



Department
for Environment
Food & Rural Affairs

The Rt Hon George Eustice MP
Secretary of State for Environment,
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Neil Parish MP
Chair
Environment, Food & Rural Affairs
Select Committee
House of Commons
London
SW1A 0AA

12 February 2021

Dear Neil,

Delays to seafood and meat exports

1. Thank you for your letter of 29 January and the opportunity to speak to the committee on 27 January. This letter addresses your immediate questions and we will, of course, be providing more detailed evidence to the inquiry.

Financial Support for Seafood Exporters

2. Our financial support scheme has £23m of new funding to support businesses that have experienced loss due to disruption to their exports. Details such as eligibility criteria, evidence requirements and the application process, will be published when the scheme opens this week.
3. The scheme will provide support for a proportion of losses up to a maximum of £100,000. This limit was set to ensure that the fund is able to support all qualifying businesses, to ensure that support is targeted towards smaller businesses and that it is value for money for the taxpayer. The threshold is based on the precedent set by the Scottish Seafood Resilience Fund.

Impact of new export arrangements

4. We maintain a careful watch on markets across our sectors to assess the impact of the new export arrangements and are in frequent dialogue with businesses, stakeholder groups and with our counterparts in the EU.
5. The UK Agricultural Market Monitoring Group (UK AMMG), for example, brings together representatives of Defra and the Devolved Administrations and will meet regularly to closely monitor prices, production and outlook, for each of the main agricultural sectors. On Fisheries, we monitor the numbers of catch certificates and export health certificates, early management information from sales notes, and intelligence coming through from the industry and MMO coastal officers.

6. Our frequent bilateral engagement with relevant EU member states suggests that while there are undoubtedly some delays of variable length at the border – as expected whilst both sides get to grips with the new system - very few consignments are actually being turned back or destroyed by, for example, the French.
7. Non-tariff barriers, include the administrative and time costs involved in complying with EHC and IUU regulatory requirements and will vary by local authority and vet depending on individual business models, and so are particularly difficult to assess.
8. In December, before the new arrangements, the value of fish landed by UK vessels was down by 27 percent* compared to the previous year and prices and landings were already depressed going into the end of the Transition Period.
9. Prices of most UK agricultural commodities are relatively strong, with beef and lamb at 5-year highs and poultry prices above the 3-year average. The market for pork remains relatively stable and we have yet to see a sustained impact of current challenges (including Covid) on prices.
10. Our evidence to the committee will consider these matters further, however, the detailed information required for statistical analysis inevitably lags (on seafood exports, for example, there is roughly a two month lag on the data and so we expect it to be published in March/April 2021). It may also be difficult to differentiate the cumulative impacts of the ongoing Covid 19 restrictions on supply and demand, from changes to the trading relationship after 1 January, or any other broader market effects. For example, the impact of Covid regulations on opening and closure of meat processing facilities across the EU has resulted in price variability.

Responding to Issues

11. We maintain a continuous dialogue with the industry via the Food Resilience Industry Forum (FRIF) which is chaired by Defra and an industry representative, and includes regular updates from Public Health England, Department for Health and Social Care, HMRC and Department for Transport. The forum meets twice weekly and has a membership of around 175 from across the agri-food supply chain industry. As well as providing regular updates to the industry, the forum allows us to address issues quickly and fosters collaboration across the agri-food chain.
12. Customs issues raised across Defra (including those raised to us from industry) are shared with a central team at HMRC on a daily basis. HMRC reach out to their internal contacts to resolve each issue and we are updated on progress daily. The loop is closed on resolution and follow-up action on each issue, which might include updated comms and guidance.

* <https://www.gov.uk/government/collections/ad-hoc-statistical-releases-sea-fisheries-statistics>

13. Defra and HMRC actively engage industry representatives, including those from small and medium sized businesses, to identify and resolve customs issues. Industry stakeholders can raise issues through established Defra forums, including the twice-weekly meetings of the Seafood Exports Working Group. They can also obtain detailed guidance via HMRC websites and by emailing the dedicated HMRC/Defra mailboxes.

Preparing for the introduction of import controls

14. Defra has been preparing for the new import controls for a number of years. Experience from preparing for the export changes in 2020 has fed into the plans for the upcoming import changes. This builds on the robust approach to export readiness testing, with a range of activities from desk-top process and feasibility testing, to practical fitness and stress testing. Defra will also continue the ongoing positive engagement established with stakeholders, Local Authorities, other government departments, and key industry bodies to deliver a wide-ranging readiness strategy.
15. Specifically, Defra is working closely with the Port Health Authorities on readiness to ensure checks and processes are embedded prior to changes in April and July 2021. Support is being provided particularly in the areas of recruitment and training, as Port Heath Authorities have identified these areas as risks. This is backed up with a comprehensive engagement and communication plan which focuses on both businesses and delivery partner readiness.

Seed Potatoes

16. Seed potatoes are subject to prohibitions and restrictions in both UK and EU legislation. On the UK side, there is a temporary arrangement in place to permit imports until the end of June, while on the EU side a prohibition has applied since 1 January.
17. After the EU rejected the UK case for permanent listing, Defra's Chief Plant Health Officer submitted a technical case for UK seed potato measures to be recognised as equivalent to those of the EU using article 44 of the EU Plant Health Regulation, which is not focused on permanent listing or dynamic alignment of legislation. This would allow UK exports to resume, while also providing a basis to prolong the UK's temporary arrangements on seed potato imports from the EU. I have also written to Commissioner Kyriakides to make the case for accepting equivalence.
18. Defra has been working closely with the Devolved Administrations and industry stakeholders to keep them informed of these developments and consider actions. This includes a joint roundtable for seed potato stakeholders which I hosted alongside the Scottish Government's Cabinet Secretary for Rural Economy.

Live bivalve molluscs

19. Earlier this month the European Commission wrote to say that the import of live bi-valve molluscs from Class B waters around GB that are intended for purification before consumption would be prohibited.
20. This represented a reversal of the position that the Commission had set out in correspondence sent in 2019, which made clear that the trade could continue.
21. A prohibition on imports of live bi-valve molluscs to the EU would have a significant impact on UK businesses. I continue to correspond with Commissioner Kyriakides on this matter and I am urgently seeking a meeting with the Commissioner to secure assurances that the Commission will allow trade to continue in line with the relevant European Commission Regulations.

22. I will today ensure that the exchange of letters and emails relating to export of live bi-valve molluscs between my Department and the European Commission are made available in the Libraries of both Houses for the information of Members and Peers.



RT HON GEORGE EUSTICE MP

Correspondence between HMG and EU Commission: Export of Live, Bivalve Molluscs to the EU from GB from 'Class B' waters

The majority of the GB harvest of these molluscs is exported to the EU.

Prior to exit from the EU, Defra officials carried out a general examination of the Export Health Certificates needed for trade with the EU after Brexit.

These certificates accompany consignments to provide assurances to the importer about human and animal health. They are commonly used in international trade across the world for a wide range of animals and products made from animals, including food.

Part of the assurance process is to make sure that shellfish are suitable for human consumption. The waters of origin are classified. Class A is the best and Class B next. Those from Class B are depurated to ensure they are suitable for consumers. 'Depuration' is the process of purification.

Officials' work concluded that the export of molluscs was legal and that there were certificates in place. More specifically, the legislation on molluscs for depuration from farms in Class B waters was clear but the certificate was less so. Officials therefore asked for the Commission's opinion and the Commission replied in September 2019 (Annex A). The reply endorsed Defra's view and agreed that the appropriate certificate was the one Defra officials had suggested (Part A of Annex IV to Commission Regulation (EC) No 1251/2008). This exchange therefore corroborated for Defra that the trade could continue following the end of the transition period.

Defra shared the results of their work with the shellfish industry. This included that there would need to be a gap for these molluscs when harvested from the wild, not farms, pending a new EU import certificate coming into force in April 2021.

More generally, the Secretary of State wrote to a range of Defra stakeholders explaining where there would be prohibitions or restrictions on trade compared with the pre-exit position. This laid out what could *not* be done. It did not attempt to lay out all the trade that could continue. The short-term restriction on wild harvested molluscs was therefore included. The general trade in these molluscs from Class B waters for depuration in the EU was not covered because it would continue in line with pre-exit arrangements.

The UK implemented its rules on the mollusc trade accordingly. As well as export from GB, there is some trade in the opposite direction and the UK authorities applied the same rules equally, both to exports to, and imports from, the EU.

Annexes

A: 27 September 2019: EU Commission Services to UK Chief Veterinary Officer

B: 10 December 2020: Secretary of State, Defra to stakeholders on prohibitions & restrictions

C: 3 February 2021: UK Chief Veterinary Officer to EU Commission Services

D: 8 February 2021: Secretary of State, Defra to EU Commissioner Ms Stella Kyriakides

E: 8 February 2021: EU Commission Services to UK Chief Veterinary Officer

F: 10 February 2021: EU Commissioner Ms Stella Kyriakides to Secretary of State, Defra

February 2021

From: Bernard.Van-Goethem [REDACTED]

Sent: 27 September 2019 10:27

To: Middlemiss, Christine [REDACTED]

Subject: FW: UK 3rd Country Listing - Technical Clarifications

Christine,

Here are the replies.
best

Bernard

From: Middlemiss, Christine <Christine.Middlemiss@defra.gov.uk>

Sent: Monday, September 16, 2019 7:28 PM

To: VAN GOETHEM Bernard (SANTE) [REDACTED]
[REDACTED]

Subject: UK 3rd Country Listing - Technical Clarifications

Dear Bernard,

I am writing to seek some technical clarifications on a number of
export health certification requirements for when UK leaves the EU.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Live bivalve molluscs

Our interpretation is that the most appropriate certificate for LBMs sold to the EU for purification is the *Model animal health certificate for the import into the European Union of aquaculture animals for farming, relaying, put and take fisheries and open ornamental facilities*; (Commission Regulation (EC) No 1251/2008, Annex IV, Part A) as this offers the greatest assurances. We propose that for traceability purposes, UK shellfish exporters will additionally provide, as now, the registration document for intra community movements for LBMs for purification.

LBMs exported to the EU for purification, can be certified with the model set out in Part A of Annex IV to Commission Regulation (EC) No 1251/2008.

As regards the registration document for intra community movements for LBMs for purification, it can accompany the consignments but it would not serve any purpose as it is applicable only in intra Union trade.

It would be helpful please to have any comments you may have.

If it would be useful, my experts would of course be available to speak to yours to clarify any technical points. Can we consider how we can share our common understanding of the certification requirements with Member States so that this could facilitate smooth trade flows.

Best regards

Christine Middlemiss BVMS MRCVS
UK Chief Veterinary Officer

Nobel House, 17 Smith Square, London SW1P 3JR




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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.
- 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.
- 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.

A handwritten signature in blue ink that reads "George Eustice". The signature is written in a cursive, flowing style.

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

2. Prohibitions and Restrictions Impacting Defra Imports and Exports (Fish)

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
FISH		
Farmed aquatic animals not ready for human consumption	Live aquatic animals or their products NOT ready for human consumption can no longer be exported to the EU, if they come from an area in GB subject to disease control measures -	Not exportable unless compliant with conditions for third country imports. This is not a new measure.

	<u>unless</u> they conform to certain conditions: in the case of <u>fish</u>: eviscerated; in the case of <u>bivalves, fish and crustacea</u>: packed in retail ready packaging; <u>bivalves and crustacea</u>: non-viable; destined for an establishment that has been authorised for processing infected animals / and or has a water treatment system in place that would inactivate pathogens; or going directly for processing without temporary storage. The intracommunity HCs was less restrictive and allowed for trade from areas subject to disease controls (with conditions) both for live aquaculture animals destined for aquaculture and for and aquaculture animals intended for further processing or dispatch centres/ purification centres (with fewer restrictions than those shown above).	The issue will only be relevant to aquaculture animals produced in areas subject to disease controls. GB generally has a very high aquatic animal health status, so at present, there would be a very limited impact.
Wild harvested live bivalve molluscs from Cat B waters for depuration in EU	Exports of wild harvested live bivalve molluscs (LBM) from Cat B waters for depuration in the EU will be prohibited, as there is no EHC suitable for them. This will not apply to the export of LBMs from Class A waters (which can continue under POAO EHC).	Exports will not be possible.
Live bivalve molluscs and fishery products	Direct landings of fresh fishery products into the EU without the need for an EHC from registered fishing vessels are permitted under EU	Certain vessels currently directly landing LBM and aquaculture salmon will be unable to continue current trade patterns and

from aquaculture (Directly Landed)	regulations. It is not possible to direct land Live Bivalve Molluscs or unprocessed fish from aquaculture sources, however. These need to be landed in GB and certified for export.	need to land in GB and obtain a health certificate to export.
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From: Middlemiss, Christine
Sent: 03 February 2021 18:17
To: VAN GOETHEM Bernard
Cc:

Subject: Trade in live bivalve molluscs from GB Class B waters to EU for purification

Dear Bernard,

As you will recall I'm sure that I, and [REDACTED] from UKMis, asked about the import into the EU of unpurified, live bivalve molluscs (LBMs) from Class B waters (not ready for human consumption) in the AoB item at our Trichinella meeting on 18 January. We were at that time asking about wild caught molluscs. I noted that you replied clearly that the trade in these animals from farms as well as from the wild is not possible. Since then you are probably aware the suggestion that the trade entirely may be banned has caused considerable disquiet in the UK and I've been asked to follow up on our discussion.

I'd be grateful if you could clarify your answer further for me please. It would be really helpful if for this trade, from both farmed as well as wild sources of unpurified LBMs, if not permitted, you could direct us to the relevant legal impediment please?

My colleagues have looked at both the EU food hygiene and aquatic animal health legislation and how these two bodies of law fit together. Their conclusion is that trade in these farmed animals is permitted now, under current EU law, and that animals from the wild may also be legally traded when the EU Animal Health Regulations (EU 2016/429) come into effect. I need to understand the disparity.

We entirely accept of course that there is a legislative distinction between live bivalve molluscs which are already fit for human consumption and those that require purification beforehand.

Please find below a summary table of our understanding of the position – distinguishing between animals ready for human consumption and those that are not.

Table summarising UK's understanding of allowable trade in live, bivalve molluscs into EU

	CLASS A waters		CLASS B waters	
	Aquaculture	Wild harvest	Aquaculture	Wild harvest
LBMs POAO for direct human consumption	YES	YES	NO	NO
For farming, relaying etc.	YES	YES	YES	YES from 21 April

Many thanks

Christine Middlemiss BVMS MRCVS
UK Chief Veterinary Officer
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Ms Stella Kyriakides
EU Commissioner for Health and Food Safety
Le Berlaymont
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cab-kyriakides-contact@ec.europa.eu

8 February 2020

Dear Commissioner Kyriakides,

Trade in live bivalve molluscs from GB to EU for purification in the EU

Thank you for sighting UK officials on the letter of 3 February from Bernard Van Goethem of the Commission Services to EU Chief Veterinary Officers. The letter addressed imports into the EU from Great Britain of live, bivalve molluscs for depuration from waters classified as 'Class B'. It set out the view that this trade is not permitted.

This trade, which goes both ways, has been in place for many years. This development is therefore of grave concern to the UK and businesses that rely on this trade.

We accept that there is a distinction between molluscs which are already fit for human consumption and those that require purification beforehand. The point is that the animals in question are alive, destined for further treatment. The parallel might be with livestock as they leave the farm gate.

The UK's high status for shellfish health is one of the reasons that EU businesses turn to our farms. We implement and enforce high standards and have excellent traceability systems in place.

We are surprised that the Commission has changed its position, and in our view this is inconsistent with earlier statements provided to us by Commission Services. On 27 September 2019 the Commission Services provided advice to the UK Chief Veterinary Officer that when these animals are exported to the EU for purification, they can be certified with the model Export Health Certificate set out in Part A of Annex IV to Commission Regulation (EC) No 1251/2008. The Commission Services advised that there was no need to provide supplementary documentation to assist with traceability to the waters of origin and we advised our industry accordingly, stating that the trade could continue. This is therefore unexpected and difficult news for an industry that relies on trade between the UK and EU.

We also note a parallel concern about advice we have received but do not share about not being able to transport live bivalve molluscs for human consumption in viviers.

We can see no scientific or technical justification for this change and the news was conveyed to us rather casually and after the event. This is not in the collaborative and cooperative spirit in which we wish to work together going forward.

We are seeking urgent resolution of this matter, and we would welcome a meeting to discuss this. We are not averse to providing additional reassurances to demonstrate shellfish health within reason, but this must recognise the existing high standards and history of trade between us.



RT HON GEORGE EUSTICE MP



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Crisis preparedness in food, animals and plants
The Director

Brussels
SANTE.DDG2.G.4/PC (2021)1179959

Subject: Requirements applicable to imports of live bivalve molluscs from Great Britain or UK Crown Dependencies into the EU

Dear Christine,

The requirements applicable to the import of live bivalve molluscs from Great Britain and UK Crown Dependencies into the EU have given rise to numerous questions since the entry into force of BREXIT, notably in relation to the possibility to send molluscs to the EU for depuration purposes.

As you know, since the end of the transition period, the UK, subject to the specific arrangements provided for in the Protocol on Ireland / Northern Ireland, is no longer bound by EU law and is no longer treated as a Member State. Hence, the import of such food products from the UK (Great Britain and UK Crown Dependencies) to the EU is subject to the conditions applied to such imports from third countries. . A table in annex summarises the different export possibilities for live bivalve molluscs intended for human consumption, depending on the known quality of the water from which those molluscs come.

Though I had the opportunity to clarify this on several occasions, let me recall that public health guarantees shall accompany any product of animal origin intended for human consumption, including live bivalve molluscs, when exported to the EU, and shall be officially certified.

The official certificate established in Annex III part I of Regulation (EU) 2019/628, which will be replaced by the new official certificate laid down in Chapter 31 of Commission Implementing Regulation 2020/2235 from 21 April 2021 onwards, requires in particular that the bivalve molluscs “*satisfy the health standards laid down in Section VII, Chapter V of Annex III to Regulation (EC) No 853/2004 and the criteria laid down in Commission Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs*” at the moment where they are presented for import controls at the EU borders.

Dr Christine Middlemiss
Chief Veterinary Officer
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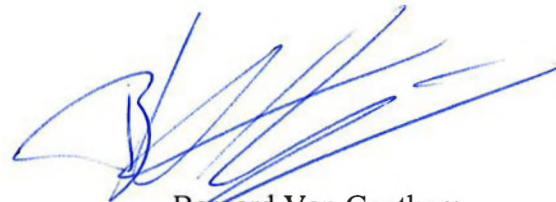
Those criteria are not respected by molluscs originating from B classified areas. As you know, to meet the public health criteria, such molluscs must be subject to a depuration. While the possibility to transfer live bivalve molluscs from a B classified area to a depuration centre is allowed between EU Member States (and controlled by the authorities as laid down in Regulation (EU) 2017/625), it is not allowed when bivalve molluscs originate from third countries, such as from Great Britain or the UK Crown Dependencies.

As you will be aware, the animal health certificate set out in Part A of Annex IV to Regulation (EC) 1251/2008, is designed for animal health purposes only, for instance for molluscs for farming. It is important to underline that animal health requirements cannot supersede public health obligations. For this reason, such a certificate cannot grant access of live bivalve molluscs from third countries, either wild or produced in aquaculture, to a depuration centre in the EU.

From 21 April 2021, Regulation (EU) 2016/429 (the “Animal Health Law”) and its various supplementing Regulations will apply. In comparison to Directive 2006/88/EC, which concerned mainly aquaculture animals, the new legislation applies to aquatic animals of listed species i.e. to wild aquatic animals and those of aquaculture origin. The prohibition concerning the entry into the Union of live bivalve molluscs intended for human consumption and destined to purification or dispatch centres, will nevertheless remain in place.

The relevant animal health certificate applicable from 21 April 2021 onwards for the entry into the Union of aquatic animals intended for certain aquaculture establishments, for release into the wild or for other purposes excluding direct human consumption, will be amended to ensure that it does not lead to any ambiguity in that regard.

Yours sincerely,



Bernard Van Goethem

Enclosure: Table summarising the requirements for the export of live bivalve molluscs intended for human consumption from third countries such as from Great Britain or the UK Crown Dependencies, to the EU

Annex

Requirements for the export of live bivalve molluscs intended for human consumption from third countries such as from Great Britain or the UK Crown Dependencies, to the EU

Molluscs intended for human consumption, from the waters of Great Britain or UK Crown Dependencies, from	Export to the EU from an EU approved dispatch centre			Export for depuration in the EU
	Directly	After depuration in Great Britain or UK Crown Dependencies	After relaying in Great Britain or UK Crown Dependencies, in Class A area	
Class A area	Yes ⁽¹⁾	<i>Irrelevant</i>	<i>Irrelevant</i>	<i>Irrelevant</i>
Class B area	No	Yes ⁽¹⁾	Yes ⁽¹⁾	No ⁽²⁾
Class C area	No	No	Yes ⁽¹⁾	No ⁽²⁾
Unclassified area	No	No	No	No ⁽²⁾

(1) If complying, at the time of export, with the hygiene requirements laid down in Section VII, Chapter I.1 and Chapter II A.2 of Regulation (EC) No 853/2004 and certified by the relevant official certificate in Regulation 2019/628 and, from 21 April 2021, Regulation 2020/2235.

(2) As not complying, at the time of export, with the hygiene requirements laid down in Section VII, Chapter V of Annex III to Regulation (EC) No 853/2004 and the criteria laid down in Commission Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs



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Brussels, 10 February 2021

Dear Secretary of State,

Thank you for your letter sent 8 February 2021 on the trade in live bivalve molluscs from Great Britain to the EU for purification in the EU.

Trade of live bivalve molluscs from production areas classified as ‘Class B’ between the United Kingdom (UK) and EU Member States has taken place for many years during the UK’s EU membership as well as during the transition period. The possibility of transferring live bivalve molluscs for human consumption from a B classified production area to a depuration centre is indeed allowed between EU Member States.

However, since the end of the transition period, and as provided for in the Withdrawal Agreement, the UK is no longer bound by EU law, including in particular the entire SPS legislation, and is no longer treated as a Member State. Hence, the import of live bivalve molluscs from Great Britain and from the UK Crown Dependencies into the EU is subject to the conditions applied to any other third country. As you know, this is the reason why the above trade is no longer possible.

This was rightly pointed out in your letter of 10 December 2020 to UK businesses updating them on the Border Operating Model and specifically on Prohibitions and Restrictions applicable following the end of the transition period on 1 January 2021. In your letter, you correctly underlined that the export of live bivalve molluscs from Class B production areas for further depuration in the EU would not be allowed.

The Rt Hon George Eustice MP
Secretary of State for Environment,
Food and Rural Affairs
Seacole Building, 2 Marsham Street
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On the contrary, as highlighted in your letter, the export of live bivalve molluscs from Class A production areas which, thanks to their high microbiological quality, permit the harvesting and placing directly on the market of the live bivalve molluscs they contain, can take place obviously when accompanied with the relevant public health certification.

Since 2019, regular and constructive technical exchanges took place between the Commission and UK services on the third country listing requirements for animal health purposes. In this context, the UK asked on 27 September 2019 whether it would be possible to use the Model animal health certificate for the import into the EU of aquaculture animals for farming, relaying, put and take fisheries and open ornamental facilities set out in Part A of Annex IV to Commission Regulation (EC) No 1251/2008 for live bivalve molluscs sent to the EU for purification. As the UK is well aware, this certificate, as clear from its title, provides animal health guarantees only, and cannot be used to provide public health assurances, should live bivalve molluscs be intended for human consumption.

The respect of animal health requirements cannot dispense with the respect of public health obligations. This is why the reference to this certificate at the time, together with the fact that the UK had a thorough knowledge of the EU import requirements, led the Commission services to understand this request for clarification as relating to the export of live animals intended for further relaying and not for direct human consumption, and to reply accordingly.

Furthermore, as interest on the purification of live bivalve molluscs intended for human consumption grew, the Commission services wrote to your Chief Veterinary Officer on 8 February 2021 to further specify the conditions governing the export of live bivalve molluscs intended for human consumption to the EU, including on that particular aspect.

The possibility of transporting live bivalve molluscs for human consumption in viviers has never been possible, even between EU Member States, and conflicts with the rules of Chapter VI point 2, and Chapter VIII point 2, of Section VII of Annex III to Regulation (EC) No 853/2004.

I hope that this clarifies the EU requirements that have applied for many years to the import of live bivalve molluscs from third countries into the EU, and which do now apply to such imports from Great Britain and the UK Crown Dependencies.

I would like to confirm the availability and readiness of the Commission services to clarify any matters related to the EU legislative framework.

Yours sincerely,

