

HOUSE OF LORDS

European Union Committee

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20th Report of Session 2016–17

# Brexit: agriculture

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Ordered to be printed 27 April 2017 and published 3 May 2017

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Published by the Authority of the House of Lords

HL Paper 169



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Evidence is published online at <http://www.parliament.uk/brexit-agriculture> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

## SUMMARY

The Common Agricultural Policy (CAP) has played a fundamental role in regulating and supporting UK agriculture since the UK joined the then European Economic Community. It has helped in facilitating free trade in agri-food products within the EU Single Market, while many farmers in the UK—particularly hill farmers—rely on CAP funding to sustain their businesses. Wider rural communities also benefit from agri-environment schemes, rural investment and the sustained agricultural production in often remote areas.

Yet the CAP has often been criticised by the industry for being bureaucratic and burdensome, and some believe CAP financial support has been misdirected and ineffective. Brexit thus presents a real opportunity for the UK to review and adopt a policy for food and farming which regulates and supports the agricultural sector effectively, and which is tailored to the UK's unique farming landscape. However, farmers across the UK will also need time and clarity from Government to make the transition to a new regulatory framework and a new funding system after Brexit.

Agri-food products are traded extensively. EU membership currently provides the framework for the UK's trade in agri-food products not just within the EU, but with third countries with which the EU has negotiated preferential trade agreements. Once outside the EU the UK must develop its own external tariffs, and may find itself subject to the high external tariffs applied by the EU to agricultural products—to the detriment of UK farmers and food manufacturers—unless a preferential trade agreement is agreed. The UK may also face non-tariff barriers when exporting agriculture and food products to the EU, resulting in delays at ports and additional administrative costs. Both tariff and non-tariff barriers could disrupt integrated supply chains between the UK and the EU, and pose a particular challenge for the agri-food sector in Northern Ireland.

As it negotiates new trading relations with the EU and the wider world the Government will need to balance complex interests. It will need to secure a fair deal for farmers and maintain high standards for agricultural products in the UK, including farm animal welfare, while delivering affordable food to consumers and complying with WTO rules.

The Government is currently giving mixed messages to the agricultural sector. Its vision for the UK as a leading free-trade nation with low tariff barriers to the outside world does not sit easily with its declared commitment to high quality and welfare standards in the UK farming sector. Combining and delivering these two objectives will be a considerable challenge.

Agricultural policy therefore cannot be seen in isolation from trade. The terms of future free trade agreements will affect or limit domestic policies on regulation, funding and farming standards, while those policies may in turn determine which countries UK products can be sold to.

Agricultural policy is a devolved competence, and the Government will need to engage extensively with the devolved administrations to ensure the repatriation of agricultural policy from the EU respects the devolution settlements without compromising the integrity of the UK's internal market in agri-food products.

The UK's agri-food sector relies extensively on other EU countries for both permanent and seasonal labour. This labour ranges from skilled professionals (such as veterinarians) to labourers who may be viewed as unskilled, but are in fact skilled at sector-specific tasks (such as abattoir workers and fruit and vegetable pickers). Without access to this labour resource, both the agricultural sector and food manufacturers will face severe difficulties. This is an immediate challenge, which the Government must address urgently as the UK approaches withdrawal.

Doubts over whether the UK can negotiate the Government's envisioned trading relations with the EU have been widely rehearsed—by the agricultural sector among others. Farmers risk high tariffs and non-tariff barriers on exports, which would render their business uncompetitive, while simultaneously having to adjust to a new UK policy for funding. This could have detrimental effects on an industry—and rural communities—which needs long-term clarity and policy stability to adjust to the post-Brexit policy environment. Transitional arrangements will be critical to the long-term success of UK farming.





# Brexit: agriculture

## CHAPTER 1: INTRODUCTION

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### Agriculture and food in the UK

1. Primary agricultural production is the first step in a long and integrated agri-food supply chain in the UK and the EU. Across England, Northern Ireland, Scotland and Wales the agricultural sector—from arable crops to dairy, livestock and horticulture—plays an important role in supplying food to UK citizens.<sup>1</sup> It also supplies foreign markets, maintains rural communities in the UK and manages the natural environment.<sup>2</sup>
2. Taken as a whole, the agri-food sector<sup>3</sup> accounted for 7.2% of the national Gross Value Added (GVA) in 2014, or £108 billion in total, within which agriculture accounted for £9.9 billion.<sup>4</sup> Also in 2014, the agricultural workforce consisted of some 429,000 people,<sup>5</sup> and the utilised agricultural area (UAA)<sup>6</sup> equalled some 71% of land in the UK.<sup>7</sup>
3. The food manufacturing industry is also an inherent part of the UK agri-food sector. It accounted for £26.9 billion of GVA in 2014 and employed some 381,000 people.<sup>8</sup>

### Agriculture and Brexit

4. Since the UK's accession to the European Economic Community in 1973, the EU has had a fundamental impact on UK agriculture through the Common Agricultural Policy (CAP). The CAP is the system of financial support measures and programmes under which farmers in the UK and the rest of the EU work. The CAP covers areas such as farming, environmental measures and rural development. It also regulates the organisation of EU agricultural markets.<sup>9</sup> EU policies also govern the trade arrangements

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- 1 The United Kingdom is 61% self-sufficient in all foods. [Q 43](#) (Wesley Aston)
  - 2 Department for Environment, Food & Rural Affairs, *Agriculture in the United Kingdom 2015* (2016), p 97: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf) [accessed 19 April 2017]
  - 3 This includes agriculture, food manufacturing, food wholesaling, food retailing and food non-residential catering. In this report, we only consider agriculture and food manufacturing.
  - 4 Department for Environment, Food & Rural Affairs, *Agriculture in the United Kingdom 2015* (2016), p 97: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf) [accessed 19 April 2017]
  - 5 Department for Environment, Food & Rural Affairs, *Agriculture in the United Kingdom 2015* (2016), p 97: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf) [accessed 19 April 2017]
  - 6 The UAA is made up of arable and horticultural crops, uncropped arable land, common rough grazing, temporary and permanent grassland and land used for outdoor pigs. It does not include woodland and other non-agricultural land. Defra, *Agriculture in the United Kingdom 2015*, (2016), p 10. We do not consider forestry in this report, though we recognise the importance of the sector.
  - 7 Department for Environment, Food & Rural Affairs, *Agriculture in the United Kingdom 2015* (2016), p 5: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf) [accessed 19 April 2017]
  - 8 This figure includes employees involved in “everything from primary processing (milling, malting, slaughtering to complex prepared foods.” Department for Environment, Food and Rural Affairs, *Agriculture in the United Kingdom 2015* (2016), pp 97–8: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf) [accessed 19 April 2017]
  - 9 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Agriculture* (2014), p 19: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335026/agriculture-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335026/agriculture-final-report.pdf) [accessed 19 April 2017]

between the UK and the rest of the EU and third parties, and thanks to the free movement of labour, the agri-food sector in the UK employs a high number of EU nationals.

5. In withdrawing from the EU the UK will withdraw from the CAP. Though in the first instance many elements of the CAP may be carried over into domestic law by the Great Repeal Bill,<sup>10</sup> Brexit presents the UK with an opportunity to fundamentally review the objectives and design of its long-term agricultural policy. At the same time, the UK agri-food industry trades major volumes of agri-food products, predominately with the EU, under the auspices of the Single Market.<sup>11</sup> The Prime Minister intends that the UK will leave the Single Market, but has set out her wish to negotiate in its place a comprehensive free trade agreement and a bespoke customs agreement between the UK and the EU.<sup>12</sup>

### This inquiry

6. This inquiry, one of a series of Brexit-related inquiries conducted by the EU Committee and its six sub-committees since the June 2016 referendum, considers key issues for agriculture and food that the Government will need to address before or immediately after the UK withdraws from the EU. The purpose of this report is to highlight the key challenges and opportunities that Brexit affords those sectors. These relate to the trading arrangements that will govern the UK's agri-food trade after Brexit, the agricultural regulatory framework, the future of funding for the agricultural sector and access to labour.
7. In its entirety, the agri-food sector ranges from the primary production of agricultural commodities to the catering and retail outlets selling the final processed or unprocessed food to consumers. It is beyond the scope of this report to address the implications of Brexit on that entire supply chain. Instead our emphasis is on the primary production and the agricultural sector that underpins it, considering the associated food manufacturing sector as and when relevant.<sup>13</sup>
8. We acknowledge that agriculture and the environment are strongly inter-dependent. We address the environment to some extent in this report, particularly with regards to funding in Chapter 5; however, we do not explore

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10 In October 2016, Prime Minister the Rt Hon Theresa May MP announced the Government's intention to introduce a Great Repeal Bill. It will repeal the European Communities Act 1972, which makes EU laws part of the UK legal system, and will convert existing EU law into domestic law, wherever practical. The aim of the Bill is to ensure a "calm and orderly" exit from the EU.

11 Annual exports of food and non-alcoholic drinks (including manufactured goods and processed and unprocessed ingredients) were worth £12.3 billion in 2015. Imports of food and non-alcoholic drinks amounted to £35.1 billion in the same period. Food and Drink Federation (FDF), 'UK-EU food and drink statistics': <https://www.fdf.org.uk/eureferendum-food-drink-statistics.aspx> [accessed 24 April 2017] The broader category of food, feed and drink exports from the UK in 2015 was £18.0 billion, while the value of imports was £38.5 billion in the same year. Department for Environment, Food and Rural Affairs, *Agriculture in the United Kingdom 2015*, (May 2016), p 84: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf) [accessed 20 April 2017].

12 Prime Minister Theresa May, Speech on the Government's negotiating objectives for exiting the EU, 17 January 2017: <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech> [accessed 20 April 2017]

13 Trade in food and beverages were substantively considered in our report *Brexit: trade in goods* (European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129))

future environment policy in detail. We considered the impact of Brexit on environment policy in our report *Brexit: environment and climate change*.<sup>14</sup>

9. The EU Energy and Environment Sub-Committee, whose members are listed in Appendix 1, met in January, February and March 2017 to take evidence from the witnesses listed in Appendix 2. The Committee is grateful for their participation in this inquiry. We also thank our Specialist Adviser, Professor Fiona Smith of the University of Warwick.
10. **We make this report to the House for debate.**

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14 European Union Committee, *Brexit: environment and climate change* (12th Report, Session 2016–17, HL Paper 109)

## CHAPTER 2: WITHDRAWING FROM THE COMMON AGRICULTURAL POLICY

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### The development of the Common Agricultural Policy

11. The Common Agricultural Policy (CAP) was established in 1962. The original purpose of the CAP was to encourage better productivity in the food chain in the years following World War II, thereby providing a fair standard of living for the agricultural community, stabilising the market and ensuring the availability of food to European consumers at reasonable prices.<sup>15</sup>
12. Initially, the CAP offered high support prices to farmers, combined with border protection and export support to incentivise production. Yet by the 1980s the EU had permanent surpluses in many farm products, resulting in the so-called ‘butter mountains’ and ‘wine lakes’, and the CAP accounted for well over half of the Community budget.<sup>16</sup> Subsequent reforms have aimed to bring down the cost of the CAP and shift the policy away from production support (through market interventions such as price support and border tariffs) towards income support decoupled from production.<sup>17</sup> The most recent reform, which covered the period 2014–2020, followed this trend.
13. In its 2014 Balance of Competences review, the Government found that, notwithstanding numerous reforms, the objectives of the CAP “remained unclear”. Most respondents saw the CAP as “misdirected, cumbersome, costly and bureaucratic”.<sup>18</sup>
14. In order to facilitate the functioning of the Single Market in agricultural products, the EU also sets standards for food, farm animal health and welfare and plant protection products—what the Commission calls “coherent farm-to-table” measures.<sup>19</sup> This regulatory framework also governs genetically modified organisms (GMO),<sup>20</sup> organic farming, plants and plant products,<sup>21</sup> and the marketing of seeds and plant reproductive materials.<sup>22</sup> The EU also provides a pan-European regulatory framework for plant protection

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15 European Commission, ‘The history of the common agricultural policy’, (April 2017): [https://ec.europa.eu/agriculture/cap-overview/history\\_en](https://ec.europa.eu/agriculture/cap-overview/history_en) [accessed 26 April 2017]

16 Oral evidence taken on 9 December 2015 (Session 2015–16), Q 8 (Prof Wyn Morgan)

17 European Commission, Overview of CAP Reform 2014–2020, *Agricultural Policy Perspectives Brief, No 5* (December 2013)

18 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Agriculture* (2014) pp 5–8: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335026/agriculture-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335026/agriculture-final-report.pdf) [accessed 19 April 2017]

19 European Commission, ‘Food safety: overview’, (April 2017): [http://ec.europa.eu/food/overview\\_en](http://ec.europa.eu/food/overview_en) [accessed 27 April 2017]

20 House of Commons Library, Brexit: impact across policy areas, *Briefing Paper 07213*, August 2016, p 52

21 This body of legislation prevents the introduction into the EU, or the spread throughout the EU, of harmful organisms. Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community *OJ L 169* (10 July 2000) will be repealed and replaced by Regulation 2016/2031 of 26 October 2016 on protective measures against pests of plants *OJ L 317/4* (23 November 2016) on 14 December 2019.

22 Seed imported into the EU from third countries must meet equivalent standards to be accepted into the EU market. European Commission, ‘Equivalence requirements for non-EU countries’ (April 2017): [http://ec.europa.eu/food/plant/plant\\_propagation\\_material/equivalence\\_requirements\\_non-eu\\_en](http://ec.europa.eu/food/plant/plant_propagation_material/equivalence_requirements_non-eu_en) [accessed 20 April 2017]

products (pesticides),<sup>23</sup> and EU rules regulate the maximum level of traces of pesticides ('residue') allowed in food or feed.<sup>24</sup>

15. Most of the EU rules covering animal health and welfare are made under Article 43 TFEU;<sup>25</sup> to the extent that the rules relate to the Single Market, animal health and welfare are regulated under Article 114 TFEU,<sup>26</sup> the aim of which is to facilitate the common market in agricultural goods by enhancing food safety, harmonising standards<sup>27</sup> and minimising the spread of diseases.<sup>28</sup> Many of these areas are underpinned by international standards.<sup>29</sup>

### An opportunity for change

16. Brexit represents an opportunity to review and redesign the UK's policy for food and farming. In the words of George Dunn, Chief Executive of the Tenant Farmers Association (TFA):

"There is now the opportunity to put together a broad agricultural and environmental policy that fits our circumstances better than we have had previously. Connected with that, there is the opportunity now to build a new consensus, not just within the farming community but with the animal health and welfare agenda, the environmental agenda and our place in the world in terms of aid and trade."<sup>30</sup>

The Food Research Collaboration likewise told us: "Brexit creates a space to 'do food differently,' to create new policies and systems to address the failings of the current food system."<sup>31</sup>

17. The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, agreed: "For me the greatest opportunity that we have in leaving the EU is to design a better, more coherent domestic policy to support farmers to become more profitable, to support environmental outcomes and to promote things such as animal welfare. That is the real prize, the real gain, if you like."<sup>32</sup>

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23 Before any plant protection product can be placed on the market or used, it must be authorised in the Member State(s) concerned. Regulation (EC) No 1107/2009 of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directive 79/117/EEC and 91/414/EEC [OJ L 309/1](#) (24 November 2009) lays down the rules and procedures for authorisation of such products. European Commission, *Authorisation of Plant Protection Products* (April 2017): [http://ec.europa.eu/food/plant/pesticides/authorisation\\_of\\_ppp\\_en](http://ec.europa.eu/food/plant/pesticides/authorisation_of_ppp_en) [accessed 20 April 2017]

24 European Commission, 'Maximum Residue Levels', (April 2017): [http://ec.europa.eu/food/plant/pesticides/max\\_residue\\_levels\\_en](http://ec.europa.eu/food/plant/pesticides/max_residue_levels_en) [accessed 20 April 2017]

25 The EU has legislated to set minimum animal welfare standards, though Member States may maintain stricter rules if they are compatible with the provisions of the Treaty. Article 13 TFEU also recognises animals as sentient beings. European Commission, 'Animal welfare', (April 2017): [http://ec.europa.eu/food/animals/welfare\\_en](http://ec.europa.eu/food/animals/welfare_en) [accessed 20 April 2017]

26 HM Government *Review of the Balance of Competences between the United Kingdom and the European Union: Animal Health and Welfare and Food Safety* (2013), p 12: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227367/DEF-PB13979-BalOfComp-HMG-WEB.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227367/DEF-PB13979-BalOfComp-HMG-WEB.PDF) [accessed 20 April 2017]

27 The UK maintains stricter rules on slaughter and animal welfare broadly. House of Commons Library, Brexit: impact across policy areas, [Briefing Paper 07213](#), August 2016, p 64

28 European Commission, 'The EU Animal Health Law', (April 2017): [http://ec.europa.eu/food/animals/health/regulation\\_en](http://ec.europa.eu/food/animals/health/regulation_en) [accessed 20 April 2017]

29 House of Commons Library, Brexit: impact across policy areas, [Briefing Paper 07213](#), August 2016, p 64

30 [Q 12](#)

31 Written evidence from Food Research Collaboration ([ABR0024](#))

32 [Q 84](#)

### Immediate challenges

18. Though the repatriation of agricultural policy from the EU presents the UK Government with an opportunity to develop a new, long-term approach to food and farming, the focus of this report is on the immediate challenges facing UK agriculture in the approach to Brexit.
19. Guy Smith, Vice President of the NFU, suggested that these challenges could “conceptually” be divided up “between trade, labour and policy or support”.<sup>33</sup> NFU Scotland similarly highlighted “trade, the movement of labour and support” as key issues.<sup>34</sup> Wesley Aston, Chief Executive of the Ulster Farmers’ Union, argued that “The main critical policy decision is around trade. It is only when we figure out what actual trade agreements we reach in terms of import and export standards that we are then in a position to fully understand what we do on our support levels and the format of that support.”<sup>35</sup>
20. From a food manufacturing point of view, Ian Wright, Director General of the Food and Drink Federation (FDF), also believed that “the three key parts of the Brexit decision that are most challenging are the labour market, the regulatory framework and the future of tariffs and trade”.<sup>36</sup>

### Conclusions and recommendations

21. **Leaving the Common Agricultural Policy and the European Union will have fundamental implications for the agricultural sector in the UK. In the long term the UK has an opportunity to review and improve its agriculture, environment, and food policy, better meeting the needs of the agriculture sector, the environment and consumers. But in the short term, the Government will need to work closely with the industry to help it respond to critical challenges: forging new trading arrangements with the EU and the rest of the world; providing regulatory stability and clarity; addressing the future of funding for the agricultural sector; and ensuring access to labour.**

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33 [Q 43](#)

34 Written evidence from NFU Scotland ([ABR0007](#))

35 [Q 44](#)

36 [Q 51](#)

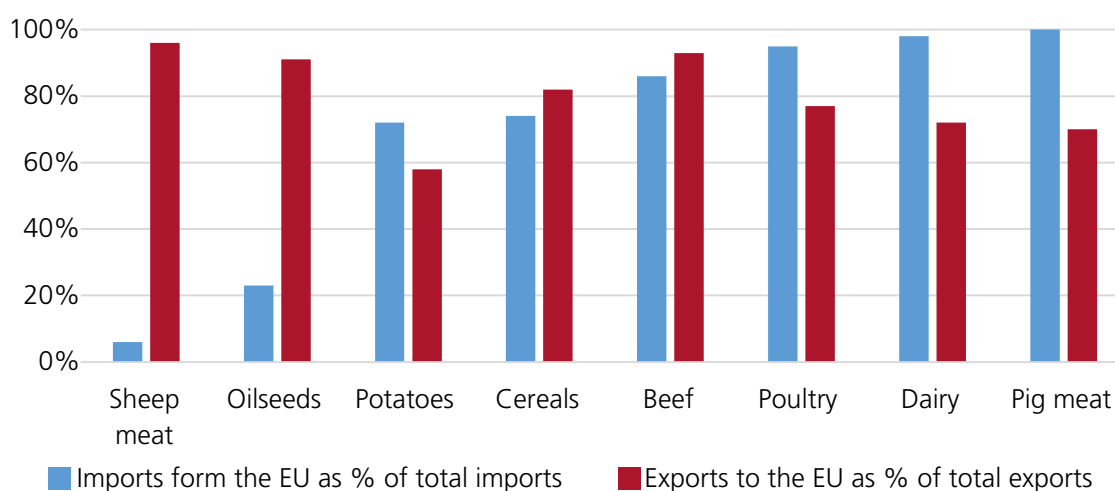


## CHAPTER 3: FUTURE TRADE IN AGRI-FOOD PRODUCTS

### Agri-food trade in the EU

22. The EU is the UK's single largest trading partner in agri-food products. Peter Hardwick, Head of Exports at the Agriculture and Horticulture Development Board (AHDB), told us: "If we look at our agricultural exports, they are currently very dependent on trade with the European Union and, on average, about 80% of our agricultural exports go to the European Union."<sup>37</sup> The FDF, representing food manufacturers and processors in the UK, also told us that "the overwhelming majority of trade (over 70 per cent of exports and vital imports) is with EU member states—and 94 per cent of imports and 97 per cent of exports are with countries with which the EU has negotiated an FTA".<sup>38</sup>
23. The value of food, feed and drink exports from the UK in 2015 was £18.0 billion, while the value of imports was £38.5 billion.<sup>39</sup> These figures include a wide range of products from raw agricultural commodities through lightly processed to highly processed products.<sup>40</sup> When only food and non-alcoholic beverages are considered,<sup>41</sup> exports were worth £12.3 billion while imports amounted to £35.1 billion in 2015.<sup>42</sup> Regardless of the combination of products considered, the UK is a net importer of food.<sup>43</sup>
24. Illustrating the significance of the EU market to UK agriculture, figure 1 sets out imports and exports of eight key agricultural commodities to and from the EU as a percentage of the total import and export of those goods.

**Figure 1: Trade with the EU as percentage of total trade for key agricultural commodities**



Source: Agriculture & Horticulture Development Board, *Brexit: implications for agriculture and trade* (January 2017): <http://www.ahdb.org.uk/brexit/documents/SAOSBrexit26Jan17.pdf> [accessed 21 April 2017]

37 Q 51

38 Supplementary written evidence from Food and Drink Federation (ABR0044)

39 Department for Environment, Food and Rural Affairs, *Agriculture in the United Kingdom 2015*, (May 2016), p 84: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf) [accessed 20 April 2017]. These figures are for a wider sector than was considered by our recent report *Brexit: trade in goods*, which considered food and non-alcoholic beverages only.

40 Examples of lightly processed foods are meat, cheese and butter, powdered milk, flour and sugar. Highly processed products include confectionery, canned meats, jams, alcoholic drinks and ice cream.

41 This includes manufactured goods and processed and unprocessed ingredients.

42 Food and Drink Federation, 'UK-EU food and drink statistics', (July 2016): <https://www.fdf.org.uk/eu-referendum-food-drink-statistics.aspx> [accessed 24 April 2017]

43 Supplementary written evidence from NFU (ABR0042)

### New trading relations

25. The free movement of agri-food products between the UK and the EU, and within the EU, is governed by the customs union component of the Single Market.<sup>44</sup> Under the customs union Member States have adopted a Common External Tariff that is applied to goods imported from outside the Union.<sup>45</sup> Imported agricultural and food products also need to comply with EU standards and regulations for product safety, which are checked at the EU's external border posts. Goods that comply with import formalities may circulate freely in the EU.<sup>46</sup>
26. On 17 January 2017 the Prime Minister announced the Government's intention to "pursue a bold and ambitious Free Trade Agreement with the European Union ... [to] allow for the freest possible trade in goods and services between Britain and the EU's Member States".<sup>47</sup> This intention was reiterated in the Government's White Paper, *The United Kingdom's exit from and partnership with the EU*, published in February 2017, and forms the basis of the Prime Minister's letter of 29 March, formally notifying the European Council of the UK's intention to withdraw from the EU. As a result, the UK will cease to be a member of the Single Market and customs union.
27. In this chapter we explore the implications of new trading relations for the UK agri-food sector only. For a detailed analysis of free trade agreements and trading on World Trade Organization (WTO) terms in general, we refer readers to our report *Brexit: the options for trade*.<sup>48</sup> For a detailed analysis of trade in goods, we refer to our report *Brexit: trade in goods*.<sup>49</sup>

### World Trade Organization and agriculture

28. In the absence of the UK-EU free trade agreement set out by the Prime Minister, the UK and EU would trade under the default framework for trade governed by the World Trade Organization (WTO).<sup>50</sup> The UK is a member of the WTO in its own right—though the EU represents Member States at the WTO—and is bound by its rules. The WTO Agreement on Agriculture (AoA) provides the multilateral rules on international trade and domestic support for agriculture.<sup>51</sup>
29. WTO membership consists of a balance of negotiated 'rights', such as the right to be able to export to other countries, and 'obligations', for example

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44 A 'customs union' refers to an agreement between countries to remove tariffs and restrictions on the movement of goods within their borders, and to agree a common external tariff for all goods imported from countries outside their borders. European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), para 20

45 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), para 12 and Article 3(1)(e) and Article 207 Treaty on the Functioning of the European Union, [OJ C 326](#) (consolidated version of 26 October 2012).

46 Goods imported into the EU also need to follow 'rules of origin', which determine where a product and its components were produced in order to ensure that the correct customs duty is levied. European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), p 28

47 Prime Minister Theresa May, Speech on the Government's negotiating objectives for exiting the EU, 17 January 2017: <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech> [accessed 20 April 2017]

48 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72)

49 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129)

50 The WTO has 164 member countries, which together account for 95% of world trade. European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), p 51

51 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Agriculture* (2014), p 17: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335026/agriculture-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335026/agriculture-final-report.pdf) [accessed 19 April 2017]



to limit restrictions on imports. Both rights and obligations work through rules which apply to all members of the WTO, as well as country-specific commitments known as ‘schedules of concessions’ or ‘schedules’.<sup>52</sup> Schedules include:

- Maximum tariff levels for agricultural products, which are often referred to as ‘bound tariffs’ or ‘bindings’;
- Tariff rate quotas, which allow a quantity of products to be imported at a lower tariff (or tariff-free), after which the bound tariff rates apply; and
- Commitments on the levels of domestic support and export competition for agricultural products.<sup>53</sup>

### The UK’s new WTO schedules of concessions

30. In our report *Brexit: the options for trade* we noted that, in withdrawing from the EU, the UK would have to separate its WTO schedules from those of the EU.<sup>54</sup> Alan Matthews, Professor Emeritus of Agricultural Economics at Trinity College Dublin, agreed that without the establishment of UK schedules at the WTO, “It is very difficult to see how you can proceed to negotiate either with the European Union or with third countries.”<sup>55</sup>
31. The UK’s schedules will have to contain commitments reflecting the Agreement on Agriculture, namely market access (tariffs and tariff rate quotas), domestic support and export competition (subsidies).<sup>56</sup> Professor Joseph McMahon, Dean of the Sunderland School of Law at University College Dublin, noted that such commitments would be a pre-condition of any free trade agreement:

“Trade negotiations are about a range of issues, for example, trade concessions on tariffs, tariff quotas, the use of export subsidies and regulatory issues. Negotiations on trade concessions are conducted with respect to a Schedule, so logically this would suggest that a proposed Schedule should be in place before the negotiations begin.”<sup>57</sup>

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52 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), p 52

53 Export competition, that is export support, has been reduced over time. World Trade Organization, *Legal texts: the WTO agreements* (2017): [https://www.wto.org/english/docs\\_e/legal\\_e/ursum\\_e.htm#aAgreement](https://www.wto.org/english/docs_e/legal_e/ursum_e.htm#aAgreement) [accessed 20 April 2017]

54 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), para 172

55 Q 32

56 Articles 3 and 4, World Trade Organization, *Agreement on Agriculture* (2017): [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag\\_01\\_e.htm#articleIII](https://www.wto.org/english/docs_e/legal_e/14-ag_01_e.htm#articleIII) [accessed 20 April 2014]

57 Supplementary written evidence from Prof Joseph McMahon (ABR0039)

*Tariff barriers*

32. Tariffs impose a charge on the import of a product, usually expressed as a percentage of the value of the product,<sup>58</sup> with the percentage varying from product to product.<sup>59</sup> In so doing, a tariff raises the price of the imported product.

**Box 1: Tariffs and the WTO**

WTO members commit not to raise tariffs beyond a certain maximum level (referred to as ‘bound tariff rates’).<sup>60</sup> These commitments vary from member to member, and between product categories. They are contained in each member’s schedules of concessions. According to the most favoured nation (MFN) obligation, members cannot normally discriminate between their trading partners. If a WTO member grants a concession (such as a lower tariff) to one member, then it must also do the same for all other WTO members.<sup>61</sup>

There are limited exceptions to this obligation not to discriminate between WTO members, including forming a customs union,<sup>62</sup> negotiating a free trade agreement,<sup>63</sup> and giving preferential treatment to developing countries.

Source: European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), pp 29–30

33. Though tariffs have generally been reduced through successive negotiations, EU agricultural markets remain protected by relatively high tariffs. For example, EU average MFN tariffs on dairy products are 54%, on sugar 31% and on cereals 22%.<sup>64</sup> Figure 2 illustrates the levels of tariffs on agri-food products compared to other products.

58 Known as an *ad valorem* tariff. World Bank, ‘Forms of Import Tariffs’ (2010): [http://wits.worldbank.org/WITS/WITS/WITSHelp/Content/Data\\_Retrieval/P/Intro/C2.Forms\\_of\\_Import\\_Tariffs.htm](http://wits.worldbank.org/WITS/WITS/WITSHelp/Content/Data_Retrieval/P/Intro/C2.Forms_of_Import_Tariffs.htm) [accessed 20 April 2017]

59 Most countries use a nomenclature comprising about 5000 commodity groups to list the different products. The nomenclature is referred to as the Harmonised System and is maintained by the World Customs Organization.

60 Members of the WTO provide information regarding their bound tariffs in their goods schedules. However, they are able to provide more favourable applied tariffs if this is done on an MFN basis.

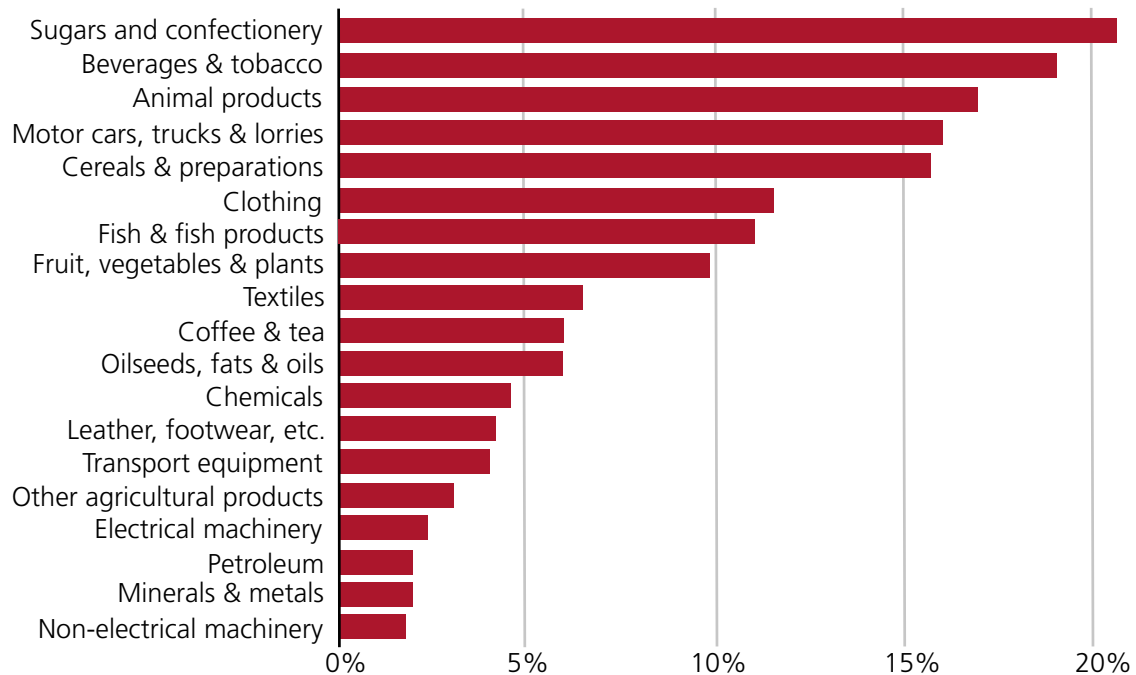
61 World Trade Organization, ‘Principles of the trading system’ (2017): [https://www.wto.org/English/thewto\\_e/whatis\\_e/tif\\_e/fact2\\_e.htm#seebox](https://www.wto.org/English/thewto_e/whatis_e/tif_e/fact2_e.htm#seebox) [accessed 20 April 2017]

62 WTO members can form a customs union. The EU is an example of this. There are no tariffs on products traded between the EU Member States and its Common Customs Tariff applies to all goods imported from third countries. European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72)

63 WTO members can negotiate an FTA. In the case of the EU, this includes third country FTAs (such as that between the EU and South Korea), Switzerland’s bilateral agreements with the EU, and the European Economic Area (which brings together the EU Member States, Norway, Iceland and Liechtenstein). Article XXIV: 8: World Trade Organisation, *General Agreement on Tariffs and Trade 1994*, (2017): [https://www.wto.org/english/res\\_e/booksp\\_e/analytic\\_index\\_e/gatt1994\\_09\\_e.htm](https://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_09_e.htm) [accessed 20 April 2017]. We note that the European Economic Area is treated as a free trade agreement under WTO rules.

64 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Trade and Investment* (February 2014), p 45: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/279322/bis\\_14\\_591\\_balance\\_of\\_competences\\_review\\_Trade\\_and\\_investment\\_government\\_response\\_to\\_the\\_call\\_for\\_evidence.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279322/bis_14_591_balance_of_competences_review_Trade_and_investment_government_response_to_the_call_for_evidence.pdf) [accessed 21 April 2017]

**Figure 2: Average final bound tariff rates applied by the EU by broad category of goods**



Source: European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), p 58

34. Lord Price CVO, Minister of State for Trade Policy, Department for International Trade, told the External Affairs Sub-Committee that the Government was “looking to replicate as far as possible the current UK agreements within a new WTO schedule. In that sense, we are not looking to deviate from what we do today.”<sup>65</sup> We therefore assume that the UK will retain, at least in the short term, the EU’s tariff schedules.
35. But despite the Government’s intention to preserve the EU’s external tariffs after Brexit, the External Affairs Sub-Committee heard that there could be pressure from both within the UK and from third countries for the UK to change its levels of tariffs and tariff rate quotas.<sup>66</sup>
36. This was borne out by evidence given by the Rt Hon Lord Forsyth of Drumlean, former Secretary of State for Scotland, to the European Union Select Committee in March: “Leaving the EU’s Internal Market (the Single Market) and the associated Customs Union offers the opportunities to reduce considerably the cost of living through access to lower-priced foods”.<sup>67</sup> The Rt Hon Owen Paterson MP made a similar point in his recent paper *UK agricultural policy post-Brexit*:

“Leaving the European Union and its Customs Union is a precondition for the UK to become a leader in global free trade, boosting our exports and lowering prices for all consumers. It is estimated that prices will

65 Oral evidence taken before the EU External Affairs Sub-Committee, 8 February 2017 (Session 2016–17), [Q 122](#)

66 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), para 122

67 Written evidence submitted to the European Union Committee, 4 March 2017 (Session 2016–17), [DEV0019](#) (Lord Forsyth of Drumlean)

be reduced overall by around 8%, with the price of food dropping by around 10%.”<sup>68</sup>

In a similar vein, Ryan Bourne, Head of Public Policy at the Institute for Economic Affairs (IEA), set out a tariff-liberalisation vision for food and farming in his IEA blog: “Brexit gives us the opportunity to rid ourselves of this blatant protectionism, to the benefit of our consumers.” By applying lower tariffs—or abolishing tariffs altogether—UK consumers could experience “lower prices in our shops directly”.<sup>69</sup>

37. In evidence to this inquiry, Alan Swinbank, Emeritus Professor of Agricultural Economics at the University of Reading, told us that the UK could “open up our markets and have much cheaper imports coming into Britain”, which could put “some downward pressure upon food prices”.<sup>70</sup> Which? also said that there was “a possibility that trade deals may open the market to cheaper products, which could help keep prices lower more generally” though they cautioned that “this should be delivered without reducing standards.”<sup>71</sup> We return to the issue of standards below.
38. We therefore acknowledge the argument that a low-tariff open-market policy could deliver the benefit of lower food prices for consumers.
39. Yet we also acknowledge the views of some witnesses, who were concerned that such a liberalisation of tariffs would damage the agricultural sector in the UK. The NFU told us: “A potential unilateral lowering of British tariffs would be damaging”, and added that “many UK farm businesses would be put at significant competitive disadvantage if current tariff barriers were removed or slashed without great care being taken to ensure a level playing field”.<sup>72</sup> NFU Scotland agreed: “Any Brexit outcome that results in the UK importing cheaper food would be hugely damaging to the farming, food and drinks sectors of Scotland and the UK.”<sup>73</sup>
40. The high tariffs on agricultural goods have, we heard, offered a degree of protection from non-EU countries. The National Pig Association explained:
 

“The level of protection afforded to the EU pig sector by import tariffs is significant ... With pig production costs in the USA, Canada and Brazil considerably lower than in the UK (due to lower welfare, legislation and environment standards) the removal or reduction of tariffs for pork products from those countries will have a significant negative impact on British pork producers.”<sup>74</sup>
41. Scottish Land & Estates agreed: “Some of our farming sectors are currently protected from cheaper imports because of the barriers imposed by the

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68 Rt Hon Owen Paterson MP, *UK Agricultural Policy Post-Brexit*, All Souls College, Oxford University, (January 2017): <https://www.owenpaterson.org/sites/www.owenpaterson.org/files/2017-04/UK%202020%20Agricultural%20Policy%20Post-Brexit.pdf> [accessed 21 April 2017]

69 Ryan Bourne, ‘Brexit could slash food prices — but only if we make it a free market Brexit’, blog for the *Institute of Economic Affairs* (18 October 2016): <https://iea.org.uk/brexit-could-slash-food-prices-but-only-if-we-make-it-a-free-market-brexit> [accessed 21 April 2017]

70 Q 5

71 Written evidence from Which? (ABR0013)

72 Supplementary written evidence from NFU (ABR0042)

73 Written evidence from NFU Scotland (ABR0007)

74 Written evidence from National Pig Association (ABR0005)

EU. These sectors would be vulnerable to imports if those barriers are not maintained once we leave.”<sup>75</sup>

42. Reflecting on the need to balance these conflicting interests, Prof Swinbank noted: “There are lots of different economic interests involved in this. Farmers may see various opportunities in one outcome whereas food consumers might see disadvantages.”<sup>76</sup> Prof Matthews agreed that the Government would have to find the “political balance” between “providing tariff protection to the domestic industry [and] providing access to food at world market prices, or close to world market prices”.<sup>77</sup>
43. The Minister, George Eustice MP, acknowledged that “there are economists out there who will say that we could just stop farming and buy all our food cheap at world prices and this sort of thing”. But he continued: “If you look at the evidence it is much more complicated than that.”<sup>78</sup>
44. As well as setting the bound tariffs for the import of agricultural goods, the UK will have to negotiate formally with the EU to separate out its Tariff Rate Quotas (TRQs) and Aggregate Measurement of Support (AMS) from those currently shared between the EU’s 28 Member States.<sup>79</sup> TRQs and the AMS—or Amber Box allowance for financial support—are important for the trade in agricultural goods. We consider each in turn.

#### *Tariff Rate Quotas (TRQs)*

45. A Tariff Rate Quota (TRQ) allows a customs territory to impose a lower tariff rate up to a quantitative limit, but apply the higher bound tariff for imports after that limit has been reached.<sup>80</sup> TRQs were introduced to provide some market access in the context of the high tariffs on some agricultural products. The EU’s TRQs include dairy, beef, lamb, poultry meat, sugar, fruit and vegetables.<sup>81</sup> They can be country-specific or open to any country that meets the import criteria—or a hybrid.<sup>82</sup>
46. The UK is currently covered by the EU’s schedules of concessions and thereby also by the TRQs contained therein.<sup>83</sup> That means the UK can import agricultural products from third countries at lower, or zero, tariffs. By virtue of its free trade agreements with third countries, the EU has also negotiated export TRQs that enable EU Member States—including the UK—to export agri-food products to those countries at preferential or zero tariffs.

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75 Written evidence from Scottish Land & Estates ([ABR0032](#))

76 [Q 1](#)

77 [Q 34](#)

78 [Q 84](#)

79 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), para 177

80 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), para 178

81 Written evidence submitted to the EU External Affairs Sub-Committee, 17 October 2016 (Session 2016–17), [ETG0005](#) (Peter Ungphakorn)

82 Some tariff rate quotas can be shared in specific amounts by a fixed number of countries, whereas others are open to any country that meets the import criteria. In the latter case, shares of the TRQs are allocated to the eligible countries on a non-discriminatory, ‘first come first served’ basis. Some tariff rate quotas may be a hybrid. Peter Ungphakorn, ‘The Hilton Beef Quota: a taste of what post-BREXIT UK faces in the WTO’, *Trade β Blog* (10 August 2016: <https://tradebetablog.wordpress.com/2016/08/10/hilton-beef-quota/> [accessed 26 April 2017])

83 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), paras 178–179

47. The FDF told us that “The Government has indicated that it intends to secure the UK’s fair share of existing TRQs post-Brexit”—an aim that they supported from the perspective of the food and drinks sector:

“Achieving this will be important for importers that rely on these quotas to bring in essential imports of raw materials from third countries, particularly in the meat sector, as well as for companies that export finished goods outside the EU by taking advantage of these preferential tariffs secured via EU bilateral trade agreements.”<sup>84</sup>

48. Securing a share of the export TRQs negotiated by the EU with third countries is also relevant because without them some UK exports may become uneconomic. Christian Häberli, Senior Research Fellow at the World Trade Institute, reflected that “Angus Beef from Scotland presently exported to Korea (presumably) under a TRQ for the whole EU-28 may not be competitive at Korean out-of-quota (MFN) rates. Negotiations for new quotas reserved for UK beef may be the only way to retain market shares for Scotch Angus in Korea.”<sup>85</sup>
49. The Minister, George Eustice MP, told us: “We suspect that the right way to approach this is simply to look at technical rectification<sup>86</sup> and to say during a reference period that the UK’s use of the tariff-rate quota on lamb was X and, therefore, that is how we should split it going forward.”<sup>87</sup>
50. Others, though, identified possible complications. Peter Ungphakorn, former Senior Information Officer, WTO Secretariat, noted that, based on “recent experience in WTO negotiations”, there could be some “bargaining over which representative period to use as a basis for calculations. Possible options include averages over the last three or five years, including or excluding the highest and lowest numbers”.<sup>88</sup>
51. The FDF also saw difficulties, because “Trade statistics on use of TRQs by UK industry are lacking.”<sup>89</sup> They added: “The matter is further complicated by the trans-shipment of goods from third countries through ports elsewhere in the EU such as Rotterdam, Hamburg or Naples.” Mr Häberli consequently believed that “negotiations with the EU-27 about export and import quota rights will have to consider intra-EU trade flows, transit trade and other factors”.<sup>90</sup> Prof McMahon concurred:

“A detailed examination should be undertaken of the existing tariff quotas in the EU Schedule to determine if the UK is the major/principal beneficiary of those quotas. If so, there is an argument that the tariff quota in the UK Schedule should match the traditional pattern of trade for a particular product with a consequent reduction in the EU Schedule for that product.”<sup>91</sup>

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84 Supplementary written evidence from Food and Drink Federation ([ABR0044](#))

85 Written evidence from Christian Häberli ([ABR0002](#))

86 A country’s schedules can be amended either through rectification or modification. Rectification is possible for amendments that do not alter the scope of concession, while modification implies a substantive change. However, this is not an uncontroversial process. European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), paras 173 and 188

87 [Q 85](#)

88 Written evidence from Peter Ungphakorn ([ABR0001](#))

89 Supplementary written evidence from Food and Drink Federation ([ABR0044](#))

90 Written evidence from Christian Häberli ([ABR0002](#))

91 Supplementary written evidence from Prof Joseph McMahon ([ABR0039](#))



52. Other WTO members, such as Australia, will take an active interest in this process, as Prof Swinbank told us: “How those tariff rate quotas are reallocated between the EU and the UK matters enormously to some of their trade interests. They may find that some reallocations are not to their liking.”<sup>92</sup>
53. In a similar vein, Prof Matthews told us that the EU would have an interest in preserving access to the UK market through quotas. Splitting the TRQs was “not just a question of allocating the New Zealand share or the American share”,<sup>93</sup> but of what share of access to the UK market the EU would get under the revised TRQs, if a free trade deal were not reached. He concluded: “The idea that we will be able to arrive at the UK Schedule for tariff rate quotas through sharing the existing ones ... may not be the right way or an acceptable way to go.”<sup>94</sup>

*The views of other WTO members*

54. The UK will need to present its schedules to other WTO members, as discussed in our report *Brexit: the options for trade*.<sup>95</sup> Prof McMahon observed that “in relation to tariff rate quotas, you cannot see WTO members being happy with what will in essence be a move towards protectionism.”<sup>96</sup> Prof Matthews elaborated the point:

“I could see attempts by producer interests in other countries to say, ‘this is an opportunity to improve our access, so let’s try to get our Governments to be a bit more aggressive than they otherwise might be’. We might put forward ... the idea that somehow we might just share the obligations that the EU 28 has at present ... but I could see other [WTO] members seeing this as an opportunity to try to improve their position.”<sup>97</sup>

55. Prof McMahon agreed: “If the UK gets a tariff rate quota split-off, you can imagine that other members of the WTO will be very annoyed, because there will be a tariff rate quota coming into existence after tariff rate quotas were supposed to come into existence.”<sup>98</sup> They were supposed to come into existence in 1995 or on accession to the WTO. The UK has been a member since 1948.<sup>99</sup> This is a very unusual occurrence.”<sup>100</sup>

92 [Q 6](#)

93 [Q 32](#)

94 [Q 40](#)

95 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72)

96 [Q 33](#)

97 [Q 32](#)

98 Tariff rate quotas were introduced by the WTO Agreement on Agriculture to maintain existing access levels for agricultural imports and to guarantee minimum access opportunities. This was in response to the conversion of non-tariff barriers on agricultural products into tariffs (“tariffication”). Under the General Agreement on Tariffs and Trade (GATT) TRQs can be put in place as a “compensatory adjustment” to the terms on which two (or more) WTO members trade following a finding of a WTO dispute settlement panel: see World Trade Organization, *European Union-Measures Affecting Tariff Concessions on Certain Poultry Meat Products*, [WT/DS492/R](#) (March 2017)

99 The UK has been a signatory to the General Agreement on Tariffs and Trade (GATT) since 1948. It was the predecessor to the WTO, which was established in 1995. World Trade Organization, *The GATT years: from Havana to Marrakesh* (2017): [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact4\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm) [accessed 21 April 2017]

100 [Q 32](#)

56. The Minister acknowledged the potential difficulties: “There may be some countries that say that we have lost the option to be able to choose a market because part of it is now separated out. That is a consequence, largely, of the fact that we are leaving the EU and, therefore, it is not a single market anymore.”<sup>101</sup> However, he believed that “those countries will still want a tariff-rate quota to the UK, and it is difficult to think of a better way to do it than to look at the historical track record during a reference period and to allocate it in that way”.<sup>102</sup>
57. Mr Ungphakorn questioned the Minister’s approach: “Many who have first-hand experience of how the WTO works ... doubt whether other WTO members would accept the UK’s legal arguments, and whether the legalistic approach would be enough. I share that view.”<sup>103</sup> For example, he said: “To account for current UK-EU trade in sheep and goat meat, almost 100,000 tonnes would be added to the combined UK and EU-27 tariff quota, around 33% more than its present size. That seems to stretch the idea of ‘rectification’ (a technical correction) too far.”<sup>104</sup> He concluded that “the UK and EU quotas should be settled by negotiation, where both political and commercial interests would play a part.”<sup>105</sup>

*Splitting the Aggregate Measurement of Support (AMS)*

58. Under the WTO Agreement on Agriculture WTO members started to move away from giving farmers domestic support that was tied to production, or production subsidies.<sup>106</sup> The types of permitted domestic agricultural support are classified according to which WTO ‘box’ they fall into. Green Box subsidies are permissible under WTO rules and are not subject to spending limits, whereas Amber Box subsidies are severely restricted (see Box 2).

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101 [Q 85](#)

102 [Q 85](#)

103 Written evidence from Peter Ungphakorn ([ABR0001](#))

104 Written evidence from Peter Ungphakorn ([ABR0001](#))

105 Written evidence from Peter Ungphakorn ([ABR0001](#))

106 L. Madureira, J. Lima Santos, A. Ferreira *et al*, *Feasibility Study on the Valuation of Public Goods and Externalities in EU Agriculture* (JRC Scientific and Policy Reports, European Commission, 2013) 14.



## Box 2: Domestic agricultural support

**Green Box** contains measures of support that have “no, or at most minimal, effects on production”, and which do not distort trade. Such measures must be government-funded and cannot take the form of price support. Examples of Green Box measures are subsidies which are de-coupled from production levels or prices, some environmental protection programmes and rural development programmes. Any domestic agricultural support measure that falls under the Green Box is permissible. Annex 2 to the Agreement on Agriculture sets out the details of when a support measure falls under the Green Box.

**Amber Box** contains domestic support measures which are considered to distort production and trade. After subsequent rounds of domestic support reduction, some 30 WTO members have declared a level of maximum Amber Box support in their schedules. This is a commitment to capping and reducing their levels of trade-distorting domestic support. This commitment is known as the ‘aggregate measurement of support’ (AMS) and represents the maximum allowable level of Amber Box domestic support the Member can give. Any trade-distorting support beyond the level of the AMS is a breach of the rules and can be disputed by other WTO members. The EU has a single AMS on behalf of all Member States.

**De Minimis:** Under the Agreement on Agriculture, there is no requirement for developed countries to reduce their trade-distorting domestic support in a given year provided that the aggregate value of any product specific support does not exceed 5% of the total value of production of the agricultural product in question. In addition, non-product specific support which is less than 5% of the value of total agricultural production is also exempt. This is known as the *de minimis* provisions. Even WTO members without an Amber Box allowance may provide trade distorting domestic support up to the *de minimis* levels.

**Blue Box** measures include direct payments made under a production-limiting programme. This means the aim should be to limit production by imposing production quotas requiring farmers to set aside part of their land. Only a handful of WTO members use Blue Box measures.

Source: World Trade Organization, *Domestic support—amber, blue and green boxes* (October 2001): [https://www.wto.org/english/tratop\\_e/agric\\_e/negs\\_bkgrnd07\\_domestic\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd07_domestic_e.htm) [accessed 21 April 2017], Article 6, and Annex II World Trade Organisation, *Agreement on Agriculture* (2017): [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/14-ag_01_e.htm) [accessed 21 April 2017] and written evidence from Prof Michael Cardwell (ABR0049)

59. The UK is currently covered by the EU’s AMS or Amber Box commitment. If the UK does not negotiate a share of the EU’s AMS, the UK could see its future agricultural policy choices constrained. In the words of Prof Swinbank: “How the maximum amount of subsidy that the EU is currently allowed to give to its farm sector would be shared out between the EU and the United Kingdom ... could be crucial depending upon the sort of policy we wanted to pursue later.”<sup>107</sup> The Minister told us:

“There is a school of thought that says that if we are going to go into a world where we are pursuing policies that are less market-distorting and more about supporting environmental outcomes and animal welfare, how important is it to have that share of the Amber Box? I think the

problem is that the more we look at this the answer is that it probably is still quite important to have that share.”<sup>108</sup>

60. Michael Cardwell, Professor of Agricultural Law at the University of Leeds, explained that one way to divide the Amber Box allowance would be to determine the EU’s current permitted level of domestic support; according to the most recent Notification by the EU the AMS was “72,378 million Euros.”<sup>109</sup> However, this was “in the name of the EU without distinction as to separate entitlement of individual Member States”, and it was “not possible to identify a separate ‘share’” for the UK, because the UK was already a member of the EU when the AMS was first calculated.<sup>110</sup> It would also be difficult to determine the amount of UK support which formed part of the original calculation of the AMS, thanks to “problems in obtaining historic data and in fixing sterling conversion rates”.
61. An alternative approach, he told us, would be to determine the UK’s entitlement based on current UK receipts of CAP payments. This could be “calculated as a ratio of UK:EU CAP payments (over a representative period of three years) applied to the EU’s total subsidy commitments”.<sup>111</sup> He noted, however, that “questions might arise as to whether exempt support should also be included in the calculation; and the UK may suffer disadvantage as a result of a pattern of relatively low expenditure on rural development programmes when compared with other Member States”.<sup>112</sup>
62. The Minister favoured the second approach: “We suspect that the logical way to deal with that is through a process of technical rectification where you simply say that the UK’s share of the EU’s Amber Box and Blue Box is X based on our allocation of the CAP budget. That would seem to be the simplest, most sensible way to proceed.”<sup>113</sup> He added that “I do not think at the moment that the EU comes anywhere close to using all of its Amber Box, so it is not that it is a box that people want to fight over”.<sup>114</sup> We return to the issue of funding in Chapter 5.

*The views of other WTO members*

63. Though the Minister was confident about the prospect for negotiating a share of the AMS, others were more cautious. Prof Matthews told us that a Brexit split of the AMS would mean that the UK would claim an AMS entitlement, while many WTO countries who “would love to have such an entitlement today” do not.<sup>115</sup> He mentioned China and India as “obvious examples where both countries are currently alleged to exceed their current *de minimis* limits on trade-distorting support ... One might not be surprised if some objections were raised from these quarters to the idea that the UK would be entitled as of right to an [AMS].”<sup>116</sup> On the other hand, he noted:

“Splitting the EU-28 AMS between the UK and the EU-27 may be an acceptable outcome to the other WTO Members because (a) it is

108 [Q 84](#)

109 Written evidence from Prof Michael Cardwell ([ABR0049](#))

110 Written evidence from Prof Michael Cardwell ([ABR0049](#))

111 Written evidence from Prof Michael Cardwell ([ABR0049](#))

112 Written evidence from Prof Michael Cardwell ([ABR0049](#))

113 [Q 84](#)

114 [Q 84](#)

115 Supplementary written evidence from Prof Alan Matthews ([ABR0038](#))

116 Supplementary written evidence from Prof Alan Matthews ([ABR0038](#))

the reverse procedure to what happens when a country joins the EU, and (b) it would lead to a lower Bound Total AMS (BTAMS) for the EU-27 which would be more restrictive on future EU trade-distorting agricultural policies.”<sup>117</sup>

64. The Minister believed that “the likelihood is that nothing we are proposing will cause much trouble with the WTO rules”.<sup>118</sup> But he also acknowledged that other WTO countries could cause difficulties: “We do not know whether people will want to press this point and have an argument about it. If they do, then they may be sacrificing their ability to ask something else of us that they want from us. That is the nature of a negotiation.”<sup>119</sup>

*Agricultural support without an AMS entitlement*

65. The Government has committed to matching current levels of CAP funding until 2020. But some witnesses questioned whether this would be possible if the UK withdrew from the EU without a share of the EU’s AMS. According to Prof Swinbank, if the UK “ended up with a very small allowance” and continued granting “that same support” after Brexit, “we could end up exceeding our WTO allowances. What would then follow from that would depend upon whether anyone challenged us, how long it took and what sort of measures were taken against us.”<sup>120</sup>
66. But Prof Cardwell believed that, as long as the Basic Payment and greening measures were regarded as decoupled income support, “there should be no difficulty in meeting domestic support commitments” if the UK continued to implement the CAP regime until 2020.<sup>121</sup>

*Conclusions and recommendations*

67. **In our report *Brexit: trade in goods* we concluded: “When establishing its own schedules at the WTO, the UK Government must give particular consideration to the implications of tariffs on the UK agricultural sector. High tariffs on imports would raise the cost to UK consumers, whereas lower tariffs could reduce the cost of food to consumers, but might undermine the domestic agricultural sector’s competitiveness.” We endorse this conclusion and underline its importance.**
68. **Reaching agreement on dividing the EU’s Tariff Rate Quotas for agricultural products could be challenging, not least because the proposed reallocation will be open to negotiation by WTO members, not only the EU. We urge the Government to analyse the current patterns of trade under existing TRQs and the implications of a proposed split on the agricultural sectors and food manufacturers that benefit from the current TRQs in preparation for these negotiations.**
69. **There is no precedent for splitting the Aggregate Measurement of Support—or the Amber Box entitlement—and in our view the**

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117 Supplementary written evidence from Prof Alan Matthews ([ABR0038](#))

118 [Q 84](#)

119 [Q 84](#)

120 [Q 6](#). Prof Alan Swinbank explained that the direct payments made to farmers under the CAP are currently considered to fall within the Green Box, though some have questioned whether they should be Amber Box instead. He added that no-one has challenged the EU on this matter in the past because of its large allowance.

121 Written evidence from Prof Michael Cardwell ([ABR0049](#))

**Minister was over-confident that other WTO members would accept such a split. We invite the Government to confirm that it is considering alternatives, should the split be contested.**

### Negotiating a UK-EU trade agreement

70. Further to establishing its WTO schedules, the UK will need to negotiate trade agreements with the EU and third countries.<sup>122</sup> The Minister told us that “the first thing coming down the tracks is the negotiation on a future free trade agreement with the EU”.<sup>123</sup>
71. In approaching those negotiations, Prof Matthews noted that “In global terms, the UK is a very attractive market. It is a big, prosperous market and it is a net importer of food. Therefore, a lot of countries will be very interested to try to improve their access to this market.”<sup>124</sup> The Minister agreed: “We have a trade deficit in food and drink alone with the EU of around £18 billion a year, so this is an area where it is in their interests really to do a free trade agreement.”<sup>125</sup>
72. Mr Ungphakorn, on the other hand, reminded us that “Agriculture is a particularly sensitive sector for various reasons: politics, culture, concerns about rural society, food security, and so on.”<sup>126</sup> The Institute of Grocery Distribution (IGD) agreed: “All new trade deals are complicated”, but “food related issues tend to take centre stage in most trade deals ... and are often the trickiest and most sensitive elements to negotiate”.<sup>127</sup>
73. Mr Ungphakorn explained that the challenge for the UK would be:
- “To strike a balance between:
- the demand for support and protection from the UK’s own farmers
  - the demand from UK consumers and processors for cheaper food and raw materials
  - the demand from exporters in the other countries for access to the UK market.”<sup>128</sup>

### Priorities for trade with the EU

74. We asked witnesses about their priorities for EU-UK agri-food trade. Guy Smith, Vice President of the NFU, told us: “We would like to see business as usual so that we trade with our ex-EU partners much the same as we did before.”<sup>129</sup> He added that “it is in our interests to have free trade access to those [EU] markets, much as we have done in the past, not encumbered by tariffs or border controls, which would add costs into our industry”.<sup>130</sup>

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122 The priorities for a new EU arrangement on food and beverages and for new FTAs with non-EU countries were discussed in our report *Brexit: trade in goods*.

123 [Q 85](#)

124 [Q 32](#)

125 [Q 85](#)

126 Written evidence from Peter Ungphakorn ([ABR0001](#))

127 Supplementary written evidence from IGD ([ABR0043](#))

128 Written evidence from Peter Ungphakorn ([ABR0001](#)) also mentioned “the trade-off with UK producers in other sectors (such as services) wanting access to the other countries’ markets, which might entail opening up UK agriculture.” However, this is beyond the scope of this report and will not be considered in detail.

129 [Q 43](#)

130 [Q 47](#)

Mr Hardwick agreed that “some form of continued tariff-free access to the European Union would be my absolute number one priority”, describing it as “absolutely essential”.<sup>131</sup>

75. Fergus Ewing MSP, Scottish Government Cabinet Secretary for the Rural Economy and Connectivity, agreed:

“Retaining tariff free access to the European Single Market is crucial to sustainability and growth in the rural economy. The [EU] continues to be Scotland’s top food export market and this trade creates a virtuous, mutually beneficial relationship for our food producers.”<sup>132</sup>

76. From a Welsh perspective, NFU Cymru told us:

“The EU single market is by far our largest export destination with around a third of our lamb crop ending up on the European Market, and around 90% of Welsh food and drink exports going in to the single market ... It is vital that we continue to enjoy free and unfettered access to these markets, free of tariff and non-tariff barriers.”<sup>133</sup>

77. Dairy UK provided a sector-specific example: “With 80% of dairy exports going to EU countries, mostly in the form of cheese, butter, cream and milk powders, continued access to the EU market is essential for UK dairy companies.”<sup>134</sup>

#### *Tariff barriers and EU trade*

78. In a free trade agreement tariff levels are generally lower than those provided for by the MFN principle under WTO rules. In the absence of such an agreement, our witnesses expressed concern at the impact of the higher MFN tariffs upon EU-UK trade. Focusing on exports, the AHDB explained:

“Higher tariffs on exports to the EU (indeed any tariffs as there are none at present) would put UK at an immediate disadvantage over competing countries with continued tariff free access ... in the primary agriculture sectors where margins on primary products are low, small additional costs can make products uncompetitive.”<sup>135</sup>

79. Scott Walker, CEO at NFU Scotland, told the EU Select Committee that “If we do default to WTO rules for trading with Europe, in effect that closes any food exports across to Europe ... just pure tariffs just close the deal altogether.”<sup>136</sup> Mr Ewing agreed: “Should the UK fail to reach agreement with the EU ... and fall back to trade under World Trade Organization terms, this would entail significant risk for sections of Scottish agriculture, such as cattle and sheep.”<sup>137</sup>

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131 [Q 56](#)

132 Written evidence from Scottish Government ([ABR0052](#))

133 Written evidence from NFU Cymru ([ABR0034](#))

134 Written evidence from Dairy UK ([ABR0035](#))

135 Further supplementary written evidence from AHDB ([ABR0040](#))

136 Oral evidence taken before the European Union Select Committee, 1 February 2017 (Session 2016–17), [Q 49](#)

137 Written evidence from Scottish Government ([ABR0052](#))



80. The Rt Hon Carwyn Jones AM, First Minister of Wales, raised a similar concern:

“The effects of trading with the EU under the WTO rules on Welsh agriculture, fisheries and food will be very significant. Products from these areas will be hit by some of the most extreme tariffs under the WTO rules ... It has been predicted trade opportunities in food related areas may fall by around 70–90%.”<sup>138</sup>

81. We heard particular concerns about the impact of tariffs on the sheep sector. The National Sheep Association told us that “the UK sheep sector exports up to 40% of production, with 96% of this going to the EU”.<sup>139</sup> Scottish Land & Estates warned: “Hill farming could face very difficult times.”<sup>140</sup>
82. The British Meat Processors Association (BMPA) cautioned that beef exports would also be at a disadvantage: “In most cases, [the EU] tariff equates to an addition of 50 per cent or more to the value of imports, which seriously impacts on the ability of imported beef to compete with EU meat.” As for pigs: “The high level of tariffs effectively means that most non-EU pork is uncompetitive on the EU market.”<sup>141</sup>
83. Tariffs would also hit other sectors. Dairy UK told us that: “Imposition of the WTO schedule by the UK would make EU [dairy] imports into the UK much more expensive”.<sup>142</sup> The National Association of British and Irish Flour Millers (nabim) raised similar concerns for the cereal industry, highlighting the “significant volumes” of trade with the EU: “This trade (whether imports or exports) would not be maintained if tariffs were imposed. Therefore the health of the cereals sector on both sides of the channel depends on the retention of tariff free trade between the UK and the EU 27 once we leave the Union.”<sup>143</sup>
84. One exception to the general concern was fruit and vegetables, where the Food Foundation noted that “for horticultural produce the EU’s external tariff rate is ... relatively low ... there are currently around 300 fresh fruit and vegetable EU tariff lines, and a similar number for processed products; and most of these tariffs are already minimal”.<sup>144</sup>
85. Against this backdrop, the Minister, referencing a study commissioned by the NFU, struck an optimistic note:

“It is difficult to look at this in isolation, [but] what it showed is that a straight reversion to WTO rules would probably, in most sectors of agriculture, lead to a firming in farmgate prices because competition from Europe would go down. The only exception is the sheep sector, which is heavily dependent on access to the French market in particular. From our point of view—although it is not what we want, and obviously we are going into this asking for that bold and comprehensive free trade

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138 Written evidence from Welsh Government ([ABR0050](#))

139 Written evidence from the National Sheep Association ([ABR0025](#))

140 Written evidence from Scottish Land & Estates ([ABR0032](#)), see also further supplementary written evidence from AHDB ([ABR0040](#)) and [Q 28](#) (Tim Breitmeyer)

141 Written evidence from British Meat Processors Association ([ABR0041](#))

142 Written evidence from Dairy UK ([ABR0035](#))

143 Written evidence from nabim ([ABR0028](#))

144 Written evidence from The Food Foundation ([ABR0030](#))

agreement—most sectors of agriculture do not have a great deal to fear from that if that were the outcome.”<sup>145</sup>

### *Supply chains and agricultural inputs*

86. Complex and extensive supply chains link the UK and the EU. The Farmers’ Union of Wales (FUW) told us: “If post Brexit policies have the effect of severing well-established supply chains which currently extend across the current EU, disruption would be widespread.”<sup>146</sup>
87. At the beginning of the supply chain, the British Growers Association told us that UK producers were “reliant on importing raw materials and inputs”, and that “it is not clear the extent to which tariffs might apply to these inputs and the impact on production costs and ultimately the cost of food to consumers”.<sup>147</sup>
88. The Agriculture Industries Confederation (AIC) told us that significant volumes of animal feed were imported from the EU or from non-EU countries through the EU. They noted that “the UK pig and poultry sectors in particular are very reliant on this imported vegetable protein, a quantity and quality which cannot be replicated domestically and both sectors would face massive risks if supplies were disrupted or their cost was increased”.<sup>148</sup> Turning to crop protection products, such as pesticides, they noted that “some 85% of the market is supplied with products manufactured elsewhere in the EU.”
89. The AIC also told us that the “significant majority of oilseed rape seed, all forage maize seed and ... all sugar beet seed is imported from the EU”.<sup>149</sup> They cautioned: “Without this access at a commercially viable rate these crops would suffer significantly in their competitive position.” Nabim, representing the UK flour milling industry, told us that they would “strongly support” retaining a system with “low to zero duties on raw materials”.<sup>150</sup>
90. The broader issue of supply chains present a unique challenge on the island of Ireland.<sup>151</sup> Noel Lavery, Permanent Secretary of the Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland, told us: “The level of North/South integration in production/processing chains is considerable. Many agri-food businesses are structured and operate on a cross-border basis.”<sup>152</sup> This made them especially vulnerable to the imposition of customs controls and tariffs. Ian Wright, Director General of the FDF, gave an illustration: “If you take one example—a bottle of Baileys Irish Cream—one in five cows in Ireland produces the milk and, if you are a Northern Irish cow, your milk crosses the border five times before it goes into the bottle. The idea that that would be subject to tariffs hither and yon is really very scary.”<sup>153</sup>

145 [Q 85](#)

146 Written evidence from Farmers’ Union of Wales ([ABR0045](#))

147 Written evidence from British Growers Association ([ABR0036](#))

148 Written evidence from Agricultural Industries Confederation ([ABR0018](#))

149 Written evidence from Agricultural Industries Confederation ([ABR0018](#))

150 Written evidence from nabim ([ABR0028](#))

151 This issue is discussed in detail in our reports European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72) and European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129).

152 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

153 [Q 51](#)

*Non-tariff barriers*

91. As we noted in our report *Brexit: trade in goods*,<sup>154</sup> non-tariff barriers can be as costly, or costlier, to producers than tariffs. Non-tariff barriers, which are prohibited between Member States by the EU Treaties,<sup>155</sup> include all government-imposed and sponsored actions or omissions that act as prohibitions or restrictions on trade, other than ordinary customs duties, and other duties and charges on imports and exports.<sup>156</sup> Examples include sanitary and phytosanitary measures, labelling requirements, pre-shipment inspection and formalities, subsidies and rules of origin as well as protected product descriptions known as Geographical Indicators (GIs).<sup>157</sup>

**Box 3: SPS and TBT Agreements**

**The Agreement on Sanitary and Phytosanitary Measures (SPS Agreement)** sets out the basic rules on food safety and animal and plant health standards. WTO member countries are encouraged to base their policies on existing international standards, guidelines and recommendations. They are then unlikely to be challenged in a WTO dispute. The SPS Agreement also allows countries to set their own higher standards, but these must be based on ‘sound science’ and should only be applied to the extent necessary to protect human, animal or plant life or health. They should not discriminate between countries where identical or similar conditions prevail.

**The Agreement on Technical Barriers to Trade (TBT Agreement)** aims to ensure that technical regulations, standards, and conformity assessment procedures are non-discriminatory and do not create unnecessary obstacles to trade. The TBT Agreement also recognises WTO members’ right to implement measures to achieve legitimate policy objectives, such as the protection of human health and safety, or protection of the environment. The TBT Agreement encourages members to base their measures on existing international standards.

Source: World Trade Organization, *Technical barriers to trade* (2017): [https://www.wto.org/english/tratop\\_e/tbt\\_e/tbt\\_e.htm](https://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm) [accessed 21 April 2017] and World Trade Organization, *Standards and safety* (2017): [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm4\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm4_e.htm) [accessed 21 April 2017]

92. Post-Brexit the UK and the EU could seek to minimise non-tariff barriers in three main ways: harmonisation of standards, mutual recognition of standards and equivalence. These terms are explained in Box 4.

154 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129)

155 Articles 24–36, Treaty on the Functioning of the European Union, [OJ C 326](#) (consolidated version of 26 October 2012)

156 A taxonomy of non-tariff measures was developed under the leadership of UNCTAD. United Nations Conference on Trade and Development, *International Classification of Non-Tariff Measures* (2012), p 3: [http://unctad.org/en/PublicationsLibrary/ditctab20122\\_en.pdf](http://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf) [accessed 21 April 2017]. We consider ‘rules of origin’ in detail in our report European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), pp 44–45

157 Agriculture & Horticulture Development Board, *What might Brexit mean for UK trade in agricultural products?* (October 2016), p 7: [http://www.ahdb.org.uk/documents/Horizon\\_Brexit\\_Analysis\\_Report-Oct2016.pdf](http://www.ahdb.org.uk/documents/Horizon_Brexit_Analysis_Report-Oct2016.pdf) [accessed 21 April 2017]



### Box 4: Regulations and trade

- Harmonisation of standards: for example, the UK and French authorities may apply precisely the same regulatory standards.
- Mutual recognition: for example, the UK authorities may apply one set of standards, and the French another. The standards are not identical, but each admits a product once it has been approved in the other country.
- Equivalence: equivalence means that it is determined that different standards sufficiently address a regulatory objective—such as sanitary or phytosanitary protection—through different means.

Source: European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), paras 144–145

93. Non-tariff barrier-free trade with the EU after Brexit was a key priority for our witnesses. NFU Scotland wanted to see “limited regulatory divergence so that no non-tariff barriers are introduced”.<sup>158</sup> Dairy UK agreed.<sup>159</sup> WWF also highlighted the risk of regulatory divergence: “Any weakening of [current] regulations, either as a result of domestic policy or trade agreements, will result in restricting access to the EU markets. This will impact the farming sectors [*sic*] ability to trade with its biggest market.”<sup>160</sup>
94. Mr Hardwick was therefore clear that “whatever we do, if we want an ongoing trading relationship with the European Union we will have to align ourselves largely with their legislation”.<sup>161</sup> In a recent speech, Phil Hogan, European Commissioner for Agriculture, struck a similar note: “We would never accept a lowering of our standards in the EU, and we have been consistently effective in protecting standards in all our global trade agreements.”<sup>162</sup> We therefore concluded in our report *Brexit: trade in goods* that “If the current level of EU-UK trade is to be maintained, ongoing harmonisation or mutual recognition of regulatory standards may be required.”<sup>163</sup> We welcomed the Government’s decision—by means of the Great Repeal Bill—to preserve existing EU regulations in domestic law as a first step towards this goal.
95. The Minister told us that the Great Repeal Bill would bring technical legislation, such as “rules on labelling, food standards, standards in slaughterhouses and maximum residue limits” into domestic law, meaning that at the outset of negotiations there would be “a remarkable degree of equivalence.”<sup>164</sup> He concluded: “Some of those non-trade tariff barriers that slow down other trade deals are less of a factor when it comes to the EU and it is why I think that, if the will is there, we could put together a free trade agreement quite quickly.”

158 Written evidence from NFU Scotland ([ABR0007](#))

159 Written evidence from Dairy UK ([ABR0035](#))

160 Written evidence from WWF ([ABR0010](#))

161 [Q 52](#)

162 European Commission, *Keynote Address by Commissioner Phil Hogan at the 73rd FNPL Congress in Langres, France* (March 2017): [https://ec.europa.eu/commission/commissioners/2014-2019/hogan/announcements/keynote-address-commissioner-phil-hogan-73rd-fnpl-congress-langres-france-16th-march-2017\\_en](https://ec.europa.eu/commission/commissioners/2014-2019/hogan/announcements/keynote-address-commissioner-phil-hogan-73rd-fnpl-congress-langres-france-16th-march-2017_en) [accessed 5 April 2017]

163 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), para 182

164 [Q 85](#)

*Non-tariff barriers and border controls*

96. As the UK withdraws from the customs union UK-EU trade will be subject to customs checks and controls to ascertain that products are of a satisfactory standard. In our report *Brexit: trade in goods*, we concluded that this would “result in costly administrative requirements and customs procedures, whatever new framework for trade is established”.<sup>165</sup>
97. Border and customs checks are a particular challenge for the agri-food sector. Prof Swinbank gave a graphic example: “One thinks of the port of Dover trying to cope with products coming in and coming out. If we have to start checking microbiological contamination of chicken carcasses coming from the Netherlands, for example, those tests can take several days and the product wastes in that period.”<sup>166</sup> The ADHB also raised concerns over “delays at ports/points of entry for perishable goods such as fruit, vegetables and meat”.<sup>167</sup>
98. Prof Matthews told us the EU would need to certify that UK products entering the Single Market meet EU standards, and that this process of certification becomes increasingly important if UK regulations underpinning the production of those products “begin to differ”.<sup>168</sup> He noted: “If it is a Welsh meat product, say, the European Union might need to inspect that Welsh meat plant in addition to your own Food Standards Agency doing that for your domestic market”. He therefore suggested that “it would be highly desirable to ensure that there are ... co-operation agreements— Mutual Recognition Agreements—whereby the EU would recognise that your Food Standards Agency, in inspecting that Welsh meat plant, would also be certifying for export to the EU.”
99. From a food manufacturing perspective, the FDF told us that the current regulatory cohesion between the UK and the EU is “the key to trading on a level playing field” and that, in the event that the regulatory framework in the UK is reviewed after Brexit, there needs to be a “mechanism” in place “to ensure mutual recognition of potentially different regulatory systems”.<sup>169</sup>
100. Regarding the practicalities of demonstrating equivalent standards, the AHDB informed us that monitoring and demonstrating equivalent standards was not “necessarily that difficult or onerous as the UK, in effect, already acts as the primary guarantor to the EU of compliance with EU standards and indeed those required in third countries”.<sup>170</sup>
101. If the UK and the EU did negotiate a free trade agreement, agricultural goods and food would also have to comply with rules of origin. These determine where a product and its components were produced, and are essential to determining which tariff to levy.<sup>171</sup> The AHDB explained that “If the UK wishes to have the complete freedom to secure similar trade agreements outside the EU then rules of origin are likely to make additional controls inevitable”, adding that “it is imperative that these controls do not create a

165 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), para 226

166 [Q 7](#)

167 Further supplementary written evidence from AHDB ([ABR0040](#))

168 [Q 37](#)

169 Supplementary written evidence from Food and Drink Federation ([ABR0044](#))

170 Further supplementary written evidence from AHDB ([ABR0040](#))

171 For a more detailed analysis of rules of origin, please European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129)

situation in which supply chains do not operate as freely as they do now.”<sup>172</sup> The Minister acknowledged that “if you were to do a trade deal with another country, there would be country of origin rules that mean that you cannot use that same product to circumvent whatever external tariffs the EU has”.<sup>173</sup> He told us: “There is a means of doing this; it is what every other country in the world does with the trade agreements they have, and we would adopt a similar approach those country of origin rules where it was necessary.”

### *Northern Ireland*

102. The land border in Northern Ireland again presents a particular challenge. Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan from Queen’s University Belfast stated: “The mere introduction of border controls alone, without even considering customs tariffs, would have a significant impact on the agri-food industry on the island of Ireland. The cost of producing the necessary paperwork has been placed at €20 to €80 per border crossing.”<sup>174</sup>
103. Furthermore, DAERA pointed out: “The fact that Northern Ireland has a land border adds an additional dimension to this, with the very real possibility of illegal movements. Therefore, both tariff and non-tariff arrangements post the UK’s exit from the EU are of major concern for the agri-food sector.”<sup>175</sup>

### *Geographical indicators*

104. Some witnesses mentioned geographical indicators (GIs)<sup>176</sup> as a priority for a trade agreement with the EU.<sup>177</sup> Only products meeting the requirements of the GI can use the protected name, for example Cornish pasties or Scotch Whisky.<sup>178</sup> According to the AHDB there are 61 UK-registered products protected by some form of GI, many of which are cheeses or meat products.<sup>179</sup>
105. Mr Hardwick saw GIs as one way of adding value to a product, and therefore told us that “we would want to retain those that we have”.<sup>180</sup> Jon Woolven, Strategy Director at IGD, noted that “for those people who have that protection it has been hard-fought-for, it is very valuable and those companies would not want to relinquish it”.<sup>181</sup> But he noted that other companies might

172 Further supplementary written evidence from AHDB ([ABR0040](#))

173 [Q 85](#)

174 Written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan ([ABR0021](#))

175 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

176 GIs are a form of intellectual property right in the same way as a patent, copyright or a trademark. There are three types of geographical indicators (GIs) for agri-food products in the EU: the Protected Designation of Origin (PDO) and the Protected Geographical Indication (PGI) both require a specific link to the region where the product comes from, while the Traditional Speciality Guaranteed (TSG) highlights a traditional production process. European Commission, ‘EU quality logos’, (2017): [http://ec.europa.eu/agriculture/quality/schemes\\_en](http://ec.europa.eu/agriculture/quality/schemes_en) [accessed 21 April 2017]

177 Under Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [OJ L 93/12](#) (31 March 2006) food and agricultural manufacturers can register products that are linked to a specific geographical area, have been produced according to traditional methods, and/or include specific ingredients to obtain given legal protection (for example, ‘Scottish Beef’). The EU’s system of intellectual property protection is administered and regulated by the EU’s Intellectual Property Agency in Alicante the EUIPO.

178 European Commission, ‘E-Spirit-Drinks’, (January 2012): <http://ec.europa.eu/agriculture/spirits/index.cfm?event=searchIndication> [accessed 21 April 2017]

179 Agriculture & Horticulture Development Board, *The impact of Brexit on protected food names* (December 2016), p 9: [http://www.ahdb.org.uk/documents/Horizon\\_Brexit\\_Analysis\\_Report\\_GI\\_Highres\\_06December2016.pdf](http://www.ahdb.org.uk/documents/Horizon_Brexit_Analysis_Report_GI_Highres_06December2016.pdf) [accessed 21 April 2017]

180 [Q 5](#) (Prof Wyn Grant), [Q 55](#) (Peter Hardwick)

181 [Q 55](#)

wish to produce products called, for instance ‘Parma-style ham’, and that this had been “a particular sticking area in some of the international trade negotiations, for instance with the US”.

106. Prof McMahon told us that the EU scheme for GIs allowed for international registration, “So once the UK leaves it will become a third country and it will still be able to register [GIs].”<sup>182</sup> Wyn Grant, Emeritus Professor of Politics at the University of Warwick, and Mr Hardwick agreed.<sup>183</sup>

### *Conclusions and recommendations*

107. **The UK is a net importer of food and therefore a very attractive market for agri-food products both from the EU and globally. We expect this to give the UK a strong position during trade negotiations for those products both with the EU and, after Brexit, with third countries.**
108. **Nevertheless, leaving the Single Market and the Customs Union will create significant uncertainty for the UK agri-food sector. The EU is the single largest market for UK agriculture and food products, and our witnesses were clear that preserving tariff and non-tariff barrier free trade with the EU should be a priority. If the UK leaves the EU without agreeing a comprehensive UK-EU FTA, or a form of transitional arrangement, UK-EU trade would have to proceed according to WTO rules. Many of our agricultural producers, and our food manufacturers, would incur substantial costs associated with tariff and non-tariff barriers when exporting to the EU, with sectors such as pig and sheep meat at particular risk.**
109. **Moreover, the agricultural and food manufacturing sectors are integrated into EU-wide supply chains. It is imperative that a UK-EU trade deal should avoid the imposition of tariffs on trade in both directions, to minimise the potential for disrupting those supply chains.**
110. **Non-tariff barriers could be equally if not more disruptive to trade in agricultural products and food. Products must meet the standards of the EU market in order to enter it. If UK and EU regulatory frameworks begin to differ after Brexit, there is a risk of substantial non-tariff barriers for agri-food producers. The greater this divergence, the greater the need for customs checks and certification of products and production facilities. This could be costly and time consuming for UK farmers and food manufacturers wishing to export to the EU.**
111. **In our report *Brexit: trade in goods* we urged the Government “to maintain close dialogue with the EU over the development of UK and EU standards post-Brexit, to avoid unnecessary divergence.” We endorse and re-state this recommendation.**
112. **Customs procedures and associated delays would have a particularly strong negative impact on the agri-food sector, where products are often perishable and food supply chains are highly integrated across the UK and the EU.**

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182 [Q 38](#)

183 [Q 55](#)

113. **Agri-food supply chains are particularly highly integrated between Northern Ireland and the Republic of Ireland. The re-introduction of border controls and tariffs could severely disrupt this industry, and could lead to an increase in cross-border smuggling. We therefore repeat the recommendation made in our report on *Brexit: UK-Irish relations* that the Government should make every effort to avoid the re-introduction of customs controls on the Irish land border.**

### New market opportunities

#### *Non-EU markets*

114. Brexit may also open up new non-EU trading opportunities. Mr Smith told us: “It must always be our ambition to seek out markets wherever we can find them and to place an expectation on the British Government to help us find those markets. There are emerging really interesting markets, particularly in the Far East, for poultry, pigs, red meat in particular.”<sup>184</sup> Wesley Aston, Chief Executive of the Ulster Farmers’ Union, agreed:

“We want to look at new markets, particularly for what we call fifth-quarter products, which are products that British and European consumers do not eat, that go to China or wherever. We certainly see that if those could be opened it would give us a better return for those particular products that currently we have to pay to dispose of.”<sup>185</sup>

Tim Breitmeyer, Deputy President of the Country Land and Business Association (CLA), George Dunn, Chief Executive of the TFA, the FDF and FUW all took a similar view.<sup>186</sup>

115. Though there are opportunities for increasing trade globally, some witnesses were not convinced that this could off-set a potential loss in UK-EU trade.<sup>187</sup> The First Minister of Wales told us: “Curtailing access to [the European Market] for our produce will leave a hole which will not be easy or quick to fill.”<sup>188</sup> The British Poultry Council agreed: “Contrary to popular belief, third countries are not able to ‘take up the slack’ in trade that may be caused by Brexit ... loss of trade with [EU] Member States will not inevitably lead to increases elsewhere.”<sup>189</sup> The IGD echoed the point from the perspective of the wider food sector: “Reduced trade in agriculture and food with the EU might be offset, at least in part, by increasing trade elsewhere but there is no single country or trading bloc that could be a like-for-like substitute.”<sup>190</sup>
116. The AHDB agreed that it would take time to develop alternative markets.<sup>191</sup> EU trade could be off-set in some cases, “but not immediately as the trade within the EU enjoys the enormous benefits of proximity and speed of delivery (crucial for perishable products) and trade free of official customs controls and duties”.<sup>192</sup>

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184 [Q 48](#); also [Q 29](#) (Tim Breitmeyer)

185 [Q 47](#)

186 [Q 29](#) (Tim Breitmeyer, George Dunn), supplementary written evidence from Food and Drink Federation ([ABR0044](#)) and written evidence from Farmers’ Union of Wales ([ABR0045](#))

187 This issue is also considered in our report European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129).

188 Written evidence from Welsh Government ([ABR0050](#))

189 Written evidence from British Poultry Council ([ABR0027](#))

190 Supplementary written evidence from IGD ([ABR0043](#))

191 Further supplementary written evidence from AHDB ([ABR0040](#))

192 Further supplementary written evidence from AHDB ([ABR0040](#))



*Grandfathering existing FTAs*

117. Some witnesses thought it important to review the status of the more than 36 preferential trade agreements, covering 60 third countries,<sup>193</sup> which the EU has negotiated on behalf of Member States. DAERA told us that “we should be striving to retain current access arrangements in the short term”,<sup>194</sup> while Mr Smith suggested that some “interim arrangement” could perhaps be agreed so that the UK could “continue to use the agreements we have in place by virtue of EU membership when we have left the European Union”.<sup>195</sup>
118. Prof McMahon suggested that the UK might be able to negotiate continued access to such FTAs after Brexit:

“Those agreements are what are termed in EU law mixed agreements. This means that the UK remains bound by that particular arrangement ... because it is a mixed agreement the UK also has the opportunity to figure out, in association with the third country, how it will deal with the relationship.”<sup>196</sup>

Mr Hardwick, however, warned that “whilst you could try to grandfather part of a trade agreement with another country, and that might be accepted, it just takes one member [of the WTO] to step in the way”.<sup>197</sup>

119. In our report *Brexit: the options for trade* we considered the question of whether the UK could preserve, or ‘grandfather’ existing FTAs, concluding as follows: “On the balance of evidence, we conclude that the UK is unlikely to be able to retain access to the EU’s FTAs with third countries following Brexit, whether they are mixed agreements or not.”<sup>198</sup> In our subsequent report, *Brexit: trade in goods*, we endorsed that conclusion: “We remain of the view that the UK is unlikely to be able to maintain access to the EU’s preferential trade agreements with third countries, such as Switzerland and South Korea, after Brexit.”<sup>199</sup>

*Domestic opportunities*

120. There may also be opportunities to develop the UK’s domestic market. DAERA argued that “The UK’s exit from the EU provides opportunities for export growth, particularly in the GB market and to the rest of the world.”<sup>200</sup> Mr Aston agreed, suggesting that the UK should use Brexit as an opportunity to review its status as a net importer of food: “We are only 61% self-sufficient across the commodities and 75% self-sufficient in our indigenous products, so there is huge scope to make sure we provide the standard of product that our consumers want.”<sup>201</sup> Mr Smith argued: “It is often forgotten that the trade gap between food and drink in this country has doubled in real terms in the last 15 years from £5 billion to £10 billion ... A

193 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), para 231

194 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

195 [Q 47](#)

196 [Q 31](#) and International Trade Committee, *UK trade options beyond 2019* (First Report, Session 2016–17, HC 817)

197 [Q 58](#)

198 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), para 168

199 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), p 5 (Summary)

200 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

201 [Q 43](#)

lot of that could be grown in the UK. Our ambition as part of this process is to narrow that trade gap.”<sup>202</sup>

121. However, reducing trade imbalances, as the BMPA told us, is complicated by a multitude of factors. They explained that exports and imports were about “getting value for whole carcase, cultural eating habits ... the cost of production, which varies according to the season, the price of feed, and the value of sterling”.<sup>203</sup> Therefore, they argued, finding “an outlet for the parts of the animal we do not eat and for which there is, therefore, no market in the UK—known as achieving carcase balance—and the offals and animal by-products is crucial.” The FUW also highlighted “the seasonality of production, the perishability of goods, and the degree to which sectors rely on exporting certain types of products and cuts (‘quarters’) which do not generally appeal to UK consumers”.<sup>204</sup> All these factors would have to be considered when assessing whether trade could be offset with domestic consumption.

#### *Non-EU trade agreements and tariffs*

122. Reflecting on trade agreements with third countries, NFU Cymru told us that that “if the UK were to enter into trade agreements with the countries such as New Zealand and Brazil, then there could be a temptation on the part of the UK government to unilaterally lower tariffs for food imports”.<sup>205</sup> That, they cautioned, “would have a devastating impact on Wales’ livestock industry”.
123. Scottish Land & Estates also cautioned that “Trade deals that open our markets to cheap imports could prove disastrous for some agricultural sectors”.<sup>206</sup> Mr Woolven went further: “The real nightmare scenario would be if we had an unlevel playing field with free trade in and then restricted trade out.” Therefore, he argued, there should be “at least equal tariffs in and out”.<sup>207</sup>
124. At the same time, as we noted above, a lower-tariff approach to trade in agri-food products could lead to lower prices for UK consumers (see paragraphs 36–38).

#### *Non-EU trade agreements and standards*

125. The area of most concern to our witnesses when discussing trade with third countries was standards. Mr Hardwick explained that “the single biggest obstacle in exports is ... the sanitary and phytosanitary rules you have to meet in the importing country”.<sup>208</sup> He gave an example: “To get the deal that we have with China on pork took us negotiating around seven years to complete because of the sanitary requirements.”<sup>209</sup>
126. Witnesses cautioned that producers in the UK—particularly meat producers—would be hard-pressed to compete on price. In Mr Smith’s words, “British farmers tend to operate to high standards, which we are very

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202 [Q 47](#)

203 Written evidence from British Meat Processors Association ([ABR0041](#))

204 Written evidence from Farmers’ Union of Wales ([ABR0045](#))

205 Written evidence from NFU Cymru ([ABR0034](#))

206 Written evidence from Scottish Land & Estates ([ABR0032](#))

207 [Q 56](#)

208 [Q 51](#)

209 [Q 56](#)

proud of, but those lead to higher costs of production than you would find elsewhere.”<sup>210</sup>

127. The AIC cautioned: “Whilst there have been populist claims that free trade will bring even cheaper food prices, the reality is that further cost reductions can both damage domestic production and raise the chances of quality and welfare issues being undermined.”<sup>211</sup> Mr Smith agreed: “The danger is that we suddenly see ourselves as a new globalised player that scours the world for the cheapest food to feed the British population irrespective of the standard it is produced to.”<sup>212</sup> The Welsh First Minister argued that “A key consideration is for UK producers to not be undercut by imports where production standards are poor, and consumers not put at risk.”<sup>213</sup>
128. Against such a backdrop Mr Wright told us that from a food and drinks perspective “we cannot conceive of a world in which British consumers are subject to lower standards. That is not acceptable either to my members or to anybody in the food chain and, most importantly, to the consumers themselves.”<sup>214</sup> Mr Hardwick agreed: “It would be inconceivable to explain to British consumers that you are doing something to reduce standards.”<sup>215</sup>
129. Which? explained that maintaining current standards for products was “essential for consumer confidence”.<sup>216</sup> This, they told us, means that “consumers can have confidence that the food they buy is safe and what it says it is”, which in turn “benefits the food industry which relies on consumers’ trust”.
130. Dr Viviane Gravey *et al* also reminded us that failure to uphold internationally defined sanitary standards would “place UK exporters at risk of trade barriers in export markets beyond the EU”.<sup>217</sup> For this reason, any steps taken to lower domestic standards would need to respect international commitments. We note the Minister’s assurances that the Government intends to engage actively in the setting of international food safety standards in the UN system known as Codex, and similar fora.<sup>218</sup>

### *Brand Britain*

131. If UK producers continue to adopt higher standards—thereby incurring higher costs—they will not be competitive in a global, liberalised market on price alone. They may, however, be able to compete on quality. Lord Forsyth of Drumlean, in evidence to the EU Select Committee, argued that “it is always possible to sell a quality product”.<sup>219</sup>
132. NFU Scotland agreed: “‘Scottish is premium British’, and it is on this reputation of provenance and high production standards that NFUS sees opportunities in new export markets elsewhere in the world.”<sup>220</sup> The

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210 [Q 43](#) (Guy Smith)

211 Written evidence from Agricultural Industries Confederation ([ABR0018](#))

212 [Q 50](#)

213 Written evidence from Welsh Government ([ABR0050](#))

214 [Q 54](#)

215 [Q 54](#)

216 Written evidence from Which? ([ABR0013](#))

217 Written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan ([ABR0021](#))

218 [Q 86](#)

219 Oral evidence taken before European Union Select Committee, 6 March 2017 (Session 2016–17), [Q 107](#)

220 Written evidence from NFU Scotland ([ABR0007](#))



National Pig Association told us that “British pork boasts the unique selling points of high standards of animal welfare, whole supply chain traceability and independently verified assurance”.<sup>221</sup>

133. Focusing on the domestic market, WWF also suggested that “adopting the best standards in the world would differentiate British produce from cheaper lower quality overseas imports whilst enhancing British food’s reputation for safety and quality”.<sup>222</sup> And yet, according to Mr Smith, consumers may not support the costs of higher standards: “While we are always very keen to trade up and produce to very high standards, we are wary that sometimes in that scenario our consumers can let us down.”<sup>223</sup>
134. Mr Smith also noted that high domestic standards could be double-edged in terms of trade:

“We have an extremely robust assurance system in our agriculture that gives us very good food safety standards. If we can convince the Chinese that that gives us a premium status and they should open up their markets to us, we will walk through that door. If the Chinese are of the view they want to go for the cheapest supplier, we will have a problem in as much as our costs of production may well be greater.”<sup>224</sup>

*Hormone-treated beef and chlorinated chicken*

135. Witnesses highlighted two areas of particular concern with regard to imports: hormone-treated beef and chlorinated chicken. Mr Dunn argued that the UK should “protect” itself from products “such as chlorinated poultry or hormonetreated beef” in any potential trade deal with the US.<sup>225</sup> Dr Gravey *et al* noted:

“Past negotiations between the EU and US have raised wide-spread concerns about agriculture—in particular facilitating the access of genetically modified foods, chlorine washed chickens and beef from cattle treated with growth promoting hormones. This is a logical objective for US negotiators in future UK-US deals.”<sup>226</sup>

136. Which? noted that the issue of hormone beef “illustrates different national approaches to ensuring food safety and standards and raises concerns regarding future trade deals with countries, such as Brazil or the US, once the UK leaves the EU”.<sup>227</sup> These concerns, we heard, included “less rigorous food safety controls and, in some cases, a much more relaxed approach to use of ingredients or production methods that consumers are likely to have concerns about”. Prof Grant agreed: “I think this is an issue which consumers and others might be concerned about ... It may be... that consumers, if they were aware of the way in which the beef is being produced, would not want to buy it, but then of course price is often a very big driver of consumer behaviour.”<sup>228</sup>

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221 Written evidence from National Pig Association ([ABR0005](#))

222 Written evidence from WWF ([ABR0010](#))

223 [Q 47](#)

224 [Q 48](#)

225 [Q 25](#)

226 Written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan ([ABR0021](#))

227 Written evidence from Which? ([ABR0013](#))

228 [Q 6](#)

137. The Minister acknowledged this concern: “Beef produced in Brazil, Uruguay and the US is cheaper than in the EU and, in particular, in the UK, but that comes at a price of using hormones in beef and all sorts of approaches that probably would cause consumer reaction here, and the quality of that product is far inferior to what we have.”<sup>229</sup>

### Box 5: The beef hormone dispute

The EU has banned the import of beef produced with certain growth hormones since 1989, citing concern over the risks to human health posed by hormone residues. The USA brought a dispute against the EU to the WTO Dispute Settlement Body, arguing that the measures taken by the EU restricted or prohibited imports of meat and meat products from the United States.

The Appellate Body<sup>230</sup> found that the European import restrictions were inconsistent with article 5.1 of the Sanitary and Phytosanitary (SPS) Agreement that: “Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.”

Nevertheless, the EU still upholds its ban on importing beef reared with hormones. By way of compensation, a higher tariff rate quota for non-hormone-treated beef from the USA was agreed, providing improved access to the EU market for that beef.

Source: World Trade Organization, *European Communities: Measures Concerning Meat and Meat Products (Hormones)* (2017): [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds26\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds26_e.htm) [accessed 21 April 2017]

138. The Chief Veterinary Officer (CVO), Professor Nigel Gibbens CBE, told us that after Brexit the UK would be “masters of our own import standards”, which meant that, in relation to hormone treated beef, “the UK will be at liberty to take up the same position [as the EU]”. He acknowledged, though, that:

“There is a cost to holding that position because the EU lost a WTO case on the basis of hormone-treated beef and continues to pay a penalty as a consequence, but we have that choice; we have that sovereign right. Again, that will apply whenever one wants to apply higher standards, for whatever reason, that go beyond the standards set by the standard-setting body, in this case the OIE or Codex, or what can be scientifically justified so that if you want to apply a condition for trade you have to be able to scientifically justify it.”<sup>231</sup>

139. We note that Phil Hogan, the EU’s Agriculture Commissioner, has endorsed EU standards, and that it seems unlikely that the EU will be willing to accept hormone reared beef or chlorinated chicken after Brexit.<sup>232</sup> Should such products be admitted into the UK market through trade with third countries, it may therefore pose a challenge to trade with the EU. We asked

229 Q 84

230 The Appellate Body is part of the WTO dispute settlement system.

231 Q 78

232 European Commission, *Keynote Address by Commissioner Phil Hogan at the 73rd FNPL Congress in Langres, France* (March 2017): [https://ec.europa.eu/commission/commissioners/2014-2019/hogan/announcements/keynote-address-commissioner-phil-hogan-73rd-fnpl-congress-langres-france-16th-march-2017\\_en](https://ec.europa.eu/commission/commissioners/2014-2019/hogan/announcements/keynote-address-commissioner-phil-hogan-73rd-fnpl-congress-langres-france-16th-march-2017_en) [accessed 5 April 2017]

the CVO about the potential difficulties of aligning third country pressure to allow hormone beef to enter the UK market with the EU's continued reluctance to import such meat. In response, he said: "There will be a constant interplay between what agreements we are seeking to have, what we therefore commit to do and what we can do in other arenas in different free trade agreements."<sup>233</sup>

*Farm animal welfare standards*

140. We also heard concern over farm animal welfare standards. Mr Breitmeyer told us:

"We are very proud of our quality and our high standards of animal welfare. There is significant difficulty in making sure that that is taken into account when it comes to any import deals that are done around the world, such that we are not undercut by cheaper food that is not of the same quality standards."<sup>234</sup>

141. For this reason, NFU Scotland told us that "a consistent approach must be adopted which requires potential trade partners to produce to certain standards so that the UK's very high animal welfare and traceability standards are not undermined".<sup>235</sup> Sustain agreed: "We must maintain and enhance the high animal welfare standards in the UK for consumer acceptance, biosecurity and on moral grounds. We must not cut standards to facilitate new trade deals."<sup>236</sup>

142. Witnesses questioned, however, whether imports could be restricted on the basis of animal welfare. The CVO told us that "In WTO terms, animal welfare is not a legitimate barrier to trade".<sup>237</sup> Mr Hardwick agreed: "We will remain subject to WTO rules, which means that you cannot use methods of production as a mechanism for obstructing trade."<sup>238</sup>

143. Compassion in World Farming disagreed: "It is commonly assumed that the WTO rules do not enable restrictions to be placed on imports on animal welfare grounds. This, however, is to ignore WTO case law of the last sixteen years."<sup>239</sup> They continued:

"A number of WTO Panel and Appellate Body rulings suggest that a WTO member country may be able to require imports to meet welfare standards equivalent to its own provided that there is no element of discrimination that favours domestic producers and no discrimination between different would-be exporting countries."

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233 [Q 78](#)

234 [Q 29](#)

235 Written evidence from NFU Scotland ([ABR0007](#))

236 Written evidence from Sustain ([ABR0003](#))

237 [Q 79](#)

238 [Q 52](#)

239 Written evidence from Compassion in World Farming ([ABR0004](#))

144. Prof Cardwell supplied a detailed analysis of the case law, setting out the complexities associated with the rulings and the technical requirements that the UK would need to adhere to in order to restrict imports on farm animal welfare grounds in the absence of a free trade agreement. In summary, he noted:

“The extent to which WTO Members may restrict imports on the basis that they do not meet domestic animal welfare standards is an issue which remains contested ... Attempts to condition imports on the basis of such concerns have not generally met with success before the WTO Dispute Settlement Body, but more detailed examination of the decisions would indicate that the door is not necessarily closed. A key factor is the need to ensure that the detailed rules which are imposed do not result in the measures being characterised as ‘protectionist’.”<sup>240</sup>

145. Conversely, the CVO pointed out that when there is a free trade agreement in place “you can choose to put common or required animal welfare standards into those free trade agreements”.<sup>241</sup> He added: “If the UK is seeking to negotiate free trade agreements you can definitely put animal welfare on the table.”<sup>242</sup> Prof Swinbank concurred: “Within the framework of a free trade area, you may have an agreement that certain animal welfare standards are kept and only products that meet those can circulate within that free trade area.”<sup>243</sup> Compassion in World Farming insisted that “it is vital that when negotiating new trade agreements, the UK insists on the inclusion of a clause permitting it to require imports to meet UK animal welfare standards”.<sup>244</sup>

#### *Conclusions and recommendations*

146. **The EU is the UK’s biggest trading partner for agricultural and food products. The evidence suggests that, for a considerable period of time, it will not be possible to off-set this trade by increased trade with third countries or by expansion of domestic markets.**
147. **As an EU Member State, the UK has access to preferential trade agreements with a number of third countries. As we have concluded in successive reports, we doubt that UK participation in these agreements can be preserved after Brexit. It is essential therefore that the Government should, as a matter of urgency, clarify whether or not such agreements could indeed be grandfathered to preserve preferential trade arrangements for agri-food products.**
148. **Our witnesses were concerned that increased trade with third countries that operate different—often less stringent—regulatory standards than the UK could render UK producers uncompetitive in the domestic market due to an influx of cheaper products produced to lower standards.**
149. **It could also lead to increased pressure on the Government to reduce standards domestically in order to lower the cost of production and increase price competitiveness. Yet we note that UK producers are proud of their high standards, and that our witnesses questioned**

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240 Written evidence from Prof Michael Cardwell ([ABR0049](#))

241 [Q 79](#)

242 [Q 78](#)

243 [Q 4](#)

244 Written evidence from Compassion in World Farming ([ABR0004](#))

**whether consumers would welcome such a downward trend in current standards.**

150. **In looking to expand trade in the longer term with third countries, such as China, we also heard that high standards were crucial to the British brand. The Government should therefore maintain the current standards to enable the export of UK food and farming products.**
151. **We welcome the Government’s commitment to maintaining high levels of animal welfare in the UK. There is some doubt over whether animal welfare can be used as a rationale to restrict imports from other countries under WTO rules. However, we encourage the Government to secure the inclusion of high farm animal welfare standards in any free trade agreements it negotiates after Brexit.**
152. **In developing new trading relations with the EU and the world, the Government will need to balance the sometimes conflicting needs and expectations of farmers, consumers and trading partners with respect to quality and costs.**
153. **It may be hard to reconcile the Government’s wish for the UK to become a global leader in free trade with its desire to maintain high quality standards for agri-food products within the UK. Striking this balance will require extensive consultation with both industry and stakeholders. We note that it will be challenging to complete such a consultation in the two-year period set out by Article 50.**

### **Transitional arrangements**

154. The doubts over whether the EU and the UK could reach agreement on a comprehensive free trade agreement within the two year period set out by Article 50 TEU have been widely rehearsed, as has the desirability of a transitional arrangement to bridge the gap between Brexit and the conclusion of an FTA.<sup>245</sup> DAERA, for instance, urged that “significant thought” should be given to “the nature and duration of transition arrangements when it comes to trade.”<sup>246</sup> Mr Dunn also argued that “we do need to ensure that we have a transitional agreement”, which should include “reciprocal access to the EU market on a free basis, as we have today, for a period of years while we negotiate a bespoke trade deal for the long term.”<sup>247</sup>
155. Mr Wright told us that from the perspective of the food and drinks sector: “It is really important that we do not have some kind of shock on 1 April 2019, or whenever the leave date is.”<sup>248</sup> In his opinion, “Two years from now is not a long time in many business planning cycles, so the level of uncertainty about what that might mean is very important.” The FUW believed that “a transition period of ten years should be agreed, despite the political difficulties this may cause”.<sup>249</sup>

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245 See European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72)

246 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

247 [Q 29](#)

248 [Q 56](#)

249 Written evidence from Farmers’ Union of Wales ([ABR0045](#))

*Conclusions and recommendations*

156. **Despite the regulatory conformity between the UK and the EU, there is broad consensus among experts—including those on the EU side—that it will not be possible to negotiate and conclude a comprehensive free trade agreement with the EU within two years. It is therefore essential that the Government should agree transitional arrangements with the EU, in order to mitigate the potentially disastrous effects of trading on WTO terms on the agricultural and food sectors.**
157. **In our report on *Brexit: trade in goods* we concluded that it was “critical that the Government considers negotiating access to the EU’s preferential trade arrangements with third countries for a transitional period”. We reiterate that conclusion: the fact that the UK may not be able to grandfather existing FTAs with third countries makes it all the more important, particularly to the agri-food sector, that there should be a phased transition, so as to allow time for the UK to negotiate new FTAs with third countries.**



## CHAPTER 4: THE REGULATORY FRAMEWORK

### The agriculture *acquis*

158. The EU's powers to legislate in respect of agriculture are set out in Articles 38 to 44 of the Treaty on the Functioning of the EU (TFEU).<sup>250</sup> These provide that the EU must implement a common agricultural policy that extends the Single Market to agriculture and trade in agricultural products. In designing an agricultural policy, the EU must also take into account the over-arching principles expressed in the Treaties regarding the protection of the environment and animal welfare.<sup>251</sup>

### Box 6: Objectives of the Common Agricultural Policy

The objectives<sup>252</sup> of the CAP are:

- (a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
- (b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- (c) to stabilise markets;
- (d) to assure the availability of supplies;
- (e) to ensure that supplies reach consumers at reasonable prices.

Source: Article 39(1) of the Treaty on the Functioning of the European Union, [OJ C 326](#) (consolidated version of 26 October 2012)

159. Four basic Regulations underpin the CAP: rural development (Regulation 1305/2013),<sup>253</sup> financing, management and monitoring (Regulation 1306/2013),<sup>254</sup> direct payments (Regulation 1307/2013)<sup>255</sup> and the single Common Market Organisation (sCMO) (Regulation 1308/2013).<sup>256</sup> Taken together, the CAP, in its current form, provides an EU framework of

250 Treaty on the Functioning of the European Union, [OJ C 326](#) (consolidated version of 26 October 2012)

251 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Agriculture* (2014), p 16: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335026/agriculture-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335026/agriculture-final-report.pdf) [accessed 19 April 2017]

252 Compare these objectives with those set out in the Agricultural Act 1947, [section 1](#)

253 Regulation (EU) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, [OJ L 347/487](#) (20 December 2013)

254 Regulation (EU) No 1306/2013 of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008, [OJ L 345/549](#) (20 December 2013)

255 Regulation (EU) No 1307/2013 of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, [OJ L 347/608](#) (20 December 2013)

256 Regulation (EU) No 1308/2013 of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, [OJ L 347/671](#) (20 December 2013)

regulation for direct payment support to farmers, market support measures and rural development programmes.<sup>257</sup>

160. As we noted above, the EU “farm-to-table” measures also regulate food safety and animal and plant health, creating a comprehensive body of legislation for food products.<sup>258</sup>

### Criticisms of the Common Agricultural Policy

161. There is long-standing frustration over the rigidity of the CAP. Among those farmers who voted to leave the EU,<sup>259</sup> Wesley Aston, Chief Executive of the Ulster Farmers’ Union, told us that one of the “main reasons” was “The amount of regulation that tied them up and prevented them from farming and getting on with the business they enjoy”.<sup>260</sup> He gave an example: “There are certain dates where you are allowed to do things on one side of the date and not allowed to do on the other, and that just does not happen. Look at the weather we have had this winter time compared with what we had previously. Farming by calendar dates is a real problem in setting the EU rules.”<sup>261</sup> Similarly, Tom Lancaster, Agricultural Policy Officer at the RSPB, said that “there are elements ... that are very bureaucratic. A lot of that though flows from European requirements, such as the record keeping, the single annual start date, various other points of detail.”<sup>262</sup> NFU Cymru agreed: “Brexit offers considerable opportunity to reduce the regulatory burden under which our farmers currently operate.”<sup>263</sup>
162. From a food and drinks perspective, Ian Wright, Director General of the FDF, cited general frustration with the amount of time that it takes to develop regulations within the EU: “Because of the process of having to go through the Commission, the Parliament, and so on, there is the danger that some developments which are technically possible take longer because you have to go through a process of approval by 28 Member States.”<sup>264</sup>
163. The Agricultural Industries Confederation (AIC) concluded that “exiting the CAP gives the UK opportunity to structure domestic policy so that it is in line with both UK agriculture and UK conditions ... An appropriate level of flexibility can be written into a domestic policy much more easily than on an EU wide basis.”<sup>265</sup>
164. The Minister, George Eustice MP, agreed, arguing that a “prescriptive, centralised, pan-European policy is never going to work well”, and that “the golden opportunity with Brexit is the chance to do policy better”.<sup>266</sup>

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257 House of Commons Library, Brexit: impact across policy areas, [Briefing Paper 07213](#), August 2016, p 52

258 European Commission, ‘Food safety: overview’, (April 2017): [http://ec.europa.eu/food/overview\\_en](http://ec.europa.eu/food/overview_en) [accessed 21 April 2017]

259 One NFU survey suggested that approximately 40% of NFU members voted to leave (Guy Smith, [Q 43](#)).

260 [Q 43](#)

261 [Q 44](#)

262 [Q 61](#)

263 Written evidence from NFU Cymru ([ABR0034](#))

264 [Q 54](#)

265 Written evidence from Agricultural Industries Confederation ([ABR0018](#))

266 [Q 91](#)

### Potential improvements

165. Guy Smith, Vice President of the National Farmers' Union (NFU), told us that “there are many aspects of EU regulation we would like to see reformed ... that we find are crude and clunky and do not address the problems they are trying to address”.<sup>267</sup> The NFU subsequently gave examples of such “burdensome” EU regulations, including the Water Framework Directive (on the grounds that it is complex and can restrict growth),<sup>268</sup> the Nitrates Directive (as overly prescriptive and inflexible, imposing high costs to agriculture),<sup>269</sup> and neonicotinoid restrictions (as not based on sound scientific evidence).<sup>270</sup> The FUW sought a review of “those areas which are most costly and disproportionate and frequently result in punitive sanctions for farmers”, such as “Nitrate Vulnerable Zones; Environmental Impact Assessment requirements; animal movement recording and reporting; and fallen stock burial—all of which could be improved and made more proportionate without compromising overarching objectives”.<sup>271</sup>
166. As an example, witnesses expressed an interest in amending the three-crop rule.<sup>272</sup> Tim Breitmeyer, Deputy President of the CLA, told us that this rule “was brought in ... to get rid of the monocropping of crops in Europe, in particular. It does not fit our farming model at all well here.”<sup>273</sup> Wyn Grant, Emeritus Professor of Politics at the University of Warwick, agreed, calling it a “blunt instrument ... One would want to see regulations like that disappear as soon as they possibly could, or at least be substantially modified.”<sup>274</sup> In a speech to the Oxford Farming Conference on 4 January 2017, Secretary of State, Rt Hon Andrea Leadsom MP, similarly identified the “ridiculous, bureaucratic three-crop rule” as a candidate for “scrapping the rules that hold us back”.<sup>275</sup>
167. Another recurring theme was for the UK to move to a more risk-based approach to plant protection product (PPP) regulation.<sup>276</sup> The European Union takes a ‘precautionary approach’ to regulating chemicals, which emphasises the hazard of a given substance to human and animal health. Mr Breitmeyer believed that “the principle of risk, backed up by good science, is just as good a principle to adhere to”.<sup>277</sup> The Crop Protection Association agreed: “The use of hazard criteria for regulation of pesticides should not be retained by the UK following exit from the EU as it limits the range of pesticides available to growers and farmers without any concomitant

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267 [Q 44](#)

268 Council Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy, [OJ L 327](#) (22 December 2000), pp 0001–0073

269 Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, [OJ L 375](#) (31 December 1991), pp 0001–0008

270 Supplementary written evidence from NFU ([ABR0042](#))

271 Written evidence from Farmers' Union of Wales ([ABR0045](#))

272 This rule, officially the CAP's “crop diversification measure”, requires farmers with over 10 hectares of arable land to grow at least two or three crops, depending on the size of their land.

273 [Q 26](#)

274 [Q 3](#); also [Q 26](#) (George Dunn)

275 Environment secretary Andrea Leadsom MP, Speech setting out ambition for food and farming industry, 4 January 2017: <https://www.gov.uk/government/speeches/environment-secretary-sets-out-ambition-for-food-and-farming-industry> [accessed 23 March 2017]

276 Before a plant protection product (or pesticide) can be used in the EU, it must be scientifically evaluated by its manufacturer. The European Food Safety Agency (EFSA) then conducts an assessments of that evaluation at the European level, based on which the European Commission proposes approval or non-approval to the Standing Committee on the Food Chain and Animal Health. Member States in that Standing Committee must ultimately vote on the approval for a pesticide at the EU level.

277 [Q 24](#)

improvement in protection of either human health or the environment.”<sup>278</sup> Nabim also favoured “the adoption of a greater degree of pragmatism around such issues as the very low level presence of some contaminants where an independent assessment shows little or no risk”.<sup>279</sup> This view was supported by a number of other witnesses.<sup>280</sup>

168. The UK Pesticides Campaign countered that “The only real solution to eliminate all adverse health and environmental impacts of pesticides is to take a preventative approach and avoid exposure altogether”,<sup>281</sup> while Tom MacMillan, Director of Innovation at the Soil Association, pointed out that “On something like endocrine disruptors, where effectively there is no safe threshold that can be defined, a hazard-based approach is the same as a risk-based approach”.<sup>282</sup> Fergus Ewing MSP, of the Scottish Government, believed that “Adopting the EU’s regulatory regime would minimise the risk of reducing pesticide availability in Scotland unnecessarily, and the risk of barriers to trade in foodstuffs produced using pesticides”.<sup>283</sup>
169. One area in which witnesses did not wish to see regulatory changes was in relation to animal welfare.<sup>284</sup> As we noted in Chapter 3, farm animal welfare may be a key element of post-Brexit trade agreements. We have explored this issue in more detail in a short inquiry into Brexit and farm animal welfare, which we expect to resume early in the new Parliament.

### *Constraints*

170. Although there may be significant opportunities to review the legislative framework underpinning agriculture in the UK, we heard that the scope for deregulation may be limited. In the words of George Dunn, Chief Executive of the TFA: “We cannot rush to a bonfire of the regulations on day one.”<sup>285</sup> The Agricultural Industries Confederation (AIC) also told us that, as a point of principle, they would “question whether anyone involved in the agricultural sector is looking for the UK Government to diminish or weaken the regulatory framework”.<sup>286</sup> The CVO reminded us that “We will still be operating globally, so we will always have reference back to the international standard”,<sup>287</sup> and Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan from Queen’s University Belfast noted that “what farmers want will have to be balanced out with consumer demands and with the influence of the UK environmental movement”.<sup>288</sup>
171. There is also a risk that regulatory simplification could create non-tariff barriers to trade, as discussed in Chapter 3. Mr Smith hoped that “we could do a deal with the European Union whereby we are allowed to take back some of the regulation of our industry and continue to trade with them freely,

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278 Written evidence from Crop Protection Association ([ABR0026](#))

279 Written evidence from nabim ([ABR0028](#))

280 [Q 44](#) (Guy Smith), written evidence from British Growers Association ([ABR0036](#)) and Agricultural Industries Confederation ([ABR0018](#))

281 Written evidence from the UK Pesticides Campaign ([ABR0031](#))

282 [Q 24](#)

283 Written evidence from Scottish Government ([ABR0052](#))

284 See for instance [Q 29](#) (Tim Breitmeyer), written evidence from the National Pig Association ([ABR0005](#))

285 [Q 24](#)

286 Written evidence from Agricultural Industries Confederation ([ABR0018](#))

287 [Q 73](#)

288 Written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan ([ABR0021](#))

but that is a big political ask”.<sup>289</sup> He conceded that in advocating a free trade agreement with the EU, he was “walking into a lot of EU Regulation which I said I wanted to move away from”, but hoped that it would be possible “to have a nuanced British-type policy and continued access”.<sup>290</sup>

172. Again, pesticides illustrate this difficulty. Alan Swinbank, Emeritus Professor of Agricultural Economics at the University of Reading, told us: “Any product that goes into an overseas market has to meet the product specification of that market. If that relates to pesticide residues or some other such matter which relates to the product as such, then farmers and processors would still have to abide by those regulations.”<sup>291</sup>
173. Moreover, agreed international standards, for example those set by Codex, and WTO agreements, such as the SPS and TBT agreements (see Box 3), establish regulation that applies to trade agreements internationally. These will apply to trade in agri-food with any third country, and will thus constrain the UK’s regulatory freedom to some extent. If WTO member states want to adopt higher standards than those agreed internationally, those standards must comply with the rules of the SPS and TBT Agreements. In the case that the EU has implemented higher standards, the UK could choose to operate a two-tier set of regulations: one for products destined for the EU and one for products destined elsewhere. We explored this possibility in our report *Brexit: trade in goods*, where we noted that “a ‘two-tier’ approach to regulation of the food and beverages sector post-Brexit appears undesirable and unlikely”.<sup>292</sup> This was due to the potential detrimental effect a two-tier system could have for the reputation of British food and agricultural products, and the difficulty associated with operating a two-tier regulatory system in, say, a meat plant, where different parts of the animal may be destined for different markets. We concluded: “Operating to two separate regulatory standards—for the domestic and EU markets—would be costly for UK businesses.”<sup>293</sup>

### *Conclusions and recommendations*

174. **Brexit presents a new and important opportunity to replace elements of EU agricultural regulation that are bureaucratic, ineffective or ill-tailored to farming conditions in the UK, for example the three-crop rule and farming by calendar dates.**
175. **Any regulatory change will have to strike a balance between managing international obligations, consumer and public demands, costs for producers, and the conditions of any trade agreements.**
176. **Significant divergence between the regulatory frameworks in the UK and the EU, by creating non-tariff barriers, could make it more difficult to continue to trade agri-food products after Brexit. As we noted in our report *Brexit: trade in goods*, a FTA with the EU is likely to require a legal commitment by the UK to maintain a high level of**

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289 [Q 47](#)

290 [Q 47](#)

291 [Q 3](#); also written evidence from Sustain ([ABR0003](#)) and supplementary written evidence from IGD ([ABR0043](#)).

292 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), para 155

293 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129), para 184



**harmonisation or mutual recognition of regulations and standards with the EU. The scope for deregulation, while not negligible, may therefore be limited.**

### Devolution

177. Although a single UK position on agriculture is presented in negotiations at the EU level, agricultural policy within the UK is devolved: Scotland, Wales and Northern Ireland are responsible for the implementation of CAP legislation in their respective territories. The CAP allows some flexibility in implementation, which has led to a number of differences in the current implementation arrangements within the UK.<sup>294</sup>
178. The wider issue of the impact of Brexit upon the devolution settlements is being addressed in the European Union Committee's inquiry on Brexit: devolution.<sup>295</sup> In the following paragraphs we limit ourselves to addressing these issues in the context of agriculture.

### *Potential pan-UK policy framework*

179. The key challenge will be to maintain the necessary degree of consistency across the UK while respecting diverse regional and local circumstances. Dr Gravey *et al* told us:

“A first critical decision will be constitutional: how will the UK share its competence regarding agriculture policy: what will be done by the devolved administrations, what will be done centrally and how will these be coordinated (e.g. to avoid misfits between UK trade and agricultural policy in the devolved administration).”<sup>296</sup>

According to Dr Alan Greer, Associate Professor in Politics and Public Policy at UWE Bristol, farmers' unions support “some sort of common UK-wide policy that minimises unfair competition and protects free trade and level playing fields, while allowing some room for flexibility and differentiation to permit the devolved administrations to make decisions that are appropriate for their conditions and circumstances”.<sup>297</sup>

180. NFU Scotland, while acknowledging that “significantly divergent agricultural policies across the UK” would be undesirable, and could create distortion, considered that “the Scottish Government having the power to apply the policy to best fit the needs of the Scottish farmers and crofters it serves is sensible and proper.”<sup>298</sup> They also questioned “how pesticides, chemicals, plant protection and animal welfare in particular will be regulated on a pan-UK basis”.<sup>299</sup>
181. Rt Hon Carwyn Jones AM, the First Minister of Wales, told us: “It is vital devolution is fully respected and the ability devolved administrations have to

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294 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Agriculture*, (2014), p 19: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335026/agriculture-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335026/agriculture-final-report.pdf) [accessed 19 April 2017]

295 European Union Select Committee, ‘Brexit: devolution’: <http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-select-committee-/inquiries/parliament-2015/brexit-devolution> [accessed 25 April 2017]

296 Written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan (ABR0021)

297 Written evidence from Dr Alan Greer (ABR0014)

298 Written evidence from NFU Scotland (ABR0007)

299 Written evidence from NFU Scotland (ABR0007)



tailor policy in devolved areas to our very different contexts is not restricted.”<sup>300</sup>  
He continued:

“We have acknowledged the need for UK Frameworks in some areas to replace those currently set by the EU, however, these should be collectively developed and agreed, based on common consent by all four Governments within the UK, and not imposed ... there is a clear need for new governance arrangements to support how the UK will collectively deliver on international agreements or obligations.”<sup>301</sup>

182. We heard from DAERA, writing in March 2017, that “in the current absence of a Northern Ireland Assembly, Brexit remains a priority. Work continues to ensure we replace the Common Agricultural Policy” with an “appropriate” UK framework, to underpin “the sustainable growth and competitiveness” of the agri-food sector, and to “safeguard our continued ability to trade effectively and profitably both inwardly and outwardly”.<sup>302</sup> DAERA added: “Northern Ireland will look for sufficient flexibility within the framework offered to enable the policy interventions to be tailored to the unique circumstances of this region.”
183. Asked whether the CAP should be replaced with a UK-wide framework policy for farming, Mr Ewing, of the Scottish Government, answered: “No. Agriculture and rural policy are fully devolved areas and the Scottish Government must retain its powers to manage policy and determine funding levels appropriately.”<sup>303</sup> He added: “If there is a need to develop a common UK framework in specific areas of policy, this can be achieved through agreement and negotiation.”

### *Implications for trade*

184. In the absence of the coordination provided by the CAP, or a cohesive UK successor policy, the divergence of agricultural policies across the UK could cause problems for the UK’s internal single market as well as for international trade. In the words of Mr Wright, “At the moment we have a Single Market in regulation here in the UK ... sort of imposed by our membership of the EU. After we have exited ... we will, in effect, have three or four markets because the regulatory framework is different in each of the devolved nations.”<sup>304</sup>
185. Illustrating this potential divergence within the UK agri-food market, Professor Joseph McMahon, Dean of the Sunderland School of Law at University College Dublin, pointed out that approval of genetically modified (GM) organisms was a devolved matter: “Both Northern Ireland and Scotland have indicated that they wish to be GM-free, which would suggest that if, for example, England and Wales were to declare that they wanted to be GM-friendly, there is the possibility of having to have border checks within the UK to ensure that you are not importing GM food.”<sup>305</sup>
186. Dr Greer focused on the tension between devolution and international trade and competition policy, “matters that are reserved to the ‘UK’ government, but which nonetheless have major implications for the exercise of devolved

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300 Written evidence from Welsh Government ([ABR0050](#))

301 Written evidence from Welsh Government ([ABR0050](#))

302 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

303 Written evidence from Scottish Government ([ABR0052](#))

304 [Q 51](#)

305 [Q 34](#)

powers”.<sup>306</sup> This would create its own pressures: “Because of the need to maintain valuable export markets there will be pressures to align regulations and standards closely to those in force in the EU, and/or there will be limitations imposed by WTO rules in cases where these apply directly.”<sup>307</sup>

### *Government commitments*

187. The Minister told us: “We are not going to take away from the devolved Administrations any of the decision-making powers they currently have within the context of the EU system.”<sup>308</sup> He also stated: “I think there is a consensus, particularly among the industry, that you need some kind of UK framework, but within that you want to make sure that the devolved Administrations have the freedom to pursue policies that work for them as well.”<sup>309</sup>
188. We note that the Government’s white paper, *Legislating for the United Kingdom’s withdrawal from the European Union*, states:
- “Examples of where common UK frameworks may be required include where they are necessary to protect the freedom of businesses to operate across the UK single market and to enable the UK to strike free trade deals with third countries ... It is the expectation of the Government that the outcome of [the Great Repeal Bill process] will be a significant increase in the decision making power of each devolved administration.”<sup>310</sup>

### *Conclusions and recommendations*

189. **Farming landscapes vary significantly across the UK, and agriculture is rightly a devolved policy area. Though implementation of CAP policies already varies, Brexit will allow the devolved administrations to tailor agriculture policies even more closely to their farmers and land.**
190. **But the UK has an internal single market, in which agri-food plays a significant role. It is in the interest of all in the agri-food sector, as well as of consumers, that the integrity of the UK market be preserved. This will require either a UK-wide framework or the negotiation of co-ordinated agricultural policies by the UK Government and the Devolved Administrations. We encourage the Government to pursue dialogue on this issue as a matter of urgency.**
191. **Trade policy is a reserved matter, so the sum of agricultural policy across the UK must respect the UK’s external trade commitments. The UK Government will need to work closely with the Devolved Administrations to ensure that this is the case.**

### *Regulatory transfer*

192. Once the UK withdraws from the EU, competence over agricultural policy will revert to the UK. Some witnesses told us a period of transition would

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306 Written evidence from Dr Alan Greer ([ABR0014](#))

307 Written evidence from Dr Alan Greer ([ABR0014](#))

308 [Q 89](#)

309 [Q 82](#)

310 Department for Exiting the European Union, *Legislating for the United Kingdom’s withdrawal from the European Union*, Cm 9446, March 2017, p 28: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/604514/Great\\_repeal\\_bill\\_white\\_paper\\_print.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604514/Great_repeal_bill_white_paper_print.pdf) [accessed 6 April 2017]

be needed to achieve this transfer. From a food and drinks perspective, the FDF supported “the effective transfer of EU regulatory requirements to the UK in the immediate post-exit phase ... to provide stability, continued access to EU markets and to maintain consumer confidence”.<sup>311</sup> The RSPB agreed: “The first step must be to retain existing regulations through the Great Repeal Bill in order to retain the protections that these provide.”<sup>312</sup>

193. Some witnesses qualified this position. For example, the National Sheep Association supported the principle of the Great Repeal Bill only “as long as this is not a permanent situation and specific policies are revisited in the near future”.<sup>313</sup> Similarly, Farmwel argued: “The Great Repeal Bill should be used to transfer all EU law to the UK, after which industry-specific bills should be used to propose and scrutinise material changes.”<sup>314</sup>

194. As we noted in our report *Brexit: environment and climate change*, transferring regulations by the means of the Great Repeal Bill will be a complex undertaking.<sup>315</sup> Pamela Thompson, Head of the EU Exit Team for Animal and Plant Health at Defra, spoke to this complexity, telling us:

“Quite a considerable proportion of the Defra legislative framework is in the animal and plant health and animal welfare area, about a third of the whole of the department’s legislation. We have been through everything, we have looked at how operable it would be, we have identified areas that would not be operable and we have plans in place to deal with those.”<sup>316</sup>

195. As we have noted, devolution, and the differences of view on the extent to which responsibility for agriculture will be devolved, could create further complications, legal and political. As Dr Greer told us:

“The Scottish government is clear in its white paper that any decisions about devolved matters as a result of the Great Repeal Bill such as in agricultural policy (or if the effect of the Bill is to take powers back to Westminster) will require the consent of the Scottish parliament under the Sewel Convention. Apart from the legal complexities, the main problems are likely to be political, especially if the introduction of the Great Repeal Bill alters current understandings about the nature and extent of devolved powers in agriculture.”<sup>317</sup>

196. The Minister noted that legislative action would be needed in the Devolved Administrations as well:

“Some of the EU Directives and EU Regulations that we are pulling across through the Great Repeal Bill will require the Welsh Assembly and the Scottish Parliament to do something similar in their own legislatures to bring some of those across. So there is an enormous amount of joint working going on on that very technical exercise.”<sup>318</sup>

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311 Supplementary written evidence from Food and Drink Federation ([ABR0044](#))

312 Written evidence from RSPB ([ABR0009](#)); also NFU Cymru ([ABR0034](#)), Scottish Land & Estates ([ABR0032](#)) and [Q 72](#) (Prof Nigel Gibbens)

313 Written evidence from National Sheep Association ([ABR0025](#))

314 Written evidence from Scottish Land & Estates ([ABR0032](#)); also The Food Foundation ([ABR0030](#)), [Q 16](#) (Tim Breitmeyer) and [Q 72](#) (Pamela Thompson)

315 European Union Committee, *Brexit: environment and climate change* (12th Report, Session 2016–17, HL Paper 109), p 22

316 [Q 72](#)

317 Written evidence from Dr Alan Greer ([ABR0014](#))

318 [Q 82](#)

197. Mr Lancaster identified a further layer of complexity, namely that the scope of the transfer of agricultural regulations should extend to the principles that underpin such regulation, such as “the polluter pays principle, the precautionary principle, the Environmental Impact Assessment Directive and the Strategic Environmental Assessment Directive”.<sup>319</sup> His argument was that “These apply to the way legislation is developed, which make legislators take account of the impact on the environment when legislating in other areas. We would want to see those hard-wired into UK legislation.” Similarly, Compassion in World Farming argued in favour of retaining the principle that animals are sentient beings.<sup>320</sup>
198. NFU Cymru focused on the way regulation changed over time, noting that the transferred legislation “will be rendered static, and will slowly start to date. Should post-Brexit trading arrangements require that the UK and Wales be observant of much EU law, then this presents a potential problem.”<sup>321</sup> They noted that if the Government decided to continue to shadow developments in EU legislation to enable trade with the EU, this would “give rise to a significant and ultimately open ended task”.
199. The Minister identified two potential approaches to establishing agricultural regulations in the UK after Brexit, though he did not state a preference for either:

“The options range from bringing big elements of the Common Agricultural Policy across through the Great Repeal Bill and having, effectively, a sort of rolling forward in the interim until we have planned what we want to do. That is one option. The other option would be to try to do something a little more radical and go for primary legislation in a shorter timeframe so that we had something that could come in new from 2020, which might look quite different from the CAP or, indeed, might be on a trajectory to something different but would start by looking quite like the CAP and morph into a new UK policy.”<sup>322</sup>

### *Conclusions and recommendations*

200. **We heard strong support for the Government’s approach of an initial transfer of EU agri-food regulations into UK law via the Great Repeal Bill, followed by a considered review of where improvements could be made.**
201. **We welcome the groundwork already completed in relation to transferring EU legislation on animal welfare and plant health into UK law, and invite the Government to confirm that the same process will soon be completed in relation to other aspects of agricultural legislation.**

### **Institutional governance**

202. In our report *Brexit: environment and climate change*, we noted that EU environmental law does not stand alone: its implementation is monitored and enforced by EU institutions. The same applies to the agricultural sector. As Peter Hardwick, Head of Exports at the AHDB, noted, “at some stage

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319 [Q 70](#)

320 Written evidence from Compassion in World Farming ([ABR0004](#))

321 Written evidence from NFU Cymru ([ABR0034](#)); also Welsh Government ([ABR0050](#))

322 [Q 82](#)

in the regulation or piece of legislation there is an intervening European regulatory body involved”.<sup>323</sup> The CVO confirmed that “We do relate to a number of EU bodies across the area of health and welfare, which gives us strength ... we are part of a network of laboratories that provide very high levels of diagnostic capability. That gives us surveillance at EU level and connectivity across the world.”<sup>324</sup> The CVO concluded that it would be in the UK’s interest to maintain that connectivity. The National Office of Animal Health (NOAH) also raised coordination with EU agencies as an important issue: “Co-operation with EU regulators on the policing and enforcement of the [veterinary medicines] rules will need careful consideration.”<sup>325</sup>

203. One key EU regulator is the European Food Safety Authority (EFSA), and Prof McMahon told us: “I would hope that the UK would become an observer at the EFSA and its bodies in much the same way as Switzerland is an observer in those bodies.”<sup>326</sup> In contrast, Alan Matthews, Professor Emeritus of Agricultural Economics at Trinity College Dublin, stated: “You would want to establish close links, and there may be ways of doing that, but I do not see the UK remaining a member of the EFSA and being able to participate in its work directly.”<sup>327</sup>
204. In Chapter 3 we noted the administrative challenges associated with the control of standards and trade in agricultural products. Which? emphasised that “An effective enforcement regime must be in place to ensure compliance with these standards, so that consumers have confidence in the products that they buy”.<sup>328</sup> They further noted that the European Commission currently played a key role in conducting such checks: “The European Commission (DG Sante) has dedicated inspectors in third countries that the EU imports from who check facilities and help ensure compliance with EU laws. Outside of the single market, the UK ... would also need to step up its own checks, both on exports and on imports.”
205. Mr Dunn concluded: “We certainly need to be scoping out what new institutions and what new bodies we need to ensure there is adequate governance for this new body of legislation that we are going to be inheriting.”<sup>329</sup>
206. The Minister said he was considering options including a transitional period, where the UK continued to work with EU agencies, or establishing UK agencies: “Although the latter would require some beefing up of some of the agencies we have now, it is certainly not beyond the wit of man to do ... We have all of the infrastructure and the expertise, so we would simply be changing the scope of their role slightly.”<sup>330</sup>

### *Conclusions and recommendations*

207. **EU agricultural regulation is underpinned by European institutions that monitor and enforce much of the legislative framework and international commitments. The Government will need to either ensure that these institutions’ roles can be carried out by independent**

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323 [Q 52](#)

324 [Q 73](#)

325 Written evidence from National Office of Animal Health ([ABR0011](#))

326 [Q 39](#)

327 [Q 39](#)

328 Written evidence from Which? ([ABR0013](#))

329 [Q 16](#)

330 [Q 87](#)

**domestic bodies, or negotiate enduring relationships with the EU agencies and entities to ensure high standards of food safety and quality after Brexit.**



## CHAPTER 5: WITHDRAWING FROM CAP FINANCIAL SUPPORT

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### Financial support

208. The CAP provides direct financial support to farmers in the UK through the Basic Payment Scheme (BPS), also known as Pillar I, and to the wider rural economy through Pillar II funding for Rural Development Programmes.<sup>331</sup>

### Box 7: CAP financial support

Pillar I support, also known as direct payments or the Basic Payment Scheme (BPS), consists of payments made directly to farmers. They are mainly granted in the form of an area-based basic income support, which is decoupled from agricultural production. The aim of the payment is to stabilise farmers' income in a market subject to volatility. Direct payments also contribute to the provision of public goods, with 30% of each EU country's direct payment budget being directed towards greening measures.<sup>332</sup> Farmers must meet so-called Cross Compliance rules on animal husbandry and farm management to receive direct payments.

Pillar II support, also known as Rural Development Programmes, supports agri-environment schemes and rural growth. Pillar II funding is co-financed by national governments. At least 30% of Member State rural development funding must be spent on measures related to land management and climate change.

Source: House of Commons Library "EU Referendum: impact on UK Agriculture Policy", Briefing paper 7602, 2016, p 7: <http://researchbriefings.files.parliament.uk/documents/CBP-7602/CBP-7602.pdf>

209. The total CAP represents over 36% of the EU budget over the Multiannual Financial Framework (MFF) for 2014–2020.<sup>333</sup> The UK is expected to receive €25.1 billion in direct payments (Pillar I) and €2.6 billion in rural development funds (Pillar II) for rural development and the environment over the course of that MFF period.<sup>334</sup>
210. The Chancellor of the Exchequer, Rt Hon Philip Hammond MP, has guaranteed that "all structural and investment fund projects, including agri-environment schemes, signed before the Autumn Statement will be fully funded, even when these projects continue beyond the UK's departure from the EU".<sup>335</sup> The Chancellor has also guaranteed that the current levels of Pillar I funding will be upheld until 2020.

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331 House of Commons Library, Brexit: impact across policy areas, [Briefing Paper 07213](#), August 2016, p 53

332 The 2013 CAP reform redesigned the structure of direct payments by incorporating a greening component. This rewards farmers for adopting and maintaining a more sustainable use of agricultural land and aims to enhance the CAP's environmental performance. Green direct payments account for 30% of Member States' direct payment budgets. European Commission, 'Greening' (2017): [https://ec.europa.eu/agriculture/direct-support/greening\\_en](https://ec.europa.eu/agriculture/direct-support/greening_en) [accessed 21 April 2017]

333 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Agriculture* (2014), p 37: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335026/agriculture-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335026/agriculture-final-report.pdf) [accessed 19 April 2017]

334 House of Commons Library, Brexit: impact across policy areas, [Briefing Paper 07213](#), August 2016, p 53

335 HM Government, *Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU*, 13 August 2016: <https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu> [accessed 21 April 2017]

### Reliance on funding

211. Dr Alan Greer, Associate Professor in Politics and Public Policy at UWE Bristol, outlined UK farmers' reliance upon CAP payments:

“It has been estimated that EU subsidies make up between 50 and 60 per cent of farm income in the UK as a whole. However it is estimated that 87 per cent of total farming income in Northern Ireland, 80 per cent in Wales, and three quarters of total income from farming in Scotland is contributed by CAP payments.”<sup>336</sup>

**Table 1: CAP allocations in the UK 2014–2020**

	<b>Pillar I € million (approximate number, non- inflation adjusted)</b>	<b>% share</b>	<b>Pillar II € million (approximate number, non- inflation adjusted)</b>	<b>% share</b>
England	16,421	65.5	1,520	58.9
Northern Ireland	2,299	9.2	227	8.8
Scotland	4,096	16.3	478	18.5
Wales	2,245	8.96	355	13.7
<b>Total UK</b>	<b>25.1 billion</b>		<b>2.6 billion</b>	

Source: House of Commons Library, *Brexit: impact across policy areas*, [Briefing Paper 07213](#), August 2016, p 54

212. As well as varying between the nations of the UK, reliance on financial support varies across farming sectors. According to the Wildfowl and Wetlands Trust, the pig, poultry and horticulture sectors earn income from farming alone, whereas “Arable farms, grazing livestock and mixed farms all relied on subsidy for 90–166% of their farm business income”.<sup>337</sup> NFU Scotland stated: “In the [Scottish] dairy sector, CAP support payments made up 55 per cent of Farm Business Income (FBI)<sup>338</sup> in 2016; whereas for the non-specialist Less Favoured Area cattle and sheep sector, CAP support was 231 per cent of FBI.”<sup>339</sup>
213. Financial support is particularly salient in those regions regarded as “less favoured” areas.<sup>340</sup> The Wildlife Trust stated that “In most upland areas farm subsidies represent over half of farm income and farming businesses would be unlikely to survive in their current form without continued direct

336 Written evidence from Dr Alan Greer ([ABR0014](#))

337 Written evidence from Wildfowl and Wetlands Trust ([ABR0022](#))

338 Farm Business Income is the average headline business-level measure of farm income in the UK. FBI represents the return to the whole farm business, that is, the total income available to all unpaid labour and their capital invested in the business. Returns from diversified activities (non-agricultural activities that use farm resources, for example: renting out farm cottages for tourism; income from small-medium scale wind turbines; etc.) are included in overall FBI. Scottish Government, *Annual Estimates of Scottish Farm Business Income (FBI)*, (March 2016): <http://www.gov.scot/Publications/2016/03/7764/326289> [accessed 25 April 2017]

339 Written evidence from NFU Scotland ([ABR0007](#))

340 In the EU, “less-favoured area” is a term used to describe an area with natural handicaps (lack of water, climate, short crop season and tendencies of depopulation), or that is mountainous or hilly, as defined by its altitude and slope.

support”.<sup>341</sup> Richard Hebditch, External Affairs Director at the National Trust, told us that “The end of CAP will be a very significant change ... particularly [for] those upland farmers or coastal farmers in less favourable areas, where they are very reliant on farming”.<sup>342</sup>

214. It is not surprising therefore that the financial support given to the agricultural sector is vital to rural economies. The National Sheep Association told us: “There is a ‘multiplier effect’ created by farmers in receipt of CAP payments, as they support a wide range of other rural businesses ... providing rural employment and positively impacting on socio- economic factors.”<sup>343</sup> Mr Fenwick agreed: “We are looking at complete rural collapse if funding is not maintained.”<sup>344</sup>

### **Funding in the context of Brexit**

215. Given the significance of financial support to the agricultural industry, farmers’ unions were particularly emphatic about the need to clarify the post-CAP future of that support. Wesley Aston, Chief Executive of the Ulster Farmers’ Union, told us: “We have a commitment on funding from the UK Government for the year post Brexit as such, but it is beyond that that is the real issue.”<sup>345</sup> The FUW agreed:

“A major impact for FUW members in the short and medium term is the inability to adequately plan and prepare for the future in terms of decisions relating to changes to business models, finance, borrowing and succession. Such problems are compounded by the periods over which farmers need to plan, given, for instance, gestation and maturation periods of livestock.”<sup>346</sup>

Devon County Council reflected the same concern: “This uncertainty has left farmers unable to plan for the future and has put increased strain on farming families and businesses who are finding it difficult to stay afloat even with the support of the BPS.”<sup>347</sup>

216. The Minister responded: “We will make sure that we make our intentions clear to farmers well in advance of the end of the current schemes, so that they know where we are heading.”<sup>348</sup>

### *Level of funding*

217. Tim Breitmeyer, Deputy President of the CLA, told us that a future policy for agriculture should be “fully funded”.<sup>349</sup> George Dunn, Chief Executive of the TFA, agreed that “We ... would certainly be arguing for the budget to be maintained.”<sup>350</sup>

341 Written evidence from Woodland Trust ([ABR0023](#))

342 [Q 59](#)

343 Written evidence from National Sheep Association ([ABR0025](#))

344 Oral evidence taken before the European Union Committee, 7 February 2017 (Session 2016–17), [Q 87](#)

345 [Q 43](#)

346 Written evidence from Farmers’ Union of Wales ([ABR0045](#))

347 Written evidence from Devon County Council ([ABR0016](#))

348 [Q 81](#)

349 [Q 12](#)

350 [Q 14](#)

218. Some witnesses questioned whether the UK Government would match the current levels of financial support to farmers after Brexit.<sup>351</sup> Mr Hebditch reflected this concern: “It is very tempting for the Treasury every year where there is a funding shortfall to look at taking a bit out of whatever replaces the Common Agricultural Policy in England.”<sup>352</sup> Addressing support for environmental protection in particular, Tom Lancaster, Agricultural Policy Officer at the RSPB, told us it would be important to “construct a case that we can sell to the Treasury and other government departments we need to convince of the case for investing in this area”.<sup>353</sup>

#### *Funding objectives*

219. As we have noted, a key opportunity arising from Brexit is that of designing an agricultural policy, including support measures, tailored to the UK.<sup>354</sup> While many believed the quantum of funding should remain at current levels, views on the future objectives of that funding differed.

220. For instance, witnesses differed on the merits of Pillar I-style direct payments, as opposed to Pillar II-style rural development programmes. Dr Greer noted that “the devolved governments and farmers’ organisations like direct payments and advocate their retention”,<sup>355</sup> while Mr Lancaster stated:

“I think there is a lot to learn from Pillar II-type measures, in that they are contractual, targeted, and outcome-focused—the expenditure is related to those outcomes, typically through a proxy of actions. When you compare that to Pillar I, which is entitlement-based, untargeted, inefficient, and there is no link between outcomes and payments, clearly Pillar II is the model we would want to adopt.”<sup>356</sup>

221. In our 2016 report *Responding to price volatility: creating a more resilient agricultural sector* we concluded: “Given that the agricultural sector is often expected to provide public goods, there is a case for financial support in certain circumstances. However, policy should display much more explicit links between the expected outcomes and the use of public funds.”<sup>357</sup> We see no reason to change that view in the wake of the referendum.

#### *Environmental public goods and ecosystems services*

222. Public goods are those which are non-excludable (if the good is available to one person, others are not thereby excluded from its benefits) and non-rival (if the good is consumed by one person it does not reduce the amount available to others).<sup>358</sup> These characteristics mean that their supply cannot be

351 The House of Commons Library has noted that “UK governments have consistently sought to reduce the overall CAP budget and levels of direct subsidies, and to ensure that direct subsidies are linked to the delivery of wider public goods such as environmental protection to give value for money to the tax payer”. House of Commons Library, Brexit: impact across policy areas, [Briefing Paper 07213](#), August 2016, p 53

352 [Q 61](#)

353 [Q 65](#)

354 See for example [Q 12](#) (Tim Breitmeyer), written evidence from NFU Scotland ([ABR0007](#)) and Welsh Government ([ABR0050](#))

355 Written evidence from Dr Alan Greer ([ABR0014](#))

356 [Q 60](#)

357 European Union Committee, *Responding to price volatility: creating a more resilient agricultural sector* (15th Report, Session 2015–16, HL Paper 146), para 271

358 Institute for European Environmental Policy, *Provision of Public Goods through Agriculture in the European Union* (December 2009): [http://www.ieep.eu/assets/457/final\\_pg\\_report.pdf](http://www.ieep.eu/assets/457/final_pg_report.pdf) [accessed 4 April 2017]

secured through markets, because users have no incentive to pay for them: as a result, public intervention is needed to achieve their provision. Many of the public goods provided by agriculture are environmental.

223. The Minister told us that “rewarding farmers for what they do for the environment, is, I think, a legitimate aim of public policy”.<sup>359</sup> WWF supported this:

“The work that farmers, land managers and landowners do to sustain and restore our natural environment should be valued and rewarded. Taxpayers’ money should only be invested in producing public benefits such as clean water, a wide array of wildlife everywhere and beautiful places for people to enjoy.”<sup>360</sup>

224. On behalf of the farming sector, Mr Aston told us: “As farmers we take great pride in producing the environmental landscape and protecting it generally.”<sup>361</sup> Guy Smith, Vice President of the NFU, stated: “We fully accept that the concept of paying farmers to deliver environmental goods or landscape, hitches and ditches, the traditional British countryside that is so loved by British people, is maybe an easier political ask than some blunt support payment.” But he added: “You would not want it to be too bureaucratic or complicated ... There is an opportunity to have simpler schemes.”<sup>362</sup>

225. Wyn Grant, Emeritus Professor of Politics at the University of Warwick, focused on ecosystem services, describing them as “a complex range of services ... such as preventing flooding downstream, afforestation, protecting peat land, and so on”.<sup>363</sup> Ian Hodge, Professor of Rural Economy at the University of Cambridge, argued that “we do not really need an agricultural policy; we need an ecosystem services policy. We need to set out thinking that our aim should be to deliver the maximum social value from rural land rather than to recreate an agricultural policy”.<sup>364</sup> The Wildfowl and Wetlands Trust agreed: “The UK’s farmed landscape provides ecosystem services worth billions of pounds.”<sup>365</sup>

#### *Other public goods*

226. Environmental protection is not the only outcome that could be rewarded with financial support. Mr Aston stated: “It is all about ... trying to go back to where we started being rewarded for producing food. We would love to get a proper reward from the supply chain but it does not happen.”<sup>366</sup> The Campaign to Protect Rural England (CPRE) reminded us that “the public benefits farming provides are broader than environmental ones; other benefits include rural social capital, access to the countryside and public understanding of food production”,<sup>367</sup> and the RSPB suggested that “there should also be a programme of support to enable farmers to innovate”.<sup>368</sup>

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359 [Q 84](#)

360 Written evidence from WWF ([ABR0010](#))

361 [Q 46](#)

362 [Q 46](#)

363 [Q 9](#)

364 [Q 59](#)

365 Written evidence from Wildfowl and Wetlands Trust ([ABR0022](#))

366 [Q 46](#); also [Q 46](#) (Guy Smith) and written evidence from Sustain ([ABR0003](#))

367 Written evidence from CPRE ([ABR0047](#))

368 Written evidence from RSPB ([ABR0009](#))



227. In addition to support for public goods, the Minister supported exploring other options:

“There are two other areas that we have talked about as possible options for farm support. One would be doing a lot more by way of productivity, knowledge transfer, investment in science, good value for money by investment in technology and maybe grant aid to help farmers invest in the next generation of technology. Then, finally, there is animal health and welfare.”<sup>369</sup>

### *International constraints*

228. As discussed above, WTO rules place constraints on the design of domestic agricultural support schemes (see Box 2). The Minister, for instance, acknowledged that while agri-environment schemes that meet the Green Box criteria are permissible under WTO rules, some of the schemes he described might require a portion of the EU’s Amber Box allowance to allow the UK to design a bespoke agricultural support scheme after Brexit.<sup>370</sup> Given the uncertainty over the UK’s ability to secure a share of that allowance, Michael Cardwell, Professor of Agricultural Law at the University of Leeds, suggested that “Perhaps the greatest scope to secure WTO compatibility may therefore be provided by ... the Green Box exemption under Annex 2 to the [Agreement on Agriculture]”.<sup>371</sup>
229. Prof Cardwell noted that, by using the Green Box exemption, the UK Government would be able to develop a financial support scheme focused on food quality, the development of robotics or drone technology, and possibly food security, in addition to supporting environmental public goods.<sup>372</sup> However, both he and the FUW noted the limitation prescribed in Annex 2, which “states that ‘The amount of [agri-environment] payment shall be limited to the extra costs or loss of income involved in complying with the government programme’”.<sup>373</sup>
230. Prof Cardwell also cast doubt on the RSPCA’s argument that “The UK can make its subsidies for farmers trade compatible by de-linking them from production and focusing them on animal welfare outcomes e.g. by rewarding farmers for higher welfare systems”.<sup>374</sup> He noted that “Annex 2 does not include Green Box payments to compensate farmers for adopting higher standards of animal welfare, although the possibility of introducing such payments has been raised by the EU during the course of the Doha Development Round”.<sup>375</sup>
231. Mr Lancaster pointed out that “Where you have examples where the farming is inherently uneconomic and you want to maintain that agricultural activity to secure the goods and services we have been talking about, the scope exists ... to pay the total costs of production”.<sup>376</sup> Alan Matthews, Professor Emeritus of Agricultural Economics at Trinity College Dublin, stated: “There is room

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369 [Q 83](#)

370 [Q 84](#) (George Eustice MP)

371 Written evidence from Prof Michael Cardwell ([ABR0049](#))

372 Written evidence from Prof Michael Cardwell ([ABR0049](#))

373 Written evidence from Farmers’ Union of Wales ([ABR0045](#)) and Prof Michael Cardwell ([ABR0049](#))

374 Written evidence from RSPCA ([ABR0006](#))

375 Written evidence from Prof Michael Cardwell ([ABR0049](#)). The Doha Development Round was a round of trade negotiations among the WTO membership. It was launched in 2001.

376 [Q 68](#)



for creative interpretation and that if the Government were designing a more results-based scheme it probably would not be challenged within the WTO provided that it was a legitimate agri-environment scheme.”<sup>377</sup> We were also told there was currently unused flexibility within the WTO rules. Professor Joseph McMahon, Dean of the Sunderland School of Law at University College Dublin, told us: “There is one provision in Annex 2 that has not yet been used by any WTO member, and that is Paragraph 5, which allows you to design your own Green Box policy provided that certain conditions are met.”<sup>378</sup>

232. The Minister stated that the Green Box exemption could not be used for all support measures being considered by the Government:

“Ironically, the single farm payment, which is ultimately an area-based, distorting subsidy, technically at the moment qualifies as Green Box, whereas the types of policies that would be more modern, more progressive—payments to get animal welfare outcomes, risk management measures, those types of things—we understand, at the moment, would probably be deemed under the WTO rules as Amber Box. There is this sort of inversion that a modern, progressive policy probably requires, in the short term, some sort of Amber Box.”<sup>379</sup>

233. Even without a share of the EU’s Amber Box allowance, the UK would not be entirely prohibited from providing trade-distorting support to the agricultural sector. Under the *de minimis* provisions (see Box 2) the UK could potentially provide support without being challenged by other WTO members. However, witnesses disagreed on whether this approach would allow the UK to maintain its current level of support.<sup>380</sup>

#### *Competitiveness and CAP alignment*

234. The First Minister of Wales was concerned about the risk of competitive disadvantage once CAP funding ceased: “The loss of EU subsidy for our farmers—if no replacement funding is available—will put our producers at a competitive disadvantage compared with those neighbouring countries remaining in the EU.”<sup>381</sup> Mr Smith was “wary of having to trade or compete with farmers who get greater levels of support than we do”,<sup>382</sup> while Dairy UK argued: “The UK dairy sector will have to compete with subsidised EU farmers. Therefore, it will be important for UK dairy farmers to have a level playing field with their EU counterparts, by maintaining similar levels of financial support.”<sup>383</sup>
235. The CAP is reformed in seven-year cycles, and the next period will be 2021–2027. Preparations are already underway for this cycle, and formal negotiations are likely to start in 2018/19.<sup>384</sup> The NFU told us: “We obviously need to observe this process and be as closely involved as possible to ensure

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377 [Q 35](#)

378 [Q 35](#); also written evidence from Prof Michael Cardwell ([ABR0049](#))

379 [Q 84](#)

380 [Q 33](#) (Prof Alan Matthews) and written evidence from Prof Michael Cardwell ([ABR0049](#))

381 Written evidence from Welsh Government ([ABR0050](#))

382 [Q 43](#)

383 Written evidence from Dairy UK ([ABR0035](#))

384 House of Commons Library, EU Referendum: impact on UK Agriculture Policy, [Briefing paper 7602](#), May 2016, p 13

we do not end up with something so different it either obstructs trade or puts us at a competitive disadvantage.”<sup>385</sup>

236. The Minister, in contrast, believed that “the notion of a level playing field is elusive. My view is that it is probably not the right thing to target.”<sup>386</sup> He argued that instead “we should be targeting good, coherent policy that delivers for agriculture so that our farmers can get a competitive advantage in the world because we have good policies that support them to become profitable, competitive, productive and sustainable”.<sup>387</sup>

### *Conclusions and recommendations*

237. **Many farmers rely on Pillar I and II funding to keep their businesses viable, and any substantial reductions in the level of support would have a significant impact on both the agriculture sector and the wider rural economy. The Government should clarify its intentions regarding financial support post-2020 as soon as possible to provide the certainty required to make investment decisions.**
238. **Brexit provides an opportunity for the Government to evaluate not only the level, but the objectives and structure of financial support to farmers, and to design simpler support schemes which are effective in the context of UK agriculture. We note that this could include support for the rural economy or those in less favoured areas (such as hill farmers), for investment in technology to improve productivity, for environmental protection, or to ensure UK farmers are not at a competitive disadvantage compared to their EU counterparts. We encourage the Government carefully to review the needs of the agricultural sectors across the UK, and to consult with the industry, to ensure that any future support is targeted and effective.**
239. **There is a case for continuing to provide financial support to farmers after 2020 to correct market failures and deliver public goods, such as environmental protection and ecosystems services, which would not otherwise be paid for. We welcome the Minister’s support for this position.**
240. **Nevertheless, we recognise that agriculture will be competing with many other sectors for public expenditure. The agricultural sector will have to make a strong case to maintain financial support at the same or similar levels to that provided under the CAP.**
241. **WTO rules may hinder the design of support schemes tailored to UK objectives. The Government should factor these constraints into its post-Brexit agriculture policy, and negotiate a share of the EU’s Amber Box allowance to maximise its options for designing an effective post-CAP support scheme. It should also consider how to support the provision of public goods through agriculture in the event it does not secure such a share.**

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385 Supplementary written evidence from NFU ([ABR0042](#))

386 [Q 83](#)

387 [Q 83](#)

### Funding and devolution

242. Notwithstanding the relative importance of funding for farmers in all less favoured areas of the UK, we heard that farmers in the devolved nations are proportionally more reliant on CAP funding. NFU Cymru informed us that “Around 80% of Welsh farmers’ incomes comes from the Common Agricultural Policy”,<sup>388</sup> while Fergus Ewing MSP, of the Scottish Government, told us that “CAP funds and support payments account for around two-thirds of total income from farming in Scotland ... Income support is therefore crucial, especially for fragile farming businesses in remote and constrained areas.”<sup>389</sup> DAERA noted that such support was still more critical in Northern Ireland: “Without direct support, the aggregate income of the NI farming sector would have been negative in 4 out of last 7 years.”<sup>390</sup>
243. The FUW reminded us, “Under the current Common Agricultural Policy, agricultural and Rural Development spending in devolved regions is effectively ring-fenced outside the Barnett Formula.”<sup>391</sup> Dr Greer noted that it was “unclear” how funding would be disbursed after 2020, “whether via the Barnett Formula or through some other arrangement involving ‘topping-up’”.<sup>392</sup> Scott Walker, CEO of NFU Scotland, argued that the Barnett formula would be “inadequate to address this repatriation of powers”, and he would “be looking at ... the Scottish Government, with the UK Government, agreeing a fair and reasonable budgetary settlement”.<sup>393</sup>
244. NFU Cymru calculated that “If EU funds lost to Wales upon Brexit were replaced by the UK Treasury according to a population based Barnett calculation, then compared to the current mechanism for dividing up EU funds among the home nations, it is likely that Wales would be looking at an allocation reduction of 40%”.<sup>394</sup> Mr Ewing believed that “moving to a population share of this essential support could result in Scotland losing around half the current CAP allocation.”<sup>395</sup>

### Funding and the UK’s internal market

245. Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan from Queen’s University Belfast noted that “While England and Wales appear to favour narrow environmental goals in their use of rural development funds (principally through agri-environment-climate schemes); Scotland and Northern Ireland favour a more ‘multifunctional’ approach ... encompassing social and cultural aspects as well”.<sup>396</sup> Such differences could increase once the CAP ceases to apply, and NFU Cymru therefore argued: “In order to avoid distorting the UK’s internal market, NFU Cymru would like the governments of the UK home nations agreeing by mutual consent a common

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388 Written evidence from NFU Cymru ([ABR0034](#))

389 Written evidence from Scottish Government ([ABR0052](#))

390 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

391 Written evidence from Farmers’ Union of Wales ([ABR0045](#)). Under the Barnett Formula, the Scottish Government, Welsh Government and Northern Ireland Executive receive a population-based proportion of changes in planned UK government spending on comparable services in England, England and Wales or Great Britain as appropriate.

392 Written evidence from Dr Alan Greer ([ABR0014](#))

393 Oral evidence taken before the European Union Select Committee, 1 February 2017 (Session 2016–17), [Q 51](#) (Scott Walker)

394 Written evidence from NFU Cymru ([ABR0034](#))

395 Written evidence from Scottish Government ([ABR0052](#))

396 Written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan ([ABR0021](#))

overarching agricultural framework that will determine the level of support available in each of the home nations.”<sup>397</sup>

### *Conclusions and recommendations*

246. **Farmers in the devolved nations are proportionally heavily dependent on the financial support provided by the CAP. Funding mechanisms post-Brexit, while ensuring that farmers across the UK continue to receive the support necessary to keep their industry productive and sustainable, will need to avoid distorting the UK’s internal agri-food market.**

### **Funding transition**

247. Prof Grant emphasised that, in agricultural funding as in other areas, “we need to have a transitional arrangement to ensure that farm businesses are not faced with a cliff edge.”<sup>398</sup> Mr Breitmeyer noted that “the current funding has basically been the equivalent of the total income from farming for the last 20 years, and if we take a significant proportion of that away, we face significant structural change very early on. Transition is a very important part of it”.<sup>399</sup> Allan Wilkinson, Head of Agrifoods at HSBC Bank plc, agreed: “I think most businesses would be ready and prepared to make that change if they had the clarity and direction and if they could see what a food and farming strategy would look like ... There is no doubt about it, if we had a shock some businesses would really struggle to cope with that change.”<sup>400</sup>
248. It will be important for any transition period to reflect the working realities of the agricultural sector. According to Mr Walker, “If you look at the more traditional sector in Scotland, which is livestock-production, you are talking about, on average, a minimum of at least a three-year lifecycle for people to decide breeding patterns and for product to come to the end.”<sup>401</sup> Prof Hodge suggested that “if farmers anticipate a reduction in direct payments, they can see that happening over a five-year or perhaps even 10-year period so they can plan for it”.<sup>402</sup> Alan Swinbank, Emeritus Professor of Agricultural Economics at the University of Reading, suggested “a five, 10, 15-year period ... That gives farmers some time to adjust”.<sup>403</sup>
249. DAERA suggested that “any change in support mechanisms or levels of support would require a period of transition—the more radical the change, the longer the necessary transition period”.<sup>404</sup> The Minister told us: “You mentioned the point about transition. I think that depends on how different where we want to end up is from where we are now, and the length of that transition will depend on that.”<sup>405</sup>

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397 Written evidence from NFU Cymru ([ABR0034](#))

398 [Q 6](#); also written evidence from the National Sheep Association ([ABR0025](#)) and Scottish Land & Estates ([ABR0032](#))

399 [Q 14](#)

400 [Q 8](#)

401 Oral evidence taken before the European Union Select Committee, 1 February 2017 (Session 2016–17), [Q 47](#) (Scott Walker)

402 [Q 66](#)

403 [Q 8](#)

404 Written evidence from DAERA - Northern Ireland ([ABR0048](#))

405 [Q 81](#)

250. As noted above, the Chancellor of the Exchequer has guaranteed CAP funding that was agreed before the 2016 Autumn Statement until 2020.<sup>406</sup> In relation to the period 2019–20, the Minister told us: “I think there may be an option in the final year for us to leave behind some of the frustrating EU auditing requirements and pointless record-keeping ... but the design of the scheme, essentially, will be the same.”<sup>407</sup>

*Conclusions and recommendations*

251. **Farmers will need a transitional period in order to adjust to any new financial support scheme, and to provide the certainty they need to invest and adjust their business practices. The duration of the transitional period should be based on consultation with the industry and reflect the magnitude of change being implemented.**

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406 HM Government, *Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU* (August 2016): <https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu> [accessed 4 April 2017]. The Government guaranteed that the current level of agricultural funding under CAP Pillar 1 will be upheld until 2020 and any agri-environment schemes agreed before the Autumn Statement will be fully funded—even when these projects continue beyond the UK’s departure from the EU.

407 [Q 82](#)

## CHAPTER 6: ACCESS TO LABOUR

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### Scale and scope of EU labour

252. EU nationals can exercise their free movement rights in two respects: first, as EU citizens, and secondly, as workers. Under Articles 45–48 TFEU, EU workers have the right to work in any Member State; to travel to any Member State to seek employment; to live in any Member State; and to claim some benefits after being employed. These rights are explained in more detail in our report on *Brexit: UK-EU movement of people*.<sup>408</sup>

### *Agricultural sectors affected*

253. Freedom of movement has enabled EU nationals from other Member States to take up seasonal as well as permanent jobs throughout the agri-food supply chain and across the UK. The exact proportion of EU labour is unknown, but it is clear that EU migrants make up a substantial proportion of the workforce across all agricultural sectors in the UK. Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan from Queen’s University Belfast told us: “Of the 80,000-seasonal workforce in horticulture alone, 98% are migrants from elsewhere in the EU.”<sup>409</sup> According to Dairy UK, “On average non UK born [labour] accounts for around 11% of the processing workforce” in the UK dairy industry,<sup>410</sup> while the British Egg Industry Council told us that approximately 40% of staff on egg farms and approximately 50% of staff in egg packing centres were EU migrants.<sup>411</sup> We heard from the National Pig Association that “one in five farms and businesses connected to the pig industry would struggle to survive without migrant labour”,<sup>412</sup> and from the British Poultry Council that “Of the 35,900 direct employees [in the British poultry meat industry] around 60% (21,540) are migrant workers”.<sup>413</sup> According to the BMPA “around 63%” of the workforce of the British red and white meat processing industry are “from the EU27 countries (mainly, but not exclusively, central and eastern Europe)”.<sup>414</sup>

254. A loss of EU labour in one part of the agri-food supply chain could have an impact on the rest. Guy Smith, Vice President of the NFU, commented that “I am here to represent farmers but I am very conscious that the rest of the food chain, including abattoirs and vets, is very dependent on migrant labour, so indirectly our industry would be damaged if we did not have access to that skill set”.<sup>415</sup> Similarly, the Agricultural Industries Confederation (AIC) told us: “Whilst labour is less of a direct issue for AIC members ... we are very conscious of the indirect impact on the whole industry if there is an inability for growers and others (e.g. food manufacturers) to access sufficient short term and casual labour.”<sup>416</sup>

255. One consequence of a persistent shortage in labour supply could be higher costs for the consumers. The British Poultry Council told us: “Labour is a

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408 European Union Committee, *Brexit: UK-EU movement of people* (14th Report, Session 2016–17, HL Paper 121)

409 Q 45; also supplementary written evidence from Soil Association (ABR0033) and written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan (ABR0021)

410 Written evidence from Dr Viviane Gravey, Dr Brian Jack and Dr Lee McGowan (ABR0021)

411 Written evidence from British Egg Industry Council (ABR0017)

412 Written evidence from National Pig Association (ABR0005)

413 Written evidence from British Poultry Council (ABR0027)

414 Written evidence from British Meat Processors Association (ABR0041)

415 Q 45

416 Written evidence from Agricultural Industries Confederation (ABR0018)



significant portion of the cost of production. With more roles to fill, fewer people interested (UK and migrant), and competition from other sectors and countries we will see the cost of production increase.”<sup>417</sup> Similarly, the Food Foundation noted: “Decreased labour availability/increased costs could likewise raise consumer prices of horticultural produce.”<sup>418</sup>

### *Nature of EU labour*

256. We heard from the British Growers Association that seasonal labour was vital to the UK horticultural sector: “Currently the sector relies on around 90% of its total seasonal labour requirement (75,000–80,000) coming from the EU.”<sup>419</sup> This was echoed by Allan Wilkinson, Head of Agrifoods at HSBC Bank plc: “There is very heavy dependence on seasonal labour to harvest key sensitive high-value crops such as hops and soft fruit and certain fruit and vegetables.”<sup>420</sup> Wyn Grant, Emeritus Professor of Politics at the University of Warwick, concluded that the “horticultural sector and the field vegetable sector ... could not function without the seasonal labour that comes to it”.<sup>421</sup>
257. George Dunn, Chief Executive of the TFA, emphasised that “it is not just seasonal labour that we need; we also need permanent labour for full time jobs”.<sup>422</sup> The BMPA pointed out that “The meat processing sector is not particularly seasonal, so these [EU] staff are in the workforce all year round”,<sup>423</sup> while the British Poultry Council informed us that, in their sector, “21,540 migrant workers are in long-term (in employment terms: permanent) roles”.<sup>424</sup>
258. Witnesses noted that EU labour accounts for significant proportions of some specialised agricultural roles, most notably in the veterinary profession. Fergus Ewing MSP, of the Scottish Government, told us that “a significant proportion of the veterinary profession working in Scotland are EU-nationals, particularly in food hygiene and state veterinary medicine”.<sup>425</sup> The First Minister of Wales described a similar picture.<sup>426</sup>
259. In determining the impact of Brexit on the access to labour in agri-food, no easy distinction can be made between skilled and unskilled labour.<sup>427</sup> Mr Smith told us: “I am very wary of describing these people as unskilled; they are extremely diligent and clever at what they do.”<sup>428</sup> Despite this level of work specific skill, he told us that: “I suppose in terms of visa requirements it will always be unskilled because you do not tend to get degrees in picking vegetables.” The BMPA accordingly argued: “We would like to see the definition of ‘skilled’ to mean an ability that has to be learnt through study and/or practice, something that someone could not walk in off the street and immediately do to the necessary level.”<sup>429</sup> NFU Scotland similarly cautioned that “a points-based system led by skills will be of little use to the agricultural

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417 Written evidence from British Poultry Council ([ABR0027](#))

418 Written evidence from The Food Foundation ([ABR0030](#))

419 Written evidence from British Growers Association ([ABR0036](#))

420 [Q 2](#)

421 [Q 2](#)

422 [Q 19](#)

423 Written evidence from British Meat Processors Association ([ABR0041](#))

424 Written evidence from British Poultry Council ([ABR0027](#))

425 Written evidence from Scottish Government ([ABR0052](#))

426 Written evidence from Welsh Government ([ABR0050](#))

427 We considered in detail the issue of low-skill versus high-skill labour in our report *Brexit: UK-EU movement of people* (14th Report, Session 2016–17, HL Paper 121), Chapter 4.

428 [Q 45](#); also [Q 17](#) (George Dunn)

429 Written evidence from British Meat Processors Association ([ABR0041](#))

food processing industry in particular. For example, having skill with knives is essential in abattoirs however this may not be considered on the same level as veterinary training in a visa process.”<sup>430</sup>

260. Peter Hardwick, Head of Exports at the AHDB, suggested: “When you talk about skilled or non-skilled labour, it might be better to redefine that as ‘hard-to-fill vacancies’.”<sup>431</sup> He gave the example of working in an abattoir: “The work is quite hard or not entirely pleasant ... those jobs may be quite low-skilled, but they are extremely hard to fill from local sources.” Mr Dunn agreed: “We need to have a system that says, ‘What is the need? Is there a supply?’ If not, we need to have a system that allows that supply to be brought in.”<sup>432</sup>
261. The Minister acknowledged many of these concerns: “We should not lose sight of the fact that in many areas it is where you have what people would deem unskilled labour that you have the gap, so it is not about saying that we are going to have these skilled people and we do not want the unskilled.”<sup>433</sup>

#### *Reasons for local labour shortage*

262. The heavy reliance upon migrant labour reflects in part a shortage of domestic labour. Witnesses suggested a number of reasons for this. Prof Grant told us that “it is no good going into the local unemployment pool because the labour from there is not reliable, it does not turn up and does not work very efficiently”.<sup>434</sup> Ian Wright, Director General of the FDF, suggested that in areas of the country with “super-full employment”, UK workers were unwilling to undertake the journeys or tolerate the conditions involved.<sup>435</sup> The BMPA noted that meat processing work “does not have high social cachet—for reasons of food safety the sites are kept cold, workers wear a significant amount of food and personal safety equipment, the work is physical and it is shift work. So when there is availability in the local workforce we tend to lose out to other industries”.<sup>436</sup> More broadly, Mr Ewing pointed out that “rural populations are ageing and in certain areas declining. Demographic change and the rural workforce are two of the reasons why Scotland needs movement of people”.<sup>437</sup>

#### *Timing*

263. The shortfall in EU labour is already a problem, as Mr Breitmeyer told us: “We do right here and now face a shortage, even in 2017.”<sup>438</sup> The Food Ethics Council warned that “parts of the sector are already finding it difficult to recruit and retain enough staff”,<sup>439</sup> while Mr Smith told us that “some of my horticulturalists are saying they are struggling to recruit at levels they have in the past”.<sup>440</sup> Mr Dunn raised the same concerns:

430 Written evidence from NFU Scotland ([ABR0007](#))

431 [Q 53](#)

432 [Q 17](#)

433 [Q 88](#)

434 [Q 2](#); also [Q 17](#) (Tim Breitmeyer)

435 [Q 53](#)

436 Written evidence from British Meat Processors Association ([ABR0041](#)); also NFU Cymru ([ABR0034](#))

437 Written evidence from Scottish Government ([ABR0052](#))

438 [Q 1](#)

439 Written evidence from Food Ethics Council ([ABR0020](#))

440 [Q 45](#); also written evidence from British Meat Processors Association ([ABR0041](#))

“Already with the reduction in the exchange rate we are seeing some EU nationals making the decision to return to their home countries, because they have seen a 20% reduction in their salaries ... There are certain parts of the country where we are seeing pretty repugnant xenophobia, which is also encouraging people not to feel welcome and return home. We have a problem now with labour.”<sup>441</sup>

In the food and drinks industry, Mr Wright also noted that “we are seeing those [EU] workers beginning to think about going home”.<sup>442</sup> He added: “For us, an urgent challenge is for the Government to come forward with a pledge that European workers can stay here”.

### *Conclusions and recommendations*

264. **Many workers in the agricultural sector are often regarded as ‘unskilled’, but are in fact extremely skilled at sector-specific tasks such as crop handling and harvesting. We recommend that the Government recognise these skills when assessing labour needs and access to foreign labour after Brexit. We also welcome the Minister’s recognition that continued access to EU labour should be based on an assessment of the needs of the industry, rather than a simplistic distinction between skilled and unskilled labour.**
265. **UK agriculture and food sectors are highly dependent on access to not only seasonal, but also permanent, skilled and unskilled (in terms of education level) workers from the rest of the EU. The entire food supply chain will be adversely affected by any loss of access to that labour pool.**
266. **We particularly bring to the Government’s attention the overwhelming reliance of the sector on EU citizens providing veterinary services in abattoirs, which are essential to ensure compliance with food standards and regulations.**
267. **The evidence we heard suggests the agricultural sector is already struggling to fill vacant positions and that this challenge is being exacerbated by the uncertainty surrounding the UK’s withdrawal from the EU. We therefore urge the Government to work with farmers and the food processing industry and to assist their recruitment efforts.**
268. **In our report on *Brexit: acquired rights* we concluded that the longer the future of EU nationals in the UK is uncertain, “the less attractive a place to live and work the UK will be, and the greater labour market gaps will be”. This risk is already materialising in the agri-food sector, and we therefore repeat our call for the Government to clarify the rights of these EU nationals to remain and work in the UK.**

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441 [Q 17](#)

442 [Q 51](#)

## Filling the labour gap

### *Recruitment*

269. Taking the steps necessary to meet the recruitment needs of the agricultural sector will take time. As Mr Smith said, “You cannot do it at the drop of a hat, by putting a note up in the pub and people turning up the following day, as they did in my dad’s time. There is an element of preparation.”<sup>443</sup> He continued: “Talking to some other horticulturalists, they say they are now trying to recruit through British universities more than they did in the past to make up for what may be that gap.”
270. But as Mr Dunn noted, “We cannot turn off the tap of that EU labour that we have been used to ... We absolutely need to look at the visa system to ensure that we have the right access for a transitional period while we build capacity at home.”<sup>444</sup> To that end, Mr Smith expressed interest “in a return to what was called the old Seasonal Agricultural Workers Scheme (SAWS) where people came in to this country to work at one establishment, one business, and then went back to their homes having served that contract”.<sup>445</sup> NFU Cymru noted that “the prospect of sourcing labour from beyond the EU also has to be considered”.<sup>446</sup>
271. The Minister told us: “It is quite possible, if we decide that there is a need in agriculture or, indeed, even in food processing, to grant the right type of work permit that would enable the numbers of people we need to be able to come here and work for the duration that we need them to.”<sup>447</sup> Robert Goodwill MP, Minister of State for Immigration, has also told the EU Home Affairs Sub-Committee that “Brexit gives us the opportunity to have an off-the-peg immigration policy that addresses many of the concerns those in ... agriculture have expressed”,<sup>448</sup> and that a seasonal agricultural workers scheme was “one model that might be worthy of consideration”.<sup>449</sup> Mr Eustice noted that the reinstatement of a SAWS was “very much a discussion that is taking place between the Home Office and industry”.<sup>450</sup> In supplementary evidence he added: “In terms of EU nationals, we are considering carefully options for the new immigration system once the UK exits the EU, and specifically EU nationals’ access to the UK’s labour market.”<sup>451</sup>
272. In our report *Brexit: UK-EU movement of people*, we noted that an apparently restrictive work permit system with exemptions for particular sectors, such as a SAWS, “could produce the worst of all worlds, failing to deliver a meaningful reduction in immigration while also proving more onerous and costly for employers, prospective applicants, and those charged with enforcement”.<sup>452</sup> We also note that on 15 March 2017, Mr Goodwill told

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443 [Q 45](#)

444 [Q 18](#)

445 [Q 45](#) (Guy Smith); also [Q 2](#) (Prof Wyn Grant) and [Q 19](#) (Tim Breitmeyer)

446 Written evidence from NFU Cymru ([ABR0034](#))

447 [Q 88](#)

448 Oral evidence taken before EU Home Affairs Sub-Committee, 11 January 2017 (Session 2016–17), [Q 75](#)

449 Oral evidence taken before EU Home Affairs Sub-Committee, 11 January 2017 (Session 2016–17), [Q 75](#)

450 [Q 88](#)

451 Supplementary written evidence from Department for Environment, Food and Rural Affairs ([ABR0054](#))

452 European Union Committee, *Brexit: UK-EU movement of people* (14th Report, Session 2016–17, HL Paper 121), para 167

the House of Commons EFRA Committee that “We do not believe there is sufficient evidence to justify a seasonal agricultural workers’ scheme in 2017”.<sup>453</sup>

### *Technological solutions*

273. Mr Wilkinson addressed the possibility of addressing labour shortages by means of technology: “When we come to look at the substitution of one resource for another ... some technology is available, mainly robots and the like, but it is about making sure the industry or the enterprise concerned feels confident enough to make the investment, which might take two or three years—in some cases 10 years—to repay.”<sup>454</sup> The Food Ethics Council echoed this point: “A fall in migrant labour will be an impetus for further technological advances ... The issue here, though is whether—with the current uncertainty over the terms of Brexit—companies will have the confidence to invest in large scale mechanisation.”<sup>455</sup>
274. There are also limits to automation, as Mr Smith told us: “At the moment there is no such thing as a robot that can pick a strawberry; it does not exist other than in a lab somewhere.”<sup>456</sup> Mr Breitmeyer commented: “The problem is the quality that they need to put into the supermarkets. Innovation has not yet produced the equipment to ensure that quality. It can do the job, but it will not ensure the sufficient quality.”<sup>457</sup> The BMPA agreed: “Some tasks are simply still beyond the wit of a machine—wrapping small, wet cocktail sausages in bacon to make pigs in blankets is an obvious one.”<sup>458</sup> They added: “The slaughter line is not prone to automation because the machines are not dextrous enough to adapt quickly and efficiently to the different shapes and sizes of the animals.”

### *Conclusions and recommendations*

275. **In the short term, technology cannot materially reduce the UK’s need for EU agricultural labour; nor is there sufficient local labour to address the shortfall. Unless arrangements are made to preserve access to labour from outside the UK, the agri-food industry will suffer major disruption.**
276. **The UK agri-food supply chain employs both seasonal and permanent EU workers, so a seasonal agricultural workers scheme alone, though a priority for our witnesses, will not be a sufficient measure for preserving access to labour.**

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453 Oral evidence taken before Environment, Food and Rural Affairs Committee, 15 March 2017 (Session 2016–17), [Q 215](#)

454 [Q 2](#)

455 Written evidence from Food Ethics Council ([ABR0020](#))

456 [Q 45](#)

457 [Q 19](#)

458 Written evidence from British Meat Processors Association ([ABR0041](#))

## CHAPTER 7: RESOURCES

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### Pressure on Defra

277. Defra has seen its budget reduced by 29.9% in real terms from 2010/11 to 2015/16.<sup>459</sup> Mr Smith reflected on the fact that Defra had been “first in the line suffering government cuts”, and expressed concern that “they do not have the necessary resources and skillsets in place to take us forward to make sure that our industry has a smooth transition”.<sup>460</sup> Mr Wright agreed: “The replacement of the Common Agricultural Policy is a job that would tax Stephen Hawking on speed. The fact that Defra has to do that in two years is a huge undertaking and it is not surprising that that is taking up a great deal of its time.”<sup>461</sup>
278. Witnesses identified several roles Defra would be required to take on to support the agricultural sector post-Brexit:
- **Sponsoring body.** Mr Smith told us: “For too long Defra has seen itself as a regulatory body because support comes from Brussels. It must now see itself as a sponsoring body that looks after the interests of British agriculture. That is going to need a culture shift”.<sup>462</sup>
  - **Trade negotiator.** The Food Research Collaboration noted “the urgent need for improved trade negotiation capacities in Defra and other UK ministries which might affect security of food supplies.”<sup>463</sup>
  - **Co-ordinator across the UK.** The First Minister of Wales pointed out that “it is vital for the UK Government to work with the devolved administrations in order to identify the most effective approach for the UK as a whole”, and noted that the structures for such co-ordination were “currently provided by European institutions”.<sup>464</sup>
279. In addition, the Food Ethics Council highlighted the importance of ‘business as usual’: “There are many long-term issues and initiatives that the UK Government must retain (and build) focus on, rather than be ‘distracted’ by Brexit alone.” These included reducing food waste and improving food and nutrition security for the UK.<sup>465</sup>
280. The Minister responded: “There are discussions across government and the Cabinet Office looking at where we may need additional people and where we can pull people from ... we are doing a lot of work to pull policy expertise back from the agencies.”<sup>466</sup> Pamela Thompson, Head of the EU Exit Team for Animal and Plant Health at Defra, noted: “It is not just about the bodies doing this; it is about the people who have a depth of knowledge who can go into the detail of the law ... I feel confident now, six months in, that I have the right team behind me to be able to do it. It will remain a priority for the next two years because we have to get it right.”<sup>467</sup>

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459 House of Commons Library, EU Referendum: Impact on UK Agriculture Policy, [Briefing Paper 7602](#), May 2016, p 14

460 [Q 50](#); also [Q 3](#) (Prof Wyn Grant)

461 [Q 57](#)

462 [Q 50](#)

463 Written evidence from Food Research Collaboration ([ABR0024](#))

464 Written evidence from Welsh Government ([ABR0050](#)); also [Q 50](#) (Wesley Aston) and [Q 16](#) (George Dunn)

465 Written evidence from Food Ethics Council ([ABR0020](#))

466 [Q 91](#)

467 [Q 74](#)



### **Institutional capacity**

281. As Which? noted, agencies and regulators, as well as central Government, will face increased demands: “Overseeing and checking compliance, along with the customs checks that will need to be introduced, will take a lot more resources and require additional capacity and expertise within the Food Standards Agency and Food Standards Scotland.”<sup>468</sup> With reference to trade in meat, Prof Matthews stated:

“The UK would have every right to check on the health and disease status of these herds. There would be an operational issue in that much of this checking and so on is now done through EU institutions, so you would have to build up that capacity here. You would be sending inspectors to those—let us take Brazil as the example—Brazilian meat plants to ensure that the standards there met the standards that you required for import.”<sup>469</sup>

282. The Minister noted:

“We have already the [Animal and Plant Health Agency] ... who deal with all the export certification work. The bit that would be additional is doing something that the FVO, the EU’s veterinary office, currently deals with—the inward inspections of plants in China or whatever country you are seeking to import from. That would be new, additional work and we would need additional people to be able to do that work, but the expertise to draw on to do that work is already there.”<sup>470</sup>

283. As we noted in Chapter 4, Defra currently works with many EU bodies and agencies.<sup>471</sup> If the Government wants this work to continue, and if the UK is not able to continue to draw on EU resources post-Brexit, those bodies will need to be replicated in the UK, with corresponding resource implications.

### *Conclusions and recommendations*

284. **UK bodies, such as the food inspection agencies, will need additional resources if they are to take on roles currently fulfilled by EU institutions in relation to the agri-food sector. One of these new roles will be an inspection workforce working in countries with which we have FTAs to ensure the upholding of welfare and phytosanitary standards.**

285. **Defra faces an enormous challenge in repatriating agricultural policy alongside fisheries and environmental policy, particularly given the heavy cuts in its budget over recent years. Its role in relation to the agriculture sector will also increase significantly. The Department will need significant numbers of additional staff, with appropriate expertise. We welcome Defra’s use of expertise from its agencies as an interim measure to inform policy development ahead of Brexit, but the Department will need to secure sufficient long-term resource.**

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468 Written evidence from Which? ([ABR0013](#))

469 [Q 36](#)

470 [Q 87](#)

471 Supplementary written evidence from Department for Environment, Food and Rural Affairs ([ABR0053](#))

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

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### Withdrawing from the Common Agricultural Policy

1. Leaving the Common Agricultural Policy and the European Union will have fundamental implications for the agricultural sector in the UK. In the long term the UK has an opportunity to review and improve its agriculture, environment, and food policy, better meeting the needs of the agriculture sector, the environment and consumers. But in the short term, the Government will need to work closely with the industry to help it respond to critical challenges: forging new trading arrangements with the EU and the rest of the world; providing regulatory stability and clarity; addressing the future of funding for the agricultural sector; and ensuring access to labour. (Paragraph 21)

### Future trade in agri-food products

#### *The UK's new WTO schedules of concessions*

2. In our report *Brexit: trade in goods* we concluded: “When establishing its own schedules at the WTO, the UK Government must give particular consideration to the implications of tariffs on the UK agricultural sector. High tariffs on imports would raise the cost to UK consumers, whereas lower tariffs could reduce the cost of food to consumers, but might undermine the domestic agricultural sector’s competitiveness.” We endorse this conclusion and underline its importance. (Paragraph 67)
3. Reaching agreement on dividing the EU’s Tariff Rate Quotas for agricultural products could be challenging, not least because the proposed reallocation will be open to negotiation by WTO members, not only the EU. We urge the Government to analyse the current patterns of trade under existing TRQs and the implications of a proposed split on the agricultural sectors and food manufacturers that benefit from the current TRQs in preparation for these negotiations. (Paragraph 68)
4. There is no precedent for splitting the Aggregate Measurement of Support—or the Amber Box entitlement—and in our view the Minister was overconfident that other WTO members would accept such a split. We invite the Government to confirm that it is considering alternatives, should the split be contested. (Paragraph 69)

#### *Negotiating a UK-EU trade agreement*

5. The UK is a net importer of food and therefore a very attractive market for agri-food products both from the EU and globally. We expect this to give the UK a strong position during trade negotiations for those products both with the EU and, after Brexit, with third countries. (Paragraph 107)
6. Nevertheless, leaving the Single Market and the Customs Union will create significant uncertainty for the UK agri-food sector. The EU is the single largest market for UK agriculture and food products, and our witnesses were clear that preserving tariff and non-tariff barrier free trade with the EU should be a priority. If the UK leaves the EU without agreeing a comprehensive UK-EU FTA, or a form of transitional arrangement, UK-EU trade would have to proceed according to WTO rules. Many of our agricultural producers, and our food manufacturers, would incur substantial

costs associated with tariff and non-tariff barriers when exporting to the EU, with sectors such as pig and sheep meat at particular risk. (Paragraph 108)

7. Moreover, the agricultural and food manufacturing sectors are integrated into EU-wide supply chains. It is imperative that a UK-EU trade deal should avoid the imposition of tariffs on trade in both directions, to minimise the potential for disrupting those supply chains. (Paragraph 109)
8. Non-tariff barriers could be equally if not more disruptive to trade in agricultural products and food. Products must meet the standards of the EU market in order to enter it. If UK and EU regulatory frameworks begin to differ after Brexit, there is a risk of substantial non-tariff barriers for agri-food producers. The greater this divergence, the greater the need for customs checks and certification of products and production facilities. This could be costly and time consuming for UK farmers and food manufacturers wishing to export to the EU. (Paragraph 110)
9. In our report *Brexit: trade in goods* we urged the Government “to maintain close dialogue with the EU over the development of UK and EU standards post-Brexit, to avoid unnecessary divergence.” We endorse and re-state this recommendation. (Paragraph 111)
10. Customs procedures and associated delays would have a particularly strong negative impact on the agri-food sector, where products are often perishable and food supply chains are highly integrated across the UK and the EU. (Paragraph 112)
11. Agri-food supply chains are particularly highly integrated between Northern Ireland and the Republic of Ireland. The re-introduction of border controls and tariffs could severely disrupt this industry, and could lead to an increase in cross-border smuggling. We therefore repeat the recommendation made in our report on *Brexit: UK-Irish relations* that the Government should make every effort to avoid the re-introduction of customs controls on the Irish land border. (Paragraph 113)

### *New market opportunities*

12. The EU is the UK’s biggest trading partner for agricultural and food products. The evidence suggests that, for a considerable period of time, it will not be possible to off-set this trade by increased trade with third countries or by expansion of domestic markets. (Paragraph 146)
13. As an EU Member State, the UK has access to preferential trade agreements with a number of third countries. As we have concluded in successive reports, we doubt that UK participation in these agreements can be preserved after Brexit. It is essential therefore that the Government should, as a matter of urgency, clarify whether or not such agreements could indeed be grandfathered to preserve preferential trade arrangements for agri-food products. (Paragraph 147)
14. Our witnesses were concerned that increased trade with third countries that operate different—often less stringent—regulatory standards than the UK could render UK producers uncompetitive in the domestic market due to an influx of cheaper products produced to lower standards. (Paragraph 148)
15. It could also lead to increased pressure on the Government to reduce standards domestically in order to lower the cost of production and increase

price competitiveness. Yet we note that UK producers are proud of their high standards, and that our witnesses questioned whether consumers would welcome such a downward trend in current standards. (Paragraph 149)

16. In looking to expand trade in the longer term with third countries, such as China, we also heard that high standards were crucial to the British brand. The Government should therefore maintain the current standards to enable the export of UK food and farming products. (Paragraph 150)
17. We welcome the Government's commitment to maintaining high levels of animal welfare in the UK. There is some doubt over whether animal welfare can be used as a rationale to restrict imports from other countries under WTO rules. However, we encourage the Government to secure the inclusion of high farm animal welfare standards in any free trade agreements it negotiates after Brexit. (Paragraph 151)
18. In developing new trading relations with the EU and the world, the Government will need to balance the sometimes conflicting needs and expectations of farmers, consumers and trading partners with respect to quality and costs. (Paragraph 152)
19. It may be hard to reconcile the Government's wish for the UK to become a global leader in free trade with its desire to maintain high quality standards for agri-food products within the UK. Striking this balance will require extensive consultation with both industry and stakeholders. We note that it will be challenging to complete such a consultation in the two-year period set out by Article 50. (Paragraph 153)

#### *Transitional arrangements*

20. Despite the regulatory conformity between the UK and the EU, there is broad consensus among experts—including those on the EU side—that it will not be possible to negotiate and conclude a comprehensive free trade agreement with the EU within two years. It is therefore essential that the Government should agree transitional arrangements with the EU, in order to mitigate the potentially disastrous effects of trading on WTO terms on the agricultural and food sectors. (Paragraph 156)
21. In our report on *Brexit: trade in goods* we concluded that it was “critical that the Government considers negotiating access to the EU's preferential trade arrangements with third countries for a transitional period”. We reiterate that conclusion: the fact that the UK may not be able to grandfather existing FTAs with third countries makes it all the more important, particularly to the agri-food sector, that there should be a phased transition, so as to allow time for the UK to negotiate new FTAs with third countries. (Paragraph 157)

#### **The regulatory framework**

##### *Potential improvements*

22. Brexit presents a new and important opportunity to replace elements of EU agricultural regulation that are bureaucratic, ineffective or ill-tailored to farming conditions in the UK, for example the three-crop rule and farming by calendar dates. (Paragraph 174)

23. Any regulatory change will have to strike a balance between managing international obligations, consumer and public demands, costs for producers, and the conditions of any trade agreements. (Paragraph 175)
24. Significant divergence between the regulatory frameworks in the UK and the EU, by creating non-tariff barriers, could make it more difficult to continue to trade agri-food products after Brexit. As we noted in our report *Brexit: trade in goods*, an FTA with the EU is likely to require a legal commitment by the UK to maintain a high level of harmonisation or mutual recognition of regulations and standards with the EU. The scope for deregulation, while not negligible, may therefore be limited. (Paragraph 176)

### *Devolution*

25. Farming landscapes vary significantly across the UK, and agriculture is rightly a devolved policy area. Though implementation of CAP policies already varies, Brexit will allow the devolved administrations to tailor agriculture policies even more closely to their farmers and land. (Paragraph 189)
26. But the UK has an internal single market, in which agri-food plays a significant role. It is in the interest of all in the agri-food sector, as well as of consumers, that the integrity of the UK market be preserved. This will require either a UK-wide framework or the negotiation of co-ordinated agricultural policies by the UK Government and the Devolved Administrations. We encourage the Government to pursue dialogue on this issue as a matter of urgency. (Paragraph 190)
27. Trade policy is a reserved matter, so the sum of agricultural policy across the UK must respect the UK's external trade commitments. The UK Government will need to work closely with the Devolved Administrations to ensure that this is the case. (Paragraph 191)

### *Regulatory transfer*

28. We heard strong support for the Government's approach of an initial transfer of EU agri-food regulations into UK law via the Great Repeal Bill, followed by a considered review of where improvements could be made. (Paragraph 200)
29. We welcome the groundwork already completed in relation to transferring EU legislation on animal welfare and plant health into UK law, and invite the Government to confirm that the same process will soon be completed in relation to other aspects of agricultural legislation. (Paragraph 201)

### *Institutional governance*

30. EU agricultural regulation is underpinned by European institutions that monitor and enforce much of the legislative framework and international commitments. The Government will need to either ensure that these institutions' roles can be carried out by independent domestic bodies, or negotiate enduring relationships with the EU agencies and entities to ensure high standards of food safety and quality after Brexit. (Paragraph 207)



## **Withdrawing from CAP financial support**

### *Funding in the context of Brexit*

31. Many farmers rely on Pillar I and II funding to keep their businesses viable, and any substantial reductions in the level of support would have a significant impact on both the agriculture sector and the wider rural economy. The Government should clarify its intentions regarding financial support post-2020 as soon as possible to provide the certainty required to make investment decisions. (Paragraph 237)
32. Brexit provides an opportunity for the Government to evaluate not only the level, but the objectives and structure of financial support to farmers, and to design simpler support schemes which are effective in the context of UK agriculture. We note that this could include support for the rural economy or those in less favoured areas (such as hill farmers), for investment in technology to improve productivity, for environmental protection, or to ensure UK farmers are not at a competitive disadvantage compared to their EU counterparts. We encourage the Government carefully to review the needs of the agricultural sectors across the UK, and to consult with the industry, to ensure that any future support is targeted and effective. (Paragraph 238)
33. There is a case for continuing to provide financial support to farmers after 2020 to correct market failures and deliver public goods, such as environmental protection and ecosystems services, which would not otherwise be paid for. We welcome the Minister's support for this position. (Paragraph 239)
34. Nevertheless, we recognise that agriculture will be competing with many other sectors for public expenditure. The agricultural sector will have to make a strong case to maintain financial support at the same or similar levels to that provided under the CAP. (Paragraph 240)
35. WTO rules may hinder the design of support schemes tailored to UK objectives. The Government should factor these constraints into its post-Brexit agriculture policy, and negotiate a share of the EU's Amber Box allowance to maximise its options for designing an effective post-CAP support scheme. It should also consider how to support the provision of public goods through agriculture in the event it does not secure such a share. (Paragraph 241)

### *Funding and devolution*

36. Farmers in the devolved nations are proportionally heavily dependent on the financial support provided by the CAP. Funding mechanisms post-Brexit, while ensuring that farmers across the UK continue to receive the support necessary to keep their industry productive and sustainable, will need to avoid distorting the UK's internal agri-food market. (Paragraph 246)

### *Funding transition*

37. Farmers will need a transitional period in order to adjust to any new financial support scheme, and to provide the certainty they need to invest and adjust their business practices. The duration of the transitional period should be based on consultation with the industry and reflect the magnitude of change being implemented. (Paragraph 251)



## Access to labour

### *Scale and scope of EU labour*

38. Many workers in the agricultural sector are often regarded as ‘unskilled’, but are in fact extremely skilled at sector-specific tasks such as crop handling and harvesting. We recommend that the Government recognise these skills when assessing labour needs and access to foreign labour after Brexit. We also welcome the Minister’s recognition that continued access to EU labour should be based on an assessment of the needs of the industry, rather than a simplistic distinction between skilled and unskilled labour. (Paragraph 264)
39. UK agriculture and food sectors are highly dependent on access to not only seasonal, but also permanent, skilled and unskilled (in terms of education level) workers from the rest of the EU. The entire food supply chain will be adversely affected by any loss of access to that labour pool. (Paragraph 265)
40. We particularly bring to the Government’s attention the overwhelming reliance of the sector on EU citizens providing veterinary services in abattoirs, which are essential to ensure compliance with food standards and regulations. (Paragraph 266)
41. The evidence we heard suggests the agricultural sector is already struggling to fill vacant positions and that this challenge is being exacerbated by the uncertainty surrounding the UK’s withdrawal from the EU. We therefore urge the Government to work with farmers and the food processing industry and to assist their recruitment efforts. (Paragraph 267)
42. In our report on *Brexit: acquired rights* we concluded that the longer the future of EU nationals in the UK is uncertain, “the less attractive a place to live and work the UK will be, and the greater labour market gaps will be”. This risk is already materialising in the agri-food sector, and we therefore repeat our call for the Government to clarify the rights of these EU nationals to remain and work in the UK. (Paragraph 268)

### *Filling the labour gap*

43. In the short term, technology cannot materially reduce the UK’s need for EU agricultural labour; nor is there sufficient local labour to address the shortfall. Unless arrangements are made to preserve access to labour from outside the UK, the agri-food industry will suffer major disruption. (Paragraph 275)
44. The UK agri-food supply chain employs both seasonal and permanent EU workers, so a seasonal agricultural workers scheme alone, though a priority for our witnesses, will not be a sufficient measure for preserving access to labour. (Paragraph 276)

## Resources

45. UK bodies, such as the food inspection agencies, will need additional resources if they are to take on roles currently fulfilled by EU institutions in relation to the agri-food sector. One of these new roles will be an inspection workforce working in countries with which we have FTAs to ensure the upholding of welfare and phytosanitary standards. (Paragraph 284)
46. Defra faces an enormous challenge in repatriating agricultural policy alongside fisheries and environmental policy, particularly given the heavy

cuts in its budget over recent years. Its role in relation to the agriculture sector will also increase significantly. The Department will need significant numbers of additional staff, with appropriate expertise. We welcome Defra's use of expertise from its agencies as an interim measure to inform policy development ahead of Brexit, but the Department will need to secure sufficient long-term resource. (Paragraph 285)

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Lord Cunningham of Felling  
 Lord Curry of Kirkharle  
 Viscount Hanworth  
 Lord Krebs  
 Duke of Montrose  
 Lord Rooker  
 Lord Selkirk of Douglas  
 Baroness Sheehan  
 Lord Teverson (Chairman)  
 Lord Trees  
 Viscount Ullswater  
 Baroness Wilcox

### Declarations of Interest

Lord Cunningham of Felling  
*Member, RSPB*  
*Member, National Trust*

Lord Curry of Kirkharle  
*440 acre farm in Northumberland in receipt of the Basic Payment Scheme and Environmental Stewardship payments*  
*Trustee, Clinton Devon Estates*  
*Chair, National Land Based College*  
*Chair, The Prince's Countryside Fund*

Viscount Hanworth  
*No relevant interests to declare*

Lord Krebs  
*Scientific advisor to Marks and Spencer plc*  
*Scientific advisor to Ajinomoto Inc*  
*Advisor to Tesco plc on sustainability*  
*Advisor to the Wellcome Trust on Planetary Health*

Duke of Montrose  
*Fellow, Royal Agricultural Society*  
*President, National Sheep Association*  
*Management of family owned farm and rural property receiving funding under CAP Basic Farm Payment, areas of outstanding constraint, Environmental Farm Management Options*  
*Management of two nature reserves and various Sites of Special Scientific Interest (SSSIs)*  
*Major shareholder in a farm-based hydroelectric scheme benefiting from feed-in-tariff payments*  
*Member of Quality Meat Scotland*

Lord Rooker  
*Member, RSPB*  
*Member, Friends of the Lake District*

Lord Selkirk of Douglas  
*Chairman of Directors, and Director, Douglas-Hamilton (D Share) Ltd (small family company: agriculture and property; the Member's financial*

*interest derives from his directorship, which is now paid an annual sum above the registration threshold)*

*Director, Douglas-Hamilton Investments Ltd (company no SC343289: no financial benefit)*

*Diversified investment portfolio in McInroy & Wood Income Fund, managed by third party*

*Note: Douglas-Hamilton D Share has an interest in pockets of land used for rough grazing and possible development, and also a field which may have a wind turbine or turbines in due course*

Baroness Sheehan

*Member, RSPB*

Lord Teverson (Chairman)

*No interests to declare*

Lord Trees

*Honorary Member, British Veterinary Association*

*Chair, Moredun Research Institute, Edinburgh, an independent animal health research institute*

*Member, RSPB*

Viscount Ullswater

*Director and Trustee of agriculture estate company in Cumbria*

*Tenants on the estate receive payments under the CAP*

*Member, Country Land and Business Association (CLA)*

Baroness Wilcox

*No interests to declare*

The Special Adviser for the inquiry declared the following interests:

Professor Fiona Smith

*Member, RSPB*

*Member, BREXIT Expert Working Party for the Farmers' Scientist Network of the Yorkshire Agricultural Society*

The following Members of the European Union Select Committee attended the meeting at which the report was approved:

Baroness Armstrong of Hill Top

Lord Boswell of Aynho (Chairman)

Baroness Falkner of Margravine

Baroness Kennedy of the Shaws

Earl of Kinnoull

Baroness Prashar

Lord Selkirk of Douglas

Baroness Suttie

Lord Trees

Baroness Verma

Lord Whitty

Baroness Wilcox

Lord Woolmer of Leeds

During consideration of the report the following Members declared an interest:

Lord Boswell of Aynho

*Agricultural and landowning interests as set out in the Register of Members Interests*

Earl of Kinnoull

*In receipt of farm subsidy both personally and as trustee of the Blair Charitable Trust*

*Chairman, Red Squirrel Survival Trust*

*Chairman, United Kingdom Squirrel Accord*

A full list of Members' interests can be found in the Register of Lords' Interests: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/house-of-lords-commissioner-for-standards-/register-of-lords-interests/>

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at [www.parliament.uk/brexit-agriculture](http://www.parliament.uk/brexit-agriculture) and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral evidence and written evidence. Those marked with \* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

*	Professor Wyn Grant	<a href="#">QQ 1–10</a>
*	Professor Alan Swinbank	<a href="#">QQ 1–10</a>
*	Allan Wilkinson, HSBC Bank plc	<a href="#">QQ 1–10</a>
**	Tim Breitmeyer, Country Land and Business Association	<a href="#">QQ 11–29</a>
*	George Dunn, Tenant Farmers Association	<a href="#">QQ 11–29</a>
**	Tom MacMillan, Soil Association	<a href="#">QQ 11–29</a>
**	Professor Alan Matthews	<a href="#">QQ 30–41</a>
**	Professor Joseph McMahan	<a href="#">QQ 30–41</a>
**	Wesley Aston, Ulster Farmers' Union	<a href="#">QQ 42–58</a>
**	Guy Smith, National Farmers' Union	<a href="#">QQ 42–58</a>
**	Peter Hardwick, Agriculture and Horticulture Development Board	<a href="#">QQ 42–58</a>
**	Jon Woolven, Institute of Grocery Distribution	<a href="#">QQ 42–58</a>
**	Ian Wright, Food and Drink Federation	<a href="#">QQ 42–58</a>
*	Richard Hebditch, National Trust	<a href="#">QQ 59–71</a>
*	Professor Ian Hodge	<a href="#">QQ 59–71</a>
**	Tom Lancaster, RSPB	<a href="#">QQ 59–71</a>
**	Professor Nigel Gibbens CBE, Chief Veterinary Officer, Defra	<a href="#">QQ 72–80</a>
**	Pamela Thompson, Defra	<a href="#">QQ 72–80</a>
**	George Eustice MP, Minister of State for Agriculture, Fisheries and Food, Defra	<a href="#">QQ 81–91</a>
**	Mike Rowe, Defra	<a href="#">QQ 81–91</a>

### Alphabetical list of all witnesses

	Agricultural Industries Confederation	<a href="#">ABR0018</a> <a href="#">ABR0019</a>
**	Agriculture and Horticulture Development Board (AHDB) ( <a href="#">QQ 42–58</a> )	<a href="#">ABR0037</a> <a href="#">ABR0040</a>



	British Meat Processors Association (BMPA)	<a href="#">ABR0041</a> <a href="#">ABR0051</a>
	British Egg Industry Council (BEIC)	<a href="#">ABR0017</a>
	British Growers Association	<a href="#">ABR0036</a>
	British Poultry Council	<a href="#">ABR0027</a>
	Campaign to Protect Rural England (CPRE)	<a href="#">ABR0047</a>
	Professor Michael Cardwell	<a href="#">ABR0049</a>
	Compassion in World Farming	<a href="#">ABR0004</a>
**	Country Land and Business Association (CLA) ( <a href="#">QQ 11–29</a> )	<a href="#">ABR0008</a>
	Crop Protection Association	<a href="#">ABR0026</a>
	Department of Agriculture, Environment and Rural Affairs (DAERA)	<a href="#">ABR0048</a>
	Dairy UK	<a href="#">ABR0035</a>
**	Department for Environment, Food and Rural Affairs (Defra) ( <a href="#">QQ 72–80</a> , <a href="#">QQ 81–91</a> )	<a href="#">ABR0053</a> <a href="#">ABR0054</a>
	Devon County Council	<a href="#">ABR0016</a>
	Farmers' Union of Wales	<a href="#">ABR0045</a>
	Farmwel	<a href="#">ABR0029</a>
**	Food and Drink Federation (FDF) ( <a href="#">QQ 42–58</a> )	<a href="#">ABR0044</a>
	Food Ethics Council	<a href="#">ABR0020</a>
	Food Foundation	<a href="#">ABR0030</a>
	Food Research Collaboration	<a href="#">ABR0024</a>
*	Professor Wyn Grant ( <a href="#">QQ 1–10</a> )	
	Dr Viviane Gravey, Dr Brian Jack, Dr Lee Mc Gowan	<a href="#">ABR0021</a>
	Dr Alan Greer	<a href="#">ABR0014</a>
	Christian Häberli PhD(Law), Fellow at the World Trade Institute, Bern University	<a href="#">ABR0002</a>
*	Professor Ian Hodge ( <a href="#">QQ 59–71</a> )	
**	Institute of Grocery Distribution (IGD) ( <a href="#">QQ 42–58</a> )	<a href="#">ABR0043</a>
**	Professor Alan Matthews ( <a href="#">QQ 30–41</a> )	<a href="#">ABR0038</a>
**	Professor Joseph McMahon ( <a href="#">QQ 30–41</a> )	<a href="#">ABR0039</a>
	National Association of British and Irish Flour Millers (nabim)	<a href="#">ABR0028</a>
	National Office of Animal Health (NOAH)	<a href="#">ABR0011</a>
	National Pig Association	<a href="#">ABR0005</a>
	National Sheep Association	<a href="#">ABR0025</a>
*	National Trust ( <a href="#">QQ 59–71</a> )	

**	National Farmers' Union (NFU) ( <a href="#">QQ 42-58</a> )	<a href="#">ABR0042</a>
	NFU Cymru	<a href="#">ABR0034</a>
	NFU Scotland	<a href="#">ABR0007</a>
**	RSPB ( <a href="#">QQ 59-71</a> )	<a href="#">ABR0009</a>
	RSPCA	<a href="#">ABR0006</a>
	School and Nursery Milk Alliance	<a href="#">ABR0012</a>
	Scottish Government	<a href="#">ABR0052</a>
	Scottish Land & Estates	<a href="#">ABR0032</a>
**	Soil Association ( <a href="#">QQ 11-29</a> )	<a href="#">ABR0033</a>
	Sustain	<a href="#">ABR0003</a>
*	Professor Alan Swinbank ( <a href="#">QQ 1-10</a> )	
*	Tenant Farmers Association ( <a href="#">QQ 11-29</a> )	
	UK Pesticides Campaign	<a href="#">ABR0031</a>
**	Ulster Farmers' Union ( <a href="#">QQ 42-58</a> )	<a href="#">ABR0046</a>
	Mr Peter Ungphakorn	<a href="#">ABR0001</a>
	Welsh Government	<a href="#">ABR0050</a>
	Which?	<a href="#">ABR0013</a>
	Wildfowl and Wetlands Trust	<a href="#">ABR0022</a>
*	Allan Wilkinson, HSBC Bank plc ( <a href="#">QQ 1-10</a> )	
	Woodland Trust	<a href="#">ABR0023</a>
	WWF	<a href="#">ABR0010</a>

### APPENDIX 3: GLOSSARY

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AHDB	Agriculture and Horticulture Development Board
AMS	Aggregate Measurement of Support
AoA	Agreement on Agriculture
BMPA	British Meat Processors Association
BPS	Basic Payment Scheme
CAP	Common Agricultural Policy
CLA	Country Land and Business Association
Codex (Alimentarius)	Collection of internationally recognised standards, codes of practice, guidelines and other recommendations regarding food, food production and food safety
CPRE	Campaign to Protect Rural England
CVO	Chief Veterinary Officer
DAERA	Department of Agriculture, Environment and Rural Affairs, Northern Ireland
Defra	The Department for Environment, Food and Rural Affairs
EFRA	Environment, Food and Rural Affairs Committee in the House of Commons
EUIPO	European Union Intellectual Property Office
FBI	Farm Business Income
FDF	Food and Drink Federation
FTA	Free Trade Agreement
FUW	Farmers' Union of Wales
FVO	Food and Veterinary Office
GATT	General Agreement on Tariffs and Trade
GIs	Geographical Indicators
GVA	Gross Value Added
IGD	Institute of Grocery Distribution
MFF	Multiannual Financial Framework
nabim	National Association of British and Irish Flour Millers
NOAH	National Office of Animal Health
NFU	National Farmers' Union
OIE	World Organisation for Animal Health
PDO	Protected Designation of Origin
PGI	Protected Geographical Indication

RSPB	Royal Society for the Protection of Birds
RSPCA	Royal Society for the Prevention of Cruelty to Animals
SAWS	Seasonal Agricultural Workers Scheme
SPS Agreement	The Agreement on Sanitary and Phytosanitary Measures
TBT Agreement	The Agreement on Technical Barriers to Trade
TFA	Tenant Farmers Association
TFEU	Treaty on the Functioning of the European Union
TRQ	Tariff Rate Quota
TSG	Traditional Speciality Guaranteed
UAA	Utilised Agricultural Area
WTO	World Trade Organization
WWF	World Wide Fund for Nature