Brexit Monograph 17
Food exports to the EU

Introduction

When the UK leaves the EU, it will automatically acquire the status in EU law of "third country". No longer part of the Single Market, it will find that it has to conform with a much more rigorous regime for exports of food of animal and vegetable origin, with serious constraints that could cause serious damage to the sector, and in particular to trade between Ireland and Northern Ireland.

Post-Brexit exports

After Brexit, the UK will automatically fall within the framework set for "third countries"

> Regulation (EU) 2016/429 sets out five conditions with which an exporting country must agree before products of animal and vegetable origin can be sold in EU Member States.
> 1 It must be specifically listed for *each group of animal products* which it exports.
> 2 There is no single, overall listing. Every product must be *specifically listed*.
> 3 *Each establishment* from which products originate (whether farm, slaughterhouse or processing plant) must be approved and listed on the EU's official database.
> 4 *Each consignment* must be accompanied by relevant certificates, declarations and other documents to prove they meet the EU requirements.
> 5 At the port of destination, the consignments must be presented to *official inspection points* to permit the implementation of what are termed "official controls".

The inspection points for both animal and vegetable products, with the implementation of the 2017 Regulation, are to be known as *Border Control Posts (BCPs).* This affects the UK. Foodstuffs are inspected as required at the point of origin. There are no border controls on intra-community trade. The establishments in which they are produced are approved by UK authorities under the supervision of the EU's Food and Veterinary Office (FVO) under the aegis of DG Sanco (A branch of the EU under a special Commissioner).

With the imposition of border inspection, three factors emerge.

Firstly, there is a *routeing issue*. Goods have to be directed to entry points where there are inspection facilities, which may require significant detours. There are no inspection facilities at Calais. The only posts on the French Channel coast are Dunkirk and Le Havre. Traffic will have to be routed via these points. For Ireland, there are BIPs at Dublin Airport and Port, and at Shannon Airport. There are no facilities serving traffic between Ireland and Northern Ireland. Traffic from Northern Ireland would have to be routed via these ports before goods could be released for circulation in Ireland.

The second issue is the *potential for delay*. At the basic level, there will be a full documentation check, to ensure the loads are accompanied by the necessary documents. Then there will be verification checks – physical inspections to determine whether the load is as described on the documents. There will be in-situ inspection of loads, including the opening of packs to assess safety or quality. Vehicle contents may also have to be transferred to inspection areas for detailed examination. The samples may be taken for off-site analyses, either for microbiological examination, or to determine such things as pesticide residues or the presence of non-permitted preservatives and colours.

Food and vegetable products depend on reliable and rapid delivery. This will not happen. At the moment, Operation Stack, where lorries pile back along the M21 for several miles has been put in place between January and November 2015 on a record 32 days, three implementations each lasting five days. The University of Kent has estimated that exit checks would almost double the time taken for tourist cars and by a third for freight traffic. There is delay at the moment. Imagine what will happen when veterinary and other checks have to be made.

Thirdly, there is the *problem of capacity of the ports to deal with the increased workload*. We are looking at an enormous quantity of exports here. Four billion of our food and drink exports to the EU are routed through France.

We are looking at about 50,000 p.a. animal checks at the moment. Dunkirk can handle 5,000 consignments a year. Le Havre can handle 16-17,000. The UK's requirements would be well in excess of twice the available capacity.

In France, these inspections are carried out by the *Service d'inspection vétérinaire et phytosanitaire aux frontiers* (SIVEP), a national services established in 2009. French terminology for BIPs is *postes d'inspection frontaliers* (PIF). Plants and vegetables go through *points d'entrée communautaires* (PEC). All this is going to have to change radically. Quite apart from anything else, the French are going to have to build a facility as big as Algeciras, the largest in Spain, for at least £20 million.

French farmers, who have a history of disruption, may not be willing to stomach that. Ireland, of course, will have to do the same thing. Should negotiations fail, and the UK reverts to WTO rules with no agreement on customs and other cross-border issues, this could catapult UK produce into the "high risk" capacity, decided by formal risk assessment procedures which would load the process because of the lack of any information exchange. The inspections would soar to 120,000 or more – amounting to 50 percent above the current throughput. Even theoretical capacity could be exceeded.

However, with the UK Government failing to offer clarity as to its intentions, *it is difficult to see how the continental authorities can do anything other than wait.* There is little sense in making what would amount to a speculative provision. One possible alternative is for the UK Government to build a BIP facility this side of the Channel, securing European Commission permission for advance inspection. But at the cost of some £20 million.

For this to work, a decision on a new development would have to be made soon, and there is no indication that this issue has even been recognised for what it is. But there can be no doubt whatsoever that border inspection will become a permanent feature of our relation with the EU.

The effect of a Free Trade Agreement

It is often argued that we can adopt the *Canadian Comprehensive Economic and Trade Agreement (CETA) model* for trade with the EU. But the agreement has failed to remove many of the barriers to shipping red meat to Europe. According to Ron Davidson, head of international trade for the Canadian Meat Council, "We do not have what we would call commercially viable access to the European market".

As far as *pork* is concerned, there are three EU imposed barriers to their imports. It has to be *trichinella free* and Canadian pork has not been certified. Secondly, the EU requires its *own health mark* on boxes of meat over a tamper proof belt, placed at the time it is packed. The boxes go into a refrigerator and the serial numbers on the health mark must be *kept in sequence*. That would create significant handling problems for Canadian companies which ship to many other markets outside of Europe. Thirdly, Canadian meat processors are concerned about the *equivalence of inspection.* "We supposedly do have equivalence in the meat inspection systems. If it is a real equivalence, the Canadian Food Inspection Agency stamp should be sufficient", Davidson says.

Then there is the question of *beef* exports. Here, there is the stumbling block on the use of antimicrobial treatments to remove pathogens such as *E. coli* O157. Because the EU would not be buying entire carcasses, Canada would be left with items like trim used for minced meat. This is often exported to the United States where there is a zero-tolerance policy for *E. coli*. That means the entire carcass has to be treated with antimicrobials in Canadian packing plants to avoid the risk of losing the US market.

Meanwhile, *European meat suppliers have open access to Canadian markets.* "The day that CETA goes into effect, the 26.5 percent tariff comes off so the European Union is going to have a huge opening of the Canadian market for beef and veal", Davison added. "*The agreement is not balanced.* We would just like to be able to take advantage of the quota we've got", he said.

Because the EU arrangement is so one sided, the Canadians find that they have *trouble in compliance with the US* arrangements, which makes exporting expensive and therefore uneconomic. As the Canadian Meat Inspection Agency concedes, that every Canadian meat establishment must be approved by the EU and listed on the official schedule, before it can export to the EU.

The meat must be *stamped with the official EU-approved health mark (thereby making it unmarketable in the US)* and on arrival at its EU port of entry, the meat must be presented to a *Border Inspection Post*. There, it must be subjected to *special checks (for a fee)* before it can be passed to customs for clearance. In other words, the free trade agreement does not give Canadian meat processors a free pass into the EU. They are treated just like any other "third country" – as will be the UK when it leaves the EU.

For UK establishments, this means that most establishments will have to conform with EU law. *Even if just ten percent of the product is exported, the business must comply all of the time.* Nor do there have to be direct exports - most plants feed into the wholesale market, produce from which is exported. Meat is also sold to food manufacturers which export (or may want to export) a portion of their output to the continent. They will demand from their suppliers EU- compliant product, irrespective of its eventual destination. For the UK, as long as the EU remains its biggest export customer, the EU will require *de facto* conformity with the entire EU animal health *acquis* just as it does now.

Those meat plants which restrict themselves only to the domestic market, therefore, will tend to find their market very restricted indeed, often becoming part of a second-tier low-price market, shunned by supermarkets and chain outlets.

Live animals and the Irish trade

Every week in Ireland, around 10,000 pigs, and 1,000 bovines move back and forth across the border as part of the normal slaughtering and processing activity. This unhindered movement, says an RTE report, can happen "because operators on both sides of the border comply with EU rules on animal safety, animal health and welfare, disease control and traceability".

The free movement of goods arises not because of regulatory conformity but because Northern Ireland, as part of the UK, and Ireland itself, are *both in the Single Market*. They both enjoy the free movement of goods which is an inherent part of the Single Market. Once the UK leaves the EU (and the Single Market), free movement of goods will no longer be enjoyed – even if regulatory conformity is maintained. Animals and products of animal origin must be *routed via a Border Inspection Post*.

As to the idea that milk from Northern Ireland be designated as "Irish" milk (and thereby milk of EU origin), to get around these issues, it seems unlikely that this would be tolerated. It would, in effect, create a back door into the Single Market, something against which the EU is on its guard.

Much of this is wishful thinking. *On Brexit, the border between Ireland and Northern Ireland becomes the external border to the EU, the only land border that the UK will have with the EU. The EU will do its utmost to maintain the integrity of that border.*

Conclusions

Come what may, after Brexit, the UK will become a "third country" in relation to the EU. This is not a derogatory term, and should not be confused with "third world country". It is simply a technical description applied to countries which are outside the EEA/Single Market. One of the most damaging results could be the *inspection regime carried out at Border Control Posts. These involve significant delays,* which primarily affect roll-on, *roll-off (ro-ro) shippers*. What are also termed driver accompanied loads *are particularly vulnerable to delays: not only is the load held up, the vehicle and driver are* kept out of play as well, adding to the expense. Shippers may be limited either on a first-come, first served basis, or the situation may be managed by using a quota system. Failing that, we see the prospect of loads being delayed so long that *perishable contents will be spoiled and become unusable.* On top of this, the extra shipping time, and the extra costs involved, may render the transport of low value goods uneconomic. Shippers will *depend entirely on the goodwill of the French and other national authorities (such as the Irish).* much of the food traffic from the North will have to be *routed via Dublin or Shannon*.

Thus, even at best, the prospects for many food exports to the EU, post-Brexit, are poor. There will be considerable delays, increased costs and difficulty in committing to reliable delivery timing. At worst, delays and/or capacity limitations may make it impossible to continue the export of highly perishable products of animal or plant origin. In the longer-term, ro-ro shipping may prove impracticable or uneconomic and we may to a shift to containerised transport, with redistribution away from the Channel ports, and a change in the nature of the goods exported to the EU market.