



*Discussion Paper*

# **The Challenge of Food and Agriculture in a U.S.-UK Trade Agreement**

*The debate around 'chlorinated chicken' reflects the complexity and opportunities of trade negotiations. It is time for a process-oriented, objective and outcome-driven approach.*



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- Market access for food and agriculture products has been a sticking point in most modern trade agreements.
- The wider UK public debate surrounding the U.S.-UK free trade negotiations has been dominated by the issue of food standards and regulation.
- Misunderstanding how food standards play into trade negotiations risks derailing the entire process.
- This discussion paper aims to contribute constructively to the debate and help the U.S. and the UK make substantial and significant progress on the issue, with the overall objective to deliver a trade agreement for the benefit of both of our countries.

With the U.S. and the UK trade negotiations ongoing, the public debate in the UK around agricultural standards casts a long shadow. This BritishAmerican Business (BAB) discussion paper seeks to contextualise the thorny issue of market access for agri-food products by explaining how they are handled in trade negotiations, how and why standards differ, and what could be a possible solution for the U.S. and the UK. The paper concludes that we must find a process-oriented, objective and outcome-driven solution to food and agriculture to avoid the risk of derailing the trade negotiations.

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# Introduction

In Mid-August 2020, the United Kingdom (UK) and the United States (U.S.) announced they would schedule the fourth round of negotiations for a comprehensive U.S.-UK Free Trade Agreement (FTA) in September 2020.<sup>1</sup> Both sides are expected to exchange their first 'Market Access' offers in this period.

'Market Access' is a key part of a comprehensive trade and investment agreement. It defines the terms on which goods and services can more easily enter and be sold to, and in, a partner country. While the talks cover a whole range of sectors, from automotive to textiles to IT services, an industry that will be in sharp focus is agriculture.

Creating better market access for agricultural products is a common but highly complex and controversial part of major trade negotiations. Particularly in trade discussions between the U.S. and Europe, agriculture is a thorny issue, with 'chlorinated chicken' as the symbol of the public's fears that an FTA with the U.S. will lead to lower standards across different industries. Already, regardless of the outcome of the negotiations, several British grocery chains have vowed not to stock U.S.-produced imported chicken.<sup>2,3</sup>

This BritishAmerican Business discussion paper seeks to put the debate back into the context of the underlying nature of trade negotiations. In our view, the 'chlorinated chicken' debate merely reflects the complexity and opportunities that one would expect to find in any major trade negotiation but it runs the risk of being the cause of failure for the entire negotiation. Despite the fact that (or perhaps because) BAB does not represent a significant part of the U.S. or the UK farming industry, we call for a change in perspective that allows both countries to approach the topic through a much more objective lens to prevent derailing the negotiations. Only by being process-oriented, objective and outcome-driven can we fulfil the vision and ambition of a more integrated market between the UK and the U.S.

## We Eat Global

What we eat is up to us and there is no reason why consumers and retailers should not commit to buying locally. Both the UK and the U.S. are proud of their farming and no law prevents us from buying and sourcing fresh meat, milk or eggs locally.

Yet, as our economies have become global, so have the shelves in the grocery store. Neither the U.S. nor the UK are fully self-reliant when it comes to food, nor are consumer tastes and preferences entirely local. In the UK, for example, almost half of the food consumed in the country has its origins outside of the country.<sup>4</sup> Even the U.S., a net exporter of agricultural products, imports agricultural goods worth \$129 billion annually, almost as much as the country exports to the rest of the world.<sup>5</sup>

While for most agricultural products the key market remains the home market, in some areas agricultural output grows faster than the domestic demand. Or, to put it differently, to sustain prices and revenues, agricultural firms in some areas rely on the availability and market access to export markets. For example, each year the UK fishing industry exports fish worth £1.9 billion.<sup>6</sup> Well over a million bottles of Scotch Whiskey are sold in 180 markets outside of the UK,<sup>7</sup> making the UK a net exporter of distilled spirits.

Together, the UK and the U.S. are part of this global trade in agricultural products. The U.S., for example, exported agricultural, fish and forestry products to the UK worth \$2.9 billion in 2018.<sup>8</sup> For the UK, the U.S. is the largest market for British-produced cheese outside of the EU.<sup>9</sup> UK exports of agricultural products to the U.S. totalled £2.4 billion in 2019.<sup>10</sup> Both countries experience a growing demand for consumer-oriented products, increasing the levels of agricultural trade.<sup>11</sup>



# It's About a Difference in Regulation, Not Safety

While consumers value more availability and cheaper prices for food, not all food can be traded that easily. For example, British lamb remains banned in the U.S. and until recently, America had imposed a 17% tariff on British Cheddar cheese imports.<sup>12</sup> Conversely, the UK currently does not allow U.S. hormone-treated beef to enter its shores, nor U.S.-produced chicken; whether this is for genuine public health or food standards reasons, or just a way of protecting local producers is a debate that should be held.

There are different reasons why countries impose tariffs on certain products, or why products cannot easily enter a market. Tariffs are used to restrict the import of a certain product by making it more expensive, thus protecting locally produced goods. In the U.S. for example, the country adds a 25% tariff on pickup trucks produced overseas.<sup>13</sup> The U.S. also introduced tariffs on steel and aluminium, in its view on national security grounds, but effectively to give its local industry protection from lower-cost producers.<sup>14</sup> And it goes both ways; the UK currently adds a 16.9% tariff on imported tennis shoes<sup>15</sup> and between 12% and 30% on orange juice.<sup>16</sup>

Yet, while removing tariffs is itself a major achievement, the real benefit of a trade deal lies in removing non-tariff barriers, reflected in standards and the underlying regulations for products. Regulations and standards often derive from a country's value system and specific political and public preferences. But it is also a tool that countries use to protect certain sectors from foreign competition.

In some cases, domestic regulation is fundamentally different to that of a partner country with objectively justifiable reasons. In others, even if regulations are different, they can be considered equivalent.

A car seatbelt produced in the UK, for example, can be considered safe on both sides of the Atlantic. However, until both sides establish regulatory equivalence through the proof that both systems provide the same, high level of safety for car occupants, those seatbelts cannot be sold in the U.S., and vice-versa.

The same approach needs to be applied to the debate around chicken. In both the UK and the U.S. chicken is being produced. Consumers in both countries enjoy eating chicken. In fact, Americans eat 150 million chickens each week.<sup>17</sup> Both the UK and the U.S. regulate the production of chicken to ensure that the consumption is safe.<sup>18</sup>

No-one can argue that the chicken produced in either the UK or the U.S. is not safe to be eaten. Yet, the regulatory framework that sets the rules for production is different on either side of the Atlantic.

In the U.S., chicken carcasses are washed with antimicrobial rinses, including chlorine dioxide, acidified sodium chlorite, and trisodium phosphate, among others, after slaughter. This process is called pathogen reduction treatment (PRT). It has been approved by the U.S. Department of Agriculture (USDA) for use in poultry processing to reduce the number of microbes on meat.

In the UK, this procedure, including all the different rinses such as chlorine-washing, is currently banned. Instead, UK regulations prescribe that stronger sanitary practices during production and processing are more appropriate for pathogen control than PRTs.<sup>19</sup>

The safety of using chlorine to remove bacteria is not contested in the UK. The European Food Safety Authority (EFSA) itself has concluded that exposure to chlorite residues arising from treated poultry carcasses is of no safety concern.<sup>20</sup> In fact, research suggests that the presence of Salmonella in chlorine dioxide-washed U.S. chicken is around 2%, while EU chicken samples typically have 15-20% Salmonella.<sup>21</sup>

Yet, even though the outcome (i.e. the end product) in the UK and the U.S. is the same – the chicken is safe to consume – the standards around production methods are deemed different, resulting in the ban on imported U.S chicken in the UK.



The question is therefore less about whether the chicken is safe or unsafe for consumption or has higher or lower standards of quality – existing evidence suggests indeed that there is no link between higher levels of food poisoning and chicken production in the UK and the U.S.<sup>22 23</sup> - it is about the differences in how food production is regulated.

## The Quest for Equivalence

Negotiations for a comprehensive FTA between two advanced economies such as the UK and the U.S. offer the opportunity to develop approaches for assessing and establishing equivalence of existing regulations in two different jurisdictions.

As part of the Transatlantic Trade and Investment Partnership (TTIP) negotiations between the EU and the U.S., partners explored a possible approach for assessing equivalence between EU and U.S. motor vehicle regulations. The basis for the proposal was that, while there are indeed differences with regard to individual technical requirements for motor vehicle safety in the EU and the U.S., the overall level of safety in each of the regions was generally the same.<sup>24</sup> With that, if motor vehicle regulations were treated as equivalent, mutual trade of the products in question would be possible with fewer barriers.

If such an approach were applied in the case of chicken, trade of U.S.-produced chicken should be possible given that it is considered safe on both sides of the Atlantic. However, the complexity starts with the concern in the UK that U.S. regulations around the production and processing of poultry may not be deemed equivalent to animal welfare regulations in the UK, which itself is a substantial part of how poultry in the UK is regulated.

# A Process-Oriented, Objective and Outcome-Driven Approach

As stated in the introduction, BAB does not represent a significant part of the transatlantic agriculture community. We therefore cannot take a position either on differences in agriculture practices between the UK and the U.S. nor on how the UK (or the U.S.) should regulate food and agriculture, now and in the future.

Instead, in the interest of our overall objective, which is to achieve a comprehensive FTA between the UK and the U.S., we call for a process-oriented, objective and outcome-driven way forward which has as its objective, a means of solving problems, removing barriers and increasing mutual market access. This means that all parties involved should make joint efforts to remove the emotional element in the debate, focus on opportunities, and follow common trade negotiation practices to achieve a workable outcome.

In the case of chicken, this means the starting point for trade in agriculture should be to ensure consumer safety and promote consumer choice and value. This also includes distinguishing between the competitive threat to producers and consumer concerns regarding the way products are raised, including issues like animal welfare.

Regarding the latter, negotiating partners should propose an equivalence assessment that qualifies whether U.S. treatment practices satisfy standards used in the UK (and vice versa). In other words, they should establish whether poultry production and processing standards can be considered equivalent. If this is the case, trade of PRT chicken (and other agricultural products currently banned in the UK) between the UK and the U.S. should be possible. For example, recent evidence suggests that the average and permitted densities in intensive chicken farms in the U.S. and UK are roughly the same. In the UK, up to 42kg of chickens per square metre is allowed which is roughly 21 birds;<sup>25</sup> in the U.S. average densities are 7.4lb per square ft or 37kg per square metre.<sup>26</sup> And there are a growing number of UK mega farms in operation housing more than 40,000 birds at a time, and some a great deal larger than that.<sup>27</sup> Do these businesses really need protecting from competition?

A reasonable starting point for this assessment could be the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) by the World Trade Organisation (WTO). This agreement distinguishes between the competitive threat to producers and consumer concerns regarding the way products are raised, including issues like animal welfare. While acknowledging and permitting governments to maintain high consumer and animal welfare protections, it also states that these protections “should be based as far as possible on the analysis and assessment of objective and accurate scientific data.” Furthermore, it embraces the fact that production measures may differ between countries because of differences in climate and other local conditions, but that this should not lead to unjustified discrimination whether in favour of domestic producers or foreign suppliers.<sup>28</sup>

Several suggestions have been made in the public debate as to how to address the issue if no equivalence for agricultural products such as U.S.-produced chicken, can be achieved. Because this would apply to any other products across different industries, we feel the whole range of options, from labelling to conditional tariffs – while not desired – should be explored to break the stalemate on the issue. For example, whether individual manufacturers in the U.S. can meet UK standards in order to export their products or whether labelling, as an addition to other conditions, can help UK consumers distinguish the origin of a product.

The negotiation outcome can also include a timetable that allows for a phased liberalisation of UK-U.S. trade in agriculture, with enough time for equivalence assessments to be conducted and for agri-food producers to adapt to future trading conditions. This timetable can also be used to explore a

cooperative approach to addressing animal welfare concerns with relevant trading partners through consultation and efforts to create multinational agreements; all in reference to the WTO. In that regard, the newly established UK Trade and Agriculture Commission<sup>29</sup> is a useful tool to oversee and inform the negotiation position and future approach to regulation in agriculture on the UK side.

In any case, all discussions concerning trade in agriculture need to be outcome-driven, which means that the focus ought to be on finding a solution that helps integrate our economies further. A blanket ban on the import of specific agri-food products will be rightly viewed as protectionist. As BAB has stated before: the inability to reach consensus in one area should not lead to the derailing of the whole project of a free trade agreement.

## Conclusion

The prospect of a comprehensive U.S.-UK Free Trade Agreement is one of the most ambitious and important initiatives on the transatlantic policy agenda: further economic integration across the Atlantic will benefit our economies, businesses, workers, and consumers.

Increasing trade in agricultural products is part of today's ambition. Yet, with agriculture often becoming a sticking point in major trade negotiations, and the questions around 'chlorinated chicken' already defining the public debate in the UK, we call for a process-oriented, objective and outcome-driven approach that helps partners achieve a sensible agreement; if there are some things that are just politically impossible, let's find the things that can be done.

We feel that an equivalence assessment, and based on that, potential options that either help establish transatlantic equivalence or help differentiate agricultural products currently banned from transatlantic trade, is the best way forward. We think an acceptable compromise is possible that reflects the principles of 'free', 'fair' and 'reciprocal' trade across the Atlantic supported by both the UK and U.S. governments.



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