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Brussels, 10 February 2021

Dear Secretary of State,

Thank you for your letter sent 8 February 2021 on the trade in live bivalve molluscs from Great Britain to the EU for purification in the EU.

Trade of live bivalve molluscs from production areas classified as ‘Class B’ between the United Kingdom (UK) and EU Member States has taken place for many years during the UK’s EU membership as well as during the transition period. The possibility of transferring live bivalve molluscs for human consumption from a B classified production area to a depuration centre is indeed allowed between EU Member States.

However, since the end of the transition period, and as provided for in the Withdrawal Agreement, the UK is no longer bound by EU law, including in particular the entire SPS legislation, and is no longer treated as a Member State. Hence, the import of live bivalve molluscs from Great Britain and from the UK Crown Dependencies into the EU is subject to the conditions applied to any other third country. As you know, this is the reason why the above trade is no longer possible.

This was rightly pointed out in your letter of 10 December 2020 to UK businesses updating them on the Border Operating Model and specifically on Prohibitions and Restrictions applicable following the end of the transition period on 1 January 2021. In your letter, you correctly underlined that the export of live bivalve molluscs from Class B production areas for further depuration in the EU would not be allowed.

The Rt Hon George Eustice MP
Secretary of State for Environment,
Food and Rural Affairs
Seacole Building, 2 Marsham Street
London, SW1P 4DF

On the contrary, as highlighted in your letter, the export of live bivalve molluscs from Class A production areas which, thanks to their high microbiological quality, permit the harvesting and placing directly on the market of the live bivalve molluscs they contain, can take place obviously when accompanied with the relevant public health certification.

Since 2019, regular and constructive technical exchanges took place between the Commission and UK services on the third country listing requirements for animal health purposes. In this context, the UK asked on 27 September 2019 whether it would be possible to use the Model animal health certificate for the import into the EU of aquaculture animals for farming, relaying, put and take fisheries and open ornamental facilities set out in Part A of Annex IV to Commission Regulation (EC) No 1251/2008 for live bivalve molluscs sent to the EU for purification. As the UK is well aware, this certificate, as clear from its title, provides animal health guarantees only, and cannot be used to provide public health assurances, should live bivalve molluscs be intended for human consumption.

The respect of animal health requirements cannot dispense with the respect of public health obligations. This is why the reference to this certificate at the time, together with the fact that the UK had a thorough knowledge of the EU import requirements, led the Commission services to understand this request for clarification as relating to the export of live animals intended for further relaying and not for direct human consumption, and to reply accordingly.

Furthermore, as interest on the purification of live bivalve molluscs intended for human consumption grew, the Commission services wrote to your Chief Veterinary Officer on 8 February 2021 to further specify the conditions governing the export of live bivalve molluscs intended for human consumption to the EU, including on that particular aspect.

The possibility of transporting live bivalve molluscs for human consumption in viviers has never been possible, even between EU Member States, and conflicts with the rules of Chapter VI point 2, and Chapter VIII point 2, of Section VII of Annex III to Regulation (EC) No 853/2004.

I hope that this clarifies the EU requirements that have applied for many years to the import of live bivalve molluscs from third countries into the EU, and which do now apply to such imports from Great Britain and the UK Crown Dependencies.

I would like to confirm the availability and readiness of the Commission services to clarify any matters related to the EU legislative framework.

Yours sincerely,

