

Simon Case and Brendan Threlfall Meeting: Agriculture (DAERA lead)

Objectives

- Support UKG and DAERA reach common ground on the next steps for agri-food regulations and standards, particularly for SPS controls.
- Ensure UKG understand the model for agri-food should facilitate North-South and East-West trading.
- Flag that the solution in agri-food must interface with other border controls and wider areas of cross border engagement.

Speaking points

Models for agri-food regulation

- The litmus tests for the 'equivalence of outcome' model will be the visibility and trade-impact of controls at the land border and sea ports, and the cost to businesses.
- We are keen to work with you to assess the viability of the model against Northern Ireland's unique circumstances.
- This should include the link between the outcome for agri-food regulation and other areas of cross border engagement that are unique or disproportionately exposed on the island of Ireland, e.g. trade in goods, energy, services, cultural integration and peace building.
- Importantly we need a clearer sense of how the customs and SPS workstreams will interface on the island of Ireland.

Background

UKG and other stakeholders, including Carl Baudenbacher, have cited Lichtenstein as a potential model for Northern Ireland's future relations with the EU.

Lichtenstein is a member of EFTA and EEA, but also has a close relationship with Switzerland (including a customs union). The principle of 'parallel marketability' allows Liechtenstein to be a member of both the EEA and Swiss economic areas, and therefore facilitating the free circulation of goods, by simultaneously applying EEA and Swiss law. This means that within the harmonised area goods that:

- comply with Swiss and EU technical regulations (and, where applicable, standards) can be freely circulated in Liechtenstein;
- comply with EU regulations may be placed on the market in Liechtenstein and Switzerland, this is known as the 'Cassis de Dijon' principle (which excludes food products); and goods that
- comply exclusively with Swiss regulations (and, where applicable, standards) may also be placed on the market in Liechtenstein, but not be exported to the EEA.

Parallel marketability mainly covers goods with different tariffs (e.g. fish and agriculture), products with different technical standards (e.g. chemicals and medical products) and the origin of products. A national Market Control and Surveillance Mechanism (MCSM) is responsible preventing goods inappropriately entering respective markets. However, due to various sectoral agreements between Switzerland and the EU the number of products not aligned has decreased significantly over time. In 2013, c. 95% of the 23,080 standards in force in Switzerland were aligned with international and EU standards.

A model for Northern Ireland?

Despite the success of parallel marketability in Liechtenstein it does not appear to be a directly applicable solution to the challenges posed by the land border. The limitations of the model include:

- **Northern Ireland is much larger than Lichtenstein:** although small, NI is still has a population approaching two million people and is also a region within a Member State that is exiting the EU.
- **The model appears to be heavily supported by the EFTA and EEA frameworks:** it is not clear from the available sources whether parallel marketability could survive outside of the EEA and EFTA regulatory frameworks and dispute resolution mechanisms.
- **Parallel marketability requires high levels of harmonisation with the EU acquis:** UKG would need to formally agree some kind of harmonization of technical barriers to trade in order to keep the number of products with different standards as low as possible.
- **UKG has already rejected the Scottish Government's position paper setting out how parallel marketability could work at the Scottish border with Scotland remaining in the Single Market.**

Although not directly applicable, it remains that the EU has set a precedent by recognising a regional union and developing a bespoke solution. In particular, the political commitment to maintain an open border, the application of the Cassis de Dijon principle and the Swiss-Lichtenstein relationship on agri-food represent relevant areas for further investigation.

Next steps

A DfE and DAERA paper has set out areas where further detail is required from Whitehall on the model. These included:

- the significance of EFTA/EEA membership to the model, specifically whether the legal underpinning of the agreement requires the UK to be an EFTA/EEA member;
- the extent to which harmonisation with the EU acquis is required, and whether 'equivalence of outcome', whereby a different method delivers the same result, could limit the scope of harmonisation;
- the benefits and constraints of an 'equivalence of outcome' regime compared to ongoing harmonisation;
- more detail on the agreement's treatment of food products and products in cross border supply chains (particularly those products including EU and non-EU inputs);
- the visibility of enforcement mechanisms that are designed to protect the integrity of the Single Market and Customs Union at the island of Ireland's land and sea borders;
- the operational costs of parallel marketability, e.g. the burden on producers and retailers proving the final sale, and the cost of a national surveillance body; and
- how the model interfaces with UKG's options for customs.