

Food & Drink Sector Regulation Changes





Agenda

- ❑ Implications of Brexit
- ❑ UK-EU Trade & Cooperation Agreement
- ❑ About the UK Food and Drink sector
- ❑ Impact of Brexit on UK Food and Drink sector:
 - ❑ Product labelling
 - ❑ Sanitary standards
 - ❑ Tariffs and Origin
 - ❑ Non-tariff barriers
 - ❑ Northern Ireland Protocol
 - ❑ Import and Export
 - ❑ Regulation and divergence
- ❑ Future developments in UK-EU trade
- ❑ Sources of information and advice





Brexit implications

Extra formalities and considerations relating to UK-EU trade in goods:

- ❑ Documentation requirements
- ❑ Border controls and checks
- ❑ Import duty and VAT
- ❑ Licensing controls
- ❑ Regulation and equivalence
- ❑ Certification
- ❑ Product origin
- ❑ Export pricing
- ❑ Potential Customs delays
- ❑ Cashflow
- ❑ Exchange rate fluctuation
- ❑ Commercial contract changes





UK-EU Trade & Cooperation Agreement (TCA)

Four key provisions within the UK-EU TCA that “directly” impact Food and Drink businesses:

- ❑ Zero tariffs and quotas
- ❑ Rules of Origin
- ❑ Customs and Trade
- ❑ Conformity Assessments

Others Brexit implications can be seen to “indirectly” impact the Food and Drink sector:

- ❑ Shortfall of workers, loss of EU nationals
- ❑ Loss of farming subsidies
- ❑ Non-tariff barriers to export
- ❑ Regulatory divergence: Health and Safety, Consumer Protection, Climate change and the environment, etc.

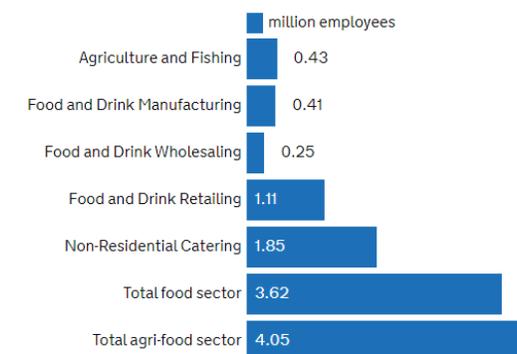




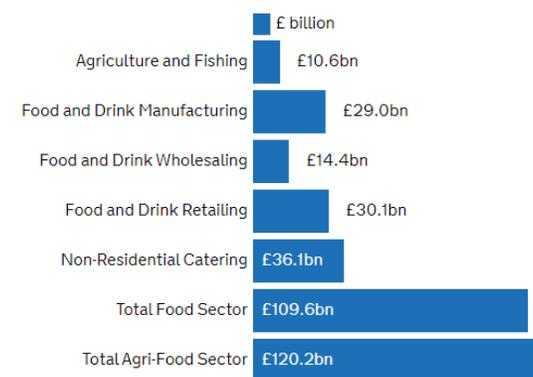
About the UK Food and Drink sector

- ❑ Agri-food sector contributed £120.2 billion GVA in 2018
- ❑ Agri-food sector employs 4.1 million (Q4, 2019)
- ❑ UK food and drink manufacturing sector employs 106K EU workers (>25% of total workforce)
- ❑ 95% of the UK's 7,400 food and drink manufacturing businesses are SMEs
- ❑ Value of UK food and drink exports in 2019 = £23.6 billion (up £4 billion from 2015)
- ❑ UK ships food and drink products to over 220 countries worldwide
- ❑ UK's top 3 export markets for food and drink: Ireland, the US, and France
- ❑ UK's top food and drink exports: Whiskey (£5B), Salmon (£832M), Chocolate (£775M), Cheese (£707M), Gin (£674M), Wine (£661M), Beef (£584M), and Pork (£583M)
- ❑ The US, China, the UAE, India and Japan are all attractive, high growth markets for UK food and drink companies
- ❑ Markets with emerging middle classes and higher levels of disposable income pose attractive opportunities for UK food and drink exporters

Gross Added Value of the UK agri-food sector 2018



Gross Added Value of the UK agri-food sector 2018





Impact: Product labelling

Food labelling – what you must show:

- ❑ the name of the food
 - ❑ a 'best before' or 'use by' date
 - ❑ any necessary warnings
 - ❑ net quantity information
 - ❑ a list of ingredients (if there is more than 1)
 - ❑ the country of origin, if required
 - ❑ the lot number or use-by date
 - ❑ any special storage conditions
 - ❑ instructions for use or cooking, if necessary
- NB: Special rules for certain products





Impact: Product labelling

Food Business Operator (FBO):

- ❑ Mandatory 1st Jan 21 - prepacked foods sold in the EU27 must include:
 - ❑ EU/NI address of responsible business operator or importer established in the EU or NI
 - ❑ PO box does not qualify as 'legally established'
 - ❑ GB address is no longer sufficient
- ❑ Mandatory 1st Oct 22 - prepacked foods sold in GB must have:
 - ❑ GB address
 - ❑ Permitted to use EU, GB, or NI address until 30th Sep 22
 - ❑ Products are permitted to carry details of both GB and EU/NI FBOs
 - ❑ Permitted to use over-stickers (cannot obstruct other labelling requirements)
 - ❑ Labels must be provided in a language that is understandable by local customers
- ❑ Considerations: Engage a distributor, Set up a local office, Limit sales to customers happy to act as the importer





Impact: Product labelling

Equivalency on 'organic' foods:

- ❑ EU recognises organic certification schemes operating in the UK until 31st Dec 2023
 - ❑ Organic Farmers & Growers CIC (GB-ORG-02)
 - ❑ Organic Food Federation (GB-ORG-04)
 - ❑ Soil Association Certification Ltd (GB-ORG-05)
 - ❑ Biodynamic Association Certification (GB-ORG-06)
 - ❑ Quality Welsh Food Certification Ltd (GB-ORG-13)
 - ❑ OF&G (Scotland) Ltd (GB-ORG-17)
- ❑ UK recognises EU's organic certification schemes until 31st Dec 2023
 - ❑ Secures GB companies' access to NI market
 - ❑ Secures GB companies' access to EU market (£255M per annum)
 - ❑ GB loses access to ROW equivalency agreements negotiated as part of EU
 - ❑ Latest status and advice: contact organic certification body (above)





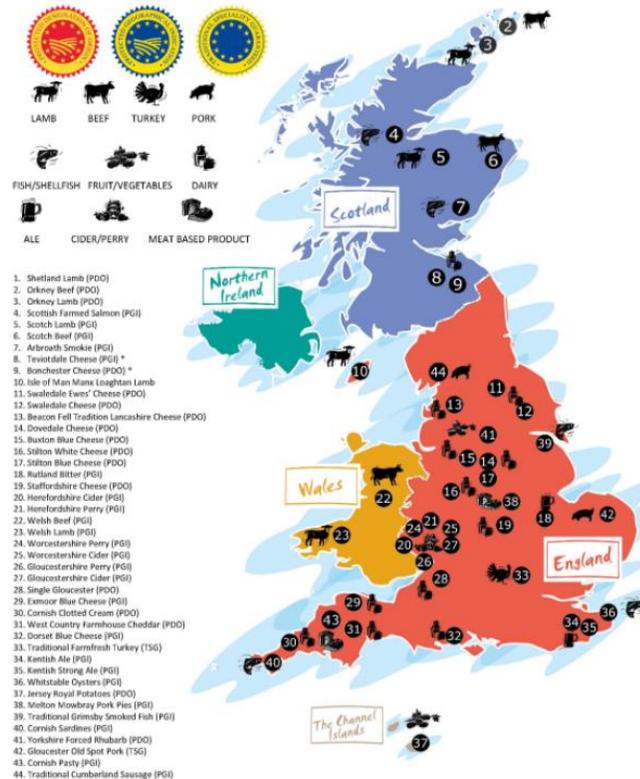
Impact: Product labelling

Geographical Indications:

Food, drink and agricultural products with a geographical connection or that are made using traditional methods can be registered and protected as intellectual property

- ❑ GIs in the UK have been registered and protected under the EU GI schemes
- ❑ All existing UK products registered under EU GI schemes are now protected in the UK under the UK GI schemes
- ❑ The EU GI schemes will protect registered product names when they are sold in Northern Ireland (NI) and the EU
- ❑ Producers or retailers of an agri-food GI produced in GB must use correct UK logo from 1st Jan 24
- ❑ Registration of new products: 4 UK GI schemes
- ❑ Registration under an EU GI scheme requires previous registration under a UK GI scheme

EU Protected Food Names in the United Kingdom





Impact: Product labelling

Country of Origin labelling:

“Origin is either the product’s ‘country of origin’ or ‘place of provenance’. The ‘country of origin’ is the country from which the product was wholly obtained or, if production involved more than one country, the country where the product last underwent substantial, economically justified processing.”

EU labelling:

- ❑ Food from NI can continue to use ‘origin EU’
- ❑ Food from GB must not be labelled as origin ‘EU’ from 1st Jan 21

GB & NI labelling:

- ❑ Food from and sold in NI can continue to use ‘origin EU’ from 1st Jan 21
- ❑ Food from and sold in GB can be labelled as ‘origin EU’ until 30th Sep 22
- ❑ From 1st Oct 22, food from GB must not be labelled as ‘origin EU’





Impact: Product labelling

Health and Identification Marks:

“The health mark is a legible and indelible oval mark at least 6.5cm wide by 4.5cm high, containing either the full country name or the abbreviation for the Product of Animal Origin (POAO) produced in that country.”

- Effective 1st Jan 21 – POAO produced in GB (i.e. meat, fish, eggs, cheese and milk) cannot use EC reference code within oval health and identification mark
- Reference codes have to be replaced with one of 3 variants i.e. United Kingdom, GB or UK
- For POAO produced in Northern Ireland, the new identification mark must contain either the full country name ‘United Kingdom (Northern Ireland)’ or the ‘UK(NI)’ abbreviation followed by the approval number of the establishment. It must also contain the letters ‘EC’ after the approval number.
- The UK Government recommends use of the full country code ‘UNITED KINGDOM’ where practical





Impact: Product labelling

Additional considerations:

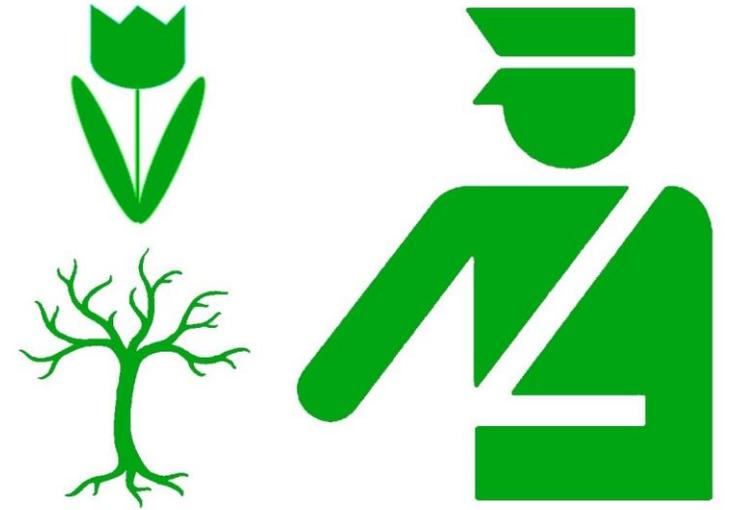
- ❑ EU emblem –
 - ❑ British food products no longer permitted to use
 - ❑ British produced foods must use the British emblem to signify the country of origin on the food label when exporting to the EU
 - ❑ British-produced goods that are to be sold in GB can still use the EU emblem until 30th Sep 22
- ❑ EU organic logo –
 - ❑ Permitted to use until 31st Dec 23 (but optional)
 - ❑ If used, product must meet EU organic labelling requirements and statement of agricultural origin
 - ❑ If used for exports to the EU, both the GB statement of agriculture ('UK or non-UK Agriculture') and the EU statement of agriculture ('EU or non-EU Agriculture') must be included
 - ❑ Use of UK organic control body logo is still permitted





Impact: Increased sanitary standards

- ❑ UK and EU maintaining separate regimes regulating human, plant and animal health
- ❑ Sanitary and Phytosanitary (SPS) border controls apply to the flow of goods
- ❑ Burden – extensive checks, special paperwork, physical inspections
- ❑ Recognition of ‘Zoning’
- ❑ Commitment to cooperation on animal welfare, antimicrobial resistance and sustainable food systems
- ❑ ‘National Listed Status’
- ❑ No equivalence for SPS measures or reduced checks / fees
- ❑ New Trade Specialised Committee on Sanitary and Phytosanitary Measures
- ❑ Continued review and facilitation efforts





Impact: Rules of Origin replace Free Circulation

Understanding what it all means:

- ❑ Originating status
- ❑ Cumulation (Bilateral, Diagonal, Regional, Full)
- ❑ Product specific rules
- ❑ Minimal operations
- ❑ General tolerance rule
- ❑ No “drawback” rule
- ❑ Direct transport rule
- ❑ Proof of Origin





Impact: Tariffs and Origin (UK-EU CTA)

- ❑ UK-EU Trade and Cooperation agreement achieved shared ambition of having no tariffs or quotas for qualifying products
- ❑ On tariffs and quotas, the UK-EU agreement is unlike any other EU FTA
- ❑ To qualify for tariff-free access, products must meet Rules of Origin (RoO), notion of “*wholly obtained*” and “*sufficiently transformed*”
- ❑ Each company in the supply chain must understand its Bill of Materials and the origin of its products
- ❑ Much welcomed ‘bilateral cumulation’





Impact: Tariffs and Origin (examples)

- ❑ UK “wholly obtained” examples:
 - ❑ Plants and vegetable products grown or harvested in the UK
 - ❑ Products obtained solely from live animals raised in the UK or slaughtered animals born and raised in the UK
 - ❑ Products obtained from aquaculture in the UK
 - ❑ Fish caught within UK territorial waters
 - ❑ Fish caught beyond territorial waters by vessels registered in UK or EU and flagged in the UK or by EU Member States, and meeting UK or EU ownership requirements
- ❑ UK “sufficiently transformed” will be those that meet the rules laid out in the UK-EU agreement:
 - ❑ Pork loin of EU origin processed in the UK to make bacon
 - ❑ Vegetable seeds from outside the UK or EU, grown and harvested as vegetables in the UK
 - ❑ Oranges from Morocco are made into Marmalade in the UK
 - ❑ Tomatoes from the UK and EU tinned in the UK





Impact: Non-tariff barriers

- ❑ Sanitary and phytosanitary measures (non protectionist policies)
- ❑ Technical barriers
- ❑ Pre-shipment inspection and other formalities
- ❑ Licenses
- ❑ Regulatory standards
- ❑ Quality conditions
- ❑ Impacts on post-sale services
- ❑ Rules of origin
- ❑ GDPR
- ❑ Changes to VAT
- ❑ Northern Ireland Protocol





Impact: Northern Ireland Protocol

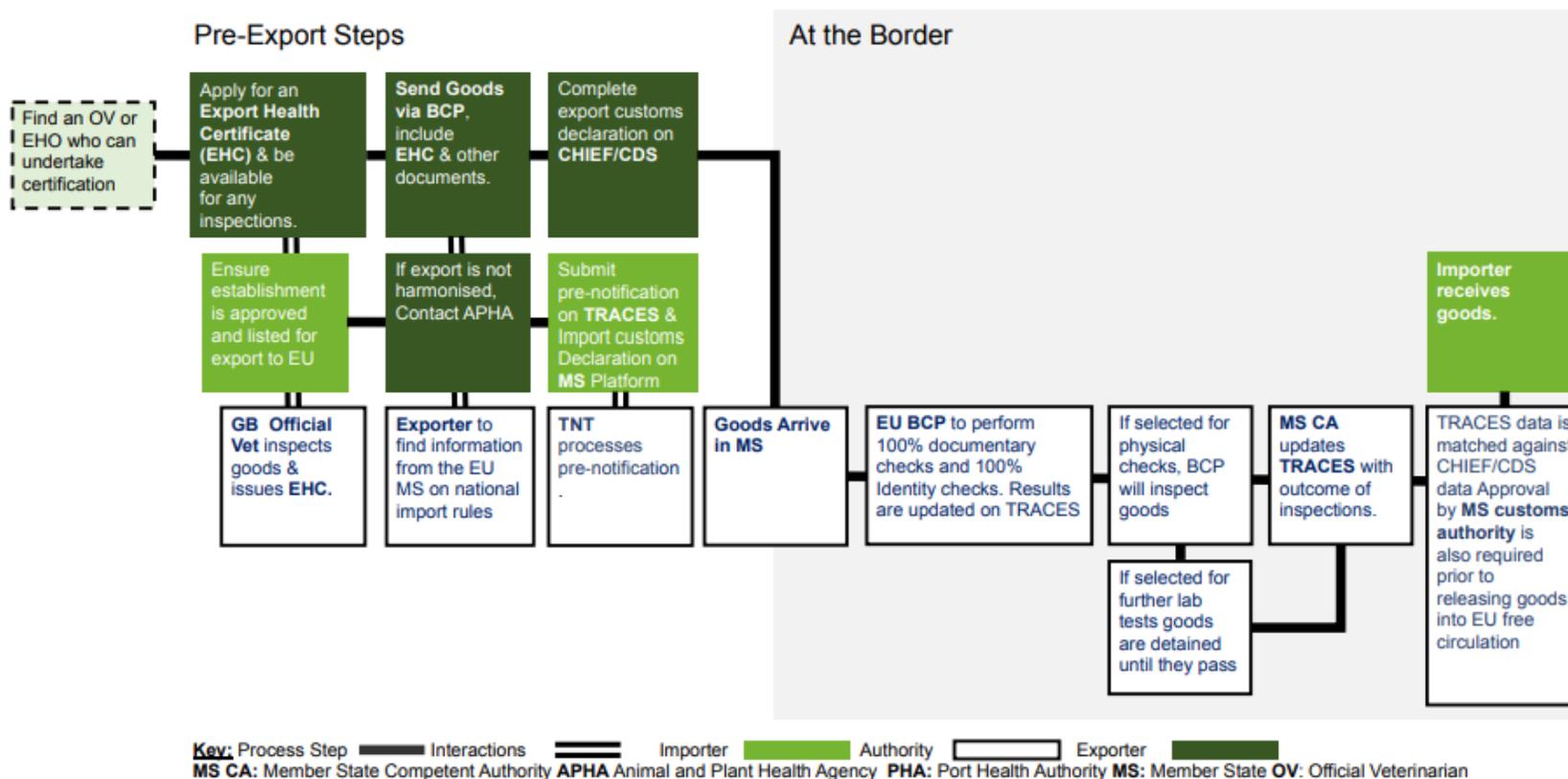
- ❑ **Principle:** *“UK must function as a single customs territory. Northern Ireland must have unfettered access to GB territory”*
- ❑ **In practice:** Customs declarations, Entry summaries, Tariffs for ‘at risk’ goods, Customs checks, Regulatory checks, Additional approvals, XI EORI
- ❑ VAT implications (place of goods at time of sale)
- ❑ Introduction of ‘at risk’ goods and UK Trader Scheme
- ❑ Trader Support Service
<https://www.tradersupportservice.co.uk/tss>
- ❑ Movement Assistance Scheme -
<https://www.gov.uk/guidance/movement-assistance-scheme-get-help-with-moving-agrifood-goods-to-northern-ireland>





Impact: Import and Export (cont)

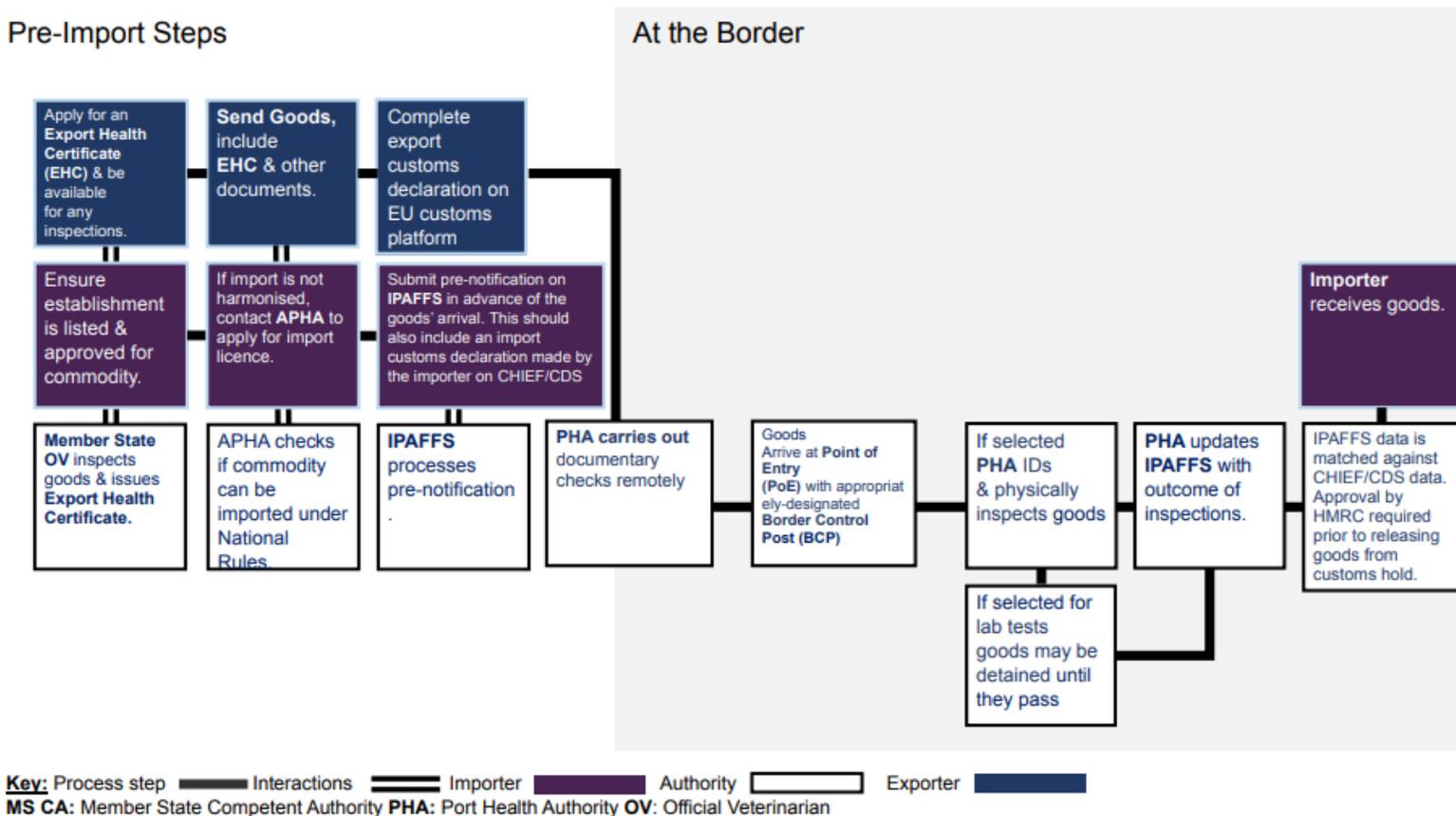
Process Map Export: Products of Animal Origin (POAO) – 1st January 2021





Impact: Import and Export

Process Map Import: Products of Animal Origin (POAO) – 1st July 2021





Impact: Regulation and divergence

UK-EU TCA recognises the right of each party to set its own policies and priorities and determine the levels of protection it deems appropriate in its laws

- ❑ **Competition** - commits both parties to maintain their high standards of competition law, including enforcing these laws, maintaining their independent competition authorities, and applying competition law on a procedurally fair, transparent and non-discriminatory basis
- ❑ **Subsidies** - each party will have in place its own independent system of subsidy control and that neither party is bound to follow the rules of the other. Requires transparency from both sides
- ❑ **Taxation** - both Parties to uphold global standards on tax transparency and fighting tax avoidance
- ❑ **Labour and social standards** – reciprocal commitment not to reduce the level of protection for workers or fail to enforce employment rights that has an effect on trade (non-regression)
- ❑ **Environment and climate** - reciprocal commitments not to reduce the level of environmental or climate protection or fail to enforce its laws in a manner that has an effect on trade. Can set own policies and can maintain own systems of carbon pricing. Agreement to collaborate but not under obligation





Future developments in UK-EU trade

- ❑ Grace periods:
 - ❑ Documentation re: GB-NI flow of goods (3 months)
 - ❑ UK exporters certifying origin (12 months)
 - ❑ UK manufacturers' waiver on origin certification for parts sourced outside the EU (12 months)
 - ❑ GDPR - transfer of EU personal data to the UK (4-6 months)
- ❑ Further negotiation:
 - ❑ Financial services
 - ❑ Services trade
 - ❑ Conformity assessments
 - ❑ Agri-food (burdens of sanitary and phytosanitary (SPS) checks)
 - ❑ Trade remedies
 - ❑ Data adequacy





Sources of information and advice

- ❑ Food and drink businesses: working with the EU - <https://www.gov.uk/guidance/food-and-drink-businesses-working-with-the-eu>
- ❑ Guidance on health and identification marks that apply from 1 January 2021 - <https://www.food.gov.uk/business-guidance/guidance-on-health-and-identification-marks-that-apply-from-1-january-2021>
- ❑ Protected geographical food and drink names: UK GI schemes - <https://www.gov.uk/guidance/protected-geographical-food-and-drink-names-uk-gi-schemes>
- ❑ PrincipleTrader Support Service <https://www.tradersupportservice.co.uk/tss>
- ❑ Movement Assistance Scheme - <https://www.gov.uk/guidance/movement-assistance-scheme-get-help-with-moving-agrifood-goods-to-northern-ireland>
- ❑ Access2Markets Database - <https://trade.ec.europa.eu/access-to-markets/en/content>
- ❑ Rules of Origin Facilitator - <https://findrulesoforigin.org/>
- ❑ Trading Standards Office - <https://www.gov.uk/find-local-trading-standards-office>
- ❑ Food and Drink Federation - <http://www.fdf.org.uk/home.aspx>
- ❑ Food and Drink Exporter's Association - <https://www.ukfdea.com/>
- ❑ SEMLEP Growth Hub - <https://www.semlepgrowthhub.com/>
- ❑ The Export Department – <https://www.exportdept.co.uk>



Thank you for your time!

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