

UK BCP Questions for clarification – version 6

1. Export Health Certificates introduced under AHR:

a. Transitional period

Please can you confirm the following implementation timeline for the Export Health Certificates introduced by the Animal Health Regulation:

From April 21st 2021 the Animal Health Regulation will apply in the European Union and Northern Ireland. The AHR introduces new Export Health Certificates for terrestrial animals, germinal products, live aquatic animals and products of animal origin. The certificates for products of animal origin and live aquatic animals are available in Commission Implementing Regulations (EU) 2020/2235 and 2020/2236 respectively. The certificates for terrestrial animals and germinal products have not yet been published in the Official Journal. Any indication you can offer for the date of publication would be appreciated.

2020/2235 and 2020/2236 contain transitional provisions. We understand these to mean that:

- Export Health Certificates introduced by 2020/2235 and 2020/2236 will be available to third countries to use for exports to the EU from April 21st 2021
- However, the export health certificates currently issued (which is to say published online and made available for use by operators) by Great Britain as a third country, in accordance with Commission Regulation (EU) No 28/2012, Implementing Regulation (EU) 2019/628 or Regulation (EC) No 1251/2008, will continue to be valid for export to the EU and movement to Northern Ireland until October 20th 2021, so long as they are signed by a certifying officer prior to August 21st 2021.
- Any certificate signed after August 21st 2021 will need to follow the format outlined in 2020/2235 and 2020/2236
- Although not yet published, the same transitional period will be provided for the new EHCs for live animals and germinal products

DG SANTE answer:

This 3rd legal act on official certificates for terrestrial animals and germinal products should be published by the end of March. It will contain the same transitional period as the one provided for in Regulations (EU) 2020/2235 and 2020/2236.

b. Specific provisions for composite products

We note that new rules relating to the export of composite food products made via implementing regulations under the Official Controls Regulation (Regulation (EU) 2017/625) and those products exempt from Export Health Certification will also apply from April 21 2021. This regulation will repeal and replace certain articles of Commission Decision 2007/275/EC.

Our assumption is, that regardless of the transitional provisions contained within 2020/2235, any composite product that would previously have been exempted from certification under 2007/275/EC but under the new regulation will no longer be exempted, will require an EHC in the format outlined in 2020/2235. We would appreciate your confirmation.

DG SANTE answer:

As indicated in Article 28 of Regulation (EU) 2020/2235, in conjunction with Article 14 of Regulation (EU) 2019/625, all the composite products covered by points (a) and (b) of Article 12 of Regulation (EU) 2019/625 will have to be accompanied with model certificate COMP set out in Chapter 50 of Annex III to Regulation (EU) 2020/2235.

For the composite products belonging to this category and exempted from certification before 21.04.2021, the transitional period will not apply meaning that certificate COMP will be required as from 21.04.2021.

For the composite products covered by points (c) of Article 12 of Regulation (EU) 2019/625, which on the contrary have to be accompanied by the model private attestation set out in Annex V to Regulation (EU) 2020/2235 and exempted from certification before 21.04.2021, the transitional period will not apply, meaning that the private attestation will be required as from 21.04.2021.

c. QR codes

We note that the model export health certificates introduced under Regulations (EU) 2020/2235 and 2020/2236 include the facility to make use of a QR code. We note that the regulations indicate that for intra-trade certificates paper copies are required to bear an electronic machine-readable label such as a QR code but this is not specified for certificates issued by third countries.

We would appreciate your confirmation that such a functionality is not mandatory for paper-based Export Health Certificates issued by third countries and that the corresponding box on the EHC can be struck through by default.

DG SANTE answer:

We confirm that the use of QR code is not mandatory. QR codes apply to certificates submitted in TRACES, as it reflects the IMSOC reference assigned in box I.2a.

2. Either/or statements

Thank you for your reply on keeping multiple “either”/”or” statements in an Export Health Certificate in which you clarified your expectation that “either/or” must be regarded as exclusive.

We understand this; however, we would welcome your further consideration specifically to reflect the complexity of trading in composite products, for two reasons.

a. Potential prohibition of certain exports

Following your response, GB certifiers have identified that being unable to attest to multiple “either”/”or” statements may prohibit the export of certain composite products in a manner we do not believe to be intended.

For example, a single composite product certified using the [composite product export health certificate](#) might contain both liquid egg and salted egg yolk. To certify this product, the certifying officer would need to attest to both the first **and** second “either”/”or” statement presented in II.2.D.2 of the EHC. Without the facility to do this it is not clear how such a product could be certified.

DG SANTE answer:

We confirm that, where the certificate covers a single composite product with ingredients subjected to various treatments, the wording “either/or” may not be exclusive.

b. Groupage

Composite products are frequently exported in ‘groupage loads’ by retailers (e.g. supermarkets) where a single truck may contain a wide range of different composite products.

In these cases, it is likely that the consignment may include products that meet multiple “either”/”or” statements (i.e. different treatment criteria for processed dairy and egg products contained in the products).

We would therefore propose that the “either”/”or” statements within the composite product certificates (for export and transit) are not treated as being exclusive but instead that certifiers should be required to keep all the options which apply to the consignment and include (e.g. in a schedule attached to the certificate) information on which products meet which criteria. As previously outlined, we believe it is reasonable to interpret the EHCs in this manner.

By certifying in this way, the certificates will still clearly and unambiguously demonstrate that the products in

the consignment comply with the relevant SPS conditions.

We believe this approach would be beneficial for both importers and exporters by enabling larger ranges of composite products to be grouped as single consignments for SPS controls and welcome your views on this.

DG SANTE answer:

Please see our previous answers to question 4 in document v2 and to question 1 in document v3 where it was already clarified that various goods can only be entered in the same certificate if they all meet the same guarantees selected in the optional statements.

3. Certification of hatchery waste as animal by-product for the production of pet food.

Commission (EU) Regulation 142/2011 provides an Export Health Certificate in Chapter 3(F) of Annex XV for [ABP for the manufacture of pet food](#). Point II.1.7 of Part II of this certificate clearly indicates that it can be used for a number of animal by-products, including aquatic animals (except sea mammals) and certain material originating from animals that did not show signs of disease communicable disease to humans or animals, such as hatchery by-products, eggs and egg by-products and day-old chicks killed for commercial reasons.

Point II 1.3 of Part II of the certificate, under either of the options presented, requires the certifying officer to attest to the slaughter conditions of the animals that have contributed to the ABP. For the products mentioned above, including hatchery waste, this is not relevant or appropriate. However, section II 1.3 cannot be deleted on its entirety (if not applicable) and it does not provide options to delete entries that are not applicable while the appropriate attestations being retained.

We have advised GB certifying officers to certify the 'either' statement presented in the certificate in its entirety on the basis that this provides the relevant assurances [a (i) and b(i)] from the conditions presented. We would appreciate your confirmation that this is permissible.

DG SANTE answer:

Your reading of point II 1.3 of Part II of the certificate for imports of animal by-products for the manufacture of petfood laid down in Chapter 3(F) of Annex XV to Regulation (EU) No 142/2011 is correct. In this case, you would need to certify points (a)(i), (a)(ii) and (b)(i) in II.1.3. But considering the position of the brackets, you have no other choice than keeping the whole "either" statement of guarantee II.1.3.

4. Coffee products classified as composites

We are aware of different interpretations from EU Border Control posts in relation to coffee products exported by GB traders. Specifically, traders are experiencing inconsistencies with regards to coffee pods products that include a dairy element.

Where a coffee pod product includes both coffee and dairy in the same pod, we understand this to be a composite product in line with the definition of a composite product presented in Article 2(a) of Commission Decision 2007/275/EC. As a composite, if the product contains over 50% dairy, an EHC will be required.

HMRC have declared this to be coffee for customs purposes, including use of the Common Nomenclature (CN) code for coffee.

We would appreciate your view on whether the same product, presented in two separate pods within the same retail package would still constitute a composite product. It would appear that BCPs are applying different interpretations of the composite rules to this particular product, with some requiring a dairy product EHC, and others requesting a composite EHC when the product contains over 50% dairy.

DG SANTE answer:

We confirm that coffee products presented in two separate pods, one for coffee and another for dairy, should be considered as dairy products.

However, the CN classification determines the import requirements for certification (Art. 13 of Reg. 2019/625) and presentation to BCP controls (Annex I to Reg. 2019/2007). For example, if these coffee products are classified under CN 0901 or 2101, they are currently subject neither to official certification, nor to BCP controls for their entry in the EU territory.

5. Certification of poultry meat from GB hatched poultry

We understand that when certifying exports of poultry meat that comes from poultry that has remained in the GB-1 territory (as per the coding Column 2 of Part 1 of Annex I to Regulation (EC) 798/2008) since hatching, the official veterinarian should be able to certify either of the two optional statements under point II.2.3 in Part II of [the EHC](#).

The 'either' option relates to poultry that has remained in the territory of the indicated code since hatching or has been imported into that territory from another third country. The 'or' option also relates to poultry that has remained in the territory of the indicated code since hatching or has been imported into that territory from an EU Member State.

As such, where poultry contributes to the meat being certified either option should be acceptable. However, we are aware of certain BCPs demanding a definitive approach to this "either"/"or" statement.

DG SANTE answer:

Point II.2.3 of the model certificate for meat of poultry (POU) in Annex I to Regulation (EC) No 798/2008 provides for two "either"/"or" options.

As regards the first "either"/"or" option, considering that the option "compartment" is not applicable, only the option "territory" can be selected. However, either of the options can be selected for the second part of this statement, and therefore point II.2.3 of model certificate POU must be read as:

"has been obtained from poultry which has been kept in the territory of code [xxx] since hatching or has been imported as poultry other than ratites (day-old chicks, breeding and productive poultry, slaughter poultry or poultry for restocking game supplies) from (a) third country(ies) listed for that commodity in Part 1 of Annex I to Regulation (EC) No 798/2008 under conditions at least equivalent to those in that Regulation".

or

"has been obtained from poultry which has been kept in the territory of code [xxx] since hatching or has been imported as poultry other than ratites (day-old chicks, breeding and productive poultry, slaughter poultry or poultry for restocking game supplies) from (a) Member State(s)".