DG/BREXIT/006/19E

FOR INFO

25 January 2019

Technical food-related questions and proposed requests in case of a 'No Deal' Brexit

Further to our call, the Secretariat compiled industries' questions and concerns. These questions will be used by FoodDrinkEurope for its meetings with the Commission (DG SANTE in particular). Please also use these questions when engaging with your national authorities. Do not hesitate to send to the Secretariat questions to be added to this living document.

Questions

Grace period

- Is consideration being given to a pause period (business as usual) after 29th March to allow business and regulatory authorities adapt to the new environment?

Mutual recognition

- We would like to understand if the EU27 will continue to accept UK products that already comply with EU Regulations and Directives, as opposed to each one wanting different or additional compliance requirements. We are aware that some of the EU27 MS have their own specific country requirements and the ask is, whether there will be political acceptance for compliance to stay at the same level - in effect respecting the mutual recognition principle for a suitable period of time.
- Will any related risk profiling be a matter for individual member states or will there be Commission guidance?
- Mutual recognition of standards would expedite trade between Approved Consignors/ Consignees, a status given to importers and exporters who then benefit from a more streamlined customs procedure. Having this status means operators undergo fewer safety and security checks. Ensuring companies trading with or transiting through the UK have Approved Consignor/Consignee status is key to reducing administrative costs of customs checks. This is particularly important for SMEs, who will be most impacted by the cost of checks.

Customs and documentation

- How will Member State customs authorities approach goods in transit?
- How will UK Authorities (HMRC, FSA, DEFRA) approach goods in transit?
- Will dedicated lanes be available for intra-EU traffic (in Irish and French ports for example) and if so, does the infrastructure for this currently exist and if not, what is the timeline for introduction?

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- Will there be any new customs documentation required for products imported into the EU from the UK? If so, what kind of documentation (e.g. sanitary and phytosanitary (SPS) documentation)?
- Will the number of border inspection posts be extended and will there be an accelerated approval process for new border inspection posts?
- What are the indications for similar controls at UK entry points and is there engagement by the Commission with DEFRA?
- It has been indicated that 'simplified' border controls (limited to documentary checks, for instance) will apply to live animals and animal products coming from a Member State but transiting through the UK. What will these simplified controls look like?
- What new paperwork or electronic notifications will be required for such transit and how are they proposed to operate (e.g. TRACES, TAD etc.)?

Controls

- What will the extent of market surveillance of certain food ingredients (additives, flavourings etc) that require EU authorisation and are imported from the UK?
- What will be the extent of controls at the point of entry to the EU for foods of animal and non-animal origin from the UK?
- How will the lack of 'listing' of the UK and of establishments within the UK be dealt with for foods of animal origin?
- Whilst there is currently no requirement for foods of non-animal origin to be stopped at customs unless there is a risk identified under Regulation No (EC) 669/2009 or for FCM, clarity is needed around composite products.

Labelling, claims and fortification

- Will the EU 27 continue to accept UK products such as biscuits and confectionery, made with fortified British wheat flour (which contains added calcium carbonate, niacin, iron and thiamine, but don't meet the criteria for "source of vitamins") as currently permitted by exception, under 1925/2006? See below from 1925/2006:

  Some Member States require the mandatory addition of some vitamins and minerals to certain ordinary foods, for reasons dictated by public health considerations. These reasons may be pertinent at national or even regional level, but would not currently justify harmonisation of the mandatory addition of nutrients across the Community. However, if and when this became appropriate, such provisions could be adopted at Community level. Meanwhile, it would be useful for information on such national measures to be compiled.

  In a no deal exit, the concern is the removal of the recognition provided to the existing UK national fortification measure through its presence on the community register enacted under Article 11 of Regulation (EC) No. 1925/2006. The recognition is likely only to apply to the UK when being a Member State, and not a third-country. The question is would the EU maintain the recognition or amend the UK reference out of the community register under Article 11 of Regulation (EC) No. 1925/2006, or otherwise whether a suitable transition time would be permitted to comply with EU Regulations.
- What will the extent of market surveillance be on labelling on food imported from the UK?

Food contact materials

- What will be the status of food contact materials imported from the UK that are current authorised by the UK competent authority?

Food incident management

- What will food incident management post-Brexit look like in terms of communication between Commission / member states / UK?

Organic food

- We would like to understand if the EU 27 will accept UK certified organic products certified by UK bodies.

Risk assessment

- The UK Food Standards Agency (FSA) is increasing its capacity to conduct food and feed safety risk assessments and provide risk management advice. In the very rare cases that this assessment/advice differs from EFSA advice, what concrete measures are DG SANTE putting in place to resolve the differences and what, if any, is the predicted time line for resolution?
- What would be DG SANTE's assessment of the possibility for prior risk assessments on topics like the use of neonicotinoid pesticides to be re-opened?

Proposed requests:

1. Request the EU and Member States a general 6 months stop to change/adapt legislation. This allows the rules to stay the same for at least 6 months.
2. Request from the Commission sufficient time to make Brexit-related labelling changes. Without this there will be significant additional costs incurred by the supply chain. FDF has asked the UK Government for 18-24 months so that companies can build this into their current label update cycle and incorporate all changes at a single time.
3. Request from the Commission clarity on what fulfils the legal obligation for "establishing a business address" in the EU. UK FBOs exporting to the EU will need to replace the UK address with an EU address and EU FBOs exporting to the UK will need a UK address so it would be helpful to have a common understanding of what is required to meet this legal obligation
4. Request assurance from the Commission that goods placed on the EU market up to 11pm on 29 March 2019 can continue to be sold through until goods are exhausted and for the Commission to promote a pragmatic approach to enforcement by EU control authorities. Without this assurance there will be disruption and cost to the supply chain as products will need to be recalled and/or over-stickered. Additional guidance is need on what placing on the market means in terms of contract and availability for sale.

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