

Continuity in the availability of goods

| For the EU and the UK



Summary of UK Government's Position Paper *Continuity in the availability of goods for the EU and the UK*

The paper outlines the UK position and principles to ensure the availability of goods after the UK's exit from the EU.

The UK's objective is to provide legal certainty and avoid disruption for business and consumers.

Principles for an agreement on goods

To maintain close trading ties for consumers and producers, the UK proposes the following four principles:

Principle A: Goods placed on the Single Market before exit should continue to circulate freely in the UK and the EU, without additional requirements or restrictions

The UK believes that all goods lawfully placed on the market before exit should continue to circulate freely, without additional requirements or restrictions. This should apply to all types of goods, including those regulated by harmonised Union law and those which are entitled to free circulation under the mutual recognition principle.

To avoid disruption to business and consumers, it will be important that the agreement makes use of current definitions of what is meant by goods "placed on the market", recognising where these are sector specific, and provides a clear and workable interpretation of the term.

As the agreement will cover goods already available on the UK and the EU markets, it is important to provide certainty on the continued supply of products. This includes, but is not necessarily limited to:

- ensuring there are no requirements to change labelling for these products;
- recognising the validity of approvals, registrations and authorisations issued for these products; and
- where there is a requirement to have a person responsible for compliance with particular product regulations (for example, Responsible Person for cosmetics, or Authorised Representatives for medical devices) based in the EU, that person should be able to continue to carry out that responsibility for products placed on the market prior to exit whether they are based in the EU or in the UK, and there should be no requirement to relocate.

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Agri Food products

A specific definition of “placing on the market” exists for these products because the food chain can involve long production cycles and certain goods are held in storage for long periods. In order to maintain legal certainty for producers in the UK and the EU, an equivalent definition to the specific sectoral approach to “placing on the market” in Regulation 178/2002 should be used so that any food and feed falling within the scope of that definition before the date of withdrawal can continue to be made available. This position should apply to both animal-derived and non-animal derived food and feed.

In addition, the agri-food sector is subject to extensive and stringent controls to maintain the safety of food, particularly in respect of food and feed products from third countries (for example documentary checks, physical inspection and certification). The impact of a narrow approach, therefore, would be particularly high.

Principle B: Where businesses have undertaken compliance activities prior to exit, they should not be required to duplicate these activities

The UK recognises that in some cases commercial activities will have taken place in relation to goods that, according to their sector specific definition, have not been placed on the market prior to the date of withdrawal.

The Withdrawal Agreement should recognise compliance activity that has taken place prior to exit, and any connected follow-on compliance activity. This would avoid significant duplication for both the UK and EU, for example to re-inspect approved manufacturing plants or collect and submit data again.

Given the lead-in times for some third-party conformity assessments, it is likely that some products will be undergoing testing, registration or authorisation processes at the point of exit. For these cases it is suggested that the body carrying out the assessment should be permitted to complete the assessment, with the results recognised in both the UK and the EU markets.

Approvals, authorisations, certificates and registrations issued prior to exit should continue to be recognised as valid

Any approvals, registrations, certificates and authorisations issued by a recognised third party (whether a private entity or a public agency) prior to exit will have been conducted, and data provided, in accordance with legislative requirements. Therefore, it would avoid disruption and provide legal certainty if the results of these activities were recognised in both markets. These approvals should be valid for the intended time period or product life-cycle as when they were granted to avoid the need for retesting of products.

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Principle C: The agreement should facilitate the continued oversight of goods

Once a product is placed on the UK and the EU markets, it is essential that both parties can trace products through the supply chain and market surveillance authorities can ensure action is taken with respect to non-compliant goods

The agreement should provide clarity on how these activities can be conducted, and should be guided by the following considerations:

- Assessment bodies should continue to fulfil any ongoing obligations for the lifetime of this range of products and activities.
- A range of mechanisms to provide confidence in assessment bodies, including those used in international settings, such as accreditation and use of international standards.
- Facilitate ongoing data exchange, where currently provided for, under sectoral measures.

Principle D: Where the goods are supplied with services, there should be no restriction to the provision of these services that could undermine the agreement on goods

The UK government would like discussions to take account of the deep connections between the availability of goods and the services attached to goods, including those that have been offered prior to exit. The UK wants to ensure that these connections are explored comprehensively through discussions to avoid uncertainty and disruption to business and consumers.

Full paper:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/638958/Continuity_in_the_availability_of_goods_for_the_EU_and_the_UK_Position_Paper.pdf