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The Rt Hon Michael Gove MP
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23 October 2018

Dear Michael,

No deal preparations

Many thanks for attending our meeting last Wednesday, to discuss your department's preparations for 'no deal'.

The recent National Audit Office report on progress in implementing Brexit¹ concluded that Defra has made progress, under very difficult circumstances, but that there are key aspects of Brexit preparations that it will be unable to deliver in a 'no deal' scenario and that there will be significant impacts on key sectors if a negotiated settlement is not reached. We agree. Of the topics we discussed last Wednesday there are five key areas of concern that we would like to draw particular attention to:

1) Whether there will be a delay in the UK being able to export animals to the EU

Your department's guidance note² on exporting animals in a 'no deal' scenario states that without listed status no animal exports could take place. We were concerned to hear, in your evidence to us last week, that the EU is not currently prepared to begin considerations of the UK's application for this status until the UK leaves the EU. You acknowledged that this process could take six months, during which time no animal exports could take place. This would be catastrophic for the UK's agri-food sector. We note that you have received indications that the EU might be willing to adopt a 'fast-track' process and that the legislative aspect could be completed within five days, but it seemed far from clear to us whether that

¹ National Audit Office, *Department for Environment, Food and Rural Affairs: Progress in Implementing EU Exit* (September 2018): <https://www.nao.org.uk/wp-content/uploads/2018/09/Defra-Progress-Implementing-EU-Exit.pdf>

² Department for Environment, Food and Rural Affairs, *Exporting animals and animal products if there's no Brexit deal* (September 2018): <https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexite-deal/exporting-animals-and-animal-products-if-theres-no-brexite-deal>

approach would be agreed or whether the reference to five days includes all necessary procedures (i.e. whether exports could resume within a week of the UK leaving).

We would urge you and your officials to seek further clarity (and, if possible, agreement) on this 'fast track' approach and ask that you keep us updated on any progress made on this issue.

Your guidance note states that, in a 'no deal' scenario, the EU would no longer recognise transport authorisations, certificates of competence or vehicle approval certificates issued by the UK and so UK transporters wishing to transport live animals in the EU would need to appoint a representative within an EU country and apply to their relevant government department. Can transporters apply now, or will they have to wait until 30 March? If the latter, what calculation have you made of the delay this would cause in the UK being able to export animals to the EU?

2) The lack of a Border Inspection Post at Calais

We appreciate your honesty in explaining that your biggest concern is what will happen at ports. You explained that around one fifth of our exports currently reach the EU via the Dover Straights/ Eurotunnel, but that all products of animal origin would have to enter the EU via a Border Inspection Post (BIP) in a 'no deal' scenario and that Calais has no BIP. You stated that you expected exports would be re-routed to Zeebrugge, Antwerp and Rotterdam. This would presumably necessitate them departing from a different UK port. Which ports would be used and what resources would they need to handle the increased volume of traffic? What assessment has been made of the impact this will have on roads in the UK? How many lorries per day, on average, currently use the Dover-Calais route? Has any consideration been given to the UK funding a BIP in Calais?

3) The UK not setting its own fishing quotas, or being able to control access to UK waters, from day one of Brexit

You will be well aware that, in the eyes of many members of the public, one of the perceived benefits of Brexit is the ability to control who can fish in UK waters. We suspect they would be surprised to hear, therefore, that the UK will follow whatever quota allocation is agreed at the annual EU summit in December 2018 i.e. that EU fishing fleets will continue to have access to UK waters at an EU-agreed level until December 2019. What assessment have you made of the UK fishing industry's view of this, and whether there is any risk of the equivalent of August's 'scallop wars' incident being triggered by EU vessels fishing in UK waters after Brexit?

The National Audit Office's report noted that your department will be unable to have its desired fisheries control and enforcement capacity in place by March 2019. In your evidence last week, you explained that you have submitted a business case to HM Treasury for the ships, aviation and staff you believe you will require and that you had written to the Defence Secretary the previous evening "to reinforce the importance of the business case...being signed off" (because some resource will need to come from the Royal Navy). Please keep us updated on progress on this issue and let us know iff/ when your business case is approved. What contingency is in place for controlling access to UK waters if you do not obtain the additional resources in time?

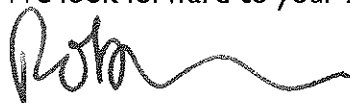
4) Whether there will be a delay in the UK being able to export waste to the EU

In its 'no deal' guidance on waste shipments,³ your department explains that current approvals to ship waste from the UK to the EU would no longer be valid, and exporters would need to go through a re-approval process. The waste industry is understandably worried that, if they cannot begin this process until after the UK leaves the EU, there could be a considerable hiatus in waste exports. They have told us the process typically takes 3-6 months; if all exporters were applying at the same time, it could take longer. They also told us that a six month interruption to the supply chain would result in 1.8m tonnes of waste stranded in the UK. We were concerned that you told us last week that this is all "subject to negotiations." Have you or your officials sought an agreement with the EU specifically on whether waste exporters could apply for the necessary status before the UK leaves the EU? Has there been any indication of a 'fast track' process, akin to the one you mentioned for animal exports? What contingency is in place to deal with waste that could become 'stranded' in the UK?

5) Obtaining the necessary data on chemicals to assure they are safe to use

Your department's 'no deal' guidance on chemical regulation⁴ states that, in order to enable the UK chemical industry to continue to operate from day one, chemicals currently registered at an EU level by UK companies will be transferred directly into the new database that will list chemicals that will be authorised for use in the UK post-Brexit. It explains that the companies holding the registration will need to provide some basic information initially, and then the 'full data package' that supports the registration (and that demonstrates, for example, that the chemical is safe) within two years. In our meeting last week, we suggested not all UK companies would have access to that data. As part of our inquiry into post-Brexit chemical regulation, we heard evidence that copyright on some of the relevant documents may be owned by third parties (such as testing houses or consultants engaged to produce the reports required for the EU registration). We also heard that many EU applications are developed and submitted by consortia of companies and so a UK member of that consortia wanting to use the information for a UK registration would not be able to do so without the consent of the other parties (and may be required to purchase additional rights to the data). We were very disturbed to hear last week that you and your Permanent Secretary were unaware of these issues; it could potentially pose a significant challenge to your 'no deal' planning in this area. Has your department received no representations from the industry on this issue? Now that you are aware, how do you intend to overcome this challenge?

We look forward to your response.



Lord Teverson

Chair of the European Union Energy and Environment Sub-Committee

³ Department for Environment, Food and Rural Affairs, *Maintaining the continuity of waste shipments if there's no Brexit deal* (October 2018): <https://www.gov.uk/government/publications/maintaining-the-continuity-of-waste-shipments-if-theres-no-brexit-deal/maintaining-the-continuity-of-waste-shipments-if-theres-no-brexit-deal>

⁴ Department for Environment, Food and Rural Affairs, *Regulating chemicals (REACH) if there's no Brexit deal* (September 2018): <https://www.gov.uk/government/publications/regulating-chemicals-reach-if-theres-no-brexit-deal/regulating-chemicals-reach-if-theres-no-brexit-deal>

