Summary of stakeholder responses 17 July 2023 to 28 August 2023: Amendments to Retained Regulation 2019/1793: Imported Food and Feed not of Animal Origin

This was a joint Food Standards Agency (FSA) and Food Standards Scotland (FSS) consultation on proposed amendments to Retained Regulation 2019/1793.

Introduction

This consultation opened on 17th July 2023 and closed on 28th August 2023.

It is a joint Food Standards Agency (FSA) and Food Standards Scotland (FSS) consultation on proposed amendments to Retained Regulation 2019/1793. This Retained Regulation applies a temporary increase of official controls and special conditions governing the entry into Great Britain of certain food and feed of non-animal origin from certain countries. The reason we consulted was to seek stakeholder comments and views on proposed amendments to the Annexes of Retained Regulation 2019/1793.

The consultation was published on the FSA and FSS website. Emails were sent to trade bodies, port health local authorities and other interested parties. Prior to the consultation opening, the FSA and FSS wrote to the countries affected by the proposals. We also notified the World Trade Organisation (WTO) in line with our international commitments.

The FSA and FSS are grateful to those stakeholders who responded to the consultation and the table below sets out our responses in order of the date in which they were received.

The key questions on which the consultation sought views were:

- do you have any comments on the country/commodity recommendations that are being proposed to update the lists?
- are you aware of any impacts of the proposed commodity updates that have not been identified in this consultation?

Summary of substantive comments

1. The Embassy of Vietnam and the SPS office of Vietnam

Summary of comment

The respondent reported that Vietnamese dragon fruit is of excellent standard and has been exported to numerous markets worldwide. On average, every year Vietnamese enterprises export over two thousand tons of fresh and frozen dragon fruit to the EU market.

Vietnamese authorities would certainly join the UK's efforts to minimise such risks in effective, reasonable means in line with the WTO's SPS rules and have agreed to meet to discuss this

further to gain insight and work together to improve food safety.

Vietnamese authorities are gaining acceptance of the proposals; however, they have highlighted cost and inflation implications as it is a large export for them.

Summary of Response

As a result of improved compliance since 2021, we are proposing to move Pitahaya (dragon fruit) from Annex II to Annex I of the Regulations. This means that the checks exporters must undertake will be reduced. Under current arrangements, commodities in Annex II, are subject to 100% laboratory analysis and certification before being despatched from Vietnam and are subject to further 10% checks on entry to GB.

Under Annex I, there is no requirement for laboratory analysis or certification required before the commodity is dispatched. Annex I commodities must have completed a pre notification on IPAFF S and GB are proposing a check rate of 50% upon entry to GB ports. Checks will be carried out at the point of entry Border Control Post.

As mentioned in the consultation document a range of evidence has been used in the decision-making process, this includes analysis of GB import data which identifies the volume of such imports, sampling results, number of consignments found to be non-compliant with GB food and feed safety requirements, expected consumer exposure and the risk it may present to consumer health.

PDF
Gweld Consultation responses report ENGLAND & WALES FINAL 2.0.pdf as PDF(Open in a new window) (424.7 KB)

2. Carmarthenshire County Council

Summary of comment

The respondent asked for confirmation why CN commodity code Rice 1006 as listed in Annex I to have increased controls from India at 5% commodity ID checks does NOT include feed types for Aflatoxins as the risk is the same just a different level.

Summary of Response

There is no legal restriction to amending the proposed control of rice (food) to rice (food and feed) for India and Pakistan. However, during the review in May 2023 the risk-based decision following our science and evidence-based process was for rice with its final intended use as food rather than food and feed.

As we have not consulted on proposing rice intended for use as feed in the current consultation and in the interest of fairness and highlighting our transparency to exporting countries and food business organisations, a policy decision has been made to review this in the future. This will allow us to consult on this measure with those that have an interest in feed.

3. WHM Pet Group Limited

Summary of comment

The respondent stated that regarding the consultation period there is no change proposed for Argentinian groundnuts.

Within the EU framework now, the regulation has been updated so that Argentinian origin groundnuts are not required to travel into the EU with a health certificate signed by their health department Senesa and they are not submitted to additional checks, whilst GB still upholds this rule.

The respondent stated that the proposals will make them less competitive when comparing to the union and queried why the risk to Argentinian groundnuts has not been reduced.

Summary of Response

If a commodity has not been put forward for an increase, decrease or delisting from the current control held in the current review period this is because there wasn't enough supporting evidence to propose an increase, decrease or delist a commodity at that point in time.

Groundnuts from Argentina are currently held in Annex II which means they will be considered for a reduction or increase to the percentage in Annex II or reduced to Annex I rather than being delisted at the next review. Groundnuts from Argentina will be reviewed again in December 2023 where there will be an additional 6 months' worth of evidence to consider if further volumes of the commodity have been imported since May 2023. All recommendations made are science and evidence based.

4. Suffolk Coastal Port Health Authority

Summary of comment

The respondent reported they are happy with the proposed changes, although have questions about the addition of Enoki Mushrooms.

They have sampled a number of consignments of Enoki mushrooms and in the majority of cases when Listeria monocytogenes was detected in the sample, the advice received from the FSA was that the consignment could be released inland for labelling with cooking instructions.

Based on this experience the issue with Enoki mushrooms appears to be a labelling deficiency with regards to cooking instructions/warning not to eat raw.

If Enoki mushrooms are added to the 'high-risk' list, they asked what options will be available to PHAs in the following scenarios:

- The product is correctly labelled with full cooking instructions – should it still be sampled at the BCP? Or could it be exempted from controls as used to be the case with the REC on TRACES for egg albumin in surimi?
- The product is correctly labelled with full cooking instructions, it is sampled by the PHA and the result comes back showing L. mono is present – is this result unsatisfactory even though the labelling shows the product can't be eaten raw?

SCPHA also had the following general questions:

- Will Customs update their profiles so that the commodity codes subject to CHEDD checks are controlled, i.e. not released until Port Health checks have been completed?

- Can PHAs please be advised as soon as this legislation is passed through parliament. There is a lot of background work required to ICT systems when these level of changes are introduced so the more notice PHAs have the better.

Summary of Response

We are proposing that the updated list for 2019/1793 will include enoki mushrooms that fall under the CN code 0709590000 will be sampled for listeria at a rate of 20% in Annex II. The Retained Regulation 2019/1793 will be updated to reflect testing for listeria. There are no exemptions relating to the controls proposed. Once the proposed regulation has come into force, if the laboratory results come back as unsatisfactory for listeria, under the proposed Regulation the consignment would be rejected, and a border notification will need to be raised.

We have factored in updating systems at the ports into the timetable and will be notifying relevant colleagues to update the IPAFF system with the new codes for the updated legislation. This will ensure the IPAFF system will reflect the upcoming proposed changes to the list of controls. We aim to have this completed by the time the legislation will come into force.

Port Health Authorities will be advised through smarter communications once the legislation has been laid in parliament with further dates to be provided closer to the time.

5. Food and Drink Federation

Summary of comment

The respondent stated they welcome any regulatory changes that will make the supply of food and ingredients safer for UK consumers. India is commonly acknowledged to be the biggest exporter of spice and therefore a critical origin for many SSA members and their customers. As such it will always be an obvious target for investigating the spice supply chain. However, what is not necessarily recognised is that there are always different supply chains emanating from all origin countries, some being more sound and underpinned by GAP and GMP than others. The weakness in “country targeting” for contaminant control is that it lumps all the different supply chains together and tars the good compliant supply chains with the results of the bad ones and thereby can perpetuate border control. Naturally we would suggest that SSA members only import from the most reliable supply chains so, whilst additional border control should not be a worry, the impact will be felt in both lead time and cost.

The respondent stated the biggest impact for SSA members will be:

a. The addition of Indian spice CN codes 0906-0910 to Annex I at 10% ID and physical checks at border against the hazard of “pesticide residues”
b. The retained enhanced checks of Indian spice code 0904 (dried capsicums) in Annex II at 20% ID and physical checks at border against the hazard of “pesticide residues”
The respondent noted that the cost of the exercise is not just in the direct inspection costs but the additional time and the real loss of product by damage when unloaded and reloaded at port for inspection. All of this makes the supply of spice less reliable and more costly to consumers. The comments here do not argue against the changes being proposed but does point to the need for a more targeted approach to border control where trusted importers with a good track record could be encouraged with a lighter inspection burden. This would also assist the BIP’s and Port Health people.

Summary of Response

We appreciate you taking the time to highlight the potential impact to businesses regarding spices from India for pesticide residues and we will take your comments into consideration as they will be presented to the economist advisers.

The changes have been proposed as a result of a risk-based decision relating to compliance, sampling evidence and our science and evidence-based process of evaluating high risk food and feed of non-animal origin.

6. Institute of Food Science and Technology (IFST)

Summary of comment

The respondent reported they are pleased that the FSA are updating the list of Official Controls for High Risk Food and Feed not of Animal Origin based on scientific risk assessment. They had the below comments:

- IFST are unable to comment on the specific changes to the control measures for Food and Feed items contained on the list as we are not aware of the basis and information on which the individual risk assessments have been made, nor the composition and discussions of the expert group making these recommendations.
  IFST would recommend that FSA publish the details and data on which the individual risk assessments are made in order that concerned groups can review and comment accordingly.
- Additionally, IFST would recommend that FSA consult with relevant industry and expert bodies representing the relevant commodities to ensure that all available data and understanding of the nature of use, processing etc. is considered when developing these risk assessments.
- It is not clear from the attached documents how the proposed changes to the Official Controls relate to the EU master list published as amendments to 2019/1793. It would be helpful to understand if these (and previous changes) represent divergence from published risk assessments from EFSA.

The Institute of Food Science and Technology is the UK’s leading professional body that aims to advance the application of food science and technology for the benefit, safety and health of the public. As an independent, charitable body, we bring professional expertise from across academia, industry and the public sector, centred around the professional, sustainable advancement of the UK food system.

Summary of Response

As mentioned in the consultation document a range of evidence has been used in the decision-making process, this includes analysis of GB import data which identifies the volume of such imports, sampling results, number of consignments found to be non-compliant with GB food and feed safety requirements, expected consumer exposure and the risk it may present to consumer health.

The outcomes of the risk categorisation were considered, along with other relevant information, by the FSA and FSS risk managers and policy officials when making proposals for recommendations for changes in official controls. All proposed recommendations are science and evidence based.

We are looking to publish Border Notifications and further high-risk food and feed data in the future.

7. Ministry of Agriculture and Cooperatives for Thailand

Summary of comment

The respondent stated they considered that the proposed frequency increase of identity and physical checks for Peppers of the Capsicum species (other than sweet) from Thailand from 20% to 50% as listed in Annex I is significant.

The respondent stated that Thailand has not been notified by the United Kingdom through INFOSAN due to non-compliance relating to this concerned commodity from 2021 to 2023 and it is not clear what the criteria are and what type of relevant evidence are obtained and used by the United Kingdom to support this proposal.

For this reason, they proposed that the control level for Peppers of the Capsicum species (other than sweet) from Thailand should be reduced.

Summary of Response

As mentioned in the consultation document a range of evidence has been used in the decision-making process, this includes analysis of GB import data which identifies the volume of such imports, sampling results, number of consignments found to be non-compliant with GB food and feed safety requirements, expected consumer exposure and the risk it may present to consumer health.

The outcomes of the risk categorisation were considered, along with other relevant information, by the FSA and FSS risk managers and policy officials when making proposals for recommendations for changes in official controls. All proposed recommendations are science and evidence based. We have reviewed GB border data and we are concerned that we are seeing an increase in non-compliance with GB food safety requirements in 2022 and therefore we are proposing to increase the percentage of checks applied at the border.

8. Fresh Produce Consortium (FPC)

Summary of comment

Question 1
The responded stated the scope of the FPC response is only for fresh fruit and vegetable commodities in the consultation, namely;

- Oranges
- Pepper, other than sweet (Chillies)
- Passionfruit
- Bananas
- Drumsticks (Moringa oleifera)
- Black eye beans (peas)
- Enoki mushrooms
- Vine leaves
- Pitahaya (dragon fruit)

The respondent stated in the absence of UK data, FPC have used the EU published data from RASFF to understand the levels of exceedance and risk. See data table below:

From RASFF data, it can be seen that there have been increases in number of interceptions (based on number of interceptions as a % of total interceptions reported) from 2022 to 2023 for the following products under review within Reg 2019/1793:

- Egyptian oranges
- Indian drumsticks
- Vietnamese pitahaya (dragonfruit)
- Indian Peppers (other than sweet)
- Egyptian vine leaves
- Madagascan Black Eye beans

Reduction in number of interceptions (based on number of interceptions as a % of total interceptions reported) from 2022 to 2023 have been seen in:

- Thai Chilli Peppers (other than sweet)
- Colombian Passionfruit
- Ecuadorian Bananas
- Kenyan Chilli Peppers (other than sweet)
- Chinese Enoki Mushrooms
- South Korean Enoki Mushrooms

Whilst we have no comparable data published at present in the UK, the FSA hold regular Food Industry Liaison Group meetings and those products with ‘Early Warning Signals’ may be raised.

During the last year, the only products raised of significant concern in this forum in the fresh produce sector has been Enoki Mushrooms with regard to Listeria contamination.

There have been no other issues raised either in the FILG meeting or separately in relation to concerns of pesticide residue detection levels in any of the products proposed as new inclusions in Reg 2019/1793.

Based on the above sources of intelligence, FPC can see the rationale and inclusion of the following products for Reg 2019/1793:

- Egyptian oranges
- Indian drumsticks
- Vietnamese pitahaya (dragonfruit)
- Indian Peppers (other than sweet)
- Egyptian vine leaves
- Chinese Enoki Mushrooms
- South Korean Enoki Mushrooms

FPC do not see the evidence or rationale for inclusion of the following products for Reg 2019/1793:

- Thai Chilli Peppers (other than sweet)
- Colombian Passionfruit
- Ecuadorian Bananas
- Kenyan Chilli Peppers (other than sweet)

A point of concern for the products proposed for inclusion is the lack of specificity of CN Codes. By example, Enoki Mushrooms do not have a specific CN Code and are covered by 0709 59 00 00 which is Mushrooms + Truffles; other.

When pre-notifying through IPAFFS, it will be impossible to distinguish Enoki specifically and consignments may arrive in the UK without being flagged for inspection. This could lead to incorrect products being detained for sampling or the appropriate products being missed. It is not known how officials will be able to determine consignments coming through based on CN number alone.

Question 2 and General Comments and Concerns
The respondent stated that the consultation states that the decisions made for the amendments have been based on risk assessment. Current published data for UK HRFNAO testing has not been updated since March 2021 and only covers up to Dec 2020. This means that the produce industry has no ability to monitor this import surveillance data and use for this consultation process.

The cost of surveillance is covered by importers at elevated testing costs but they have no access to the overall data generated by this testing other than notification of compliance or otherwise. The FPC have requested numerous times that FSA re-instate the publication of the import surveillance data but to date have been told that ‘this is being looked into’. There is no clear plan for this to be published or timescales.

Given that the FSA and FSS risk analysis process is not transparent, and the data is not available without a Freedom of Information request, it is not clear what the criteria are for the inclusion of new products, the increased controls or removal from Annex I or II.

FPC requests that there is clearly published data on:

- number of consignments entering GB for specified HRFNAO by CN number
- number of Inspections performed by BCP / CP location
- number of failures
- results of failures in relation to applicable limits, for example, exceedance of MRL / Acute Ref Dose

The respondent requested that information is published on a weekly basis in line with other government surveillance data, e.g. APHA published date for Plant Health Inspections. Whilst it is understood that additional testing will monitor the level of risk coming from suppliers, it does not prevent re-occurrence of issues or encourage continuous improvement of the supply chain. The importer / customs agents bears the cost of the increased testing which is not insignificant in some commodities - therefore an increase from 10% - 20% can be significant in terms of disruption and cost.

The cost of testing is only part of the total costs incurred as it can involve product movement, delays, destruction costs and therefore any inclusion on the Regulation is viewed as a major impact on business.

Where there is a clear and justified risk to legality and food safety, testing requirements are understood by industry. However where the risk of failure is very low, it should be clear to industry why the product is included in Regulation and the criteria for increase, inclusion or removal.

It is important to note however, that there may be supply chains of identified products that have never had issues linked to pesticide residues as a result of GAP and certification. Good operators with no prior breaches unfortunately will be targeted in the same way as those that consistently fail to meet legislative standards.

An example of this is Egyptian oranges – one current FPC member imports quantities of Egyptian oranges and residue tests as part of their due diligence and has had no residue exceedances to date of any active ingredient from any supplier.

Risk based approaches should allow Trusted Traders or Authorised Operator models to demonstrate where there is earned recognition for supply chains.

Summary of Response

As mentioned in the public consultation, risk managers base decisions on a range of import data for Great Britain. The review followed the Risk Analysis process established by the FSA and FSS. Imported food and feed of non-animal origin from specific countries were identified for assessment by the FSA and FSS based on gathered intelligence. These imported commodities were subject to an assessment of the risks to consumers; this was performed by risk categorisation. This includes analysis of GB import data which identifies the volume of such imports, sampling results, number of consignments found to be non-compliant with GB food and feed safety requirements, expected consumer exposure and the risk it may present to consumer health.

Commodities are introduced into Annex I when risk managers have enough evidence to show there is an issue with that commodity. Once the commodity is in Annex I, risk managers gather further evidence as to whether the risk has increased due to further non-compliance or decreased. If there is further non-compliance once a commodity is in Annex I then risk managers will look to increase controls to Annex II if required. If compliance has improved after gathering further evidence in Annex I, risk managers will look to reduce or remove the control on the commodity.

In relation to your response to question 1, as the named product on the HRFNAO list is specifically enoki mushrooms we will be adding ‘ex’ to the CN code. This will ensure that port health authorities exclusively control enoki mushrooms and no other product that fall under the same CN code.

Regarding the response to question 2, The FSA provide funding that ports can apply for regarding sampling in line with the National Monitoring Plan and a HRFNAO National Monitoring Plan was published in April 2023.

Those sampling results conducted by the ports as part of the National Monitoring Plan are part of the package of evidence reviewed by risk managers. Regarding high risk food and feed of non animal origin, the only commodities chargeable to the importer for sampling are the commodities listed in the regulation 2019/1793. Details of official chargeable sampling is defined by Retained Regulation 2017/625 Articles 78 – 85, specifically Article 79(2)(a). Any further surveillance monitoring, not relating to the Regulation is not chargeable to the importer.

We would not be able to publish all data such as number of inspections completed by the port, which port the results originated from and the CN number of consignments. We will be looking at publishing more general data such as the commodity, country of origin, hazard, and failure rate. The import data can be viewed courtesy of HMRC.

We are working to publish further data used as evidence in the future on the FSA website and are looking to increase our communication with external stakeholders on the progress of these reviews and will be in touch shorty regarding this.

9. City of London Port Health Authority

Summary of comment

The respondent stated that Groundnuts etc from Brazil for pesticide residues is set at quite a high sampling rate but they have not seen any failures for this within their port authority. Stating it is challenging to find an accredited laboratory for this type of product and for all the required pesticides, which is causing delays in reporting and subsequent releasing of the consignments and has a knock-on effect in terms of costs to the importer. This has been monitored since January 2023, could the sampling rate be reduced or delisted?

With a greater number of perishable products intended to be added to this list, we need to ensure that the laboratories have enough capacity to deal with these especially when importers are requesting 24 turnaround times.

A number of the spices from India which are due to be added, we do not always see these as a full container load. These may be smaller amounts imported in a container with multiple other products. This will result in higher costs to the importer from the port for their work undertaken to locate the goods which may cause subsequent delays in sampling.

Rice from India and Pakistan, we have a high proportion of these which are imported in one large, zipped bulk bag in the container. These we will not be able to sample, as the port will not open due to health and safety reasons. We will not be able to dictate to the importer how the goods are packaged coming through. If these goods then have to inland to be sampled, this will involve additional work to control this, which will not be accounted for in the documentary check fee currently set and some local authorities may not have the equipment or experience for this type of sampling. Further guidance is needed here as to what is expected for these types of consignments.
Spice mixes from Pakistan, we are seeing a number of failures for these, so we welcome the moving from Annex I to Annex II. Will the importers and Competent Authorities in Pakistan be communicated this change in time for these consignments to be compliant?

Peppers which are dried, roasted, crushed or ground from India for pesticide residues – we have had a previous failure for this some time ago from our Public Analyst. This was contested by the importer who believed the wrong CN code had been applied and therefore, the levels permitted should have been higher. This the was passed from the FSA to the HSE to determine and they disagreed with the Public Analysts designation of the product and therefore the goods were permitted at the higher pesticide level. This therefore is an area which will need clarification.

The respondent stated at some ports, there will be sometimes a handful of importers who will be importing these controlled products in. They will therefore have a high proportion of their imports sampled and detained and incur the charges as a result, which can sometimes lead to the importer ceasing to bring the products in to the UK.

For some products which have been on Annex I and II for a number of years without many failures, how are these being risk rated to keep them in REUL 2019/1793. Could factoring in exporters/production areas be utilised to try to pin point the issues for those who have remained in the Annexes for some time. More engagement with the importers may be useful for them to understand why a particular product/country has been placed in a specific Annex and given a specific sampling rate, especially those which are targeted more frequently.

Some Public Analysts are unable to conduct the tests here in the UK and are sending them to other accredited laboratories in the EU. This is causing delays, which is resulting in more costs for the importer and more complaints to the PHA's. It would be useful, when various new products/contaminants are to be added to REUL 2019/1793, if the FSA could distribute a list of all the laboratories which are accredited for those products/tests. Could there be an option that an accredited laboratory could conduct the testing of these products, without having an accreditation for that test method for that contaminant/product and if there is a subsequent failure, this would then be sent to a laboratory which does have an accredited test method, if this was agreed with the importer beforehand?

Summary of Response

Groundnuts from Brazil for pesticide residues are currently set at 20% in Annex I. As no changes have been proposed to this commodity during this review this commodity will be re-examined in December 2023 where additional evidence can be used by risk managers to decide whether to decrease, increase or for the commodity to remain at 20%.

We're hoping that Port Health Authorities can work closely with importers for the sampling of rice. Subject to the WTO consultation rice will be part of the Regulation in Annex I and the sampling of rice is required to take place at a Border Control Post (BCP).

Countries have been notified of the proposed increase in controls prior to the public consultation. This information will be shared again with affected countries through the World Trade Notification. Port Health Authorities will be notified through smarter comms nearer the coming into force date. We will also notify the countries with the date for the new legislation, giving them enough time to prepare and make any necessary changes. We have considered all of this in the round and decided that a transitional period is not required.

We have noted your comments relating to importers using an incorrect CN code for commodities. We will raise this with our Imports Delivery team for further clarification before the next review.

Products that have been on the list for a length of time are reviewed on a case-by-case basis at each review. As mentioned previously they will be reviewed again in December 2023 where further evidence will be taken into consideration. As we have retained the Regulation from when we were a part of the European Union, Great Britan specifically may not import some commodities on the list. If we do not hold any import data for these commodities, then risk managers do not have the evidence to show there is increased compliance and a reduced risk to human health to be able to remove the commodity from the list.

Once we are in a position where we can share the evidence and progress of the HRFNAO reviews with stakeholders externally, this will hopefully build more of a relationship with importers and increase understanding of the process. It will also enable us to provide regular updates on the progress.

The FSA recognises the challenges in sending samples to the EU following EU Exit, and we are investing in UK capability and capacity, as outlined in the September FSA Board Paper.

There are derogations within the retained official control regulations 2017/625, for testing to be done by non-accredited labs in specific circumstances – the FSA can be contacted to provide advice on this on an individual basis.

The United Kingdom Accreditation Services website can be used to find labs with accreditation, the FSA can also provide advice as needed.

10. Blacksea Exporters' Associations

Summary of comment

The respondent stated that the Blacksea Hazelnut and Hazelnut Products Exporters' Association, is the biggest association in Türkiye in terms of hazelnut export and our members annually realize 60% of the total Turkish hazelnut export.

They support the delisting of Turkey-originated hazelnut from Annex I and agree that these enhanced controls are no longer necessary as it has been demonstrated with a high degree of certainty that the removal of controls poses a negligible risk to public health. It is evident that there has been a significant improvement in the rate of non-compliance, particularly in recent years.

Summary of Response

We appreciate you taking the time to respond to this consultation regarding the delisting of hazelnuts from Türkiye.

11. Central Bedfordshire Council

Summary of comment

The respondent was satisfied that the proposals have been drawn up by people with better knowledge and data than themselves as to what/when/where in relation to imported food. They are not aware of any significant impact that the changes will have on individual local authorities within the EETSA region. The respondent noted the response is based on the comments of 3 of the 11 local authorities in the EETSA region.

Summary of Response

We appreciate you taking the time to respond to this consultation regarding the proposed controls. Your comments will be noted in the consultation report.

12. The Rice Association

Summary of comment

The respondent stated that the Rice Association is the trade association for the UK rice milling industry, representing 14 businesses that mill and process rice across 16 sites, with a contribution to the nation's economy of £1 billion. In the UK a major proportion of the rice market is basmati, grown in India or Pakistan but milled in the UK. Rice milling in this context means taking brown/husked rice and removing the outer layers, producing white rice (referred to as milled or wholly milled).

The respondents stated they support the proposal to include rice from India and Pakistan in Annex I to the Regulation. However, strongly urge that these controls focus specifically on semi and wholly milled rice (CN code 100630) and not brown/husked rice (CN code 100620).

Evidence shows that in the UK it is imports of milled rice from India and Pakistan that are most at risk, not brown/husked rice, which is destined for milling in the UK. This is due to the extensive compliance and due diligence controls practiced by domestic rice mills as they procure brown/husked rice from these origins.

UK rice mills carry out extensive testing to ensure the raw material (brown/husked rice) complies with food safety requirements. Tests are first carried out in the country of origin (India or Pakistan), covering mycotoxins, agrochemical residues, and in some cases heavy metals. Further tests are carried out when the rice arrives in the UK to ensure it meets requirements before it is milled into finished product.

Whilst this comprehensive testing comes at a cost, it delivers a safe and compliant product. A research project undertaken this year by the Rice Association clearly shows the significant impact of this due diligence process, finding that 54% of country of origin-milled rice (milled in India or Pakistan) contained a pesticide residue exceeding or borderline to the legal limit, versus only 4% for UK-milled rice.

This demonstrates that for brown/husked rice from Pakistan and India, controls are effectively operated already by the UK rice milling industry to ensure that the processed product (milled rice) complies with UK food safety requirements. As such, official control efforts should focus on milled rice imports, which evidence shows have a far greater risk of non-compliance.

The respondent has shared findings of this research with the FSA but would be happy to provide more detail if required and answer any follow-up questions in relation to this response.

Summary of Response

The Food Standards Agency and Food Standards Scotland risk management recommendations to introduce enhanced import controls for rice from Pakistan and India for pesticide residues, aflatoxins and ochratoxin A, have been agreed via the joint risk analysis process which is science and evidence based. Although the processes presented to us by the Rice Association are commendable, the data presented is insufficient due to a focus on pesticide residues and an absence of analysis and use of evidence on aflatoxins and no consideration of ochratoxin A.

Additionally, the Food Standards Agency and Food Standards Scotland strongly believe that the focus of the enhanced import controls of goods should be at the point of import, i.e. the Border Control Post. Once past the border controls, the rice is free to be placed on the market, regardless on the usual route used by the Rice Association’s members. We are also mindful that making exceptions on rice controlled from India and Pakistan would attract attention from other countries and complicate the process for controlling hazards in different forms of rice and other products.

We will ensure to review sampling results for brown/ husked rice separately compared to milled rice arriving at Great Britain ports in our reviews going forward to gather further evidence to make amendments where needed to the legislation.

13. Nestlé UK & Ireland

Summary of comment

The respondent stated that the FSA has not proposed to make some of the same amends as the EU has done over the last couple of years. They understand that since BREXIT there is no obligation for GB to copy changes to EU regulation but given the FSA uses a similar risk-based assessment and wondered why the FSA haven’t made similar proposals.

For example, in December 2021, the EU relaxed this requirement for groundnuts from Argentina, stating that Regulation (EU) 2019/1793 should be amended and ground nuts imported from Argentina should be transferred to Annex I from Annex II, but maintaining the level of frequency of identity and physical checks at 5 % of consignments entering the Union. Furthermore, the EU

made a further change on 26th January 2023 removing Argentina from Annex I. The following text is from the Commission's Implementing Regulation (EU) 2023/174 of 26th January 2023, section 4 which states:
Groundnuts and products produced from groundnuts from Argentina have been subjected to an increased level of official controls due to the risk of contamination by aflatoxins since October 2019. The official controls carried out on those commodities by the Member States indicate an overall satisfactory degree of compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls is no longer justified for these commodities and their entry in Annex I to Implementing Regulation (EU) 2019/1793 should be deleted.

The respondent asked the FSA to consider the possibility of making a similar changes as a multinational food company, alignment on food safety issues like this significantly improves their ability to trade with ease and consistency across multiple markets.

Summary of Response

We appreciate you taking the time to respond to this consultation regarding the proposed controls. Your comments will be noted in the consultation report.

We are unable to comment on the EU list of high-risk food and feed of non-animal origin controls. The updated list of controls which are being proposed are based on a wide range of evidence relating to Great Britain. As mentioned in the public consultation, The review followed the Risk Analysis Process established by the FSA and FSS. Imported food and feed of non-animal origin from specific countries were identified for assessment by the FSA and FSS based on gathered intelligence. These imported commodities were subject to an assessment of the risks to consumers; this was performed by risk categorisation. This includes analysis of GB import data which identifies the volume of such imports, sampling results, number of consignments found to be non-compliant with GB food and feed safety requirements, expected consumer exposure and the risk it may present to consumer health. All proposed recommendations are science and evidence based.

Groundnuts from Argentina are currently held in Annex II at 5%. They will be reviewed again in December 2023 where further evidence will be taken into consideration to see if the commodity can be reduced to Annex I. We are unable to consider commodities for removal from the list if they are held within Annex II. These commodities will need to be decreased to Annex I first to further monitor their compliance, only then if complaint in Annex I can they be considered for delisting.

Actions to be implemented

The FSA considers that amending Retained (EU) Regulation 2019/1793 remains the preferred option.

- 'ex' to be inserted in front of CN code 07095900 for enoki mushrooms in the statutory instrument. The 'ex' prefix is for when the CN Code covers more than one product and the controls required need to be more specific, which is defined by the CN code AND description. In this instance enoki mushrooms share a CN code with other types of mushrooms.

List of respondents

1. The Embassy of Vietnam and SPS Office of Vietnam
2. Carmarthenshire County Council
3. WHM Pet Group Limited

4. Suffolk Coastal Port Health Authority
5. Food and Drink Federation
6. Institute of Food Science & Technology
7. Ministry of Agriculture and Cooperatives of Thailand
8. Fresh Produce Consortium
9. City of London Port Health Authority
10. Blacksea Exporters' Associations
11. Central Bedfordshire Council
12. The Rice Association
13. Nestlé UK and Ireland