

UK BCP Questions for clarification – version 5

1. Is ice cream a dairy product or a composite product?

A major Ice Cream exporter has been receiving conflicting guidance over whether its ice cream products are dairy products or composite products.

Our understanding is that a product marketed as “ice cream” may be either a dairy product or a composite product depending on its ingredients and processing.

We note the example given in [this commission guidance document](#) (page 32) of a vanilla flavoured ice cream with wafer and hazelnuts and the accompanying note defining the product as a composite product “if produced without using a heat treatment” or a dairy product “if processed involving a heat treatment”. This advice is opposite to our understanding as all dairy contained within a composite product must be heat treated (e.g. pasteurised).

We also note the slide copied below from an EU training course recommending that the ice cream product on the left is a dairy product made with dairy products and sugar while the ice cream on the right is a composite product made of a mixture of skimmed milk, glucose syrup and palm oil.

Please can you clarify the advice on heat treatment and confirm if this advice is still up to date? Can you provide any further definitive advice to help ensure a consistent and harmonised approach to classifying food products as “dairy products” or “composite products.”



DG SANTE answer:

The classification of an ice cream depends on its composition. If made of a mixture of dairy products and products of plant origin, it is a composite product. If the product consists of dairy products, it is a dairy product. However, we agree that the explanations accompanying the example of “Vanilla flavoured ice cream” in the Guidance document on composite products (p. 32) are not correct. This Guidance will be updated with the new import requirements for composite products applicable as from 21.04.2021.

As required by EU food hygiene regulations, the processed products of animal origin contained in composite products, namely the dairy part of the ice cream in the present case, must come from EU-listed establishments.

The requirements applicable to the establishment manufacturing the ice cream falling into the definition of a composite product depends on the process applied during the manufacture:

- If no further heat treatment of the dairy part of the ice cream is applied in the establishment manufacturing the ice cream, then, as for any establishment manufacturing composite products, this establishment does not need to be EU-listed.
- Should further heat treatment be applied to the milk/dairy part of the ice cream, the establishment manufacturing the ice cream is then an establishment processing dairy products and, accordingly, must be EU-listed for dairy products.

2. Germinal products exports

Exporters continue to experience problems, e.g. Genus Breeding, Ruthin.

There are now issues with consignments of bovine semen held up at BCPs in Poland, Switzerland and Cyprus.

BCPs are saying that box I.17 is not complete. Normally (and previously on TRACES on the corresponding point) the exporter has always left this blank for certificates used for semen produced in their own UK collection facilities and sent to their own storage centre in Towcester, as (by their understanding) there has been no requirement to certify or provide documentation to move their own semen to a storage facility.

The veterinary authorities in Cyprus have indicated that a document must accompany semen moving from quarantine in the SCC to any storage centre. The business concerned is seeking clarification on whether or not they need to implement this going forward (or, as the SCC and quarantine are under the same ownership, this is not required?)

Note: if they are shipping non-UK produced semen then they will complete box I.17 and include copies of all health certificates used to import product into the UK. Point II.2.2 is a continuation of I.17 and their understanding is that for such a point this is why they (centre vets) produce a pre certificate to allow the OV to sign the final certificate.

As an interim measure, the exporter is suggesting that they produce and submit transfer documents which state that semen produced in the collection centres and processed at Ruthin has been done so in accordance with Reg 88/407 before being moved to storage.

However, going forward if they are required to produce documentation to move semen from a processing facility to a storage centre, this will pose a significant logistical challenge. Can you confirm what documentation is required and who is required to certify it (i.e. does it need to be an official vet?).

DG SANTE answer:

As mentioned in Article 2(c)(iii) of Decision 2011/630, semen and stocks of semen collected, processed and stored at a semen collection centre, and sent to a semen storage centre before being exported to the EU, must be accompanied with model certificate 3 set out in Section C of Annex II to that Decision.

According to that model, box I.17 must be completed with the references of the individual official document(s) or certificate(s) which have accompanied the semen from the approved semen collection centre to the approved semen storage centre. Those individual official document(s) or certificate(s) or officially endorsed copies thereof must be attached to the corresponding model certificate 3.

In the case at hand, the certificates that had to accompany the semen collected in the UK before 1

January 2021 from the approved collection centre to the approved storage centre should comply with the relevant models in Annex D1 or Annex D2 to Directive 88/407/EEC.

The link to the official documents accompanying the semen from the collection centre to the storage centre is necessary to document that the supplying collection centre was/is approved in accordance with 88/407/EEC and not a nationally approved collection centre.

3. Animal by product Export Health Certificates

(a) Regarding EHC 8345 exporting [rendered animal fats and greaves for human consumption](#)

Section II.2 in Part II of the Certificate contains three paragraphs, all named II.2.1. which are either/or statements. We have drafted the notes for guidance to say that the appropriate statement should be certified and the others deleted. However, the certificate does not contain a footnote indicating that the irrelevant statements should be deleted and certain BCPs have held consignments as a result. We would appreciate your confirmation that our approach is correct.

DG SANTE answer:

We confirm that your approach is correct. The wording "either/or" must be regarded as exclusive, i.e. only one option must remain in the statement, even if the footnote "keep as appropriate" was omitted by mistake in the legal act. Please note that the mistake has been corrected in the new models for rendered animal fats and greaves set out in Part V of Annex III to Regulation (EU) 2019/628.

(b) Regarding EHC 8311 for the export of animal by products for the manufacture of pet food

The model EHC outlined in [Chapter 3\(F\) of Annexe XV of Commission Regulation \(EU\) 142/2011](#) contains statement II. 1.9 in Pt. 2 which only applies to raw material derived from animals treated with certain prohibited substances in line with Directive 96/22/EC, the import being permitted in Accordance with Article 35 (a) (ii) of Regulation (EC) 1069/2009.

This statement is not marked with a footnote as deletable if it does not apply to the product being exported. We have advised GB OVs that this statement should be deleted if Category 3 material is being exported and that it should only be certified in the case of limited Category 1 materials imported from another third that have undergone the relevant treatment prior to arrival in Great Britain.

BCPs have challenged the deletion of this statement on the basis of the lack of a footnote within the EHC. We would appreciate your confirmation that we are correct to advise that the statement can be deleted in these circumstances.

DG SANTE answer:

The deletion of point II.1.9 of model certificate 3(F) of Annex XV to Regulation (EU) 142/2011 is acceptable except if the raw material has been treated with certain substances prohibited by Directive 96/22/EC.

4. Validation of exporters on TRACES

The competent authorities in GB are getting a large amount of enquiries from GB operators about the requirement for validation on TRACES NT. APHA and FSA are struggling to cope with the demands of the volume of these enquiries and we think some of the requests for validation are unnecessary.

Please can we confirm our understanding of the roles and requirements of TRACES NT with you, to ensure the advice we are giving is consistent with your helpdesk as many callers appear to be contacting both you and us. Our understanding is:

- When importing into the EU - the person creating a CHED needs to be in an EU member state or Northern Ireland (NI). A user in a third country (i.e. GB) cannot create a CHED for movements into either the EU or NI.
- Is it possible for a GB (third country) operator to assign their TRACES NT account to an EU/NI BCP? Therefore, allowing them to be able to create a CHED into that BCP. If so, the EU/NI BCP would have to validate the user (as per the hierarchy in TRACES NT) and not the GB Competent Authority.
- When a user registers as responsible for the consignment to create a CHED, they must associate themselves to a BCP in the EU or NI. They cannot be associated to a GB Competent Authority (APHA, FSA or DEFRA) even if trading between GB and NI.
- Where goods are required to come from an Approved Establishment, the list of GB Approved Establishments have been added to TRACES NT and can be selected when a CHED is created in the EU/NI. However, other operators DO NOT need to be validated on TRACES NT by the GB Competent Authorities as GB is not using the TRACES system to facilitate either imports or exports. Operators are telling us they have been advised that they must be validated. However, as GB is now a third country we can see that other third country exporters are not validated and believe other Competent Authorities do not access TRACES.
- We do not believe that exporters, importers and transporters need to be validated.

If you can confirm our understanding of the above is correct then we can advise GB operators of what is required.

DG SANTE answer:

Concerning the first three points, the operator responsible for the consignment, i.e. the person in charge of the prenotification to the BCP, must be located in an EU Member State or in Northern Ireland, as laid down in the notes for completion of the CHED box I.8 in Annex II to Regulation (EU) 2019/1715. The UK(GB) authorities can in no way be involved in the process of prenotification (presentation of CHED part I).

Concerning the last two points, we confirm that the consignors, consignees and transporters do not need to be "validated" in TRACES, as far as they are not concerned by the requirements of Article 5 of Regulation (EU) 2019/625 on listed establishments.

5. Poultry meat certificates

We note that in Part I of the model veterinary certificate for meat of poultry (POU) in commission regulation (EC) No 798/2008 box I.24 (type of packaging) is struck through (as below).

Our understanding is that these boxes do not need to be completed for the import of meat of poultry (POU) into the European Union.

Rotterdam BCP has rejected consignments of poultry products on the basis of box I.24 not being completed. This has had significant impact on exporting businesses.

Please can you provide definitive advice on whether the model certificate is correct and whether box I.24 is required?

I.18. Description of commodity	I.19. Commodity code (HS code)
I.21. Temperature of products Ambient <input type="checkbox"/> Chilled <input type="checkbox"/> Frozen <input type="checkbox"/>	I.20. Quantity I.22. Number of packages
I.23. Seal/Container No	I.24.

DG SANTE answer:

We confirm that box I.24 of model certificate POU set up in Part 2 of Regulation (EC) No 798/2008 is struck-out. Therefore the completion of this box cannot be required.

6. Groupage

Certifying the trailer number if being sealed at a later point.

Your response to our second note provided clarity regarding the facility of a certifying officer to make handwritten amendments to a certificate when a seal number is altered in a manner that would facilitate the sequential sealing of loads. We have subsequently provided you with a draft certificate of non-manipulation which we propose would help facilitate groupage exports and you have replied indicating you welcome this solution.

We would like to clarify if:

- The same principle relating to amendments applies to the means of transport identification entered on to the certificate. For example, if a consignment was certified, sealed at a pallet level and then moved from its approved, listed establishment of dispatch to another such establishment where it was added to a load containing other consignments sealed at a pallet level, could the means of transport on the EHC for the first consignment be amended?
- Alternatively, if such a change was made to the means of transport, the exporter could simply notify the BCP. We understand this would be in line with Annexe II of 2019/628 which explicitly states that an alteration to the means of transport will not result in the need for a replacement certificate.

DG SANTE answer:

We can provide the following clarifications:

- Sealed pallets can be accepted as "official seals" in the meaning of Article 3(2) of Regulation (EU) 2019/2130 and of the notes for completion of box I.19 in Annex II to Regulation (EU) 2019/628, provided that they correspond to robust and tamperproof sealing of each pallet, such as the one we can see on the attached pictures. However, in order to benefit from an identity check limited to a "seal check only", the seal numbers must be correctly read during official controls, which in some cases could result in the full unloading of the truck at the BCP.
- According to the notes for completion laid down in Annex II to Regulation (EU) 2019/628, the change of means of transportation after the issuance of official certificate must not result in a request for a replacement certificate. In such a case, the operator responsible for the consignment must report the change of means of transportation by completing the prenotification (CHED part I)

accordingly.



7. Day Old Chick and Hatching Egg Exports

Certain Border Control Posts (Calais in particular) are demanding that consignments of day old chicks and hatching eggs with more than one flock of origin are presented as separate consignments, with an Export Health Certificate per flock of origin. We do not believe this to be required as the consignment has a single place of origin (dispatch) but the eggs are typically originating from a number of premises.

As per the Model Health Certificate presented in Annex I of Commission Regulation (EC) 798/2008, multiple establishments of origin can be entered into the relevant EHCs. We have raised this directly with the relevant Border Control Posts and Member States, but would appreciate your confirmation of our understanding.

DG SANTE answer:

We agree that several flocks can be covered by the same official certificate for day old chicks and hatching eggs, as set up in Annex I to Commission Regulation (EC) 798/2008, provided that they can all be covered by the same information and guarantees mentioned in the certificate.