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via email

10 December 2020

Dear colleague,

## **Re: European Union prohibitions and restrictions**

Following the end of the transition period on 1 January 2021, the United Kingdom (UK) will leave the European Union (EU) customs area and the EU single market. As a result of the UK becoming a third country, there will be new processes that UK exporters and importers must comply with.

There are several live issues which have a bearing on these changes:

- Free trade agreement (FTA) negotiations – these are ongoing with the EU. Whatever the outcome of those negotiations we will be a third country to the EU and will have to comply with, for example, their requirements for export health certificates (EHCs) and phytosanitary certificates.
- Third country listing applications – With or without an agreement, the UK will need to achieve its applications for third country listing to facilitate movement of some goods to the EU from the end of the transition period. Positive technical discussions on third country listing have taken place in recent months between the EU and UK and we are working together to progress listing applications covering animal products and live animals, equivalence of plant reproductive material and plant prohibitions, and breeding bodies. For marketing standards (beef and veal, eggs, fruit and vegetables, hops, poultry meat and wine) the EU have confirmed that they are planning to list the UK for all commodities by the end of December. Further detail on each sector can be found on [gov.uk](http://gov.uk).
- The UK's secondary legislation setting out the UK's listing process to list the EU as a third country to allow the import of various agri-food stuffs has now been laid and published in draft form for the following sectors: animal products and live animals; breeding bodies; equivalence of plant reproductive material and plant prohibitions. We have also updated the marketing standards guidance for all sectors on [gov.uk](http://gov.uk).
- Regardless of the outcome of the above negotiations and listing applications, the Government is keen to support businesses to prepare for the changes that will come at the end of the transition period.

- Joint Committee discussions – Following intensive and constructive work over the past weeks by the EU and the UK, the two co-chairs of the EU-UK Joint Committee (European Commission Vice-President Maroš Šefčovič and the UK Chancellor of the Duchy of Lancaster, the Rt Hon Michael Gove) announced in a [joint statement](#) on 8 December their agreement in principle on all issues, in particular regarding the Protocol on Ireland and Northern Ireland. This agreement ensures, among other outcomes on the Protocol more broadly, the continued supply of chilled meats and other food products to supermarkets at the end of the transition period. Stakeholders should be aware that the Joint Committee outcome on GB to NI trade will not address trade between GB and the EU.

This letter is designed to outline the new trade requirements arising from EU prohibitions and restrictions (P&R), based on the information we have available at this time.

## **Prohibitions and restrictions on EU trade**

Prohibitions and restrictions (P&R) are new trade requirements that will apply to certain commodities from 1 January 2021. These trade requirements are based in EU law and prevent or restrict the import of certain goods from third countries where the EU believe there is a potential for them to present a level of risk. If you currently export to the EU commodities which the EU does not accept from third countries, you will no longer be able to export these from 1 January 2021.

P&R will also affect imports into GB from the EU as of 1 January 2021 when the UK will carry over into domestic law EU provisions on P&R applicable to imports from third countries, including the EU. To address this, we have legislative plans to permit the import from EU to GB of certain prohibited products of animal origin (POAO) affected by P&R from January to April. This would bring the application of those P&R imported from the EU in line with the phased approach to import checks as detailed in the Border Operating Model.

We will be publishing further information on the relevant commodities on gov.uk shortly but wanted to provide you with the information in advance. P&R is a complex and wide-spanning issue which results in a range of commodities being prevented or restricted from being imported or exported between GB and the EU as of 1 January 2021. Please see the attached annex for initial details of which P&R will potentially affect you.

## **Northern Ireland**

On 8 December 2020, the co-chairs of the EU-UK Joint Committee (European Commission Vice-President Maroš Šefčovič and the UK Chancellor of the Duchy of Lancaster, the Rt Hon Michael Gove) issued [a joint statement indicating they have reached agreement on all issues](#), in particular with regards to the Protocol on Ireland and Northern Ireland. The Chancellor of the Duchy of Lancaster confirmed in an [oral statement to Parliament](#) on 9 December that there will be a six-month grace period that will enable chilled meat products that would otherwise not be able to move from GB to NI to continue to do so. Further details will be communicated shortly.

For goods movements from NI to GB, qualifying NI goods will receive unfettered market access from 1 January 2021, which means no declarations, tariffs, new regulatory checks or customs checks, or additional approvals for NI businesses to place goods on the GB market. Direct trade from NI to GB will continue as it does now. The only exceptions to these arrangements will be goods falling within the extremely limited number of procedures relating to specific international obligations binding on the UK and the EU, e.g., the CITES convention on the movement of endangered species.

### **Trader readiness**

The UK Government [Border Operating Model](#) sets out processes for importing and exporting to/from the EU from the end of the transition period. Traders must register with the new EHC system to move animals and POAO from GB to the EU or NI from the end of the transition period. Certifiers must also be registered on the system: [How to register for export health certificate \(EHC\) online - GOV.UK \(www.gov.uk\)](#).

From January 2021, all regulated plants and plant products exported from GB to the EU will be subject to EU import controls in line with goods exported from the rest of the world. This will include the requirement for goods to be accompanied by a phytosanitary certificate, EU import pre-notification submitted by the EU importer and documentary, physical and identity checks.

The Import Products, Animals, Food and Feed System (IPAFFS) system will replace TRACES NT at the end of the transition period; importers must register for IPAFFS for imports to GB: [Import of products, animals, food and feed system \(IPAFFS\) - GOV.UK \(www.gov.uk\)](#). A phased approach to sanitary and phytosanitary checks on imports from the EU will apply to GB, as outlined in the Border Operating Model. Information on UK animal and animal product Border Control Posts can be found here: [UK border control posts: animal and animal product imports - GOV.UK \(www.gov.uk\)](#). For plants and plants products visit: [Plant imports: authorised border control posts in the UK - GOV.UK \(www.gov.uk\)](#).

We are keen to discuss these issues and their implications with you as soon as possible and will be in touch in due course to set up a forum for cooperation. We are committed to further programmes of engagement to support businesses in preparing for the end of the transition period.



**RT HON GEORGE EUSTICE MP**

## Annex: Defra list of SPS Prohibitions and Restrictions

### 1. EU List of Prohibited or Restricted Commodities

The European Union acquis includes an important number of legal provisions that engage customs to carry out checks in the context of the enforcement of many different policies aiming at the safety and security of the European Union. In accordance with Articles 134 and 267 Regulation (EU) No 952/2013 (Union Customs Code) prohibitions or restrictions (P and Rs) may be imposed on imports, exports or goods in transit when they are justified on grounds of:

- public morality, public policy or public security,
- the protection of health and life of humans, animals or plants,
- the protection of the environment,
- the protection of national treasures possessing artistic, historic or archaeological value and
- the protection of industrial and commercial property.

The full list is available here: [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/prohibition\\_restriction\\_list\\_customs\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/prohibition_restriction_list_customs_en.pdf)

### 2. Prohibitions and Restrictions Impacting Defra Import and Exports (Farming Industry)

There are issues, distinct from the EU list of prohibitions and restrictions at customs, that by default prevent or restrict products for trade due to EU law and / or limitations of the EU's export health certificates. These prohibitions and restrictions will prevent or restrict on imports and exports.

| Commodity                        | Description   | Impact of issue                             |
|----------------------------------|---|---|
| Products of Animal Origin (POAO) |   |   |
| Chilled minced meat (red meat)   | EU prohibition on chilled minced meat of bovine, ovine, caprine, and porcine animals. The frozen requirement for this product exists on the health certificate. | No exports possible of chilled minced meat. |

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|                           | <p>Minced meat as defined in Annex I, 1.13 of Regulation (EC) No 853/2004 means boned meat that has been minced into fragments and contains less than 1% salt.</p>   |   |
| Chilled meat preparations | <p>EU prohibition applies to meat preparations of bovine, ovine, caprine, porcine animals and poultry. Only frozen (-18°C) commodities may be exported. The frozen requirement for this product exists on the health certificate and in legislation.</p> <p>Meat preparations as defined in Annex I, 1.15 of Regulation (EC) No 853/2004 means fresh meat, including meat that has been reduced to fragments, which has had foodstuffs, seasonings or additives added to it or which has undergone processes sufficient to modify the internal muscle fibre structure of the meat and thus to eliminate the characteristics of fresh meat.</p> | No exports possible of chilled meat preparations. |
| Minced meat (poultry)     | <p>EU prohibition on chilled and frozen poultry mince. There is no health certificate.</p> <p>Minced meat as defined in Annex I, 1.13 of Regulation (EC) No 853/2004 means boned meat that has been minced into fragments and contains less than 1% salt.</p>  | No exports possible of minced poultry meat.       |
| Re-export of fresh        | Meat imported from the EU cannot be re-exported  | Re-export of fresh meat from the EU not possible. |

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| <p>Meat from EU</p>  | <p>back to the EU as meat because the EU model certificates have not been drafted with this option.</p> <p>EU certification allows the export of fresh meat direct from the UK, but the origin has to be an approved establishment in the UK.</p> <p>Existing model certificates only refers to meat originating in territories listed third country/ies.</p> <p>Certification requires adding the code for the territory/ies where the meat has been obtained. Commission Regulation (EU) No 206/2010 of 12 March 2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements. Such Regulation does not list the EU Member States, therefore if originated in the EU the official vets would not be able to include the Code of the Member State of origin. Therefore, whether we have an attestation from the EU or not would be irrelevant as official vets would not have an option to certify such meat in the existing EHCs.</p> |  |
| <p>Poultry mechanically separated meat &amp; ratite/ game bird</p> | <p>EU prohibition on chilled and frozen mechanically separated poultry meat. There is no health certificate.</p> <p>Mechanically separated meat means the product is obtained by removing meat from flesh bearing</p>  | <p>No exports possible of mechanically separated poultry meat.</p> |

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| MSM  | bones after boning or from poultry carcasses, using mechanical means. This results in the loss or modification of the muscle fiber structure.  |   |
| UK Milk - Raw milk from TB herds   | Raw milk from TB infected herds cannot enter EU.   | No exports possible of raw milk from TB infected herds.   |
| Milk and Milk products not from UK   | <p>EU prohibition on the re-export of raw milk imported from the EU or RoW back to the EU.</p> <p>Milk and milk products (cheese, butter, whey, etc.) must comply with EU EHC.</p>   | <p>Re-export of raw milk not possible.</p> <p>Exports of milk and milk products possible with restrictions.</p> |
| Products using POAO from 3rd Countries which are not EU listed third countries | <p>Fresh Meat that is imported from an EU listed third country and an approved establishment can be re-exported to the EU as fresh meat, provided that listed third country is not subject to specific conditions.</p> <p>Fresh meat and POAO from third countries contained in other goods in the UK and re-exported to the EU: Exporters should check with Official Vets that their specific certificates can be issued.</p> <p>POAO from countries not listed by EU cannot be exported to EU.</p> | Exports possible with restrictions.   |

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| <p>Ungraded Eggs</p>  | <p>Ungraded eggs are eggs that have not gone into a packing plant, either because they go straight to the food industry, or have yet to go to the packing plant to be graded.</p> <p>Eggs delivered directly to the food industry come directly from the primary producer and are ungraded.</p> <p>Primary producers are unable to be registered establishments for the purposes of SPS certification and there is no model certificate for ungraded eggs.</p>                                   | <p>No exports possible of ungraded eggs.</p>  |
| <p>All POAO (Online orders delivered direct to customers)</p> | <p>POAO goods ordered [typically online] and delivered direct to the customer via Amazon, DPD, ParcelForce, Hermes etc need Export Health Certificates (EHCs) if delivered from GB addresses to EU addresses and the orders are not fulfilled from EU depots. Many such operators are micro-businesses and may not realise that an EHC is needed but even if they do it is unlikely that the EU customer will have the ability to pre-notify an EU BCP which is a pre-requisite for exports.</p> | <p>Exports possible with restrictions.</p>  |
| <p><b>Animal By-Products</b></p>                              | <p>EU prohibition on the export to third countries of animal by-products and derived products destined for incineration or landfill.</p> <p>EU prohibition on the export to third countries of</p>   | <p>Trade of Category 1 and Category 2 Animal By Products would be largely prohibited.</p> |

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| <p>Category 1 and Category 2 ABPs and certain Category 3 ABPs</p>                                | <p>category 1 specified risk material (SRM).</p> <p>EU prohibition on the import and export of all category 1 and 2 animal by-products until provision is made in ABP implementing Regulation (EC) No. 142/2011 (only provisions for certain material have been made to date).</p> <p>EU prohibition on untreated and unprocessed animal by-products entering or transiting the EU (e.g. feathers, manure).</p> <p>Treated or processed APB is allowed from listed countries.</p> | <p>Trade in category 1 SRM material would be prohibited.</p> <p>Trade of some unprocessed category 3 products could also be prohibited.</p> |
| <p><b>Animal By-Products</b></p> <p>Processed animal protein (PAP) not for human consumption</p> | <p>The EU requires mammalian PAP to be processed through Method 1 (pressure sterilisation), in accordance with AB-P Regulations (EU) 142/2011 and (EC) 1069/2009.</p> <p>This method is not required for manufacturing these products in the EU and for intra EU trade. UK rendering plants have been allowed to use processing Methods (4 or 7) as a member state.</p>   | <p>Not exportable unless compliant with processing method.</p>  |
| <p><b>Animal By-Products</b></p> <p>Rendered fats</p>  | <p>EU requires tallow for non-feed use to have a marker- glycerol triheptanonate (GTH) – added so that the rendered fats can be tested to make sure they are not being illegally diverted into the feed chain, in accordance with AB-P Regulations (EU)</p>   | <p>Not exportable unless compliant with processing method.</p>  |

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| <p>(tallow) not for human consumption</p>  | <p>142/2011 and (EC) 1069/2009.</p> <p>UK exporters, when supplying its EU biodiesel customers will have to provide separate transport, storage and offloading facilities to prevent contamination with non-GTH marked products.</p>   |  |
| <p>PLANTS, plant products and other regulated articles</p>   |  |  |
| <p>List of Plant &amp; plant products and other regulated articles (inc. soil and growing medium, wood packaging material and used vehicles and machinery) subject to new controls</p> | <p>New controls on export to the EU for most regulated plant health material. Only 5 tropical fruit are uncontrolled. Examples include plants for planting, timber, fruit, vegetables, seeds, wood packing material, soil and growing medium (if supporting plant vitality).</p> | <p>The majority of plants, plant products and other regulated articles will be subject to new EU plant health controls, including the need for phytosanitary certification and the need to meet special requirements, as well as checks on arrival.</p> <p>Wood packing material will need to comply with ISPM 15.</p> |
| <p>Used vehicles and machinery which cannot meet new EU requirements</p>   | <p>New controls on exports of certain types of used vehicles and machinery will apply.</p>   | <p>Exports still possible but with new requirements including pre-notification, phytosanitary certification and checks (Minimum of 5% of imports) at the border.</p>   |

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| <p>Plant health prohibitions</p>                   | <p>Requires EU to make the UK an exception to its prohibitions on specific commodities from third countries. The main example is the prohibition on the import of potatoes, both seed and ware.</p> <p>(Seed potatoes are doubly impacted, by the plant health restriction and by seeds equivalence).</p> <p>Full list of prohibitions available at <a href="https://www.gov.uk">GOV.UK</a>.</p> | <p>Prevents export of prohibited commodities to the EU.</p> |
| <p>Re-export of third country hops</p>             | <p>EU hops legislation does not set out a process for the export of third country consignments that are routed through another third country. Our interpretation of the legal provisions is, therefore, that this re-export trade would be prohibited after the end of the transition period.</p>  | <p>No exports are possible.</p>                             |
| <p>LIVE ANIMALS</p>                                |  |   |
| <p>Honey bees - colonies and packages</p>          | <p>EU rules only permit third countries to export queens and 20 attendant worker bees to the EU.</p>   | <p>Exports may continue but with restrictions.</p>          |
| <p>Bumblebees - colonies with over 200 workers</p> | <p>EU rules only permit third countries to export containers containing a maximum of 200 bumble bees, bred in a controlled environment within a recognised establishment (however we have no known bumblebee breeders).</p>  | <p>Technical prohibition with lack of breeder register.</p> |

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| Transport conditions for live animals  | EU requires the means of transport to have been cleansed and disinfected prior to loading and for animals to be treated in accordance with Council Regulation (EC) 1/2005 at the time of loading to ensure they are fit to travel.                      | Exports can continue with restrictions.  |
| Export of animals to the EU that were originally imported from RoI   | EU requires the animals to have been resident in the exporting country for a period prior to slaughter (e.g. 3 months in the case of live animals).   | Exports can continue with restrictions.  |
| Non-Harmonised animals including reptiles, amphibians, invertebrates and their genetic material – pupae e.g. Butterfly Pupae, leaf cutter ants | These commodities will be subject to individual national rules - will need to be agreed with individual MS - must be cleared via a BCP.   | Exports can continue based on agreements with individual MS.                               |
| OTHER  |   |  |
| Trichinella Testing  | Commission Regulation 206/2010 states that as a Third country the UK must be listed as applying controlled housing conditions (CHC) to avoid full testing for trichinella from 1st January. Products can only be exported frozen unless 100% testing is | Exports of pork products will not be possible without full testing unless exported frozen. |

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|  | <p>completed.</p> <p>The main controlled housing requirements are contained in Implementing Regulation (EU) 2015/1375.</p>  |   |
| <p><b>Animal By-Products</b></p> <p>Apiculture products for use in apiculture (Honey, wax, and propolis for use in beekeeping)</p> | <p>The EHC under AB-P Implementing Regulation (EU) 142/2011 requires UK notification process for a particular disease (acariosis).</p> <p>Regulation includes processing requirements for apiculture products.</p>  | Exports can continue with restrictions.   |
| <p>Mushrooms and berries (under Chernobyl Checks)</p>  | <p>Commission Implementing Regulation (EU) 2020/1158 of 5 August 2020 on the conditions governing imports of food and feed originating in third countries following the accident at the Chernobyl nuclear power station.</p> <p>Food must not exceed the maximum permitted radioactive level of 600 Bq/kg in terms of caesium-137. Pre-export laboratory testing and certification for listed products (uncultivated mushrooms and berries of the genus vaccinium) is required.</p> | Exports possible but with extra restrictions including pre-export testing and export certificates.                |
| <p>Honey for human consumption</p>   | <p>EU needs to approve UK management plan to grant access to market as a 3rd country for POAO</p>   | Exports possible but dependent on the UK being listed by the EU as a third country for POAO, and the EU approving |

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|                      | and the UK's National Residue Monitoring plan.  | the National Residue Monitoring plan.   |
| Non-Harmonised Goods | Individual member states have standards for third country imports which are waived for member states. These will apply to UK goods at the point of exit. Exporters need to liaise with their customers and EU member states.  | Exports can continue based on agreements with individual MS.  |
| Composite Products   | The Export Health Certificate for Composite Products requires any dairy product within a chilled or frozen composite product to have undergone specific treatment equivalent to the process of pasteurisation (e.g. heat treatment to a specific temperature, sterilisation or ultra-high temperature treatment). It doesn't matter what quantity of the dairy product is in the overall composite product (this is different if the composite is shelf stable where the requirement only applies if the dairy product is over 50% of the whole). | No exports possible of chilled or frozen composite products containing dairy products made from unpasteurised milk. |