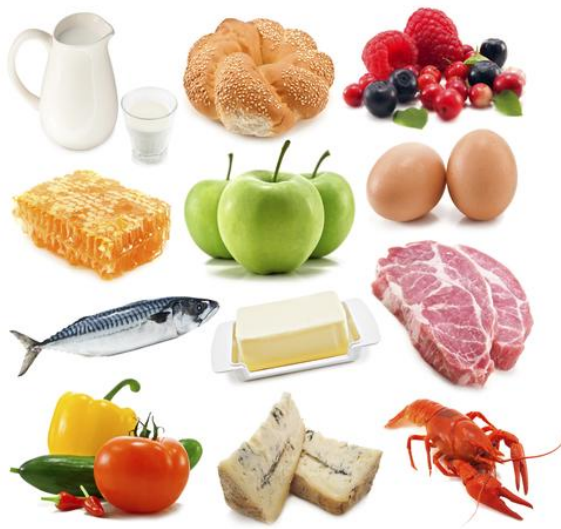


Inland Enforcement of Imported Food Controls Resource Pack

Northern Ireland



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Chapter 1: Overview of Imported Food Controls



Section 1- Introduction

1.1 Resource Pack Aim

This pack aims to provide enforcement officials within district councils (DCs) in Northern Ireland (NI) with appropriate information, practical guidance and advice to enable them to secure the effective control of food imported into the UK. Please note parallel guidance will be available for England, Scotland and Wales.

1.2 Resource Pack Objectives

- To provide an overview of import controls in the EU and UK, including organisational roles and responsibilities.
- To provide up-to-date information for enforcement officials on current legislative controls.
- To describe the border control systems for both food products of animal origin (POAO) and food not of animal origin (FNAO).
- To advise DCs of their responsibilities for the enforcement of import controls and requirements for recording and reporting relevant information.
- To provide enforcement officials with information, practical advice and procedures to assist in the identification and control of illegal imports of food being distributed and offered for sale within the UK.
- To offer routes by which enforcement officials may raise and discuss enforcement and interpretation issues concerning imported controls.
- To facilitate better co-ordination of import controls across DCs.
- To provide a list of contact points and supporting information to DCs relating to POAO and FNAO imports.

Online training – A detailed online training package is available free of charge to enforcement officers working in the UK at: www.importedfood.co.uk. To access this training, officers must firstly register with ABC Food Safety to receive a username and password. This can be achieved by clicking on the “contact us” button on the www.importedfood.co.uk website and providing the name and e-mail address of any member of staff who wishes to use the service.

Please note that this guidance and the model forms (provided in Annex 1) have been produced to explain the legal requirements for imported food control. Every effort has been made to ensure that these guidance notes are as helpful as possible. They cannot cover every situation and you should consider the relevant legislation itself to see how it applies in different situations.

The information in this Pack is regularly updated and takes into account Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, the enforcement of which in Northern Ireland is provided for by the Official Feed and Food Controls (Northern Ireland) 2009 (as amended) (and parallel legislation in England, Scotland and Wales). Please read this guidance in conjunction with “Guidance for District Councils on the Import of Food from Third Countries” at Annex 14 of the Practice Guidance which supports the statutory Food Law Code of Practice.

1.3 Background

Imported food makes up an increasingly large part of the UK diet and about 50% of food consumed in the UK is from countries outside the UK. Imported food can be found in virtually every food business whether it be poultry from Brazil in the local take-away, strawberries from Egypt in the supermarket or vodka from Russia in the local sports and social club.

The majority of foods that are imported into this country are perfectly legal, wholesome and safe but it is important to have effective imported food controls in place to ensure that the consumer and food businesses are protected from contaminated products, unfair trading practices and fraud. It is the responsibility of the Competent Authorities (CA) to ensure that these controls are properly implemented.

Food is imported into the UK via seaports, airports and by road and rail through the Channel Tunnel. In GB Port Health Authorities (PHAs) have been set up at seaports to undertake various public health duties including checks on certain imported foods and at airports Local Authorities (LAs) have this function. In Northern Ireland (NI) these functions are carried out by District Councils (DCs) and the Department of Agriculture and Rural Development (DARD). Throughout the UK, certain ports, which receive products of animal origin such as meat, fishery products, eggs, shellfish, dairy products and honey, are designated as Border Inspection Posts (BIPs).



Section 2 – Key Messages

This pack should be made available to all enforcement officers. DCs should have regard to the following points to ensure adequate controls are in place:

2.1 Authorisation of Officers

- DCs should ensure that officers are authorised in writing to enforce all relevant legislation. (See Section 1.2.2 of the Food Law Code of Practice (Northern Ireland), August 2008 and Annex 14 A.14.6 of the Food Law Practice Guidance (NI) for further details).

2.2 Products of Animal Origin (POAO)

- POAO include fresh meat, meat products, meat preparations, dairy products, fishery products, shellfish, egg products, honey, snails and insects.
- Imported POAO may be illegal due to the manner in which they were imported and/or due to matters of public or animal health such as contamination with veterinary residues.
- It is an offence to introduce POAO into the UK from most non-EU countries, except at a Border Inspection Post (BIP) unless they are specifically exempted¹. Such exemptions include:
 - Personal imports of certain POAO (excluding Meat or Dairy products) or:
 - Trade samples that have received written approval from DARD.
- Further details on personal imports may be found on the Defra website: <http://www.defra.gov.uk/food-farm/food/personal-imports/>
- Whilst offences may be committed by those persons that introduce illegal POAO into NI, the priority for inland DCs is to identify such illegal products and remove them from the food chain.

2.3 Foods not of Animal Origin (FNAO)

- There are currently no requirements for **most** FNAO to be pre-notified to border enforcement officers and inspections at the ports are based on risk assessment. As such it is important that inland checks are carried out to maintain public health safeguards.
- From 25 January 2010 imports of certain 'high-risk' FNAO, can only enter the UK through specific ports and airports approved as designated points of entry (DPEs) where official controls will be carried out. Similarly certain FNAO subject to safeguard measures can only enter the UK at designated points of import (DPIs). A 'high-risk' product is feed or food that is either a known, or an emerging, risk to public health. This may be due to the presence of contaminants and/or undesirable substances such as aflatoxins, Sudan dyes, heavy metals, pathogenic bacteria or pesticides.
- Consignments of such products should be subjected to official controls by inland authorities to verify that they have been legally imported. Details of such products can be found at http://www.food.gov.uk/foodindustry/imports/banned_restricted/ or in the "library" section of the online training portal: www.importedfood.co.uk.

¹ Regulation 16(1) of the Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended)

2.4 Role of Inland Authorities

- All importers should be identified, registered as Food Business Operators (FBOs) and included in the food intervention programme for the DC.
- Establishments that are the first destination after import should be identified. These may include establishments used for storage, processing, and/or handling, buying or selling POAO or FNAO. Where the establishment is receiving POAO directly from a port, Common Veterinary Entry Documents (CVEDs) should be available for each consignment. Where FNAO which are subject to the “High Risk” import controls as specified in Regulation (EC) No 669/2009 and Regulation (EC) No 1152/2009 are found at a first destination inland a Common Entry Document (CED) should be present. Examples of CVEDs and CEDs are shown in Annex 1.
- Import control legislation should be enforced as appropriate to the circumstances and in accordance with the DCs enforcement policy.
- Procedures relating to import control work should be developed in line with The Framework Agreement on Local Authority Enforcement, Food Law Code of Practice and Practice Guidance and Defra/DARD guidance documents.
- Key enforcement Notices should be readily available to authorised officers in case of need. In particular copies of the following notices should be ready for use for food controls:

Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended)

- Regulation 5(3) – For the detention of suspect POAO in an enhanced remote transit shed
- Regulation 8(2) – For the detention of suspect POAO.
- Regulation 24(2) – For the seizure of illegally imported POAO.
- Regulation 25 Seizure Notice – For seizure of POAO that is considered to present a risk to animal or public health.

Official Feed and Food Controls Regulations (Northern Ireland) 2009 (as amended)

- Regulation 31 Notice – For the detention of suspect FNAO or destruction, special treatment or re-dispatch of FNAO that is illegally imported or is a risk to animal or public health.
- DCs should keep up-to-date with imported product issues. This can be achieved by:
 - Reference to the FSA Website: <http://www.food.gov.uk/foodindustry/imports/>
 - Use of information resources, such as GRAIL (Guidance and Regulatory Advice on Import Legislation): <https://grail.foodapps.co.uk/grail/general/home.aspx>
 - Use of the online training website: www.importedfood.co.uk

DCs should ensure that all enforcement officers are aware of the system for reporting seizures of illegally imported animal products to Defra via DARD, using the IIT1 form. The reporting of seizures by DCs has required the completion (preferably electronically) of a common form (IIT 1 (4/08)), which is then sent by e-mail for Defra to record the appropriate information. However, the option remains for the form to be completed manually, if that method is preferred, and sent to Defra via DARD by fax/post. Details of where to e-mail/fax/post the form is included on the form itself and in section 8.4 of chapter 2 of this guidance. The form is located on the secure parts of the following websites which cannot be accessed without password permission:

APHA: <http://www.apha.org.uk>
CIEH: <http://www.ehcnet4.net/govt/defra/iit/iitrept.php>
LACORS: <http://www.lacors.gov.uk/lacors/CustomLogin.aspx?docID=7866&docType=C>

DC should also pass this information to FSA in NI for evaluation and possible future investigation. The information provided in this form should be provided to the FSA in NI's Local Authority Unit or email karen.flanigan@foodstandards.gsi.gov.uk).

- DCs responsible for food law enforcement at sea ports, airports and at Enhanced Remote Transit Sheds (ERTS), should ensure that their officers familiarise themselves with the following:
 - ◆ Local stakeholders.
 - ◆ Trade type (volume, variety, trade routes, and shipping agents).
 - ◆ Health and Safety requirements.
 - ◆ Security requirements.
- The police do not have any specific enforcement responsibilities under the legislation referred to in this pack, but their assistance might be sought to aid DCs/DARD or other inspectorates in their enforcement duties.
- Authorised officers should consider imported food that is offered for sale by food businesses as a **routine** component of food hygiene and standards inspections. They should also investigate and take appropriate actions relating to (suspect) illegal imports, imports that pose a risk to public or animal health, and imports that fail to meet food safety requirements.
- The United Kingdom Border Agency (UKBA) has a specific procedure for passing information to the FSA on seizures of POAO destined for a commercial establishment. The FSA will verify that passing on the intelligence is in the public interest and then will refer cases to the relevant inland DCs for further investigation. It is important that the results of such cases are fed back to UKBA to help inform and refine risk profiling systems. In the event that such investigations become a significant burden on a DC, or the investigation is complex to the extent that programmed inspections need to be rescheduled, the DCs should immediately discuss the issue with the FSA to identify what assistance can be given.

2.5 Advice and Guidance

- If in doubt at any time DCs should contact FSA in NI's Local Authority Unit (028 9041 7700) or email karen.flanigan@foodstandards.gsi.gov.uk
- Links to common sources of information are available in the "library" section of the online training website: www.importedfood.co.uk.

Finally, the underlying principle is that if you are in doubt then you should:

- (a) Seek advice from colleagues,
- (b) Seek advice from your own legal services and where appropriate
- (c) Seek advice from FSA in NI prior to taking action.

Section 3 – Imported food procedures

For the purpose of import controls, food can be placed into one of two categories: Products of Animal Origin (POAO) and Food not of Animal Origin (FNAO) and can be imported commercially either from countries within the European Economic Area (EEA) or from Third Countries.

The rules regarding the importation of food are different depending on the nature of the food (POAO or FNAO) and the country of origin:

3.1 Food from within the EEA:

The principle of a single market within the EU was established by the EC Treaty and permits the free movement of foods between Member States; this is known as intra-EU trade. This means that food produced, for example, in Spain may enter the UK without any specific checks being carried out at the point of entry. Similarly, food produced in the UK may be sent to other Member States without being subjected to any specific border controls.

Food that is lawfully imported into a Member State from a third country may subsequently be distributed into other Member States without the need for further checks to be made. This is an important principle and requires that Member States have mutual respect for each other's border controls the adequacy of which is policed by the European Commission's Food and Veterinary Office (FVO).

There are occasions, however, whereby foods produced by Member States are subjected to specific restrictions or "safeguard measures" mainly due to animal, public or plant health concerns. For example, the UK was subject to such safeguard measures with respect to meat and dairy products during the foot and mouth outbreak in 2001 and relevant products could only be exported to other Member States when certain requirements were met.

Members of the single market or "relevant territories" include:

- | | | |
|------------------|---------------|-------------------|
| ■ Austria | ■ Greece | ■ Portugal |
| ■ Belgium | ■ Hungary | ■ Romania |
| ■ Bulgaria | ■ Ireland | ■ Slovak Republic |
| ■ Cyprus | ■ Italy | ■ Slovenia |
| ■ Czech Republic | ■ Latvia | ■ Spain |
| ■ Denmark | ■ Lithuania | ■ Sweden |
| ■ Estonia | ■ Luxembourg | ■ UK |
| ■ Finland | ■ Malta | |
| ■ France | ■ Netherlands | |
| ■ Germany | ■ Poland | |

Border checks are not required for imports of POAO from certain countries under agreements with the EU: Norway, Liechtenstein and Switzerland and for fishery products only, Greenland and Iceland. Certain named dependencies are also exempt from such controls, such as the Canaries (Spain), and the Azores (Portugal). Please note Svalbard and Faroe Islands are subject to import controls.

3.2 Imports from third countries: POAO

Products of Animal Origin may only be imported from third countries that have received prior approval by the European Commission for the relevant type of POAO. In addition, the establishments involved in the handling of such food products must also receive prior approval before the food can be lawfully exported to the EU.

The prior approval of third countries for POAO to the EU is undertaken by the Food and Veterinary Office (FVO) which assess the ability of the third country to produce products of an equivalent standard to those situated in the EU and the adequacy of the official controls performed by the third country's CA. POAO, except honey, produced in approved establishments must be marked with the country of origin and a unique "establishment number". The format of the establishment numbers applied to POAO can vary depending on the nature of the product e.g. dairy, meat or fishery products. A list of approved establishment numbers for POAO from third countries is available on the Commission website at:

http://ec.europa.eu/food/food/biosafety/establishments/third_country/index_en.htm

When exported from third countries, POAO are normally required to be accompanied by a health certificate signed by the CA of the third country to verify that the food meets the requirements of EU Law. The POAO then must then enter the EU via an approved port known as a BIP where the food will be subjected to veterinary checks by the relevant authorised officer. These veterinary checks will comprise, as appropriate; Documentary Checks; Identity Checks and Physical Checks.

Documentary Checks are carried out on 100% of consignments of POAO from third countries. A documentary check includes verification that the details on the health certificate and commercial documentation are correct.

Identity Checks are carried out on most goods presented at BIPs, with a few exceptions, e.g. New Zealand, which has an equivalency agreement with the EU. Where a product arrives in a sealed container, and where provided for in Union legislation, this will be as simple as verifying that the seals are intact and that they correspond to the documentation. In other cases an identity check will involve examining the consignment to verify that the products presented are the same as those covered by the health certificate and, checking that the stamps and health marks identifying the country and establishment of origin are present and conform to those on the documentation.

Physical Checks may comprise several or all of the following components:

- Sensory (visual, odour, taste).
- Thawing, cooking, temperature.
- Wrapping & labelling.
- Packaging integrity.
- Bacteriological quality.
- Analysis for contaminants, bio-cumulative compounds/toxins and prohibited substances (e.g. growth promoters).
- Transport conditions including thermograph records, evidence of damage or alteration, evidence of pest infestation, etc.

Physical checks are not carried out on all consignments; their frequency is dependent on the nature of the food and the country of origin. Council Directive 97/78/EC lays down principles governing the organisation of veterinary checks on products entering the EU from Third Countries (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997L0078:EN:HTML>).

Veterinary checks are carried out by Official Veterinarians (OVs) (DARD) or Official Fish Inspectors (OFI) (DC) working at the BIP. Once the veterinary checks have been successfully completed, the OV/OFI will complete, sign and stamp a CVED to demonstrate that the food has been subjected to the appropriate official controls and has been released for free circulation within the EEA. This CVED

must accompany the POAO to its first destination inland where it must be retained for a period of one year.

Should the products fail the veterinary checks, the POAO may be destroyed or re-dispatched to the country of origin, depending on the reason for the failure. There may be occasions where the POAO enters the EU via a BIP but its destination is outside of the EU. In these circumstances, special provisions apply. Once cleared by the BIP, food may be sent through to a “Customs Warehouse” or “Enhanced Remote Transit Shed” ERTS prior to HM Revenue and Customs (HMRC) checks and subsequent release of the product into free circulation within the single market.

3.3 Imports from third countries: FNAO

Most “Foods Not of Animal Origin” imported from third countries are not subject to routine checks at the points of import. Whilst there is a requirement that all products meet the minimum standards of European Law, in practice most of the official controls conducted by ports are targeted at FNAOs that present a higher risk to public health.

Such products will include nuts and dried fruits from countries with a history of mycotoxin contamination of feed and foods, chilli and chilli products including curry powder from the Indian sub-continent where contamination with Sudan dyes has previously been an issue as well as, more recently, soya products from China which have been implicated with melamine contamination.

At present there are no arrangements, as is the case with POAO, for the approval of third countries and establishments which supply FNAO to the EU. However import conditions drawn up under Regulation (EC) No 882/2004 provide for “high risk” FNAO to only be imported via DPEs, to be accompanied by a CED and to be subjected to verification sampling, where appropriate, at the port to ensure that they comply with European Standards.

On 25th January 2010, Regulation (EC) No 669/2009 came into effect and any food (and feed) listed in Annex 1 (as amended from time to time) to this Regulation is considered to be a known or emerging risk and hence subject to the enhanced import controls provided for in Regulation 882/2004. Once such food has been subjected to the appropriate official controls, a CED is issued by the DPE which must then accompany the consignment inland to the destination of the consignment.

The Commission also issues emergency safeguard measures where there is concern about certain products from certain third countries, which may prohibit import or impose additional import controls on such products. For example, products listed in Article 1 of Regulation (EC) No 1152/2009 are subject to additional controls for aflatoxin contamination at Designated Points of Import (DPI) and the DPI will issue a CED once the controls are complete.

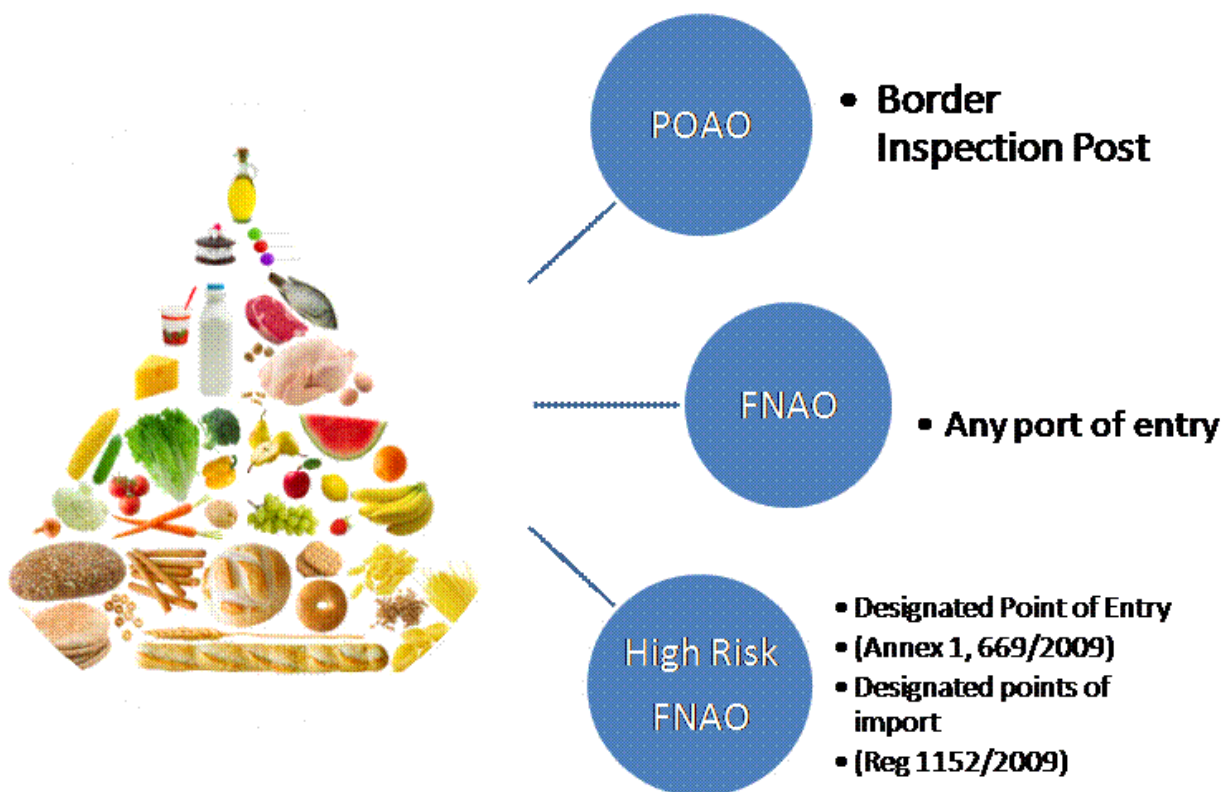


In summary, POAO imported from third countries must enter the EU via a BIP.

FNAO may enter the EU through any port but those "High Risk" FNAO listed in Annex 1 of Regulation (EC) No 669/2009 must enter via a DPE (for a list of UK DPEs see:

http://www.food.gov.uk/foodindustry/imports/banned_restricted/highrisknonpoao) and those FNAO which are susceptible to aflatoxin contamination and are listed in Regulation (EC) No 1152/2009 must only enter the EU via DPEs (for a list of UK DPEs see: http://www.food.gov.uk/foodindustry/imports/banned_restricted/aflatoxinreg11522009).

This is summarised in the diagram below:



Points of import into the EU of food from third countries

BIPs will issue CVEDs for POAO imported from third countries and DPEs complete CEDs for "high risk" FNAO. In both cases, the documents must accompany the food to the first destination inland.

Section 4 - Personal Imports

There are no specific restrictions on the importation of foods for personal consumption from other Member States. However, restrictions are in place in relation to foods imported from Third Countries but these vary depending on the type of food involved.

Personal imports will include foods brought back by travellers in their luggage. Any food posted to a commercial address will in law be considered to be a commercial import and will, where appropriate, be subject to import control rules.

4.1 Personal Imports from Third Countries: FNAO

Members of the public can bring back reasonable quantities of food that does not contain anything of animal origin. For large amounts, if it is considered to be for commercial purposes then it may be subject to checks by the port health authorities at the point of import.

Personal imports of fruit and raw vegetables from outside the EU may be subject to a limit of 2kg due to plant health restrictions; also, personal imports of potatoes from non-EU countries are not permitted. Information on what fruit and vegetables are restricted and which are not restricted are available on Defra's website which can be accessed at:

<http://www.defra.gov.uk/food-farm/food/personal-imports/>

or via the library section of the imported food online training website: www.importedfood.co.uk.

In GB enforcement responsibilities for personal imports rest with HMRC Officers. In Northern Ireland this responsibility rests with DARD.

4.2 Personal Imports from Third Countries: POAO



Personal imports of meat, meat products, milk and milk products are banned from most countries outside the EU, with limited exceptions. Up to 20kg as a combined weight for all fishery products (with the exception of caviar from sturgeon species), 2kg as a combined weight of 'other animal products' such as honey, eggs, egg products, live bivalves, snail meat, reptile and insect meat and frogs' legs.

Further information regarding personal imports can be found on the Defra website, including an advisory leaflet produced by the UK Border Agency <http://www.defra.gov.uk/food-farm/food/personal-imports/>.

The Personal Import Rules database can be accessed for a product specific check of personal imports that are permitted in the UK, and those that are not:

(<http://importdetails.defra.gov.uk/Default.aspx?Location=None&Module=IDDSearch>)

Alternatively the 'Don't Bring Me Back' page linked to the Defra website provides further advice regarding personal imports: (<http://dontbringmeback.direct.gov.uk/index.html>).

Section 5 Summary – The story so far...

For the purposes of imported food control, foods can be considered to be POAO or FNAO and can enter the UK from within the EU, from third countries or from either as personal imports.

Food produced by one EU Member State may be freely exported to other Member States without any specific checks being carried out at the ports. Similarly, food imported legally from a third country into one Member State can then be freely distributed throughout the EU without further checks.

POAO imported from third countries are subject to the most stringent controls. Foods can only be imported from approved third countries and, with some exceptions (such as honey), from an approved establishment; must be accompanied by health certificates signed by the relevant Central Competent Authority (CCA) for the third country to verify that it has been produced in equivalent standards to those in the EU and can only be imported via an approved port of entry (a BIP) where the food is subjected to veterinary checks by the appropriate authorised officer.

Once these checks have been completed, a CVED is issued which must accompany the food to the first destination away from the port inland. POAO from approved establishments must be marked with the Country of origin and a unique “Establishment Number” which should be available to the competent authorities at all stages of distribution.

FNAO are not subject to the same level of import controls. However, certain “High Risk” FNAO from third countries can only be imported into the EU via designated points of entry/import and may be required to be accompanied by health and analytical certificates. Under Regulations (EC) 669/2009 and 1152/2009 once the food has been subjected to official controls a CED is issued which must accompany the food to the first destination inland.

Personal imports from third countries are generally permitted but there are particular restrictions on meat and dairy products.

Chapter 2: Inland Enforcement of Import Controls



Section 1 - Roles and Responsibilities

1.1 Enforcement Authorities at Ports

DCs and DARD are responsible for food safety and standards checks on imported food at points of entry and BIPs in NI. DCs are also responsible for checks inland. Responsibility for intra-EU movements of food products rests with DCs and DARD.

BIPs may be approved to handle:

- Products of animal origin intended for human consumption;
- Products of animal origin not intended for human consumption (eg feathers, hides, blood products); or
- Both of the above.

DARD is responsible for detecting smuggled POAO at points of entry, including BIPs.

DCs are responsible for dealing with illegal POAO (including smuggled goods) when discovered inland at retail, catering, market stalls or other premises.

1.2 The Food Standards Agency (FSA)

The Food Standards Agency (FSA) is the CCA concerned with public health aspects of food, contamination of food and the Rapid Alert System for Food and Feed (RASFF). The FSA has a dedicated Imported Food Team that may be consulted as a source of information and advice, as well as regional offices for the devolved administrations.

1.3 DARD Veterinary Service (VS)

Veterinary Service (VS) is a division of the Department of Agriculture and Rural Development (DARD) and is responsible for the delivery of animal health controls in NI. It is the CCA for veterinary checks and animal health aspects of import controls on POAO in NI. DARD supervises the operation of BIPs in NI. Currently, there is one BIP at Belfast Port. At the BIP in Belfast Port, DARD carry out veterinary checks on imported POAO, with the exception of those veterinary checks on imported fish and fishery products that are carried out by OFIs from Belfast City Council.

1.4 Defra

The Department for the Environment, Food and Rural Affairs (Defra) is the CCA with respect to POAO in GB other than fishery products and shellfish for which the FSA is the lead..

1.5 The Food and Veterinary Office (FVO)

The FVO is part of the EU Directorate-General for Health and Consumer Protection and is based in Grange, Co. Meath, Ireland.

The FVO has many roles but with respect to the importation of food, FVO inspectors are responsible for undertaking “missions” or audits of third countries that wish to export food to the EU. FVO inspectors also undertake approval and ongoing audits within EU Member States, including BIPs, and undertake checks on the arrangements that Member States have in place for implementing effective official controls.

1.6 Her Majesty's Revenue and Customs (HMRC) / United Kingdom Border Agency (UKBA)

Responsibility for customs anti - smuggling functions at the UK border formally transferred from HMRC to the UK Border Agency (UKBA) on 5 August 2009.

HMRC is responsible for ensuring that commercial importations of POAO are not granted customs clearance unless the goods have undergone all necessary veterinary checks and have been authorised for entry into the UK. The clearance function is delivered by HMRC's National Clearance Hub (NCH) via the electronic freight clearance system, i.e. Customs Handling of Import and Export Freight (CHIEF).

UKBA is responsible for carrying out risk-based anti-smuggling controls on illegal importations of POAO from non EU countries at GB points of entry except in BIPs. UKBA is not responsible for controlling intra-EU movements of goods except where they have not been subject to customs control on arrival elsewhere in the EU.

UKBA is also responsible for enforcing controls on importations of endangered species (and products derived from them) under the Convention on International Trade in Endangered Species (CITES).

In NI, the transfer of responsibility for the detection of illegal imports of POAO to HMRC in 2003 did not take place as in other parts of the UK. Therefore, this remains as a central function of DARD, both at BIPs and other points of entry. DARD's close working relationship with HMRC facilitates the referral of animal products detected by HMRC in the conduct of examinations for other items (eg tobacco and illegal drugs) to DARD and vice versa. Inland detection responsibility currently rests with the 26 District Councils in liaison with FSA in NI in terms of identifying illegally imported animal products which may be either destined for or actually on retail sale.

1.7 Other agencies involved in imported food

Other agencies involved in the control of imported food include:

Maritime and Coastguard Agency (MCGA or MCA)

The MCGA is responsible for enforcement of safety and standards on vessels. It carries out a wide range of functions with the overall aims of preventing loss of life, continuously improving maritime safety and protecting the marine environment. Officers should be aware that there is a Memorandum of Understanding (MoU) between the MCA, LG Regulation (formerly LACORS) and APHA relating to food hygiene aboard ships, although this is not directly related to imported food. (More information on the MoU is available from LG Regulation or APHA). The MCA also has an important role with regard to development of port waste management plans and ensuring adequate facilities for the disposal of ship and other port waste, including food waste. This is extremely important in terms of animal health protection, as food waste from ships is a possible vector of animal disease. Such waste must be disposed of by incineration or landfill (subject to specific conditions).

Medicines and Healthcare Products Regulatory Agency (MHRA)

Formerly known as 'The Medicines Control Agency' this is the UK Governmental executive agency that controls and licences medicines for human use. In simple terms if a product for human consumption is not licensed by the MHRA as a medicine, then by default it will generally be classified as a food.

Local Government Regulation (LG Regulation)

LG Regulation is the local government central body that co-ordinates the enforcement activities of environmental health and trading standards services, including food enforcement. The secure area of the LG Regulation website (www.lacors.gov.uk) contains useful information and has a specific import / export information section.

Association of Port Health Authorities (APHA)

APHA is a UK wide organisation representing the interests of DCs/LAs and PHAs with responsibilities for health controls at sea and airports and has the primary objective of preventing the introduction into the country of dangerous epidemic, contagious and infectious diseases and ensuring the wholesomeness of imported food.

Animal Medicines Inspectorate (AMI)

AMI is the Veterinary Medicines Directorate's inspectorate responsible for the enforcement of EU legislation applicable to medicated feed and specified feed products.

Animal Health (AH)

This Defra agency is responsible for the enforcement of legislation relating to POAO used as animal feed. In addition, AH also enforces the Transmissible spongiform encephalopathy requirements regarding animal feeds at points of entry in GB. In Northern Ireland this is the responsibility of DARD VS.

1.8 Commercial Stakeholders

A number of bodies, organisations and individuals are involved in the process of importing food and each have a responsibility to ensure that imported food meets the requirements of law. These include:

Importers

The individual or business that imports the goods. Importers generally hold legal responsibility for compliance with legislation relating to imported food, plants and plant products, although certain regulations have definitions that establish other responsible persons, e.g. 'person-in-charge'.

Agents

It is normal practice for many importers to appoint a local clearance agent or customs clearance agent. The agent will act on behalf of the importer to make statutory declarations, liaise with enforcement officials, obtain clearance of goods from the HMRC National Clearance HUB in Salford and arrange delivery of goods to the consignee.

Port Operators

The commercial administrators of port functions, including dock operations, and leasing of storage, warehousing and office accommodation, etc.

Harbour Authorities

Established to control shipping movements, speed limits and shipping operations within a defined port area.

Airlines/Shipping Lines

Commercial owners/operators of ships/aircraft.

Section 2 – Legislation

The legislation which provides a regulatory framework for the importation of food is organised according to the nature and origin of the food. District Councils (DCs) should ensure that officers are authorised in writing to enforce all relevant legislation. (See Sections 1.2.2 of the Food Law Code of Practice (Northern Ireland), August 2008 for further details)

2.1 Legislation relating to feed and food from within the EEA

Food that has originated from another Member State is subject to the same legislative controls as food produced in the UK. Such food should be safe as defined in Article 14 of Regulation (EC) No 178/2002, be labelled in accordance with Directive 2000/13/EC on the labelling, presentation and advertising of foodstuffs and should have been handled in accordance with the hygiene regulations on food. Foods from other Member States should be subject to the same level of official controls as foods produced in the UK. In exceptional cases, the Products of Animal Origin (Import and Export) Regulations (Northern Ireland) 1998 (as amended) can be used for non-compliant POAO imported food from other Member States.

2.2 Legislation relating to the importation of feed and food from third countries: POAO

POAO must be imported into the EU in accordance with Directive 97/78/EC which sets out the requirements for veterinary checks. The Directive is implemented and enforced in NI by the Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended). The Regulations set out the import procedures, identify the appropriate enforcement agencies, provide authorised officers with powers of entry and a range of enforcement notices to detain suspect food, seize illegally imported POAO or seize POAO that presents a danger to health.

2.3 Legislation relating to the importation of feed and food from third countries: FNAO

The import conditions relating to FNAO from third countries are provided by Regulation (EC) No 882/2004. This Regulation requires that CAs undertake official controls of FNAO at the point of entry of the food into the EU or at any stage during distribution. These official controls should include documentary, identity and where appropriate physical checks of the food. Any suspect food that is detained by the competent authority and any food which fails to meet the requirements of EU law should be destroyed, re-dispatched, used for a non-food purpose or subjected to special treatment to render it lawful.

The import conditions provided by Regulation (EC) No 882/2004 are executed and enforced in NI by the Official Feed and Food Controls Regulations (Northern Ireland) 2009 (as amended). These Regulations identify the appropriate enforcement agencies and provide authorised officers with powers of entry and powers to inspect relevant products. They also provide for an enforcement Notice to be served to allow for suspect food to be detained or unlawful food to be dealt with in accordance with the requirements of Regulation (EC) No 882/2004.

Section 3 – Role of Inland District Councils

Authorised officers working for inland DCs should ensure that their routine food hygiene, food standards inspection and complaint investigation work takes into account imported food issues. It is recommended that priority is given to POAO and high risk FNAO from third countries that may have been illegally imported.

Some suggestions on the steps that DCs could take to verify the adequacy of imported food controls in their areas might include:



Working together
on imported food



- Identify importers of food in their areas.
- Identify establishments in their areas which are the first destination inland for imported food.
- Check the traceability of imported foods.
- Verify the validity of establishment numbers.
- Raise awareness of imported food matters among:
 - Local food trade
 - Members of the public
- Where non-compliance is found, take appropriate enforcement action.
- Communicate with other enforcement agencies.

All DCs should provide data on imported food control via the Local Authority Enforcement Monitoring System (LAEMS). This includes both points of entry, whether PHA controlled or not and inland authorities. Where samples are taken of imported food, even at catering or retail level, data should be entered in the samples part of the imported food section of LAEMS.

3.1 Jurisdiction and right of entry

When inspecting or visiting food business premises, officers should determine whether they are under UKBA/HMRC control (e.g. airside at an airport, at an ERTS, within dock gates or an HMRC fence at a seaport). DARD/DCs are responsible for carrying out specific searches for illegal imports of POAO in HMRC controlled areas.

In all other food business premises under DC jurisdiction, any imported POAO should routinely be assessed to determine if it has been legally introduced and meets appropriate food safety requirements. Under regulation 8 of the Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended), food enforcement officers have a right to enter any BIP or other land or premises (including private dwellings – see below) to inspect these areas or anything located in or on these areas.

Where an authorised officer wishes to enter a premises used solely as a private domestic dwelling he/she must firstly provide 24 hours notice.

Section 4 – Liaison Arrangements with Points of Entry

Whenever inland DCs identify problems with imported food they should, wherever possible, inform DC or DARD at the point of entry if they consider that similar problems are likely to be found in future imported consignments.

In certain circumstances, it will be necessary for authorised officers at points of entry or at ERTS to refer imported food matters to inland DCs.

It is recommended that representatives from the ports are invited to food liaison group meetings to share intelligence and provide updates on current imported food issues to inland authorities. Contact details for all of the UK ports are available on the APHA website at: <http://www.apha.org.uk/>.

Whenever a matter is referred by a port to an inland DC, every effort should be made to update the port on any subsequent action taken.

Section 5 - Enforcement powers relating to POAO from third countries.

The Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended) (POAO (TCI) Regs) provide for the following four enforcement notices which may be used, where appropriate, by inland authorised officers:

Regulation 5(3) Notice: This notice should be used where an authorised officer of an inland DC discovers an illegal POAO from a third country in an ERTS.

Regulation 8(2) Notice: May be used by an authorised officer to detain POAO in appropriate circumstances. The POAO may be detained where it is found or in a place specified in the notice and may not be moved until the notice is lifted by the officer in writing. The detention period is not time limited and the Regulations do not provide a right of appeal or to compensation by the FBO.

Regulation 24(2) Notice: The use of this Notice is appropriate where the officer is satisfied that the POAO in question has been illegally introduced into the country.

Regulation 25 Notice: This notice may be used when the authorised officer is satisfied that the POAO presents a danger to health.

Copies of these notices are available in Annex 1 of this pack

Section 6 – Regulation (EC) No 882/2004 on official control of food: Import conditions for FNAO from third countries.

Chapter V of Regulation (EC) No 882/2004 sets out the import conditions for FNAO imported from third countries. The main provisions of these Regulations are:

Article 15: This article requires that the competent authority undertakes official controls on FNAO and outlines how this is to be achieved by means of a National Control Plan. These official controls should be undertaken at all stages of import and distribution.

Article 15 (5) also provides for a list of known or emerging risk FNAO that is to be subject to an increased level of official controls. These provisions are implemented by Regulation (EC) No 669/2009 (as amended).

Article 16: Defines official controls for FNAO imported from third countries as: Documentary, Identity and Physical checks.

Article 18: Requires that where FNAO is suspected of being non-compliant with EU law, it should be placed under detention pending further official controls.

Article 19: Provides for various actions to be taken to deal with non-compliant FNAO.



Section 7 – The Official Feed and Food Controls Regulations (Northern Ireland) 2009 (as amended)

The Official Feed and Food Controls Regulations (Northern Ireland) 2009 as amended, or “OFFC” Regulations provide the enforcement arrangements for the import conditions of Regulation (EC) No 882/2004.

The OFFC Regulations can be used by inland DC officers to deal with non-compliant FNAO which has been imported from a third country and they include the following arrangements:

- Deferred Execution and Enforcement
- Prohibition on introduction of FNAO into NI
- Detention, Destruction, Special Treatment etc of non-compliant FNAO
- Notices pursuant to Article 19 of Regulation (EC) No 882/2004.

Regulation 31 of the OFFC Regulations provides for an enforcement notice which may be used to detain any FNAO from a third country where there is suspicion regarding its compliance with food law or the manner in which it was introduced into NI. The notice may also be used to arrange for the food to be:

- Destroyed
- Re-dispatched
- Subjected to a “special treatment”
- Used for non-food purposes
- Withdrawal or recall from the market.

A Regulation 31 notice should be served on the FBO who must be consulted prior to such service, [however the FBO does not need to be consulted regarding **detention** under Regulation 31(1)]. Where the FBO is aggrieved by the service of a Regulation 31 notice, he/she may appeal in the first instance to the court of summary jurisdiction.

A copy of this notice is available in Annex 1 of this pack.



Section 8 – Inland checks on POAO from third countries

Traceability checks should form the basis of most Food Hygiene and Food Standards Interventions by DCs and it would be prudent for authorised officers inland to consider foods imported from third countries when undertaking such checks.

Most POAO (except for example honey) imported from third countries should be marked with the country of origin together with the approval code or “establishment number” of the third country establishment responsible for producing the food. This establishment number should be available at all stages of distribution, including retail.



Whilst most tinned and packaged POAO will normally bear the establishment mark on packaging (for example on the can itself, on any subsequent wrapping or label) it is not uncommon for authorised officers to find unmarked food on sale in retail and catering establishments.

Under such circumstances, officers should look for any remnants of packaging or any documents which may bear the establishment number. Where reasonable efforts have failed to identify a valid establishment number, officers should consider taking appropriate enforcement action.

Where establishment numbers are available on POAO imported from third countries, officers should take steps to verify the validity of these numbers.

It should be noted that the establishment numbers for certain composite products may not be those listed as EU approved POAO establishments on the Commission’s website. A composite product is a foodstuff containing both processed products of animal origin and products of plant origin. Composite products containing less than 50% of processed egg and egg products, honey, fish and fishery products and bivalve molluscs may come from any non EU countries (unless subject to a prohibition under a EU safeguard measure) and are not required to come from an approved establishment listed on the Commission website for POAO imports. Such composite products should be: shelf stable at ambient temperature, clearly identified as for human consumption and securely packaged or sealed in clean containers. Composite products containing less than 50% of processed milk, must meet all of the conditions above and the milk product content must come from an EU approved country.

8.1 Identifying food as POAO

Some imported POAO foods may be unfamiliar to authorised officers and the product packaging may be entirely in a foreign language. Therefore it may be unclear whether or not the product is a POAO or a FNAO. If the type of product is unclear, enforcement officers are encouraged to take photographs/descriptions of the product as appropriate and seek advice from FSA in NI.

If the product cannot be identified by FSA in NI, enforcement officers should consider detaining and sampling the product under regulation 8 of the POAO (TCI) Regulations (Northern Ireland) 2007 (as amended). However, if there is reasonable belief that it is not POAO then regulation 31 of the OFFC Regulations may be used.

Identification aids

A key identification aid for POAO is the identification mark or “establishment number”. Here are some general rules to assist in verification of identification marks on POAO:

Fishery Products and Bivalve Molluscs

Fishery products must have an identification mark as described in Section I of Annex II of Regulation (EC) No 853/2004 on hygiene rules for food of animal origin and, where applicable, EU Decisions that apply for specific third countries, fishery products/bivalve molluscs must have:

- Country of origin marked on the packaging, either in full or as a two letter code (in accordance with the ISO standard country code).
- Establishment EU Approval Number. The establishment number is usually a simple printed number generally with an ‘EU Est.’ prefix, but this may not be present. The establishment number can sometimes be found embossed on canned goods, ink printed on glass or just incorporated on the label. Some goods carry two sets of establishment numbers, the second one pertaining to domestic rules in the third country and should be ignored. If the number is not immediately apparent have a close look. The Agency website contains further information on the fishery products at: http://www.food.gov.uk/foodindustry/imports/want_to_import/fisheryproducts/.

Further guidance regarding the marking of fishery products has been produced by APHA and may be accessed via the library section of the imported food training website at: <http://www.importedfood.co.uk/library/enforcement-guidance/> (Under ‘POAO’ section).

Dairy Products

Dairy products must carry identification marks as described in Section I of Annex II of Regulation (EC) No 853/2004. The name of the third country can be given either in full or as a two letter code (in accordance with the ISO standard country code).

Meat & Poultry

Under Regulation (EC) No 853/2004 fresh poultry meat and meat and poultry meat products must bear an identification mark as described in Section I, Annex II of this Regulation. Under this, the mark is only required to be oval in shape when it is applied as a health mark in an establishment in the EU (see below regards carcasses). The name of the third country can be given either in full or as a two-letter code (in accordance with the ISO standard country code).

Regulation (EC) No 853/2004 defines meat products as meaning, “processed products resulting from the processing of meat or from the further processing of such processed products, so that the cut surface shows that the product no longer has the characteristics of fresh meat”. The terms ‘processing’ ‘unprocessed products’ and ‘processed products’ are defined in Article 2(1) (m), (n) and (o) respectively of Regulation (EC) No 852/2004.

The term "health mark" is reserved for fresh meat carcasses and primal cuts – excluding poultry meat.

Under Annex I, Section I, Chapter III of Regulation (EC) No 854/2004 a health mark is required on carcasses of cattle, deer, goats, horses, pigs and sheep. This must be in the form of an oval mark at least 6.5 cm wide by 4.5 cm high and must include within it the name of the country in which the establishment is located which may be written out in full in capitals or shown as a two letter code in accordance with the relevant ISO standard, together with the approval number of the establishment. Letters must be at least 0.8 cm high and figures at least 1 cm high. The dimensions and characters of the mark may be reduced for health marking of lamb, kids and piglets. The colours used for health marking must be authorised in accordance with EU rules on the use of colouring substances in foodstuffs. The mark must be applied in such a way that if the carcass is cut into half or quarters or if a half carcass is cut into three pieces, each piece bears a health mark.

8.2 Verifying approved establishments and countries

Approved establishments for different categories of POAO can be verified on the European Commission (EC) website at:

https://webgate.ec.europa.eu/sanco/traces/output/listsPerActivity_en.htm

This can also be accessed via the imported food online training website: www.importedfood.co.uk

Exceptionally, there are some establishments that may not be listed on the main website. Please ask FSA if you are uncertain.

8.3 Investigation Aide Memoir

The flow charts provided in Annex 1 may assist enforcement officers in carrying out imported food checks and officers may wish to determine or consider the following points:

Identification:

- Can the product be identified at the premises?
- Ask about use, origin and ingredients.
- Novel foods should have been approved. A novel food is defined as a food or food ingredient that does not have a significant history of consumption within the EU before 15 May 1997. More information is available at: <http://www.food.gov.uk/gmfoods/novel/>
- Consider the use of digital photography so pictures can be e-mailed to FSA in NI, if necessary.

Origin/safety/condition of the food:

- Has it been imported from a third country and if so, where from?
- Does it carry appropriate health/establishment marks?
- Does it appear to be fit for consumption?
- Is it appropriately packaged/labelled/temperature controlled?

NB: Some products are designed to look as if they are imported even though they are legitimately produced in the EU, e.g. some brands of pork luncheon meat that carry the same brand name as similar Chinese origin product and beef jerky.

Traceability:

- Has the retailer got records relating to whom and from whom the goods were purchased? (Ref: regulation 4 of the General Food Regulations (Northern Ireland) 2004 (as amended), in particular, the reference to Article 18 (2) and (3) of Regulation (EC) No 178/2002).
- Do invoices/receipts etc. tally with goods on sale?
- If premises are the first destination after import, are there CVED documents for the last year?
- Can the products be traced to the BIP of entry?
- Trace source of the goods as far as possible (this may involve several steps up the distribution chain).

NB: If no CVED is available, you should be able to verify the legal introduction into the EU by contacting the BIP of entry. Authorised officers will need to note the shipping container number/airway bill for the consignment and quote this when contacting the BIP. In some cases this may be in another Member State, in which case FSA in NI should be contacted in accordance with Chapter 2.5 of the Food Law Code of Practice (Northern Ireland).

Note that in cases where an illegal importation of POAO has been found inland, DARD, who maintain NI statistics on such seizures, should be informed at an early stage (see contacts page). DC should also pass this information to FSA in NI for evaluation and possible future investigation.

Responsibility:

- Identify the person in charge of the goods (usually the retailer).
- Request documents and relevant information from the person in charge (using powers under regulation 9, POAO (TCI) Regs. if necessary).
- There is an offence of obstruction provided for under regulation 62.

8.4 Dealing with suspect or non-compliant food

The flow diagrams provided in Annex 1 may assist enforcement officers in taking appropriate enforcement action. The burden of proof is on the DC to demonstrate that:

- a. POAO has been illegally introduced (regulation 24 of POAO(TCI) Regs); or
- b. POAO poses a risk to public or animal health (regulation 25 of POAO(TCI) Regs); or
- c. POAO does not meet food safety requirements, i.e. it is unsafe within the meaning of Article 14 of Regulation (EC) No. 178/2002 as enforced by the General Food Regulations 2004 (as amended).

If you are uncertain of legitimacy or safety of a product then consider detention under regulation 8 of POAO (TCI) Regs pending further investigation.

Illegally introduced products

If you are satisfied that the product has been illegally introduced (e.g. checks at a BIP have been evaded), you must issue a Notice under regulation 24 of the POAO (TCI) Regs, on the person appearing to have charge of the product. The officer should by such Notice, take charge of the product and either have it disposed of as if it were Category I material under Regulation (EC) No 1774/2002, or re-export it within 60 days to a third country, by the same mode of transport by which it was first introduced. Although the final decision rests with the enforcing authority, in most circumstances it is unlikely to be appropriate or practical to re-export the products.

Products posing a risk to public or animal health

If the product is known or established by analysis or examination or expert opinion and certified by a food analyst/examiner, to pose a risk to public or animal health you should issue a Notice on the person appearing to have charge of the product under regulation 25 of the POAO (TCI) Regs. Officers should take charge of the product and dispose of it in accordance with regulation 24(4).

Products not meeting food safety requirements

Officers may, in some circumstances be unable to use regulations 24 or 25 to deal with illegal products or those posing a risk to public or animal health, even though there are concerns about food safety. If the product does not meet food safety requirements i.e. is unsafe (as defined by Article 14 of Regulation (EC) No.178/2002), it may be seized under Article 8 of the Food Safety (Northern Ireland) Order 1991.

Voluntary Surrender

Voluntary surrender may be an option depending on the circumstances. However, you should note that the POAO (TCI) Regs require service of a formal Notice in certain situations, and **voluntary surrender is not permitted when serving either a regulation 24 or 25 Notice under these Regulations.**

If you are unsure if the product is an illegal POAO and need to investigate further prior to making a decision, you could seek co-operation voluntarily in the first instance. If this is not possible, or inappropriate due to risk, you should detain the product using a Notice issued under regulation 8.

Legal imports subsequently found to be “illegal”

If the product has been imported correctly through a BIP but is non-conforming, (for example some goods are found not to have the correct identification marking as the BIP check of bulk goods does not ensure individual packages are marked with the approval number of the establishment of origin), provisions under the Products of Animal Origin (Import and Export) Regulations (Northern Ireland) 1998, as amended, may be used.

Part III of these Regulations applies to intra-EU trade and includes goods that originate in a third country but have received full clearance in a Member State i.e. they are in free circulation. Regulation 15 covers consignments posing a risk to health or illegal consignments. Under 15(1), where an authorised officer has reasonable grounds for believing that any POAO does not comply with animal or public health conditions relating to import into Northern Ireland or the European Union, a Notice may be served to prohibit the movement of the consignment.

Under regulation 15(2) a Notice must then be served ordering the destruction of the goods, or public and animal health considerations permitting, use of the goods for other purposes as may be specified in the Notice, including returning them (with the authorisation of the CA of the country of origin) to their country of origin. If the consignment fails to comply with legislation due to an irregularity in documentation only, the Notice shall grant the consignor a period of seven days to produce the correct documentation before action is taken [regulation 15(3)].

Storage facilities

When dealing with POAO, DCs may need to transport the products to a secure storage / detention / inspection facility (e.g. secure ambient warehouse, chilled or frozen food coldstore). It is anticipated this is most likely to occur when a large consignment is seized and facilities are needed prior to destruction. DCs should be prepared for the need to transport large consignments at short notice and are advised to identify suitable carriers and storage facilities in advance of need. Contact DARD (028 9052 5275).

Disposal of animal products

Imported animal products that require disposal are classified as 'High risk material', or Category 1 waste for the purposes of the Animal By-Products (Enforcement) Regulations (Northern Ireland) 2011, i.e. POAO must be consigned for rendering or incineration. Landfill is not acceptable. Contact DARD (028 9052 5275) who may be able to assist.

Commercial Considerations

The enforcement of the controls for imported food (whether POAO or FNAO) should always be primarily focused on protection of public and animal health. However enforcement officers are encouraged to carry out their functions in a manner that is sympathetic to commerce / commercial reasons in order to reduce commercial loss.

Reports and Notifications

Remember to report any seizures made under regulation 24 of the POAO Regs and voluntary surrenders of third country POAO to FSA in NI and DARD using the IIT1 form. The reporting of seizures by DCs requires the completion (preferably electronically) of a common form (IIT 1 (4/08)), which is then sent by e-mail for DARD to record the appropriate information required. However, the option remains for the form to be completed manually, if that method is preferred, and sent to DARD by fax/post. Details of where to e-mail/fax/post the form is included on the form itself. The form is located on the secure parts of the following websites which cannot be accessed without password permission:

APHA: <http://www.apha.org.uk>

CIEH: <http://www.ehcnet4.net/govt/defra/iit/iitrept.php>

LG Regulation: <http://www.lacors.gov.uk/lacors/CustomLogin.aspx?docID=7866&docType=C>

The information provided in this form is also shared with the FSA Food Fraud team.

Forwarding copies of Notices to DARD

Send copies of all POAO Notices served under regulations 5, 8, 24 and 25 to:

DARD VS Trade Section
Room 732
Dundonald House
Upper Newtownards Road
Belfast
BT4 3SB

Food incidents

Officers must decide as soon as possible whether a 'food incident' has occurred and should notify the FSA in NI in accordance with the statutory Food Law Code of Practice (Northern Ireland) and accompanying Practice Guidance.

Notifying the Port of Entry

Authorised officers should make every effort to inform DARD and DC at the port of entry, without undue delay, in the following circumstances:

- Where POAO is known or suspected of being illegally imported (DARD should also be advised of illegal imports).
- Where POAO poses a risk to public or animal health and the officer considers this was a problem at the BIP.
- Where POAO fails to meet food safety requirements, i.e. it is unsafe (as described by Article 14 or 15 of Regulation (EC) No. 178/2002) and the officer considers this was a problem at the BIP.

Section 9 – Inland checks on FNAO from third countries

9.1 Expectations of District Councils (DCs)

It is important for inland authorised officers to prioritise the use of official controls on imported foods found during the course of their routine intervention work. The highest priority for checks inland rests with POAO imported from third countries. However there are a number of “High Risk” FNAO which are subject to enhanced import conditions and as such should be subjected to appropriate official controls wherever they are found throughout the food distribution chain.

Some of these “High Risk” FNAO are prohibited and appropriate enforcement action should be taken whenever they are found to both remove them from sale but also to trace any similar products. The Agency website contains information on these products and this can be accessed at:

(http://www.food.gov.uk/foodindustry/imports/banned_restricted/highrisknonpoao and
(http://www.food.gov.uk/foodindustry/imports/banned_restricted/aflatoxinreg11522009)

Further details may also be found in the “library” section of the imported food training portal titled ‘FNAO’ at: (<http://www.importedfood.co.uk/library/enforcement-guidance/>).

All of these High Risk FNAO are subject to documentary checks (CED checks) on their import via DPEs. A proportion of these are subject to identity and physical checks, including laboratory analysis, at the frequencies set out in Annex 1 of Regulation (EC) 669/2009. The focus inland is to verify that the food has indeed been imported lawfully. In most cases this will involve discussions with the owner of the food regarding its origin together with the examination of appropriate documentation. If the premises are the first destination after import CEDs should be available to verify lawful importation.

It should be noted that the import conditions for some foods under Regulation (EC) 1152/2009, for example peanuts from China, are only applicable for the importation of significant quantities of the food (above 20kg). As such, inland authorities should focus their attention on FNAO with current EU restrictions and in particular where these foods are found in large consignments.



There is the potential for non-animal products to be contaminated with a variety of substances, e.g. chemical, bacteriological and/or physical. At present there is no requirement for import of most non-animal products to be pre-notified to the point of entry. Food products for import must meet food safety requirements of Regulation (EC) No 178/2002 and the hygiene requirements of Articles 3-6 of Regulation (EC) No 852/2004.

A significant proportion of consignments of FNAO will not have been physically checked at ports of entry, so it is important that inland controls are also in place. Inland enforcement officers must be vigilant to ensure harmful, illegal or unfit products are not placed on the market for sale. It is also important that inland controls are in place at ERTS, ships' suppliers and international rail terminals.

During routine food safety/hygiene interventions and other visits to food business premises (e.g. complaint visits, sampling visits etc.), officers should consider the food offered for sale and identify if it has been imported from third countries, and if it complies with imported food controls. This section of the Resource Pack is designed to assist enforcement officers with this task.

It is important that DCs do not simply target food businesses that specialise in the supply of food to specific minority groups. They should build up a profile of food businesses within their area that routinely import food, including those that import food from third countries and, in addition, those premises that are the first destination after import. From this profile and taking into account food alerts, risk rating of the premises and illegal imports, a risk-based approach can be developed.

9.2 Legislation

The Official Feed and Food Regulations (Northern Ireland) 2009 (as amended) (the OFFC Regulations), which provide for the execution and enforcement of Regulation (EC) No 882/2004, constitute the main legislation controlling the import of FNAO with parallel legislation in England, Scotland and Wales. These Regulations apply to food at all stages within the food chain. Official control activities should also include, amongst other things, inspection of materials and articles in contact with the food in question, as well as the cleaning and maintenance products that may be used.

The provisions of the Food Safety (Northern Ireland) Order 1991 and the General Food Regulations (Northern Ireland) 2004 (as amended) may be more relevant for inland controls on imported food of non-animal origin than the imports provisions of the OFFC Regulations. The guidance given below therefore concerns the Food Safety (Northern Ireland) Order 1991. The OFFC Regulations would need to be used where examinations have been deferred inland by an authority at the point of entry.

When food has not been produced, processed or distributed in accordance with the Hygiene Regulations and, it is appropriate, consideration could be given to the use of regulation 25 of the Food Hygiene Regulations (Northern Ireland) 2006 (as amended).

9.3 Right of Entry

Under food law, enforcement officers have powers of entry to food businesses for the purpose of exercising their powers under that law.

9.4 Identifying foods as FNAO

Some food items may not be familiar to authorised officers and packaging and labelling may not be clear (e.g. not in English, however under the Food Labelling Regulations, food on the market should be labelled in English), making it difficult to properly identify the product as a FNAO. If an officer suspects that a product is a POAO, he/she may sample it under the provisions of article 29 of the

Food Safety (Northern Ireland) Order 1991. However, in some circumstances this may be inappropriate and other means of identification should be encouraged. One possible method is to use photographic evidence and then to seek advice from FSA in NI.

9.5 Checks on FNAO

The flow chart in Annex 1 may assist enforcement officers in carrying out appropriate checks on imported food. The types of checks (whether documentary, physical or laboratory based) depend on any specified requirements and the risks associated with the particular type of product. Checks should be informed by:

- Statutory requirements for documentary checks and sampling laid down in relevant legislation.
- The specific risks associated with different types of food.
- Previous knowledge of the product.
- Any requirements following a Food Alert or RASFF notification.
- Previous experience with the importer.
- Adequacy of documentation.
- Suspicion of non-compliance.
- Requests by other food control bodies, e.g. FSA.

9.6 FNAO subject to enhanced import checks

Where inland officers identify significant quantities of FNAO from third countries which are subject to the enhanced import controls set out in Regulation (EC) No 882/2004, Article 15(5) they should undertake a traceability check (equivalent to a documentary and identity check) on these products to verify that they have been imported appropriately. Such feeds/foods are listed in Annex I of Regulation (EC) No 669/2009 (as amended). Similarly checks should be taken for foods subject to EU safeguard measures such as those listed in Article 1 of Regulation (EC) No 1152/2009. For these purposes a “significant quantity can be considered to be 20 kg or greater. Where there is doubt regarding the traceability of such products, the officer should consider the service of a Regulation 31 OFFC notice, after consulting with the FBO, to detain the food. The FSA website contains further information on these types of products at:

http://www.food.gov.uk/foodindustry/imports/banned_restricted/highrisknonpoao

9.7 Deferred Examination

The OFFC Regulations allow for the deferred examination of consignments from third countries to allow the provisions of the Regulations to be enforced by an inland DC rather than the DC at the point of entry. Thus the Regulations may be applicable in any DC. Either the DC at the point of entry or the importer can request deferred examination. The final decision rests with the DC at the point of entry, but should be agreed ONLY in conjunction with the receiving DC so that the appropriate checks on the products can be carried out.

When a deferment of examination of a consignment occurs, the importer must give a written undertaking that the consignment will remain sealed in its container and will not be opened until it reaches the designated destination. The DC at the point of entry should notify the receiving DC by the most expeditious means available that the food has not been examined and also forward a copy of the undertaking given by the importer. The authorised officer of the receiving DC then allows the opening of the container ready for examination.

9.8 Investigation Advice

When visiting premises in relation to imported food, enforcement officers may wish to consider the following points:

Identification

- Is the product easily identified – is it a FNAO?
- Seek information on use, origin and ingredients.
- Consider use of digital photography (if available) so that pictures can be e-mailed to FSA in NI, if necessary.

Origin/safety/condition of the food

- Is the product banned or prohibited?
- Has the product been imported?
- Where has the product been imported from?
- Is the product subject to emergency controls?
- Does the product appear fit for consumption?
- Is it adequately packaged, labelled and temperature controlled?

If dealing with an unfamiliar product do not ignore it. It may be necessary to do some research and/or sampling to identify the product and to assess any potential risk. In the past products such as Calabash chalk, mustard seed oil and Kava-Kava have been identified by DCs doing follow up investigation and subsequently such products were removed from sale.

Traceability

- Does the retailer have proper records regarding the purchase of the products?
- Has “due diligence” been considered by the FBO?
- Do all receipts and invoices tally with the goods on sale?
- If premises are the first destination after import and the products are ‘high risk’ FNAO, are there CED documents present?
- The product may need to be followed up the distribution chain.

Responsibility

- Identify the person in charge of the goods (usually the retailer).
- Request documents and relevant information from the person in charge.
- Be prepared to remind the FBO that there is an offence of obstruction provided for in both food and feed law.

9.9 Dealing with suspect food

The flow diagrams in Annex 1 may assist enforcement officers in dealing with suspect FNAO. It is the DC who has the burden of proof to demonstrate that any FNAO does not meet food safety requirements.

9.9.1 Food failing to meet food safety requirements

If officers are satisfied that the product fails to meet food safety requirements i.e. is unsafe (as described in Article 14 of Regulation (EC) No. 178/2002), the product may be seized under Article 8 of the Food Safety (Northern Ireland) Order 1991, as amended by the General Food Regulations (Northern Ireland) 2004 (as amended) and dealt with accordingly.

9.9.2 Withdrawal of Unsafe Food

In terms of the General Food Regulations (Northern Ireland) 2004 (as amended), as read with Articles 14 and 19/20 of Regulation (EC) No 178/2002, a FBO shall not place on the market unsafe food. The FBO is required to withdraw from the market a food that has been imported, produced, processed, manufactured or distributed if it is not in compliance with the food safety requirements. Such withdrawal procedures shall be immediately initiated, where the food has left the immediate control of the initial FBO, and the CAs must be informed.

Officers must decide as soon as possible whether a 'food incident' has occurred and notify the FSA in NI in accordance with the statutory Food Law Code of Practice (Northern Ireland), Chapter 1.7 and accompanying Practice Guidance.

Where the product may have reached the consumer, the FBO shall effectively and accurately inform the consumers of the reason for its withdrawal and if necessary, recall from consumers products already supplied to them, when other measures are not sufficient to achieve a high level of health protection. FBOs shall collaborate with DCs to avoid or reduce the risks associated with unsafe food.

9.9.3 Voluntary surrender

Voluntary surrender may be an option dependent on circumstances. For example, where there is no evidence to suggest that a deliberate attempt has been made to import non-compliant goods or where an officer has concerns about the safety of food but cannot demonstrate conclusively that it does not meet food safety requirements. Such voluntary arrangements should be consistent with the statutory Food Law Code of Practice (Northern Ireland).

9.9.4 Common problems:

- Bottled water/spring water/mineral water not in compliance with the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 (as amended), as amended, e.g. contaminated Zam Zam water for human consumption.
- Carbonated soft drinks with excess preservative and colours.
- Pickled vegetables with excess preservative.
- Labelling issues in general.
- Mustard Seed Oil containing erucic acid in excess of permitted levels.
- *Bacillus cereus* contamination of 'wet' preserved bean curd usually presented in glass jars.
- Mycotoxins in a wide range of products including nuts, dried fruit, cereals and spices.
- Nuts or dried fruit subject to specific import controls that have not been imported via a designated point of entry.
- *Salmonella spp.* in untreated (unroasted) curry powder and other spices.
- Presence of non-permitted additives (preservatives, colours, flavours, enhancers, etc.).
- Excess colours in confectionery and coated fennel seed above permitted levels.
- Fish and fish products – mis-descriptions, authenticity, veterinary medicine residues.

9.9.5 Storage & Disposal facilities

When dealing with FNAO, officers may need to arrange transport of products to a secure storage/detention/inspection facility, e.g. secure ambient warehouse, chilled or frozen food coldstore. It is anticipated this is most likely to occur when a large consignment is seized and facilities are needed prior to destruction. DCs should be prepared for the need to transport large consignments at short notice and are advised to identify suitable carriers and storage facilities in advance of need.

Suitable storage facilities should be identified and considered for the risk of the product and rejected goods may need to be accompanied and monitored. Disposal would generally be by deep burial at a suitably licensed landfill site, or by incineration. (N.B. animal products can only be incinerated / rendered). Contact DARD (028 9052 5275) who may be able to assist.

9.10 Notifying the Point of Entry

Enforcement officers should make every effort to inform the point of entry, without undue delay, in the following circumstances:

- Where FNAO is known or suspected to have been illegally imported without being subject to emergency control checks.
- Where FNAO fails to meet food safety requirements i.e. is unsafe (Article 14 of Regulation (EC) No 178/2002) and the officer considers this was a problem at the point of entry.

9.11 Liaison with other Member States

From 1 April 2006 the FSA took over responsibility from LG Regulation as the designated liaison body for the purposes of Article 35 of Regulation (EC) No 882/2004 and, as such, is responsible for assisting and co-ordinating communication between CCAs in the EU and the transmission and reception of requests for assistance.

EU trans-border matters that may have policy implications, aspects relating to outbreaks of foodborne disease and issues connected with food hazards are dealt with by the FSA. DCs must therefore notify the FSA in NI of all such matters at the earliest opportunity.

Any correspondence in relation to the above should be sent to Incidents, Standards and Science Unit, 10A-C Clarendon Road, Belfast, BT1 3BG, telephone 028 9041 7700, Fax 028 9041 7726 and email: incidents.ni@foodstandards.gsi.gov.uk.

Section 10 – Summary

A substantial amount of food consumed in the UK is 'imported' and a significant proportion originates from countries outside the EU. Whilst inspecting food establishments, authorised officers should carry out routine checks on POAO and high risk FNAO which have been imported from third countries.

POAO (food) should normally be marked with the country of origin together with the approval number of the originating establishment. Where an officer has some doubt regarding the legitimacy of a POAO from a third country or does not have a high degree of confidence in the management of the business in which it has been found, steps should be taken to verify the authenticity of the markings on the product.

Where POAO from a third country is found in a food business in the UK that was responsible for the import of the product from a third country, a so called "first destination", verification of lawful import in the form of a CVED should be provided.

Certain 'high risk' FNAO from third countries are subject to an enhanced import checks regime at the point of entry. Where significant quantities of these products are found inland, official controls should be undertaken to verify lawful import. Where 'high risk' FNAO from a third country under Regulations (EC) 669/2009 or 1152/2009 are found in a food business that is a 'first destination', verification of lawful import in the form of a CED should be provided.

Should an authorised officer have concerns regarding the legal status of a POAO from a third country, he/she should consider placing the food under detention whilst an investigation is undertaken. If the officer is satisfied that the POAO was illegally introduced into NI or it is dangerous to health, the appropriate formal notice should be served and the food destroyed.

Similar enforcement options are available to officers who suspect or are satisfied that FNAO from third countries has been illegally imported or is non-compliant with EU food law.



Chapter 3 – Case Studies



Case study 1: worked example

During an inspection of a retail shop, an authorised officer discovers a quantity of fish on display for sale in a chest freezer. The fish is unpackaged and there are no labels attached or associated with it.



Key Legal requirements

The fish should have originated from an approved establishment within an approved third country.

The packaging, in which the fish consignment arrived at the premises, should be marked with the country of origin and bear an establishment number

A Common Veterinary Entry Document (CVED) is required to be present at the first destination inland from the point of entry.

The FBO should have adequate systems and procedures in place to demonstrate the traceability of food that he places on the market (Article 18 of Regulation (EC) No 178/2002).

The fish should be labelled with the name of the fish, the production method (whether caught at sea, inland or farmed) and the catch area: (The Fish Labelling Regulations (Northern Ireland) 2010) (as amended).

What are the concerns?

Fish should be properly labelled at the point of sale to provide the consumer with accurate information regarding its nature, origin and the method of catch employed. However, in this scenario the most significant concern is that the fish may have been illegally imported and as such has not been subjected to the necessary official controls. Here, the fish should have originated from an approved establishment in an approved third county and been imported into the EU via a designated Border Inspection Post (BIP) where a CVED should have been issued on completion of statutory import checks.

Fish handled in approved establishments in approved third countries which are subsequently checked at a BIP carry certain assurances as to the conditions in which they were produced and subsequently handled. In contrast, fish that may have originated from non-approved third countries and/or evaded border controls may pose a risk to public health.

Suggested course of action:

The authorised officer should firstly ask the FBO for further details in relation to the origin of the fish then seek to verify the accuracy and authenticity of such information.

The officer could request:

- To see invoices and/or delivery notes which relate to the fish
- Verbal information from the FBO regarding the supplier of the fish (Name, address, telephone/e-mail details)
- Whether the fish was imported directly by the food business where it is on sale.
- If this is the case, the officer should request a copy of the CVED.

The authorised officer should then consider the adequacy of the information provided.

Where the officer is satisfied that the fish originated from a third country but was not lawfully imported, a notice under Regulation 24(2) Products of Animal Origin (Third Country Import) Regulations (Northern Ireland) 2007 (as amended) should be served on the person in control of the food. This notice will require the seizure and destruction (or in exceptional circumstances re-export) of the food. For further details on this course of action see Chapter 2, Section.

In circumstances where there is still doubt regarding the legitimacy of the fish, the authorised officer may consider the detention of the food using a Notice provided for by Regulation 8(2) of the Products of Animal Origin (Third Country Import) Regulations (Northern Ireland) 2007 (as amended). This notice could be used, for example, to give the FBO time to locate and provide the officer with relevant documentation. For further details on this course of action see Chapter 2, Section 8.4.

Should the FBO provide information relating to the source country and /or establishment, the validity of these details may be verified by the officer with reference to the lists of approved third countries and establishments published on the Europa website. These details can be found at the following URL:

http://ec.europa.eu/food/food/biosafety/establishments/third_country/index_en.htm

Where the FBO is able to provide sufficient evidence to verify that the fish had been legally imported, he should be advised to ensure that all future consignments are adequately marked.

If after initial investigation, the officer is unable to verify the legitimacy of the fish or has any technical queries, the Local Authority Unit in FSA in NI should be contacted.

In accordance with the Food Law Code of Practice, should the authorised officer consider that the supply of the fish constitutes a serious local incident or a non-localised incident; the matter must be reported to the FSA. This can now be achieved using the online incident report form which can be accessed at: <http://www.food.gov.uk/foodindustry/regulation/foodfeedform>.

Case study 2

The following products are discovered during the routine inspection of a cut-price retail butcher's shop:



Chicken and beef sausages labelled "Product of RSA"



"Factory fresh frozen" "Boerewors sausages – Product of RSA"

Case study 3



You have established that there is an ERTS in your district that you were previously unaware of. You decide to visit the premises. During the visit it is clear from paperwork that large quantities of fruit and vegetables routinely obtain HMRC clearance at this ERTS. Whilst inspecting some pallets of fruit you come across the items shown in the pictures.

- a) What investigation work should you undertake?
- b) What formal action is appropriate?
- c) Who should you contact if you are unsure on how to proceed?
- d) What follow up work do you undertake?

Case study 4

As a part of your council's sampling programme this year you are expected to procure samples of various spices for analysis or examination. You visit a warehouse owned by a company that imports animal and non-animal products from around the world. You choose to take a sample of curry powder imported from India.



- a) Explain how this product can be imported legitimately into the UK.
- b) What documents should be present at the first point of import for this product?
- c) What action should you take if you suspect that this product has not been legitimately imported?
- d) What contaminants would you ask the Public Analyst to look for?
- e) What action would you take if the analyst finds unacceptable levels of contaminants?

Case study 5

(This comes in two parts. When you have finished work on part one please work on part two).

Part 1: You are investigating an outbreak of *Salmonella* food poisoning in your district. Initial findings suggest that the source may be associated with a sandwich bar in your district and, in particular, coronation chicken sandwiches.

- a) What ingredients of the sandwiches could be possible sources of the salmonella contamination?
- b) What action would you take?
- c) What guidance/legislation might be appropriate for you to consider in this case?



Part 2: ADDITIONAL INFORMATION – The Salmonella species and phage type has been confirmed by the Public Health Laboratory Services (PHLS). You originally took samples of chicken, curry powder and swabs from preparation surfaces and containers. The microbiological results are received by you as follows:

PHLS
MICROBIOLOGICAL REPORT

Ref: XGF836201
Lab Number: EF005127

Sender: Council

Sample From: Tasty Sarny Co.

Seal Nos: 2113948, 2113949, 2113950, 2113951, 2113952, 2113953

Sample No.	Specimen	Salmonella Spp.	Comments
1	Chicken pieces (Sealed outer)	Not detected in 25g	Acceptable
2	Curry powder	Present in 25g	Unacceptable potentially hazardous
3	Swab A	Not Detected	
4	Swab B	Not Detected	
5	Curry powder - Container swab	Present	Unacceptable
6	Chicken - container swab	Not Detected	Acceptable

SAMPLE 2 confirmed presence of Salmonella Spp X phage type Y in 25g. [Positive match to pathogen retrieved from stool samples].

-----REPORT ENDS-----

- d) Outline your actions following receipt of these results.

- e) Following further investigation it appears that the curry powder was originally imported as a bulk consignment for distribution across the EU. It was Customs cleared at Rotterdam Freeport in the Netherlands. What follow up action do you take and what channels of communication do you use?

Imported Food Case Study Model Answers:

Please note that these are suggested answers for educational purposes only. Alternative enforcement strategies and processes may be appropriate dependant on specific circumstances encountered and enforcement officers are advised to seek appropriate advice prior to embarking on a specific course of action.

Model answer: Case study 2

a) As a minimum you should note:

- Product description.
- Product brand.
- Weight.
- Country of Origin.
- EU Approval number.

However, if investigating such a product you should really make notes on all information that is available, and consider taking a sample. Samples would be taken under regulation 8 of the Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended) (or successor legislation) and should be used if you need to carry out further identity or physical checks on the product. If this procedure is followed the rest of the consignment may be detained.

Information could include:

- Durability markings.
- Producer details.
- Importer details.
- Description of condition of product.
- All other labelling/markings.

If you intend to contact the FSA in NI (or other Government departments) then it is really helpful to take digital photographs that can be e-mailed in to assist with identification/details of your enquiry.

b) Questioning should initially be general to gain an understanding of the scope of imported food trade at this business. Try to identify the following:

- What range of imported food products is currently on the premises/purchased by the business/stored elsewhere?
- How does the retailer receive imported foods? Is this by direct import or purchase from a wholesaler? If a wholesaler, or other intermediary, obtain details.
- Does the retailer sell any product on to other stores or are there any other associated outlets?

Then focus in on the product in question and obtain more detail:

- Who is in charge of goods?
- Who owns goods?
- Who imported these specific goods?
- Which BIP/Port were they imported through?
- Is this commodity a regular import?
- Who is the supplier (UK, EU and third country)?
- Do you supply these goods onwards?
- Do you have or can you obtain the CVED?
- What date were the goods imported? (Although difficult to obtain, sometimes this may be crucial, if specific safeguard controls were in force at the time of import, e.g. veterinary residue controls).
- What quantity of stock is held?
- Ask for commercial documents to verify (invoices, shipping documents).

- If unfamiliar with the product ask what it is used for and obtain general information relating to the product type.
- Where were the goods purchased?
- When were they purchased?
- Is this a regular stock line?

Detailed questioning may then follow dependant on answers provided. The core information that is needed to verify it is a legitimate import is:

- (Copy of) Common Veterinary Entry Document (from an EU BIP).
- Date of import.
- Place of import.
- Approved establishment number and country of origin.
- Type of product.

In some cases it will be a lengthy process to obtain this information (especially when from a small retailer, who is some way down a complex distribution chain). Of course you will need to investigate in line with enforcement policies and it may not be proportionate to carry out a detailed investigation on each occasion that you find goods of this nature. However where you have grounds to suspect that goods are illegal imports you should follow up with an investigation and enforcement activity, as appropriate. The traceability requirements of Regulation (EC) No 178/2002 (implemented by the General Food Regulations (Northern Ireland) 2004, as amended) may be of assistance in tracing back to the CVED. You may need to liaise with other DCs to obtain the information.

c) Legislation to Review:

- The Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended) or successor legislation [POAO (TCI) Regs]
- The Products of Animal Origin (Import & Export) Regulations 1998 (as amended) in respect of intra-EU goods or third country goods that have entered via another Member State BIP, but are non-conforming
- Good answers will include reference to checking on safeguard provisions in place at the time of import, i.e. specific Commission Decisions and Declarations under Reg. 61 of POAO (TCI) Regs. These can be found on FSA websites and officers are recommended to keep up to date with Countries subject to safeguard provisions and related issues. This need not be in full technical detail needed by BIP staff but just to be aware of current issues

d) Potential Enforcement Options:

This legislation should be considered first as it is most pertinent to deal with illegal third country POAO imports and offers a number of robust enforcement procedures:

- POAO (TCI) Regs. regulation 8 – detain.
- POAO (TCI) Regs. regulation 24 – Enforcement procedure for illegally imported animal products.
- POAO (TCI) Regs. regulation 25 – Enforcement procedure for goods that pose a risk to public or animal health.

If it is inappropriate to act under the above or disproportionate to carry out a lengthy investigation and there are other food safety/standards offences, then consider action under the Food Safety (Northern Ireland) Order 1991 and related S.R.s.

Finally where action is taken against illegal imported animal products it is important that intelligence information is passed to DC/DARD officers at the point of entry. The FSA Food Fraud Team will ensure that HMRC and UKBA are informed (if an intelligence report form is submitted to them), as well as recording the information on the Food Fraud database.

Model answer: Case study 3

- a) Initially investigation work will be limited to establishing the origin of the poorly packaged decaying meat. It is important at this stage to identify if the products have been imported from third countries or are intra-EU trade. If they are intra-EU trade then refer to the FSA illegal meat guidance to identify options for control. If they are third country imports verify that health marks are absent and that the goods have not been presented to a BIP, with subsequent issue of a CVED. Also it is important to establish if any of the product has been dispatched elsewhere so that it may be tracked and controlled. As this facility is under customs control, being an ERTS, the formal control of the smuggled meat will be the responsibility of UKBA.
- b) You should refer the case to UKBA via local liaison, if in place, or via the Customs National Co-ordination Unit (Smuggling Intelligence) on Tel: 0870 785 3600, Fax: 0870 240 3738 or ncu@hmrc.gsi.gov.uk and to DARD.

In order to help UKBA and DARD prioritise their response, professional judgement should be used as to whether goods can be left unattended or not. Risk factors should be communicated to HMRC such as:

- likelihood that the goods will be removed if left unsecured.
- perceived level of risk presented by the commodity. In this example the ham may present high animal health risk as a potential vector of animal disease, and may have associated public health risks due to the condition of the product. If high risk is identified, the DC should urge HMRC/DARD to attend as soon as possible and remain with the goods or secure them in a locked area, if practicable.

If there is a perceived high risk, it is imperative to ensure that the goods are controlled and do not leave the premises. Service of a Regulation 5(3) POAO (TCI) Regulations notice to detain the food for referral to UKBA and DARD would be appropriate. Additionally great care needs to be taken to ensure that all steps are taken to prevent contact with the product and spread of potential contaminants. You should ensure that a health and safety risk assessment is in place in relation to the activities of DC personnel and any contractors etc. Finally DARD Veterinary Service must be informed so that they can consider possible risk to animal health in the area if not already informed.

In other cases where the risks posed may not be so high, and where you have confidence in the management you should indicate to HMRC and DARD that the response needed is not immediate, but is nonetheless still reasonably urgent. HMRC will endeavour to respond within 24 hours for all incidents.

Additionally, if you have established that goods have moved away from the ERTS to your jurisdiction, or the jurisdiction of other DCs, you should ensure that the rest of the consignment is intercepted and controlled using a POAO (TCI) regulation 24 Notice.

- c) If unsure how to proceed then contact the relevant organisation as per the information in this Pack. However if you are unclear or do not have numbers available to you on site, please call FSA in NI's Local Authority Unit on 028 9041 7722.
- d) Follow up work will largely involve liaison with HMRC (and DARD) to ensure that the entire consignment has been controlled whether in UKBA or DC jurisdiction. Also you should send copies of any Notices served under the POAO (TCI) Regs to Defra via DARD.

You should report the seizures to Defra via DARD using the IIT1 form. The reporting of seizures by DCs requires the completion (preferably electronically) of a common form (IIT 1 (4/08)), which is then sent by e-mail for DARD to record the appropriate information required. However, the option remains for the form to be completed manually, if that method is preferred, and sent to DARD by fax/post. Details of where to e-mail/fax/post the form is included on the form itself and in section 8.4 of chapter 2 of this guidance.. As you know the form is located on the secure parts of the following websites which cannot be accessed without password permission:

APHA: <http://www.apha.org.uk>

CIEH: <http://www.ehcnet4.net/govt/defra/iit/iitrept.php>

LG Regulation: <http://www.lacors.gov.uk/lacors/CustomLogin.aspx?docID=7866&docType=C>

The information provided in this form is also shared with the Food Standard Agency's Food Fraud team.

If the meat has been widely distributed then you should notify FSA in NI so that they can assist you with submission of RASFF notifications and issue food alerts as may be appropriate to the circumstances.

Model answer: Case study 4

- a) Curry powder from all third countries is identified as a "high risk" FNAO in Annex 1 of Regulation (EC) No 669/2009 (as amended) and should only be imported into the EU via a Designated Point of Entry (DPE). Legitimate import requires the FBO to pre-notify the DPE of its arrival and for enhanced checks to be undertaken at the port.
- b) A properly completed, signed and stamped Common Entry Document (CED) should be available at the first point of entry inland.
- c) After suitable consultation, a detention Notice should be served under Regulation 31 of the Official Feed and Food Controls Regulations (Northern Ireland) 2009 (as amended).
- d) Sudan I, II, III and IV. Additionally you may wish to consider examination or analysis for salmonella, mycotoxins and other contaminants that may be associated with this commodity.
- e) Destruction - Regulation 31 of the Official Feed and Food Controls Regulations (Northern Ireland) 2009 (as amended).

Model answer: Case study 5

- a) Chicken, mayonnaise, eggs, salad dressings, lettuce/salad, infected handlers, contaminated surfaces, cross-contamination and curry powder.
- b) Food Safety (Northern Ireland) Order 1991, Regulation (EC) No 852/2004 (Hygiene of Foodstuffs), Food Hygiene Regulations (Northern Ireland) 2006 (as amended), local outbreak control plans and related information/legislation, PHLS Guidelines for the microbiological quality of some ready-to-eat foods. (This list is not exhaustive but indicates some of the more obvious documents).
- c) Clearly from the results the curry powder is the most likely source of the problem. Hence, alongside 'normal' outbreak control work to minimise the impact on the general population, the distribution of the curry powder needs to be established and controlled. The extent of distribution both upstream and downstream should be established along with any distinguishing marks, lot numbers, batch codes, etc. If applicable, the Home Authority or Primary Authority should be contacted. Details of supplying and receiving establishments should be identified and the case should be referred to FSA in NI's Incidents, Standards and Science Unit on 028 9041 7700 or via email to incidents.ni@foodstandards.gsi.gov.uk or by completion of the online report form at: <http://www.food.gov.uk/foodindustry/regulation/foodfeedform>. Control will be via the Food Safety (Northern Ireland) Order 1991. (Imports legislation would not normally be appropriate once imported goods have been legitimately HMRC cleared into the EU/UK – if in any doubt ask for advice).
- d) Submit a notification under the Rapid Alert System for Food and Feed (RASFF). All enquiries on RASFF notifications to FSA in NI's Incidents, Standards and Science Unit on 028 9041 7700.

Chapter 4 – References



Section 1: Glossary

ABPR	Animal By Products (Enforcement) Regulations 2011
AH	Animal Health
Airway bill	Commercial documents providing a general description of air cargo items
AMI	Animal Medicines Inspectorate
APHA	Association of Port Health Authorities
BIP	EU Border Inspection Post situated at a seaport or airport or international rail or road link. This is the port of entry, authorised by the Commission and inspected by FVO, where POAO may be legitimately imported into the “Relevant Territories” of the single market. The POAO will be subjected to veterinary checks at the BIP and a CVED will be issued to demonstrate that these checks have been successfully completed.
CCA	Central Competent Authority. In NI DARD is the CCA for the import of POAO from third countries except for fishery products and shellfish where the FSA is the CCA.
CA	Competent Authority
CED	Common Entry Document – Part II of this document is issued at a DPE or DPI to verify that a “high risk” FNAO has been lawfully imported.
CEFAS	Centre for Environment, Fisheries and Aquaculture Science
CHIEF	Customs Handling of Import and Export Freight
CIEH	Chartered Institute of Environmental Health
CITES	Convention on International Trade in Endangered Species
Consignment(s)	A consignment is a quantity of food or feed of the same type, class or description covered by the same document(s), conveyed by the same means of transport and coming from the same third country or part of such country.
Code of Practice	Code of Practice issued under the Food Safety (Northern Ireland) Order 1991, the Food Hygiene Regulations (Northern Ireland) 2006 (as amended) and the Official Feed and Food Controls Regulations (Northern Ireland) 2009 (as amended).
CVED	Common Veterinary Entry Document (previously Certificate of Veterinary Clearance, CVC) – Part II of this document is issued at a BIP to verify legal import of POAO.
DARD	Department of Agriculture and Rural Development
Defra	Department for Environment, Food and Rural Affairs

Demurrage	Charges for use of shipping containers, rail wagons, tanker lorries waiting for pick up or clearance, storage charges for space on a dock or wharf or in transit sheds and elsewhere. Akin to rental excess charge for use past the agreed period
DC	District Council
DPE	Designated Point of Entry – where foods subject to the import conditions of Regulation (EC) 669/2009 may be imported.
DPI	Designated Points of Import – where food subject to the import conditions of Regulation (EC) 1152/2009 may be imported.
DVM	Divisional Veterinary Manager (AH)
EC	European Commission
EEA	European Economic Area
ERTS	Enhanced Remote Transit Shed (HMRC designated warehouse where goods are held in temporary storage pending Customs clearance and release for free circulation) http://www.food.gov.uk/multimedia/pdfs/scotresourcepacksec1315.pdf
EU	European Union
FNAO	Food Not of Animal Origin
Free Circulation	Customs status for goods that are 'cleared' into the EU
FSA	Food Standards Agency
FVO	Food and Veterinary Office (EU)
GRAIL	Guidance and Regulatory Advice on Import Legislation
HMRC	Her Majesty's Revenue & Customs
IAPPO	Importation of Animal Products and Poultry Products Order 1980 – applies to all products of animal origin not covered by the Products of Animal Origin (Third Country Imports) Regulations (as amended)
LG Regulation	Local Government Regulation (formerly LACORS)
Manifest	Document/computer file describing all cargo carried on a ship, cargo train or aircraft.
MHRA	Medicines and Healthcare Products Regulatory Agency (Formerly MCA – Medicines Control Agency)
MCGA or MCA	Maritime and Coastguard Agency
MoU	Memorandum of Understanding
NCH	National Clearance Hub (HMRC)
OFFC	Official Controls performed to ensure compliance with Food & Feed Law, Animal Health and Welfare Rules
OFI	Official Fish Inspector

OVS	Official Veterinary Surgeon
PHA	Port Health Authority
POAO	Products Of Animal Origin
POAO (TCI)	The Products of Animal Origin (Third Country Import) Regulations (Northern Ireland) 2007 (as amended)
RASFF	Rapid Alert System for Food and Feed (EU)
S.R.	Statutory Rule
Third Country	Any country outside of the EU for the purposes of import controls
Trans-shipment	Movement of goods from HMRC area of a port to another port
UKBA	United Kingdom Border Agency

Section 2: Useful links

<u>Relevant Organisations/Central Government Departments</u>	
The Association of Port Health Authorities (APHA) website	http://www.apha.org.uk/
The Chartered Institute of Environmental Health (CIEH) website	http://www.cieh.org
Centre for Environment, Fisheries and Aquaculture Science (CEFAS - executive agency of Defra) website	http://www.cefass.co.uk/homepage.htm
Defra Organic Farming Branch – Organic imports Homepage	http://archive.defra.gov.uk/foodfarm/growing/organic/imports/
The Food and Environment Research Agency (FERA) website	http://www.fera.defra.gov.uk/
Local Government Regulation (LG Regulation formerly LACORS) website	http://www.lacors.gov.uk/pages/trade/lacors.asp
Plant Health – Defra Homepage	http://www.defra.gov.uk/food-farm/
Chemicals Regulation Directorate (CRD formerly PSD) website	http://www.pesticides.gov.uk/
Veterinary Medicines Directorate (VMD) website	http://www.vmd.gov.uk
<u>General information</u>	
Customs Tariff/Commodity Codes on-line	http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageImport_ShowContent&id=HMCE_MIG_009862&propertyType=document
EU Law search engine	http://eur-lex.europa.eu/en/index.htm

Official Journal website	http://eur-lex.europa.eu/JOIndex.do?ihmlang=en
EU Official Food Safety Website	http://ec.europa.eu/food/index_en.htm
Office of Public Sector Information (OPSI - formerly HMSO) Legislation Homepage	http://www.legislation.gov.uk/
FAO Fisheries Global Information System (Identification of fish etc.) website	http://www.fao.org/fi/figis/index.jsp
The Food Standards Agency (FSA) website	http://www.food.gov.uk
The imported food section of the Food Standards Agency website	http://www.food.gov.uk/foodindustry/imports/
Contacts for specific food imports Homepage	http://www.food.gov.uk/foodindustry/imports/contacts/importcontactus/
Foodstuffs with current EU restrictions (<i>Please note the list is subject for review every quarter; whereby products are added and removed.</i>)	http://www.food.gov.uk/foodindustry/imports/banned_restricted/restricted_foodstuffs
Banned or Restricted products	http://www.food.gov.uk/foodindustry/imports/banned_restricted/
<u>Products of Animal Origin information</u>	
Border Inspection Post Manual – Veterinary Checks	http://archive.defra.gov.uk/foodfarm/animaltrade/imports/bips/pdf/bipmanual.pdf
DARD – Imports Information	http://www.dardni.gov.uk/index/animal-health.thm
Defra List of UK Border Inspection Posts Homepage	http://animalhealth.defra.gov.uk/imports-exports/imports/bip/guidance.htm
Defra Animal Health/International Trade Homepage	http://animalhealth.defra.gov.uk/imports-exports/index.htm
Defra Illegal imports information	http://www.defra.gov.uk/food-farm/food/personal-imports/
Directive 2002/32 (EC) on undesirable substances in feed	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:140:0010:0021:EN:PDF

EC Decision listing products of animal origin to be examined at border inspection post	http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_116/l_11620070504en00090033.pdf
The EU List of Approved Establishments in Third Countries	http://ec.europa.eu/food/food/biosafety/establishments/list_en.htm
CIEH (Authorisation required)	http://www.ehcnet4.net/govt/defra/iit/iitrept.php
LG Regulation (previously LACORS) (Authorisation required)	http://www.lacors.gov.uk/pages/trade/lacorsdocument.asp?R_ID=9747
<u>UK and relevant EU Legislation (Please note: Some of this legislation will have been reviewed and updated – the links are to original unamended versions)</u>	
The Animal By-Products (Enforcement) Regulations (Northern Ireland) 2011 SR 2011 No 124	http://www.legislation.gov.uk/nisr/2011/124/made/data.pdf
The Contaminants in Food Regulations (Northern Ireland) 2010 SR 2010 No 335	http://www.legislation.gov.uk/nisr/2010/335/contents/made
The Food Labelling Regulations (Northern Ireland) 1996 (as amended), SR 1996 No 383	http://www.legislation.gov.uk/nisr/1996/383/contents/made
The Food Safety (Northern Ireland) Order 1991, 1991 No 762	http://www.legislation.gov.uk/nisi/1991/762/contents/made
Commission Regulation (EC) No 178/2002 (the general food law)	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002R0178:20090807:EN:PDF
The Official Feed and Food Control Regulations (Northern Ireland) 2009 (as amended) SR 2009 No 427	http://www.legislation.gov.uk/nisr/2009/427/contents/made
The Organic Products (Imports from Third Countries) Regulations 2003	http://www.opsi.gov.uk/si/si2003/20032821.htm
The Products of Animal Origin (Import & Export) Regulations (Northern Ireland) 1998 (as amended) [Use for Intra-EU Trade only] SR 1998 No 45	http://www.legislation.gov.uk/nisr/1998/45/contents/made

<p>The Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (as amended), SR 2007 No 199</p>	<p>http://www.legislation.gov.uk/nisr/2007/199/contents/made</p>
<p>Regulation (EC) No 882/2004 on Official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules</p>	<p>http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:191:0001:0052:EN:PDF</p>
<p><u>PHA and LA Contacts</u></p>	
<p>Contact details for all of the UK ports are available on the APHA website at: http://www.porthhealth.co.uk/port_directory.asp Alternatively, these contact details can be found in the Association of Port Health Authorities Handbook (updated annually). APHA can be contacted on 08707 444505</p>	
<p>For DCs please refer to either the Directory of Environmental Health Departments (including Port Health Authorities), which is updated periodically issued to all DCs electronically every year to the website: www.tradingstandards.gov.uk</p>	

Section 3: National Contacts:

Issue	Organisation	Contact	Tel:	E-mail
Imported Food General, POAO (Fish), Public Health Controls, Enforcement support	FSA in NI	Karen Flanigan	028 9041 7722	Karen.flanigan@foodstandards.gsi.gov.uk
EU Liaison – contact with other Member States	FSA in NI	Incidents, Standards and Science Unit	028 9041 7700	incidents.ni@foodstandards.gsi.gov.uk
Trade sample licences (inc. fishery products/bivalve molluscs), Trade Enquiries POAO	DARD	Lisa Reid	028 9052 4275	lisa.reid@dardni.gsi.gov.uk tradeadminpost@dardni.gov.uk
POAO (Not Fishery products/bivalve molluscs), animal health issues, Enforcement support.	DARD	Lisa Reid	028 9052 4275	lisa.reid@dardni.gsi.gov.uk tradeadminpost@dardni.gov.uk
Illegal POAO imports general enquiries	DARD	Lisa Reid	028 9052 4275	lisa.reid@dardni.gsi.gov.uk tradeadminpost@dardni.gov.uk

Customs National Co-ordination Unit (queries/referrals for illegal imports found inland). Intelligence reports to Customs (5x5x5)	HMRC	Customs National Co-ordination Unit (Smuggling Intelligence)	0870 785 3600	ncu@hmrc.gsi.gov.uk
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