



# Pointmaker

## BREXIT, AGRICULTURE AND AGRICULTURAL POLICY

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### SUMMARY

- Dissatisfaction with the CAP in the decades since UK accession to the Community probably contributed significantly to the adverse view of the EU that led to Brexit.
- Because of the common financing rules of the CAP, the UK currently pays large sums to support agriculture in other member states. Mainly for this reason it will be a good thing if the CAP ceases to apply here.
- The conditions of trade in agricultural goods and food is likely to feature prominently in the Brexit negotiations.
- Agriculture accounts for 0.7% of GDP in the UK; less than half the EU average. In 2015 the UK trade deficit in food, feed and drink was £20 billion pa – of which £16.7 billion was with the EU(27).
- In the event that the UK leaves the Single Market, negotiations on the rules for UK/EU(27) trade in agricultural goods and food will be needed. Given the UK's large trade deficit in agriculture and food with the EU(27), the Government will have a strong hand to deploy in this section of the negotiations.
- Post-Brexit the UK will be free to establish its own agricultural policy. However, in many respects – aside from common financing – the best agricultural policy post-Brexit will be similar to that applied at present.
- However, there will be scope for establishing better national rules in some policy areas such as GM and also for simplifying the present, over-bureaucratic, system of payments to farmers.
- To avoid chaos, provision will have to be made so that the content of EU legal acts in force at Brexit continues to have effect immediately afterwards.
- The Government must push ahead now in seeking trade deals with non-EU countries, though these can only be signed after Brexit.
- The importance of the WTO to the UK will increase with Brexit. Ensuring the UK can participate fully and satisfactorily in the WTO from Brexit day requires energetic action now.



## INTRODUCTION

Brexit will impinge on agriculture – and vice versa – in many ways. This paper briefly examines the main strands of this relationship. In particular it examines:

- (a) how UK attitudes to the ‘historic’ EU Common Agricultural Policy (CAP) affected the UK perception of the EU as a whole contributing to the possibility of Brexit;
- (b) the economic realities of agricultural production and trade and how these might affect the Brexit negotiations both on agriculture and overall;
- (c) the possibility of UK trade deals with third countries of which agriculture and food will be a significant component in many cases;
- (d) how the World Trade Organisation will have even greater importance for the UK post-Brexit; and
- (e) what agricultural policy will best suit the UK post-Brexit.

All this matters because agriculture is important both for the EU and (though somewhat less so) to the UK, especially in the context of Brexit. For example the CAP still accounts for 40% of EU expenditure (although that figure used to be much higher).

### 1. THE CAP

The CAP was and perhaps still is, at least in Britain, probably the least-loved of EU policies. In the mind of public and media alike it has always been associated with so-called butter mountains and wine lakes, with high cost and waste, with high consumer prices, with ‘export refunds’ which allegedly ruined farmers in developing countries,

and perhaps above all with ‘subsidies for [supposedly] inefficient French farmers’.

There was and is much to criticise about the CAP, though the view caricatured above is less than fair. The butter mountains, wine lakes and export refunds are all long gone. As is only to be expected, the nature of the CAP reflects real economic and political pressures placed on democratically elected politicians. It is not unknown for UK ministers to adopt economically imperfect policies faced with the same level of political pressure. But the negative views of the CAP consistently held across the UK political spectrum since UK accession, that is for over 43 years, undoubtedly contributed to the jaundiced national view of the EU as a whole and, ultimately, to the Brexit vote.

Though the criticisms of it are in some respects overstated, the CAP is ill-suited to UK circumstances and the fact that its rules will cease to apply here is a good thing. In particular, the much larger agricultural sectors in many other EU member states make it very costly for the UK because of the EU common financing rules. Much of the UK financial contribution to the EU, which gave rise to the need for a UK rebate, came in effect from UK contributions to agriculture in other EU member states.

### 2. CONTEXT AND HISTORY OF THE CAP

Table 1, overleaf, illustrates UK agriculture compared to agriculture in other EU member states and relative to the UK economy as a whole.

Figures for farm income and for the relative value of UK output of the different crops and animal products are given in Table 2 on page 4.<sup>1</sup> Farm incomes and the value of farm outputs suffer considerable annual variation due to fluctuations

<sup>1</sup> The table also reflects the mysterious fact that potatoes were not classified as a vegetable for the purposes of this statistical series many decades ago and that has not been changed since.



in weather and world prices and it is important to note that 2015 was a relatively poor year for UK farming on both measures.

## 2.1 Food security

Traditionally ‘food security’ has been put forward as a justification for supporting (i.e. subsidising) domestic agricultural production. However, in present circumstances with the economies of developed countries being closely interlinked, this argument has lost most of its weight at least for countries like the UK.<sup>2</sup>

## 2.2 Efficiency

It is imperative that agriculture, like other sectors, continues to increase its productivity to enable the economy to grow and to support forecast increases in population growth. The efficiency of farming (and food processing) has been transformed over the past two centuries as greater amounts of food have been produced by fewer people. Since UK accession to the Community in 1973, Total Factor Productivity in UK agriculture has increased by 68% – made up of a 33% increase in output and a 21% decrease in inputs (especially labour).<sup>3</sup>

**Table 1: UK & EU agricultural figures (2015 except where stated)**

<b>UK Utilised Agricultural Area (UAA) (thousand ha)</b>	17,147
<b>UAA as % of total UK land area</b>	70
<b>Workforce in agriculture (thousands)</b>	476
<b>% UK employment</b>	1.48
<b>Average size of UK farm (ha)</b>	77
<b>Average size of EU farm (ha) (2013)</b>	16.1
<b>Share of agriculture in UK GDP (%) (2014)</b>	0.7
<b>Share of agriculture in EU GDP (%) (2014)</b>	1.6
<b>Value of UK exports of food, feed and drink (£ millions)</b>	18,000
<b>Value of UK imports of food, feed and drink (£ millions)</b>	38,500
<b>Value of UK/EU(27) food, feed and drink trade imbalance (£ millions)</b>	16,700

Sources: Office for National Statistics, *Agriculture in the UK, 2015*, and data on World Bank and Europa websites.

<sup>2</sup> Although the global food distribution system now has little slack in it, which could present problems in the event of a shock.

<sup>3</sup> Office for National Statistics, *Agriculture in the UK, 2015*.



### 2.3 Agriculture in different countries

Table 1 also shows that agriculture is less important to the UK economy than to the economies of other countries in the EU; the percentage of UK GDP represented by output from agriculture is less than half the EU average. This explains much of the difference in attitudes demonstrated by UK and other EU ministers over the years. Their objective interests are different.

### 2.4 Worldwide support for agriculture

For decades many countries have sought to support or protect their agriculture sectors from international markets. This has always been obvious qualitatively, but quantitative comparisons were difficult until the 1990s. The difficulty arises because support comes in two main forms, namely

by the provision of subsidies paid directly to farmers and/or by maintaining prices at higher levels than would otherwise be the case; both methods support farmers and hence lead to domestic output being higher than it would otherwise be.

The Producer Support Estimate<sup>4</sup> (PSE) is a measure developed by economists in the 1990s which allows levels of support to be compared to the value of output, however support is provided.<sup>5</sup> Current levels of support for some large producing countries and blocks are given below, as calculated by the OECD. The higher the PSE, the greater the level of support.

**Table 2: UK farming income and output (all 2015)**

<b>Total income from farming<sup>1</sup> (£m)</b>	3,769
<b>Value of output of specific commodities (£m)</b>	
<b>Cereals</b>	2,947
<b>Industrial crops (e.g. rape)</b>	1,018
<b>Vegetables and Flowers</b>	2,411
<b>Fruit</b>	547
<b>Potatoes</b>	690
<b>Animals for meat</b>	7,367
<b>Milk</b>	3,663
<b>Eggs</b>	681
<b>Total output</b>	23,813

Source: Office for National Statistics, *Agriculture in the UK, 2015*.

Note: These are farm prices. Much output is of course processed before consumption. Hence within the cereals figure given above is output of £824m of barley. Some barley is processed into beer or whisky. In both cases the value of the main ingredient (barley) is but a small part of the value of the final product.

<sup>4</sup> Previously Producer Subsidy Equivalent.

<sup>5</sup> OECD, Glossary of Statistical Terms, 2016.



**Table 3: PSE data for selected OECD countries (% of gross farm receipts, 2015)**

<b>New Zealand</b>	0.7
<b>Australia</b>	1.3
<b>US</b>	9.4
<b>EU</b>	18.9
<b>Japan</b>	43.1
<b>Switzerland</b>	62.4

Source: OECD, *Agricultural Support Estimation*, 2016.

## 2.5 Agriculture and the environment

Because agriculture covers most of the UK's land area<sup>6</sup> it is also intimately connected with the environment, both in amenity and biodiversity. In recent decades both these aspects have come to the fore. The CAP provides special payments to farmers which were originally (and often still are) justified by reference to farmers' provision of environmental goods.

For example, some landscapes (e.g. the Lake District) have been created by and are in large part maintained by sheep rearing. Payments can be made to sheep farmers in the region helping to maintain this environment. As matters stand the main effect of these payments is to support the local tourism-based economy though originally, as discussed later, the purpose was quite different.

Another example would be special payments made for areas, often small, where action has been taken to expand or sustain biodiversity e.g. by leaving unplanted strips around field edges

which support beetles, pollinators and certain bird species. Such areas would not exist if productive efficiency were the only criterion.

## 2.6 UK Policy until accession to the EEC

Before the UK joined the European Economic Community (known as the EEC, and the precursor to the EU) in 1973, the Government had a well-developed policy for agriculture based on the 1947 Agriculture Act. Its terms reflected recent national experience. As a major net importer of agricultural produce, the supply of food had been severely constrained during the Second World War as UK-bound cargo ships were a key target of German U boats. The threat of widespread starvation had been a significant concern. In the light of this experience, one of the aims of the Act was to boost UK food production and security. In the post-war system farmers were paid a deficiency payment which raised the market price obtained for an agricultural good (e.g. beef) up to a target figure.<sup>7</sup> This system was well-suited to an importing country, but had to be radically changed when the UK joined the Community.

An integral part of the UK agricultural policy since 1946 was special headage payments for sheep and cattle farmed in 'hill' areas. These were grazing areas (on moorland, for example) which have for centuries characterised farming in the upland parts of regions such as the Highlands of Scotland, much of Wales, Dartmoor, Exmoor and the Lake District. At the time, before environmental concerns were more formally entrenched, these payments were often justified with arguments which seem curious today.<sup>8</sup> But with the benefit of hindsight it is evident that what

<sup>6</sup> 70% compared to an average of 40% across the EU(28) (Europa).

<sup>7</sup> The detailed arrangements were such that farmers still had an incentive to secure the best price they could.

<sup>8</sup> One commentator suggested that they could be justified because it was in the national interest to preserve hill farmers, a 'hardy breed of men'. This remark was made shortly after World War II.



motivated many people was a nascent environmental feeling.

It is perhaps worth noting that when the UK joined the Community in 1973, the Treaty of Rome did not require there to be a common Community agricultural policy. An alternative approach of coordinating national policies was also explicitly allowed. However, the establishment of a common policy had been favoured by vocal parties, especially in France, which stood to gain a lot from common financing rules which seemed to follow naturally from a common policy. Accordingly, common policies had been agreed for the main agricultural commodities in the 1960s, and by 1973 the CAP was well established and aspiring members had to accept it.

## 2.7 Changes to the CAP since 1973

When the UK first joined the CAP (1 February 1973),<sup>9</sup> the policy was notorious for its expense, high consumer prices, excessive intervention,<sup>10</sup> variable import levies,<sup>11</sup> and export refunds.<sup>12</sup> It had very high consumer and financial costs, was regarded as a triumph of European co-operation by the Six and as an abomination by most of the rest of the World. This is the CAP which many people still remember.

The CAP has been extensively modified over the past 43 years and many of the policy instruments that characterised it before and after 1973 – such as intervention buying, import levies and export refunds – have now effectively disappeared. The main changes were adopted in the 1990s when the Irish Agriculture Commissioner, Ray

McSharry, forced reforms through the Council of Ministers that were designed to make the CAP more compatible with what then looked likely to be the rules of the nascent World Trade Organisation (WTO).

McSharry was prescient. The CAP would have been in trouble with the WTO without the reforms he persuaded member states to accept. One of McSharry's motivations was the recognition that both export refunds and import levies were not only deeply unpopular outside the Community, but were also of dubious legality even before the WTO came into existence. Indeed, by the 1990s the Community's important trading partners were contemplating attacking them in the relevant forums.

The McSharry reforms are key to an understanding of the present CAP. McSharry's central concept was to reduce EU price support towards world levels. This had the advantage of allowing import levies and export refunds to fade away. It was clear to McSharry that neither would be acceptable to the new WTO, which was then on the horizon. The price reductions also benefited consumers.

It would never have been possible to get this policy adopted by EU Agriculture ministers without a quid pro quo, called in the jargon 'compensation'. This took the form of area payments, notably for arable crops, which maintained farmers' incomes at close to their previous level. Area payments are regarded more favourably under WTO rules than many other payments to farmers, because they do not

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<sup>9</sup> One of the author's tasks as a junior official in the Ministry of Agriculture, Fisheries and Food in 1972 was to try to secure agreement from the Six to delay the implementation of the CAP by 3 months to 1 April 1973. Eventually one month's delay was obtained.

<sup>10</sup> In particular the practice of state purchase of surplus commodities which were then stored sometimes for

many years and often frozen until being sold, usually at a significant loss.

<sup>11</sup> i.e. fixing import charges at levels to suit the convenience of the importer – the Community.

<sup>12</sup> That is, subsidising exports to ensure that they found a market, whatever the competition.



encourage increased production. If prices are kept high or direct (e.g. headage) payments are made to farmers, there is an obvious incentive to increase output as much as possible. But no such incentive exists for area payments. So the new system was more secure internationally than the one it replaced and less likely to be attacked by foreign competitors in the WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT).

Related to this and starting in the 1980s a number of 'agro-environmental' schemes were developed first at UK and, later, at EU level. A notable example is the establishment of Environmentally Sensitive Areas (ESAs). These were designed to protect specific valued landscapes which hosted interesting or rare flora and fauna, such as the Somerset Levels and the Norfolk Broads. Within these areas farmers received payments for behaving in designated ways, for example (in one case) not cutting grass before a given date in the year so as to allow ground nesting birds to raise offspring.

Another example of an environmental scheme is the Farm Woodland Scheme, which encouraged the planting of deciduous trees on farmland in lowland areas of England, where the tree cover was judged to be lower than was desirable on various environmental grounds. The agro-environmental schemes were successful especially where efficient modern agricultural practice would otherwise have led farmers to act in ways that were sub-optimal from an environmental perspective. Thus farmers were paid for participating in these schemes on an area basis and it was claimed (mostly with justice) that they were permitted under WTO

rules, since their purpose was environmental protection, rather than incentivising production.

Finally the UK 'hill payments', referred to earlier, were continued initially as a permitted national aid, approved by the European Commission. Eventually the policy was in effect adopted as a Community policy, the only UK agricultural policy ever to have been so.

## 2.8 The CAP now

The following is a simplified summary of how the CAP operates in the UK today.<sup>13</sup>

There are in normal circumstances no export refunds or import levies on any product traded. Until the negotiations which led to the establishment of the WTO, the Community did not apply tariffs on many agricultural goods; it applied variable levies instead, as previously noted. One outcome of the negotiations was the replacement of these levies with fixed tariffs, the precise level of which was determined by applying various agreed criteria to the historical data. Though the process of calculation was in some cases doubtful, eventually figures were determined that were accepted by all. Some are high by the standards of tariffs applied by the EU to manufactured goods. For example tariffs on wine and cheese are of the order of 30-40% and those on some meats are higher.<sup>14</sup>

Market prices are allowed to find their own levels, which for many commodities are close to world market levels, though there are exceptions. For example, prices on the world dairy market can vary widely and sometimes bear little relation to EU market levels.

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<sup>13</sup> Some important issues such as compensation for animal diseases are ignored (e.g. tuberculosis) as are crops not produced in the UK (e.g. olive oil), which have complicated issues of their own.

<sup>14</sup> Strictly tariff equivalents since some are defined in money, as opposed to percentage, terms. Detail taken from a publication of the National Farmers' Union for England and Wales, 'Wageningen'.



Added to this basic structure are area payments. In England these have developed over the last 20 years, with, in effect, the bringing together of three schemes into one.<sup>15</sup> The three schemes are (1) the payments introduced in the McSharry reforms as compensation for the price reductions experienced at the time (2) the agro-environmental schemes such as the ESA Schemes introduced from the 1980s and (3) payments replacing the headage payments for 'hill' cattle and sheep.

This merging in part reflects the fact that significant environmental conditions have been imposed on the McSharry compensation payments,<sup>16</sup> while payments for 'hill' cattle and sheep have, as noted, always had an environmental aspect. Nevertheless some environmental conditions are significantly more onerous than others and this is reflected in there being two levels of payment with the higher level being paid only to those in schemes imposing the more serious constraints on farming methods. Expenditure on this higher level scheme is effectively capped.

As shown in Table 2, Total Income from Farming (TIFF) in 2015 was £3,769m, while total direct payments to farmers were £2,803m<sup>17</sup> – although it should be noted that 2015 was a poor year for farming income. TIFF in 2014 was £5,295m; also direct payments are fixed in euros and sterling was highly valued against the euro on the relevant date in 2015; one would expect direct payments in sterling to be significantly higher in 2016 than in 2015.

Thus direct payments to farmers under the CAP currently represent a significant proportion of

farming income.<sup>18</sup> Of course it is not valid to subtract one figure from the other and claim that the result reflects what farming income would be without the payments. In the absence of the payments farmers would conduct business differently, not least by farming more commercially to the loss of at least some of the environmental goods currently delivered.

Nevertheless the two figures are of similar magnitude and the reality – that UK farmers (like all others in the EU) are supported to a significant extent by government payments – cannot be denied.

## 2.9 Anti-scientific attitudes and bureaucracy

The application of scientific advance to agricultural production has often been a subject of contention in Europe. In the EU agricultural sector, opposition is especially prominent in the debates over Genetically Modified (GM) crops and foods and, sometimes, on issues such as pesticides. On GM in particular, the EU has been unable to make progress despite clear scientific advice.

Some EU schemes, like the area payments schemes, have proved highly – many claim unnecessarily – complex. This is because the basic scheme as proposed by the European Commission was highly complex (in part because of the desire to protect Community funds); also on occasion the UK has chosen options which have added to the complexity. One result has been that payments to farmers in England have been made later than is legally allowed on several occasions, which obviously irritates and attracts criticism.

<sup>15</sup> The direction of travel in the other countries of the UK is the same, but the process has been slower.

<sup>16</sup> known as 'cross-compliance'

<sup>17</sup> Office for National Statistics, Agriculture in the United Kingdom, 2015.

<sup>18</sup> As a percentage of farmers' receipts it is, as Table 2 shows, much less.





### **3. THE WORLD TRADE ORGANISATION**

#### **3.1 The importance of the WTO**

The WTO is the body in which the international community sets trade rules, monitors compliance with them and resolves disputes. As international trade is vital for economic growth, Britain's membership of, and activity within, the WTO will be of greater importance than ever before following Brexit.

#### **3.2 A brief history of the WTO**

The WTO is in many respects a beefed-up version of the GATT, which was itself established along with other international bodies such as the United Nations, the International Monetary Fund and the World Bank at the end of the Second World War.

Experience in the decades following the war demonstrated that GATT had various limitations, especially regarding agricultural trade. Since there was no provision for majority voting, decisions could only be agreed by unanimity. The absence of a functioning dispute resolution procedure meant that disputes could only rarely be resolved. In the event of a dispute, the party thought to be at fault by the majority of members could block any decision to that effect.<sup>19</sup> Furthermore, injured parties could not gain effective redress, since any such proposals could themselves be similarly blocked. Moreover some rules were not applied to agriculture.

#### **3.3 The WTO and dispute resolution**

To a substantial extent these problems have been eliminated with the creation of the WTO, because within its founding rules it includes provisions on 'dispute resolution'. Hence if there is a dispute, ultimately neutral arbitrators can be appointed to investigate the merits and make recommendations; in due course, their report can

be formally adopted whatever either party to the dispute might think. Further, there is provision for wronged parties to be allocated, and to receive, compensation (normally in the form of permission to adopt trade measures affecting the 'guilty' party). The process is highly technical, slow and bureaucratic, but, crucially, has been shown to work. This has transformed attitudes to trade disputes. For example, regardless of the official line, the existence of the procedure is one reason why the EU has largely abandoned export refunds and variable levies on agricultural goods.

In addition, WTO rules on agriculture are significantly more rigorous than those operated under GATT. In particular, members have agreed in most circumstances not to increase government support for agriculture as measured by PSE scores (explained in Section 2). However, when the WTO was established in the 1990s, further liberalisation measures were expected in the following years; for various reasons these have not materialised. But this disappointment does not detract from the advances in liberalisation already made.

#### **3.4 UK representation in the WTO**

Since trade is an 'occupied field' in the EU jargon, as discussed earlier, the EU currently operates as one entity in the WTO and the Commission negotiates and speaks for it. One consequence is that there are now few UK civil servants (and fewer ministers) with experience of trade negotiations. That situation needs to change quickly.

#### **3.5 Pre-Brexit: intra-EU negotiations on EU commitments**

Before Brexit, however, one important matter will need settling. As explained above the EU has

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<sup>19</sup> Several countries operated rules, for example on animal and plant health, which were more draconian

than was proportionate; they were de facto import bans supporting domestic producers.



many commitments to other countries within the WTO agricultural envelope. Post-Brexit these will need to be allocated between the UK and EU(27). In most cases this will be straightforward. Normally both parties, the UK and EU(27) will continue to apply the same regime as before (unless, as many expect, the two sides negotiate a special deal for the trade between them). But in some cases a negotiation will be needed.

This is because some of these commitments – a reduced or zero EU tariff quota, for example – normally reflect previous trade flows. Simply dividing the quota between the UK and EU(27), and allocating a standard percentage of it to the UK might not always be appropriate. If, for example, 100% of the product in question had originally been imported by the UK, for example to meet some traditional need, then neither the exporting country, nor the EU(27), nor the UK is likely to be content with the allocation of a reduced tariff quota according to a general rule. In the example given, one would expect a large proportion of any reduced or tariff free quota to be taken on as a UK commitment. Each case will be different and will have to be decided individually. Determining how to deal with such cases will require UK/EU negotiations before Brexit, and will possibly also involve consulting the other countries affected, that is the exporting countries concerned. This is just one relatively small example of the need for UK trade negotiators to be wide awake from the very start of the Brexit negotiations.

### **3.6 The UK and the WTO post-Brexit**

The UK will need to be a full member of the WTO (and related customs conventions) at Brexit so that trade can proceed smoothly immediately thereafter. However for this to happen, the

necessary measures need to be decided and put in place before Brexit takes place. There is plenty of scope here for bureaucratic delay, which could in some circumstances result in undecided issues at Brexit. In anticipation of this, it is prudent that decisive action is taken now to produce a plan for negotiating UK membership.

Post-Brexit the UK will of course operate as a full member of the WTO and speak for itself in that forum. It will have a range of commitments on agriculture (and the other sectors covered by the WTO) and like other WTO members will be subject to the various rules that now apply to the EU(28), subject to any arrangements to deal with the need to apportion tariff quotas as discussed above.

### **3.7 Post-Brexit obligations**

Furthermore, post-Brexit the UK's WTO commitments on agriculture will circumscribe future action; for example it will not be possible to increase agricultural support. That is their central purpose. The level of support allowed will, however, be similar to that currently applied to the EU. It will not be precisely the same because agricultural production in the UK does not exactly mirror that of the EU as a whole; for example the UK produces more sheepmeat and less olive oil than the average member state, and support levels vary for different products. Hence the PSE which will need to be calculated for the UK need not be exactly the same as that for the EU now, or that of the EU(27) after Brexit. But it can be expected to be similar and, more importantly, is unlikely to pose any immediate problems since increasing the level of overall agricultural support is not advocated by any party.<sup>20</sup>

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<sup>20</sup> Some advocate increasing agro-environmental payments which are currently regarded as permissible under the WTO rules. However, there is a

boundary where agro-environmental payments shade into agricultural support and the situation in the future may not be absolutely clear-cut.



## 4. THE BREXIT NEGOTIATIONS

### 4.1 Different approaches

At the time of writing a wide range of suggestions have been put forward for the UK's Brexit negotiating objectives. At one end of the spectrum are those who advocate seeking something as close as possible to the existing situation, including access to the single market. Some even envisage continued payments to the EU budget.

At the other end there are those who advocate seeking complete separation from the EU without any special arrangement. In the absence of any special arrangement to the contrary, this would presumably involve the UK and the EU(27) applying the EU customs tariff to each other's imports across all sectors including agriculture,<sup>21</sup> and restrictions on the movement of labour.

Within this range of possibilities it is not yet clear what kind of arrangement the government will seek, nor what it will be possible to achieve given attitudes in the EU(27). Moreover, it would be unwise to make detailed recommendations on overall UK objectives based only on a consideration of the needs of the agro-food sector.

### 4.2 The implications of different approaches

Each of the possibilities would have distinct implications for agriculture. Under almost all options agricultural policy would post-Brexit be set (and paid for) nationally. But there are other areas where matters are less clear. For example, there are several policy areas closely related to agriculture for which decisions are currently settled at EU level, but which under some Brexit

options would in future be set at national level instead – for example: animal health, plant health, pesticides, and GM crops/foods.

If the UK were to be a full member of the single market, it is likely that rules on these subjects would continue to be set at EU level; single market rules are by definition set by the EU institutions. As a non-EU member within the single market,<sup>22</sup> the UK would in practice, albeit bound by the rules, have no real influence on them in the four policy areas mentioned (and others where similar considerations apply). This would not necessarily be disastrous; however it must be doubted whether an outcome which resulted in reduced UK influence on important rules applied in the UK is what those who voted Leave imagined the outcome would be, if their view prevailed.

### 4.3 The UK need for seasonal labour

At the other extreme, the UK's continued full membership of the single market would presumably allow for free movement of labour within the EU. This would allow for UK agriculture's need for seasonal labour to be met without the need to consider any special arrangement. If, post-Brexit, there are no, or only limited, rights for movement of labour between the UK and EU(27), a special arrangement will be needed for seasonal agricultural workers. Such workers are important especially for the UK horticultural sector; no doubt the employment opportunities are significant also in the countries from which the workers come. This ought not to present great problems since it would be in the interests of all for such an arrangement to be made. The UK could simply adopt a scheme which met its economic and other (e.g. immigration) concerns.

<sup>21</sup> Some might ask why it is assumed the existing EU tariffs will be applied post-Brexit by both the EU(27) and UK. The answer is that both were applying it to non EU members before Brexit and under WTO rules the level could not be changed (more exactly could

not be increased), at least not without those other countries' agreement.

<sup>22</sup> Like Norway now.



Another possibility would be to agree some form of UK/EU(27) understanding on the matter.

#### **4.4 Negotiations on the rules for UK/EU(27) trade in agriculture, feed and food**

Finally, and most importantly: the rules for trade in food between the EU(27) and the UK will need to be decided.

As already discussed, if the UK were to be a full member of the single market this question would not arise – there would be free trade. However full membership of the single market seems unlikely – and from the point of view of those who voted Leave, undesirable. What then?

There is a case to be made for unilateral free trade. On plausible assumptions and using established economic theory, calculations show that unilateral free trade might theoretically be the least bad policy for a country like the UK. Accepting this logic, should a post-Brexit UK remove all import restrictions and leave it at that?

No country conducts their affairs in such a manner and for understandable reasons if one reflects on the realities. Consider the case of an industry which is discriminated against by the import policies of foreign countries. Historically scotch whisky is a good example; there were, and to some extent still are, discriminatory practices operated by countries deliberately designed to reduce their domestic demand for an appealing product. If the government were to tell the scotch whisky industry that they had unilaterally given away the main negotiating card which could be deployed to help to reduce such discrimination – restrictions of one kind or another on imports from the foreign countries concerned – the industry and public would take a dim view.<sup>23</sup>

The reality was well expressed by the notable economist Harry Johnson, who declared that trade liberalisation was 'like seduction' in that 'the benefit to be conferred' was, 'for the purposes of negotiation, treated as a loss'.<sup>24</sup>

In summary, although edifices like GATT and the WTO are based on the presumption that free trade is desirable, actual negotiations in those forums are conducted in what can only be called a mercantilist spirit – one concession is traded for another and negotiators almost always have the prospective benefits to their own producers in mind.

So what might happen regarding agricultural trade? Recall the figures in Section 2 which showed that agriculture was more important in the EU(27) than it is in the UK. Furthermore, the UK is a large importer of food from the EU(27); the balance of trade in food is nearly £17 billion in favour of the EU(27). Put another way the UK food market is very important for the EU (27) and it is clear they will not be happy if charges at the level of the present EU external tariff are levied on their exports to the UK. But that is exactly what will happen unless some special arrangement to stop it is adopted. Otherwise, after Brexit, the EU(27) would have to compete with others in the UK market such as Israel, North African countries and so on.

Thus it is apparent that the EU(27) will be keener to secure special arrangements for agricultural trade than will the UK.

Now it is true that UK consumers would lose out if tariffs were placed on food imports from the EU(27). But that is the argument for free trade, which, as explained, plays little part in detailed

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<sup>23</sup> There is now also the possibility of complaints in the WTO. But they are not made lightly and in any case take a long time to produce a result.

<sup>24</sup> Harry Johnson, *Money, Trade and Economic Growth*, 1962.



trade negotiations, which are conducted with producers, not consumers in mind.

Thus tariffs on UK/EU(27) trade in agriculture and food would be inconvenient for UK interests but significantly more inconvenient for the EU(27).

The rules of trade for the agro-food sector will be a valuable card in the hands of the UK Brexit negotiators. Certainly, concessions should not be made on the subject without significant gains elsewhere in the negotiations.

## **5. TRADE AND POLICY POST-BREXIT**

### **5.1 The legal position post-Brexit**

At the moment the UK leaves the EU, the provisions of the CAP must be allowed to continue to apply unless express provision has been made to change matters. A similar arrangement will be important also for other sectors; however in the agricultural sector, due to the extent of regulation, it will be particularly vital.

Many areas of life are currently governed by EU rules, some of which are given direct effect in the UK by Section 2 (2) of the European Communities Act, though others have effect via UK subordinate legislation. There are thousands of such rules and it will not be possible to go through every one before Brexit day and come to a decision – whether to retain, abolish, or amend. In practice all such rules will have to continue to have effect after Brexit day until the UK administration decides to alter them. This is a fundamental requirement if Brexit is not to lead to regulatory chaos.

No doubt senior legal practitioners are even now seeking to identify the most efficient way legally of providing for the absorption into UK law at the

moment of Brexit of those EU rules that applied immediately beforehand.<sup>25</sup> However, this means that a complete agricultural policy will be in operation up to and after Brexit day, the exception being that provision will need to be made for national rather than EU financing after Brexit. Nor need there necessarily be any rush to change things thereafter.

### **5.2 Trade deals**

Rightly or wrongly the UK already has a ministry for post-Brexit trade agreements. However, many of the same skills required by the Department for International Trade (DIT) will be needed to negotiate with the EU on Brexit, which is the responsibility of the Department for Exiting the European Union (DexEU) – and the latter negotiations must come first. One wonders whether scarce skills in the civil service are not being unnecessarily dispersed.

No doubt some progress might be made on bilateral deals with countries outside the EU before Brexit formally occurs, but probably not much. Non-EU countries will want to examine the Brexit deal itself in order to assess the worth of any concessions they might be offered. In any event, legally such deals can only be concluded after Brexit.

It is hard to judge how promising this avenue will prove to be, though the experience of other such arrangements, such as the (now doomed) EU/US draft deal, known as TTIP, suggests that a rapid conclusion of any major agreement is unlikely.

Despite these reservations there is every reason to press ahead with the relevant negotiations, lest opportunities requiring quick action are missed.

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<sup>25</sup> It appears from remarks made by the Prime Minister at the 2016 Conservative party conference that this point has been seized.



However, what can be predicted with some confidence is that many of the countries with which deals might be done e.g. Australia, New Zealand, US, Canada, Brazil, will seek extensive agricultural concessions in any deal; and are unlikely to be satisfied without some significant move on this front.

This could have significant long-term implications for UK agriculture. Some agricultural concessions, notably those for tropical products, might have relatively little effect. But significant concessions for the main UK products such as beef, lamb, and dairy products have the potential to drive down UK prices considerably. If so farmers could demand what they may describe as compensation. Even if the UK government were disposed to meet such claims, which currently seems unlikely, WTO rules would restrict what could be done.

However, there is one reason to be positive. Other countries will be aware that post-Brexit the UK will be keen to reach bilateral trade agreements. They will see this as an opportunity to secure advantages, which they have not been able to secure from the EU. In some cases this will have been because of a block within the EU reflecting resistance from producer interests which are not present to the same extent in the UK. Thus the UK may find it easier to reach agreements – which will necessarily offer advantages for UK interests also – than a very large entity like the EU. If so this would have advantages for UK exporters and for UK consumers which over time could be significant. However, these advantages are likely to take time to materialise.

### **5.3 UK agricultural policy post-Brexit**

Post-Brexit, the UK will have the opportunity, if desired, to develop a completely different agricultural policy, though with the proviso, as explained above, that to meet WTO obligations

overall government support to UK industry, as expressed in PSE calculations, should not rise.

The desired attributes of agricultural policy should be:

1. the encouragement of an efficient agricultural sector which contributes to national prosperity;
2. a policy which costs no more than the present one, as measured both by PSE (which captures both financial and consumer costs together and is the terms in which WTO commitments are defined) and, separately, in financial terms;
3. one which contributes to environmental aims in terms of both landscape and biodiversity;
4. one which meets consumers' needs in terms of the availability of nutritious food at reasonable prices;
5. one which minimises bureaucracy and administrative expenditure by all parties.

Do these desired attributes point to the need for a major policy change?

It might seem puzzling, but despite the CAP's longstanding reputation, the objectives listed are best pursued by something that is fundamentally similar to the present policy – that is, the system of support, including the area payments to farmers, described in Section 2.

This is because the CAP, as discussed, has had many of the inefficiencies on which it built its early reputation, reformed away. Furthermore, after Brexit (on virtually all scenarios) the UK will only be paying for UK agriculture, not for agriculture in other countries.

Moreover, given the short- to medium-term turmoil that would be faced by British farmers if



the CAP were radically altered in negotiations, there is no great pressure from any quarter for major change. Of course some NGOs go through the motions of suggesting the policy should be much more environmental. However it is likely that their main objective in making such suggestions is to discourage the Treasury from reducing existing agri-environmental payments after Brexit, when the latter are not inhibited by EU rules.

The objectives listed above are all pursued in a reasonably proportionate way under the current system. The vast majority of farmers are far from plutocrats and some, for example dairy farmers, have had a hard time in recent years. Yet the most efficient farms continue to survive, and even thrive, making constant improvements in efficiency to the advantage of all.

For many years the CAP and UK policy before it were undoubtedly blind to some of the environmental consequences of the policy. The light first dawned in MAFF in the 1980s.<sup>26</sup> A farmer was proposing to drain and plough an ancient water meadow that had never been ploughed for good environmental reasons with the help of a MAFF grant. Everyone could immediately see this would be ridiculous. Since then the rules have been changed and many environmental schemes have been put in place as briefly described in Section 2; overall a balance has been struck between farm efficiency and the environment which is broadly supported.

Regarding consumers, there is now a vast array of nutritious food available at reasonable prices. For many products UK prices are not far from world market prices; and the issue of food prices

is now less pressing given the reduction in spending on food, as a proportion of total household expenditure. In 1946, food on average comprised 34% of total household expenditure, compared with just 10% in 2013.<sup>27</sup>

Furthermore the administrative structure to support the present system in terms of farm information and computing hard and software is already in place. If there was a need to adopt a completely different system there would be nothing for it but to build anew at significant cost. But there is no such pressing need.

All this is compatible with the statement made by the Chancellor in August 2016 that existing payments in certain areas, including agriculture, would continue until at least 2020. The recommendation here is that they should continue, no doubt with modifications here and there, for a lot longer.

There is no need to specify exactly what changes there might need to be after Brexit but two areas stand out for examination.

The first is the bureaucracy and complexity of the present payment system. Many claim that this could be significantly simplified with no loss of rigour. With billions of pounds of public money at stake there must be proper accountability. For example, the area for which a payment is given must be accurately measured and environmental goods paid for must actually be delivered and so on. But the claim is that in some respects the system is unnecessarily complicated. After Brexit this needs full

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<sup>26</sup> Ministry of Agriculture, Fisheries and Food – the name of which was changed (with some change of responsibilities) to the Department of Environment, Food and Rural Affairs (DEFRA) in 2002.

<sup>27</sup> V. Schoen and T. Lang, *UK Food Prices, Cooling or Bubbling?*, 2014. The two figures do not appear to be exactly comparable, but give a good indication of the proportion of household expenditure on food in the years stated nevertheless.



examination and, if appropriate, modification. There is certainly scope for simplification.

The second concerns the level of area payments. Some statement of government policy will be needed so that farmers can plan ahead. There is no need to be prescriptive now, but the best course might be something very general like 'The government would not expect to reduce [area payments] by more than x% in any given year'. Some continuity certainly is desirable, and x should be a low number.

#### **5.4 Other issues**

If the UK were outside the full single market then, as previously explained, post-Brexit UK national rules would apply in policy areas such as plant and animal health, GM foods etc. UK advisory committees would need expanding and/or re-establishing. In some cases this could be an advantage, for example, the EU debate on GM foods was for a considerable period hijacked by anti-scientific forces. If, as many believe, GM has a significant role to play in meeting future food supply sustainability, it would be sensible to make rapid progress on the matter, for the benefit of future generations. However, it would be well to be cautious about the possibilities. As in the EU(27), there are also groups in the UK opposed to GM as a matter of principle who would not therefore be persuadable as to its benefits. But it is to be hoped the scientific view would prevail and there would be an opportunity to ensure it did.





## AFTERWORD: FISHING AND BREXIT

Those with long memories may recall the controversy over fishing rights at the time of UK accession to the Community in the early 1970s. A new Community policy on access to waters was adopted at the very last minute before UK accession, which guaranteed foreign fishermen access to UK waters. This outraged UK opinion and set back the entry negotiations. However, eventually the UK accepted the new rules with only minor changes; this has led to resentment ever since. An important point to consider is how Brexit will change this situation.

To clarify the size of the issue: in 2014 total landings of fish by UK vessels in UK ports were valued at £615m<sup>28</sup> – this is close to the value of the annual output of potatoes. Thus economically, the value of fishing is relatively small. However, politically it has been a sensitive issue both here and abroad – as the controversy over fish in the accession negotiations demonstrated.

Setting aside the Mediterranean and the Baltic, a large section of the more productive waters under the jurisdiction of present EU member states are British; that is, International Law recognises UK jurisdiction for fisheries. These waters are important for fishermen from the EU(27) – more important than their waters are to UK fishermen. When EU law ceases to apply in the UK the ability of EU fishermen to fish in UK waters will depend on UK agreement.<sup>29</sup>

So, as in the case of trade in agriculture, feed and food, this will strengthen Britain's case in the relevant Brexit negotiations. The EU(27) will most probably wish to retain the present arrangements unchanged, but there is no reason

for Britain to agree to that at least without offsetting benefits elsewhere.

Reasonable objectives for this part of the negotiations would be:

1. ultimately to reserve UK coastal waters, normally defined as 12 miles from baselines, for UK fishermen. A few years' notice will probably have to be given to those with current rights;
2. a reduction in overall foreign fishing effort in UK waters;
3. some concession elsewhere in the negotiations.

Tactically the best course will be to do nothing for a period. Foreign fishermen will be anxious about their future after Brexit and will press their governments for reassurance. That is a good basis on which to start negotiations.

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<sup>28</sup> Sea Fisheries Statistics, 2014. The figure excludes the value of farmed fish, mainly salmon.

<sup>29</sup> Strictly international conventions also give some foreign fishermen some rights but, crucially, they can be easily denounced.



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