



HM Government

Review of the Balance of Competences between the United Kingdom and the European Union

Animal Health and Welfare and Food Safety Report

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Animal Health and Welfare
and Food Safety Report

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Executive Summary

This report examines the balance of competences between the European Union and the United Kingdom in the area of animal health and welfare and food safety. It is a reflection and analysis of the evidence submitted by experts, non-governmental organisations, businesspeople, Members of Parliament and other interested parties, either in writing or orally, as well as a literature review of relevant material. Where appropriate, the report sets out the current position agreed within the Coalition Government for handling this policy area in the EU. It does not predetermine or prejudge proposals that either Coalition party may make in the future for changes to the EU or about the appropriate balance of competences.

The report is one of 32 that together analyse what membership of the EU means for the UK's national interest. They aim to deepen public and parliamentary understanding of our relationship with the EU. In this report we cover animal health (including veterinary medicines), animal welfare and food safety (including feed, food labelling and food compositional standards).

We drew on submissions received in response to a Call for Evidence which was distributed widely in the UK and to EU and non-EU (third) countries. For the subjects covered we looked at the scope of the EU's competences as they affect the UK, how they are used, how they impact on our national interest and future challenges.

The EU internal market, and free movement of animals, animal products and food within it, has been the main driver for the development of competence in these areas. Other drivers are the need to protect public health and consumer interests, the avoidance of outbreaks of animal disease and a desire to protect the wellbeing of animals. Food and animal feed are traded extensively, both within the EU and internationally, with total UK exports worth £18.2 billion in 2011. The majority of UK agricultural exports are to other EU Member States and 69% (by value) of the UK's food imports also come from the EU.

UK law on animal health and welfare and food safety derives largely from requirements set at EU level. In relation to animals, this often reflects international standards set by the World Organisation for Animal Health (OIE) with the active participation of the UK.

When considering the EU internal market for food, animals and animal products, all trade associations, civil society and government bodies who responded to this issue agreed that the internal market produced real benefits for the UK. Civil society organisations with an interest in animal protection called for increased flexibility in EU legislation for the control of animal diseases to allow Member States the opportunity to take account of national circumstances. They felt that harmonisation at EU level was not always the best approach and in some cases may actually impede UK action. Notwithstanding this, these respondents also saw the importance of a

coordinated EU approach to animal disease control, including the sharing of resources, expertise and intelligence. A number of respondents from various sectors claimed that the UK has positively influenced the level of the EU's standards in food, animal health and animal welfare law.

On animal welfare, whilst several civil society respondents in particular argued that the UK should continue to take the lead in setting high welfare standards, others, representing industry interests, raised concerns that this could put UK businesses at a competitive disadvantage. It was recognised among respondents that the UK was right to press for the sentience of animals to be formally recognised within the body of the Lisbon Treaty, which now requires this to be reflected in most EU policy.

Consumer survey data suggested that UK consumers are largely unaware of the role the EU plays in making food law. Only 11% preferred food law to be made by the EU, although this figure rose to 23% when people were given some information about EU legislation.

There were respondents across all sectors who stated a preference for legislation that is less prescriptive and focussed on outcomes, although there were a few who argued that prescriptive approaches helped smaller businesses. Fair competition within the EU internal market relies to a great extent on harmonised rules that create a level playing field, and some felt that when Member States implement, interpret or enforce EU law differently this impacts on competition.

Concerns were raised that better (or smart) regulation principles are not always applied effectively within the EU. In particular, some respondents from government and trade associations stated that impact assessments are not always undertaken by the European Commission and those that are carried out can be of variable quality. Some trade association and civil society organisations stated that they found the EU hard to engage with and insufficiently transparent.

All respondents who commented on risk-based legislation agreed that animal health, welfare and food law should be risk-based. However, whilst a number of respondents argued that EU risk assessment is generally science-based, there were concerns that some risk management decisions on animal health, welfare and food law had been disproportionate. Respondents gave several examples where broader societal concerns and other factors had been influential in decision making. Genetically modified food and feed was raised as an area of concern, where some respondents argued the EU applies a political overlay that disrupts trade and stifles innovation, putting all EU countries at a competitive disadvantage.

Looking to the future, in February 2013 it was announced that the EU and the United States of America (USA) are to launch negotiations for a Transatlantic Trade and Investment Partnership. A bilateral free trade agreement between the EU and USA would potentially create the world's largest common market for trading goods and services. This offers the opportunity to shape global norms, but may also give rise to further complex issues concerning the balance of national and EU competences.

Introduction

This report is part of a Coalition commitment to review the balance of competences between the UK and the European Union (EU). The Review will provide an analysis of what membership of the EU means for the UK national interest and deepen public and parliamentary understanding of our relationship with the EU. It seeks to provide a constructive and serious contribution to the national and wider European debate about modernising, reforming and improving the EU in the face of collective challenges. This report does not however offer specific recommendations or look at alternative models for the UK's overall relationship with the EU.

This is one of 32 subject-based reports analysing specific areas of EU competence. The reports are divided into four semesters and will be published on a rolling basis until the end of 2014. All reports will be based on evidence gathered during a twelve-week period. More information on the Review can be found at www.gov.uk/review-of-the-balance-of-competences.

We are using a broad definition of competence. Put simply, competence is everything deriving from EU law that affects what happens in the UK. A full explanation of competence is available in the Terms of Reference (appendix 1).

You may be interested in issues linked to this sector which will be covered in other Balance of Competences reports:

Health: Nutrition and nutrition labelling, food supplements and alcohol in relation to public health.

Single Market Synoptic: Discussion of Article 114 of the Treaty of the Functioning of the European Union, on which much of the legislation covered in this report is based.

Foreign Policy: External representation in international organisations, e.g. World Trade Organisation.

Trade and Investment: Intra-EU trade and EU-third country Free Trade Agreements.

Research and Development: Animal research.

Environment and Climate Change: Wildlife, such as protecting species, habitats and biodiversity and the environmental safety of genetically modified organisms.

Agriculture: Common Agricultural Policy and plant health, seed propagation and marketing.

Fisheries: Common Fisheries Policy.

Social and Employment: Impact of the Working Time Directive on animal health professionals.

For a complete list and timetable of all semesters and reports see www.gov.uk/review-of-the-balance-of-competences

Animal Health, Welfare and Food Safety

The Department for Environment, Food and Rural Affairs (Defra), in collaboration with the Food Standards Agency (FSA), has led this report into animal health (including veterinary medicines), animal welfare and food safety (including feed, food labelling and food quality and compositional standards).

The analysis in this report draws on the evidence received during the call for evidence period. The Call for Evidence was launched on 27 November 2012 and closed on 28 February 2013. It was distributed widely to UK Parliament and its committees, business, the devolved administrations, civil society, the European institutions and to EU partners and countries outside of the EU (third countries). Defra and the FSA received 64 pieces of formal written evidence from a broad range of respondents, including both individuals and organisations. Submissions were supported by evidence collected at five workshops in London and further workshops in Belfast, Edinburgh and Brussels. Previously published reports and articles addressing animal health, welfare and food safety have also been used to supplement the evidence.

The agri-food sector is responsible for around **3.8 million jobs** in the UK or 14% of total employment. The sector contributed **£96.1 billion** to national gross value added in 2011, while the total value of food and drink exports was **£18.2 billion**.

Source: Food Statistics Pocketbook, Defra, 2012

The UK farming, food and drink sector has a key role to play in driving sustainable and balanced economic growth. The UK Government is working to strengthen growth through increased exports to existing and new markets and enhanced agricultural production. The life sciences, which include animal research, are also a key UK industry for promoting and sustaining the economy.

With an increase in trade in animals and animal products comes a heightened risk of the spread of disease. Disease outbreaks and the measures to manage them can carry wide and costly consequences for the economy and the environment. Equally, animal health and food safety are linked, as public health can be affected through foodborne illnesses transmitted via the food chain from animals to humans. As a consequence, strict hygiene controls on food production and, when necessary on imports and exports, are put in place to safeguard public health. This protection of consumers also extends to the regulation and monitoring of food labelling and composition to prevent fraud.

A particular concern for UK consumers is the wellbeing of animals reared for food. As a result, the UK promotes high welfare standards for livestock across Europe and worldwide and has, in recent years, been highly successful in improving the general wellbeing of these animals internationally. Public concern also extends to companion animals (pets) and animals used in scientific testing and here too the UK upholds robust standards of animal welfare.

Over the years, EU competence in animal health, welfare and food safety has grown significantly as the internal market has evolved. This study aims to analyse the impact of this competence on animal health, welfare and food safety in the UK and more widely, on business and consumers. The report is divided into three chapters:

Chapter 1 – Development and Current State of Competence

A description of the development of competence and how the current balance of competence impacts on animal health, welfare and food policy.

Chapter 2 – Impact on the National Interest: Summary of Responses

A summary of the evidence received and an examination of the impact of EU competence on the UK's interests, on the basis of the views of respondents.

Chapter 3 – Future Opportunities and Challenges

A look ahead to future challenges and opportunities in this area and the potential direction of UK and EU policy.

Chapter 1: Development and Current State of Competence

In this chapter we look at the existing EU competence to make rules in the area of animal health, welfare and safety, and consider briefly how that competence has developed. Case law from the European Court of Justice has contributed to the establishing the scope of EU powers and two significant cases are outlined.

- 1.1 EU action in these areas is intended to create a single market for food while safeguarding human and animal health. It seeks to achieve this by:
- harmonisation of conditions of competition in the market in animals and animal products across the EU, regarding both methods of production and conditions of transport and in the market for food and feed;
 - protection of consumers from illness and from being misled about the contents or quality of their food;
 - avoidance of costly outbreaks of animal diseases, arising in some cases from intra-EU trade and imports into the EU; and
 - protection of animal welfare both when alive and at the time of slaughter.

Key terms

Treaty on the Functioning of the European Union (TFEU)

EU competence is set out in the European Treaties, which have been revised several times since the 1957 Treaty of Rome established the European Economic Community. Following the 2009 Treaty of Lisbon, the current Treaty on the Functioning of the European Union (TFEU) sets out when the EU can take action.

Types of competence

There are three different types of competence; exclusive, shared and supporting. Competence for animal health, welfare and food (including feed) is generally 'shared'. This means that either the EU or the Member States may act, but Member States may be prevented from acting once the EU has done so. The EU has exclusive competence in relation to the EU's common commercial policy and can therefore conclude international trade agreements with third countries.

European Court of Justice (ECJ)

The ECJ interprets EU law to make sure it is applied in the same way in all EU countries.

Animal health and welfare

Current state of competence

- 1.2 Most of the current EU rules covering animal health and welfare are made under Article 43 TFEU, which applies to all animals which are 'agricultural products'. This confers a power to make legislation necessary for the pursuit of the objectives of the Common Agricultural Policy which is largely unchanged from the original power contained in the 1957 Treaty of Rome. However, the role of the European Parliament in making legislation has increased significantly in recent years. Following the Treaty of Lisbon, it and the Council have exercised this power in accordance with the ordinary legislative procedure.
- 1.3 To the extent that EU rules on animal health and welfare have as their object the establishment or the functioning of the internal market, they can also be made under Article 114 TFEU. Until the 1987 Single European Act, legislation made under this power required unanimous voting in the Council. This power is now exercised by the European Parliament and the Council in accordance with the ordinary legislative procedure.

The EU legislative process

Treaties (which are primary EU legislation) allow for secondary EU legislation (e.g. Directives and Regulations) to be made. These are proposed by the Commission and usually agreed jointly by the Council (Ministers from each Member State) and the European Parliament. This is called the **ordinary legislative procedure**.

In all cases of animal health, welfare and food law the Council acts by **Qualified Majority Voting** (QMV), where a certain number of votes are needed for the law to be agreed. This means that a single Member State does not have the power of veto. The Council and European Parliament may, through secondary legislation, delegate power to the Commission itself to make further legislation under defined conditions, as delegated or implementing acts (tertiary EU legislation). Tertiary legislation has been and is used extensively for food law in particular. It can be passed more quickly than secondary legislation and is particularly suitable for more technical, less political regulation, but gives Member States and the European Parliament less control.

- 1.4 Public health gives another basis for EU action. Under Article 168(4)(2) TFEU the EU has power to make legislation "in the veterinary and phytosanitary fields which have as their direct objective the protection of human health". This specific power was first conferred by the 1999 Treaty of Amsterdam as an extension of a public health Treaty base introduced by the 1992 Maastricht Treaty. It is exercised by the European Parliament and the Council in accordance with the ordinary legislative procedure.
- 1.5 In relation to animal welfare, there is a specific requirement in Article 13 TFEU that the EU and Member States shall "since animals are sentient beings, pay full regard to the welfare requirements of animals". This must be taken into account when formulating the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, while respecting religious rites, cultural traditions and regional heritage. This Article represents the culmination of a process of increasing recognition of the importance of this principle begun by a declaration on animal welfare introduced by the 1993 Maastricht Treaty and actively driven by the UK.

Development of Competence

- 1.6 The earliest EU legislation on animal health and welfare was aimed at harmonising Member State health requirements to eliminate barriers to trade within the EU. For example, the 1964 Directive 64/432/EEC on swine and bovine animals was made under what are now Articles 43 and 114 TFEU.
- 1.7 During the 1980s the scope of EU legislation was gradually expanded to cover more aspects of trade in and production of farmed animals. This was encouraged by the drive towards the creation of the internal market following the 1987 Single European Act. For example, general animal health rules governing outbreaks of animal diseases were established by Council Directive 92/119/EEC.
- 1.8 In the 1990s there was increased legislation to raise and harmonise the animal welfare aspects of EU trade. This included Council Directive 93/119/EC on the protection of animals at the time of slaughter or killing and Council Directive 98/58/EC concerning the protection of animals kept for farming purposes.
- 1.9 The EU also adopted legislation aimed at harmonising the animal health requirements applicable to the non-commercial movement of pet animals (Regulation 988/2003), made under what are now Articles 43 TFEU and Article 168(4)(b) TFEU. The new power relating to public health in Article 168(4)(b) was also used in relation to the authorisation of medicinal products for human and veterinary use (Regulation 726/2004).

Food and feed safety

Current state of competence

- 1.10 There are no specific ‘food’ Articles in the Treaties. EU competence for food law has built up as ECJ case law has developed on the scope of the provisions in the Treaties concerning the free movement of goods. These provisions apply directly to trade between Member States without the need for further EU or national legislation to implement them. They are now contained in Articles 28 to 37 TFEU and are essentially unchanged from the original powers conferred by the 1957 Treaty of Rome.
- 1.11 Articles 28 to 37 TFEU prohibit all restrictions on trade in goods between Member States unless they satisfy exceptions such as “the protection of health and life of humans, animals or plants” (Article 36). These exceptions have been narrowly-construed by the ECJ, for example in *Hedley Lomas* (Case C-5/94).

Hedley Lomas

This case concerned the refusal by the UK to issue a licence for the export of live sheep to Spain because the UK considered that the treatment the sheep would receive in Spanish slaughterhouses would be contrary to EU rules on stunning. The UK argued that this restriction on trade with another Member State was justified under Article 36 TFEU for “the protection of health and life of animals”.

The ECJ ruled that recourse to Article 36 was no longer possible in an area harmonised by EU legislation, holding that “a Member State may not unilaterally adopt, on its own authority, corrective or protective measures designed to obviate any breach by another Member State of rules of [EU] law”.

- 1.12 EU legislation on food and feed safety has usually been made under the powers conferred by what are now Articles 43 and 114, as well as increasingly under Article 168(4)(b). Specific measures have also been based on other powers. For example, Article 192(2)(b) (management of water resources) is the Treaty base for Council Directive 98/83/EC on the quality of water intended for human consumption. Regulation 178/2002 (see paragraph 1.16 below) is based on Articles 43, 114, 168(4)(b) and 207 (common commercial policy).

Development of competence

- 1.13 In the early years EU food law derived from the Treaty obligation to ensure the free movement of food throughout the common market. EU food law adopted then was piecemeal and, requiring unanimity under the internal market precursor of Article 114 TFEU, built up only very slowly. Early subjects covered included food colouring (1962), preservatives (1964), antioxidants (1970), and labelling, presentation and advertising (1978).
- 1.14 A key case in this area was Cassis de Dijon (Case C-120/78), where the ECJ made clear that if a product is legally produced in one Member State then it can be lawfully marketed across the entire EU.

Cassis de Dijon

This case concerned the export from France to Germany of a liqueur named Cassis de Dijon (made with blackcurrants). German domestic law at the time required fruit liqueurs to have a minimum alcoholic strength of 25% alcohol by volume. The strength of Cassis de Dijon is between 14% and 20%, and thus its import into Germany was blocked.

At the time there was no harmonising EU legislation in this area. Arguments put forward to support the German law were in relation to protection of public health (lower alcohol products might encourage increased tolerance to alcohol) and in defence of the consumer against unfair commercial practices (lower alcohol attracts lower tax). These arguments were not accepted by the ECJ and the German law was found to be incompatible with what is now Article 34 TFEU.

- 1.15 After Cassis de Dijon, a 1985 Commission initiative produced framework directives on food matters including additives, hygiene, and official controls. The introduction of Qualified Majority Voting for internal market measures encouraged the greater use of the precursor to Article 114 TFEU. Another important development in this area was the introduction of a public health Treaty base in 1992 and its development in 1999 into what is now Article 168(4)(b) TFEU (see paragraph 1.4 above).
- 1.16 Various food emergencies, including the bovine spongiform encephalopathy (BSE) crisis which came to a head in 1996, also prompted a far-reaching reform of EU food law. Regulation 178/2002 created a comprehensive food safety legal framework covering food 'from farm to fork'. It establishes extensive traceability obligations and an obligation on Member States to report food safety incidents to the Commission to enable them to be relayed across the EU. It also established the European Food Safety Authority to give scientific advice in relation to food. Another package of measures reorganised the existing EU hygiene legislation (Regulations 853-854/2004).

Current body of EU legislation

- 1.17 An extensive body of EU legislation on animal health, veterinary medicines, medicated feedingstuffs, animal welfare, food and feed safety and hygiene, food labelling and compositional standards has developed. A list of the main relevant legislation is at appendix 4. Regulation 882/2004 also establishes an EU-wide framework for official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.
- 1.18 More detailed discussion on the development of competence in these areas is given in the legal annex to the Call for Evidence which can be found online alongside this report.

Chapter 2: Impact on the National Interest – Summary of Responses

Introduction

Defra and FSA received 64 submissions of written evidence from trade associations; civil society organisations; local and national government bodies; government advisory bodies; political groups, as well as from individuals. These submissions were supported by evidence collected at workshops in January and February 2013. Five London-based workshops were attended by a variety of organisations, a further three workshops were held in Belfast, Edinburgh and Brussels. A full list of the evidence received can be found in appendix 2.

This chapter of the report draws from all of the evidence provided, as well as already published and documented material. **We do not seek to comment on the evidence as stated but use it to demonstrate how EU action on animal health, welfare and food (including feed) impacts the UK.**

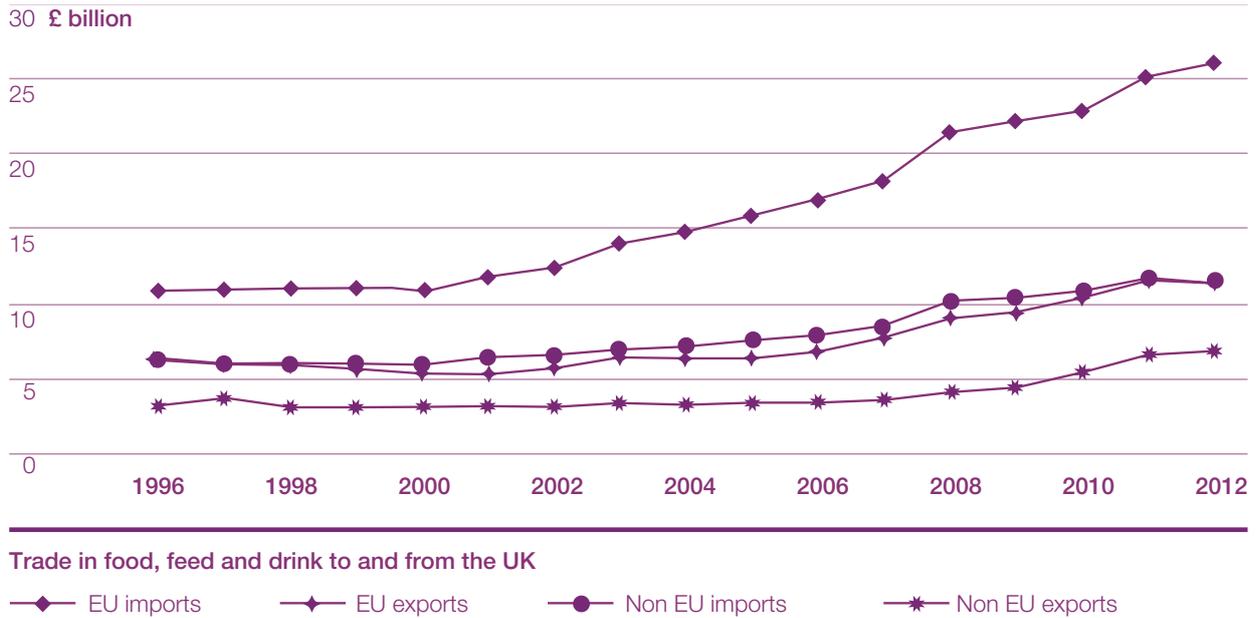
There are themes common to all subject areas covered in this report, they include:

- Trade and the EU Internal Market
- Protection of Animals and People
- Economic Growth and Innovation
- Risk-based Approach
- Differential Interpretation
- International Issues

Trade and the EU Internal Market

Food and drink is the UK and EU’s largest manufacturing sector. In 2011 it was estimated that the UK food sector represented 14% of national employment. Food and feed are traded extensively, both within the EU and internationally. Exports were worth £18.2 billion to the UK economy in 2011. The majority of UK agricultural exports are to other Member States. The UK Government’s policy has been one of trade liberalisation, both within the internal market and internationally through membership of the World Trade Organisation.

Graph 1: Illustrates that the majority of UK imports and exports in this sector are with other Member States of the EU



Source: HM Revenue and Customs (constant prices)

2.1 The EU shares competence with Member States in the area of trade in the internal market and has exclusive competence in relation to the common commercial policy. The EU can therefore conclude international trade agreements with third countries. However, in some circumstances this does not prevent the UK entering into bilateral or multilateral agreements on conditions for export of specific commodities to certain third countries. EU rules concerning animal products, live animals, animal health, animal welfare, food and feed safety, labelling and standards apply to both trade within the EU and to imports from third countries.

The EU Internal Market

2.2 Some trade associations noted in their evidence that common standards set for animal health, welfare and food have ensured free movement of goods within the EU and promoted the ability of Member States to trade in those commodities. The view of some respondents such as the Country Land and Business Association, the National Farmers’ Union Scotland (NFU Scotland), supported by the Food Standards Agency Board, is that the internal market has benefited UK businesses. The levy funded, industry led body responsible for meat promotion in Wales, Hybu Cig Cymru (HCC), noted that it gives access to an additional 500 million potential customers. It is the view of the Senior European Experts Group (SEEG), an independent body consisting of former high-ranking British diplomats and civil servants, that the European internal market has “stimulated growth, innovation and export orientation amongst many farmers and UK food companies”.

- 2.3 The SEEG also suggested that the internal market provides mechanisms to ensure that consumers and animal health are protected when disease or food safety threats develop elsewhere in the EU. It also ensures that the UK's export interests are not subject to unjustified restrictions following such incidents. The Group also noted how internal market rules aided the UK following the bovine spongiform encephalopathy (BSE) crisis.
- 2.4 HCC made the point that for localised, speciality products, development of quality standards, protection of designation and other similar EU rules can facilitate trade and add value and international recognition. Scotch whisky, Scottish salmon and Welsh lamb were just three products mentioned in the evidence provided by the Scotch Whisky Association (SWA) and attendees at the London workshops. The SWA also noted that Scotch whisky is the UK and EU's most widely traded protected geographical indication product and that EU protection has assisted in maintaining its integrity around the world.

Bovine spongiform encephalopathy (BSE disease)

EU legislation was introduced in 2006, following the BSE crisis, to aid the reopening of the UK's beef export markets worldwide. When one Member State declined to implement this law it was taken to the European Court of Justice and made to comply. By contrast, the Russian market for the same product only lifted its ban some 6 years later in 2012. There are also a number of other markets, including the USA and Japan, which are still closed to UK beef exports.

Source: Senior European Experts Group

Mutual recognition and harmonisation

- 2.5 For a properly functioning free market there needs to be agreement about the conditions under which goods can be traded. This can involve either mutual recognition or harmonisation. **Mutual recognition** is where each Member State has national rules and it is agreed that any product lawfully produced in one Member State can be traded in another. **Harmonisation** is where uniform rules are agreed at EU level and apply to all Member States.
- 2.6 The Royal Society for the Prevention of Cruelty to Animals (RSPCA), a leading animal welfare charity, stated that harmonisation across 28 Member States can be challenging, and both the SEEG and Provision Trade Federation (representing traders in processed agricultural products) suggested that this inevitably requires compromise. The NFU Scotland argued that this can lead to unintended disadvantages for some systems or countries. One example given by the Agriculture and Horticulture Development Board (a levy-funded body representing farmers and growers) was in relation to minced meat, where EU standards are based on consuming mince raw, which is not common practice in the UK. Another example from NFU Scotland concerned animal identification. They argued that the structure of the UK sheep industry is unique within Europe meaning that generic EU requirements on sheep identification place a disproportionate burden on the UK compared to other Member States (see case study 3).
- 2.7 There was some support from attendees at the Belfast Workshop of enforcement officers for a system of mutual recognition, as they felt that harmonised EU legislation could be stifling, inflexible and not wholly relevant, especially for small businesses. Those attendees in support of mutual recognition gave the example of a very small food business producing butter for a few restaurants in Dublin. They considered it excessive that EU hygiene legislation required this business to be approved. Seafish (a levy-funded body representing fishermen and fish producers) noted that EU legislation prevents the use of chlorine treatment of fish but that this is required as a condition of import by the USA, creating difficulty for UK manufacturers in being able to take advantage of both internal and external markets.

2.8 The FSA's stakeholder body the Advisory Committee on Animal Feedingstuffs argued that harmonised rules could benefit smaller enterprises. They suggested that harmonisation reduced the number of different requirements that their exports would need to meet if set by individual Member States. The industry's Food and Drink Federation also noted that disparate national legislation would be disruptive and damaging to trade. This notion was echoed by the Government's Veterinary Medicines Directorate, who supported harmonised rules for veterinary medicines as they ensured greater market access compared to a system of mutual recognition.

Role of the European Commission

2.9 Some respondents, including the Food Standards Agency Board, those attending the Brussels Workshop and the FSA's Current & Future Meat Controls stakeholder group, highlighted the important role that the European Commission and its Food and Veterinary Office (FVO) play in facilitating trade and in auditing controls to avoid inconsistencies.

Trade with third countries

2.10 A suggestion made by the International Meat Trade Association, the Country Land and Business Association and Veterinary Medicines Directorate was that one of the main benefits to the UK (and other Member States) of being in a large trading bloc was that it provided a better negotiating stance with larger countries and groupings such as the Customs Union (Russian Federation, Kazakhstan, Belarus) and the USA. They also argued that it offers a level of protection to our producers, keeping EU products competitive internationally and limiting the imports that enter the EU market.

2.11 Concerns raised by the trade association, Export Certification Limited, included the issue of EU-wide agreements with third countries. They argued that the EU's clout was not always sufficient to open up new markets. They felt that the pace of EU-wide negotiations was too slow and that there tended to be 'tit for tat' anti-competitive behaviour. Another issue raised during the London workshops was that China would not recognise the EU as a legal entity with which they can agree export conditions. Instead they require agreements with individual Member States. On the other hand, the Customs Union and countries such as the USA wish to only deal with the EU on trade negotiations. The Welsh Government and the trade association the National Farmers' Union (NFU) mentioned that EU-wide agreements with third countries can be a drawback if there is a disease outbreak, as an outbreak in one Member State can impact on trade for all other Member States. This is the case for vaccination requirements for bluetongue and foot-and-mouth disease, which mean that if a single Member State decides to vaccinate as part of a disease control strategy, international trade could be prevented for all Member States for up to three months.

2.12 Attendees at the London workshops suggested that bilateral international agreements between the UK and individual third countries might be more effective for niche market products. Seafish suggested that having EU-wide requirements for third country trade diminishes the UK's ability to promote goods on the basis of UK traditional farming methods or reputation. Food products are often traded as 'product of the EU', which they felt reduces the UK's 'brand'.

The need for balance

2.13 The UK is keen to see rationalisation of requirements for trade both within the EU and with third countries to facilitate growth in this area. The UK remains committed to working with our EU partners and third countries to break down existing barriers to trade and support UK businesses to increase exports. This issue will be covered more widely in the Trade and Investment report.

Case Study 1: Schmallenberg Virus

Schmallenberg virus is an emerging livestock disease that was initially detected in Belgium, Germany and the Netherlands in 2011, before spreading to the UK in early 2012. It is now widespread across the EU. The European Commission and the World Organisation for Animal Health (OIE) do not believe that the Schmallenberg virus meets the criteria to classify it as a notifiable disease. As such the current EU position is that the presence of Schmallenberg within a Member State should not impact trade with third countries based on OIE regulations.

Evidence provided by Export Certification Limited (ECL) stated that the United States Department of Agriculture recently halted trade in germplasm of cattle, sheep and goats with the UK and other Schmallenberg infected Member States. Subsequent efforts by the EU to resolve the disruption of trade quickly broke down without a resolution. ECL argued that UK companies have been unable to export post-June 2011 products to the US for a full year. The US market is significant for UK bovine semen exporters and the failure to re-open the US market has caused significant damage to their businesses. ECL wish to see a system where discussions can be undertaken by the UK Government to broker a deal with the USA to enable this market to reopen. They feel that in this instance the UK would be better placed convincing third countries of its safety history and high welfare standards. The EU is less able to provide sufficient evidence to overcome the concerns that the US have expressed, especially over diseases that are considered endemic to some parts of the EU.

By contrast, NFU Scotland used the example of Schmallenberg detection as evidence that the greater sharing of information and surveillance that comes with a Europe-wide approach can be very valuable to the UK. They suggested that the coordinated efforts surrounding Schmallenberg led to unprecedented development of diagnostics and greater and more rapid understanding of a novel disease. The Country Land and Business Association also cited the spread of Schmallenberg virus as demonstrative of the need for an EU-led plan to address diseases of this nature strategically. They also expressed the opinion however, that there should be sufficient flexibility for individual Member States to act independently to counter the threat of diseases which particularly affect them.

Protection of Animals and People

Animal health concerns the prevention of the spread of disease among animals, while animal welfare is about ensuring the well-being and humane treatment of animals. There is an overlap between the two because diseases can adversely affect animal well-being and poor welfare conditions may make animals more susceptible to disease. As some animal diseases can be spread to humans (including through food) there are also implications for public health. The use of veterinary medicines and medicated feed may also have wider health and welfare consequences.

Foodborne illness has a significant impact on public health.¹ There are many potential hazards in food, including foodborne pathogens, environmental contaminants or those that can result from food processing. Some foods are potentially harmful to certain sectors of the population, such as people who have allergies. Protection of consumers' health is a major focus for food law. Food law also protects consumers from sub-standard products and from being misled about the content of food.

Animal disease classifications

Notifiable – a notifiable disease is any that is required to be reported to authorities and poses a threat to animal and/or public health, e.g. BSE

Endemic – usually present in the UK e.g. bovine TB

Exotic – not usually present in the UK e.g. equine infectious anaemia

There have been over 14 exotic disease outbreaks in the last 10 years including foot-and-mouth disease, avian influenza and bluetongue.

A **zoonotic** disease is one which can pass from animals to humans e.g. rabies

- 2.14 Animal health, welfare and food law fall within areas of shared competence between the EU and the UK. This means that where the EU has enacted legislation, the UK does not have the power to act other than in accord with that legislation, or to supplement it.

Each year, 1 million people in the UK suffer a foodborne illness (1 in 60 citizens), 20,000 of whom receive hospital treatment. Approximately 500 deaths a year are associated with foodborne illness.

Source: Food Standards Agency (FSA) Board

Harmonised EU approach

- 2.15 Respondents from across the farming industry, the veterinary profession and civil society, including Hybu Cig Cymru, the Country Land and Business Association (CLA), British Veterinary Association (BVA), Haemolytic Uraemic Syndrome Help (HUSH – a charity with an interest in food hygiene) and the Current and Future Meat Controls Group considered that a harmonised approach to animal health and food law is essential to provide appropriate protection for animals and people across the EU. The majority of respondents, again across farming, professional and civil society bodies, including the National Farmers' Union (NFU), Royal Society for the Prevention of Cruelty to Animals (RSPCA) and BVA considered that competence at a European level is also vital to ensure a consistent approach to animal welfare across the EU.

¹ There is a separate report on Health that covers public health aspects of EU competence, including in relation to nutrition and related matters.

2.16 FSA's Consumer Advisory Panel felt that the UK benefits from being part of the EU for food law and that there was no obvious rationale for operating alone. They suggested that EU food law is strongly consumer-focussed and allows UK consumers to have the same degree of confidence in imported food as that produced in the UK. The Agriculture and Horticulture Development Board said that if common standards for animal health and welfare were not set by the EU, national legislation would be necessary to maintain standards. They argued that it was unlikely national legislation would be significantly less rigorous than the current EU requirements.

EU action in tackling avian influenza through the ban on trade of wild caught birds (Regulation EC No. 318/2007) has benefited the UK. The ban reduced animal and human health risks and cut down UK Government costs in respect of quarantine, phytosanitation, administration and enforcement. It has also made a significant contribution to global bird conservation efforts and improved animal welfare.

Source: Royal Society for the Protection of Birds (RSPB)

Animal disease

- 2.17 Respondents from across a spectrum of different organisations gave examples of the value of EU competence in relation to control of animal disease. The BVA (the trade association for the UK veterinary profession) articulated widely expressed views that a consistent and joined-up approach to disease control and prevention across Europe strengthens the impact of control measures and surveillance. The Welsh Government noted that the EU coordinated approach reduces the risk of re-emergence or spread of disease across Europe and cited positive action to reduce incidence of Salmonella and EU funding for the Wales tuberculosis (TB) Eradication Plan. NFU Scotland argued that Member State cooperation on bluetongue and Schmallenberg had benefited the UK, while the Senior European Expert Group and London Workshop Two praised EU action to combat rabies.
- 2.18 However, not all examples were positive and views on rabies controls were more varied. Not all respondents who commented on this issue (largely animal protection civil society organisations) were happy with the protection offered by the Pet Travel Scheme and some argued that the UK should have retained its temporary derogations to allow more stringent rabies controls (see case study 2). The UK Equine Disease Coalition also had concerns about EU approaches to animal disease. They argued that the EU had taken little action to prevent the spread of equine infectious anaemia and none on West Nile Virus.

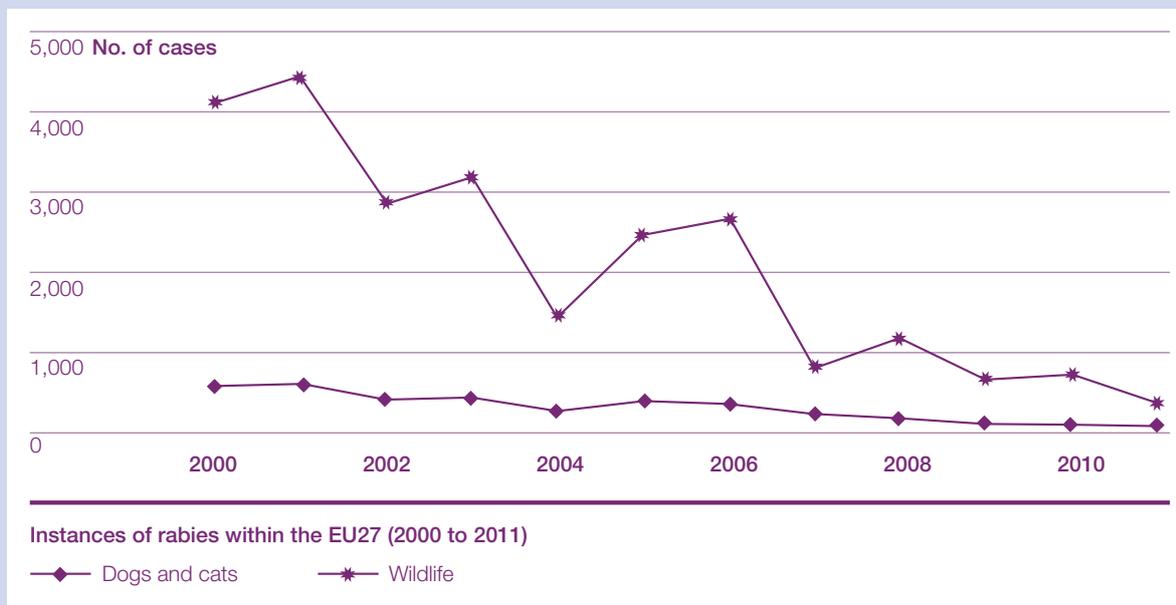
Case Study 2 – Non Commercial Movement of Animals (Pet Travel Scheme)

In 2000, the UK's strict controls on the import of rabies-susceptible pet animals were relaxed in England. The new rules allowed the import of pets from Member States and certain third countries without a quarantine period, dependent on a rabies vaccination followed by a blood test and six-month wait.

In 2003, the EU introduced a similar Pet Travel Scheme with a requirement for vaccination against rabies followed by a 21-day wait for movements between Member States. The UK (among others) was granted a temporary derogation to continue applying more stringent requirements, on the grounds of its rabies-free and island status.

As the incidence of rabies across Europe decreased (see graph 2) the UK concluded on the basis of risk assessments that the risk of introduction of rabies would continue to be very low after harmonisation with the EU regime. On January 1st 2012, the UK derogation expired, but the UK retained additional rules requiring treatment of dogs for the tapeworm *Echinococcus multilocularis*.

Graph 2: Instances of rabies within the EU27 (2000 to 2011)



Source: World Health Organisation (WHO) Rabies Bulletin

The Kennel Club (the UK's largest dog welfare body) identified that harmonisation fails to take account of varied levels of rabies risk in different countries within the EU. Several respondents, including other animal welfare bodies, argued that evidence of an increase in the number of illegally imported pets since harmonisation with the EU regime had significantly heightened the risk of rabies returning to the UK. However, there is no concrete evidence to support this assertion.

By contrast, the Senior European Experts Group referred to the regime surrounding the non-commercial movement of pet animals as a "spectacular UK policy success". The Group indicated that the UK persuaded the Commission to embark on its co-ordinated programme of rabies eradication as a condition of harmonising with the EU regime, which resulted in the virtual eradication of the disease from most of the EU.

The view of the UK Government is that the current regime strikes a good balance between protection from disease and freedom of movement.

Food law

- 2.19 EU competence for food and feed law was praised as being beneficial to consumer protection by a number of organisations spanning different interests, including the Agriculture and Horticulture Development Board (AHDB), Centre for Environment, Fisheries and Aquaculture Science (Cefas) and the FSA Board. However this was not the view of consumers (see box), who showed a significant preference for food law to be made in the UK.
- 2.20 The Haemolytic Uraemic Syndrome Help group suggested that without the EU there would not be as good a regulatory system for food. They argued that the UK and consumers can only benefit from the EU taking more action. The Agricultural Industries Confederation (trade association for the agrisupply industry) were positive about EU legislation ensuring that food and feed products imported from other Member States all conform to the same safety standards.

Views of UK Consumers

- 20% of consumers knew that food law is made by the EU
- 42% felt protected (although the horsemeat incident had reduced confidence)
- 75% preferred food law to be made in the UK
- 11% preferred food law to be made by the EU

However, when given brief information about the potential benefits of EU level food law, the number of people indicating a preference for it went up to 23%.

Source: 'The EU and Food Law' online consumer survey – a nationally representative sample of 1844 consumers were interviewed across the UK 19–24 February 2013. FSA Board annex to evidence

- 2.21 EU allergen controls were mentioned by some respondents, including those with a specialist interest in these issues but also more broadly across the food and drink sector. The Anaphylaxis Campaign were positive, believing that EU food labelling harmonisation has helped protect families with allergies both in the UK and when travelling in Europe. However, attendees at London Workshop Four and the British Soft Drinks Association noted that in the UK allergen boxes have been used quite commonly on a voluntary basis to provide an indication of allergens used as ingredients. Respondents were concerned that these will no longer be allowed under new EU Food Information Regulations (FIR) although warnings of possible allergen cross contamination risks would still be possible (such as 'May Contain' labelling). In any case, allergen boxes have not been used by all manufacturers and not all consumers have understood that such statements were not mandatory. The UK Government view is that the new FIR rules allow allergens to be declared in a single, consistent way in the ingredients list, with ingredients highlighted for the convenience of consumers.
- 2.22 Country of origin and welfare labelling were raised by respondents representing a range of interests. The International Meat Trade Association (IMTA) was against compulsory origin labelling, but the Freedom Association (who promote individual liberty and freedom of expression) and several primary producer and animal welfare civil society groups, including the RSPCA and Compassion in World Farming, were in favour. The RSPCA recognised that there were a number of practical difficulties with such an initiative, not least setting appropriate standards for different methods of production, and suggested that the principle could be investigated for poultry in the first instance as there were already agreed welfare standards for this sector.

Horsemeat

- 2.23 News of the 2013 horsemeat incident broke in the middle of the evidence gathering phase for the report. The Soil Association (a UK charity promoting organic food), World Society for the Protection of Animals and a number of others, suggested that the incident highlighted difficulties with the internal market. In particular, that it encouraged complex food supply chains. The Farm Animal Welfare Committee (FAWC) and others thought that the incident demonstrated a breakdown in traceability. Others, including attendees at the Brussels Workshop, argued that traceability had worked, but that it had been impossible to detect where the fraud had actually occurred.
- 2.24 The IMTA and CLA argued that the existing EU law was sufficient and that the solution was not to impose further legislative controls on an already heavily regulated industry, but rather to improve enforcement. Transparency, as a way of rebuilding consumer confidence, was also a common theme in the evidence and was mentioned by Dundee City Council, IMTA, the FSA Board and the NFU amongst others.

The **horsemeat** incident illustrates the need for a speedy and robust response from the EU. This requires a framework to operate efficiently and consensually.

Source: Country Land and Business Association

Need for greater flexibility

- 2.25 While the benefits of coordinated EU action were supported by a range of respondents, including the Blue Cross, the Veterinary Medicines Directorate and the CLA there was still a significant view that flexibility was also important, particularly for animal health. The chairman of the Sheep Health and Welfare Sector Council expressed the view that Member States require flexibility to make national rules to prevent the introduction of animal diseases and to take local circumstances into account, for instance to deal with the significant variation in species densities, management practices and disease pressures across the EU. He also argued that the UK should have greater competence to act on animal health in order to capitalise on our island status and build higher health standards than the rest of the EU.
- 2.26 The National Office for Animal Health (NOAH) (trade association for the animal medicines industry) and the National Farmers' Union Scotland both suggested various endemic diseases that the UK could benefit from eradicating, including sheep scab and bovine viral diarrhoea, noting that there are no EU requirements to take action. The Welsh Government also argued for greater flexibility in some areas. They noted that EU rules impose constraints on the UK both in terms of the way in which tests can be applied and the way in which they are used, for example the use of the Interferon Gamma Release Assay screening test to detect bovine tuberculosis. The CLA (representing owners of land, property and businesses in rural England and Wales) was clear that EU action to combat animal disease was advantageous to the UK. However, it stated that immediate concerns about bovine tuberculosis in UK livestock could only be tackled by the UK Government.

- 2.27 The Government's advisory body, Cefas, was concerned that harmonised rules meant the UK was more at risk of aquatic animal disease outbreaks. The UK Equine Disease Coalition had similar concerns about the increased movement of horses around the EU. Both suggested that Member States should be able to prevent movements of animals and animal products to protect their disease risk status, not simply in relation to notifiable diseases. Currently Member States can apply national measures under Council Directive 2006/88/EC in respect of some diseases, if they present a significant risk for the animal health situation of aquaculture or wild aquatic animals in their country. The UK does have measures in place for certain diseases, which allow for the prevention of movement of susceptible aquatic animals from Member States.
- 2.28 Attendees at London Workshop Five, the CLA and the NFU all argued for a degree of flexibility in EU food law to enable practical implementation in light of national differences. The Provision Trade Federation highlighted that inflexible EU rules can cause problems for traditional foods that vary in composition between Member States. Hybu Cig Cymru, however, urged caution. They said that although flexibility can be attractive it has dangers where harmonisation is important to prevent anti-competitive practices.

Sharing intelligence and resources

- 2.29 The sharing of intelligence and veterinary and scientific expertise across the EU was thought by a range of different respondents to be essential, both before and after animal disease outbreaks and food safety incidents. European networks as well as conferences and European collaborative projects were all argued to play important roles in maintaining the flow of information. The Welsh Government mentioned that the EU provides Member States with advice from experts across Europe via the Disease Eradication Task Force.
- 2.30 Respondents, including the FSA Board, strongly supported the EU wide system for handling incidents involving food and feed and the protection that this gives. The Rapid Alert System for Food and Feed (RASFF) requires Member States to notify the Commission immediately about serious health risks and is valued as a communication network. It also allows decisions on whether cross-European action is necessary. A similar system exists for sharing information about animal disease.
- 2.31 The Health Protection Agency (now Public Health England) Gastrointestinal Infections Programme did however have some concerns about RASFF. They believed that information is not always available in a form that lends itself to protecting public health and that it is not always shared quickly with people who need it, such as public health epidemiologists investigating outbreaks.
- 2.32 The pooling of EU resources, which allows issues to be tackled that the UK alone could have difficulty funding, was an advantage noted by some. An example given by Cefas was that public health had benefited from coordinated EU action on shellfish hygiene.
- 2.33 Funding was another issue raised. The EU provides emergency veterinary funds to facilitate swift and decisive action in response to an animal disease outbreak. It also covers unbudgeted costs such as compensation payments (e.g. during the foot-and-mouth disease outbreaks of 2001 and 2007). In the case of bovine TB, the Welsh Government and CLA argued that the UK had benefited from co-funding of TB testing and compensation costs. The FSA's Consumer Advisory Panel also noted that the EU was providing funds for Member States to test for undeclared horsemeat.
- 2.34 EU funding was not however positively viewed by all. Some respondents, including the RSPCA argued that subsidies can lead to a lack of incentive to eradicate disease.

EU Reference Laboratories

2.35 Attendees at London Workshop Two referred to the beneficial network of EU Reference Laboratories financially supported by the European Commission and tasked with researching major animal diseases. A 2009 independent assessment found that reference laboratories were good value for money and had 'significantly' contributed to harmonised management of animal diseases.² EU-Reference Laboratories also cover many aspects of food safety, including feed additives, heavy metals, mycotoxins and food contact materials.

EU Reference Laboratories

In 2011, the European Commission allocated €1,416,700 of funding to UK based EU Reference Laboratories on animal health and live animals. These were the Veterinary Laboratories Agency (now AHVLA), the Institute for Animal Health (now the Pirbright Institute) and the Centre for Environment, Fisheries and Aquaculture Science (Cefas).

Source: 2010 Decision on financial aid for the year 2011 for certain EU reference laboratories in the field of animal health and live animals.

UK has influenced high EU standards

2.36 Respondents representing both animal welfare interests and technical experts, including The Kennel Club and the British Veterinary Association (BVA), mentioned the importance of the UK influencing EU action from within and promoting UK standards across the continent. The BVA highlighted the strong UK negotiating stance on disease surveillance, citing the 2007 foot-and-mouth disease outbreak. The Senior European Experts Group (SEEG) recalled how EU competence on animal welfare was born out of UK negotiations. The SEEG and the World Society for the Protection of Animals (an international animal welfare organisation) stated that the inclusion of animal welfare in the Maastricht Treaty and now in Article 13 TFEU was due to UK influence in the EU.

2.37 Welfare organisations like the RSPCA, Blue Cross and Compassion in World Farming all argued that the enforcement of high welfare standards in the UK in advance of EU legislation has enhanced the UK's reputation as an international leader in animal welfare and has helped to promote higher standards worldwide.

2.38 While the UK has been influential in promoting animal welfare, respondents, such as the NFU and the AHDB highlighted potential risks to UK business and argued that the experience of the EU Laying Hens and Pigs Directives (see case study 4) underlines the importance of not placing the UK at a competitive disadvantage.

Use of animals for research

2.39 While animal research will be covered in more detail by the Research and Development report, some respondents, including The Kennel Club and the All Party Parliamentary Group (APPG) for the Replacement of Animals in Medical Experimentation, gave evidence on Directive 2010/63/EU on the protection of animals used for scientific purposes. This Directive was viewed as an example of how EU action has improved the welfare of animals in scientific experiments.

2 Evaluation of Community Reference Laboratories in the field of animal health and live animals, DG SANCO Open Invitation SANCO/2008/D1, Final Report, November 2009: www.ec.europa.eu/food/animal/diseases/laboratories/eval_com_ref_labs_report_112009_en.pdf

- 2.40 The APPG for the Replacement of Animals in Medical Experimentation and the RSPCA felt that EU legislation on scientific experimentation strikes the right balance between protection of animals, safeguarding public health and the interests of UK businesses. The fact that the UK takes advantage of the provision allowing Member States to retain stricter controls in some areas, for example in continuing to ban experiments on great apes, was viewed positively by the APPG for the Replacement of Animals in Medical Experimentation.
- 2.41 The RSPCA referred to the European Partnership for Alternative Approaches to Animal Testing, part-funded by the Commission, which helps coordinate both intra- and inter-industry activities aimed at replacing the use of animals in testing. The RSPCA also mentioned a number of European initiatives that have, and continue to put a significant amount of money (€250 million) into the development of non-animal models for product and other testing. They suggested that more EU-level coordination, such as an increased centralisation of information and the improved quality of information provision by the Commission, could be valuable.

Economic Growth and Innovation

The UK Government has made strong commitments to prioritise economic growth, to support green growth and to boost enterprise. At EU level, the European Council has agreed to a 2020 strategy intended to put Europe on the path to smart, sustainable and inclusive growth.

- 2.42 Trade associations the Food and Drink Federation and Scotch Whisky Association, and levy funded, industry led bodies Hybu Cig Cymru and the Agriculture and Horticulture Development Board, commented that harmonisation of standards at an EU level is critical for fair competition for business. The primary producers' trade association, National Farmers' Union (NFU) Scotland, argued that although EU regulation can be at times burdensome for industry, it nonetheless protects the UK industry from barriers to trade and market distortion.
- 2.43 The Proprietary Association of Great Britain (PAGB), the UK trade association representing manufacturers of branded over-the-counter medicines and food supplements, suggested that food law should be limited to safety, with other aspects of consumer protection being driven by market forces or national legislation. The International Meat Trade Association, representing importers and exporters of meat and meat products, argued that the EU should take less action in relation to food law.

Costs and savings

- 2.44 As part of their argument for greater national competence, the TaxPayers' Alliance (the independent campaign for lower taxes) and Stuart Agnew MEP (UK Independence Party Member of the European Parliament) discussed the costs and benefits associated with EU competence. They argued that the benefits of EU standards do not outweigh the high cost of implementation. Stuart Agnew MEP provided figures to assert that transposition of EU animal health and welfare legislation into UK law had been costly, with limited tangible benefits. The Taxpayers' Alliance shared its report into the Common Agricultural Policy which argues that the UK would save money were the policy to be repatriated. The Agriculture report will further consider Common Agriculture Policy subsidies.
- 2.45 On the other hand, respondents such as the charity the Royal Society for the Protection of Birds said that EU investment in the eradication of disease had saved the UK money through collaborative and preventative measures.

Animal disease outbreaks can have a devastating economic impact. It is estimated that the 2001 foot-and-mouth disease outbreak cost the UK £8 billion, and that bovine TB costs UK administrations over £100 million each year (excluding costs to businesses).

The EU allocates around €300 million a year to co-finance annual or multi-annual programmes to control and eradicate diseases.

Source: Defra and www.europa.eu/rapid/press-release_MEMO-11-469_en.htm

Better Regulation

2.46 Trade associations such as the National Office of Animal Health, the NFU and PAGB emphasised the importance of better or ‘smart’ regulation. The NFU and NFU Scotland both promoted the importance of considering alternatives to legislation and working collaboratively with industry to develop them. The need for more rigorous impact assessments (IAs) was raised by the Provision Trade Federation and attendees at London Workshop Four, which was comprised mainly of industry representatives. In 2010, the House of Lords EU Committee responded positively to the Commission’s new IA guidelines and inclusion of a test focusing on smaller businesses.³ However they were concerned that IAs are not done for all categories of EU legislation. Trade associations such as the British Soft Drinks Association, NFU and others suggested that legislators needed a better understanding of industry.

Smart Regulation

The EU has taken account of better regulation for many years, with the UK playing an instrumental role in pushing the agenda. In 2010 the Commission relabelled its action from ‘better’ to ‘smart’ regulation. Commitments included providing impact assessments for significant proposals, seeking alternatives to legislation, evaluating existing legislation (‘fitness checks’) and consulting interested parties for a minimum of 12 weeks.

The Commission has committed to a ‘think small first’ approach to reflect the needs of small and medium enterprises.

Source: www.ec.europa.eu/governance/better_regulation/index_en.htm

- 2.47 Food and drink trade associations like the Fresh Produce Consortium, British Soft Drinks Association and International Meat Trade Association all called for more rigorous consultations, arguing the importance of a proper discussion of proposals by all affected parties. This echoed the views of the House of Lords EU Committee which praised the openness of the Commission, but urged the EU to take account of national organisations as well as pan-European bodies.⁴ The Committee noted that this was particularly important when practices differed across the EU.
- 2.48 The NFU commented that EU legislation is burdensome and can impact negatively on productivity of UK industry. They referred to their 2012 Farmer Confidence Survey⁵, which showed that 60% of respondents cited ‘regulation and legislation’ as the second biggest issue negatively impacting on their business.

3 ‘Impact Assessments in the EU: room for improvement?’, House of Lords European Union Committee, 4th Report of Session 2009-10

4 ‘Initiation of EU Legislation’, House of Lords European Union Committee, 22nd Report of Session 2007-08

5 www.nfuonline.com/assets/3455

Farmers' concerns

The NFU highlighted Regulation 1/2005 on the protection of animals during transport as a specific example of burdensome legislation due to highly prescriptive rules on the angle of ramps for vehicles transporting livestock. They argued that modification of vehicles or provision of alternative transportation has resulted in excessive costs to farmers.

Farmers indicated via an online forum that various regulatory burdens have affected their ability to run a profitable business, such as the fallen stock burial ban or limited access to genetically modified feed. Electronic identification of sheep was consistently raised as a burdensome requirement by farmers in this sector (see case study 3).

In 2010, a Farming Regulation Task Force carried out an independent review on ways of reducing regulatory burdens on farmers and food processors. Its 2011 report to Government recommended over 200 ways of reducing unnecessary "red tape" and reducing regulatory burdens.

- 2.49 The Government representative for the Channel Islands stated that although EU-wide standards were beneficial overall, the administrative burden for small jurisdictions is onerous. The Channel Islands Brussels Office gave the example of Regulations 1069/2009 and 142/2011 on animal by-products, which they deemed an unnecessary burden to implement in their 300-page entirety, when most aspects do not apply to the circumstances of the Channel Islands.

Prescription versus outcome-based legislation

- 2.50 There was some debate about whether legislation should be prescriptive or outcome-based. The Government's advisory body, the Centre for Environment, Fisheries and Aquaculture Science (Cefas) argued for more prescription as a way of reducing scope for differential implementation across Member States. Attendees at the Belfast Workshop for enforcers noted that smaller businesses often prefer more prescriptive requirements as they can give more legal certainty. The Food and Drink Federation (FDF) and Provision Trade Federation, however, both argued against prescription. FDF suggested that prescription can restrict good practice. Whilst acknowledging that prescriptive legislation is sometimes needed, the Agriculture and Horticulture Development Board (AHDB) were generally in favour of outcome focussed approaches as these allow for more innovation and reduce delay in the introduction of new technologies.
- 2.51 A particular example given by the AHDB was the authorisation of lactic acid treatment of beef carcasses. It was noted that EU approval for lactic acid treatment progressed slowly through the EU decision-making apparatus following safety evaluation from the European Food Safety Authority (EFSA). AHDB argued that a more outcome-based legislative framework might have allowed business to adopt the technology as soon as EFSA had declared it safe.

Case Study 3 – Sheep Electronic Identification

Council Regulation 21/2004 on the identification and tracking of sheep and goats was adopted to improve traceability following the 2001 foot-and-mouth disease outbreak. From 31 December 2009 it required the introduction of electronic identification (EID) using a compulsory radio frequency microchip with a unique code transmitted from an eartag or ceramic capsule.

UK farming practices mean that sheep in the UK are moved about more frequently than those in other Member States. Concerns have been raised over the costs and burdens that EID and movement recording place on the sheep industry. Farmers were highly critical of the requirement for 100% accuracy in farm records with EID reading equipment which is perceived to be unreliable, and argued that the limited benefits did not justify the high expense of implementation. Farmers felt that EID was not implemented to the same degree in other Member States, which they argue adversely affected UK competitiveness, especially as it is not required of other key lamb producers such as New Zealand. The chairman of the Sheep Health and Welfare Council felt that batch recording would be equally effective in disease control and traceability, since if one animal is diseased then often the whole flock is considered infected.

The system is strongly supported by most Member States and the Commission, so there is little prospect of a change to legislation. However, the UK Government did negotiate (i) delays to the original deadlines for the introduction of EID and individual movement reporting, (ii) a derogation for lambs under 12 months intended for slaughter, and (iii) a derogation allowing third parties to read EID numbers so that farmers need not buy readers. The UK Government is aiming to introduce an electronic movement reporting system in 2014 which should further reduce the record keeping burden for those farmers who choose to use it. In the meantime, independent research has provided reassuring evidence of the quality of EID tags on sale in the UK. There is also no authoritative evidence to show the introduction of EID has affected competitiveness, as lamb prices have been relatively high since 2009.

Process

- 2.52 Attendees at London Workshop One on animal health and welfare, raised concerns that EU processes were a barrier to innovation and growth. They criticised decision-making for being too slow and often resulting in complex lowest common denominator policies due to the necessity of brokering deals between 28 different Member States and the European Parliament.
- 2.53 The Workshop attendees particularly criticised the length of time, often several years, which it takes to agree legislation, followed by a similar period to allow for national implementation. The International Meat Trade Association (IMTA) was concerned that the EU is too slow in updating the list of diseases and susceptible species compared to quicker national processes. The Welsh Government highlighted that it took two years to amend the legislative framework to enable bluetongue vaccinations.
- 2.54 Reviewing legislation can also take a very long time. The IMTA discussed that the Council and European Parliament may delegate power to the Commission to make tertiary legislation, which can be passed quickly and is particularly suitable for more technical, less political regulation. They argued that the use of tertiary legislation was a successful development, allowing for faster revision to EU law. However, they also noted that it gives Member States and the European Parliament less control. Some organisations such as the World Society for the Protection of Animals were concerned that tertiary legislation does not allow for input from civil society.

2.55 The lack of transparency of the European legislative process was raised by trade associations such as the Provision Trade Federation, the British Soft Drink Association and others. They commented that it can be difficult for trade associations and businesses to get involved.

Genetically modified organisms (GMOs) and new technologies

2.56 The NFU and the Agricultural Biotechnology Council (ABC), the umbrella group for biotechnology industry, were among respondents who raised the issue of genetically modified food and feed.⁶ ABC argued that significant investment is needed to bring GM food and feed to the market and companies therefore need predictable and workable approval systems to avoid being put at a competitive disadvantage. They noted that while GM controls are broadly similar worldwide, the EU has a political 'overlay' that disrupts free trade and stifles innovation. The Brussels Workshop highlighted that the lack of a viable EU system to deal with the problem of low level presence of GMOs was a serious threat to competitiveness.

6 The environmental debate on GMOs will be covered in Defra's second report into the environment and climate change.

Risk-Based Approach

It is UK Government policy that EU law must be backed up by robust science and evidence.

2.57 The Senior European Experts Group expressed concerns that in practice risk management decisions can be unduly prescriptive and risk averse leading to disproportionate legislation. The Group argued that whilst the European Commission has been seeking to pursue more risk-based and outcome-focussed approaches recently, there is still a way to go with some Member States and the European Parliament before the correct balance is achieved.

Risk assessment determines the likelihood of a particular ‘risk’ occurring and the significance of its impact. It is an objective study based on scientific evidence.

Risk management is deciding and applying the appropriate controls to manage the risk. Risk management decisions inevitably involve consideration of the acceptability of the risk. This means that perceptions about the risk will be involved and societal norms will be part of the consideration. Member States and institutions may have different views about how tolerable a certain risk is. Some may be more risk averse; others may give more weight to societal factors.

2.58 Attendees at London Workshop One expressed concerns about the increasing social and ethical focus of animal welfare policy. While recognising that this was inevitable given changing public attitudes, they were keen to ensure that any decisions still had a robust scientific evidence base. The Royal Veterinary College (the foremost UK veterinary training centre) suggested that different priorities, perceptions and interests across the EU may delay the adoption of more rational strategies.

2.59 The Country Land and Business Association and the International Meat Trade Association gave the Commission’s proposed ban on cloning as an example of where societal concerns had taken precedence over science. The Commission’s approach was adopted despite the fact that the European Food Safety Authority Scientific Committee found no indication that differences exist in terms of food safety for meat and milk of clones and their progeny compared with those from conventionally bred animals. Such a conclusion was based on the assumption that meat and milk are derived from healthy animals which are subject to relevant food safety controls.⁷

⁷ www.efsa.europa.eu/en/topics/topic/cloning.htm

Evidence Snap-shot

EU requirements described by some respondents as onerous or insufficiently risk-based:

Surveillance for **veterinary medicine** residues as it poses a low risk to public health.

Decisions on **genetically modified organisms** (food and feed) where scientific evidence supports approval, but decisions by some Member States are based on other factors.

Proposals on **cloning** do not take into account significant evidence of the benefits to production, and minimised disease spread.

Spinal cord removal in sheep is costly to industry and there is little evidence that sheep scrapie can be transmitted through spinal column material.

Control levels set by the EU for food imported from Japan following the Fukushima nuclear disaster were lower than those required to protect EU consumers.

Some argued that **official meat controls** are not risk-based.

Evidence has been produced to show that **skin on sheep meat (smokies)** can be safely produced, but progress in gaining approval at EU level is precautionary and slow.

Some pet organisations argued the EU's standards on rabies are not high enough and do not take sufficient account of the risk of **rabies being reintroduced to the UK** (see case study 2).

2.60 A report by a Heads of National Food Agencies Working Group noted that proper and transparent use of risk assessment in decision-making is essential to maintaining and building trust. Credibility is undermined when risk managers and decision makers selectively interpret or misrepresent the scientific aspects of risk assessment in order to justify decisions which are really based on political, social, economic or other factors. According to the report, some have perceived a trend towards less transparent risk management, but the Group stated that it was not possible to measure.⁸

European Food Safety Authority (EFSA)

2.61 A number of respondents, particularly trade associations and advisory bodies to Government, commented on the role of EFSA, the scientific advisers to the European Commission on issues of food safety. Respondents such as the FSA's Board, the Health Protection Agency (now Public Health England) and the National Farmers' Union (NFU) view EFSA as an important and respected, expert body that acts independently and transparently in undertaking scientific risk assessments. The British Soft Drinks Association, the Food and Drink Federation and the NFU mentioned that EFSA can provide a scientific reference point to counteract diverging Member State views and help keep risk assessment separate from politics, although it was regretted that EFSA does not have a more active role in risk management. The Fresh Produce Consortium argued that EFSA should take more account of evaluations by other reputable safety authorities in third countries. The Brussels and Europe Liberal Democrats argued EFSA could be improved through allowing industrial experts to sit on EFSA panels, while Seafish argued that it did not always make recommendations that follow scientific findings.

⁸ 'Heads of National Food Agencies Working group on Transparent Use of Risk Assessment in Decision Making', April 2012, www.food.gov.uk/multimedia/pdfs/decision-making-docs.pdf

2.62 Brussels Workshop attendees referred to the various evaluation and authorisation procedures and the degrees to which they are centralised. For instance, the authorisation of food additives is based on a centralised evaluation by EFSA, while novel foods currently rely primarily on evaluations by individual Member States. For food law, a centralised system was favoured by the Advisory Committee on Animal Feedingstuffs and the FSA's Board. Attendees at a number of the workshops supported the idea of depoliticising some scientific or technical decisions taken on animal health and welfare by having EFSA or a similar body provide this overarching function.

Centralised applications for feed/food additives, biocides, chemicals etc. are of benefit to industry. This allows full market access and saves approaching Member States individually. I think the disadvantage is that it is expensive for small companies, or small local markets.

Source: Member of the Advisory Committee on Animal Feedingstuffs

Precautionary Principle

2.63 Respondents from the Government and industry sectors including the Agriculture and Horticulture Development Board, the Country Land and Business Association, Hybu Cig Cymru and industry representatives at London Workshop Two felt that particular approaches to implementation of the precautionary principle can get in the way of a consistently applied risk-based approach. At the Brussels Workshop there were also concerns about a general over-reliance on a risk-eliminating approach. Others however, including civil society groups such as the Soil Association and World Society for the Protection of Animals, felt that the precautionary principle must be available to deal with matters where there is genuine uncertainty.

The **precautionary principle** may be invoked when a potentially dangerous effect is identified by a scientific and objective evaluation, but there is insufficient evidence for the risk to be quantified with certainty. It allows risk management to take place when risk assessment is not conclusive.

2.64 The EU General Food Law sets out that risk management can take account of the results of risk assessment, but also the precautionary principle and other factors. The EU also has commitments under the World Trade Organisation Agreement on the application of Sanitary and Phytosanitary measures (SPS). SPS requires scientific justification for measures and this can provide a check on the extent to which the precautionary principle can be misapplied.

2.65 The Food and Drink Federation noted that a stated reliance on the precautionary principle had allowed a number of Member States to put in place or propose national legislation on food contact materials (e.g. bisphenol A in plastic bottles) that would potentially damage the internal market. Other examples cited by respondents of misuse of the precautionary principle related to: trade agreements on lactic acid; debates about products from cloned animals; genetically modified food and feed, nanotechnology and neonicotinoids. Attendees at London Workshop Three argued that the precautionary principle should not be used for the new Veterinary Medicines Directive. It was stated that there is little scientific evidence to support the argument that restrictions on dispensing and prescribing veterinary medicines have an impact on antimicrobial resistance.

Differential Interpretation

A perceived inconsistency of interpretation and application of EU law across Member States was a recurring theme in the evidence provided. A particular concern was the impact that this can have on the functioning of the internal market and fair competition.

- 2.66 The Agriculture and Horticulture Development Board summed up the views expressed by several respondents (representing commercial interests) by suggesting that there can be an economically driven race to the bottom to see who can be most successful in avoiding the letter of the law to gain competitive advantage.
- 2.67 However, Hybu Cig Cymru and attendees at the London workshops (covering a range of sectoral interests) felt that the problem concerned not only differential interpretation, but inadequate enforcement by Member States and in some cases, late implementation. Respondents were particularly concerned that the Commission does not always adequately enforce timely implementation. It was felt that infraction procedures were too slow and did not encourage prompt compliance (see case study 4 on pigs and laying hens).

Case Study 4: Pigs (2008/120/EC) and laying hens (1999/74/EC) Directives

The NFU and workshop attendees representing trade associations argued that the experience of implementing the pigs and laying hens Directives (which must be applied to all holdings and relevant establishments in the EU from 1 January 2013 and 1 January 2012 respectively) underlined the importance of not placing the UK at a competitive disadvantage by applying legislation too early.

These Directives increased welfare standards and in both cases the UK had for the most part introduced similar requirements much earlier. A significant number of Member States meanwhile failed to comply with the Directives even sometime after the specified enforcement dates. This risked putting the UK's pig and poultry producers at a considerable commercial disadvantage compared with those in non-compliant Member States due to lower production costs associated with lower welfare standards.

Civil society organisations, such as the RSPCA, Blue Cross and Compassion in World Farming argued that the risk to UK producers was overplayed. They considered that the UK had enhanced its reputation as an international leader in animal welfare and that this had much greater value in promoting higher standards worldwide. Not only that, there would be certain areas of trade where the UK was servicing particular niche markets and could in fact gain advantage through having introduced tighter controls, which might make their products more attractive to foreign buyers.

Is the UK stricter than other Member States?

- 2.68 The evidence was mixed about whether the UK implements or enforces EU law more strictly than other Member States. A number of respondents (from all sectors) including the British Veterinary Association, RSPCA, NFU and attendees at several of the workshops agreed there was a perception that the UK amplifies the requirements of EU legislation ('gold-plating') or pursues over-zealous enforcement of legislation compared to other Member States.

- 2.69 The International Meat Trade Association gave an example that suggested that the UK takes a more robust approach to food safety controls at ports, with meat imports taking significantly longer than in other Member States. They suggested this can cause importers to ‘shop around’ for more favourable ports on mainland Europe. The Kennel Club gave an example about the transposition of Directive 2010/63/EU on animal experimentation. They said the UK’s strict enforcement was an incentive to conduct animal experiments elsewhere in the EU where standards were not considered to be enforced as rigorously.
- 2.70 There were, however, some respondents at London workshops who cited the Davidson Review⁹ which indicated that there is little evidence to demonstrate that the UK is systematically stricter than other Member States.

Ensuring fair competition

- 2.71 Some respondents including the Centre for Environment, Fisheries and Aquaculture Science suggested that supporting greater prescription in EU legislation might reduce differential interpretation by allowing Member States less room for interpretation. This would, however, work against the general preference for outcome and principle-based legislation expressed by the NFU and AHDB amongst others.
- 2.72 The UK Equine Disease Coalition suggested that a larger proportion of randomised inspections would ensure a more robust approach to delivering required EU standards.
- 2.73 Another option suggested by Brussels Workshop attendees (representing both commercial and civil society interests) amongst others, was to encourage the production of more EU guidance and for it to be made more user friendly.

The Davidson Review

The Department for Business, Innovation and Skills published the Davidson Review in 2006, which analysed the extent to which the UK over-implements European legislation. Although it was not possible to reach a definitive conclusion from the limited case studies examined, it found that many claims of over-implementation were misplaced, that evidence was often lacking and that other European governments reported similar concerns within their industry groups.

Source: “Davidson Review: Implementation of EU legislation”, November 2006, www.bis.gov.uk/files/file44583.pdf

International Issues

The evidence received shows that there are advantages and disadvantages to having EU level representation at international organisations such as the Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (OIE) and the World Trade Organisation (WTO).

Codex Alimentarius

- 2.74 The Codex Alimentarius Commission (Codex) develops and harmonises world-wide food standards, guidelines and codes of practice that contribute to the safety, quality and fairness of international food trade. It develops standards that have no direct legal force, but are a reference for international trade and are therefore implemented voluntarily. The EU and all Member States (including the UK) are members of Codex.
- 2.75 Codex standards are recommendations for voluntary application by Codex member countries. Reference is made to Codex food safety standards in the World Trade Organisations' Agreement on Application of Sanitary and Phytosanitary Measures (SPS agreement). This means that Codex has far reaching implications and can be used as evidence in trade disputes. Where the EU loses such a dispute it can be required to amend EU law in line with the Codex standard.
- 2.76 There has always been a degree of coordination in Codex discussions for EU harmonised issues. In 2003 however, when the European Community (now European Union) formally joined as a member of Codex, formal working procedures between the EU and Member States were agreed. The European Union leads on matters on which EU rules have been fully or largely harmonised. The lead is shared when EU rules are only partially harmonised. Coordinated positions are developed in advance of Codex meetings and these reflect existing EU harmonised law.

World Organisation for Animal Health (OIE)

- 2.77 The World Organisation for Animal Health (OIE) is the intergovernmental organisation responsible for improving animal health worldwide. It develops standards that have no direct legal force, but are a reference for international trade and are therefore implemented voluntarily. All EU Member States (including the UK) are members of the OIE. In 2004 the EU signed an agreement with the OIE to become a formal observer.
- 2.78 Competence in the area of agriculture is shared between the EU and the Member States under Article 4(2)(d) of the Treaty on the Functioning of the European Union (TFEU). At the OIE, this means that where there is no legislation on the topic at EU level, Member States may act independently (although this doesn't really happen in practice). Where the topic is harmonised at EU level, the European Commission coordinates comments from Member States to agree a common response which is submitted to the OIE. Agreement of EU comments will normally take several drafts and at least one meeting of Member States.
- 2.79 As an observer, the European Commission cannot speak at the General Session and has no voting rights. As a Member State of the EU, the UK votes individually but only in line with the pre-agreed EU response. Where an EU Member State makes interventions to support or reject texts they do so on behalf of the EU as a whole.

World Trade Organisation (WTO)

- 2.80 The World Trade Organisation (WTO) is the global organisation dealing with the rules of trade between nations. Animal and plant health measures affecting international trade are subject to the SPS Agreement (see section on Codex). The EU and all Member States (including the UK) are members of the WTO. In practice, the European Commission speaks on behalf of both the EU and Member States within the WTO. This is because the matters with which the WTO deals principally fall under Article 207 of the TFEU (exclusive competence for common commercial policy).
- 2.81 The process for the EU's international trade and investment negotiations involves the European Commission, the Council of Ministers and the European Parliament. The European Commission negotiates international agreements on common commercial policy matters on behalf of the EU and its Member States. The UK Government has the opportunity to influence negotiations through its membership of the Council of Ministers. The Council of Ministers agrees the content of the EU's negotiating mandate, is consulted by the Commission during negotiations, and also decides whether an agreement should be signed and concluded.

Global standards rather than EU competence

- 2.82 Dundee City Council noted the importance of Codex standards in resolving WTO trade disputes and the International Meat Trade Association (IMTA) praised OIE standards for their role in facilitating trade. However, the Centre for Environment, Fisheries and Aquaculture Science (Cefas) and IMTA disagreed as to whether OIE rules were more or less stringent than EU legislation. Cefas argued that OIE standards were higher and lower EU rules prevented the UK from adhering to high aquatic animal health standards. On the other hand, IMTA felt that some EU rules went beyond OIE requirements, such as the more stringent requirements in some cases to vaccinate against foot-and-mouth disease.
- 2.83 The Veterinary Medicines Directorate raised concerns that the EU has more stringent requirements than the OIE for the testing of veterinary medical products. This potentially puts the UK and all EU producers at a commercial disadvantage as they have more rules to comply with than third country members of OIE.
- 2.84 IMTA reasoned that EU rules should be aligned with OIE rules wherever possible to prevent trade barriers. At the engagement workshops, attendees agreed in principle with aligned international standards, but were pragmatic about the real ability of Codex, OIE or WTO to align rules among dozens of members. Some respondents such as the Senior European Experts Group, the British Soft Drinks Association and the Food Standards Agency Board pointed out that the process for reaching agreement at Codex can also be extremely slow.

EU representation

- 2.85 Some respondents such as attendees at the Brussels Workshop questioned whether or not being locked into an EU position at Codex served the UK's national interest. The Agricultural Industries Confederation was also concerned that UK interests were diluted by EU representation at Codex.
- 2.86 Respondents such as Dundee City Council argued that the EU has a more powerful voice than the UK as it speaks as one united bloc of 28 different Member States. Similarly, Cefas argued that the EU was highly influential when negotiating within the OIE.

OIE, EU and UK animal welfare requirements

The OIE has no mechanism to implement, enforce or monitor its standards. It is therefore difficult to assess the impact of the OIE on raising animal welfare standards.

On the other hand, the EU has been successful in raising global animal welfare standards by including improved standards in some bilateral trade agreements (e.g. Chile, New Zealand and South Korea).

Where there is limited trade, there is a reduced need for agreement of EU standards. There is more flexibility to implement measures at a national or regional level on areas such as companion animal welfare.

Source: Royal Society for the Prevention of Cruelty to Animals

Chapter 3: Future Opportunities and Challenges

This chapter focuses on the implications of matters raised in the previous chapter. Areas for improvement are covered, drawing on evidence received. Potential options for change are discussed, highlighting the unavoidable tensions that policy makers face. No recommendations for further actions are made.

Improving the EU Internal Market

- 3.1 Whether the UK benefits most from harmonised EU rules or from greater flexibility is always keenly debated. Greater flexibility is in effect regulatory competition between Member States. For food, feed and animal health and welfare harmonisation can help limit unfair competition and may be important where the UK has a strong sector, especially where it has export interests across the EU. That said, where there are specific UK circumstances not shared across the EU, harmonisation can lead to controls ill-suited to the UK. In such cases greater flexibility could be an advantage, including the possibility of a mutual recognition approach. The advantages, however, must be weighed against the risks, such as potentially reduced market access and the difficulty of seeking redress in non-harmonised areas.
- 3.2 There can be different approaches to harmonisation. Outcome based harmonised legislation can give greater flexibility to take account of particular circumstances, but taken to an extreme this can lead to distortions of the internal market. More prescriptive legislation can give more certainty and avoid differential interpretation across Member States, but can have the drawback of stifling innovation. Policy makers have to weigh up all of these issues and decide where the UK's interest lies in any particular case.
- 3.3 Even when there is fully harmonised EU legislation, Member States can interpret, implement and enforce the law in different ways. This has the potential to lead to unfair competition, distortion of the market and to hamper growth.
- 3.4 Where harmonised standards are not being applied appropriately the European Commission and its Food and Veterinary Office have a role to ensure that Member States comply and to guard against unfair competition. An option could be to speed up infraction proceedings, which might encourage compliance. However this would need to be accompanied by a full opportunity for Member States to explain their approach or to deliver full compliance without recourse to the European Court of Justice.

3.5 Different approaches across Member States have a number of drivers. These include cultural and political differences, attitudes toward free trade and societal views on issues such as animal welfare and new technologies. EU policy-making has to cope with this tension between consistency, fairness within the internal market and broad social acceptance of decisions and policies.

Alternatives to EU competence

3.6 Food, feed, animals and animal products are all extensively traded and any legislative approach needs to take this into account. One alternative to EU level competence would be to have a system of controls based on national legislation. While this would give the UK the ability to tailor requirements to suit our national circumstances, it may also have certain drawbacks. Businesses that wish to trade with other EU Member States would need to comply with their rules. This could mean that companies have to research and conform to up to 27 different sets of rules, as well as complying with those in the UK.

3.7 Another alternative might be to set standards at a world level through organisations such as Codex and OIE. Although Codex standards and OIE guidelines have no direct legal force they could be used as the basis for national or EU wide legislation. While this may seem an attractive proposition that could facilitate international trade, it may not be a viable approach. For food and feed the process for agreeing Codex standards can be extremely slow and involves building consensus with over 150 member countries. In their evidence, the Food Standards Agency's Board commented that although Codex standards are respected, many countries that base their national legislation on Codex standards complain that they remain locked out of lucrative export markets.

Animal Welfare

3.8 Animal welfare is a particularly contentious policy area and UK societal preferences need to be balanced with commercial profitability. The UK has played a strong role in shaping EU animal welfare policy, culminating in Article 13 TFEU recognising animals as sentient beings and requiring full regard to their welfare.

3.9 The UK has a reputation for being a nation of animal lovers. A survey in 2007 found that 73% of the public questioned agreed with the statement, 'In order for society to be truly civilised, animal welfare must be a key priority'.¹⁰ The public's views on animal welfare are not, however, straightforward. A report by Brook Lyndhurst Ltd in 2010 showed that there was an apparent gap between consumers' attitudes to animal welfare and their purchasing behaviour.¹¹ Although animal welfare is important to consumers in principle, it does not consistently translate into action within a purchasing context. An FSA survey in 2012 found that only 7% of those surveyed spontaneously mentioned animal welfare as a concern when they are considering food purchases.¹²

10 RSPCA, Five years measuring animal welfare in the UK, 2005–2009, www.rspca.org.uk/cmsprd/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobnocache=false&blobtable=MungoBlobs&blobwhere=1232997399246&ssbinary=true

11 Brook Lyndhurst, Are labels the answer? Barriers to buying higher animal welfare products, 2010 <http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=17379>

12 FSA tracker, wave 5, November 2012 www.food.gov.uk/multimedia/pdfs/publication/publictrackernov2012

- 3.10 Professor John McNerney in his report, 'Animal Welfare, Economics and Policy', explored the conflict between socially preferred and commercially profitable welfare levels, noting that animal welfare standards impact on production costs and final food prices.¹³ He argued that domestic animal welfare policies in a food importing context lead to economic inconsistencies and explored the tensions between animals as economic resources and society's view of what are acceptable moral codes and ethical prescriptions. These arguments usefully encapsulate the tensions faced by UK policy makers. As set out in Chapter 2, there are those who argue that the UK should continue to take the lead and increase welfare standards in advance of other Member States, but others point out the economic cost that this can have on the UK industry.
- 3.11 The European Commission's Animal Welfare Strategy 2012–2015 identified both a lack of consistent application and inadequate enforcement across the EU as obstacles to raising animal welfare standards. The Commission is currently (July 2013) considering the potential for an Animal Welfare Framework Law to establish clear and robust principles to apply to all animals subject to commercial activity. The objective would be to allow flexibility for Member States to reflect local conditions, whilst ensuring stronger minimum standards. This could provide a mechanism for the EU-wide exchange of expertise and best husbandry practice. A proposal is expected in the second half of 2014.

Greater flexibility for Animal Health

- 3.12 For animal health, some respondents indicated a preference for flexibility over harmonisation so that Member States could take into account significant local and regional differences in disease pressure, species density and husbandry practices. For example, the UK might be able to take advantage of its island status to operate to higher health standards given that this may in some instances mean a lower level of disease risk.
- 3.13 There are two major reviews of legislation relating to animal health and veterinary medicine expected to progress during 2013. The proposed new EU Animal Health Regulation is intended to create a flexible and clear single regulatory framework. It will replace around forty existing EU Regulations and Directives. The proposal is expected to have a strong focus on outcomes rather than process, flexibility to manage disease threats appropriately and a strong risk-, evidence- and science-based approach. The challenge for the UK is to work constructively across the EU and with UK industry to secure policies and legislation that are fit for purpose, practical and affordable. In delivering these policies this may mean generating innovative solutions on, for example, eradicating bovine tuberculosis, disease prevention, disease control, and other animal health and welfare issues in a way that helps to deliver the UK's objectives and to do so in a much tighter budgetary envelope.
- 3.14 In England, the Animal Health and Welfare Board, which is part of Defra, provides a forum to expose and catalyse this thinking into constructive solutions. The Board brings together independent non-executives with relevant knowledge and skills and focuses on strategic, long term and cross-cutting matters with a potentially high impact on animal keepers. It examines issues where input and communication with various sectors is key to success. A similar model across the EU could be a part of future success.

¹³ Professor John McNerney, Animal Welfare, Economics and Policy, 2004
www.archive.defra.gov.uk/evidence/economics/foodfarm/reports/documents/animalwelfare.pdf

Risk-based approach

- 3.15 A rigorously risk-based approach can help to deal with the different cultural and political attitudes across the EU. Risk management decisions, however, will always be influenced by societal values, which in turn can lead to different approaches being preferred in different countries.
- 3.16 Within Europe, risk assessment and risk management for food matters are separated. The European Food Safety Authority (EFSA) plays a role as an independent, science-based, risk assessment body that helps minimise political interference. A suggestion made in response to this report was to routinely extend EFSA's risk assessment role to other areas such as novel foods¹⁴ and that EFSA, or a similar body, might have a role in animal welfare when there are technical matters to determine.
- 3.17 Risk management decisions are not always demonstrably risk-based (see definitions on page 33). There are different appetites for risk and different social norms across Member States and within the European Parliament. One option could be to set up an independent body to advise on risk management, but this may not be widely acceptable. There is also the possibility of building greater scientific support for the European institutions, which might lend greater weight to scientific evidence in the appreciation of risk.
- 3.18 Greater transparency in risk management decisions might also be considered. Decision makers could be asked to explain how they have taken account of the risk assessment and the extent to which other factors have had an impact. Responsibility for decisions in the European Council and the European Parliament tend to be diffused and there may be a range of reasons behind agreement on a specific measure, and so this option could be challenging to implement.
- 3.19 The package of EU hygiene legislation is under review and proposals are expected in 2013. Areas to be looked at are likely to include the provision of derogations for establishments producing certain highly refined products (such as gelatine), the simplification of the system for notifying national measures allowed by the flexibilities in the hygiene legislation, and the modernisation of meat controls. This could help ensure that EU hygiene legislation is sufficiently risk based, especially in relation to issues such as meat hygiene.

GMOs and cloning

- 3.20 GMOs will be dealt with in the Environment and Climate Change report in more detail. Here we focus on food and feed safety aspects.
- 3.21 The use of genetically modified organisms (GMOs) for food and feed and the use of cloned animals for food production are highly emotive issues with strongly held positions on both sides of the debate. In 2012, when the UK public was asked about new food technologies used in food production, of those who were aware of these issues, 52% felt uneasy about genetic modification and 66% felt uneasy about animal cloning.¹⁵ Policy makers have to balance this clear public disquiet with risk assessments showing that GM food and feed and food from cloned animals is as safe as the equivalent non-GM or non-cloned food, and with economic arguments that the UK may be losing out by not embracing these technologies. The evidence submitted to this report clearly demonstrated the tension across the EU between societal preferences and a risk-based approach, with Member States holding different positions.

14 European legislation defines foods and food ingredients that have not been used for human consumption to a significant degree in the EU before 15 May 1997 as novel foods and novel food ingredients: www.ec.europa.eu/food/food/biotechnology/novelfood/index_en.htm

15 Food and You 2012, www.food.gov.uk/news-updates/news/2013/mar/foodandyou2

- 3.22 The UK Government's view on GM food and feed is that products that have been assessed as being as safe as their non-GM equivalent, should be allowed onto the market and appropriately labelled. EU GM food and feed legislation is risk-based and is similar to other legislation around the world. EFSA conducts independent, scientific risk assessments on new products and these inform risk-management decisions. However, even when the risk assessment raises no concerns, European Commission proposals in favour of market authorisation are rarely agreed by a majority of Member States. Wider societal preoccupations play a significant part in this. This lack of agreement has led to a protracted process, where there is effectively a stalemate, with Member States unable to agree for or against a product. In such cases the decision on authorisation reverts to the European Commission. Changes to the standard decision-making process were introduced with the Treaty of Lisbon and these have reduced the time for final decisions to be reached once the scientific assessment is completed.
- 3.23 The European Commission published a report on animal cloning for food production in 2010. To protect human health, they recommended a five year ban on EU animal cloning, the use of cloned animals and the sale of food from clones. Negotiations between the European Council and the European Parliament on amendments to the proposed EU Novel Foods Regulation, which would have applied stricter controls on food from cloned animals and their descendents, broke down in early 2011. A subsequent European Commission consultation on a comprehensive set of possible measures controlling animal cloning for food production ended in September 2012. Formal proposals are expected later in 2013. The UK Government view is that scientific evidence is clear that there are no implications for human health from the use of cloning, the production of clones or from the offspring of cloned animals. What is more, the UK Government believes that existing EU and national legislation is sufficient to protect the welfare of the animals concerned. The UK Government is therefore opposed to any further controls on the grounds that they are unnecessary.

New way of working

The EU has a significant body of animal health, welfare and food law. In 2011 the UK's Farming Regulation Task Force, led by Richard Macdonald, carried out an independent review on ways of reducing regulatory burdens on farmers and food processors.

The Task Force recommended that the UK's engagement in the EU must be greater, earlier and in partnership with industry. In response, Defra committed to working in a new way with industry on EU issues, agreeing to engage stakeholders earlier in strategic discussions to establish priorities for influencing the EU. This new way of working was initiated in December 2012 when Defra officials met with farming representatives to agree how to work in a more joined up way, such as through sharing European Parliament briefs, and consulting on the Commission work programme. This improved joint working will help the UK to better influence European institutions and place the 'end-user' at the centre of policy-making and regulation, as recommended by the Task Force.

Better Regulation

- 3.24 Better regulation aims to find the best solutions to a policy problem while minimising burdens on business. Better regulation could lead to higher levels of business compliance and hence improve protection for animals, consumers and the market.
- 3.25 Better regulation needs to work with the grain of industry practices. There are however, two related concerns, that those involved in the legislative process often do not have a deep understanding of industry and that industry can find it hard to engage early enough to influence negotiations. These issues could be tackled in a number of ways, with impact assessments (IAs) and open consultation being important. UK negotiators could continue to press the European Commission on both of these, arguing that IAs should be produced for all legislative proposals, including tertiary measures. UK Government departments can also play their part and continue to ensure that industry and other interested parties are kept informed and involved, and that data on impacts is fed into European IAs. Early UK engagement in line with existing UK Government policy can also help protect UK interests.

Olive Oil

- 3.26 The need for openness and transparency to ensure the effect on all parties is properly taken into account is perhaps illustrated by the olive oil U-turn of May 2013. An EU ban on the use of jugs, cruets or bowls for serving olive oil met with strong resistance from consumers and restaurants from across the EU. The measure required the use of factory packaged bottles and was designed to deal with alleged fraud where restaurants were thought to substitute inferior oils. The law was agreed under the procedures for tertiary legislation and was supported by the larger olive oil producers who stood to gain. When the rules became known more widely the backlash caused the European Commission to rethink its position and they withdrew the measure.

Official controls

- 3.27 Evidence submitted suggested that there is significant variation across the EU in approaches to official controls. Regulation 882/2004 provides a framework for official controls, such as inspections or approvals that Member States carry out to verify businesses' compliance with EU agri-food legislation. Although it is a Regulation (and therefore directly applicable law in all Member States), it has the flexibility regarding implementation which might more normally be associated with a Directive. Some value this flexibility, which includes allowing Member States to take account of private standards and industry's own monitoring regimes as part of the system of official controls (often termed 'earned recognition'). Negotiations are expected to begin in 2013 to review and simplify the legal framework. It will also be extended beyond existing boundaries, for example across all animal and plant health controls.
- 3.28 Where controls are needed for consistency in specific areas these are expected to be covered by sector specific legislation. If it is believed that inconsistency in official controls is putting UK businesses at a competitive disadvantage the UK could either seek to tighten up the requirements in the sector specific legislation, in cases where it thought the requirements were appropriate for the protection of public health or for other objectives; or it could consider changing its approach to implementation to be more consistent with the average level of requirements in other Member States.

Horsemeat incident 2013

Horsemeat

In January 2013 Irish authorities reported that horse DNA had been found in some beef products. FSA launched an urgent investigation, working with Defra, other Departments and UK industry. Extensive testing has been undertaken with (as of July 2013) the vast majority of tests (around 99%) not detecting horse DNA over the 1% threshold. There has been no evidence of a food safety risk, but universal agreement that it was completely unacceptable that consumers were misled about the presence of horsemeat.

It was clear early on that this was a Europe-wide problem impacting several Member States. The UK instigated a significant industry testing programme early on and took a firm lead in Europe from the start. UK Ministers pushed for rapid and effective cross-border action. Agreement was secured for a Europe-wide testing programme on processed beef products, which was important for establishing where the problem of food fraud was occurring. A new intelligence sharing system was also agreed, working with Europol (European Police Office) to coordinate investigations across the EU.

At the time of writing, the investigation into the horsemeat incident is still ongoing and it is too early to say what the implications might be in terms of future action.

- 3.29 The food industry has transformed over the last 30 years, nowhere more so than in the UK. There is now considerable processing across national borders, with ingredients crossing and re-crossing between countries. Long, complex and ever changing supply lines that are built around price lead to challenges for traceability and control. The horsemeat incident of 2013 has highlighted the complexity and international nature of the food chain, brought wider recognition of the risk of fraud and has raised the awareness of the need to secure supply chains.
- 3.30 In its report, 'Transforming the Food & Agri Supply Chain', Rabobank¹⁶ references the horsemeat incident and argues that rather than the current supply chain model, involving fleeting relationships that are centred on chasing price, businesses should move to a system focussed on creating value. They promote closer cooperation and dedicated supply chains all the way through from farmer to retailer and longer term supply agreements.
- 3.31 Consumer confidence has been significantly impacted. A Which? survey in March 2013 found that consumer trust in the food industry has dropped 24% since the horsemeat scandal. 30% are buying less processed meat and 24% are buying fewer ready meals with meat.¹⁷
- 3.32 It is too soon to know exactly what implications the incident will have, not least because it is expected that there will be further EU wide testing at some point in 2013. Once the incident has concluded and reviews completed, policy makers will have to consider what actions to take. Which? is calling for more surveillance that is better coordinated, tougher enforcement, tougher legislation with improved traceability and regularly tested products, and improvements to labelling, including country of origin labelling for processed meat and ready meals. These illustrate the sorts of issues that policy makers will face. They will need to carefully assess the impacts of possible action and balance the needs of consumers, the need for proportionate, evidence based action and the need to remain compatible with broader trade agreements.

16 www.rabobank-food-agribusiness-research.pressdoc.com/39082-rabobank-report-transforming-the-food-agri-supply-chain

17 www.which.co.uk/news/2013/03/horsemeat-scandal-dents-trust-in-food-industry-313016/

3.33 The issue raised most often in relation to horsemeat was country of origin labelling. This would not have prevented the use of undeclared horsemeat, but may be important in regaining consumer trust. It will be essential that any proposed extension to mandatory origin labelling is based on a robust impact assessment of the costs and is WTO compatible.

Impact of EU enlargement

3.34 The accession of Romania and Bulgaria in 2007 increased numbers to 27, then Croatia became the 28th member in July 2013.

3.35 Expansion, although diluting the influence of individual countries, has the potential to have a balancing effect. The difficulty of reaching agreement with so many may focus efforts on developing standards only where they are really needed.

3.36 An expanding internal market might bring opportunities for business and may allow consumers access to new products. Further expansion also increases the food production capacity of the EU and could help to stabilise prices. It should also mean high welfare standards over a larger area. However, it may also make it more difficult to ensure that common standards on issues like animal welfare are adopted at levels of ambition that the UK public would prefer.

3.37 The risk of incursion of exotic diseases such as African horse sickness and rabies may increase with enlargement. It is also possible, however, that the risk may decrease as EU eradication programmes are put in place in new Member States and trade opportunities allow new Member States to spend more on controls.

3.38 Concerns were expressed by some that the time allowed for new Member States during transition leads to unfair competition. Continued monitoring and auditing by the Food and Veterinary Office might mitigate this risk, but programmes such as Technical Assistance and Information Exchange (TAIEX) might also be important to help candidate countries. Continued, and potentially increased, support for TAIEX could help ensure maintenance of standards and proper functioning of the internal market.

EU competence for third country/EU trade agreements

3.39 The UK has an interest in the brand 'UK', and may want to be able to continue to influence trade agreements with third countries by specifically pushing UK interests in food, animals and animal products. EU-wide free trade agreements could help break down trade barriers for these products. However, the UK might also benefit from maintaining the ability to negotiate bilaterally with other countries. For instance, where third countries had concerns about the safety of products from other parts of the EU, or where other Member States do not wish to pursue negotiations on certain products which are key to the UK (e.g. Scotch whisky, Welsh lamb etc).

3.40 In July 2013 the EU and USA have launched negotiations for a Transatlantic Trade and Investment Partnership. A bilateral free trade agreement between the EU and USA would potentially create the largest common market for trading goods and services. An EU-USA free trade deal could also see agricultural tariffs and subsidies reduced; enhancing competition in the production and supply of food, which could potentially mean cheaper food or more stable food prices for EU and UK consumers.

3.41 Convergence in regulatory approaches in food standards and food safety could be contentious. There are already indications that in some areas the USA is raising the bar on food safety with requirements that go beyond those in Europe. For instance, the US Food and Drug Administration proposed new rules in January 2013 that some believe may require firms exporting to the USA to apply additional controls. Issues around EU regulation of newer technologies such as products from cloned animals and from animals fed hormones for food production are likely to be difficult issues in the negotiations, as are rules setting a low tolerance of adventitious contamination of food and feed by GMOs that have not been approved in Europe.

Impact of climate change and food security

- 3.42 In recent years the UK has witnessed an increase in the spread of animal diseases previously not known in northern Europe, such as bluetongue. In the UK there are new emerging diseases such as Schmallenberg and a rapid increase in spread of endemic diseases such as fluke due to unprecedented wet weather. These concerns might indicate that disease control measures both within and outside the UK, as well as international and regional cooperation to respond to new and emerging threats, could become increasingly important in future.
- 3.43 Economic models predict pressure on food supplies and there is a likelihood of increased random shocks to the supply chain. We may also need to be able to source food from new parts of the world. Working together with other EU Member States might assist in tackling these challenges.
- 3.44 The Royal College of Veterinary Surgeons (RCVS) raised the notion of ‘one health’¹⁸ as a way to address animal and public health. ‘One health’ recognises that human and animal health are very closely linked, with over 70% of human pathogens originating from animals, including many foodborne diseases. By taking a more integrated approach between animal health and public health, as envisioned by ‘one health’, the RCVS argued that prevention and control of diseases could be improved. There may be benefits from considering whether a more integrated approach would be useful in some areas, although there is already significant cross-sector working on many foodborne diseases that are also animal diseases.
- 3.45 The Health Protection Agency (now Public Health England) stated that coordinated risk assessment and risk management involving all key EU actors has achieved EU-wide reduction in human *Salmonella* infection¹⁹ and significantly decreased prevalence in poultry flocks. They felt that a similar ‘one health’ approach could work for other pathogens such as *Campylobacter*, or provide a firm basis to rapidly control new and emerging infections.

18 www.oie.int/for-the-media/onehealth/

19 Human cases reduced by about 50% in the EU between 2004 and 2009 (Source: Health Protection Agency).

Conclusion

As outlined by the Foreign Secretary in July 2012, the Review of the Balance of Competences aims to provide a detailed assessment of what membership of the EU means for the UK national interest, both now and for the future.

This report is intended to provide an objective look at the impact of EU law on animal health, welfare and food safety issues in the UK, with the principal goal of informing the public and political debate on the EU, both in the UK and across Europe.

Defra and FSA are very grateful to all those interested parties who took the time to submit written evidence and attend workshops on this report. Your evidence provided a solid foundation and helped to identify key areas for debate. We have made every effort to ensure that the report accurately conveys the wide range of views of those who participated.

While many respondents expressed support for the current balance, the evidence also demonstrated several areas for improvement.

We strongly encourage all interested parties to participate in the rest of the Review. In total, there will be 32 reports covering all areas of EU competence. For more information please visit www.gov.uk/review-of-the-balance-of-competences

Appendix 1: Terms of Reference

Engagement with interested parties

A Call for Evidence was issued on 27 November 2012 and closed on 28 February 2013. The analysis presented in this report is based on evidence gathered during the call for evidence period.

Around 400 organisations and individuals with an interest in animal health and welfare, or food and feed were contacted by email with information about the Review. All were encouraged to submit evidence. Organisations consisted of trade bodies or groups representing other interested parties, such as civil society organisations and enforcement professional bodies. A significant number of individual businesses were included. Governments in Scotland, Wales and Northern Ireland, MEPs, Parliamentary committees, All Party Parliamentary Groups and government agencies were also invited to contribute. The Foreign and Commonwealth Office actively encouraged other Member States and certain third countries to participate.

A significant programme of direct engagement was also undertaken, with FSA, Defra and Department of Health working together where we had interested parties in common. We attempted to reach stakeholders in all parts of the UK, as well as within the EU and further afield.

Eight workshops were held under the Chatham House Rule²⁰ to collect evidence. Workshop notes were written up and agreed with attendees to form part of the evidence-base to the report. Two workshops were held on animal health and welfare in London, involving civil society, academics, trade associations and government agencies. A third workshop consisted of participants from the EU Animal Health Law Core Group. Defra also met bilaterally with a variety of organisations to help explain the report and discuss emerging themes.

Four workshops were held on food law, involving industry and enforcement representatives in London, Belfast and Edinburgh, reaching over 70 people. FSA attended five existing committee and other meetings, reaching a further 65 people. One meeting was held in Brussels with FoodDrinkEurope, a Brussels based European industry body. A meeting for foreign attaches was held with 25 attendees from EU Member States and from third countries. This meeting covered all aspects of the report plus the nutrition aspects of the Health Review. A workshop was organised by Defra and held in Brussels with a similar scope.

²⁰ www.chathamhouse.org/about-us/chathamhouserule

FSA commissioned an online survey to find out what consumers think. This captured the views of 1,800 consumers from across the UK on food safety law.

This report also makes use of existing material which has been brought to our attention by interested parties, such as past select committee reports or reports of the European Commission. A list of evidence submitted can be found in appendix 2. A literature review of relevant material, as well as opinions received in the course of regular business from a range of organisations, people and countries, has also been drawn on.

Competence

For the purposes of this review, we are using a broad definition of competence. Put simply, competence in this context is about everything deriving from EU law that affects what happens in the UK. That means examining all the areas where the Treaties give the EU competence to act, including the provisions in the Treaties giving the EU institutions the power to legislate, to adopt non-legislative acts, or to take any other sort of action. But it also means examining areas where the Treaties apply directly to the Member States without needing any further action by the EU institutions.

The EU's competences are set out in the EU Treaties, which provide the basis for any actions the EU institutions take. The EU can only act within the limits of the competences conferred on it by the Treaties, and where the Treaties do not confer competences on the EU they remain with the Member States.

There are different types of competence: exclusive, shared and supporting. Only the EU can act in areas where it has exclusive competence, such as the customs union and common commercial policy. In areas of shared competence, such as the internal market, environment and energy, either the EU or the Member State may act, but the Member States may be prevented from acting once the EU has done so. In areas of supporting competence, such as culture, tourism and education, both the EU and the Member States may act, but action by the EU does not prevent the Member States from taking action of their own.

The EU must act in accordance with fundamental rights as set out in the Charter of Fundamental Rights (such as freedom of expression and non-discrimination) and with the principles of subsidiarity and proportionality. Under the principle of subsidiarity, where the EU does not have exclusive competence, it can only act if it is better placed than the Member States to do so because of the scale or effects of the proposed action. Under the principle of proportionality, the content and form of EU action must not exceed what is necessary to achieve the objectives of the EU treaties.

Appendix 2: List of evidence received

Respondents (by organisation name)

1. Aberdeen City Council
2. Advisory Committee on Animal Feedingstuffs
3. Agricultural Biotechnology Council
4. Agricultural Industries Confederation
5. Agriculture and Horticulture Development Board
6. All Party Parliamentary Group for the Replacement of Animals in Medical Experimentation
7. Anaphylaxis Campaign
8. Blue Cross
9. British Soft Drinks Association
10. British Veterinary Association
11. Brussels and Europe Liberal Democrats
12. Cats Protection
13. Centre for Environment, Fisheries and Aquaculture Science
14. Channel Islands Brussels Office
15. City of London Corporation
16. Compassion in World Farming
17. Consumers for Health Choice
18. Country Land and Business Association
19. Current & Future Meat Controls Stakeholder Group
20. Dogs Trust
21. Dundee City Council
22. European Commission
23. Export Certification Limited
24. Farm Animal Welfare Committee
25. Food and Drink Federation
26. Food Standards Agency Board
27. Food Standards Agency Consumer Advisory Panel
28. Fresh Produce Consortium
29. Haemolytic Uraemic Syndrome Help The UK E-coli Support Group

30. Health Food Manufacturers' Association
31. Health Protection Agency (now Public Health England)
32. Hybu Cig Cymru (Meat Promotion Wales)
33. International Meat Trade Association
34. LJ Potter Partners
35. National Farmers' Union: Animal health and animal welfare
36. National Farmers' Union: Feed
37. National Farmers' Union: Food
38. National Farmers' Union Scotland
39. National Office of Animal Health
40. Proprietary Association of Great Britain
41. Provision Trade Federation
42. Rhondda Cynon Taff County Borough Council Wales
43. Royal College of Veterinary Surgeons
44. Royal Society for the Prevention of Cruelty to Animals
45. Royal Society for the Protection of Birds
46. Royal Veterinary College
47. Scotch Whisky Association
48. Seafish
49. Senior European Experts Group
50. Sheep Health and Welfare Council (chairman)
51. Soil Association
52. Stuart Agnew, Member of the European Parliament (UK Independence Party)
53. Sugar Nutrition UK
54. TaxPayers' Alliance
55. Thanet District Council
56. The Freedom Association
57. The Kennel Club
58. UK Equine Disease Coalition
59. Very Low Calorie Industry Group
60. Veterinary Medicines Directorate
61. Wales Heads of Trading Standards
62. Welsh Government
63. Wine and Spirit Trade Association
64. World Society for the Protection of Animals

Workshops

1. London Workshop One (on animal health and welfare)
2. London Workshop Two (on animal health and welfare)
3. London Workshop Three (members of the animal health law core group)
4. London Workshop Four (industry)
5. London Workshop Five (enforcement)
6. Belfast Workshop (enforcement)
7. Brussels Workshop (European organisations)
8. Edinburgh Workshop (enforcement)

Respondents (by sector)

Government/Local Government

- Aberdeen City Council
- Channel Islands Brussels Office
- City of London Corporation
- Dundee City Council
- European Commission
- Food Standards Agency Board
- Health Protection Agency (Public Protection England)
- Rhondda Cynon Taff County Borough Council Wales
- Thanet District Council
- Welsh Government
- Veterinary Medicines Directorate
- Wales Heads of Trading Standards

Advisory bodies to Government

(1) Advisors on industry matters

- Advisory Committee on Animal Feedingstuffs
- Seafish
- Agriculture and Horticulture Development Board
- Current & Future Meat Controls Stakeholder Group
- Centre for Environment, Fisheries and Aquaculture Science
- Farm Animal Welfare Committee
- Hybu Cig Cymru (Meat Promotion Wales)

(2) Advisors on consumer matters

- Food Standards Agency Consumer Advisory Panel

Political Groups

- All Party Parliamentary Group for the Replacement of Animals in Medical Experimentation
- Brussels and Europe Liberal Democrats

Civil Society

(1) Consumer protection

- Anaphylaxis Campaign
- Consumers for Health Choice
- Haemolytic Uraemic Syndrome Help The UK E-coli Support Group

(2) Animal protection

- Blue Cross
- Cats Protection
- Compassion in World Farming
- Dogs Trust
- The Kennel Club
- UK Equine Disease Coalition
- World Society for the Protection of Animals
- Royal Society for the Prevention of Cruelty to Animals
- Royal Society for the Protection of Birds

(3) Other

- The Freedom Association
- Soil Association
- Senior European Experts Group
- TaxPayers' Alliance

Trade Associations

Trade – manufacturers/retailers/trade

- British Soft Drinks Association
- Scotch Whisky Association
- Wine and Spirit Trade Association
- Food and Drink Federation
- Provision Trade Federation
- Sugar Nutrition UK

Trade – primary producers

- Agricultural Industries Confederation
- Country Land and Business Association
- National Farmers' Union
- National Farmers' Union Scotland
- Fresh Produce Consortium (also covers manufacturers/retailers/trade)

Trade – professional bodies

- British Veterinary Association
- Royal College of Veterinary Surgeons
- Royal Veterinary College

Trade – health food/nutrition industry/food supplements

- Health Food Manufacturers' Association
- Proprietary Association of Great Britain
- Very Low Calorie Industry Group

Trade – meat

- LJ Potter Partners
- International Meat Trade Association

Trade – biotechnology

- Agricultural Biotechnology Council

Trade – animal medicines

- National Office of Animal Health

Trade – other

- Export Certification Limited (connected to primary production)

Workshops

- London Workshop One (on animal health and welfare)
- London Workshop Two (on animal health and welfare)
- London Workshop Three (members of the animal health law core group)
- London Workshop Four (industry)
- London Workshop Five (enforcement)
- Belfast Workshop (enforcement)
- Brussels Workshop (European organisations)
- Edinburgh Workshop (enforcement)

Individuals

- Chairman of the Sheep Health and Welfare Sector Council
- Stuart Agnew – Member of the European Parliament (UK Independence Party)

Appendix 3: Glossary

Acronym	Name
ABC	Agriculture Biotechnology Council
AGRI	Agriculture
AHDB	Agricultural and Horticultural Development Board
APPG	All Party Parliamentary Group
BIS	Department for Business, Innovation and Skills
BSE	Bovine Spongiform Encephalopathy
BVA	British Veterinary Association
Cefas	Centre for Environment, Fisheries and Aquaculture Science
CLA	Country Land and Business Association
Codex	Codex Alimentarius Commission
Defra	Department for Environment, Food and Rural Affairs
DNA	Deoxyribonucleic Acid
EC	European Commission
ECJ	European Court of Justice
ECL	Export Certification Limited
EEC	European Economic Community
EFSA	European Food Safety Authority
EID	Electronic Identification
EU	European Union
Europol	European Police Office
FAWC	Farm Animal Welfare Committee
FDF	Food and Drink Federation
FIR	Food Information Regulations
FSA	Food Standards Agency
FVO	Food and Veterinary Office
GM	Genetically Modified

Acronym	Name
GMOs	Genetically Modified Organisms
HCC	Hybu Cig Cymru (Meat Promotion Wales)
HUSH	Haemolytic Uraemic Syndrome Help
IAs	Impact Assessments
IMTA	International Meat Trade Association
MEP	Member of the European Parliament
NFU	National Farmers Union
NFU Scotland	National Farmers Union Scotland
NOAH	National Office for Animal Health
OIE	World Organisation for Animal Health
PAGB	Proprietary Association of Great Britain
QMV	Qualified Majority Voting
RASFF	Rapid Alert System for Food and Feed
RCVS	Royal College of Veterinary Surgeons
RSPB	Royal Society for the Protection of Birds
RSPCA	Royal Society for the Prevention of Cruelty to Animals
SEEG	Senior European Experts Group
SPS	Sanitary and Phytosanitary Measures
SWA	Scotch Whisky Association
TAIEX	Technical Assistance and Information Exchange Programme
TB	Tuberculosis
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
US	United States of America
USA	United States of America
WHO	World Health Organisation
WTO	World Trade Organisation

Appendix 4: List of key legislation

Animal health and welfare legislation

Topic area and key EU legislation	Treaty base in TFEU	Description of the legislation
Disease prevention and control		
Council Directive 82/894/EEC on the notification of animal diseases within the Community	43	Establishes the Animal Disease Notification System requiring a Member State to notify the Commission and other Member States when there is a disease outbreak on its territory
Council Directive 88/407/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species	43	Establishes animal health rules governing trade in and imports of frozen bovine semen used in artificial insemination
Council Directive 92/35/EEC laying down control rules and measures to combat African horse sickness	43	Establishes animal health rules governing outbreaks of African horse sickness
Council Directive 92/66/EEC of 14 July 1992 introducing Community measures for the control of Newcastle disease	43	Establishes animal health rules governing outbreaks of Newcastle disease
Council Directive 92/119/EEC introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease	43	Establishes the general animal health rules governing outbreaks of disease and specific rules governing outbreaks of swine vesicular disease
Council Directive 2000/75/EC laying down specific provisions for the control and eradication of bluetongue	43 (Council Directive 92/119/EEC)	Establishes animal health rules governing outbreaks of blue tongue
Council Directive 2001/89/EC on Community measures for the control of classical swine fever	43	Establishes animal health rules governing outbreaks of classical swine fever

Topic area and key EU legislation	Treaty base in TFEU	Description of the legislation
Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies	168	Establishes health rules governing the production and placing on the market of live animals and products of animal origin and safeguard measures to be taken by Member States to prevent and control transmissible spongiform encephalopathies such as BSE
Council Directive 2002/60/EC laying down specific provisions for the control of African swine fever	43 (Council Directive 92/119/EEC)	Establishes animal health rules governing outbreaks of African swine fever
Council Directive 2003/85/EC on Community measures for the control of foot-and-mouth disease	43	Establishes animal health rules governing outbreaks of foot-and-mouth disease
Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules	43, 114, 168(4)(b)	Establishes principles for official feed and food controls undertaken by Member States. To ensure that official controls are carried out regularly, on a risk basis and with appropriate frequency.
Council Directive 2005/94/EC on Community measures for the control of avian influenza	43	Establishes animal health rules governing outbreaks of avian influenza
Imports and intra-EU trade in animals and animal products		
Council Directive 64/432/EEC on animal health problems affecting intra-Community trade in bovine animals and swine	43, 114	Establishes animal health rules governing intra-EU trade in bovine animals and swine
Council Directive 90/425/EEC concerning the veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market	43	Establishes the framework for the harmonisation of procedures for Member State checks on movements of animals and animal products
Council Directive 90/426/EEC on animal health conditions governing the movement and import from third countries of equidae	43	Establishes animal health rules on movements and imports from third countries of horses
Council Directive 91/496/EEC laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries	43	Establishes animal health rules on imports of animals from third countries and on border inspection posts
Council Directive 92/65/EEC laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules	43	Establishes animal health rules for the placing on the market of animals and animal products not covered by species-specific legislation ²¹

21 Among other things, this Directive sets out the conditions applicable to intra-EU trade in bees. Imports of bees into the EU must also comply with Commission Decision 2003/881/EC concerning the animal health and certification conditions for imports of bees from certain third countries.

Topic area and key EU legislation	Treaty base in TFEU	Description of the legislation
Council Directive 92/118/EEC laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EE	43	Establishes animal health rules applicable to animal products not covered by other EU species-specific legislation
Regulation (EC) No 1760/00 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products	43, 168	Establishes public and animal health rules governing the traceability of bovine animals and a compulsory beef labelling system
Council Directive 2002/99/EC laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption	43	Establishes animal health rules to prevent the introduction or spread of animal diseases resulting from the placing on the market of products of animal origin
Commission Decision 2003/623/EC concerning the development of an integrated computerised veterinary system known as Traces	43 (Council Directive 90/425/EEC)	Establishes animal health rules to enhance the traceability of animals which may have been exposed to disease
Regulation (EC) No 998/2003 on the animal health requirements applicable to the non-commercial movement of pet animals	43, 168	Establishing public and animal health rules on the movement of pets and providing for pet passports
Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals	43	Establishes animal health rules governing the traceability of sheep and goats
Council Directive 2004/68/EC laying down animal health rules for the importation into and transit through the Community of certain live ungulate animals	43	Establishes animal health rules governing imports of live ungulates into the EU
Council Directive 2006/88/EC on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals	43	Establishes animal health rules governing aquaculture animals and animal products
Council Directive 2008/71/EC on the identification and registration of pigs	43	Establishes animal health rules governing the traceability of pigs
Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption	168	Establishes public health rules governing the collection, transport, handling, transformation, processing, storage, placing on the market, distribution, use or disposal of animal by-products

Topic area and key EU legislation	Treaty base in TFEU	Description of the legislation
Welfare of farmed animals		
Council Decision 78/923/EEC concerning the conclusion of the European Convention for the protection of animals kept for farming purposes	43, 114	Approves the European Convention for the protection of animals kept for farming purposes
Council Directive 93/119/EC on the protection of animals at the time of slaughter or killing ²²	43	Establishes animal welfare rules governing the killing of farmed animals and methods of killing animals for the purpose of disease control
Council Directive 98/58/EC concerning the protection of animals kept for farming purposes	43	Establishes common minimum animal welfare standards for animals kept for farming purposes
Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens	43	Establishes common minimum animal welfare standards for laying hens
Council Regulation (EC) No 1/2005 on the protection of animals during transport	43	Establishes common minimum animal welfare standards for the transport of live vertebrate animals
Council Directive 2007/43/EC laying down minimum rules for the protection of chickens kept for meat production	43	Establishes common minimum animal welfare standards for chickens kept for meat production
Council Directive 2008/119/EC laying down minimum standards for the protection of calves	43	Establishes common minimum animal welfare standards for calves
Council Directive 2008/120/EC laying down minimum standards for the protection of pigs	43	Establishes common minimum animal welfare standards for pigs
Council Regulation (EC) No 834/2007 on organic production and labelling of organic products (with detailed implementing rules in Commission Regulation (EC) No 889/2008)	43	Establishes common minimum animal welfare standards for livestock (notably cattle, pigs and poultry) associated with organic farming

22 This Directive will be replaced on 1 January 2013 by Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing.

Topic area and key EU legislation	Treaty base in TFEU	Description of the legislation
Welfare of other animals		
Directive 1999/22/EC relating to the keeping of wild animals in zoos	192	Establishes measures to be adopted by Member States for the licensing and inspection of zoos
Council Decision 1999/575/EC concerning the conclusion by the Community of the European Convention for the protection of vertebrate animals used for experimental and other scientific purposes	114, 218	Approves the European Convention for the protection of vertebrate animals used for experimental and other scientific purposes
Directive 2010/63/EU of the European Parliament and of the Council on the protection of animals used for scientific purposes	114	Establishes animal welfare measures applicable to animals used for scientific purposes
Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock		
Council Directive 90/167/EEC laying down the conditions governing the preparation, placing on the market and use of medicated feedingstuffs in the Community	43	Establishes public health rules governing the preparation, placing on the market and use of medicated feedingstuffs
Council Regulation (EC) No 470/2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin.	43, 168	Establishes a procedure for establishing maximum residue limits of veterinary medicinal products in foodstuffs of animal origin in order to facilitate the free movement of foodstuffs and veterinary medicinal products
Council Directive 96/23/EC on measures to monitor certain substances and residues thereof in live animals and animal products	43	Establishes rules for the monitoring by Member States of unauthorised substances and residues in animals and animal products
Directive 2001/82/EC on the Community code relating to veterinary medicinal products	114	Establishes rules to protect public health and to facilitate intra-EU trade in medicinal products through a system of marketing authorisations and distribution of veterinary medicine products
Regulation (EC) No 726/2004 of the European Parliament and of the Council laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency	114, 168	Establishes rules for authorisation and supervision of medical products for veterinary and human use and to facilitate intra-EU trade in medicinal products
Amended Commission Regulation (EC) No 1950/2006 establishing a list of substances essential for the treatment of equidae and of substances bringing added clinical benefit.	114 (Directive 2001/82/EC)	Lays down a list of substances which may be administered to horses intended for slaughter for human consumption

Food law legislation

Topic area and key EU Legislation	Treaty Base in TFEU	Description of the legislation
Food and feed safety		
Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety	43, 114, 207, 168(4)(b)	Establishes general principles of food law (including traceability and incident reporting), principle of control from farm to fork and establishes the European Food Safety Authority.
Food Hygiene		
Regulation (EC) No 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs	114, 168(4)(b)	Establishes a comprehensive and integrated hygiene rules covering all food from the farm to the point of sale to the consumer.
Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin	168(4)(b)	
Regulation (EC) No. 854/2004 of the European Parliament and Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption	168(4)(b)	
Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules	43, 114, 168(4)(b)	Establishes principles for official feed and food controls undertaken by Member States. To ensure that official controls are carried out regularly, on a risk basis and with appropriate frequency.
Regulation (EC) No 767/2009 of the European Parliament and of the Council on the marketing and use of feed	43, 168(4)(b)	Lays down rules on the placing on the market and use of feed for food-producing animals or pets taking account of feed safety , public health protection, consumer information and the internal market.
Regulation (EC) No 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene	43(2), 168(4)(b)	Establishes a comprehensive hygiene policy for feed businesses and to implement the application of good hygiene practice at all levels of production and use of feed
Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed	43, 114, 168(4)(b)	Provides for the general framework for regulating genetically modified (GM) food and feed in the EU
Council Regulation (EEC) No 315/93 laying down Community procedures for contaminants in food	114	Establishes rules and principles for the EU wide treatment of contaminants in food and sets out the framework for the establishment of EU wide maximum levels for certain contaminants in order to protect public health.

Topic area and key EU Legislation	Treaty Base in TFEU	Description of the legislation
Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives	114	Establishes rules for the use of food additives in food and their conditions of use.
Regulation (EC) No 1334/2008 of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use in and on foods	114	Establishes general rules for the use of flavourings in and on foods and for the evaluation and authorisation of certain types of flavourings.
Regulation (EC) No 2065/2003 of the European Parliament and of the Council on smoke flavourings used or intended for use in or on foods	114	Establishes general rules for the use of smoke flavourings and for their evaluation and authorisation.
Regulation (EC) No 1332/2008 of the European Parliament and of the Council on food enzymes	114	Establishes general rules for the use of food enzymes and for their evaluation and authorisation.
Directive 2009/32/EC of the European Parliament of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients	114	Sets out rules for the use of extraction solvents in the production of foods.
Regulation (EC) No 1935/2004 of the European Parliament and of the Council on materials and articles intended to come into contact with food	114	Sets out general requirements for all food contact materials (e.g. Packaging materials; utensils, cutlery and dishes; processing machines; food containers) and for the development of specific controls (e.g. migration limits) and authorisations on subsets of these.
Directive 1999/2/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation	114	Establishes rules for the manufacture, marketing and importation of foods and food ingredients treated with ionising radiation.
Regulation (EC) No 258/97 of the European Parliament and of the Council concerning novel foods and novel food ingredients	114	Lays down the rules for the risk assessment and authorisation of novel foods.
Council Directive 89/108/EEC on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption	114	Lays down the rules for the quick-freezing, packaging, labelling and inspection of quick-frozen foodstuffs.

Topic area and key EU Legislation	Treaty Base in TFEU	Description of the legislation
Food labelling		
Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers.	114	Specific rules relating to food safety (e.g. labelling of food allergens and provisions on use by dates) are contained in the general rules on the provision of information to consumers.
Regulation (EC) No 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products .	43, 168	Establishes labelling provisions which apply to specific products, such as beef and veal.
Compositional standards, labelling and associated criteria		
Council Directive 98/83/EC on the quality of water intended for human consumption	192	Establishes rules governing the quality of bottled waters for human consumption to protect human health
Directive 1999/4/EC of the European Parliament and of the Council relating to coffee extracts and chicory extracts	114	Establishes rules governing the definition and labelling of soluble coffee products
Directive 2000/36/EC of the European Parliament and of the Council relating to cocoa and chocolate products intended for human consumption	114	Establishes rules governing the definition and labelling of cocoa and chocolate products
Council Regulation (EC) No 104/2000 on the common organisation of the markets in fishery and aquaculture products	31, 42, 43	Establishes rules governing the marketing of fishery and aquaculture products
Council Directive 2001/110/EC relating to honey	43	Establishes rules governing the definition and labelling of honey
Council Directive 2001/111/EC relating to certain sugars intended for human consumption.	43	Establishes rules governing the definition and labelling of certain sugars
Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption	43	Establishes rules governing the definition and labelling of fruit juices and nectars
Council Directive 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption	43	Establishes rules governing the definition and labelling of jams and marmalade
Council Directive 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption	43	Establishes rules governing the definition and labelling of dehydrated milk products

Topic area and key EU Legislation	Treaty Base in TFEU	Description of the legislation
Articles 114 to 116 of Council Regulation(EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products	42, 43	Establishes rules governing the definition and labelling of milk and milk products (Article 114), spreadable fats and oils (Article 115), and products of the eggs and poultry meat sectors (Article 116)
Directive 2009/54 of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters	114	Establishes rules governing the marketing of natural mineral waters within the EU

