



SPS CERTIFICATION WG SUBMISSION

Trade and Business Commission 2023 Inquiry Questions

<https://www.tradeandbusiness.uk/consultation>

The UK Trade and Business Commission is taking evidence submissions to understand the main challenges facing businesses, organisations, and economic sectors to establish which policies and trading arrangements will help overcome the economic and trading challenges facing the UK today.

1. Which of the following best describes your organisation?

SME	Sole proprietor	Large corporation
Higher education	Think Tank / Research	Other (state): Industrywide group of trade and professional organisations in the food chain

2. Where do you operate?

Nationally, **UK-wide**:

North East	North West	Yorks. and Humber	East Midlands
West Midlands	East of England	London	South East
South West	Wales	Scotland	NI

Internationally:

3. In which sector does your organisation operate? This question is required. *

Manufacturing	Construction	Farming & Agri	Fishing
Logistics	Transport	Financial services	FinTech
Wholesale and retail	Accommodation	Hospitality	Real-estate
Music & Entertainment	Fashion and textile	Sport	Culture & the Arts
Local Government	Trade Unions	Environmental Sci	Education
Healthcare	Other		

4. The following are a few general questions about your business.

4.1 What are the main challenges facing your industry/sector, and what are the main drivers of these challenges?

Exceptionally high energy (RU invasion of UA), production and distribution costs (Brexit, RU/UA, COVID-19) coupled with UK retailer pressure on producers not to pass on costs to consumers despite food inflation having reached 16.9%.

Unreliable availability and high cost of produce/ingredients (energy costs, UK unattractive to exporters, shortage of UK labour).

Lack of support from Govt on energy costs and lack of availability of staff in agriculture and food production generally have resulted in commercial decisions being made by UK growers not to plant crops. In addition, the UK is not seen as a particularly attractive European market to e.g. produce exporters.

Reduced staff availability throughout the food supply and distribution chain, and of now-required certifiers (e.g. OVs, EHPs) particularly since Brexit.

Post-Brexit OV shortages and costs to industry have been exacerbated by AI workload.

Post-Brexit SPS, Customs and tariff-related bureaucratic barriers to trade with the EU (and NI) including EHC requirements, the costs of which can render export non-viable.

In addition there is new inability to export to the EU certain foods/supplements produced in the UK where EU ingredients have been used (triangular trade) owing to restrictions which came into effect in Q2 2022.

Incoming EU foods/ingredients are not required by GB to be accompanied by the documentation that is required by the EU for final products to be accepted. From 1 January 2022 Reg 1235/2008 Annex IV was updated resulting in only products within the terms of the TCA being accepted for export to the EU. This prevents UK businesses re-exporting to the EU organic products lawfully produced and holding relevant certification.

Loss of the previous common EU/UK system of regulating goods and services, leading to additional compliance requirements.

Congestion at key ports during periods of increased activity, owing to insufficient peak capacity to take account of changes to SPS documentation, customs and tariffs requirements.

Uncertainty around future arrangements, e.g. TOM, details of implementation of the Windsor Framework. The pace and breadth of policy change in the UK has posed a challenge for industry in recent years and there has not always been requisite transparency in policy development and true 'co-design' to ensure that policy works in practice for businesses of all sizes.

Inefficient regulatory processes reducing productivity and supply chain effectiveness.

4.2 What steps has the UK Government taken to address these challenges?

Various UK-EU Trade and Cooperation Agreement Specialised Committees have been established to oversee implementation. However, it is apparent that UK-only issues as a Third Country arising from Brexit are not a priority matter for the EU unless significant problems are caused to EU businesses.

Work is underway by Defra on eCertification as a potential relief of some of the SPS

and potentially other paperwork requirements but progress is slow and currently the system is a long way from being able to handle multicomponent foods' data let alone in such a way as to give significant time/cost benefit to businesses. However, we continue to support this work including facilitating piloting through our members and by regular engagement with Defra, FSA and the Cabinet Office.

In relation to triangular trade, FAQs and guidance were produced by UK Govt but there was no impact assessment from a UK business perspective.

Regarding organic products we are aware of UK Govt lobbying by the Soil Association, but not of any actions taken by UK Govt.

What is needed is an SPS agreement for GB with the EU, and recognised equivalence of standards.

4.3 How have the UK's new international trading relationships affected you?

The EU remains the UK's largest food export market accounting for 65% of the value of sales in 2022 compared with 68% in 2019¹. It is also the predominant source of food/ingredient imports.

For some sectors such as the UK's short shelf life chilled food sector, GB-ROW trade is not of material relevance. This is owing to the short shelf lives of chilled prepared foods which mean that their export to locations with transportation taking more than ~24h is not feasible. Given the own label nature of the UK's chilled prepared food industry, trade is primarily with multiple retailers, some of whom were present on the Continent and supplying from the UK, but who have ceased such operations owing to Brexit bureaucracy, removing those markets.

The TCA has resulted in EU re-export restrictions on certain non-GB originating products where no processing/changes are made.

We have summarised in Appendix 1 the estimated cost of EHC certification both in terms of certifier (OV and EHP) years and financial costs including additional sales needed to cover these new costs of trading.

The headlines for GB-EU (excluding GB-NI) food EHC numbers and certification costs and certifier time since 1/12/20 to 31/1/23 are:

Cumulative total no. EHCs	582462
Certifier years	576
Certifier cost to industry	£116m
Sales required to cover costs	£5.8bn

ROW trade has not increased significantly post-Brexit as the vast majority of the more than 70 trade agreements are "roll over agreements" made to ensure continuity at the moment of EU exit. Additional uncertainty may lie ahead e.g. in

¹ As noted by the NFU in its submission, 2022 volumes of food and live animals exported to the EU have dropped by more than 20% compared with 2019. Volumes of meat and meat preparations are down 24%, dairy products and eggs down 20.3% and fruit and vegetables down 25%. In value terms UK-EU export of these goods is 5.9% down on 2019, with the even starker reality being masked by high inflation.

changing Rule of Origin rules, maintaining the UK's organic equivalence agreements, accessing preferential tariff quotas and ensuring geographical indicator protections are upheld.

FTAs with Australia and New Zealand await ratification by the Govt but offer very little benefit to British farmers. There needs to be accelerated government action to open up new export markets, not just focussing on FTAs.

4.4 What do you need as part of future trade deals negotiated by the UK Government? An overview of the Government's trade deals can be found here: <https://www.gov.uk/guidance/uk-trade-agreements-in-effect>

The priority must be for trade to be facilitated regarding GB-EU POAO export and re-export of foods to the EU (triangular trade).

An SPS agreement is needed with the EU to facilitate fair GB-EU border controls with much reduced administrative burdens and associated costs. See <https://www.chilledfood.org/wp-content/uploads/2021/06/SPS-Certification-Report-FINAL-10-06-21-for-web.pdf>

Incoming goods from EU/ROW to GB must be subject to controls to assure UK biosecurity and food safety. EU-GB SPS border control asymmetry must be addressed so as not to put GB at disadvantage.

Parliamentary scrutiny of trade deals and measures in relation to the EU must be improved, to including economic and consumer impact assessments. Ongoing consultation mechanisms for industry on FTA negotiations should also be improved.

4.5 If you have anything else you'd like to contribute to this consultation, feel free to upload it here

See Appendix 1 for APHA EHC data 31 December 2020 to 31 January 2023 and associated estimated certification costs and certifier time. These figures for food EHCs for GB-EU trade (not to NI) use the latest complete year datasets we have received from APHA for 2021-22. Whilst APHA used to release the data on simple request this is now only released on submission of FOI requests. Not only is there reduced transparency in data provision but retrospective EHC data received for 2021 in 2022, and for 2022 received so far this year have been amended by APHA owing to various technical issues, resulting in data quality uncertainty.

5. The next questions are about Manufacturing.

5.1 What, if any, trade barriers are you/your members/your business currently facing? What, if any, policies or changes to the UK's trading relationships could improve your/your members'/your business' market access?

Burden of SPS and other Brexit-related bureaucracy to trade with the EU, and for the UK's chilled prepared food sector specifically with Ireland, its last remaining export market.

Triangular trade legal basis remains unclear despite industry and UK Govt having requested clarification by the EC.

Uncertainty arising from future divergence of previously common rules (REUL).

An SPS agreement with the EU is necessary. See our June 2021 report “*Minimising Friction in SPS Trade*”: <https://www.chilledfood.org/wp-content/uploads/2021/06/SPS-Certification-Report-FINAL-10-06-21-for-web.pdf>

5.2 What, if any, regulatory challenges are you/your members/your business currently facing, and how could they be improved?

REUL presents major potential issues from divergence between the UK and EU to divergence within the UK (GB vs NI, England/Wales vs Scotland vs NI) on Official Controls, labelling (e.g. stevia as a sweetener, expiry date labelling), food safety requirements (e.g. expected forthcoming adverse revision of EU Reg 2073/2005), novel foods, food additives etc. It is also not clear what the consultation mechanism with industry is on REUL and that needs to be clarified.

This is in addition to Windsor Framework-related labelling changes which present significant issues for businesses supplying GB, NI and the EU, particularly for retailer own label foods where producers do not have visibility of where each item will be distributed to by the retail customer so cannot necessarily identify what special label should or should not appear on packs. There is concern that this additional complexity and associated cost may lead to supply to Ireland from GB being further stressed potentially leading to sourcing from Ireland for the island of Ireland.

Divergence will further reduce ability to trade, potentially even within GB given Scotland’s approach to adopting EU law by default.

5.3 What, if any, labour market challenges are you/your members/your business currently facing? How could your/your members’/your business’ access to skills be improved?

Many foods such as UK multicomponent short shelf life chilled foods are primarily hand made. Their production not only requires all components meeting all specifications to be available in the right quantities and at the right time, but also the people to plant the crops, harvest, product the core ingredients, to assemble and distribute the food.

Labour market challenges are affecting all these parts of the supply and distribution chain. Salaries have been increased in many cases but there remains a shortfall throughout the food industry, which has only worsened since Brexit when many European colleagues left the country, and which is not sufficiently eased by Seasonal Worker schemes. Efforts to gain the interest and engagement of potential employees local to businesses have not been greatly successful, as reported widely particularly in the agricultural sector where farming is priced out of the market. However, food businesses are actively engaging with potential employees by e.g. running careers opportunity programmes and engagement locally with schools, universities, and local populations.

5.4 What, if any, supply chain challenges or logistical challenges are you/your members/your business currently facing? How could these be addressed?

Availability of produce/ingredients, staff.

Exceptional costs.

A meaningful medium-long term energy price cap is required for food businesses including growers.

See answer to 4.1.

5.5 How, if at all, is inward investment affecting you/your members/your business? How can investment and innovation be improved?

N/A

5.6 In what ways can future trade deals negotiated by the UK Government help facilitate future investment in your industry?

SPS agreement is needed with the EU. FTAs must address and protect UK biosecurity, food safety and future viability of UK industry including agricultural production.

The opening of new export markets via the ability to negotiate independent FTAs is welcome, but there must be a focus on simultaneously attaining SPS approval for products to these markets in order for businesses to actually be able to take advantage of any new customs/tariff opportunities. FTAs only assist with tariff access and negotiating a zero tariff for an export that we cannot actually send if we don't have SPS approval means exports cannot happen for goods such as meat.

5.7 Since the UK's departure from the EU, in your view, how has the UK manufacturing industry been impacted?

Different sectors' markets have been affected to different degrees.

Markets reachable with chilled short shelf life foods have been markedly reduced, particularly on the Continent, and supply of particularly short shelf life foods (up to ~4 days shelf life) to NI has been curtailed, reducing consumer choice and resulting in diversion of their production from GB producers to those based e.g. in Ireland.

£85m of UK chicken exports to the EU were lost in 2021, with a 69% decrease in Q1 2021 [see British Poultry Council submission]. Equivalent SPS rules are not applied by the UK to imports, putting the UK at competitive disadvantage.

We have compiled APHA data on the number of food EHCs since January 2020 and estimated the cost of SPS certification for GB-EU trade (Appendix 1).

Estimated certification costs for GB-EU trade incurred by the GB food industry since December 2020, when businesses had to start to obtain EHCs to be sure their goods would be accepted at EU MS BCPs from 1/1/21, are £116m. At a profit margin of 2%

this equates to £5.8bn additional food exports being required to cover these new costs. Such exports have not materialised.

Note that these data exclude GB-NI EHCs.

The absence of a UK voice in the EU and therefore loss of influence in EU decision making is telling.

5.8 Overall, do you feel Brexit has been a source of uncertainty for your industry?
Yes.

The Brexit no deal 'deal' consequences are the major source of continued uncertainty in our industry which is the UK's largest employer.

Of ongoing concern is uncertainty from repeated slippage of stated timetables/deadlines and changes of direction for requirements among others for:

- EU-GB import controls
- for GB-NI goods movement facilitation such as details of the mechanics necessary to realise the practical functioning of the Windsor Framework, e.g. what at any one time comprises a medium risk food and what requirements apply to such foods. Only Green and Red Lanes have been referred to, being for low and high risk foods.
- any material details of TOM
- development of a streamlined eCertification and sufficient piloting with complex foods, with SMEs and large numbers of businesses to ensure not only technical functionality but also usage simplicity and financial viability to users
- Guidance for food businesses, distributors and enforcers in relation to new requirements

The now added major uncertainty of REUL impacts on future potential ability to trade with the island of Ireland, which is for the UK's chilled prepared food sector the only significant remaining export market, and even for internal GB trade.

There needs to be greater clarification about how the single trade window, TOM, ecosystems of trust etc interrelate, with opportunity for feedback.

5.9 In what ways can future trade deals negotiated by the UK Government help facilitate future investment in your industry?

Owing to the short shelf lives of chilled prepared foods export to locations with transportation taking more than ~24h is not feasible. Also, given the own label nature of the industry, trade is primarily with multiple retailers, some of whom were present on the Continent and supplying for the UK have ceased such operations owing to Brexit bureaucracy, removing those markets.

However, continued but bureaucratically streamlined trade facilitated with the island of Ireland would be welcome. There has been a shift by some retailers to move away from GB food producers to those in the Republic .

Some form of mutual SPS/veterinary agreement with the EU could ease problems trading food and feed between GB and the EU, and from EU to GB when import controls take effect. Of course digitisation must be part of the solution, but it cannot obviate all bureaucratic burden or associated costs which did not exist prior to Brexit.

6. Lastly, some information about you. This question is required. *

First name

Last name *

Phone number

Email *

Company *

SPS Certification Working Group, www.chilledfood.org/Brexit

And what's your job title?

Chair

7. Are you happy for the information provided to be included verbatim in our report?

If not, you can choose to submit anonymously and no identifying information will be published

I'm happy for all the information to be used

8. Are you happy for us to keep in touch with you about this report and other work by the UK Trade and Business Commission?

Yes, please keep in touch

By submitting this evidence, you are giving consent for Best for Britain to use your evidence in accordance with our privacy policy. <https://www.tradeandbusiness.uk/privacy-policy>

Appendix 1

GB-EU Food EHCs Applied for Dec 2020-Jan 2023 by month

(Excludes Northern Ireland trade, equines, germplasm, pets)

Month	APHA Dec 2020-22 (full years' datasets) + Jan 2023
January	103248
February	27421
March	49031
April	38839
May	39789
June	59964
July	39168
August	45988
September	39071
October	38917
November	42657
December	58369
Cumulative total no. EHCs	582462

Certifier time	576 years
Certifier cost to industry	£116m
Sales required to cover costs	£5.8bn