

Scotland: Inland Enforcement of Imported Feed and Food Controls Resource Pack

Annex 2: Port Controls

Products of animal origin (POAO)

European Directive 97/78/EC requires that all consignments of animal products from Third Countries imported into the European Union (formerly the European Community) receive a documentary and, as appropriate, identity and physical checks under the responsibility of the Official Veterinary Surgeons (OVS) or Official Fish Inspector (OFI) before being cleared for free circulation in the EU. These checks must be carried out before customs clearance is given and the importer is responsible for bearing the costs of the checks. Special provisions are made to permit the transshipment of POAO. A list of products that require veterinary checks is laid down in Commission Decision 2007/275/EC, together with details of composite products and foodstuffs that are exempt from such requirements. POAO should only be presented at BIPs (Border Inspection Posts) that have the relevant approval for the type of product to be imported, e.g. fishery products must not be presented for clearance at a BIP which is designated for handling live animals only. It should be noted that checks on fish eggs should be carried out at live animal BIPs whereas live fish and aquaculture products for direct human consumption should be checked at a product BIP.

The person responsible for the load, or their representative, must notify the OVS or OFI at the BIP in advance of the unloading of the consignment. In addition, there should be a relevant system of manifest checks in place at UK BIPs to ensure that all relevant consignments of POAO have been properly declared. The consignment should then be presented to the BIP “without delay” upon landing in the UK.

All products including those POAO imported in mixed loads must be moved to the BIP facility. The person responsible for the load or their representative must arrange for the health certificates and accompanying documents to be delivered to the OVS/OFI and suitable arrangements should be in place to prevent their removal until the veterinary checks have been completed. All physical and identity checks, except for seal checks must take place at an inspection facility and be conducted in such a manner as to avoid the possibility of cross contamination. There are statutory requirements for certain documents to always be maintained at the BIP and for returns on BIP activities to be submitted to the Regional Veterinary Leader (RVL)/ Divisional Veterinary Manager (DVM) of the local Animal Health Office and the import and EU Team of Defra.

Documentary Checks

Every consignment of POAO from a third country intended for import must have a documentary check to ensure that the pre-notification and the veterinary health certificates agree, and that the documents meet the requirements of the appropriate EU or national rules for the product concerned. Detailed rules for documentary checks are laid down in Annex I of Regulation (EC) No 136/2004. Certificates which accompany consignments must be written in English, be legible, original and unaltered. A documentary check should be carried out on all consignments unless

transshipment to another EU BIP takes place under Article 9 of Directive 97/78/EC in less than the minimum time intervals laid down in Commission Decision 2000/25/EC.

The importer should be offered an authenticated copy of the certificate. If import is refused due to lack of compliance with EU requirements the certificate should be over-stamped to indicate that EU entry is not permitted. It may be helpful to use a checklist when carrying out documentary checks. An example checklist can be found in Appendix D (CVED checklist) of the BIP Manual, produced by Defra. This guidance document can be accessed using the link:

<http://www.gov.uk/government/publications/border-inspection-post-bip-manual>

Care should be taken to ensure that all the required elements of the documentary check are included and that, if used, the checklist is fully completed. Where a checklist is used to record the outcome of checks and is then used as evidence to support signing of a Common Veterinary Entry Document (CVED) by someone who wasn't present at the inspection then it must be signed and dated by the officer who carried out the checks.

Identity Checks

The OVS/OFI should carry out an identity check at the BIP on consignments of POAO imported from third countries with a few exceptions. An identity check involves checking that the product labelling contains details of the country of origin and establishment number and these match with the health certificate and other supporting documentation. It is also helpful to check official marks, product descriptions and production dates etc. Where products are packed into containers, these will need to be opened so that product labels can be seen. The check should not be restricted to boxes immediately visible by the container door. In certain circumstances, usually at seaports, it is acceptable to undertake a seal check failure of which can lead to the rejection of the consignment.

Where a consignment is not transported in a sealed container or the OVS/OFI does not consider a 'seal check only' appropriate, the container or other means of transport should be opened and the OVS/OFI should carry out a visual inspection of the packages to check that the labels are in line with EU requirements and detail the country of origin and establishment number and that the product description matches that on any accompanying documentation. Identity checks should be carried out at BIP but seal numbers may be checked at an alternative and suitable place if agreed with the RVL/DVM of the local Animal Health Office.

Selection of consignments/parts of consignments for identity checks should be done by the inspection team at the BIP - not in advance by shippers or whilst still partially loaded on carriers. Some identity checks should include packages taken from throughout the load: this may require a full or partial turnout of the container.

Physical Checks

OVS/OFI have powers to carry out any checks they deem to be appropriate in cases where they suspect that veterinary legislation has not been complied with or where there is some other doubt about the consignment or its destination. There may be occasions where it will be necessary to request, for a limited period, a higher level of checking on certain products from certain third countries (e.g. as a result of an outbreak of disease in that third country). In these circumstances, each BIP registered as eligible to handle the product in question will be notified by Department for Environment, Food and Rural Affairs (Defra) in writing of any temporary increase on the level of checking required. Council Directive 97/78/EC requires that 100% documentary, identity and physical checks should be carried out on consignments. However, it also provides for a Decision to be made to derogate certain products from this requirement and reduced levels of physical checks and prescribed percentages are provided for under Decision 94/360/EC. The detailed requirements for physical checks are outlined in Annex III to the Directive.

Physical checks should be carried out on randomly selected consignments at approved BIP inspection facilities. Selection of consignments/parts of consignments should be undertaken by the inspection team at the BIP - not in advance by shippers or whilst still partially loaded on carriers. Physical checks should be done on packages taken throughout the consignment: this will require a full or partial turnout of containers. Sampling procedures are laid down in Annex II to Regulation (EC) No 136/2004 laying down the procedures for veterinary checks at EU BIPs on products from third countries. BIPs should submit samples to: public analysts appointed by the local authority for food or feed analysis, Microbiology laboratories for food examination or, where appropriate, other laboratories accredited for specific analytical techniques.

Completing the CVED

The CVED is a certificate issued by an OVS/OFI confirming that veterinary checks have been carried out. The CVED is produced via the TRACES (Trade Control and Expert System) system and must only be signed by the authorised OVS/OFI. The CVED is a veterinary certificate and should comply with all the EU and Royal College of Veterinary Surgeons (RCVS) standards of certification. It must be on a single sheet of paper and must be fully completed including the relevant product CN codes.

An importer or his representative is required to notify the local authority prior to unloading a consignment and this may be achieved by completion and electronic transfer to the BIP of Part 1 of the CVED. At seaport, the OFI may permit pre-notifications to be made via the manifest if all the details contained in Part 1 of the CVED are included in the manifest. Telephone notifications are not acceptable.

The OVS/OFI must record on the CVED which of the checks have been carried out. For example if the consignment has received only documentary and identity checks,

the boxes for these checks should be marked and the box for physical check completed as “not done”. Once completed, the Part 2 of the CVED should be signed and the official stamp of the BIP applied. A copy of the CVED must be retained at the BIP. The original CVED shall accompany the consignment/part consignment as long as it remains under customs supervision or in the case of import as far as the first destination inland.

There are certain circumstances where foods are passed through the BIP but are not subject to the normal veterinary checks regime and completion of the CVED is different. Some examples include: movement to ships’ stores or directly to a vessel; transits and transshipments and by-products for pet food or manufacture of pharmaceutical or technical products.

Requirements for BIPs

The facilities at a BIP must be maintained at a satisfactory standard and sanctions exist where they are deemed to fall short of EU requirements. The following summarises the main structural requirements for BIPs:

1) **Location:** The BIP inspection facilities must be located in the immediate vicinity of the point of entry and be in an area designated by the customs authorities. For railways the BIP can be at the first station designated by the competent authority.

2) **Size:** The BIP must be sufficiently large to enable checks to be carried out on the number of consignments passing through. Copies of approved plans for the BIP should be available in the BIP. Other than BIPs with a limited throughput of one category of product there should be separate facilities for changing, unloading, inspection and storage for products for human consumption and those not for human consumption.

3) **Facilities:** A BIP must have adequate, hygienic facilities and storage areas dedicated to veterinary checks. The BIP must be constructed so that the hygiene requirements and any temperature requirements appropriate for the product concerned set out in the hygiene Regulations can be met. The requirements for feed are set out in Regulation (EC) No.1831/2003 on feed hygiene, in particular in Annex II. Consideration needs to be given to the construction materials used to ensure that the structure is easily cleanable and does not have dirt traps, gaps etc that could result in contamination of consignments for inspection. The inspection area or office facilities should include a fridge/freezer for holding of samples awaiting transmission to the laboratory or retained reference samples. The BIP should have a documented maintenance plan, as it is important that the fabric of the BIP is kept in a satisfactory condition. Requests for maintenance and outcomes should be documented for audit. Water supplies should be tested 6 monthly for potability and a pest control programme should be in place. It must also be ensured that cross-contamination does not occur.

4) **Equipment:** BIPs and inspection centres must have a PC provided on which TRACES can be accessed. Passwords must be kept up-to-date so that access is

possible. Where messages are to be sent by TRACES and the system does not function then fax facilities may be used as an alternative. For information on specific equipment requirements at BIPs and inspection rooms, please refer to the Defra BIP manual. This can be accessed at the link below (through the Agency website): (<http://www.food.gov.uk/animal-trade/imports-non-eu/enforcement-guidance/>)

Products failing veterinary checks

If the consignment fails the veterinary checks for any reason then the OVS/OFI will serve Notice to have the goods destroyed or re-dispatched outside of the European Union under The Trade In Animals and Related Products (Scotland) Regulations 2012 (TARP). The main rejection Notices used by BIPs for animal products are:

- Regulation 17 Unchecked consignments, the use of this notice is appropriate where the officer is satisfied that the POAO in question has been illegally introduced into the country.
- Regulation 19 Consignments of products likely to constitute a risk to animal or human health.
- Regulation 18 products that fail vet checks

These Notices require that goods must either be re-dispatched outside the EU from the BIP of arrival (by the same means of transport by which they arrived i.e. by sea if arrival by sea, by aircraft if arrival by aircraft), or be destroyed in accordance with the Animal By-products (Enforcement) (Scotland) Regulations 2013 (rendering and incineration or incineration).

The CVED is completed to show that the import has been refused, the reason for refusal and information on re-export or destruction of the consignment. Accompanying documentation is endorsed as “rejected and non-conforming goods” and held by the BIP. Where the consignment is re-dispatched, other EU BIPs are notified by TRACES to prevent illegal re-introduction of the consignment. TRACES is the Commission veterinary computer system, which is used to notify authorities of certain consignments of animals and animal products and also to generate the CVED. If re-dispatch is chosen by the importer, they have 60 days to comply otherwise the authorised officer may take charge of the consignment and destroy it. The enforcement option may be restricted to destruction only in cases where there is a risk to human or animal health. When goods are rejected they should be destroyed in accordance with the Animal By-Products (Enforcement) (Scotland) Regulations 2013 as soon as possible at the nearest appropriate facility. In effect this will be an incinerator or rendering plant that has an appropriate permit that allows for disposal of such products, issued under the Pollution Prevention and Control Act 1999 or the Environmental Protection Act 1990.

Transits to Non- EU destinations

Consignments may be permitted to transit EU territory (i.e. travel by road through EU territory to a destination outside the EU) provided they meet the following conditions:

- Products must originate in a country which is, in principle, able to send the same type of product to the EU and meet the animal health conditions for import into the EU.
- Entry into, and exit from, the EU must be via a BIP and transit must not exceed 30 days.
- The person responsible for the load (importer/agent) must agree to dispose of the products should they return to the EU following rejection by the authorities in the country to which they are being sent. A written undertaking to this effect must be provided at the BIP of entry. Without this, permission to transit will be refused. This undertaking is included in the CVED.
- Containers or vehicles must be sealed.
- BIPs of entry and exit must be approved to handle the category of product transiting the EU.
- The BIP of entry must notify the BIP of exit of the transit via the TRACES system, or fax where TRACES is not available. The BIP of exit will notify the BIP of entry when it has left EU territory. If this fails to happen an investigation would ensue. The CVED should be completed accordingly.
- Entry for transit will not be permitted if veterinary certification or documentation is not available. Documentary and identity checks will be carried out. Physical checks will also be carried out if the OVS/OFI at the BIP suspects irregularities or has reason to believe that the consignment poses a risk to animal or human health. A CVED should be completed and indicate the third country of destination.

If an entry BIP has not received confirmation that a consignment has left the EU after 30 days, the entry BIP should contact the exit BIP first to check that the consignment has not been exported. If the consignment has disappeared, the OVS/OFI at the entry BIP must alert HM Revenue & Customs (HMRC) and the Imports and EU Trade Team in Defra, by e-mail (itap@defra.gsi.gov.uk)

Trans-shipments to another Member State

Certain consignments arriving at a seaport or airport BIP can be transhipped to another BIP at which some or all of the veterinary checks will be carried out. These

provisions relate only to consignments which do not leave the customs area of the port of the first BIP of arrival and leave by the same means of transport.

At the time of arrival, the person responsible for the consignment must notify the OVS/OFI and provide the address of the BIP of destination.

Checks are carried out depending on the time spent at the BIP of entry. If the product is transhipped but stays within the HMRC area of the seaport for less than 7 days or the airport for less than 12 hours, no check is required. If it is held for between 7 days and 20 days at a seaport or between 12 hours and 48 hours at an airport it must be subjected to a documentary check. If it is held for longer than this, full veterinary checks must be carried out. BIPs must pay close attention to consignments that are transhipping to ensure that the necessary checks are carried out and that the time limits are adhered to.

If the OVS/OFI considers it is necessary, full checks may be carried out at any stage.

Storage of consignments that do not conform to EU import requirements

European law allows for consignments of animal products that do not meet EU import requirements, but are intended for ships' stores or for non-EU destinations, to be stored in specially approved premises on EU territory. This is subject to strict conditions and under official veterinary control to ensure that EU conforming goods cannot be contaminated. EU law also provides that Member States may decide on animal or public health grounds not to permit such storage on their territory. The UK along with several other Member States has decided not to allow the storage of such products. The UK therefore has no approved premises for these consignments.

Record keeping at BIPs

BIPs are required to keep records of all consignments presented for veterinary checks and the outcome of those checks. Copies of CVEDs and associated health certificates are required to be kept for 3 years. For rejected consignments, BIPs are required to keep a record of the reasons for rejection and how consignments were disposed of, including details of re-dispatch, if applicable. The BIP is required to keep a record of all the samples taken, the tests requested and the results of those tests.

Every month, BIPs send a report to Defra on the numbers of samples taken including information on country of origin, product and reason for sampling/details of analysis. Information on the number of consignments handled by product category and by country of origin, the numbers rejected and the reason for rejection and the numbers of documentary, identity and physical checks is available via the TRACES system.

Safeguard Measures

Import conditions are laid down in EU legislation but this can take some time to amend. European legislation therefore allows emergency safeguard measures to be taken where there is a serious outbreak of disease or where other circumstances are liable to present a serious animal or public health risk. They provide a rapid and flexible system for dealing with situations that require urgent action, or are developing rapidly.

The Commission may introduce these measures, or if the Commission has not yet acted, individual Member States may implement measures provided they communicate the action taken to the Commission and other Member States. Safeguard measures may apply to all or part of a country, suspend imports of all or particular products and set special conditions for imports of all or particular products.

Safeguard measures, whether national or EU, are implemented in Scotland by Emergency Declarations made under regulation 25 of TARP Regs or the Official Feed and Food Controls (Scotland) Regulations for FNAO and the similar provisions in Welsh, English and Northern Ireland law. Declarations may be modified or revoked by a further declaration. When a declaration is issued copies and an explanatory letter are sent to enforcement bodies and trade interests and copies are posted on the Defra and FSA websites. Failure to comply with the provisions of a declaration is an offence.

POAO not subject to veterinary checks

There are some products specifically excluded from the requirement for veterinary checks by EU legislation:

- Certain personal imports which form part of the travellers' luggage or small consignments sent to private persons provided:
 - They are for human consumption.
 - They are not meat or dairy products (which are banned). However, meat and milk products from the Faroe Islands, Greenland and Iceland are allowed (up to 10kg combined of meat and dairy products are permitted)
 - They do not exceed 2kg total per person on powdered infant milk, infant food or special foods required for medical purposes
 - They do not exceed 20kg of fresh or prepared fishery products, or processed fishery products – or the weight on one fish (if higher)
 - They do not exceed 2kg combined of other POAO such as honey, eggs, egg products, live bivalves, snail meat, reptile and insect meat and frogs legs

- Products which are imported with prior authorisation by Scottish Ministers as trade samples or for exhibitions provided they are not to be marketed.
- Products which are imported with prior authorisation by Scottish Ministers for particular studies or analyses provided they are not for human consumption.

Third Country military supplies destined for UK or EU bases are NOT exempt from veterinary checks.

Composite products containing a limited percentage of POAO

A composite product is a foodstuff containing both processed products of animal origin and products of plant origin, Composite products containing less than 50% of processed egg products, honey and fishery products may come from any non-EU countries (unless subject to a prohibition under a EU safeguard measure) and are not required to come from an approved establishment listed on the Commission website for POAO imports. This applies where these composite products are shelf stable at ambient temperature or have undergone in their manufacture a complete cooking or heat treatment so that the raw material is denatured, clearly identified as for human consumption and securely packaged or sealed in clean containers,. This also applies where composite products contain less than 50% of processed milk products and these conditions are met. In addition, the milk product content must come from a EU approved country.

For animal health purposes, Defra may authorise the import of certain composite products containing a small amount of POAO as an ingredient, by issuing a General Import authorisation under the Importation of Animal Products and Poultry Products Order 1980, as amended (IAPPO). Composite products are defined in Article 2 (a) of Commission Decision 2007/275/EC concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC. This definition reads: “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.” Moreover, Article 4 of this Decision covers composite products subject to veterinary checks and Article 6 has derogation for certain composite products and foodstuffs, and Annex II lists specific products which are excluded.

This can be an area that is detailed and technical, hence case by case judgements are needed to establish if a composite product should be classed as POAO or not. A good example is dessert mixes containing dairy powder that may or may not be

classified as a composite dairy product. If this type of product is encountered and you are unsure how to deal with it, please contact FSA/Defra for further advice.

There are also some products that are not included in Commission Decision 2007/275/EC and are therefore not subject to veterinary checks. Again for animal health purposes these products are subject to licensing control under IAPPO.

The import controls in the Official Feed and Food Controls (Scotland) Regulations (and parallel legislation in England, Wales and Northern Ireland) will apply to composite products which are outside the veterinary checks regime.

Feed and Food Not of Animal Origin (FNAO)

As a general rule, FNAO is subject to random checks and may normally enter through any port. However, FNAO of “known or emerging risk” specified in Annex I to Regulation (EC) No 669/2009 (as amended) or those subject to EU safeguard measures under Article 53 of Regulation (EC) No. 178/2002 such as FNAO susceptible to aflatoxins as specified in Article 1 of Regulation (EC) No 1152/2009 (as amended) and “high risk” FNAO as specified in Annex I to Regulation (EU) No. 91/2013, are subject to enhanced import controls. Such products must only enter the UK/EU through designated points of entry.

The legislation controlling FNAO imported from non-EU countries into the UK is Regulation (EC) No 882/2004 on official controls which is enforced by the Official Feed and Food Controls (Scotland) Regulations 2009 (as amended). All LAs (whether or not they have seaports, airports and ETSF in their Districts) are responsible for enforcing these regulations. As well as FNAO, these controls also apply to composite products which are outside the veterinary checks regime at BIPs by virtue of the provisions of Commission Decision 2007/275/EC.

General requirements for importing FNAO are that relevant feed/food must comply with EU Law. The Food Hygiene (Scotland) Regulations 2006 provide for the execution and enforcement of Regulation (EC) No 852/2004. The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 provide for the enforcement of Regulation (EC) 183/2005 on feed hygiene. The Official Feed and Food Controls legislation gives enforcement officials discretion to examine consignments.

Regulation (EC) No 882/2004 requires systematic documentary checks, random identity checks and where appropriate, physical checks.

Systematic documentary checks does not imply 100% checking of commercial documents but there should be risk-based planned arrangements in place for undertaking documentary checks.

Identity checks similarly, not all consignments require an identity check but there should be risk-based arrangements in place.

Physical checks might include: checks on the food itself, checks on the means of transport, checks on the packaging, checks on the temperature controls, organoleptic testing, and chemical or microbiological examination, or any other checks necessary to verify compliance with EU feed and food safety requirements. Such checks may also take into account any guarantees that the Competent Authority (CA) of the third country has given and which have been assessed by the Commission. The frequency of physical checks should take into account the risks associated with the product and the history of compliance demonstrated by the Food Business Operator (FBO). The arrangements and follow up actions should be set out in relevant service policies and procedures.

Physical checks should be carried out under appropriate conditions inclusive of standards of hygiene and at a place with access to appropriate control facilities allowing investigations to be conducted properly. Samples should be handled in such a way as to guarantee both their legal and analytical validity.

FNAO failing official controls checks

If a consignment fails to comply with feed/food safety requirements, then the officer, following discussions held with either the importer or importer's agent acting as the importer's representative, may serve a Notice under regulation 32 of the Official Feed and Food Controls (Scotland) Regulations. This requires the goods either to be destroyed, subjected to special treatment, re-dispatched outside the European Union, or used for other purposes. It also provides for non-compliant goods that have been placed on the market to be monitored or, if necessary, for the officer to order the recall or initiate withdrawal of the goods before being subject to the above measures.

Where the authorised officer allows for re-dispatch, there is a 60 day period to comply. If the re-dispatch does not take place, the consignment should be destroyed, unless the delay is justified.

Products of known or emerging risk

Products of known or emerging risk are specified in Annex I of Regulation (EC) No 669/2009 and are subject to the enhanced import controls provided for by Article 15(5) of Regulation (EC) No 882/2004. Such products may only enter the EU through Designated Points of Entry (DPEs) following pre-notification (using part I of the CED) and will be subject to documentary checks as well as identity and physical checks at specified frequencies which are detailed in the Annex to the Regulation. On completion of the required checks, the official inspector will complete, stamp and sign Part II of the Common Entry Document (CED). This will accompany the consignment inland to the first destination.

Products susceptible to aflatoxins

Certain products susceptible to aflatoxin contamination, from specific countries are set out in Article 1 of Regulation (EC) No 1152/2009 (as amended). These products must undergo documentary checks at a Designated Point of Entry (DPE) and will also be subject to identity and physical checks at a Designated Point of Import (DPI) at certain frequencies which are laid down in the Regulation. On completion of the import controls, part II of the CED is completed and the document must accompany the food until it is released for free circulation in the EU.

Deferred examination

Regulation 27 of the Official Feed and Food Controls (Scotland) Regulations allows for the examination of consignments of FNAO to be deferred by an enforcement officer at the point of entry and undertaken by another LA. Deferred examinations may be considered where the LA at the point of entry has a valid reason why an examination needs to be deferred, but it is likely to be in exceptional circumstances only. Deferral can be requested by the LA at the point of entry or the importer, although the decision rests with the authority at the point of entry.

The preferred option is to have the goods inspected at the point of entry. It should be noted that this procedure is not available for POAO or FNAO subject to enhanced import controls.

Organic Products

In implementing the recent Council Regulation (EC) No 834/2007, Commission Regulation (EC) 1235/2008 provides that before a consignment of organic products from a third country can be released into free circulation, a Certificate of Inspection (COI) for Import of Products from Organic production for each consignment must be submitted to and endorsed by the designated authority at the point of entry of the Member state through which products enter the EU. The Commission Regulation sets out the requirements for completing an obtaining endorsement of the COI.

In the UK the designated authority is the Port Health Authority (PHA) or Local Authority (LA), although there are no PHAs in Scotland. PHA/LA officers will be required to check that the import is authorised by Defra and that all the details on the COI match the information held on a database of import authorisations before endorsing the COI and allowing the consignment to enter free circulation. The term organic is used to describe crops grown without the use of most "artificial" fertilisers or pesticides and in a way that emphasizes crop rotation, making the most of natural

fertilisers and ensuring that the fertility and biological activity of the soil is maintained. Animals are kept in ways which minimise the need for medicines and other chemical treatments. Processed foods are prepared with limited additives and processing aids.

To ensure that products are 'organic', an inspection system has been set up. All operators (producers, processors and importers) dealing with organic products are required to be registered with an organic inspection body. The inspection bodies carry out physical inspections of the premises at least once a year to ensure that the operator is complying with the organic standards.

Many consumers choose to buy organic produce because it has been produced without "artificial" fertilisers or pesticides, or because they want food which has been produced in what they regard as a more sustainable way. The price premium attached to organic produce - sometimes up to a third more than for conventional produce - provides a temptation for producers, importers, suppliers, retailers, etc. to try to sell conventionally-grown products as organic. There are no tests which can be carried out on produce to determine whether it is organic, although there are tests which can determine whether prohibited pesticides and fertilisers have been used.

The above Council and Commission Regulations are therefore primarily a consumer protection and anti-fraud measure to ensure that consumers can buy organic produce confident in the knowledge that they have been produced to certain standards, despite the country from which they originate.

Organic Imports - Article 32 and 33 of the Council Regulation details the rules for the importation of organic products from third countries, in addition the previous system of Member States issuing import authorisations is to continue until 30 June 2014. For the importation of organic produce into the EU, three systems will initially operate, depending on the third country from which the goods are imported.

The provisions of Article 33 of the above Council Regulation, allow for the European Commission to recognise that some third countries operate production rules and a system of inspection equivalent to those operating within the EU.

To date, eleven countries have been approved as having equivalent production rules and inspection system. These are:

- Argentina;
- Australia;
- Canada
- Costa Rica;
- India
- Israel;
- Japan
- New Zealand;
- Switzerland;
- Tunisia
- United States of America

Certain specified produce, set out in Commission Regulation (EC) No.1235/2008, as amended, from these countries may be brought freely into the EU and marketed as organic, provided it has been inspected and certified by one of the approved inspection bodies. Importers do not need an import authorisation from Defra for these products. These details are set out in Annex III of Regulation 1235/2008 as amended (Annex III is currently found in Annex I of Commission Implementing Regulation (EU) 508/2012); and in the Annex of Commission Implementing Regulation (EU) 751/2012. Two further amending regulations have now been published: EU 125/2013 and EU 586/2013.

Article 33 of the Council Regulation sets out provisions for the second system. Certain specified produce, from certain specified countries, certified as organic by certain specified Control Bodies as set out in Annex IV of Commission Regulation 1235/2008 may be brought freely into the EU and marketed as organic, provided it has been inspected and certified of those approved inspection bodies. Annex IV is currently found in Annex II of Commission Implementing (EU) 508/2012 and in the Annex of Commission Implementing Regulation (EU) 751/2012.

The transitional rules under the Council Regulation allow produce from third countries not specified in Commission Regulation (EC) 1235/2008, as amended or certified by a Control Body listed in Annex IV of that regulation., to be brought into the EU and marketed as organic, provided prior authorisation has been obtained from the CA in a member state as required by Article 19 of Regulation 1235/2008. Defra is the Central Competent Authority (CCA) which grants these authorisations for products to be imported into the UK.

A COI will need to be produced by the third country inspection body for every consignment of organic produce, no matter which system is used. Because a COI needs to be endorsed before organic produce is released into free circulation, importers of organic produce are required by UK legislation to give advance notice in writing of the arrival of a consignment.

- For consignments arriving by air, advance notice of at least six hours (during the working day of the LA office) must be given.
- For consignments arriving by any other means (sea, train or road) notice of at least 24 hours must be given.

When the consignment arrives at the point of entry, the LA officer will check the COI that accompanies the consignment. Each LA has been offered access to the secure Defra website and database of Import Authorisations. For products that are covered by such authorisations, rather than under Article 32 or 33 of Regulation 834/2007, LAs will need to access this website to check whether an import authorisation has been granted under Article 11(6) to the importer. They will check that boxes 1 to 15 of the COI have been fully completed and that the details on the authorisation match those on the COI.

If the LA is satisfied that the Certificate is complete and matches the information on the database, they can endorse the COI and release the consignment for HMRC

clearance. If the Certificate is incomplete, or the LA Officer is not satisfied that any amendments have been endorsed by the body issuing the Certificate, the Certificate should not be endorsed and the consignment will be the subject of a Movement Control Notice and will not be released.

If the LA is content that the COI is complete and correct, they must endorse the **original** COI in Box 17. This must be done prior to allowing the consignment to be released into free circulation.

The LA must fill out the following:

- The name of the Member State (in this case, the UK).
- Details of the Import Registration (type, number, date and office of the customs declaration).
- Date of endorsement.
- They must sign and stamp the box with an official stamp.

Following endorsement of the COI, the consignment may be released for HMRC clearance. The original COI will be sent to the first consignee, either with the consignment or by post.

Movement Control System - If problems are encountered when verifying the COI or the consignment and the Certificate cannot be endorsed, the consignment will not be released for HMRC Clearance and a Movement Control Notice or, where appropriate, a Consent to Movement Notice will be served by the LA.

There are a number of reasons why there might be problems with the COI which may mean the consignment will be held. These could include:

- The original COI not being present when the consignment arrives
- The COI is not written in English
- The COI has not been fully completed;
- Uncertified amendments having been made to the COI;
- The information on the COI does not match the information on the Defra organic imports database;
- For products from Article 11(1) countries, the COI has been completed by the wrong certifying body, or has the wrong inspection body mentioned.

There are a number of reasons why there might be problems with a consignment which mean it must be held by the LA. Most commonly, it may be that the products and/or quantities do not match the COI.

If there are problems which mean the Certificate of Inspection cannot be endorsed, a Movement Control Notice will be served by the LA to the importer, or whoever is responsible for the consignment at the place from which release for free circulation in the Community is being sought.

The Notice will specify:

- the consignment affected;
- the provisions of the Regulations in respect of which the officer has reason to believe there has been a failure to comply;
- the practicable steps needed to lift the movement restrictions or the course of action to be taken;
- that the consignment must not be moved without the written consent of a LA officer.

A consignment under movement control will be labelled or marked to show that it is subject to this control.

There is a Right to Appeal against this Notice. In the first place this appeal should be to a senior Official at the relevant LA. In the event that the matter cannot be resolved, it can be referred to the Defra Organic Imports team: 020 7238 5777 or at (organic.imports@defra.gsi.gov.uk)

The consignment may be permitted by the LA to be moved to a warehouse or other storage facility under the supervision of an appropriate party, most usually the local authority in whose area the storage facility/warehouse is located, but only after a Consent to Movement Notice has been issued by the LA. This procedure is often utilised to reduce demurrage costs at the port/point of entry in cases where the certificate of inspection is delayed or where the consignment is to be relabelled to remove/obscure all organic references on the packaging, in cases where the organic certificate is unavailable. In such cases the LA at the point of entry would only permit movement of the consignment if the appropriate LA agrees to supervise the consignment whilst it is in their area. If the LA is unable to supervise the consignment, due to staffing considerations / resource implications, the LA at the point of entry would refuse to issue a movement consent notice and the consignment would remain under movement control conditions at the port/point of entry.

If the problem is resolved then the LA at the place where the prohibition on the movement under that Regulation last applied may endorse the COI and allow release into free circulation of the organic products.

Unusual cases may be referred to the Defra Organic Imports Team at the above contact points.