OFFICIAL REPORT
AITHISG OIFIGEIL

Constitution, Europe, External Affairs and Culture Committee

Thursday 21 March 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

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CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE

8th Meeting 2024, Session 6

CONVENER

*Clare Adamson (Motherwell and Wishaw) (SNP)

DEPUTY CONVENER

*Alexander Stewart (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

*Neil Bibby (West Scotland) (Lab)
*Keith Brown (Clackmannanshire and Dunblane) (SNP)
*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Margaret Carlin (Cefetra)
Tony Dumbreck (Innovate Foods)
Paddy Jack (DLF Seeds)
James Macsween (Macsween of Edinburgh)
Dario Riccomini (Aldomak)
Gary Stephenson (Devro)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 21 March 2024

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Clare Adamson): Good morning, and a very warm welcome to the eighth meeting in 2024 of the Constitution, Europe, External Affairs and Culture Committee. Agenda item 1 is a decision on taking business in private. Are members content to take items 3 and 4 in private?

Members *indicated agreement.*

Review of the EU-UK Trade and Co-operation Agreement

09:30

The Convener: Under agenda item 2, we will continue our evidence taking as part of our inquiry into the review of the trade and co-operation agreement between the European Union and the United Kingdom. We are delighted to be joined by Gary Stephenson, global regulatory, sustainability and external affairs director at Devro; Margaret Carlin, execution department manager at Cefetra; Dario Riccomini, managing director at Aldomak; Paddy Jack, business manager for Scotland at DLF Seeds; Tony Dumbreck, global industrial performance director at Innovate Foods; and James Macsween, managing director at Macsween of Edinburgh.

Our clerks have been in touch with you to say that we want to cover three themes today, and we will take each in turn. Under the first theme, we want to gain insight into your experience as Scottish businesses of the trading conditions between the UK and the EU as things stand. I invite Mr Macsween to start.

James Macsween (Macsween of Edinburgh): I would probably use the word “challenging” to explain in a nutshell trying to get products of animal origin into Europe. There is no consistent position; there are peaks and troughs—products move more easily sometimes and less easily at other times. Since Brexit, we have had some significant delays and, for example, we had some adverse costs in trying to recover products that got stuck in France, which was particularly challenging.

It is not straightforward. The way that products of animal origin are considered as they enter Europe means that it is significantly harder to export there than it is to other countries in the world, but Europe is not my only export market. We have exported to Canada, the United States, the United Arab Emirates and Singapore, which is far more straightforward because there is a more settled passage for products to move, whereas our European cousins are still interpreting the laws. There are differences in interpretation depending on the day of the week and which vet it is, for example.

Tony Dumbreck (Innovate Foods): I will give a little context. Innovate Foods was formed in 1989 and, at the beginning of 2020, we became part of the Frostkrone Food Group. We operate from Kirkcaldy, but we are part of a business that has about 1,800 employees, with two factories in Germany, two in France, one in Wales, one in

Kirkcaldy and one in Idaho, so we have a cross-border perspective.

We joined the Frostkrone group because, in 2018, when I looked at the potential consequences of Brexit, I thought that I needed a manufacturing partner that would allow me to continue to supply my European customers. They could made stuff in Germany for us and perhaps we could make stuff in the UK for them, but we ended up joining the Frostkrone group.

In 2020, it was relatively easy to manufacture in the UK and ship overseas, but the barrier came down pretty hard in 2021. We still did some manufacturing for our German partners, because they were short of capacity.

The products that we make are finger foods, such as breaded mozzarella sticks and chilli cheese nuggets. Ordinarily, you might consider them to be composite products but, when it comes to getting through the EU border, they are considered to be dairy products, which creates a few problems.

We stopped shipping to Europe in 2021. We had two trucks of chilli cheese nuggets, the first of which went through the Dutch border with no problem. The second truck got stopped while there was a disagreement about the binding tariff notice on the commodity code that had been issued by Germany. Things went backwards and forwards for six weeks, by which time the product had melted and was written off.

We have not tried to ship to Europe since then, but we are about to start trying again, because it feels as though the asymmetry in relations is starting to rectify itself. We currently export to China, Hong Kong, Japan, Korea, Malaysia, Singapore and the Gulf states, and that is far easier than our experience of shipping to the EU.

I was talking to Gary Stephenson about the point that, in order to have a health mark to ship products that contain dairy, we have to be registered under regulation 853, because that gets us on TRACES—the trade control and expert system—so that people can look us up. If we are registered under regulation 852, which is what we actually need—because we use dairy as an ingredient; we do not process it—we are not on TRACES, so people cannot find us on the system and they will not let anything in anywhere.

Therefore, we have had to revive a product that we used to make, which involves a heating and cooling process, in order to get on the 853 register, which James Macsween and Gary Stephenson will be on because their businesses are meat businesses. That is just part of the landscape that we have had to navigate.

Is it getting easier? It has been relatively easy to bring things in, but it is horrible getting things out—for example, sending samples to our German colleagues who want to sell them to their customers, such as Lidl International. Even to supply Lidl in the UK, we have to send a sample to the Lidl International headquarters in Germany. Doing so now costs between four and five times as much as it did. It used to cost £250, but the cost is now north of £1,200 for the same sample and, even then, the product might get left somewhere and defrost on the way.

Paddy Jack (DLF Seeds): I work for DLF Seeds, which is a company that breeds seeds in many countries around the world, and we import what we have grown in Denmark or New Zealand into the UK. We make mixtures for the UK business, but also for Ireland, and it is the supply to Ireland that has hit the buffers—so much so that, in 2021-22, we decided to build a new plant in Waterford to supply both the Republic of Ireland and Northern Ireland, because it is much easier supplying from the Republic of Ireland to Northern Ireland than it is growing and mixing here.

One of the biggest barriers that we face relates to the importation of seed—our customs agents had two people doing the work for us, and now they have 14. In addition, the delays are huge. We have found that, if we have a lorry with a driver, we can normally get past the import problems but, if we send a container without a lorry, it gets stuck in a dock for several weeks.

There also needs to be planning for the new changes in grasses. We used to sell perennial rye grasses, timothy and white clovers. Farmers now want really diverse mixtures with lots of legumes and herbs—in England, farmers get paid to grow those sorts of things—so a huge range of new species are coming in that are not registered on the UK national list. When we go to Europe to buy something like a crimson clover, if there are five varieties and only one of them is on the UK national list, you can bet your bottom dollar that it is the expensive one.

The Convener: I invite Mr Dario Riccomini to speak. I hope that I pronounced your name properly.

Dario Riccomini (Aldomak): Absolutely fine—thank you.

I am the managing director of Aldomak Ltd, which is a confectionery manufacturer that specialises in tablet, fudge and some baked goods. Exports are a pretty important part of our business; they account for a large percentage of it. Since Brexit, the situation has been challenging.

We have got the time for all the regulatory compliance work to be done down to about 20 minutes per pallet now. That is okay for pallet quantities but, for retail quantities going directly to consumers, that is impossible. Although you put exactly the same information on the retail pack as you do on the pallet consignment, that does not get through the postal network for some reason—we still do not know why—so we have just stopped.

For imports, there is still some confusion, even with large carriers. I will give you an example. We brought in some freeze dried raspberries from Poland. Before we could take the delivery off the truck, we were required to provide a cheque for import duty and VAT, which were not due on the commodity. We provided the cheque and then cancelled it, but we now have debt collectors looking for the money that is not due, even though TNT itself said, “Okay, it’s not due.” Those are some of our practical challenges as an importer and exporter.

The Convener: Have the debt collectors been instructed to do that by someone?

Dario Riccomini: I think that it is just part of the machine. They were instructed by TNT as part of an automated system, because we did not pay a fee that it thought was due when it was not.

The Convener: Thanks for clarifying that.

Margaret Carlin (Cefetra): Good morning, everybody. Cefetra is one of the major raw material importers to the UK and Ireland, and we supply the food, animal feed, brewing and Scotch whisky industries with our raw materials. As you can imagine, a lot of the raw materials are quite varied, and many of our grains have preferential origin status because of the TCA. We can supply domestically, from the UK, wheat, malt and barley or whatever, but there are times when we need to import from the EU, depending on the UK harvest.

Grains all carry a preferential status and, if we do not claim preferential status, they could carry an import duty of £79 per tonne. If we buy from an EU supplier, it must be registered on the registered exporter—REX—system on the European Commission portal in order for us to be able to import to the United Kingdom tariff free.

However, that information is not to be found at the click of a button—we need to hunt for it. A couple of years in, experience tells us what to do but, initially, if we were to buy from an EU supplier of wheat in Germany that was not REX registered and we imported the wheat into the UK, we would have to pay full duties. On a 300-tonne vessel, that could be an extra cost to our company of around £340,000.

We also buy a by-product of the flour mill industry. In the UK, we buy that from Hovis and Warburtons but we also buy from the EU mills, most of which are in Germany and Austria. The by-product of the flour mill industry is called wheat feed, which cattle apparently adore. It also carries a duty, so that is also a preferential tariff. When we buy from those manufacturers, they barge the product up the Rhine to the port of Rotterdam, where we take over on a free-on-board international commercial terms basis, and we then charter a vessel to bring it to the UK.

However, the EU is not a recognised origin of product and those flour mills can, quite rightly in order to be economically viable, amalgamate product from their Austrian mill and their German mill. We must give UK customs an origin, and we are unable to do that correctly because we can state only that it is German or that it is Austrian, for example. It cannot be both because there is only one place on the movement reference number imports admission for HMRC to confirm origin, and we cannot do that. Well, we can do it but, obviously, we are not being accurate at all.

09:45

We also sometimes apply for tariff rate quotas. Unfortunately, however, Northern Ireland is neither an EU member state nor UK territory when it comes to bringing products into Belfast, and we have a very large store in Belfast. Ironically, we can apply for TRQs in southern Ireland, and because there is no border on the island of Ireland, there is nothing to stop that product physically moving up and down. It defies reason that Northern Ireland is neither in the UK nor in the EU when it comes to TRQs for businesses such as ours.

On dutiable product, we have dutiable product of non-EU origin and I will give some examples, because I feel that that is easier. A few months ago, we purchased some Brazilian broken rice from the European Union, so it had EU free circulation status. We bought it from our sister company in the Netherlands and brought it into GB, and it was stored in GB for GB customers.

However, the current Red Sea issue with the Houthis has meant that the broken rice that we purchased from Myanmar months ago is somewhere around the Cape of Good Hope. We are contractually obliged to give broken rice to our Irish customers, but we cannot do it. We have already paid £54 in duty in buying Brazilian-origin broken rice from the European Union and bringing it into GB. We now need to move that from GB back into the European Union, which is the island of Ireland, and pay another £54 in duty. We could prove that, a few months back, the product had EU free circulation status, but that does not matter—we still have that £54 outlay. That is a bit disjointed and messy, and there should be a solution, because we can easily prove that the product had EU free circulation status a few months previously.

There is one more thing. We also buy product from what we call generalised scheme of preference countries that are underdeveloped, such as Myanmar and Angola. The European Union has kept the GSP, but in June last year, the UK Government moved to a new trading scheme called the developing countries trading scheme. It essentially works in exactly the same way as the GSP scheme, but Northern Ireland is completely confused by the whole thing, because it is does not know whether it is in the DCTS or the GSP.

Equally, our suppliers assume—rightly—that Northern Ireland is UK territory, and they create all the incorrect paperwork. We have to go back to them and explain that it is actually an EU regime, because we are bringing in a non-EU commodity, and therefore we are in a different scheme.

All that mess, if people are not aware of it, can cause a real headache for businesses.

The Convener: Thank you for that. Finally, I invite Gary Stephenson from Devro to come in.

Gary Stephenson (Devro): Hello, everyone. Thank you for inviting me to the committee. I will take any excuse to talk about the pain of Brexit over the past four years; it is always a pleasure for me to share the pain.

I will talk about the trends, although you can tell me if any of this falls into other areas of the discussion. I want to talk about general trade, research and development, regulatory compliance and solutions. If all those topics fit into the first part of the discussion, I will cover them all.

The Convener: Yes.

Gary Stephenson: Okay. I will start with the basics of the system that is involved. Devro is a Scotland-based business that produces something like 800 million metres of sausage casing and sells it around the world. Half of it goes to the UK, 25 per cent goes to the EU and 25 per cent goes to the rest of the world.

We were in a fortunate position, in that I already understood the system before we left the EU and we already took products into the EU. However, even as a business that understood what was required, we still had some problems.

As a rundown of what is required, we need to check that our product is permitted within the EU, and that is not always the case. For example, sausages, for example, may not be imported into the EU from non-EU countries. Before we can import into the EU, we need what is called a non-EU third-country establishment registration, which means being on a list of businesses within Europe for the relevant product category only. We need an up-to-date export health certificate, which must be signed by an official vet, so we need to find a vet who will sign those certificates. We then need to do the customs declaration. That is all pre-trade.

As for the trade itself, there are about £1,200 of extra costs per container, which is an increase in cost of about 83 per cent. That does not include the people resources, and we are probably talking about an extra full-time employee doing all that work, across various individuals.

Within those costs are pre-shipment registration and alignment with the scope of the border control points. We can ship only through a border control point that allows our type of product to be inspected. One thing that we did not know that tripped us up in the first few weeks was that we had to contract a border control point facilitator at Calais to take our lorry from the lorry park to the border control point. That is another money-generating scheme in Calais.

We also need an export health certificate and, as I think has already been pointed out, there is sometimes disagreement about what should and should not be on that. We consider such things to be teething problems. There are increased transport delays because of having to take our product through a border control point that is not always open when we want it to be. Those are the types of problems and additional costs that we face.

As a business, we have some benefits. We produce an animal-based product, but we can ship container loads, and the cost is for a container of one type of product. It is not like having a container with lots of different products that require lots of different certificates. In a way, things are more simplified for us.

I can go on to some of the small, teething problems. Vet disagreements are sometimes a problem, both when exporting and when importing. We generally know the requirements better than the vet, and it can sometimes be challenging to convince a vet that they are wrong when they are allowing our product in. We have had a few such discussions.

On a positive note, however, we have managed to continue to supply all our EU customers with the product that they want. We have got through the situation, but at a cost.

We are now at a competitive disadvantage, because of the additional costs. We have to compete with EU-based collagen casing manufacturers with the added cost, which is probably in the region of an extra 7 per cent. We are already at a disadvantage, because EU-based firms do not have to go through any of that for their products to come into the UK. There is a fair playing field here, but we are at a competitive disadvantage over there. Those are the additional costs involved in trading with the EU.

Another important point, which has been little understood, involves product development and research. It is difficult to get samples into the UK or into the EU. When we were in the EU, there was no problem, as we were in a free market and could move samples around. As soon as we came out, we were left with two options for getting samples. We do a lot of market research, and we might need to take products off the market in Croatia or Germany. That is not currently the case for bringing things in—I will come to that in a minute—but it is for sending them out. As I say, there are two options. We either do a commercial shipment, which means going through everything that we have just gone though—all the costs, the export health certificates and so on—or we use what is called a permit. The permit system for the UK is under the UK's control; we are not tied by an EU process. However, we adopt the same EU principles. There was almost a barrier to trade outside the EU.

We have a problem with getting samples in. We cannot get an export health certificate for a product from the market if it is a competitor product. They are not going to give us an export health certificate, and neither are the products on the market. We therefore struggle to get the export health certificate, and have to use the permit system. That system was designed for bringing in high-risk microbiological samples that need biosecurity measures.

I am not saying that meat products do not have some of those, but we have to go through a document that is about 12 pages long and asks all sorts of questions about things that have no relevance to our product. The system is also completely opaque. We have no idea when we will get a decision, and we cannot challenge that decision. We are also required to implement biosecurity measures that are disproportionate to what we are trying to do.

We tried the permit system twice and that was enough. We have said that it is too difficult, and we will try to bring everything in on a commercial basis.

We are having to move product development to the Czech Republic, which is not good for UK development. The frustrating thing is that it is in our control. If we took a more risk-based approach to samples, rather than this standard process, we could facilitate investment in research and development. As a global business, it is challenging to convince a business to invest in Scotland for its product development, because we cannot get samples in very easily. That is important to developing the future of our business.

Next, I want to cover regulatory compliance. By definition, we are going to start diverging. We have not got a big problem with that. We have to comply with the South Korean regulations and the Japanese regulations, so we will simply comply with the EU regulations. However, the consequence of the UK pulling out of Europe is pragmatism. The European Commission has become much more precautionary. It makes decisions based on the potential risk of a material rather than the real risk, which is causing the regulations to diverge more. For example, mycotoxins in oats is causing problems for the oat manufacturers. It is developing a different system.

Although we originally thought that divergence was a bad thing, in actual fact, it is probably a good thing, because it means that we can ship certain products that the EU prohibits to the UK. I see that as a future issue.

My final point is about solutions. For me, the best solution for the commercial trade is to have mutual recognition or a veterinary agreement to remove everything that is unnecessary. It is not doing anything apart from adding cost and complexity to the system. If there was mutual recognition of standards or a veterinary agreement whereby we did not need to do any of this and just continued the free flow, that would really help business.

The second solution is to look at our permit system for samples, because it is not fit for purpose. I have raised that issue with DEFRA and with certain MSPs a few times. We always seem to get to the same standstill, which is that we are told to wait for the border trade operating model that is being introduced. I thought that that could help. For example, We are now in the ridiculous situation where, for example, we import treated hides to make collagen. If it is designed for non-human consumption, it is classed as low risk and if it is destined for human consumption, it is classed as medium risk. They are exactly the same thing and the risk of bringing it in is exactly the same for both products, and yet there is a different view.

It is almost as though there needs to be a rethink about how we regulate within this country to ensure that we understand that thriving businesses are critical to the economy, which means critical to the finances of the Government.

I have gone on a little bit, but I hope that it was helpful.

The Convener: It has all been very helpful. Thank you.

This is a round-table meeting, so I want a free-flowing discussion about the issues that have been raised.

We will come to what you would like to see in a review of the TCA. Gary Stephenson mentioned the border controls that are about to be implemented in the UK. What are your worries about that? Do you foresee that some of the problems that you had in the other direction will happen again and impact business?

10:00

Gary Stephenson: There are two ways of looking at it. It will create a fairer playing field for businesses, but that means that it will cost more to bring a product in. Importers will not like it but exporters will think it fair enough.

I was a little disappointed. The initial proposal looked very positive; they were talking about a world-leading risk-based system that would show the world how to do controls. However, it has sort of drifted back into what it was previously. That is frustrating. I like the idea of low, medium and high risk, but they have to be serious about what they mean by those risks. Too many things are being put into the medium risk category that are low risk.

Margaret Carlin: For us, from an import point of view, the problem with border control posts is probably more on the organic side. We import organic products through various different ports throughout the UK. My concern is the same as Gary Stephenson's point about coming into a certain port but having to travel X miles, at additional cost, to get to the BCP. That is probably the biggest concern.

James Macsween: Like Gary Stephenson, I am hugely frustrated that the model has taken so long to come to fruition. To an extent, the playing fields have not been level, and we have been penalised for Brexit. It is not that hope is a strategy and we should not rely on the model to level the playing fields, but we have to sort out our problems with importing and exporting on equal terms with Europe. However, given the pain that the UK has been subjected to, I hope that Europe will feel the same frustrations shortly, when we start to enforce the legislation, because the situation has been ridiculous for every business.

Trying to get samples out to customers and being agile is a great example. We are a small emerging exporter—we do roughly £100,000 in trade—and we need to be able to get samples out. I can get samples into other countries more easily than I can get them into Europe. That is preventing growth, even for a small business, but bigger businesses have the same frustrations and doing a commercial shipment is financially punitive.

Tony Dumbreck: Similarly, we stopped exporting to Europe three years ago because, once a bad experience costs you 60 grand, you simply do not do it again, and it colours your thinking even if the barriers are only in your mind. However, the barriers were not only in our minds.

The whole Brexit malarkey is regrettable but, once the decision was made and the path was set, we should have had symmetry to our inhibitions years ago, because that was the only way that the EU would have taken a step back. At the moment, are we a third country or a third world country? When it comes to outgoing trade, we are treated like a third world country, rather than as a third country that has the same standards—our standards did not change overnight. That is the EU's prerogative but, because the UK did not impose exactly the same symmetry, things have taken much longer. It has been death by a thousand cuts.

Earlier I made a point about origin. We have origin problems in only one country: China. When we began to export to China, nobody in our acquaintance had ever tried sending a mushroom, cheese and vegetable product to China. We use UK-only ingredients for China. No one else seems to mind too much.

However, we buy mozzarella from Denmark, and mushrooms from Poland, Holland and Ireland as well as the UK. We process in the UK; and we sometimes want to send our products back to the country that those things came from, but we cannot do so without jumping through all the hoops.

Again, one would hope that pragmatic heads might eventually prevail over that asymmetry. However, as James Macsween said, hope is not a strategy. Our choice was to export elsewhere in the world. We probably generate 10 or 12 per cent of our revenues from exporting to the rest of the world. We have gone from doing about five or seven per cent in the EU to doing zero. However, as part of a bigger group, we are about to have another go, because we are cussed, bloody-minded and determined, and we cannot see why it should not be sensible to do so.

The Convener: I wish you the best of luck.

Does Dario Riccomini or Paddy Jack want to comment on the border controls issue in particular?

Dario Riccomini: As one of the smaller businesses in the room, we cannot be experts in absolutely everything, so we would really like to be able to say, "I want to export some orange-flavoured fudge to Poland with all of these ingredients. What do I need?" and to get the answer, "Here it is." That would be the easiest way and that is what I need to make it seamless.

The Convener: As Paddy Jack does not want to comment, I invite Gary Stephenson to come in.

Gary Stephenson: I will comment on something that Tony Dumbreck mentioned. To me, the whole debacle of Brexit is about leverage. We went for a hard Brexit, so the EU wanted to punish us and, therefore, we are not flexible.

With the new border target operating model, we are starting to put a little more pain on importers, which I think has to happen. They do not have enough official vets to meet all the requirements and they do not understand what will be required when they ship into the UK, just as a lot of manufacturers in the UK did not know what to do. They will be in exactly the same position. Some small manufacturers will say, "I didn't know I had to do that," and their product will be sent back.

In the UK, we tend to take a more softly-softly approach—we give people a warning and tell them what they need to do, which is really helpful. In the end, I think that a bit of pain for the EU should help with some leverage on the mutual recognition of veterinary standards approach. The only way that we are going to do that is to share some of the pain.

The Convener: I will now bring in committee members.

Alexander Stewart (Mid Scotland and Fife) (Con): I thank the witnesses for their honesty—it has been good to get that flavour. You have all adapted or stopped doing things not only because of the pain that you have mentioned but because of the loss that you would suffer, and you are trying to keep track of changes to EU legislation to continue to adapt. You talked about bringing in a new member of staff to tackle that.

As organisations, have you managed the situation by bringing in an expert so that you get a much better and freer flow in relation to what is happening and so that you understand the legislation? In the past, I think that you have just tried something and it has failed, but you have to take that risk. However, it is about managing the risk for the future and seeing what you can achieve. It would be good to get a flavour of what you see coming in the future, based on what you have seen in the past.

Does anyone want to jump in?

Gary Stephenson: I can talk about that, because that is my role in Devro. I was brought in 12 years ago as a regulatory expert, because the company did not have any regulatory expertise. I knew EU regulation and was familiar with US and Australian regulation. I understand how the systems work.

I have no idea how some of the other guys operate. Through the Food and Drink Federation Scotland, I have tried to help and I am willing to share what I think is relevant to them, but it is always just an indicator as to what they will require in that area.

The FDF also monitors EU regulations, which is quite helpful for the members to follow what is happening but, again, that requires a resource in their business. In our business, it is me who follows all the different committees within the FDF. There are probably 15 committees looking at different things happening in the UK, with the EU being an important market.

That requires additional resource. Could that be picked up by the civil service? Yes, it could be. In the UK, the Department for Business, Energy and Industrial Strategy has the role of supporting business. That sort of help would be beneficial to business, but the problem is that the issues are specific. I was at a meeting of the DG SANTE—which is the directorate-general in the EU for veterinary medicine residues—to try to get a change to a regulation for something that impacts us but will not impact anyone else.

The problem is that the issues are usually specific to a product. You can get help on the generalities but, to trade in Europe, you have to either find a consultant or body that can provide that information for you—which is probably the solution for most people—or recruit someone who has or can build those skills.

James Macsween: Alexander Stewart said something about trying and failing. I do not think that any of us has tried to export and failed because, prior to sending out a consignment, we would want to ensure that we had every i dotted and t crossed.

The situation that I experienced was that the regulations changed while my product was sitting in Le Havre waiting to be put into a container. As an emerging exporter, we do not ship containers—we ship pallets, or ship boxes by air freight.

We have a customer in Singapore; this situation involved less than a container load. At that time, there was no LCL—less-than-container-load—shipping. A chilled or frozen container would leave Le Havre with dozens of different pallets from dozens of different customers. We trucked the product to Le Havre and it was waiting to be packed. I had pre-arranged a certificate of non-manipulation—because the product was going to be stuffed into a container, the Singapore Food Agency had said, "We need a certificate of non-manipulation." I had that, in agreement with Seafrigo.

The pallets arrived and they were just about to get stuffed—that is the term that is used for putting the stuff in the container—and the company said, "Sorry, the vet has overruled us. We can no longer offer the certificate of non-manipulation." The customer said to us that, without the certificate, we were not going to get the product into Singapore, because the SFA had said that we needed it. We were at a stalemate, and our pallets were sitting on the dock, costing me £500 a day, because that was the demurrage charge.

We quickly ascertained that Seafrigo would take responsibility for holding the product free of charge until we found an alternative way to get it to Singapore. Ultimately, that product left on 3 September 2021. It then came back to the UK and was air freighted out on 5 January 2022, after four months of to-ing and fro-ing via email.

The legislation had changed, and we were told that the certificate of non-manipulation could not be offered unless the goods had been rerouted through Bordeaux or Guiana. We said, “Okay—let’s get the pallet to Bordeaux and bring it back to Le Havre,” but that was not possible. It ended up coming all the way back to the UK, at a cost to the customer.

The original transportation and vet costs would have been £793. The customer ended up paying £5,378 in transportation and vet charges. The cost of the goods was only £5,595—that put it at £6 a kilo of freight. We are talking about haggis, which would have been selling in Singapore for £3 or £4, and it was costing the customer £10, and the customer just had to take that on the chin. Fortunately, incoterms—international commercial terms—saved the day, and saved my skin, because my terms were ex works, so it was the customer’s responsibility to pay all the freight. That is where you really need to know your incoterms.

To answer the question, we do the best job that we can by listening to the people at the Food and Drink Federation Scotland; listening to webinars from the UK Government; reading documents; liaising with our vets; and speaking to transport companies. We set out with the ambition of doing it correctly, but we cannot help it if there are curve balls—when someone says, “That’s no longer the legislation,” we will feel some pain.

The company is not big enough to have somebody in charge of that. I am in charge of exports, but I rely on Government bodies and especially bodies such as the FDF, and on webinars, which were quite prolific pre-Brexit. We already knew what we were going to experience, because we were exporting outside Europe, and that is kind of what Europe now requires.

For the companies that had never exported, however, it was new. Pre-Brexit, if you sent something to Frankfurt or to London, it was exactly the same—it just went on a different lorry to a different country. It would leave on a Monday and arrive on a Wednesday. Post-Brexit, the playing field is completely different.

10:15

Paddy Jack: The first simple description of the increased costs of importing and exporting is about our business and not the customs agencies that we pay. Previously, one lady did all our imports and exports. We now have a Ukrainian lady sitting in Broxburn in West Lothian to help her, so we have doubled our costs. It is as simple as that.

Plant breeders use genetics to improve plants—to make them root deeper and improve the amount of carbon that they put in the soil, for example. Plant breeding spans the world. We use breeders’ techniques from every country in the world. We are based in nearly all the countries. However, at the moment, it is difficult to get trial material. It is the same as with the sample packs that other witnesses mentioned. We have something that ticks a box in the Czech Republic, Denmark or Uruguay but it will not be planted out in a trial field in West Lothian because we cannot get it in.

Tony Dumbreck: We became exporters just because we thought that we should. We learned how to ship to the gulf. Some things required a vet certificate, and some things required just responsible person import—RPI—certificates. When we went into China, we had no idea how to do that, but we asked around and found somebody who would sign off the vet certificate. They have to be on the China panel, so we waited for our vet to get on that panel, which takes six months.

We blundered along as accidental exporters. We now have the resources of Doris group, but poor Doris is stressed just dealing with stuff coming from Germany into the UK. Every now and again, we want to move machinery. We moved a certain machine from Germany to Wales because Germany had one and we needed it to do a project in Wales. Now it needs to go back. It was easy getting it out, but not getting it back in again. Our Kirkcaldy plant has to ship a machine to Germany in the near future, even though it is just on loan.

You muddle your way through these things, but you just have to get lucky with resources. There are resources through the FDF. There are lots of people you can ask but, when it comes down to it, it depends on who is on the border at the time and whether they agree with what somebody else has said. Back in 2021, we had a binding tariff notice from Germany saying what the commodity code was. We presented that at the Dutch border and they said, “We don’t agree.” Now, you would think that, because that was from the EU, they would agree, but no.

We used to ship to Turkey, but it went by road freight through the EU and we had to stop because we could not find any way of getting it there. We used to ship to Russia. Even that was easier than going to the EU—it was a long time ago. There will always be a way through.

In Wales, they are experts at shipping to Japan and Australia. In Scotland, we have a degree of experience in shipping to China, Korea and Malaysia. We sent something to Israel not that long ago. We build our expertise, but we are one tick in one box away from getting it wrong, and it should not have to be that way. As Gary Stephenson said, our qualifications are just the same as those of our colleagues in Germany and there should be some recognition of the equivalence. We did not suddenly jump into a big black hole where we were doing things unhygienically.

Margaret Carlin: In the past, we had a huge Ukrainian corn programme out of the port of Odessa. We would ship about 33,000 tonnes of maize from the Black Sea port and up the Bosphorus. Obviously, post-Russian invasion, especially in Odessa, that is no longer possible, so we have to rely on European trading partners of Ukrainian corn that comes in mainly through the Polish border but also the Romanian border. As soon as it is in Poland, it is in EU free circulation, and those Polish customs officers can physically see the documentation being stamped by the Ukrainian customs.

One of the mandatory import requirements of the UK Government customs is that we must provide proof or evidence of Ukraine territory—that is, that our corn was not purchased from farms that are now under Russian control—which makes perfect sense. The only way that we can do that is to get a certificate of origin raised by a chamber of commerce in Ukraine or an EUR1 certificate stamped by a Ukrainian customs officer at the border with Poland.

Because the corn is coming into Poland, the vast majority of it stays within the continent. However, it is very difficult for us. A supplier will maybe buy 100,000 tonnes and will get paperwork for 100,000 tonnes, so he is not going to give us an EUR1 stamped by a Ukrainian customs officer for 100,000 tonnes unless we absolutely demand it. We have to provide territorial proof to His Majesty's Revenue and Customs, which can sometimes prove to be a real headache. Luckily enough, we have an office in Gdynia. We have had to employ our colleagues in Cefetra Polska and pay them a commission to liaise with Polish customs and explain exactly what we need for UK customs to bring in the corn.

I also have a point on sanction controls for Belarus and Russia. There are vast differences between EU sanction rules and our retaliatory rules, which causes mass confusion, again, in Northern Ireland, because companies there have to rely on the EU ruling for the sanction controls. In the UK, we are different in some instances, which can again cause mass frustration for us.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): I cannot ask my question without first acknowledging how horrendous it has been for you over the past few years.

I have a question that is a bit more macro in nature. It is about how you see markets changing if nothing improves in relation to the barriers or tariffs to import and export.

I was struck by your story, James Macsween, about exporting to Singapore. Presumably, if those prices continue to be passed on to customers, it becomes a more unaffordable product. I also assume that, in order to get your product into that market, you will have had to invest significantly in marketing and so on. If that trajectory continues, it will presumably have a more lasting impact on customers' tastes or producers' incentives.

I wonder how each of you see that panning out, particularly in relation to the impact on the Scottish economy. Ultimately, if your products become less profitable, that will have an impact on Scottish workers and so on. I want to take a step back from your immediate business and ask you, if there is no change, what you see as the most lasting impact on the Scottish economy in 10 years' time—which could probably take the rest of the week.

Gary Stephenson: I had a discussion about this last week—in particular, about how we resource the regulatory support for the changing dynamics in the global market. There are significant increases in demand in south-east Asia, as people there move towards a more animal-based protein diet from what was a very low base level. There is significant growth in Thailand and Vietnam, and we are already supplying Japan and South Korea. We have a plant in China, which we built a few years ago to supply the Chinese market. America is another growth area, where there is expansion.

From a Scottish perspective, we can overcome the barriers to getting products into the EU, but it comes back to product development and research investment. As a business, why would we invest in product development in Scotland if we cannot easily get samples into Scotland to do the research so that we can then send products out? We have an R and D centre in Scotland, which is a global research centre, but if things become more difficult, the argument to supply in Scotland gets more difficult.

Our other big challenge is around automation and a labour skills shortage. If a firm cannot automate, it will move somewhere else. If it can automate, it can keep its premises in Scotland. We have a big automation programme on at the moment to try to reduce our labour costs and make Scotland more competitive.

The future for Scotland as a centre is positive, but that needs to be focused on innovation and development; it cannot be based on doing what everybody else does.

James Macsween: That is a good point. Ultimately, if nothing changes, exports will dwindle, and customers in foreign parts of the world will not have the depth of pocket required to pay the additional oncost of exporting. It is important to recognise that my product is a composite product among lots of other composite products, which are essential for the meat industry. Utilising the carcase to its fullest extent financially is critical; it is a matter of maximising the price per kilo. The rearer or farmer has spent so much time and energy on bringing an animal to market, so utilising 100 per cent of that animal and getting every pound of flesh—whether it is the hide getting processed for sausage casing or the fifth quarter getting turned into haggis—is essential in order to keep the primary producers, for which Scotland has a great reputation. We are very proud of our Scotch lamb, Scotch beef and speciality pork. That must be looked after and preserved as best as possible.

Margaret Carlin: We bring in the raw materials to feed the animals. If the costs continue to rise, there is an effect on that, too.

Tony Dumbreck: It is a question of critical mass. I would not even have approached the German-based business if it had not been for Brexit, and we would probably still have been an independently owned family business. The advantage of critical mass is that we have reach—and we potentially have much further reach. The disadvantage is that we have ceded control to somebody based in Germany. If we want capital expenditure, we have to fight for it among the group overall.

In recent times, for various reasons, we have gone through a process of repatriation. Stuff that was made in Germany and supplied to UK customers is now being made in Kirkcaldy. We have probably added 20 per cent annual output in the stuff that we have adopted. However, I desperately need capex in order to make the products efficiently; otherwise, it is a short-term thing, and I am fighting with the larger group. The more regulation and the more inhibition there is on trade, the more likely it is that businesses will have to become bigger for their activity to be afforded, with a need for critical mass, and the more likely it is that bigger businesses will swallow up smaller businesses. Smaller businesses are the engine of enterprise and the engine of localism. We would have invested in capex here, but we have a group envelope. I have to fight for every single penny in order to invest to be more efficient, because there are fewer people available to us for working and so on.

10:30

The landscape is such that we have a bigger marketplace to play in, but we are not as directed at Scotland as we used to be. I cannot see how that will change. The more regulation and inhibition we have, the only ways to overcome them will be by being nimble and quick or, more likely, by being part of a bigger enterprise or grouping.

Paddy Jack: Our business, which is based in Broxburn, mixes seeds for the whole of the UK. We made the move to being hugely automated at Broxburn so that we could supply the United Kingdom and Ireland. However, we have found it impossible to supply Ireland, both north and south, from there, so that huge capital investment in automation has not been spread over that number of tonnes. Luckily, our business has been able to take on additional tonnes, but at a lower margin than we would have had with our own in-house materials, so it has had an impact.

We are fortunate that, in agricultural terms, seeds are very much a growth industry. We grow the grass to feed the beasts that are also fed by Margaret Carlin’s feedstuffs and then go into James Macsween’s products. The industry is now all about genetics and plants being able to do more, so Scotland is very lucky to have that plant in West Lothian.

Dario Riccomini: It will stifle innovation entirely because you have to be of a certain size to have enough resource to work through all the regulatory compliance. Once a company is sub £1 million, it will be almost impossible for it to export.

The Convener: Gary, did you want to come in again?

Gary Stephenson: Yes. I want to pick up on something else related to Kate Forbes’s question. It is about what we are investing in the environment as we look ahead in Scotland. There is a tidal wave of environmental regulations, which is a nightmare to look at from the standpoint of the deforestation risk regulations and the packaging regulations that are coming out of the EU and from the UK Government.

I use the phrase “evidence-based policy”, which is about ensuring that a policy delivers what you want it to. However, quite often we see the opposite, which is policy-based evidence. The evidence should be there to support the policy rather than the other way round. If there is an issue, particularly one relating to the environment, it is important to engage with the industry and to say, “Look, this is what we are trying to do.” On deforestation, for example, you should say to the industry, “Right, we have this problem with deforestation. How would you go about dealing with it?”. The approach should be to get that expertise in first, before issuing the policy.

On a separate point, we have invested quite heavily in energy efficiency in our Scottish plant, which we think will be the first to be net zero. We see that as an advantage for our business. It will give us the unique selling point of being able to sell a net zero sausage casing. That is a long way off, but we are far further ahead in Scotland than we are at any other plant, apart from our Chinese one, which is heading in a similar direction.

Scotland has an advantage in meeting that carbon-neutral goal, particularly in regard to how it generates its electricity. However, there are some challenges there in relation to the connectivity of the electricity supply and the funding to help people to decarbonise. We have found Scottish Enterprise to be really good but the industrial energy transformation fund is a bit of a disaster. It is very difficult to understand it and to get hold of funding. South of the border, the third tranche has been released, whereas in Scotland we are still looking at the second one. There are some challenges there for businesses. However, seed funding those initiatives to be able to decarbonise will be important as well.

The Convener: We will move to questions from Mr Bibby and then Mr Brown.

Neil Bibby (West Scotland) (Lab): Good morning, everyone. Thank you for your testimony. We have heard loud and clear that the situation is costing you money and time. I have heard many businesses say that time is also money, so there is a double hit there.

I want to pick up on what Gary Stephenson said earlier—that the best thing that could happen would be mutual recognition and a veterinary agreement. We have heard testimony from Quality Meat Scotland about the fact that 15 per cent of shipments to the EU have to be checked, compared with 2 per cent of shipments to the EU from New Zealand, for example. I am interested in getting wider thoughts on whether agreement on that would be the best thing that could happen.

In addition, is there a trade-off between the easier exports and imports that mutual recognition and a veterinary agreement would bring and the costs that would be associated with greater alignment? Will you tell me a bit more about that, and about the effect on the ability to diverge?

Gary Stephenson: That is why I use the term “mutual recognition”. In a way, that is the best option. Apparently, however, there are some issues with that, so we might have to have “alignment”, which means that we would align with the EU requirements. For us, that is not a big issue, because we have to align with those anyway, given that we ship to the EU. Therefore, we are not too worried about that; we can accept it as the cost of reduced friction in the trade of animal products.

James Macsween: We need to be mindful that, as difficult as Europe is, we need to sort the problems of trade into Europe, not to look at new trade agreements outside of Europe for cheaper imports, because that will just undermine everything that we are trying to achieve in Scotland, as a producer and as a recognised nation of food manufacture, livestock husbandry and so on. For example, it would be very easy to say to New Zealand, “We’ll have some more of your lamb, please,” but we have perfectly good lamb here; we just need to solve our problems and continue to grow and export to Europe and the rest of the world.

Tony Dumbreck: You talked about recognition, equivalence and alignment. As I understand it, in Germany, vets do not sign the health certificate. I am not sure how a vet is qualified to say, “Oh yeah, you have brought cheese from here and there and stuck breadcrumbs on it.” I am not sure what in their training has brought them to that point. In Germany, I believe, appropriately trained officials are allowed to sign the paperwork that says that something is fit to be traded. To level that out, it lies within the UK Government’s competency to say who is qualified to sign those certificates.

My other point is that, in order to appear on TRACES and therefore get a health mark that can be read, you have to be a company that is recognised under regulation 853, which the meat businesses already were but which we, as a user of dairy products, were not. We had to become a processor of dairy in order to get on the thing and have our number recognised. I say, please, can we just put 852s on the blooming TRACES system as well? Surely that lies within what we might negotiate or put forward.

Those are my two thoughts. First, why does it need to be a vet? Today, they are dealing with a cat; tomorrow, a shipment of bread and mozzarella sticks. Secondly, if there is a set of regulations and we are all registered somewhere, please just join up the thinking.

Margaret Carlin: I agree with the point about the registered exporter system. It should be automatic. If something is bought on a preferential tariff from a company in the EU, REX registration should be automatic. At the moment, it is done through self-certification—the company has to approach the European Commission. We are penalised if we buy from someone who is not a registered exporter, and that should not be happening.

Keith Brown (Clackmannanshire and Dunblane) (SNP): We have had quite a number of round tables, and I have found this to be the most interesting that we have had, because of the contributions.

There is a kind of false debate going on about how good or bad Brexit might be but having heard about the practical examples of additional costs, markets being closed off, firms being stopped from doing things that they were doing before or doing things in Ireland rather than Scotland, as well as the other additional costs and confusion, I think that the situation seems pretty horrendous. I am happy to be corrected, but I am assuming that all the examples that have been given demonstrate how things have changed from the base, which was pretty much seamless. Going back to the samples that were mentioned earlier, I would say that everything used to be done pretty easily; now we are talking about new costs and loss—that is, loss of control or innovative capacity in Scotland. That is really worrying.

On the question of how you actually deal with the situation, I remember going to Canada a few years back to ensure that haggis was able to go on sale there. That was not possible in the US, as the Americans would not accept it. I remember the US authorities in New Jersey and New York saying that they were fed up to the back teeth of people trying to export to the US who did not have regard to their certification and standards. People kept on saying that they had certification, perhaps from the EU or Italy for cheese or whatever. The US authorities said, "We're not interested. We just want you to comply with what we need."

This might be a gross simplification of what is required but, in that context, would it be helpful for industry to have somebody—whether from the Scottish Government, the UK Government or both together—who was able to explain to a firm what it could export, and to which countries, if it did all the things listed on a certain page? I know that requirements are dynamic and that they can change over time—indeed, even while your products are sitting on the quayside—but I wonder whether it would be useful to have that kind of simplified list of all the things that firms have to do to satisfy the requirements.

By the way, I do not share the optimism that the EU being subject to some of the same constraints will make it change its attitude. The EU made it plain throughout the debate that we would not feel as comfortable after Brexit as we did before—although I hope that we can. Is that sort of simplified support from Government worth having, or would that be too complex? Might the industry be required to do that itself, because only those in the industry know everything that they have to do?

Gary Stephenson: We ship to the US, and the requirements there are a lot easier to understand than those for other countries, because the US publishes what is required. There is a document where we identify the type of product, and it tells us what certificates we need. That is all available. Smaller businesses might need somebody to guide them to that information, and that could be done from the Scottish Government side.

Businesses also need to be registered on what is called the foreign supplier verification program, which confirms that a company is a legitimate business and certifies that its products are safe for use. Companies must apply for a permit for their products, and they need to get a certificate from DEFRA. That is basically it.

As I have said, the US system is more straightforward, and all the information is there. It is just a matter of finding it.

James Macsween: It is an interesting question. It was a bit more straightforward to get haggis to Canada, because Canada recognised the European food regulation programme. Whatever we were doing in Europe was good enough for Canada. The States has its own methodology. On the journey that I took with Richard Lochhead and the Scottish Government, we tried to understand whether we could export Scotch lamb, beef and haggis, and composite products were a part of that, because of the carcase utilisation and the mass balance of the animal.

The programme at the time delivered the regulations that I would need to abide by, and one thing that was off the list was lung meat. Lung meat was not considered suitable for human consumption. That is fine: we just make haggis without lung meat, and that is what we have done to get round the regulations for Canada. It is a bit more complicated for the States, because we need to buy from approved facilities in the UK and then get registered with the Animal and Plant Health Agency and the United States Department of Agriculture. Those are hurdles that we have to jump over, but it is a bit more straightforward.

The Convener: Are there any more contributions in this area?

10:45

Tony Dumbreck: Potentially, it is a source of competitive advantage—once you have found your way through the minefield and can get it right. I have never had a problem with sharing our knowledge as we have gone along with anyone who has asked me, "I'm trying to do this. Can you tell me how to do it?", but there is nothing wrong with there being a competitive advantage for a change.

If I go to Holland, and the speed limit is 100km an hour, that is what I have got to stick to. If I go to Germany, and the speed is unrestricted, that is what I am allowed to do. You comply with the rules where you are; you do not say, "I can drive at more than 100km an hour where I come from, so it's okay." You have to do what the country requires. The issue is the lack of pragmatism and the imbalance with the EU.

Mark Ruskell (Mid Scotland and Fife) (Green): We have discussed the restrictions on freedom of movement with previous witnesses. I was interested in what Paddy Jack said about taking on a Ukrainian staff member. Obviously they are in the UK in what are very challenging circumstances, but I just wonder to what extent freedom of movement has been an issue for your businesses.

I also want to pick up on what Gary Stephenson said about sharing the pain a bit and the fact that it is only when the pain gets shared on the UK and the EU sides that there will a meaningful discussion about how we remove some of the more bureaucratic barriers to trade and friction. What contact have you had with colleagues and trade associations in Brussels and the EU, and what role do they play? I presume that, at one point, you would have been making all the points that you have made today about testing and regulatory standards in Brussels, because you would have been part of the system where rules were being made and stakeholders were able to have an input to that. However, you are not part of that any more, but is there still solidarity between businesses in certain sectors between the UK and the EU? Are you now very much seen as being "over there", which means that your ability to lobby for the interests of industry across Europe has been reduced? I hope that that was clear.

Gary Stephenson: There is no doubt that it is more difficult now. The Food and Drink Federation has a good relationship with FoodDrinkEurope, but it is a slightly different organisation that operates on a very broad scale. As for meat manufacturers, the British Meat Processors Association has good relationships with UECBV, which is the European livestock and meat trades union. I have been working with these organisations for decades; previously, you always found the UK to be more pragmatic about things and more up to speed with what was happening, and we have lost some of that. It also understood what the regulations were asking for better than most of the rest and was therefore thinking about how to change things, and that has gone a bit, too.

There is little doubt that our influence has weakened significantly, and how influential you are depends on what sector you are in. I mentioned earlier that I managed to get us in to the DG SANTE meeting on veterinary medicines. That was not an easy thing to do. We were the only business there; everybody else was from a European industry association, so we looked a little bit strange. However, we could use the fact that we have a check facility.

I am not really answering your question. I guess that if you are just a UK business, you are going to struggle.

Mark Ruskell: Are there any more reflections on that point or on freedom of movement?

Dario Riccomini: It strikes me that we are double doing. Every company is doing exactly the same thing, and I am just thinking about the resource being wasted as a result.

Gary Stephenson: As for freedom of movement, we have seen a reduction in the number of EU workers at our facilities. A few of them have ended up going home, because the economy in, say, Poland was stronger. Therefore, we have lost some of those workers.

Apart from that, we do not see a huge challenge in that respect. We are still able to bring people in, but we produce a more technical product. For the meat producers, a big challenge is bringing in people with butchery skills, because of the allowance for bringing butchers into the UK. I am not very familiar with that, but I know that there are issues in other parts of the business.

The Convener: I am conscious of the time, so we will have to wrap things up, if everybody is okay with that.

Thank you very much for your evidence. We are not a subject committee, as such, so this type of evidence has been a bit unusual in our inquiry. Normally we take evidence from academics, people at Government level or trade bodies, so it has been really helpful to have an open discussion and hear the challenges being expressed so expertly by you all. I wish you all the very best for your businesses, and thank you for attending.

The committee will now move into private session.

10:50

Meeting continued in private until 11:15.

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