



Department
for Environment
Food & Rural Affairs

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Lord Teverson
Chair of the European Union Energy and Environment Sub-Committee
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15th January 2019

Mr Robin,

Thank you for your letter of 19 December concerning my department's preparations for a 'no deal' Brexit. Delivering the deal negotiated with the EU remains our top priority but in response to the decision for government to ramp up its activity on no deal planning for March 2019, my department continues to build on the work it has already undertaken to prepare for no deal. We continue to take practical steps to ensure minimal disruption to businesses and members of the public.

Whether there will be a delay in the UK being able to export animals to the EU

On 16 November the UK submitted its initial application to secure listing as a third country to export live animals and animal products to the EU. We received formal acknowledgement of our application before Christmas and we continue to engage with the European Commission to ensure the process is completed as swiftly as possible.

As recognised in your letter, in the event of no deal, transporters would need to appoint a representative within an EU country and apply to them for the necessary authorisations and certificates. Under Article 12 of Council Regulation EC No 1/2005, transporters cannot apply for authorisation in more than one Member State at a time. A transporter currently holding a UK authorisation would need to wait until the UK has left the EU before applying for a new authorisation to another Member State in which they were legally represented.

It may be possible for a transporter to apply before Exit Day to another Member State if it is able to do so through a separate corporate entity to the one which holds the authorisation in the UK, such as a wholly owned subsidiary based in another Member State. Transporters should seek their own legal advice on this point to ensure that they comply with the requirements of the relevant legislation.

My department is contacting those Member States most likely to receive applications from UK businesses to enable them to take appropriate action to process applications. The time it takes to process applications varies by Member State. As a guide, in the UK we aim to process authorisations within 10 working days following receipt of all required information.

In September 2018, my department published a technical notice on exporting live animals¹ that contained information for business on these requirements. This has been followed by discussions with industry including presentations at two regional stakeholder events held in December 2018. This month, we intend to contact all transporters that currently hold a UK authorisation to transport animals to ensure that they are aware of the requirements. We will continue to contact transporters directly to update them as appropriate.

The lack of a Border Inspection Post at Calais

The Department for Transport is leading work to assess the impact on the road network of possible re-routing of exports. We will continue to update the committee as this work develops.

The UK not setting its own fishing quotas, or being able to control access to UK waters, from day one of Brexit

At the December Council meeting the UK negotiating team worked to deliver increased quota in certain high-value stocks, while ensuring stocks continue to be fished at sustainable levels to ensure the future prosperity of the industry. We have developed an approach to quota allocations in the event of no deal for which we are seeking cross-government agreement. We will update the committee on our position as soon as we can.

Whether there will be a delay in the UK being able to export waste to the EU

UK regulators have made substantial progress in agreeing with EU counterparts that shipments of notified waste which had previously received consent can, in a no deal scenario, continue to be shipped with no requirement for a new application by UK exporters. The regulators have agreed that 77% of notifications to export waste from England to the EU can be rolled-over. This represents 92% of the tonnage of proposed waste exports from England to the 27 EU Member States. My officials are in contact with the remaining 8 Member States that are still to provide a response. If responses are not received by 14 January, UK regulators will re-submit the previous applications to the relevant EU regulators who will have 30 days to process these applications once they have acknowledged receipt. It is in the interest of EU competent authorities to roll-over existing notifications in order to avoid the burden of re-approving applications at a later date. Given the progress made with other Member States on this issue, my officials are confident that it will be possible to obtain re-approval of the remaining shipments before 29 March 2019.

The Environment Agency has identified waste destined for export to EU countries after March 2019. Of waste that is notified to the Environment Agency, by far the largest single waste stream is refuse derived fuel (RDF), destined for European waste plants. In the last year we exported around 3.6 million tonnes of RDF to the EU and around 15% of this went via the port of Dover (<40,000 tonnes per month).

¹ Department for Environment, Food and Rural Affairs, Exporting animals and animal products if there's no Brexit deal <https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexite-deal>

In December 2018, the Environment Agency began assessing waste disposal capacity, particularly in the South East of England, should waste that cannot be exported need to be disposed of. Staff across the Environment Agency are engaging with operators to identify where issues, including stockpiling, may arise. The Environment Agency is ready to respond to requests from industry for additional storage of waste and will process any such requests as promptly as it can. In the event of a no deal scenario causing stockpiling, the Environment Agency is able to issue an 'enforcement position' to allow waste sites to go over the permitted levels on a temporary case-by-case basis.

Progress of Statutory Instruments

Since the National Audit Office report was published in September 2018 we have made good progress on our EU exit Statutory Instrument (SI) programme and are confident that we can deliver a fully functioning statute book for the day we leave the EU. We have drafts of 111 of our 120 EU exit SIs, including 25 EU exit SIs we are drafting for Northern Ireland. The remainder rely on future EU regulation which will come into force while we are a member, and will be drafted once the requisite change comes forward. There are currently 51 SIs within the programme which require affirmative resolution, though this number is kept under review. Of these, 20 have already been laid in draft before Parliament. As of 11 January 2019 we have laid a total of 83 EU exit SIs before Parliament or the sifting committees. The SI programme is now rated amber and we expect all SIs needed for day one to be laid in Parliament by the end of February.

Veterinary capacity

Defra has established the new role of Certification Support Officer (CSO), with the agreement of the Royal College of Veterinary Surgeons. This role allows the industry to supplement its existing official vet capacity. CSOs will be employed by the private veterinary sector and as such Defra has not set recruitment targets for the role. Based on engagement with the certification services market, we are confident the industry will react and deploy resources effectively to meet the increased demand for export health certificates.

We launched the training programme for CSOs just before Christmas and have seen encouraging levels of early interest. The online training course takes a total of six hours to complete. The Animal and Plant Health Agency (APHA) issues authorisation within ten days of successful completion of an exam. There is therefore sufficient time before the end of March to authorise CSO roles. Defra will continue to engage with, encourage and support the veterinary profession as we prepare to leave the EU.

Thank you again for your letter.

With every good wish,

Yours,
Michael

Michael Gove