

Proposed UK-US trade agreement

Executive Summary

1. In negotiating the new agreement, the US is likely to press the UK to accept imports of US meat, dairy products and eggs even though these are generally produced to much lower animal welfare standards than those of the UK. If the UK agrees to this UK farmers could be undermined by lower welfare US imports. To avert this danger the UK must insist on the inclusion of a clause permitting it to require imports to meet UK animal welfare standards. Alternatively, the UK could press for the ability to place tariffs on imports that do not conform to UK welfare standards that are sufficiently high to safeguard UK farmers. Such proposals are likely to meet with resistance by the US negotiators. Faced with this danger, UK farmers may press for UK welfare standards to be lowered to bring them closer to US standards.
2. The proposed agreement is likely to include requirements to achieve regulatory coherence between the UK and the US. The UK has a considerable body of legislation on the welfare of farm animals whereas the US has very little Federal legislation in this field. Regulatory coherence with the US will make it very difficult for the UK to adopt good new legislation on farm animal welfare and may well create pressure on the UK to dilute its existing standards.
3. The proposed agreement is also likely to include provisions on Investor State Dispute Settlement. These will discourage the UK from adopting good new animal welfare legislation as it will be fearful of being sued by US investors who may claim that such legislation has a discriminatory effect on their business.
4. The proposed agreement may include provisions on public procurement. These may make it harder for public bodies to adopt good standards of animal welfare for the food they buy and the meals they supply and may compel them to accept food from US companies where welfare standards are generally lower than in the UK.
5. The overall impact of the agreement may be to make it very difficult for the UK to improve its animal welfare standards and may create a downward pressure on existing UK standards.

Detailed briefing

6. The UK Government will be responsible for negotiating the agreement. However, decisions as to whether, in the light of the agreement, to change UK standards of animal welfare will be made separately by each of the UK's four constituent parts; however, in the interests of brevity, this briefing refers to "the UK".

Danger that lower welfare imports will undermine UK farmers and lead to pressure for UK to dilute its welfare standards

7. In negotiating the new agreement, the US is likely to press the UK to accept imports of US meat, dairy products and eggs even though these are generally produced to much lower animal welfare standards than those of the UK. If the UK agrees to this UK farmers could be undermined by lower welfare US imports. To avert this danger the UK must insist on the inclusion of a clause permitting the UK to require imports to meet UK animal welfare standards. However, it will be difficult to

secure US agreement to this. Alternatively, the UK could press for the ability to place tariffs on imports that do not conform to UK welfare standards that are sufficiently high to safeguard UK farmers. This too is likely to meet with resistance by the US negotiators. Faced with this danger, UK farmers may press for UK welfare standards to be lowered to bring them closer to US standards.

Agreement may include a clause requiring regulatory coherence: this could deter the UK from adopting good new animal welfare measures

8. The TTIP agreement that was being negotiated between the US and the EU placed considerable weight on regulatory consistency between the US and the EU; this is often referred to as “regulatory coherence”. The US is likely to press for the inclusion of a clause in its agreement with the UK that aims to align regulatory standards related to breeding, holding, handling, transportation and slaughter of farm animals.
9. This would be worrying. US regulations on farm animal welfare are generally substantially lower than those of the UK. Indeed, the US has no federal regulations at all in many of the areas in which the UK has enacted detailed regulations. In stark contrast to the UK, there is no federal US legislation governing the welfare of animals while they are on the farm. There are federal provisions on slaughter (this legislation does not cover poultry, and is much less detailed than UK legislation), and on transport (which is also much less detailed and demanding than UK legislation).
10. The UK has banned barren battery cages for egg laying hens since 2012. There is no US federal ban on these cages. At the level of individual States five States—California, Michigan, Oregon, Washington and Massachusetts—have prohibited barren battery cages and a sixth—Ohio—has enacted a moratorium against the construction of new battery cage facilities.
11. The UK has banned sow stalls since 1999. There is no US federal ban on sow stalls, although they have been prohibited by nine US States.
12. There would be something of an absurdity in being required to achieve regulatory coherence with a country that has very few, indeed in many areas no, federal regulations on the welfare of farm animals.
13. There is a real danger that enhanced compatibility of regulations would make it very difficult for the UK to improve its farm animal welfare standards. There is also a danger that the US will put pressure on the UK to dilute its existing regulations in order to make them more compatible with the very limited US federal regulations in this field.

Investor-state dispute settlement

14. An investor-state dispute settlement (ISDS) procedure will probably be included in the UK-US trade agreement. This procedure would allow a US corporate investor to initiate proceedings against the UK for alleged breaches of the trade agreement. The ISDS provisions could present a de facto barrier to future improvements in UK animal welfare legislation. A US investor could claim damages arguing that such an improvement has a discriminatory effect on their business; this potential threat would act as a strong deterrent to the introduction of new regulations in the UK. It will inevitably have a chilling effect as the Government may be reluctant to adopt measures which may then be challenged under ISDS thereby making the UK vulnerable to having to pay substantial damages.
15. **Will the UK be able to prevent the import of hormone-treated beef, chlorine-washed chicken and ractopamine-treated pork?**
16. **Hormone-treated beef:** The protracted WTO dispute between the EU and the US regarding the EU ban on imports of beef from cattle treated with certain growth promoting hormones was finally

resolved by a Memorandum of Understanding between the US and the EU. Under this the EU is able to retain its ban on hormone-treated beef in exchange for providing substantial market access for US hormone-free beef at a zero tariff rate.ⁱ The UK would probably need to make a similar arrangement with the US if it wants to prevent the import of hormone-treated beef.

17. **Chlorine-washed chicken and ractopamine-treated pork:** In the US chickens are washed in chlorine to eliminate bacteria that have infected the birds during rearing and slaughter. Chlorine washes are being used to make up for inadequate hygiene in farms and abattoirs. While many may find the prospect of eating chlorine washed chicken disturbing, there appears to be no clear scientific evidence that it poses a substantial risk to human health.
18. Ractopamine is a feed additive used to promote growth in pigs. Its use is permitted in the US but prohibited in the EU. There is evidence that it has a detrimental impact on pig welfare; the Humane Society of the US states that it “causes death, lameness, stiffness, trembling and shortness of breath in farm animals”.ⁱⁱ Possible concerns have been expressed about its impact on human health though the science on this is not definitive.ⁱⁱⁱ
19. In negotiating a trade agreement with the US, the UK could press for the agreement to allow the UK to refuse to import chlorine washed chicken and ractopamine treated pork. However, the US is unlikely to agree to this as it will probably wish to use the agreement to open the UK market to these products.

Public procurement

20. The proposed agreement may aim to make it easier for firms from either side of the Atlantic to bid for government procurement contracts. This could lead to public bodies in the UK being compelled to accept food produced to US animal welfare standards which in general are much lower than those of the UK. It could also undermine the ability of UK public bodies, when buying food and supplying meals, to set good standards of animal welfare.

Conclusion

21. The proposed UK-US trade agreement poses considerable threats to the ability of the UK to make further improvements to the welfare of farm animals. It could also create a downward pressure on existing UK standards. The agreement must include effective guarantees that safeguard the UK's capacity to continue to enhance the welfare of farm animals.

ⁱ Revised Memorandum of Understanding with the United States of America Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied by the United States to Certain Products of the European Union, 30 January 2014

ⁱⁱ http://www.humanesociety.org/news/press_releases/2014/11/ractopamine-drug-challenged-110514.html
Accessed 18 March 2017

ⁱⁱⁱ Scientific Opinion of the Panel on Additives and Products or Substances used in Animal Feed (FEEDAP) on a request from the European Commission on the safety evaluation of ractopamine. *The EFSA Journal* (2009) 1041, 1-52