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for Environment  
Food & Rural Affairs

Lord Gardiner of Kimble  
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Sir William Cash MP  
Chairman  
European Scrutiny Committee  
14 Tothill Street  
House of Commons  
London  
SW1H 9NB

6 April 2021

Dear Sir William,

**COM (2020) 852 FINAL: PROPOSAL FOR A DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL DECISION 2008/971/EC AS REGARDS THE EQUIVALENCE OF FOREST REPRODUCTIVE MATERIAL PRODUCED IN THE UNITED KINGDOM TO SUCH MATERIAL PRODUCED IN THE UNION (AND ANNEX)**

and

**EM 5004/21: PROPOSAL FOR A DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL DECISIONS 2003/17/EC AND 2005/834/EC AS REGARDS THE EQUIVALENCE OF FIELD INSPECTIONS AND THE EQUIVALENCE OF CHECKS ON PRACTICES FOR THE MAINTENANCE OF VARIETIES OF AGRICULTURAL PLANT SPECIES CARRIED OUT IN THE UNITED KINGDOM (AND ADD 1)**

Thank you for your letter of 24 March.

As part of the EU's process for granting third country equivalence of forest reproductive material the requesting country must comply with the conditions for equivalence as prescribed in EU Council Decision 2008/971. Those conditions require production of seed and planting stock in accordance with the national rules for the application of the OECD Forest Seed and Plant Scheme. As part of EU exit arrangements in 2018/19 the UK applied, and was accepted into this OECD Scheme.

The UK subsequently applied to the EU for equivalence for all categories of forest reproductive material currently accepted under the OECD scheme i.e. source identified, selected, qualified and tested material.

The EU has published its amendment to Council Decision 2008/971 to include the UK in its list of countries which it recognises as having equivalent production processes to its own. However, this Decision excludes the tested category. We understand this may be an historical omission, as this category of material was not included in the amendment to Council Decision 2008/971/EC after the OECD Scheme was amended to include the tested

category in 2013/14. Defra has since written to the Commission asking them to confirm their plans for updating the Decision to reflect the OECD Scheme.

Turning to your question on seed potatoes. Last year, the UK's application to facilitate the export of plants to the EU, such as seed potatoes, which are otherwise prohibited under EU plant health legislation, had not been progressed on the basis that the UK was not dynamically aligned with the EU's legislation on plant health in the same way as Switzerland are.

This led to Defra submitting an application on 12 January, under Article 44 of the EU Plant Health Regulation, requesting that the EU recognise GB's regulations as equivalent, and for the EU to authorise imports of seed potatoes. This application was rejected by the EU on 28 January, essentially on the same basis as given last year. Following this, three letters have now been sent to the EU, challenging this response and requesting a reconsideration of the Article 44 case, reiterating that the Article 44 application is a separate route to our previous request and there is no provision for requiring dynamic alignment under Article 44. However, the Commission is maintaining that it is not prepared to reconsider our application in the absence of a commitment from the UK to dynamically align with EU regulations. This was most recently reiterated in a letter to the Secretary of State on 19 March.

Following the meeting of the Co-Chairs of the UK-EU Withdrawal Agreement Joint Committee on 11th February, there was an agreement that any future approaches should be based on the essential or substantial equivalence of the UK's and EU's respective regimes. Given the UK's current regime aligns substantially with the EU, we will therefore continue to press on with our request that prohibitions are lifted. Defra is acutely aware of the issues that a continued prohibition on the export of seed potatoes will cause for industry, and we are currently holding meetings with stakeholders and devolved administrations as we plan next steps.

In terms of equivalence recognition of the production of agricultural seed, the EU has published its amendments to include the UK in its list of countries it recognises as having equivalent production and varietal maintenance processes to its own in Council Decisions 2003/17/EC and 2005/834/EC. However, while the equivalence decision recognises the UK as equivalent for the maintenance of vegetable varieties under Decision 2005/834, it does not include recognition of the production of GB vegetable seed in accordance with EU legislation under Decision 2003/17. Defra has asked the Commission for an explanation and whether this was an intentional omission as the evidence provided in support of our application submitted to the Commission for vegetable seed demonstrated our measures for meeting equivalence in the same way as for other crop sectors. Defra will continue to engage with the Commission to establish the reason for the omission and to push for vegetable seed production to be included in the equivalence decision.

I am copying this letter to the Chair of the Lords European Affairs Committee, the Clerks of the Commons and Lords EU Committees, Les Saunders, Cabinet Office; and Steve Wigham, Defra Scrutiny Co-ordinator.

*Lordines of Kinble*