



Recommendations for the UK Trade Policy for Free Trade Agreements that protect animal welfare and comply with WTO rules

Summary

The UK Government has said they will maintain and, where possible, improve standards of animal welfare in the UK¹, particularly as new free trade agreements (FTAs) are negotiated². The UK has higher animal welfare standards than most other prospective trade partners in virtually every area that is being negotiated, particularly with regards to on-farm standards and regulatory processes. It is essential for the UK to be able to safeguard its current welfare standards. This can be done through mutual recognition of regulatory processes and conditional liberalisation for higher welfare animal-based products based on preferential tariffs, tariff rate quotas or non tariff measures. A ground-breaking FTA must have a chapter on animal welfare, including detailed provisions on animal welfare cooperation based on the other trading partner at least on meeting the OIE's 15 animal welfare global standards as a minimum. The FTA should formally recognise the links between animal welfare and sustainable development (e.g. antimicrobial resistance) under the sustainable development chapter. The UK needs to adopt a transparent approach to these negotiations in agreeing its mandate, during negotiations and when adopting the FTA.

Introduction

The importance of the UK regaining control of its trade policy has been a UK Government priority in the Brexit negotiations but to date the UK has yet to set out its trade policy strategy and has resisted attempts in Parliament to make the process transparent. For instance, the EU and US publish their trade mandate before negotiations begin, have civil society forums where the trade mandate is discussed and have an agreed transparent ratification programme for the trade agreement. The UK Government has yet to implement any of these stages. Official negotiations on a FTA are expected to start with the EU on 5 March and the government has stated that parallel FTA discussions will occur with the USA, Australia, New Zealand and the Transpacific countries, with at least one draft copy leaked³. A Trade Body has been established to look at this in the Department for International Trade but unfortunately without any representative of either animal welfare or environmental organisations. It will be important for the government to set the right priorities, to ensure full transparency from the preparation of the negotiating mandate to the formal conclusion of the negotiations, and to allow for effective parliamentary scrutiny.

¹ Minister for State DIT NCD 27 January 2020

² <https://www.gov.uk/government/speeches/pm-speech-in-greenwich-3-february-2020>

³ <https://www.chathamhouse.org/expert/comment/nhs-not-sale-us-uk-trade-deal-could-have-impact>

This briefing is published by the twelve members of the UK EU Taskforce, who represent the leading animal welfare organisations in the UK. It sets out clear recommendations to the UK Government for its trade policy that fully integrates an animal welfare dimension and recognises the link between improved animal welfare standards and sustainable food production.

Trade and animal welfare

Leaving the EU's Common Commercial Policy, the UK must ensure from the onset that protecting and even improving animal welfare standards in the UK and abroad is central to its trade policy. The UK has repeatedly stated since the Referendum in 2016 that it will seek to improve animal welfare as it leaves the EU and take any opportunities to improve it that arise, a position reiterated by the Prime Minister⁴ and the Department for International Trade⁵. Specifically, the Government has stated that the independent trade regulator will ensure all food imports into the UK comply with UK legal standards⁵. However, as yet the UK has not agreed to cement these promises into any legislation. An amendment was adopted in the Trade Bill in 2019, which governs negotiations on existing FTAs, that there will be no lowering of animal welfare standards but the government is likely to remove this clause when the Trade Bill is reintroduced and has resisted putting similar language in the Agriculture Bill. Any UK trade policy will have to enact these aspirations to address the challenges that trade liberalisation poses to the UK's higher animal welfare standards and to ensure it serves as a vehicle to promote higher animal welfare standards in partner countries.

Trade liberalisation has a massive impact on animal welfare, particularly because of the requirement, under WTO rules, to liberalise trade in 'substantially all products' when negotiating non-multilateral agreements. This means that agricultural products will virtually almost always be included in the FTA discussions. As most of the UK's higher animal welfare standards impacted by trade concern farmed animals and to a lesser extent animals used in laboratories, this means that any FTA concluded by the UK with a third partner will impact these standards.

There is the potential that many animal-based products imported into the UK after Brexit will not meet animal welfare standards equivalent to those applicable in the UK. As the UK aims to improve several standards above the current EU level, this discrepancy between local and imported goods is likely to increase. At the moment, the EU and the UK are interlinked on farm standards and farm trade - most of the EU's 18 farm standards are replicated in the UK, ensuring a level playing field, and most of the UK's farm exports and imports are to and from the EU. 40% of the pig meat produced in the UK is exported to non-EU countries, making it the UK's largest agri-food exported product and 31% of the chicken imported into the UK comes from non-EU countries, making it the largest imported agri-food. However, should tariffs be imposed for UK-EU trade, this could change dramatically.

Further opening the UK market to poorer welfare imports will have consequences for animals, both within and outside the UK, especially in the absence of an effective labelling system based on methods of production. Firstly, providing more market access to poor welfare products means that more animals will suffer as production under lower animal welfare standards will continue in third countries and, most likely, increase to meet the higher demand generated by a lower price in the UK. Secondly, these imports negatively impact the competitiveness of UK producers who must comply with higher animal welfare standards. Under pressure, farming lobbies will not want further costly

⁴ <https://www.gov.uk/government/speeches/pm-speech-in-greenwich-3-february-2020>

⁵ Minister for State DIT NCDeb 27 January 2020

regulation of their production. At the most extreme, this may even put the existing UK standards at risk or, at least, their effective enforcement. This pressure on competitiveness contributes to a chilling effect on animal welfare regulations, which has already been witnessed in the EU where no new animal welfare regulation has been published in the past 9 years.

On the positive side, as trade agreements are one effective tool for the UK to cooperate and assist other states with issues such as animal welfare, trade policy represents a unique opportunity for the UK to positively influence animal welfare abroad and ensure its place as a world leading force for higher welfare standards. Because the UK has some of the best animal welfare standards in the world it will be possible for the country to use its trade agreements as a means to help other countries to raise their animal welfare standards, notably by offering cooperation and technical assistance. The UK can also use conditional access to its market to incentivise States and producers to improve their animal welfare standards by meeting UK standards.

A Bilateral trade policy that protects animal welfare

The UK EU Taskforce argues for both animal welfare and conservation issues to be consistently included in all UK Trade Agreements under a standalone comprehensive chapter. The UK should consider the following tools to ensure animal welfare standards applied in the UK are maintained, and that the full potential of trade agreements is used to promote improved standards abroad:

- **Conditional liberalisation for higher welfare animal-based products based on preferential tariffs, tariff rate quotas or non tariff measures**
- **More detailed provisions on animal welfare cooperation based on meeting at least the OIE's 15 farm animal welfare global standards**
- **Inclusion of Trade and Sustainable Development chapters recognising the link between animal welfare and sustainable development**
- **A transparent negotiation and implementation process, providing continuous engagement with civil society at all stages**

Improving animal welfare beyond cooperation mechanisms

Conditional liberalisation would permit imports into the UK only if the products meet standards of animal welfare equivalent to those applicable in the country. Such a principle would be in line with the results displayed by the most recent Eurobarometer on animal welfare which showed that 94% of British citizens want imported animal products to respect all domestic rules, and not only those related to slaughter (as it is the case at the moment). Such trade restrictions, if imposed unilaterally, could be justified under WTO law based on the exception regarding public morals contained in the General Agreement on Tariffs and Trade, Article XX (a), as confirmed by the WTO Dispute Settlement Body in the EC - Seal Products case. The measure should be origin-neutral and should require an equivalence of results, rather than methods, as recognised in the US Shrimp and Tuna-dolphin II cases. If conditional liberalisation is negotiated with a partner in a trade agreement (in the form of preferential access being provided to higher welfare products), it should not lead to any conflict under WTO rules. A second-best option would be for the UK to only grant additional trade preferences to animal-based products which respect animal welfare standards equivalent to those applied in the UK. This can take the shape of a conditional tariff-rate quota.

Another principle that should be protected in any UK FTA is the right for the Parties to regulate. This principle should not only come in words but also by setting the right legal environment avoiding any pressure against higher standards, for instance, by imposing conditional liberalisation.

Strengthening animal welfare through result-oriented cooperation

Trade Agreements should still also include mechanisms for increased cooperation and technical

assistance on animal welfare with the partners. Cooperation and technical assistance are the primary means through which the UK will be able to assist third countries to improve their animal welfare standards, therefore making more bearable its requests in the field. These provisions on animal welfare cooperation should explicitly cover all animals that are affected by trade (farmed animals, animals used in science, wild animals, and companion animals), recognize animal sentience, call for upward regulatory alignment at least based on OIE standards as a baseline, and establish concrete objectives with the partner, underlining key issues.

Trade and Sustainable Chapter: adding animal welfare to conservation issues

As is already common practice for several important trade players, the UK should include in its trade agreements a chapter covering issues related to sustainable development. In this framework, it is important that the UK adopts a comprehensive definition of this term recognising the interlinkages existing between animal welfare and sustainable development. The UK Farm Animal Welfare Committee (FAWC) partly confirmed this approach in 2012 already, stressing in advice written to the UK Government that “the concept of sustainability must include the welfare of farm animals. Indeed, livestock agriculture cannot be considered sustainable if an animal’s life is not worth living.”⁶ Food production systems with detrimental conditions for animals, such as farms where animals are highly confined, are also detrimental to the achievement of many UN Sustainable Development Goals (SDGs). However, systems that have the potential for higher animal welfare standards are also more likely to positively benefit the SDGs.

This chapter should not be deprived of effective enforcement mechanisms. They must contain clear commitments and their violation should lead, as a last resort, to sanctions. This would ensure better tackling of issues usually mentioned in such chapters, such as wildlife trafficking or sustainable fishery. Sanctions being only a last-resort option, it will be important to write such chapters in a result-oriented manner, building the foundation for an implementation phase delivering concrete progress.

Involvement of Civil Society and parliamentary scrutiny

Trade policy impacts citizens and it is therefore important to create mechanisms that will allow for effective involvement of civil society throughout the trade negotiations and during implementation. At the moment, the most advanced trade policy in that field is the EU’s. The UK should ensure draft mandate for negotiations are made public and are discussed and agreed in Parliament, allowing for feedback from stakeholders. During negotiations, it should apply full transparency and update civil society and Parliament on a regular basis, publishing proposals they make to partners. Once the agreement concluded, the ratification process should imply parliamentary consent. This approach will ensure the UK trade policy is fair and inclusive, reflecting the wishes of its citizens. It will thus be better understood and more supported. Similarly, the trade agreement should be ratified by Parliament under a transparent process involving civil society.

The UK should create specific civil society mechanisms that will be in charge of monitoring the implementation of the agreement. To ensure effectiveness, sufficient resources should be allocated. Representatives of civil society could be involved in Parties’ committees devoted to the implementation of each chapter. This would again ensure sufficient transparency and that the impact of trade agreements is better conveyed to the public. Indeed the US Mandate for the UK trade negotiations has several demands for such a transparent process involving civil society and other stakeholders⁷.

⁶ FAWC, [advice on sustainable intensification of livestock agriculture](#), 3 February 2012

⁷ https://ustr.gov/sites/default/files/Summary_of_U.S.-UK_Negotiating_Objectives.pdf