

Eucolait views on pre-certification of exports of dairy products

General problem description

Pre-certification requirements are an enduring issue affecting the activities of our member companies. Pre-certificates (also known as background certificates) are often requested by the veterinary services of the Member State where the exporting company is based, when the finished product contains raw material or ingredients from another Member State. In such cases, the food safety or veterinary authority may demand additional certification from the authorities of the Member States from which raw milk or dairy ingredients were sourced. In practice, it is up to the exporting food business operator to ask its ingredient supplier to request a pre-certificate from the authorities of the Member State where the ingredient supplier is based (if such a certificate is requested by the authorities of the country of export). This means that the companies involved may need to liaise with the veterinary services of two, or sometimes more Member States. This obviously creates a lot of paperwork and sometimes jeopardises the whole operation, for instance when the authorities involved do not agree on the need for a background certificate to begin with. This problem is not new but it appears to be getting worse in that pre-certificates are being requested with increased frequency in a growing number of countries.

Pre-certification is a serious barrier to trade within the dynamic single market for dairy. About 1/3 of EU milk production is subject to intra-EU trade in the form of different dairy products and some 13% of EU dairy production is exported to third countries. The share of exports containing ingredients from more than one Member States is equally significant.

Despite its harmful effect on the internal market and on the businesses concerned, the request for a background certificate is understandable when the food safety or animal health requirements of the third country of destination go beyond those set out in EU legislation. This was also the conclusion of the Potsdam Group consisting of EU Member State veterinary experts. In practice there is however no uniform approach when it comes pre-certification and in some countries, it seems to be requested on an ad hoc basis. Dairy businesses across Europe have highlighted that the requirements in pre-certification can vary greatly, depending on which authority is requesting it. The destination of the product, i.e. the third country to which the product is being shipped, will also determine the information sought. It further appears that the recommendations of the Potsdam Group, which should

facilitate trade by creating more uniform conditions and improving cooperation, have occasionally had the opposite effect as authorities following the “Potsdam procedure” have become less flexible when responding to demands for background certificates from other Member States.

Managing the documentation in relation to exports with raw material or ingredients from more than one Member State is a time consuming and burdensome activity, which discourages cross border movement of dairy ingredients within the EU. Indeed, many suppliers simply refuse to provide this additional service to request a pre-certificate from the competent authority due to the administrative burden involved.

What exactly are the difficulties relating to pre-certification?

- **Lack of predictability and of a uniform approach:** whether a pre-certificate is requested and what it should contain depend on a multitude of factors: the country or region of export, the country of destination and sometimes even on the company.
- **Diverging interpretations:** the Member State of export requests a pre-certificate but the country of origin of one of the ingredients will not provide one as it considers that the request is not justified (usually because the certification relates to aspects covered by EU legislation).
- **Country of destination not known at the time of pre-certification:** the content of the pre-certificate typically depends not only on the exporting country but also on the country of destination. The country of destination is however often not known at the time when an ingredient is sent to another Member State for further processing (sometimes it is not even known that the product will be shipped to a third country). This is why many customers look for a certificate that covers all eventualities by including statements needed for all potential export markets. This creates additional workload for all involved, particularly the national veterinary inspectorate. It is usually not possible to obtain a pre-certificate after the product has been sent from the country of origin to the country of export. If this were the case, one could ask for the background certificate once the final destination is known, thus simplifying the process.
- **Export of products fully originating in another Member State:** a finished product is shipped from Member State A to Member State B, to be included in a sealed container with product from Member State B for export to a third country. Member State B requests a certificate from Member State A which is not given because it is intra-EU trade.

Overview of Member States' approach to pre-certificates based on feedback from a large number of businesses.

Belgium: pre-certificates are (increasingly) required for all non-Belgian ingredients, regardless of the destination.

Denmark: pre-certificates are required

Finland: pre-certification is requested and has its own template for pre-health certificates for intra-EU trade, the content of which needs to be determined on a case by case basis.

France: pre-certification requested and has its own template for pre-health certificates for intra-EU trade, the content of which needs to be determined with on a case by case basis.

Germany: the principle is that pre-certificates are requested for exports to third countries with which Germany has agreed a veterinary certificate containing demands going beyond EU requirements. The situation however varies depending on the Bundesland.

Italy: pre-certificates are required but the approach to the process and the requirements depend on the region.

Ireland: the Potsdam Group procedure is reportedly being followed when pre-certificates are requested although some Irish suppliers have stated they are not able to implement this procedure.

Latvia: pre-certificates required

Lithuania: has its own template for pre-health certificates for intra-EU trade the content of which needs to be determined on a case by case basis.

Netherlands: reportedly follows the Potsdam procedure

Poland: pre-certification requested and has its own template for pre-health certificates for intra-EU trade the content of which needs to be determined on case by case basis

Spain: pre-certificates required, negotiations in view of following Potsdam Group procedure are ongoing.



Solutions

The current political climate, the state of the WTO, Brexit or the ongoing pandemic are far from conducive to trade. A definitive resolution to this longstanding issue – which appears to be getting worse - would send a very positive message to EU operators. Considering the review of the EU trade strategy, it would be most appropriate that measures would be taken to ensure that the movement of goods within the internal market functions as well as possible.

In principle, background certificates should not exist at all within a single market characterised by common rules on food safety and animal health. We accept that with Member States having competence for export certification, this goal is difficult to achieve in the short term. Pre-certification should however be deemed incompliant with EU law when the content of the certificate only relates to aspects that should be considered as obvious in any EU Member State, i.e. when they only require compliance with EU food safety and animal health rules. When it comes to demands by third countries diverging from or going beyond EU requirements, a streamlined and workable solution needs to be found. The efforts of the Potsdam Group are to be welcomed as such but they have also led to certain Member States which previously had not taken such a hard-line approach to background certificates stepping up their requirements. We appreciate the complexity of the topic and that it will be difficult to find a one-size-fits all solution. It is nevertheless essential to work towards improving the conditions of intra-EU trade if the single market is ever to be fully completed.

Eucolait stands ready to engage with the Commission and Member States authorities on this topic that continues to challenge the day to day commercial activities of European dairy companies.