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INTELLIGENCE GUIDE: BREXIT



YOUR GUIDE TO

All things Brexit – from the EU Withdrawal Bill to the Irish border issue, and from Tariff Rate Quotas to trade agreements

INTRODUCTION

Brexit. This has been the word on everyone's lips since the EU referendum – and with good reason.

It is hard to overestimate the change agriculture will undergo as a result of the UK's departure from the EU, so farmers need to know their single markets from their customs unions and their tariffs from their non-tariff barriers.

For those who do not have the time or inclination to follow every twist and turn in the Brexit negotiations, I have put together this easy to understand guide which explains all the key issues (accurate as of January 10, 2018).

It comes complete with links to *Farmers Guardian* articles, for anyone interested in further reading, and a glossary of key terms.

I hope you find its contents helpful.

ABI KAY
CHIEF REPORTER



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EU WITHDRAWAL BILL



Because the UK Government has chosen to leave the single market and customs union, which are governed by EU rules, the first Brexit task is to make sure there is legal certainty for businesses on exit day.

This is what the EU Withdrawal Bill aims to do, by copying and pasting the full body of EU law into British law, except the Common Agricultural Policy (CAP), which will be replaced by a different piece of legislation.

Despite all the main parties supporting the principle of the EU Withdrawal Bill, its passage through Parliament has not been easy.

Key among the controversies has been the 'power grab' clause, which Scotland and Wales have objected to.

First Ministers Nicola Sturgeon and Carwyn Jones have threatened to derail the Bill because it prevents devolved regions from passing new laws in areas which were previously the EU's responsibility, such as agriculture.

POWERS

Instead, those powers will reside with the UK Government – at least temporarily.

Though progress has been made on common frameworks, leading the Prime Minister's deputy Damian Green to say talk of a power grab was 'behind us' in October, the Scottish and Welsh Governments claim there has not been enough movement for them to recommend their Parliaments give consent to the Bill.

Worryingly, if these issues are not ironed out over the next few months, farmers in devolved regions could face the prospect of being left in legal limbo after Brexit, unable to pass their own new laws and not covered by the UK Government's flagship Agriculture Bill (more on this later).

TARIFF RATE QUOTAS



One of the thorniest issues around the UK's divorce from the EU is the splitting of the EU's Tariff Rate Quotas (TRQs). Diplomats thought the process of dividing the quotas, which allow certain amounts of agricultural produce to enter the EU from countries outside the bloc with low or no tariffs, would be so messy and difficult it was one of the first topics up for discussion in Brexit negotiations, alongside the divorce bill and citizens' rights.

Nevertheless, British and European negotiators were able to hash out a deal to split the quotas based on historical trade volumes, which now needs approving at the World Trade Organisation (WTO).

UK farming groups originally accepted it as fair, but greater scrutiny of the deal revealed Britain would have to accept a percentage of the unused part of the quota based on use.

IN PRACTICAL TERMS:

This means the UK, with a population of 65 million, would take 112,000 tonnes of the 228,000t New Zealand sheep meat quota, while the EU27, with a population of 450m, would take just 116,000t. This potential doubling of New Zealand sheep meat imports to the UK led chief livestock adviser at the NFU John Royle to call for a 'closer examination' of whether the deal was right.

LIMITS

European farmers, on the other hand, saw the arrangement as a ‘good deal’, because it would limit the amount of product which ended up on their market.

But it is not only the NFU which objects to the agreement.

Seven major agricultural exporters have also said they will [formally challenge the deal at the WTO.](#)

The United States, Argentina, Brazil, Canada, Uruguay and Thailand claim the new arrangement will leave them ‘worse off’ because a separate UK quota would mean they could not compensate for low British demand by selling to another EU country, as they can at present.

Countries such as New Zealand also see the UK as a declining market, self-sufficient in lamb, and would prefer to export to Germany and other countries in northern Europe with big lamb-eating North African populations.

European Commission officials, however, are confident the agreement is ‘sound and deliverable’, because WTO rules focus on quantity, not quality, of access.

IRISH BORDER



Another issue which threatens to hinder progress in Brexit talks is that of the Irish border. Questions over the border and its implications for trade and the peace process are some of the most significant facing Brexit negotiators.

Animal products and fresh milk cross the border on a daily basis for processing and finishing and, at the moment, all of the products are produced under uniform conditions which apply to farmers across the EU.

If a hard border was to be re-introduced, farmers would face additional costs and paperwork because of new customs checks, animal health requirements and food safety rules.

Some farmers even have land which straddles the border, such as Gordon Crockett.

He told *Farmers Guardian* a hard border would make life difficult because he could not even cross it on his farm in his tractor.

He said: “If machinery comes in from outside the EU, it has to be inspected and cleaned because of the chance of any diseases coming in. If we had a real hard border, it would make more sense to have two separate operations.”

POSITION PAPER

The UK Government published a position paper in summer 2017 detailing possible ways Irish trade could remain ‘frictionless and seamless’ with Britain outside the single market and customs union, but chief EU negotiator Michel Barnier said what he saw in the paper ‘worried him’.

He said: “Creativity and flexibility cannot be at the expense of the integrity of the single market and customs union.”

As a desperate attempt to maintain an open border between the Republic and Northern Ireland, Dublin has recently demanded the UK keeps EU agriculture rules and allows Northern Ireland to stay in the customs union – a move which several prominent EU politicians have supported.

REJECTION

Northern Irish representatives from the Democratic Unionist Party, however, were swift to reject the idea, stressing the importance of the UK single market to Northern Ireland’s economy.

A controversial compromise was reached in the [Brexit ‘divorce deal’](#), where the UK promised to ‘maintain full alignment with those rules of the internal market and customs union’ if a solution to the Irish border issue could not be agreed in a future EU-UK trade deal or by any other Ireland-specific technical means.

The precise meaning of ‘full alignment’ has been subject to widespread scrutiny, with different people interpreting it in different ways.

For Defra Secretary Michael Gove, it means common goals can be achieved through different regulatory means – making the agreement compatible with leaving the single market, the customs union and the Common Agricultural Policy (CAP).

But Chuka Umunna, one-time Labour leadership candidate and prominent anti-Brexit campaigner, claimed the wording meant the UK would remain in the customs union and single market if a deal could not be reached.

This outcome would not necessarily stop the UK from creating its own domestic agricultural policy. Norway, for example, has full access to the single market, with no say on its rules, and does not participate in CAP.

TRANSITIONAL DEAL



Now the divorce [has been settled](#), Brexit talks are to move on to a transitional deal, or, as the Prime Minister prefers to call it, an ‘implementation period’.

The Government has proposed a time-limited transition period of ‘most likely’ two years, according to Brexit Secretary David Davis, though the EU’s chief negotiator Michel Barnier has said it should end on December 31, 2020 – the last day of the EU’s current seven-year budget.

During this time, the UK would remain in the customs union, allowing Britain to retain unfettered access to European markets.

NEW TRADE DEALS

The common external tariff of the customs union would restrict the UK’s ability to sign new trade deals, but International Trade Secretary Liam Fox said he wants Britain to be able to negotiate them during the transitional phase.

Farming groups [welcomed the plan](#), with NFU president Meurig Raymond saying it would prevent a ‘cliff edge departure’ which could see the instant imposition of high tariffs on British food exports.

The union was [keen to point out](#) improvements could be made to farming regulation during this transition period.

FREE TRADE AGREEMENT WITH THE EU



Let's say the UK has got the transitional agreement it pressed for – what is next? Farmers need to know exactly what they are transitioning to.

Theresa May has said she is looking for a 'deep and special' economic partnership with the EU.

In her Florence Speech in September 2017, she explicitly rejected the idea of basing any future EU-UK trade agreement on European Economic Area (EEA) membership or a Canada-style deal.

EEA membership, she said, would not work for British people, because it would require the adoption of new EU rules, over which the UK would have little influence and no vote.

RESTRICT

And while she acknowledged the Canada deal was the most advanced the EU had negotiated, she said its terms would 'restrict mutual market access' and benefit neither the UK nor the EU economy.

This position has been supported by UK farming groups, which have been pushing for a bespoke deal allowing them to maintain 'unfettered access' to the EU market.

On the other side of the Channel, farming unions and industry bodies have been lobbying their Governments for the same outcome, which is a good sign.

Even the EU's chief Brexit negotiator Michel Barnier said he wanted an 'ambitious' trade partnership with Britain, but there was a caveat – the UK's access to the single market would be inferior to full membership.

TARIFFS



Although on paper all parties are keen to sign a free trade deal, there is always the possibility such an agreement could include tariffs on agricultural goods (and the EU's external tariffs are among the highest and most complex in the world).

On the EU side, several European politicians have suggested UK farmers will face tariffs on exports after Brexit.

Mairead McGuinness, vice-president of the European Parliament and a member of the EU's agriculture committee, [told *Farmers Guardian* the CAP is designed to support farmers and rural regions.](#)

“ THE EU WILL
BE MINDFUL
OF DEFENDING
THE INTERESTS
OF ITS FARMERS AND
CONSUMERS WHEN
NEGOTIATING THE FUTURE
PARTNERSHIP WITH THE UK



Mairead McGuinness

Similar comments were made in February 2017 by Daniel Caspary, trade spokesman for the European People's Party – the largest party in the European Parliament – who said the EU had never offered zero tariffs on agriculture in any trade deal because European farmers need protection.

LEAVES

He said: “If Britain leaves the EU and no longer contributes to the CAP, I do not believe in a zero per cent tariff. What kind of signal would that be sending to other trading partners?”

English MEPs [Julie Girling](#) and [Richard Ashworth](#) have warned British farmers cannot expect zero tariff access to the EU market after Brexit.

On the UK side, [Defra Secretary Michael Gove](#) has suggested Brexit campaign promises of high food standards and low prices can be married by dropping tariffs on goods not produced in Britain.

“WE CAN PERHAPS HAVE AN APPROACH WHICH WILL ENSURE SOME FOODSTUFFS WHICH WE DO NOT CURRENTLY GROW OR DEVELOP IN THIS COUNTRY CAN COME HERE AT A CHEAPER PRICE, WHILE IN NO WAY COMPROMISING ON QUALITY OR WELFARE

Michael Gove

‘NO DEAL’



The third possible trading outcome – dreaded by some, hoped for by others – is the ‘no deal’ scenario. [The triggering of Article 50](#) makes Britain’s departure from the EU at 11pm on Friday, March 29, 2019, a legal reality, regardless of whether or not the UK and EU have agreed future trade arrangements.

If they have been unable to strike a deal by this point, Britain will leave the EU and [fall back on to WTO rules](#).

There have been wildly different predictions about what this would mean for the UK economy.

FINE

Farming Minister [George Eustice has claimed](#) the agricultural industry would be ‘fine’ under such a scenario, and there is evidence to show most farmers, except those producing sheep and barley, would see a boost in prices.

Transport Secretary [Chris Grayling also said a ‘no deal’ Brexit would give British farmers an opportunity to grow more food](#), but lack of investment and uncertainty over future immigration arrangements could prevent this from happening.

VOLATILITY

[Other research from the University of Sussex](#)

warned Brexit could leave the UK short of food, with a possible return to volatility in supply and prices not seen since the 1930s.

Speaking after the release of the paper, one of its authors, Prof Tim Lang, claimed the food system would be under threat even with a ‘soft’ Brexit, where the UK remained inside the single market or customs union.

He said: “UK food security and sustainability are now at stake.”

As a way of keeping prices low, the [Department for International Trade has been considering](#) unilaterally dropping all food tariffs in the event of a ‘no deal’ scenario.

This is one move all studies show would have a catastrophic impact on UK farmers, though Defra Secretary Michael Gove has said he would [favour keeping tariffs in place](#) if no trade deal with the EU could be reached.

But maybe there is too much talk of ‘no deal’. After all, [German Chancellor Angela Merkel has said she has ‘absolutely no doubt’](#) Brexit negotiations would produce a ‘good result’.

Then again, with the recent German election results, maybe we cannot be too sure.

FUTURE POLICY



AGRICULTURAL POLICY

As Government plans to take agricultural policy out of the proposed transition period, [without actually telling the devolved regions](#), it will need to put a new domestic policy in place quickly. Step forward the [Agriculture Bill](#), which was revealed in the Queen's Speech in June 2017 and will come before Parliament in summer or autumn 2018.

The Bill will give the Government the power to make payments to farmers, with the Rural Payments Agency and Natural England continuing to administer cash, but Farming Minister George Eustice said he also wanted it to prepare for future changes.

[In November 2017](#), farmers were given a glimpse of the Government's thinking on those policy changes by Mr Eustice.

Speaking at the Tenant Farmers' Association autumn conference, he said a simple agri-environment scheme, open to all farmers and with a strong focus on soil health and good husbandry, would lie at the heart of the new policy.

A wider package of measures to boost productivity and manage risk will sit alongside it.



New proposals under consideration include setting up grant and Government-backed loan schemes to help farmers invest and re-equip; a ‘formalisation’ of voluntary supply chain codes to ensure farmers get a greater share of the food pound; supporting farmers to set up producer organisations which strengthen their bargaining position; increasing uptake of insurance schemes; making research and development more relevant to farmers; and building an ‘international brand’ based on high animal welfare.

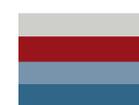
A White Paper setting out these plans is to be published in ‘early 2018’, but Mr Gove has promised farmers will have a period of grace where Basic Payment Scheme (BPS) payments will still be available before the dawn of the new era breaks.

In his speech to Oxford Farming Conference in January 2018, Mr Gove reiterated a promise to protect the amount of money allocated to farming until 2022, but he also outlined new plans to guarantee the BPS for a ‘transition period’ (not to be confused with the more general Brexit transition period discussed earlier) in England.

Government is to consult on ending the transition in 2024, five years after Brexit. As a taste of the change to come, the largest BPS payments will be slashed during the transition, with either a maximum cap or a sliding scale of reductions.

Mr Gove’s dissatisfaction with the Rural Payments Agency was hinted at with the creation of a new chairman post to ‘improve’ performance for 2018 and 2019 BPS, which will be paid on the current basis.

The Defra Secretary also guaranteed no farmer entering into a Countryside Stewardship agreement before Brexit would be unfairly disadvantaged when new arrangements were introduced, but the ‘dizzily complicated’ bureaucracy surrounding the scheme was lined up for the chop.



LABOUR POLICY

Brexit has exacerbated concerns about a labour shortage across all sectors of agriculture, which are heavily dependent on EU migrants.

With more than 1,500 farm vacancies unfilled in May 2017, the NFU reiterated its call for a revamped Seasonal Agricultural Workers Scheme.

In October 2017, horticulture board chairman Ali Capper called on the union to ‘take a different tone’ with the Government, after being left disappointed by Ministers’ refusal to act.

Warnings have also been issued about the dairy and veterinary sectors. The Government has consistently said it will do everything it can to ensure a steady flow of labour post-Brexit, but Home Office Minister Brandon Lewis appeared keen to get more British workers into farming jobs.



ENVIRONMENTAL POLICY

While acknowledging the importance of maintaining high environmental standards post-Brexit, farming groups have been left feeling Defra Secretary Michael Gove has focused too heavily on [green issues at the expense of food production](#).

So far, Mr Gove has promised to create a [new environmental watchdog](#), bring forward an [Environmental Protection Bill](#), [support the EU's ban on neonicotinoids](#) and [control live exports](#), but has said relatively little about new farming policy beyond capping direct payments.

TRADE AGREEMENTS WITH THE REST OF THE WORLD



GLOSSARY

Once the UK's future relationship with the EU is settled and new policy has been agreed, the Government will have the opportunity to sign trade deals with other countries across the world for the first time in more than 40 years.

Upon taking office, one of the first things Prime Minister Theresa May did was set up the Department for International Trade.

Its creation was a signal to the world that 'Global Britain' was open for business.

But what might this array of new trade deals with countries which have different standards to the UK mean for British farmers? A lot of concern has been raised about a potential US-UK agreement, which International Trade Secretary Liam Fox is keen to push.

American farmers are desperate to break into the UK market, but beef and dairy farmers from the US use growth hormones and do not graze their cows.

FINE

With these practices, and economies of scale given the huge size of American farms, US farmers can produce food much more cheaply than British farmers – meaning any ramping up of US food imports could put UK farmers out of business.

The prospect of American chlorinated chicken hitting British shelves has also been massively controversial.

Mr Fox has not helped matters by repeatedly defending the practice, saying it reduces levels of food poisoning.

His interventions have forced Defra Secretary Michael Gove to step in and promise standards would not be diluted in the pursuit of any trade deal.



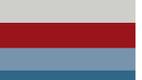


CUSTOMS UNION

A customs union is a trade agreement between two or more countries – in the EU’s case, 28 soon to be 27 – which removes tariffs on goods inside the union and imposes a common external tariff on goods from countries outside the union.

Some people have suggested the UK should become part of a new EU-UK customs union, separate to the main EU customs union.

This would prevent the UK from signing new trade deals with other countries, because it would have to maintain the EU’s common external tariff, but it would avoid customs checks on the Irish border.



SINGLE MARKET

The single market, also known as the common market or internal market, is designed to ensure the free movement of goods, capital, services and labour inside the EU.

These ‘four freedoms’ are said to be indivisible, which is why the UK was not allowed to make immigration rules for EU nationals more stringent while still a member.

What the single market aimed to do is remove non-tariff barriers, as well as tariffs, by harmonising regulations across all EU member states.

Because (in theory, at least), every country in the EU has the same rules and standards, products can move across the union without the need for any border checks or safety inspections.

In practice, this is not always the case, but the European Commission and European Court of Justice are there to enforce rules and resolve disputes, as was the case when the French were forced to open up their market to British beef again after the BSE crisis.



EUROPEAN ECONOMIC AREA (EEA)

Countries in the EEA are subject to all of the EU’s single market rules, except in the areas of agriculture and fisheries.

They have limited influence over the development of EU law through committees, but no vote.

EEA countries are not, however, in the EU customs union or a separate customs union with the EU, which means they can negotiate their own free trade deals.

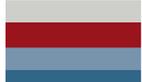
What they can practically offer to partners in a free trade agreement is limited though, because they are bound to the EU regulatory regime in most areas.



TARIFF

A tariff is a tax levied at the border on a product entering a country. It is paid by the person or business importing the product to the country.

These costs are usually passed on to the consumer, which means higher prices in the shops.



TARIFF RATE QUOTA (TRQ)

TRQs are designed to protect domestically produced products from competitive imports. They work by allowing a certain amount, or quota, of product into the country with a low or zero tariff rate.

As soon as the quota is reached, a higher tariff will be applied to the product, making any imports beyond the ceiling uncompetitive on price.



NON-TARIFF BARRIER

Non-tariff barriers are, unsurprisingly, barriers to trade which are not tariffs.

Anything which makes trade more difficult can be classed as a non-tariff barrier, but sometimes the ‘barriers’ are there for good reason.

WHAT DO THESE INCLUDE?

SOME THINGS WHICH COULD BE REFERRED TO AS NON-TARIFF BARRIERS INCLUDE:

Compliance with a different regulatory regime

Paperwork

Language differences

Border checks

Quotas

Phytosanitary rules

Labelling conditions



WORLD TRADE ORGANISATION (WTO)

The WTO is a membership organisation where countries work together to reach agreement on international rules governing trade.

Any benefits extended by one member to another must be extended to all 164 members. This is known as the most favoured nation (MFN) rule.



FREE TRADE AGREEMENT (FTA)

One exception to the WTO MFN rule is the ability to sign bilateral and multilateral free trade agreements.

An FTA is a treaty which legally removes barriers to trade, including tariffs.

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