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## **NOTICE TO STAKEHOLDERS**

### **WITHDRAWAL OF THE UNITED KINGDOM AND EU FOOD LAW**

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## INTRODUCTION

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.<sup>1</sup> The Withdrawal Agreement<sup>2</sup> provides for a transition period ending on 31 December 2020.<sup>3</sup> Until that date, EU law in its entirety applies to and in the United Kingdom.<sup>4</sup>

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market,<sup>5</sup> in the EU Customs Union, and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation after the end of the transition period (Part A below). This notice also addresses the case where food has been placed on the market before the end of the transition period, and certain relevant separation provisions of the Withdrawal Agreement (Part B below), as well as the rules applicable in Northern Ireland after the end of the transition period (Part C below).

### **Advice to stakeholders:**

To address the consequences set out in this notice, food business operators are in particular advised to:

- ensure establishment in the EU where this is required by EU law, and reflect this in the corresponding labelling; and
- adapt distribution channels, to take account of importation requirements.

### **Please note:**

This notice does not address

<sup>1</sup> A third country is a country not member of the EU.

<sup>2</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).

<sup>3</sup> The transition period may, before 1 July 2020, be extended once for up to 1 or 2 years (Article 132(1) of the Withdrawal Agreement). The UK government has so far ruled out such an extension.

<sup>4</sup> Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

<sup>5</sup> In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the “country of origin principle”, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

- fiscal barriers to trade, in particular tariffs, quota, and rules of origin;
- EU phytosanitary legislation;
- EU quality schemes, such as protected designations of origin, protected geographical indications and traditional specialities guaranteed;
- EU rules on organic production.

These aspects are addressed in separate notices.

## **A. LEGAL SITUATION AFTER THE END OF THE TRANSITION PERIOD**

After the end of the transition period, the EU food law no longer applies to the United Kingdom.<sup>6</sup> This has in particular the following consequences:

### **1. FOOD LABELLING AND FOOD INFORMATION, HEALTH AND IDENTIFICATION MARKS**

EU food law harmonises the labelling of food placed on the EU market. The applicable rules are in particular contained in the EU legislation set out in [Annex 1](#).

The EU food labelling rules apply to all food placed on the EU market, independently of the place of production of the food.

After the end of the transition period, food will have to continue to comply with these rules.

As a consequence, in some instances, EU food law may require changes of the labelling of food compared to the labelling practice in force of food originating from the UK before the end of the transition period. Examples for such requirements include the following:

- Mandatory origin labelling of a food product, where applicable;<sup>7</sup>
- Mandatory labelling of the name or business name and address of the EU importer of food from the United Kingdom;<sup>8</sup>
- Mandatory health or identification marks according to Article 5 of Regulation (EC) No 853/2004.<sup>9</sup> After the end of the transition period, the health mark or the

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<sup>6</sup> Regarding the applicability of the EU food law to Northern Ireland, see Part C of this notice.

<sup>7</sup> See, for example, the labelling of "EU Agriculture" and "non-EU Agriculture" according to Article 24 of Council Regulation (EC) No 834/2007, or the labelling of honey as "blend of EU honeys" or "blend of non-EU honeys" (Article 2(4)(a) of Council Directive 2001/110/EC).

<sup>8</sup> Articles 8(1) and 9(1)(h) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers (OJ L 304, 22.11.2011, p. 18).

<sup>9</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin, OJ L 139, 30.4.2004, p. 55.

identification mark<sup>10</sup> is no longer to include the "EC" abbreviation, but is to include the name of the country (in full or with the ISO two-letter code) where the establishment is located and the approval number of this establishment;<sup>11</sup>

- Other mandatory information, such as relating to farming methods and marketing standards: this includes packs of imported eggs,<sup>12</sup> eggs for hatching,<sup>13</sup> packs containing day old chicks,<sup>14</sup> and wine.<sup>15</sup>

## **2. FOOD INGREDIENTS, FOOD COMPOSITION, CONTAMINANTS AND RESIDUE LIMITS; FOOD CONTACT MATERIAL**

According to EU food law, certain food must not be placed on the market unless it has been authorised by the Commission (for example for food additives<sup>16</sup>, food flavourings,<sup>17</sup> smoke flavourings,<sup>18</sup> vitamins and minerals used in food,<sup>19</sup> including in food supplements<sup>20</sup> and any novel food,<sup>21</sup> foods bearing nutrition or health claims<sup>22</sup>, certain food contact materials<sup>23</sup> and genetically modified food<sup>24</sup>).

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<sup>10</sup> Section I of Annex II to Regulation (EC) No 853/2004;.

<sup>11</sup> It is possible for an animal-derived products to be marked (health or identification mark) in accordance with EU-law, and, in addition, in accordance with the requirements of a third country. However, EU law does not allow product to bear two markings presenting the establishment as EU-based and third-country based.

<sup>12</sup> Article 30 of Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs, OJ L 163, 24.6.2008, p. 6.

<sup>13</sup> Article 3(8) of Commission Regulation (EC) No 617/2008 of 27 June 2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks, OJ L 168, 28.6.2008, p. 5

<sup>14</sup> Article 4(3) of Regulation (EC) No 617/2008.

<sup>15</sup> Article 119(f) of Regulation (EU) No 1308/2013.

<sup>16</sup> Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

<sup>17</sup> Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods (OJ L 354, 31.12.2008, p. 34).

<sup>18</sup> Regulation (EC) No 2065/2003 of the European Parliament and of the Council of 10 November 2003 on smoke flavourings used or intended for use in or on foods (OJ L 309, 26.11.2003, p. 1).

<sup>19</sup> Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ L 404, 30.12.2006, p. 26).

<sup>20</sup> Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 51).

Certain food is subject to specific composition requirements.<sup>25</sup> EU food law also sets limits for contaminants<sup>26 27</sup> and for maximum residue levels of active substances used in pesticides.<sup>28</sup>

Food contact materials placed on the EU market are subject to EU rules.<sup>29</sup>

EU law on food ingredients and food composition, as well as EU law setting limits for contaminants and residues in food, applies to all food placed on the EU market, independently of the place of production of the food. The same applies for food contact materials.

### **3. REQUIREMENTS FOR FOOD BUSINESS OPERATORS AND AUTHORISATION HOLDERS, OR THEIR REPRESENTATIVES, TO BE ESTABLISHED IN THE EU; SUBMISSION OF EU AUTHORISATION REQUESTS THROUGH AN EU MEMBER STATE**

According to EU food law, in some instances certain obligations imposed by food law are related to the place of establishment of certain persons. Examples include the following:

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<sup>21</sup> Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council (OJ L 327, 11.12.2015, p. 1).

<sup>22</sup> Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, (OJ L 404, 30.12.2006, p. 9).

<sup>23</sup> Commission Regulation (EU) 10/2011 of 14 January 2011 on plastic materials and articles intended to come into contact with food (OJ L 12, 15.1.2011, p. 1), Commission Regulation (EU) 2018/213 of 12 February 2018 on the use of bisphenol A in varnishes and coatings intended to come into contact with food, OJ L 41, 14.2.2018, p. 6.

<sup>24</sup> Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p. 1).

<sup>25</sup> Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control (OJ L 181, 29.6.2013, p. 35).

<sup>26</sup> Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food (OJ L 37, 13.2.1993, p. 1).

<sup>27</sup> Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (OJ L 164, 26.6.2009, p. 45).

<sup>28</sup> Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin (OJ L 70, 16.3.2005, p. 1); Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin (OJ L 152, 16.6.2009, p.11).

<sup>29</sup> Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food, OJ L 338, 13.11.2004, p. 4.

- Article 4(6) of Regulation (EC) No 1829/2003 on genetically modified food and feed, requires the applicant for an EU authorisation or his representative to be established in the EU;
- Article 15(1)(c) of Regulation (EC) No 1935/2004 on materials and articles intended to come into contact with food, requires the address or registered office, established in the EU, of a manufacturer, processor, or seller responsible for placing on the market on the labelling for materials and articles which are not yet in contact with food.<sup>30</sup>

After the end of the transition period, an establishment in the United Kingdom no longer complies with those requirements.

According to EU food law, in some instances EU authorisations require the submission of an authorisation dossier through the competent authority of an EU Member State. Examples include the following:

- Article 9(1)(a) of Regulation (EC) No 1935/2004 on food contact materials requires applications for authorisations of substances to be made via a competent authority of an EU Member State;
- Article 5 of Regulation (EC) No 1829/2003 on genetically modified food and feed requires applications for authorisation to be sent to the European Food Safety Authority (EFSA) through the competent authority of a Member State;
- Article 15 of Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods requires an application for the authorisation to be sent to the national competent authority of a Member State.

After the end of the transition period, applications through the competent authority of the United Kingdom are no longer possible.

#### **4. FOOD PRODUCTION RULES/FOOD HYGIENE RULES, FOOD IRRADIATION, MARKETING STANDARDS, CATCH CERTIFICATES (FISHERY PRODUCTS)**

EU food law sets rules for the production of food in the EU and in third countries, if this food is placed on the EU market. EU food law also provides for specific controls upon entry of food into the EU.

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<sup>30</sup> The same or similar requirements are set out in sectorial food contact material legislation. See, as regards ceramic food contact material, Article 2a(1) of Council Directive 84/500/EEC of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs, OJ L 277, 20.10.1984, p. 12.

## 4.1. Food of animal origin<sup>31</sup>

### 4.1.1. *Entry of food of animal origin from the United Kingdom into the EU*

After the end of the transition period, the entry of food of animal origin from the United Kingdom into the EU is prohibited, unless certain requirements are met, including:

- The United Kingdom is "listed" by the Commission for public<sup>32</sup> and animal health<sup>33</sup> purposes. For the "listing" of a third country, Article 6(1)(a) of Regulation (EC) No 853/2004<sup>34</sup>, Article 127 of Regulation (EU) 2017/625,<sup>35</sup> Article 4 of Regulation (EU) 2019/625<sup>36</sup> and Article 8 of Council Directive 2002/99/EC apply.
- The establishment in the United Kingdom from which the food is dispatched, and obtained or prepared in, is "listed" for public health purposes. For the "listing" of establishments, Article 6(1)(b)(i) and (ii) of Regulation (EC) No 853/2004 and Article 5 of Regulation (EU) 2019/625 apply.
- The United Kingdom is "listed" by the Commission as a third country having a residue control plan approved in accordance with Directive 96/23/EC<sup>37</sup> for the animals and animal products specified therein. For the "listing" of a third country, Chapter VI of Directive 96/23/EC applies.

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<sup>31</sup> For "composite products" (i.e. foodstuff intended for human consumption that contains both processed products of animal origin and products of plant origin) Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC (OJ L 116, 4.5.2007, p. 9) and Commission Regulation (EU) No 28/2012 of 11 January 2012 laying down requirements for the certification for imports into and transit through the Union of certain composite products and amending Decision 2007/275/EC and Regulation (EC) No 1162/2009 (OJ L 12, 14.1.2012, p. 1) set specific rules.

<sup>32</sup> Article 3 of Commission Delegated Regulation (EU) 2019/625 of 4 March 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption (OJ L 131, 17.5.2019, p. 18).

<sup>33</sup> Article 8 of Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption (OJ L 18, 23.1.2003, p. 11).

<sup>34</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

<sup>35</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, OJ L 95, 7.4.2017, p. 1.

<sup>36</sup> Commission Delegated Regulation (EU) 2019/625 of 4 March 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption, OJ L 131, 17.5.2019, p. 18.

<sup>37</sup> Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products (OJ L 125, 23.5.1996, p. 10).



- The imported food satisfies all food hygiene requirements set out in Articles 4 to 6 of Regulations (EC) No 852/2004<sup>38</sup> and Articles 3, 4, 5, 7 and 8 of Regulation (EC) No 853/2004<sup>39</sup>. The possibility for national measures to achieve EU food hygiene standards ("flexibility provisions") in accordance with Article 13(3) of Regulation (EC) No 852/2004 and Article 10(3) of Regulation (EC) No 853/2004 no longer applies to the United Kingdom.

Food business operators importing products of animal origin are to ensure that import takes place only if the above mentioned conditions are respected after the end of the transition period.<sup>40</sup>

After the end of the transition period, these requirements are checked upon entry into the EU by applying mandatory border checks at the first point of entry into the Union territory:

- This food can only enter the EU through "border control posts" designated for the approved categories;<sup>41</sup>
- Each consignment has to undergo documentary and identity checks, as well as at an appropriate frequency physical checks;<sup>42</sup>
- Each consignment has to be accompanied by a certificate in compliance with EU food legislation;<sup>43 44</sup>
- The operator responsible for a consignment subject to official controls at border control posts has to give prior notification of the arrival of the consignment at least one working day before the expected arrival, unless logistical constraints require a shorter notification time (in this case, a period of prior notification of at least four hours before the expected arrival applies).<sup>45</sup>

These checks are subject to fees set out in Article 79 of Regulation (EU) 2017/625.

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<sup>38</sup> Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

<sup>39</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

<sup>40</sup> Paragraphs 1 to 4 of Article 6 of Regulation (EC) No 853/2004.

<sup>41</sup> Articles 47(1) and 60(1) of Regulation (EU) 2017/625.

<sup>42</sup> Articles 49(1) and 54 of Regulation (EU) 2017/625 and Article 4 of Commission Implementing Regulation (EU) 2019/2129 (OJ, L 321, 12.12.2019, p. 122).

<sup>43</sup> Article 126 of Regulation (EU) 2017/625.

<sup>44</sup> Article 9 of Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption (OJ L 18, 23.1.2003, p. 11).

<sup>45</sup> Article 1 of Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019 on prior notification of consignments of certain categories of animals and goods entering the Union, OJ L 165, 21.6.2019, p. 8.

4.1.2. *Transit of products of animal origin from an EU Member State through a third country to another EU Member State*

Regarding the transit of products of animal origin from an EU Member State through a third country to another EU Member State the following applies:

- These products can only re-enter the EU through a designated border control post;<sup>46</sup>
- Each consignment undergoes a documentary check to verify that the products are actually from the EU, including the respective notification in TRACES;<sup>47</sup>
- The responsible operator has to give prior notification of the arrival of the consignment at least one working day before the expected arrival, unless logistical constraints require a shorter notification time (in this case, a period of prior notification of at least four hours before the expected arrival applies).<sup>48</sup>

These checks are subject to fees set out in Article 79 of Regulation (EU) 2017/625.

These provisions apply regardless of the conditions which might be required by the United Kingdom to transit on its territory.

4.1.3. *Transit of products of animal origin from a third country through the EU-27 to another third country*

Regarding the transit of products of animal origin from a third country through the EU-27 to another third country the following applies:

- These products can only enter the EU-27 through a designated border control post;<sup>49</sup>
- Transit of these products is to be authorised only subject to favourable documentary checks and identity checks;<sup>50</sup>
- The consignment of products is accompanied by the Common Health Entry Document and leaves the border control post in

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<sup>46</sup> Article 37(2) of Commission Delegated Regulation (EU) 2019/2124 (OJ, L321, 12.12.2019, p. 73).

<sup>47</sup> Article 49(1) of Regulation (EU) 2017/625 and Article 37(3) of Commission Delegated Regulation (EU) 2019/2124.

<sup>48</sup> Article 1 of Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019 on prior notification of consignments of certain categories of animals and goods entering the Union, OJ L 165, 21.6.2019, p. 8.

<sup>49</sup> Article 47(1)(b) of Regulation (EU) 2017/625.

<sup>50</sup> Article 49(1) of Regulation (EU) 2017/625 and Article 19(b) and Article 19(c) of Commission Delegated Regulation (EU) 2019/2124 (OJ, L 321, 12.12.2019, p. 73).

vehicles or transport containers sealed by the authority at the border control post;<sup>51</sup>

- The consignment must be directly transported, under customs supervision, without the goods being unloaded or split, within a maximum period of 15 days from the border control post of introduction into the Union to a border control post in order to leave the Union;<sup>52</sup>

These checks are subject to fees set out in Article 79 of Regulation (EU) 2017/625.

#### **4.2. Food of non-animal origin**

Unlike for food of animal origin, the importation of food of non-animal origin is not subject to listing requirements of third countries and establishments.<sup>53</sup>

The EU Member States are to carry out regular official controls on imported food of non-animal origin. Those controls are organised on a risk basis and with an appropriate frequency. The controls are to cover all aspects of the food legislation. In cases of known or emerging risk, EU rules providing a temporary increased level of official controls at designated EU border control posts may apply.<sup>54</sup>

#### **4.3. Irradiated food**

Food treated with ionising radiation is regulated by EU law.<sup>55</sup> After the end of the transition period, the import of irradiated food from the United Kingdom into the EU is prohibited, unless the irradiation facilities in the United Kingdom are "listed" by the Commission. For the "listing" of a third country, Article 9(2) of Directive 1999/2/EC applies.

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<sup>51</sup> Article 19(d) of Commission Delegated Regulation (EU) 2019/2124.

<sup>52</sup> Article 19(e)(i) of Commission Delegated Regulation (EU) 2019/2124.

<sup>53</sup> With the exception of sprouts, where a specific regime applies (see Regulation (EU) 210/2013 of 11 March 2013 on the approval of establishments producing sprouts pursuant to Regulation (EC) No 852/2004 of the European Parliament and of the Council, OJ L 68, 12.3.2013, p. 24).

<sup>54</sup> Commission Implementing Regulation (EU) 2019/1793 of 22 October 2019 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council and repealing Commission Regulations (EC) No 669/2009, (EU) No 884/2014, (EU) 2015/175, (EU) 2017/186 and (EU) 2018/1660 (OJ L 277, 29.10.2019, p. 89).

<sup>55</sup> Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation (OJ L 66, 13.3.1999, p. 16).

#### 4.4. Compliance with limits of radio-caesium radiation

EU law sets for certain agricultural products originating in third countries maximum permitted levels of radio-caesium, which are checked upon importation into the EU.<sup>56</sup>

After the end of the transition period, the requirements for certificates applies to products imported from the United Kingdom into the EU.

#### 4.5. Marketing standards for certain imported food

Apart from sanitary and phytosanitary certificates, EU law requires, for certain agricultural commodities imported into the EU, (marketing standard) certificates. This is the case for

- **10 fruits and vegetables:**<sup>57</sup> According to Article 13 of Regulation (EU) No 543/2011, at the point of import in the EU, there are two possibilities for the acceptance of the customs declaration:
  - the competent inspection body of the importing EU Member State proceeds to a check and delivers a conformity certificate (and informs the customs authority that the lots concerned have been issued a conformity certificate), or
  - the competent inspection body informs the customs authority that it has not issued a conformity certificate for the lots concerned because they do not need to be checked in the light of the risk assessment referred to in Article 11(1) of Regulation (EU) No 543/2011.

This does not apply, if the Commission has approved checks on conformity to marketing standards carried out by the United Kingdom prior to import into the Union under the conditions set out in Articles 15 and 16 of Regulation (EU) No 543/2011.

- **Poultry:** According to Article 14 of Commission Regulation (EC) No 543/2008,<sup>58</sup> the use of optional terms such as “free range” require a certificate issued by the competent authority of the country of origin;

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<sup>56</sup> Council Regulation (EC) No 733/2008 of 15 July 2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station (OJ L 201, 30.7.2008, p.1); Commission Regulation (EC) No 1609/2000 of 24 July 2000 establishing a list of products excluded from the application of Council Regulation (EEC) No 737/90 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station (OJ L 185, 25.7.2000, p.27) and Commission Regulation (EC) No 1635/2006 of 6 November 2006 laying down detailed rules for the application of Council Regulation (EEC) No 737/90 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station (OJ L 306, 7.11.2006, p.3).

<sup>57</sup> Cf. Article 3(2) of Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors, OJ L 157, 15.6.2011, p. 1.

- **Eggs:** According to Article 30 of Regulation (EC) No 589/2008,<sup>59</sup> table eggs imported from third countries must be labelled with farming method “non EU standard”. This does not apply if the Commission adopts a delegated act to take into account the conditions under which imported eggs are considered to have an equivalent level of conformity to the Union marketing standards for eggs.
- **Wine:** According to Article 90 of Delegated Regulation (EU) No 1308/2013, certain wine products have to be accompanied by a certificate drawn up by a competent body in the product's country of origin and an analysis report drawn up by a body or department designated by the third country of origin. In order to reduce the number of documents required for imports into the Union and facilitate checks by the competent authorities of the Member States, that certificate and that analysis report should be combined to be integrated in one single document, the VI-1 document. According to Article 51(1)(b) of Regulation 2018/273,<sup>60</sup> third countries must communicate the name and address of bodies or departments designated by the country of origin or, where non-existent in the country of origin, an already authorised laboratory outside the product's country of origin, for the purpose of filling-in the analysis report section of VI-1 documents.
- **Hop:** According to Article 1(2) of Commission Regulation (EC) No 1295/2008,<sup>61</sup> the import of hop requires an attestation of equivalence;
- **Hemp:** imports of hemp are currently subject to an import licence requirement.<sup>62 63</sup>

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<sup>58</sup> Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat, OJ L 157, 17.6.2008, p. 46.

<sup>59</sup> Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs, OJ L 163, 24.6.2008, p. 6.

<sup>60</sup> Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560, OJ L 58, 28.2.2018, p. 1.

<sup>61</sup> Commission Regulation (EC) No 1295/2008 of 18 December 2008 on the importation of hops from third countries, OJ L 340, 19.12.2008, p. 45.

<sup>62</sup> Article 189 of Regulation (EU) No 1308/2013, Article 9 and Annex (sections C, D and G of Part I) of Delegated Regulation (EU) 2016/1237, Article 17 of Implementing Regulation (EU) 2016/1239.

<sup>63</sup> In addition: Raw true hemp falling within CN code 5302 10 must have a tetrahydrocannabinol (THC) content not exceeding 0.2%; Hemp seeds for sowing must be accompanied by proof that the THC content of the variety concerned does not exceed 0.2%; Hemp seeds other than for sowing may only be imported by importers authorised by the Member State. Authorised importers have to submit proof that

After the end of the transition period, the requirements for certificates applies to these products imported from the United Kingdom into the EU.

#### **4.6. Catch certificates (fishery products)**

According to Article 12 of Regulation (EC) No 1005/2008,<sup>64</sup> the importation into the EU market of fishery products covered under Annex I of that Regulation requires a catch certificate validated by the third country flag state of the catching vessel as well as other accompanying documents as specified in Annexes II and IV of that Regulation. Member States are required to validate catch certificates in specific circumstances.

After the end of the transition period, the requirements for catch certificates apply to fishery products imported from the United Kingdom into the EU.

### **B. RELEVANT SEPARATION PROVISIONS OF THE WITHDRAWAL AGREEMENT<sup>65</sup>**

#### **1. FOOD OF NON-ANIMAL ORIGIN**

Article 41(1) of the Withdrawal Agreement provides that an existing and individually identifiable good lawfully placed on the market in the EU or the United Kingdom before the end of the transition period may be further made available on the market of the EU or of the United Kingdom and circulate between these two markets until it reaches its end-user.

The economic operator relying on that provision bears the burden of proof of demonstrating on the basis of any relevant document that the good was placed on the market in the EU or the United Kingdom before the end of the transition period.<sup>66</sup>

For the purposes of that provision, “placing on the market” means the first supply of a good for distribution, consumption or use on the market in the course of a commercial activity, whether in return for payment or free of charge.<sup>67</sup> “Supply of a good for distribution, consumption or use” means that “an existing and individually identifiable good, after the stage of

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the seeds have been placed in a condition that excludes use for sowing, or mixed with seed other than hemp for the purposes of animal nutrition, or exported to a third country.

<sup>64</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, OJ L 286, 29.10.2008, p. 1.

<sup>65</sup> If an individual food has been held in the EU, before the end of the transition period, for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, this “stock” of food can be sold, distributed or transferred in the EU after the end of the transition period (see the definition in Article 3(8) of Regulation (EC) No 178/2002: “‘placing on the market’ means the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves).

<sup>66</sup> Article 42 of the Withdrawal Agreement.

<sup>67</sup> Article 40(a) and (b) of the Withdrawal Agreement.

manufacturing has taken place, is the subject matter of a written or verbal agreement between two or more legal or natural persons for the transfer of ownership, any other property right, or possession concerning the good in question, or is the subject matter of an offer to a legal or natural person or persons to conclude such an agreement.”<sup>68</sup>

**Example:** An individual food (of non-animal origin) sold by a UK-based producer to a UK based wholesaler before the end of the transition period can still be imported further into the EU without the need for re-labelling to indicate the name or business name and address of the EU importer.

## 2. FOOD OF ANIMAL ORIGIN

The rules set out in Section B.1 of this notice do not apply to food of animal origin.<sup>69</sup>

These products have to comply with EU rules for food set out in section A of this notice after the end of the transition period, no matter if the product has had been placed on the UK market before the end of the transition period.

## C. APPLICABLE RULES FOR FOOD IN NORTHERN IRELAND AFTER THE END OF THE TRANSITION PERIOD

The Protocol on Ireland/Northern Ireland (“IE/Ni Protocol”) applies after the end of the transition period.<sup>70</sup> The IE/Ni Protocol is subject to periodic consent of the Northern Ireland Legislative Assembly, the initial period of application extending to 4 years after the end of the transition period.<sup>71</sup>

The IE/Ni Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/Ni Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.<sup>72</sup>

The IE/Ni Protocol provides that EU food law applies to and in the United Kingdom in respect of Northern Ireland.<sup>73</sup>

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<sup>68</sup> Article 40(c) of the Withdrawal Agreement.

<sup>69</sup> Article 41(3)(b) of the Withdrawal Agreement.

<sup>70</sup> Article 185 of the Withdrawal Agreement.

<sup>71</sup> Article 18 of the IE/Ni Protocol.

<sup>72</sup> Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/Ni Protocol.

<sup>73</sup> Article 5(4) of the IE/Ni Protocol and sections 24, 29, 30, 31, 32, 33, 35, 36, 43, 46, and 47 of annex 2 to that Protocol.

This means that references to the EU and EU Member States in Parts A and B of this Notice have to be understood as including Northern Ireland, whereas references to the United Kingdom have to be understood as referring only to Great Britain.<sup>74</sup>

More specifically, this means *inter alia* the following:

- Food placed on the market in Northern Ireland has to comply with EU food law as regards authorisation requirements, labelling etc.;
- Food shipped from Northern Ireland to the EU is not imported food (see above, section A);
- Food shipped from Great Britain to Northern Ireland is imported food (see above, section A);
- Any “listing” or “authorisation” of the United Kingdom (see above, section A), would not include Northern Ireland;
- Where, as part of an assessment, registration, certificate, approval or authorisation, a Member State has to be indicated, the United Kingdom in respect of Northern Ireland is to be indicated as “United Kingdom (Northern Ireland)” or “UK(NI)”;<sup>75</sup>
- Where EU law regulates the labelling of the origin of food (for examples, see above, section A.1), Northern Ireland is to be assimilated to an EU Member State.

However, the IE/NI Protocol excludes the possibility for the United Kingdom in respect of Northern Ireland to

- participate in the decision-making and decision-shaping of the Union;<sup>76</sup>
- initiate objections, safeguard or arbitration procedures to the extent that they concern regulations, standards, assessments, registrations, certificates, approvals and authorisations issued or carried out by EU Member States;<sup>77</sup>
- act as leading authority for assessments, examinations and authorisations;<sup>78</sup>
- invoke the country of origin principle or mutual recognition for products placed legally on the market in Northern Ireland.<sup>79</sup>

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<sup>74</sup> Notwithstanding, all fishing vessels flying the flag of the United Kingdom will be considered as third country vessels after the end of the transition period.

<sup>75</sup> Fourth subparagraph of Article 7(3) of the IE/NI Protocol.

<sup>76</sup> Where an information exchange or mutual consultation is necessary, this will take place in the joint consultative working group established by Article 15 of the IE/NI Protocol.

<sup>77</sup> Fifth subparagraph of Article 7(3) of the IE/NI Protocol.

<sup>78</sup> Article 13(6) of the IE/NI Protocol.

<sup>79</sup> First subparagraph of Article 7(3) of the IE/NI Protocol.



More specifically, this means *inter alia* the following:

- in the non-harmonised area, the fact that a food is legally placed on the market of Northern Ireland cannot be invoked when the food is placed on the market in the EU.

The websites of the Commission on food imports ([https://ec.europa.eu/food/safety/official\\_controls/legislation/imports\\_en](https://ec.europa.eu/food/safety/official_controls/legislation/imports_en)) and organic farming ([https://ec.europa.eu/agriculture/organic/index\\_en](https://ec.europa.eu/agriculture/organic/index_en)) provide for general information concerning EU food legislation for imported food and organic farming. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General for Health and Food Safety  
Directorate-General for Agriculture and Rural Development  
Directorate-General for Maritime Affairs and Fisheries

## **ANNEX 1: EU FOOD LAW HARMONISING THE LABELLING OF FOOD PLACED ON THE EU MARKET**

- Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers;<sup>80</sup>
- Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods;<sup>81</sup>
- Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control;<sup>82</sup>
- Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed,<sup>83</sup> as well as Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC<sup>84</sup>;
- Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products;<sup>85</sup>
- Regulation (EU) no 1379/2013 on the common organisation of the markets in fishery and aquaculture products;<sup>86</sup>
- Sectorial EU food legislation addressing food labelling and information, such as legislation on spirit drinks,<sup>87</sup> honey,<sup>88</sup> coffee extracts and chicory extracts,<sup>89</sup>

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<sup>80</sup> OJ L 304, 22.11.2011, p. 18.

<sup>81</sup> OJ L 404, 30.12.2006, p. 9.

<sup>82</sup> OJ L 181, 29.6.2013, p. 35.

<sup>83</sup> OJ L 268, 18.10.2003, p. 1.

<sup>84</sup> OJ L 268, 18.10.2003, p. 24.

<sup>85</sup> OJ L 347, 20.12.2013, p. 671.

<sup>86</sup> OJ L 354, 28.12.2013, p. 1.

<sup>87</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks, OJ L 39, 13.2.2008, p. 16.

<sup>88</sup> Council Directive 2001/110/EC of 20 December 2001 relating to honey, OJ L 10, 12.1.2002, p. 47.

<sup>89</sup> Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts, OJ L 66, 13.3.1999, p. 26.

cocoa and chocolate products intended for human consumption,<sup>90</sup> certain sugars,<sup>91</sup> fruit and vegetables and processed fruit and vegetables,<sup>92</sup> fruit juices,<sup>93</sup> fruit jams, jellies and marmalades<sup>94</sup>, olive oil and olive-pomace oil,<sup>95</sup> and certain milk products;<sup>96</sup>

- Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products;<sup>97</sup>
- Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products;<sup>98</sup>
- Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters.<sup>99</sup>

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<sup>90</sup> Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption, OJ L 197, 3.8.2000, p. 19.

<sup>91</sup> Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption, OJ L 10, 12.1.2002, p. 53.

<sup>92</sup> Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors, OJ L 157, 15.6.2011, p. 1.

<sup>93</sup> Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption, OJ L 10, 12.1.2002, p. 58.

<sup>94</sup> Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption, OJ L 10, 12.1.2002, p. 67.

<sup>95</sup> Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil, OJ L 12, 14.1.2012, p. 14–21 and Commission Regulation (EEC) No 2568/91 of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis, OJ L 248, 5.9.1991, p. 1.

<sup>96</sup> Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption, OJ L 15, 17.1.2002, p. 19.

<sup>97</sup> OJ L 189, 20.7.2007, p. 1.

<sup>98</sup> OJ L 204, 11.8.2000, p. 1

<sup>99</sup> OJ L 164, 26.6.2009, p. 45.