



Brexit essentials

Where do we go from here?

Oliver Leedam - Regulatory Consultant

Learning objectives

- To create a checklist of things you need to be aware of to avoid your products being held up crossing the border from the UK to the EU and vice versa.
- These cover everything from labelling through tariff and non-tariff barriers onto transport facilities and more.

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4. Food and food labelling regulations



The current situation

The situation as it stood at the beginning of September

- The United Kingdom of Great Britain and Northern Ireland left the European Union and the European Atomic Energy Community ('Euratom') – on 1 February 2020
- In accordance with the Withdrawal Agreement, Union law continues to apply to and in the United Kingdom for a 'transition period' lasting until **31 December 2020**
- However, as a third country, the United Kingdom no longer participates in the Union's decision making. It is not represented in the EU institutions, EU agencies, offices or other Union bodies

How the EU perceives the situation

- Inevitably, the fact that the United Kingdom will no longer participate in Union policies as of the end of the transition period will **create barriers to trade** in goods and services and to cross-border mobility and exchanges that do not exist today
- This will happen in **both directions**, i.e. from the United Kingdom to the Union, as well as from the European Union to the United Kingdom
- Public administrations, businesses, citizens and stakeholders on both sides will be affected and must therefore prepare
- The choices made by the United Kingdom's government on the future relationship and on not extending the transition period mean that these inevitable **disruptions may occur as of 1 January 2021** and...
- ...risk **compounding the pressure** that businesses are already under due to the COVID-19 outbreak



The Northern Ireland deadlock

- No hard border between Northern and Southern Ireland (as per 'Good Friday Agreement')
- This necessitates border checks between Northern Ireland and mainland UK
- However, the introduction of the UK Single Markets Bill, the UK Prime minister has indicated a readiness to require a hard border
- This would be in breach of current international law
- The EU perceives the current trade negotiations to be contingent on the retention of the Good Friday Agreement and if this is breached, would terminate negotiations
- Some US politicians have also indicated a desire to retain the Good Friday agreement

The situation remains dynamic



A person wearing a blue and white plaid shirt is shown from the side, reaching into a green plastic crate filled with fresh vegetables. The crate contains a variety of produce, including red tomatoes, purple onions, yellow and green bell peppers, and cauliflower. In the background, other crates are visible, containing dark leafy greens and large green cabbages. The scene is set in what appears to be a market or a food processing area.

Trade in goods

Trade in goods

Customs formalities, checks and controls

- As of 1 January 2021, the United Kingdom will no longer be part of the EU Customs Union
- Therefore, customs formalities for third party countries required under Union law will apply to all goods entering the customs territory of the Union from the United Kingdom, or vice versa
- The EU is likely to insist on this even if an ambitious free trade area is established with the United Kingdom, providing for zero tariffs and zero quotas on goods, with customs and regulatory cooperation



Importing Exporting

EORI numbers

- As of 1 January 2021, EU businesses wishing to import from or export to the United Kingdom will need to ensure they have an Economic Operators Registration and Identification (EORI) number in order to go through customs formalities
- EORI numbers issued by the United Kingdom will no longer be valid in the Union
- Businesses based in the United Kingdom wishing to import into the Union will need to either:
 - receive an EU EORI number, or
 - appoint a Union customs representative where applicable



Transport services

Transport between and within the UK and EU

- As it stands, UK companies will no longer be able to perform transport services within the Union as part of the Single Market
- The possibilities and conditions for EU and UK transport operators to perform services between the European Union and the United Kingdom will largely depend on the negotiations on the future EU-UK relationship in the area of transport
- It remains a dynamic situation



Hygiene requirements for imported food

No changes, but new border checks

- Imported food needs to satisfy all food hygiene requirements set out in Articles 4 to 6 of Regulations (EC) No 852/2004 and Articles 3, 4, 5, 7 and 8 of Regulation (EC) No 853/2004
- This will be achieved by checks at Border Inspection Posts



The originating status of goods

Tariff and labelling country of origin

- The tariff country of origin of goods is not the same as the labelling country of origin, instead it is the country with the greatest commercial input
- Mandatory presentation of the origin of goods remains unchanged: the place it last underwent a substantial change (i.e. processing not just rewrapping)
- However, any references to food originating from the UK must now be labelled as such as the UK is no longer part of the EU



PDO, PGI and TSG

(protected designation of origin), (protected geographical indication), (traditional specialities guaranteed)

PDO, PGI and TSG Regulations will diverge

- PDO, PGI and TSG regulation will diverge from 1st Jan 2021
- The UK is establishing its own system of protection
- The current EU system will continue
- Interested right holders should assess whether to seek alternative means of securing protection of the relevant geographical names in the United Kingdom, in accordance with United Kingdom law



Tax and organisation

VAT and Company Registration

- VAT will be chargeable on goods imported into the EU, even if they are Zero rated in the UK
- UK incorporated companies will be third-country companies and will not automatically be recognised under Article 54 of the TFEU
- Branches in EU Member States of UK incorporated companies will be branches of third country companies
- Subsidiaries of UK companies in the Union are, in principle, EU companies and will continue to be covered by all relevant Union and national legislation



I hope you didn't forget this!

Solid wood packaging must meet the ISPM15 international standards

- Solid wood packaging used for goods imported into the EU must meet the [ISPM15 international standards](#)
- If you import from the EU (except Portugal), you can specify less strict standards
- Packaging can either be bark-free, or have a plant passport if it's made out of conifer wood. If it's kiln dried, it must also be marked 'KD'.



A close-up photograph of a person's hands pushing a red shopping cart. The person is wearing a dark blue or black ribbed sweater. The cart is made of silver metal wire with red plastic handles. The background is a blurred supermarket aisle with shelves of various products. A semi-transparent white box with dark blue text is overlaid on the right side of the image.

Placing goods on the market

Placing on the market

- The Withdrawal Agreement provides that goods lawfully placed on the market in the EU or the United Kingdom before the end of the transition period may continue to freely circulate in and between these two markets, until they reach their end-users, without any need for product modifications or re-labelling
- Such goods will be subject to continued oversight by the market surveillance authorities of the Member States and the United Kingdom



Health/Identification Marks

Mandatory health or identification marks are covered by Article 5 of Regulation (EC) No 853/2004

- As of the withdrawal, date the health mark or the identification mark for the UK can no longer include the "EC" abbreviation, which is reserved for establishments located in the EU
- Health marks for products produced in the UK should no longer carry EU
- UK should be changed to GB or United Kingdom when exported to the EU
- For exports outside of the EU GB, UK or United Kingdom should be acceptable
- The registration number being issued by the UK regulatory bodies remains the same



Registration of products

- Any product or ingredient that requires registration will need to be registered in the EU if it is to be sold in the EU or in the UK if it is to be sold in the UK
- This raises a problem as the registration in the UK cannot take place until the UK stops operating under EU legislation
- As the registration process takes more than 12 months and the UK Government has stated that it won't accept any legislation from the EU after the end of the transition period
- Products intended for the UK market that do not clear the EU process by 31st Dec 2020 should start the process within the UK (in addition to the EU process if EU is a target market too)
- Submissions in the UK should be made to the [UK Nutrition and Health Claims Committee](#)

Food ingredients, food composition, contaminants and residue limits, food contact materials

No initial change here

- The UK will be importing this legislation into the UK Statute Book with the necessary amendments to make them operate under UK law
- However no changes following the 31st December 2020 will be automatically adopted and following trade negotiations alterations to the UK legislation may take place that are unacceptable to the EU
- The impact of future trade deals remains to be seen, the highest profile of which has been trade negotiations with the USA



List of updated notices on readiness for end of transition

- EU Readiness notices have been published since 16 March 2020 with a view to supporting stakeholder preparations for the end of the transition period
- They can be found here:
https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en
- This list will continue to be updated on a regular basis as new notices become available



Food labelling and food information regulations

A number of changes are being made to the EU regulations as they are incorporated into the UK statute book, active as of 1 January 2021

- Regulation (EU) No 1169/2011
 - Regulation (EC) No 1924/2006
 - Regulation (EU) No 609/2013
 - Regulation (EC) No 1829/2003
 - Regulation (EC) No 1830/2003
 - Regulation (EU) No 1308/2013
 - Council Regulation (EC) No 834/2007
- ...and many more

See www.legislation.gov.uk

Summary

Summary of what we've covered

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What next?



What should you do next?

Import and export is likely to be your greatest challenge

- Registration: companies/ FBO (UK and EU); claims, additives
- Shipment documentation (e.g. EORI number(s))
- Tariff payment
- Prepared for new labelling requirements



What we're doing to support you

- We are closely monitoring negotiations, so can provide regular news updates via **Daily Food News** as things progress and speed up as the 31 December approaches – have you registered for our **Brexit newsletter**? Membership@leatherheadfood.com
- After 31 December regulatory divergence will inevitably take place, beyond our **Global Legal Highlights** we will be able to keep exporters informed how changes effect exports to the EU - ask your questions via **helpline** legislation@leatherheadfood.com
- From now new novel foods, nutrition and health claims need to be registered in both the EU and UK as new EU claims won't be valid in the UK and vice versa. We are **extending our service** to aid with UK as well as EU submissions



Questions

leatherhead food research

Epsom

Yew Tree Bottom Road
Epsom
KT18 5XT
UK

Phone: +44 1372 376761
help@leatherheadfood.com

Sacramento

980 9th Street
Suite 400
Sacramento
CA 95814
USA

Phone: +1 202 828 8990
help@leatherheadfood.com

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