

‘Breaking down Brexit for Businesses and Citizens’

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Panel 1: Citizens, family members and consumers

The Impact of Brexit on Biosecurity

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Themes relevant to biosecurity to be addressed

- Whatever the form of Brexit (hard, clean, soft), uncertainty about future trade relations with EU and whether negotiated during or after divorce – transitional period?
- Biosecurity and its relevance to international trade explained – World Trade Organisation (WTO)
- Single market and biosecurity
- [Great] Repeal Bill and other Brexit legislation
- Retaining access to single market v. ‘falling to WTO’
- Sectoral issues – food safety, plant and animal health, environmental protection
- [Customs not biosecurity authority]

Biosecurity explained

- ***“Biosecurity is composed of three sectors, namely food safety, plant health and life, and animal life and health. These sectors include food production in relation to food safety, the introduction of plant pests, animal pests and diseases, and zoonoses, the introduction and release of Genetically Modified Organisms (GMOs) and their products, and the introduction and safe management of invasive alien species and genotypes”.*** Definition from FAO
- Concept widely adopted and implemented in British Commonwealth as well as UK, more gradually in EU
- Includes aspects of environmental protection – risks from invasive species and GMOs affecting habitats and individual organisms
- Caution! Different meaning in US and in French

Biosecurity and trade

- Basis in World Trade Organisation's (WTO) normative frameworks for regulation of trade to avoid unfair or unnecessary barriers to trade from tariff or non-tariff measures (NTMs) as import controls
- Biosecurity provisions in the WTO ***Agreement on Application of Sanitary and Phytosanitary Measures*** ('SPS Agreement') – exclusively NTMs
 - trading goods safely and fairly by managing risks to human health, animal health ('sanitary') and plant health ('phytosanitary')
- 'Trade by standards' according to scientific evidence to justify that imports pose a risk and therefore may be regulated by NTMs that do not become non-tariff barriers
- Harmonisation of standards encouraged

Biosecurity, Single Market and Brexit

- Single market is a *'trade deal'* between member states operating within WTO
- EU has with trade deals with > 50 other countries
- Commitment to social, economic and welfare rights as well as 'physical' standards
- WTO 'harmonisation' → unification and free movement of goods produced in EU or legally imported according to EU's standards
- Most food standards follow international normative guidelines; with other standards being WTO-consistent standards for procedures
- Role of European Food Safety Authority (EFSA) in biosecurity for three sectors
- Role of European Court of Justice to adjudicate disputes
- Hard Brexit will mean leaving single market as a consequence of **'red line'** of withdrawal from jurisdiction of ECJ

Constitutional and legislative implications of Brexit

- Massive legislative project with [Great] Repeal Bill and other Acts required to initially incorporate all EU Acquis into UK law before ‘unnecessary’ legislation is dealt with
 - Minority government
 - Opposition in Lords (Salisbury Convention)?
- Controversy over Henry VIII provisions
 - ‘Restoring [Parliamentary] Sovereignty’ or deregulation by Statutory Instrument in absence of ECJ (**red line**)?
- But will there be a transitional phase involving ECJ?
- Impact on devolved biosecurity provisions to be considered

What does 'falling to WTO' imply?

- 'No deal' might result if any of four red lines breached (LSE Blog) → clean or hard Brexit
- Trade deals will be necessary with EU; and with (all) other trading partners **but only after Brexit**; must be notified to WTO
- Trade agreements do not have to follow WTO's normative rules but concessions over e.g. standards may still fall foul of Most Favoured Nation principle
- Concerns of UK farmers about abandonment of EU food and animal welfare standards in deals with countries that have lower standards
- **Will WTO become irrelevant because of plethora of separate plurilateral and bilateral trade agreements?**

General issues for biosecurity after Brexit

- EU Farm-to-Fork strategy for EU and single market encompassing animal health and welfare and plant health as well as food safety
- UK instrumental in formulating legislation for these three biosecurity sectors
- Import controls at port of first entry to EU
- When UK's borders retract to original national boundaries, risks of introduction of unsafe food or harmful organisms (pests, pathogens) could increase or diminish according to particular circumstances
- UK may lose access to early warning of threats apparent at EU's borders remote to the British Isles and we should bear in mind the effects of climate change on agriculture and biosecurity risks

Food safety

- EU food Regulations apply common approach to food safety throughout single market
- With exceptions for some regional dietary considerations, uniform risk-based safety standards for food
- Uniform rules for monitoring and enforcement by national food authorities
 - HACCP is the key, lowering regulatory intervention and costs, relegating 'quality' to market forces
- Pivotal role for European Food Safety Authority (EFSA) in advising Commission on risk-based policy

Plant health

- Irrespective of destination, import controls to prevent introduction of hundreds of exotic plant pests applied at every port of first entry, i.e. one ‘pest list’ for entire EU
 - For example, citrus fruit entering UK for UK market subject to controls
 - No phytosanitary certificates for internal movement
- After Brexit, fewer pests will have to be considered for **UK market** but many pests will remain important for exports to remaining 27 countries – major task of reviewing risk analysis
- More paperwork and higher administrative costs for plant exports to EU – restoration of phytosanitary certificates

Plant health laws and WTO

- Plant Health Act (GB) Plant Health Act (NI) from 1967 are not consistent with International Plant Protection Convention (IPPC) that will be required for compliance with WTO trade framework
- Consistency currently provided by EU Plant Health Directive (2000/29/EC)
- DEFRA intends to adopt new EU Plant Health Regulation that will come into EU force after Brexit – adopts principles of IPPC

Animal health and welfare

- Equivalent animal health regime to that for plant health in single market
- Retraction of borders will alter the risks posed by animal diseases and zoonoses and pose similar additional administrative burdens
- But hard border with Republic of Ireland will pose severe constraints on UK's horse racing industry and interfere with livestock movements on the island and to UK

Habitats and wildlife

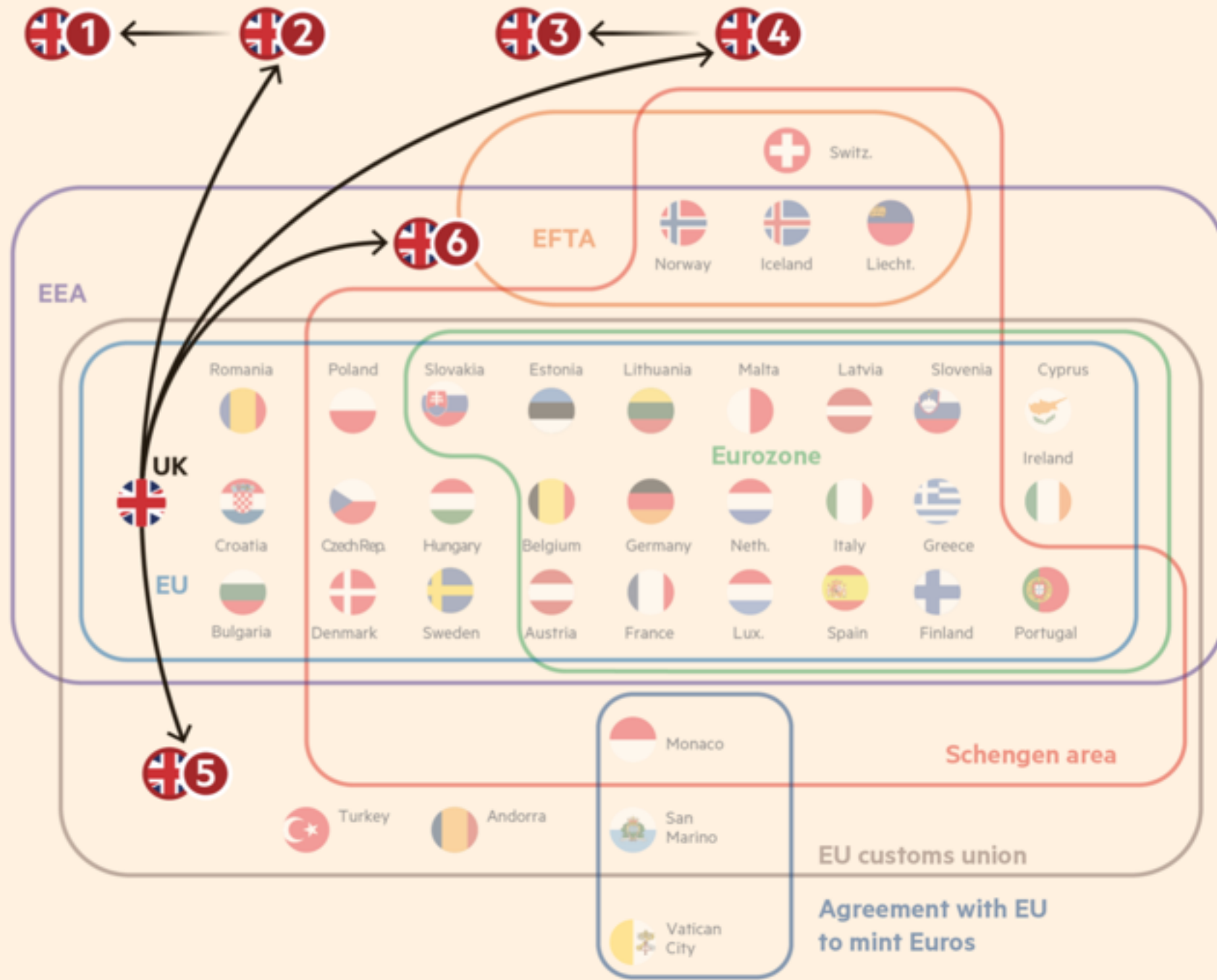
- Protection of habitats and wildlife encompassed within biosecurity
 - Habitats Directive and Birds Directive → Wildlife and Countryside Act 1981
 - Protection from invasive species
- EU policy and legislation, supported by ECJ, prioritises maintenance of recognised conservation sites over economic development – airports, power stations etc.
- These and other environmental safeguards (*>1,000 legislative instruments*) may be seen as red tape with ‘unnecessary legislation’ harming business
 - But there may be job losses from weakening of ‘green economy’

Devolution and borders

- Responsibility for each of the three main biosecurity sectors and environmental protection devolved to constituent regions
- Not clear in [Great] Repeal Bill White Paper whether these arrangements will continue after Brexit or powers repatriated from Brussels will go to Westminster and the UK Executive
- Northern Ireland has special biosecurity status because shares island with the Republic, considered as a single risk unit separate from the UK mainland (e.g. separate Plant Health Acts for NI and UK mainland)
- Re-imposition of a hard border between NI and the Republic will complicate this arrangement and will seriously impact on trade and business within the island and with the UK mainland, e.g. *dairy, Guinness, live animals, semen*

Conclusions

- UK should reflect positively on its legislative contribution to Single Market's biosecurity frameworks
 - Managing risks while minimising disruption to trade – the essence of WTO
 - **Special status of NI in recognition of peace agreement and biosecurity risks**
- Mountain of legislation to push through, even with delayed Queen's speech
- **Maintaining access to single market (e.g. EEA) is most appropriate way to manage biosecurity risks in post-Brexit trade with EU and other trading partners** ➔
- Applies to food safety, plant and animal health and habitat/wildlife protection from invasive species
- Any trade deal with EU would require transitional period
 - Free movement, ECJ continuing in the meantime
 - UK exports to EU would have to meet EU standards
 - Need replacement for EFSA



- Hard Brexit**
- 1 No deal
 - 2 Divorce only. Negotiate the future from outside
 - 3 Limited tariff-free deal
 - 4 Far-ranging free-trade deal
 - 5 New customs union
 - 6 Single market/EEA
- Soft Brexit**

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Last word: food safety v. food quality

In terms of quality, one gets what one pays for
Food safety is a binary matter. If food meets standards it is safe, if it doesn't it is not safe

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