

# Brexit: Agriculture

## House of Lords EU Energy and Environment Sub-Committee

**Which? is the largest consumer organisation in the UK with more than 1.5 million members and supporters. We operate as an independent, apolitical, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.**

### Summary

- 1. There must be no undermining of food quality and safety standards as a result of leaving the EU.** This is essential for consumer confidence. There must be no compromises as part of our negotiation to leave the EU or subsequent trade deals, particularly where countries have lower protection. Standards must be based on consumer engagement and therefore reflect the choice and level of protection that people expect.
- 2. An effective enforcement regime must be in place to ensure compliance with these standards, so that consumers have confidence in the products that they buy.** There must be continued co-operation with EU Member States to ensure that any food safety or fraud issues are responded to quickly, given the complexity of food supply chains. European Commission checks in third countries, which we currently rely on, will need to be replicated or co-operation arrangements put in place. The national enforcement regime will need to be fit for purpose and current gaps and weaknesses addressed. A strong, independent Food Standards Agency will be essential for achieving this.
- 3. Leaving the Common Agricultural Policy (CAP) provides an opportunity to create a coherent food and farming policy that delivers for consumers, as well as producers.** This will require a joined up approach to health, quality, welfare and environmental needs, as well as towards economic growth. Consumer acceptability of food production methods is essential to ensure sustainable growth. Therefore, consumer engagement is critical as we look to develop and shape new policy, outside of the European Union context. An approach that merely focuses on farming support in isolation from wider and fundamental challenges, such as tackling the obesity crisis, risks that we are not taking longer-term, cross-societal issues into account.

4. **Mitigating against food price rises has to be a priority for the Government's negotiations.** In the short-medium term, this could potentially include the impact of tariffs if operating under WTO rules. Consumers spend around 11% of household expenditure on food, rising to 16% for those on the lowest incomes. Fluctuations in food prices will therefore be of great concern and will impact on people's food choices. Our research<sup>1</sup> has shown that previous rises have led to a general trading down with implications for the quality of people's diets. Any price rises need to be transparent and honest.

## Introduction

5. Which? welcomes the Committee's inquiry into the impacts of Brexit on agriculture. Food and farming policy, as well as trade in food and agricultural products, has been closely intertwined with the European Union (EU) for many years. As the UK leaves the EU, it is essential that the current protections that exist, and which have evolved over many years, are maintained. This will help to ensure that consumers can continue to have confidence in the food they buy and eat.
6. The food system is facing many challenges – from obesity to food safety, security and sustainability issues. It is essential that the opportunity to review food and farming policy as the UK leaves the Common Agricultural Policy (CAP) is taken and that a joined up policy that has wider benefits for consumers, is put in its place.
7. In 2015, Which? published the findings of a public dialogue<sup>2</sup> that we held in partnership with the Government Office for Science (GOS) in order to better understand consumer attitudes towards these issues and the potential ways forward for food production. Our evidence draws on this in-depth research into consumer perspectives.
8. Below we set out some of the more specific issues that we hope the Committee can consider in relation to food quality, standards and security.

## Maintaining food standards

9. It is essential that consumers can have confidence that the food they buy is safe and what it says it is. Virtually all food legislation is currently determined at EU level and the approach that underpins this framework generally serves consumers well. It also benefits the food industry which relies on consumers' trust.

---

<sup>1</sup> Cutting back and trading down: the impact of rising food prices, Which? consumer report, November 2013.

<sup>2</sup> <https://www.gov.uk/government/publications/food-system-challenges-public-dialogue>

10. The current approach was adopted following a range of food scares that affected the UK and wider Europe more widely, including the Bovine Spongiform Encephalopathy (BSE) crisis. More recently, the widescale contamination of beef products with horsemeat highlighted the complexity of the food supply chain, as well as the fragility of consumer confidence when people think that control has been lost<sup>3</sup>.
11. The general approach to standards and consumer protection must therefore be maintained after the UK leaves the EU. Standards must take account of what is acceptable to consumers. This requires the Government to conduct meaningful consumer engagement, drawing on the findings of the Which?/GOS dialogue.
12. The food industry is very diverse and so consumers cannot rely on voluntary standards or policies alone. The EU General Food Law Regulation<sup>4</sup> currently sets out the broad principles that underpin more specific food legislation. This recognises that while it is the responsibility of business to ensure food safety and standards, public authorities must enforce this. It also recognises the importance of effective traceability, which enables consumers to be correctly informed about what they are buying and corrective action to be promptly taken should there be a breakdown in controls.
13. The Regulation also sets out an approach to risk analysis that also underpins more specific legislation and approval processes for different foods and ingredients eg. novel foods, genetically modified foods, food contact materials and food additives. This is sometimes incorrectly referred to as a 'hazard' based approach, but, with the exception of pesticides legislation, is based on risk assessment. Independent scientific advice underpins the decision making process – and this predominantly falls to the European Food Safety Authority (EFSA) which works through panels comprised of multi-disciplinary experts drawn from across the EU (including a large proportion from the UK).
14. The current framework also recognises that while decisions should be based on scientific evidence, the nature of food, with social and cultural dimensions, means that what is considered acceptable, and therefore appropriate, to allow on the market, can also be determined by 'other legitimate factors'. These include social and ethical issues – as seen with developments such as the use of cloned animals for food production, which many consumers have concerns about because of welfare aspects<sup>5</sup>. These factors can be dealt with in different ways, for example as part of the approval process or through a requirement for labelling, depending on their significance. Crucially, the General Food Law Regulation, and the current broader approach to food law, acknowledges that sometimes decisions will need to be made about how to adequately protect the public when there is evidence of a food safety risk, but when there is inadequate information available to fully assess its significance. In such circumstances, precaution is needed. These are all important principles that must be retained at national level.

---

<sup>3</sup> Horsemeat scandal dents trust in food industry: Consumer confidence has dropped by a quarter; Which? press release, 13<sup>th</sup> March 2013.

<sup>4</sup> Regulation (EC) 178/2002 on the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

<sup>5</sup> Which?/ Government Office for Science Food System Challenges Dialogue, July 2015:

15. Current legislation also covers issues relating to food labelling. The Food Information to Consumers Regulations, were adopted in 2011. These regulations cover a broad range of issues from ingredient labelling to origin and allergens. They also cover nutrition labelling, but fall short of making front-of-pack traffic light nutrition labelling mandatory. This is therefore an opportunity to address once we have left the EU.
16. Consumers are also assured certain quality standards through the EU's protected names scheme. There are currently 76 protected food names registered in the UK under the EU scheme, from Melton Mowbray pork pies to stilton.
17. The EU's health and nutrition claims regulation<sup>6</sup> requires that any health claim made on a food product has to be scientifically substantiated and that the science that underpins it assessed by EFSA, before marketing the product. An EU list of approved and rejected claims has been developed. Around 80% of claims initially submitted to EFSA from the EU were found to be unsubstantiated. Consumers are therefore no longer exposed to misleading information, undermining efforts to tackle obesity and diet-related disease.

### **Trade and standards**

18. The UK must ensure that consumers have confidence that their attitudes and concerns are reflected within food standards and that their food choices as the UK seeks to negotiate new trade deals. To trade with the EU, the UK is likely to continue to comply with EU rules. Outside the single market, there will be scope to set national rules, but these rules will still need to comply with WTO agreements that cover health measures<sup>7</sup> and technical barriers to trade<sup>8</sup>.
19. This generally means that international standards set by the Codex Alimentarius Commission (a joint UN Food and Agriculture Organisation (FAO) and World Health Organisation (WHO) body) will be the benchmark. Anything that goes beyond them would need to be justifiable on scientific grounds or would potentially be considered an illegal barrier to trade.
20. Given the importance of the Codex Alimentarius Commission to national frameworks, representation and influence will become increasingly important. It works through a series of specialist Committees comprised of government delegations, with standards ultimately signed off by the Commission.
21. The trade dispute between the US and EU over beef hormones is one example of the importance of Codex, as well as WTO constraints that will need to be addressed. Codex voted to agree a standard that would permit the use of beef hormones although the EU opposed this. The US and Canada subsequently challenged the ban under the WTO's Sanitary and Phytosanitary (SPS) Agreement. The EU defended it based on its scientific evidence and initially lost the case at the WTO Dispute Settlement Body. However, following appeal, the EU managed to ensure that most aspects of the decision were reversed by the WTO

---

<sup>6</sup> Regulation (EC) 1924/2006 on nutrition and health claims.

<sup>7</sup> The Agreement on the Application of Sanitary and Phytosanitary Measures, World Trade Organisation.

<sup>8</sup> The Agreement on the Application of Technical Barriers to Trade, World Trade Organisation.

Appellate Body<sup>9</sup>. The ban has been maintained. Once the UK has left the EU, it is important that it stands up for consumer protection and expectations within these bodies and, without the umbrella of the EU, will likely need to look to seek bilateral support in order to have weight in such negotiations.

22. This example also illustrates different national approaches to ensuring food safety and standards and raises concerns regarding future trade deals with countries, such as Brazil or the US, once the UK leaves the EU. This includes less rigorous food safety controls and, in some cases, a much more relaxed approach to use of ingredients or production methods that consumers are likely to have concerns about. The UK and EU's 'farm to fork' approach to food safety is also not necessarily applied in other countries – as reflected, for example, by the US's heavy reliance on end process treatments to control bacteria in poultry for example. The EU has a ban on antibiotic growth promoters because of concerns about the threat of antimicrobial resistance, but this does not apply in the US. As well as beef, there have been differences in approach to the use of hormones to rear pigs and increase milk yields in dairy cattle, chlorine treatments to control bacteria in chickens and approval processes or labelling requirements for the use of genetically modified ingredients and use of cloned animals for food production. These offer many examples of concerns related to differing national approaches, but the list is by no means exhaustive and special care must be taken to minimise the risks for consumers.
23. Food standards must reflect what consumers want. Our recent food dialogue, referred to above, highlighted that consumers are open to innovation agriculture and food production, but want to be assured that there is a public benefit, sufficient independent oversight and that they will have a choice. This is a useful model for the type of consumer engagement that the Government will need to undertake to ensure that food standards are aligned with consumer expectations going forward.
24. Developments in relation to precision agriculture and greater use of data were therefore unanimously seen as positive by participants. However, use of chemical treatments and some other processes that were seen as unnatural and unnecessary were generally seen as less acceptable developments. Requirements for origin labelling of products so that consumers can decide whether or not to eat products produced by these means could also be open to challenge as a barrier to trade under WTO rules (the Technical Barriers to Trade or TBT agreement).
25. It is essential that the Government understands what is acceptable to consumers, is able to defend consumer interests and ensures that protections and important choices that consumers have come to expect are not undermined as part of trade deals. The UK will also need to engage more effectively with Codex in order to ensure that its standards are in line with the standards UK consumers expect. The government must continue to stand up to challenges and emerging trade disputes that would undermine consumer protection and ability to make informed choices.

## **Enforcement**

26. Effective enforcement must go hand in hand with robust standards. The way that checks

---

<sup>9</sup> [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/1pagesum\\_e/ds26sum\\_e.pdf](https://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds26sum_e.pdf)

on compliance with food law are carried out are currently specified at EU level (for example in the Official Controls Regulation<sup>10</sup> which has just been reviewed). This includes how member states should carry out official controls in general, as well as specific requirements for some sectors, such as meat inspection, as meat is considered a high risk product. There must be a robust, independent regime in place once we leave the EU, particularly as we may be importing products from a wider range of countries with different standards and approaches to compliance. These differing standards represent safety and quality risks for UK consumers if not managed properly.

27. The European Commission (DG Sante) has dedicated inspectors in third countries that the EU imports from who check facilities and help ensure compliance with EU laws. Outside of the single market, the UK would be required to meet these EU requirements as part of a trade deal with the EU. It would also need to step up its own checks, both on exports and on imports. This could involve a new system of checks in third countries by the UK in order to ensure confidence that the exporting country had standards that were aligned with the UK framework. A simpler approach may be to reach equivalence agreements, but this is likely to be a lot more limited and potentially risky without a clear understanding of the on-the-ground realities. Over-seeing and checking compliance, along with the customs checks that will need to be introduced, will take a lot more resources and require additional capacity and expertise within the Food Standards Agency and Food Standards Scotland.

### **Scientific and research capacity**

28. The scientific underpinning of food standards and regulation, including capacity to conduct scientific risk assessments, will also need to be established at national level. This largely falls to EFSA at the moment, which draws on the knowledge of many UK experts. The research that underpins these risk assessments will need to be enhanced at a UK level as a lot of this is currently EU funded and conducted as part of EU-wide projects. The independence of this evidence and advice will also be essential for its credibility. The UK will also need to work more closely with other relevant international scientific bodies, including the WHO and the scientific committees that advise Codex (the Joint FAO/WHO Expert Committee on Food Additives and the Joint FAO/WHO Meeting on Pesticide Residues) as they are likely to become more relevant for the standards consumers can expect at national level.

### **Wider policy**

29. More generally, leaving the EU provides the UK with the opportunity to re-think food and farming policy, ensuring that there is a more joined up approach between agriculture, economic, health, environmental and wider social objectives. For too long issues such as tackling childhood obesity or food standards have been developed in parallel to agriculture policy. There is a real opportunity to ensure a much more sustainable approach, in all senses, so that efforts to increase production and boost the economic performance of the sector don't undermine efforts to tackle obesity, improve food safety and quality or reduce the environmental impact of food production.

---

<sup>10</sup> Regulation (EC) 882/2004 on official controls.

30. There is however a risk that this opportunity will be lost by a short term focus on the practical arrangements for farm payments beyond the Common Agriculture Policy (CAP) and a drive towards a new industrial strategy. Defra's forthcoming 25 year Food, Farming and Fisheries Plan must take an ambitious, joined up approach that ensures that consumers are at the heart of policy.

### **Food prices**

31. The negotiations must pay close attention to any impacts on food prices, including any severe shocks if there are not adequate transitional arrangements put in place. Consumers spend around 11% of household expenditure on food, rising to 16% for those on the lowest incomes. Food price rises will therefore be of great concern and will impact on people's food choices. Our research<sup>11</sup> has shown that previous rises have led to a general trading down with implications for the quality of people's diets. Any price rises need to be transparent and honest.

32. The effect of exchange rates are already impacting on the cost of ingredients and products. The type of trade deal we are able to negotiate, firstly with the EU and then with third countries, will also have an enormous effect on how much consumers will pay for food – and whether they have value for money in terms of quality or not. Food price rises may also create incentives for food fraud, reinforcing the importance of effective enforcement, as highlighted above.

33. If a free trade deal is not agreed with the EU, tariffs under the EU's most favoured nation (MFN) tariffs could be significant. Outside of the customs union, the cost of trade (eg. customs checks) could also be more expensive. More generally, if the deal leads to less choice and more limited competition, that could also lead to higher prices. There is however also a possibility that trade deals may open the market to cheaper products, which could help keep prices lower more generally, but this should be delivered without reducing standards.

### **Conclusion**

34. There are both opportunities and risks for food and farming as the UK leaves the EU. It is essential that consumer interests are at the heart of the negotiations and that consumers are assured access to a safe, affordable, sustainable and healthy food supply in the coming years.

For more information,  
Contact Simon Markall on 020 7770 7353 or [simon.markall@which.co.uk](mailto:simon.markall@which.co.uk)  
Which?, 2 Marylebone Road, London NW1 4DF

**Which?**  
**February 2017**

---

<sup>11</sup> Cutting back and trading down: the impact of rising food prices, Which? consumer report, November 2013.