# UK questions for clarification – version 11

UK letter of 12 April 2021

## 1. Animal Health Regulation – Composite products containing pasteurised dairy content

This issue under the new AHR rules regarding shelf stable products containing pasteurised milk is becoming increasingly pressing as industry need to produce product now that will be exported after 21st April. I understand from our discussion at the weekly meeting, that these products will be eligible to be traded using the model private attestation for shelf-stable products once the relevant EU regulations have been updated. Confirmation of the timeline for these amendments, so we can advise industry would be greatly appreciated.

We would also appreciate if you could confirm our understanding that the proposed amendments will enable shelf stable composite products, containing no meat and containing pasteurised dairy content, to be exported to the Union using the private attestation in the following scenarios:

**a)** where the dairy content is of EU origin as well as originating in a third country listed for the export of dairy products to the EU, and

**b)** where the dairy content, in the product, was manufactured prior to 21/04/21 but the composite product is exported to the EU on or after such date.

DG SANTE answer:
We will amend Delegated Regulation (EU) 2020/692 to allow the entry into the Union of shelf-stable composite products containing dairy products that originate from EU countries or from third countries listed for the entry into the Union of:

- raw milk and dairy products not subject to a risk-mitigating treatment, without undergoing any specific risk-mitigating treatment;
- dairy products subject to a risk-mitigating treatment, if they have undergone a risk-mitigating treatment in accordance with Article 157 of Delegated Regulation (EU) 2020/692.

It does not matter when the dairy content was processed, before or after 21.04.2021, provided that the treatment requirements are met.

## 2. Animal Health Regulation – Composite products containing egg and/or fishery products

Sections II.3.C (fishery products) and II.3.D (egg products) of the COMP model certificate (Implementing Regulation 2020/2235) require that fishery and/or egg products that are contained in a composite product must originate from a country that is:

- For fishery products: “authorised for entry into the Union” (footnote 11)
- For egg products: “a zone in accordance with a list of third countries and territories adopted by the Commission in accordance with Article 230(1) of regulation (EU) 2016/429” (footnote 12)

a. Does this requirement mean that fishery and egg products of EU member state origin cannot be included?

DG SANTE answer:
Please refer to Art. 12(1) of Commission Delegated Regulation (EU) 2019/625 where it is clearly indicated that each processed product of animal origin contained in composite products must come from establishments that are either located in third countries or regions authorised to export those processed products of animal origin to the Union, or located in EU Member States.

b. We note that the meat product and dairy product sections of the certificate specifically include the option for EU member state origin but this is not available for the fishery or egg product sections. Is this intentional?

DG SANTE answer:
Please see the previous answer.

c. If it is intention is not to exclude EU member state origin fishery or egg products please can you advise on how this can be certified?

DG SANTE answer:
The certifier may enter the name/code of the EU country, instead of the third country.

## 3 Animal Health Regulation – Germinal Product Establishments

a. In the same letter of 29/03/21, we asked for clarification that the EU listing of establishments for POAO and ABPs would be rolled over by the new AHR legislation. We would like to seek the same assurance regarding establishments approved for the collection and storage of germinal products.

DG SANTE answer:
There is no need to submit again establishments which are already listed.

b. We understand (frozen) stocks of germinal products collected on or after 21/04/21 could not be certified after 20/08/21 using the current certificates and the model EHCs in AHR will need to be used. This implies that establishments contemplating this trade will need to have been approved in accordance with new AHR requirements at the time such semen is collected.

DG SANTE answer:
Approved germinal product establishments should comply with requirements for approval laid down in Annex I to Delegated Regulation (EU) 2020/686 as of 21 April 2021. Semen collection and storage centres, embryo collection and production teams approved in accordance with Directives 88/407/EEC, 89/556/EEC, 90/429/EEC and 92/65/EC before 21 April 2021 become approved germinal product establishments in accordance with AHL (no need for re-approval), however they have to adjust to new requirements laid down in AHL and its supplementing legislation.
Implementing Regulation (EU) 2021/403 provides model certificates for stocks of germinal products collected or produced before 21 April 2021 and those model certificates reflect requirements laid down in Directives 88/407/EEC, 89/556/EEC, 90/429/EEC and 92/65/EC. However, until 21 August 2021 the model certificates applicable before 21 April 2021 can be issued for those germinal products (transitional provisions).

c. Please can you confirm if existing GB germinal product establishments will continue to be listed after 20/04/21 and if germinal products collected under current EU legislation could still be traded using existing certificates if certified before 21/08/21? We understand this is the case as per the transitional provisions in Article 27 to Regulation 2021/403.

DG SANTE answer:
Consignments of germinal products collected or produced as of 21 April 2021 can enter the Union until 20 October 2021 accompanied by certificates issued on the models applicable before 21 April 2021 provided that the certificate was signed before 21 August 2021.

d. We would also welcome confirmation that semen donor animals that are already resident on approved centres (or in pre-entry quarantine) can remain on the centres (or enter the centre) after 21/04/2021 in accordance with current requirements. This should not compromise the health status of any new entrants which undergo pre-entry testing in accordance with AHR requirements, except in the case of porcine semen where AHR hasintroduced a test for an additional disease – PRRS. It will be useful to have your views onhow to 'upgrade' the status of the donor boars already resident on the centre to comply with AHR requirements without having to put them through pre-entry quarantine and get them tested for PRRS in the process. This will avoid disruption to the business.

DG SANTE answer:
Donor animals present at semen collection centres on 21 April 2021 can remain there. As of 21 April 2021 routine testing regime of semen collection centres should be adapted in accordance with requirements laid down in Annex II to Delegated Regulation (EU) 2020/686, including for PRRS.
The same would apply to animals present at quarantine accommodation for the purpose of pre-entry quarantine.

## 4 Non-harmonised EHCs for transit

UK-GB is discussing with the competent authorities of some member states various non-harmonised certificates for the export of animals or animal products to these member states. However, some of the transport routes to arrive in the destination member state may involve entering the EU through a Border Control Post (BCP) in another EU member state or may not even require entry via a BCP.

Is there any EU or Commission guidance for, or that allows, the transit of commodities through EU member states for commodities that are not harmonised and subject to the national rules of the importing member states? Would exporters have to approach each member state of transit for their transit requirements? Is it possible or already agreed that EU member states accept the national import requirements of the member state of destination for the purpose of transiting their territory?

DG SANTE answer:
According to Art. 47 of Regulation (EU) 2017/625, all animals and goods listed in the relevant legal acts must be presented for official controls at the border control post of first arrival into the Union. In such a case, transit requirements are laid down in Chapter IV of Commission Delegated Regulation (EU) 2019/2124.
As regards the goods falling under Art. 44 of Regulation (EU) 2017/625, which leaves MS the choice of the location where to check these goods that are not subject to Art. 47, you may liaise with the Member States in order to know their national requirements.

## 5 Scallops

1) One of our exporters is currently trading scallops not as 'Live Bivalve Molluscs (LBM)'but as 'Fishery Products' with the fishery products model certificate as fresh chilled product. The scallops are appropriately certified as coming from an approved food establishment but remain in shell and are not shucked.

This exporter has experienced rejections of consignments at the BCP of entry reportedly due to opinions of BCP officials that the scallops gave off an unpleasant odour.

The exporter alleges that the smell is due to the presence of sand and mud and that his importer in the EU has expressed satisfaction with the quality and freshness of the producton arrival, for those consignments that passed BCP controls. Specifically in one instance, two consignments were sent simultaneously, with the same origin scallops, but one was rejected and the other was cleared, with the latter accepted by the importer/buyer as satisfactory.

In light of this being an unusual way to export this commodity, we are seeking reassurance that consignments will not be rejected purely based on smell, when the source of the smell is not the product itself, and that BCPs will follow the same standards when carrying out checks.

DG SANTE answer:
According to point 3 of Annex II to Regulation (EU) 2019/2130, sensory examination of the smell, colour, consistency or taste of the goods are part of physical checks, in order to verify that the goods are fit to be used for their intended purpose. Therefore this examination is under the full competence of official inspectors in BCPs and it might lead, on a case by case basis, to decisions of rejection of the consignment if the conclusions are not satisfactory.
Please note that the selection of consignments for physical checks are carried out randomly based on frequencies established in Regulation (EU) 2019/2129. However, even if the consignment is not initially selected, official inspectors may decide on their own to extend official controls to physical checks in the event of suspicion of non-compliance (Art. 65.1 OCR), like a strong odor emanating from the consignment.

2) Our exporters have faced delays of exports of live king scallops at BCPs due to officials requiring region of origin codes to be entered in I.8 of the EHC. It is our understanding that scallops can be harvested outside of classified production areas and can be exported to the EU as long as they meet the requirements in Section VII, Chapter IX of Annex III to Regulation (EC) 853/2004. Therefore, region of origin codes should not be required for scallops coming from unclassified waters.

Could you confirm if our understanding is correct, please?

DG SANTE answer:
We confirm that, according to Chapter IX of Section VII of Annex III to Regulation (EC) No 853/2004, pectinidae can be harvested outside classified production areas. In this case, it is not required to enter the region code in the certificate.

## 6 Animal by-products (ABP) for purposes outside the feed chain or for trade samples to, or transit through, the European Union and Northern Ireland

We have raised concerns about the requirement that ABPs are collected from animals that have remained on the holdings of origin for a period of at least 40 days before the date of departure; and which have been transported directly to a slaughterhouse without contact with other animals not complying with the same health conditions.

It is our understanding that a Commission working group had agreed to a solution that would be voted on at the March PAFF meeting. We have not seen the proposal or been notified of the outcome, and we would ask for an update at your convenience.

DG SANTE answer:
A drafted amendment will be presented for vote at the Committee of 22-23 April 2021.

## 7 Automatic removal of statements from EHCs

We are considering the automatic strike out of statements in Export Health Certificates via EHC Online and would like to clarify the following:

Firstly, please can you confirm if it would be acceptable for a statement to be removed in its entirety from an EHC if it is not relevant to a particular product, and where the model certificate allows for it to be crossed out if not applicable.

The printed certificate would not show the statement struck out, but instead simply remove the irrelevant attestation in Part II.

Secondly, if irrelevant statements were retained in the printed certificate, but struck out automatically by EHC Online, as opposed to manually by the certifying officer, please could you confirm if you would still expect them to be initialled and stamped?

DG SANTE answer:
According to Art. 5 of Regulation (EU) 2020/2235, where the certificate contains multiple or alternative statements, the statements which are not relevant must be crossed out, initialled and stamped by the certifier, or completely removed from the certificate.