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# IMPLICATIONS OF FUTURE EU-UK TRADE RELATIONSHIPS FOR IRELAND'S AGRI-FOOD SECTOR

IIEA BREXIT SECTORAL REPORT SERIES

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IIEA Brexit Sectoral Report Series

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# IIEA BREXIT

SECTORAL REPORT SERIES

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## IIEA BREXIT SECTORAL REPORT SERIES

The European Council and the UK have now broadly agreed on large parts of the UK's withdrawal agreement, and a transition period of nearly two years, to mitigate damage from the UK's withdrawal. The discussions have now turned towards the framework for the future relationship

To date the UK Government has set out only in general terms what it requires from a new relationship with the EU. In a speech in Florence in September 2017, the UK Prime Minister Theresa May asserted:

> *"Let us be creative as well as practical in designing an ambitious economic partnership which respects the freedoms and principles of the EU, and the wishes of the British people".*

The UK Government has been clear in stating what it does not want in a new partnership, including its exit from the Customs Union and the Single Market (though the domestic political debate on the former has intensified in recent weeks), and also the shortcomings, in their view, of some existing trade agreements negotiated by the EU. However, the UK has not set out in any detail its proposals for a new trade agreement with the EU.

In its December statement, the European Council noted the stated intention of the UK to no longer participate in the Customs Union and the Single Market after the end of the transition period, and stated:

> *"the European Council will calibrate its approach as regards trade and economic cooperation in the light of this position so as to ensure a balance of rights and obligations, preserve a level playing field, avoid upsetting existing relations with other third countries, and to respect all other principles set out in its guidelines of 29 April 2017, in particular the need to preserve the integrity and proper functioning of the Single Market".*

While the language surrounding the 'backstop' option for Northern Ireland remains to be agreed in the draft Withdrawal Treaty, it is widely accepted that Ireland has achieved its objectives in the first phase of the negotiations, both in terms of having the Ireland-Northern Ireland issue included in Phase 1, and in terms of the conclusions in the "Joint Report from the Negotiators of the EU and the UK on Progress during Phase 1" (paragraphs 42 – 56) presented to the December European Council meeting. The European Council stated in the context of the Report:

> *"Negotiations in the second phase can only progress as long as all commitments undertaken during the first phase are respected in full and translated faithfully*

*into legal terms as quickly as possible".*

This paper focuses on the trade issues arising from the UK withdrawal from the EU for Ireland's agri-food sector, bearing in mind the importance of the UK market for the sector, and also the importance of the Customs Union and the Single Market for the EU agri-food market, and the stated intention of the UK to leave both[1].

The paper examines three possible trade policy outcomes, ranging from the most favourable from Ireland's perspective, based on a customs union combined with regulatory alignment, to the most negative, assuming a "no deal" scenario, and reliance on WTO rules. An intermediate situation, based on a UK-EU free trade agreement, is also examined. The paper also looks briefly at some other trade-related issues, including the Ireland-Northern Ireland issues in the context of the Phase 1 agreement.

## IRELAND'S AGRI-FOOD EXPORTS WITH PARTICULAR REFERENCE TO THE UK MARKET

Ireland's total exports of agri-food products were valued at over €11 billion in 2016. In addition to the importance of Ireland's farming and food processing / manufacturing sector in export value terms, the sector is particularly significant in terms of both the relatively low import content of the exports, and its regional spread throughout the country.

1 The term "agri-food" refers here to the farming sector and the related food processing and marketing sector.

Agri-food exports in total are distributed between 37% to the UK, 32% to the EU countries excluding the UK, and 31% to the rest of the world. As table 1 shows, there is considerable variation in the export destination for different products.

Ireland's agri-food exports to the UK are valued at €4.1 billion (in 2016); these range across all the main sectors, headed by beef, dairy products and prepared foods. Ireland is also a substantial importer of agri-food from the UK, valued at €2.8 billion annually. The single largest segment consists of prepared foods, reflecting the prominent role of British retail multiples here.

Within the UK, Northern Ireland (NI) is an important trading partner with Ireland for food and drink. The agri-food sector on the island is highly integrated. Over 800 million litres of milk are imported annually from NI, much of which is processed here. About 400,000 lambs are imported from NI annually for processing, and a similar number of pigs are exported annually to the NI for processing.

The following is a brief overview of the importance of the UK market for Ireland's agri-food exports by sector.

Beef: The UK is 65% self-sufficient in beef, and Ireland is the main import supplier, accounting for 70% of UK imports. The UK market takes 50% of Ireland's beef exports, and 45% goes to the rest of the EU. Irish beef exports to the UK of 270,000 tonnes equates to almost 10% of intra-EU trade.

Dairy Products: In 2016 53% of Ireland's cheese exports and 29% of butter exports went to the UK. 82% of our cheddar cheese exports (78,000 tonnes) went to the UK, and the UK is the only significant market for this product.

Sheepmeat: The UK is a major importer of lamb from New Zealand and Australia, and in turn is a major exporter to other EU countries. The immediate issue is the future allocation of the NZ imports covered by a tariff rate quota.

Pigmeat and Poultrymeat: There is significant bilateral trade between Ireland and the UK, including export of live pigs to NI for processing.

Mushrooms: (Included under Horticulture and Cereals in the table). The UK accounts for 90% of the value of Irish exports, or over €80 million.

## THE UK FOOD MARKET

The UK is a major net importer of food; total imports in 2015 were valued at £38bn, and food exports from the UK were valued at £18bn. The chart opposite shows the overall deficit status of the UK food market and the origin of imports. The UK provides about 52% of its food supplies, and the rest of the EU is the major source of imports.

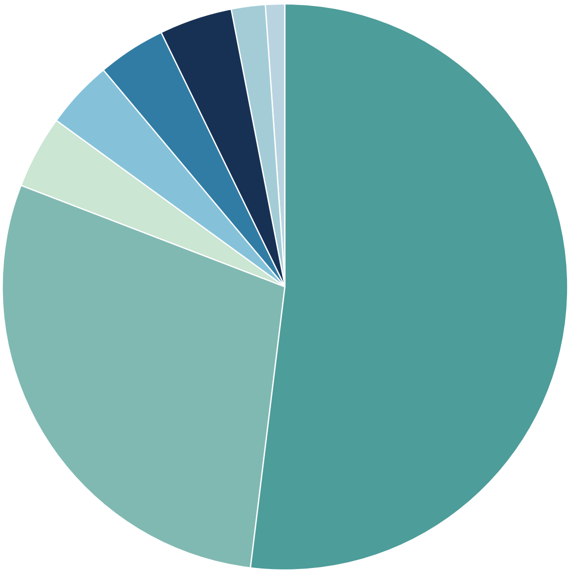
UK governments have been critical of the CAP over the years, particularly as regards its protectionist elements and its cost to the EU budget. The criticism is likely to be linked on the following factors: the UK is a net food importer, the UK is a net contributor to the EU budget, and prior to EEC accession the UK operated a "cheap food" policy based on liberal imports from third countries and direct income support for its own farmers.

### TABLE 1: IRISH AGRI-FOOD EXPORTS BY DESTINATION 2016 (€M)

| | UK | EU excl. UK | Rest of World | Total | UK as % of Total |
|---|---|---|---|---|---|
| Dairy Products | 825 | 890 | 1,665 | 3,380 | 25% |
| Beef | 1,180 | 1,080 | 120 | 2,380 | 50% |
| Pigmeat | 345 | 100 | 170 | 615 | 56% |
| Sheepmeat | 55 | 175 | 10 | 240 | 23% |
| Poultry | 235 | 20 | 20 | 275 | 85% |
| Live exports | 110 | 25 | 15 | 150 | 73% |
| Hort and Cereals | 195 | 35 | - | 230 | 85% |
| Seafood | 70 | 340 | 145 | 555 | 13% |
| Prepared foods | 740 | 565 | 620 | 1,925 | 38% |
| Beverages | 380 | 300 | 720 | 1,400 | 27% |
| Total | 4,135 | 3,530 | 3,485 | 11,150 | 37% |

(Source: Bord Bia Export Performance and Prospects, 2016-17)

## TABLE 2: ORIGIN OF FOOD CONSUMED IN UK, 2015



| Country | % |
|---|---|
| UK | 52 |
| EU | 29 |
| North America | 4 |
| South America | 4 |
| Africa | 4 |
| Asia | 4 |
| Rest of Europe | 2 |
| Australia / NZ | 1 |

(Source: Food Statistics Pocket Book 2016, DEFRA)

## FUTURE UK-EU TRADE ARRANGEMENTS IN AGRI-FOOD

The following is an overview of the options and implications of the future UK–EU trading arrangements.

This paper draws on the analysis in the European Parliament publication of October 2017 "Research for AGRI Committee – Possible transitional arrangements related to agriculture in light of future UK – EU relationship: institutional issues", prepared by Alan Matthews, Emeritus Professor, Trinity College, Dublin, and referred to here as the EP Institutional Issues report.[2]

The future UK–EU trade arrangements have implications for Ireland's farming and food sector in multiple ways. The potential problems which could arise, depending on the type of future trade arrangement, can be summarised as follows:

· Imposition of tariffs, administrative costs and delays, and regulatory costs on exports to the UK.

· Reduction in the value of the UK market, arising from low-priced imports from third countries.

· Destabilisation of the domestic Irish market, arising from low-priced imports, or imports with lower regulatory standards, particularly across the land border with Northern Ireland, and potentially threatening Ireland's access to the EU 27 market.

· Disturbance in the EU 27 market, arising from displacement of current EU (including Irish) exports to the UK, or displacement of UK production by imports from third countries.

The IFA policy paper of March 2017: "Brexit: the Imperatives for Irish Farmers and the Agri-Food Sector" states the following:

> *"The retention of tariff-free access to and maintenance of the value of the UK market is a key priority for Irish farming and the food sector in the Brexit negotiations […] The imposition of tariffs on EU agri-food*

2 The European Parliment report deals not just with transitional issues but also with the additional trade costs that might arise and how they might be avoided under alternative future trade agreements.

*exports to the UK could make this trade uneconomic. In addition, an increase in low-cost food imports (from third countries) that undermines the value of the UK market would have a devastating effect on the Irish agri-food sector […] The displacement of Irish food exports from the UK market could create a serious market disturbance on the EU market, potentially destabilising the EU market balance".*

The UK Government at an early stage following the referendum decided to draw some "red lines" before the negotiating process commenced, including the decision that the UK will leave both the Single Market and the Customs Union. The decision on the Single Market was apparently based on their desire to control the movement of people into the UK, and the decision on the Customs Union was apparently based on their ambition to negotiate trade agreements with third countries. From the perspective of the agri-food sector, the decision on the Customs Union is particularly regrettable, because firstly, the Common External Tariff is a fundamental pillar of the CAP, and secondly, for some agricultural products the levels of customs tariffs are relatively high (including beef and the main dairy products, which are of major importance to Ireland). In the following analysis, three options are briefly examined, ranging from the most optimistic (from Ireland's perspective), based on the retention or creation of a customs union together with regulatory alignment (the assumption here is that the UK will not be in the Single Market), to the most pessimistic which could arise under a "no deal" scenario on future trade relations between the UK and the EU, and reliance on WTO rules. The intermediate scenario assumes a free trade agreement is negotiated between the UK and the EU.

## OPTION A: THE UK REMAINS IN THE CUSTOMS UNION, OR NEGOTIATES A CUSTOMS UNION WITH THE EU, PLUS REGULATORY ALIGNMENT

This scenario assumes firstly, that the UK revisits and revises its decision to leave the Customs Union. There are strong economic and political arguments for such a decision. In economic terms, the benefit to the UK economy of full and free access to the EU's market of 450 million people could be shown to outweigh the unpredictable and unquantifiable benefits, and costs, of future trade agreements with third countries. In domestic political terms, the issue of international trade negotiations is incomprehensible to most people and remote from their daily lives, in contrast to the very visible implications of migration into the UK, which seems to be the predominant reason for leaving the Single Market and its "four freedoms". If future UK membership of the Customs Union is not achievable, the next best outcome would be that the UK would negotiate a new customs union with the EU. However, the EU is likely to require that the UK accept the EU common external trade policy, which includes the Common External Tariff that would protect the integrity of the EU market. Furthermore, bearing in mind that any agreement on a new relationship with the UK has to obtain the unanimous agreement of the 27 member states (35 national and regional parliaments), the EU could not deliver any outcome that undermined its own market. The European Parliment report sets out the advantages of a customs union from an agri-food perspective:

*"A customs union represents a high level of economic integration because the parties agree to maintain a common external trade policy vis a vis third countries. Thus both parties agree to apply the same tariffs, to share the same agricultural TRQ's, and jointly conclude free trade agreements with third countries…Checks on the origin of goods are no longer necessary. However, border checks would still need to be undertaken for regulatory compliance because there is no presumption in a pure customs union model that participating countries have the same regulatory standards. VAT payments and excise duties would also need to be paid on crossing the frontier".*

*"Another advantage of customs union for EU agri-food exporters is that it would retain the residual preferential trade transfers on exports to the UK, to*

*the extent that prices paid by consumers within the customs union are higher than world market prices […] .It would keep food prices higher in the UK than they might otherwise be if the UK were able to import at world market prices"*[3].

In order to achieve the optimum outcome, the customs union (whether UK remains in the EU Customs Union or there is an alternative UK-EU customs union agreed) would need to be supplemented with an EU-UK agreement on Regulatory Alignment, in order to counter the problems arising from the UK's exit from the Single Market. Regulatory Alignment would be likely to cover food safety, plant health, animal health and welfare, and the environment.

During the Phase 1 negotiations, the UK Government in the context of Northern Ireland proposed "regulatory equivalence" on agri-food measures:

*"An agreement on regulatory equivalence for agri-food, including regulatory cooperation and dispute resolution mechanisms, would allow the UK and the EU to manage the process of ensuring ongoing equivalence in regulatory outcomes".*

As set out later in this report under the heading: "Ireland/Northern Ireland Issues", paragraph 49 of the Joint Report from the Negotiators of the EU and UK on Progress During Stage 1 sets out the agreed role for regulatory alignment in the context of Northern Ireland.

The EP Institutional Issues report refers to a "regulatory union" as follows:

*"A regulatory union is one in which both parties agree to align their regulations on a set of common standards. As the EU Single Market demonstrates, this does not require agreement on a set of harmonised standards. In the Single Market, there is agreement on a set of high minimum standards and after that the principle of mutual recognition applies. Any product lawfully marketed in one Member State can be sold in another Member State[…] Crucial to the operation of a regulatory union is a high level of protection in the basic standards that are common to all, a high degree of trust and confidence in the competence of the other partners to ensure compliance with the rules, as well as a dispute settlement mechanism which ensures consistent policing of those rules".*

## ASSESSMENT OF OPTION A:

From the perspective of the Irish farming and food production and marketing sector, the option of a customs union (either the UK remaining in the EU CU or a new UK-EU customs union that respected the EU external trade policy including the Common External Tariff), combined with effective regulatory alignment, would achieve the triple objectives of (i) maintaining free access to the UK food market, (ii) preserving the price level in the UK food market, and (iii) avoiding disruption in the wider EU food market, including Ireland's home market.

## OPTION B: NEGOTIATION OF A FREE TRADE AGREEMENT BETWEEN THE UK AND THE EU

A Free Trade Agreement would represent an intermediate position between Option A and an outcome determined by WTO rules in the event of a "no deal" conclusion to the negotiations. International trade rules are agreed in the World Trade Organisation (WTO), which is a global organisation with over 160 members, including the EU and its member states. In general terms, trade between countries in the WTO takes place at tariff levels agreed, often referred to as Most Favoured Nation (MFN) tariffs, unless a country is part of a preferential trade agreement recognised by the WTO, such as a free trade agreement, providing lower or zero tariffs[4].

A free trade agreement is a reciprocal

3 Elsewhere in the EP report it is pointed out that the size of the "preferential trade transfer" is now much smaller than in the past, because of both CAP reform and higher levels of "world market" prices in recent years.

4 Regulatory Alignment could be combined with a Free Trade Agreement.

preferential trade agreement between two or more countries, which reduces or removes customs tariffs in bilateral trade.

The term "free trade agreement" can be a misnomer to the extent that it may not apply to all trade between two countries, or it may involve reduced but not zero tariffs, or it may include agreed restrictions to trade. For example, the recently agreed "Comprehensive Economic and Trade Agreement" between the EU and Canada does not apply to trade in services, and trade in certain agricultural products is limited by Tariff Rate Quotas or TRQ's[5].

The EP Institutional Issues report explains the operation of a free trade agreement as follows:

*"A free trade agreement (FTA) is the simplest possible improvement on WTO terms. An FTA would reduce or eliminate tariffs on trade in goods between the two parties. It would be notified to the WTO under GATT Article XXIV which permits discriminatory trade arrangements in the case of FTA's and customs unions which cover substantially all trade. Both parties would maintain their autonomy with respect to their trade policy vis a vis third countries, i.e. their applied MNF tariff schedule, the administration of tariff rate quota preferences for agricultural products, the use of trade defence measures such as anti-dumping and countervailing duties, and the ability to enter into separate FTA's with third countries".*

While an FTA would eliminate or reduce tariffs on trade, a new cost would be introduced, i.e. the need to apply a "Rules of Origin" check on imports. The EP Institutional Issues report explains Rules of Origin as follows:

*"Rules of Origin (ROO's) determine whether a particular import consignment should be treated as originating in the exporting country (and thus eligible for the preferential duty) or originates in some third country and is simply using the exporting country as a country of transit. This requires the product either to be wholly obtained from the territory of the exporting country or to have undergone "sufficient working or processing" to qualify as originating"[6].*

In January 2017, the UK Prime Minister Theresa May set out in broad terms the UK Government's ambitions as regards a future trading relationship with the EU. Here, she underlined that central to the UK position, is a Free Trade Agreement:

*"We will pursue a bold and ambitious free trade agreement with the EU. This agreement should allow for the freest possible trade in goods and services between Britain and the EU's member states…A global Britain must be free to strike trade agreements with countries from outside the EU as well".*

In January 2018, the UK Minister for the Environment, Food and Rural Affairs (DEFRA) Michael Gove, speaking at the Oxford Farming Conference asserted that :

*"We are confident of building a new economic partnership with the EU that guarantees tariff-free access across each others' markets".*

While a Free Trade Agreement would suit the interests of the UK, there are many problems associated with FTA's from the EU perspective, and particularly in relation to agriculture. In addition to the Rules of Origin issue, the other issues are outlined on the EP Institutional Issues report as follows.

*FTA's only cover goods but not services, and even for goods not all goods may benefit from a preferential duty, and not all preferential duties may be zero. In the case of sensitive products, such as agricultural products, preferential access may be limited to specific volumes*

5 A TRQ is an agreement to limit imports at zero or reduced tariff levels to a set volume or quota, and imports above that quota are subject to the full tariff.

6 The report sets out in detail the criteria used by the EU on implementation of Rules of Origin.

*of imports under a TRQ, and may be subject to safeguard clauses permitting the withdrawal of the concession if there is surge in import volumes.*

*For EU27 agricultural producers, a particular concern with an FTA which gave tariff free access under all agricultural tariff lines would be the potential for trade displacement. This could occur if the UK were to open up its market to third country produce (e.g. lamb) either by lowering its MNF applied tariffs, or by entering into FTA's with third country competitive agricultural exporters. While this third country produce would not receive the benefit of the preferential duty because it does not originate in the UK, the UK could increase its imports from third countries to meet its domestic demand while diverting more of its own production to the higher-priced EU27 market, hence the notion of trade displacement. If the UK did not enter a customs union with the EU27 which would avoid this problem, this could lead to pressure from producer groups within the EU27 to limit imports from the UK to the volumes currently imported using TRQ's. If this happened, the UK would be likely to insist on limiting EU exports to its market in return.*

*FTA's also require the maintenance of customs posts at borders even if there is 100% coverage of tariff lines. This is not only because of the need to check rules of origin, but also because of the many other checks that need to be performed at the border, including the payment of appropriate taxes and excises, security and safety checks and compliance with regulatory standards.*

## ASSESSMENT OF OPTION B:

Based on the limited information available on the UK detailed position on a free trade agreement with the EU, a number of potential major obstacles to an agreement are evident. Firstly, the UK are likely to wish that such an FTA extends to services, including financial services. However, Michel Barnier has pointed out recently that no free trade agreement in the world covers financial services. Secondly, as regards agricultural products, there is the major risk of trade displacement in a situation where the UK tended to supply its home market by imports from third countries and tended to export its own production to the EU. Such displacement would not only depress output prices for British farmers, but it would also undermine returns to Irish and other EU producers. This may result in the EU insisting that imports are limited to tariff rate quotas (TRQ's), which could provoke a similar insistence by the UK on imports from the EU. Thirdly, border controls would be required to deal with issues such as regulatory compliance, VAT and excise, and also with implementation of Rules of Origin.

## OPTION C: A "NO DEAL" SCENARIO AND RELIANCE ON WTO RULES

In the event that the UK leaves the Customs Union and Single Market, rejects a new customs union with the EU, and a UK-EU free trade agreement is not reached, the two parties would be reliant on the established rules of the World Trade Organisation to determine the terms of trade between them. This would result in the re-introduction of tariffs on agri-food products traded between the UK and the EU in both directions[7].The EU's tariffs would be those set out in the Common External Tariff (CET). Moreover, the UK is a member of WTO in its own right and the level of tariffs that the UK would apply are not yet known. The reasonable assumption is that, initially, the UK would operate the same tariff levels as it does today under the EU CET. However, the UK could reduce its tariff levels in the future. As regards the level of applied tariffs the UK would operate in the longer-term, the following important considerations are relevant.

First, the UK would be limited under WTO rules. The most relevant constraint is the WTO most favoured nation (MFN) clause, which means that they could not discriminate between different import sources. Thus, the UK would have to apply

7 There are 2,075 separate tariff lines for agriculture and food products.

the same tariffs on products imported from the EU27 as from other countries, with the exception of countries with which it had signed free trade agreements that are recognised by the WTO (as outlined under Option B), or preferences granted to developing countries. Second, as mentioned above, while the UK would be likely to commence with the same tariff schedule on imports as it currently applies, it would be at liberty to reduce its tariff rates provided it complied with WTO rules, including the MFN clause. The UK may decide to reduce its tariffs for a number of reasons, e.g. apply lower tariffs than the current levels on products it does not produce, or to reduce food prices to consumers. The EP Institutional Report notes:

> *"A reduction in applied tariffs might be seen as a way to mitigate some of the effects of higher food prices on UK consumers due to additional trade costs and any further depreciation of sterling".*

If the UK decided to reduce or eliminate its MFN tariff levels on agri-food products then there would be a reduction in prices in the UK (loss of preferential trade transfer). The EP Institutional Issues report states:

> *"In the case of full elimination, EU27 exporters would not face tariffs on exporting to the UK market, but the UK market would be a less attractive one because the price exporters would receive would be lower than they currently earn on these exports".*

A further possible scenario is that the UK would decide to negotiate free trade agreements with some third countries but maintain the normal (MFN) tariff for imports from the EU. The EP Institutional Issues report states:

> *"It would be possible for EU exporters to face both higher tariffs and loss of preferential trade transfer. This would occur if the UK applied MFN tariffs to EU27 but entered into free trade agreements with third country competitive agricultural exporters which effectively drove down domestic UK food prices to world market levels"*

### ASSESSMENT OF OPTION C:

The potential loss to Ireland's agri-food sector in the WTO scenario arises in a number of ways, depending on the policy adopted by the UK on its future tariff levels. If the UK decided not to reduce its future tariff levels from the current (EU) levels, Irish exporters to the UK would have to pay these tariffs, in addition to the other additional costs arising from customs controls. If the UK decided to reduce or eliminate its tariff levels, prices in the UK market would fall, and thus the return from Ireland's exports to the UK would fall. The worst-case scenario would arise if the UK decided to negotiate free trade agreements with some third countries, but maintained the normal (MFN) tariff for EU imports. In comparison with the current free access to a remunerative UK market, Irish exports would face both import tariffs and lower UK market prices.

## COMMENT ON OPTION A IN THE WIDER TRADE AND POLITICAL CONTEXT

The challenge facing Ireland in general, and the agri-food sector in particular, is to put forward proposals for Phase 2 of the Withdrawal Negotiations covering a future trade arrangement, which could achieve a viable and sustainable future. The above analysis of three possible options is based on consideration of the agri-food sector, and is conducted from Ireland's perspective. The clear conclusion is that only Option A (a customs union plus regulatory alignment) would offer a viable and sustainable future. However, it is recognised that: (i) any EU-UK agreement on a future trade relationship will relate to trade more generally, and the UK can be expected to strongly seek inclusion of trade in services, (ii) the EU must seek an outcome acceptable to all 27 Member States, (iii) the EU will prioritise the protection of the integrity of its internal market, and (iv) the UK will be constrained by a number of "political red lines" as a consequence of the Brexit referendum. As outlined earlier in this report, the view of this author is that withdrawal from membership of the Single Market and its "four freedoms" is a red line for the UK. Another red line is the termination of the role of the European Court of Justice in the UK after the end of transition. A third red line is their requirement to return law-making to the UK government. As referred to earlier, there may be some greater flexibility in the UK position on a future customs union with the EU. In the UK Government publication: "Future Customs Arrangements: a Future Partnership Paper" one of two broad options proposed is described as

> *"a new customs partnership with the EU, aligning our approach to the customs border in a way that removes the need for a UK-EU customs border".*

The issue from the EU perspective with the UK proposal is that there is a wish to pursue an independent trade policy with third countries. In November 2017, the British-Irish Chamber of Commerce argued in a publication entitled *"How to Make Brexit Work for All"* for the establishment of:

> *… a new Customs Arrangement between the UK and the EU that would allow for the continued trade in goods with additional trade in services and access to trade deals".*

It goes on to state:

> *"Under this proposal the UK would align its tariffs with the common external tariff on areas covered by the agreement, thus protecting the integrity of the EU market and eliminating the need for a border on the island of Ireland. Given the significance of the UK economy, it is also proposed that the UK should be included in, and allowed to benefit from, any future trade deals that are agreed by the EU.*

The document also refers to an agreement on regulation:

> *"Part of the arrangement will need to include regulatory alignment or equivalence between the UK and the EU. This would require the UK to adopt the EU regulatory acquis, or alternatively for the UK and the EU to sign a comprehensive Regulatory Equivalence Agreement"*[8].

On 22 January 2018, the Director-General of the Confederation of British Industry (CBI), Carolyn Fairbairn, made a major statement on Brexit headed: "Evidence not ideology: why a customs union is best for Britain". Ms Fairbairn illustrated here that neither the Canada nor Norway models represent the best solution for business or for Britain. The CBI proposed a comprehensive customs union between the UK and the EU as "*a practical, real-world answer*" to the problems raised by the UK exit from the EU, including the Irish border question..Ms Fairbairn said:

> *"the idea behind a customs union is simple – a single set of tariffs for goods imported from outside the EU, enabling tariff-free trade within it. It brings no obligations over freedom of movement (of people), or payment (to the EU budget), and removes some of the heaviest trade barriers".*

The CBI statement makes a gesture towards the internal UK lobby proposing new trade deals with non-EU countries as the reason for leaving the Customs Union: "*It need not stop us keeping an eye on our global trade interests. There may come a day when the opportunity to fully set independent trade policies outweighs the value of a customs union with the EU[…] But that day has not yet arrived".* The CBI statement takes an example the possibility of the UK joining the Trans-Pacific Partnership, as suggested by one UK Minister.

> *"The 11 countries in the Trans-Pacific Partnership account for only 7% of our trade, while Germany alone accounts for 11%, and the EU for 43%. Remaining a member of a customs union for as long as it serves to do so would be consistent with*

8 The British-Irish Chambers of Commerce publication highlights the full degree to which the UK economy currently benefits from EU membership in trade terms. It points out that while 49% of UK trade is with the rest of the EU, a further 12% is with 32 countries with whom the EU has trade agreements. In addition, when agreements partly in place and agreements currently being negotiated are included, a further 27% of UK would be covered, bringing the total UK trade dependent directly or indirectly on the EU to 88% of the total.

*the result of the referendum, and would be good for UK firms too".*

Following the leaking of the UK Government's impact assessment of Brexit, which showed that some regions would suffer particular badly, including the North-East and Northern Ireland, the editorial in the Financial Times on 9 February sets out the case for the UK remaining within a customs union:

*Remaining outside the single market but within a customs union for goods would stop tariff and rules of origin checks at EU borders. It would give certainty to global companies that produce in Britain [...] .It would give the UK government control of immigration, significantly limit the authority of the European Court of Justice over British affairs, and give Britain freedom to try for bilateral service trade deals with non-EU countries. Finally, it would make it easier to avoid a hard border between Northern Ireland and the Republic of Ireland.*

## OTHER TRADE RELATED ISSUES RELEVANT TO AGRI-FOOD SECTOR

A number of other relevant trade issues are outlined in the following. The Ireland/ Northern Ireland issue is particularly important.

### ALLOCATION OF EXISTING TARIFF QUOTAS

The EU and the UK decided that in the exit negotiations, to split between them the volume of agricultural preferential imports covered by tariff rate quotas. Not unreasonably, it was decided that the TRQ's would be split between the EU 27 and the UK on the basis of historic import volumes. However, before this was communicated to the other WTO members, in September 2017 seven major exporting countries, the US, Canada, Brazil, Argentina , NZ, Thailand and Uruguay, informed the EU and UK that they cannot accept such an agreement. They stated; "*such an outcome would not be consistent with leaving other WTO members no worse off, nor fully honour the existing TRQ access commitments".* The countries called for full and proper dialogue with TRQ holding members.This is an example of the complexity of dealing with trade issues through the WTO. The interests in the UK who support a "hard" Brexit, including reliance of WTO rules to establish their future trade rights and obligations, seriously underestimate the complexity, time, and cost (in terms of new import concessions) that a WTO-based outcome would involve.

### IRELAND/NORTHERN IRELAND ISSUES

The conclusions of the Joint Report from the Negotiators of the EU and the UK under Phase 1 of the UK withdrawal negotiations dealing with Ireland and Northern Ireland (paras 42 – 56) are very relevant in the context of the future trade arrangements within the island of Ireland. It is important to note the status of the report as stated by the December European Council:

*"It underlines that negotiations in the second phase can only progress as long as all commitments undertaken during the first phase are respected in full and translated faithfully into legal terms as quickly as possible".*

The section dealing with Ireland and Northern Ireland contains commitments (inter alia) that:

*"the Good Friday Agreement must be protected in all its parts, and that this extends to the practical application of that Agreement on the island of Ireland and to the totality of the relationships set out in the Agreement".*

Paragraph 49 is particularly significant because of the specific nature of the language it contains. It states:

*"the UK remains committed to protecting North-South cooperation and to its guarantee of avoiding a hard border. Any future agreement must be compatible with these overarching requirements".*

It goes on to state that the UK's intention is to achieve these objectives through the overall UK-EU relationship, or if not possible, the UK will propose specific solutions to address the unique circumstances in the island of Ireland. The article goes on to state:

> *"In the absence of agreed solutions, the UK will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, and all-island economy and the protection of the 1998 agreement".*

The interpretation by this author (not legally qualified) as regards the Northern Ireland agri-food sector, which is a devolved sector, is that it will be fully aligned to the agri-food sector in Ireland, whether through membership of the Customs Union and the Single Market, or by means of a new customs union with the EU together with regulatory alignment between NI and the EU. It follows that unless the rest of the UK has the same status as NI, customs controls will be required between NI and the rest of the UK. Such controls would be in Ireland's interest, for example to implement "country of origin" checks on imports from mainland UK.

## "LAND BRIDGE" FOR IRISH EXPORTS TO THE EU 27

The Joint Report from the Negotiators of the EU and the UK includes a commitment that both Parties will continue to work on a distinct strand of the UK exit negotiations concerning issues relating to Ireland and Northern Ireland (Paragraph 56). It states that:

> *"Such work will also address issues arising from Ireland's unique geographic situation, including the transit of goods (to and from Ireland via the UK), in line with the approach established by the European Council Guidelines of 29 April 2017".*

In addition to achieving the best possible solution to the land-bridge issue, Ireland also needs to further develop the direct sea route to the Continent. Very recently, Irish Ferries announced the introduction of a large-scale vessel on this route during 2018. The future adequacy of Irish ports may also be a constraint and the Government may need to support new investment in the major ports.

## CONCLUDING COMMENTS

A relatively short period exists up to about the end of October 2018 for the EU and the UK to negotiate a framework for their future relationship, including the trade relationship. It is important that Ireland, as the country most affected by the UK withdrawal, and for the agri-food sector, which is particularly reliant on the UK market, to identify where their best interests lie. This paper seeks to identify the range of possible outcomes as regards the future UK-EU trade arrangements with reference to the agri-food sector, and the likely implications. It identifies an optimum outcome, which would require a customs union agreement between the UK and the EU, combined with an agreement on regulatory alignment. However, it is acknowledged that this may not be easy to achieve. It identifies shortcomings in an alternative arrangement, a free trade agreement, which is apparently favoured by the UK Government. And it shows that a "no deal" outcome, and reliance on WTO rules, would be particularly problematic. The challenge facing Ireland and the EU27 in attaining a satisfactory solution to the post Brexit trade challenge is all the greater because of some additional difficulties in Phase 2 of the withdrawal negotiations that did not apply in the first phase. It will be more difficult to maintain unity within the member states, as different countries may have different priorities in relation to trade. Also, the UK will have the "no deal" threat to hold over the negotiations, even though it would have a negative outcome for that country as well as for the EU. In this regard, Ireland may come under pressure from the UK to support its trade proposals, because of the potentially very damaging implications for this country of a "no deal" alternative.

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