

FSA EU TRANSITION UPDATE

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1. Summary

1.1 This paper updates the Board on the key activities and projects within the EU Transition Programme, the remaining risks and mitigations in place within the projects and sets out the next steps for the Programme.

1.2 The Board is invited to:

- Note the developments on a number of EU Transition projects since the 2 December 2020 paper
- Agree the steps being taken are appropriate to manage the key outstanding challenges and risks under the Programme
- Note the ongoing activities for the EU Transition Programme
- Note the wider regulatory changes happening that will have an impact on the FSA's work and activities going forward.

2. Introduction

2.1 In December 2020, the FSA Board noted the progress and arrangements in place for the end of the EU Transition Period. The Board's position remained consistent in its approach to the end of Transition in that:

- we should preserve our approach to the analysis of risk;
- we should continue to be open and transparent with our science and evidence; and
- we should ensure consumers' interests are taken into account as the NI Protocol is implemented.

2.2 This paper provides an update on how the changes from 1 January 2021 have progressed and sets out the key challenges that remain across the EU Transition Programme and the activities in place or being taken forward to address these.

2.3 Finally, this paper includes an overview of the changes taking place with the EU Transition Programme itself, as it evolves into our new business as usual approach to managing the FSA responsibilities in the post transition regulatory environment.

3. Background

3.1 Throughout the progression of the EU Exit and transition work, the FSA's approach has been, and remains, firmly framed around ensuring that public health protection and consumers' interests are put first. To reflect their

principles, in 2017, the Board set out commitments that any future regulatory system should:

- be at least as effective, or more effective, in protecting public health;
- maintain or increase confidence in food safety, and in the regulatory regime;
- minimise disruption for consumers and industry; and
- seek to achieve as unified a system as possible, in the consumer interest, whilst respecting devolution arrangements.

3.2 These core principles and commitments by the FSA have been at the fore of the work undertaken throughout the EU transition period. They will continue to guide our work in the post transition landscape.

4. Discussion

4.1 The FSA was well prepared for the end of the EU transition period. Those delivery areas solely within the FSA's remit were operational for 1 January 2021. Annex 1 provides further details of the status of projects within the EU transition Programme that have largely completed their key activities.

4.2 However, 1 January 2021 was just the start of the next phase. Our focus has now turned to the outstanding areas of the EU Transition Programme scheduled to be implemented after 1 January, the wider strategic work that a post transition era brings and the next steps for the Programme itself. This discussion section focuses on the key work within these areas.

Northern Ireland Protocol

4.3 The implementation of the NI Protocol is a significant change for the FSA. It means EU food and feed law continues to apply in respect of Northern Ireland. While the FSA's role and purpose has not changed in NI, differences within the UK regulatory system now exist (such as where competence sits for decisions on regulated product authorisations) and further differences will, we envisage, emerge over time.

4.4 Since we last reported to the Board in December 2020, we have now agreed with the EU arrangements for the ongoing sharing of alert and incident information under the requirements of the NI Protocol; this includes third country access to RASFF for notifications concerning NI. The arrangements will be reviewed after six months to ensure they are effective. In combination with the UK wide incidents systems also introduced by the FSA, this has enabled us to maintain our high standards of incident response in NI under the terms of the NI Protocol.

4.5 With the Department for Environment, Food & Rural Affairs (Defra) and NI's Department of Agriculture, Environment and Rural Affairs (DAERA), we are now facilitating legally required sanitary and phyto-sanitary (SPS)

requirements¹ (such as import controls) for food and feed entering Northern Ireland from Great Britain. The FSA's role is to provide advice and guidance to DAERA and District Councils who deliver the public health controls undertaken on food and feed.

- 4.6 To phase in these requirements and enable continued food supply, the UK Government agreed with the EU Commission two grace periods to reduce the burden for businesses when moving food from GB to NI. The first is a three-month grace period removing certain certification requirements for authorised traders (such as supermarkets and their trusted suppliers), and the second is a six-month grace period for specific products that would otherwise be prohibited from entering NI. Traders outside of the scope of the grace period are required to meet EU SPS requirements when moving goods from GB-NI.
- 4.7 Discussions on extensions to the grace periods are ongoing at a political level. For our part, the FSA is feeding into the UK wide programme of work being led by Defra to develop streamlined processes for the end of the authorised trader grace period. This is taking the form of a digitally assisted scheme.
- 4.8 The key areas of outstanding challenge for the FSA are:
- the potential emergence over time of different requirements in NI and GB, (noting the FSA Board's intention nevertheless to ensure risk analysis is done on a four-country basis in close working with FSS);
 - ensuring policy makers within the FSA understand how to account for the NI Protocol in their work; and
 - supporting stakeholders to understand and comply with the requirements across the UK regulatory system when moving food and feed between GB and NI.
- 4.9 To address these key challenges, the FSA is taking forward work to ensure we have a clear approach for working across both regimes. This takes account of the relevant UK Framework Agreements, which set the context for working on a four-country basis (see para 4.18 below). We have therefore:
- developed horizon scanning mechanisms to ensure we are sighted early on proposed changes to EU law applicable in NI;
 - confirmed that our risk analysis process² will examine non-routine changes to requirements in NI (for example, a change to hygiene requirements in abattoirs with significant consumer or political interest); and
 - started work to ensure there is a high degree of understanding of the ways of working across the FSA under the NI Protocol in line with the 'one FSA' approach.

¹ Sanitary and phytosanitary measures (including regulations, processes, sampling, inspections etc.) are measures applied to protect human, animal or plant life or health from risks arising from the spread of pests and diseases and from risks arising from additives, toxins and contaminants in food and feed.

² Risk analysis is the process of assessing, managing and communicating food and animal feed safety risks. It's how we ensure high standards of food and feed safety and protect consumers.

- 4.10 We are also supporting stakeholders to understand what the requirements are for food and feed in GB and NI. This has included:
- supporting and leading on readiness engagement with traders across the UK to build awareness of the new SPS requirements;
 - publishing guidance on our webpages and on Gov.uk to set out the requirements for businesses in NI and GB in key areas such as regulated products authorisations, the movements of goods and imports/exports (where the FSA has a role);
 - working closely with District Councils who, alongside DAERA officials, deliver SPS requirements at points of entry in NI, to support their delivery of the requirement; and
 - advocating for a pragmatic approach to the enforcement of SPS requirements that recognises that the risks for consumers associated with the movements of food and feed from GB to NI have not increased as a result of the end of the transition period.

Imports

- 4.11 From 1 January 2021, food imports from non-EU countries into GB are registered using Defra's 'Import of Products, Animals, Food and Feed System' (IPAFFs). The FSA has played a pivotal role in defining the scope and development of this system, in line with our support for ensuring the UK has a robust, national import controls system. Since 1 January we have been successfully accessing real-time imports data via this new system, and despite some initial challenges accessing the management reporting facility, all issues have now been resolved.
- 4.12 No new food safety risks from EU food imports were identified in the period immediately after 1 January. Phased implementation of checks on EU food imports is planned in 2021 which will include pre-notification for all high-risk food and feed from 1 April (a key FSA requirement). From 1 April some documentary checks will also commence with levels incrementally increasing over time. This approach does not cause us concerns from a food safety perspective as we will receive pre-notifications on all high-risk food and feed from April which will provide the FSA with traceability, should it be required.
- 4.13 We are working with Defra, who lead on business readiness, to ensure importers are aware of their obligations to pre-notify. We are also establishing a process for the monitoring of compliance including being able to cross-check with customs notifications. To assist with the delivery of the border operating model for EU imports, the FSA is working:
- with infrastructure providers to ensure that facilities meet requirements for SPS checks;
 - with port health authorities to increase capacity and capability; and
 - to support industry engagement led by Defra to improve industry readiness.
- 4.14 Despite the significant work still to be delivered to implement the new border operating model, the implementation of pre-notifications on IPAFFS from 1 April

2021 and current alignment of the UK and EU's SPS regimes means we do not anticipate any imminent increase in food safety risk to UK consumers.

UK Frameworks

4.15 The FSA has been involved in the development of three UK Frameworks: Food and Feed Safety and Hygiene (FFSH); Food Compositional Standards and Labelling (FCSL); and Nutrition Labelling Composition and Standards (NLCS). The FFSH and NLCS Frameworks received provisional sign-off at a Joint Ministerial Committee (UK and DA Ministerial committee known as JMC) in 2020 and parliamentary scrutiny in each of the four legislatures has been undertaken. In the UK Parliament the House of Lords Common Frameworks Committee and the House of Commons Environment, Food and Rural Affairs Committee scrutinised the FFSH Framework and sought additional information through a series of letters to the FSA.

4.16 In February, the FSA provided oral evidence on the FFSH and NLCS Frameworks at the Northern Ireland Assembly's Committee for Health, and on the FFSH Framework at the Welsh Senedd's External Affairs and Additional Legislation Committee. In Scotland, FSS provided oral evidence on the FFSH and NLCS Frameworks to the Scottish Parliament's Sport and Health Committee. The FCSL Framework was submitted for provisional JMC approval in December 2020. Provisional approval has not yet been granted, which could further delay the finalisation and implementation of this Framework.

4.17 Work on the frameworks is progressing well but the key areas of challenge that remain are:

- obtaining final agreement to the FFSH and NLCS Framework, and provisional agreement to the FCSL Framework ahead of Welsh and Scottish Elections; and
- ensuring our working culture enables a four country approach and mechanisms established by Frameworks are embedded within the existing ways of working across the FSA.

4.18 To address these challenges, the FSA, working closely with FSS, has already taken steps to ensure the four nations are working collaboratively and operate in the spirit of the Framework while final agreement is outstanding. This has included:

- communications to all staff about the expectations of working on a four-country basis;
- seminars and digital workplace guidance on UKFWs and new ways of working for both FSA and FSS colleagues;
- plans to embed new frameworks governance mechanisms in the post transition governance arrangements;
- ensuring guidance on four country working arrangements is included in every stage of the risk analysis guidance used by FSA and FSS officials; and
- reviewing and updating frameworks following recommendations from parliamentary committees.

Incident Detection and Response

4.19 The FSA has established a flexible, responsive data-enabled Strategic Surveillance service to harness the power of data science to identify emerging risks before they become risks to public health, using a variety of data sources. The Strategic Surveillance team provided a full report to the FSA Board on 18 November 2020. Since that update we have continued to develop this service to form a better understanding of the food system, its risks (safety, authenticity, assurance) and vulnerabilities, so that FSA, and others, can better manage consumer food risks. For example:

- The Risk Likelihood Dashboard identifies high-risk commodities imported into the UK, from both the EU and third countries. This dashboard helps present complex information on 'risky' food and feed, in an understandable way and flags potential and emerging food and feed safety risks in terms of commodity, country of origin and hazard. The dashboard is used by FSA teams, including Imports, incidents, and National Food Crime Unit. Other users include FSS and over 130 port health and local authorities across the country. We continue to improve this dashboard with additional data from Defra's IPAFFS (Import of Products, Animals, Food and Feed System). We are also continuing to collaborate with authorities to bring in their sampling data onto the dashboard, thus improving overall intelligence on imported food and feed.
- The Signal Prioritisation Dashboard helps identify and prioritise food, feed, and food contact material related signals reported on 50+ competent authority and media websites globally. The dashboard helps us learn about potential and emerging issues. It uses machine learning algorithms to extract, translate (from foreign languages) and summarise risks by commodity, origin country, and hazard. The intelligence gathered by this dashboard is automatically fed into the Signals and Incidents Management System (SIMS).
- Our Risky Foods Entering Ports dashboard helps build a picture of the activity surrounding high risk commodities imported into the UK. The dashboard also highlights the effects of the current pandemic aside from EU Exit. Knowing where and when commodities are entering the UK in real time allows us to be aware of changing demands on resources at UK ports and sudden/unexpected changes in supply chains and helps expose vulnerabilities. It allows users to access information on UK consignments, including weight, arrivals and clearance dates and physical checks carried out at each port.
- Recently we have created an automated solution to help port health authorities to easily identify feed consignments coming into the country, by scanning the ship manifests (e.g. document detailing the cargo on-board the ship). This solution is currently being tested with two local authorities and will soon be extended to other ports. The solution could also be extended to manifests containing 'food' commodities.

4.20 The FSA now aligns its food safety notifications to the World Health Organisation / Food and Agriculture Organisation International Food Safety Authorities Network (INFOSAN) of over 180 countries. INFOSAN is routinely used by the FSA in England and Wales, and FSS in Scotland, to notify other

countries affected by UK food safety incidents (including EU countries). The UK incidents teams are keeping arrangements under review, with monitoring in place to ensure ongoing effectiveness of the UK incidents response to protect consumers.

4.21 The main outstanding challenges are:

- continuing to build engagement with third countries around incidents and food safety issues; and
- monitoring food supply chains to understand possible food safety risks as they evolve following the end of the transition period.

4.22 To address these challenges the FSA continues to work with the INFOSAN network, funding an INFOSAN secondee to represent UK interests in this international network, play a key role in the development of an INFOSAN Working Group to look at a number of key global food safety issues, including international food safety crisis co-ordination, and building active UK relationships with trading countries. The FSA also plans to host a UK arranged global showcase event in 2021 which promotes FSA and its work with INFOSAN, inviting global partners to discuss foods safety issues impacting global incidents detection, response and prevention.

Trade Negotiations

4.23 Since the FSA Board set out its approach to future trade negotiations, in January 2020, the FSA has contributed expert advice on food and feed safety into a broad range of trade negotiations, most notably the EU-UK negotiations and the UK-USA negotiations. The trade negotiations work in respect of sanitary and phytosanitary issues is led by Defra.

4.24 In October, the UK–Japan Comprehensive Economic Partnership Agreement (CEPA) became the first deal that the UK has struck as an independent trading nation. CEPA’s SPS arrangements are consistent with the existing arrangements between the EU and Japan and in line with the principles agreed by the FSA Board.

4.25 Ensuring that the benefits for consumer protection from free trade agreements (FTAs) are realised will require ongoing input from the FSA, working closely with other government departments.

Trade and Cooperation Agreement (TCA)

4.26 The UK-EU Trade and Cooperation Agreement (TCA) was reached in late December and governs all aspects of trade between the two parties and confirms the rules by which that trade can be conducted. A summary of the TCA is [available here](#).

4.27 The agreement has a wide range of Chapters, with the Sanitary and Phytosanitary (SPS) Chapter being of particular relevance to the FSA. It ensures that the UK and the EU can maintain independent SPS rules to protect human, animal and plant life and health, preserving each party’s right to independently regulate while not creating unjustified barriers to trade. Our

assessment is that the outcome is in line with the principles agreed by the FSA Board.

4.28 We are working with other departments to implement the TCA and understand all the impacts on the FSA. This includes specific training, workshops and publications to both build internal understanding and facilitate an FSA-wide consideration of the TCA's wide-ranging impacts on day-to-day activities and specific policy areas. Furthermore, we are working to consider the wider strategic implications for the FSA and opportunities it may present.

Ongoing Programme activities

4.29 The EU Transition Programme has provided the guidance, support and oversight to ensure that the FSA was prepared for the end of the EU Transition Period. Since 1 January 2021, the Programme's activities have shifted towards ongoing support for those work areas with a phased implementation, consideration of the outstanding challenges, and embedding new activities into business as usual.

4.30 The Programme has worked well and as we move into March we will assess and seek agreement to which of the specific projects can move into business as usual (BAU), with only minimal oversight by the Programme itself, and consider the programme's future. In light of the Programme's evolution, a new governance approach will be required which supports ongoing activities and looks towards the opportunities that new areas such as the TCA bring.

4.31 The changes to governance are not being considered in isolation and instead sit as part of the far-reaching changes to UK governance and the regulatory landscape within which we operate. What is clear is that the post transition landscape and expanded FSA remit creates a different set of regulatory challenges to operating within the EU, and it is imperative that appropriate consideration is given to their nature, scope and reach.

4.32 The FSA has undertaken some initial scoping to better understand the strategic changes across the post transition regulatory landscape within which we now operate. The key changes include:

- those to the wider agri-food regulatory regime under the NI Protocol;
- changes in approach to working across our four nations including implementation of UK Frameworks;
- our relationships with DAs, Defra, DHSC and other government departments now that decision making sits within the UK;
- changes required from implementation of the TCA and other bilateral agreements with third countries;
- the establishment of the UK Office for SPS Trade Assurance (formally referred to as the Bio Security Office) which coordinates market access requests and listing of third countries – Defra lead with significant FSA support; and
- the introduction of the UK Internal Market Act 2020.

4.33 The FSA will need to continue to work with other departments across Whitehall and the devolved administrations to understand the implications of these wider strategic changes and ensure we are able to consider these in our work and governance arrangements. We will report further on these to the Board in 2021.

5. Conclusion

5.1 The Board is asked to:

- Note the developments on EU Transition projects since the 2 December 2020 paper
- Agree the steps being taken are appropriate to manage the key outstanding challenges and risks under the programme
- Note the ongoing activities under the EU Transition Programme
- Note the wider regulatory changes happening that will have an impact on the FSA's work and activities going forward.

Annex 1 – EU Transition Projects complete or near-complete

Risk Analysis

Since 1 January 2021 the FSA, alongside FSS has been operating the UK food and feed risk analysis process and taking forward risk assessments on food safety issues and regulated products. A functioning risk analysis system and regulated products application service is in place. Our risk analysis systems are operational, with the UK regulated products application platform, the risk analysis tracker, and risk assessment evidence package tracker all functioning as expected. Staff have been trained on the process and on the use of the new electronic platforms.

The regulated products application service has received significant numbers of applications to the system (see March CE's Board report for up to date numbers) which are undergoing administration and validation checks. It is expected that the stream of applications will level off after an initial flurry of applications to the new system; the majority of regulated product applications received relate to novel foods, and feed additives. FSA will continue to monitor the volume of applications received to ensure appropriate resources are in place to consider applications. Policy teams are also logging wider risk analysis issues to be taken forward through the risk analysis process.

Risk analysis is moving towards business as usual operation with FSA and FSS working on a four-country basis to progress applications and other risk analysis issues through the system. Quarterly risk analysis updates will be provided to the Board, the first of which is part of the CE's March Board report.

Incidents

As the UK moved towards the end of the EU Transition period, a change of process was undertaken to accommodate new systems and ways of working. Both NI and GB moved to third country access to RASFF, which means the UK is now notified of food safety issues relating only to the UK.

The replacements to previous EU systems are working well with both Receipt and Management (RaM) incident detection working well and the new Strategic Surveillance Signal Prioritisation dashboard having been incorporated into the RaM process. This has ensured improved monitoring of key data sources for early identification of incidents impacting the UK.

The FSA now aligns its food safety notifications to the WHO/FAO INFOSAN network of over 180 countries. INFOSAN is now routinely used by FSA in England and Wales, and FSS in Scotland to notify other countries affected by UK food safety incidents (including EU countries). At the time of writing, since 1 January 2021 GB had received 41 INFOSAN notifications and sent 15 notifications.

National Food Crime Unit (NFCU)

From the perspective of food crime risks, to date, our Day One preparations have been working well and there have been no major identified challenges.

The two main areas of change for the National Food Crime Unit have been the requirement to develop alternative routes for communication with EU partners around the topic of food fraud, and also to ensure that the Unit understands where the end of the transition period might present new food crime opportunities to those inclined to exploit them. It is likely that those with criminal intent are taking stock of border controls and associated logistics before embarking on further activity, and the NFCU is keeping the situation under close review.

Confirmation in the TCA of continued UK access to Europol's SIENA database was helpful in finalising communication routes into EU Member States from 1 January 2021, in the absence of the EU's Administrative Assistance and Cooperation Agreement system (AAC) for Great Britain. The Unit continues to update its mapping of potential food crime risk areas, with some risks moderated or removed by the TCA; productive continued interactions with EU partners around food crime are anticipated.

Official Control Laboratories (OCLs)

For 1 January 2021, the FSA had in place all the required systems to support import sampling, including the designation of Official Control Laboratories for NI official testing. There have been no significant challenges for lab capacity or capability arising to date from EU Transition and we are continuing to review this.

We are continuing work on the designation of National Reference Laboratories (NRLs) for Northern Ireland which are required by law to be located within an EU Member State. The FSA has launched a procurement to obtain these. As increased physical checks are implemented for imports from the EU, and new Border Control Posts are created there is a potential for an increase in sampling that will need to be undertaken by OCLs. The FSA continues to work closely with OCLs to provide information on these changes and support capability where required.

Going forward, there are opportunities for the UK to take a lead in the development of international laboratory methods for food and feed. As part of this we are reviewing our opportunities to better utilise the UK's National Reference Laboratory system for food and feed.

Legislative Changes

All relevant legislation needed to support a post transition landscape was completed for 1 January 2021. We are now focussing our activities on the requirements for any follow-up exit legislation, including ensuring we understand the impacts of the new legislative landscape and determining with FSA policy and legal colleagues what further work may be required. Where UK or GB wide legislation is required, we are mindful that both Wales and Scotland are scheduled to hold elections, which impacts the legislative timetable, as the passing of legislation is paused for these.

The legislative changes workstream is now moving to business as usual, and a future FSA legislative strategy will be developed.

Exports

FSA is supporting Defra in the provision of Export Health Certificates (EHCs) for food exports where resources allow, although food safety remains the FSA's top priority.

As such food safety related Official Controls remain the primary focus. This is the subject of a separate update in the March Chief Executive's update.

Communications

All critical guidance was published by 31 December 2020, and we additionally updated critical existing business as usual guidance to reflect the new regulatory regime within this timescale.

We worked closely with colleagues across government to ensure that the FSA's guidance was included in wider government communications activity, for example the 'Brexit change checker' on gov.uk, and Defra communications on food labelling.

There were no specific communications issues, although we are now taking stock and evaluating how those messages landed. This is enabling us to consider and identify areas where any further activity may be needed. In particular, we are working closely with colleagues in Belfast to make sure businesses in GB understand the rules for moving product to NI.