

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
Y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol | External Affairs
and Additional Legislation Committee
Y goblygiadau i Gymru wrth i Brydain adael yr Undeb Ewropeaidd |
Implications for Wales of Britain exiting the European Union
IOB 04
Ymateb gan Prifysgol Dulyn, yr Athro Alan Matthews, Athro Emeritws
Dimensiwn Amaethyddol Polisi Amaethyddol Ewrop
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I thought it would be most helpful to the Committee if I tried to set out some ways in which the inevitable disruptive trade effects of Brexit might be mitigated in future trade arrangements. In trade terms, Brexit means leaving either or both of the EU customs union and the EU single market. These decisions are in principle separate and each would have their own consequences for trade and the costs of trading.

Under the customs union, the UK applies the EU's common external tariff and the responsibility for trade agreements covering food and agriculture rests with the European Union. In the case of modern trade agreements which also cover regulatory and intellectual property issues ratification also often requires the consent of EU national parliaments.

On leaving the customs union, the UK would regain the ability to set its own level of tariffs, subject to whatever ceilings might be agreed as part of its WTO commitments, as well as the possibility to conclude its own free trade agreements. Even if a free trade agreement were concluded with the EU which maintained the current level of tariff-free access to the EU market, UK and Welsh exporters would have additional paperwork to deal with arising from the application of rules of origin.

Rules of origin are a necessary part of any free trade agreement outside a customs union. They are intended to ensure that the goods receiving preferences genuinely originate in the partner country, and are not goods originating in a third country using the free trade agreement to circumvent the payment of appropriate tariffs.

As an example, suppose the UK had a free trade agreement with New Zealand after Brexit which allowed duty-free access for lamb and also one with the EU. The EU customs authorities would want to ensure that lamb exported from Wales was genuine Welsh lamb and not duty-free New Zealand lamb seeking to enter the EU market without paying the full EU duty. Exporters of meat pies or lasagne would have to demonstrate that the meat was Welsh lamb and not New Zealand lamb. This can be done by a relatively simple exporter declaration on a customs form, but it would be an unavoidable element of extra paperwork.

It is possible to leave the EU customs union while remaining a part of the single market and, for non-food products, retaining tariff-free access to the EU market. This is popularly known as the Norwegian or, somewhat less accurately, the Swiss option. In the Norwegian example, this would involve the UK remaining a part of the European Economic Area with its associated obligations as well as rights.

It should be noted, however, that the EEA does not cover tariff arrangements for trade in agri-food products for which additional negotiations would be required.

As a separate decision, the UK could decide to leave the single market. In principle, it might seek to leave the single market while remaining in the customs union, which would be the Turkey option, though this must be seen as unlikely. The UK would continue to have access to the single market, like North Korea and every other country as the Minister for Brexit famously remarked, but it would no longer be part of the single market.

The basis of the single market is the principle of mutual recognition. Goods which can be placed on the market in any one member state can be sold in any other member state, subject only to some safeguard clauses which are strictly interpreted by the European Court of Justice. However, for mutual recognition to work especially in the case of food, all countries must have confidence that goods being marketed meet a high standard of health, safety, environmental and consumer protection.

This has two consequences. First, it means that participants in the single market must agree on legislation which sets common standards which ensures this high level of protection. This legislation also ensures a level playing field for businesses, preventing competition by lowering standards unreasonably. Second, there needs to be confidence in the conformity assessment procedures which ensure that marketed goods actually meet the required standards.

If the UK were to leave the single market, it would regain the ability to set its own regulations including food standards, although this nominal freedom will be circumscribed both by its international legal obligations, such as compliance with WTO rules, as well as by any desire to minimise trade costs with its major trading partners.

UK exports to the EU would no longer automatically benefit from the mutual recognition principle. Nor would EU exports to the UK. UK exports would have to demonstrate, on a shipment by shipment basis, that they meet the regulatory standards to be sold on the EU market. The procedures to demonstrate compliance would also have to be audited and approved.

For example, a Welsh meat factory selling on the domestic market and wishing to export to an EU country would face hygiene and veterinary inspections by the UK Food Standards Agency, but it would also face additional inspections from the EU Food and Veterinary Office. Over time, the two sets of standards it is expected to meet may diverge from each other. There will be additional costs of delays at border crossings and the paperwork involved, plus possible additional costs from having to reformulate products or to change packaging.

These additional costs of trading across border can amount to 5-8% of the value of the product. They apply to imports as well as exports, and thus provide some additional protection to UK food firms which are only selling on the domestic market, although these higher costs would ultimately be paid by the UK consumer.

The new generation of free trade agreements, called Deep and Comprehensive Free Trade Agreements, tries to address these additional regulatory costs through mechanisms of regulatory co-operation and regulatory coherence. It would be open to the UK, in any future trade arrangement with the EU, to include agreements on regulatory measures. For example, there could be an agreement on veterinary equivalence which would allow the UK Food Standards Agency to certify that the Welsh meat factory met the EU as well as the UK standards, thus minimising the number of inspections. There could be an organic equivalence agreement which would ensure that products meeting future UK organic standards could also be sold as organic in EU markets under EU organic rules. The UK could agree to participate in the EU's Geographical Indications system which would continue protection for products such as Anglesea Sea Salt, Pembrokeshire Early Potatoes and Welsh Lamb.

Thus, even under a free trade agreement outside the customs union and outside the single market, there are opportunities to minimise the additional trade costs that will arise following Brexit. However, negotiating agreements on regulatory standards does take time and the difficulties should not be underestimated. It would be important to begin now to establish the priority areas for regulatory coherence from a Welsh perspective in any possible future UK-EU trade agreement after Brexit.