Brexit, agriculture and environmental standards

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Leaving the European Union (EU) has the potential to trigger a paradigm shift in British agricultural policy and food standards and this will have repercussions for the rest of the EU. As those who attended this year's annual conference in Santiago de Compostela will have noted, borders have significant ramifications for aspects of regional studies. Brexit threatens to bring back borders in this corner of north-western Europe with a vengeance, and agriculture – in spite of its modest overall economic importance – is a major reason why.

The – sometimes unseemly – reality is that in Europe and across the world, agriculture is fundamentally a product of state intervention and regulation. More than any other sector, European agriculture exists behind a high tariff wall and

EU sanitary and phytosanitary (SPS) standards are amongst the most onerous in the world.

Within the EU, state intervention in agricultural policy is predominantly done on a pan-EU basis and this largely depends upon three main pillars. The first is the protective wall of tariff barriers that the European Union Customs Union applies to most agricultural imports. The second is the much-maligned Common Agricultural Policy, which in essence involves a more direct state intervention in the market. The final pillar is that which this piece intends to focus on: SPS standards.

Harmonised SPS standards are one of the most important facilitators of frictionless movement of goods within the Single Market. As such, any deviation from common standards will have substantial ramifications for borders and regions near them. In the short term, this will be most keenly felt on the island of Great Britain (particularly its south-eastern corner) where concerns abound about disruption to medical supplies, fresh food shortages and damage to 'just-in-time' supply chains.

In the longer-term, Northern Ireland's fragile economy and equally fragile peace are likely to face non-trivial issues. Irrespective of what is eventually agreed (including the possibility of Irish unification), Northern Ireland will face a community aggrieved and the loss of frictionless trade with one of its two largest trading partners (Great Britain and the Republic of Ireland respectively). Whilst in practical terms, a border in the Irish Sea might be significantly less disruptive than a land border, it will still have an impact, even checks undertaken at port are less visible and less onerous than those done on land.

Brexit is unlikely to put pressure on the rest of the EU to substantially alter its tariff schedules, although it is probable that in the event that the UK does not form a customs union with the European Union Customs Union, its own tariff schedules will change. Likewise, over time the Common Agricultural Policy will evolve as each multiannual financial framework is negotiated but it is hard to see Brexit having any substantive impact on it. Within the UK, some form of agricultural protection is likely to be adopted, but it's unclear what form this will take. This represents one of the few areas where UK policy post-Brexit is likely to improve.

SPS standards, however, will face a more interesting road. Common SPS standards are one of the key elements that facilitate frictionless trade within the EU and European Economic Area (EEA, *EEA members are largely bound by the same regulatory framework as EU members, being effectively part of what is known in common parlance as the 'Single Market'. EEA members are not part of the CAP or Common Fisheries Policy*). Indeed, it is estimated that around 80% of the time spent checking UK imports from outside the EU can be attributed to SPS checks. Of course, on day zero of Brexit, the UK's SPS standards will be entirely aligned to those of the EU. As a result, there will be substantial pressure on the UK to negotiate a formal acknowledgement of equivalence with the rest of the EU (even if this involves EU certification within the UK).

This is due to the fact that any delay due to SPS checks (particularly on the Dover-Calais crossing) could cause long queues and thus enormous problems for retailers and for non-agricultural sectors reliant on 'just-in-time' deliveries. However, there are considerable political risks here. This outcome will have followed a breakdown in talks between the UK government and the EU and this is likely to have involved considerable acrimony on both sides. There is thus a substantial incentive for the UK to continue to maintain EU-compliant SPS standards.

Nevertheless, the political environment might not be conducive to this. In particular, the UK Government will be under enormous pressure to demonstrate a Brexit-related "quick win". The only obvious markets that rival the EU in size and scope are China and the USA. A quick agreement with China is difficult to envisage, particularly given ongoing political disputes (including, but not limited to, Human Rights, Hong Kong, Taiwan and various disputes in the South China Sea). Indeed, it is certainly feasible to envisage that an agreement with China might preclude one with the USA.

Moreover, given the political proclivities of the present incumbent of Number 10, it does appear that a quick trade deal with the United States is likely to be pursued. Herein lies the major issue: SPS standards are certainly going to be a major sticking point in any trade deals that the UK seeks to strike. Relaxation of these standards is near the top of the list of US objectives in any future trade negotiations with the UK (United States Trade Representative, 2019).

It is natural that such issues have become of acute concern to some British

consumers. Whilst the subject of chlorinated chicken has received a great deal of media attention, this ignores a number of potentially far greater issues. In particular, the EU and USA have dramatically different approaches to food safety. In the EU, if the possibility of harmful effects cannot be ruled out, the so-called "precautionary principle" dictates that they are not permitted. In contrast, the USA is generally permissive unless there is direct scientific evidence of harm.

Examples abound of substances that are banned in one jurisdiction but permitted in the other. For example, the use of azodicarbonamide and potassium bromate in bread. Both have been linked to cancers in laboratory tests in rodents. As a result, both substances are banned in the UK but not in the USA. Similarly, several hormone treatments in animal feeds are currently banned in the EU (Council of the European Union, 1996), but are common in the USA. Opening the UK market to permit imports of these will almost certainly be a top objective of US trade negotiators.

It is possible that relaxation of these standards will also be an issue in any UK-Australia trade deal, although this is far from certain and their use is not as ubiquitous as in the US. The scientific evidence on hormone treatments remains mixed and, since the possibility of harmful effects cannot be ruled out, the "precautionary principle" dictates that they are not permitted. The use of 17β-oestradiol in cattle is of particular concern (Daxenberger, Ibarreta, & Meyer, 2001) as is ractopamine in pork. A similar example exists in the use of brominated vegetable oil, which is used in some soft drinks in the USA whilst banned in the EU.

Further, there is some evidence that the system of food certification in the USA is somewhat less focussed on public health than that in the EU. The preservative butylated hydroxyanisole is permitted and widely used in the USA, in spite of the fact that it can be "reasonably anticipated to be a human carcinogen" (U.S. Department of Health and Human Services, 2016). This suggests the possibility that the burden of 'proof of harm' in the USA is set higher than many Europeans would be comfortable with.

Suspicion of standards in the United States must surely be reinforced given the reliance of the US Food and Drug Administration (FDA) on studies carried out by companies themselves, although it's worth noting that this is not different to regulation of many other sectors in the EU. No surprise then that EU food

standards are seen by experts as “amongst the highest in the world” and significantly higher than those in the USA (Lang & Millstone, 2019, p. 1199).

Similar regulatory differences emerge for non-food chemicals – particularly in the cosmetics industry – and in environmental protections. Dibutyl phthalate is restricted in the EU and there are, for example, a total of 82 pesticides used in the USA that are banned in the EU (House of Commons International Trade Committee, 2018). The herbicide atrazine has been banned in the EU for many years but is one of the most widely used in the USA and Australia.

Equally concerning for the UK is the prospect of future divergence. EU regulations concerning the use of antibiotics in animals are also currently being strengthened on public health grounds (antibiotic resistance) and if the UK wishes to maintain frictionless trade then it will need to continue to strengthen its own regulatory standards in line with these. If the UK wishes to align its food standards with the USA, then it will need to accept significant frictions in trade with the EU as the price for this. As previously stressed, whilst the law might relate to SPS standards, trade friction will affect all sectors of the economy.

For the EU as a whole, there should be concern at the prospect of the UK adopting lower US standards on chemicals and food safety. Whilst the EU is undoubtedly more than capable of ensuring the integrity of the Single Market via border checks, it’s probable that having a large market with very different standards on your doorstep will, over time, create its own subtle pressures. How easy will it be to prevent smuggling? What pressures will the EU come under to try and facilitate movement and trade with its neighbour come a recession in 2030?

All of these returns us to the challenges for border regions. Calais and Ireland (possibly including Northern Ireland in the event of a border in the Irish Sea) would face enormous challenges in properly policing their borders. More broadly, agricultural regions across the EU (including the UK) will face the loss of a major market.

On day one, with UK standards identical to those in the rest of the EU, it might be possible to paper over this for a while. Over time, however, if the UK diverges from the EU (and adopting US standards would be a dramatic divergence) policing will become difficult. Unification would certainly eliminate this dilemma

but poses its own challenges (not least in convincing the UK government to hold a referendum on the topic, which is hard to imagine given the current government's political leanings). It could also make exporting perishables to other EU members much more challenging: Brexit affects Ireland almost as much as it affects Britain.

On a UK domestic level, additional concerns should be raised over regulatory changes involving labelling. It should surely go without saying that – whatever the science – consumers should be aware of precisely what they are purchasing and anything that goes in it. There was justified outrage when it was found that horsemeat had been substituted for beef in certain ready-meals sold in UK supermarkets. The key issue is not that there is anything intrinsically wrong with eating horsemeat but rather that consumers have the right to know what they are consuming.

In the USA this is not always the case. For example, rules requiring labelling of genetically modified foodstuffs (many of which have been available for years), are only just being implemented. Indeed, some processed foods (including sugar from sugar beet) will be exempt from the new labelling rules. Similarly, foods containing certain food dyes (e.g. Red Dye No. 40, Yellow Dye No. 5 and Yellow Dye No. 6) must be sold with a warning label in the EU after research in the UK found possible links to hyperactivity in children.

A comprehensive free trade agreement with the USA has the potential to change the face of the UK countryside for ever. UK agriculture would face potentially extreme challenges on three fronts. Firstly, it would face extremely strong competition from farmers in the US, Australia and elsewhere. It could also need to deal with consumer confidence issues as concerns over the use of chemicals in foods (as well as genetic modifications) potentially become widespread. As witnessed over the bovine spongiform encephalopathy (BSE – mad cow disease) scandal, this can be damaging irrespective of the scientific evidence or provable risk.

Finally, the UK would also face restrictions on its ability to export into the rest of the EU market, where SPS standards would remain much tighter. Any exports would need to prove compliance with all EU regulations, which would entail additional inspections and might be costly. It is worth noting that animal welfare standards in the US and elsewhere are also different to the EU. Questions over future SPS standards are hugely sensitive on many levels and there is

considerable uncertainty as to what will transpire.

For regions, the return of borders is likely to prove something of a shock. The impact of differing SPS standards and other agricultural barriers will spill into other sectors. Automotive manufacturers, for example, are likely to feel their impact via disruption to supply chains. The loss of the so-called “land bridge” is likely to be an issue for those Irish businesses supplying time-critical things to customers elsewhere in the EU.

For Kent in south-eastern England, the prospect of a hard border with France is likely to prove a rude awakening for many; and regions throughout Great Britain will be affected by frictions, the loss of trade and potentially further deindustrialisation due to divergent standards. Similarly, an independent Scotland seeking to re-join the EU post-Brexit would face all of these issues on steroids, simply because such a large proportion of its total trade is with the rest of the UK. Naturally, the same would be true for Northern England, where a hard border would need to be implemented with Scotland. The upshot is that SPS divergence and differences in safety standards are likely to open Pandora’s Box and a US trade deal might well render much of this extremely difficult to reverse.

References

COUNCIL DIRECTIVE 96/22/EC: concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC, (1996).

Daxenberger, A., Ibarreta, D., & Meyer, H. H. D. (2001). Possible health impact of animal oestrogens in food. *APMIS, 109*(S103), S386-S401.

House of Commons International Trade Committee. (2018). *UK-US Trade Relations: Second Report of Session 2017-2019*. London.

Lang, T., & Millstone, E. P. (2019). Post-Brexit food standards. *The Lancet, 393*(10177), 1199.

U.S. Department of Health and Human Services. (2016). *14th Report on Carcinogens*.

United States Trade Representative. (2019). *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*. Washington D.C.: Executive Office of the President of the United States Retrieved from .