



# Effective Import Controls for food and feed of non animal origin at smaller seaports and airports



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# Section 1: Overview of Imported Food and Feed Controls

## Introduction

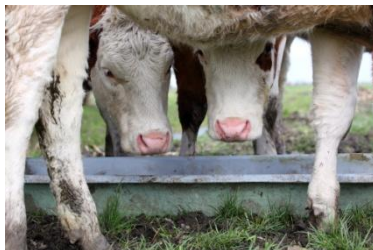
Port Health has a crucial role when it comes to ensuring that the food and feed that enters through our borders is safe to eat and suitable for animal feed. Point of entry checks are a vital component in ensuring that animal feed and food imported from outside the EU do not compromise the safety of the food chain. Regulation (EC) No 882/2004 on the official control of feed and food contains specific requirements on the monitoring and checking of feed and food of non-animal origin from outside of the EU.

**This manual is specifically aimed at those Port Health Authorities (PHAs)/ Local Authorities (LAs)/Enforcement Authorities, throughout the UK, responsible for controls under Regulation 882/2004 at points of entry through which occasional and/or low levels of consignments of feed or food of non-animal origin (FNAO) are received.**

**Often import controls of feed and food are considered to be complex, however the checks required are straight forward, yet necessary.**

Within your Port Health responsibilities we understand that you are facing challenges every day. However, it's not enough to assume that no food or feed comes through your port. You need to have procedures in place to find out for yourself what food/feed is being imported and implement risk-based, targeted checks.

This guide has been developed by the Food Standards Agency (FSA) and the Association of Port Health Authorities (APHA), working together; to assist enforcement officers to provide the first line of control to ensure that imported food/feed of non animal origin is safe.



## Key messages – Your responsibilities

Whilst certain FNAO, subject to safeguard measures, must enter via Designated Points of Entry (DPE) or Import (DPI) most FNAO can enter via any point of entry. You must be aware of what FNAO is handled at your point of entry and apply a risk-based approach to surveillance and enforcement. You must have checks in place to monitor the situation and react to changing circumstances.

This manual will assist you to:-

- **Carry out ongoing monitoring of any food or feed that enters your point of entry to identify FNAO consignments imported from outside the EU.**
- **Where you have a point of entry through which FNAO currently does not enter, at least quarterly carry out checks with the relevant parties to confirm that this status has not changed and record the outcome.**
- **Carry out risk-based checks on FNAO consignments from outside the EU, which haven't received customs clearance at another point of entry within the EU.**
- **Record the number and type of consignments together with information on the monitoring/checks carried out and details of their destination to allow for traceability.**
- **Record any sampling that has taken place.**
- **Record any enforcement action that has taken place.**



## Official Import Controls – Regulation (EC) No 882/2004

Most imported FNAO is not subject to routine checks at the point of entry. However there is a requirement that all such imports must comply with EU law and that risk-based targeted checks are in place.

The legislation controlling FNAO imported from non EU countries into the UK is Regulation (EC) No 882/2004 (articles 15-22), which is implemented, in England, by the Official Feed and Food Controls (England) Regulations 2009 (OFFC Regulations), with parallel legislation in Scotland, Wales and Northern Ireland.

The 'Official Controls' required are:

- Systematic documentary checks – this does not imply 100% checking of commercial documents but there should be risk-based planned arrangements in place
- Random identity checks, again these should be risk-based
- Physical checks, where appropriate

Certain FNAO, where there are known or emerging health risks, will be subject to enhanced import controls (safeguard measures) and most can only lawfully enter via specific ports or airports that are approved to receive them.

Most FNAO that are subject to enhanced import controls will be imported via DPEs and DPIs (Designated Point of Entry / Import) but importer error and illegal smuggling could lead to their arrival at your port/airport or into an Enhanced Remote Transit Shed (ERTS) within your area, so it's important that you know what to do. (See page 30 for more information).

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, feed/food produced in the UK may be sent to other Member States without being subjected to any specific border controls.

Feed/food that is lawfully imported into a Member State from a non EU 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).

However, even if a consignment has come from within the EU you should carry out random, spot checks to see whether it originated from outside of the EU and if so, whether 'official controls' have been carried out by the EU port of dispatch. Has the consignment received full customs clearance? If so no further action is required - see page 15 for more information.

## Members of the EU

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The current list of single market members is:

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

For many purposes the European Economic Area (EEA) countries of Norway, Iceland and Liechtenstein are treated as part of the single market. If in doubt please contact the imported food team at the FSA by email to [imported.food@foodstandards.gsi.gov.uk](mailto:imported.food@foodstandards.gsi.gov.uk) or phone 020 7270 8960



## Definitions - FNAO / POAO / Composite Products

### 'Food and Feed Not of Animal Origin 'FNAO

This description applies to any products that are intended for human or animal consumption, that do not contain any ingredients derived from animals or animal products e.g. Spices, fruits and vegetables, nuts, confectionary etc.

### 'Products of Animal Origin 'POAO

These are products that derive from animals. POAO include fresh meat, meat products, meat preparations, dairy products, fishery products, shellfish, egg products, honey, snails, insects and fishmeal used in animal feed. POAO can only be imported through a point of entry approved as a Border Inspection Post (BIP)

### 'Composite Products'

Composite products are defined in [Commission Decision 2007/275/EC](#) as a foodstuff intended for human consumption that contains both processed products of animal origin and products of plant origin and includes those where the processing of primary product is an integral part of the production of the final product. e.g. pizza, meat pies.

**Unless your port is specifically approved to do so, you should not be handling imports that are subject to enhanced controls and that can only enter via DPEs or DPIs. However importer error or incidents of smuggling may lead to such products arriving in your port. This guide is a quick reference tool to assist you in setting up procedures to manage legal products whilst also giving you the information to handle items that have been incorrectly or illegally imported.**



## Designated' Ports - Roles & Responsibilities

Your own import control responsibilities are detailed in this manual. Below are the details of the responsibilities of other UK ports that are working alongside you to ensure the safety of all food and feed that enters through our borders.

There are specific products not of animal origin which are currently under harmonised controls in the EU that control their importation from specific non-EU countries. Imports from outside the EU into the UK must be declared to HMRC and are classified using commodity codes (CN codes), so these 'higher risk' products should be identifiable and will not be released into free circulation until the controls are completed.

These controls exist to protect public health and may either suspend imports or specify conditions of import. In most cases, consignments may only be imported through designated entry points, which are detailed below. Documentary checks must be carried out and sampling and analysis or examination may be required prior to release.

For a full list of foodstuffs subject to EU restrictions please see:

[http://www.food.gov.uk/business-industry/imports/banned\\_restricted/](http://www.food.gov.uk/business-industry/imports/banned_restricted/)

If you receive any products of animal origin from third countries or any of the products under Regulation (EC) No 669/2009 (as amended) or Regulation (EC) No 1152/2009 (as amended) you must follow the guidelines on page 29, as your port is not approved to allow them to enter.

### Designated Points of Entry - DPEs

Approved to carry out official controls on 'high risk' FNAO detailed within Annex 1 of Regulation (EC) No 669/2009 (as amended).

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 pathogens, toxins and contaminants. Arrival of these products must be pre-notified, by the importer, to the DPE via completion of part 1 of a Common Entry Document (CED). If the checks are satisfactory, part 2 of the CED is completed by the authorised officer and the goods can be released into free circulation.

For the current list of UK DPEs and to find the current list of Annex 1 products please see:

[http://www.food.gov.uk/business-industry/imports/banned\\_restricted/highrisknonpoao](http://www.food.gov.uk/business-industry/imports/banned_restricted/highrisknonpoao)

### Designated Points of Introduction - DPIs

Approved to carry out official controls on food of non-animal origin at risk of aflatoxin contamination, detailed within Article 1 of Regulation (EC) No 1152/2009 (as amended).

Arrival of these products must be pre-notified, by the importer, to the DPI via completion of part 1 of a CED. If the checks are satisfactory, part 2 of the CED is



completed by the authorised officer and the goods can be released into free circulation. Consignments subject to these special conditions must also be accompanied by a health certificate and results of sampling and analysis. For the current list of UK DPIs and to find the current list of products please see [http://www.food.gov.uk/business-industry/imports/banned\\_restricted/aflatoxinreg11522009](http://www.food.gov.uk/business-industry/imports/banned_restricted/aflatoxinreg11522009)

### **Border Inspection Posts - BIPs**

Live animals and animal products from countries outside the EU must be imported via a port or airport with a Border Inspection Post (BIP) approved for that product/animal where it will be checked by an Official Veterinary Surgeon (OVS), or for fishery products, an EHO – appointed as an Official Fish Inspector (OFI)<sup>1</sup>. The importer is responsible for notifying the BIP, in advance of the arrival of the consignment via completion of Part 1 of the Common Veterinary Entry Document (CVED). If the checks are satisfactory the OVS/OFI will complete the CVED and the goods can be released into free circulation.

For the current list of UK BIPs please see: <http://www.defra.gov.uk/animal-trade/imports-non-eu/border-inspection/>

### **First Points of Introduction - FPIs**

Approved to handle consignments of polyamide and melamine plastic kitchenware from China and Hong Kong under Regulation (EU) No 284/2011.

Arrival of these products must be pre-notified, by the importer, to the FPI and the consignment must be accompanied by a declaration and a laboratory report confirming that it meets the requirements concerning the release of primary aromatic amines and formaldehyde.

For the current list of UK FPIs please see: [http://www.food.gov.uk/business-industry/imports/banned\\_restricted/kitchenware](http://www.food.gov.uk/business-industry/imports/banned_restricted/kitchenware)

For a full list of other Partner Agency Roles & Responsibilities see page 32

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<sup>1</sup> Authorised Officer in Northern Ireland

## Communication and liaison

Knowing what's coming through your port is vital in fulfilling your import control responsibilities, from knowing what's listed on import documents through to working with the port operators and the Border Force in dealing with any suspicious consignments.

Liaison with other organisations should form part of your ongoing delivery of effective food and feed law enforcement as required by the Framework Agreement on Official Feed and Food Controls by Local Authorities please see:

<http://www.food.gov.uk/enforcement/enforcework/frameagree/>

You should ensure that your written policies and procedures cover imported food/feed control.

Port health officers should look to share information on feed of non-animal origin with those officers responsible for feed controls who are usually Trading Standards Officers (TSOs) working for the same local authority or for one of the riparian agreement partners under which the port health function is delivered. In Northern Ireland this is the responsibility of the Department of Agriculture and Rural Development's Agri-Food Inspection Branch (AFIB). It should be remembered that a wide range of materials can be used in animal feed many of which can also be used in food and also have other industrial uses. More information can be found in the FSA's national enforcement priorities on feed which can be found at:

<http://www.food.gov.uk/multimedia/pdfs/enforcement/enfe12008.pdf>

**Even if there are no records of food /feed entering through your port, you need to revisit your sources at least once every three months to confirm that this is still the case and record the outcome of your checks.**

### Who should you be speaking to:-

- The Port Operators
- Transit shed operators
- Shipping/clearing/import agents
- The Airlines or Shipping Lines that frequent the port
- The UK Border Force (UKBF)
- Trading Standards – in relation to feed (AFIB in NI)
- Local Food and Feed Businesses / Regular Importers
- Food and Environment Research Agency (Fera)
- Your local Enhanced Remote Transit Sheds (ERTS), see page 30 for more information

Building and maintaining relationships with these contacts will assist in ensuring that you are aware of FNAO coming through your port.

It is important that LAS/PHAs ensure imported food/feed controls are also in place in ERTS, as significant amounts of FNAO may not have been subject to checks at points of entry, and there is a possibility that products of animal origin may have entered the UK illegally. A list of ERTS in the UK can be found at:

[http://www.food.gov.uk/foodindustry/imports/enforce\\_authorities/ertslist](http://www.food.gov.uk/foodindustry/imports/enforce_authorities/ertslist)

The next section outlines what you need to do and where to find more information, if necessary.

## Section 2: Enforcement of Official Import Controls

### Reviewing arrivals lists and manifests

Your first priority is to ascertain what food and feed is entering your port, if any.

For seaports this is a fairly simple task as normally you benefit from detailed manifests with advanced notice of the arrival of the consignments. However with airports the information isn't as readily available and some detective work may be required. This is where ongoing communication with the port operator, the airlines, Border Force, your local ERTS and local food and feed importers becomes invaluable.

If they're available, arrival lists and manifests are the easiest documents to review and make an assessment on whether food and feed is entering your port, and the point of origin. See Annex 1 for example documents.

**Arrival Lists** are available from port terminal operators and will list all vessels that are due to arrive into your port.

Each arrivals list will be laid out differently depending on which company produced it but generally you would expect to find:

- Name of port terminal
- List of vessels arriving into that port
- Date & time of arrival
- Port & Country of origin
- The exact location i.e. berth / quay no 1 / gate etc
- Commodity
- Agent

To obtain a copy of an arrivals list contact your local terminal operator(s) and ask for them to be routinely sent to you. Once you are receiving arrival lists you can then check to see what vessels are due to arrive and then you can follow it up by checking on the appropriate manifest.

Arrivals list at airports are only available via airline websites and contain general information such as the terminal and flight number, they are unlikely to contain any information on commodities, quantities etc. To obtain manifests at airports will require the building of good working relationships with airline operators; transit shed operators and clearing agents through regular contact and meetings.

**Manifests:** A transport document that gives a summary of all cargo (and/or passengers) on both ships and aircraft. It is issued by a carrier or its agent for each voyage.

Each manifest is slightly different depending on which company produced it, and manifests for sea ports and airports are different, but generally you would expect to find:

- Voyage number
- Name of vessel
- Loading port / country
- Discharging port / country / terminal
- Nationality of vessel
- Sailing date / arrival date
- Marks & No. Description of Goods, Number and Kind of Packages, Weight, container number
- Coding to indicate whether the goods have EU clearance or not, however this is not always present
- Bill of Lading number/Air-way bill
- Shipper, consignee / consignor

To obtain a copy of a vessels manifest, contact your local port terminal operators and ask for them to be routinely sent to you. Once you are receiving manifests you can easily check to see what food & feed, if any, is arriving into your port from outside the EU.

### **Airline manifests**

The benefit of an airline manifest is that it provides detail to the airlines and subsequent transit sheds about the nature of the cargo contained in the hold of the aircraft. All freight loaded in the hold will be recorded on the manifest and given an airway bill number which remains with the cargo during its journey through the airport. Manifests are usually available to view once the aircraft has left the departure airport en route to its final destination. To obtain this information, you can contact the airline directly or the relevant airline transit shed at your airport. Airline carriers usually have contracts in place with transit sheds. Some transit sheds will only handle freight/cargo for one specific airline carrier whereas others handle freight for lots of different airlines.

The manifest is not usually very detailed but will contain information such as the airway bill number, number of pieces imported, gross weight, nature of the goods and the airport of departure/arrival. Some manifests may contain Importer/Exporter details.

Airlines and transit sheds should be encouraged to submit manifests to your office on a regular basis. This will help you to carry out your checks more effectively. If this arrangement cannot be put in place, you will find copies of all manifests in the transit shed office.

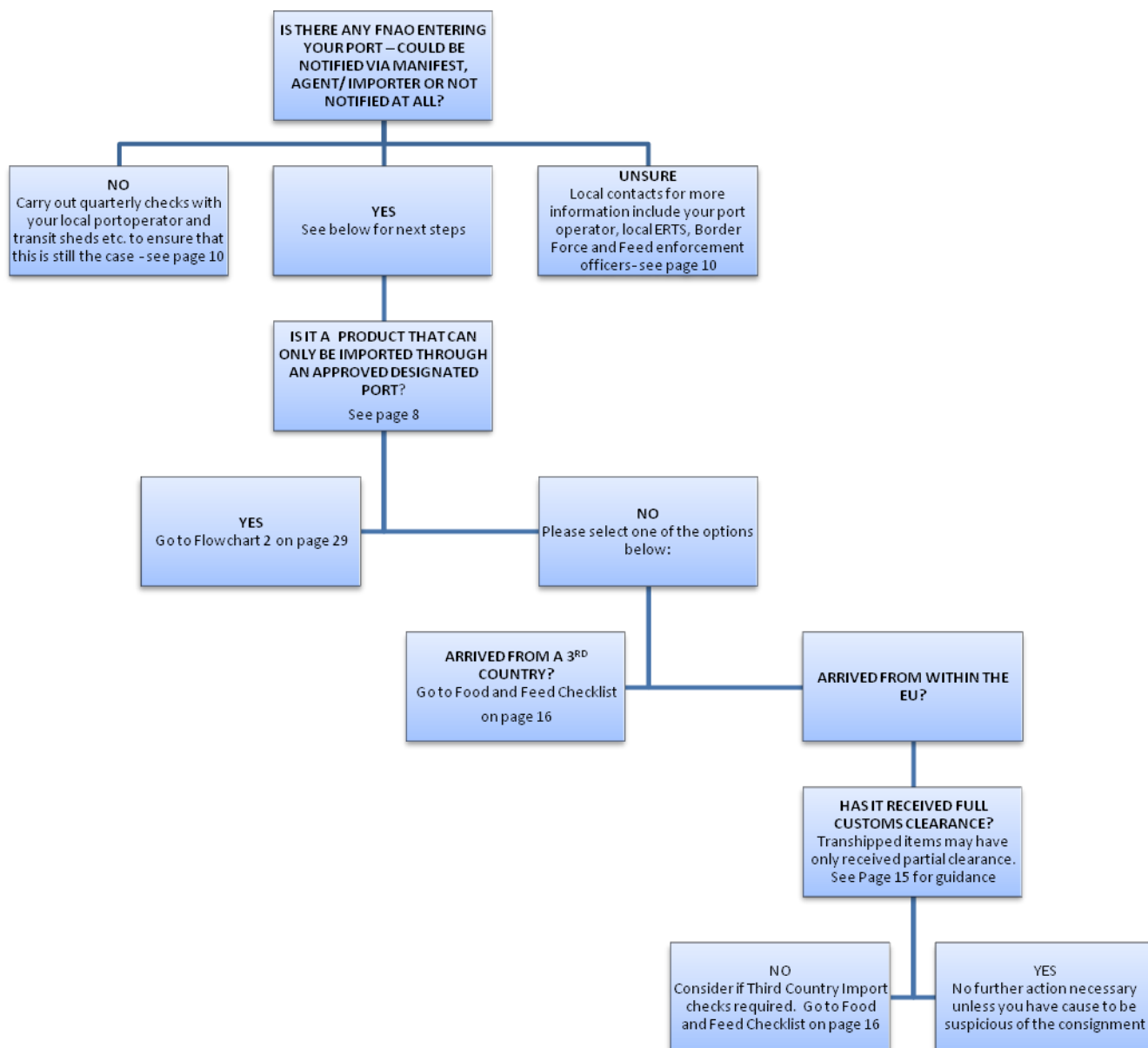
It is also important to note that manifest descriptions (both sea and airports) can be inaccurate and so may need to be followed up with the agent/importer to find out exactly what the consignment is.

Checking the manifest involves systematically working through each page of the document to identify products/countries of interest, for example, those that could be subject to a simple identity and/or physical examination as part of your sampling and surveillance programme or to identify restricted products, such as products subject to enhanced controls under Regulation 669/2009. There are a number of tools that can help you identify restricted / non-restricted / products of interest such as legislation, FSA letters, and the dedicated imports section of the FSA website at: <http://www.food.gov.uk/business-industry/imports/> and RASFF notifications.

Officers should monitor which products are being imported from which countries. You may start to notice seasonal trends; for example at certain times of the year you may see an increase in the number of imports of a particular product. You should be aware that food and feed items are sometimes listed as 'consolidated goods' on the manifest. Officers should investigate whether such consignments contain restricted items of food or feed items or not. This may involve contacting the transit shed, Importer or the Handling/Clearing Agent.

**If you identify that imported food or feed is coming in through your port, the next step is to ascertain which risk based checks are necessary on the consignments...**

## Overview of checks – Flow chart



## Customs Clearance for Free Circulation in the EU

Customs status refers to the status of goods as EU or non-EU goods. EU goods are those goods which originate in the EU or which have been imported from outside the EU and released for free circulation that is, all import formalities have been completed and duties paid. Imports from outside the EU into the UK must be declared to HMRC and are classified using commodity codes (CN codes).

There are various ways to find out the customs status of a consignment and if it has been granted 'Free Movement' within the EU:

**Manifests** – On some manifests the customs status is declared. However please note that this may not always be the case depending on who produces the manifest. T1 (third country) or N (not known) indicates that the goods are **not** in free circulation. If the consignment is cleared it may be declared as T2, C, EU status, Non or another declaration. If it is not clear then contact the person/organisation that provided the manifest to check the status of goods on the manifest

Contacting the importer / agent – If you are checking manifests for consignments then the manifest should also indicate who the importer/agent is so you can contact them to find out the customs status.

For Transit shed operators – CCS - UK can provide this information. CCS - UK is the Cargo Community System-UK covering many UK airports

If you do not receive manifests but are informed by agents / importers about consignments arriving into the port then they should also be able to inform you of the customs status.

Customs Hub – You could contact the customs hub directly, however you will need the customs entry number for the consignment for them to check the status. This will be available from the importer / clearing agent.

The National Clearance Hub can be contacted at:

Telephone Number: 0845 001 0085

Fax: 0800 496 0699

Email: [nch@hmrc.gsi.gov.uk](mailto:nch@hmrc.gsi.gov.uk)

**If the consignment has received full customs clearance, no further checks are necessary unless you have a suspicion that it contravenes food and feed law.**

**If the consignment hasn't received full customs clearance the next step is to review the Food & Feed checklist, on the next page, to ascertain whether the consignment warrants further checks...**

## Food and Feed Checklist

You are now aware of food and feed arriving into your port from either a non-EU country or via the EU but with no customs clearance. The decision of which checks, if any, to carry out will be dependent on the following risk based factors. A documentary check may be needed to inform these decisions.

### FOOD & FEED CHECKLIST:

Are you aware of any statutory requirements relevant for this consignment?

Are you aware of any identified risks associated with the product?

Are you aware of any known issues regarding the history of compliance for the country of origin, the exporter and/or importer?

Are you aware of any issues regarding the reliability of any checks that have already been carried out?

Has the product already been sampled? If so were the results satisfactory?

Are you aware of any information that might indicate non-compliance?

Are you aware of any food/feed alerts for this consignment? e.g. RASFF notifications, withdrawals

Is it a priority product included in the FSA annual sampling priorities for food or feed?

What's your knowledge of the product – is it new/unusual?

What's your knowledge of the importer – are they new/unknown to you?

Is the documentation sufficient? Are there any discrepancies that require further investigation?

Feed law enforcement by Local Authorities is usually undertaken, in Great Britain, by Trading Standards Officers (TSOs), although in a few unitary authorities (not in Scotland) and London Boroughs, Environmental Health Officers (EHOs) enforce feed law. If you identify that feed is entering your port, please advise your local feed enforcement officers (AFIB in NI) and work with them to ensure that risk based controls are carried out.

**If these questions are answered satisfactorily then no further checks are necessary. Go to page 28 for details of recording and traceability**

**If not then further checks may be required...**



## Product Checks

Article 16 of Regulation (EC) 882/2004 specifies that checks on FNAO imported from outside the EU should include at least; a systematic documentary check (this does not require 100% checking of commercial documents, but there should be risk based planned arrangements in place), a random identity check and, as appropriate, a physical check. Any checks carried out on consignments must be recorded.

### Documentary checks:

The document check involves checking any documents such as a manifest, packing note, invoice, bill of lading or air-way bill etc. and, where appropriate, documents required under feed or food law that should accompany the consignment. You should identify any products of interest that may require further checks using the criteria in the food/feed checklist on the previous page.

You should ensure that you are satisfied with the product description, weights, origin etc. for example:

- Does the gross weight on the airway bill/bill of lading match the gross weight on any accompanying documents such as the invoice?
- Does the description of the product match that contained on the manifest, airway bill, invoice etc?

Where there are any doubts in your mind simply ask further questions or request further information to satisfy yourself. You could also carry out an identity check. Importers should be encouraged to notify your Authority of all imported food and feed that arrives in to your port. This will help you to build a picture about the types of products that are received and the frequency of their arrival.

### Identity checks:

This check involves a visual inspection of the product and its packaging to confirm that the consignment matches the information and/or guarantees given in the accompanying documentation (invoice/packing lists etc).

In simple terms, this means checking that the product matches that described in the accompanying documentation; including:

- Checking that the product matches any descriptions given e.g. If fresh mango is described on the invoice and airway bill, the consignment should contain fresh mango, not dried. Where there are any doubts in your mind simply ask further questions or request further information to satisfy yourself. You could also carry out a physical examination (including sampling).
- Checking that the packaging material is intact, clean and free from damage which would render the contents inside the boxes potentially unsafe.
- Checking and recording any batch/lot numbers (useful for traceability purposes)
- Checking the consignee/consignor details (if provided).

- Checking the weight of the consignment and number of boxes imported.

Such checks should not be restricted to product immediately visible when opening any consignment but by examining a variety of areas from within the consignment.

### **Physical checks:**

It is not proportionate or achievable to examine all consignments entering ports. The decision to carry out a physical check should be taken appropriately taking into account any intelligence received and risk-based factors, such as those outlined in the food/feed checklist on page 16.

A check on the feed or food itself which may include several or all of the following components:

- Transport conditions including thermograph records, evidence of damage or alteration, evidence of pest infestation, etc
- The product – temperature, weight, sensory (visual, odour, taste)
- Packaging integrity and labelling
- Sampling for chemical analysis or microbiological examination
- Any other check necessary to verify compliance with feed or food law.

You should make good any packaging affected during an identity or physical check.

If a port does not have appropriate facilities then the checks on the consignment can be deferred until it reaches its next destination. However this would be in **exceptional** circumstances only and would require liaison with the receiving authority and based on full co-operation and agreement between authorities. Article 16 of 882/2004 simply requires that physical checks are carried out under appropriate conditions to allow them to be carried out properly and the feed and food to be handled hygienically. The facilities must be clean and hygienic and pest proof and arrangements must be in place to prevent cross contamination. The port operator should, at least, provide an enclosed area / room that is clean (and capable of being kept clean) and pest proof with at least a table, storage facilities (cupboard) and washing facilities. Where **exceptional** circumstances arise and the PHA/LA have valid reasons then 'Deferred examinations', including sampling, should only be carried out in accordance with Regulation 27 of the OFFC Regulations<sup>2</sup>.

A template to record checks carried out is available in Annex 1

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<sup>2</sup> Regulation 26 of the OFFC Regulations (Northern Ireland) 2009

**If you think that the consignment warrants the taking of sampling for analysis or examination, go to page 20, (*sampling page*)**

**If you think that the consignment warrants enforcement action, go to page 24 (*enforcement page*)**

**If no further action is required go to page 28(*recording and traceability page*)**

## Sampling - overview

Routine imported food sampling considerations, for surveillance and enforcement purposes, should take account of the factors in the checklist on page 16.

Commodities sampled under Emergency Control Decisions or Emergency Control Regulations should be detained until the PHA/LA receives the results unless otherwise stated in the implementing rules. A list of these products can be found: [http://www.food.gov.uk/business-industry/imports/banned\\_restricted/restricted\\_foodstuffs](http://www.food.gov.uk/business-industry/imports/banned_restricted/restricted_foodstuffs)

If you suspect non-compliance with import controls, you can serve a notice under regulation 32 of the OFFC Regulations<sup>3</sup>, to detain the consignment pending the results of samples taken and submitted for analysis or examination.

However where samples are taken for general monitoring/surveillance purposes, detention is not usually necessary.

You may wish to put the consignment on hold pending results or allow it to continue inland, informing the importer that if results are unsatisfactory the products may have to be recalled.

**Sampling to take place at your port.** If you choose to carry out sampling see the checklist on page 22.



For further information and guidance on sampling:

- For sampling guidance - <http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/guidance/>
- For micro criteria guidance regulations - <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:338:0001:0026:EN:PDF>

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<sup>3</sup> Regulation 31 of the OFFC Regulations (Northern Ireland) 2009

- FSA Food Law Code of Practice and associated practice guidance (England, Scotland, Wales and Northern Ireland) - <http://www.food.gov.uk/enforcement/enforcework/foodlawcop/>
  
- FSA Feed Law Enforcement Guidance (Great Britain) - <http://www.food.gov.uk/multimedia/pdfs/feedcodeofpractice.pdf>
  
- FSA Feed Law Enforcement Guidance (Northern Ireland) – <http://www.food.gov.uk/multimedia/pdfs/feedlawguideni.pdf>

## **Sampling checklist:** (Please note not all points may apply at every port)

### **Before sampling:**

- Is the sampling officer appropriately authorised in accordance with the Food Law Code of Practice?
- Have you checked your documented sampling policy and procedures?
- Do you have the necessary sampling equipment?
- Do you require protective clothing?
- Do you have sufficient suitable storage for the consignment if needed?
- If necessary contact the appropriate laboratory for advice
- Have you considered any health and safety implications?

### **Have you informed the relevant people that you intend to take samples?**

- Terminal / Shed Operator so they can place consignment on hold
- Agent / Importer. Are there any additional costs that they need to be aware of?
- Public Analyst / Food Examiner / Agricultural Analyst to schedule sampling
- Local Courier to arrange appropriate transport of samples

### **Taking the sample:**

- Ensure the consignment is kept in a suitable location to avoid contamination.
- Identify the 'lot' that needs to be sampled. It can generally be identified as items that were delivered at the same time with common characteristics such as origin, variety, packer etc.
- Identify a suitable sample size that's representative of the overall batch and is sufficient for analysis.
- Take small 'incremental' samples randomly throughout the 'lot' to create an aggregate sample for analysis, where this is necessary.
- In the case of feed where the sample is one being taken in accordance with the prescribed sampling requirements, ensure the number of increments and aggregate samples is in accordance with Regulation (EU) No 152/2009.
- Ensure correct storage and transportation of sample to avoid contamination.
- Make appropriate records including Reference No's, Officer Details, Product Details, Country of Origin, Importer Details, Location & Date & Time of Sample and Lab Details.

## **Results**

### *Satisfactory:*

- Release the consignment **if** on hold.
- Record the results
- Inform importer / agent and any other relevant persons of results

*Unsatisfactory:*

- Ensure consignment is put on hold (if it has not continued inland) by informing the port/terminal operator
- Inform importer / agent of results and discuss options available, and serve an OFFC 2009, Reg 32 notice<sup>4</sup> (See Annex 1)
- Notify the receiving LA inland if the consignment has left the port
- Consider the following: RASFF/liaison with FSA
- Record information

**Satisfactory results - See Page 28** (*Record Keeping & Traceability*)

**Unsatisfactory results - See Page 24** (*Enforcement Actions*)

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<sup>4</sup> Regulation 31 of the OFFC Regulations (Northern Ireland) 2009

## Enforcement actions

The import conditions provided by 882/2004 are implemented by the OFFC Regulations 2009. 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, a regulation 32<sup>5</sup> notice (see Annex 1 for a template 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 882/2004.

### Detention

This notice may be used to detain any FNAO from a third country where there is suspicion regarding its compliance with food/feed law or doubt about the legality of importation. The detention notice must be served on the person in charge of the consignment (importer/agent/representative) and there is **no requirement to consult** with them prior to the service of a detention notice. However, every effort should be made to ensure that the goods are not detained any longer than necessary and that they are stored appropriately, particularly to avoid any cross contamination. It is good practice to ensure that the boxes/packaging are marked as 'detained', perhaps through the use of stickers and detention tape. This will avoid accidental release etc.

If you are satisfied that the consignment is non-compliant the notice may also be used to arrange for the food/feed to be:

- Destroyed
- Re-dispatched outside EU
- Subjected to a "special treatment"
- Used for other purposes (not human or animal consumption)

The options specified in the notice should be drawn up after consultation with the person in charge of the consignment (importer/agent/representative). Where the person is aggrieved by the service of a Regulation 32 notice, he/she may appeal in the first instance to the Magistrates Court<sup>6</sup>, within 1 month of the date of service of the notice. Appeals are not common. The person on whom the notice is served has 60 days to comply with the terms of the notice.

### Destruction

If the consignment poses a risk to public or animal health and cannot undergo appropriate measures to protect health, it should be destroyed within 60 days. You must ensure that there is no possibility of it re-entering the food/feed chain and be able to verify its' destruction and keep traceability records.

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<sup>5</sup>Regulation 31 of the OFFC Regulations (Northern Ireland) 2009

<sup>6</sup> The Court of Summary Jurisdiction in Northern Ireland/ The Sheriff in Scotland



## **Re-dispatch**

Provided the consignment poses no risk to public or animal health, it can be re-dispatched to the third country of origin or another third country. The importer must agree to the destination and inform the competent authority of the third country as to the reasons for rejection and provide evidence that this has been done. Where the country of destination is not the country of origin, the competent authority of the third country must confirm that it will accept the consignment. You should obtain official documentation, such as a Bill of Lading, confirming the route and destination of the re-dispatched consignment. If re-dispatch does not take place within 60 days the consignment may be destroyed, unless a delay can be justified.

## **Special Treatment**

The consignment can be subjected to special treatment, within 60 days, to bring it into line with EU requirements or the requirements of a third country that it will be re-dispatched to. You should liaise with any other relevant enforcement authority or organisation to verify that the 'special treatment' is carried out. If this option is being explored by an Importer they must seek all relevant details regarding the proposed process, location of processing and the relevant authority that will monitor the process.

## **Other Appropriate Measures**

The consignment could be used for other uses, not human or animal consumption. In certain circumstances a foodstuff could be used for animal feed, if it meets EU requirements for feed. Again, the time allowed for other appropriate measures to be taken is 60 days. However, in the case of animal feed appropriate measures do not include 'blending down' of non-conforming material with other products to achieve a compliant feedingstuff. This is prohibited by EU legislation, specifically Directive 2002/32/EC on undesirable substances in animal feed - Article 5.

## **Costs**

In accordance with Article 22 of Regulation (EC) 882/2004, the person in charge of the consignment is responsible for the obligations of that Regulation in relation to the consignment and so may be required to pay or reimburse on demand the costs incurred as a result of a regulation 32<sup>7</sup> notice, including costs of storage, transporting, re-dispatching or destroying the product.

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<sup>7</sup> Regulation 31 of the OFFC Regulations (Northern Ireland) 2009

## Voluntary Surrender

Where there is no evidence to suggest that a deliberate attempt has been made to import non compliant goods and adequate control measures are in place, ports may consider voluntary surrender as an option for dealing with the consignment. The importer must, in writing, surrender the goods for destruction to the LA/PHA and may be required to pay or reimburse on demand the costs incurred.

## Rejected Consignments

All PHA/ LAs should send details of any imports rejected where there is a direct or indirect risk to health, to the Agency's Incidents Branch using the Rapid Alert System for Food and Feed (RASFF) notification form. This will include imports rejected for reasons such as chemical, microbiological or foreign body contamination or imports from a country which is not authorised to export that category of products to the EU. The Incidents Branch, in England, can be contacted by e-mail: [foodincidents@foodstandards.gsi.gov.uk](mailto:foodincidents@foodstandards.gsi.gov.uk) or phone 020 7276 8448.

In Scotland, contact by email: [scottishincidents@foodstandards.gsi.gov.uk](mailto:scottishincidents@foodstandards.gsi.gov.uk) or phone 01224 285196.

In Wales, contact by email: [wales.foodincidents@foodstandards.gsi.gov.uk](mailto:wales.foodincidents@foodstandards.gsi.gov.uk) or phone 029 2067 8999.

In Northern Ireland, contact by email: [Incidents.ni@foodstandards.gsi.gov.uk](mailto:Incidents.ni@foodstandards.gsi.gov.uk) or phone 028 9041 7700.

In addition, with regard to testing for residues of prohibited veterinary medicines in Table 2 of Regulation (EU) 37/2010 (such as the nitrofurans and chloramphenicol) or those not approved for use, details of **ALL** positive results should be sent to the Incidents Branch using the RASFF notification form. Where available, copies of the health certificate and the airway bill or bill of lading should also be forwarded to the relevant incidents contact.

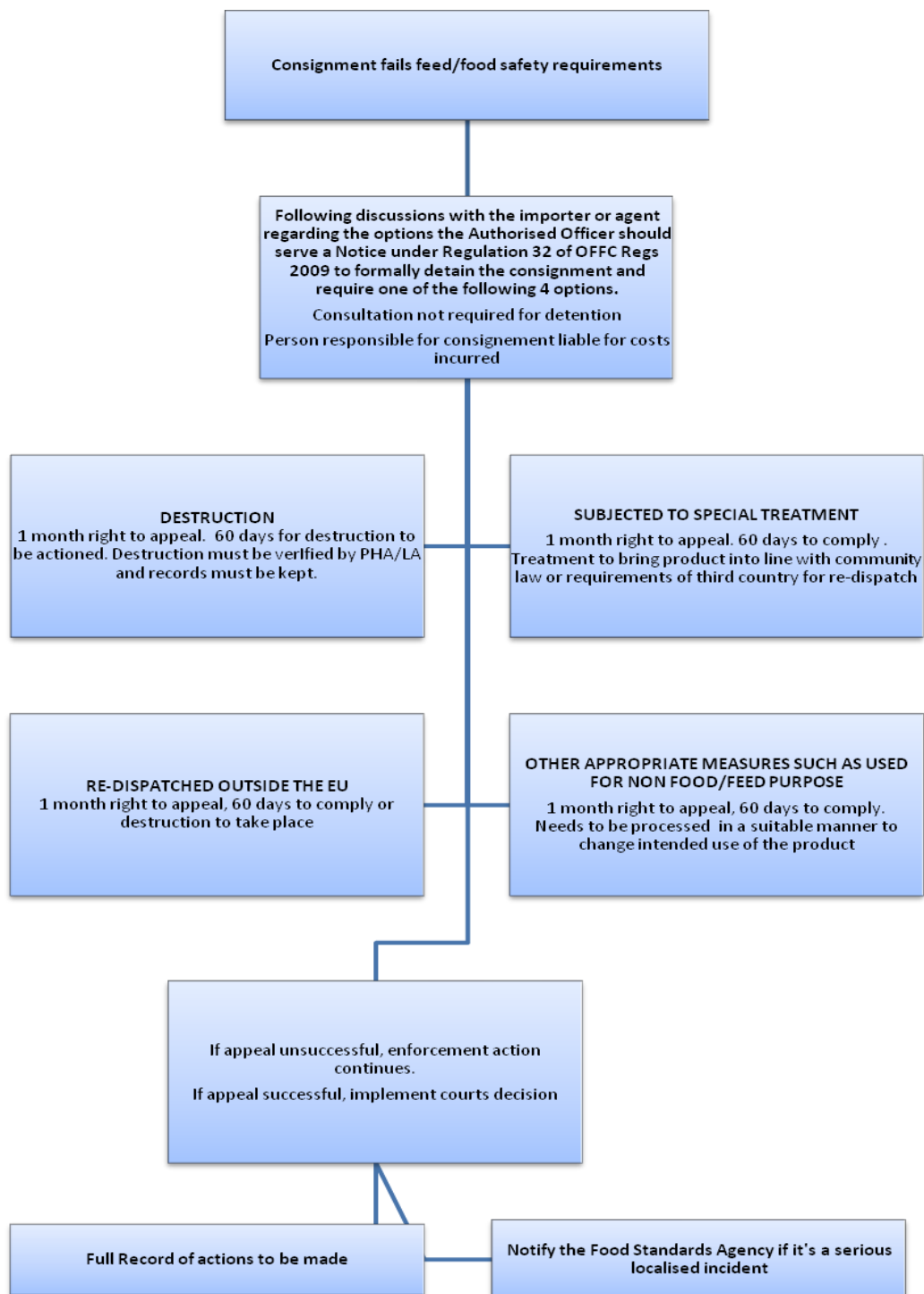
Authorities may access the Agency's website, and download copies of the template for the RASFF notification form at:

<http://www.food.gov.uk/foodindustry/incidents/report/>

The PHA/LA should also notify local Customs of the rejection decision and the final destination of the consignment if it is to be allowed to be re-dispatched.

All PHA/LAs should notify the Agency of a serious localised incident or a wider problem under the Food Alert System as soon as a decision has been taken that one has occurred. This should be done using the appropriate contact details and reporting arrangements set out in the Food Law Code of Practice.

# Enforcement Actions flow chart



## Record Keeping and Traceability

It's imperative that you keep a record of the number and type of imported food/feed consignments entering your port, together with information on any checks made, including type of checks. This information should provide consignment traceability. This information will also assist you in service planning of future delivery, particularly in allocating resources for import controls. You should ensure that your written policies and procedures cover imported food/feed control.

### RECORD KEEPING

It is your responsibility to maintain up to date accurate records in retrievable form for all relevant checks on imported food and feed. A template to record checks carried out is available in Annex 1.

Information to record should include the following:

- Reports of all interventions / inspections
- Actions that were taken to determine compliance i.e. risk based assessments
- Details of action taken where non-compliance was identified - including the type of check and any sampling results
- Where it has been necessary to deviate from the sampling method prescribed in legislation e.g. for health and safety reasons, detail the reasons for this and the method used
- Details of any enforcement action taken
- Number and type of consignments
- Adequate referencing system for consignments
- Details of agent / importer / exporter / country of origin
- Relevant documentation – manifest page, arrivals list
- Nature and outcome of (minimum) three monthly checks for ports where there is no permanent LA presence and it is not considered to be appoint of entry for food/feed

All records must be up-to-date and accurate as your local authority must submit details of all imported food enforcement activity to the FSA on an annual basis, using the LAEMS database (Local Authority Enforcement Monitoring System). Guidance on the imported food data to be submitted via LAEMS can be found at:

<http://www.food.gov.uk/enforcement/auditandmonitoring/laems/laemsimportguide>

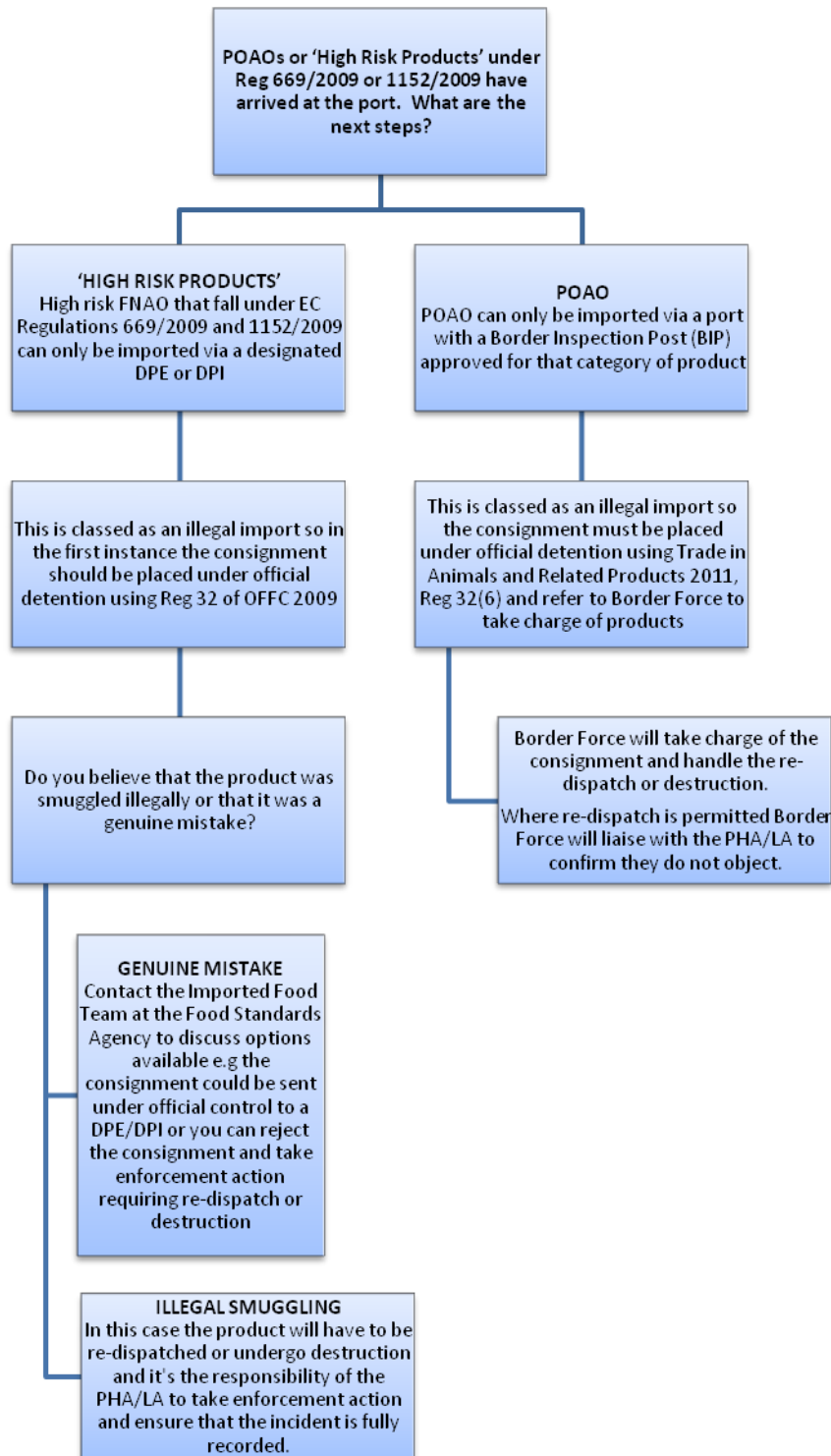
Your PHA/LA will be carrying out internal monitoring checks on an ongoing basis to ensure that this is the case.

### TRACEABILITY

- It is important that you have records of what is coming into your port and where from.
- By signing up to receive daily and/or weekly RASFF alerts you can compare any current alerts with product coming through your port.
- Ensure you know what the first destination inland is of product coming through your port.

## Incorrectly imported products – flow chart

See below for details on how you should manage any POAO or higher risk FNAO products that have been incorrectly or illegally imported.



## Enhanced Remote Transit Sheds - ERTS

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**ERTS - 'Enhanced Remote Transit Sheds', are defined as: an approved area situated outside the appointed area of an approved port or airport where non community goods are held in Temporary Storage until they are assigned a customs approved treatment or use.**

An ERTS is a facility designated by HM Revenue and Customs (HMRC), which is approved and controlled by Border Force on behalf of HMRC, where goods are temporarily stored pending formal declaration to an approved customs treatment or use e.g. free circulation. An ERTS in which food is stored should be registered or approved by the food authority in which it is situated and subjected to an appropriate level of official controls.

They are usually situated near to points of entry but may be also be situated remote to their parent Border Force controlled (air) port.

Depending on the circumstances, an ERTS can be the whole of a building or a smaller designated area within a building. In all cases the designated Temporary Storage area will be adequately marked and signed and there are strict rules on operations and personnel who are allowed to enter the Temporary Storage area.

Once goods arrive at these facilities, following their removal from the port of arrival the goods have to be declared to a customs procedure or use within 20 days. Failure to make a declaration within 20 days can lead to the goods being seized and/or destroyed by Border Force.

ERTS are located throughout the country and it's the responsibility of the PHA/LA to monitor imported FNAO that enters through them. It's important to establish the Customs status of the goods as they may not have been customs cleared. To ascertain whether the product has been cleared and the next steps to monitor it, see page 15. A list of ERTS in the UK can be found at:

[http://www.food.gov.uk/foodindustry/imports/enforce\\_authorities/ertslist](http://www.food.gov.uk/foodindustry/imports/enforce_authorities/ertslist)

POAO and 'High Risk' FNAO may not be stored in an ERTS unless the necessary veterinary and document checks have taken place at the port (however they may be stored at an ERTS under 'control' pending laboratory results, generally this will have been agreed between the LA where the ERTS is situated and the PHA/LA for the point of entry (onward transportation/transmission procedure).

POAO from third countries located in an ERTS should be accompanied by a fully completed CVED. Where an authorised officer, in the course of his/her duties, comes across POAO at an ERTS which they have reason to believe has been illegally introduced, for example because the CVED is not present, they should notify Border Force<sup>8</sup> and if needed, for adequate interim control of the consignment, issue

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<sup>8</sup> In Northern Ireland DARD/LAs have the power to take action

a detention notice under regulation 32(6)<sup>9</sup> of the Trade in Animals and Related Products (TARP) Regulations 2011 (See Annex 1 for a template notice).

FNAO IS dealt with by the PHA/LA. FNAO from third countries which are subject to the enhanced official controls set out in 669/2009 or 1152/2009 should be accompanied by a fully completed CED when they are dispatched to an ERTS. As such, where such foods are found in an ERTS without a corresponding CED, the relevant consignment(s) should be placed under official detention using, where appropriate, a regulation 32 OFFC notice<sup>10</sup> (see Annex 1 for a template notice). Under these circumstances, the LA, where the ERTS is situated has the enforcement responsibility and should liaise with the food business operator/importer, the point of entry and, where appropriate, the FSA to ensure that the food is adequately dealt with.

Any feed items refer/liaise with the appropriate local feed enforcement officers (this will vary depending on type of authority and country - England, Wales, Scotland or Northern Ireland).

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<sup>9</sup> Regulation 32(7) of the Trade in Animals and Related Products (Northern Ireland ) Regulations 2011/Regulation 27(6) of the Trade in Animals and Related Products (Scotland) Regulations 2012

<sup>10</sup> Regulation 31 of the OFFC Regulations (Northern Ireland) 2009

## Section 3: Directory of Agencies – Roles & Responsibilities

Department	Areas of Responsibility	Contact Details
<a href="#">Animal Health and Veterinary Laboratories Agency (AHVLA)</a>	Import of products of animal origin (other than fishery products and live bivalve molluscs)	<b>Web:</b> <a href="http://www.defra.gov.uk/ahvla">www.defra.gov.uk/ahvla</a> <b>email:</b> <a href="mailto:ahitchelmsford@ahvla.gsi.gov.uk">ahitchelmsford@ahvla.gsi.gov.uk</a> <b>Tel:</b> 01245 454 860
<a href="#">The Department for the Environment, Food and Rural Affairs (DEFRA)</a>	Products of Animal Origin, excluding fishery products and shellfish	<b>Web:</b> <a href="http://www.defra.gov.uk/food-farm/import-export/">www.defra.gov.uk/food-farm/import-export/</a> <b>email:</b> <a href="mailto:defra.helpline@defra.gsi.gov.uk">defra.helpline@defra.gsi.gov.uk</a> <b>Tel:</b> 08459 335577 or 020 7238 6951 from outside UK
<a href="#">Food and Environment Research Agency (FERA)</a>	Import of seeds, beans and plant products	<b>Web:</b> <a href="http://www.fera.defra.gov.uk/">www.fera.defra.gov.uk/</a> <b>email:</b> <a href="mailto:info@fera.gsi.gov.uk">info@fera.gsi.gov.uk</a> <b>Tel:</b> 01904 465 625
<a href="#">Food and Veterinary Office (FVO)</a>	Checks on compliance with food law by EU member states, carries out audits and inspections in third countries to ensure effective controls in place and gives prior approval of prospective suppliers of POAO to the EU	<b>Web:</b> <a href="http://ec.europa.eu/food/fvo/index_en.cfm">http://ec.europa.eu/food/fvo/index_en.cfm</a>
<a href="#">Food Standards Agency (FSA)</a>	Import of food not of animal origin, and for imports of fishery products and bivalve molluscs from third countries	<b>Web:</b> <a href="http://www.food.gov.uk">http://www.food.gov.uk</a> <b>email:</b> <a href="mailto:imported.food@foodstandards.gsi.gov.uk">imported.food@foodstandards.gsi.gov.uk</a> <b>Tel:</b> 020 7276 8018
<a href="#">Her Majesty's Revenue and Customs (HMRC)</a>	Import duties - Customs import entries and related customs clearance process	<b>Web:</b> <a href="http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&amp;pageLabel=pageImport_Home">http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&amp;pageLabel=pageImport_Home</a> <b>Tel:</b> 0845 010 9000 <b>Classification helpline:</b> 01702 366 077 <b>email:</b> <a href="mailto:classification.tso@hmrc.gov.uk">classification.tso@hmrc.gov.uk</a>



<a href="#">Maritime and Coastguard Agency (MCA)</a>	The MCA inspect and survey ships to ensure that they are meeting UK and international safety rules. They also provide certification to seafarers, register vessels and respond to pollution from shipping and offshore installations	<b>Web:</b> <a href="http://www.dft.gov.uk/mca/">www.dft.gov.uk/mca/</a> <b>Tel:</b> 02380 329100
<a href="#">Medicines and Healthcare Regulatory Agency (MHRA)</a>	Import of medicines and medicinal products	<b>Web:</b> <a href="http://www.mhra.gsi.gov.uk">www.mhra.gsi.gov.uk</a> <b>email:</b> <a href="mailto:info@mhra.gsi.gov.uk">info@mhra.gsi.gov.uk</a> <b>Tel:</b> 020 3080 6000
<a href="#">Rural Payments Agency</a>	Import licenses for trading purposes, quotas	<b>Web:</b> <a href="http://rpa.defra.gov.uk/rpa/index.nsf/home">http://rpa.defra.gov.uk/rpa/index.nsf/home</a> <b>email:</b> <a href="mailto:tsmu@rpa.gsi.gov.uk">tsmu@rpa.gsi.gov.uk</a> <b>Tel:</b> 0191 226 5050
<a href="#">Veterinary Medicines Directorate (VMD)</a>	Specified products, (e.g. coccidiostats) medicines used in feed and medicated feeds	Veterinary Medicines Directorate, Woodham Lane, New Haw, Surrey, KT15 3LS  <b>Web:</b> <a href="http://www.vmd.defra.gov.uk">www.vmd.defra.gov.uk</a>  Tel No. 01932 336911
<a href="#">UK Border Force (UKBF)</a>	Anti-smuggling controls on imports of products of animal origin from non EU countries at ports and airports except in Border Inspection posts	<b>Web:</b> <a href="http://www.ukba.homeoffice.gov.uk/">www.ukba.homeoffice.gov.uk/</a>
<b>Northern Ireland</b>		
<a href="#">The Department of Agriculture and Rural Development (DARD)</a>	Import policy for animals and animal products to Northern Ireland (including meat, but not fish or aquaculture products)	<b>Web:</b> <a href="http://www.dardni.gov.uk">www.dardni.gov.uk</a> <b>email:</b> <a href="mailto:dardhelpline@dardni.gov.uk">dardhelpline@dardni.gov.uk</a> <b>Tel:</b> 028 9052 4999
<a href="#">The Department of Agriculture and Rural Development (DARD) – Agri Food Inspection Branch (AFIB)</a>	Feed controls	<b>Web:</b> <a href="http://www.dardni.gov.uk">www.dardni.gov.uk</a> <b>email:</b> <a href="mailto:afib.admin@dardni.gov.uk">afib.admin@dardni.gov.uk</a> <b>Tel:</b> 028 9052 5001

<b>Scotland</b>		
<a href="#">Scottish Government Rural and Environment Directorate</a>	Import policy for animals and animal products to Scotland (including meat, but not fish or aquaculture products)	<b>Web:</b> <a href="http://www.scotland.gov.uk/About/Directorates/ruralandenvironment">http://www.scotland.gov.uk/About/Directorates/ruralandenvironment</a> <b>email:</b> <a href="mailto:ceu@scotland.gsi.gov.uk">ceu@scotland.gsi.gov.uk</a> <b>Tel:</b> 08457 741741 or 0131 556 8400
<b>Wales</b>		
<a href="#">Welsh Government Department of Environment and Sustainable Development</a>	Import policy for animals and animal products to Wales (including meat, but not fish or aquaculture products)	<b>Web:</b> <a href="http://wales.gov.uk/topics/environmentcountryside/?lang=en">http://wales.gov.uk/topics/environmentcountryside/?lang=en</a> <b>email:</b> <a href="mailto:wag-en@mailuk.custhelp.com">wag-en@mailuk.custhelp.com</a> <b>Tel:</b> 030 060 3300 or 0845 010 3300 0845 010 3300 (English) Tel: 030 060 4400 or 0845 010 4400 (Welsh)