

RSPCA – Written evidence FUU0008

Summary

From the point of view of trade in goods, where the goods in question are live animals and animal-derived products, there is no question that having a deal is better for animal welfare and for the British farming industry than no deal. Whilst the EU-UK Trade and Cooperation Agreement (TCA) is far from perfect, it has several key positives. These will be covered in more detail in subsequent questions but in summary are: the continuation of tariff-free trade in primary farm products and many processed products; the ability for the UK to diverge from EU standards and reclaim through tariffs any cost disadvantages from lower standards and the recognition of the link between animal welfare and sustainable farming.

The continuation of tariff-free, quota-free trade is perhaps the most important for animal welfare and British farmers. The UK and EU have similarly high MFN tariff rates for commonly imported food. If the EU had had to impose such MFN tariff on exports from Great Britain (which would have been the case in the absence of a trade deal), there would have been significant consequences. Both export flows would probably have halted under such a scenario, due to the high tariffs, and may have been replaced by imports from countries with lower animal welfare standards. However, the new system of checks and inspections on the trade in animals and animal products are causing delays at border crossing points the impact of which for animal welfare is currently unclear. It will be concerning if such delays affect live animal movements, as the potential welfare consequences of lengthening already long journey times are serious. However the new procedures could also result in increased enforcement and checks on animals such as imported puppies or exported horses in the longer term, which would have a positive affect on animal welfare. Further, such bureaucratic procedures may reduce the number of live animals exported, which would also be positive for welfare.

Separately, the RSPCA is also concerned about the supply of veterinarians and other expert staff needed to complete these new checks, especially as the TCA does not include the mutual recognition of veterinary qualifications. We also have concerns about the potential increase in animals being used in chemical testing as a result of the UK leaving the European Chemicals Agency and no longer being part of the EU's REACH regulation. We believe that both of these areas - as well as any impact on

animal welfare of increased delays at border crossings - should be priorities for the UK Government and the EU to address in their future relationship.

About the RSPCA

The RSPCA is the oldest and largest animal welfare organisation in the world. The RSPCA has been working on trade issues for 25 years, attending seven World Trade Organisation (WTO) Ministerial meetings and advising the European Commission on six FTAs that the EU has negotiated or is negotiating that include animal welfare elements (Chile, South Korea, Canada, Japan, Mercosur and Mexico). The RSPCA also sits on the Consumer Working Group of the UK's Trade and Agriculture Commission. The RSPCA sets the standards for the UK's only higher welfare farm assurance and food labelling scheme, RSPCA Assured, which has over 3,000 members.

Please indicate which aspect of the Trade and Cooperation Agreement you are responding in relation to. You are welcome to respond to any that apply.

Non-tariff barriers to trade

Level playing field

1. As opposed to other possible outcomes, what does the presence of an EU-UK free trade agreement mean for trade in goods?

From the point of view of trade in goods, where the goods in question are live animals and animal-derived products, there is no question that having a deal is better for animal welfare and for the British farming industry than no deal. Whilst the EU-UK Trade and Cooperation Agreement (TCA) is far from perfect, it has several key positives. These will be covered in more detail in subsequent questions but in summary are: the continuation of tariff-free trade in primary farm products and many processed products; the ability for the UK to diverge from EU standards and reclaim through tariffs any cost disadvantages from lower standards and the recognition of the link between animal welfare and sustainable farming. The points relating to tariff-free trade are particularly important in certain sectors such as sheepmeat where nearly all exports go to the EU (compared to pigmeat where 40% of exports go to non EU countries). It is also important for imports in certain sectors. For instance in 2019, 90% of British egg imports came from the EU. Among these, 90% were egg products and 10% shell eggs. In 2016 the UK imported over 2 million

eggs, representing 16% of consumption. These are imported at similar standards to those in the UK and are imported at zero tariffs as opposed to 29% MFN rates. Without the TCA, imports from the USA, Ukraine and other countries producing at lower production methods than the UK would undoubtedly have increased undercutting the UK's standards. This, as well as the overarching principle that Great Britain is able to set its own animal welfare standards outside of the Single Market and Customs Union¹, presents the UK Government with the opportunity to use the new system for trade in goods to protect and improve animal welfare standards in the UK.

It is not clear in the TCA what the impact of the Level Playing Field (LPF) provisions will be on animal welfare standards. Whilst the LPF provisions under Title XI refer specifically to environmental and labour standards, not animal welfare, the provisions cover sustainable development which would include animal welfare. Indeed the Prime Minister referred to pig welfare standards as being covered in his speech on the LPF provisions, stating this allowed the UK to implement tariff provisions if tariff-free pork imports to standards lower than the UK occurred. The LPF will take some time to assess with regard to what issues it refers to and how it should be implemented.

2. What is your assessment of the relevant provisions in the TCA and their impact on your business or policy area?

1. Tariff-free, quota-free trade (TCA Articles: GOODS.5, GOODS.10 and GOODS.13)

The TCA confirms that no tariff or quota will apply to trade between the EU and the UK. This is good for animal welfare, particularly for farm animal standards.

The UK imports more than it exports for all animal-derived products other than milk. The UK and EU have similarly high MFN tariff rates for commonly imported food - such as dried egg products, sheepmeat and beef - of 30-70%. If the EU had had to impose such MFN tariff on exports from Great Britain (which would have been the case in the absence of a trade deal), there would have been significant consequences. Both export flows would probably have halted under such a scenario, due to the high tariffs, and may have been replaced by imports from countries with lower animal welfare standards.

¹ This point does not extend to Northern Ireland which remains in the Single Market and Customs Union and, therefore, subject to EU rules and standards.

The TCA, by agreeing to keep all tariffs at zero, has ensured that both the EU and the UK can continue to favour another partner displaying relatively higher animal welfare standards. Otherwise, as the EU and the UK do not impose their animal welfare standards on imported goods (apart from those related to slaughter), both partners could have witnessed in the near future vast changes in the structure of their food imports, with the level of lower welfare imports likely to increase as they would have become cheaper than the EU or the GB products. This status quo is also helpful to assist the UK in maintaining its higher animal welfare standards, by lowering the pressure products from countries with lower welfare standards.

The TCA foresees that the parties shall only adopt or maintain licensing procedures (ie checks and inspections on traded goods) "if other appropriate procedures to achieve an administrative purpose are not reasonably available". Such import licensing procedures must be fair and transparent.

These new administrative procedures include transporter authorisations, registration on relevant import notification systems, animal health certificates and veterinary checks, customs declarations and checks, and entry and exit declarations. The early results of the introduction of such procedures are already being seen, resulting in an increase in paperwork and delays at ports. It will be concerning if such delays affect live animal movements, as the potential welfare consequences of lengthening already long journey times are serious (especially if there are not enough suitably qualified staff and suitably outfitted facilities to allow the animals to disembark transport vehicles whilst waiting - and indeed for any inspections that occur). However the new procedures could also result in increased enforcement and checks on animals such as imported puppies or exported horses in the longer term, which would have a positive affect on animal welfare. Further, such bureaucratic procedures may reduce the number of live animals exported, which would also be positive for welfare.

The UK has started to consult on new transport conditions for farm, and other, animals. Such provisions, it is important to note, will cover not only internal transport of animals in Great Britain. They will also cover transit of animals from third countries such as Ireland through Great Britain to the continent due to the provisions on transporter authorisation, including the transport times in third countries. Great Britain's transport rules

would impact and raise standards concerning journey times and vehicle specifications on Irish live animal exports.

2. Sanitary and phyto-sanitary (SPS) measures: animal health and animal welfare

The TCA's SPS chapter does not mention explicitly the precautionary principle. This is not abnormal, looking at the EU practice in other FTAs, but this is a missed opportunity for the UK to take a position on how it will approach food safety in the future. The TCA chapter reaffirms the SPS Agreement, in particular the importance of risk-based assessments. Several EU measures benefitting animal welfare - which are currently applied by the UK - have been deemed in violation of such SPS rules by the World Trade Organisation (eg the ban on imports of hormone-fed beef) or have been strongly contested (eg chemical rinsing of meat, restrictions on the use of antibiotics in animal production). Language located in the SPS provision indicating that the parties should not create additional authorisation requirements compared to those in place at the end of the Transition Period hint at the UK's acceptance to maintain such standards. However the UK was the only member of the EU in 1999 that voted against the beef-hormone ban and it is unclear how the Government will move forward on this issue.

The SPS chapter also contains provisions on cooperation on animal welfare, antimicrobial resistance and sustainable food systems:

- Animal welfare: the parties recognise animals as sentient beings and, for the first time in a trade document, the link between improved animal welfare and the sustainability of food production systems. They will exchange information, experiences and expertise, cooperate in international fora "to promote the development of the best possible animal welfare practices and their implementation", and on animal welfare research.
- Antimicrobial resistance (AMR): the provisions recognise that misuse of antibiotics in animal agriculture is a threat to the future of animal and human health. They also confirm the willingness of the UK not to backtrack on banning growth promoters and hormones, setting an objective for both parties to "work towards the cessation of the use of antibiotics as growth promoters internationally".
- Sustainable Food systems: this provision indicates that food safety authorities will cooperate to promote sustainable food systems.

The animal welfare chapter is positive as it is the first time this link between food production sustainability and animal welfare has been recognised by a trade agreement.

3. Technical barriers to trade: labelling and consumer information

This chapter impacts technical regulations, such as labelling schemes. The chapter allows for labelling schemes to be imposed on imported products if the information provided is relevant for the consumers or users of the product. This is positive for animal welfare as it opens up introducing method of production labelling schemes on animal products, including imports. The Westminster Government will consult on these method of production labelling schemes in 2021.

4. Rules of origin

The Rules of Origin under the TCA imply that an animal product will be seen as wholly originating in a country if the product is a live animal born and raised in the country; if it is an animal product which originates from live animals raised in the country or it is obtained from slaughtered animals that were born and raised in the country. There is also a tolerance if the products in which the weight of non-originating components does not exceed 15% (even 20% for eggs, egg products and dairy products). It also clarifies that any product labelled as EU or UK will have been produced under those farm standards.

3. What do those provisions achieve?

1. Tariff-free, quota-free trade

These provisions ensure that UK exports of animal-derived products to the EU (and vice versa) continue to be economically viable and reduce the likelihood of either market becoming more reliant on cheaper, lower welfare imports from other countries. The longer term animal welfare impact of the new system of checks and inspections that sits alongside this remains to be seen and could be either negative (if delays affect the welfare of live animals being moved cross-border) or positive (if greater enforcement leads to more illegally imported/exported animals, or animals being moved in conditions that could impact their welfare, being intercepted; or a reduction in live animal exports).

2. SPS measures

The recognition that animals are sentient and that animal welfare is part of sustainable farming are positive. The recognition that the UK will not back away from existing, contentious animal welfare SPS measures, such

as the ban on growth hormones, are important commitments for the protection of UK animal welfare standards in the future.

3. Technical barriers to trade

This chapter allows the UK to impose its own labelling scheme on animal-derived products which is an important step forward for animal welfare standards (and something the UK Government has already indicated it will do).

4. Rules of origin

This chapter guarantees a significant degree of clarity over where, and under what standards, animal-derived products were produced.

4. What, if any, challenges arise because of those provisions? How should these challenges be addressed and what support is needed, if any?

As mentioned above, there are challenges posed to the welfare of live animals in transit by the new system of checks and inspections and the longer wait times these entail (at least in the short term). Even assuming the delays at the border decrease as the new system beds in, it is likely all animals, particularly large animals such as equines, will still need to be unloaded for inspections if there is no way to access them on the transport vehicle. Without appropriately trained personnel and lairage facilities, such procedures are likely to compromise welfare. It is therefore vital that appropriately trained personnel and appropriate facilities are provided to ensure that this does not happen. The UK Government's proposals to end the live transportation of animals for slaughter and further fattening - which the RSPCA support - would also help in this regard, by reducing the number of animals being transported across the border and thus subject to such inspections.

Another factor which could exacerbate these problems, as well as being a general concern across the animal welfare policy area, is the supply of vets. It is not currently clear that there are enough vets (or, indeed, other environmental and animal health professionals) to complete all the necessary inspections at the border or the associated paperwork. Although not strictly related to the trade in goods, this is a problem which may be exacerbated by the fact that the TCA does not include mutual recognition for veterinary qualifications, which may impact on the number of EU national vets working in the UK. Some sectors of the UK veterinary

'industry' are heavily reliant on EU national staff and the impact of a shortage would be considerable.

It is important that the Government closely monitors both the impact of delays at border crossings and any issues with the supply of appropriately qualified vets and other staff. It is encouraging that the Government has announced, through their Port Health Transition Fund, extra funding to local authorities with border crossings in their areas to employ more animal health staff. But these grants only apply to England (the UK's second busiest roll-on roll-off port is Holyhead in north Wales) and will not make up for any shortfall in the number of vets in practice across the country, should this become an issue. The Government should press for mutual recognition of veterinary qualifications to be established as a priority (see below).

Although not contained in the TCA's sections on trade in goods, one final issue that should be addressed (and which will impact on the trade in chemical goods in particular) is ensuring that animal testing is not duplicated or increased. This is important as, for example, there are ongoing issues around the ownership of testing data of chemicals under the EU's REACH regulation by companies within Great Britain and no agreement between the UK and EU for sharing or recognising test data in the future. The UK has left the European Chemicals Agency and whilst it has committed to establishing a national regulatory framework and building domestic capacity to deliver functions currently performed by the European Chemicals Agency, the risk of increased animal testing is considerable in the short to medium term. Under one assessment, British companies do not own the data for roughly three-quarters of the chemicals covered by REACH, meaning that they may need to reproduce a lot of data from tests that have already been undertaken elsewhere. This will impact on the chemical industry's exports from Great Britain to the EU and Northern Ireland. The UK Government's commitment to avoid duplicate testing is welcome but it remains unclear how and when these new rules will be introduced, and whether they will indeed avoid and minimise animal testing. Urgent attention must be given to ensuring that the UK's regulation of chemicals does not lead to any duplication or increase in animal testing, and that the use of non-animal methods for assessing the safety of products is maximised.

5. What do you identify as the most important issues that the TCA leaves for further negotiation? What would represent a best-case resolution of these issues?

There are a number of areas where the TCA has either not defined a process or timescale for agreeing unresolved issues or where the language is so undefined that it will be only clarified under the dispute settlement process. The TCA sets up at least 24 Committees and Working Groups and four different dispute settlement processes (DSPs) depending on the issue so it will require time for these to bed in and give jurisprudence on unresolved issues. Perhaps the most important of these for animal welfare is how the LPF process will operate.

The TCA has a number of areas where it has left future negotiation to other bodies. The TCA explicitly leaves open the possibility of mutual recognition for veterinary qualifications to be agreed in the future (TCA SERVIN5.13). It appears the TCA expects trade bodies to undertake this process but this is something the Government should pursue as a priority. A best case scenario on this issue is simple: mutual recognition is assured and EU national vets can continue their vital work in the UK (and of course vice versa) without further interruption.

Similarly an agreement on mutual acceptance of testing data should also be a priority to avoid needless testing on animals in either Great Britain or the EU and Northern Ireland. The TCA leaves obtaining data under REACH to individual companies, and staggers the deadline depending on the quantity and hazard profile of the chemicals for periods of two, four and six years after the implementation date of 28 October 2021. Assessing the full impact on animal welfare from the UK leaving the European Chemicals Agency will have to wait until at least 2027. It is vital that the rules envisaged in the TCA (IP.36) that will avoid duplicate testing are agreed as soon as possible.

6. Within the parameters of the TCA, what should the UK seek to accomplish with the EU in relation to your industry or policy area in the short, medium and long term?

In the short term, apart from the immediate priorities mentioned above (ensuring that any delays at border crossings are not detrimental to animal welfare, pursuing mutual recognition of veterinary qualifications and ensuring rules are put in place to avoid duplication of tests using animals) there are a number of domestic policy opportunities that the TCA opens up for the UK Government. For example, the recognition in the

technical barriers to trade chapter that labelling is permissible should give the Government more impetus to press on with their plans to introduce mandatory method of production labelling for animal-derived products. In relaying accurate, clear and meaningful information on provenance of the product to the consumer this will act as an important facilitator for driving consumer buying patterns to higher welfare products and differentiating them from products imported to lower standards. Similarly, they should seek to use the new system of checks and inspections at the border to improve enforcement in cases of illegal puppy imports and exports of horses for slaughter. These are relatively straightforward issues where a good degree of progress can be achieved in a short period of time.

In the longer term, the UK Government should take the opportunities presented by the regime established by the TCA to improve animal welfare standards in the UK, the EU (working with the relevant EU institutions) and globally. They should seek to both protect standards in Great Britain and encourage improvements to those in the EU and beyond by using the opportunities that the tariff protection measures against lower welfare imports, agreed by the Goods section of the TCA, provides. This could include, for example, tariffs on pork produced using sow stalls, something which is illegal here and allows pigs to be reared more cheaply elsewhere. The SPS chapter of the TCA also commits the UK and the EU to work together in international fora to deliver improvements in animal welfare. If taken up with sufficient political will, this could drive improvements for animal welfare (and particularly farm animal welfare) across the globe.