NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF ORGANIC PRODUCTION METHODS (‘ORGANIC PRODUCTS’)

Since 1 February 2020, the United Kingdom has withdrawn from the European Union (EU) and has become a ‘third country’.1 The Withdrawal Agreement2 provided for a transition period, which ended on 31 December 2020. During the transition period, the European Union and the United Kingdom negotiated a Trade and Cooperation Agreement, which was signed on 30 December 2020 and applied provisionally from 1 January 2021 until its entry into force on 1 May 2021.3

The Trade and Cooperation agreement has created a relationship, which in terms of market access conditions is very different from the United Kingdom’s participation in the internal market,4 in the EU Customs Union and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation applicable since the end of the transition period, taking account of the Trade and Cooperation Agreement (Part A below). This notice also explains the rules applicable to Northern Ireland as of the end of the transition period (Part B below).

Advice to stakeholders:
To address the consequences set out in this notice, stakeholders engaged in the production, distribution and certification of organic products are in particular advised to:
- ensure that the control body can legally supply certification services under the terms of the Trade and Cooperation Agreement; and
- adapt distribution channels, to take account of the new organic trade requirements.

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1 A third country is a country that is not member of the EU.
4 In particular, a free trade agreement does not remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.
A. LEGAL SITUATION AS OF THE END OF THE TRANSITION PERIOD

Since 1 January 2021, the EU rules in the field of organic production no longer apply to the United Kingdom.\(^6\)

The EU and the United Kingdom have mutually recognised the equivalence of their organic legislations in the Trade and Cooperation Agreement.\(^7\) However, given the application of Regulation (EU) 2018/848\(^8\) as of 1 January 2022, equivalence will be reassessed by 31 December 2023.\(^9\)

As from 1 January 2021, for an organic product from the United Kingdom imported into the EU, the rules laid down in Article 4(1) of Annex 14 to the Trade and Cooperation Agreement apply. Thus, products imported from the United Kingdom can be placed on the EU market as organic provided that:

- they fall within the scope of Appendix 14-A. In particular, organic products from the United Kingdom listed in this appendix shall be unprocessed agricultural or aquaculture products produced in the United Kingdom or processed agricultural products for use as food or feed that have been processed in the United Kingdom with ingredients that have been grown in the United Kingdom or that have been imported into the United Kingdom in accordance with United Kingdom laws and regulations; and

- they are accompanied by a certificate of inspection issued by a control body recognised by the United Kingdom and notified to the Union in accordance with Article 4(3) of Annex 14 to the Trade and Cooperation Agreement.\(^10\)

For an organic product from the EU imported into the United Kingdom, the rules laid down in Article 4(2) of Annex 14 to the Trade and Cooperation Agreement apply. However, the United Kingdom has decided that organic products imported from the EU will not require a certificate of inspection until further notice.\(^11\)

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6. Regarding the applicability of the EU law on organic products to Northern Ireland, see Part B of this notice.


9. Article 3(3) of Annex 14 TCA.


B. APPLICABLE RULES IN NORTHERN IRELAND AFTER THE END OF THE TRANSITION PERIOD

Since the end of the transition period, the Protocol on Ireland/Northern Ireland (‘IE/NI Protocol’) applies.\textsuperscript{12} The IE/NI Protocol is subject to periodic consent of the Northern Ireland Legislative Assembly, the initial period of application extending to 4 years after the end of the transition period.\textsuperscript{13}

The IE/NI Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/NI Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.\textsuperscript{14}

The IE/NI Protocol provides that Regulation (EU) 2018/848 applies to and in the United Kingdom in respect of Northern Ireland.\textsuperscript{15}

This means that references to the EU in Part A of this notice have to be understood as including Northern Ireland, whereas references to the United Kingdom have to be understood as referring only to Great Britain.

More specifically, this means \textit{inter alia} the following:

- organic products placed on the market in Northern Ireland have to comply with Regulation (EU) 2018/848;
- organic products moved from Northern Ireland to the EU are not imported organic products (see Part A above);
- organic products moved from Great Britain to Northern Ireland are imported organic products and have to comply with EU rules for imports of organic products (see Part A above); and
- in the context of Regulation (EU) 2018/848, control bodies established in Northern Ireland are considered as control bodies established in a Member State and are not subject to the recognition of third country control body under Articles 46 and 57 of Regulation (EU) 2018/848. The United Kingdom’s competent authority is the competent authority for control bodies in Northern Ireland.

Control bodies established in Northern Ireland may provide the certificate referred to in Article 35 of Regulation (EU) 2018/848.\textsuperscript{16} However, the IE/NI Protocol excludes the possibility for the United Kingdom in respect of Northern Ireland to:

- participate in the decision-making and decision-shaping of the Union.\textsuperscript{17}

\textsuperscript{12} Article 185 of the Withdrawal Agreement.
\textsuperscript{13} Article 18 of the IE/NI Protocol.
\textsuperscript{14} Article 7(1) of the Withdrawal Agreement in combination with Article 13(1) of the IE/NI Protocol.
\textsuperscript{15} Article 5(4) and section 33 of Annex 2 to the IE/NI Protocol.
\textsuperscript{16} Second subparagraph of Article 7(3) of the IE/NI Protocol.
• initiate objections, safeguard or arbitration procedures to the extent that they concern regulations, standards, assessments, registrations, certificates, approvals and authorisations issued or carried out by EU Member States;¹⁸ and

• act as leading authority for assessments, examinations and authorisations.¹⁹

Information concerning organic products is available on the website of the European Commission (https://ec.europa.eu/agriculture/organic/index_en). This information is updated, as necessary.

European Commission
Directorate-General for Agriculture and Rural Development

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¹⁷ Where an information exchange or mutual consultation is necessary, this will take place in the joint consultative working group established by Article 15 of the IE/NI Protocol.

¹⁸ Fifth subparagraph of Article 7(3) of the IE/NI Protocol.

¹⁹ Article 13(6) of the IE/NI Protocol.