



# Organic Food Federation

## UK-EU Trade and Cooperation Agreement: Exporting organic products to the EU and NI

This guidance document sets out the rules and requirements for exporting organic products to the EU and Northern Ireland (NI) following the implementation of the UK-EU Trade and Cooperation Agreement (TCA).

The EU rules continue to apply in NI.

Please refer to the NI organic guidance on the Department for Agriculture, Environment and Rural Affairs website - <https://www.daera-ni.gov.uk/topics/food/organics> for more information.

### **Guidance to the terms of the TCA**

Under the terms of the TCA “Annex TBT 4 – Appendix A”, organic products exported to the EU must be produced or processed in the UK adhering to the following conditions:

1. unprocessed agriculture or aquaculture products produced in the UK, or
2. processed agricultural products that have been processed in the UK from ingredients which have been grown in the UK, or
3. processed agriculture products that have been processed in the UK from ingredients which have been imported into the UK in accordance with UK law.

An extract of Appendix A is attached at Annex 1 of this document.

As the EU rules continue to apply in NI, these requirements must also be met for organic products being moved to NI.

### **What is classed as “processed”?**



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'Processing' is defined in Article 2(u) of Commission Regulation 889/2008 as:

- “‘processing’ means 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.”

Point (m) of Article 2(1) of Council Regulation 852/2004 states:

- “‘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;”

The definition is expanded on within the definition of “preserving” at Article 2(t) of Commission Regulation 889/2008 – this distinguishes “preserving” from “processing”:

- “‘preserving’ means any action, different from farming and harvesting, that is carried out on products, but **which does not qualify as processing** as defined in point (u), including all actions referred to in point (n) of Article 2(1) of Regulation (EC) No 852/2004 of the European Parliament and of the Council and excluding packaging or labelling of the product;”

Point (n) of Article 2(1) of Council Regulation 852/2004 states:

- “‘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;”

Each of the actions listed in Point (n) of Article 2(1) of Council Regulation 852/2004 are therefore included in the definition of “preserving” and are excluded from the definition of processing.

For a processed product to be considered as originating in GB and eligible to be exported to the EU under the terms of the TCA, it must meet all the requirements of processing set out above.

### Our interpretation



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The official interpretation is that there must be a **substantial alteration** to the ingredient/s for the product to be considered as processed. As the list provided in Article 2(m) is not exhaustive, this includes the actions listed, as well as other processing actions not specified, or a combination of actions.

We will assess products 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.

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: each product should be assessed to determine if the action is sufficient to substantially alter the ingredient/s.

The final decision on what counts as processing for the purposes of import into the EU will rest with the Commission.

Please note that this advice is based on our 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.

### **Issuing Certificates of Inspection on TRACES NT**

You must ensure that your Certificate of Inspection is completed before the consignment leaves GB. You must use our “GB-ORG-04” code and must only indicate United Kingdom (GB) as the “Country of origin” where the above conditions (Processed Products) have been satisfied.

You may not Import organic products from a third country and re-export them with the country of origin as the United Kingdom (GB) without undertaking the appropriate processing actions is not permitted. We are not allowed to issue Certificates of Inspection in this scenario.

### **.Annex 1 – Appendix A of the Trade and Cooperation Agreement Annex TBT 4.**



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### APPENDIX A

ORGANIC PRODUCTS FROM THE UNITED KINGDOM FOR WHICH THE UNION RECOGNISES EQUIVALENCE

Description	Comments
Unprocessed plant products	
Live animals or unprocessed animal products	Includes Honey
Aquaculture products and seaweeds	
Processed agricultural products for use as food	
Processed agricultural products for use as feed	
Seeds and propagating material	

The organic products listed in this Appendix shall be unprocessed agricultural or aquaculture products produced in the United Kingdom or processed agricultural products for use as food or feed that have been processed in the United Kingdom with ingredients that have been grown in the United Kingdom or that have been imported into the United Kingdom in accordance with United Kingdom laws and regulations.