

# Future of Britain after the EU Referendum

## Summary of Topic 2 Food policy/regulation



# Background to Topic 2

## Food Policy and Regulation

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### Food Policy and Regulation Post-Brexit

The United Kingdom (UK) left the European Union (EU) on 31st January 2020 and is now in a transition period during which it will negotiate the terms of its future relationship with the EU. During this transition period EU rules continue to apply. Any new agreements negotiated between the UK and EU are currently anticipated to take effect at the end of the transition period on 31 December 2020. As an EU member state, the UK agreed to a range of rules and regulations governing food standards and products. Brexit now offers the opportunity to revisit some of these standards and policies and to develop domestic alternatives, although many are also subject to World Trade Organization (WTO) rules. The government has indicated that it is willing to diverge from EU standards, even if that means not being able to secure a trade deal with the EU by the end of the transition period. The following sections will provide background on some key policies, and on how and why they were regulated by the EU. You will then be asked to consider what rules and policies the UK should develop for each of these areas now it has left the EU.

### Background

The European Commission develops food policy in consultation with EU member states and after taking the advice of expert committees. Two such bodies are the European Food Safety Authority (EFSA) and the European Chemicals Agency (ECHA), both composed of national scientific experts that give advice on, for example, the safety of particular substances.

The EU's rules and regulation also have to be compliant with international trade rules. The World Trade Organization (WTO) is the key trade body that provides a forum for governments to come together to negotiate and agree rules on trade. It also has a disputes panel that considers disagreements between states over trade measures.

The General Agreement on Trade and Tariffs (GATT) is a core legal agreement regulating trade between states. GATT Article XX allows countries to limit trade on environmental, animal welfare or human health grounds. However, it can be difficult to secure WTO agreement for such bans. For example, an attempt by the United States of America (US) to ban imports of shrimps that were being harvested in a way that was harmful to sea turtles was overruled. A similar ruling was made when the US tried to limit the import of tuna from Mexico on environmental grounds.

The WTO also has a Sanitary and Phyto-Sanitary (SPS) agreement, which sets out basic rules for food safety and animal and plant health standards. States are allowed to set their own SPS standards, but they must be based on science and extend only as far as is necessary to secure the relevant protections. Countries are encouraged to use international standards and guidelines where they exist but can set higher standards as long as they apply an appropriate risk assessment and do so consistently in a non-arbitrary way.

A key principle underpinning EU food regulation is the **precautionary principle**, which means where there is a risk of a substance or process causing harm a precautionary approach may be adopted that seeks to minimise or prevent potential risks, even in the absence of definite knowledge. The EU's application of this principle has led to disagreements between the EU and other countries such as the US, which have argued that the EU's approach to risk is too cautious and is used by the EU as a way of restricting trade.

In the next section, several examples of food policy and regulation are outlined so that you can consider what kind of policy the UK should be adopting post-Brexit.

# The cultivation and import of genetically modified organisms (GMOs).

## Question 2.1

Should the UK ban the cultivation and sale of Genetically Modified Organisms (GMOs)?

## What are GMOs?

GMOs are organisms with genetic material (DNA) that has been altered in ways that do not occur naturally. The most common types of GMOs are genetically-modified (GM) plant species, such as GM maize, soybean, oilseed rape and cotton varieties. These crops have been genetically modified to resist certain insect pests and/or tolerate herbicides (that kill weeds). The EU has a detailed safety assessment regime for authorising the cultivation and sale of GMOs, underpinned by the precautionary principle.

### Benefits

Those in favour of the use of GMOs argue that their use is important for developing new pest-resistant crops that can reduce the use of pesticides and for developing crops with enhanced nutritional benefits such as golden rice, which has higher concentrations of vitamin A.

### Risks

Those opposed argue that the risks of cross-contamination with non-GM crops poses wider risks to the environment, where, for example, weeds become resistant to herbicides or pests.

It has also been suggested that there are potential implications for human health, through (i) the accidental transfer to food products of genes that can cause an allergic reaction, such as nut-genes to non-nut products, (ii) the accidental transfer of GMOs not authorised for human consumption into food for humans, or (iii) the possibility of transferring anti-biotic resistance to humans.

## UK Position

Currently no GMOs are cultivated in the UK, though the UK does have centres for the research and development of GMOs. When the UK was an EU member state authorisation to grow GMOs was subject to the EU's detailed safety assessment regime and a precautionary approach to risk.

Some GM foods are sold in the UK, but they have to be labelled in line with EU labelling rules. These require the presence of GMOs to be indicated, although products from animals fed with GM food do not have to be labelled. All products that are GM free can be labelled as such.

## Policy Choices

Which route do you think the UK should take?

Do you think the UK should restrict the cultivation and/or sale of GMOs?

**OPTION 1:** Carry on with a regulatory regime similar to the current one based upon a strict approach to authorising the cultivation and release of GMOs and requiring the labelling of food and feed that contain GMOs



### Arguments For

- It may be easier to trade with the EU.
- It would be possible to address the wider concerns about the safety of GMOs for the environment and consumer health, such as the possibility that genes might be transferred to other species, which can lead to unwanted resistance to antibiotics or herbicides.



### Arguments Against

- There is a risk that the UK may find it difficult to secure trade deals with non-EU trade partners that produce GMOs, such as the US, Brazil and Argentina.
- Advocates of GMOs argue that the EU system stifles innovation and risks damaging the commercial viability of the UK biotechnology industry.
- A more restrictive regime may mean we miss out on the potential environmental and social benefits of GMOs, such as the reduced use of pesticides or the development of crops that can thrive in inhospitable environments or provide certain nutrients more effectively.

**OPTION 2:** Adopt a less restrictive regime than at present based upon a looser interpretation of the precautionary principle. Allow wider cultivation of GMOs and also loosen rules on labelling of GM products



### Arguments For

- It could be easier for the UK to secure trade deals with non-EU partners and could facilitate the development of a domestic biotechnology industry.
- It could mean we are able to take advantage of the potential environmental and health benefits of GMOs, such as reduced pesticide use and the introduction of new drought-resistant or nutrient-enhanced crops.



### Arguments Against

- There is a risk that consumers may not be provided with sufficient information about the content of their foods.
- Failing to apply a rigorous risk assessment in line with the precautionary principle may increase risks for consumers and the environment. Previously safe foods might cause an allergic reaction in some people, while others might give rise to antibiotic resistance.

# The use of pesticides & herbicides: glyphosate

## Question 2.2

Do you think the UK should ban the use of glyphosate (a weed killer)?

## What is glyphosate?

Glyphosate is an herbicide (weed killer) that is widely used globally. Its use in the EU is subject to EU rules and authorised at the EU level by the European Commission following a rigorous evaluation process. The EU's approach to regulating the use of pesticides and other plant protection products is underpinned by the **precautionary principle** and by a commitment to ensure that the environment, and human and animal health are protected.

### Benefits

Glyphosate is regarded as an effective weed-killer that is widely used and plays a key role in increasing agricultural productivity. Groups such as the National Farmers' Union argue that the use of glyphosate can reduce the need for ploughing, with positive effects for biodiversity and carbon emissions.

### Risks

In 2015 the International Agency for Research in Cancer labelled glyphosate as probably carcinogenic. In 2018 a US court ruled that Monsanto should pay damages on the grounds that its weed killer, Roundup, which contains glyphosate, had caused the terminal cancer of a school groundskeeper.

## UK Position

There were moves to ban glyphosate in the EU in 2018 over concerns about its safety. However, as both the European Food Safety Authority and the European Chemicals Agency concluded that glyphosate is not a carcinogen it was re-authorised for use until 2022.

Despite this authorisation under EU rules individual states can still ban the use of pesticides/herbicides within their territory. France has banned the sale of a range of products containing glyphosate and Portugal and Italy have banned its use in public parks and gardens. The UK continues to authorise the use of glyphosate.

## Policy Choices

Which route do you think the UK should take?

Do you think the UK should ban the use of glyphosate?

**OPTION 1:** Develop a similar regime to the EU's and continue to follow EU recommendations



### Arguments For

- The UK would be able to export food treated with pesticides to the EU market as long as it meets the appropriate standards.
- Under the current EU rules, the UK can already limit the use of a chemical if it wishes to do so.



### Arguments Against

- If the EU bans glyphosate in future, the UK is likely to have to do so too, even if its domestic safety assessment found the use of glyphosate to be safe.

**OPTION 2:** Develop a different regime using a different set of safety and authorisation rules.



### Arguments For

- If the EU moved to ban the use of glyphosate the UK could continue to use it, if it was deemed safe by UK experts.



### Arguments Against

- It will take time for the UK to put a domestic authorisation regime in place.
- If its rules do not meet the EU's rules on the acceptable use of pesticides/herbicides, the UK may find it more difficulty to export food to the EU.

# Food standards for imports

## Hormone-treated beef and chlorinated chicken

### Question 2.3

**Now the UK has left the EU do you think it should continue to ban the import of hormone treated beef and chlorinated chicken?**

The EU has restricted imports of certain foods including beef treated with hormones and chicken washed in chlorine and other substances. The US has complained to the World Trade Organization that EU rules discriminate unfairly against US beef and chicken, which US expert committees have found to be safe. However, as many as 1 in 6 Americans are estimated to suffer from food poisoning each year compared with 1 in 66 in the UK.

On chlorinated chicken the EU's food safety committees have argued that there are insufficient data to be able to conclude that the use of these products is safe for humans and therefore have invoked the precautionary principle to justify restricting the import of these goods.

On hormone-treated beef the main dispute has centred around the scientific evidence. The US has argued that the evidence shows the consumption of hormone-treated beef is safe. EU expert committees have argued that it does not.

Both chlorinated chicken and hormone-treated beef have also been said to raise concerns about animal health and welfare.

Complaints from the US to the World Trade Organization have led to rulings against the EU but the bans on chlorinated chicken and hormone-treated beef remain in place.

It has been suggested by the US government that one condition for securing a future post-Brexit UK-US trade agreement would be that the UK sets aside strict EU food standards to allow imports of foods such as chlorinated chickens or hormone-treated beef. These have also been long standing priorities of the US government in any US-EU trade deal. Such imports are likely to cost less than food from domestic producers that use higher standards, potentially driving UK producers out of business and reducing choice for UK consumers. Moreover, the EU has indicated it would require the UK to carry on applying the EU bans as part of its price for a trade deal.

## Policy Choices

Which route do you think the UK should take?

Should the UK continue to ban the import of hormone-treated beef and chlorinated chicken?

**OPTION 1:** Continue to apply the same kind of food regulations as the EU



### Arguments For

- The UK will be able to export food for sale to the EU market and to guarantee current food safety standards, which may benefit consumers concerned about the quality and safety of food.
- The UK can continue to prevent imports of hormone treated beef and chlorinated chicken.



### Arguments Against

- The UK may struggle to secure a trade deal with third parties such as the US, which might make looser food standards one of the conditions of reaching a trade deal.
- Like the EU, the UK could find itself subject to a complaint to the World Trade Organization (WTO).
- Consumers might lose the opportunity to buy cheaper food imported from third countries.

**OPTION 2:** The UK develops its own food regulations



### Arguments For

- Having separate rules may make it easier for the UK to reach a trade agreement with third countries.
- If the UK allowed the import of food produced to what might be regarded as lower standards but also at lower prices, this would benefit consumers who want cheaper food.



### Arguments Against

- The UK may jeopardise its ability to reach a trade deal with the EU.
- If the UK chooses to weaken standards, UK producers will still need to observe EU standards when exporting to the EU market.
- Cheaper imports will threaten UK producers and potentially reduce consumer choice.
- Consumers may not wish to see products such as hormone treated beef and chlorinated chicken on the UK market because of concerns about lower animal welfare standards.

# Animal welfare standards: live exports

## Question 2.4

**Do you think the UK should ban the live export of animals?**

Live animals are exported to the EU from the UK for breeding, fattening, and slaughter. The EU has regulations that detail how animals subject to live export should be treated and which require, for example, that they be given food, water and rest, be allowed sufficient space, and be well treated. However, animal rights campaigners say that the export of live animals is cruel as it can involve animals being transported for long distances, becoming stressed during the journey and subject to lower welfare standards than used in the UK. They therefore argue that the trade should be banned.

The UK government cannot ban the export of animals under EU free movement rules. It has also been suggested that the UK may not be able to ban the export of live animals now it has left the EU due to international trading rules that do not allow restrictions on trade. Hence, if the UK were to ban live exports of animals post-Brexit, it may find itself having to defend its position in front of the WTO. Whilst Article XX of the General Agreement on Trade and Tariffs (GATT) does stipulate that states can restrict trade to protect human, animal or plant life or health, this article is rarely invoked successfully.

Another objection to restricting live exports is that such a ban would have an impact upon trade between Northern Ireland (NI) and Ireland. For example, Northern Ireland exported £16.7 million worth of live animals to the Republic of Ireland in 2016, which was 98% of the total value of NI's animal exports<sup>1</sup>. It has been suggested that one possibility to address this concern would be to exclude trade between NI and Ireland from any ban, though such a move could fall foul of trade rules.

## Policy Choices

Which route do you think the UK should take?

Do you think the UK should ban the live export of animals?

**OPTION 1:** Carry on exporting live animals using similar regulations to those that apply at EU level

### Arguments For

- Industries that rely on live exports will not be at risk of being put out of business.

### Arguments Against

- Live exports pose risks to animal welfare as a result of transporting animals over long distances and allowing them to be slaughtered outside the UK.

**OPTION 2:** Ban the export of live animals

### Arguments For

- The welfare of animals will be protected according to the UK's own standards throughout their lives.

### Arguments Against

- The UK may face legal action in front of the WTO.
- Stopping the trade may have negative implications for parts of the UK that are especially dependent upon the income from live animal exports such as Northern Ireland.

<sup>1</sup> House of Commons Library Briefing Paper. 2018. Live Animal Exports, available from: <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8031>

# Protected origin foods

## Question 2.5

**Do you think that products such as stilton and Cornish pasties should have special designation on the basis of where or how they are produced?**

Foods across the European Union can claim protected origin status so that only foods produced in a particular area and/or in a particular way can claim certain names or characteristics for marketing purposes. The UK intends to replace this EU scheme with a domestic alternative, the UK Geographical Indication (UKGI) scheme

The UK scheme will use the same approach as the EU and designate foods according the following categories:

- Protected Designation of Origin (PDO), which means foods must be produced within one defined area and have distinct characteristics from this area. In the UK stilton blue cheese is covered by a PDO.
- Protected Geographical Indication (PGI), which means the product must come from a specific place or region, be produced, processed or prepared in that region and have characteristics attributable to its geographical origin. In the UK Cornish Pasties have PGI.
- Traditional Speciality Guaranteed (TSG), which means that the product is produced using traditional methods and ingredients. In the UK traditionally farmed Gloucester Old Spot pork has a TSG.

The UK government has indicated that all UK products that were registered under the EU GI scheme will be protected under a new UKGI scheme. GI products registered under the EU scheme before 1<sup>st</sup> January 2021 will have until 1<sup>st</sup> January 2024 to change their packaging to display a UK GI logo. The UK government also claims that producers of products protected in the EU will be able to continue using the EU GI logo in the UK after the end of the transition period. Any new products seeking EU GI protection will need to secure protection under the UK scheme first.

### Benefits

A protected origin scheme can increase the market value of the products concerned and act as an indicator of good quality for consumers.

### Costs

Applying for protection creates an administrative cost. Moreover, simply having the status does not guarantee a commercial advantage. Marketing support may also be required.

## Policy Choices

Which route do you think the UK should take?

Do you think that products such as stilton and Cornish pasties should have special designation on the basis of where or how they are produced – and, if so, how?

Do you think the UK government should carry on with developing a UKGI scheme with a reciprocal arrangement with the EU?

**OPTION 1:** The UK implements the UKGI national approval scheme and negotiates a reciprocal agreement with the EU to ensure continued protection of UK and EU foods in both markets.



### Arguments For

- UK products would continue to be protected in the EU and would also have protected status in countries with a free trade agreement or bilateral agreement with the EU.



### Arguments Against

- The UK will have to meet the cost of setting up its own approval system that meets EU requirements.

**OPTION 2:** The UK develops its GI national approval scheme but fails to agree a reciprocal agreement with the EU



### Arguments For

- The UK can develop its own rules without reference to the EU.
- UK producers who still wish to be protected within the EU should still be able to apply separately for protected status in the EU.



### Arguments Against

- UK products currently protected under EU rules would no longer be protected in the EU unless a separate application is made to the European Commission.
- UK products and producers may lose the commercial advantage that comes from having protected status across the EU.
- Other producers in the EU could use current UK designations, which may confuse consumers.

**OPTION 3:** The UK does not develop its own national approval scheme



### Arguments For

- The UK does not have to meet the costs of setting up its own approval system.



### Arguments Against

- UK products would lose the market value that may come from having protected status in the UK, with negative impacts upon producers.
- A separate application would have to be made to retain protected status in the EU.
- UK Consumers could not be sure of the authenticity of foods labelled with a special designation.

# Payments to farmers

## Question 2.6

What should the UK do about farm payments after it has left the EU. Should it:

- i. continue to pay farmers based on the amount of land they farm,
- ii. opt for a 'public money for public goods' approach, or
- iii. remove support payments entirely?

## What are farm payments?

As a member of the EU, the UK was part of the Common Agricultural Policy (CAP). The CAP makes support payments (or subsidies) to farmers throughout the EU.

Originally the CAP was seen as an important tool to increase food production in the immediate post-war era. Payments were based upon the amount of food a farmer produced. This led to overproduction and excessive waste (the infamous 'butter mountains' and 'wine lakes' of the 1970s and 80s) and environmental damage through the use of pesticide and fertilisers.

At the same time as paying subsidies to domestic producers, the EU also imposed high tariffs on food imports into the EU and UK. EU farmers were protected at the expense of farmers in poorer parts of the world.

To address these issues, the CAP has since been reformed on a number of occasions, in an attempt to make it more efficient and less environmentally damaging.

In particular, in 2005 the link between payment and the amount that a farmer produced was removed. Farmers now receive payments on the basis of the amount of land that they farm. Furthermore, in order to qualify for payment, farmers have to meet certain standards of environmental management, animal welfare and traceability (that is, providing information on the origin of food and how it has been produced).

However, a key drawback of this system is that profitable and efficient farms that could survive without payments are still eligible to receive them. But payments also provide an important lifeline for less profitable farms in less favoured areas, such as hill farms in the UK. Many farms in the UK (particularly mixed farms, arable farms and those based on grazing livestock) are dependent upon these payments to survive.

### Benefits

Payments can help keep farms in business especially in areas where farming is more difficult, thereby helping to maintain the population of rural areas. Keeping farmers on the land also means they can act as stewards of the countryside and environment.

Payments can help ensure there is a secure supply of food at a stable price. They can also enable UK products to be more competitive on the global market.

If linked to specific activities (such as crop rotation or developing habitats for bees) payments can have environmentally beneficial effects.

### Risks

Support payments can develop a dependency culture, stifle innovation and make products from other (poorer) countries less competitive. They also artificially inflate food prices.

Inefficient farms have no incentive to improve their operations.

If payments are not directed specifically at promoting green practices there is no direct incentive for farmers to pursue environmental goals (such as using fewer pesticides or less fertiliser).

## UK Position

Brexit means that the UK has had to develop a new agricultural policy, which the government has spelt out in a draft Agriculture Bill. However, as this policy area is devolved the Bill largely only applies to England.

The Government has committed to maintaining the current payments system in England until the end of 2020, but proposes that a new payments system should be phased in from 2021.

The government has proposed that the new payments should be underpinned by a 'public money for public goods' approach. This means that rather than paying farmers according to the size of their holdings, payments will be linked to the provision of 'public goods', which can include: clean water, healthy soil, cutting greenhouse gas emissions, more woodlands and forests, protecting and developing wildlife habitats, reducing air pollution, reduced flood risk, maintaining the landscape and protecting rural heritage, and providing and protecting outdoor spaces for recreation.

Payments are expected to be paid out from taxpayer funds at the same rate as under the CAP – about £3bn a year, which means that agriculture will continue to receive a significant share of government spending.

Scotland, Wales and Northern Ireland may develop different payment schemes and policy approaches. The Scottish Government adopted legislation in August 2020, which proposes to keep farm support largely the same until 2024. Northern Ireland is, at the time of writing, maintaining the status quo with a view to making changes in the future. Welsh Ministers intend to introduce a Wales (Agriculture) Bill to put in place appropriate policies, but this will not be implemented until 2022.

An alternative option that the government could consider is to remove subsidies altogether. New Zealand, which has an economy that is much more heavily dependent on farming, made this decision in 1984. It now has a very successful agricultural industry. However, there have been negative social effects, such as farms being driven out of business, and negative environmental consequences, such as poorer water quality and increased greenhouse gas emissions (especially methane) from livestock.

In the UK's case removing support payments will make some products cheaper but could also lead to some becoming more expensive. It could also make food imports cheaper but drive UK farms out of business potentially reducing choice for consumers.

## Policy Choices

What should happen in the UK outside of the EU. Should the nations of the UK:

- (i) continue to pay farmers based on the amount of land they farm (being considered in Scotland),
- (ii) opt for a 'public money for public goods' approach (the English approach in the draft agriculture bill), or
- (iii) remove support payments entirely?

**OPTION 1: The status quo option.** Payments according to the amount of land held by a farmer



### Arguments For

- Farmers and food producers will know how much subsidy they will get.
- The price of food produced in the UK should remain relatively stable.
- The livelihoods of farmers from less favoured areas and those engaged in less profitable kinds of farming will be protected.
- It might make it easier for UK farmers to export to the EU.



### Arguments Against

- The payments provide no incentive for farms to become more efficient or to innovate.
- Profitable farms that have no need of support will continue to receive payments.
- Some food prices will be kept artificially high.

**OPTION 2: The public money for public goods option.** Payments for the provision of public (environmental) goods



### Arguments For

- Large profitable farms that have no need of subsidies will only receive payments if they are engaged in environmentally beneficial activities or projects.
- Support for farmers in less favoured areas or less profitable kinds of farming will continue as long as they are engaged in delivering public goods.
- Farmers should still know how much subsidy they will get, while the price of UK-produced food should still be relatively stable.
- This option should be better for the environment.



### Arguments Against

- It is likely that some farms will go out of business and this could mean greater reliance on food produced overseas to different standards.
- It may not encourage innovation or efficiency.
- Food prices may be kept artificially high and domestic producers put at an advantage over those in other (poorer) countries.

**OPTION 3: The New Zealand option.** Remove support payments



### Arguments For

- The government and taxpayers will save money.
- It should result in greater efficiency and innovation in UK farming.
- It will lead to lower food prices for some products.



### Arguments Against

- In the short term, it will lead to bankruptcies and farms going out of business. This could have negative social and economic consequences, such as a loss of population in remote and rural areas.
- Through discouraging biodiversity and encouraging fertiliser and pesticide use, it might lead to increased environmental damage.
- It may lead to cheaper imports flooding the market, reducing consumer choice. It may also make domestically produced goods more expensive.