Improving animal welfare as the UK leaves the EU

The impact of border options between the UK and Ireland on the live trade in farm animals and horses for slaughter
Summary

On many occasions, HM Government (HMG) has confirmed that it will maintain and, where possible, improve standards of animal welfare in the UK as it leaves the European Union (EU). In April, the Department for Environment, Food & Rural Affairs (Defra) launched a consultation on how to control exports of live animals for slaughter and HMG has promised to outline how it will manage this trade post Brexit by early 2019. In July, HMG’s Command Paper on the future relationship between the EU and the UK set out proposals for a “free trade area” for agri-food and in November it set out proposals for leaving the EU but at present this has not yet been ratified by the UK. There is the possibility that a no-deal scenario would mean the UK reverting to the sole use of WTO (World Trade Organization) rules, meaning all trade would be carried at first under Most Favoured Nation (MFN) terms. The exact framework under which the trade of live animals will operate is still unknown.

This briefing is one of two looking at the impact of Brexit on animal welfare across the Irish border, focusing on the trade in live farm animals (including equines) for slaughter. It considers the impact of border options on managing and curtailing live exports, as well as the criteria that will define compliance with central government’s framework on exiting the EU and with the international rules enacted by the WTO. It then looks at the impact of a no-deal scenario on this trade and on a live exports ban.

We believe that it would be possible to achieve all three goals under the Government’s current proposal while ensuring that the single UK market in animals is not disrupted and would be permitted under WTO trade rules. Under a proposal to revert to MFN terms, it would be possible to ban live exports but not to have tariff free access for cross border trade in animals or their products and it would be very difficult to avoid checks and market disruption.
Introduction

During the Brexit referendum campaign, the possibility of finally being able to ban live exports of animals resonated with the public\textsuperscript{5}. In July the HM Government’s Command Paper on the future relationship between the EU and the UK set out proposals for a “Free trade area” for agri-food. While the name could seem to refer to a Free Trade Agreement, the paper describes a situation that would be closer to a Customs Union and partial Single Market, restricted to goods\textsuperscript{4}. The political declaration on future trade agreement envisages the UK and the EU agree on zero tariffs and no routine requirements for rules of origin, as well as maintaining a common rule book, with the UK adopting relevant rules established by the EU for goods that can be checked at the border\textsuperscript{6}. HM Government is also expected to report back by the beginning of 2019 on its proposals to fulfil its manifesto commitment to manage the live exports of animals following a report from its scientific advisers, the Farm Animal Welfare Committee. As demonstrated in a previous briefing, prohibiting the export of live animals for slaughter or fattening will best be achieved through a trade ban, although other methods are possible such as restricting journey times once the animals have left the UK and ensuring British welfare standards are followed in the importing country\textsuperscript{7}. Either measure adopted by the UK could need to be defended at the WTO. All the options adopted by the UK for slaughter animals being transported for slaughter or further fattening across the Irish border but there are also imports of cattle and sheep from Great Britain to Ireland and exports of cattle from Great Britain and Northern Ireland, through Ireland, to the rest of the EU. The latter are mainly calves from Scotland and Northern Ireland. In 2017, more than 5,500 calves were exported from Scotland through Northern Ireland and then Ireland before onwards transport, predominantly to Spain and Italy\textsuperscript{11}. In 2017 a further 19,588 calves were sent from Northern Ireland to Spain\textsuperscript{10}, via Ireland, and more than 13,000 sheep were exported from England and Wales to the EU\textsuperscript{11}.

The trade in live cattle and sheep has changed in the past few years. Exports of live calves from the Channel ports has declined from around 83,000 in 2006 to 0 in 2017\textsuperscript{12} mainly due to growing markets in the UK for these animals\textsuperscript{13}, but also due to re-routing of Scottish calves through Northern Ireland, on through Ireland and then by boat to the Continent from there, instead of through English Channel ports. Trade in sheep from the continental port for further fattening and slaughter has also reduced from 752,000 at the turn of the millennium to just over 13,000 in 2017\textsuperscript{14}, with an additional 62,000 being exported via Northern Ireland.

It is not known how many horses cross the border, as these do not have to be captured on TRACES (the EU’s import and export database), but it is likely to be significant. As data is poor on movements of horses other than those for competitions and racing, it is difficult to establish trends in trade in equines for slaughter over the past decade. However 7,748 horses were slaughtered in Ireland in 2017\textsuperscript{15} and given that Northern Ireland has no licensed equine slaughterhouses currently it is expected that there will be some trade across the border.

Trade in animals across the UK/Ireland border

Each year, thousands of animals, including horses, sheep, pigs and cattle, cross the UK/Ireland border. The Northern Irish beef and sheep industry employs more than 4,750 people across Northern Ireland and output was valued at £1.1 billion in 2015\textsuperscript{16}. The shared land border and geographical proximity has resulted in the development of a highly-integrated agri-food sector on the island of Ireland, with large volumes of trade in both finished products and products requiring further processing\textsuperscript{17}. Each year, more than 400,000 pigs are exported live from Ireland to Northern Ireland for processing, with almost 400,000 lambs exported from Northern Ireland to Ireland for slaughter\textsuperscript{18}. In 2015, approximately 28,000 cattle were exported from Northern Ireland to Ireland for slaughter\textsuperscript{19}. The vast majority of the trade in live animals between the UK and Ireland consists of animals being transported for slaughter or further fattening across the Irish border but there are also imports of cattle and sheep from Great Britain to Ireland and exports of cattle from Great Britain and Northern Ireland, through Ireland, to the rest of the EU. The latter are mainly calves from Scotland and Northern Ireland. In 2017, more than 5,500 calves were exported from Scotland through Northern Ireland and then Ireland before onwards transport, predominantly to Spain and Italy\textsuperscript{20}. In 2017 a further 19,588 calves were sent from Northern Ireland to Spain\textsuperscript{21}, via Ireland, and more than 13,000 sheep were exported from England and Wales to the EU\textsuperscript{22}.

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Welfare concerns regarding live export of farm animals to the EU

Concerns in terms of animal welfare linked to live transport fall into three main areas:

1. The conditions used to transport the animals over long distances

The most recent science concerning long distance transport shows that use of partitions in horse transport, compulsory fasting of pigs with provision of water at stops, and temperature limits for poultry were the major areas for improvement. In particular it recommended that untrained horses should not be transported for longer than 12 hours. Research has also shown problems faced by calves during long distance transport.

2. Enforcement of existing rules

There is concern that enforcement of existing EU law on live transport is lacking in many EU Member States. The European Commission’s own report into live transport states that effective enforcement remains a major challenge. In 2012 the Commission decided not to review or amend Council Regulation (EC) No 1/2005 but to focus on improving enforcement and promoting the development and use of practical guidelines to improve welfare. However, it is unclear if either measure will be successful.

3. Export to countries with lower animal welfare standards

Animals are also exported to countries where they face conditions that would be illegal in the UK. For instance, the calves sent abroad in 2017 were mainly destined for Spain, where standards for housing calves are below those in the UK, in particular regarding the provision of bedding for the animals. EU law only requires calves to be given bedding for the first two weeks of life. In contrast, Paragraph 8 of Schedule 4 to the Welfare of Farmed Animals (Scotland) Regulations 2010 provides that “all calves must be provided with appropriate well-maintained bedding” and this requirement applies until the calves are six months of age.

A further significant concern comes from new information provided by Bord Bia, the Irish government agency that promotes Irish food. Ireland, like Scotland, exports male dairy calves to Spain and regarding Spain’s imports, Bord Bia says that “livestock demand is mainly for male dairy calves and weanlings from 160–300kg which are finished intensively for young bull production from 10–16 months of age for the domestic market or for export to Portuguese retailers or brought to stores for live exports”.

Since Irish calves can, after being fattened in Spain, be exported to non-EU countries, then it is quite possible that calves exported to Spain from Scotland are re-exported to non-EU countries. Bord Bia says that Libya is the main destination for Spain’s cattle exports, followed by Lebanon, Turkey and Algeria.

The prospect of Scottish calves being re-exported from Spain to Turkey, the Middle East and North Africa is deeply disturbing. Many animal welfare organisations have investigated slaughter in this region for years. Slaughter methods are routinely inhumane and in breach of the international standards on the welfare of animals at slaughter of the World Organisation for Animal Health.

Slaughter conditions inside the EU can also frequently be poor. A recent report (September 2016) by a Committee of the French Assemblée Nationale confirms that there are serious welfare problems and breaches of EU law on welfare at slaughter in French abattoirs. Referring to inspections by the French authorities of 263 abattoirs in 2016, the report states: The recent government inspections have revealed indisputable dysfunction. It adds: “In both small and large abattoirs, recent government inspections have shown that, in numerous cases, animal welfare is not sufficiently well protected and progress is needed”. A large proportion of sheep exports are destined for non-stun slaughter in France (in 2017, 22 of 32 lorries carrying sheep out of Ramsgate, England, coincided with religious festivals) and so may be slaughtered in conditions illegal in the UK.

Welfare concerns regarding export of equines to the EU

A ban on exports for fattening and slaughter, or a journey time restriction, is particularly problematic for equines as they can be moved for other reasons such as leisure and competition. While there are no recent official declarations of horses being exported to slaughter there is strong evidence that there is an indirect trade (i.e. they can be exported for sale as leisure ponies and then sold to the highest bidder, which could be a slaughterhouse). While the only solution that completely addresses this is full traceability of equines across the UK and EU, increased intelligence-led checks, combined with spot-checks, at point of origin and at the border will go some way to ensuring a proposed ban or journey restriction is effective, although this would not align with the Government’s intent of a free trade area.

Cross border trade is particularly important for equines in Northern Ireland, as the nearest slaughterhouse is located south of the border. Prohibiting this movement would mean that these horses would face a longer journey by sea and road to England.
Brexit scenarios and a ban on live transport

According to the Withdrawal Agreement once the UK leaves the EU it would follow the EU’s rules on imports of products and live animals where these need to be checked at the border and will implement a zero tariffs regime, as occurs at present. However, if this agreement is not ratified by the UK, a no-deal option would mean the EU and UK would become third countries and that trade between them would be carried under Most Favoured Nation (MFN) terms with checks at the border and imposition of scheduled tariffs.

Under its proposals to ban live transport, the UK Government has to ensure that the cross-border trade without controls between Northern Ireland and Ireland can still be permitted for equines and farm animals. This is of course dependent on whether such frictionless trade is allowed between post-Brexit UK and the EU. There is good evidence to show that farmers in Great Britain have started to use the trade route via Northern Ireland, and then Ireland, for cattle and sheep trade to gain access to the EU outside of the British Isles in preference to using the Channel ports route. In general, there are welfare advantages to move animals to the nearest abattoir for slaughter, especially for equines, but there are also disadvantages when they are transported long distances for slaughter or further fattening. EFSA, the European Food Safety Authority, has reported welfare issues on journeys further than eight hours.

Banning live transport in post-Brexit UK

The UK has two options to restrict or end the trade in live farm animals. Firstly it could ban the live exports of farm animals for slaughter alone or additionally for further fattening – the latter is the preferred option. Secondly it could impose journey time limits on transport once the animals have left UK territory or impose restrictions based on equivalent standards in the importing countries.

A ban in the framework set by the Chequers plan

If, post Brexit, the UK follows a common rulebook, understood to be the EU rules on goods considered relevant by the UK, it could mean following Regulation 1/2005 which sets out the conditions for the transport of animals, provides specific limits on journey times for animals on land and at sea and sets out the authorisation process for transporters, vehicles and ships. These rules are usually checked at the start and finish of the journey, so it is unclear if they fall within the definition of the common rulebook. The Chequers plan and draft political declaration indicate clearly the willingness and the possibility for the UK under this new regime to apply higher welfare standards for “the treatment of live animal exports”. In such context, it could be difficult for the UK to ban the export of animals to the EU but not impossible. However it is difficult to see how such a ban would pass the Government test for the Irish border, as it would stop any cross-border trade that occurs now on the island of Ireland. A lot of this trade, particularly for horses but also for sheep and cattle, goes to the nearest slaughterhouse or goes for further fattening in Ireland.

A ban in the absence of a deal between the UK and the EU

In the absence of an agreement on the UK’s orderly withdrawal from the EU, or if the withdrawal agreement is not ratified in time, there will be no transition period and all EU law will cease to apply in the UK on 29 March 2019. The EU has stated its intention of “applying its regulation and tariffs at borders with the UK as a third country, including checks and controls for customs, sanitary and phytosanitary standards and the verification of compliance with EU norms”. Whether immediately or after a delay, enforcement of checks at the UK/Ireland border can also be expected. We previously showed this risks a race to the bottom for farm animal products and standards as imports from the EU could fall by 62 percent and these shortfalls could only come from countries with welfare standards below the UK’s. Exports of farm products to the EU could also crash, rendering certain sectors uncompetitive.

A no-deal scenario enables the UK to simply ban all live exports, including to Ireland. We believe this could be defended at the WTO should a complaint be received. However if the Government wishes to defend a ban that does not apply to Ireland but only to other countries, such as France, the UK would have to argue that there are specific conditions that would permit a trade restrictive measure not to apply to Ireland. This has never been argued or defended before at the WTO.

How should the UK construct its live export measure: reconciling the WTO rules and trade across the UK/Ireland border

If the UK adopts a trade measure, in this case banning live transport, it will have to respect the rules enacted by the WTO. It could face a challenge that can be brought by any WTO member that would be negatively impacted by the UK measure. As live exports from the UK only go to the EU at present, it would need to be the EU taking the UK to the WTO Dispute Settlement Mechanism. It is clearly impossible to say if this would happen particularly as the EU would be taking a case against a measure that is clearly in favour of animal welfare, a value it proudly defends on the global stage.

If a case does get heard, the WTO panel would assess if a ban on live exports excluding through the Ireland/Northern Ireland border would be WTO compliant. There are a number of issues the UK should consider when drawing up the measure including using a scientific overview as its justification for the measure, showing a clear purpose for the measure, ensuring the measure does not give any trade
advantage to domestic production by making it flexible, conducting negotiations with other affected states and showing why the measure is necessary and why alternatives would not achieve the same goal. The Government is already taking steps that may be helpful to this process.

It has requested a report from its independent scientists, the Farm Animal Welfare Council; in addition, it will have conducted and agreed negotiations with the affected states, in this case the EU. It can also demonstrate the connection between the measure and public concern.

Any restriction to trade must be justified under the exceptions contained in GATT Article XX, one of which concerns public moral which has been defined as covering public concerns for animal welfare in the ruling adopted by the WTO in the seal case. Such exception could be used to justify a ban on live transport based on the suffering endured by animals during long transport, but also in other countries where lower animal welfare standards are applied. In addition to these exceptions, the measure adopted must respect another general principle: it cannot be applied in a way that constitutes arbitrary or unjustifiable discrimination or a disguised restriction on international trade. This is where it might be difficult for the UK to justify the exception it wants to make for Ireland. This exception could not be based on the level of animal welfare rules applied there, as it could be argued that other EU Member States have similar levels of animal welfare standards. The exception could be crafted either based on the suffering linked to long-distance transportation as opposed to the shorter journeys necessary to cross the UK-Ireland border. However, it remains to be seen if the measure and its technical criteria could be crafted in a way that would exclude any other journeys and be seen as non-arbitrary.

Conclusion

The objective of this paper is not to assess which model the UK should pursue in its trade negotiations with the EU. However it sets out the impact such scenarios might have on the trade across the Irish border in equines and farm animals for slaughter and further fattening and the impact on animal welfare.

The trade in farm animals and equines across the Irish border is large and benefits animal welfare by reducing live transportation times as the nearest abattoir may be across the border. A ‘no-deal’ scenario enables the UK to simply ban all live exports, including to Ireland. This could be defended at the WTO should a complaint be received. However, even if the UK would decide to exclude Ireland from its ban, a ‘no-deal’ scenario also means the return of border checks and thus the end of frictionless animal movement across the island of Ireland. This could result in animal welfare issues, as the trade route could be impacted by these checks and tariffs even if low on live animals and journey time to nearest slaughterhouses or fattening areas is likely to increase. The Chequers proposal and Withdrawal Agreement intends to enable continued trade across the Irish border and underline the chance to manage the long-distance transportation of animals. In such case, frictionless movement of live animals across the Irish border could be maintained and an exclusion of Ireland from a UK ban on live exports becomes even more relevant. However, it remains more problematic to defend a live exports ban should it apply selectively to countries, as the UK would have to show that there are specific conditions justifying the non-application of its trade restrictive measure to Ireland only.

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2. Prime Minister, PMQs 8.2.17. Hansard.


7. The Brexit & Animals Taskforce. 2018. Opportunities and threats: UK animal welfare under different models with the EU.


10. Ibid.


12. www.thetimes.co.uk/article/calves-packed-into-lorries-for-135-hour-journey-bd579x0sk


24. Ibid pages 263–264: “Dans les petits comme dans les grands abattoirs, les récents contrôleurs ministériels ont montré que, dans de nombreux cas, le bien-être animal n’était pas encore suffisamment bien protégé et que des progrès étaient nécessaires”.


27. The Brexit & Animals Taskforce. 2018. Opportunities and threats: UK animal welfare under different models with the EU.


Main imports and exports across the Irish border of farm animals and equines for slaughter and further fattening:

- **Sheep**
  - 117,000 EU
  - 20,000 non EU countries

- **Cattle (EU)**
  - 400,000
  - 400,000

- **Horses**
  - 62,000

- **Pigs**
  - 22,000
  - 25,000 including 5,500 Scottish calves

- **Unknown**
  - 4,000