



Department
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Food & Rural Affairs

How will Exiting from the EU affect Natural Mineral Waters recognition?

November 2018



Forestry Commission
England



Environment
Agency



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Introduction

- Natural Mineral Waters (NMW) “recognition”
- Non-tariff barrier
- UK recognises 60 NMWs (+ 3 from Serbia)





Introduction

HMRC FIGURES	Value of Trade in 2016	
	Export	Import
EU	£27,413,186	£117,940,596
Total Trade	£48,433,044	£135,367,829

- The 20 best selling brands cover around 63% (in volume) of the total market.
- Of those, the 8 best selling EU brands cover 36% of the UK market.
- Of those, the 12 best selling UK brands cover around 27% of the market.

- EU Best selling brands: Evian, Volvic, San Pellegrino, Badoit, Saka.
- UK Best selling brands: Buxton, Ice Valley, Aqua-Pura, Brecon Carreg, Decantae.



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Future Economic Partnership

- FEP = commodity by commodity negotiations.
- In NMW = Existing and Future NMWs
- Reciprocal recognition of the existing 63 UK Natural Mineral Waters and 2000+ EU NMWs.
- Beneficial to UK industry and ensure continued access to the EU market.





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Future Economic Partnership

- Future: UK natural mineral water regulations as equivalent.
- In future, the UK may want to diverge while at the same time maintaining the same outcomes.





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Regulatory Outcome Equivalence

Overarching outcomes sought, namely,

1. Safeguarding the safety of the consumer.
2. Maintenance of the Original Purity concept for NMW.
3. Maintenance of the concept of stability of components over time.
4. Maintenance of a system of recognition for NMW in concurrence with existing rules.
5. Prohibition of certain treatments for NMW.
6. Maintenance of an Official list of recognized NMW which could feed in the list currently held in the EU Official Journal.
7. Protecting the consumer against misleading labelling and
8. Maintenance of minimum standards terms of maximum limits of certain components including safety parameters.





Regulatory Outcome Equivalence

Divergence opportunities:

- Permit the integration of new technical advances in domestic regulations at a different pace than the EU directives in NMW or
- Simplify the rules on trade descriptions or
- Adhere more closely to Codex or WHO amendments of technical nature or
- Introduce minimum monitoring requirements



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No Deal Scenario

In the case that the UK leaves the EU without a negotiated agreement:

Commission Notice to stakeholders on Withdrawal of the United Kingdom and EU rules in the field of Directive 2009/54/EC of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters, 23rd January 2018.

https://ec.europa.eu/food/sites/food/files/safety/docs/notice_brexit_mineral_waters.pdf

The UK Technical Notices to Stakeholders 24th September 2018,

<https://www.gov.uk/government/publications/producing-and-labelling-food-if-theres-no-brexit-deal/producing-and-labelling-food-if-theres-no-brexit-deal>





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No Deal Scenario

In the case that the UK leaves the EU without a negotiated agreement on NMWs, the current text of the legislation **MUST** be changed in order for the current regulations to work after Exit in that context.

Not changing the regulations would bring unintended consequences, by virtue of how the regulations are written:

- The UK government would have no future say on what can be or otherwise traded as NMW in England.
- Welsh, Northern Irish and Scottish NMWs could no longer be traded in England since they are only recognised in England by virtue of being defined as such by the European directive which will no longer be a legal text in those territories.



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No Deal Scenario

The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007 as amended NEW WORDING

Recognition as natural mineral water

4. —(1) Water is recognised as natural mineral water where —

(b) in the case of water extracted from the ground in another part of the United Kingdom, it is recognised there pursuant to ~~Directive 2009/54~~ “under the relevant bottled water legislation” by a responsible authority of that part of the United Kingdom;

~~(c) in the case of water extracted from the ground in an EEA State other than the United Kingdom, it is recognised there pursuant to Directive 2009/54 by a responsible authority of that EEA State;~~





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No Deal Scenario

Consequently whatever happens, to ensure continued operability, the regulations must be changed and the text amended to fit the UK's new status and to fit in with the new agreement or provide for a no deal scenario.

In the case of NMW which had undertaken their recognition elsewhere than the United Kingdom, a unilateral decision must be taken in order to correct the regulations. This is subject to a public consultation as we speak.

The starting position is that of the EU Commission in their Stakeholder's Notice where they have indicated that unless a future trade agreement or economic partnership agreement provides otherwise, these NMWs that had their recognition process undertaken by the UK will no longer be recognised in the EU market after the UK leaves the EU.





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No Deal Scenario

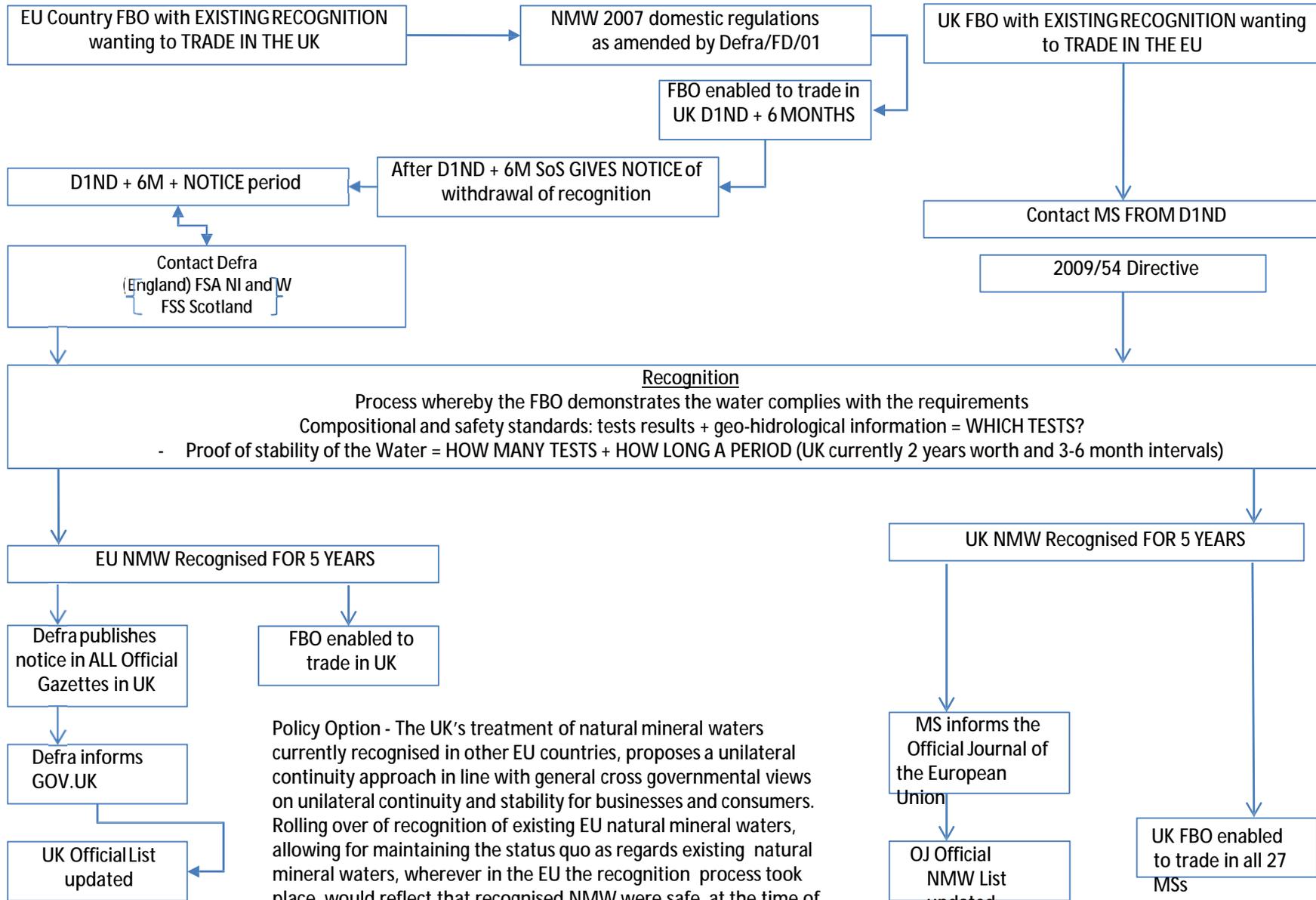
The UKG would have to therefore subject to the consultation, decide on the options to take given the EU position. These are:

1. Rolling over of recognition of existing EU natural mineral waters, from day one for a period of six months, after which the SoS reserves the right to withdraw these recognitions after a period of notice.
2. Removing the recognition for EU recognised natural mineral waters from day 1 after the UK's exit from the EU. These NMWs would need to undergo a full application process in the UK to secure recognition before they could be legally sold as NMW in the UK.
3. Rolling over of recognition of existing EU natural mineral waters for a fixed period of five years, after which EU NMWs would need to undergo a full application process in the UK.

<https://consult.defra.gov.uk/food/amending-domestic-food-laws>



NO DEAL EXISTING NMWs Recognition Product Journey OPTION 1



Recognition
 Process whereby the FBO demonstrates the water complies with the requirements
 Compositional and safety standards: tests results + geo-hidrological information = WHICH TESTS?
 - Proof of stability of the Water = HOW MANY TESTS + HOW LONG A PERIOD (UK currently 2 years worth and 3-6 month intervals)

Policy Option - The UK's treatment of natural mineral waters currently recognised in other EU countries, proposes a unilateral continuity approach in line with general cross governmental views on unilateral continuity and stability for businesses and consumers. Rolling over of recognition of existing EU natural mineral waters, wherever in the EU the recognition process took place, would reflect that recognised NMW were safe at the time of EU Exit and therefore there is no reason to assume they are not after EU Exit.



No Deal Scenario

The parameters we need to consider when leaning towards each options are:

- In 2016 the UK imported £116.3m worth of natural mineral waters from the EU. Many EU brands are bestselling natural mineral waters brands in the UK.
- How consumers would be affected? as many as one in every three bottles of NMW sold in the UK are imported from the EU.
- How would fluctuation in prices for the consumer be, due to market forces?
- Would there be any market changes moving the consumer to choose a different category of water or to a different beverage, affecting therefore all NMW producers, domestic and imported?
- World Trade Organization Most Favoured Nation rule would not be complied with if the choice was any other than removing recognition from day 1.
- How goods on the market would be affected if a *cliff edge* on day 1?
- How would consumers react if there was a change?: are those waters no longer safe? Are all NMWs no longer safe?



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ANY QUESTIONS?

Many thanks for your time

