

Trade negotiations with the United States

Consultation response from Wildlife and Countryside Link

October 2018

Wildlife and Countryside Link (Link) is the largest environment and wildlife coalition in England, bringing together 48 organisations to use their strong joint voice for the protection of nature. Our members campaign to conserve, enhance and access our landscapes, animals, plants, habitats, rivers and seas. Together we have the support of over eight million people in the UK and directly protect over 750,000 hectares of land and 800 miles of coastline. We welcome the opportunity to respond to this consultation on trade negotiations with the US.

This response is supported by the following member organisations:

- *A Rocha UK*
- *Born Free Foundation*
- *Buglife*
- *Humane Society International UK*
- *Naturewatch Foundation*
- *RSPCA*
- *Sustainable Food Trust*
- *Zoological Society of London*

Wildlife and Countryside Link supports the position that the UK wishes to maintain and, where possible, improve standards of animal welfare and the environment in the UK as we leave the EU^{1,2}. We also support the Department of International Trade view that it would not lower food, animal welfare or environmental standards after the UK leaves the EU, and that when undertaking trade deals any imported product would have to meet UK standards³.

We support a free trade agreement (FTA) with the USA that maintains these basic principles. The two main areas where the UK will have to ensure parity with the USA on animal welfare standards are: standards and trade in farm and agricultural products; and standards and trade in pharmaceutical and other products tested on animals. Furthermore, trading arrangements between the USA and the UK must ensure the highest protections for wildlife.

Problem issues where equivalency does not exist

Trade in farm animals and products is the most sensitive trade area due to the large differences in global standards. The World Organisation for Animal Health (OIE) has agreed twelve global farm animal welfare standards on fish and land animals; the transport and slaughter of animals; and specific ones on meat chickens, dairy and beef cattle. However, these welfare standards are generic and not enforceable, unlike the OIE's animal health standards, either by the OIE or through trade agreements such as Sanitary and Phytosanitary (SPS) measures, Technical Barriers to Trade (TBT) measures or General Agreement on Tariffs and Trade (GATT). Many countries do not meet these standards, including those with whom the UK is proposing to undertake FTAs.

¹ Michael Gove The unfrozen moment – delivering a Green Brexit. 21.7.17 <https://www.gov.uk/government/speeches/the-unfrozen-moment-delivering-a-green-brexite>

² Prime Minister, PMQs 8.2.17 Hansard

³ Rt Hon Greg Hands MP Minister of State for Trade Policy Efra 6.6.18

The UK has adopted and, in some cases, gone higher than the 19 agreed farm animal welfare laws set at the EU level. These include bans on sow stalls, veal crates and the conventional battery cage for laying hens. The UK's farm standards are above the OIE Global Codes. They set specific standards in legislation for all the farm species covered by the OIE Codes aside from beef and dairy cattle.

So on many farm issues, the UK has adopted some of the highest global standards. This creates a trade issue with those countries, such as the USA, that farm to lower animal welfare standards. Unless equivalence language is adopted in the FTA only to import products produced under equivalent standards, imports could occur in products that are produced under standards that are illegal in the UK. Due to potential cost differentials in production methods, this may also result in undercutting of UK producers.

On farm standards, the World Animal Protection Index has given the USA a D rating, compared to an A rating for the UK⁴. This is for two main reasons: there are only two national laws on farm animals (transportation and slaughter) with all other laws being decided at a State level; and that the main livestock producing States have low or no farm welfare-specific standards. For instance, it is unclear if the USA meets the standards in the OIE Codes for farm animals and the main producer States, with the exception of California, have yet to phase out extreme confinement systems such as the conventional battery cage, the veal crate system and the sow stall.

Aside from farm animal welfare standards, the UK will have to decide the level of animal health standards it sets. It inherits at least four practices that are prohibited under the EU acquis which are being transferred to domestic law under the European Union (Withdrawal) Act 2018. These include the bans on certain Genetically Modified Organisms, Bovine Somatotropin (BST) and other hormones in beef and chlorine washed chicken. The ban on the use of growth-promoting hormones on beef cattle includes a ban on importing meat and meat products from animals treated with growth-promoting hormones. The ban on the use and import of BST used as a growth promoter in dairy cattle, and the ban on the use and import of ractopamine (another growth promoter used in the pig and dairy industry) both include import bans on the growth promoters but not the products produced from them. Growth promotants are problematic for animal welfare for two main reasons. Firstly, they stress the animals' metabolism – diverting resources into growth rather than maintenance, increasing hunger and vulnerability to suboptimal management. Secondly, some of these drugs are used as an easy alternative to good husbandry, suppressing disease but allowing other poor practices such as overcrowding⁵. Use of growth promotants also drives down costs. An estimated 80% of beef cattle in US feedlots are given growth-promoting hormones. Production costs for US beef farmers that use hormones are around €30 per 100kg lower than those that do not use hormones⁶. In the failed Transatlantic Trade and Investment Partnership (TTIP) negotiations, liberalisation of the beef sector was one of the USA's priorities. The USA challenged the EU's beef-hormone ban at the WTO in 1998, but after ten years of negotiation agreed a compromise to allow increased exports in non-hormone beef in exchange for dropping the WTO challenge. However, the US has stated that it will look to overturn that ban when it starts negotiating the FTA with the UK⁷.

⁴ <https://api.worldanimalprotection.org/country/usa>

⁵ EFSA. 2007. Opinion related to hormone residues in bovine meat and meat products. <https://www.efsa.europa.eu/en/press/news/070718>

⁶ DG Agri European Commission 2011. Assessing farmer's costs of compliance with EU legislation in the fields of environment, animal welfare and food safety. AGRI-2011-EVAL-08 https://ec.europa.eu/agriculture/sites/agriculture/files/external-studies/2014/farmer-costs/fulltext_en.pdf

⁷ <https://www.aol.co.uk/news/2018/08/06/trump-will-force-may-to-accept-hormone-beef-and-chlorinated-ch/?guccounter=1>

The second area where there may be pressure to relax standards in an FTA is on the use of animal tests relating to product safety assessments. The USA has been given a C rating compared to the UK's A rating⁴. The UK inherits eight pieces of legislation from the EU that cover this area. Some of these set higher restrictions on animal use than the USA including the ban on the use of animals in cosmetics ingredients and product tests (which includes an import ban as well as an internal ban) and equivalence on approval of chemicals coming onto the market under Registration, Evaluation, Authorisation and Restriction of Chemical Substances (REACH). The cosmetics ban has not been challenged at the WTO since it came into force five years ago, but it was on a list of topics that the USA has previously discussed in US-EU bilateral trade talks. The USA does have federal legislation on the use of animals in scientific research but does not prohibit the use of animals in cosmetics testing.

Solutions

One of the easiest ways for the UK to proceed is to include a chapter in any FTA on animal welfare to ensure its own standards are protected, such as in the draft EU-Mexico FTA. Including an animal welfare chapter in the US FTA could contain language that the two countries cooperate on programmes to raise animal health and welfare standards, thus meeting OIE global standards, but crucially that each country is allowed to maintain its own standards of animal health and welfare.

To maintain its farm standards at a level higher than the USA, the UK should only permit imports of products that have been produced to UK animal welfare standards. The US will be looking to open up the UK market, particularly in the eggs, pig meat, poultry and beef. At present, trade in shell eggs is low and is conditional on a UK Non-Tariff Measure (NTM), namely the mandatory method of production labelling welfare scheme. The labelling scheme applies to shell eggs and does not apply to egg products such as dried or liquid eggs.

The UK could achieve its goal of maintaining its high welfare standards by: ensuring that tariffs are not relaxed on sensitive issues such as eggs, chicken and pigmeat unless the USA's standards are equivalent to the UK's in those areas; ensuring that any Tariff Rate Quotas (TRQs) are only agreed where equivalency occurs; and ensuring that the UK's bans on imports of products produced with growth-promoting agents are maintained.

The US farm lobby sees opening up the UK market as beneficial to them in most in areas including eggs, pigmeat and beef exports. In its market access offer to the US under TTIP, the EU proposed conditional market access for shell eggs by offering elimination of tariffs only on shell eggs compliant with EU animal welfare standards. Non-certified shell-eggs would be subject to current tariff protection. This was an innovative approach by the EU and one the UK should adopt. However, the offer suggests conditional liberalisation only in the case of shell eggs and not for egg products, which are likely to be more sensitive under any liberalisation.

Trade in poultry is limited. This is due to NTMs related to food safety and health concerns such as the ban on chlorinated chicken. The approach to the use of pathogen-reduction treatment on both sides of the Atlantic varies widely. The divide between the precautionary principle and the approach based on currently available science is visible in the rhetoric and interests of negotiators, officials and industry representatives. Ending the use of NTMs, such as an import ban on chlorinated chicken, is an important goal for the US and the UK should resist this.

Any unqualified reductions in tariffs on non-equivalent products pose a potential threat to farm animal welfare policies in the UK. This could slow down the pace of new legislation for farm animal welfare (e.g. dairy, beef, poultry) and leave British producers at a disadvantage.

On animal testing, the UK should ensure that it does not agree to the import of animal-tested cosmetics under any FTA. Any relaxation would contravene the UK testing and marketing ban, as well as the Government's commitment to maintain 'high welfare standards'.

Wildlife protection

If drafted appropriately, and with necessary resources allocated, an FTA between the UK and USA could be an effective and powerful platform for both countries to demonstrate leadership in protecting biological diversity.

Protecting wildlife from illegal trade should be a key priority for UK and US negotiators alike. Consumers in developed countries cause threats to species through their demand of commodities that are ultimately produced in developing countries. The environment/sustainable development chapter must articulate the commitment of both parties to combating wildlife trafficking, including:

- Language promoting collaboration between the UK and USA on wildlife trafficking issues, including through the strengthening of protections for threatened species affected by trade at both domestic and international levels, and through assistance and support for third countries and transnational enforcement bodies.
- Language requiring both parties to implement and enforce the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Migratory Species (CMS), the Convention on Biological Diversity (CBD), and the adoption of stricter domestic measures where necessary.
- A ban on import, export, and sale of rhino horn and ivory from elephants and other ivory-bearing species, and agreement on the destruction of all government held ivory stockpiles.
- A commitment to use diplomatic tools to urge other governments to restrict or ban domestic sales of ivory and to destroy ivory stockpiles.
- A pledge to oppose any CITES member proposals to reduce protection for any populations of elephants or rhinos, regardless of whether it is on a "one-off" or "experimental" basis.
- Provisions allocating resources to demand reduction efforts at the domestic and international levels, including public education and outreach, as well as cooperation with NGOs, civil society groups, and other stakeholders.
- Lacey Act provisions to make it an offence to trade in species that have been taken, possessed, transported, or sold in violation of the national laws of third countries. This would be an opportunity to curtail parts of the exotic pet trade and place trade restrictions on species that are not CITES-listed.
- Language requiring stronger enforcement of penalties for illegal wildlife trade.

It is also imperative to ensure the long-term sustainability of marine turtles, sharks, and marine mammals such as whales and polar bears through adequate conservation and management measures. Similarly, the FTA should drive action against illegal, unreported and unregulated (IUU) fishing. The environment/sustainable development chapter should include commitments including:

- Language promoting collaboration between the UK and Australia on wildlife trafficking issues, including through the strengthening of protections for threatened species affected by trade at both domestic and international levels, and through assistance and support for third

countries and transnational enforcement bodies.

- Language requiring compliance with, and implementation and enforcement of, Multilateral Environmental Agreements (MEAs) and regional fisheries agreements, including but not limited to CITES, the International Convention for the Regulation of Whaling (ICRW), the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Agreement on the International Dolphin Conservation Program (AIDCP), the Inter-American Tropical Tuna Commission (IATTC) and the International Commission for the Conservation of Atlantic Tunas (ICCAT). This could involve the adoption of even stronger measures.
- Provisions enhancing enforcement and implementation of the existing fins naturally attached legislation, coupled with measures to enhance shark population data collection.
- A ban on import of polar bear parts (with emphasis on imports from Canadian populations that are declining or data deficient).
- Provisions prohibiting whaling and enforcing the ban on trade in whale parts.
- Implement, and enforce the Port State Measures Agreement to tackle IUU fishing.
- Provisions requiring stronger enforcement of penalties on IUU fishing.
- Language making it unlawful to trade in fish taken, possessed, transported, or sold in contravention of a foreign law.
- Prohibit subsidies that contribute to overfishing or overcapacity; to illegal fishing, including subsidies for IUU-listed fishing vessels;
- Report fisheries subsidies, together with data concerning the fishery that the subsidies affect, including catch of fish stocks, status of fish stocks, fleet capacity, conservation and management measures in place, and total imports and exports per species.
- Implement and effectively enforce measures to reduce by-catch, such as: time-area closures or changes in fishing practices or gear to avoid catching vulnerable species; monitoring of landed and discarded catch; enforceable limits on catch including discards; making annual assessments of bycatch levels to set baseline values to determine whether bycatch is being reduced on an annual basis.

The FTA should also include a commitment to allocate meaningful human and financial resources to carry out the obligations of the environment/sustainable development chapter. Moreover, the provisions of the chapter should include concrete and enforceable language in the form of “shall” as in, for example, “shall adopt, maintain, and implement” as opposed to weak language like “should” or “strive to.”

Finally on wildlife, the UK is looking at measures to halt the import of furs from trapping methods that are illegal in the UK. The original Agreement on International Humane Trapping standards (IAHTS) was created to prevent a trade war with the US over the EU’s ban on imports of fur caught in leghold traps. Should the UK wish to implement stricter standards on fur imports or eliminate imports altogether, it will have to leave the IAHTS, which it is in the process of ratifying. The UK must resist any attempt to agree quotas for fur produced in the USA.

Conclusion

Wildlife and Countryside Link supports a free trade agreement with the USA provided that it maintains the following two basic Government principles: that when undertaking trade deals any imported product would have to meet UK standards, and that UK animal welfare and environmental standards would be maintained and where possible improved. This will be challenging on farm animals and trade in products tested on animals due to the lack of equivalency between the two

countries on animal welfare and health standards. In addition, there is a strong lobby in the USA seeking to open up the UK market to products produced at lower standards.