about the clock change. So either stay with the March or October clock change. Time is a reserved matter and UKG are yet to announce its position. SG feels there's not enough evidence behind the proposal – Scottish Ministers think we should retain the current arrangements – as there is a particular impact on rural workers, especially the further north you go. Stakeholders comments have been fed in and are in line with the SG position. KB will keep the group updated on this.

8.2 There are no dates in the diary for future meetings is 2019, but these will be issued shortly.