

Farmers' Union of Wales response to a Senedd External Affairs and Additional Legislation Committee inquiry into preparedness in Wales for the end of the transition period

30th October 2020

About the Farmers' Union of Wales

1. The Farmers' Union of Wales (FUW) was established in 1955 to exclusively represent the interests of farmers in Wales, and since 1978 has been formally recognised by the UK Government, and subsequently by the Welsh Government, as independently representing those interests.
2. The FUW's Vision is *thriving, sustainable, family farms in Wales*, while the Mission of the Union is *To advance and protect Wales' family farms, both nationally and individually, in order to fulfil the Union's vision.*
3. In addition to its Head Office, which has thirty full-time members of staff, the FUW Group has around 80 members of staff based in twelve regional offices around Wales providing a broad range of services for members.
4. The FUW is a democratic organisation, with policies being formulated following consultation with its twelve County Executive Committees and eleven Standing Committees.

Welsh Government action to prepare Wales for the end of the transition period

5. The Farmers' Union of Wales has been engaged in Welsh Government planning for post-Brexit scenarios since shortly after the EU Referendum held on 23rd June 2016, and in particular ahead of what were possible Brexit dates of 29 March 2019, 22 May 2019, 31 October 2019 and 31st January 2020.
6. Given that these marked potential dates for the UK's departure from the EU without a trade deal with the EU, the focus of various Welsh Government stakeholder groups and meetings was:
 - a. The assessment of immediate and longer term impacts of such a worst case scenario for different agricultural sectors, based on expert knowledge and analyses produced by bodies such as the Agricultural and Horticultural Levy

Board (AHDB) and Hybu Cig Cymru (HCC)¹, and the Agri-Food and Biosciences Institute (AFBI)² and

- b. Planning for how the acute immediate impacts of such a worst case scenario might be reduced
7. It must be noted that the UK Government's preparations for such a no-deal scenario fell well short of what was needed to minimise adverse impacts, as highlighted, for example, by the National Audit Office, who concluded in September 2018 that Defra not yet understood the scale of work it would have to complete ahead of Brexit and had failed to complete a large number of tasks necessary to prepare for Brexit³.
8. As such, the scope for thorough preparation by either Welsh Government or businesses was severely limited.
9. Such analyses and planning through Welsh Government stakeholder groups has effectively continued in relation to the far more certain 'full' departure date of 31st December 2020, while emerging information regarding trade negotiations has further allowed different scenarios to be analysed. However, UK Government preparations in particular continue to leave much to be desired.
10. From an agricultural perspective, amongst the most important work undertaken in this area is that of the Welsh Government's Environment and Agriculture Roundtable Evidence and Scenarios sub group, which has continued to collate data and evidence in order to assess the possible impacts of different combinations of trade deals on issues such as agricultural prices and land use.
11. Notwithstanding this, the FUW has consistently expressed concern at the minimal amount of investment and work commissioned by the Welsh Government to look at economic impacts of different scenarios, such as on rural employment, compared with the substantial investment in modelling work focussing on possible environmental and land use changes.
12. While the FUW fully supports the latter, it maintains that economic and social impacts for Welsh families should have attracted equal attention and investment in terms of modelling different scenarios, and that such work should be carried out posthaste and attract significant investment.
13. Whilst the work carried out by the Evidence and Scenarios sub group has been essential in identifying potential impacts that, once published, should help inform businesses and others of likely effects, other Welsh Government stakeholder groups have focussed on other aspects of the post-withdrawal period, most notably the

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<https://ahdb.org.uk/knowledge-library/exploring-the-implications-of-brex-it-for-agriculture-and-horticulture-in-wales-28-june-2018>

² <https://www.afbini.gov.uk/news/afbi-releases-report-post-brex-it-trade-agreements-uk-agriculture>

³

<https://www.nao.org.uk/report/department-for-environment-food-and-rural-affairs-progress-in-implementing-eu-exit/>

practical preparations needed to minimise adverse impacts of different UK-EU Trading Scenarios. Such groups include the Welsh Government's EU Transition Agri-food Supply Chain Stakeholder Group, the Farmed Animal Health and Welfare Agricultural Resilience Group and the Sheep stakeholder focus group.

14. The work of such groups continues to be severely hampered by uncertainty regarding post-withdrawal trading arrangements with the EU, and a lack of progress in terms of preparation, primarily by the UK Government, for different scenarios.
15. For example:
 - a. The Veterinary Public Health Association (VPHA) and British Veterinary Association (BVA)'s document *Export Certification and the challenges facing the meat and livestock sector post-transition* concludes that
 - i. If the EU discontinues recognition of the UK's health status, sub clauses may apply for meat exports requiring a 40 day standstill on the last holding before slaughter, a negative TB test within 3 months of slaughter, systematic trichinella testing of pigs and the segregation of EU and non-EU destined products.
 - ii. Existing Harmonised European Health Certificate (EHC) conditions will impose a severe limitation on and in some cases prohibit the export of certain categories of products such as fresh mince and meat preparations, 5th quarter products and certain categories of offal and by-products.
 - iii. Shortages of Veterinarians may be a major problem, since meeting export requirements does not only require vets to sign EHCs at the point of departure, but also to verify and certify information and processes throughout the supply chain, including on farm, in slaughterhouses, co-located and standalone cutting plants and retail packing sites, cold stores and at borders. While the UK's Animal and Plant Health Agency (APHA) has estimated the number of additional vets needed for EHC certification work to be around 200, businesses involved in export certification work have put the number at at least 350.
 - iv. While a great deal of progress has been made to automate the system to apply for EHCs, the expected 500% increase in the requirement for these will be coupled with a different and in essence new form of export trade; the bulk of current Products of Animal Origin exports to non-EU countries is of frozen product with long lead times, whereas current trade with the EU is largely of fresh product often with very short lead times and tight delivery windows. As such, any delays will adversely affect shelf life and be commercially damaging, and concern therefore exists regarding the speed at which EHCs will be processable.

- v. Operators dealing with movements of agricultural goods between Northern Ireland and Britain do not yet know how this trade will be managed, what Sanitary and Phytosanitary (SPS) rules will apply and what the legal requirements will be for the placing of British products on the Northern Irish market, and the placing of Northern Irish product on the British and EU markets after the withdrawal period.
 - vi. There is no clarity regarding imported Products of Animal Origin materials which are further processed in the UK for re-export to the EU market.
 - vii. The uncertainty and lack of information on these key issues is undermining confidence among operators and making it difficult for these businesses to organise and plan their post withdrawal period trade with the EU, and unless they are resolved exports to EU markets will either be impractical or impossible.
- b. Academics in the Republic of Ireland and Wales working under the *Ireland Wales Cooperation Programme* have noted the failure of the UK to prepare Welsh ports for post-withdrawal arrangements⁴, highlighting:
- i. The Internal Market Bill could significantly affect UK ports like Liverpool, Holyhead, Fishguard, Pembroke Dock and Milford Haven, and the Irish ports of Dublin and Rosslare.
 - ii. Welsh and Irish ports are facing profound and unprecedented challenges as the transition period draws to an end, and efforts to address these have been more far-reaching and sustained in the Republic of Ireland than in Wales.
 - iii. The Republic of Ireland has made considerable investments in new customs infrastructure - for instance, an investment €30 million and re-purposing of 10 hectares of land, including building new customs posts and associated facilities at Dublin Port - while there are to date no comparable developments in Welsh ports - despite Holyhead being the second busiest port in the UK (Border Inspection Posts are not expected to be in place in Welsh ports until July 2021).
 - iv. With around 40% of total Irish trade facilitated through Holyhead, equating to some 150,000 lorries crossing to the European mainland via UK ports, the lack of infrastructure in Welsh ports threatens to increase the current 20 hour duration of such journeys in such a way as to make such crossings far less practical, leading ports at Dublin and Rosslare to develop new direct ferry routes to continental Europe.

⁴ <https://theconversation.com/uk-is-not-doing-enough-to-get-irish-facing-ports-ready-for-brex-it-148063>

- v. The UK must address practical challenges in its Irish-facing ports if Brexit is to work economically and politically
- c. The British Meat Processors Association (BMPA) maintains a log of issues and progress⁵ in relation to key matters that need to be resolved in order to facilitate exports and minimise friction and costs.

As at 30th October 2020, of the ten key issues identified in their log, five were 'in progress' while five were 'unresolved'. Issues unresolved include:

- i. The fact that the UK has yet to be given Third Country approval, which must take place before meat processing plants that currently export can be officially listed by the EU as eligible to continue doing this. Third Country approval must be voted on by the EU Standing Committee on Plant, Food and Feed and it is understood that this may not take place before December 2020, introducing a high degree of uncertainty for UK exporters and EU importers in terms of the ability of the UK to continue trade with the EU.
- ii. With guidance on what health marks need to be applied to Products of Animal Origin after December 2020 having finally been issued on 15th October 2020, the Chief Veterinary Officer of the UK must now write to non-EU countries to advise them of the changes such that buyers in importing markets understand the new health marks and that they guarantee the same standards as the previous EU health marks.
- iii. That the system developed by Defra for the export certification of grouped consignments (the Groupage Export Facilitation Scheme) specifically excludes fresh and frozen meat, and only covers products packaged for sale to the final consumer, meaning there is no provision for grouped consignments of fresh meat in any format. If the system is not developed to accommodate such consignments, this type of trade with the EU will have to cease.
- iv. The Draft Harmonised Export Health Certificates (already referred to under 15a, above) have been circulated which suggest significant differences between current and future requirements, including Trichinella testing (which the UK is currently exempt from), TB testing requirements, and a 40 day residency requirement on the last holding before slaughter. Such requirements would mark a significant change compared to current practices and place major restrictions on farmers and exporters which would start to take effect in the coming weeks.
- v. Defra has to date only provided a broad outline of the processes involved in relation to certification requirements for movements of

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https://bmpa-my.sharepoint.com/:x:/g/personal/anna_proffitt_britishmeatindustry_org/EbY59FPP-Z9Ni-FHilbL2T8BqtEqQdTkLxQuhDR4pceZYQ?rttime=np0fANJ82Eg

products between Britain and Northern Ireland, and while there is some detail on health and identification marks there is still significant ambiguity in terms of the practical implementations for companies.

16. Committee will note that while farming businesses are not generally involved directly in exporting, most, if not all of the above examples relate to issues which are of direct relevance to farm businesses, including some which seem likely to start to have an impact in the coming weeks.
17. Concerns such as those listed have been discussed in regular meetings of the Welsh Government's EU Transition Agri-food Supply Chain Stakeholder Group and other groups, which provide invaluable forums for the dissemination of information in relation to all aspects of Wales' agri-food supply chain, including in relation to work undertaken to change or implement new Welsh legislation necessary for the post-withdrawal period.
18. Whilst many of the issues of concern for farmers and food producers are beyond the control of the Welsh Government, and some are beyond the control of the UK Government (and rely on EU decisions which are tied to the current political negotiations), there is concern that Welsh Government may have been slow to prepare with regard to certain areas which *do* fall within its powers, or exert influence in other ways, for example in relation to decisions relevant to infrastructure near ports.
19. For example, the Border Operating Model document⁶ published by the UK Government on 8th October 2020 states that "*HMG are working with Welsh and Scottish government to confirm the infrastructure requirements for Wales and Scotland*", while it is notable that Border Inspection Posts at Welsh Ports are not expected to be operational until July 2021.
20. The 8th October 2020 Border Operating Model document lists the roles of the UK and Devolved Administrations, Government agencies and others in relation to UK ports, stating that the Welsh Government is responsible in Welsh ports, partly or fully, for:
 - a. Imports and exports of live animals and animal products
 - b. Imports and exports of fruit and vegetables, plants and wood
 - c. Protecting the environment
 - d. Control of imports and exports of chemicals and nuclear materials (in association with the HSE)
21. However, given that exports to mainland Europe via English ports and the Channel Tunnel is the prime concern for Welsh agriculture, the FUW had had little

⁶ <https://www.gov.uk/government/publications/the-border-operating-model>

involvement in discussions with Welsh Government relating to Welsh ports until recent months.

Preparedness of key economic sectors in Wales

22. Welsh farm businesses are reliant to varying degrees on exports to the EU (as well as imports in some contexts), with reliance in the sheep and hill sheep sector particularly acute, given that around a third of Welsh lamb is exported to mainland Europe. Moreover, agriculture is amongst those industries most at risk from the impacts of tariff and non-tariff barriers under most of the likely post-withdrawal scenarios, given the UK Government's position on membership of the Single Market.
23. Whilst some farmers are involved directly in the importation and exportation of live animals for breeding, the majority are not - although it should be noted such trade is important for the industry as a whole in terms of indirect benefits, such as improved genetics, and that the trade in semen, ova and embryos is also important for many individual businesses and the industry as a whole.
24. As such, there has been relatively little that the vast majority of farmers have been able to do directly to prepare for the post-withdrawal period, other than taking limited actions such as stockpiling medicines and other items in anticipation of shortages - not least given that there is still no certainty as to what the future trading relationship with the EU, or Third Countries and other trading blocs, will look like.
25. Moreover, farmers are well aware that a specific change in their business model made in anticipation of one post-withdrawal agreement would be wholly inappropriate in other post-withdrawal scenarios.
26. As such, since 2016 the FUW has advised farmers to better understand where their main financial strengths and weaknesses are such that changes to a business can be made rapidly to suit different Brexit scenarios once they are agreed and understood.
27. As the 31st December 2020 approaches it seems likely that more specific advice as to how farm businesses should prepare may become appropriate, and be given by Governments, trade bodies or buyers with specific needs in terms of meeting export requirements (for example, the 40 day residency rule, if made a requirement for Export Health Certification - something that would have an immediate and likely retrospective impact on farm businesses).

The implications for preparedness arising from the negotiation of UK international agreements, including the UK-EU future relationship agreement (or agreements), other significant free trade agreements (e.g. UK-USA, UK-Japan, UK-Australia, UK-New Zealand etc.), and the Continuity Negotiations and Coordination programme (formerly referred to as the Trade Agreement Continuity Programme)

28. Compared with the immediate and dire consequences of the UK's departure from the Single Market after 31st December 2020, the implications and opportunities presented by new UK international agreements are unlikely to manifest themselves immediately.
29. This means it is likely there will be time for Governments and businesses to consider the detailed practical implications of such international agreements.
30. However, it is essential that analyses are undertaken to consider the longer term implications of such international trade deals, and such work has been undertaken with regard to Welsh agriculture and fisheries by the Welsh Government's Environment and Agriculture Roundtable Evidence and Scenarios sub group - work already referred to at paragraph 10, above.
31. It is understood that the conclusions of this work will soon be presented to the Environment and Agriculture Roundtable before being made available publicly.

Intra-UK intergovernmental agreements relating to the end of the transition period, including the common frameworks programme

32. The need for frameworks in relation to agriculture cannot be underestimated, given that there is scope for major divergence between the four nations not only in terms of rules and production methods, but also agricultural support.
33. All agricultural policies currently operating in the UK were developed within the EU's CAP policy and financial framework, but there is arguably now more freedom for spending and policies to diverge within the UK than since the Acts of Union of the 1700s.
34. There is therefore a clear rationale for the UK's four nations to agree on a successor to the CAP which recognises common objectives, challenges and interests across the UK, while simultaneously respecting devolution.
35. While reaching agreement on the broad objectives which should underpin a UK policy framework is essential, without associated spending thresholds for actions within each objective there is a risk of significant divergence between national spending which results in disruption, market distortion and unfair competition.
36. As such, spending thresholds need to be agreed which provide flexibility which reflects devolved powers and varying national priorities, while also ensuring relative uniformity, to the extent that market distortion and other adverse effects are minimised.

37. Examples of how such spending thresholds might work while respecting devolution are presented in the FUW's July 2018 *Filling the Void-Steps towards a post-Brexit UK policy* discussion paper⁷, which states *"Reaching agreement on such thresholds will not be easy given current political differences, meaning there is a temptation to ignore the issue; such an abdication of responsibility by national governments should be avoided at all costs, given the danger that gross divergences between national policies and spending represent to our nations."*
38. In early October 2020, Defra, DAERA and the Welsh and Scottish Governments sought the views of stakeholders from across the UK on a UK Agricultural Support Framework.
39. Ministers of the United Kingdom's four Governments have agreed that this UK Agricultural Support Framework should be non-legislative and be based on collaboration, coordination and cooperation on agricultural support post withdrawal period.
40. The draft framework covers:
 - a. Agricultural and rural support spending
 - b. Enforcement and marketing standards
 - c. Crisis measures
 - d. Public Intervention (PI)
 - e. Private Storage Aid (PSA)
 - f. Cross-border holdings
 - g. Data collection and sharing
41. The final framework will be agreed by Ministers from the four governments and be subject to scrutiny from the legislatures of the UK.
42. The FUW welcomes the creation of such a framework, but is concerned that it is being formalised months after the UK's departure from the EU and at a time when all UK administrations have effectively been developing different agricultural policies independently and in the absence of any kind of framework for four years.
43. Whilst the FUW has not seen the draft UK Agricultural Support Framework, there is every indication that its adoption will mark a move from a framework defined in EU Regulations which are hundreds of pages long, which is flexible but only within strictly defined boundaries, including financial thresholds, to one which is non-legislative, generic and more akin to a memorandum of understanding - a move which may in effect facilitate divergence and is therefore a grave concern.
44. Where disputes arise between Governments, for example where one administration objects on grounds set out in the UK Agricultural Support Framework to another's plans to introduce a particular support scheme, it is understood that the issue may be

⁷ https://www.fuw.org.uk/images/pdf/Filling_the_void-English.pdf

escalated first to the Senior Officials Programme Board, then to Ministers at the Inter-ministerial Group for the Environment, Food and Rural Affairs, then to existing inter-administration mechanisms culminating in the Joint Ministerial Committee.

45. While the existence of any dispute resolution mechanism is welcome, it's use will be more likely if the framework document itself is vague, open to interpretation and non-binding, while such flaws, coupled with the highly political nature of the dispute resolution mechanism proposed by UK administrations (involving Ministers from different administrations and ultimately the Prime Minister and First Ministers) seem likely to escalate disputes, possibly turning them into constitutional matters.
46. By comparison, the FUW's 2018 *Filling the Void* paper states "*Good governance must also be underpinned by an independent body or bodies with sufficient powers and resources to assess and monitor national schemes and interventions, ensure compliance with framework rules, and act and arbitrate in the event of complaints by national governments.*"