Guide to exporting out of scope products to EU, NI and EEA countries

1. Scope of the UK-EU Trade Cooperation Agreement.

The Trade Cooperation Agreement (TCA) covers products which are grown/produced or processed in the UK or imported into GB and then processed. Please see the scope detailed below:

Products eligible for export to the EU, EEA, or NI under the TCA

<table>
<thead>
<tr>
<th>Products</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unprocessed plant products</td>
<td>Produced/grown in GB</td>
</tr>
<tr>
<td>Live animals or unprocessed animal products</td>
<td>Produced/grown in GB</td>
</tr>
<tr>
<td>(including honey)</td>
<td></td>
</tr>
<tr>
<td>Aquaculture products and seaweeds</td>
<td>Live or unprocessed produced/grown in GB</td>
</tr>
<tr>
<td>Processed agricultural products for use as</td>
<td>Only if processed in GB</td>
</tr>
<tr>
<td>food</td>
<td></td>
</tr>
<tr>
<td>Processed agricultural products for use as</td>
<td>Only if processed in GB</td>
</tr>
<tr>
<td>feed</td>
<td></td>
</tr>
<tr>
<td>Seeds and propagating material</td>
<td>Produced/grown in GB</td>
</tr>
</tbody>
</table>

Products imported into GB and not further processed, or imported and simply packed and/or labelled, are not covered by the TCA. For example, finished retail packed product; fresh produce, herbs & spices imported and re-packed or re-labelled; unaltered raw material would not be covered.

If you wish to export products to the EU which are not covered by the scope of the TCA please read section 2 below for how you can do so.

Products eligible for export to GB from the EU under the TCA

The same restrictions apply as detailed above

<table>
<thead>
<tr>
<th>Products</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unprocessed plant products</td>
<td>Produced/grown in EU</td>
</tr>
<tr>
<td>Live animals or unprocessed animal products</td>
<td>Produced/grown in EU</td>
</tr>
<tr>
<td>(including honey)</td>
<td></td>
</tr>
<tr>
<td>Aquaculture products and seaweeds</td>
<td>Produced/grown in EU</td>
</tr>
<tr>
<td>Processed agricultural products for use as</td>
<td>Only if processed in EU</td>
</tr>
<tr>
<td>food</td>
<td></td>
</tr>
</tbody>
</table>
Processed agricultural products for use as feed | Only if processed in EU
Seeds and propagating material | Produced/grown in EU

Products imported into the EU and not further processed, or imported and simply packed and/or labelled, are not covered by the TCA. For example, finished retail packed product; fresh produce, herbs & spices imported and re-packed or re-labelled; unaltered raw material would not be covered.

**All categories of products can be exported freely from NI to GB.**

### 2. Definition of Processed Products

Organic regulation 889/2008 defines ‘processing’ as meaning: ‘any action referred to in point (m) of Article 2(1) of Regulation (EC) No 852/2004, including the use of substances referred to in Article 19(2)(b) of Regulation (EC) No 834/2007. Packaging or labelling operations shall not be considered as processing.’

Article 2(1) of 852/2004: Article 2(m): "processing" means any action that substantially alters the initial product, including heating, smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of those processes.

Unprocessed products are referred to in Article 2(n) of 852/2004: "unprocessed products" means foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed.

Defra have issued guidance to UK CBs with their interpretation, which is that:

- there must be a **substantial alteration** to the ingredient/s for the product to be considered as processed.
- even when the substances listed in Article 19(2)(b) of Regulation (EC) No 834/2007 are used, the product must also be substantially altered if it is to count as processed. In some cases, the addition of the substance may be enough to alter the initial product substantially.
- it is not possible to provide an exhaustive list of processing actions that are deemed acceptable as the effect on the ingredient/s may be different in each case, so products should be assessed on a case by case basis to determine if the action taken substantially alters the ingredient/s. For example, simply heating an ingredient slightly might not be enough to substantially alter it, but if the heating makes a substantial alteration – such as pasteurisation – this would count as processing.
- this advice is based on Defra’s interpretation of the regulations and is not an authoritative statement of the law. The regulation may be interpreted differently by the EU Commission, and/or the courts.
We have provided a list below, but this is not exhaustive for the reasons as detailed above.

**Examples of activities that would be classed as unprocessed:**

- Product imported as already finished retail packed product
- Simply packing or labelling, e.g. fresh produce, herbs & spices, nuts, dried goods, re-packing of oils or liquids
- Product that is just washed, trimmed or frozen

**Examples of activities that would be classed as processed:**

- Deodorising oil
- Product is heated, dried, cooked, roasted or smoked
- Heating where this substantially alters the ingredient, (decided on a case by case basis). Would include heating honey where it is changed from crystalised form to liquid.
- Tea into teabags
- Curing
- Maturing
- Marinating
- Encapsulating
- Extraction, e.g. producing oils from seeds or nuts; extraction of coffee for the production of soluble coffee; decaffeination of tea/coffee; extraction of essential oils
- Extrusion
- Pasteurisation
- Pickling
- Blending
- Processing of flour
- Food products which have ingredients added as permitted under article 27 of 889/2008: Additives (as per annex VIII of 889/2008); microorganism and enzymes; natural flavours; legally required vitamins and minerals; drinking water & salt (where addition substantially alters the ingredient).

If a product is imported into GB it would then have to undergo some processing in GB, as defined above, to be exported to the EU/NI/EEA under the TCA.
3. Exporting of products from GB not covered by EU-UK TCA

3.1 Certification

To enable export of product outside of the scope of the TCA, SA Certification has been recognised by the EC under annex IV of regulation 1235/2008 and has been issued the code GB-BIO-142 for these activities. We refer to this as BIO-142 scheme.

To export these out of scope products to the EU, NI or EEA countries the GB supply chain will require certification under annex IV of regulation 1235/2008. This includes the exporter, and any preparation, storage or handling that is carried out in GB. If you wish to export these products, or you are involved in a supply chain for export to the EU please contact us at coi@soilassociation.org. We will then set up a BIO-142 license for you. There are no differences to how we will certify your products under this scheme and there are no additional costs to you, it will just enable products outside the scope of the TCA be exported.

3.2 Labelling of BIO-142 products

There are two labelling options:

i. The product is labelled prior to export, (on the individual retail or bulk labelling as appropriate), with our code GB-BIO-142. For details refer to our ‘Labelling Guidelines for UK organic food and feed products from 1st January 2021’. 

ii. The exporter applies additional labelling to the consignment being exported with a new lot number and our certification code GB-BIO-142, (not GB-ORG-05). If this option is taken it is essential, you follow the guidance below before export.

Guidance for labelling option ii: There are two options for issuing a new lot number for the export consignment. The retail labels will not need to be changed for either option.

a) Each product in the consignment is given its own new lot number (different from the lot/batch number on the individual product labels)

- A label is applied to the pallet/transport packaging listing the new lot numbers and the code GB-BIO-142. We don’t need to review these labels before they are applied.
- On the COI in the description of products (Box 13) you can list the different products by CN code and add the new lot number in the LOT number box as shown below.
- The new lot numbers must be traceable and link with accompanying documentation (e.g. invoices /delivery/packing notes) and with the lot/batch codes on the product packaging.
- Your systems must be able to easily show traceability of the new lot number of each product in the consignment listed on the COI
- If a consignment contains products that fall inside the trade deal as well as products that fall outside the trade deal, the whole consignment can be exported under the BIO-142 scheme.

**OR**

b) **A new lot number is given to the whole consignment** (rather than to each individual product that make up the consignment).

- A label is applied to the pallet/transport packaging listing the new lot number and the code GB-BIO-142. We don't need to review these labels before they are applied.
- The different products listed in the COI are all given the same lot number assigned for the whole consignment.
- The new lot number must be traceable and link with accompanying documentation (e.g. invoices/delivery/packing notes) and must link with each of the individual products and their lot/batch codes (which are on the product labels).
- Your systems must be able to easily show traceability of the new lot number to each product in the consignment listed on the COI
- If a consignment contains products that fall inside the TCA as well as products that fall outside the TCA, the whole consignment can be exported under the BIO-142 scheme.

**Who is the exporter?**

The organic regulation governing imports into the EU, (EC 1235/2008), defines the exporter as: ‘the operator performing the last operation for the purposes of preparation as defined in as defined in article 2(i) of Regulation (EC) No 834/2007 on the products mentioned in box 13 and sealing the products in appropriate packaging or containers, pursuant to Article 34 of Regulation (EC) No 889/2008.’

Preparation is defined as: ‘the operations of preserving and/or processing of organic products, including slaughter and cutting for livestock products, and also packaging, labelling and/or alterations made to the labelling concerning the organic production method.’

This means that without carrying out any preparation of the product, a company cannot be listed as the exporter on the COI. However, if additional labelling is applied by the exporter to each consignment this will meet the definition of preparation and the requirements for completing a COI. View the guidance for labelling option above for details on how to do this.
3.3 TRACES NT account and TRACES roles to export product certified under BIO-142

You will need to have your TRACES account linked to BIO-142 rather than GB-ORG-05 for affected consignments. If you already have a GB-ORG-05 account, please let us know if you need this changed over. If you are exporting both types of products (i.e. some covered by the TCA and some that are not), it is possible to have two TRACES accounts one linked to GB-BIO-142 and one linked to GB-ORG-05.

Once you have carried out the requirement outlined in section 3, operators will also need to request an additional role in TRACES NT as the processor of the product.

Submitting a COI in TRACES NT using the GB-BIO-142 code

All the mandatory fields with red * on the COI need to be completed including the supporting document section. Please see the guidance below for additional information that is required when using the GB-BIO-142 code.

1. When creating the COI for products certified under our annex IV 1235/2008 approval select Soil Association with the certification GB-BIO-142 in box 1 of the COI.
2. Please select yourselves as the operators in box 4 (exporter) with your TRACES account linked to GB-BIO-142.

3. When completing box 7 please select the country of origin of the product

4. Include the product lot number, (or new lot number if you have created one specific to the consignment), in your product description and ensure each product line is added. When you are selecting yourselves as (processor/producer) ensure the control body you select in box 6 is Soil Association using the GB-BIO-142 code.

5. Box 12 will need to be completed with your 1st consignee details. If you are using the base of extract COI, please select ‘to be released in batches’ as an option
6. If possible, in the supporting documentation section, upload the GB COI used to import your products into GB.

Once all this information has been completed you can submit your COI, this will then be processed by the Soil Association Certification COI team. Please see our service times here and ensure you submit the COI with as much notice as possible. The COI must be endorsed before the goods leave GB. If you are submitting draft information on your COI, please ensure you send us within our working hours. The updated final net weights and shipping information must be added before the consignment arrives N.I or EU.

You can find further details on TRACES here.