



**Tithe an  
Oireachtais  
Houses of the  
Oireachtas**

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***An Comhchoiste um Thalmhaíocht, Bia agus Muir***

Tionchar Reifreann RA ar Chomhaltas san Aontas Eorpach ar Earnálacha  
Talmhaíochta, Bia & Iascaigh na hÉireann

Feabhra 2017

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***Joint Committee on Agriculture, Food and the Marine***

Impact of the UK Referendum on Membership of the European Union on the  
Irish Agri-Food & Fisheries Sectors

February 2017

**32/AFM/04**





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## Chair's Foreword



Pat Deering T.D.  
**Chairman**

On 23 June 2016, the citizens of the United Kingdom voted in favour of leaving the European Union. The result was conclusive; 51.9% voting leave to 48.1% voting to remain.<sup>1</sup> Preceding the Referendum uncertainty was a key theme of any discussion of Brexit,<sup>2</sup> and little has changed in this regard in the intervening months. Uncertainty of what Brexit is, when, or indeed if it will happen present the greatest difficulties in any assessment of the challenges facing Ireland.

The Joint Committee on Agriculture, Food and the Marine agreed that consideration of Brexit and its implications for the Irish agri-food and fisheries sectors necessitated urgent consideration. With this in mind, the Committee agreed that it was necessary to establish a baseline for monitoring the impacts of Brexit. In order to do this, the Committee has made an assumption, that two years following the invocation of Article 50,<sup>3</sup> World Trade Organization rules will determine the UK's trading relationship with the 27 remaining EU Member States; further, the Committee has assumed the worst case scenario that negotiations regarding the UK's exit from the European Union and development of its post-Brexit relationship with the EU will last a decade; this timeframe is based on that of the EU-Canada Comprehensive Economic Trade Agreement (CETA), which took seven years to negotiate, and has yet to be ratified. It is my view that, once a worst-case scenario is established, the aforementioned uncertainties ease and the challenges facing us crystallise.

This report focuses on the context in which Brexit arose, and the worst-case scenario presented by Brexit for the areas falling within the remit of this Committee. The Committee has focused on establishing the worst-case scenario for Ireland's agri-food and fisheries sectors; doing so allows for a comprehensive response to Brexit. A number of observations and recommendations arose from the research conducted, and the written and oral contributions made to the Committee.

The Committee notes that the issues are broader than the agri-food and fisheries sectors and as such notes and welcomes the substantial work already undertaken and underway by other Committees of the Houses of the Oireachtas in relation to this matter. The Committee would also like to formally recognise the work of expert stakeholders which the Committee found particularly useful. I would like to thank those who participated in the Committee's meetings on this issue, as well as those who contributed written submissions for the Committee's consideration.

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<sup>1</sup> The Electoral Commission, *EU referendum results* (2016) <<http://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information>> accessed 29 December 2016

<sup>2</sup> See *Appendix 8: Glossary of Terms* p.113

<sup>3</sup> Article 50, Consolidated Version of the Treaty on European Union [2016]OJ C 202.

The Committee agrees that it is incumbent on all parties to negotiations to secure an outcome which is the least damaging to the interests of all parties. As legislators, it is vital that we do all we can to ensure an agreement which is as positive as possible for Ireland in terms of our trading relationship with the UK.



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Pat Deering T.D.

Chairman

21 February 2017

## Executive Summary

It would appear that the sense of crisis which surrounded the vote to leave the EU has abated somewhat. The initial fear of contagion and perception of an unstable EU has since faded. This is not to say that Brexit poses no threat to the future of the EU; on the contrary, Brexit demands a response from the EU which balances a significant number of competing demands. The EU27 (The Membership of the EU excluding the UK) and the UK are thus challenged to negotiate, and conclude a comprehensive agreement in as short a timeframe as possible.

This report demonstrates risks and potential risk and cost to the Irish agricultural and fisheries sectors posed by Brexit. It is likely that these costs will materialise; as such it is imperative that we prepare for these costs with urgency.

It is clear that the Irish food industry is in a position of extreme exposure to trade losses associated with Brexit. Diversification to other EU markets will also be difficult and take some time given the unique trade deficit in food [...], the integration of the UK and Ireland retail supply chains and common taste factors.<sup>4</sup>

At this time, the worst-case scenario seems likely to arise, with the UK poised for a hard-Brexit within the context of a European Union which does not appear to have consensus in relation to expansionary trade agreements. The difficulties posed by CETA and TTIP, and the resistance to these agreements within Europe indicate that the UK must negotiate a trade agreement with the EU within a generally sceptical environment. This suggests that negotiations may be prolonged and that concessions to the UK are unlikely. Due to the strong economic linkages between Ireland and the UK, many commentators are of the opinion that a bad agreement for the UK will also be a bad agreement for Ireland.<sup>5</sup>

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<sup>4</sup> Food and Drink Industry Ireland, *The Exceptional Case for State Aid Supports for the Food and Drink Sector* (16 January 2017)

<[http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News\\_and\\_Events~Press\\_release\\_archive~brexit-upheaval-demands-eu-state-aid-exemptions/\\$file/Brexit%20-%20the%20exceptional%20case%20for%20state%20aid%20supports%20for%20the%20food%20and%20drink%20sector%20-%20final.pdf](http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News_and_Events~Press_release_archive~brexit-upheaval-demands-eu-state-aid-exemptions/$file/Brexit%20-%20the%20exceptional%20case%20for%20state%20aid%20supports%20for%20the%20food%20and%20drink%20sector%20-%20final.pdf)> accessed 16 January 2017

<sup>5</sup> Adele Bergin, Abian Garcia-Rodriguez, Niall McInerney, Edgar Morgenroth and Donal Smith, *Modelling the Medium to Long Term Potential Macroeconomic Impact of Brexit on Ireland* (November 2016, Working Paper No. 548) <<https://www.esri.ie/pubs/WP548.pdf>> accessed 29 December 2016 p.9

## Summary of Recommendations

### Challenges for the European Union

1. The Committee concludes that dissatisfaction with the EU will likely remain a substantial problem for the bloc until such time as the EU and its Members communicate its benefits effectively to citizens. The Committee additionally notes that negative perception of the EU has likely been influenced by a number of crises including global recession, war and terrorism attacks.
2. It is the view of this Committee that the negotiated agreement, must, for the long-term interest of the European project, neither reward nor punish the UK for the decision of a majority of its citizens to leave the EU. The agreement must be nuanced and based on objective rather than subjective criteria. An agreement which is perceived as lenient on the UK could embolden Eurosceptic movements and weaken the Union further. Alternatively, an agreement which is overly onerous on the UK could have a similar effect, allowing Eurosceptic movements to portray the EU as an authoritarian force and an enemy of national sovereignty. The Committee acknowledges that finding the appropriate balance will prove extremely difficult and may necessitate an extended period of negotiation.

### Ireland–UK Relations

3. The Committee believes that Ireland should carefully balance support of the UK while also maintaining close co-operation with fellow members of the European Union. The Committee notes that “It will be a question of being flexible and choosing the issues where most influence can be exercised”.<sup>6</sup>
4. The Committee notes that, while the UK and Ireland are intensely aware of the need for an agreement which recognises the unique situation of Ireland North and South,<sup>7</sup> it is imperative to stress this in all engagement with the EU and with individual members of the EU27. The Committee notes that this has been already been acted on and urges that this continue to maximise the chance for a favourable, or least damaging, post-Brexit arrangement.<sup>8</sup> **Ireland does not seek a position of advantage; rather, what is being sought is the opportunity not to be placed at a unique disadvantage.**

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<sup>6</sup> Dan O’Brien, Joint Committee on Jobs, Enterprise and Innovation (25 October 2016)  
<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016102500001?opendocument>>

<sup>7</sup> European Union Committee, *Brexit: UK-Irish relations* (House of Lords, 12 December 2016)  
<<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldeucom/76/76.pdf>> accessed 16 December 2016 p.3

<sup>8</sup> Denis Staunton, ‘Taoiseach dismisses proposals for bilateral agreement with UK: Theresa May uses EU summit to urge action over rights of UK citizens living in EU’, *The Irish Times* (Dublin, 16 December 2016)  
<<http://www.irishtimes.com/news/world/europe/taoiseach-dismisses-proposals-for-bilateral-agreement-with-uk-1.2907869>> accessed 16 December 2016

5. The Committee notes the importance of sustained collaboration between the Government and the Northern Ireland Executive; particularly over the coming years. The Committee recommends that, where possible, both Executives act together to voice concerns and pursue common objectives.
6. In relation to the recent House of Lords report, *Brexit: UK-Irish relations*,<sup>9</sup> the Committee welcomes the clear recognition of the unique relationship shared between our States, and the desire to protect that in the future. Noting that a bilateral agreement is a legal impossibility, the Committee recommends that there be a thorough examination of the potential for specific Irish derogations within an EU-UK agreement. These derogations are likely to be limited by practical considerations so as not to undermine the agreement upon which they are built. The Committee notes in the House of Lords report that:

[T]he primary responsibility for drawing attention to and finding solutions to these issues lies with the UK Government. Ireland now faces challenges that are not of its own making.

7. Ireland has a role in future negotiations on the exit of the UK from the EU. Most commentary suggests that Ireland's special interests, and indeed vulnerabilities, may be forgotten by the other members of the EU27 in any negotiations; however, any negotiated trade agreement with the UK will require ratification. There is a clear need for an exit agreement which, while not rewarding the UK for leaving the EU, should not serve to punish Ireland for an event beyond its control.

### Trade Agreements

8. It is essential that the EU swiftly concludes a trade agreement with the UK. It is suggested that the sooner the agreement is finalised, the lesser its disruptive effects will be on the economies of the EU27.
9. If (8) above is not achievable within the two year timeframe under Article 50(3) TEU, Ireland should seek to encourage all other members of the EU27 to consent to an extension. The Committee notes that the longer the proposed extension, the less likely agreement may be achieved. Given that unanimous agreement is required, the Committee recommends that any extension sought should be of a duration likely to achieve the required unanimous agreement.
10. The Committee notes that tariffs are a direct negative impact of WTO rules. It is necessary to avoid the imposition of tariffs if at all possible; if not, the duration of the application of tariffs must be minimised. The Committee agrees that:

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<sup>9</sup> European Union Committee, *Brexit: UK-Irish relations* (House of Lords, 12 December 2016) <<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldecom/76/76.pdf>> accessed 16 December 2016 p.3

[T]he potential cost of re-introducing tariffs to trade between the UK and most of Europe is the first step in making the case for a trade deal that will allow both EU and UK citizens to benefit from continued tariff-free trade across the continent.<sup>10</sup>

11. The Committee recommends that consideration of Mutual Recognition Agreements (MRAs) be undertaken by Government. The Committee also recommends that awareness of the potential need for MRAs be stressed in all interactions with EU leaders and negotiators.

## Agri-Food Sector

12. The Committee agrees with the recommendation of Food and Drink Industry Ireland that:

The focus must be on maintaining markets in the UK, developing other markets as well as ensuring that in the domestic market, companies remain competitive against imports and the threat of cross-border shopping.<sup>11</sup>

13. Ireland's agri-food success in the UK market is, in large part, a result of similar tastes in agri-food products. In order to reduce our dependence on the UK market, it is necessary to determine alternative markets. It may be necessary to develop new products in order to enter these markets. It could also be beneficial to determine which markets currently suffer from a lack of competition as these markets may offer Irish producers and exporters an opportunity to produce and sell to consumers who currently face distorted purchasing prices.
14. The Committee observes that in order to secure the future of the Irish agri-food sector a process of diversification should be undertaken. Diversification in this context is represented by three options:
  - i. Finding new export markets for existing products; and
  - ii. Reopening any possible markets;
  - iii. Developing new products to substitute for loss of market share in the UK.

On this basis, the Committee recommends that resources be allocated to facilitate diversification through three strands:

- I. Market research to identify both suitable products and markets which Irish producers could avail of;

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<sup>10</sup> Civitas (Justin Potts), *Potential post-Brexit tariff costs for EU-UK trade* (October 2016) <<http://www.civitas.org.uk/content/files/potentialpostbrexittariffcostsforeuuktrade.pdf>> accessed 29 December 2016 p.2

<sup>11</sup> Food and Drink Industry Ireland, *The Exceptional Case for State Aid Supports for the Food and Drink Sector* (16 January 2017) <[http://www.fdii.ie/Sectors/FDII/FDII.nsf/vPages/News\\_and\\_Events~Press\\_release\\_archive~brexit-upheaval-demands-eu-state-aid-exemptions/\\$file/Brexit%20-%20the%20exceptional%20case%20for%20state%20aid%20supports%20for%20the%20food%20and%20drink%20sector%20-%20final.pdf](http://www.fdii.ie/Sectors/FDII/FDII.nsf/vPages/News_and_Events~Press_release_archive~brexit-upheaval-demands-eu-state-aid-exemptions/$file/Brexit%20-%20the%20exceptional%20case%20for%20state%20aid%20supports%20for%20the%20food%20and%20drink%20sector%20-%20final.pdf)> accessed 16 January 2017

- II. Product research and relevant training to ensure that new Irish produce meets a high standard and attracts a premium price; and
- III. Marketing of both existing and new Irish produce to foreign markets.

15. The Committee is of the opinion that the UK be allowed to voluntarily participate in the geographical indications (GIs) scheme. The Committee believes that GIs are beneficial to consumers in both the UK and the EU27, as such, there seems little merit in mandating the exclusion of the UK from participation in the GI scheme.

### **The Economy, Capital Investment and State Aid Rules**

16. The Committee believes that Ireland should diversify its economic output. It is essential to have a diverse base to resist future shocks. A focus on the most profitable sectors may prove short-sighted, and leave Ireland exposed in the longer-term.

17. The Committee recognises the importance of agri-food and fisheries to rural economies. As such, every effort must be made to preserve existing employment, or alternatively, to develop new employment opportunities in these communities. The Committee is of the view that funding to support business models which are no longer viable is not an efficient use of state aid and therefore suggests that analysis be undertaken to determine which areas of agri-food are most at risk of employment loss. This would underpin a strategy to:

- Diversify production; and
- Retain employment in vulnerable rural areas.

18. The Committee also recommends that an examination be undertaken to assess the ability of processors in Ireland to scale-up in the wake of a hard-Brexit. If it is viable to do so, processors could invest to scale-up their operations and thus limit the need for producers to move product cross-border for processing. The Committee recognises that for such investment to be worthwhile two conditions must be met:

- i. There must be a real price-differential between processing in Northern Ireland and domestically; and
- ii. There must be certainty that such a price-differential is likely to remain in the long-term in order to justify capital costs incurred in scaling-up.

19. The Committee recommends that an examination of state aid rules be undertaken with a view to determining whether support can be provided to processors to facilitate scaling up. If such supports are possible, the impact of the loss of all-island economies of scale may be mitigated to some degree. Such support should only be considered if the long-term viability of the processors is not in doubt.

20. The Committee recommends that all Government Departments, State Agencies, and stakeholder organisations examine the role which state aid may play post-Brexit. The Committee recognises that resources are limited and as such deliberations as to state aid programmes should broadly consider:

- i. The value for money of state aid in the given circumstance; and
- ii. The impact of non-intervention in the particular circumstances.

Giving weight to these two considerations should result in state aid programmes being developed which balance the maximum economic benefit and the need to guarantee the survival of certain sectors, particularly those which generate economic activity in disadvantaged regions. State aid should help facilitate these sectors as they transition to the post-Brexit economic environment, rather than act as a long-term subvention to sectors which may no longer be economically viable.

### Existing and Alternative Strategies

21. The Committee recommends that a re-evaluation of targets set in *Food Wise 2025* be undertaken. Brexit may require fundamental changes in the structure and future of Irish agriculture, as such, targets set in *Food Wise 2025* may no longer reflect what is possible, or even, what is best for the Irish agri-food and fisheries sectors.

22. The Committee recommends that the Government assesses implementing supports to encourage greater production of biofuels. Increasing Irish production and encouraging use of biofuels could help Ireland meet emissions targets, reduce reliance on imported fuel, and help sustain Irish horticulture by allowing farmers to diversify their crops and by creating greater domestic demand for their produce.

23. The Committee suggests that the Minister for Agriculture, Food and the Marine together with the Minister for Communications, Climate Action & Environment (DCCA) explore options which would promote the use of biofuels. This could include examination of the viability of inclusion of biofuel heating systems, where viable, in future state capital projects. It is acknowledged that DCCA is already considering a Renewable Heat Incentive. Alternatively, it may be possible to encourage the use of biofuels in transport. **If market outlets can be developed, Irish farmers can produce the biofuel required for these outlets.**

24. The Committee believes that there are opportunities for Irish alcoholic beverage producers to increasingly rely on Irish grain for production purposes. Such an approach would help stabilise the Irish tillage sector which is currently experiencing considerable difficulties.



25. The Committee recognises the existence of an Irish Whiskey Trail<sup>12</sup> and suggests that this may benefit from further development. It may also be of interest to determine if a network of breweries and distilleries may be formed to create a combined trail. It may be beneficial to consider international experience such as best practice in vineyard tours in France, Spain, and Portugal or the nearer Scottish Gin Trail.<sup>13</sup> While this is primarily a tourism initiative, advertising, and potentially increasing sales of Irish beverages should positively impact upon Irish grain farmers.

### **Fisheries Sector**

26. The Committee recommends that every effort be made to argue for a re-evaluation of Irish fishing quotas, recognising the failings of the current system, and facilitating the long-term elimination of the Hague preferences. The Committee believes that if quotas were allocated fairly that the need for the application of the Hague preferences would be a non-issue, removing a contentious element of annual quota negotiations.
27. The Committee notes that seaweed is an under utilised resource. Seaweed represents an opportunity for diversification of Irish aquaculture output. While not sufficient on its own, promotion of seaweed and other opportunities can help diversify Irish agri-food; developing the long term viability and robustness of the sector.

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<sup>12</sup> 'The Ireland Whiskey Trail' <<http://www.irelandwhiskeytrail.com/home.php> > accessed 24 January 2017

<sup>13</sup> The Wine and Spirit Trade Association, 'Holiday Gin-Spiration' <<http://www.wsta.co.uk/press/748-scotland-gin-trail>> accessed 26 January 2017

## Introduction

## Stakeholders

The Joint Committee (hereafter the “Committee”) held five days of hearings from November 2016 – January 2017 to engage with relevant stakeholders to discuss the ‘Impact of the UK Referendum on Membership of the European Union on the Irish Agri-food & Fisheries Sectors.’

The table below summarises the engagement process undertaken.

**Table 1 Joint Committee Hearings - Stakeholders / Witnesses Present**

22 November 2016	
Teagasc	Mr. Trevor Donnellan, Research Officer; and Mr. Kevin Hanrahan, Research Officer
29 November 2016	
Bord Bia	Mr. Aidan Cotter, CEO; and Mr. Padraig Brennan, Director of Markets
13 December 2016	
Irish Farmers’ Association (IFA)	Mr Joe Healy, President
Irish Creamery & Milk Suppliers Association (ICMSA)	Mr John Comer, President
Macra na Feirme	Mr Seán Finan, National President
Irish Cattle & Sheep Farmers’ Association (ICSA)	Mr Patrick Kent, President
	Mr. Jim Power, Economist
17 January 2017	
	Professor Alan Matthews
24 January 2017	
Killybegs Fishermen’s Organisation	Mr. Michael Cavanagh, Chairman; and Mr. Sean O’Donoghue, CEO
Irish South and West Fish Producers Organisation Ltd	Mr. Patrick Murphy, CEO; Mr. John D Sullivan, Chairman; and Mr. Greg Casey
Irish Fish Processors and Exporters Association	Mr. Lorcán Ó Cinnéide, National Secretary

## Transcripts

The transcripts of the meetings of [22 November 2016](#)<sup>14</sup>, [29 November 2016](#)<sup>15</sup>, [13 December 2016](#)<sup>16</sup>, [17 January 2017](#)<sup>17</sup>, and [24 January 2017](#)<sup>18</sup> are available online.

<sup>14</sup> Joint Committee on Agriculture, Food and the Marine (22 November 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2016112200002?opendocument#C00050>>

<sup>15</sup> Joint Committee on Agriculture, Food and the Marine (29 November 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2016112900002?opendocument#C00300>>

## Submissions and Presentations

The submissions and presentations made to the Committee for the meetings of 22 November 2016, 29 November 2016, 13 December 2016, 17 January 2017, and 24 January 2017 are available [online](#).<sup>19</sup> A number of organisations were invited to make written submissions. The table below identifies contributors who submitted written submissions to the Committee *in lieu* of attendance at Committee hearings. Additionally, in the context of the UK's farming and fisheries sectors, written submissions were sought from a number of organisations. All contributions received are available [online](#).<sup>20</sup>

Table 2 Written submissions received

Written submissions received (Ireland)
British Irish Chamber of Commerce;
Food and Drink Industry Ireland;
InterTrade Ireland; and
Irish Exporters Association
Written submissions received (UK)
National Farmers' Union Scotland

## Report Methodology

It is the view of the Committee that proper consideration of Brexit necessitates a focus, in the first instance, on the worst-case scenario. Identifying and preparing for the worst-case scenario will allow a comprehensive plan to be developed during the UK's negotiations with the EU should Article 50 be invoked. Even where the worst case scenario does not materialise, the case remains that "[d]epending on the scenario considered the level of Irish output ranges to between 2.3 and 3.8 per cent below what it otherwise would have been."<sup>21</sup> In effect, Brexit is expected to result in a negative impact on Ireland under all likely scenarios; therefore, identifying and planning for the least favourable outcome is considered by the Committee to be a prudent approach.

<sup>16</sup> Joint Committee on Agriculture, Food and the Marine (13 December 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2016121300002?opendocument#D00100>>

<sup>17</sup> Joint Committee on Agriculture, Food and the Marine (17 January 2017)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2017011700001?opendocument>>

<sup>18</sup> Joint Committee on Agriculture, Food and the Marine (24 January 2017)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2017012400001?opendocument>>

<sup>19</sup> Submissions and presentations

<[http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/agriculturefoodandthamarine/presentations/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/agriculturefoodandthamarine/presentations/)>

<sup>20</sup> Ibid

<sup>21</sup> Adele Bergin, Abian Garcia-Rodriguez, Niall McInerney, Edgar Morgenroth and Donal Smith, *Modelling the Medium to Long Term Potential Macroeconomic Impact of Brexit on Ireland* (November 2016, Working Paper No. 548) <<https://www.esri.ie/pubs/WP548.pdf>> accessed 29 December 2016 p.10

In identifying the worst case scenario some assumptions have been made. As has been indicated by UK Prime Minister May, and subsequently endorsed by the House of Commons, Article 50 will be invoked by end of March 2017<sup>22</sup> and a unanimous agreement as per Article 50.3 Treaty on European Union (TEU) will not be forthcoming. World Trade Organisation (WTO) rules will govern trade between EU Member States and the United Kingdom from April 2019 onwards. This facilitates a compare and contrast approach to Brexit, comparing the existing trade scenario with a scenario governed by WTO rules. This also provides a timeframe, for action to mitigate the negative impact of Brexit on the agri-food sector.

Brexit poses significant challenges for Ireland; the scale of these challenges mean that they are likely to affect every sector. Therefore it is difficult to interpret the implications of Brexit on agri-food and fisheries in isolation from other sectors. Insofar as possible, this report will attempt to limit its discussion to these areas; however, many of the observations and conclusions of the Committee are likely to be applicable to other sectors.

### The Context of the UK Exit

The Joint Committee on European Affairs of the 31<sup>st</sup> Dáil identified some of the risks of Brexit, at a time when Brexit appeared a remote possibility. Its report *UK/EU Future Relationship: Implications for Ireland*<sup>23</sup> remains valid until such time as Article 50 is invoked and negotiations commence.

The UK's 'mind-set' to Europe has been somewhat different to that of other 'core' EU Member States. The founding members of the EU experienced, at first hand, the physical devastation of war and the destruction of civil society. A vision for a peaceful and prosperous Europe outweighed the ideals of nationalism and sovereignty, the causes of war, which led to the development of a European community through closer integration of European nations.<sup>24</sup>

The UK's relationship with the EU has been at times dichotomous; indeed the 'Bloomberg speech' by former Prime Minister Cameron illustrated this position. In this speech former Prime Minister David Cameron identifies his vision for a new European Union:

Can we justify a Commission that gets ever larger? [...] I accept, of course, that for the single market to function we need a common set of rules and a way of enforcing them. But we also need to be able to respond quickly to the latest developments and trends.<sup>25</sup>

This vision for the future of the European Union presented serious questions that remain unanswered, can "the EU [...] act with the speed and flexibility of a network"<sup>26</sup> and at the same time

<sup>22</sup> See *Timeframe and Legal Challenges* p.33

<sup>23</sup> Joint Committee on European Union Affairs, *UK/EU Future Relationship: Implications for Ireland* (June 2015). <[http://www.oireachtas.ie/parliament/media/committees/euaffairs/archiveeuaffairs/Agreed-Report-UK-EU-Future-Relations\\_Updated.pdf](http://www.oireachtas.ie/parliament/media/committees/euaffairs/archiveeuaffairs/Agreed-Report-UK-EU-Future-Relations_Updated.pdf)> accessed 29 December 2016

<sup>24</sup> Ibid p.8

<sup>25</sup> The Rt Hon David Cameron MP, *EU Speech at Bloomberg* (January 2013)

<<https://www.gov.uk/government/speeches/eu-speech-at-bloomberg>> accessed 29 December 2016

<sup>26</sup> Ibid.

be completed by a “leaner, less bureaucratic Union”<sup>27</sup>? Can the single market function without “[c]omplex rules restricting our labour market”<sup>28</sup> or “excessive regulation”?<sup>29</sup>

The ‘Bloomberg speech’ can be said to describe the differences between the UK’s vision for the EU and what may be described as a more conventional vision of the EU’s future, that of an ever closer Union. Reconciling these differences is largely an academic question; however, perhaps the lesson learned from Brexit is that it can no longer be assumed that all Member States are satisfied with the current balance of competences, perceived or real, with the EU. Certainly this appears to be the view of the UK:

[T]he European Union has struggled to deal with the diversity of its member countries and their interests. It bends towards uniformity, not flexibility.<sup>30</sup>

### The Referendum on Membership of the European Union<sup>31</sup>

The Referendum on Membership of the European Union took place on 23 June 2016. Referenda are much less frequent in the UK as they are not a prerequisite of constitutional change unlike in Ireland. The Referendum was advisory rather than binding in nature.

The UK has no codified constitution, so can have no binding rule to hold referendums for the approval of constitutional reforms. Nonetheless, referendums have mostly been used to settle questions of an indisputably constitutional character. This applies to the three UK-wide referendums: European Economic Community (EEC) membership in 1975, electoral reform in 2011, and this week’s EU poll. It applied also in the Scottish independence referendum in 2014<sup>32</sup>

The question posed to the UK’s electorate was the following:<sup>33</sup>

Should the United Kingdom remain a member of the European Union or leave the European Union?

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> The Rt Hon Theresa May MP, *The government's negotiating objectives for exiting the EU: PM speech* (17 January 2017) <<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>> accessed 20 January 2017

<sup>31</sup> The Electoral Commission, *EU referendum results* (2016) <<http://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information>> accessed 29 December 2016

**Note:** Remain/leave percentages calculated on the basis of valid (unspoiled) votes.

<sup>32</sup> Akash Paun, ‘The referendum and the British constitution: strange bedfellows?’ (2016, Institute for Government) <<http://www.instituteforgovernment.org.uk/blog/13867/the-referendum-and-the-british-constitution/>> accessed 29 December 2016

<sup>33</sup> The Electoral Commission, *EU referendum question assessment* (2015) <<http://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/eu-referendum-question-assessment>> accessed 29 December 2016

The result was a conclusive 51.9% in favour of leaving the European Union. This result, however, did not represent an overall consensus within the constituent elements of the United Kingdom. The following pages illustrate the results, not only in their aggregate form, but also illustrate the significant variance between the constituent elements of the Union. Both Scotland and Northern Ireland signalled a clear desire to remain within the European Union.

In the absence of figures summarising the English vote, the figures were determined by removing the Northern Irish, Scottish, and Welsh figures. From this, it can be determined that a total of 28,455,402 valid votes were cast in England, 15,188,406 (53.38%) of which were for leave, 13,266,996 (46.62%) were for remain. If the results of the Referendum are summarised as leave or remain by majority vote in each jurisdiction, remain jurisdictions (Northern Ireland & Scotland) represent c.10% of the total electorate of the UK, vs c.90% leave (England & Wales). **This may be indicative of the challenge facing Scotland and Northern Ireland in securing special treatment from Westminster.**

Detailed breakdowns of the Referendum result can be seen in Appendix 1.

## Perception of the European Union

### *Perception of the European Union in the UK*

The perception of the EU continues to present challenges. It seems that the EU faces a significant challenge in communicating benefits of membership to its citizens and should find new ways to communicate with citizens of its Member States. Figure 1 illustrates UK responses to Eurobarometer polling to the question:

Generally speaking, do you think that UK membership of the European Community (Common Market) is a good thing, a bad thing, neither good or bad or don't know.

On 5 June 1975 the people of the UK voted overwhelmingly in favour of remaining within the European Community; 67.2% of votes cast were in favour of remaining within the Community, 32.8% against.<sup>34</sup> It can be concluded from the polls in Figure 1 that **a generation that were seemingly increasingly positively disposed to the European project have since become disenchanted by it.** It is important for the success of the European project, of which Ireland remains a key stakeholder, to make known the benefits, and successes of Union membership.

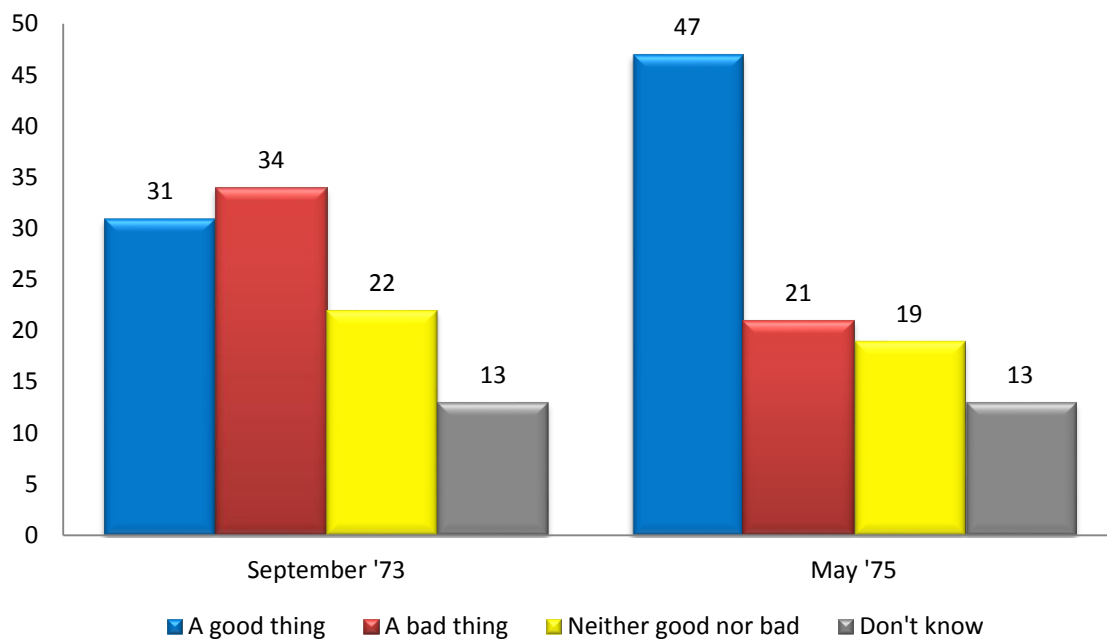
Analysis of voter turnout suggests that turnout was poor in areas where strong remain votes were anticipated; including Scotland, Northern Ireland, and London.<sup>35</sup> Strong divisions in voting patterns were observed; leave votes being linked to areas with lower levels of schooling, and remain votes

<sup>34</sup> House of Commons Library, *The 1974-75 UK Renegotiation of EEC Membership and Referendum* (July 2015) <<http://researchbriefings.files.parliament.uk/documents/CBP-7253/CBP-7253.pdf>> accessed 29 December 2016 p.25

<sup>35</sup> Daniel Dunford and Ashley Kirk, 'How did turnout affect the EU referendum result?' *The Telegraph* (London, 1 July 2016) <<http://www.telegraph.co.uk/news/2016/06/24/how-did-turnout-affect-the-eu-referendum-result/>> accessed 29 December 2016

associated with areas with large proportions of people in professional occupations.<sup>36</sup> The mobilisation of older voters seemed to have a conclusive impact upon the Referendum result.<sup>37</sup> The impact of older voters also raises important questions, why support for membership of the EU has dropped so significantly with voters who had by a substantial margin supported membership of the European Community in 1975?<sup>38,39</sup>

Figure 1 Eurobarometer Poll Results<sup>40</sup>



<sup>36</sup> Anand Menon and Brigid Fowler, 'Hard or Soft? The Politics of Brexit' (2016) 238 National Institute Economic Review 7 <<http://journals.sagepub.com/doi/abs/10.1177/002795011623800110>> accessed 23 January 2017

<sup>37</sup> 'EU referendum: The result in maps and charts' (BBC, 24 June 2016) <<http://www.bbc.com/news/uk-politics-36616028>> accessed 29 December 2016

<sup>38</sup> '1975: UK embraces Europe in referendum' <[http://news.bbc.co.uk/onthisday/hi/dates/stories/june/6/newsid\\_2499000/2499297.stm](http://news.bbc.co.uk/onthisday/hi/dates/stories/june/6/newsid_2499000/2499297.stm)> accessed 29 December 2016

<sup>39</sup> House of Commons Library, *The 1974-75 UK Renegotiation of EEC Membership and Referendum* (July 2015) <<http://researchbriefings.files.parliament.uk/documents/CBP-7253/CBP-7253.pdf>> accessed 29 December 2016

<sup>40</sup> Ibid p.19

### Perception of the European Union in the EU

Figure 2 Eurobarometer: Perception of the EU<sup>41</sup>

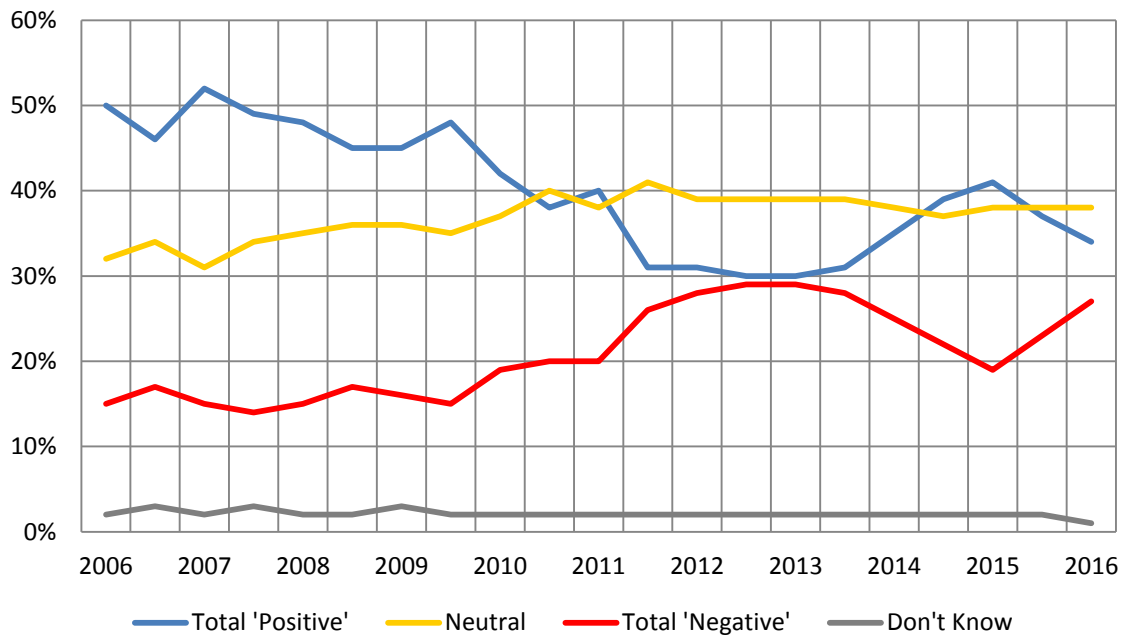


Figure 2: Responses to the question 'In general, does the EU conjure up for you a very positive, fairly positive, neutral, fairly negative or very negative image?'

Figure 2 would appear to illustrate an EU-wide increase in apathy and antipathy to the EU in recent years. It can be stated that these figures represent a worrying trend which serves as a stark reminder that the European project is not connecting with citizens. It is clear that the EU has had trouble in communicating its benefits to its citizens. It seems unlikely to be coincidental that the Referendum result can be separated from the fact that:

In Eurobarometer surveys, the share of correct answers to factual questions about the EU given by UK respondents has consistently been lower than the bloc average and among the lowest of any Member State.<sup>42</sup>

#### Recommendation:

The Committee concludes that dissatisfaction with the EU will likely remain a substantial problem for the bloc until such time as the EU and its Members communicate its benefits effectively to citizens. The Committee additionally notes that negative perception of the EU has likely been influenced by a number of crises including global recession, war and terrorism attacks.

<sup>41</sup> European Commission, *Standard Eurobarometer 85: Spring 2016* (July 2016)

<<http://www.google.ie/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEWjk5suwmJ7QAhVhFMAKHUIeAZAQFggaMAA&url=http%3A%2F%2Fec.europa.eu%2FCOMMFrontOffice%2Fpublicopinion%2Findex.cfm%2FResultDoc%2Fdownload%2FDocumentKy%2F74264&usg=AFQjCNHH8XxKUIeTS7wRnfKct2bFCRYBTA&bvm=bv.138169073,d.ZGg>> accessed 29 December 2016 p.15

<sup>42</sup> Anand Menon and Brigid Fowler, 'Hard or Soft? The Politics of Brexit' (2016) 238 *National Institute Economic Review* 5 <<http://journals.sagepub.com/doi/abs/10.1177/002795011623800110>> accessed 23 January 2017



### Legal Basis for Exiting the European Union

The legal basis underpinning an exit from the EU is Article 50 TEU. This article is reasonably brief and has been subject to considerable scrutiny in the wake of the UK Referendum. Much of this scrutiny has revolved around the revocability or irrevocability of notice given under Article 50. While this question cannot be conclusively answered without recourse to the European Court of Justice, it is significant however; that in *R (Miller) v Secretary of State for Exiting the European Union*<sup>43</sup> it was common ground between the parties that “notice is irrevocable and cannot be conditional”. Similarly, in *Re McCord's Application*<sup>44</sup>, the Court stated:

It appears to the Court that a feature of the arrangements is that once notification by the withdrawing State is given, save for some exceptional circumstance, which is not expressly provided for in the provisions, the parties, the withdrawing State and the Union are set on a course which leads to the Treaties ceasing to apply to the withdrawing State.

### Article 50, Treaty on European Union<sup>45</sup>

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.
3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decide to extend this period.
4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it. A qualified majority shall be defined in accordance with Article 328(3)(b) of the Treaty on the Functioning of the European Union.
5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

<sup>43</sup> *R (Miller) v Secretary of State for Exiting the European Union* [2016] EWHC 2768 (Admin)

<sup>44</sup> *Re McCord's Application* [2016] NIQB 85

<sup>45</sup> Article 50, Consolidated Version of the Treaty on European Union [2016] OJ C 202.

### **UK Domestic Challenges to Withdrawal from the European Union**

Following the Referendum result there have been a number of legal challenges which do not attempt directly to stop an exit from the EU, rather, these challenges focus on distinct implications arising from an exit.

The most significant case, *R (Miller) v Secretary of State for Exiting the European Union*,<sup>46</sup> was successful in the High Court. The case put forward by Gina Miller:

[R]evolves around the premise that by triggering Brexit without a vote by MPs, the government would deny British citizens existing rights enshrined in domestic law by the 1972 European Communities Act.<sup>47</sup>

The appeal to the supreme court of *R (Miller) v Secretary of State for Exiting the European Union*<sup>48</sup> was heard by all “11 Supreme Court justices [...] so that there [could] be no accusations that the court would have delivered a different decision if the panel had been constituted differently.”<sup>49</sup> The decision of the High Court was upheld by a majority decision of eight to three.<sup>50</sup> This decision is discussed in greater detail in *Timeframe and Legal Challenges*.<sup>51</sup>

### **The Role of the European Court of Justice**

There are conflicting views as to the role of the European Court of Justice (ECJ) in the Brexit process. The UK’s Government has clearly taken the stance that the ECJ will not have an ongoing role.

[W]e will take back control of our laws and bring an end to the jurisdiction of the European Court of Justice in Britain. Leaving the European Union will mean that our laws will be made in Westminster, Edinburgh, Cardiff and Belfast. And those laws will be interpreted by judges not in Luxembourg but in courts across this country.<sup>52</sup>

Alternatively, some predict that the ECJ may have a role in how the Brexit process proceeds should Article 50 be invoked. “The court’s jurisdiction would [...] stretch to the content of any exit deal and its implications for rights of citizens, companies and institutions under the treaties.”<sup>53</sup> Additionally:

<sup>46</sup> *R (Miller) v Secretary of State for Exiting the European Union* [2016] EWHC 2768 (Admin)

<sup>47</sup> Jane Croft, ‘All eyes focus on UK Supreme Court over Article 50: Law Lords consider whether Brexit can be triggered without parliamentary vote’ *Financial Times* (London, 05 December 2016)

<<https://www.ft.com/content/b7f6518e-b88a-11e6-ba85-95d1533d9a62>> accessed 05 December 2016

<sup>48</sup> *R (Miller) v Secretary of State for Exiting the European Union* [2016] EWHC 2768 (Admin)

<sup>49</sup> Jane Croft, ‘All eyes focus on UK Supreme Court over Article 50: Law Lords consider whether Brexit can be triggered without parliamentary vote’ *Financial Times* (London, 05 December 2016)

<<https://www.ft.com/content/b7f6518e-b88a-11e6-ba85-95d1533d9a62>> accessed 05 December 2016

<sup>50</sup> *R (Miller and Another) v Secretary of State for Exiting the European Union* [2017] UKSC 5, [2017] 1 All ER 158

<sup>51</sup> See p.28

<sup>52</sup> The Rt Hon Theresa May MP, *The government’s negotiating objectives for exiting the EU: PM speech* (17 January 2017) <<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>> accessed 20 January 2017

<sup>53</sup> Alex Barker and Duncan Robinson, ‘Many ways’ Brexit may go to EU courts, top ECJ judge says: Europe’s most senior judge outlines potentially pivotal role in UK’s departure’ *Financial Times* (London, 21 November 2016) <<https://www.ft.com/content/6609025a-adbc-11e6-ba7d-76378e4fef24>> accessed 05 December 2016

Questions of EU law can ultimately only be settled in Luxembourg, meaning that the European Court of Justice — held up by Brexiters as an apotheosis of EU interference — may be a decisive voice in disputes over the process, content and implementation of exit terms.

Most notably, its opinion could be sought on whether Article 50 is revocable after a formal notification, a question that could be crucial for the political handling of Brexit in Westminster and Brussels. If a notification can be reversed, this will provide the British government with a means of changing course — albeit at a heavy political price — during the two years of negotiations.<sup>54</sup>

Outside of the Brexit process itself, there is a question as to when the ECJ will cease to have jurisdiction in the UK. In the absence of an extension to the two-year negotiating timeframe outlined in Art. 50 TEU, the ECJ will cease to have jurisdiction at the end of that timeframe; however, if either a transitional agreement, or an extended negotiating period is agreed, the issue of whether or not UK citizens have access to the ECJ may become more difficult to determine. If the UK is bound to rulings of the ECJ beyond two-years post notification, it is likely to prove unpopular as “we will not have truly left the European Union if we are not in control of our own laws.”<sup>55</sup> Contrary to this, Maltese Prime Minister Joseph Muscat has said of a potential transitional agreement that:

It is not a transition period where British institutions take over, but it is a transition period where the European court of justice is still in charge of dishing out judgments and points of view.<sup>56</sup>

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<sup>54</sup> Ibid

<sup>55</sup> The Rt Hon Theresa May MP, *The government's negotiating objectives for exiting the EU: PM speech* (17 January 2017) <<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>> accessed 20 January 2017

<sup>56</sup> Jennifer Rankin, 'EU law 'will continue to apply in UK during transition deal': Maltese PM makes clear that European court of justice will still be 'in charge' as part of any deal to smooth path to Brexit' *The Guardian* (London, 12 January 2017) <<https://www.theguardian.com/politics/2017/jan/12/eu-law-will-continue-to-apply-in-uk-during-transition-deal>> accessed 23 January 2017

## The Challenges of *Brexit*

Brexit challenges all Member States, but particularly Ireland, to plan carefully, defend our interests, and uphold the European project. Many of the challenges, and indeed responses to Brexit were predicted with considerable accuracy in 2014.<sup>57</sup> In the context of Brexit former Prime Minister David Cameron's words from the 'Bloomberg speech' now seem prophetic:

For just as in any emergency you should plan for the aftermath as well as dealing with the present crisis so too in the midst of the present challenges we should plan for the future, and what the world will look like when the difficulties [...] have been overcome.<sup>58</sup>

The challenges posed by Brexit to the broad agricultural and fisheries sectors have been well summarised by the Minister for Agriculture, Food and the Marine:

Beyond the immediate currency difficulties, there are potentially very negative impacts arising from possible differences in tariffs, a movement by the UK away from the common regulations and standards of the Single Market, the reconstitution of border controls and the reintroduction of veterinary certification. These will inevitably add to the costs of Irish producers and processors, affect their competitiveness and disrupt trade.

We also face significant difficulties on the fisheries side, where the most complex issues are those related to the possibility of restricted access to fishing grounds and resources. We face a very uncertain situation regarding the management and sharing of a large number of different fish stocks that we currently share with the UK and other member states under the Common Fisheries Policy framework. This could lead to restricted access to traditional fisheries grounds and resources.<sup>59</sup>

The difficulty in planning for Brexit arise primarily as a result of the range of possible permutations; such as when it may occur, what sort of agreement may be reached, and even the broader international context at the time Brexit may be concluded. As outlined in *Report Methodology*, certain assumptions have been made in this report.<sup>60</sup>

[T]he impacts of Brexit in the short-run largely arise out of uncertainty which is difficult to incorporate onto models as unforeseen events can change the degree of uncertainty and volatility. The impacts over the medium- to long-term are more readily assessed in models as

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<sup>57</sup> Iain Mansfield, *A Blueprint for Britain: Openness not Isolation* (2014) <[https://iea.org.uk/wp-content/uploads/2016/07/Brexit%20Entry%20170\\_final\\_bio\\_web.pdf](https://iea.org.uk/wp-content/uploads/2016/07/Brexit%20Entry%20170_final_bio_web.pdf)> accessed 03 January 2017

<sup>58</sup> The Rt Hon David Cameron MP, *EU Speech at Bloomberg* (January 2013) <<https://www.gov.uk/government/speeches/eu-speech-at-bloomberg>> accessed 29 December 2016

<sup>59</sup> Minister for Agriculture, Food and the Marine (Deputy Michael Creed), *Agricultural Prices and Decision by UK to Leave EU: Statements-Seanad* (25 October 2016)

<<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/seanad201610250002?opendocument#DD00800>> accessed 28 November 2016

<sup>60</sup> *Report Methodology* p.11

they arise out of real changes in the relationship between the UK and the EU which can be quantified.<sup>61</sup>

In a broader sense, Brexit is an unprecedented test for the EU, raising a vast array of issues not expanded upon in this report, including *inter alia*:<sup>62</sup>

- The Future course of the EU;
- The challenge of balancing sectoral, and national interests within a negotiating framework; and
- Ensuring that Member States feel empowered within the European Union, and that their citizens fully understand and appreciate the value of the European project.

Many of these issues, and others, will be dealt with in forthcoming reports of the:

- Joint Committee on Jobs, Enterprise and Innovation;
- Joint Committee on the Implementation of the Good Friday Agreement; and
- Joint Committee on European Union Affairs.

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<sup>61</sup> Adele Bergin, Abian Garcia-Rodriguez, Niall McInerney, Edgar Morgenroth and Donal Smith, *Modelling the Medium to Long Term Potential Macroeconomic Impact of Brexit on Ireland* (November 2016, Working Paper No. 548) <<https://www.esri.ie/pubs/WP548.pdf>> accessed 29 December 2016 p.4

<sup>62</sup> Maïa de La Baume, Ryan Heath and Quentin Ariès, '13 things you didn't know about Brexit More than a dozen European Parliament reports on the nitty-gritty of quitting the EU — distilled into digestible data' *Politico* (14 February 2017) <<http://www.politico.eu/article/brexit-negotiation-issues-worrying-the-european-parliament/>> accessed 16 February 2017

## Process

The unprecedented scale of the challenge posed in withdrawing from the EU is the primary cause of the uncertainty surrounding Brexit. Brexit can be cast in terms of scenarios ranging from soft to hard-Brexit. Exiting the EU involves notification of Article 50 to the Commission; this starts a two year countdown to exit. In an ideal scenario all aspects of the exit of a Member State would be negotiated within this timeframe; however, this seems unrealistic and estimates for the actual negotiation timeframe fluctuate significantly. The timeline for Brexit and its associated timeline are discussed in more detail later in this report.<sup>63</sup> There is no precedent for this exit process as:

No independent European country has ever left the EEC or the EU. Therefore there is no relevant procedure that can be used to understand the details of how the withdrawal process would work or to shed light on how the EU would treat the exiting country.<sup>64</sup>

The result of the UK Referendum surprised many throughout Europe; indeed, there have been suggestions that the UK's civil service was not adequately prepared for the result of the referendum.

The initial lack of Brexit planning in Whitehall shocked many European capitals and prompted some to reassess their high regard for the British civil service. But the expectation now is that the UK will find its feet and pursue a "divide and conquer" Brexit negotiation strategy, picking off members of the EU27 with blandishments, money and policy favours. [...] This partly explains the premium placed on EU27 unity, and the refusal to enter talks, while the EU awaits a formal Article 50 notification. The UK has carefully mapped national interests across the continent to establish Britain's potential leverage.<sup>65</sup>

Ireland appears to have been better prepared for the outcome of the referendum than many due to the very serious consequences of a UK exit from the EU for Ireland. While the Government and Parliament anticipated the possibility of Brexit, detailed planning and mitigation has only become possible as Brexit, and indeed its form, become more likely. Preparations for the Brexit process are detailed in an anticipated report from the Joint Committee on European Union Affairs.

While the overall process surrounding an exit from the EU remains unclear, Prime Minister May has recently sought to provide certainty as to the likelihood of Brexit.<sup>66</sup> A Motion tabled by Labour was amended by Government and agreed recognising that "this House should respect the wishes of the United Kingdom as expressed in the referendum on 23 June".<sup>67</sup> The motion passed by 461 to 89.<sup>68</sup> If

<sup>63</sup> *Timeframe and Legal Challenges* p.28

<sup>64</sup> Swati Dhingra & Thomas Sampson, 'Life after BREXIT: What are the UK's options outside the European Union?' (Centre for Economic Performance, The London School Of Economics and Political Science 2016). <<http://cep.lse.ac.uk/pubs/download/brexit01.pdf>> accessed 29 December 2016 p.2

<sup>65</sup> Alex Barker, 'Denmark: UK ally takes hard Brexit line: Copenhagen will put its national interests ahead of old alliances in EU exit talks' *Financial Times* (London 20 November 2016) <<https://www.ft.com/content/f854b316-ac27-11e6-ba7d-76378e4fef24>> accessed 05 December 2016

<sup>66</sup> The Rt Hon Theresa May MP, *The government's negotiating objectives for exiting the EU: PM speech* (17 January 2017) <<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>> accessed 20 January 2017

<sup>67</sup> Parliament.uk, MPs debated the Government's plan for Brexit (London, 07 December 2016) <<https://www.parliament.uk/business/news/2016/december/mps-debate-the-governments-plan-for-brexit/>> accessed 09 December 2016

these figures are representative of how MPs will vote in future on matters pertaining to pursuing the UK's exit, including voting legislation which may be necessary, the Brexit process will commence.

The UK's exit from the EU is further complicated by the impact of leaving on UK law. In effect, a UK withdrawal from the EU could leave considerable gaps in UK law including in food and hygiene standards.

[I]f the UK leaves the EU, then laws that were passed to implement EU directives would be unaffected unless the government chooses to change them. But EU regulations would immediately lose legal force. Since EU regulations govern many important areas, such as food hygiene and safety, this would leave a gap in EU law.<sup>69</sup>

The solution to this has been the decision of the UK's Government to adopt the EU *acquis*. This approach may prove unpopular with some of the UK's electorate; however, this approach allows businesses in the UK and the EU27 a greater degree of certainty as to the post-Brexit environment.

[A]s we repeal the European Communities Act, we will convert the 'acquis' – the body of existing EU law – into British law. [...] The same rules and laws will apply on the day after Brexit as they did before.<sup>70</sup>

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<sup>68</sup> Peter Dominiczak, Kate McCann and Gordon Rayner, 'What does the Article 50 vote mean for Brexit and what happens next?' *The Telegraph* (London, 08 December 2016) <<http://www.telegraph.co.uk/news/0/does-article-50-vote-mean-brexit-happens-next-britains-departure/>> accessed 09 December 2016

<sup>69</sup> Swati Dhingra & Thomas Sampson, 'Life after BREXIT: What are the UK's options outside the European Union?' (Centre for Economic Performance, The London School Of Economics and Political Science 2016). <<http://cep.lse.ac.uk/pubs/download/brexit01.pdf>> accessed 29 December 2016 p.3

<sup>70</sup> The Rt Hon Theresa May MP, *The government's negotiating objectives for exiting the EU: PM speech* (17 January 2017) <<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>> accessed 20 January 2017

## Obstacles to the UK's Exit

### *Negotiations and Trade Agreements*

Trade negotiations are a barrier to an early resolution of the Brexit process. The longer the negotiating period, the greater the negative impacts of Brexit are likely to be. There are two key difficulties in completing negotiations quickly:

- i. The number of trade negotiations that the UK will need to conclude; and
- ii. The ability of the UK and others to reach agreement as to the terms of any agreement.

The first of these issues is probably of greater significance to the UK than to Ireland. It can reasonably be expected that a trade agreement with the EU would be an urgent concern for the UK and would be prioritised ahead of agreements of lesser economic value. Even so, the scale of the negotiations facing the UK may present practical issues which serve to slow progress on any potential agreement with the EU. There are:

148 potential sets of negotiations facing the UK. Of these, 92 are with countries in receipt of unilateral GSP preferences that the UK can continue after leaving the [EU]. Nonetheless, the sheer number of countries involved means that the undertaking will be significant even if negotiations are restricted to consultation procedures. And, excluding these, the UK will still have to negotiate its long-term trading relationship with the EU and to undertake 56 potentially live sets of negotiations once it takes place as a standalone member of the WTO. In play will be agreements the UK already has as a consequence of its EU membership, agreements being negotiated by the European Commission, and completely new agreements with major trading partners.<sup>71</sup>

In an attempt to simplify the process for the UK, some commentators have suggested that the UK could become a contracting party to existing trade agreements and/or negotiations such as the Trans-Pacific Partnership (TPP). For example:

Joining the Transatlantic Trade and Investment Partnership (TTIP) – should this get to the point of signature or implementation – is another possible approach to reducing the burden of negotiations. Like TPP, however, TTIP would for the UK likely be a case of ‘take it or leave it’. Nonetheless, signing TTIP could, at a stroke, be a way of doing a better deal than being accorded most-favoured-nation (MFN) status with the US and a new deal with the EU.<sup>72</sup>

This strategy would not be without difficulty as a large element of comprehensive trade agreements relates to addressing non-tariff barriers (NTBs). For the UK to join as a party to existing agreements, it would have to undertake to match standards of one or other contracting party. Logically, the UK would mirror EU commitments. Meaning, in effect, that leaving the EU has, in effect, not given greater sovereignty to trade policy; rather it may have reduced it by removing the UK as an active

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<sup>71</sup> Ibid p.4

<sup>72</sup> Emily Lydgate, Jim Rolle and Rorden Wilkinson, *The UK Trade Landscape After Brexit* (Chatham House: The Royal Institute of International Affairs, University of Sussex 2016)  
<<https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2016-10-06-uktpo-uk-trade-landscape-lydgate-rollo-wilkinson.pdf>> accessed 03 January 2017 p.7



participant, through its membership of the EU, in negotiations. Additionally, trade agreements involve negotiation of quotas for various products: if the UK was to join negotiations at a late stage or after the conclusion of an agreement it would necessitate re-examination of these quotas.

The second issue, closely related to the first, is the capacity of the UK to accept agreements negotiated without the bargaining power, or expertise of the EU. The UK and EU27 will need to approach negotiations realistically, with a singular focus on achieving the best agreement possible for all parties. Some commentators suggest that the UK's position is not as strong outside the EU as within:

[L]everage is crucial to forcing open markets and leverage is about reciprocity: the concessions a country can make, that is to say what non-tariff barriers and tariffs it is prepared to cut. A relatively small and open economy such as the UK would enjoy little in the way of leverage. The EU's imports from China are seven times larger than the UK's. By virtue of its size (over a quarter of global output and a population of 500 million) the EU is in a strong position when it comes to trade negotiations: the bigger the domestic market, the greater an economy's negotiating power.<sup>73</sup>

Despite its reduced bargaining power, the UK has greater flexibility as to the shape of an agreement it wishes to pursue. The form of the agreement need not be a compromised position between 28 Member States; rather, the UK can pursue an agreement which reflects its particular interests. The UK must be prepared to accept that an agreement will likely reflect its reduced bargaining power.

**Recommendation:**

It is the view of this Committee that the negotiated agreement, must, for the long-term interest of the European project, neither reward nor punish the UK for the decision of a majority of its citizens to leave the EU. The agreement must be nuanced and based on objective rather than subjective criteria. An agreement which is perceived as lenient on the UK could embolden Eurosceptic movements and weaken the Union further. Alternatively, an agreement which is overly onerous on the UK could have a similar effect, allowing Eurosceptic movements to portray the EU as an authoritarian force and an enemy of national sovereignty. The Committee acknowledges that finding the appropriate balance will prove extremely difficult and may necessitate an extended period of negotiation.

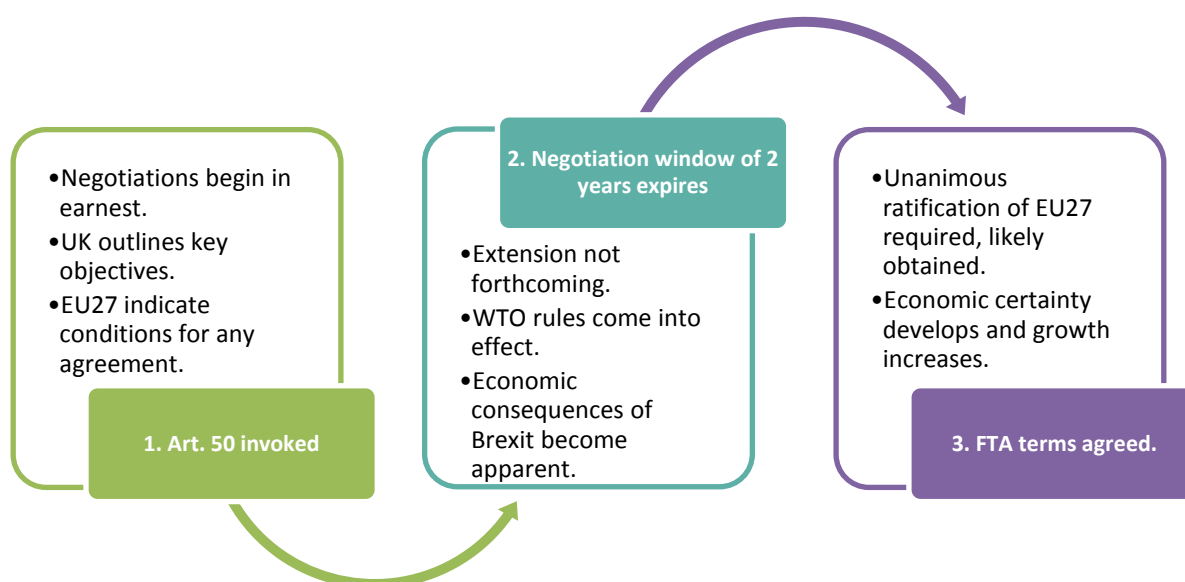
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<sup>73</sup> John Springford and Simon Tilford, *The Great British trade-off: The impact of leaving the EU on the UK's trade and investment* (Centre for European Reform January 2014) <[http://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2014/pb\\_britishtrade\\_16jan14-8285.pdf](http://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2014/pb_britishtrade_16jan14-8285.pdf)> accessed 05 December 2016 p.10

### Timeframe and Legal Challenges

The UK's wishes, as made clear in Prime Minister May's recent speech, are likely to result in prolonged negotiations.<sup>74</sup> Alternative models may have proven easier to adopt within the proposed two year timeframe and thus could be put into effect quite swiftly i.e. the Norwegian model. A hard-Brexit worst-case scenario appears ever more likely and would imply the use of the Canadian approach. CETA took seven years to negotiate; almost collapsing after initially being rejected by the Wallonian regional parliament. It seems unlikely that a similar agreement between the EU27 and the UK could be negotiated within two years.<sup>75</sup> If an agreement is not finalised and ratified by Member States within two years of invocation of Art. 50 TEU, it seems the UK effectively falls out of the EU and its trading relationship with the EU27 will be governed exclusively by WTO rules. An extension to this two-year period must be agreed unanimously by the EU27. This report assumes that unanimous agreement on an extension will not be forthcoming. The worst case scenario is being assumed to ensure adequate preparation and to minimise the negative impacts of Brexit.

Figure 3 The Path to a Post-Brexit EU27-UK Relationship



The Great Repeal Bill is proposed to repeal the European Communities Act 1972, preserve EU law as it stands at the point the UK leaves the EU, and finally:

Enable changes to be made by secondary legislation to the laws that would otherwise not function sensibly once we have left the EU, so that our legal system continues to function correctly outside the EU.<sup>76</sup>

<sup>74</sup> The Rt Hon Theresa May MP, *The government's negotiating objectives for exiting the EU: PM speech* (17 January 2017) <<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>> accessed 20 January 2017

<sup>75</sup> Andrew MacAskill and Anjuli Davies, 'London banks bring battle against Brexit to Europe: Bank lobbyists switch tack after failing to get clarity in London despite months of meetings', *The Irish Times* (Dublin, 10 January 2017) <<http://www.irishtimes.com/business/financial-services/london-banks-bring-battle-against-brexit-to-europe-1.2931898>> accessed 11 January 2017

<sup>76</sup> HM Government, *The United Kingdom's exit from and new partnership with the European Union* (February 2017)

This presents a significant challenge in real terms as significant areas of law will need to be amended to prevent very serious gaps from emerging.

### Recommendations:

The Committee notes that, while the UK and Ireland are intensely aware of the need for an agreement which recognises the unique situation of Ireland North and South,<sup>77</sup> it is imperative to stress this in all engagement with the EU and with individual members of the EU27. The Committee notes that this has been already been acted on and urges that this continue to maximise the chance for a favourable, or least damaging, post-Brexit arrangement.<sup>78</sup> **Ireland does not seek a position of advantage; rather, what is being sought is the opportunity not to be placed at a unique disadvantage.**

The Committee notes the importance of sustained collaboration between the Government and the Northern Ireland Executive; particularly over the coming years. The Committee recommends that, where possible, both Executives act together to voice concerns and pursue common objectives.

In relation to the recent House of Lords report, *Brexit: UK-Irish relations*,<sup>79</sup> the Committee welcomes the clear recognition of the unique relationship shared between our States, and the desire to protect that in future. Noting that a bilateral agreement is a legal impossibility, the Committee recommends that there be a thorough examination of the potential for specific Irish derogations within an EU-UK agreement. These derogations are likely to be limited by practical considerations so as not to undermine the agreement upon which they are built. The Committee notes in the House of Lords report that:

[T]he primary responsibility for drawing attention to and finding solutions to these issues lies with the UK Government. Ireland now faces challenges that are not of its own making.

Ireland has a role in future negotiations on the exit of the UK from the EU. Most commentary suggests that Ireland's special interests, and indeed vulnerabilities, may be forgotten by the other members of the EU27 in any negotiations; however, any negotiated trade agreement with the UK will require ratification. There is a clear need for an exit agreement which, while not rewarding the UK for leaving the EU, should not serve to punish Ireland for an event beyond its control.

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<[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/589191/The\\_United\\_Kingdoms\\_exit\\_from\\_and\\_partnership\\_with\\_the\\_EU\\_Web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589191/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Web.pdf)> accessed 06 February 2017 p.41

<sup>77</sup> European Union Committee, *Brexit: UK-Irish relations* (House of Lords, 12 December 2016)

<<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldcom/76/76.pdf>> accessed 16 December 2016 p.3

<sup>78</sup> Denis Staunton, 'Taoiseach dismisses proposals for bilateral agreement with UK: Theresa May uses EU summit to urge action over rights of UK citizens living in EU', *The Irish Times* (Dublin, 16 December 2016)

<<http://www.irishtimes.com/news/world/europe/taoiseach-dismisses-proposals-for-bilateral-agreement-with-uk-1.2907869>> accessed 16 December 2016

<sup>79</sup> European Union Committee, *Brexit: UK-Irish relations* (House of Lords, 12 December 2016)

<<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldcom/76/76.pdf>> accessed 16 December 2016 p.3

It is essential that the EU swiftly concludes a trade agreement with the UK. It is suggested that the sooner the agreement is finalised, the lesser its disruptive effects will be on the economies of the EU27.

If the above is not achievable within the two year timeframe under Article 50(3) TEU, Ireland should seek to encourage all other members of the EU27 to consent to an extension. The Committee notes that the longer the proposed extension, the less likely agreement may be achieved. Given that unanimous consent is required, the Committee recommends that any extension sought should be of a duration likely to achieve the required unanimous agreement.

### **Border Controls**

A return of border controls, in any form, presents a serious challenge for the Irish and Northern Irish agri-food sectors. This is the case as “[w]e have a highly integrated market across the island. It is also very sectorally specific, with some sectors being almost an all-island industry, particularly the agrifood industry.”<sup>80</sup>

The agrifood industry is incredibly integrated. We would not want to see barriers put in place that would detract from the advantages to be gained from operating on an all-island basis.<sup>81</sup>

Large volumes of live animals cross the border between Ireland and Northern Ireland with over 1,000 bovines and 10,000 pigs exported live to Northern Ireland each week and around 5,000 lambs per week imported into the Republic of Ireland.<sup>82</sup> In total:

Approximately 350,000 sheep come to the South from Northern Ireland for processing every year. [...] Some 55,000 cattle went North of the Border in 2015 for breeding or slaughter.<sup>83</sup>

Changes to the treatment of the Irish-Northern Irish border could drastically reduce the level of integration currently experienced. The introduction, or reintroduction, of barriers and NTBs to border arrangements will largely:

[B]e associated with the re-introduction of customs controls (rules of origin checks, import licence requirements, documentation, physical border checks) as well as the additional costs of complying with two different regulatory regimes where regulatory divergence occurs. Rules of origin checks are necessary in a free trade agreement without a common external tariff; they currently apply, for example, to goods exported from Norway to the EU within the EEA. Import licences are currently required under CAP regulations to import certain agricultural products originating outside the EU [...] One assumes these rules would apply to the UK following Brexit.<sup>84</sup>

<sup>80</sup> Aidan Gough, Joint Committee on Jobs, Enterprise and Innovation (18 October 2016) <<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016101800002?opendocument#A00300>>

<sup>81</sup> Ibid

<sup>82</sup> Bord Bia, *Brexit: Briefing Document June 2016* (June 2016) <<http://www.bordbia.ie/corporate/press/Documents/2016/BrexitBriefingInformation.pdf>> accessed 29 December 2016 p.8

<sup>83</sup> Minister for Agriculture, Food and the Marine (Deputy Michael Creed), Agricultural Prices and Decision by UK to Leave EU: Statements-Seanad (25 October 2016) <<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/seanad2016102500002?opendocument#DD00800>> accessed 28 November 2016

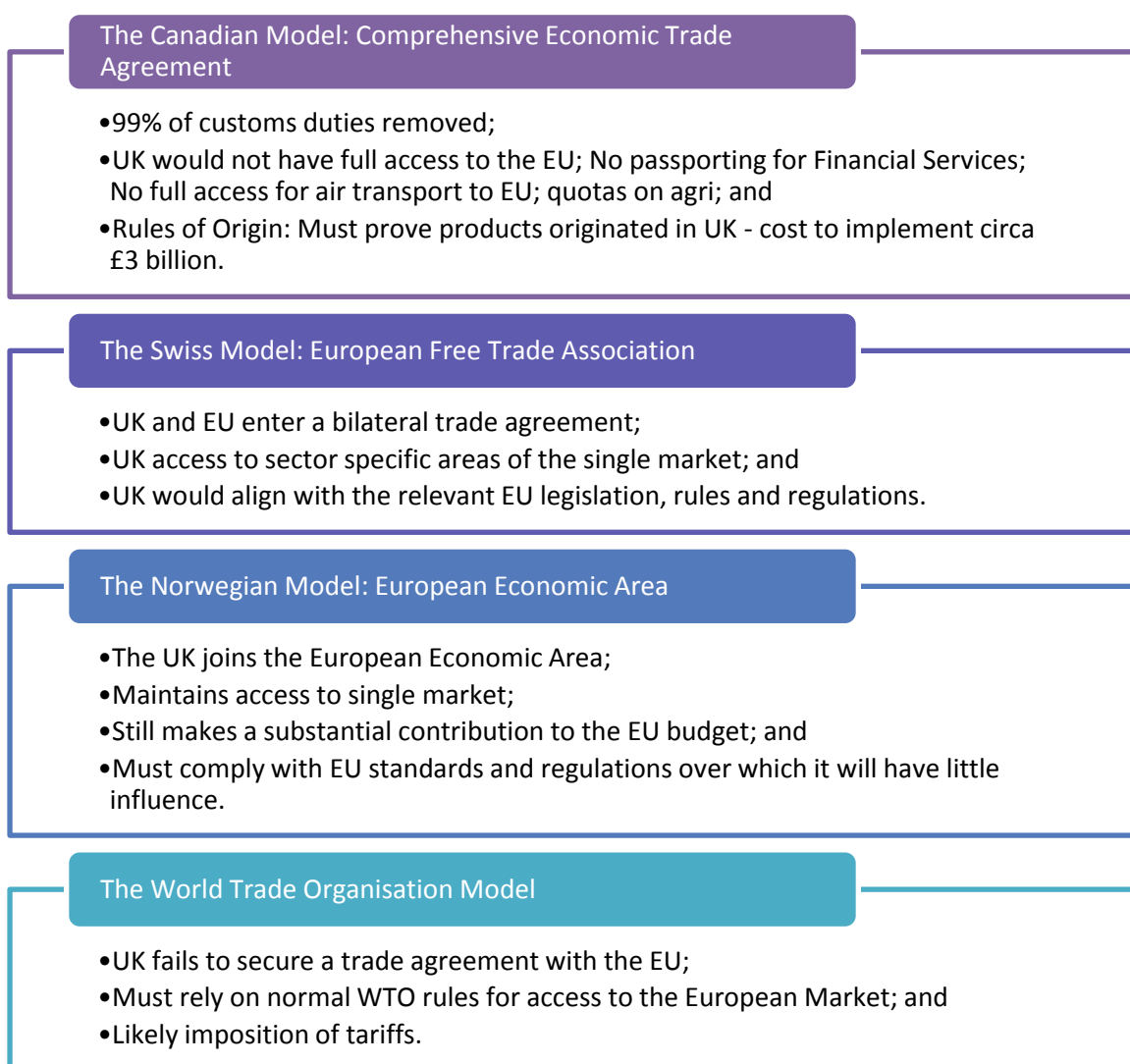
<sup>84</sup> Alan Matthews, ‘Implications of British exit from the EU for the Irish agri-food sector’ (April 2015) Trinity Economics Papers No. 0215 <<https://www.tcd.ie/Economics/TEP/2015/TEP0215.pdf>> accessed 25 January 2017 p.15

## Future Relationship

The relationship that the UK develops with the EU27 has yet to be determined. It will likely take years of negotiations to determine all facets of this relationship between the EU27 and the UK; the tone of negotiations will likely affect both the resulting relationship and the timeframe taken to reach a final agreement as to the terms of the relationship. There are four scenarios commonly used to describe the potential future relationship between the EU27 and the UK. The negotiations are likely to be prolonged, the differing viewpoints and technical nature raise the risk that:

[T]he negotiations when they start, because they are so wound up in detail, could be quite acrimonious. In fact, we could end up with no agreement and default to a WTO situation.<sup>85</sup>

Figure 4 Brexit Scenarios<sup>86</sup>



<sup>85</sup> Edgar Morgenroth, Joint Committee on Jobs, Enterprise and Innovation (25 October 2016) <<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016102500001?opendocument>>

<sup>86</sup> PWC, *Brexit: The implications for Irish Business* (July 2016) <<https://www.pwc.ie/media-centre/assets/publications/2016-pwc-ireland-brexit-booklet2.pdf>> accessed 29 December 2016 pp. 9-10

**Predicted Relationship**

Prime Minister Theresa May has outlined the objectives of the UK in the exit process. This 12 point plan covers all aspects of Brexit; primarily it outlines the economic objectives of the UK, namely the pursuit of a comprehensive FTA with the EU27. It also outlines the intention of the UK to reduce dependence on the EU as a trading partner through the pursuit of additional FTAs with other states and blocs.

This agreement should allow for the freest possible trade in goods and services between Britain and the EU's member states. It should give British companies the maximum freedom to trade with and operate within European markets – and let European businesses do the same in Britain.<sup>87</sup>

Opting for an FTA signals a clear break from the single market. This approach will have very serious implication for Irish-UK agri-food trade as outlined by Professor Alan Matthews:

Were the UK to leave the single market with its harmonised rules (which is the expressed aim of Brexit advocates) but remain in a preferential trade relationship with the EU, this would still require additional paperwork (for rules of origin purposes), sanitary and phyto-sanitary checks (depending on whether mutual recognition agreements were negotiated in the withdrawal phase), lorry delays at cross-channel ports and the Northern Ireland border, as well as the additional costs of producing for two markets if, over time, regulations on issues such as food labelling, food composition, food additives and novel foods were to diverge over time (and, if they do not, then what is the argument for the UK to leave?).<sup>88</sup>

Beyond the difficulties inherent in negotiating an agreement which is acceptable to both parties and subsequent ratification, the substance and detail of the relationship may be onerous to develop from a technical perspective. While there may be an opportunity to replicate the general form of existing relationships, the specific terms and conditions of those relationships will need to be negotiated and agreed. For example, the EU27 and the UK could use CETA as a template for an FTA. This approach could speed up the process; however, it is unlikely to reduce the time taken significantly.

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<sup>87</sup> The Rt Hon Theresa May MP, *The government's negotiating objectives for exiting the EU: PM speech* (17 January 2017) <<https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>> accessed 20 January 2017

<sup>88</sup> Alan Matthews, *Agriculture in the debate over Brexit* (16 February 2016) accessed: 05/12/2016 Available at: <http://capreform.eu/agriculture-in-the-debate-over-brexit/>

### **Formation of a Free Trade Agreement**

Without discussing the detailed processes involved in drafting, negotiating, and agreeing a Free Trade Agreement (FTA) it seems that there can be no option to prioritise product lines or sectors for specific independent fast-track agreements. This means that:

[T]he UK could not selectively enter into trade deals by Tariff code, but must seek a comprehensive trade deal across substantially all goods and services. This means, a trade deal becomes an “all” or “nothing” deal.<sup>89</sup>

The relevant rules of the GATT and GATTS stipulate that:

[S]uch customs unions or free trade agreements must liberalise “substantially all the trade” in goods or have “substantial sectoral coverage” for trade in services. This means that sectoral agreements (those covering just telecoms, for example) are not legal under the rules of the WTO.<sup>90</sup>

The range of options and the complexity introduced by variations within these options makes forecasting difficult. While retention of access to the Single Market is beneficial both to the UK and Ireland it has effectively been ruled out as a potential outcome of negotiations. The Welsh Government has outlined its opinion as to the requirement for a transitional agreement until such time as an FTA can be negotiated and ratified.

It will clearly be challenging to successfully complete negotiations on both an EU Exit Agreement, and a new economic agreement between the UK and the EU in the two-year window post-Article 50 notification. Accordingly, it is essential to agree, as a fall-back and on an interim basis, transitional arrangements which enable the UK to maintain Single Market participation and membership of the Customs Union while future trading relationships are explored and negotiated.<sup>91</sup>

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<sup>89</sup> Northern Ireland Food & Drink, *Brexit: Challenges & Opportunities for Northern Ireland Food & Drink* (November 2016) <[http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA\\_Brexit\\_Final\\_Report.pdf](http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA_Brexit_Final_Report.pdf)> accessed 16 December 2016 p.20

<sup>90</sup> European Union Committee, *Brexit: the options for trade* (House of Lords, 13 December 2016) <<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldecom/72/72.pdf>> accessed 29 December 2016 p.16

<sup>91</sup> Llywodraeth Cymru: Welsh Government, *Securing Wales' Future: Transition from the European Union to a New Relationship with Europe* (January 2017) <[https://beta.gov.wales/sites/default/files/2017-01/30683%20Securing%20Wales%C2%B9%20Future\\_ENGLISH\\_WEB.pdf](https://beta.gov.wales/sites/default/files/2017-01/30683%20Securing%20Wales%C2%B9%20Future_ENGLISH_WEB.pdf)> accessed 26 January 2017 p. 33

## Economic Context

### Status Quo

The economies of the UK and the EU are inextricably intertwined. The “[p]rincipal destinations for [the UK’s] exports were the Irish Republic (17%), France (11%), USA (10%) and the Netherlands (7.1%)”<sup>92</sup> and “[t]he most important countries of despatch for imports into the UK remained the Netherlands (12%), Irish Republic (10%), France (10%), Germany (9.2%) and Spain (6.8%).”<sup>93</sup>

[Irish] Exports to Great Britain accounted for 12.3% of total goods exported in 2015 while [Irish] exports to Northern Ireland accounted for 1.6%. Thus exports to the United Kingdom in 2015 accounted for 13.9% of total exports, compared to 14.8% in 2014.<sup>94</sup>

Also in 2015, 26.3% of Irish imports were sourced from the UK.<sup>95</sup> Ireland is dependent on the UK as both an export market and as a source of imports. The ESRI found:

[T]hat regarding merchandise trade that both exports to and particularly imports from the UK continue to account for a significant share of Irish trade, although that importance has been declining. The more detailed analysis showed that the importance of the UK as a trading partner differs significantly across sectors and products and that these patterns are also significantly driven by FDI. Irish firms are more dependent on the UK as an export market.<sup>96</sup>

The ESRI also found that these economic linkages are particularly strong for particular products:

Overall, the UK is a particularly important export destination for food products and in many products the share of exports accounted for by the UK is in excess of 50 per cent and as high as 100 per cent.<sup>97</sup>

Figures 5,6 and 7 over the following pages offer a brief overview of Irish-UK trade in the areas relevant to this report. Figure 5 illustrates the market distribution, by volume, of Irish food and drink exports to the UK, Other EU (EU27), and International Markets (Third countries/non-EU states).

- Exports to the UK fell [in value] by an estimated 8% in 2016 to €4.1 billion as weaker sterling and better returns elsewhere impacted trade. The share of exports destined for the UK fell by four percentage points to 37%.

<sup>92</sup> Department for Environment, Food and Rural Affairs, Department of Agriculture, Environment and Rural Affairs, The Department for Rural Affairs and Heritage, and Rural and Environment Research and Analysis Directorate, *Agriculture in the United Kingdom 2015* (2016) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf)> accessed 29 December 2016 p.84

<sup>93</sup> Ibid

<sup>94</sup> Central Statistics Office, *BREXIT: Ireland and the UK in Numbers* (07 December 2016) <<http://www.cso.ie/en/media/csoie/releasespublications/documents/statisticalpublications/Brexit.pdf>> accessed 15 December 2016 p.35

<sup>95</sup> Central Statistics Office, *Trade Statistics: January 2016* (April 2016) <[http://www.cso.ie/en/media/csoie/releasespublications/documents/externaltrade/2016/trade\\_jan2016.pdf](http://www.cso.ie/en/media/csoie/releasespublications/documents/externaltrade/2016/trade_jan2016.pdf)> accessed 03 January 2017 pp.22-23

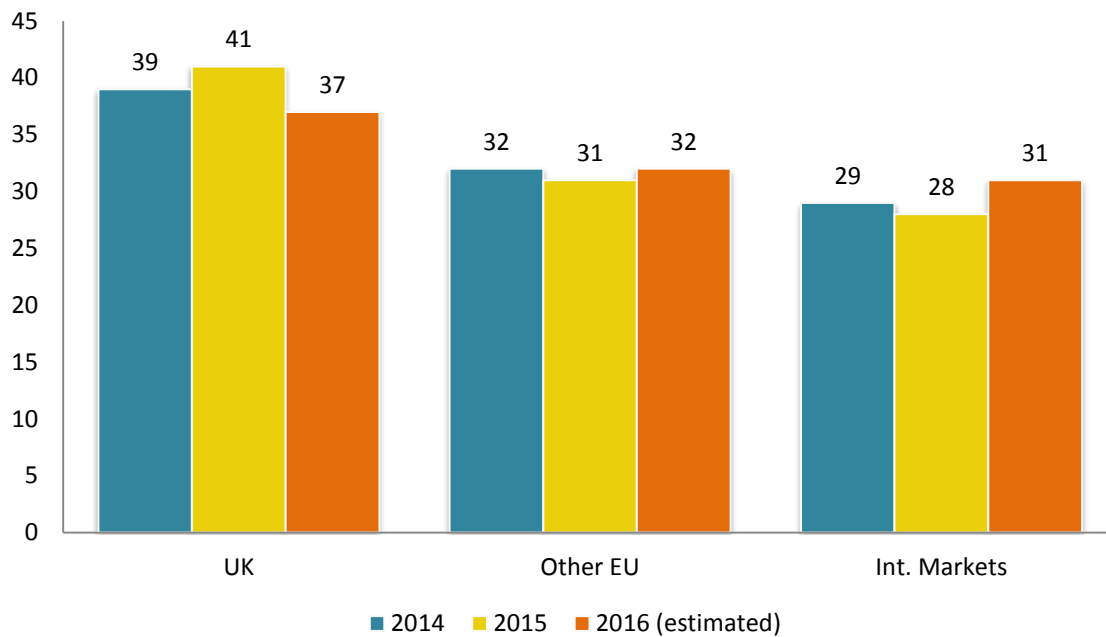
<sup>96</sup> Alan Barrett, Adele Bergin, John Fitzgerald, Derek Lambert, Daire McCoy, Edgar Morgenroth, Iulia Siedschlag and Zuzanna Studnicka, *Scoping the Possible Economic Implications of Brexit on Ireland* (Research Series Number 48, November 2015, ESRI) <<https://www.esri.ie/pubs/RS48.pdf>> accessed 30 December 2016 p.26

<sup>97</sup> Ibid p.16



- Exports to other European markets recovered [in value] by 3% to €3.53 billion largely driven by stronger exports of beverages, seafood, prepared foods and meat.
- Shipments of Irish food and drink products to International markets grew [in value] by almost 13% in 2016 to almost €3.5 billion. This represents 31% of all food and drink exports [by volume]. Significant growth in exports to North America and China were recorded, offsetting slower trade to the Middle East and Africa.<sup>98</sup>

Figure 5 Market distribution of Irish food and drink exports (%)<sup>99</sup>



<sup>98</sup> Bord Bia, *Export Performance & Prospects: Irish Food, Drink and Horticulture 2016 – 2017* (January 2017) <<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2017.pdf>> accessed 17 January 2017 p.2

<sup>99</sup> Ibid p.8 & Bord Bia, *Export Performance and Prospects 2015-2016* (2016) <<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2016.pdf>> accessed 29 December 2016 p.8

Figure 6 Net goods exports and imports 2015 with the UK - Food and live animals (€000)<sup>100</sup>

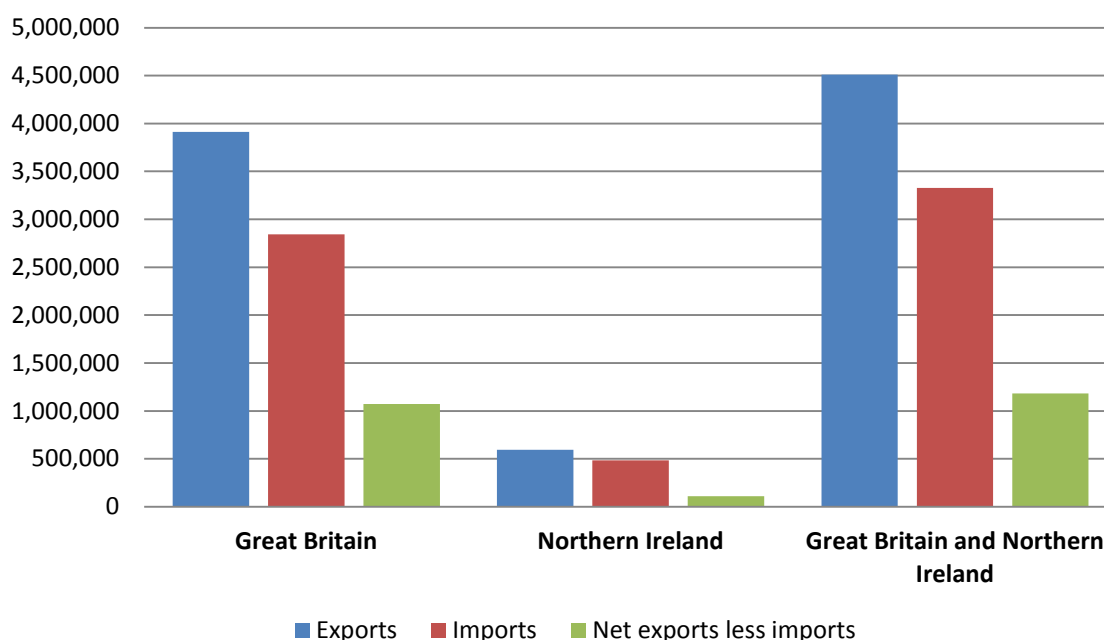
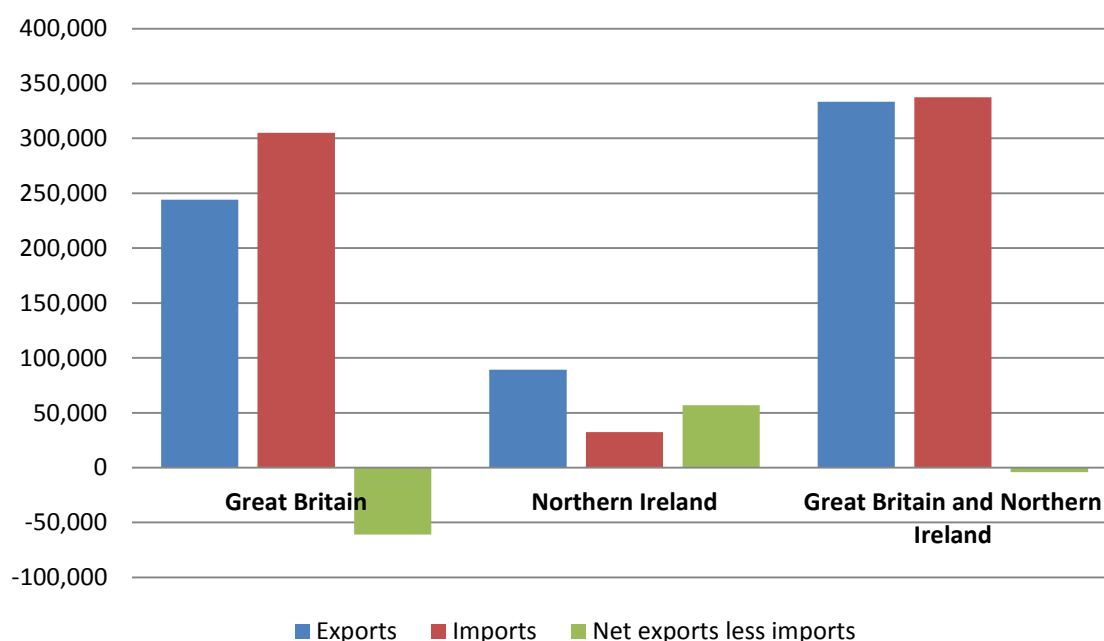


Figure 7 Net goods exports and imports 2015 with the UK - Beverages and tobacco (€000)<sup>101</sup>



The Committee also recognises that viewing trade in the context of figures 6 and 7 does not recognise the additional tertiary economic value of such trade; the import and exports of goods creates additional employment both directly, and indirectly.

<sup>100</sup> Central Statistics Office, BREXIT: Ireland and the UK in Numbers (07 December 2016)  
<http://www.cso.ie/en/media/csoie/releasespublications/documents/statisticalpublications/Brexit.pdf>  
 accessed 15 December 2016 p.34

<sup>101</sup> Ibid

### Economic Impact of Brexit

The range of options open to the UK all have benefits and disadvantages depending on viewpoint. It is generally agreed that Brexit will involve an economic cost regardless of the form which it eventually assumes.<sup>102</sup> If a significant trading partner suffers diminished growth in GDP then there are negative implications for Ireland too. **These implications are likely to be felt most by sectors which export disproportionately to the UK.** The Committee heard that the closer the UK's future relationship is to its present status as a Member State of the EU, the better.

Commentators broadly agree that the WTO scenario represents the worst case for Ireland, Table 3 illustrates that there is some consensus that the WTO scenario is also the worst case for the UK.

**Table 3 UK and International Institutions Scenario impacts of a vote to leave the EU on the UK<sup>103</sup>**

Study	Scenario	GDP % change relative to base
IMF	Downside (short-term)	-0.9%
European Commission	Mild (short-term)	-1.0%
	Severe (short-term)	-2.7%
	WTO (short-term)	-2.3%
NIESR	EEA	-1.8%
	FTA	-2.1%
	WTO	-3.2%
	WTO+ <sup>104</sup>	-7.8%
	(short-term)	-3.6%
HM Treasury	EEA	-3.8%
	FTA	-6.2%
	WTO	-7.5%
	(short-term)	-3.3%
OECD	WTO/FTA (optimistic)	-2.7%
	(Central)	-5.1%
	(Pessimistic)	-7.7%
	EEA/FTA	-7.9%
LSE/CEP	FTA	-3.0%
	WTO	-5.5%
PWC	Liberal Customs Union	-0.1%
	FTA	-2.8%
	WTO	-3.9%
Oxford Economics	EEA	-0.6%
	WTO	-3.0%

<sup>102</sup> Swati Dhingra & Thomas Sampson, 'Life after BREXIT: What are the UK's options outside the European Union?' (Centre for Economic Performance, The London School Of Economics and Political Science 2016). <<http://cep.lse.ac.uk/pubs/download/brexit01.pdf>> accessed 04 January 2017 p.9

<sup>103</sup> Adele Bergin, Abian Garcia-Rodriguez, Niall McNerney, Edgar Morgenroth and Donal Smith, *Modelling the Medium to Long Term Potential Macroeconomic Impact of Brexit on Ireland* (November 2016, Working Paper No. 548) <<https://www.esri.ie/pubs/WP548.pdf>> accessed 29 December 2016 p.6

<sup>104</sup> (Ibid p.7) The WTO+ scenario accounts for an additional reduction in labour augmenting technical progress of 5%.

The ESRI has predicted, unsurprisingly, that the impacts of Brexit “are weakest for the ‘EEA’ scenario and strongest in the ‘WTO’ scenario.”<sup>105</sup> This is consistent with international analysis as per Table 3. Dr. Martina Lawless of the ESRI stated:

A strong priority there [at negotiations] should be to have the relationship remain as close as possible and try to avoid any acrimonious disputes. It would be better for Ireland for Ireland to maintain the maximum level of integration of the UK with the EU.<sup>106</sup>

The view that the WTO scenario will have the strongest negative impact on Ireland is shared by Teagasc:

The most negative outcome for Ireland would result if the UK and EU27 failed to negotiate the terms of the UK’s exit. At that point, as World Trade Organisation (WTO) members, the EU27 and UK, would only be obligated to offer each other Most Favoured Nation (MFN) status.<sup>107</sup>

The predictions of the impact of Brexit on the UK and Ireland broadly indicate that the WTO scenario is the most damaging for both parties. In terms of the more specific impact of Brexit on Ireland:

Existing estimates from the literature on the impact of EU and other trading blocks on trade intensity suggest that a Brexit is likely to significantly reduce bilateral trade flows between Ireland and the UK. In a worst case scenario with the UK outside the EU the impact could be 20 per cent or more and given that more than 15 per cent of Irish exports are destined for the UK would have a significant impact on total trade volumes. The impact would be particularly damaging for sectors that export disproportionately to the UK such as the Food and Beverages sector.<sup>108</sup>

In the short-term, sterling weakening makes UK products more competitive in export markets. This issue is more serious for some sectors than others. Some “have suffered in recent months from an increasingly competitive UK offering as Sterling progressively weakens.”<sup>109</sup> The issue is somewhat different for two different categories within the agri-food sector; those whose products are subject to either low or high tariffs under the EU’s MFN rates. UK products with associated high tariffs are, in

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<sup>105</sup> Adele Bergin, Abian Garcia-Rodriguez, Niall McNerney, Edgar Morgenroth and Donal Smith, *Modelling the Medium to Long Term Potential Macroeconomic Impact of Brexit on Ireland* (November 2016, Working Paper No. 548) <<https://www.esri.ie/pubs/WP548.pdf>> accessed 29 December 2016 p.9

<sup>106</sup> Martina Lawless, Joint Committee on Jobs, Enterprise and Innovation (25 October 2016) <<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016102500001?opendocument>>

<sup>107</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.vii

<sup>108</sup> Alan Barrett, Adele Bergin, John Fitzgerald, Derek Lambert, Daire McCoy, Edgar Morgenroth, Iulia Siedschlag and Zuzanna Studnicka, *Scoping the Possible Economic Implications of Brexit on Ireland* (Research Series Number 48, November 2015, ESRI) <<https://www.esri.ie/pubs/RS48.pdf>> accessed 30 December 2016 p.61

<sup>109</sup> Food and Drink Industry Ireland, *Brexit – the challenge for the food and drink sector: Safeguarding business, jobs and trade* (September 2016) <[http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News\\_and\\_Events~Press\\_release\\_archive~brexit-the-challenge-for-the-food-and-drink-sector/\\$file/Brexit%20-%20the%20challenge%20for%20the%20food%20and%20drink%20sector.pdf](http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News_and_Events~Press_release_archive~brexit-the-challenge-for-the-food-and-drink-sector/$file/Brexit%20-%20the%20challenge%20for%20the%20food%20and%20drink%20sector.pdf)> accessed 05 January 2017 p.19

the absence of an EU27-UK FTA, unlikely to be competitive within a post-Brexit EU. Alternatively, UK sectors whose produce is subject to low, or no tariffs at all under EU MFN rates will continue to benefit from a competitive advantage in exporting to the EU27 as long as sterling remains weak.

[B]ecause the World Trade Organization (WTO) governs trade agreements between its members that supersede EU arrangements, tariffs will remain at 0% on products sold to the EU and countries like the United States, Canada and Mexico, which hold the WTO Most Favoured Nation status that keeps them low.<sup>110</sup>

From an agri-food and fisheries perspective this poses risks for the beverage sector; whiskey has a 0% tariff under EU MFN rules, as such, UK exports of whiskey will enter the EU27 subject to no tariff even in the absence of an FTA between the EU27 and the UK. While this is technically no different to the present scenario, the UK will be free to support its beverage exporters in ways which Ireland, due to state aid regulation, can not. This is an indication of the risk for the Irish alcoholic beverage sector, specifically whiskey, in the coming years.

### Trade Diversion

Brexit will inevitably result in a more difficult trading relationship with the UK. Tariffs and NTBs will make trade between Ireland and the UK more difficult and less profitable. As the impact of these barriers is realised alternative trading partners may become more attractive for either party.

Depending on the outcome of the negotiations surrounding Brexit, some (non EU countries) may gain increased trade with the UK, while others (EU member states) lose some of their trade with the UK.

Economists refer to this as trade diversion, where products from one country displace products from another country in a particular market due to the imposition of tariffs. In the short term at least trade diversion does not necessarily lead to a change in the total volume of trade. However, it may affect the volume and value of bilateral trade flows.<sup>111</sup>

**Trade diversion poses a significant risk post-Brexit, particularly in agri-food** given the particularly high tariffs generally applied to food produce. In combination with the range of NTBs which may apply post-Brexit the trade of agri-food produce between the UK and Ireland may become considerably more difficult and expensive. Furthermore, non-EU states may become attractive alternative suppliers of agri-food produce to the UK, increasing pressure on the sector. Exporters may also find it difficult to compete on the basis of cost; rather, reliance on quality and reputation may not off-set costs to preserve market share. While trade diversion poses risks for Ireland, proximity to the UK remains valuable, particularly for the agri-food and fisheries sectors, noting that:

<sup>110</sup> Tara Nurin, 'Another Brexit Casualty? Scotch Trade Association Warns Whisky May Cost More In Some Countries' (*Forbes*, 03 August 2016) <<http://www.forbes.com/sites/taranurin/2016/08/03/another-brexit-casualty-scotch-trade-association-warns-whisky-may-cost-more-in-some-countries/#1b8ab620c5a7>> accessed 23 January 2017

<sup>111</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.5

[I]t is geography rather than policy that makes the EU the UK's most important economic partner. Simply reorienting the focus of the UK's trade policy away from Europe will not change this underlying reality. Whatever agreements are reached with countries outside Europe, the most important decision facing the government following Brexit would still be the future of the UK's relations with the EU.<sup>112</sup>

Further analysis indicates that the opportunities for the UK to replace substantial volumes of trade with EU Member States with trade with non-EU members may be limited.

For goods, the long-run reduction in goods trade with the EEA associated with replacing the UK's EEA membership with an 'ordinary FTA with the rest of the EEA is estimated to be 35 per cent to 44 per cent, while replacing EEA membership with no free trade agreement at all is associated with a long-run decline of 58 per cent to 65 per cent. The results indicate that the scope for replacing lost goods trade with the EU by negotiating less comprehensive free trade agreements with third countries might be limited.<sup>113</sup>

This suggests that trade diversion is likely to occur, however; it's impact on Irish agri-food may be limited in scope. It is more likely to affect products which can be imported much more cost effectively from elsewhere; however, if these products are not comparable in quality to Irish produce, UK consumers may be unwilling to accept reduced quality in return for reduced cost.

The extent of the impact on EU27 agri-food exports to the UK would depend on the availability of competitive agri-food exports from countries outside of the EU, and would also depend on consumer country of origin preferences, which are influenced by amongst other things, traceability, animal welfare, human health and sustainability concerns.<sup>114</sup>

Figures 8 and 9 identify key partners of the UK in the export and import of food, feed and drink. It is significant that the primary EU markets for imports and exports dwarf their primary non-EU counterparts. The statistics provided in the *Agriculture in the United Kingdom 2015* report indicate that the USA is the only Non-EU Import source within the top 10 supplying the UK. Even so, it would appear that the USA represents only c.3.3% of Food, Feed, and Drink imports into the UK. It would appear from the analysis above that the UK may be unable to significantly alter its balance of trade with EU and non-EU states. This may offer some degree of comfort to those who export to the UK as the ability of the UK to substitute these sources may be limited.

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<sup>112</sup> Swati Dhingra & Thomas Sampson, 'Life after BREXIT: What are the UK's options outside the European Union?' (Centre for Economic Performance, The London School Of Economics and Political Science 2016). <<http://cep.lse.ac.uk/pubs/download/brexit01.pdf>> accessed 29 December 2016 p.11

<sup>113</sup> Monique Ebell, 'Assessing the Impact of Trade Agreements on Trade' (2016) 238 National Institute Economic Review 35 <<http://journals.sagepub.com/doi/full/10.1177/002795011623800113>> accessed 23 January 2017

<sup>114</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.43

Figure 8 Comparison of UK's Primary EU and Non-EU Export Locations for food, feed, and drink in £bn<sup>115</sup>

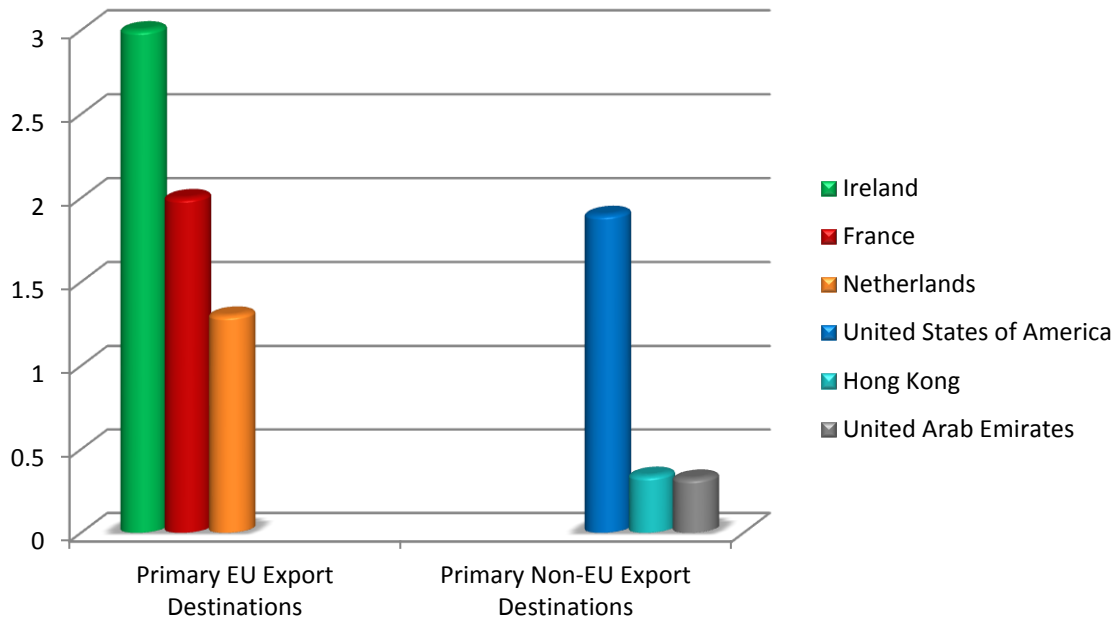
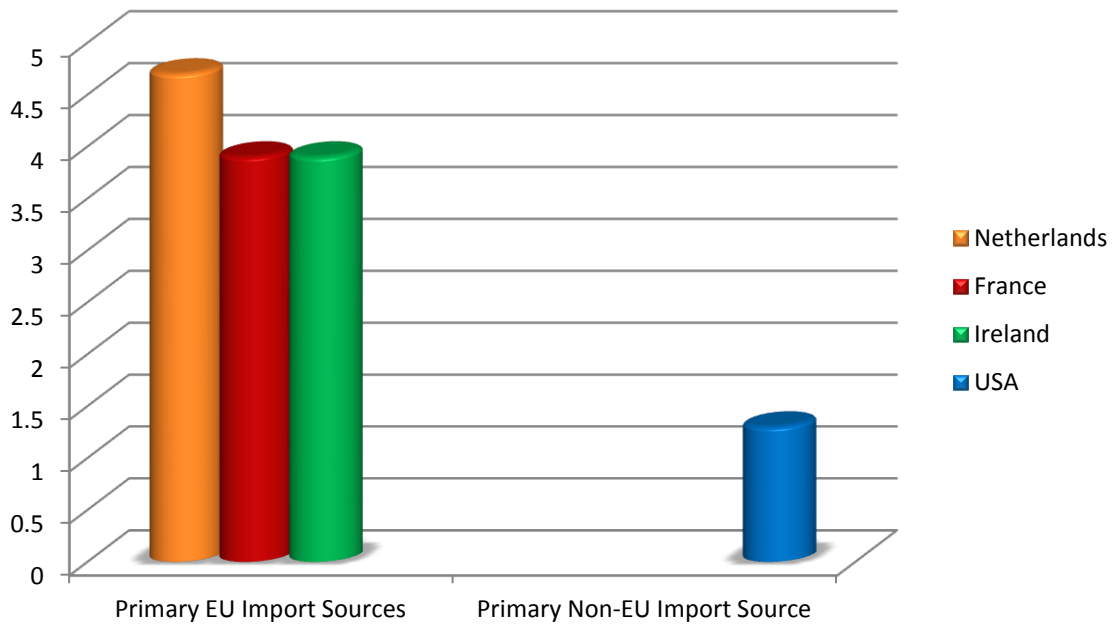


Figure 9 Comparison of UK's Primary EU and Non-EU Import Sources for food, feed, and drink in £bn<sup>116</sup>



<sup>115</sup> Department for Environment, Food and Rural Affairs, Department of Agriculture, Environment and Rural Affairs, The Department for Rural Affairs and Heritage, and Rural and Environment Research and Analysis Directorate, *Agriculture in the United Kingdom 2015* (2016)

<[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf)> accessed 29 December 2016 p.87

<sup>116</sup> Ibid

## Impact of Tariffs

Tariffs may directly benefit the exchequer but their negative impacts tend to be more far reaching. One research paper estimates the actual cost of the application of WTO tariffs to UK-EU imports in 2015. Overall the report found that the EU faced the potential of £12.9 billion in UK tariffs (average 5.8% levy), while UK exporters faced a potential cost of £5.2 billion (average 4.5% levy).<sup>117</sup> This paper also suggests that, in 2015, Ireland exported more to the UK than it imported (£90 million surplus), Ireland would pay substantially greater tariffs on this trade (£511 million more than the UK). There are claims which suggest that the imposition of tariffs would be more harmful to the EU27 than to the UK, on the basis that the UK imports more from the EU27 than it exports to the EU27, therefore earning more in tariffs than it pays.<sup>118</sup> However, this does not recognise that the cost of tariffs may be passed to the consumer. The inference is that the UK retains a strong bargaining position; however, the cost of the tariffs to the EU27 are split between the 27 Member States. In effect, few Member States will notice any significant impact arising from the imposition of tariffs whereas the effect is far more concentrated on the UK.<sup>119</sup> In effect:

While it will be in the interest of both sides to secure a new trade deal, it would be more critical for the UK. In trading terms, 45% of the UK's exports go to the EU, compared to just 7% of EU exports which come to the UK. In GDP terms, 12.6% of UK GDP is at stake compared to 3.1% of EU GDP.<sup>120</sup>

Nevertheless; tariffs and NTBs generally have negative effects for all parties; tariffs may reduce volumes of trade or reduce the number of enterprises entering export markets, a particular risk in this case as the UK is frequently the first market Irish enterprises enter in an international context.

70% of exporters from this island took their first step in exporting by trading into the other jurisdiction on the island and, not surprisingly, our supports are focused on these two pillars of innovation and exports.<sup>121</sup>

Tariffs and NTBs should thus be seen as a significant threat to Irish interests in the aftermath of a UK exit from the EU.

After Brexit, the UK is likely to inherit the EU's bound import tariffs which are similar to the EU's applied Most-Favoured-Nation (MFN) tariffs for most tariff lines. Indeed, it is most likely that this will not be controversial in a WTO context, since, compared to the current situation of the UK being part of the EU, third countries would not lose market access to the UK. The UK could of course set its future applied MFN tariffs below this level but it could not exceed them. What it

<sup>117</sup> Civitas (Justin Potts), *Potential post-Brexit tariff costs for EU-UK trade* (October 2016) <<http://www.civitas.org.uk/content/files/potentialpostbrexittariffcostsforeuuktrade.pdf>> accessed 29 December 2016 p.3

<sup>118</sup> 'Brexit and International Trade' (*Lawyers for Britain*, 2016) <<http://www.lawyersforbritain.org/int-trade.shtml>> accessed 10 January 2017

<sup>119</sup> See Table 4 p.44

<sup>120</sup> Confederation of British Industry, *Two Futures: What the EU Referendum Means for the UK's Prosperity* (April 2016) <<http://www.cbi.org.uk/business-issues/uk-and-the-european-union/eu-business-facts/eu-two-futures-cbi-april-2016-pdf/>> accessed 03 January 2016 p.10

<sup>121</sup> Aidan Gough, Joint Committee on Jobs, Enterprise and Innovation (12 May 2015) <<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/committeetakes/BUJ2015051200001?opendocument>>



means for import prices and domestic consumers would vary from sector to sector, and product to product [...] All in all, the UK consumer will face higher prices for many items that are imported, which will only alter, if the UK government negotiates preferential access with the EU when leaving the Union.<sup>122</sup>

Table 4 illustrates imports of the UK from all other EU Member States and the corresponding levels of exports by the UK to the same Member States. Red cells in the columns 'Imported by UK' and 'Imported by Member State' indicate which of the two has the trade surplus. From this, it can be seen that the UK has a trade deficit with the vast majority of EU Member States. Highlighted in orange in the column 'Tariffs Payable by Member State' are the EU Member States which are net beneficiaries of the tariffs applicable in this no net change static scenario.<sup>123</sup> This suggests that in all but five cases, the UK would receive more tariffs than it would pay. However, the reality is that "these tariffs would be a cost that would be damaging to both UK and EU exporters and should put pressure on both sides in the negotiations to achieve a deal that is in the interest of their own economies."<sup>124</sup>

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<sup>122</sup> LEI Wageningen: S. van Berkum, R.A. Jongeneel, H.C.J. Vrolijk, M.G.A. van Leeuwen and J.H. Jager (Study for the National Farmers' Union (NFU)), Implications of a UK exit from the EU for British agriculture (2016) <<http://www.nfuonline.com/assets/61142>> accessed 09 January 2017 p.12

<sup>123</sup> Civitas (Justin Potts), *Potential post-Brexit tariff costs for EU-UK trade* (October 2016) <<http://www.civitas.org.uk/content/files/potentialpostbrexittariffcostsforeuuktrade.pdf>> accessed 29 December 2016 p.7

<sup>124</sup> Ibid p.4

Table 4 Estimate of annual tariffs payable on UK-EU Imports by EU MS (2015, £ million)<sup>125</sup>

Member State	EU Goods			UK Goods		
	Imported by UK	Tariffs Payable by Member State	Average Tariff Rate	Imported by Member State	Tariffs Payable by UK	Average Tariff Rate
Austria	3,061	125	4.1%	1,701	78	4.6%
Belgium	20,481	1,258	6.1%	12,140	547	4.5%
Bulgaria	365	19	5.3%	327	11	3.5%
Croatia	95	5	4.9%	152	7	4.5%
Cyprus	152	16	10.8%	327	22	6.7%
Czechia	4,833	203	4.2%	1,901	65	3.4%
Denmark	3,435	282	8.2%	2,519	113	4.5%
Estonia	184	3	1.6%	277	12	4.4%
Finland	2,026	44	2.2%	1,094	51	4.6%
France	25,017	1,394	5.6%	14,284	707	4.9%
Germany	61,275	3,366	5.5%	24,048	859	3.6%
Greece	703	65	9.3%	865	46	5.3%
Hungary	2,516	125	5.0%	1,004	38	3.8%
<b>Ireland</b>	<b>12,452</b>	<b>1,279</b>	<b>10.3%</b>	<b>12,342</b>	<b>768</b>	<b>6.2%</b>
Italy	16,190	870	5.4%	7,554	347	4.6%
Latvia	483	8	1.6%	151	5	3.4%
Lithuania	769	40	5.2%	520	18	3.4%
Luxembourg	485	13	2.7%	202	9	4.4%
Malta	181	6	3.1%	284	15	5.2%
Netherlands	30,801	1,561	5.1%	15,041	644	4.3%
Poland	8,084	483	6.0%	3,305	158	4.8%
Portugal	2,345	158	6.7%	1,366	71	5.2%
Romania	1,545	99	6.4%	1,086	48	4.4%
Slovakia	2,012	171	8.5%	744	18	2.4%
Slovenia	325	14	4.2%	290	13	4.7%
Spain	13,930	1,049	7.5%	9,125	376	4.1%
Sweden	6,807	204	3.0%	4,563	173	3.8%
<b>EU Total</b>	<b>220,551</b>	<b>12,861</b>	<b>5.8%</b>	<b>117,210</b>	<b>5,220</b>	<b>4.5%</b>

<sup>125</sup> Ibid p.3

### Modification of Tariffs

WTO rules include a most favoured nation (MFN) clause; this obliges states that lower a trade barrier or open its market to a WTO member to give the same treatment to all WTO members. The result of this obligation is that the UK cannot selectively reduce tariffs on particular products unilaterally, it cannot offer preferential terms to a single WTO member for whatever reason. Former Deputy Prime Minister of the UK, Nick Clegg notes that:

WTO 'most favoured nation' rules dictate that if we drop tariffs on EU imports to zero we will be obliged to do the same for every other country in the world. That would at a stroke undermine any prospect of securing favourable FTAs with third countries, as we would already have unilaterally removed our tariffs and would find countries unwilling to offer reciprocal tariff reductions – we would have squandered our negotiating capital.<sup>126</sup>

The UK could alter its tariff schedule in a way to maximise benefits or reduce the negative impact of WTO rules being applied. The UK can do this by reducing tariffs on products which it does not produce itself, or those which it uses as input parts to products produced in and exported from the UK. If sterling was to remain weak, or weaken further, this would leave products exported from the UK at a relatively attractive price point.<sup>127</sup>

In many cases EU tariffs are set at high levels in order to protect industries in other parts of the EU where the UK has little or no domestic industry to protect, such as textiles and clothing, shoes and many kinds of heavily protected agricultural produce. In these cases the UK receives no benefit but pays twice over for the privilege of protecting foreign industries from lower cost competition in the world market: our consumers pay higher prices than they need for the products concerned [...].<sup>128</sup>

While a short-term strategy such as modifying the tariff schedule could have negative implications for the Irish agri-food and fisheries sectors; reducing tariffs could undermine the longer-term negotiating position of the UK in relation to future FTAs.

If the UK simply relied on WTO rules it would set its own import tariffs. But if it kept tariffs at zero with EU countries it would have to lower tariffs unilaterally with all other WTO members where it did not have a preferential trade agreement, giving up a key bargaining position in negotiating new trade arrangements. The alternative would be to raise tariffs with the EU with implications for UK prices and higher costs for consumers.<sup>129</sup>

<sup>126</sup> Nick Clegg, *Brexit Challenge #2: What Does Brexit Mean for the UK's Trading Relationships?* (September 2016) <<http://www.libdems.org.uk/brexit-challenge-trade-paper>> accessed 10 January 2017

<sup>127</sup> Civitas (Justin Potts), *Potential post-Brexit tariff costs for EU-UK trade* (October 2016) <<http://www.civitas.org.uk/content/files/potentialpostbrexittariffcostsforeuuktrade.pdf>> accessed 29 December 2016 p.7

<sup>128</sup> 'Brexit and International Trade' (*Lawyers for Britain*, 2016) <<http://www.lawyersforbritain.org/int-trade.shtml>> accessed 10 January 2017

<sup>129</sup> HM Government, *HM Treasury analysis: the long-term economic impact of EU membership and the alternatives* (April 2016) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/517415/treasury\\_analysis\\_economic\\_impact\\_of\\_eu\\_membership\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517415/treasury_analysis_economic_impact_of_eu_membership_web.pdf)> accessed 23 January 2017 pp. 10-11

Table 5 Industries most exposed to the introduction of EU-UK tariffs, ranked by tariff payable (2015, £ million)<sup>130</sup>

Ireland		
HS Chapter	Chapter Description	Tariff Payable (estimate)
2	Meat and edible meat offal.	463.9
4	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included.	265.4
16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates.	156.3
23	Residues and waste from the food industries; prepared animal fodder.	40.4
29	Organic chemicals.	36.6
19	Preparations of cereals, flour, starch or milk; pastrycooks' products.	33.7
21	Miscellaneous edible preparations.	26.9
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	26.5
1	Live animals.	22.0
39	Plastics and articles thereof	20.5

Table 5 illustrates the 10 most affected Harmonised System Chapters (HS) in terms of Irish exports to the UK. The table makes it immediately clear that the Irish agri-food sector will be negatively affected by the introduction of WTO rules. Tariffs in the area of agri-food sector are exceptionally high and pose a threat to the economies of scale which have developed between Ireland and Northern Ireland.

Even within agrifood there is great variety in tariffs and we are particularly concerned in a number of areas. For example, there are three flour mills in the island, two of which are in Belfast, and the Belfast mills export 60% of their output to the South.<sup>131</sup>

#### Recommendations:

The Committee notes that tariffs are a tangible negative impact of Brexit. It is necessary to avoid the imposition of tariffs if at all possible; if not, the duration of the application of tariffs must be minimised. The Committee agrees that:

[T]he potential cost of re-introducing tariffs to trade between the UK and most of Europe is the first step in making the case for a trade deal that will allow both EU and UK citizens to benefit from continued tariff-free trade across the continent.<sup>132</sup>

<sup>130</sup> Civitas (Justin Potts), *Potential post-Brexit tariff costs for EU-UK trade* (October 2016) <<http://www.civitas.org.uk/content/files/potentialpostbrexittariffcostsforeuuktrade.pdf>> accessed 29 December 2016 p.11

<sup>131</sup> Aidan Gough, Joint Committee on Jobs, Enterprise and Innovation (18 October 2016) <<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016101800001?opendocument>>

### Tariff Rate Quotas (TRQs)

TRQs allow preferential market access for a fixed volume of imports; this allows the importing state or bloc to import a sufficient amount of a product to meet demand without undermining domestic producers by flooding the market with low cost foreign produce. The UK does not have its own specific TRQs, it currently has EU TRQs. Following Brexit there will be a need to:

Extract our schedules from the EU schedule [...] The level set at one rate [...] is shared across Europe. So we need to figure out how much of that [...] applies to us.

That's something the EU and the UK need to figure out together. If we just unilaterally say it's X amount, the EU, which is a member of the WTO in its own right, can trigger a dispute.<sup>133</sup>

Both parties to Brexit, the UK and the EU will need to determine how TRQs are to be affected. Current EU wide TRQs will have to be amended to reflect a new 27 Member State EU. In some cases, the modification to the TRQ of the EU can be taken as the value for a UK specific TRQ but there will be a need for the UK to look at TRQs on a case-by-case basis. This could be a time consuming and work intensive task but if not resolved speedily may add to the uncertainty surrounding Brexit.

The EU should also want to help regularize the UK's schedules. Brexit also potentially opens the EU to demands from WTO members to renegotiate EU schedules, so there is a shared interest in re-establishing these as quickly as possible.<sup>134</sup>

Reaching agreement on the final distribution of TRQs will prove both time consuming and challenging. As the number of competing interests will present practical difficulties in finalising TRQs. This process requires consensus agreement within the 164 members of the WTO; some of whom may seek to obtain greater access to the UK market than was possible while the UK was part of the EU. Alternatively some may choose to withhold agreement as a means of exerting political or economic pressure for any number of reasons.<sup>135</sup>

Even where the EU and UK are satisfied as to the redistribution of TRQs, the affected WTO Member States may not be satisfied. Any potential reallocation of TRQs is almost guaranteed to be problematic:

This is because different countries have different dependencies on the UK vs EU27 markets. No matter what allocation key is used, some third countries are bound to be aggrieved and feel that

<sup>132</sup> Civitas (Justin Potts), *Potential post-Brexit tariff costs for EU-UK trade* (October 2016) <<http://www.civitas.org.uk/content/files/potentialpostbrexittariffcostsforeuuktrade.pdf>> accessed 29 December 2016 p.2

<sup>133</sup> Ian Dunt, 'Fox slip up at WTO shows he has no Brexit plan' (*Politics*, 27 September 2016) <<http://www.politics.co.uk/blogs/2016/09/27/fox-slip-up-at-wto-shows-he-has-no-brexit-plan>> accessed 22 November 2016

<sup>134</sup> Emily Lydgate, Jim Rolle and Rorden Wilkinson, *The UK Trade Landscape After Brexit* (Chatham House: The Royal Institute of International Affairs, University of Sussex 2016) <<https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2016-10-06-uktpo-uk-trade-landscape-lydgate-rollo-wilkinson.pdf>> accessed 03 January 2017 p.6

<sup>135</sup> Nick Clegg, *Brexit Challenge #2: What Does Brexit Mean for the UK's Trading Relationships?* (September 2016) <<http://www.libdems.org.uk/brexit-challenge-trade-paper>> accessed 10 January 2017

their exports (either to the UK or EU27 markets) would now face greater market access difficulties than before.<sup>136</sup>

This is a compelling argument as to why TRQs are likely to prove a major difficulty in negotiations. Third countries are likely to resist reallocations of TRQs. This is probably more significant for the UK than the EU, which, as a larger market would be better able to absorb increased TRQs. The argument is put forward in some detail as:

[P]artner countries have no reason to agree with splitting up volumes of duty-free exports to the EU as, by definition, it reduces their market access to the Union: 'A TRQ dividing into binding limits in two markets is less valuable than the same TRQ with the flexibility to switch exports between two markets'. With regard to the EU's TRQ access to partner countries, it is very unlikely the EU would be willing to grant the UK some of these benefits; after all it's the UK that wants to leave the Union.<sup>137</sup>

TRQs could also have an impact on trade directly between the EU and UK, beyond the indirect impact of modification of quotas on trade with other third countries. The UK could potentially be limited in the volumes of produce it exports to the EU27 in the absence of an FTA. Likewise, the UK's quotas may restrict the opportunities available to Irish exporters.

TRQs are a fallback position if, after two years, the unthinkable situation occurs and we are trading with the UK on these so-called WTO terms... Clearly, we would need to negotiate with the United Kingdom if it began to look as if, for procedural reasons or negotiating reasons, a free trade agreement was not possible.<sup>138</sup>

The Committee notes that it will not be possible to negotiate quotas directly with the UK; however, consideration of desirable quotas should be undertaken in order to be fully prepared should an FTA fail to be negotiated, agreed, and implemented within two years of Article 50 being invoked. It will be necessary for Ireland to demonstrate the quotas which would be required to minimise further economic disruption.

As with so many other Brexit related issues, failure to reach agreement in relation to TRQs will extend the period of uncertainty both politically and economically. The greater the duration of this uncertainty, the greater the potential negative impacts on the economies, and sectors, concerned.

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<sup>136</sup> Alan Matthews, *WTO dimensions of a UK 'Brexit' and agricultural trade* (5 January 2016)

<<http://capreform.eu/wto-dimensions-of-a-uk-brexit-and-agricultural-trade/>> accessed 05 December 2016

<sup>137</sup> LEI Wageningen: S. van Berkum, R.A. Jongeneel, H.C.J. Vrolijk, M.G.A. van Leeuwen and J.H. Jager (Study for the National Farmers' Union (NFU)), *Implications of a UK exit from the EU for British agriculture* (2016)

<<http://www.nfuonline.com/assets/61142>> accessed 09 January 2017 p.13

<sup>138</sup> Alan Matthews, Joint Committee on Agriculture, Food and the Marine (17 January 2017)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2017011700001?opendocument>>

**Mutual Recognition Agreements**

Mutual recognition agreements (MRAs) allow trading partners to recognise the other partner's agencies and standards as equivalent to their own. This means that products approved by the agency in one state, can be sold and marketed in the other without additional testing. MRAs are intended to cut down on these administrative burdens, reduce the costs involved in exporting, and to avoid unnecessary duplication of work. MRAs are not intended to lead to compromised standards, rather, they function best where standards are equivalent, or where one, or both parties are willing to amend their processes to reach equivalence. MRAs are an important element in the elimination of NTBs.

Mutual recognition agreements [...] will be necessary to avoid some of the negative consequences of the UK leaving the Single Market. We know that is going to happen, so we know that we need to put in place mechanisms whereby both sides will agree to recognise inspections, approvals and so on done by the other side. This does not only affect the food industry. As can be seen if one looks at the most recent report from the House of Commons on Brexit earlier this week, which entailed meeting business people in the north of England, it affects, for example, the pharmaceutical industry. They will be unclear as to whether their products can be sold legally in the European Union the day after Brexit because they will not necessarily have the clearances and certificates they will need unless there are some mutual recognition procedures in place. It is not only food that will be affected by this.<sup>139</sup>

It may be the case that MRAs can be negotiated quite easily with the UK, given that the UK intends to maintain EU legislation at least for a short period post-Brexit. This would suggest that initially there should be convergence in standards between the EU and the UK, meaning that the focus should primarily rest on the certification of bodies in the UK to certify UK produce. It will be necessary to negotiate MRAs as soon as possible, prior to the UK diverging from EU standards in any significant manner. This issue will grow more complex the greater the duration of negotiations as UK produce begins to diverge from the standards its EU27 counterparts are expected to meet.

**Recommendation:**

The Committee recommends that consideration of Mutual Recognition Agreements (MRAs) be undertaken by Government. The Committee also recommends that awareness of the potential need for MRAs be stressed in all interactions with EU leaders and negotiators.

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<sup>139</sup> Ibid

## Agri-Food

The agri-food sector is particularly threatened by Brexit, due to its strong linkages to the UK market the threats to the Irish agri-food sector can be analysed by reference to UK studies. Changes in the UK market, including currency values, tariffs and NTBs, will combine to affect the profit margins of Irish exporters, and likely the demand for their products in the UK as Irish produce grows more expensive; as identified in the treatment of tariffs:

Ireland is by far the largest export market for British food and drink products, and also home to many integrated cross-border agri-food businesses. For example, all of the wheat that is grown in the Republic of Ireland is sent to Northern Ireland for milling, then re-imported. The imposition of tariffs (at 30% for the re-import of milled flour), customs checks and associated paperwork would hugely increase costs, with price and competitiveness repercussions further up the food chain.<sup>140</sup>

In general terms Irish agri-food faces a mixed outlook in terms of exports for 2017. Some areas will face ongoing competitive pressure; others may show modest gains in export volumes or value, whereas:

The UK is the main export market for Prepared Consumer Foods. It accounts for some 65% of exports by value though trade was 9% lower in 2016 at an estimated €1.6 billion. [...] Key growth markets on the continent included France, Germany, Italy and Poland.<sup>141</sup>

Nick Clegg has written a paper on the challenges facing the UK's food and drink industry; he suggests that consumers "will have to get used to higher prices even beyond the impact of the falling value of the pound."<sup>142</sup> Rising food prices in the UK are likely to encourage consumers to alter purchasing behaviour. This means that agri-food produce from the EU27 may become less attractive when compared to cheaper alternatives from elsewhere. It is difficult to anticipate at what point alternative markets offer significantly cheaper sources of food produce to the UK that are of sufficient quality to change consumer purchasing patterns. In order to realise lower costs from alternative markets the UK would likely need to negotiate FTAs with the relevant markets, a process unlikely to be completed significantly sooner than negotiations are concluded with the EU. Brexit will not change the size of the market available to Ireland in sale of agri-food produce; however, **Irish producers and suppliers will face narrower margins and potentially significant competition from outside the EU in the coming years.** The dependency of the UK on imports to meet its agri-food needs continues to be a positive at least in the short-term. It is noted that:

Complete elimination of agri-food trade between the UK and EU27 would entail an offsetting substantial increase in UK agri-food trade with the ROW, or a massive increase in the UK's agri-

<sup>140</sup> Nick Clegg, *Paper: Food, Drink and Brexit* (17 October 2016) <<http://www.libdems.org.uk/brexit-challenge-fooddrink-paper>> accessed 29 December 2016

<sup>141</sup> Bord Bia, *Export Performance & Prospects: Irish Food, Drink and Horticulture 2016 – 2017* (January 2017) <<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2017.pdf>> accessed 17 January 2017 pp.44-45

<sup>142</sup> Nick Clegg, *Paper: Food, Drink and Brexit* (17 October 2016) <<http://www.libdems.org.uk/brexit-challenge-fooddrink-paper>> accessed 29 December 2016



food self-sufficiency, neither of which is plausible in the short or medium term (and arguably even in the long term).<sup>143</sup>

The UK is heavily dependent on the EU for food and drink imports as it is only 76% self-sufficient in food production.<sup>144</sup> Barring a significant change in agricultural policy the UK will be unable to substantially increase its agri-food self sufficiency. Some research “implies that while trade volumes would decline following Brexit, the strong trade relationship between Ireland and the UK is likely to persist for some time.”<sup>145</sup> Balance of trade deficits will, undoubtedly, feature in upcoming negotiations. The UK represents a valuable market to Member States (MS); the EU has a trade surplus with the UK, pursuing a protectionist agri-food agreement with tariffs, NTBs, TRQs, or any combination of the preceding will inevitably reduce this trade surplus and cede market share to non-EU competitors (Rest of World/ROW):

[T]he value of UK agri-food imports in 2014 (expressed in euro) across these first 24 chapters of the HS2 was €52.6 bn, while the value of UK agri-food exports to other EU MS and the ROW in 2014 was €25 bn. Overall, this means that the UK is a net importer of agri-food products, running a trade deficit in agri-food of circa €27.6 bn in 2014.<sup>146</sup>

In addition, the UK’s dependence on imports of food, feed and drink appears to be increasing. If this pattern is to continue then the UK offers a strong growth market should barriers to trade not arise. In the context of Brexit, the UK’s increasing dependence on imports of food, feed and drink may help offset the impact of Brexit; some producers may be able to take advantage of rising demand to see greater volumes of produce with a lower profit margin.

The overall volume of exports of food, feed and drink was broadly similar in 2015 compared to 2014. Over the longer term, the volume of exports is rising and in 2015 was 8% higher than in 2006. Since 2006 the volume of imports has increased by 15%, nearly twice as much as the rise in exports.<sup>147</sup>

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<sup>143</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.42

<sup>144</sup> Department for Environment Food & Rural Affairs, *British food and farming at a glance* (21 March 2016) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/515048/food-farming-stats-release-07apr16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/515048/food-farming-stats-release-07apr16.pdf)> accessed 23 January 2017

<sup>145</sup> Alan Barrett, Adele Bergin, John Fitzgerald, Derek Lambert, Daire McCoy, Edgar Morgenroth, Iulia Siedschlag and Zuzanna Studnicka, *Scoping the Possible Economic Implications of Brexit on Ireland* (Research Series Number 48, November 2015, ESRI) <<https://www.esri.ie/pubs/RS48.pdf>> accessed 30 December 2016 p.27

<sup>146</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.9

See also *Appendix 2: Harmonised System Codes* p.112

<sup>147</sup> Department for Environment, Food and Rural Affairs, Department of Agriculture, Environment and Rural Affairs, The Department for Rural Affairs and Heritage, and Rural and Environment Research and Analysis Directorate, *Agriculture in the United Kingdom 2015* (2016) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557993/AUK-2015-05oct16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557993/AUK-2015-05oct16.pdf)> accessed 29 December 2016 p.88

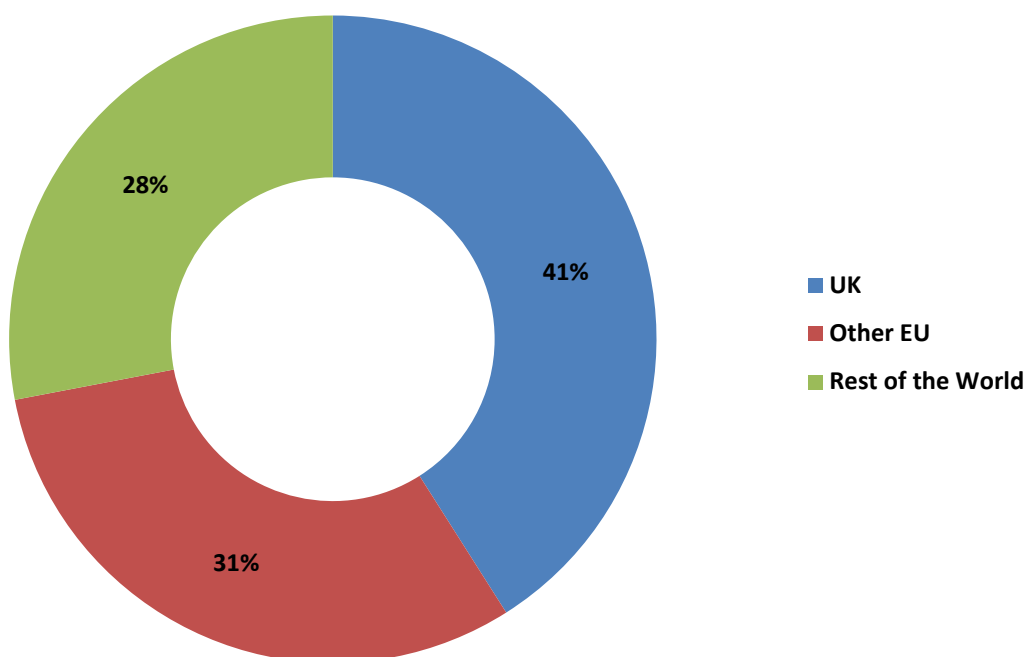
Figure 10 Irish Food and Beverage Export Destinations<sup>148</sup>

Figure 10 illustrates that Irish Food and Beverage exports find their greatest single export market in the UK. There are a number of reasons for this, including:

Most Irish consumer food producers started off by focusing on the UK as means of growing their business and were encouraged to do so. Ireland has a small domestic market so in order for a company to expand they need to open themselves up to new markets and, historically, the UK has been a first stepping stone for small companies to teach them how to export and expand.<sup>149</sup>

#### Recommendations:

The Committee agrees with the recommendation of Food and Drink Industry Ireland that:

The focus must be on maintaining markets in the UK, developing other markets as well as ensuring that in the domestic market, companies remain competitive against imports and the threat of cross-border shopping.<sup>150</sup>

<sup>148</sup> Department of Agriculture, Food and the Marine, *Fact Sheet on Irish Agriculture – January 2017* (January 2017) <<https://www.agriculture.gov.ie/media/migration/publications/2016/June2016Factsheet010616.pdf>> accessed 25 January 2017

<sup>149</sup> Irish Exporters Association, *Impact of the UK Referendum on Membership of the European Union on the Irish Agri-Food & Fisheries Sectors: A written submission to The Joint Committee on Agriculture, Food and the Marine by the Irish Exporters Association* (February 2017) <[http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/agriculturefoodandthemarine/presentations/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/agriculturefoodandthemarine/presentations/)> pp.6-7

<sup>150</sup> Food and Drink Industry Ireland, *The Exceptional Case for State Aid Supports for the Food and Drink Sector* (16 January 2017) <[http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News\\_and\\_Events~Press\\_release\\_archive~brexit-upheaval-demands-eu-state-aid-exemptions/\\$file/Brexit%20-%20the%20exceptional%20case%20for%20state%20aid%20supports%20for%20the%20food%20and%20drink%20sector%20-%20final.pdf](http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News_and_Events~Press_release_archive~brexit-upheaval-demands-eu-state-aid-exemptions/$file/Brexit%20-%20the%20exceptional%20case%20for%20state%20aid%20supports%20for%20the%20food%20and%20drink%20sector%20-%20final.pdf)> accessed 16 January 2017

Ireland's agri-food success in the UK market is, in large part, a result of similar tastes in agri-food products. In order to reduce dependence on the UK market, it is necessary to determine alternative markets. It may be necessary to develop new products in order to enter these markets. It could also be beneficial to determine which markets currently suffer from a lack of competition as these markets may offer Irish producers and exporters an opportunity to produce and sell to consumers who currently face distorted purchasing prices.

### **Challenges – Profit Margins & Market Share**

Irish agri-food producers and suppliers face the risk of diminishing profit margins on sales to the UK as well as the risk of loss of market share as the UK sources cheaper products from third countries. Ultimately, this means that Irish producers may need to diversify both in terms of products and markets. As profitability on some exports to the UK diminish it may become the case that the most profitable markets are found elsewhere. In effect Irish produce may be sold to other markets for a level of profit on par, or in excess of, what can be achieved in the UK.<sup>151</sup> However, the profit achievable from these markets is likely to be less than that which is currently recognised in the UK under single market conditions. It must be noted that “[u]ltimately, many food and drink exporters are constrained from finding major new overseas markets by geography, limited shelf life and established patterns of consumption.”<sup>152</sup>

The UK and Ireland face the same challenge in terms of diversification. In some cases, due to similarities in produce, Ireland may have to compete against the UK in these same new markets. In this regard Ireland is in an advantageous position, as it avails of the bargaining power of the EU in trade negotiations and has continued access to the Single Market itself.

Brexit may offer additional opportunities to some agri-food businesses. Some businesses may have opportunities to scale up production to meet increased domestic demand if UK imports are perceived by consumers to be too expensive.

The precise outcome would depend on the capacity of indigenous Irish producers to scale up production to meet the increased domestic market opportunities, supplier decisions taken by food retailers in Ireland and Irish consumer preferences for product from Ireland over products produced elsewhere in the EU27. It could be argued that Irish agri-food businesses with no exposure or very limited exposure to the UK market at present could actually benefit from Brexit, due to reduced competition on the Irish market from UK based food businesses.<sup>153</sup>

A solution which may also be available to some producers is that they may:

<sup>151</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.44

<sup>152</sup> Nick Clegg, *Paper: Food, Drink and Brexit* (17 October 2016) <<http://www.libdems.org.uk/brexit-challenge-fooddrink-paper>> accessed 29 December 2016

<sup>153</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.49

[B]e able to compensate for reduced unit margins by increasing overall volume, depending on other factors in their cost formula.<sup>154</sup>

It is possible that this option may be viable for larger producers as smaller Irish competitors may leave the UK market as a result of the diminishing margins. This reduced competition could, in turn, allow larger producers to sell in greater volumes, thereby reducing or negating the impact of lower profit margins per unit.

Figure 11 Agri-Food Market Impacts



#### Recommendations:

The Committee observes that in order to secure the future of the Irish agri-food sector a process of diversification should be undertaken. Diversification in this context is represented by three options:

- i. Finding new export markets for existing products; and
- ii. Reopening any possible markets;
- iii. Developing new products to substitute for loss of market share in the UK.

On this basis, the Committee recommends that resources be allocated to facilitate diversification through three strands:

- i. Market research to identify both suitable products and markets which Irish producers could avail of;
- ii. Product research and relevant training to ensure that new Irish produce meets a high standard and attracts a premium price; and
- iii. Marketing of both existing and new Irish produce to foreign markets.

<sup>154</sup> John McGrane, Joint Committee on Jobs, Enterprise and Innovation (25 October 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016102500001?opendocument>>

The Committee also recommends that an examination be undertaken to assess the ability of processors in Ireland to scale-up in the wake of a hard-Brexit. If it is viable to do so, processors could invest to scale-up their operations and thus limit the need for producers to move product cross-border for processing. The Committee recognises that for such investment to be worthwhile two conditions must be met:

- i. There must be a real price-differential between processing in Northern Ireland and domestically; and
- ii. There must be certainty that such a price-differential is likely to remain in the long-term in order to justify capital costs incurred in scaling-up.

The Committee recommends that an examination of state aid rules be undertaken with a view to determining whether support can be provided to processors to facilitate scaling up. If such supports are possible, the impact of the loss of all-island economies of scale may be mitigated to some degree. Such support should only be considered if the long-term viability of the processors is not in doubt.

## Irish and UK agriculture – A Comparison

### Northern Ireland & Agri-Food

As part of the co-ordinated approach by all the Joint Committees in relation to Brexit, the impact on Northern Ireland and the all-island perspective is specifically addressed. This report finds that Brexit is largely negative for Ireland and for the UK; and it seems that Northern Ireland will be disproportionately affected.<sup>155</sup>

There is a widespread view that a hard Brexit could be more damaging to the Republic than to the UK - and a general view that the North would fare worse than the Republic.<sup>156</sup>

The peace process and successive administrations have forged closer links between the Republic of Ireland and Northern Ireland; combined with membership of the EU, proximity, and the benefits of economies of scale, both economies have become more integrated.

Over the last two decades the need to be competitive has driven economies of scale resulting in a move to an all island economy. In many areas near the border where closer business relationships have been forged so too the border areas have prospered economically. [...] Ireland is also the largest market for Northern Ireland Agri-food exports at around £700m and similarly, the UK is the largest market for Irish Agri-food exports, accounting for some €4bn.<sup>157</sup>

The Committee notes that Northern Ireland faces economic disruption arising from a hard-Brexit scenario. Not only does Northern Ireland engage in large volumes of cross-border trade with Ireland, many products are moved cross-border for processing in order to take advantage of economies of scale. These include:

- [A] significant volume of live imports of pigs and cattle from Ireland which is necessary to help Northern Irish processors achieve scale efficiency in their plants (with pigs in particular);
- 25% of the Northern Ireland milk pool goes to Ireland for processing;
- 36% of Northern Irish lamb is processed in Ireland; and
- 50% of Northern Ireland milled goes to Ireland.<sup>158</sup>

The Committee also notes that country of origin rules may hinder cross-border trade. If a product from Northern Ireland is processed in Ireland and incorporated in another finished product, it may

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<sup>155</sup> Northern Ireland Assembly, *Northern Ireland's agri-food sector – background and possible 'Brexit' considerations* (September 2016) <<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2016/aera/6616.pdf>> accessed 01 February 2017

<sup>156</sup> Brendan Keenan, 'Lords a strange ally in fight to mitigate Brexit fallout' *Irish Independent* (Dublin, 12 January 2017) <<http://www.independent.ie/opinion/columnists/brendan-keenan/lords-a-strange-ally-in-fight-to-mitigate-brexit-fallout-35360464.html>> accessed 12 January 2017

<sup>157</sup> Northern Ireland Food & Drink, *Brexit: Challenges & Opportunities for Northern Ireland Food & Drink* (November 2016) <[http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA\\_Brexit\\_Final\\_Report.pdf](http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA_Brexit_Final_Report.pdf)> accessed 16 December 2016 p.19

<sup>158</sup> *Ibid* p.20

not be deemed sufficiently Irish and thus could attract higher tariffs at the point of export.<sup>159</sup> Additionally, the principle of mutual recognition, that a product meeting technical requirements in an EU or EEA State, must be allowed to be marketed in other Member States except under particular circumstances may no longer affect products from the UK. In practice this could necessitate increased compliance and certification costs for products exported to, or imported from, the UK.<sup>160</sup>

For example, animal slaughtering facilities that wish to export to the UK would have to be certified by both the UK authorities as well as the Irish authorities in the absence of a separate mutual recognition agreement... If the UK were to develop different food labelling regulations in future [...] this would require different packaging by Irish food firms wishing to sell on the UK market.<sup>161</sup>

Tariffs and NTBs in a post-Brexit environment could diminish the scope for continued economies of scale. As costs rise, consumer demand will drop; Brexit may well test the limits of consumer spending.<sup>162</sup>

Key sectors are also likely to be disproportionately impacted. In particular, as with tariff free trade, businesses that rely on complex cross-border supply chains, where a substantial proportion of the value in the goods they produce has been imported, would face significantly higher costs of production because of the resulting administrative and financial costs involved in managing the supply chain outside the customs union.<sup>163</sup>

Brexit may offer some opportunities to particular enterprises in Northern Ireland. Currency fluctuation has different implications depending on the type of business and which of the currencies it deals in. In Northern Ireland the weakening of sterling has had effects “both positive and negative with exporters reporting an increase in sales and importers reporting an increase in costs”.<sup>164</sup> Some commentators have also suggested that some all-Island industries could benefit in the medium term by exporting through either Northern Ireland or Ireland depending on which state had access to preferable trade terms.<sup>165</sup>

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<sup>159</sup> Ibid p.22

<sup>160</sup> Alan Matthews, ‘Implications of British exit from the EU for the Irish agri-food sector’ (April 2015) Trinity Economics Papers No. 0215 <<https://www.tcd.ie/Economics/TEP/2015/TEP0215.pdf>> accessed 25 January 2017 pp.15-16

<sup>161</sup> Ibid

<sup>162</sup> See *Appendix 8: Glossary of Terms: Price Elasticity of Demand* p.125

<sup>163</sup> HM Government, *HM Treasury analysis: the long-term economic impact of EU membership and the alternatives* (April 2016) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/517415/treasury\\_analysis\\_economic\\_impact\\_of\\_eu\\_membership\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517415/treasury_analysis_economic_impact_of_eu_membership_web.pdf)> accessed 23 January 2017 p.101

<sup>164</sup> Northern Ireland Food & Drink, *Brexit: Challenges & Opportunities for Northern Ireland Food & Drink* (November 2016) <[http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA\\_Brexit\\_Final\\_Report.pdf](http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA_Brexit_Final_Report.pdf)> accessed 16 December 2016 p.9

<sup>165</sup> Ibid p.20

The Centre for Cross Border Studies has indicated that Northern Ireland agriculture is exceptionally exposed post-Brexit as the single farm payment accounts for 87% of total farm income.<sup>166</sup> While matching direct payments have been guaranteed to the UK's farmers until 2020, the UK's long-term strategy for farming may undermine the sector in the period post-2020.

Figures 12 and 13 illustrate the results of a survey conducted by Northern Ireland Food & Drink a voluntary organisation representing and promoting the interests of Northern Ireland food and drink companies. The responses to the survey demonstrate that businesses in this sector will find it very difficult to find alternative (non-EU) markets for exports, or to source their inputs from the UK rather than the EU. It is suggested that other sectors are likely to experience similar difficulties under this scenario of high-tariffs. In relation to both these Figures, those who answered difficult to both these questions were in a range of subsectors including Animal Feed, Beef, Dairy, Fruit & Vegetables, Bakery and Drinks, and tended to be the larger businesses.<sup>167</sup>

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<sup>166</sup> European Union Committee, *Brexit: UK-Irish relations* (House of Lords, 12 December 2016) <<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldcom/76/76.pdf>> accessed 16 December 2016 p.14

<sup>167</sup> Northern Ireland Food & Drink, *Brexit: Challenges & Opportunities for Northern Ireland Food & Drink* (November 2016) <[http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA\\_Brexit\\_Final\\_Report.pdf](http://nifda.co.uk/wp-content/uploads/2016/11/NIFDA_Brexit_Final_Report.pdf)> accessed 16 December 2016 p.11



Figure 12 In the event of significant customs duties being placed on your exports to the EU, rate your overall ability to find alternative markets<sup>168</sup>

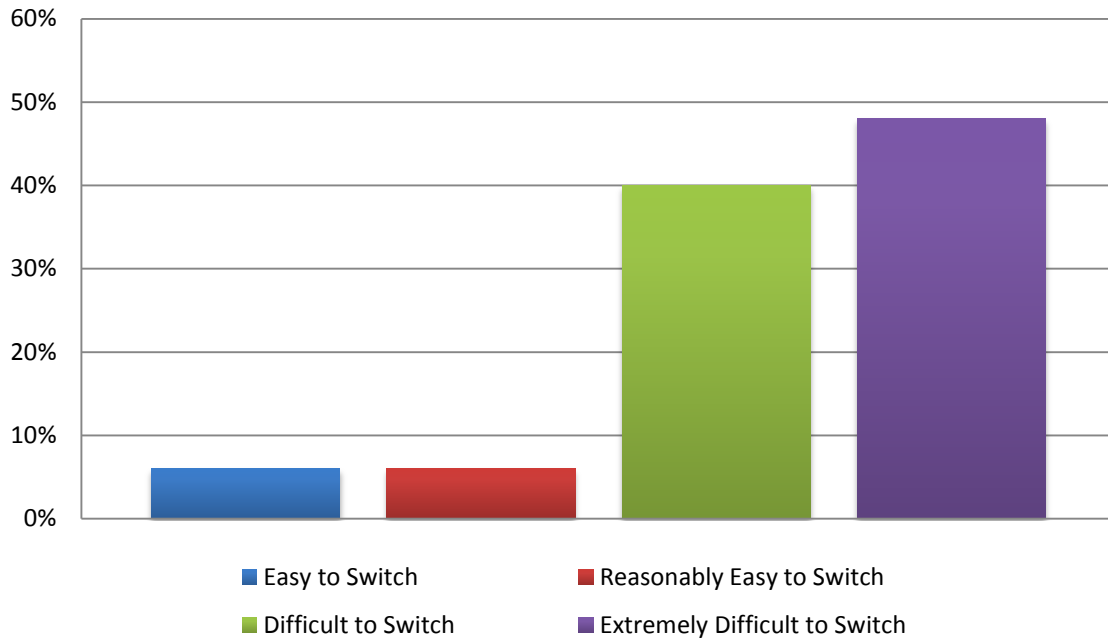
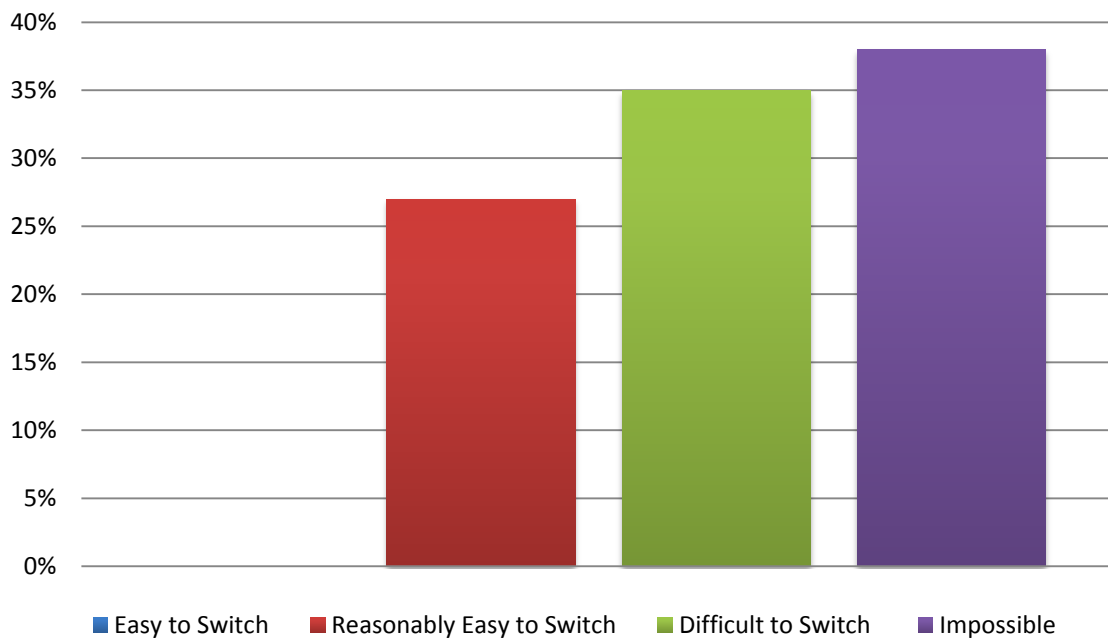


Figure 13 In the event of significant customs duties being placed on inputs you correctly source from the EU, rate your overall ability to switch your existing requirements to UK based suppliers<sup>169</sup>



<sup>168</sup> Ibid  
<sup>169</sup> Ibid

## The Future of Agriculture in the UK

There are a total of 90,970 farms in the UK as represented by FADN; these farms are primarily livestock based; livestock only farms being roughly twice as numerous as field crop & horticulture farms. It should be noted that another report states that there are some 214,000 farms in the UK, with an average size of 80 hectares.<sup>170</sup> The farms outlined in Figure 14 are the farms:

[R]epresented by FADN. FADN does not cover all agricultural holdings, but only those which are considered to be commercial holdings. Therefore, in each member state a threshold value for the economic size is used. In the UK this threshold is €25,000 SO (standard output) with an exception for Northern Ireland, where this threshold is €15,000.<sup>171</sup>

Philip Hammond MP, Chancellor of the Exchequer (UK) has guaranteed the current level of agricultural funding under Pillar 1 of the CAP will be upheld until 2020 in order to facilitate a transition to domestic arrangements. He has stated that the UK:<sup>172</sup>

[W]ill continue to have all of the rights, obligations and benefits that membership brings, including receiving European funding, up until the point we leave the EU.

Environment Secretary, Andrea Leadsom has stated that:

This guarantee of funding is excellent news for our farmers and our environment. It means farmers are assured of current levels of funding until 2020 and any agri-environment schemes agreed before the Autumn Statement will be fully funded – even when these projects continue beyond the UK's departure from the EU.<sup>173</sup>

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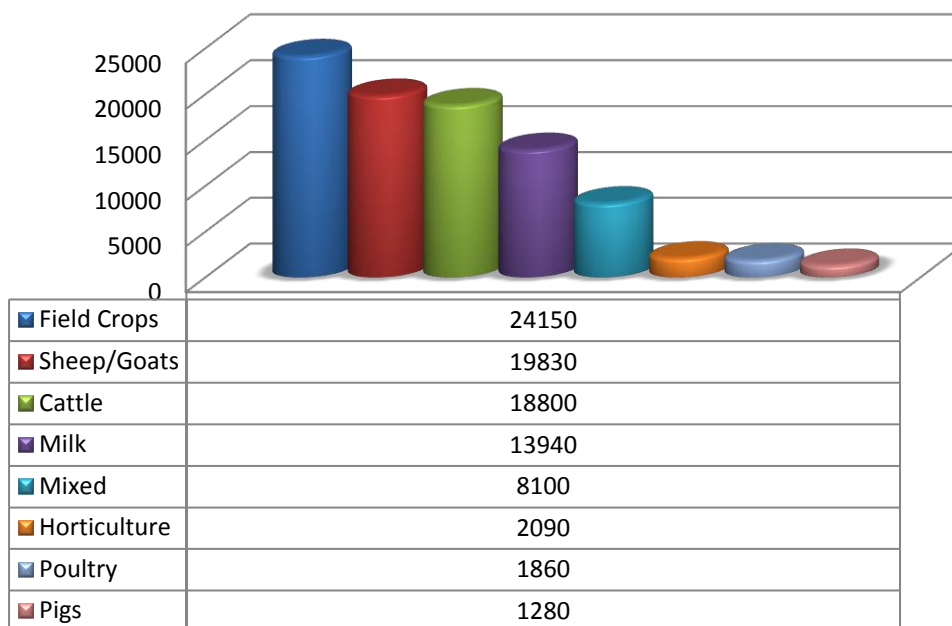
<sup>170</sup> Northern Ireland Assembly, *Northern Ireland's agri-food sector – background and possible 'Brexit' considerations* (September 2016)

<<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2016/aera/6616.pdf>> accessed 01 February 2017 p.3

<sup>171</sup> LEI Wageningen: S. van Berkum, R.A. Jongeneel, H.C.J. Vrolijk, M.G.A. van Leeuwen and J.H. Jager (Study for the National Farmers' Union (NFU)), *Implications of a UK exit from the EU for British agriculture* (2016) <<http://www.nfuonline.com/assets/61142>> accessed 09 January 2017 p.36

<sup>172</sup> 'Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU' (13 August 2016) <<https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu>> accessed 11 January 2016

<sup>173</sup> 'Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU' (13 August 2016) <<https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu>> accessed 11 January 2016

Figure 14 UK Farms<sup>174\*</sup>

The future of agriculture in the UK is important to Ireland as it is closely linked to both opportunities and risks for Irish agriculture. If the UK adopts an agricultural policy which does not support farming at least as well as the CAP it can be expected that farm numbers in the UK, and therefore agricultural output, would decrease. If the UK's agricultural output were to decrease there would be a threefold potential benefit to Irish agriculture:

- A decrease in the UK's agricultural output would increase the UK's reliance on food, feed and drink imports;
- The similarities between Irish and UK agricultural products would mean that Irish produce could fill any void left by a decrease in the UK's output; and
- Irish agri-food exports may face reduced competition from UK producers in third markets.

A British Agricultural Policy (BAP) will need to be considered by the UK Government. UK agriculture is less productive than in the Netherlands, France and the USA. The top 10% of farmers are twice as productive as the bottom 10%. A replacement of the CAP for the UK could enable those at the bottom to improve both their performance and productivity.<sup>175</sup> The UK agriculture industry currently relies heavily on EU subsidies with a study by Defra showing that more than 30% of British farms

<sup>174</sup> LEI Wageningen: S. van Berkum, R.A. Jongeneel, H.C.J. Vrolijk, M.G.A. van Leeuwen and J.H. Jager (Study for the National Farmers' Union (NFU)), Implications of a UK exit from the EU for British agriculture (2016) <<http://www.nfuonline.com/assets/61142>> accessed 09 January 2017 p.36

\* Eggs are included in the poultry farm category.

<sup>175</sup> Country Land and Business Association, *New Opportunities: The Case for a World Leading Food, Farming and Environmental Policy* (2016) <<https://www.cla.org.uk/sites/default/files/NEW%20OPPORTUNITIES.pdf?platform=hootsuite>> accessed 09 January 2017

would be in negative income without CAP.<sup>176</sup> The reliance of UK agriculture on direct payments has been acknowledged recently in a report of the Welsh Government; the report suggests that time and increased resources will be required to re-orient their agricultural sector to take advantage of any opportunities presented by an exit from the EU.<sup>177</sup> A reduction in the current level of direct payments could negatively affect the UK's agricultural sector.

In case of the abolition of direct payments a large share of farms will experience negative income effects. Consequently, the viability of a substantial proportion [...] of farms will be negatively affected by this policy change. The livestock farms in particular are heavily dependent on direct income payments [...] Overall, two-thirds of the UK's farm income relies on direct payment support.<sup>178</sup>

Any reduction in the viability of farming in the UK would further increase the reliance of the UK on imports for agri-food produce, not necessarily to Ireland's benefit as cheaper alternative sources may be preferred by suppliers and consumers.

There has been criticism of the EU's subsidy regime in the UK, with this in mind; the long-term retention of direct payments in the UK is in doubt.<sup>179</sup> Removal of subsidies would require an alternative model for the UK's agricultural sector to avoid putting it at a substantial competitive disadvantage against EU27 counterparts heavily subsidised through the CAP.<sup>180</sup> While there are clearly strong arguments against any rapid change to support for agriculture post-Brexit, the UK may face increasing pressure to reduce or eliminate direct payments during negotiations of trade agreements in the coming years.

The CAP is frequently criticized by developing countries in Africa and South Asia as one of the world's most protectionist state support systems [...] A Britain separated from the EU could find itself isolated and hard pressed by countries such as India and Bangladesh to give up paying farmers EU-level subsidies once the Brexit process is complete.<sup>181</sup>

Teagasc has analysed, in some detail, the issues which will likely inform UK agricultural policy in the coming years:

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<sup>176</sup> Bord Bia, *Brexit: Briefing Document June 2016* (June 2016)

<<http://www.bordbia.ie/corporate/press/Documents/2016/BrexitBriefingInformation.pdf>> accessed 29 December 2016 p.1

<sup>177</sup> Llywodraeth Cymru: Welsh Government, *Securing Wales' Future: Transition from the European Union to a New Relationship with Europe* (January 2017) <[https://beta.gov.wales/sites/default/files/2017-01/30683%20Securing%20Wales%C2%B9%20Future\\_ENGLISH\\_WEB.pdf](https://beta.gov.wales/sites/default/files/2017-01/30683%20Securing%20Wales%C2%B9%20Future_ENGLISH_WEB.pdf)> accessed 26 January 2017 p. 21

<sup>178</sup> LEI Wageningen: S. van Berkum, R.A. Jongeneel, H.C.J. Vrolijk, M.G.A. van Leeuwen and J.H. Jager (Study for the National Farmers' Union (NFU)), *Implications of a UK exit from the EU for British agriculture* (2016) <<http://www.nfuonline.com/assets/61142>> accessed 09 January 2017 p.7

<sup>179</sup> Fresh Start Project, *Manifesto for Change: A New Vision for the UK in Europe* (January 2013) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/278507/Fresh\\_Start\\_full.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278507/Fresh_Start_full.pdf)> accessed 24 January 2017

<sup>180</sup> Nick Clegg, *Paper: Food, Drink and Brexit* (17 October 2016) <<http://www.libdems.org.uk/brexit-challenge-fooddrink-paper>> accessed 29 December 2016

<sup>181</sup> Alberto Mucci, Simon Marks & Christian Oliver, 'Forget Brussels, Brexit's toughest battleground is the WTO' *Politico* (6 October 2016) <<http://www.politico.eu/article/forget-brussels-brexit-toughest-battleground-is-the-wto-uk-theresa-may/>> accessed 24 November 2016

[F]ollowing a Brexit the value of the repatriated net contributions to the EU would be more than sufficient to fund a continuation of the CAP in the UK. However, a UK Exchequer funded agricultural support system analogous to the current CAP would be unlikely to pass a UK Treasury value for money assessment. However, a dramatic, New Zealand style ending of government support to agriculture in the UK is unlikely. The devolved administrations in the UK are likely to favour the retention of decoupled direct income supports, given the greater dependence on agriculture on subsidies in these regions. It seems likely that following Brexit increased emphasis would be placed on targeted agri-environmental payments schemes. Overall, if the level of income support provided currently is dramatically reduced, this could lead to significant changes to the structure of UK agriculture and to the level of UK agri-food self-sufficiency that would have more significant implication for UK agri-food trade.<sup>182</sup>

A study conducted for the National Farmer's Union (NFU) seems to suggest that WTO rules applying presents the best outcome for the UK's agricultural sector; however, Table 3 (page 37) suggests that in broader terms i.e. across all sectors, the WTO option is the worst for the UK's economy in general.

The agricultural product prices are projected to increase in the FTA and WTO scenarios. These price increases have a positive impact on supply and farm revenue and income, but have a negative impact on domestic use and consumer (or user) expenditure. At the level of the society this implies a loss of consumer welfare.<sup>183</sup>

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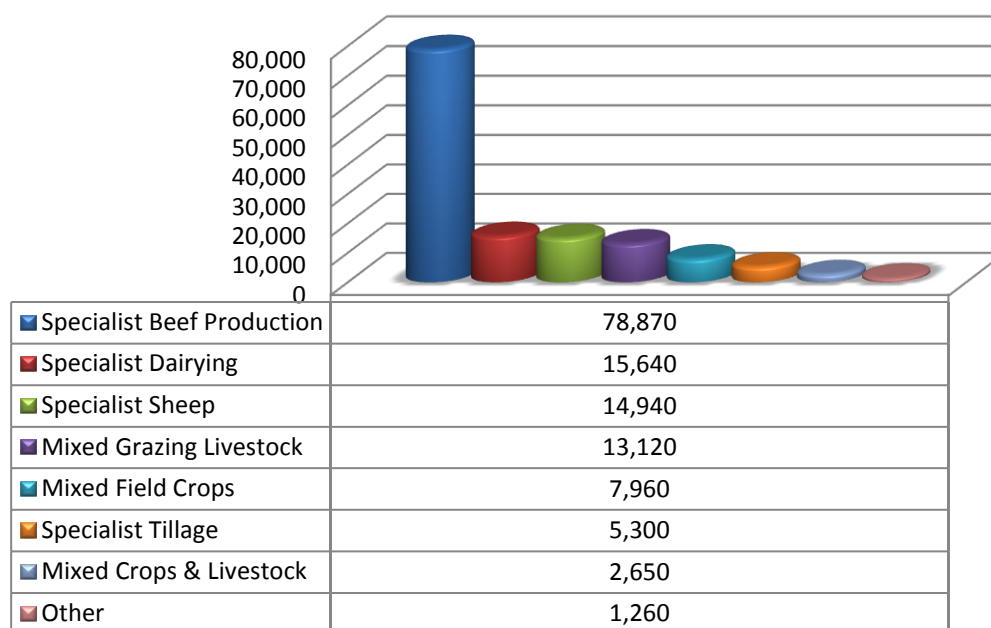
<sup>182</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.50

<sup>183</sup> LEI Wageningen: S. van Berkum, R.A. Jongeneel, H.C.J. Vrolijk, M.G.A. van Leeuwen and J.H. Jager (Study for the National Farmers' Union (NFU)), *Implications of a UK exit from the EU for British agriculture* (2016) <<http://www.nfuonline.com/assets/61142>> accessed 09 January 2017 p.43

### The Future of Agriculture in Ireland

It is worth noting that Irish farms are on average about one fifth the size of UK holdings. Irish farms average 32.5 hectares<sup>184</sup> versus an average 162.6 hectares [for commercial agricultural holdings] in the UK.<sup>185</sup> Figures for all UK farms indicate an average size of some 80 hectares (2.4 times the size of Irish holdings).<sup>186</sup> Irish agriculture is thus characterised by a large number of small farms rather than the UK's structure of fewer farms of considerably larger scale. Irish farming is also considerably more concentrated than UK farming, with an overwhelming reliance on beef production as per Figure 15 below.

Figure 15 Irish Farms (2013)<sup>187\*</sup>



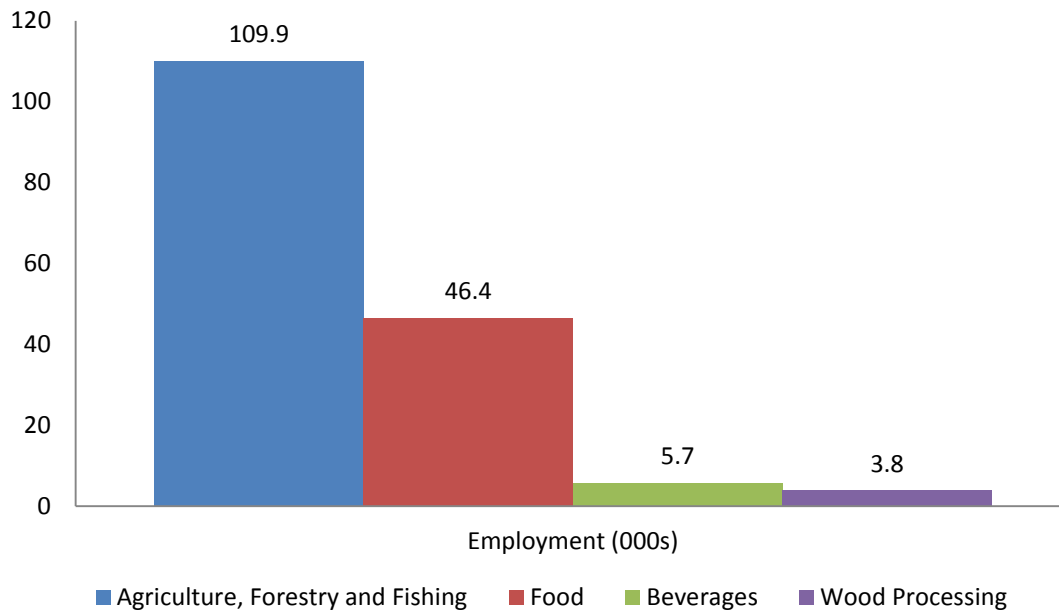
<sup>184</sup> CSO, *Farm Structure Survey 2013* (December 2015) <<http://www.cso.ie/en/releasesandpublications/ep/p-fss/farmstructuresurvey2013/keyfindings/>> accessed 12 January 2017

<sup>185</sup> LEI Wageningen: S. van Berkum, R.A. Jongeneel, H.C.J. Vrolijk, M.G.A. van Leeuwen and J.H. Jager (Study for the National Farmers' Union (NFU)), *Implications of a UK exit from the EU for British agriculture* (2016) <<http://www.nfuonline.com/assets/61142>> accessed 09 January 2017 p.36

<sup>186</sup> Northern Ireland Assembly, *Northern Ireland's agri-food sector – background and possible 'Brexit' considerations* (September 2016) <<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2016/aera/6616.pdf>> accessed 01 February 2017 p.3

<sup>187</sup> CSO, *Farm Structure Survey 2013* (December 2015) <<http://www.cso.ie/en/releasesandpublications/ep/p-fss/farmstructuresurvey2013/keyfindings/>> accessed 12 January 2017

\*These figures have been rounded and do not directly correspond to the total farm number figure (c.139,600)

Figure 16 Employment in the Agri-Food Sector<sup>188</sup>Table 6 Irish Meat & Livestock Exports<sup>189</sup>

	2015 €m	2016(e) €m	2016/2015 % +/-
<b>Beef (incl. offals)</b>	2,410	2,380	-1
<b>Pigmeat</b>	590	615	+4
<b>Poultry</b>	320	275	-14
<b>Sheepmeat</b>	230	240	+4
<b>Live Animals</b>	195	150	-23
<b>TOTAL MEAT &amp; LIVESTOCK</b>	<b>3,745</b>	<b>3,660</b>	<b>-2</b>

<sup>188</sup> Department of Agriculture, Food and the Marine, *Fact Sheet on Irish Agriculture – January 2017* (January 2017)

<<http://www.agriculture.gov.ie/media/migration/publications/2017/FactsheetIrishAgriculture180117.pdf>> accessed 25 January 2017

<sup>189</sup> Bord Bia, *Export Performance & Prospects: Irish Food, Drink and Horticulture 2016 – 2017* (January 2017)  
<<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2017.pdf>> accessed 17 January 2017 p.23

Figure 17 Breakdown of Total Exports by Category<sup>190</sup>

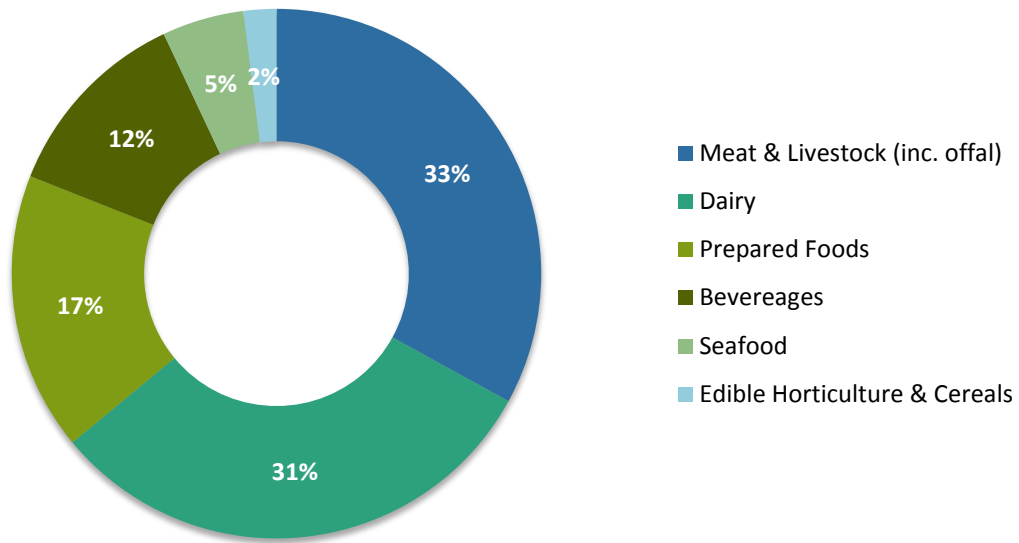
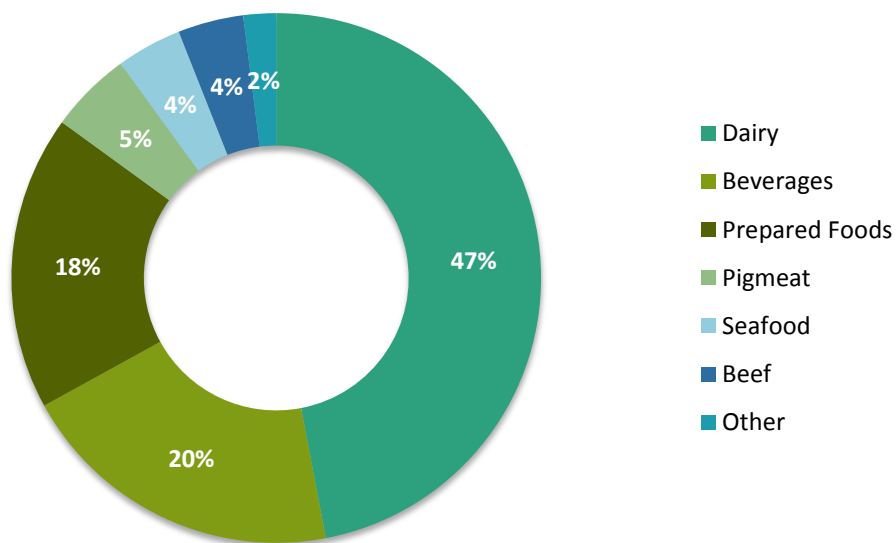


Figure 18 Breakdown of Exports to Third-Country Markets in 2016 (%)<sup>191</sup>



The long-term viability of farming in Ireland may require innovative solutions; a one-size fits all approach may not be suitable. The viability of farming can be approached from both market and individual circumstances. Individual circumstances may mean that part-time farming/farming as a

<sup>190</sup> Ibid p.7

<sup>191</sup> Ibid p.9



second occupation may be viable in certain instances, in other cases farmers may need to invest heavily and scale-up their production. In terms of addressing market issues it has been suggested that:

[W]e need to reassess the objectives of Food Wise 2025 which is all about expansion of output, especially in dairying but with a knock-on impact on beef supplies. Given the risks posed by Brexit and the uncertainty around new markets, it is surely time to look at sustainable down-sizing until it can be seen if prices will rise to a viable level. Expansion of beef output at this point looks like a crazy policy in view of the glut of beef expected in 2017.<sup>192</sup>

It will be necessary for Ireland to review the future of the agricultural and agri-food sectors in Ireland in the wake of invocation of Article 50. Events elsewhere may also have an impact and, thus, Brexit cannot be considered in isolation. It may be the case that the United States of America may opt for a more isolationist and protectionist economic policy in the coming years, reducing the prospect of concluding the Transatlantic Trade and Investment Partnership (TTIP). It was anticipated that TTIP would have potentially negative consequences for agriculture in Ireland.<sup>193</sup> It will also be necessary to analyse all ongoing trade negotiations in the context of a union which may no longer include the UK.

Irish agriculture will inevitably face increasing cost pressures in the coming years. If the UK can source produce on the world market at considerably lower prices than within the EU, and Ireland specifically, Irish producers will face considerable downward price pressures.<sup>194</sup> At a critical point Irish producers will not be able to sustain price reductions; in the absence of alternative market outlets for produce this would entail a substantial constriction of the market. A reduction in demand could result in a fall in viability for producers with a knock on effect on employment in the sector.

Geographical Indications (GIs), in some cases, operate on an all-island basis i.e. some geographical indications relate to products which are produced both in the Republic of Ireland, and in Northern Ireland.<sup>195</sup> Brexit will necessitate examination of all-island GIs. For example:

The geographical indication Irish Whiskey/Uisce Beatha Eireannach/Irish Whisky covers whisky/whiskey produced in Ireland and Northern Ireland.<sup>196</sup>

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<sup>192</sup> Patrick Kent, Joint Committee on Agriculture, Food and the Marine (13 December 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2016121300002?opendocument#D00100>>

<sup>193</sup> Copenhagen Economics, *TTIP impact in Ireland* (February 2016)

<[https://www.copenhageneconomics.com/dyn/resources/Publication/publicationPDF/5/15/1429776797/1888-01-ttip-impact-in-ireland-26feb2015\\_front-page.pdf](https://www.copenhageneconomics.com/dyn/resources/Publication/publicationPDF/5/15/1429776797/1888-01-ttip-impact-in-ireland-26feb2015_front-page.pdf)> accessed 12 January 2017 pp.53-64

<sup>194</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.43

<sup>195</sup> Food and Drink Industry Ireland, *Brexit – the challenge for the food and drink sector: Safeguarding business, jobs and trade* (September 2016)

<[http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News\\_and\\_Events~Press\\_release\\_archive~brexit-the-challenge-for-the-food-and-drink-sector/\\$file/Brexit%20-%20the%20challenge%20for%20the%20food%20and%20drink%20sector.pdf](http://www.fdi.ie/Sectors/FDII/FDII.nsf/vPages/News_and_Events~Press_release_archive~brexit-the-challenge-for-the-food-and-drink-sector/$file/Brexit%20-%20the%20challenge%20for%20the%20food%20and%20drink%20sector.pdf)> accessed 05 January 2017 p.20

<sup>196</sup> Annex III of REGULATION (EC) No 110/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical

Dismantling GI's may be a cumbersome process and prove costly for producers.

#### Recommendations:

The Committee is of the opinion that the UK be allowed to voluntarily participate in the geographical indications (GIs) scheme. The Committee believes that GIs are beneficial to consumers in both the UK and the EU27, as such, there seems little merit in mandating the exclusion of the UK from participation in the GI scheme.

The Committee recommends that a re-evaluation of targets set in *Food Wise 2025* be undertaken. Brexit may require fundamental changes in the structure and future of Irish agriculture, as such, targets set in Food Wise 2025 may no longer reflect what is possible, or even, what is best for the Irish agri-food and fisheries sectors.

#### Other Pressures

Agriculture is a highly pressurised sector without the additional complications posed by Brexit. These include pressure created by FTAs, emissions targets, and the position of farmers within supply chains. A recently published report acknowledges that within supply chains alone, primary producers are disadvantaged.

Negotiating power in the supply chain has been shifting and this shift has clearly not been in favour of primary producers. Their share of the value added has increasingly been under downward pressure.<sup>197</sup>

Ireland faces the additional challenge of a 30% reduction in greenhouse gas emissions by 2030.<sup>198</sup> The agriculture sector accounted for 32.6% of Ireland's total national emissions in 2013 and this is amongst the highest of any country in the developed world.<sup>199</sup> A reduction of this level will be very challenging even without ambitious targets to increase agricultural output simultaneously. This points to the need to diversify both to sustain employment and reduce emissions.

Table 7 illustrates predicted EU agri-food exports to Free Trade Agreement (FTA) partners in 2025. While increasing accessibility to new markets through FTAs is welcome, it is predicted that not all sectors benefit from FTAs. Worryingly for Ireland it is predicted that the trade balance between the

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indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 [2008] OJ L 39/16 <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:039:0016:0054:EN:PDF>> accessed 24 January 2017

<sup>197</sup> Agricultural Markets Task Force, *Improving Market Outcomes: Enhancing the Position of Farmers in the Supply Chain* (14 November 2016) <[http://ec.europa.eu/agriculture/sites/agriculture/files/agri-markets-task-force/improving-markets-outcomes\\_en.pdf](http://ec.europa.eu/agriculture/sites/agriculture/files/agri-markets-task-force/improving-markets-outcomes_en.pdf)> Accessed 13 January 2017 p.12

<sup>198</sup> European Commission, COM(2016)482 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 for a resilient Energy Union and to meet commitments under the Paris Agreement and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change (July 2016)

<<http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20160482.do>> accessed 13 January 2017

<sup>199</sup> *Agriculture & Climate Change*

<<http://www.agriculture.gov.ie/ruralenvironment/climatechangebioenergybiodiversity/agricultureclimatechange/>> accessed 13 January 2017

EU and FTA partners will deteriorate in beef and sheep by 2025.<sup>200</sup> Together specialist beef and specialist sheep farms account for some 67% of all Irish farms.<sup>201</sup> This suggests an increasingly challenging environment for these sectors in the coming decade. In contrast to this, the dairy sector has the potential to gain from these FTAs. These figures should be interpreted as predictions of a worst-case scenario for these sectors as they:

[R]epresent the impact of theoretical scenarios (tariff cuts of 50% and 25%) rather than the introduction of TRQs, which are commonly included in trade agreements for these sectors.<sup>202</sup>

Table 7 EU exports by FTA partners (2025, billion euros, %)<sup>203</sup>

	Base (billion euros)	Base (%)
<b>USA</b>	14.5	18.9
<b>Canada</b>	2.2	2.9
<b>Mercosur</b>	1.5	2.0
<b>Japan</b>	3.8	4.9
<b>New Zealand</b>	0.2	0.3
<b>Australia</b>	1.4	1.8
<b>Indonesia</b>	0.4	0.6
<b>Mexico</b>	0.8	1.0
<b>Thailand</b>	0.4	0.5
<b>Turkey</b>	2.2	2.9
<b>Vietnam</b>	0.4	0.5
<b>Philippines</b>	0.4	0.5
<b>All FTAs</b>	28.3	36.9

<sup>200</sup> European Commission, *Cumulative economic impact of future trade agreements on EU agriculture* (November 2016) <[http://publications.jrc.ec.europa.eu/repository/bitstream/JRC103602/lb-na-28206-en-n\\_full\\_report\\_final.pdf](http://publications.jrc.ec.europa.eu/repository/bitstream/JRC103602/lb-na-28206-en-n_full_report_final.pdf)> accessed 16 December 2016 p.47

<sup>201</sup> See Figure 15 p.64

<sup>202</sup> European Commission, *Cumulative economic impact of future trade agreements on EU agriculture* (November 2016) <[http://publications.jrc.ec.europa.eu/repository/bitstream/JRC103602/lb-na-28206-en-n\\_full\\_report\\_final.pdf](http://publications.jrc.ec.europa.eu/repository/bitstream/JRC103602/lb-na-28206-en-n_full_report_final.pdf)> accessed 16 December 2016 p.63

<sup>203</sup> European Commission, *Cumulative economic impact of future trade agreements on EU agriculture* (November 2016) <[http://publications.jrc.ec.europa.eu/repository/bitstream/JRC103602/lb-na-28206-en-n\\_full\\_report\\_final.pdf](http://publications.jrc.ec.europa.eu/repository/bitstream/JRC103602/lb-na-28206-en-n_full_report_final.pdf)> accessed 16 December 2016 p.30

**Recommendations:**

The Committee recommends that the Government assesses implementing supports to encourage greater production of biofuels. Increasing Irish production and encouraging use of biofuels could help Ireland meet emissions targets, reduce reliance on imported fuel, and help sustain Irish horticulture by allowing farmers to diversify their crops and by creating greater domestic demand for their produce.

The Committee suggests that the Minister for Agriculture, Food and the Marine together with the Minister for Communications, Climate Action & Environment (DCCA) explore options which would promote the use of biofuels. This could include examination of the viability of inclusion of biofuel heating systems, where viable, in future state capital projects. It is acknowledged that DCCA is already considering a Renewable Heat Incentive. Alternatively, it may be possible to encourage the use of biofuels in transport. **If market outlets can be developed, Irish farmers can produce the biofuel required for these outlets.**

**Edible Horticulture (Mushroom) Sector: A Case Study**

The Committee met with representatives of the mushroom sector in order to assess the implications of Brexit on that sector.<sup>204</sup> The impact of the UK's Referendum was high in the Irish mushroom sector. Recognising the issues faced by the mushroom sector is important, and while lessons may be learned, it is important to draw a distinction between the difficulties facing this specific sector and the agri-food sector more generally. Indeed, despite difficult market conditions in 2016, the performance of the mushroom sector in the UK retail market was positive, having increased in volume terms, however declines in average prices resulted in lower prices for Irish mushroom exports.<sup>205</sup> Notwithstanding the price and returns for mushroom growers it can be expected that if these larger volumes of exports can be maintained, that the Irish mushroom sector is well positioned.

In terms of currency, the pound was demonstrating strong recovery post-economic crisis, generally increasing in value against the Euro since mid 2013. This trend largely held true until mid-late 2015. Since this time the pound has reduced in value against the Euro. Following the Referendum there was a further significant decrease in the value of sterling against the euro. Table 8 illustrates a small sample of dates in 2016 and 2017 and the associated value of the pound sterling to the euro on those dates.

The mushroom sector was particularly vulnerable to these fluctuations in the value of the pound sterling for two reasons.<sup>206</sup>

<sup>204</sup> Joint Committee on Agriculture, Food and the Marine (27 September 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2016092700002?opendocument#A00100>>

<sup>205</sup> Bord Bia, *Export Performance & Prospects: Irish Food, Drink and Horticulture 2016 – 2017* (January 2017)

<<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2017.pdf>> accessed 17 January 2017 p.5

<sup>206</sup> Gerry Reilly, Joint Committee on Agriculture, Food and the Marine (27 September 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/AGJ2016092700002?opendocument#A00100>>

i. The Irish mushroom sector is heavily dependent on the UK as a market:

80% or more [of Irish production] [...] marketed to UK multiples through a network of marketing agents. For the majority of Irish growers, 100% of their production is exported to the UK.<sup>207</sup>

ii. The contracts held by the mushroom sector are negotiated in sterling and frequently cover periods of one year or more.

It is reflective of the quality of Irish mushrooms that a large market-share can be maintained in the UK; however dependencies and risks require mitigation. The Committee has already made a submission (September 2016) to the Minister proposing several courses of action which could help mitigate the impact of Brexit on mushroom growers, including:<sup>208</sup>

- That there should be no increase in excise rates on agricultural diesel or other road fuels.
- That consideration be given to a €2 million allocation which could help the sector examine lean processes from which efficiencies could be derived. This matter is worth further consideration as it may enable the sector to increase its long term competitiveness without a focus on employment costs.

Table 8 Gbp to Eur Exchange Rates<sup>209</sup>

Date	Event	Exchange Rate
30/06/13		1.16826
30/06/14		1.24932
30/06/15		1.40998
23/06/16	Referendum on membership of the EU	1.30153
06/07/16	Currency begins to stabilise after shock of Referendum result	1.16583
24/01/17	Supreme Court Judgement in <i>Miller v Secretary of State</i>	1.16568
02/02/17	Publication of <i>The United Kingdom's exit from and new partnership with the European Union</i> (Brexit White Paper)	1.16087

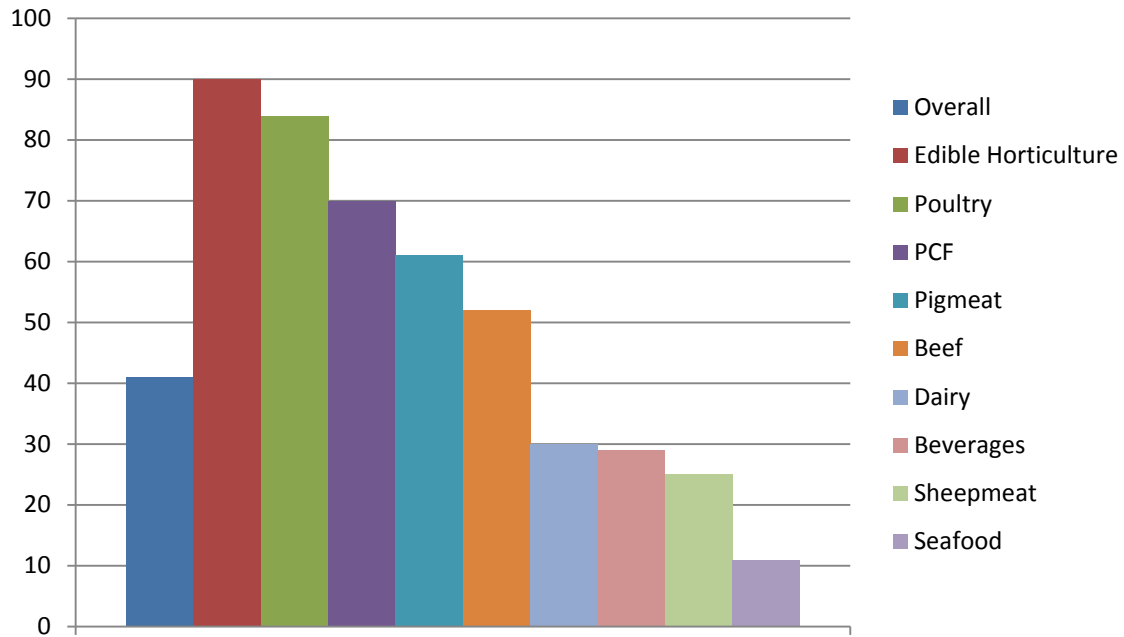
Figure 19 illustrates the degree of reliance of the edible horticulture sector on the UK as an export market. It also highlights that the edible horticulture sector is not the only sector reliant on the UK as an export market; however, edible horticulture is doubly exposed as the sector exports the majority of its produce, and the vast majority of these exports go to the UK.

<sup>207</sup> Ibid

<sup>208</sup> Joint Committee on Agriculture, Food and the Marine, *Submission of the Joint Committee on Agriculture, Food and the Marine on the Requirement for Action in Support of the Irish Mushroom Sector* (September 2016) Available at: [http://www.oireachtas.ie/parliament/media/committees/agriculture/reports/Mushroom-Submission-\(final\).pdf](http://www.oireachtas.ie/parliament/media/committees/agriculture/reports/Mushroom-Submission-(final).pdf)

<sup>209</sup> XE Current and Historical Rate Tables <<http://www.xe.com/currencytables/>> accessed 13 February 2017

Figure 19 Proportion of Irish food and drink exports by category destined for the UK, 2015 (%)<sup>210</sup>



<sup>210</sup> Bord Bia, *Brexit: Briefing Document June 2016* (June 2016)  
 <<http://www.bordbia.ie/corporate/press/Documents/2016/BrexitBriefingInformation.pdf>> accessed 29 December 2016 p.2

**Beverage sector: A Case Study****Case Study Rationale**

Case studies have been included in this report to describe three aspects of the Irish agri-food sector. Namely, where:

- Negative implications of Brexit have occurred (edible horticulture);
- As yet unrealised opportunities exist (seaweed); and
- Where, despite challenging circumstances, the sector is performing well (alcoholic beverages).

In recent years, the alcoholic beverage sector has shown renewed life, with increased consumer demand for craft beers and increasing demand for Irish whiskey. The sector is in good health despite internationally challenging circumstances, displaying steady growth over recent years. In 2016 beer exports were estimated at €290 million,<sup>211</sup> up from €265 million in 2015, an increase of almost 10%.<sup>212</sup>

[O]ur craft brewing sector is in growth mode. It currently has 90 operational microbreweries and this number is set to exceed 100 by 2020. This has also resulted in a growth in exports with craft beer exports increasing twofold between 2011 and 2016.<sup>213</sup>

Additionally, Irish whiskey is the fastest growing spirit in the world, with recorded export growth of 8% in 2016, reaching a total value of €505 million.<sup>214</sup> Bord Bia's analysis confirms that non-UK markets are driving growth in the alcoholic beverage sector, with exports to the United States, continental EU, and Asia driving growth.

[S]trong growth potential exists for premium beverages such as whiskey, craft beer and cream liqueurs which continue to have a premium position in the global market.<sup>215</sup>

The Irish beverage sector has established a reputation for quality, and is protected, to some degree by geographical indications highlighting and protecting the unique nature of Irish spirits produce. In Ireland the three protected spirits are Irish Whiskey, Irish p $\acute{o}$ it $\acute{i}$ n, and Irish cream liqueur.<sup>216</sup> Managed properly the Irish beverage sector can maintain growth in markets beyond the UK in the coming

<sup>211</sup> Bord Bia, *Export Performance & Prospects: Irish Food, Drink and Horticulture 2016 – 2017* (January 2017) <<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2017.pdf>> accessed 17 January 2017 p.52

<sup>212</sup> Alcohol Beverage Federation of Ireland, *Irish Beer Market 2015* (August 2016) <[https://www.ibec.ie/IBEC/Press/PressPublicationsdoclib3.nsf/vPages/Newsroom~irish-brewers-association-release-irish-beer-2015'-report-23-08-2016/\\$file/IBA+Report-2015.pdf](https://www.ibec.ie/IBEC/Press/PressPublicationsdoclib3.nsf/vPages/Newsroom~irish-brewers-association-release-irish-beer-2015'-report-23-08-2016/$file/IBA+Report-2015.pdf)> accessed 26 January 2017

<sup>213</sup> Bord Bia, *Export Performance & Prospects: Irish Food, Drink and Horticulture 2016 – 2017* (January 2017) <<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2017.pdf>> accessed 17 January 2017 p.50

<sup>214</sup> Ibid

<sup>215</sup> Ibid pp.14-15

<sup>216</sup> Annex III of REGULATION (EC) No 110/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 [2008] OJ L 39/16 <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:039:0016:0054:EN:PDF>> accessed 24 January 2017

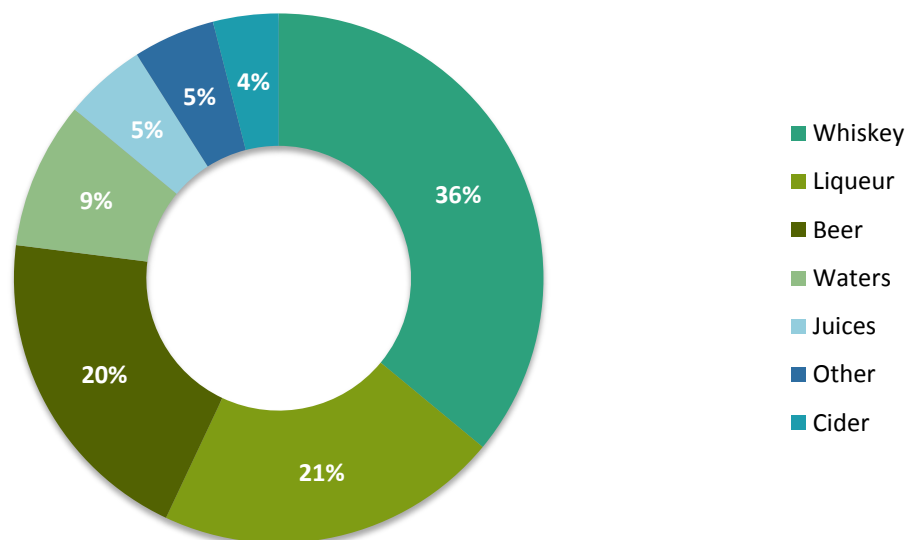
years; there is the potential that Irish grain farmers can benefit from this if Irish alcohol producers increasingly rely on Irish agricultural produce.

**Recommendations:**

The Committee believes that there are opportunities for Irish alcoholic beverage producers to increasingly rely on Irish grain for production purposes. Such an approach would help stabilise the Irish tillage sector which is currently experiencing considerable difficulties.

The Committee recognises the existence of an Irish Whiskey Trail<sup>217</sup> and suggests that this may benefit from further development. It may also be of interest to determine if a network of breweries and distilleries may be formed to create a combined trail. It may be beneficial to consider international experience such as best practice in vineyard tours in France, Spain, and Portugal or the nearer Scottish Gin Trail.<sup>218</sup> While this is primarily a tourism initiative, advertising, and potentially increasing sales of Irish beverages should positively impact upon Irish grain farmers.

Figure 20 Irish Beverage Exports (€1.4 billion total)<sup>219</sup>



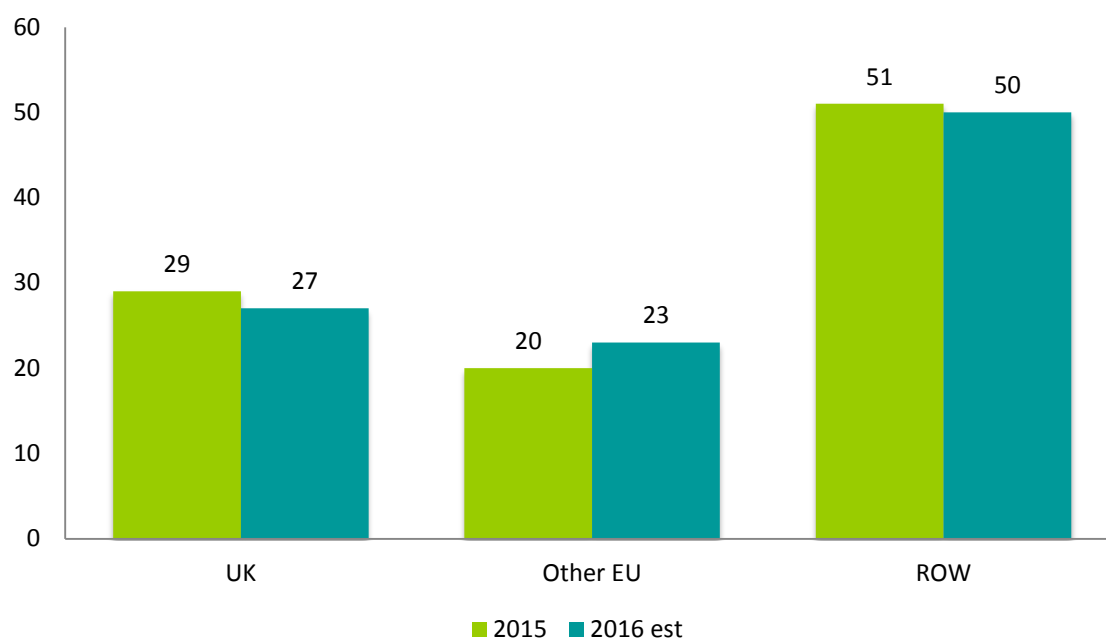
<sup>217</sup> 'The Ireland Whiskey Trail' <<http://www.irelandwhiskeytrail.com/home.php>> accessed 24 January 2017

<sup>218</sup> The Wine and Spirit Trade Association, 'Holiday Gin-Spiration' <<http://www.wsta.co.uk/press/748-scotland-gin-trail>> accessed 26 January 2017

<sup>219</sup> Bord Bia, *Export Performance & Prospects: Irish Food, Drink and Horticulture 2016 – 2017* (January 2017) <<http://www.bordbia.ie/industry/manufacturers/insight/publications/MarketReviews/Documents/Export-Performance-and-Prospects-2017.pdf>> accessed 17 January 2017 p.50



Figure 21 Distribution of Beverage Exports (% of value)<sup>220</sup>



<sup>220</sup> Ibid p.52

## Fisheries

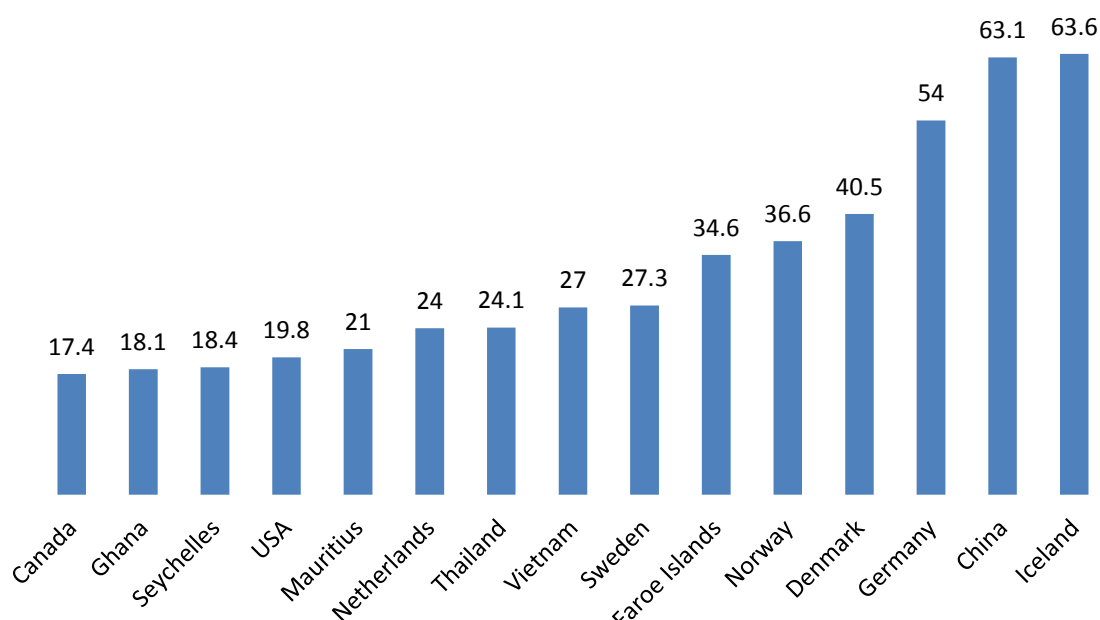
### Introduction

In order to appreciate the implications of Brexit on Irish fisheries it is essential to understand the state of the UK's fisheries sector, and to chart its potential course post-Brexit. Figure 22 demonstrates the key markets from which the UK imports fish. Figure 23 demonstrates the significance of the EU in the UK's fisheries trade. Four of the top 15 countries from which the UK imports fisheries produce are EU MS, and these four account for approximately 30% of all imports from these 15. Ten of the top 15 countries to which the UK exports fisheries produce are EU Member States and these 10 states collectively account for approximately 78% of exports to the 15.

This implies that the UK's best interests are served by maintaining market access to the EU. The price of maintaining single market access has yet to be determined; however, it can be assumed that if the UK takes the step of excluding foreign fleets from its waters that such market access will not be forthcoming. The ability of the UK to actually exclude foreign vessels is nuanced as:

The UK will still be subject to the UN Convention on the Law of the Sea (UNCLOS) which defines the rights and responsibilities of nations with respect to their use of the world's oceans. [...] UK fishermen may think that all fish there could be allocated to them. However, UNCLOS also recognises historical fishing rights of foreign fleets and this, along with the uncertainties in allocating catch shares of stocks, most of which straddle multiple EEZs at different stages in their life cycle, makes significant changes unlikely.<sup>221</sup>

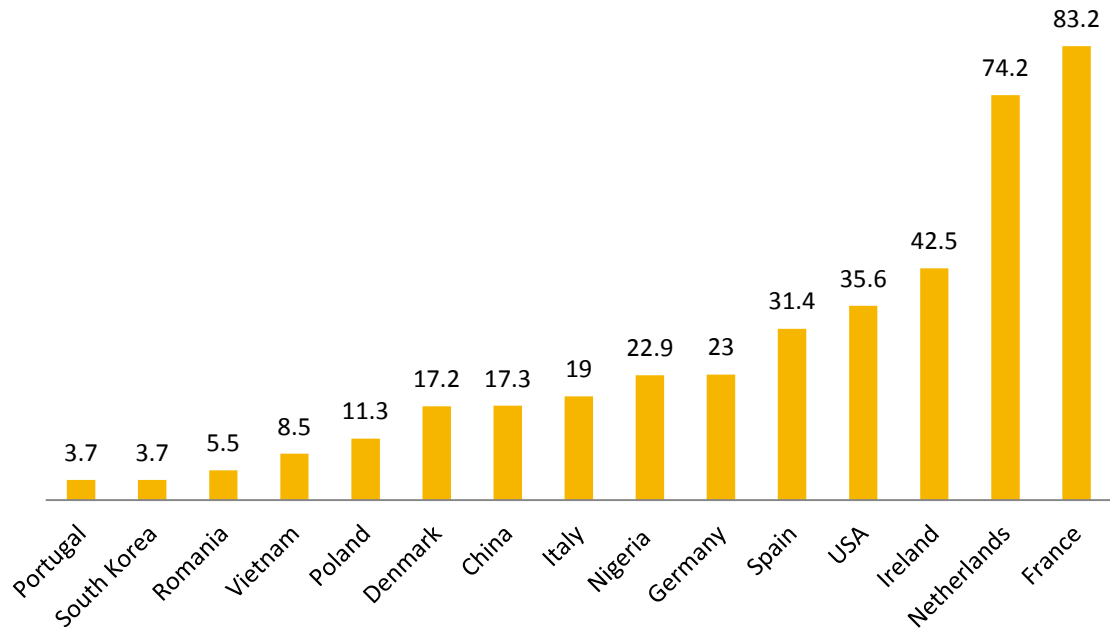
Figure 22 Imports to UK by Exporting Country (000 tonnes)<sup>222</sup>



<sup>221</sup> Nick Clegg, *Paper: Food, Drink and Brexit* (17 October 2016) <<http://www.libdems.org.uk/brexit-challenge-fooddrink-paper>> accessed 29 December 2016

<sup>222</sup> Marine Management Organisation, *UK Sea Fisheries Statistics 2015* (September 2016) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/555665/UK\\_Sea\\_Fisheries\\_Statistics\\_2015\\_full\\_report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/555665/UK_Sea_Fisheries_Statistics_2015_full_report.pdf)> accessed 05 January 2016 p.88

Figure 23 Exports from UK by Importing Country (000 tonnes)<sup>223</sup>



<sup>223</sup> Ibid

## Understanding UK Fisheries

Inshore fisheries are under exclusive national control, 79% of fishing vessels in the UK serve these waters. These waters are found within 12 miles of the coast. Brexit poses a significant challenge to those fishing these waters as a large market for British shellfish exists in continental Europe. It will be important for this industry to retain favourable conditions for access to the EU post-Brexit.<sup>224</sup> The UK's Department for Environment, Food & Rural Affairs (DEFRA) estimated that in 2015 UK vessels landed c.557,000 tonnes of fish caught within the UK's Exclusive Economic Zone (EEZ) worth an estimated £614m in revenue; and that UK vessels landed 144,000 tonnes of fish caught outside the UK's EEZ worth an estimated £155m in revenue.<sup>225</sup> Notably, fisheries are particularly important to Scotland. In 2015 Scottish vessels accounted for 56% of the value and 62% of the total volume of landings by UK vessels.<sup>226</sup>

Some commentators suggest that Brexit as an opportunity to achieve greater Total Allowable Catch (TAC). It was envisaged that UK quotas could be increased at the expense of EU fleets operating in UK waters. However, it must be recognised that:

[T]his could only be achieved by re-opening the deeply embedded principle of Relative Stability and persuading other member states to give up some of their share. This is extremely unlikely to happen, even though the UK could in theory use its right to deny their vessels access to its waters as a bargaining counter.<sup>227</sup>

Fisheries may present greater long term challenges, not just for the UK, but for all states with an interest in fishing. If climate change continues unabated, it may be a case that fish stocks become more mobile, transitioning from established waters to cooler/warmer waters.<sup>228</sup> This presents a long term coordination challenge for EU and non-EU states alike. While this is not discussed in detail in this report, the effects of climate change may prove challenging should any one state or group of states take an isolationist approach to fisheries management. It is as yet unclear to what extent climate change may affect fisheries.<sup>229</sup>

<sup>224</sup> Nick Clegg, *Paper: Food, Drink and Brexit* (17 October 2016) <<http://www.libdems.org.uk/brexit-challenge-fooddrink-paper>> accessed 29 December 2016

<sup>225</sup> DEFRA, 'Written Evidence (FBR0001)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.91

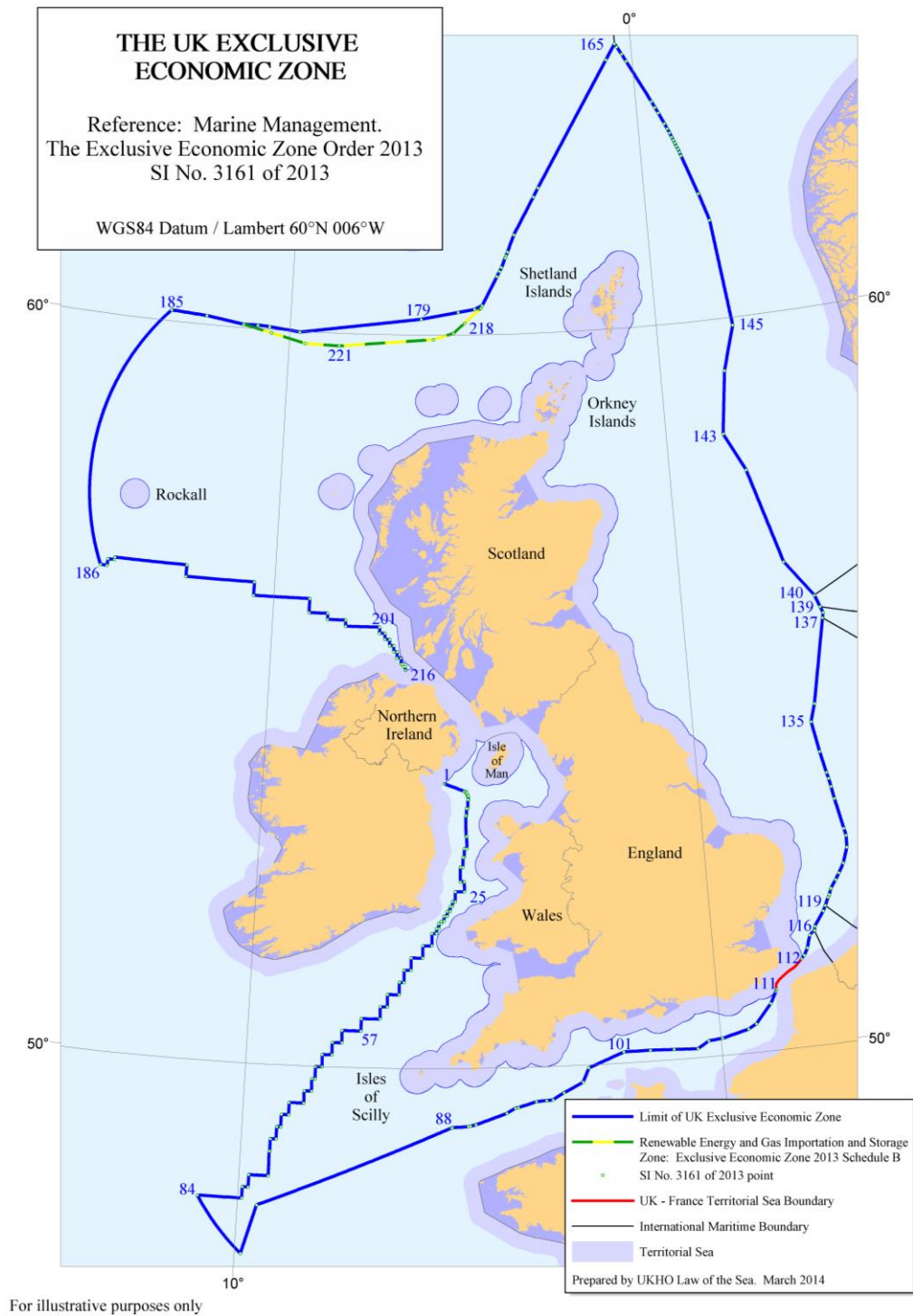
<sup>226</sup> Scottish Government, *Scottish Sea Fisheries Statistics 2015* (September 2016) <<http://www.gov.scot/Resource/0050/00506391.pdf>> accessed 11 January 2017 p.4

<sup>227</sup> Nick Clegg, *Paper: Food, Drink and Brexit* (17 October 2016) <<http://www.libdems.org.uk/brexit-challenge-fooddrink-paper>> accessed 29 December 2016

<sup>228</sup> OECD, *The Economics of Adapting Fisheries to Climate Change* (OECD Publishing, 2010) <[http://www.keepeek.com/Digital-Asset-Management/oecd/agriculture-and-food/the-economics-of-adapting-fisheries-to-climate-change\\_9789264090415-en#page403](http://www.keepeek.com/Digital-Asset-Management/oecd/agriculture-and-food/the-economics-of-adapting-fisheries-to-climate-change_9789264090415-en#page403)> accessed 12 December 2016

<sup>229</sup> Rögnvaldur Hannesson, *Climate change impacts on international fisheries and adaptation strategies* <<https://www.oecd.org/tad/fisheries/45683298.pdf>> accessed 12 December 2016

UK's Exclusive Economic Zone<sup>230</sup>



<sup>230</sup> UK Hydrographic Office, *UK Exclusive Economic Zone* (August 2014)  
<[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/346014/UK\\_Exclusive\\_Economic\\_Zone.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346014/UK_Exclusive_Economic_Zone.pdf)> accessed 18 January 2017

## Options and likely course for the UK

### **Objectives of the UK**

The UK will face a challenging set of negotiations as a result of Brexit; few will prove more difficult than those in relation to fisheries. Dissatisfaction amongst the UK's fishing community is high; Brexit was seen as an opportunity for this sector to chart a new course free of perceived regulatory burdens and the obligation to share access to its EEZ.<sup>231</sup>

The University of Aberdeen conducted a survey of UK fishers on Brexit ahead of the vote. Researchers found that the vast majority wanted out of the EU [...] and that fishers thought Brexit would result in an increase in UK quota but no change in market access.<sup>232</sup>

The UK may not have many allies in fisheries negotiations, while there may be goodwill, some states may have to put more practical considerations first.<sup>233</sup> The UK will have to carefully balance the expectations of its fishing sector, economic reality, and the need for sustainable fisheries into the future. In negotiating for a favourable fisheries outcome in the aftermath of the invocation of Article 50 the UK is likely to have the three following goals:

- i. An agreement for the UK on fisheries should facilitate the sustainable exploitation of this resource. The UK will want to secure the long-term health of the industry rather than unsustainable quotas as:

[T]he over-exploitation of a fishery either involves stealing fish from the adjacent coastal state or the next generation. Co-ordination and a shared approach is the only tenable way to manage the resource to avert a 'tragedy of the commons' or 'race to fish'.<sup>234</sup>

- ii. Any agreement will also need to facilitate the profitable utilisation of this resource. The UK will want the agreement to ensure a positive economic result. There is little point in having larger quotas if profitability is reduced through tariffs and non-tariff barriers. This is recognised by the National Federation of Fisherman's Organisations (NFFO):

<sup>231</sup> Thomas Colson, 'Britain's fishing industry voted overwhelmingly to leave the EU — now it feels 'betrayed' by May's Brexit proposals' (*Business Insider UK*, 8 November 2016) <<http://uk.businessinsider.com/uks-pro-brexit-fishing-industry-feels-betrayed-by-theresa-may-2016-11>> accessed 16 January 2017

<sup>232</sup> New Economics Foundation, 'Written Evidence (FBR0007)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.136

<sup>233</sup> Alex Barker, 'Denmark: UK ally takes hard Brexit line: Copenhagen will put its national interests ahead of old alliances in EU exit talks' *Financial Times* (London, 20 November 2016) <<https://www.ft.com/content/f854b316-ac27-11e6-ba7d-76378e4fef24>> accessed 05 December 2016

<sup>234</sup> Thomas Appleby, 'Written Evidence (FBR0012)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.9

We need access, we want access, to Irish waters, to French waters. [...] That is why the issue of access, the issue of quota shares and the kind of management regime, as well as market access [...] will all be part of the deal that we need to think about.<sup>235</sup>

- iii. Negotiations and subsequent agreement should respect all parties. An agreement which can be perceived as unfair will lead to long-term dissatisfaction. Acrimonious negotiations should be avoided.

There are three potential outcomes of note in any agreement, ranging from least disruptive to most disruptive. They are:

- i. **No Policy Change:** Maintenance of the CFP (either in the short or long-term);
- ii. **Limited Policy Change:** An alternate UK system built in collaboration with the EU and other parties which supports common goals but functions autonomously; or
- iii. **Complete Policy Change:** An isolationist approach whereby the UK effects complete control over its EEZ and co-operates to the bare legal minimum with both the EU and other parties.

The Irish perspective is that an agreement which maintains fisheries in as close as possible to a no policy change scenario is the best possible outcome. This is a general position which appears to have application across a range of sectors. It is important that a close working and trading relationship is maintained with the UK. An agreement which is positive for all parties could allow the UK to:

[M]aximise the long-term environmental, social and economic benefits accruing to UK society as a whole. This means we must not simply look to maximise the landings allocated in the short term to commercial fishing.<sup>236</sup>

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<sup>235</sup> Bertie Armstrong, Marcus Coleman, Hazel Curtis and Barrie Deas, 'Oral Evidence (QQ 12 – 21)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.28

<sup>236</sup> Angling Trust, 'Written Evidence (FBR0013)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.2

**No Policy Change**

No Policy Change represents the least disruptive scenario, and suggests that the Common Fisheries Policy (CFP) remains in effect in the short to medium term even in the event of Brexit. This allows for certainty in the fishing industries of all affected states. Maintenance of the CFP for the short to medium term will allow industry to slowly adjust to changes, and avoid shock scenarios. Taking this measured approach should allow stakeholders to engage in the planning of any deviations from the CFP.

The first priority of the UK government with respect to fisheries and Brexit should be to pass legislation ensuring that the European Union's Common Fisheries Policy continues to remain in effect should the UK exit the EU. This is necessary as new UK fishing legislation will take many years to cover all the areas currently addressed by the CFP. It will also provide some certainty and direction to those within the industry.<sup>237</sup>

It is suggested that this course of action will allow the UK to drive its own fisheries policy in the medium-to-longer term, avoiding a shock to the fisheries sectors in the UK, the EU, and in any other waters fished by the UK. In any case, as is explored in more detail later, a drastic departure from existing policy in a very short timeframe offers little or no benefit to any stakeholder.

**Limited Policy Change**

Limited policy change represents the moderate disruption scenario, and presumes that the UK acts to implement its own fisheries policy in the short-medium term rather than retaining the CFP beyond its exit from the EU. It also assumes that the UK's alternate fisheries policy is negotiated in a constructive manner with EU Member States and other interested third countries.

The structure of any future UK fisheries policy cannot yet be determined and as such presents the least predictable outcome of negotiations in relation to fisheries. In general terms, this outcome suggests that while changes may occur sooner than would be desired by the EU27 and their fishing sectors, those changes would be limited and structured to ensure compatibility with the CFP. There are strong arguments against changes to the UK's fisheries policy, including:

Measured in terms of tonnage, about 80% of our stocks are at maximum sustainable yield, and in all this we do not want to move away from that, as we have a big interest in high-yield fisheries and keeping it like that. We want to simplify the rules but not lose the conservation advantage that we have gained over the years.<sup>238</sup>

<sup>237</sup> New Economics Foundation, 'Written Evidence (FBR0007)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.132

<sup>238</sup> Bertie Armstrong, Marcus Coleman, Hazel Curtis and Barrie Deas, 'Oral Evidence (QQ 12 – 21)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.40



It is important to note that while there may be dissatisfaction with the CFP in the UK, the arguments focus on alternative models to the CFP which still preserve fishing stocks rather than advocating unsustainable quotas. There is a widespread acceptance that sustainability of fisheries is essential, the focus is largely on finding a fisheries management policy to achieve this in place of the CFP. One such alternative model which has been proposed for consideration by the UK is the:

Icelandic/Faroese pyramid model. This shows that rather than treat each stock separately we should see the marine environment as a whole – therefore rather than remove individual blocks destabilising the pyramid(ecosystem) we should aim to take an even slice down the side of the pyramid across all species and sizes.<sup>239</sup>

### **Complete Policy Change**

Complete policy change represents an extremely disruptive scenario, which is at risk of occurring should the UK determine that it wishes to exploit its EEZ exclusively.<sup>240</sup> While there are certain legal limitations on this approach, it is broadly speaking within the powers of the UK to exclude other states fishing vessels from its EEZ:

[I]f in a particular coastal state's EEZ the coastal state is capable of harvesting the entire allowable catch, it is under no obligation to allow any other fishermen from other states to fish there, so it can take the whole of the allowable catch. Where an obligation to admit other fishers comes in [...] is where the coastal state does not take the whole of the allowable catch and there is a surplus. [...] [I]n practice states often admit foreign vessels to their waters because they want to get reciprocal access to the waters of the other state.<sup>241</sup>

Some groups have called for the UK to take this extreme approach and post-Brexit exclude foreign vessels from the UK's EEZ, making claims such as:

- i. This colossal repatriation of our own resources will more than compensate for the comparatively smaller losses; and<sup>242</sup>
- ii. With EU vessels unable to exploit the UK's rich fisheries resources there will be increased demand for the fish the British fleet will be catching in place of the continental fleet taking it for 'free'.<sup>243</sup>

While there may appear to be some initial benefits to such an approach:

<sup>239</sup> Fishing for Leave, 'Written Evidence (FBR0002)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.114

<sup>240</sup> See Figure 25 p.90

<sup>241</sup> Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart, 'Oral Evidence (QQ 1 – 11)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.54

<sup>242</sup> Fishing for Leave, 'Written Evidence (FBR0002)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.111

<sup>243</sup> Ibid p.112

It is not in the UK's interests to pursue a protectionist policy that will reduce the efficiency of the sea fisheries industry in general. The UK should develop a tradeable quota system along Icelandic lines [...]. Foreign vessels should be able to take part in this system by buying quotas from UK vessels. If this were not possible, it is highly likely that complex ownership structures would develop to avoid the restrictions.<sup>244</sup>

Another likely impact of such an isolationist approach would be a breakdown in communication regarding fish stocks with the likely result being that:

[F]ish stocks which are shared-mostly commercial species around the coast of Britain-would simply become overfished, so it would be a rather hollow victory.<sup>245</sup>

This worst-case scenario of the UK attempting to maintain exclusive control of its EEZ would like result in a retaliatory exclusion of the UK from the EEZ's of other states. Additionally, the UK may find it impossible to negotiate quotas which it deems appropriate, potentially leading to violations of maritime law, and consequential degradation of fish stocks. The 2017 Total Allowable Catch (TAC) allows for Irish vessels to claim quotas in waters which strictly fall within the UK's EEZ, exclusion from these waters could be disastrous for the industry.<sup>246</sup> For example, area VII a, located between the UK and Ireland has quotas allocated to Irish vessels, these include for cod, haddock, whiting, common sole, herring, skates & rays, and horse mackerel, these quotas are valued in excess of €4.4 million to the vessels concerned.<sup>247\*</sup> Likewise, the UK catches fish within Ireland's EEZ; Table 9 shows the distribution of the source of UK landings in 2015. This demonstrates the importance of fishing opportunities outside of its own EEZ.

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<sup>244</sup> Institute of Economic Affairs, 'Written Evidence (FBR0014)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.121

<sup>245</sup> Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart, 'Oral Evidence (QQ 1 – 11)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.58

<sup>246</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/12/13-fishing-opportunities-2017-north-east-atlantic/>

<sup>247</sup> Gillian Mills, '2017 quotas broadly welcomed by Ireland's fishing industry' (*Inshore Ireland*, 14 December 2016) <<http://www.inshore-ireland.com/News/fish-quotas-broadly-welcomed-by-ireland-s-fishing-industry.htm>> accessed 16 January 2017

\* The available figures estimate the value of skates & rays, and horse mackerel across a number of areas, as such they are not included in the €4.4 million figure provided.

Table 9 Landings into the UK and abroad by UK vessels by area of capture: 2015<sup>248\*</sup>

	Demersal		Pelagic		Shellfish		Total	
	Quantity ('000t)	Value (£ million)	Quantity ('000t)	Value (£ million)	Quantity ('000t)	Value (£ million)	Quantity ('000t)	Value (£ million)
Barents Sea/Murman Coast (I)	-	-	-	-	-	-	-	-
Norwegian Coast (IIa)	3.4	5.2	7.9	5.0	..	..	<b>11.3</b>	<b>10.2</b>
Bear Island & Spitzbergen (IIb)	5.6	8.0	-	-	-	-	<b>5.6</b>	<b>8.0</b>
Skagerrak and Kattegat (IIIa)	..	..	-	-	-	-	--	--
Northern North Sea (IVa)	75.7	117.7	194.2	103.9	12.8	30.5	<b>282.7</b>	<b>252.2</b>
Central North Sea (IVb)	24.7	33.1	5.2	2.0	20.6	52.7	<b>50.5</b>	<b>87.7</b>
Southern North Sea (IVc)	1.7	5.2	0.7	0.2	15.3	10.8	<b>17.6</b>	<b>16.3</b>
Faroes (Vb)	1.4	2.2	-	-	..	0.1	<b>1.4</b>	<b>2.2</b>
West of Scotland (VIa)	15.3	28.3	112.6	62.0	25.1	67.2	<b>153.0</b>	<b>157.5</b>
Rockall (VIb)	3.8	6.3	0.3	..	0.2	0.6	<b>4.3</b>	<b>7.0</b>
Irish Sea (VIIa)	1.9	1.8	4.9	1.5	33.8	45.0	<b>40.6</b>	<b>48.4</b>
West of Ireland (VIIb)	1.1	2.6	19.0	10.8	0.2	0.3	<b>20.3</b>	<b>13.7</b>
Porcupine Bank (VIIc)	1.9	5.0	10.8	2.8	0.1	0.1	<b>12.8</b>	<b>7.9</b>
English Channel (VIId/e)	14.0	36.9	13.1	4.5	30.2	53.4	<b>57.4</b>	<b>94.8</b>
Little/Great Sole Bank (VIIh/j)	8.2	21.9	11.0	7.4	1.0	1.8	<b>20.2</b>	<b>31.1</b>
West of Great Sole Bank (VIIk)	1.2	3.1	0.1	--	0.1	0.7	<b>1.4</b>	<b>3.8</b>
Rest of ICES area VII (VIIf/g)	3.5	8.5	2.1	1.0	6.2	9.9	<b>11.8</b>	<b>19.4</b>
Bay of Biscay (VIII)	0.3	0.8	7.4	4.1	..	..	<b>7.7</b>	<b>4.9</b>
East Coast of Greenland (XIV)	-	-	-	-	-	-	-	-
North Azores (XII)	-	-	-	-	-	-	-	-
Other Areas (a)	5.2	6.6	0.6	1.2	3.8	2.2	<b>9.5</b>	<b>10.1</b>
<b>Total UK</b>	<b>168.8</b>	<b>293.3</b>	<b>389.8</b>	<b>206.6</b>	<b>149.5</b>	<b>275.2</b>	<b>708.1</b>	<b>775.1</b>

<sup>248</sup> Marine Management Organisation, UK Sea Fisheries Statistics 2015 (September 2016)

<[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/555665/UK\\_Sea\\_Fisheries\\_Statistics\\_2015\\_full\\_report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/555665/UK_Sea_Fisheries_Statistics_2015_full_report.pdf)> accessed 05 January 2016 p.64

\*- means "nil"

.. means "negligible" (less than half the last digit shown)

### **Relationship with the EU and relevant Third Countries**

The UK will need to maintain a close working relationship with the EU and relevant third countries. This necessity is underpinned by two broad requirements. Firstly, the legal necessity exists, even after leaving the EU to coordinate in preserving fish stocks. Article 63.1 UNCLOS states:

[T]here is an obligation on states in whose waters the same stocks occur, what are generally called in shorthand “shared stocks”, to co-operate in the management of them.<sup>249</sup>

Secondly, there are practical reasons for maintaining close links with the EU and the relevant third countries. There is some consensus that the UK’s fisheries cannot be managed in complete isolation.

[T]he UK’s national interest will be best served by having a healthy, collaborative and coordinated relationship with the EU in order to ensure that fish stocks in European waters (not just EU waters) are managed sustainably, restored to maximum productivity and deliver benefits to society.<sup>250</sup>

It is in the best interest of the UK to cooperate with states with which it shares stocks and/or has bordering EEZs. From a stock perspective, some stocks important to UK fishermen either migrate across borders over the course of their life stages or simply roam habitats stretching across more than one nation’s EEZ. Coordinated management of fishing pressure is therefore essential. Regional cooperation is also a prerequisite to achieving healthy oceans overall, as marine space is by definition interconnected. The health of marine ecosystems in and around UK waters will directly impact the state of commercially targeted stocks located therein.<sup>251</sup>

Additionally, the economic benefits of the UK insisting on exclusive use of its EEZ are questionable:

[B]oth the UK and the Netherlands fish in each other’s territorial waters but for different species. From fishing gear to processing plants to national tastes – it would take decades to reverse this process of specialisation and for each nation to start effectively fishing the diversity of species they catch closer to shore. Any economic benefit of such a change is questionable.<sup>252</sup>

<sup>249</sup> Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart, ‘Oral Evidence (QQ 1 – 11)’ in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.47

<sup>250</sup> Angling Trust, ‘Written Evidence (FBR0013)’ in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.7

<sup>251</sup> Institute of European Environmental Policy, ‘Written Evidence (FBR0003)’ in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.125

<sup>252</sup> New Economics Foundation, ‘Written Evidence (FBR0007)’ in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016) <<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.134

### **Irish Interests in Fisheries**

The Irish fisheries sector is not overly dependent on the UK as an export market; however, it was suggested to the Committee that in 2015 that 31.3% of Ireland's total catch volume, and 32.2% of total catch value was caught within the UK EEZ.<sup>253</sup> Table 10 is indicative of the significance of access to the UK's EEZ for the Irish fisheries sector; additionally, the same research paper implies that access to the Irish EEZ is of considerable value to the UK. The estimated value of UK landings in the Irish EEZ in 2014 is €73,672,955.<sup>254</sup> This is suggestive that, unlike agri-food more generally, tariffs and NTBs are not likely to be significantly damaging to the Irish fisheries sector post-Brexit. The risks to the Irish fisheries sector are that:

- i. The UK asserts exclusive control of its EEZ to the exclusion of Irish fishers; or
- ii. The UK manages to exert greater control over quota allocations to the detriment of Irish fishers.

These risks may be less likely to materialise as:

The fact that almost all stocks exploited by the UK are shared with at least one other EU MS weakens the UK's position. Comparisons are made with Norway; however, the geographical isolation of Norway from other EU MS makes it much easier for Norwegian fisheries to be managed in isolation.<sup>255</sup>

Figure 25 illustrates Ireland's EEZ; these areas are currently accessible to the UK fishing fleet. Access to this EEZ is important to the UK's fishing fleet, as is Irish access to the UK's EEZ. It seems unlikely that the UK will approach negotiations in such a manner as to jeopardise access to Irish, and indeed other, EEZs. This has been acknowledged to some degree in a recent report from the UK's Government which states:

Given the heavy reliance on UK waters of the EU fishing industry and the importance of EU waters to the UK, it is in both our interests to reach a mutually beneficial deal that works for the UK and the EU's fishing communities.<sup>256</sup>

<sup>253</sup> Sean O Donoghue, *Presentation to Joint Committee on Agriculture, Food and the Marine on Impact of Brexit on Fisheries On behalf KFO, IFPO & ISEFPO* (2017)

<<http://www.oireachtas.ie/parliament/media/committees/agriculture/KFO,-IFPO--ISEFPO---Opening-Statement-24-01-17.pdf>> p.6

<sup>254</sup> Daniel Norton and Stephen Hynes, 'Assessment of the effects of Brexit on Irish and EU fisheries in the NE Atlantic' (SEMUR Research Note 16-RN-SEMUR-01, June 2016)

<[http://www.nuigalway.ie/semru/documents/semru\\_note\\_assessment\\_of\\_the\\_effects\\_of\\_brexit\\_on\\_ireland\\_and\\_eu\\_fisheries\\_in\\_the\\_ne\\_atlantic.pdf](http://www.nuigalway.ie/semru/documents/semru_note_assessment_of_the_effects_of_brexit_on_ireland_and_eu_fisheries_in_the_ne_atlantic.pdf)> accessed 25 January 2017

<sup>255</sup> Angling Trust, 'Written Evidence (FBR0013)' in EU Energy and Environment Sub-Committee, *Brexit: Fisheries Written and Oral Evidence* (07 November 2016, House of Lords, 2016)

<<http://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/Brexit-fisheries/Fisheries-evidence-volume-Written-Oral.pdf>> accessed 15 December 2016 p.5

<sup>256</sup> HM Government, *The United Kingdom's exit from and new partnership with the European Union* (February 2017)

<[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/589191/The\\_United\\_Kingdoms\\_exit\\_from\\_and\\_partnership\\_with\\_the\\_EU\\_Web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589191/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Web.pdf)> accessed 06 February 2017 p.41

There is concern as to the future of the Hague Preferences (additional amounts of quota that Ireland and UK claim for important whitefish stocks). Many Member States object strenuously to their application as the additional quota comes off their allocations. **Given that the Hague Preferences were granted during the UK's membership of the EU it suggests that the UK will have to fight to maintain its standard quota allowance once it leaves the UK before any increase in quotas can be obtained.** Member States may not be amenable to allowing the ongoing application of the Hague preferences to the UK. This is significant for Ireland as the UK was a regular ally of Ireland in arguing for the implementation of the Hague Preferences. This could reduce Ireland's influence in future negotiations. There is broad consensus that the CFP needs to be reviewed notwithstanding positive developments in recent years. In the context of Brexit and potential difficulties in ongoing use of the Hague preferences:

**Recommendation:**

The Committee recommends that every effort be made to argue for a re-evaluation of Irish fishing quotas, recognising the failings of the current system, and facilitating the long-term elimination of the Hague preferences. The Committee believes that if quotas were allocated fairly that the need for the application of the Hague preferences would be a non-issue, removing a contentious element of annual quota negotiations.

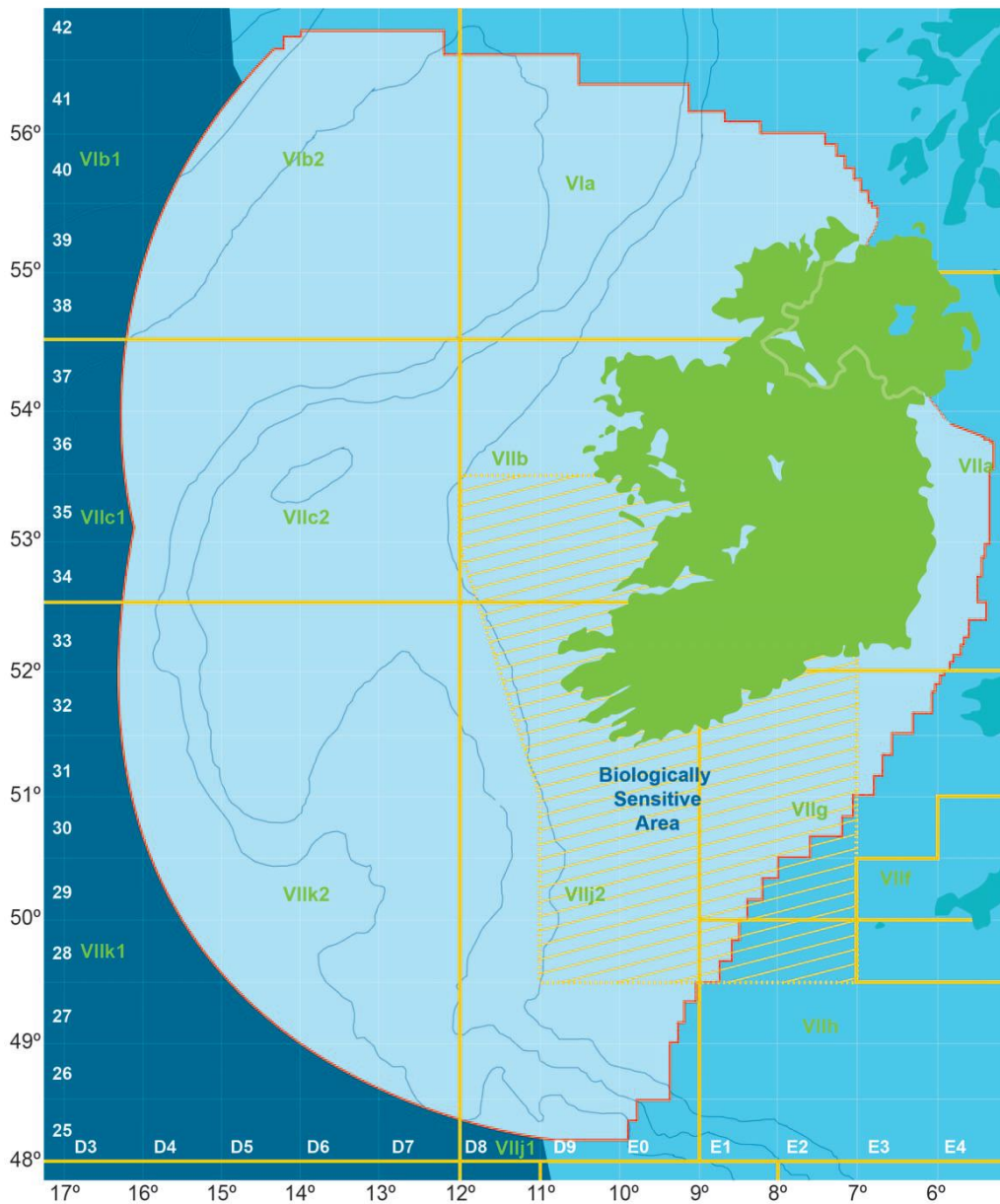
Table 10 Composition of the Irish catch in the UK EEZ<sup>257</sup>

Name	2014				2013				
	FAO Code	Landings (tonnes)	%	Estimated 2014 Prices	Estimated 2014 Value	Landings (tonnes)	%	2013 Prices	Estimated 2013 Value
<b>Mackerel</b>	MAC	66,076	70.8%	€740	€48,896,048	37,320	51.3%	€825	€30,788,802
<b>Boarfish</b>	BOR	8,092	8.7%	€122	€987,224	11,001	15.1%	€136	€1,496,163
<b>Horse Mackerel</b>	JAX	8,075	8.7%	€635	€5,127,625	13,924	19.1%	€617	€8,591,151
<b>Nephrops</b>	NEP	3,449	3.7%	€5,442	€18,768,587	2,869	3.9%	€4,941	€14,175,334
<b>Herring</b>	HER	2,722	2.9%	€301	€819,388	3,221	4.4%	€399	€1,285,207
<b>King Scallop</b>	SCE	1,140	1.2%	€5,900	€6,727,003	982	1.4%	€5,900	€5,767,278
<b>Megrim</b>	LEZ	605	0.6%	€3,011	€1,822,137	543	0.7%	€2,786	€1,513,439
<b>Monkfish</b>	ANF	467	0.5%	€3,255	€1,521,582	445	0.6%	€3,331	€1,481,429
<b>Haddock</b>	HAD	450	0.5%	€1,657	€745,816	377	0.5%	€1,436	€541,803
<b>Whiting</b>	WHG	385	0.4%	€1,138	€438,130	63	0.1%	€1,125	€70,583
<b>Blue Whiting</b>	WHB	330	0.4%	€487	€160,710	671	0.9%	€740	€496,170
<b>Cod</b>	COD	243	0.2%	€2,420	€587,794	188	0.3%	€2,234	€419,903
<b>Whelk</b>	WHE	198	0.2%	€1,200	€237,660	179	0.2%	€1,200	€214,464
<b>Hake</b>	HKE	168	0.2%	€2,419	€405,932	84	0.1%	€1,435	€120,554
<b>Other</b>		920	1.0%			848	1.2%		
<b>Total</b>		<b>93,320</b>			<b>€87,245,636</b>	<b>72,714</b>			<b>€66,991,279</b>

<sup>257</sup> Daniel Norton and Stephen Hynes, 'Assessment of the effects of Brexit on Irish and EU fisheries in the NE Atlantic' (SEMURU Research Note 16-RN-SEMURU-01, June 2016)

<[http://www.nuigalway.ie/semru/documents/semru\\_note\\_assessment\\_of\\_the\\_effects\\_of\\_brexit\\_on\\_ireland\\_and\\_eu\\_fisheries\\_in\\_the\\_ne\\_atlantic.pdf](http://www.nuigalway.ie/semru/documents/semru_note_assessment_of_the_effects_of_brexit_on_ireland_and_eu_fisheries_in_the_ne_atlantic.pdf)> accessed 25 January 2017

Figure 24 Ireland's Exclusive Economic Zone<sup>258</sup>



<sup>258</sup> Sea-Fisheries Protection Authority, *Ireland's Exclusive Economic Zone Map*  
<<http://www.sfpa.ie/Portals/0/Corporate%20Affairs/Maps/Exclusive%20Economic%20Zone%20Map.pdf>>  
accessed 13 January 2017



**Seaweed sector: A Case Study**

The Irish seaweed sector is an example of an Irish sector which is currently underdeveloped and which offers opportunities to help mitigate some of the damage which is seemingly an inevitable result of Brexit. A Committee report of the 31<sup>st</sup> Dáil explored the opportunities available in the seaweed sector.<sup>259</sup> That report (May 2015) deals with the sector in some detail. It is worth noting that while the UK is a large European market for seaweed there are several other substantial markets which Irish producers and suppliers can avail of within the EU.

**Table 11 The European Sea Vegetables Market: Largest Markets for Sea Vegetables, 2013<sup>260</sup>**

Country (tonnes)	Nori	Dulse	Atlantic Wakame	Kombu	Total
France	61	63	14	19	157
UK	85	3	11	8	107
Germany	48	0	5	3	56
Spain	22	2	16	5	45
Others	72	2	18	15	107
<b>Total</b>	<b>288</b>	<b>70</b>	<b>64</b>	<b>50</b>	<b>472</b>

What is clear from Table 11 above is that while the UK is a significant market, there are other substantial European markets which Irish seaweed growers can avail of. In order to avail of these opportunities, the sector needs to undergo development. Such development is contingent on three primary pillars:

- i. Proper regulation and sustainability;
- ii. Development of higher-value end-products; and
- iii. Proper marketing of the product (including by state agencies).

Recommendation 2 of the *Report Of The Committee On Developing The Seaweed Industry In Ireland* states:

At present, Irish seaweed is mostly used in high volume, low value products such as animal feeds, fertilisers and agricultural products. Any strategy to grow the sector into the future must instead co-ordinate the efforts of people involved in the seaweed sector with those of bodies such as Enterprise Ireland to focus instead upon higher value products such as foods, cosmetics and therapies.<sup>261</sup>

<sup>259</sup> Joint Committee On Environment, Culture And The Gaeltacht, *Report Of The Committee On Developing The Seaweed Industry In Ireland* (May 2015) Available At: <http://www.oireachtas.ie/parliament/media/seaweed-report-15.docx> Accessed: 01/12/2016

<sup>260</sup> Bord Iascaigh Mhara, *The European Market for Sea Vegetables* (14 April 2015) <<http://www.bim.ie/media/bim/content/publications/The%20European%20Market%20for%20Sea%20Vegetables%20-%202015.pdf>> accessed 29 December 2016 p.4

<sup>261</sup> Joint Committee On Environment, Culture And The Gaeltacht, *Report Of The Committee On Developing The Seaweed Industry In Ireland* (May 2015) Available At: <http://www.oireachtas.ie/parliament/media/seaweed-report-15.docx> Accessed: 01/12/2016 p.4

The market for sea vegetables is growing by about 7-10 percent per annum, and is projected to continue to grow at this rate in the coming years.<sup>262</sup>

Consumption of sea vegetables is rising as consumers become more aware of their **health and nutritional benefits**. Sea vegetables are important source of protein and vitamins, such as vitamins A, C, E, B1, B2, B6, and B12. Sea vegetables are also rich in iron, magnesium, potassium, boron, silica, selenium and chromium. According to the University of Glasgow, since they are a rich source of iodine, sea vegetables could also provide a solution to iodine deficiency.<sup>263</sup>

There is an **undersupply of European** sea vegetables. Many companies stated they would prefer to source greater volumes from within Europe, but were having to import from Asia, as well as North and South America. Greater European supply could increase retail product ranges, as well as processed food products. European sea vegetable product prices could also decline as processors benefit from the economies of scale.<sup>264</sup>

The European market is suffering from undersupply with production falling short of demand. Imports comprised about 75 percent of total sales volumes in 2013.<sup>265</sup>

**Recommendation:**

The Committee notes that seaweed is an under utilised resource. Seaweed represents an opportunity for diversification of Irish aquaculture output. While not sufficient on its own, promotion of seaweed and other opportunities can help diversify Irish agri-food; developing the long term viability and robustness of the sector.

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<sup>262</sup> Bord Iascaigh Mhara, *The European Market for Sea Vegetables* (14 April 2015)

<<http://www.bim.ie/media/bim/content/publications/The%20European%20Market%20for%20Sea%20Vegetables%20-%202015.pdf>> accessed 29 December 2016 p.3

<sup>263</sup> Ibid p.5

<sup>264</sup> Ibid p.6

<sup>265</sup> Ibid p.28

## EU Issues

### Common Agricultural Policy and the EU Budget

The UK are net contributors to the CAP, without whom, the current level of expenditure is called into question.<sup>266</sup> “There may also be the possibility of a reduced CAP overall without the contribution from the British which will have an impact on Irish and EU farms.”<sup>267</sup> Alternatively, it will be necessary for the remaining Member States to increase their contributions to the EU budget in order to ensure maintenance of existing levels of expenditure under the CAP.

“Filling this gap [UK’s contribution] in the EU budget would require either expenditure reductions or larger contributions by the remaining member states following Brexit.”<sup>268</sup>

While there are opportunities to reform the CAP beyond 2020, there are some challenges in effecting reform. EU Member States, particularly those with large agricultural sectors, will be obliged to divert resources, time, and effort into the process of reforming the CAP, a process which is generally considered difficult under ordinary circumstances, without being complicated further by the potential impact of Brexit. The convergence of CAP reform and Brexit timeframes places CAP reform in a difficult context; with little scope for the CAP to reflect, or indeed, take advantage of the post-Brexit environment.

CAP beyond 2020 will need to be influenced by the impact of Brexit, a near-impossible task given that even if the March 2017 timeframe for invoking Article 50 is met, the real implications of an EU no longer containing the UK will only just be beginning to be felt. There will be a requirement for the CAP beyond 2020 to respond to the agricultural policy avenue pursued by the UK post-Brexit, to take advantage of the post-Brexit economic and agricultural environments.

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<sup>266</sup> PWC, *Brexit: The implications for Irish Business* (July 2016) <<https://www.pwc.ie/media-centre/assets/publications/2016-pwc-ireland-brexit-booklet2.pdf>> accessed 29 December 2016 p.22

<sup>267</sup> Bord Bia, *Brexit: Briefing Document June 2016* (June 2016) <<http://www.bordbia.ie/corporate/press/Documents/2016/BrexitBriefingInformation.pdf>> accessed 29 December 2016 p.1

<sup>268</sup> Alan Matthews, ‘Implications of British exit from the EU for the Irish agri-food sector’ (April 2015) Trinity Economics Papers No. 0215 <<https://www.tcd.ie/Economics/TEP/2015/TEP0215.pdf>> accessed 25 January 2017 p.4

## State Aid

State aid is carefully regulated in order to prevent Member States from conferring benefits on industry and service providers which distorts the internal market which is a cornerstone of EU policy. State aid rules aim to prevent Member States from granting an unfair advantage to an undertaking or undertakings.<sup>269</sup>

State aid can occur whenever State resources are used to provide assistance that gives certain entities, engaged in economic activity, an advantage over others by virtue of benefiting from those State resources. Generally, State aid is prohibited by the EC Treaty. However, State aid may be given legally by using approved EU schemes for State aid or by getting EC approval.<sup>270</sup>

State Aid rules are governed by Article 107 through 109 of the Treaty on the Functioning of the European Union (TFEU). State aid legislation is generally deemed to be difficult to interpret, the result being that there is a perception that state aid rules are excessively onerous even in the face of crises. The EU's powers in relation to state aid are highly controversial as they impact on how Member States "use their budgets to pursue their economic and social policies."<sup>271</sup>

Article 107 of the TFEU is particularly important in considering the potential usage of state aid to mitigate the negative implications of Brexit for Ireland. Article 107.1 TFEU sets out the general provisions on state aid:

Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

Article 107.3(b) TFEU sets out a broad category under which state aid may be facilitated, namely:

[A]id to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

Article 107(3)(b) "concerning serious disturbance to the economy of a Member State will rarely be used, since the economic problem must afflict the whole of the national economy."<sup>272</sup> It could be argued that Brexit represents a serious disturbance in the economy of a Member State.

"State aid which does not target market failures and has no incentive effect is not only a waste of public resources but it acts as a brake to growth by worsening competitive conditions in the internal

<sup>269</sup> Robert Lane, 'Royal prerogative' in Peter Cane and Joanne Conaghan (eds), *The New Oxford Companion to Law* (Oxford University Press 2008) p.1121

<sup>270</sup> 'Regulation' <<http://sbci.gov.ie/products/regulation>> accessed 05 December 2016

<sup>271</sup> Damian Chalmers, Gareth Davies and Giorgio Monti, *European Union Law* (3<sup>rd</sup> Edn, Cambridge University Press, 2014) P.1052

<sup>272</sup> Paul Craig and Gráinne De Búrca, *EU Law: Text, Cases, and Materials* (5<sup>th</sup> edn, Oxford University Press, 2011) p.1096

market.”<sup>273</sup> However, this does not fully recognise specific characteristics of certain industries and regions. There is a public benefit to supporting certain enterprises regardless of their ability to compete effectively, this occurs when there is no substantial viable alternative source of employment, such as is the case in many rural regions. This is recognised in Regulation (EC) No 1857/2006:

This Regulation should exempt aid to small and medium-sized agricultural holdings (farms) regardless of location. Investment and job creation can contribute to the economic development of less favoured regions and areas referred to in Article 36(a)(i), (ii) and (iii) of Regulation (EC) No 1698/2005. Small and medium-sized agricultural holdings (farms) in those areas suffer from both the structural disadvantage of the location and the difficulties deriving from their size. It is therefore appropriate that small and medium-sized enterprises in such areas should benefit from higher ceilings.<sup>274</sup>

**Recommendation:**

The Committee recommends that all Government Departments, State Agencies, and stakeholder organisations examine the role which state aid may play post-Brexit. The Committee recognises that resources are limited and as such deliberations as to state aid programmes should broadly consider:

- i. The value for money of state aid in the given circumstance; and
- ii. The impact of non-intervention in the particular circumstances.

Giving weight to these two considerations should result in state aid programmes being developed which balance the maximum economic benefit and the need to guarantee the survival of certain sectors, particularly those which generate economic activity in disadvantaged regions. State aid should help facilitate these sectors as they transition to the post-Brexit economic environment, rather than act as a long-term subvention to sectors which may no longer be economically viable.

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<sup>273</sup> European Commission, COM(2012)209 final, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions: EU State Aid Modernisation (SAM) 8.5.2012 p.4.

<sup>274</sup> Recital 18 Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

## Conclusion

The Committee, in engaging with stakeholders and undertaking desk research, agrees that Brexit presents many risks to, and limited opportunities for Ireland's agri-food and fisheries sectors. Brexit challenges Ireland to respond to a new set of economic realities; likely reductions in exports to the UK, increased competition with UK exporters in other markets, and the loss of a regular ally in negotiations within the EU. It seems highly likely that:

[A]ny alteration to the status quo will be detrimental to the current trading relationship between the UK and Ireland.<sup>275</sup>

While not addressed directly in this report, as it remains too speculative in nature, the UK has the option of devaluing its currency. Doing so would make its exports more competitive, potentially offsetting some of the negative impacts of tariffs. UK exports would benefit significantly in areas where tariffs would be low or non-existent. Currency devaluation may not be a policy pursued by the UK, particularly given that the strength of its currency has already been impacted in recent months (see Table 8). However, the Government and the Department of Agriculture, Food and the Marine need to be alert to this possibility.

Even with trade tariffs the exchange rate will play a large part in the attractiveness of UK imports. If the continued instability in the currency markets continues then UK imports will be a major threat to Irish domestic sales.<sup>276</sup>

The case studies within this report set out three examples where there have been:

- Negative implications of Brexit (edible horticulture);
- As yet unrealised opportunities (seaweed); and
- Where, despite challenging circumstances, the sector is performing well (alcoholic beverages).

These case studies, from across the agri-food sector, illustrate that Ireland has a robust agri-food sector, albeit one which faces very substantial challenges; these challenges include Brexit, free trade agreements, greenhouse gas emission targets, and market volatility.

This report finds that Irish agri-food will have to look beyond traditional produce and markets. Irish agri-food will need to diversify production to insulate the sector from the negative impacts of Brexit and other economic shocks. The coming years will require considerable adjustment in the Irish agri-food and fisheries sectors, to both mitigate the impacts of Brexit, and to take advantage of opportunities in markets other than the UK.

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<sup>275</sup> Irish Exporters Association, *Impact of the UK Referendum on Membership of the European Union on the Irish Agri-Food & Fisheries Sectors: A written submission to The Joint Committee on Agriculture, Food and the Marine by the Irish Exporters Association* (February 2017)  
<[http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/agriculturefoodandthemarine/presentations/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/agriculturefoodandthemarine/presentations/)> p.3

<sup>276</sup> Ibid p.4

## Opportunities

There are opportunities in Brexit for the Irish agri-food sector. In particular there may be a chance for the establishment of new enterprises in Ireland, such as grain milling. This would allow grain to be milled without the imposition of tariffs on the product when it crosses to-and-from Northern Ireland. This is not without problems; advantages seized from Northern Ireland in the post-Brexit world would damage the economy of our nearest neighbour. In general, given the volume of trade which takes place between the UK and Ireland there is no benefit to either partner from diminished economic output of the other.

Irish consumers may suffer consequences of Brexit; in many ways the impacts felt in the UK are likely to be the same as those felt in Ireland. Tariffs and NTBs work in both directions, as a result of this food and drink products from the UK are almost certain to increase in price in the coming years. An opportunity is presented by these circumstances; UK agri-food companies which are already established in Ireland may increase Irish production to avail of the single-market or simply to avoid tariffs and NTBs thereby increasing employment and potentially helping to boost Irish agri-food exports. Alternatively, some UK producers may decide to establish themselves in Ireland if their market share and the potential costs of Brexit make such investment worthwhile. 43% of the UK's food and drink exports to Ireland in 2015 were comprised of prepared consumer foods.<sup>277</sup> For the companies involved in this trade, if the impacts of tariffs and NTBs are significant enough, there may be justification for some level of production being located in Ireland. While it is impossible to forecast the end-result, this potential should be kept under review.

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<sup>277</sup> Bord Bia, *Brexit: Briefing Document June 2016* (June 2016)  
<<http://www.bordbia.ie/corporate/press/Documents/2016/BrexitBriefingInformation.pdf>> accessed 29 December 2016 p.4

## Risks

A significant risk to Ireland is posed by a drawn-out and contentious negotiation of terms for the UK's withdrawal from the EU and the relationship to be established thereafter. There are a number of factors which could result in this outcome. These include:

- i. The inability of the UK to reconcile that “the more comprehensive the trade relationship, the greater the curtailment of national sovereignty”<sup>278</sup>;
- ii. The risk of the EU, as a bloc, attempting to discourage other Member States from considering leaving by demanding harsh terms from the UK; and
- iii. Delays to the process as a result of technical issues and/or issues specific to a limited number of Member States i.e. the land border with Northern Ireland, and agreement of fishing quotas and access to the UK's EEZ.

The risks to the Irish agri-food and fisheries sectors are set out in detail in this report but include *inter alia* our ability to competitively and profitably trade with the UK as currency movements impact upon specific sectors. It can be assumed that until such point as there is an EU27-UK FTA sterling is likely to fluctuate.

The cost of imported UK goods into Ireland reduces as Sterling becomes weaker. Retailers will feel pressure to pass the lower cost benefit through to the end consumer. Irish brands may suffer due to more competitive UK competitors. Irish exports are now more expensive for UK importers.<sup>279</sup>

The Irish agri-food sector is also threatened by Brexit insofar as it creates tariff and NTBs between the UK and the EU27. While such barriers directly impact on trade by making imports and exports more costly; they also impact on sectors which have established close links cross-border.

A number of Irish food and drink companies have processing facilities in Northern Ireland and parts of Britain. Particularly in relation to Northern Ireland there tends to be close synergies between operations in ROI on a day to day basis in terms of further processing, final packaging etc. Any restrictions on access or new border controls could significantly impact on the potential for such synergies to remain in place.<sup>280</sup>

It must be recognised that Brexit poses risks to employment, particularly in rural Ireland. Loss of employment is particularly damaging in areas where little alternative employment is available.

There is surely a role here for the European Globalisation Adjustment Fund, which has been successful to some degree in respect of transitions in the past. [...] [T]here is no automatic

<sup>278</sup> European Union Committee, *Brexit: the options for trade* (House of Lords, 13 December 2016) <<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldeucom/72/72.pdf>> accessed 29 December 2016 p.3

<sup>279</sup> PWC, *Brexit: The implications for Irish Business* (July 2016) <<https://www.pwc.ie/media-centre/assets/publications/2016-pwc-ireland-brexit-booklet2.pdf>> accessed 29 December 2016 p. 22

<sup>280</sup> Bord Bia, *Brexit: Briefing Document June 2016* (June 2016) <<http://www.bordbia.ie/corporate/press/Documents/2016/BrexitBriefingInformation.pdf>> accessed 29 December 2016 p.8



mechanism by which workers in the mushroom industry [...] can be transferred painlessly and seamlessly to the IFSC in Dublin.<sup>281</sup>

**Recommendation:**

The Committee believes that Ireland should carefully balance support of the UK while also maintaining close co-operation with fellow members of the European Union. The Committee notes that “It will be a question of being flexible and choosing the issues where most influence can be exercised”.<sup>282</sup>

The Committee believes that Ireland should diversify its economic output. It is essential to have a diverse base to resist future shocks. A focus on the most profitable sectors may prove short-sighted, and leave Ireland exposed in the longer-term.

The Committee recognises the importance of agri-food and fisheries to rural economies. As such, every effort must be made to preserve existing employment, or alternatively, to develop new employment opportunities in these communities. The Committee is of the view that funding to support business models which are no longer viable is not an efficient use of state aid and therefore suggests that analysis be undertaken to determine which areas of agri-food are most at risk of employment loss. This would underpin a strategy to:

- Diversify production; and
- Retain employment in vulnerable rural areas.

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<sup>281</sup> Tom Healy, Joint Committee on Jobs, Enterprise and Innovation (25 October 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016102500001?opendocument>>

<sup>282</sup> Dan O’Brien, Joint Committee on Jobs, Enterprise and Innovation (25 October 2016)

<<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/JEJ2016102500001?opendocument>>

### What should we be prepared for?

A recent High-Court challenge, upheld by the Supreme Court may delay Brexit proceedings.<sup>283</sup> However this judgment merely halts Prime Minister May from invoking Article 50 using the Royal prerogative. Instead Government (the Crown) can only proceed with Brexit with parliamentary consent, and this is likely to be forthcoming.

In a mark of just how far British politics has shifted since June's referendum, many MPs who initially backed remaining in the EU now consider it politically toxic to be seen to be blocking Brexit.<sup>284</sup>

Of the 650 MPs, 479 are reckoned to have backed 'Remain' (including over half of Conservative MPs) [...] However, if the Government were to opt for a 'hard Brexit', Conservative MPs at least would be under pressure to agree; and all MPs are sensitive to opinion in their constituencies and among their party's electorates.<sup>285</sup>

Brexit identifies risks and opportunities; Ireland has an opportunity to learn from the experience. Plans which have been developed to diversify trade and source alternative trading partners must be continued to help develop a more robust economy which is better able to cope with shocks in future. Irish and UK business interests are aligned insofar as:

[I]t's not about a 'hard' or 'soft' Brexit, but a 'smooth' Brexit, which avoids these cliff edge problems.<sup>286</sup>

It is the view of the Committee that the first steps have been taken, namely:

- Identification of high risk areas;
- Regularly consulting with experts and think-tanks ensuring up-to-date contextual information to underpin all planning;
- Identification of international partners with shared strategic interests; and
- Development of plans to mitigate, where possible, foreseen impacts of Brexit.

In preparing for, and anticipating the implications of Brexit, we may be in a better position to limit the market uncertainty that will inevitably result from invocation of Article 50.

Irish business must be prepared for potential changes in their international markets as "Brexit is likely to rebalance Ireland's trade relationships away from the UK and towards the remainder of the EU".<sup>287</sup>

<sup>283</sup> *R (Miller and Another) v Secretary of State for Exiting the European Union* [2017] UKSC 5, [2017] 1 All ER 158

<sup>284</sup> Tom McTague, 'How the House of Commons will fight Brexit: Theresa May's Brexit headaches are only just beginning' *Politico* (17 November 2016) <<http://www.politico.eu/article/how-the-house-of-commons-will-fight-brexit-theresa-may/>> accessed 05 December 2016

<sup>285</sup> Anand Menon and Brigid Fowler, 'Hard or Soft? The Politics of Brexit' (2016) 238 *National Institute Economic Review* 9 <<http://journals.sagepub.com/doi/abs/10.1177/002795011623800110>> accessed 23 January 2017

<sup>286</sup> Jim Pickard and George Parker, Theresa May seeks to allay business Brexit fears: Aides say PM is not hinting at transitional deal to smooth exit, *Financial Times* (London, 21 November 2016) <<https://www.ft.com/content/5922b3ba-afce-11e6-a37c-f4a01f1b0fa1>> accessed 05 December 2016

## Appendices

### Appendix 1: Results of the Referendum on Membership of the European Union<sup>288</sup>

Table 12 Voter Turnout Analysis

	Turnout (% of electorate)	Outcome	Outcome as reflected as a % of votes
<b>England</b>	73%	Leave	(53.38%)
<b>Northern Ireland</b>	62.7%	Remain	(55.78%)
<b>Scotland</b>	67.2%	Remain	(62%)
<b>Wales</b>	71.7%	Leave	(53.53%)
<b>Total</b>	72.2%	Leave	(51.9%)

Figure 25 Referendum Result

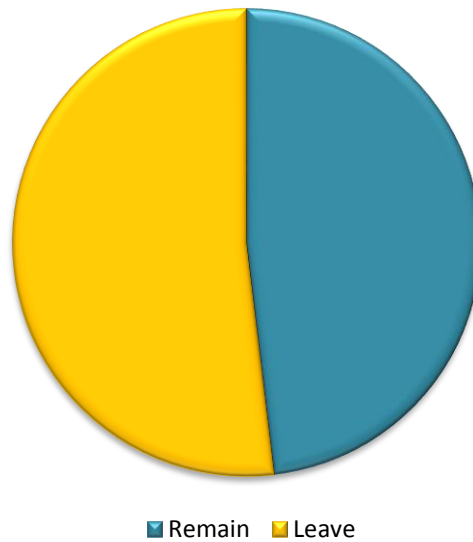


Table 13 Referendum Result in detail

Remain:	16,141,241 (48.1%)
Leave:	17,410,742 (51.9%)
Total Electorate:	46,500,001
Turnout:	72.2%

<sup>287</sup> Sylvia de Mars, C.R.G. Murray, Aoife O'Donoghue, and Ben T.C. Warwick, 'Policy Paper: Brexit, Northern Ireland and Ireland' [2016] Constitutional Conundrums <<http://dro.dur.ac.uk/20190/1/20190.pdf?DDC71+DDD19+DDC108+dla0ao+dul4eg>> accessed 29 December 2016

<sup>288</sup> The Electoral Commission, *EU referendum results* (2016) <<http://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information>> accessed 29 December 2016

Figure 26 Referendum Result - Northern Ireland

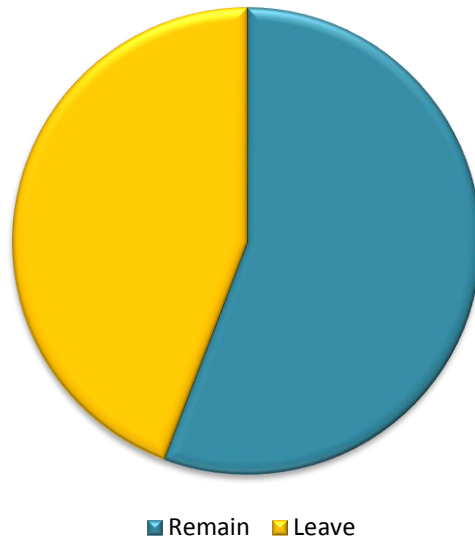


Table 14 Referendum Result in detail - Northern Ireland

Remain:	440,707 (55.78%)
Leave:	349,442 (44.22%)
Electorate:	1,260,955
Turnout:	62.7%

Figure 27 Referendum Result - Scotland

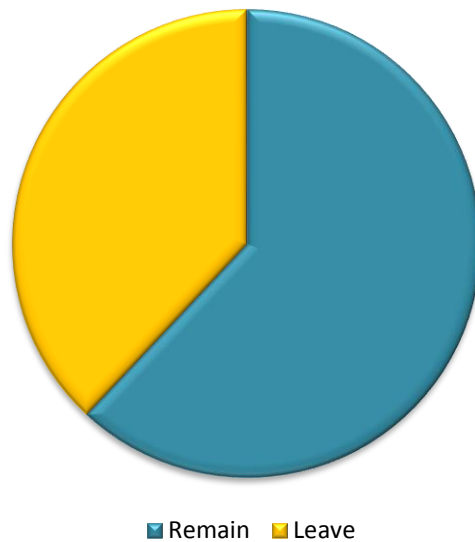


Table 15 Referendum Result in detail - Scotland

Remain:	1,661,191 (62%)
Leave:	1,018,322 (38%)
Electorate:	3,987,112
Turnout	67.2%

Figure 28 Referendum Result - Wales

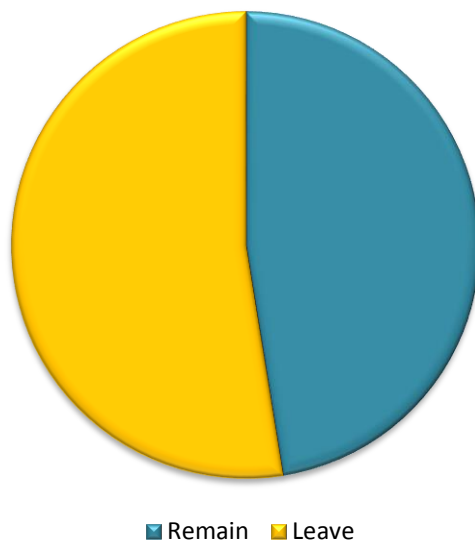


Table 16 Referendum Result in detail - Wales

Remain:	772,347 (47.47%)
Leave:	854,572 (53.53%)
Electorate:	2,270,272
Turnout:	71.7%

## Appendix 2: Harmonised System Codes

Harmonised System Codes are a method of classifying products for the purposes of determining applicable tariffs.

Trade data can be examined at different levels of disaggregation, according to an international tariff nomenclature known as the Harmonized Commodity Description and Coding System, commonly referred to as the HS system. Trade is divided in high level categories known as sections. Each section has a number of chapters which are referred to by a 2 digit code that can in turn be disaggregated into higher levels of detail at HS4.<sup>289</sup>

### HS Chapters:<sup>290</sup>

- **01-05** Animal & Animal Products
- **06-15** Vegetable Products
- **16-24** Foodstuffs
- **25-27** Mineral Products
- **28-38** Chemicals & Allied Industries
- **39-40** Plastics / Rubbers
- **41-43** Raw Hides, Skins, Leather, & Furs
- **44-49** Wood & Wood Products
- **50-63** Textiles
- **64-67** Footwear / Headgear
- **68-71** Stone / Glass
- **72-83** Metals
- **84-85** Machinery / Electrical
- **86-89** Transportation
- **90-97** Miscellaneous

The Harmonised System is described in greater detail in the link provided [here](#).

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<sup>289</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p. 8

<sup>290</sup> <<http://unstats.un.org/unsd/tradekb/Knowledgebase/50043/HS-Classification-by-Section>> accessed: 21 November 2016

### Appendix 3: Timeframe and Legal Challenges: Detailed Commentary

The recent decision in *R (Miller) v Secretary of State for Exiting the European Union* casts doubt on the timeframe within which the UK can leave the EU.<sup>291</sup> This case determined that the Royal prerogative could not be used to invoke Article 50, in effect finding that invocation of Article 50 would impact on domestic UK law and thereby required Parliamentary approval. This decision, upheld on appeal to the Supreme Court, will force the UK's Government to invoke Article 50 through an act of parliament:

[T]he fact that Parliament's approval is required to give even an ancillary treaty made by exercise of the Crown's prerogative effect in domestic law is strongly indicative of a converse intention that the Crown should not be able, by exercise of its prerogative powers, to make far more profound changes in domestic law by unmaking all the EU rights set out in or arising by virtue of the principal EU Treaties.<sup>292</sup>

Lady Hale, Deputy President of the Supreme Court in the UK attracted criticism for remarks made while explaining the facts and arguments of the Miller case to lawyers and law students in Malaysia.<sup>293</sup> Lady Hale discussed the legal question as to what the government would be required to do to invoke Article 50 if the royal prerogative could not be relied upon.

Another question is whether it would be enough for a simple act of parliament to authorise the government to give notice, or whether it would have to be a comprehensive replacement of the 1972 act.<sup>294</sup>

The decision of the Supreme Court is not only significant in the development of Constitutional Law in the UK but also indicative of the course that must be taken by the UK's Government in the coming weeks; answering the question put forth by Lady Hale. The following paragraphs of the majority decision dictate the path to be taken by the UK's Government in lieu of usage of the Royal Prerogative.<sup>295</sup>

Where, as in this case, implementation of a referendum result requires a change in the law of the land, and statute has not provided for that change, the change in the law must be made in the only way in which the UK constitution permits, namely through Parliamentary legislation.

What form such legislation should take is entirely a matter for Parliament. [...] [I]t is right to add that the fact that Parliament may decide to content itself with a very brief statute is nothing to the point. There is no equivalence between the constitutional importance of a statute, or any

<sup>291</sup> *R (Miller) v Secretary of State for Exiting the European Union* [2016] EWHC 2768 (Admin)

<sup>292</sup> *Ibid* [93.(8)]

<sup>293</sup> John van der Luit-Drummond, 'Exclusive: Lady Hale will 'absolutely not' recuse herself from article 50 appeal: Supreme Court judge says she has 'exhibited no bias' and those suggesting otherwise are mistaken' (Solicitors Journal, 16 November 2016) <<https://www.solicitorsjournal.com/news/201611/exclusive-lady-hale-will-%E2%80%98absolutely-not%E2%80%99-recuse-herself-article-50-appeal>> accessed 04 January 2017

<sup>294</sup> Anushka Asthana and Rowena Mason, 'Supreme court judge hints at legal hitch that could seriously delay Brexit' *The Guardian* (London, 16 November 2016) <<https://www.theguardian.com/politics/2016/nov/15/supreme-court-judges-views-on-article-50-legislation-anger-leave-campaigners>> accessed 04 January 2017

<sup>295</sup> *R (Miller and Another) v Secretary of State for Exiting the European Union* [2017] UKSC 5, [2017] 1 All ER 158 [121]-[122]

other document, and its length or complexity. A notice under article 50(2) could no doubt be very short indeed, but that would not undermine its momentous significance.

The Supreme Court offered clarity as to how article 50 may be invoked in compliance with the UK's constitution. In clarifying that the legislation required to invoke article 50 may be brief the ability of advocates of remaining in the EU or of a soft-Brexit to propose large volumes of amendments to the bill is undermined.<sup>296</sup> This decision has been acted upon swiftly by the UK's Government who introduced the European Union (Notification of Withdrawal) Bill 2017; a bill of undeniable brevity.<sup>297</sup>

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<sup>296</sup> Tom McTague, 'How the House of Commons will fight Brexit: Theresa May's Brexit headaches are only just beginning' *Politico* (17 November 2016) <<http://www.politico.eu/article/how-the-house-of-commons-will-fight-brexit-theresa-may/>> accessed 05 December 2016

<sup>297</sup> European Union (Notification of Withdrawal) Bill 2017  
<[http://www.publications.parliament.uk/pa/bills/cbill/2016-2017/0132/cbill\\_2016-20170132\\_en\\_1.htm](http://www.publications.parliament.uk/pa/bills/cbill/2016-2017/0132/cbill_2016-20170132_en_1.htm)>



#### Appendix 4: *Re McCord's Application*

In *Re McCord's Application*<sup>298</sup> the Court rejected the case of the applicants for judicial review of not just the intention to leave the EU, but also, the use of the Royal Prerogative to invoke Article 50. Interestingly, the Court reached a different conclusion to that of the High Court in *Miller*.

In the present case, it seems to the court that there is a distinction to be drawn between what occurs upon the triggering of Article 50(2) and what may occur thereafter. As the Attorney General for Northern Ireland put it, the actual notification does not in itself alter the law of the United Kingdom. Rather, it is the beginning of a process which ultimately will probably lead to changes in United Kingdom law. On the day after the notice has been given, the law will in fact be the same as it was the day before it was given. The rights of individual citizens will not have changed – though it is, of course, true that in the course the body of EU law as it applies in the United Kingdom will, very likely, become the subject of change. But at the point when this occurs the process necessarily will be one controlled by parliamentary legislation, as this is the mechanism for changing the law in the United Kingdom.

It is suggested that this interpretation of the facts of the case are somewhat flawed, and further, the interpretation of the court in *Miller* is in fact correct. Given that the court had already stated that notice is irrevocable, notification under Article 50(2) leads almost inevitably to a change in the rights of UK citizens. Such a modification of their rights would thus arise as a result of the notification under Article 50(2), not as a result of changes in domestic legislation.

Subsequent to the decision of the Court in *Re McCord's Application*, the UK's Supreme Court ruled on the appeal of *R (Miller) v Secretary of State for Exiting the European Union*. The Supreme Court found that:<sup>299</sup>

[W]ithdrawal is fundamentally different from variations in the content of EU law arising from further EU Treaties or legislation. A complete withdrawal represents a change which is different not just in degree but in kind from the abrogation of particular rights, duties or rules derived from EU law. It will constitute as significant a constitutional change as that which occurred when EU law was first incorporated in domestic law by the 1972 Act. And, if Notice is given, this change will occur irrespective of whether Parliament repeals the 1972 Act. It would be inconsistent with long-standing and fundamental principle for such a far-reaching change to the UK constitutional arrangements to be brought about by ministerial decision or ministerial action alone. All the more so when the source in question was brought into existence by Parliament through primary legislation, which gave that source an overriding supremacy in the hierarchy or domestic law sources.

<sup>298</sup> *Re McCord's Application* [2016] NIQB 85

<sup>299</sup> *R (Miller and Another) v Secretary of State for Exiting the European Union* [2017] UKSC 5, [2017] 1 All ER 158 [81]

## Appendix 5: Legal Issues in Fisheries

The United Nations Convention on Law of the Sea (UNCLOS) contains a number of relevant articles which will prove critical in determining what the UK can, and indeed, cannot do post-Brexit.<sup>300</sup>

### Article 62.3:

3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 69 and 70, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

### Article 63.1:

Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

### Article 63.2:

Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

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<sup>300</sup> United Nations Convention on the Law of the Sea

<[http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf)> accessed 20 January 2017

**Appendix 6: Terms of Reference****a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]**

- (1) The Select Committee shall consider and report to the Dáil on—
  - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
  - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
  - (a) Bills,
  - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
  - (c) Estimates for Public Services, and
  - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
  - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and
  - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
  - (a) matters of policy and governance for which the Minister is officially responsible,
  - (b) public affairs administered by the Department,
  - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
  - (d) Government policy and governance in respect of bodies under the aegis of the Department,
  - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
  - (f) the general scheme or draft heads of any Bill,
  - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
  - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,

- (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
  - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
  - (k) such other matters as may be referred to it by the Dáil from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
  - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
  - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
  - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) Where a Select Committee appointed pursuant to this Standing Order has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.
- (7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
  - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
  - (c) at the invitation of the Committee, other Members of the European Parliament.
- (8) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—
- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
  - (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select.

**b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 84; SSO 70]**

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders; and
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993; and
- (4) any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Orders [DSO 111A and SSO 104A].
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
  - (a) a member of the Government or a Minister of State, or
  - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.
- (6) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

## Appendix 7: Committee Membership

Chairperson: Pat Deering (FG) (Chairman)

Deputies: Jackie Cahill (FF)  
Michael D’Arcy (FG)  
Martin Kenny (SF)  
Charlie McConalogue (FF)  
Willie Penrose (Lab)  
Thomas Pringle (I4C)

Senators: Paul Daly (FF)  
Tim Lombard (FG)  
Pádraig Mac Lochlainn (SF)  
Michelle Mulherin (FG)

## Appendix 8: Glossary of Terms

- **Acquis:** The EU's 'acquis' is the body of common rights and obligations that are binding on all EU countries, as EU Members. It is constantly evolving and comprises:
  - the content, principles and political objectives of the Treaties of the European Union;
  - legislation adopted in application of the Treaties and the case law of the Court of Justice of the EU;
  - declarations and resolutions adopted by the EU;
  - measures relating to the Common Foreign and Security Policy;
  - measures relating to justice and home affairs;
  - international agreements concluded by the EU and those concluded by the EU countries between themselves in the field of the EU's activities.

Applicant countries are required to accept the acquis before they can join the EU. Derogations from the acquis are granted only in exceptional circumstances and are limited in scope. The acquis must be incorporated by applicant countries into their national legal order by the date of their accession to the EU and they are obliged to apply it from that date.
- **Ad valorem tax:** [A]ny tax imposed on the basis of the monetary value of the taxed item. Literally the term means “according to value.” Traditionally, most customs and excises had “specific” rates; the tax base was defined in terms of physical units such as gallons, pounds, or individual items.<sup>301</sup>
- **Agri-food:** This term describes broadly the food and drink sector, the sub-sectors of which include: dairy products and ingredients, prepared consumer foods, beef, live animals, beverages, pigmeat, poultry, sheepmeat, seafood, and edible horticulture and cereals.
- **Article 50:** Refers to Article 50 of the Treaty on European Union.<sup>302</sup> The text of this Article can be found on page 12 of this report.
- **Brexit:** is the common term used to describe the exit of the United Kingdom from the European Union. It describes the decision, by Referendum, of the United Kingdom of Great Britain and Northern Ireland to exit the European Union. Brexit is broadly described under two scenarios:
  - Soft Brexit represents “continued membership in the European Economic Area, a status similar to that of Norway or Iceland, including membership in the single market, free movement of labour, and acceptance of most EU regulation.”<sup>303</sup>
  - Hard Brexit represents “either no free trade agreement (FTA) with the EU at all or a looser FTA which would not involve free movement of labour or the acceptance of EU regulation. In both cases, the UK would be outside the EU’s customs union, and would have the ability to negotiate free trade agreements with third countries.”<sup>304</sup>
- **Combined Nomenclature and Taric:** The regulation [Council Regulation (EEC) No 2658/87 of 23 July 1987] establishes a goods nomenclature referred to as the Combined Nomenclature

<sup>301</sup> ‘Ad Valorem Tax’ (July 1998) <<https://www.britannica.com/topic/ad-valorem-tax>> accessed 20 January 2017

<sup>302</sup> Article 50, Consolidated Version of the Treaty on European Union [2016]OJ C 202.

<sup>303</sup> Monique Ebell, ‘Assessing the Impact of Trade Agreements on Trade’ (2016) 238 National Institute Economic Review 31 <<http://journals.sagepub.com/doi/full/10.1177/002795011623800113>> accessed 23 January 2017

<sup>304</sup> Ibid.

(CN) to satisfy Common Customs Tariff and EU external trade requirements. It is based on the harmonised system nomenclature and supplements it with its own subdivisions referred to as CN subheadings. [...] Annex I to the regulation fixes the conventional rates of duty, some autonomous Common Customs Tariff rates when they are less than the conventional ones, and the statistical supplementary units. The Commission establishes the Integrated Tariff of the European Union (Taric) based on the Combined Nomenclature. It comprises additional EU subdivisions, referred to as Taric subheadings used to describe goods according to the implemented legislation and where specific customs duty rates depending on the origin of the goods or many other trade policy measures will apply. Each CN subheading has an eight digit code number. The first six digits refer to the harmonised system headings and subheadings. The seventh and eighth digits represent the CN subheadings. The ninth and tenth digits represent Taric subheadings.<sup>305</sup>

- **Common Agricultural Policy (CAP):** The common agricultural policy (CAP) is aimed at helping European farmers meet the need to feed more than 500 million Europeans. Its main objectives are to provide a stable, sustainably produced supply of safe food at affordable prices for consumers, while also ensuring a decent standard of living for 22 million farmers and agricultural workers.<sup>306</sup>
- **European Globalisation Adjustment Fund (EGAF/EGF):** The European Globalisation Adjustment Fund provides support to people losing their jobs as a result of major structural changes in world trade patterns due to globalisation, e.g. when a large company shuts down or production is moved outside the EU, or as a result of the global economic and financial crisis.<sup>307</sup>
- **European Community (EC) (1992 – 2007):** By the Maastricht Treaty (formally known as the Treaty on European Union; 1991), which went into force on November 1, 1993, the European Economic Community was renamed the European Community and was embedded into the EU.<sup>308</sup>
- **European Economic Area (EEA):** The EEA Agreement provides for the inclusion of EU legislation covering the four freedoms — the free movement of goods, services, persons and capital — throughout the 31 EEA States. In addition, the Agreement covers cooperation in other important areas such as research and development, education, social policy, the environment, consumer protection, tourism and culture, collectively known as “flanking and horizontal” policies. The Agreement guarantees equal rights and obligations within the Internal Market for citizens and economic operators in the EEA.<sup>309</sup>

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<sup>305</sup> ‘Combined Nomenclature, Common Customs Tariff and Integrated Tariff of the European Union (Taric)’ (09 February 2014) <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A11003>> accessed 29 December 2016

<sup>306</sup> ‘CAP at a glance’ (20 January 2017) <[http://ec.europa.eu/agriculture/cap-overview\\_en](http://ec.europa.eu/agriculture/cap-overview_en)> accessed 20 January 2017

<sup>307</sup> ‘European Globalisation Adjustment Fund (EGF)’ <<http://ec.europa.eu/social/main.jsp?catId=326>> accessed 20 January 2017

<sup>308</sup> ‘European Community (EC)’ (26 August 2010) <<https://www.britannica.com/topic/European-Community-European-economic-association>> accessed 20 January 2017

<sup>309</sup> ‘EEA Agreement’ <<http://www.efta.int/eea/eea-agreement>> accessed 20 January 2017



- **European Economic Community (EEC) (1957 – 1992):** In 1957, the Treaty of Rome created the European Economic Community (EEC), or 'Common Market'. This later became the European Community in 1992.<sup>310</sup>
- **European Union (EU) (1993 – present):** [T]he EEC Member States [...] negotiate[ed] a new treaty, which was adopted by the European Council (the meeting of presidents and/or prime ministers) at Maastricht in December 1991. By adding intergovernmental cooperation (in areas such as foreign policy and internal security) to the existing Community system, the Maastricht Treaty created the European Union (EU). It came into force on 1 November 1993.<sup>311</sup>
- **EU27:** The full membership of the European Union minus the United Kingdom.
- **European Union (EU):** The European Union was established by the Treaty on European Union, known as the "Maastricht Treaty" (1992). The Maastricht Treaty brought the three Communities (Euratom, ECSC, EEC) and institutionalised cooperation in the fields of foreign policy, defence, police and justice together under one umbrella, the European Union. The EEC was renamed, becoming the EC.<sup>312</sup>
- **Exclusive Economic Zone (EEZ):** The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.<sup>313</sup>
- **Farm Accountancy Data Network (FADN):** The Farm Accountancy Data Network (FADN) is a European system of sample surveys conducted every year to collect accountancy data from farms, with the aim of monitoring the income and business activities of EU agricultural holdings. Moreover, the FADN is an important informative source for understanding the impact of the measures taken under the Common Agricultural Policy on different types of agricultural holdings.<sup>314</sup>
- **General Agreement on Tariffs and Trade (GATT):** The GATT was the precursor to the WTO, and provided the rules for much of world trade from 1948 to 1994. It is binding for all members of the WTO and includes a number of agreements and annexes, dealing with the special requirements of specific sectors or issues.<sup>315</sup>
- **General Agreement on Trade in Services (GATS):** The GATS came into force in 1995 and applies to all WTO members. It applies to all but two service sectors: other than those sectors where services are supplied by a Government authority neither on a commercial

<sup>310</sup> 'The history of the European Union' <[https://europa.eu/european-union/about-eu/history\\_en](https://europa.eu/european-union/about-eu/history_en)> accessed 20 January 2017

<sup>311</sup> Pascal Fontaine, *The European Union Explained: Europe in 12 Lessons* (2014)

<<http://bookshop.europa.eu/en/europe-in-12-lessons-pbNA0213714/>> accessed 20 January 2017 p.7

<sup>312</sup> *Treaty establishing the European Economic Community, EEC Treaty - original text (non-consolidated version)*

<<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Axy0023>> accessed 20 January 2017

<sup>313</sup> United Nations Convention on the Law of the Sea, art 50.

<[http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf)> accessed 20 January 2017

<sup>314</sup> 'Farm Accountancy Data Network' <[http://ec.europa.eu/agriculture/fadn\\_en](http://ec.europa.eu/agriculture/fadn_en)> accessed 09 January 2017

<sup>315</sup> European Union Committee, *Brexit: the options for trade* (House of Lords, 13 December 2016)

<<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldecom/72/72.pdf>> accessed 29 December 2016 p.52

basis nor in competition with other suppliers (such as education or health services); and all air traffic rights.<sup>316</sup>

- **Geographical Indication:** A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.<sup>317</sup>
- **Hague Preferences:** Recital 16 of Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy sets out the principle of relative stability of fishing activities by the allocation of fishing opportunities among the Member States, based on a predictable share of the stocks for each Member State. Recital 17 of that regulation establishes that given the temporary biological situation of stocks, the particular needs of regions where local populations are especially dependent on fisheries and related activities should be safeguarded as decided by the Council in its Resolution of 3 November 1976. Such safeguards are the so-called Hague Preferences.<sup>318</sup>
- **Integrated Tariff of the European Union (Taric):** Taric is the Integrated Tariff of the European Union. It comprises all customs duty rates and certain EU rules applicable to the EU's external trade. The legal base of the Taric is the Council Regulation (EEC) No 2658/87 of 23 July 1987. Taric supports goods clearance by the EU countries. It also provides means of collecting, exchanging and publishing data on EU external trade statistics. This data is not, however, available to the general public.<sup>319</sup>
- **International Council for the Exploration of the Seas (ICES):** The International Council for the Exploration of the Sea (ICES) is a global organization that develops science and advice to support the sustainable use of the oceans.<sup>320</sup>
- **Most Favoured Nation (MFN):** In order to create a predictable trading system, the WTO applies non-discrimination principles. One of them is 'most favoured nation' (MFN) treatment, which means that countries cannot normally discriminate between their trading partners. This includes the obligation to apply the same tariffs and to offer the same market access to all WTO members. If a country chooses to lower a trade barrier or to open up its market for one WTO member, it has to offer the same favourable conditions to all WTO trading partners. The MFN principle applies to trade in both goods and services.<sup>321</sup>

<sup>316</sup> Ibid

<sup>317</sup> 'Geographical Indications: What is a geographical indication?' <[http://www.wipo.int/geo\\_indications/en/](http://www.wipo.int/geo_indications/en/)> accessed 20 January 2017

<sup>318</sup> 'Parliamentary Questions Answer given by Mr Borg on behalf of the Commission' (March 2008) <<http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2008-0139&language=EN>> accessed 24 January 2017

<sup>319</sup> 'Combined Nomenclature, Common Customs Tariff and Integrated Tariff of the European Union (Taric)' (09 February 2014) <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A11003>> accessed 29 December 2016

<sup>320</sup> 'Who we are' <<http://www.ices.dk/explore-us/who-we-are/Pages/Who-we-are.aspx>> accessed 20 January 2017

<sup>321</sup> European Union Committee, *Brexit: the options for trade* (House of Lords, 13 December 2016) <<http://www.publications.parliament.uk/pa/ld201617/ldselect/ldcom/72/72.pdf>> accessed 29 December 2016 p.51

- **Non-tariff barriers (NTBs):** Non-tariff barriers refer to all barriers to trade that are not tariffs. Examples of these include countervailing and anti-dumping duties, "voluntary" export restraints, subsidies which sustain in operation loss making enterprises, technical barriers to trade, and obstacles to the establishment and provision of services.<sup>322</sup>
- **Prepared Consumer Foods (PCF):** The PCF sector is any company producing value-added food and beverages selling domestically or internationally and includes prepared consumer foods, ingredients, value-added seafood, value-added horticulture and non-alcoholic beverages.<sup>323</sup>
- **Price elasticity of demand (PED):** Price elasticity of demand shows the relationship between price and quantity demanded and provides a precise calculation of the effect of a change in price on quantity demanded.<sup>324</sup>
- **Relative Stability:** Fishing opportunities are allocated among the Member States in such a way as to ensure the relative stability of the fishing activities of each for each stock concerned. This principle of relative stability, which is based in particular on historical catch levels, requires the maintenance of a fixed percentage of authorised fishing effort for the main commercial species for each Member State. Fishing effort needs to be generally stable in the long term, in view of the importance of ensuring that fishing can continue, particularly in regions that have long been heavily dependent on fisheries.<sup>325</sup>
- **Royal Prerogative:** Originally, sovereignty was concentrated in the Crown, subject to limitations which were ill-defined and which changed with practical exigencies. Accordingly, the Crown largely exercised all the powers of the state [...] However, over the centuries, those prerogative powers, collectively known as the Royal prerogative, were progressively reduced as Parliamentary democracy and the rule of law developed. By the end of the 20<sup>th</sup> century, the great majority of what had previously been prerogative powers, at least in relation to domestic matters, had become vested in the three principal organs of the state, the legislature (the two Houses of Parliament), the executive (ministers and the government more generally) and the judiciary (the judges).<sup>326</sup>
- **Tariff Rate Quota (TRQ):** A trade policy instrument that grants preferential market access for a fixed volume of imports with imports in excess of the quota amount attracting a higher out of quota tariff.<sup>327</sup>

<sup>322</sup> 'Non-Tariff Barriers' (2014) <<https://stats.oecd.org/glossary/detail.asp?ID=1837>> accessed 20 January 2017

<sup>323</sup> Department of Agriculture, Food and the Marine, *Food Wise 2025: A 10 Year Vision for the Irish agri-food industry* (July 2015)

<<https://www.agriculture.gov.ie/media/migration/foodindustrydevelopmenttrademarkets/agri-foodandtheconomy/foodwise2025/report/FoodWise2025.pdf>> accessed 20 January 2017 p.84

<sup>324</sup> 'Price Elasticity of Demand'

<[http://www.economicsonline.co.uk/Competitive\\_markets/Price\\_elasticity\\_of\\_demand.html](http://www.economicsonline.co.uk/Competitive_markets/Price_elasticity_of_demand.html)> accessed 12 January 2017

<sup>325</sup> 'Fisheries resource conservation' (2016)

<[http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU\\_5.3.2.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_5.3.2.html)> accessed 20 January 2017

<sup>326</sup> *R (Miller and Another) v Secretary of State for Exiting the European Union* [2017] UKSC 5, [2017] 1 All ER 158 [41]

<sup>327</sup> Teagasc (Trevor Donnellan & Kevin Hanrahan), *Brexit: Potential Implications for the Irish Agri-Food Sector* (April 2016) <<https://www.teagasc.ie/media/website/publications/2012/BrexitPaperApril13final.pdf>> accessed 29 December 2016 p.v

- **Total Allowable Catch (TAC):** Total allowable catches or fishing opportunities, are catch limits (expressed in tonnes or numbers) that are set for most commercial fish stocks. The Commission prepares the proposals, based on scientific advice.<sup>328</sup>
- **Lisbon Treaty:** The Lisbon Treaty rationalised and catalogued Union competencies in a manner that allowed them to be more visible and more easily understood. Two treaties, the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) were to replace the previous framework.<sup>329</sup>
  - **TEU:**  
Commonly referred to as the Lisbon treaty On 13 December 2007, the 27 EU Heads of State or Government signed the new amending Treaty in Lisbon. The **Treaty of Lisbon** entered into force on 1 December 2009, after having been ratified by all EU countries in accordance with their respective constitutional requirements.<sup>330</sup>
  - **TFEU:**  
The TFEU sets out the explicit competencies of the Union and, with the exception of the Common Foreign and Security Policy, the detailed procedures to be used in each policy field. The competencies are catalogued at the beginning of the TFEU.<sup>331</sup>
- **World Trade Organization (WTO):** The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business.<sup>332</sup>

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<sup>328</sup> 'TACs and quotas' <[https://ec.europa.eu/fisheries/cfp/fishing\\_rules/tacs\\_en](https://ec.europa.eu/fisheries/cfp/fishing_rules/tacs_en)> accessed 20 January 2017

<sup>329</sup> Damian Chalmers, Gareth Davies and Giorgio Monti, *European Union Law* (3<sup>rd</sup> Edn, Cambridge University Press, 2014) p.40

<sup>330</sup> 'The Treaty of Lisbon: introduction' (September 2015) <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Aai0033>> accessed 20 January 2017

<sup>331</sup> Damian Chalmers, Gareth Davies and Giorgio Monti, *European Union Law* (3<sup>rd</sup> Edn, Cambridge University Press, 2014) p.40

<sup>332</sup> 'What is the WTO?' <[https://www.wto.org/english/thewto\\_e/whatis\\_e/whatis\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm)> accessed 20 January 2017