



Brexit food ethics: trade deals and trade-offs

How can we ensure terms of trade in food and agricultural products are fair for all concerned?

A report of the Business Forum meeting on Tuesday 22nd November 2016

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About the Business Forum

Ethical questions around climate change, obesity, food security, people and animal welfare, and new technologies are becoming core concerns for food businesses. The Business Forum is a seminar series intended to help senior executives learn about these issues. Membership is by invitation only and numbers are strictly limited.

The Business Forum meets six times a year for an in-depth discussion over an early dinner at a London restaurant.

To read reports of previous meetings, visit foodethicscouncil.org/businessforum.

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Introduction

One thing is certain in a post-Brexit UK: trade in agricultural commodities and food products will continue. However, the type of deals struck with the EU and other countries around the world will have a big impact on what, and how much, is traded and who it is traded with. Import and export tariffs, food safety, animal and human health measures and quality standards may act as economic or technical barriers to trade.

The numerous models that could be adopted for a future UK-EU trade agreement vary from a very close relationship (if the UK joined Norway in the European Economic Area), through to complete separation and default to World Trade Organisation (WTO) rules, as is the case with USA and China. Unsurprisingly, each model has pros and cons, but how would UK farming, food and food ethics fair under each?

The November 2016 meeting of the Business Forum explored the implications of the various UK-EU trade agreement models for farming and food businesses in the UK. It considered the likely impacts on key interest groups such as the environment, other trade partners, food system workers, farm animals and UK citizens. It considered the importance of the WTO, given the UK's new place in the world post-Brexit. It discussed how to safeguard (or enhance) standards relating to animal welfare, workers' rights and environmental protection, whilst maintaining a competitive food and farming sector. It also considered the importance of ensuring producers from the Global South are not unfairly disadvantaged under new trade arrangements.

We are grateful to our keynote speakers, Fiona Smith, Professor of International Economic Law at University of Warwick; **Tom Lines**, freelance consultant specialising in international trade and agricultural markets; and **Dr Nigel Dower**, Honorary Senior Lecturer in Philosophy at Aberdeen University and member of the Food Ethics Council. The meeting was chaired by Geoff Tansey, Member of the Food Ethics Council.

The report was compiled by Dan Crossley and outlines points raised during the meeting. The report does not necessarily represent the views of the Food Ethics Council, the Business Forum, or its members.

Note: the Brexit context is changing every day. This report reflects the discussion as of November 2016.

Key Points

- The UK cannot return to a pre-1973 cheap food system because of the sizeable trade deficit that now exists and because of WTO rules.
- There are several models the UK could pursue post-Brexit, including the Customs Union, the Norway Model, the Swiss Model or the WTO model.
- When looking at what Brexit might mean, it is important to remind ourselves of the wider ethical goals – of what is going to work in a way that does not harm British interests, but equally other people's interests in other parts of the world as well.
- One key goal for trade – agriculture included – could be that it is fair for everyone affected by the trade relationships and activities in question, all the way along food value chains.
- It was argued that it is an illusion to think that there is totally free trade. In the food sector, it was suggested that the reality of the world since the 1940s has been one of *managed* markets and *managed* trade.
- It can be extremely difficult for developing countries to get into other markets if their products do not meet demanding food standards that, for example, the UK market typically requires. This poses a challenging ethical question. Such standards exist for a reason, but they can be protective and difficult for countries in the Global South to establish.
- It was argued that seizing the opportunity of Brexit must include redesigning agriculture and food policy for the better, as well as maintaining EU environmental protection and labour legislation.
- On 17th January 2017, just prior to publication of this report, the Prime Minister indicated the UK's relationship with the EU's customs union would change, that the UK would not be 'bound' by shared external tariffs and instead would be "striking our own comprehensive trade agreements with other countries.". The UK will quit the EU Single Market, the biggest market for UK food and drink exports. Although some clarity is emerging, trade in food and agricultural products is likely to remain an area of contention and debate in the years ahead.
- Civil society, progressive food and farming businesses and other key groups need to come together to communicate the importance of food and farming in Brexit debates and negotiations.

Going back in time?

When the UK joined the EEC in 1973, there were two areas of policy: one was trade and the common market; the other was the Common Agricultural Policy (CAP). The former was part of the UK finding a new strategy after the end of the empire – a decision to opt for community preference with our European neighbours, rather than continue with Commonwealth preferences in our trading activities.

Whilst this was not unanimously supported, it was much less controversial than the second element, CAP. This was partly because, arguably, the UK already had a successful post-war agricultural policy that had been designed for the country's needs.

It may be useful to reflect on what existed before the UK was part of the EEC (and subsequently the EU), but it is important to reflect on the fact that the world has changed significantly since the 1970s. Imagining the UK can somehow go back to life before the EU is fanciful.

It is also important to understand that the choice faced in the 1970s was different to that faced by the UK population in 2016. In the 1970s the EEC already existed, so there was a sense that the UK Government (and the population more broadly) knew 'what it was letting itself in for'. By contrast, it appears abundantly clear that there was no clear 'Plan B' if the UK's citizens voted to leave at the EU referendum.

Three considerations after Brexit

Firstly, food security was highlighted as a key concern. There was a steady increase in UK food self-sufficiency from 1945 up to a level of about 70% in the early 1990s. This has subsequently fallen back to closer to 60%, where it seems to have stabilised.

To fill this 'food gap', the UK will have to import produce from around the world¹. But this may prove to be expensive. The UK cannot return to a pre-1973 cheap food system because of the sizeable trade deficit that now exists and because of WTO rules.

Secondly, there is the question of who will grow our food a generation from now. How will we

safeguard our farmers and the economic sustainability of agriculture? Farmers worldwide tend to have a weak negotiating position, with price-takers on both sides of the business (large agri-business on one side and large food manufacturers and retailers on the other). The clear economic implication, it was argued, is that market intervention will be needed to correct this. To some extent, agricultural subsidies (where they exist), act as market corrections, and provide some stability in prices. However, to make these kinds of interventions work effectively post-Brexit, import controls of some sort would be needed, which would, as a general proposition, be unlikely to be allowed under WTO rules.

Thirdly, agriculture's impact on the environment remains hugely significant. Post-war policies in the UK promoted mechanisation and external inputs in the acceleration of 'conventional agriculture'. Now, under EU regulations, most environmental protection is separate from CAP.

Current state of play

Food and farming, when combined, is a sizeable chunk of the UK's economy. In 2014, the agri-food sector contributed £108 billion to the UK economy - around 7% of Gross Value Added².

However, within the agri-food sector total, agriculture only contributed around 9%. The average net worth across all English farms in 2015/16 was £1.75 million, with more than a third (37%) of farms having a net worth of at least £1.5 million. By contrast, wholly tenanted farms had an average net worth of just £280,000³. The UK has a sizeable trade deficit in food and agriculture. Fruit and vegetables alone account for a deficit of around £8 billion².

The EU-UK political rhetoric remains confused. Angela Leadsom said in October 2016 that "*We definitely want to continue maximising trade possibilities with our European neighbours.... but there are also enormous opportunities around the world*"⁴. In contrast, Donald Tusk, President of the

¹ Note – taking steps to ensure fairer distribution of food and to cut food waste would help too.

²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553390/foodpocketbook-2016report-rev-15sep16.pdf

³https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/582691/fbs-balancesheetanalysis-12jan17.pdf

⁴Farmers' Weekly, 17th October 2016

EU Council of Ministers, said “*In my opinion, the only real alternative to a hard Brexit is no Brexit.*”⁵ In reality, rather than these two seemingly mutually exclusive views, there are a range of options across the spectrum.

Options for EU-UK relations post-Brexit

Of the available options for EU-UK relations post-Brexit, four key ones are:

(i) Customs Union

Under this model, the UK withdraws from the EU, but remains a member of the customs union⁶. This is similar in some respects to the existing arrangement between Turkey and the EU. In this example, the country only has free movement of goods (not for example free movement of people), but there is a common external tariff on goods that have been negotiated. In the Turkey-EU example, some sectors, like textiles, are excluded. This option does *not* involve staying in the single market. The EU would set the external tariff, which may prove problematic for the UK Government. Hence, it was suggested, that this model feels some way from what is indicated by the current political rhetoric.

(ii) Norwegian model

This option involves the UK leaving the EU, and joining the European Economic Area (EEA), as Norway has done. The EEA is not an organisation. It is a preferential trade agreement between states, like a free trade area between the two countries (or parties). In this model, goods produced within those countries have free movement, but they are subject to tariffs for goods from outside the EEA, and are subject to all the customs duties in between the countries.

As the fifth largest economy in the world, if the UK joins the EEA, it is likely to upset the balance between countries that are already members. Importantly, the model does not include agriculture, so the UK would need to negotiate to add it in. Under WTO rules, agriculture could not just be added for the UK – it would have to be added in for all EEA members. Finally, it was suggested that the EU does not particularly like the model, and is trying to create an institutional structure to make it more like the EU itself.

(iii) Swiss model

The Swiss model would see the UK negotiating a series of sector-specific bilateral trade deals with the EU. Every sector would have to be negotiated individually. It took Switzerland, around 10 years to get the basic deals completed: there is huge complexity with such an arrangement and it would most likely take a substantial period of time to negotiate.

Switzerland is not technically bound by the jurisdiction of the European Court of Justice, but it often finds itself on the receiving end of the judgements and interpretations of the rules, because it trades so much with the EU.

Similar to the Norwegian model, it was suggested that the Swiss model is not particularly popular with the EU. Indeed, in 2014, the EU launched a new deal with Switzerland to put a new international framework agreement in place. Although Switzerland is not part of the EU, it has had to accept free movement of people as part of the deal.

The arrangement includes very complex rules of origin, which can result in a substantial cost to businesses, as they have to demonstrate whether a product was actually produced in that country (in order to trade in it).

(iv) Trade on the basis of WTO rules

The WTO has 164 members. Whatever agreement the UK makes with the EU, it must comply with WTO rules. What remains open for discussion is on what terms the UK is allowed to be a WTO member. This will affect both the UK’s relationship with WTO members (of which the EU counts as one member) and what the UK can do in relation to a trade deal with the EU.

In the rhetoric, trading on the basis of WTO rules is often referred to as trading on the ‘Most Favoured Nation’ (‘MFN’) rules. In practice, the way that this works is that the EU has two lots of trading arrangements – one that applies internally to the EU itself and one that applies to third countries (i.e. any country outside of the EU or that the EU does not have a free trade deal with). To trade on WTO rules is to trade on (often very high) tariffs. Tariffs on individual product categories can be significant: e.g. 47% for milk or 59% for beef. However, although the EU has external tariffs, it does not necessarily apply them at the specified rate.

⁵Financial Times, 13th October 2016

⁶See post-script

The core principle of the WTO is non-discrimination, so countries are not allowed to discriminate on the import of food products on the grounds of origin (i.e. say 'we like products from country X, but we don't like products from country Y'). This means that there cannot be a differential tariff, *unless* there is a justification for it. For example, it could be justified on legitimate food safety grounds or because the country wants a preferential trading agreement with another country that is at a different stage of development.

Crucially, from a UK context, a country can not prefer its domestically produced products over imported products – although there are some exceptions for agriculture.

The impact of the WTO

WTO rules are complex. The WTO sets down rules as to what a customs union is (for example it specifies that there must be an external tariff) and what a free trade area is. Agriculture is a special case and is still being negotiated in WTO. Unlike other products under WTO rules, product-specific subsidies are allowed on agricultural products. That means that, within certain limits, farmers can be given money to produce a certain amount of a particular product. However, that is only permitted if the country has a historic allowance for production subsidies, called the 'amber box'. The EU has a historic amber box, which it does not use, but it is a fall-back position, just in case it decides to readjust its subsidies.

A cosmopolitan perspective

From a philosophical point of view, there are many ways to frame discussions around Brexit. Broadly speaking, someone can be a cosmopolitan, a relativist or a communitarian. A cosmopolitan claims that all people matter and matter equally, whereas a relativist denies there are universal value and a communitarian limits or privileges obligations to people within political communities. Cosmopolitanism may be, e.g., utilitarian (the greater global good), Kantian (respecting the rational agency of all) or human rights-based.

It was argued that it is valuable to bring a cosmopolitan perspective, having regard for global responsibility. Most discussions around Brexit seem to be from the point of view of British

interests ('making Britain great again' and 'a good deal for Britain'). It was suggested that this limited viewpoint fails to take into account the question of what is good for the *world*.

If one accepts the idea of global responsibility, it was suggested that the main aspect should perhaps be that people's actions, and the policies that are pursued, should not harm others nor contribute to harm. In this sense, 'global responsibility' could be read as a key element of 'global ethics'.

One could use a cosmopolitan lens when trying to work out what is good for a food business in the UK, or even what is good for the UK as a whole. From this point of view, people should not favour participating in policies which do harm to others, or contribute to making things worse in other parts of the world.

More and more countries seem to want to 'put their country first', as shown by the election of Donald Trump in the US and political developments in parts of Europe (including Brexit). However, it was noted that this movement does not affect the validity of the cosmopolitan – or global ethics – perspective. Whilst to some it may seem idealistic in the current situation, cosmopolitanism remains a fundamental position that can be argued for, regardless of growing isolationism and fragmentation and the seeming retreat from global perspectives.

Goals

If the UK Government has a clear understanding of what the overarching goals from any negotiation should be – and if it can get buy-in from the broader population – would that help unite the country? It would certainly help pull the UK in a particular direction, even if shared goals alone will not in themselves determine what actually gets decided.

The UK Government should clarify its goals. A well-informed debate in the UK would achieve that, by revealing the common goals held by citizens. In addition, goals could be clarified in terms of making explicit the value assumptions behind those goals. An active, sustained ethical debate would encourage more people to get involved and would bring values into the debate.

It was suggested that one key goal for trade – agriculture included – should be that it is fair for everyone affected by the trade relationships and activities in question, all the way along food value chains.

The myth of *free* trade

It was argued that it is an illusion to think that there is totally free trade. It is very difficult to imagine a realistic scenario, particularly in food and agricultural products, where a country can be trading at a position where it has no restrictions at all on the movement of products coming into the country. In the food sector, it was suggested that the reality of the world since the 1940s has been one of *managed* markets and *managed* trade.

In contrast to the UK's impending exit from the EU, Georgia has recently signed an association agreement with the EU, which requires it to take on all the rules of the single market. Just looking at the issue of food safety in the meat sector demonstrates the colossal task a small country, with limited administrative capacity, like Georgia will face. It was suggested that there are somewhere in the region of 375 EU Directives and Regulations that it will have to take on. The example of Georgia highlights the complex unravelling that the UK must manage in leaving the EU.

Trade with developing countries

Trade with developing countries is too often neglected in trade negotiations. There is a fundamental issue of what types of exports are beneficial to developing countries. How much would a trade agreement keep them locked into traditional commodity exports, rather than encourage them to stimulate local markets?

Crucially, there is also the question of food standards – both public and private. In the Global North, these are regarded as a good thing for obvious reasons, for example to protect animal welfare and the environment. However, from the point of exporters in developing countries, food standards can be hugely problematic. It can be extremely difficult for developing countries to get into other markets if they are not producing to the often demanding standards that, for example,

the UK market typically requires. This poses a challenging ethical question. Such standards exist for a reason, but they can be protective and very difficult for countries in the Global South to establish.

It is assumed that because the UK is a relatively rich country, everyone will want to sell to it. However, a big geopolitical change is taking place (e.g. the rise of China). For UK food companies, this means a shift away from being in the position of power (having the pick of suppliers), to supplicant (having to persuade a supplier that the UK business is the 'customer of choice').

Where next?

It was argued that seizing the opportunity of Brexit must include redesigning agriculture and food policy for the better, as well as maintaining EU environmental protection and labour legislation. The challenge is that food and agriculture are rarely included in the public debate about what is 'important' in Brexit negotiations. The risk is that food and farming will, in some way, be traded off unless the sectors' profiles can be significantly boosted. There is a very real risk of this happening, because most trade negotiators know very little about farming.

A set of voices from across a range of food and farming businesses, together with NGOs, and backed up by academics would surely be 'louder' and more likely to succeed in ensuring food and agriculture get a fair deal post Brexit. A Government-sponsored commission was suggested as a logical process and a way for the Government to capture some of the great thinking beginning to happen amongst key food system actors. It was felt that getting the public engaged on some of these issues was vital. Crucially, it was felt that there was an opportunity for progressive businesses to join with NGOs, rather than pushing separate messages.

The WTO is an important player – but it is not, as many assume, a free trade organisation. Instead it is a rules-based trading organisation. Who makes those rules, and in whose interests?

When looking at what Brexit might mean, it is important to remind ourselves of the wider ethical goals – of what is going to work in a way that does not harm British interests, but equally other people's interests in other parts of the world as well.

It is vital that civil society, progressive food and farming businesses and other key groups come together to communicate the importance of food and farming. If the sector (or sectors) can get behind some shared goals and set out shared values, surely it will improve the chances of a successful outcome for everyone involved?

Post-script

Important note: the Brexit agenda – on trade and other issues - is ever changing. On 17th January 2017, just prior to publication of this report, the Prime Minister indicated the UK's relationship with the EU's customs union would change. Theresa May said that she did not want the UK to be 'bound' by shared external tariffs and instead would be "striking our own comprehensive trade agreements with other countries." This might involve signing up to some parts of the customs union only, becoming an associate member or reaching a new agreement⁷.

The trade press highlighted the most immediate implication for food businesses: "*The UK is to quit the EU Single Market of 500m consumers – the biggest market for British food and drink exports – Prime Minister Theresa May has confirmed in a keynote speech today (January 17).*"⁸

Although some clarity is beginning to emerge, trade – including trade in food and agricultural products – is likely to remain an area of contention and debate in the years ahead.

⁷ <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>

⁸ <http://www.foodmanufacture.co.uk/Business-News/The-UK-is-to-quit-Single-Market-PM-s-Brexit-speech>

Speaker biographies



Professor Fiona Smith joined University of Warwick in 2014 from UCL. She has a specialist interest in international agricultural trade and investment and her publications include a monograph, *Agriculture and the WTO: Towards a WTO Model for International Agricultural Trade Regulation* (2009). She was an invited expert for the European Commission, Working Group on EU Food Safety in Nutrition in 2050, the joint DEFRA/UK Treasury, Balance of Competence Review: *Agriculture evaluating the relationship between the EU and the UK* and Yorkshire Agricultural Society advising on Implications of BREXIT for Agriculture in the UK. In 2015, she undertook a project on the relationship between food security, trade and agri-foreign direct investment in weak states (with Dr Christian Häberli) for Swiss National Science Foundation. Fiona is European Book Review Editor of *Journal of International Economic Law* and Visiting Scholar at University of Michigan and Boston College Law School. She is currently working on a book on Food and International Economic law.



Thomas Lines is a freelance consultant with wide-ranging experience of food and agriculture. Born into a farming family in Buckinghamshire (at a generation's remove), he did student jobs on farms in Herefordshire and Israel. He worked as reporter on commodities and finance for Reuters and elsewhere, and was lecturer in International Business at Edinburgh University. He recently returned to part-time lecturing in economics at Goldsmiths, University of London. For most of the 1990s he worked in overseas aid, including as team leader of agricultural reform projects in Russia and Moldova. He then worked on the analysis of trade and agricultural policy and food security, especially in the light of agricultural price movements. He has been a policy advisor for Oxfam on the coffee trade and agricultural aspects of the WTO negotiations, and over recent years a freelance consultant. He has written or edited two books and numerous other publications on the agricultural economy, food security, international markets and financial regulation.



Dr Nigel Dower is Honorary Senior Lecturer in Philosophy at Aberdeen University and a member of the Food Ethics Council. In 2004, he took early retirement in order to pursue his interests in 'exploring ethics in a globalised world' through teaching, lectures, writing and consultancy and also to spend more time in the voluntary sector in such organisations as Aberdeen for a Fairer World, One World Week, Aberdeen Interfaith Group and the United Nations Association. His main research interests are in the field of the ethics/philosophy of development, environment and international relations. He has written or edited a number of books and publications, including *World Poverty – Challenge and Response*; *World Ethics - the New Agenda*; and *Global Citizenship – A Critical Reader*. In 2009 he received an Honorary Doctorate for his work in global ethics from the University of Uppsala, Sweden.



Geoff Tansey is a freelance writer and consultant on food, agriculture and related intellectual property issues, and a member of the Food Ethics Council. He has degrees in Soil Science, and History and Social Studies of Science. He helped found and edit the journal *Food Policy*, has been consultant to international agencies, governments and NGOs. In 2005, he received one of six Joseph Rowntree 'Visionaries' Awards, and won the Derek Cooper Award for best food campaigner/educator in the 2008 BBC Radio 4 Food & Farming Awards. He curates the online Food Systems Academy, an open education resource for transforming our food systems. Geoff was chair of the Fabian Commission on Food and Poverty. *(Geoff chaired the discussion)*