



Joint Submission

On the

EU "Proposal for a Regulation of the European Parliament and of the Council on the apportionment of tariff rate quotas included in the WTO schedule of the Union following the withdrawal of the United Kingdom from the Union and amending Council Regulation (EC) No 32/2000"

By

Beef + Lamb New Zealand Ltd and the Meat Industry Association Inc

17 July 2018



This is a joint submission by Beef + Lamb New Zealand Ltd (B+LNZ) and the Meat Industry Association Inc (MIA) representing the views of the New Zealand sheep and beef sector (i.e. producers, processors, marketers and exporters).

Summary

1. New Zealand and the European Union (EU) have a long-standing trade relationship with shared values and strong commercial relationships.
2. The Sector is writing this submission to register its strong opposition to the EU's proposed approach to apportion the tariff rate quotas (TRQs).
3. The EU proposal to apportion the TRQs established in the EU's legally binding Schedule of Commitments is unacceptable to the sheep and beef sector in New Zealand. This proposal does not meet the EU and the United Kingdom's (UK) joint and several legal obligations and commitments to their fellow WTO Members.
4. The Sector has developed a set of key principles to guide its approach to the Brexit related TRQ discussion:
 - a. The quality and quantity of the WTO access commitments are legally binding;
 - b. An important aspect that goes to the quality of the EU's WTO's commitments is the flexibility New Zealand exporters have to responsibly respond to consumer demand and changing market conditions across EU markets;
 - c. The Sector expects the EU to undertake genuine and constructive engagement with negotiating partners and stakeholders in order to ensure a mutually workable solution that creates the least amount of disruption to the market.
5. The EU proposal to apportion the TRQ's established in the EU's legally binding Schedule of Commitments is completely unacceptable to the New Zealand sheep and beef sector as it erodes New Zealand's market access rights.
6. The Sector sets out three principal concerns with the EU's proposal on apportionment:
 - a. Apportioning the TRQs is not acceptable to the New Zealand meat industry;
 - b. A three-year reference period from 2013-2015 is a flawed snapshot of the trade relationships;
 - c. The timing and nature of the EU's proposal for a regulation to apportion TRQs is both presumptive and unilateral in nature.
7. The timing of the EU's proposal is pre-emptive, unhelpful and unnecessary. There is considerable detail left to be negotiated between the UK and the EU with respect to the terms of the UK's departure from the EU. Asking affected parties to assess their interests without a clear understanding of the terms of trade between the EU and the UK is both untenable and unreasonable. The detail of the future EU and UK relationship will significantly determine the impact on trading partners and indeed New Zealand's trading interests.



8. The EU and UK intention for the UK to remain in the EU Customs Union for a transitional period up to December 2020, provides the necessary time to undertake fuller and more meaningful discussion in order to deliver the neutral solution that New Zealand requires.

Introduction: History of shared values and responsible trading

9. New Zealand has a long history of shared values and economic engagement with the UK and the wider EU. The New Zealand sheep and beef sector has developed significant long-standing commercial relationships in the EU and has consequently welcomed the launch of the EU-New Zealand FTA. The FTA is an important step in strengthening the trade relationship, but also a very important signal at a time where the international trading system is under threat due to the rise of unilateralism and protectionism.
10. The New Zealand sheep and beef sector takes pride in being a responsible trader and participant in the EU market. We tailor our product offering in response to consumer demand with a wide array of sophisticated, competitively priced products, and provide the manufacturing and foodservice sectors with access to high-quality inputs. Our exports also reflect the seasonal nature of our respective production systems and that complementarity ensures European consumers have access to quality product, year round.
11. As a market driven, export focused sector our exporters are driven by consumer demand and domestic production. Markets are dynamic as evidenced by the fluctuations in the volume of our exports under the quota from year to year. The flexibility to respond to these dynamics ensures market stability which is in the interest of both EU producers and consumers.
12. The Sector is writing this submission to register its strong objection to the EU's proposed approach to TRQs. This is an issue of significant commercial and legal importance to the sector and we need assurance that there will be meaningful consultation and engagement with both the EU and the UK to ensure that a mutually acceptable solution can be found that continues to enable our companies to evolve their business in response to market dynamics and drivers. The neutral solution the New Zealand government has been actively advocating will achieve this objective and must not be dismissed.

The Principles Guiding our Sector's Approach to Forthcoming Discussions

13. The Sector has developed the following set of key principles that will guide its approach to the forthcoming Brexit-related TRQ discussion. For a start, the quality and quantity of WTO access commitments are legally binding. The commitments made during the Uruguay Round were part of a set of negotiations where Members paid for, received and made market access commitments. The EU and the UK, as a consequence of commitments made during the Uruguay Round, have joint and several liabilities. These commitments must be upheld.
14. A critical aspect that goes to the quality of the EU's WTO commitments is the flexibility New Zealand exporters have to respond to consumer demand and market conditions and adjust their product offerings across the individual EU markets. This flexibility supports stability in the markets and avoids artificial situations where an inflexible fixed quota incentivises exports to markets where changes in demand and/or domestic production warrant



reduced imports; or vice versa. It is an absolute priority for the sector to ensure that the market stability that has been carefully established over the decades of close trade relationships is not destroyed as a result of Brexit.

15. The Sector expects the EU to undertake genuine and constructive engagement with its negotiating partners and stakeholders in order to achieve a mutually acceptable outcome. At a time where the WTO is being threatened, we look to the EU, as a strong proponent of the multilateral rules-based system, to undertake negotiations with the transparency, fairness and good faith that is fundamental to its effectiveness. This is an opportunity for the EU and the UK to reinforce that the WTO is a respected institution with robust rules and processes that deliver fair results for the companies, consumers and farmers that use these rules.
16. The timing of the EU's proposal and consultation is pre-emptive, unhelpful and unacceptable. The need to address the issue of TRQs, to a certain extent, depends on the bilateral trade relationship the EU and UK negotiate amongst themselves. Without absolute clarity of the trade relationship between the UK and the EU, it is illogical and unacceptable to expect stakeholders to be able to fully analyse any proposal against their interests. As a consequence, it is premature for the EU to commence a process of what looks to be unilateral change to its legally binding WTO access commitments – an action that runs counter to EU's long standing commitment to protecting the rules-based trading system.
17. The UK and EU intention for the UK to remain in the EU Customs Union for a transitional period up to December 2020, allows sufficient time to undertake fuller discussions to deliver a neutral solution that New Zealand has been calling for.
18. We cannot see there is any reason for the EU to move on this matter at this stage. Without greater certainty of the future relationship with the UK any premature decisions may result in significant and unintended consequences particularly during a difficult transition period with the UK.
19. We strongly urge the EU to pause and use this time to undertake fuller discussions – rather than to embark pre-emptively down a unilateral path that will lead to further instability in already fragile international trade conditions.

The EU's proposed approach to TRQs

20. In this section we explain why the EU's proposal to apportion TRQs included in its WTO schedule is unacceptable to the sheep and beef sector in New Zealand.

a. *Apportioning the tariff rate quotas is unacceptable to the sheep and beef sector in New Zealand.*

Apportioning the TRQs along the lines proposed in the EU proposal does not work for several reasons. Firstly, in a number of cases, splitting TRQs would result in consignments that are not marketable parcels (neither economically viable nor practical) and a trading environment that ignores changing consumer demand or domestic production. In some cases, the amount the EU proposes to apportion to itself in its TRQ split proposal does not reflect the highest volumes exported under the quota in recent years, or within the "reference period" identified by the EU.



Secondly, under existing EU commitments any TRQ holder may export up to the total quota volume to any one or combination of EU Members. In this respect, apportioning the quota volumes between the UK and the EU significantly diminishes the value of the quotas under the current EU WTO Schedule.

The approach proposed by the EU does not preserve the flexibility to trade into the EU and UK markets according to changes in consumer demand and domestic production. This fundamentally detracts from the quality of the access commitments made by the EU (and the UK) during the Uruguay Round. A solution that preserves this flexibility in trade flows would be the fairest and least disruptive and the most conducive to market stability for both UK and EU producers and consumers as it allows market forces to operate efficiently and without artificial intervention.

b. *A three-year reference period from 2013-2015 is a flawed snapshot of the trade relationships.*

It is unclear how the EU and the UK have arrived at the decision to consider a three-year period, and the basis for which the years of 2013, 2014 and 2015 were selected. Furthermore, considering trade over just a three-year period is an artificial snapshot of a very narrow time frame within a long standing trade relationship. The artificial nature of this approach does not take into consideration the dynamism of the market place or trade trends.

c. *The timing and nature of the EU's proposal for a regulation to apportion tariff rate quotas is both presumptive and unilateral in nature.*

The timing of this proposal is unacceptable for two key reasons. Firstly, as already outlined, the future relationship between the EU and the UK remains unclear, and it is therefore unacceptable to ask stakeholders and negotiating partners to assess their interests with this uncertainty.

Secondly, under GATT Article XXVIII a Member seeking to modify their schedule is required to consult with Members who have a substantial interest. A proposal that sets out a draft regulation is presumptive and unilateral in nature. It prejudices the intent to have a genuine consultation and negotiation with partners and stakeholders. We ask the EU and the UK to conduct their consultations and negotiations with transparency, good faith, and a genuine intention to ensure no Member is left worse off as a result of Brexit. Anything less would create an unnecessary and unacceptable dynamic at a time when the WTO is coming under real pressure.

21. These issues are fundamental and go to the feasibility of the EU's proposal. We ask the EU to work constructively with New Zealand to resolve them before any decision is made to erode New Zealand's WTO market access rights.

Conclusion

22. The Sector appreciates the opportunity to register its absolute opposition to the EU's proposed approach to TRQs. The EU trade is a cornerstone for the New Zealand sheep and beef sector and the potential Brexit trade implications are of absolute and significant commercial and legal importance. At a time where the global trading system is threatened, this is an opportunity for the EU and the UK to demonstrate that they are committed to open and facilitative trade, and that the WTO is a robust institution with



mechanisms and processes that deliver fair and meaningful outcomes for the companies and farmers that rely on the rules based system to sell their product.

23. The New Zealand sheep and beef sector seeks a neutral solution that prevents disruption to markets and trade flows. The neutral solution the New Zealand government has been actively advocating for will achieve this objective.

About Beef and Lamb New Zealand Ltd and the Meat Industry Association Inc

24. Beef + Lamb New Zealand (B+LNZ) is the farmer-owned organisation representing New Zealand's sheep and beef farmers. It is the organisation with the legal mandate to speak on behalf of New Zealand sheep and beef farmers. B+LNZ is funded under the Commodities Levies Act 1990 through a levy paid by producers on all cattle and sheep commercially slaughtered in New Zealand. B+LNZ's purpose is to provide insights and actions that drive tangible impact for farmers.
25. The sheep and beef sector is important to New Zealand's economy, creating around 35,000 jobs (wages, salaries and self-employment) across New Zealand. Around three quarters of pastoral land and just under a third of New Zealand's total land area is used for sheep and beef farming. Sheep and beef exports are New Zealand's second largest goods export earner.
26. The Meat Industry Association of New Zealand Incorporated (MIA) is a voluntary trade association representing approximately 99% of New Zealand meat processors, marketers and exporters. It is an Incorporated Society (owned by members) that represents companies supplying virtually all of New Zealand sheepmeat and beef exports.
27. MIA member companies operate more than 60 slaughter and further processing plants employing 25,000 people throughout the country. The plants slaughtered and processed around 28 million sheep and five million cattle in 2017. Ninety percent of this production is processed into value-added products. Over a million tonnes, or 86% of production, is exported to 120 overseas destinations.
28. The Association advocates on behalf of its members and provides advice on economic, trade policy, market access, employment relations, business compliance costs and technical and regulatory issues facing the industry, with a particular focus on:
- food safety trends and developments in importing countries
 - economic and trade aspects of market access to key overseas markets
 - major public policy proposals that could impact on industry operations.

Thank you for the opportunity to comment,

A handwritten signature in black ink, appearing to read "Sam McIvor".

Sam McIvor
CEO, Beef+Lamb New Zealand

A handwritten signature in black ink, appearing to read "Tim Ritchie".

Tim Ritchie
CEO, Meat Industry Association



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