

Y Pwyllgor Materion Allanol a Deddwriaeth Ychwanegol

***Goblygiadau Brexit i amaethyddiaeth Cymru***

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BREXIT's implications for trade in Welsh agriculture and food are still unfolding. Prior to exit, UK agri-food trade policy will be subject to EU rules. The British government is working on a post-BREXIT agri-food trade policy that covers the UK's relationship with the EU and its relationship with other non-EU countries. The UK's membership of the World Trade Organisation (WTO) means any policy must comply with the WTO's rules. Whether the UK can take advantage of some of the flexibility provided in those rules, especially on the provision of targeted domestic subsidies, is unclear as the UK may need access to some of the trade concessions negotiated by the EU on the UK's behalf. Whether it can gain access to these concessions is as yet unclear as a matter of WTO law.

***Implications for UK agri-trade policy during EU exit talks***

Key Welsh agri-exports to the EU, like Welsh lamb, will continue to be covered by the same EU import tariff regime and subject to the same EU animal welfare and food safety measures as currently for at least two years once the British government triggers Article 50 of the Treaty on European Union. This period may be longer if formal exit negotiations cannot be concluded in that time and the EU Council—a body made up of all the EU member heads of state—votes unanimously for the exit talks to continue. Subsidies to Welsh farmers under Pillar 1 (direct payments) and Pillar 2 (rural development payments) of the EU's Common Agricultural Policy should also continue on the same terms up to the date of UK exit. Seeking new favourable market access deals for Welsh agricultural products with non-EU countries will not be possible for the UK until it has left the EU. This is because the EU has a single, common commercial policy (including trade) covering all its member states so only the EU Council can authorise the opening of new trade talks and it is the EU Commission that negotiates the terms of those deals. Countries like Australia and the United States have indicated that they want to negotiate trade deals with the UK government post-BREXIT, but favourable agri-trade deals with these countries is unrealistic for at least the next three to five years.

***Constraints on UK agri-trade policy post-BREXIT***

UK-EU trade relations could take various forms post-BREXIT. A customs union between the UK and the EU would allow the UK to exit the EU but export agri-food products tariff free into the EU. This outcome, although most desirable for the UK, is unlikely to come without a reciprocal promise to allow free movement of workers into the UK. The 'Norwegian' solution

requires the UK to rejoin the European Free Trade Area (EFTA) and also the European Economic Area (EEA). The CAP is not covered by EEA. The 'Swiss' solution comprises a series of bilateral agreements negotiated separately between Switzerland and the EU; Switzerland is also a member of EFTA. Any attempt to expand the coverage of an existing free trade area, like the EFTA, to include agriculture can only be undertaken with the agreement of the other existing member countries as those countries' agricultural sectors must be covered too by any new arrangement for the revised EFTA to be compliant with the WTO rules. There may be political reluctance on the part of those countries to agree to the change. Any independent free trade area negotiated between the UK and the EU must comply with the WTO and cover 'substantially all' agri-food trade between the two. Failure to agree on any of these solutions means the EU-UK trade relationship will be governed by the WTO rules, with the possibility of high tariffs on agri-food exports from the UK to the EU. Preliminary suggestions from the UK Treasury that UK farm subsidies would be means- tested and targeted towards agri-environmental schemes could be problematic under the WTO rules if a farmer has to undertake a specific type of farming (like sheep farming) in order to be eligible for the subsidy and if the agri-environmental scheme has more than a minimal effect on the farmers' production decisions.

***Non-Tariff Barriers: health & safety, labelling, animal welfare***

Pre-BREXIT, many of the rules imposing agricultural and/or food product import safety restrictions, labeling requirements and standards are set by the EU and implemented by its member states, including the UK. Post-BREXIT, assuming the UK is a WTO member with initially the same rights and obligations as the EU, there is a likelihood that the UK will adopt similar, if not identical, agricultural and food product safety, labelling and standards regimes to those of the EU (although it is also possible that the UK may dilute some of those regimes with a view to securing competitive advantage). A more trade restrictive regime is unlikely to comply with the WTO rules.

**Reference:**

I contributed my trade law expertise to the Yorkshire Agricultural Society Report into BREXIT and UK Agriculture: [http://yas.co.uk/uploads/files/YAS\\_FSN\\_Brexit\\_-\\_Full\\_Report.pdf](http://yas.co.uk/uploads/files/YAS_FSN_Brexit_-_Full_Report.pdf)