

Defining core standards for Animal Welfare in Trade Policy





INTRODUCTION

The UK regained its status as an independent nation at the WTO in February 2020. Since then, it has concluded an Agreement in Principle (AiP) with Australia (June 2021) and New Zealand (October 2021). The UK has also started negotiations with India, the TransPacific Partnership (the “CPTPP” - whose members include Mexico and Canada), as well as with the Gulf Cooperation Council (GCC).

The UK has **over 40 specific animal welfare and health standards** set out in legislation. The Government has a manifesto commitment not to lower such standards in any Free Trade Agreement (FTA). The Department of International Trade (DIT) has confirmed that, when undertaking trade deals, any imported product, even under an FTA, would have to meet UK standards, by which they usually mean the ones that, under UK rules, are applicable for such imports. The Trade and Animal Welfare Coalition (TAWC) supports these goals. However, the UK has higher legal animal welfare standards than all the countries that it is negotiating FTAs with, with the exception of New Zealand.² None of these standards, apart from those related to welfare at the time of slaughter, are legally applicable to imports.

According to a 2016 survey, **more than 90% of UK citizens** believe that UK animal welfare standards should apply to imports. Allowing further lower welfare imports - by agreeing trade deals removing tariffs without any animal welfare conditions or non-tariff protection - would thus contradict the ethical beliefs of UK citizens. It could also contribute to externalising the animal welfare concerns that the UK government aims to fight, contradicting thus the general objective of the

UK legislation. Indeed, a surge of lower welfare imports could lead to a general race to the bottom amongst UK producers, understandably keen to avoid being undermined by sub-standard foreign imports, which would result in an overall deterioration of animal welfare standards in UK food and farming.

Finally, it is important to note that for a majority of UK citizens, animal welfare standards determine their behaviour when purchasing an animal product. For instance, recent polling showed that **58% of consumers always purchased higher welfare meat** or had a preference to do so, and **56% purchased higher welfare dairy products**. Concerning shell eggs, consumer preference behaviour drastically changed as mandatory method of production labelling resulted in a long term shift away from eggs from caged hens to eggs from free range systems - free range egg sales doubled, from 32% to 67%, between 2004 and 2019⁵. This differentiation of animal products made by UK consumers depending on the methods of production (i.e. higher animal welfare standards) paves the way for the UK to apply similar measures with regards to tariffs on meat, eggs and dairy products imported into the UK, depending on their method of production.

This TAWC paper looks at the notion of “core standards” in the field of animal welfare for the UK, and calls on the UK government to adopt the two-step approach described below to ensure animal welfare is not compromised - and even promoted - by UK trade policy.

¹ Secretary of State DIT NCDeb c943 20 June 2020

² For instance, under World Animal Protection's Animal Protection Index - <https://api.worldanimalprotection.org/> - Australia scored as B for animal welfare, but E for farm standards (the UK scored as B and D respectively).

³ Eurobarometer 442 - **Attitudes of Europeans towards Animal Welfare**, 2016

⁴ Beautiful Insights. October 2021. Polling of 1,000 members of the public

⁵ <https://www.egginfo.co.uk/egg-facts-and-figures/industry-information/data>

WORKING FROM THE TRADE AND AGRICULTURE COMMISSION'S PROPOSALS



The **Trade and Agriculture Commission (TAC)**, the expert body set up by DIT to provide impartial advice on trade negotiations, published its report in March 2021. It set out some important recommendations on how a country like the UK can safeguard its standards of production. This means both preventing domestic production standards being undermined through competition with lower standard imports, as well as incentivising higher standards abroad by conditioning access to the UK's highly prized market of nearly 67m consumers.

The focus of the TAC was how to approach this challenge specifically through FTAs. This makes sense given that FTAs essentially allow the parties to derogate from commitments they would otherwise need to observe as WTO members, and so offers some flexibility for the parties to look at creative ways of addressing the impact of trade deals on production standards. However, if the UK government is to be truly ambitious in relation to safeguarding and promoting high standards through its trade policy, it should look to adopt an approach that applies both to trade agreements and to broader trade governed only by WTO rules and commitments.

The TAC recommended the development of a set of core standards, notably on animal welfare, that should be advanced through trade negotiations.

The respect of standards equivalent to these would be required for tariffs to be lowered or removed with a trading partner. The attractiveness of this approach is that the set of core standards would stand independently of trade deals, and could form the basis of the UK import and broader trade policy, whether within or outside of specific FTAs. The TAC report, whilst focusing on the impact of trade liberalisation under FTAs on core standards, included that the UK should have a trade policy that outlined these principles outside of FTAs. Such a policy would ensure that *"if domestic legislation imposes costs on producers, which are not borne by producers in exporting countries, mitigating measures such as import requirements or transitional support payments should be introduced at the same time as new domestic legislation"*⁶. The TAC was clear that WTO rules would apply for trade outside of FTAs, but that import restrictions could be introduced as long as they are consistent with domestic regulation and reflect internationally agreed standards.

*"This would apply to food safety and biosecurity and could also include other internationally agreed standards such as climate, environment, ethical trade and animal welfare, where action is consistent with the WTO agreements on Sanitary and Phytosanitary measures (SPS) and on technical barriers (TBT) to trade"*⁶.



The UK government responded to the TAC report by appearing to dismiss getting equivalence on standards of products traded in FTAs but agreeing to take an active role in strengthening core standards via international forums.⁷ The approach taken on the FTA with Australia reinforces this as it allows in tariff free trade in products such as beef and lamb without welfare equivalence despite the lower standards in Australia.⁸ TAWC believe that the UK should take an ambitious approach to liberalisation of the UK's import tariff regime, for countries that can meet the high standards of food production expected from UK producers. It should work with trading with partners within future FTA negotiations to lower tariffs and quotas to zero where equivalence is demonstrated for these standards. These standards must be aligned with core global standards, and the UK government should take an active role in strengthening standards via international forums.

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/969045/Trade-and-Agriculture-Commission-final-report.pdf

⁷ <https://www.gov.uk/government/publications/government-response-to-the-final-trade-and-agriculture-commission-report>

⁸ <https://www.gov.uk/government/publications/uk-australia-free-trade-agreement-negotiations-agreement-in-principle/uk-australia-fta-agreement-in-principle-explainer>



These core standards would reflect the UK's own production standards. They would be developed independently by the UK government in consultation with farmers and food businesses, NGOs and civil society organisations, and the wider public. These core standards would therefore be predicated on the regulatory and legal requirements relating to animal welfare and environmental protection that farmers and growers in the UK are required to adhere to.

A PROPOSAL ON CORE STANDARDS



















There are a number of initiatives currently in train looking to develop a harmonised set of agreed international standards around the sustainability of food production which may form the basis for a **“core standards”** system, although there is no clarity on the level of those standards at this stage.

Yet, even in the absence of relevant international animal welfare standards⁹, TAWC believes that the UK should make its animal welfare standards part of its **“core standards”**. At the moment, only animal welfare-related animal health standards are imposed on imported goods, as well as standards on welfare at the time of slaughter.

Given the administrative challenge and the potential trade friction that can derive from requiring imports to meet a defined set of standards, the UK should adopt a two step approach:

- Where WTO rules allow for it - meaning where ethical concerns exist in the UK - the UK should strive to apply revised and new UK animal welfare standards to all products, regardless of their origin. At the moment, improvements to standards related to farmed animals in cages and being transported are under discussion in the UK. The legislative processes should be the opportunity to start upgrading UK animal welfare standards to **“core standards”** level.
- Awaiting revision of UK animal welfare standards, or when the UK would not have a case at the WTO (i.e.: when standards are clearly UK-specific or if it can be demonstrated that not imposing such standards to imports would not have a negative effect or otherwise incentivise or reward poor practice in relation to animal welfare and/or environmental protection, either in the UK or in the exporting country), the UK should strive to include conditional liberalisation in FTAs. This means that the UK would only grant better trade preferences (e.g. duty free access, access to a tariff-rate quota or a lower tariff) if the products respect UK standards. Such an approach would be WTO-compliant, as it would be part of a deal approved by both partner countries.

⁹ OIE standards are usually much lower than UK equivalent standards.

UK ANIMAL WELFARE-RELATED STANDARDS ALREADY IMPOSED ON IMPORTS	UK STANDARDS EXISTING OR UNDER REVIEW THAT SHOULD BE IMPOSED ON IMPORTS	OTHER STANDARDS CURRENTLY NOT ADDRESSED BY THE UK GOVERNMENT THAT SHOULD BE CONSIDERED
Broiler Chickens Ban on chlorine or acid-washed poultry (linked to low welfare, highly intensive chicken farming). 	Cage-related rules Impacting cages in the laying hen sector, parent stock in the broiler chicken sector, crates used for pigs, individual pen for calves and cages for rabbits. 	Fattening Pigs Ban on routine tail docking and teeth clipping; use of straw; indoor or outdoor housing. 
Fattening Pigs Ban on use of Ractopamine as a growth promoter. 	Transport rules Rules applying to transport within the UK should be applied by exporters between farms and slaughterhouses. 	Sows During Pregnancy Outdoor or indoor housing; use of straw. 
Dairy Cows Ban on BST as a growth promoter. 	Poultry Ban on force feeding (already banned in the UK, but should be imposed on all products placed on UK market). 	Antibiotic Use Meat, eggs and dairy produced using routine antibiotic use, including all preventative group treatments. 
Antibiotic Use Ban on meat, eggs and dairy produced using antibiotic growth promoters. Ban on meat eggs and dairy produced using ionophore antibiotics as growth promoters. 	Sows during gestation UK 20 year ban on use of gestation crates for pigs. Should be applied as a core standard to imports of pork meat produced under gestation crates. 	Broiler Chickens Stocking density and indoor or outdoor housing. 
Beef Cattle Ban on beef reared with growth hormones. 	Laying hens 10 year ban on use of conventional battery cage for laying hens - should be applied to imports of eggs and egg products. 	Dairy Cows Ratio between indoor/ outdoor housing. 
Slaughter of animals Ban on import of products slaughtered contrary to UK slaughter regulations. 	Close confinement of veal calves Banned since 1991 in UK. 	Beef Cattle Housing conditions (indoor, bedding, feedlots) and stocking density. 

The example of banning the placing on the market of foie gras (produced through force-feeding): welfare problems and public opinion:

There is good scientific evidence to show production of force feeding geese to produce foie gras is a welfare problem. In 1999, in a report to the European Commission, the Scientific Committee on Animal Health and Animal Welfare (SCAHAW) concluded that **“force feeding, as currently practised, is detrimental to the welfare of the birds”** ¹⁰. This was based on the fact that the management and housing of the birds used for producing foie gras has a negative impact on their welfare and that animal welfare in foie gras production has deteriorated over the past 40 years as new techniques to supply the market such as the industrialisation of force feeding to supply an increasing market.

SCAHAW recommended that no production process should be used that results in an increase in liver size such that its function is significantly modified or that it directly or indirectly causes increased mortality, pain, or distress to the animal, and no feeding procedure should be used that results in substantial discomfort to the animals. It also recommended the prohibition on the use of small individual cages for housing these birds and that birds should be kept in social groups and be provided with adequate water and light sufficient for normal behaviour such as stretching their wings, preening themselves normally, and walking normally.

Since this report was written 22 years ago, new techniques have emerged including the production of faux gras where livers are produced without force feeding.

The UK Government has had a ban on foie gras production at least since the Welfare of Farm Animal Regulations 2007. As the UK has never produced foie gras it could be argued that this ban has never produced it and could argue this ban goes back many decades based on public opinion. So extending the ban on foie gras production to a ban on placing it on the market would not be a disguised restriction on trade nor be arbitrary discrimination.

A UK proposal to ban the practice of force feeding should result in stopping the sale of foie gras in the UK and the importation of this product. A ban in the UK for foie gras would operate in the same way as the ban on hormone fed beef and chlorine washed poultry. Any foie gras produce would need to be checked through inspections carried out by the exporting country to see if gavage has taken place on that farm, and can also be assessed based on the weight of the liver as once it reaches a certain max weight there is no way it can have been produced without gavage.

With an import ban in place this will allow for ‘enabling powers’ and mean that we can then push to ring fence all existing animal standards in the UK and extend this to include farmed animals.

¹⁰ https://ec.europa.eu/food/system/files/2020-12/sci-com_scah_out17_en.pdf

CASE STUDY:

Laying hen restrictions based on method of production

In 2012, the UK agreed, as a member of the EU, to stop the use of cages for egg production that were smaller than 750 cm sq per laying hen. This was introduced on the scientific evidence base that “the welfare conditions of hens kept in current battery cages and in other systems of rearing are inadequate and that certain of their needs cannot be met in such cages”¹¹. It has also agreed a mandatory labelling system for shell eggs that any imported eggs had to be labelled with method of production or country of origin.



The UK's present most-favoured nation (MFN) tariffs are set at a level that will prevent imports of eggs or egg products that are produced to lower standards. Therefore, the UK should strive, when it will update its rules on cages, to impose those new rules on all imports. In the meantime, it should only offer reduction in tariffs under FTA negotiations to producers relying on production systems that are producing at the same standard as the UK. Such an approach would not be unprecedented, as the EU has already included a similar condition for shell egg imports in the EU-Mercosur agreement.

How are trade restrictions based on animal welfare rules discussed under WTO rules.

Trade measures, including import bans, are only discussed and evaluated by the WTO if a country is challenged by another WTO member. The UK has a number of trade bans (most of which are inherited from the EU) which have never been challenged or tested. They can thus remain in place regardless of their potential compliance with WTO rules. These include the 2007 import ban on fur produced from cats and dogs (implemented due to concerns on the killing methods used) and the marketing ban on cosmetics tested on animals, fully in place since 2013.

Taking the example of a potential import ban on foie gras, the ban, if challenged, may fall foul of WTO rules. However, WTO case law indicates that trade restrictions are allowed, if non discriminatory and non arbitrary, in order to protect the public morals of citizens, including in terms of animal welfare concerns. This has been confirmed by the WTO's ruling on the EU seal ban. One could also try to argue that products derived from humanely farmed animals are not similar to products derived from cruel farming practices, based on the fact that consumers would not buy one for the other. WTO rules are not explicit on this issue of differentiating products based on methods of production, but the organisation's case law has shown openness to such an approach.

Import bans on foie gras already exist in India, Israel and certain states in the USA, such as California. None of these have been challenged at the WTO, so one could safely assume a UK ban would not be challenged either.

In the case of eggs, the UK would also have to demonstrate that the trade restriction derives from the ethical concerns of UK citizens about cages. This could be achieved through the adoption of a domestic measure - a legislative ban on the use of cages in UK egg production, accompanied by a ban on placing such products on the UK market, regardless of the origin of the caged products. With the EU progressing in the same direction, as well as California, the UK could have - even if challenged - allies to support an ethics-based approach on this issue.

¹¹ https://books.google.co.uk/books/about/Report_of_the_Scientific_Veterinary_Comm.html?id=BqLJtgAACAAJ&redir_esc=y

CONCLUSION

The UK should include relevant animal welfare standards in its ‘Core Standards’ and it should strive, where in line with WTO rules, to apply such animal welfare standards on all imports. This could be done gradually, when the UK reviews its existing standards, which could allow such measures to be accompanied by cooperation with trading partners to ensure a proper transition. In the meantime, the UK should strive to use the respect of standards equivalent to its existing animal welfare standards as a condition to obtain better market access. By doing so, the government can ensure that UK consumers have the confidence that any products that they buy will not result in the offshoring of animal welfare abuse or environmental harm to countries with lower regulatory protections. It will also clearly set out our position with trading partners as to what is to be negotiated and what is off the table.



Coalition members

