

## JULY 2007 UPDATE ON EU REGULATION 882/2004 ON OFFICIAL CONTROLS – IMPLEMENTING RULES FOR IMPORT CONTROLS FOR 'HIGH RISK' FEED AND FOOD OF NON-ANIMAL ORIGIN

Further views from stakeholders are requested by 13 July 2007 and should be sent to:

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### Introduction

1. Since the update on 11 April about the above implementing rules there have been two further Commission Working Group meetings in Brussels and this note updates stakeholders on the outcome of these discussions.

2. We are grateful for the comments on the proposed implementing rules (including responses to the formal consultation exercise) that we have received to date, and have taken these into account in developing the UK position for the on-going negotiations. The next EU meeting is expected to be around mid to late July so any further comments on the main issues - see below - are requested by Friday 13 July - contact details are given above.

### Main issues from EU discussions

#### **Standard documentation for prior notification**

3. The main unresolved issue in relation to this is a Commission proposal that the Common Entry Document must be completed and issued through TRACES. A number of MSs, including the UK, continue to have concerns about making this mandatory at this stage because the system has yet to be shown to be working effectively in respect of checks on products of animal origin (POAO) at Border Inspection Posts. In recognising these concerns, the Commission now proposes to allow a transitional period for implementing the requirement to use TRACES for 'high-risk' non-POAO, possibly to 1 January 2010.

#### **Designated points at which checks should be undertaken**

4. There now appears to be general agreement to the Commission's proposed flexible approach. This will require that at least documentary checks be carried out at the first point of arrival of a consignment on Community territory at a 'designated point of first arrival'. MSs may, if they wish, also designate additional points inland - 'designated points of import' - to which consignments may be transported under official control and where identity and physical checks must be carried out.

5. Two substantive issues in relation to controls at designated points remain unresolved:

- **Splitting of consignments** - There appears to be general agreement that this should not take place until all controls have been completed and the consignment cleared for free circulation. However, some MSs are seeking derogations to this for bulk consignments of feed.
- **Detention of consignments**: Some MSs (including the UK) believe that all consignments of products covered by the measures in the Working Document must be detained until the results of all the controls are obtained given the risk to public health. Others oppose this and take the view that consignments may be released pending the results becoming available.

## **Fees**

6. There is as yet no consensus on whether minimum fees should be set (as is the case for products of animal origin) or whether the fees should simply be set at the level of the costs to the competent authority (as is the case in the safeguard measure for aflatoxins - 504/2006/EC). This is to be discussed further at the next meeting.

## **Relationship between Article 15(5) and Article 53 of Regulation 178/2002**

7. The Commission has now clarified that its proposal is for a cascade approach whereby Article 15(5) will be used where there is a known or emerging risk and Article 53 of Regulation 178/2002 will continue to be used, as now, when there is a serious risk. During discussion on this point, the UK has highlighted that products that represent a serious risk (Article 53 measures) should not be subject to any less stringent control measures than those of known or emerging risk. The Commission has acknowledged this point and our understanding is that the common framework for official controls that will be provided by the Working Document for products with a known or emerging risk - prior notification using the CED, controls at designated points, mandatory fees for controls - will be applied also to those products that are currently or will in the future be subject to Article 53 measures.

## **List of 'high risk' products**

8. Some progress has been made towards agreeing criteria for determining which feed and food will be included in the list of 'high-risk' products. This is likely to include: the number and frequency of RASFF (Rapid Alert System for feed and Food) alerts; intelligence from Member States; or intelligence from the Commission's Food and Veterinary Office from inspections it carries out in third countries. There is agreement that to ensure transparency, these criteria should be set out in the Working Document, together with details of how the list will be kept under review and the legal mechanisms that will be used to add/remove products from the list (this will be through the Standing Committee on the Food Chain and Animal Health).

## **Further information**

9. We will keep you informed of further developments but, in the meantime, please get in touch with Rufina Acheampong (contact details given above) or with Catriona Stewart on 020 7276 8498 (email: [catriona.stewart@foodstandards.gsi.gov.uk](mailto:catriona.stewart@foodstandards.gsi.gov.uk)) if you wish to discuss any of the above issues.