

## Introduction

1. NFU Cymru is pleased to have the opportunity to submit written evidence as part of the External Affairs and Additional Legislation Committee's consideration of the implications for Wales of the UK's departure from the European Union.
2. The decision to leave the European Union presents us with a unique opportunity to set out a clear vision for the future of Welsh agriculture. It provides us with the chance to shape and develop policies that will enable us to realise our ambition of a productive, progressive and profitable industry that will deliver jobs, growth and investment for Wales.
3. Welsh agriculture is a strategically important industry. It has a gross output of £1.5bn and provides employment for some 58,000 people. It is also the cornerstone of Wales' £6.1bn food and drink industry.
4. The role that Wales' farmers play in maintaining and enhancing our natural environment and providing a range of ecosystems services supports not only a range of habitats and species but also provides the rural backdrop for a tourism industry worth £2.5bn.
5. The Brexit decision prompted NFU Cymru to conduct the largest ever consultation exercise with its members, a process which has now concluded. That process included a series of roadshow meetings, commodity board meetings, NFU Cymru Council meetings, and a consultation document issued to each and every NFU Cymru member in Wales, resulting in many hundreds of responses.
6. The feedback from members brought a number of important issues to the fore, but the two issues which featured most prominently were discussions around trade and the need for Wales' farmers to attain parity of treatment with farmers in the rest of the UK home nations and the European Union in terms of support for agriculture.

**What should be the top priority for Wales in advance of the UK Government triggering Article 50?**

1. NFU Cymru's response to this point is based on the feedback that we have received from members during the course of our consultation exercise.
2. The Committee has asked that we identify a top priority for Wales ahead of the triggering of Article 50, and the beginning of the formal process of departing the EU. Arrangements around future trading arrangements and future support arrangements for agriculture post Brexit featured equally prominently during the course of our discussions
3. The Union's view is therefore that working to secure future trade arrangements and future support for agriculture should be accorded equal priority by Welsh Government, and we make a number of points to Welsh Government under each heading.

**Trade**

1. The EU single market is by far our biggest export destination, around a third of our lamb crop ends up on the European market, and around 90% of Welsh food and drink exports going in to the single market. For NFU Cymru members, continued access to the European market, unfettered by tariff and non-tariff barriers is essential.
2. NFU Cymru is aware of the political sensitivities that accompany securing participation in the single market, which as things stand include the acceptance of the principle of free movement of people, contributing to EU budgets and adhering to the bulk of EU legislation. These are matters which will have to be settled by negotiation and we would ask the Welsh Government to do all it can to ensure that the UK continues to participate in the single market after Brexit.
3. The European market is now relatively mature and growing more slowly than some emerging and developing economies. For that reason, access to new global markets is seen as becoming increasingly important in future.
4. Agriculture is a strategic industry, which is economically and culturally important to Wales. We would not want to see agriculture used as bargaining chip when it comes to trade negotiations with third countries, where it might be traded off in return for access to service markets.
5. If the UK were to enter into trade agreements with countries such as New Zealand and Brazil, then certain elements within the UK government could be tempted to unilaterally lower tariffs for food imports. Such a move would have a devastating impact on Wales' livestock industry and the Welsh Government must guard against this.
6. NFU Cymru urges Welsh Government to be particularly mindful of the possibility of agriculture being used as a bargaining chip, and to do all it can ahead of the triggering

of Article 50 to ensure that agriculture does not end up being used in this way in any trade negotiations that the UK government may seek to conclude.

7. Welsh Government should seek to do what it can to limit our exposure to goods produced to lower standards. Within the confines of the WTO rules, this is difficult as the rules prevent discrimination against imports on the basis of production standards. One way to help ensure that consumers chose to buy Welsh produce is through strengthening our brand and promoting the quality of Welsh produce through assurance schemes.

### Future support for agriculture

1. From the outset it has been NFU Cymru's view that Wales' farmers need to be accorded parity of treatment with farmers in the other UK home nations and the residual EU when it comes to future support for agriculture.
2. Most countries around the world have introduced agricultural policy measures to address various issues including market volatility, and to recognise the increased cost of producing to higher standards of animal welfare and environmental protection
3. Average net farm income is forecast to decline by a quarter to £13,000 for the 2015-2016 accounting period. Given the current volatility of the market place, it is perhaps unsurprising that a significant percentage of Wales' farms would not be viable without European funding.
4. It is unclear how farm support might operate in future. Whilst the size of the Welsh block grant and adjustments to it via the Barnett formula are based on Wales' population size being about 5.7% of the size of England's. In terms of Wales' receipts of EU funds, Wales does far better, and accesses around 12% of the EU funds that flow to Wales.
5. If EU funds lost to Wales upon Brexit were replaced by the UK Treasury according to a population based Barnett calculation then compared to the current mechanism for dividing up EU funds amongst the home nations, it is likely that Wales would be looking at an allocation reduction of 40%
6. NFU Cymru believes that securing agreement from the UK Treasury to allocate funds to Wales, to replace those lost on EU departure should be by analogy to the existing formula for dividing up EU funds amongst the home nations, rather than by the Barnett formula. It is our view that securing such an agreement with the Treasury must be a priority for Welsh Government.
7. NFU Cymru would like the governments of the UK home nations agreeing by mutual consent a common overarching agricultural framework that will determine the level of support available in each of the home nations.
8. Once this funding is transferred to Wales, NFU Cymru asks that it is protected for the purposes of agricultural support and rural development.

**The proposed transfer of the *acquis communautaire* into domestic law via ‘The Great Repeal Bill’**

1. Information on the Great Repeal Bill has proven to be fairly limited to date. Its scope, effect, timing and how it might intersect with the various devolution settlements has yet to be clearly delimited.
2. NFU Cymru’s views on the Great Repeal Bill and the *acquis communautaire* are therefore predicated on the following assumptions (i) The Bill will repeal the European Communities Act 1972 (ii) The Bill will move the entire body of directly applicable Community law, extant at Brexit, into domestic statute (iii) The Bill will expressly preserve the effect of that body of Community law, extant at Brexit, which is not directly applicable, but which has typically been transposed into domestic law via primary or secondary legislation.
3. Our views are further predicated on an assumption that the Great Repeal Bill will only take legal effect at midnight on the date on which Brexit becomes effective, leaving the UK in observance of all its Community obligations, and, as a corollary continuing to enjoy the full benefits of Community membership until that time.
4. Failing to make provision to give on-going effect to the entire *acquis* would leave enormous legislative lacunae, and would almost certainly be very prejudicial to the UK being able to secure and maintain trade deals with the residual EU and much of the rest of the world. Preserving the entire *acquis* should therefore offer some certainty and continuity, and should presumably place the UK in a stronger position in terms of concluding trade negotiations.
5. On the basis of our understanding and assumptions regarding the effect and timing of the Great Repeal Bill being as outlined above, then we are broadly of the view that an approach which transposes directly applicable provisions of Community law into domestic statute, whilst making express saving provisions for non-directly applicable Community law, that is already enshrined in domestic statute, to be a sensible one.
6. Such a move should represent only a transitional measure, and furthermore we also recognise that the Great Repeal Bill may need the legislative consent of the National Assembly, depending on exactly what it sets out to achieve.
7. It is clear that if the UK Government were to then begin enlarging or diminishing the scope of the re-patriated *acquis* in areas of devolved competence, without respecting the devolution settlement or the wishes of the National Assembly and the Welsh Government then this has the potential to create real tensions. More than ever, at a very uncertain time, there needs to be close working built on mutual respect and trust between the UK Government and the Welsh Government and the UK Parliament and the National Assembly for Wales.

8. Agriculture has been within the devolved competence of the National Assembly since the outset of devolution in 1999, accepting of course that it is a competence shared with the EU, and that this shared competence has placed limitations on what could and could not be done in relation to agriculture in Wales.
9. In broad terms NFU Cymru would expect to see powers relating to areas of devolved competence, such as agriculture, lifted from the *acquis*, eventually transferred back to Wales, rather than held by UK Government. Failing to do so would offend against devolution.
10. A good case exists for the retention of some functions on a UK wide level, rather than devolving responsibility to each home nation. NFU Cymru would suggest that competence in relation to plant protection products as just one example of an area in which it might make sense for the competence to lie at UK level. If there is to be some UK level competence in relation to certain matters then this must be done on the basis of the mutual consent of the devolved administrations and the UK Government.
11. NFU Cymru believes it is vital to ensure that all four home nations work together in partnership to ensure that we have fit for purpose policies that farmers understand, and cross border farmers are in no way disadvantaged. We do not wish to see a situation in which trade within the UK becomes subject to artificial non-tariff barriers of differing standards or failure of mutual recognition.
12. In her appearance before the Climate Change, Environment and Rural Affairs Committee on 14<sup>th</sup> September 2016, Cabinet Secretary Lesley Griffiths estimated that there were approximately 5000 pieces of EU legislation within her portfolio alone.
13. NFU Cymru is aware that reviewing each and every piece of EU derived legislation and deciding whether it or not it is desirable to preserve it, or to remove represents a very significant task, but we would urge government not to shy away from doing so.
14. The nature and extent of the regulatory landscape emerged as quite a distinct theme during the course of our recent member consultation. Poor regulation is often cited as a reason for lack of farm business confidence, whilst the costs of compliance, the time given over to complying, and perhaps moreover demonstrating compliance, add significantly to farmers' workload.
15. Government must seek to reduce unnecessary regulation and bureaucracy wherever possible. Much of what might be possible will depend on trading partner expectations as well as domestic political priorities, but we urge Government to be ambitious in seeking to roll-back on regulation.
16. As well as there being a strong case for reviewing and reducing regulation, NFU Cymru believes that there is now also an opportunity to rationalise and consolidate the various pieces of EU legislation (that might be preserved) that lie in the portfolios of Welsh Ministers.

17. Presumably The Great Repeal Bill will render static EU legislation (including Court of Justice of the European Union case law) that is effective at the moment of our departure from the EU.
18. Undoubtedly, incorporating the re-patriated *acquis* into domestic law will present a significant challenge. We would however suggest that should post-Brexit trading arrangements require that the UK and Wales be observant of much EU law, then presumably this would require that the re-patriated *acquis* be updated continually so as to reflect changes and developments in EU law. Inevitably this will give rise to quite a significant and open ended task for Government.
19. NFU Cymru accepts the need for the Great Repeal Bill owing to the unique exigency created by Brexit, the need for stability and continuity and moreover the need to be in the best possible position to secure trade agreements.
20. Wales' landscape is unique and so to the size and structure of our farms, and the way in which they are bound up in a distinctive culture. The ability to engage in policy development that will take particular account of Welsh agriculture and our rural areas, should not be fettered, and for this reason and out of respect for devolution, broadly speaking the re-patriated *acquis* relating to agriculture should be transferred back to Wales.