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The Impact of Brexit on the Agricultural and Fishing Industries

This article considers the EU- UK trade relationship post-Brexit and the implications Brexit may have on the agricultural and fishing industries.

Introduction

The Irish agri-food sector is particularly vulnerable to the impact of Brexit. This is because the UK and Ireland are each other's largest export markets for agricultural and food produce, with the UK accounting for almost 40% of Ireland's agri-food exports. Ireland is the UK's greatest source of beef and dairy. The shared border between Ireland and Northern Ireland, the potential introduction of trade tariffs upon Irish exports to the UK and the loss of the UK's monetary contribution to the Common Agricultural Policy ("**CAP**") and Common Fisheries Policy ("**CFP**") could potentially combine to affect Irish farmers, fishermen and agri-food businesses who are heavily dependent on the UK market.

The effects of Brexit on the Irish agri-food sector were seen when, after the Brexit referendum, weaker sterling reduced profit margins and reduced the value of the UK market for Irish agri-food exporters. Any curtailment of or barriers to trade between the two countries will affect the agri-food sector, rural communities and the economy as a whole.

While the exact nature of the impact of Brexit on the agri-food industry is yet unknown, it is likely that Irish exporters will face more costs when doing trade with the UK as a result of increased regulatory and customs requirements and perhaps also as a result of any tariffs. Combined, these may have the effect of making Irish exports less competitive, resulting in greater uncertainty and reduced profit margins and growth for businesses.

Below, we consider the main areas of concern and key legal issues for businesses in the agri-food sector in relation to Brexit and seek to identify the likely shape of a future EU-UK trade deal and what this means for the Irish agri-food sector.

Ireland and the UK – the negotiations so far

As Ireland's largest indigenous industry, the agri-food sector is especially important to Ireland's economy. The agri-food sector employs over 250,000 people, 180,000 of which are employed in the agriculture sector. The Irish agri-food industry accounts for almost half the direct expenditure of the entire manufacturing sector in the Irish economy. This means that it supports employment throughout a range of other sectors across the country and as a result, is of the utmost importance to Irish society as well as the economy.

For these reasons, trade should be one of the top Brexit negotiation topics between the EU and the UK. The Irish Brexit negotiators have already performed strongly by securing agreement with the UK that there will be no hard border between Ireland and Northern Ireland, including any physical infrastructure or related checks and control. However, this agreement also makes clear that the UK, including Northern Ireland, intends to leave the customs union. How these two principles will work together in practice to provide an open border is unclear. In the absence of a future agreement clarifying this, the UK has agreed to ensure "*full alignment*" with the rules of the customs union and single market that support the Belfast Agreement and an all-island economy. While this is a key win and UK / EU have signed up to this in principle, the reality of reflecting this in a treaty is very different.

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Sterling and the value of trade

The value of sterling against the euro has already affected the Irish agri-food sector. In the immediate aftermath of the Brexit referendum, the value of sterling against the euro immediately dropped and has yet to fully recover. The direct impact of this is that Irish exports are now less competitive to UK importers and Irish exporters' sales have declined meaning that Irish exporters are taking home less money. This has already had the effect of reducing the profit margins of many Irish agri-food producers, particularly in the horticulture sector.

Ireland is more exposed to the decreased value of sterling than other Member States due to its heavy reliance on trade with the UK. Exchange rate fluctuations have also caused a sentiment of uncertainty that is only likely to be alleviated upon conclusion of the Brexit negotiations and the agreement of any trade deal, causing the exchange rate to stabilise. It is vital to the Irish agri-food sector that the value of the UK market is maintained at the highest possible value. This can only be done by securing a free trade deal with the UK that does not impose additional costs on Irish exporters nor require them to compete on price with produce from low cost non-EU countries.

Trade deal - WTO rules

The establishment of borders and tariffs between the UK (including Northern Ireland) and Ireland, which is a real possibility following Brexit, would have a major impact on the Irish agri-food sector.

Border

In December 2017, the Irish government secured an agreement with the UK that no hard border between Ireland and Northern Ireland would be introduced post-Brexit. Maintaining a frictionless border between Ireland and Northern Ireland is essential to the agri-food sector, as it is the most highly integrated economic sector on an all-island basis. The introduction of a hard border would be detrimental to such industries as milk processing, meat processing and food and drink production. Businesses in these sectors operate between the two jurisdictions on a daily basis, with produce crossing the border for various different stages of the production cycle. Similarly, many employees working in these sectors cross the border as part of their day's work. Any curtailment of the free movement of people and goods may impose additional time and costs on these businesses, resulting in decreased profits.

While the Irish government has done extremely well in securing a commitment to a frictionless border from the UK, it remains to be seen how this will work in practice, given the UK's intention to extract itself from the Single Market and put an end to the free movement of people, goods and services into the UK. It is essential this commitment to a frictionless border is upheld, given the impact a hard border would have on the agri-food sector and the Irish economy as a whole.

Tariffs

EU membership currently ensures tariff–free trade between Ireland and the UK. In the absence of a free trade deal being struck before the UK leaves the EU, the EU-UK trading relationship is likely to be governed by the World Trade Organisation's Most Favoured Nation ("**WTO MFN**") rules. This means that tariffs would be introduced to Irish exports to the UK, which are typically around 15% and higher for particular agri-food products. The introduction of tariffs would reduce the competitiveness of and demand for Irish exports by the UK. If a free-trade deal is not agreed, it is possible that Irish produce would have to compete with low-cost imports to the UK from non-EU countries with which the UK secures bi-lateral trade deals. This may make Irish produce less competitive, leaving Irish exporters to find other markets for their produce. Given the high volume of produce currently exported by Ireland to the UK, it would be difficult for the rest of the EU market to absorb this amount. Tariffs would especially affect the Irish beef industry (which exports almost 250,000 tonnes or 50% of all Irish-produced beef, to the UK) and the dairy industry (which sends 54% of its exports to the UK). Maintaining tariff-free trade channels with the UK is vital to the Irish agri-food sector.

Non-tariff barriers to trade

However, even if an EU-UK free-trade agreement is struck, meaning no tariffs are introduced, Irish exporters may find themselves faced with non-tariff barriers to trade that may result in increased cost.

Customs Union

As a member of the EU, the UK is currently a member of the Customs Union. The Customs Union means that once non-EU goods have cleared customs in one EU member state, they can be freely transported within the EU without the need for further checks.

If the UK leaves the Customs Union, UK goods would be required to adhere to "*rules of origin*" checks, designed to show that goods that originated in the UK adhere to various EU requirements. Cross-border trade between the UK and Ireland would involve customs controls, rules of origins checks and potentially, increased regulatory checks relating to such things as food safety and animal health and welfare. These trade barriers, as well as the additional associated paperwork, may result in increased time and costs to businesses seeking to export to the UK.

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These barriers to trade will especially impact trade between Ireland and Northern Ireland, with particular consequences for specific sectors, such as milk and meat processing. These areas are highly integrated on an all-island basis, emphasising how Ireland and its agri-food sector is particularly vulnerable to Brexit.

It is unclear at this time whether the UK wishes to remain in the Customs Union or not. It is in Ireland's favour that it remains but how this aligns with the UK's wish to leave the Single Market is unclear. If the UK leaves the Customs Union, how this will align with the UK's commitment to an open border between Ireland and Northern Ireland remains to be seen.

Regulatory divergence

In the medium to long term, Brexit may remove the obligations on the UK to comply with the significant regulatory regime relevant to the agri-food sector, such as pesticide regulation, animal health and welfare regulation, environmental regulation and consumer regulation, such as food safety, packaging and labelling. In particular, animal health and welfare is a key area of cross-border co-operation between Ireland and Northern Ireland, enabling the free movement of animals throughout the island. Future divergences in these regulatory areas could negatively impact the competitiveness of Irish agri-products in the UK and distort trade. Irish agri-businesses may have to look at the potential impact of any regulatory divergences on their businesses, addressing possible risks and identifying solutions on both the input (sourcing of ingredients, services and facilities) and output (sales and routes to market).

The final wording of the agreement between the UK and EU negotiators in the first round of Brexit negotiations in December 2017 secured a commitment from the UK to maintain "*full alignment*" with those rules of the Internal Market and Customs Union which support North – South cooperation, the all-island economy and the protection of the Good Friday Agreement. While securing this commitment is a strong indication of political intention to secure a trade deal that will be favourable to the Irish agri-food sector, implementing the practical reality of this may present obstacles.

CAP

The UK is a net contributor of approximately 10% of the EU budget as a whole. The Common Agricultural Policy ("**CAP**") and Common Fisheries Policy ("**CFP**") budgets make up 38% of the EU budget, subsidies upon which Irish farmers and fishermen are heavily reliant. The fact that the UK will no longer be a contributor to these funds means uncertainty as to the size of these budgets after 2020. Any reduction in payments made to Irish farmers and fishermen under either scheme may impact the agriculture and fisheries sectors, especially if combined with less competitive agri-food exports. Reduced payments would most notably put pressure on smaller farmers, especially in the beef sector. Negative effects could also impact the Irish economy as a whole, due to the reduced spending power in rural communities.

On the UK side, UK farmers and fishermen will no longer have access to EU subsidies through the CAP or the CFP. This could give rise to demands for national support and post-Brexit, the UK may not be required to adhere to EU restrictions on State aid. This could have a negative impact on the competitiveness of Irish agri-products in the UK, with consequent distortions to trade.

It is of crucial importance to the Irish economy, the agri-food industry and rural communities that the shortfall in the CAP and CFP budgets that arise as a result of Brexit are made up. Potential sources to meet this shortfall are the UK's "*divorce payments*" upon leaving the EU and increased contributions from other Member States. As the backbone of the Irish farming communities, CAP and CFP payments are matters which can be expected to be heavily negotiated at European level by Irish politicians over the next 12 months.

Conclusion

At this stage it is difficult to predict the precise shape of the EU- UK trade relationship post-Brexit. The UK has already given a commitment to maintain a soft border between Ireland and Northern Ireland, something essential to the Irish agri-food sector. It would be in Ireland's interests for the EU and UK to negotiate a free-trade agreement, thereby eliminating the possibility of the introduction of tariffs and the impact these would have on the Irish agri-food sector. Such an agreement would also move to stabilise the value of sterling against the euro at a greater value, making Irish exports more competitive and helping restore profit margins. Finally, if the UK remains a member of the Customs Union, goods would be able to travel across the border without the need for checks and delays, thereby minimising any additional costs to trade. These issues are expected to be at the top of the Irish government's Brexit negotiation agenda, given their importance to the Irish economy.

It is presently unclear as to whether the UK wishes to remain a part of the Customs Union or not. This may become apparent in the next phase of Brexit negotiations, which will also address the UK's "divorce" settlement and contributions to the EU budget (including CAP), which will be crucial to the Irish agri-food sector. Importantly, the UK has identified agriculture as one of the most important areas for North-South cooperation showing the political will on both sides to ensure a satisfactory outcome for negotiations.