

British Frozen Food Federation



T&L update 54

October 2009

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New European Regulation on IUU fishing

The new EU regulation 'to prevent, deter and eliminate illegal, unreported and unregulated fishing' will enter into force on 1 January 2010. This has been described in some detail in previous issues of this newsletter (T&L update 50, 51 and 53). At the heart of the Regulation, and of major significance for importers of fishery products from third countries, is the catch certification scheme.

The timetable for implementation of the Regulation is acknowledged to be extremely tight. **At the time of writing, the Commission has still to publish the detailed implementing rules that were originally due to be issued mid-2009. We understand that the implementing regulations have been agreed in Brussels, and publication can be expected in the Official Journal before the end of October. The implementing Regulations will be accompanied by a practical guidance document from the Commission on how to actually apply the IUU Regulation**, including the catch certification scheme and the procedures to be followed by third country fishing vessels landing their catches in the EU.

Defra has published very useful information on its website at <http://tinyurl.com/yh7vuao>, and readers should refer in particular to:

- **Defra's information note on the IUU Regulation** (download as <http://tinyurl.com/yh9xzoj>)

The note explains the main requirements that the regulation will introduce as well as the approach to implementing it within the UK. Defra will be overseeing the implementation of this regulation working closely with colleagues in Scotland, Wales and N. Ireland, and other Government Departments and Agencies including the

Marine and Fisheries Agency, Association of Port Health Authorities and HM Revenue & Customs. Defra is also working closely with stakeholders in implementing the Regulation.

- **Frequently Asked Questions** (download as <http://tinyurl.com/yghtz6y>)

Some of the most commonly asked questions about the regulation – 60 questions in total – grouped under the following headings:

- A. Scope of the Regulation
- B. Definitions
- C. Fishing vessels and inspections
- D. The catch certificate scheme
- E. Other catch certificates
- F. Simplified catch certificate for small scale fisheries
- G. Processed products
- H. Inspection of catch certificates
- I. Approved Economic Operators
- J. IUU Vessel list
- K. List of non-cooperating countries
- L. Sanctions & EC nationals
- M. Assistance for third countries
- N. General

The questions under headings **D The catch certificate scheme** and **G. Processed products** are collected together below – answers from the Defra document

Also available is **Defra's Impact Assessment on the IUU Regulation**

(download as <http://tinyurl.com/yzgyq4m>)

Frequently Asked Questions

D. The catch certificate scheme

Q12: As an importer, who will I need to ask to supply a catch certificate?

Q13: What will happen to my goods if they arrive at a UK Border Inspection Post without a catch certificate?

Q14: Will there be any charges levied at the Port for checking these certificates and if so, how much?

Q15: Who completes the catch certificate?

Q16: Can one catch certificate contain catches from several vessels?

Q17: Should there be one separate catch certificate for each species?

Q18: Who validates catch certificates?

Q19: Can a vessel which has carried out illegal activities, but which has been sanctioned, obtain a validated catch certificate for products stemming from these activities?

Q20: Does the whole catch need to be included in the catch certificate, even if only part of it is exported to the EC?

Q21: How can the master of a fishing vessel sign a catch certificate if he is on the high seas?

Q22: How can the competent authority of the flag State validate a catch certificate if the catch is landed in another third country?

Q23: Can the validated catch certificate be communicated electronically?

Q24: Is the format of the catch certificate fixed?

Q25: Can the reference number of the health certificate be used as document number?

Q26: Can a health certificate or the certificate of origin replace the catch certificate?

Q27: What is a catch area?

Q28: How can a flag State verify that the "catch area" noted in the catch certificate was the correct area where the catch was made?

Q29: What level of liability is a competent authority under when validating a catch certificate?

Q30: How can an importer tell if a third country is eligible to export to the EC?

Q31: Is a vessel presumed to have carried out IUU activities if its catch did not have a catch certificate?

G. Processed products

Q34: Must Annex IV be completed if the flag State is the same as the processing State?

Q35: What if products from one flag State are processed in two different countries?

Q36: How can a processing plant complete Annex IV if it processes products from several species, as is the case for surimi?

Q37: Who should endorse the statement at Annex IV?

Q38: Is freezing of products regarded as processing?

Q39: What happens if a consignment is divided after importation to a processing country and sold to different processors?

Q40: Will five consignments of fish which are mingled at processing required five catch certificates?

More information is available on the European Commission Fisheries website (Combating illegal fishing) at <http://tinyurl.com/2edmx2>, including:

- Easy access to the original regulation - **Council Regulation (EC) No 1005/2008** of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999
- Various Commission statements
- Information packs:
 - Information note – state of play and summary of main provisions of the IUU Regulation
 - EC Control measures – Information on the EC Proposal of control measures applicable to EC vessels
 - Technical note - detailed description of the catch certification scheme
 - Cooperation note – possibilities of international cooperation in the fight against IUU fishing and the implementation of the IUU regulation
- Member States – implementation
 - Notification of competent authorities for the implementation of the IUU Regulation
 - Designated ports in the EC for third countries fishing vessels
 - Scope of the IUU Regulation - Excluded aquaculture products
- Third countries – implementation
 - Requirements for catches stemming from the Caspian Sea
 - Notification of competent authorities for the implementation of the IUU Regulation
 - Designated ports in the EC for third countries fishing vessels
 - Provisional list of flag State notifications
 - Agreed record with Norway on implementation of the IUU Regulation
 - Scope of the IUU Regulation – Excluded aquaculture products

Study on the consequences for developing countries of the IUU Regulation

Catch certification requirement for diving – letter from Directorate-General for Maritime Affairs and Fisheries to Jamaica

Meeting and seminars – information on various meetings and seminars that have been held with third countries and stakeholders

Of particular interest and concern is the ‘Provisional list of flag State notifications’

(download as <http://tinyurl.com/ybjukk>)

Article 20 of the IUU Regulation (1005/2008) requires third countries that are flag states (for catching vessels) to notify the Commission of their competent authorities. Until such notification arrangements are agreed it is not possible for catch certificates to be officially validated. Imports that are not accompanied by a validated catch certificate (where one is required) will be refused entry to the EU.

The Commission has published a list showing the notifications agreed up to 6 October. There are 36 in total, together with a number of third countries that have indicated that, as they do not have sea-going fishing vessels under their flag catching fish for direct or indirect export to the EC, they would not need to notify their competent authorities to the Commission

Notifications in place	
Argentina	Benin
Canada	Chile
China	Costa Rica
Croatia	Ecuador
El Salvador	Eritrea
Falkland Islands	Fiji
Guatemala	Guinea
Ivory Coast	Japan
Korea	Maldives
Montenegro	Morocco
Namibia	New Zealand
Nicaragua	Norway
Senegal	Seychelles
South Africa	Sri Lanka
St Helena	Suriname
Taiwan	United Republic of
	Tanzania
Turkey	Uruguay
USA	Venezuela

Notification not required	
Afghanistan	Bosnia and Herzegovina
Chad	Lebanon
Macedonia	Malawi
Mali	Moldova
Mongolia	Nepal
Paraguay	Singapore
Uganda	

A number of other third countries are in the process of notification with the Commission but where the Commission says it is awaiting additional information from the countries concerned. Unfortunately the Commission has not been prepared to make known the names of the countries concerned.

With only 36 notifications in place, there is real concern that some flag states (that may not yet have even started the notification procedure with the Commission) will not be in a position to validate catch certificates in time for the 1 January 2010 start date.

The Commission has said that its provisional list will be updated on a regular basis.

Defra is to hold a series of seminars around the country for importers and exporters of fish (and freight agents etc) with arrangements being made for London (Billingsgate), Grimsby, and Aberdeen.

Importers are again advised to check with their trading

partners in third countries the level of knowledge concerning the IUU regulation. There should be a real awareness and preparedness among both exporters and competent authorities, even though it is not yet possible to put detailed systems in place.

Excluded products

The IUU regulation will apply to "fishery products" defined generally with reference to the Customs Combined Nomenclature, to include any products which fall under Chapter 03 and Tariff headings 1604 and 1605.

However, a number of specific products are excluded from the scope of the regulation; the final list will be included in the implementing regulations.

Excluded products are expected to include the following, linked in many cases to specific CN codes:

- Freshwater fishery products
- Aquaculture products obtained from fry or larvae
- Oysters
- Scallops
- Mussels

For full detail, refer to the implementing regulations, when published

Marketing Standards for Poultrymeat

A controversial proposal from the European Commission to amend the marketing standards for poultrymeat has been under consideration for some time, but has now been formally adopted by the EU's Council of Ministers (2966th Council meeting, Agriculture and Fisheries, 19 October 2009).

The proposal was adopted by qualified majority, with the United Kingdom delegation voting against. The Council took note of the statement made by the United Kingdom delegation and agreed to have it entered in the minutes of the meeting. The UK statement noted the disproportionate cost impact on the UK market, as well as criticising the Commission's failure to carry out an impact assessment before adopting the draft legislation.

The regulation must now be published in the Official Journal. It will apply from 1 May 2010.

The text tabled for adoption by the Council can be downloaded from the Europa website under document reference 9214/09 (dated 16 October) from <http://tinyurl.com/yflnl7x>. Note however that the definitive text will be that published in due course in the Official Journal.

Background: The European Commission issued a proposal in May 2008 to amend the marketing standards for poultrymeat. The marketing standards are included in Regulation 1234/2007 (the Single CMO Regulation), which

replaced an earlier specific Regulation (Council Regulation (EEC) No 1906/90). Detailed rules for poultrymeat marketing are specified in Commission Regulation (EC) No 543/2008.

The Commission proposal was in part intended to accommodate the use of surface decontamination agents, which the Commission wished to see authorised for use in the EU. However the Commission failed to obtain support for the authorisation of these substances, from either Parliament or Council and this aspect of the proposal has been dropped.

The Commission proposal included other changes, which it considered necessary in the light of technological developments and to reflect changing consumer habits – particularly the increasing consumption of poultrymeat in the form of meat preparations and products.

Key elements from the Commission proposal, and now in the adopted text, are:

(i) to include salted chicken within the COM system (poultrymeat in brine within CN code 0210 99 39)

(ii) to extend the scope of the marketing standards to include poultrymeat preparations and poultrymeat products

(iii) to amend the definitions included in the standards with a new definition for 'fresh poultrymeat

preparation'. The new definition would preclude the use of previously frozen poultrymeat in a product being sold as a fresh (=chilled) preparation, or the freezing of poultrymeat preparations which would later be sold defrosted as chilled.

The UK argued strongly that the issue of previously frozen product is properly addressed by mandatory labelling but had little support from other member states.

An earlier draft version of the text was notified by the EU to the WTO under the Technical Barriers to Trade procedure. A copy of the notification and of the text can be downloaded from the Europa website at <http://tinyurl.com/mk97h9>. Comments were received from Brazil and China, and answered formally by the Commission.

The Commission proposal is in the form of a Council Regulation, which does not require full participation by the European Parliament. However there was a requirement for the Parliament to be consulted. The lead Parliamentary Committee was that for Agriculture and Rural Development (AGRI), with the Committee on the Environment, Public Health and Food Safety (ENVI) having a secondary role. The final Parliamentary opinion was adopted in the Plenary Session on 5 May. The text of the legislative resolution adopted by the Parliament can be found at <http://tinyurl.com/lpvrrmm>. It did not result in any significant amendment to the Commission proposal.

The Commission 'thinking' in this area can be seen from the justification provided for the Regulation in the Recitals included in the final text:

COUNCIL REGULATION (EC) No .../2009 of ... amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets as regards the marketing standards for poultrymeat

Whereas:

(3) The marketing standards were developed to contribute to an improvement in the quality of poultrymeat and information relating thereto and, consequently, facilitate the sale of such meat. In particular, a definition of fresh poultrymeat that is more precise than in the legislation on food safety was introduced, with effect as from 1 July 1991, by Council Regulation (EEC) No 1906/90 of 26 June 1990 on certain marketing standards for poultry. Experience shows that there is a need to confirm the strict principle behind this definition and to make it even more explicit.

(4) In view of the fact that poultrymeat is being consumed increasingly in the form of meat preparations and products, the scope of the marketing standards for poultrymeat should be extended to include poultrymeat preparations and products.

(5) Similarly, poultrymeat in brine falling within CN code 0210 99 39 should also be covered by the marketing standards.

(6) Experience shows that in certain cases fresh poultrymeat preparations can easily substitute for fresh poultrymeat when they are presented for sale to the

consumer. In order to avoid any distortion of competition between fresh poultrymeat and fresh poultrymeat preparations, it is appropriate to extend the principle behind the definition of fresh poultrymeat to fresh poultrymeat preparations.

(7) Under Community legislation on the labelling of foodstuffs, the labelling and the methods used must not be such as to mislead the purchaser, in particular as to the characteristics of the foodstuff, and particularly as to the nature of the product, its identity, properties, composition, quantity, durability, origin or provenance, or method of production or manufacture.

(8) Poultrymeat which has been frozen or quick-frozen must be sold in that state or be used in preparations marketed as frozen or quick-frozen, or in meat products.

Aspects of the new regulation include:

- a clear definition for 'poultrymeat preparation' which picks up some wording from hygiene regulation 853/2004 (specific hygiene rules for food of animal origin) but relates the definition to poultrymeat as defined in the poultrymeat marketing standards.

'poultrymeat preparation' means poultrymeat including poultrymeat that has been reduced to fragments, which has had foodstuffs, seasonings or additives added to it or which has undergone processes insufficient to modify the internal muscle fibre structure of the meat.

However, the final text adopted by the Council no longer includes the additional element from the hygiene regulation definition 'and thus to eliminate the characteristics of raw meat'.

- a definition for 'fresh poultrymeat preparation' which includes an additional allowance for member states to allow slightly different temperature requirements to be applied to facilitate handling and cutting during production

'fresh poultrymeat preparation' means a poultrymeat preparation for which fresh poultrymeat has been used. However, Member States may lay down slightly different temperature requirements to be applied for the minimum length of time necessary and only to the extent necessary to facilitate the cutting and handling performed in the factory during the production of fresh poultrymeat preparations

- a definition for 'poultrymeat product', with a cross reference to the hygiene regulations

'poultrymeat product' means a meat product as defined in point 7.1 of Annex I to Regulation (EC) No 853/2004 for which poultrymeat has been used

- an application date of 1 May 2010. This has been extended from 1 April, in partial recognition of the delay in bringing the proposal through to adoption.
- although poultrymeat products are brought within the scope of the marketing standards, and a clear

definition is included for a poultrymeat product, there are no specific requirements or restrictions being introduced for poultrymeat products

- The new regulation will extend marketing conditions as follows:

Poultrymeat and poultrymeat preparations shall be marketed in one of the following conditions:

- fresh,
- frozen, or
- quick-frozen.

The existing regulations, 1234/2007, applies these conditions only to 'poultrymeat'

This aspect of the regulation introduces an

apparent conflict with the hygiene regulations. The new regulation will allow 'poultrymeat preparations' to be marketed 'frozen' – presumably this means at –12°C in line with the definition for 'frozen poultrymeat'. However, hygiene regulation 853/2004 requires all meat preparations (regardless of species) to be frozen to –18°C, and for this temperature to be maintained during storage and transport.

During the extended consideration of the Commission's proposal, discussions have also highlighted other aspects of the existing hygiene regulations relating to meat preparations that will require further examination.

Secure and Sustainable Food

Defra has published the results of the UK's first food security assessment, as part of a package of material on the future of the UK food system. The full package also includes:

- 'Food 2030', an online discussion seeking views on the future of our food system (now closed for further contributions)
- 'Food Matters: One Year On', providing an update on progress on the 2008 Cabinet Office report; and
- draft indicators for the sustainability of the food system

Defra says that the security assessment shows that the UK is doing well in many of the areas which make up a secure and sustainable food system, such as a diverse food supply (which includes UK production), and a strong distribution system.

"The challenges will be to ensure the sustainability of the UK's food supply. In particular we will need to reduce greenhouse gas emissions and to adapt to a changing climate here and overseas that will affect what food can be grown and where and how it can be grown."

The assessment also highlights the availability and effective use of water to produce food and the depletion of fish stocks.

Environment, Food and Rural Affairs Secretary Hilary Benn said

"Last year the world had a wake-up call with the sudden oil and food price rises. While we know the price of our food, the full environmental costs and the costs to our health are significant and hidden. We need a radical rethink of how we produce and consume our food.

Mr Benn said that there were three big challenges that needed to be met:

- how to meet the economic and environmental challenges of increased productivity in the food chain;
- how to help people eat more healthily and ensure

people have access to safe, affordable food;

- how to ensure that the way food is produced today doesn't damage the natural resources on which future food production depends.

Mr Benn continued:

"Our food strategy will need to cover all aspects of our food – production, processing, distribution, retail, consumption and disposal. And that includes the impact on our health, on the environment and future productivity, and on how we deal with food waste."

The food strategy for the future will be published later in the year [or more likely early next year], drawing on responses to the consultation now underway.

For more information, including access to the Food 2030 online discussion, go to <http://tinyurl.com/yjwz5tg>.

Food Security Assessment

The detail of the food security assessment is in a 118-page document (**UK Food Security Assessment: Detailed analysis**), which identifies the common elements of definitions of food security as being availability, access, affordability, safety and resilience. These five aspects have been developed into a framework of six overall themes:

1. Global availability
2. Global resource sustainability
[Themes 1 and 2 provide the global context to UK food security]
3. UK availability and access
4. UK food chain resilience
[Themes 3 and 4 focus upon the UK supply chain]
5. Household food security
6. Safety and confidence
[Themes 5 and 6 focus upon the consumer perspective]

The analysis assesses the current position for each indicator, compares this with the picture over the last 10-

15 years, and looks ahead to the next 5-10 years.

The assessment builds on two earlier Defra papers – an analytical paper from 2006 and a discussion paper from 2008:

- Food Security and the UK: An Evidence and Analysis Paper (December 2006)
<http://tinyurl.com/yhj2q2l>
- Ensuring the UK's Food Security in a Changing World: A Defra Discussion Paper (July 2008)
<http://tinyurl.com/yf946mv>

Each of the six themes consists of:

- a headline indicator which captures a major or representative element of the theme and provides an initial indication of the state and change in the theme.
- several supporting indicators which explore related aspects of the headline indicator or address other high-level aspects of the theme.

The six themes and the associated indicators are summarised in a table included as an Annex to this note.

The indicators for each theme have been selected and developed for being:

- based on robust and authoritative data
- easy to understand and transparent.
- most importantly, relevant to the theme and relevant to a range of associated risks.

For each indicator, three assessments are made, using "traffic light" indications:

1. An overall assessment of the current position
 - green = favourable position
 - amber = somewhat unfavourable/uncertain/mixed
 - red = very unfavourable position

Note that the rating is not symmetric – the amber light is not neutral, but "somewhat unfavourable" or "mixed".

2. Comparison with 1990s

An assessment of how the indicator has changed over time, by considering, in very broad terms, whether a clear trend has emerged over the last 10-15 years. For simplicity, there are three possible assessments:

- an improvement upon the mid-1990s
 - a deterioration compared with the mid-1990s
 - broadly similar to the mid-1990s.
3. A judgement as to the position of the indicator in the next 5-10 years
 - green = future position likely to be favourable
 - amber = future position likely to be somewhat unfavourable
 - red = future position likely to be very unfavourable

Where this second traffic light differs from the first, it

means the indicator is expected materially to improve or deteriorate over time. This second assessment does not explicitly state the future timescale which will vary according to the theme and indicator (but broadly speaking the next 5-10 years)

A separate single sheet summary is available bringing together the themes, the indicators, and the assessments, with brief comments on the assessment

Text boxes in the full document provide additional analysis and context around the indicators:

- Box 1 - The contribution of UK producers to various aspects of food security
- Box 2 - The UK's contribution to global food security
- Box 3 - Climate Change and Food Security
- Box 4 - Are global energy reserves becoming scarcer?
- Box 5 - How food security differs from energy security
- Box 6 - Defining a healthy diet

'UK Food Security Assessment: Our approach' is a 30-page paper which describes the Government's activities "to ensure the UK remains food secure". In the Executive Summary, Defra writes:

"We are publishing it to coincide with the one-year anniversary of the Strategy Unit's report, Food Matters, and of Defra's discussion paper, Ensuring the UK's Food Security in a Changing World. The paper draws on the detailed UK Food Security Assessment (published alongside this paper), and sets out the challenges and risks facing UK food security, our current assessment of the state of our food supplies, and how we plan to continue to deliver sufficient, safe and nutritious food for all our citizens.

"In global terms, we are relatively fortunate. By any objective measure, we enjoy a high degree of food security in the UK today. We have high standards of food quality and safety and, although we are keen to understand the effects of recent price rises on the poorest, most of us have access to affordable and nutritious food. In particular:

- Evaluation of the current evidence suggests that the headline trend in the global availability of food per person is favourable, and has actually improved since the mid-1990s. The availability of food per person has increased in recent decades and shows no sign of falling.
- Our openness to trade makes the UK very resilient in terms of disruptions from one or a few sources of supply. In particular, food retailers are able to switch sources of supply rapidly in case of disruption, as has been seen during animal disease episodes. The current picture presented by the Assessment for UK availability and access is favourable, and we project that it will remain so over the next five to ten years.

“However, we cannot be complacent. At home, we are working to better understand the effects on access to a nutritious diet of the food price increases of the last 18 months. Globally, the availability of food has moved in a favourable direction, but there are very significant distributional problems, so that many households around the world are food insecure; 1 billion people remain poorly nourished yet 1.6 billion are overweight and the number is rising fast.

“And, given the potential impacts of climate change, and the challenges facing developing countries in continuing to increase production, our assessment of the global availability of food per person suggests a more cautious view over the next five to ten years.”

...

“We conclude the paper with a summary of the activities outlined, and provide some emerging thinking on issues to be addressed in the cross-Government strategy for Sustainable and Secure Food being developed later this year.”

‘Food Matters’: One Year On

The Cabinet Office Strategy Unit published ‘Food Matters: Towards a Strategy for the 21st Century’ in July 2008. The report, commissioned by the Prime Minister, brought together the various elements of food policy and considered the challenges and opportunities for the food system as a whole for the first time in decades.

In the introduction to a paper entitled ‘Food Matters’: One Year On’, Defra explains the background as follows:

“The challenge set by Food Matters was for Government to join up its efforts on food policy looking at health, food safety, the economy and the environment. It noted that many of the elements required for a comprehensive food policy already existed, but that central Government needed to integrate them, and work with the public, food chain businesses and other stakeholders to put a new policy framework in place.

“The last 12 months has seen a significant increase in activity on food-related issues, not only on the challenges identified by Food Matters but also on food security, including access to, affordability and availability of food, and on international food policy. This report provides an update on progress over the past year and identifies priorities for the next 12 months.”

Government committed to report on progress made in implementing the actions identified in Food Matters and this document is the first update on progress. A second update will be published in summer 2010. The report has two sections:

- Progress and achievements over the last year; and
- A forward look over the next 12 months, setting out our priorities and areas of work.

Annex A provides a detailed progress update for all the actions identified in Food Matters.

The Defra paper highlights the following areas:

“We have made progress on the following:

- In October 2008, Hilary Benn established the Council of Food Policy Advisers to provide advice on the practical measures Government should take to create a healthy, sustainable food system;
- The Change4Life campaign launched in January 2009 encouraging us to ‘eat well, move more, live longer’;
- Hilary Benn hosted a roundtable discussion on skills in the farming industry in April 2009;
- Defra is contributing £10 million to the Anaerobic Digestion Demonstration Programme – a programme that will show how cutting-edge technology can help turn food waste into energy;
- By June, the first group of restaurants, cafes and food outlets were displaying calorie information on menus;
- Government is leading efforts with international partners to tackle global hunger through the Global Partnership for Agriculture, Food Security and Nutrition (GPAFSN). The G8 committed funding of \$20 billion over three years to the L’Aquila Food Security Initiative in July 2009 with \$1.8 billion coming from the UK;
- Defra continues to promote sustainable farming and food production through e.g. campaigns to eradicate animal disease, funding research into key challenges and threats (e.g. Defra launched a £10 million initiative in April 2009 to identify the main threats to bees and other pollinators), and supporting an industry-led voluntary approach to recapture the environmental benefits of set-aside’
- Hilary Benn has hosted a roundtable discussion on ways to increase production and consumption of fruit and vegetables in England;
- Defra has completed an assessment of UK food security to provide timely information on key components of our food security; and
- The first pilots of the Healthier Food Mark will be launched later in the year, providing food meeting ambitious nutritional and sustainability criteria in public sector workplaces.

“But the significant challenges that Food Matters described remind us that we have a lot of work still to do:

- The greenhouse gas emissions associated with the food system are significant, as are the other environmental impacts of food production and waste. Feeding the global population is set to become much more challenging in the future. The food chain faces the combined pressures of increasing demand and decreasing resources. By 2050 the world will need to feed an estimated 9 billion people, and will have to do so sustainably, with oil severely constrained and climate change happening.

- Our diets continue to put a burden on the economy and society. Food Matters concluded that 70,000 premature deaths could be avoided if nationally, diets met nutritional guidelines for sugar, salt and fat and if we all ate five portions of fruit and vegetables a day. Diet related ill health costs the NHS an estimated £8 billion a year and obesity alone is estimated to cost the wider economy £15.8 billion (Foresight suggests that this figure would rise to £50 billion by 2050).
- The current economic climate is difficult for all sectors of the economy, including for the food and drink – the UK’s largest single manufacturing sector. The food and drink sector as a whole is characterised by a small number of very large firms, and a long tail of diverse small and medium-sized enterprises. All are facing increasing challenges as consumer purchasing patterns change to achieve best value (e.g. changing between retailers and brands, eating out less often).

Priorities for the next 12 months are discussed under the following headings:

- Further improvements in food safety
- Tackling obesity, improving dietary health and reducing food waste through clearer and accessible information
- Developing a better understanding of what a healthy, sustainable diets looks like
- Determining the food industry’s potential to reducing greenhouse gas emissions
- Developing a more thorough understanding of the links between low income, diet and social exclusion
- Responding to the Competition Commission’s groceries inquiry and the proposal to establish an Ombudsman

Food 2030: An online discussion

Working in partnership with the Department of Health and the Food Standards Agency Defra launched an online discussion to invite comments about the future of food and what our food system might look like in 2030, with sections on:

- The Food System of 2030 – describing what the food system should look like in 2030;
- Discussion topics - on 9 key issues affecting or affected by the way we produce and consume food;
- Action plan – early thoughts on how we can reach our goal for 2030
- Background and context –information on this work and how it links with other work Government is doing on food.

The nine discussion topics were intended to explore what Food 2030 means for key challenges for the food system, under the following headings:

- Maintaining a thriving food economy
- Access and affordability
- Reducing food’s contribution to climate change
- Reducing diet related chronic disease
- Reducing food-borne illness
- Living within environmental means
- Research and innovation
- Sustainable farming
- Reducing and reusing waste

Food 2030 is at <http://sandbox.defra.gov.uk/food2030/>, but the online discussion is now closed to further contributions

Development of indicators for a sustainable food system

The aim of this developing work is to produce a suite of indicators which will measure progress towards a sustainable food system. Defra says that, when complete, this will form a companion to the UK food security assessment.

Defra notes that the 'Food Matters' report published last year recommended that it should work to define more clearly what a sustainable food system might look like. Government accepted this recommendation and in parallel with that work this paper now sets out what the high level indicators for such a system might be.

Defra makes clear that the indicators will not be targets, but will form part of the evidence base for formulating policy. The suite of indicators will embrace the whole food chain. The indicator suite will be UK based but will seek to recognise the global impact of the UK’s food production and consumption.

Defra notes that the approach, scope and framework for the project have been agreed by a cross Government Steering Group, and views have been sought from a wide range of stakeholders, but this remains a work in progress.

Views of stakeholders have been sought on a draft framework of factors relating to a sustainable food system and on potential indicators designed to measure the Government’s progress towards a sustainable food system. Many of the proposed indicators are already established, and used in other indicator sets. Feedback was also invited on two more general discussion points:

“DP1: Will the proposed factors/indicators provide us with a coherent picture/view of progress towards a sustainable food system?”

“DP2: How should we present the final publication? We propose to use a simple “traffic lights” system as a method of interpretation. This will highlight whether the measures are moving in the right or wrong direction over time: the traffic lights will be determined by comparing the measure in the latest year with its position in an earlier base year. The traffic lights will only reflect the

overall change in the measure from the base year to the latest position and will not reflect fluctuations during the intervening years. This method of interpretation is used by the Sustainable Development Indicators.”

Defra says that the development of indicators will be ongoing and will be subject to review over time.

“We are aiming for a relatively small number of indicators within the finalised framework, with a balance across the themes.”

The framework of proposed indicators is based around seven themes:

- Economic performance and resilience
- Skills and innovation
- Eco-efficiency
- Essential resources
- A healthy and well managed ecosystem

- Healthy and informed consumers
- A safe food supply

The main document (‘Development of indicators for a sustainable food system’) considers each of the seven themes in turn, identifying for each theme one or more factors relating to a sustainable food system, supported by measureable indicators. It is however recognised that certain factors relating to a sustainable food system translate across the themes and that each factor and indicator cannot therefore be considered in isolation.

The paper has two Annexes which are published separately:

- Annex 1 - Framework of factors and suggested indicators
- Annex 2 - Criteria for Indicator Selection

UK Food Security Assessment: Detailed analysis – Summary of the six themes and their indicators				
Food Security theme	Rationale	Headline indicators	Supporting indicators	What threats and challenges do the indicators address?
1. Global availability	Global food supply ultimately underpins UK availability and prices. A well-functioning trading system is essential if supply is to respond efficiently to global demand.	Trends in global output per capita	<ol style="list-style-type: none"> 1. Yield growth by region 2. Real commodity prices 3. Stock to consumption ratios 4. Share of production traded 5. Concentration in world markets 6. R&D expenditure 7. Impact of animal disease 8. Growth trends (to be developed) 	Population and economic growth Rising incomes in emerging economies Harvest shortages Trade protectionism Breakdown in trade Lack of investment Warming and more volatile climate
2. Global resource sustainability	Food must be produced in a way that is environmentally sustainable or we will set up problems for the longer term.	Global land-use change	<p>CO2 emissions (context indicator)</p> <ol style="list-style-type: none"> 1. Fertiliser intensity 2. Water productivity of crops 3. Water withdrawn for agriculture 4. Global fish stocks 5. Pesticide intensity (to be developed) 6. Seed diversity (to be developed) 	Supply expansion being ultimately unsustainable because of natural resource constraints and degradation. Resources not correctly priced or lacking good governance.
3. UK availability and access	Sourcing nutritious food from a diverse range of stable countries including domestically enhances security by spreading risks and keeping prices competitive.	Diversity of UK supply	<ol style="list-style-type: none"> 1. EU’s share of UK imports 2. Diversity of fruit & veg supply 3. EU production capability 4. UK production capability 5. UK potential in extremis 6. Diversity of entry ports into UK 7. UK port flexibility 8. Port diversity of non-indigenous foods 	Over-reliance on single sources of supply. Domestic supply failures Capacity and concentration at ports. What if non-EU trade breaks down? Could the UK feed itself in extreme circumstances in which trade broke down?

4. UK food chain resilience	UK food supply depends upon sophisticated and complex chain and infrastructure, and is particularly dependent upon energy supplies in their various forms.	Energy dependency of the food chain	<ol style="list-style-type: none"> 1. Energy capacity reliability 2. Diversity of oil and gas imports 3. Business continuity planning 4. Retailer warehouse stocks 5. UK cereals stocks 6. Food industry diversity 7. Viability of large manufacturers 8. Strategic road network 	Energy intensive food chain Does just-in-time operations reduce resilience? Diversity of domestic supply chains Is there sufficient continuity planning?
5. Household food security	Everyone should be able to access and afford a healthy diet.	Low income households' share of spending on food	<ol style="list-style-type: none"> 1. Relative prices of fruit & veg 2. Food prices in real terms 3. Household access to food stores 4. Self-reported food insecurity (to be developed) 	Can low-income households afford nutritious food? Is physical access a problem?
6. Safety and confidence	Public confidence in UK food system rests primarily on food safety. Food safety stressed in Strategy Unit report.	Trends in cases of foodborne pathogens	<ol style="list-style-type: none"> 1. Food safety inspections and incidents 2. Food covered by assurance schemes 3. Public confidence in food safety measures 4. Consumer confidence in food availability (to be developed) 	Do consumers have confidence in food industry and authorities? Is food safety improving? Growing role for assurance and traceability.

House of Commons Select Committee Report

The House of Commons Environment, Food and Rural Affairs Select Committee has recently published a report entitled 'Securing food supplies up to 2050: the challenges faced by the UK'. This follows an inquiry which started late in 2008 and which received evidence from a large number of stakeholders, in both oral evidence sessions and in written submissions.

Full details are in two House of Commons publications (HC 213-I and HC 213-II), which can be downloaded from <http://tinyurl.com/jhh5t>, or purchased from The Stationery Office. Volume I includes the Committee's Report, together with formal minutes, and Volume II the oral and written evidence.

The EFRA Committee concluded that the UK has a moral obligation to contribute to the global challenge of securing future food supplies.

The Committee wants the UK to make the most of its temperate climate and the natural advantages this gives it for producing food. In contrast, it does not favour targets for food production and recognises that Defra cannot command farmers to increase output of specific commodities. MPs urge Defra to provide clear leadership, and guidance on the nature and size of the challenge. The report says that the Department must concentrate on building capacity in the food and farming industries so that they can respond to market signals in ways that will reduce the risk of food shortages.

The report emphasises that producing sufficient food is only part of the challenge. How food is produced is equally important. The Committee notes that increases in production will have to take place in the context of reducing greenhouse gas emissions from the food system, reducing reliance on fossil fuel-derived inputs, and conserving soil and water. Consumers are increasingly interested in how their food is produced. The report says that consumer engagement will be vital if Defra is to achieve its vision for the UK food system.

The report does not advocate food self-sufficiency for the UK and emphasises the importance of strong trading relationships with a variety of countries. It notes that Defra's response to the challenge of securing food supplies must take place in a European and global context. It calls for the focus of the reformed Common Agricultural Policy to be on sustainable food production, whilst encouraging European farmers to make their contribution to meeting the world's future food demands.

The Committee also highlights the development of "food colonialism" or "land grabbing"-a phenomenon that involves the large-scale acquisition of land overseas by wealthy investors in order to grow food for people in the investor country. The Committee is concerned about the pressure this could place on the global food system over time and believes that Defra must take the implications of this phenomenon seriously.

The report says that, as well as providing long-term leadership, Defra must tackle existing weaknesses in the UK food system. In particular, it calls for an urgent increase in spending on public-sector food and farming research.

Among the many detailed conclusions, readers may wish to note the following:

7. The UK should not aim to be self-sufficient, even in indigenous foodstuffs. Total self-sufficiency would make the UK's food supplies less secure rather than more secure. (Paragraph 52)

9. Defra should commission research to establish the reasons for the relatively low level of domestic fruit and vegetable production. This should include a study of the procurement practices of supermarkets, food manufacturers and the food service industry to establish how these practices impact on the problem. Defra's new Council of Food Policy Advisers should consider how the barriers to increased domestic fruit and vegetable production could be removed. (Paragraph 59)

10. Defra should produce its own estimate of the amount by which consumption of fruit and vegetables would rise if people in the UK followed the Government's five-a-day guidelines. (Paragraph 60)

12. UK consumers buying meat and dairy products should be encouraged to consider the environmental, as well as the health, impacts of their choices. To enable consumers to make informed decisions, Defra needs to do more work on what are the most sustainable methods of livestock production, and the balance to be struck between animal welfare, biodiversity, greenhouse gas emissions, and the need to conserve inputs such as water. (Paragraph 65)

13. The marine environment is an important source of food. However, the current state of many fish stocks is a serious cause for concern. Defra, the Department of Health and the Food Standard Agency should consider the wisdom of continuing to advise consumers to eat at least two portions of fish a week at a time when the ability of the marine environment to meet this demand is questionable. The fishing industry and the Government have a duty to encourage consumers to try sustainable, less well-known types of fish and shellfish. Defra and the devolved Administrations should produce a study evaluating the potential of sustainable aquaculture off the shores of the UK. (Paragraph 68)

16. Defra's approach to the security of food supplies must take place in the context of the European Union. However, we believe that there is still scope for Defra to develop its own food policy and that the clearer this policy and the stronger Defra's leadership, the more chance the UK has of shaping the direction of any emerging EU policy on this issue. (Paragraph 78)

17. It is beyond the scope of this inquiry to assess the impact of the new EU pesticides legislation on the security of food supplies. However, we note with

concern that the Government's Chief Scientific Adviser does not believe that it is an evidence-based policy. Defra should press for the EU to agree that future changes of this nature must not be approved by the Council of Ministers or the European Parliament until a full evidence-based evaluation of the proposals has been undertaken. (Paragraph 79)

18. The vision and strategy for food, for which Defra was assigned responsibility in the Cabinet Office's Food Matters report, must provide a long-term framework for the UK food and farming industries. It should commit the UK to increasing production of those commodities which are best suited to being produced here, provided that this can be done in a sustainable way. Defra must recognise that calling for more domestic food production is one thing, but it cannot order that this be done. It must, however, lay out clearly what role it has in helping the UK food and farming industries to achieve this objective. The vision and strategy cannot be expected to supply all the answers, but it must supply clear direction and indicate what further work is needed and the deadline for its completion. Cross-party consensus on the vision and strategy is essential. (Paragraph 85)

20. We believe that both the Food Strategy Task Force and the Cabinet Sub-Committee on Food could benefit from input from the food sector. They should set out how they intend to involve members of the sector in their deliberations. (Paragraph 89)

21. Defra should use its review of its relationships with the food sector to consider how it can encourage the wider food sector to interact with the Council of Food Policy Advisers. (Paragraph 92)

22. We extend a cautious welcome to the new groups working on food policy. The composition of the Food Strategy Task Force and the Cabinet Sub-Committee on Food means that they have the potential to improve co-ordination across Government. However, the Task Force and the Sub-Committee must be used as a way of facilitating action, rather than a substitute for it. To this end, as much information as possible about the groups' decisions and the work resulting from them should be published on the internet. The Government should make use of modern, IT-based solutions as a way of engaging with consumers and the food and farming industries. The Council of Food Policy Advisers is already setting a good example. The Task Force should aim to publish more information about its work and the Sub-Committee should consider whether it can disclose any, even very basic, information—if not about its work, then at least about any work set in train as a result of its deliberations. (Paragraph 93)

23. Defra's vision for the UK food and farming industries is still being formulated. We are encouraged by the signs that Defra has begun to recognise the importance of UK production, as well as trade, in securing food supplies. It is essential that it develops and articulates this vision. Clear leadership from Defra is crucial to the security of the UK's food supplies because it will encourage the food and farming

industries, and consumers, to respond in a co-ordinated way to the challenges posed by a growing global population, climate change, and increasingly scarce resources. (Paragraph 94)

26. UK scientific research is crucial to the security of food supplies. Without adequately structured, funded and focused research, the challenge of producing more food and producing it sustainably will not be met. Concentrating on developing a strong research base in the UK could also have a beneficial impact on global food security. The Government should encourage UK research institutes and universities to build more links with research centres that are working on food and farming worldwide, particularly in developing countries. (Paragraph 112)

27. More money needs to be spent on public-sector food and farming research in the UK. The long-term nature of returns from research means that this money needs to be committed without delay. We urge Defra, the Government's Chief Scientific Adviser, and the BBSRC to continue to make the case for increased investment in food and farming research, using new structures such as the Food Research Sub-Group to convey their arguments in a co-ordinated and coherent way. (Paragraph 118)

28. The focus of public sector food and farming research should be on increasing production sustainably and on realising benefits to the consumer and to the environment across the whole of the food chain. Defra should develop a long-term strategic research agenda, overseen by its Chief Scientific Adviser, rather than allowing its research priorities to be determined wholly or largely by policy teams. Such an approach must reflect both the potential of UK agriculture, and the threats it faces from pests, diseases and climate change. (Paragraph 120)

29. It is not within the scope of this report to offer a detailed assessment of the role of GM technology in securing food supplies up to 2050 and beyond. However, we believe that the potential of GM technology in the context of sustainable food production should be explored further. Defra has a role to play not only in commissioning some of the research, but in gaining public trust through the provision of comprehensible information, based on evidence. It should make an effort to "negotiate a ceasefire" on the destruction of GM crop trials so that more facts can be established. (Paragraph 123)

31. We emphasise the urgency of addressing the potential gaps in food and farming skills. We are particularly concerned about the applied sciences. We believe that there is already sufficient evidence for Defra to reintroduce a studentship scheme based on the scheme formerly run by MAFF, with the aim of encouraging more young people to acquire the skills that will help the UK and the world to produce more food, more sustainably. We recommend that Defra reintroduce such a scheme. (Paragraph 130)

32. Defra should set out how it plans to address the

perceived weaknesses in its understanding of the food supply chain and what measures it intends to take to ensure that dialogue with the food industry leads to action. As a first step, it should arrange for more of its officials to undertake work placements in different sectors of the food and farming industries so that they can experience the problems, challenges and possibilities at first hand. (Paragraph 131)

33. Food must be affordable to the consumer, but its prices must also make it worthwhile to produce in the first place. An agricultural system must be profitable to be healthy. Defra should initiate work to establish whether the different agricultural sectors are currently sufficiently profitable to enable them to invest, and therefore improve productivity in the long term. (Paragraph 133)

36. We are broadly satisfied that Defra is beginning to move in the right direction. However, there is a great deal still to do. The scale and importance of the challenge is such that we recommend that Defra publish a supplement to its Departmental Annual Report, detailing what it is doing to ensure the long-term security of the UK's food supplies, both through trade and domestic production. (Paragraph 137)

37. Securing food supplies is a vast subject and there are many aspects that we have not been able to cover in this report. We regard this as the first in a series of food-related inquiries to be undertaken by this Committee. It is likely that our subsequent work will focus on some of the solutions to the challenges we have outlined. We would welcome feedback and suggestions for future work. We propose to hold a public discussion to enable people to respond to the report and to the Government's reply, and to shape the direction of future inquiries on this subject. (Paragraph 138)

The Government's formal response to the Committee's report has now been published, available from the web address given above.

In summary:

1. The Government welcomes the Environment, Food and Rural Affairs Committee's thorough and constructive report on this important subject. We have taken careful note of the Committee's conclusions and recommendations, the main thrust of which we accept.

2. In particular, we welcome the Committee's recognition of the work that the Government has done on food security, particularly our current assessment of the state of our food supplies.

3. The Committee's report also highlights the Government's work to develop a vision and strategy on the future of food. A package of documents on the future of our food system was published on 10 August 2009. As well as the UK's first food security assessment, the package also includes an interactive tool called 'Food 2030', to enable discussion and debate about the future of food, as well as a progress update on the objectives set out in the 'Food Matters' report, published by the Cabinet

Office in 2008. In addition, a consultation has been launched on how best to measure our success in creating a sustainable food system, through indicators grouped into themes such as healthy and informed consumers, and skills and innovation.

4. The food strategy for the future will be published early in the new year, drawing on responses to the consultation.

5. The food strategy will also be underpinned by a new cross-government food research and innovation strategy to be published later in the year. The Food Research sub-Group of the Food Strategy Task Force is leading the development of this, under the chairmanship of the Government's Chief Scientific Adviser. The BBSRC is leading the development of plans for coordination of current research through a new cross council multi-disciplinary programme in Food Security with Defra, DfID and other key partners.

Single scheme for front-of-pack nutrition labelling

The Food Standards Agency is carrying out a further consultation exercise on front-of-pack nutrition labelling (for pre-packed foods sold through retail outlets in the UK). Full details are available from the FSA website at <http://tinyurl.com/let8d8>.

The FSA notes that the independent evaluation study on front-of-pack (FOP) nutrition labelling found that a single scheme would be helpful for consumers and that **an integrated FOP labelling approach providing 'high/medium/low' text, traffic light colour coding and %GDA information was most effective** in terms of consumer comprehension, consumer preference and enabling consumers to assess the healthiness of a product.

"This consultation seeks views on practical issues that need to be resolved for an integrated FOP nutrition labelling approach to work in real life settings and help consumers to make healthier choices. The consultation also seeks views on the related costs and benefits as identified in the draft Impact Assessment."

Stakeholders' views are being sought on a number of issues relating to:

- | | |
|-------------------------|------------------------|
| » Scope | » GDA for sugars |
| » Calories | » Salt thresholds |
| » Portion size criteria | » Improving legibility |
| » Saturated fat | » Public awareness |

The FSA comments relating to each of these issues are reproduced below.

The FSA notes that significant progress has already been made in the UK by many UK retailers and manufacturers in terms of introducing FOP labelling to a wide range of foods on a voluntary basis, and that a voluntary approach

allows industry to change labels (as a part of their normal re-labelling cycle) at minimum cost.

The Agency also notes that integrated FOP labels (incorporating 'high/medium/low' text, traffic light colour coding and %GDA) are already available in the marketplace, such as those used by Asda and McCain.

The Agency says that it will continue to monitor progress of the voluntary approach.

- **Scope:** "Consumers use FOP labels across a range of products, and are particularly interested in having this information for more complex products where nutrient content is not obvious. While the FSA currently recommends FOP labelling for seven product categories, we know that many retailers and manufacturers provide labelling on a wider range of products. We would therefore welcome your views on the range of foods to which an integrated FOP label should be applied, including suggestions for a limited number of exemptions"
- **Calories:** "We know that consumers find calories on the FOP helpful in making healthier purchasing decisions, for example when watching their weight. We would therefore welcome your views on how to include calories in an integrated FOP label"
- **Portion size criteria:** "It is important that FOP labels help consumers to assess the healthiness of foods regardless of whether the portion size is small, medium or large. Current guidance on the use of text and traffic light colour codes establishes criteria that take account of nutrient levels per 100g and for food recommended to be eaten in portions greater than 100g. We would welcome your views on whether there should be criteria for foods recommended to be eaten in small portions that take account of portion size. If so, what should these criteria be?"
- **Saturated fat:** "We know that consumers are confused by the various terminologies used for saturated fat and their understanding of saturated fat in the context of their overall diet is poor. We would like to improve this where possible to allow consumers to be aware of healthier choices. We also know it is of particular use for consumers with particular health concerns. Do you agree with the proposed approach to improving communication and understanding of saturated fat in an integrated label? If not, why not?"
- **Guideline Daily Amount (GDA) for sugars:** "We are aware that the levels of sugars added to some foods are of concern to consumers, and it is important that labels help them to identify sugary products so that they can make healthier choices. In light of the European Food Safety Authority's recent opinion on the sugars Dietary Reference Value for nutrition labelling purposes, we would welcome your views on the appropriate sugars GDA figure that should be used on an integrated FOP label (paragraphs 35-38).
- **Salt thresholds:** "Because most salt consumed is already in the foods consumers buy it is important

that labels are as helpful as possible in identifying lower salt products, again so that consumers can make healthier choices. We would welcome your views on whether the salt thresholds for an integrated FOP label should be revised and if so which approach should be used:

- (a) changes to the per 100g criterion,
- (b) changes to the per portion criterion, or
- (c) both”

- **Improving legibility:** “In the independent study some consumers sometimes found FOP labels too small to read, or simply did not notice the FOP label, which means that they are unable to use the information provided to inform their decisions. We would therefore welcome views on proposed guidance to maximise the visibility and legibility of an integrated FOP label”
- **Public awareness:** “The independent research found that there was a high level of awareness of the various FOP labels in the marketplace, but use of FOP labels remained low. Raising consumer awareness is likely to increase the impact an integrated FOP label has on purchasing decisions, and we are keen to ensure that this information is equally available across all consumer groups. We would therefore welcome your views on how government and stakeholders can work in partnership to raise consumer awareness and understanding of an integrated FOP label. We are particularly interested in targeting those consumers do not currently use FOP labels to influence their food purchasing choices, and in particular consumers in social grades C2, D and E, those aged over 65 years and families with children”

Animal by-products: draft Implementing Rules

As readers will be aware, the existing EU regulation on animal by-products (1774/2002) has been under review and is due to be replaced. The Commission’s proposal for a new regulation was agreed under the co-decision procedure at first reading (with amendments). At its first reading stage in April 2009, the Parliament adopted a group of compromise amendments that had been agreed during a number of informal contacts between the Council, the European Parliament and the Commission. The Council of Ministers formally adopted the proposal during September: the decision was taken, without debate, at a meeting of the Agriculture Council. The Regulation has not yet been published in the Official Journal. It will enter into force 20 days after publication and will apply after a further fifteen months.

The text of the new regulation can be downloaded from the Europa website under document reference 3639/09, from <http://tinyurl.com/llntev>, although the only definitive text will, of course, be that published eventually in the OJ.

The new regulation is aimed at introducing more risk-

proportionate rules and at clarifying the rules on animal by-products, as well as their interaction with other EU legislation.

More specifically, it includes the following provisions:

- The concept of an "end point" in the manufacturing of animal by-products is introduced, after which the processed products are no longer subject to the animal by-products regulation, as some potential risks have been eliminated for example by heat or chemical substances; instead, the general rules on product safety apply. Under the current rules, almost all material from animals which does not enter the food chain, is subject to the rules on animal by-products.
- The distinction between foodstuffs and animal by-products is clarified by confirming that operators need to make an irreversible decision, if products are destined for purposes other than human consumption. This means that once a product has become an animal by-product, it must not re-enter the food chain.
- Modification of the current classification of animal by-products by comitology-procedure is allowed. In addition, certain animal by-products, which so far have been classified by default as category 2 material but which have been proven to pose no major risks, are reclassified as belonging to category 3, so as to allow their use for certain feeding purposes. For any other animal by-products which are not listed under one of the three categories, the classification by default as category 2 material is maintained for precautionary reasons.
- A registration obligation is introduced for operators who transport animal by-products, in order to strengthen traceability.
- The coherence between the regulation on animal by-products and other EU legislation (for instance the legislation on food hygiene and waste) is improved by clarifying when the appropriate legislation applies. This removes unnecessary burdens for operators (for example, approvals of slaughterhouses and dairy plants under food and feed legislation are recognised).

The basic principles of the current regulation on animal by-products, 1774/2002, however, remain unchanged. These include:

- the classification of animal by-products into three categories according to the degree of risk involved; The current classification scheme is maintained. This means that animal by-products of category 1 (injurious to health) and category 2 (unfit for human consumption) must not be placed on the market as food, whereas material of category 3 (which comply with certain rules regarding their possible use for human consumption) may be used for certain feeding purposes.
- the exclusion of animal by-products which are unfit for human consumption from the feed chain of

farmed animals;

- the intra-species recycling ban (material derived from animals is not to be fed to animals of the species from which it is derived);
- the rule that only material from animals which have undergone veterinary inspection is to enter the feed chain for farmed animals;
- the ban on feeding of catering waste to farmed animals, in particular to pigs.

Much of the important detail of the regulatory package will of course be contained in separate implementing rules, which the basic regulation makes provision for, but which have yet to be agreed.

Defra has published for stakeholder comment a Commission working document (document reference SANCO/2827/2008 rev.2) which contains draft implementing rules.

Defra writes:

“... the European Commission presented a draft framework document for the implementing rules at a Commission working group on 3 July. There was no substantive discussion of the document at this meeting, with the Commission explaining that it wanted Member States to consider the document over the summer and provide written comments on it by 25 September. The Commission’s intention is then to take these into account before beginning discussions in earnest on the implementing rules later in the Autumn. The Commission admitted there were some areas in which the document was incomplete, and also listed some suggestions for specific areas where Member States might wish to comment. It also invited Member States to comment more widely on areas of particular concern to them.

The suggested issues are listed below

A. Points for discussion suggested by Commission:	B. Other issues for comment suggested by Defra:
1) Potential uses of category 1 material (outside feed/organic fertilisers)	1) Criteria for small quantities derogation
2) Former foodstuffs	2) Conditions for validation of composting /biogas plants
3) Future rules on intermediate products	3) Fish by-products (treatment of fishmeal and fish oil, categorisation of fish by products, rules on ensiling)
4) Future rules regarding the current transitional measure in Regulation(EC) No 878/2004 / harmonised certificate(s)	4) “End point” criteria for derived products e.g. hides and skins, pet food, wool oleochemical products

5) New harmonised import conditions	5) Incorporation requirements for organic fertilisers
6) Lists of third country establishments under Article 41(4) of the new Animal By-products regulation	6) Requirements for registration of certain ABP operators
7) Other issues	7) Special feeding requirements e.g. for zoo animals and necrophagous birds

Of these, the issue that clearly stands out is the position of former foodstuffs.

No provision is made, either in the base regulation (replacing 1774/2002) or in the draft implementing rules to allow continuation of the existing methods for dealing with certain former foodstuffs.

Former foodstuffs were defined in Regulation 1774/2002 as Category 3 material:

<p>Article 6: Category 3 material</p> <p>1. Category 3 material shall comprise animal by-products of the following description, or any material containing such by-products:</p> <p>(f) former foodstuffs of animal origin, or former foodstuffs containing products of animal origin, other than catering waste, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects which do not present any risk to humans or animals;</p>

Derogations in respect of former foodstuffs were later provided, firstly through Regulation 813/2003, which allowed the continuation of national rules until the end of 2005, and then through Regulation 197/2006, which allowed Member States to authorise the collection, transport, treatment, use and disposal of some former foodstuffs, based on an assessment of risk. The period of application for 197/2006 was originally until end July 2007, but this has been extended twice and now runs to end July 2011 (Commission Regulation (EC) No 129/2009).

The new base regulation no longer uses the precise term ‘former foodstuff’ but has essentially the same scope:

<p>Article 3: Definitions</p> <p>For the purposes of this Regulation, the following definitions shall apply:</p> <p>24) "food" or "foodstuff" means food or foodstuff as defined in Article 2 of Regulation (EC) No 178/2002;</p> <p>Article 10: Category 3 material</p> <p>Category 3 material shall comprise the following animal by-products:</p> <p>(f) products of animal origin, or foodstuffs containing products of animal origin, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects from which no risk to public or animal health arise;</p>

There is no longer a reference to 'catering waste', but the definition and treatment of catering waste is unchanged – see below for detailed extracts from the legislation.

When Regulation 197/2006 was published, establishing the extended derogation for former foodstuffs and giving flexibility to member states, there was a commitment from the Commission to seek advice from EFSA on possible risks from making the derogation a permanent feature, but this does not seem to have happened.

Regulation 197/2006 in Recital 5 says:

"The Commission is to seek the advice of the European Food Safety Authority on the possible risks involved in turning the current extended derogation into implementing measures under Article 6(2)(i) of Regulation (EC) No 1774/2002."

In Regulation 129/2009 in Recital 3 the comment was:

"The Commission has adopted a proposal for the revision of Regulation (EC) No 1774/2002. That proposal is now under consideration by the legislators and the rules relating to former foodstuffs and the available scientific evidence related to the risks arising from such animal by-products will be considered in that context."

Details of the Commission working document (document reference SANCO/2827/2008 rev.2) which contains the draft implementing rules can be found on the Defra website at <http://tinyurl.com/yg64eey>

Other documents are available as follows:

- Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption can be downloaded as <http://tinyurl.com/kk6qhz> (consolidated text, including changes arising from amending legislation up to and including Commission Regulation (EC) No 777/2008 of 4 August 2008)
- Commission Regulation (EC) No 197/2006 of 3 February 2006 ('on transitional measures under Regulation (EC) No 1774/2002 as regards the collection, transport, treatment, use and disposal of former foodstuffs') can be downloaded as <http://tinyurl.com/cznjyj>
- Commission Regulation (EC) No 129/2009 of 13 February 2009 ('amending Regulation (EC) No 197/2006 as regards the validity of the transitional measures relating to former foodstuffs') was published in the Official Journal, L44, 14 February 2009. Copies can be downloaded as <http://tinyurl.com/dz5vpw>
- Information on former foodstuffs is available from the Defra website at <http://tinyurl.com/yhfjm77>

Catering Waste

Regulation 1774/2002

Annex I: Specific Definitions

For the purpose of this Regulation:

15. 'catering waste' means all waste food including used cooking oil originating in restaurants, catering facilities and kitchens, including central kitchens and household kitchens;

Article 1: Scope

2. This Regulation shall not apply to:

(e) catering waste, unless:

- (i) from means of transport operating internationally,
- (ii) destined for animal consumption, or
- (iii) destined for use in a biogas plant or for composting

New base Regulation:

Article 2: Scope

2. This Regulation shall not apply to the following animal by-products:

(g) catering waste, except if it:

- (i) originates from means of transport operating internationally;
- (ii) is destined for feeding purposes;
- (iii) is destined for processing by pressure sterilisation or for processing by methods referred to in point (b) of the first subparagraph of Article 15(1) or for transformation into biogas or for composting;

Draft implementing Regulation

Annex I: Definitions

1. For the purpose of this Regulation, the following definitions shall apply:

8. 'catering waste' means all waste food including used cooking oil originating in restaurants, catering facilities and kitchens, including central kitchens and household kitchens;

Comparison of composition of organically and conventionally produced foodstuffs

The Food Standards Agency has published the results of an independent review that it had commissioned which show that there are no important differences in the nutrition content, or any additional health benefits, of organic food when compared with conventionally produced food.

The study, which took the form of a 'systematic review of literature', was carried out by the Nutrition and Public Health Intervention Research Unit at the London School of Hygiene and Tropical Medicine (LSHTM). LSHTM's team of researchers, led by Dr Alan Dangour, reviewed all papers published over the past 50 years that related to the nutrient content and health differences between organic and conventional food. This systematic review is said to be the most comprehensive study in this area that has been carried out to date.

This research was split into two separate parts, one of which looked at differences in nutrient levels and their significance, while the other looked at the health benefits of eating organic food. A paper reporting the results of the review of nutritional differences has been peer-reviewed and published by the American Journal of Clinical Nutrition.

Dr Dangour, of the LSHTM's Nutrition and Public Health Intervention Research Unit, and the principal author of the paper, said: 'A small number of differences in nutrient content were found to exist between organically and conventionally produced crops and livestock, but these are unlikely to be of any public health relevance. Our review indicates that there is currently no evidence to support the selection of organically over conventionally produced foods on the basis of nutritional superiority.'

Full details of the research are available from the FSA's website at <http://tinyurl.com/kvgoh9>

Publication of the review findings provoked such a strong reaction from sections of the pro-organic community that the FSA felt obliged to issue an open letter from Chief Executive Tim Smith emphasising the scientific validity of the report and 'to set the record straight'. Extracts from that letter follow below.

"This independent study ... is the most scientifically rigorous and independent review of research ever carried out in this area. It looked at 50 years worth of research using standard techniques employed in systematic scientific literature reviews. All peer-reviewed data published within a time period set out before the review began were included.

"The report was extensively peer reviewed before publication by leading scientists in this field and, furthermore, was published by a leading nutrition journal. The Agency has complete confidence in the validity of the work carried out by the LSHTM. It is an

absolute principle that all our published advice is derived in this transparent way.

"Irresponsible interpretation of the review by some has resulted in misleading claims being made concerning higher levels of some nutrients found in organic food.

"The review reports the results for all 162 relevant papers. The conclusions of the report were based on the results found in the 55 satisfactory studies that met predefined criteria. It focused on nutrients where statistically significant differences were seen. Arbitrary quotes or selective use of the data from the other papers which were of less robust scientific quality should be treated with caution."

The full text of the open letter can be accessed from the web link above. Also available is a podcast from Dr Dangour, principal author of the paper.

Two separate papers have been published, and the Executive Summaries are reproduced below:

- **Comparison of composition (nutrients and other substances) of organically and conventionally produced foodstuffs: a systematic review of the available literature**
- **Comparison of putative health effects of organically and conventionally produced foodstuffs: a systematic review**

A. Comparison of composition (nutrients and other substances) of organically and conventionally produced foodstuffs: a systematic review of the available literature

Report for the Food Standards Agency

Nutrition and Public Health Intervention Research Unit, London School of Hygiene & Tropical Medicine

1.0 EXECUTIVE SUMMARY

There is currently no independent authoritative statement on the nature and importance of differences in content of nutrients and other nutritionally relevant substances (nutrients and other substances) in organically and conventionally produced foodstuffs. This systematic review of the available published literature was designed to seek to determine the size and relevance to health of any differences in content of nutrients and other substances in organically and conventionally produced crops and livestock products. This review does not address contaminant content (such as herbicide, pesticide and fungicide residues) of organically and conventionally produced foodstuffs or the environmental impacts of organic and conventional agricultural practices.

The systematic review search process identified 162 relevant articles published, with an English abstract, in peer-reviewed journals since 1st January 1958 until 29th February 2008. A total of 3558 comparisons of content of nutrients and other substances in organically and conventionally produced foodstuffs were extracted for analysis.

Articles included in the review were assessed for study quality (satisfactory quality studies provided clear statements on material and nutrients analysed, laboratory and statistical methods and a clear definition of organic agricultural practices), and one third of all studies (n=55; 34%) met the pre-defined satisfactory quality criteria.

Analysis was conducted on nutrients or nutrient groups for which numeric data were provided in at least 10 of the 137 crop studies identified by the review. In analysis including all studies (independent of quality), no evidence of a difference in content was detected between organically and conventionally produced crops for the following nutrients and other substances: vitamin C, calcium, phosphorus, potassium, total soluble solids, titratable acidity, copper, iron, nitrates, manganese, ash, specific proteins, sodium, plant non-digestible carbohydrates, β -carotene and sulphur. Significant differences in content between organically and conventionally produced crops were found in some minerals (nitrogen higher in conventional crops; magnesium and zinc higher in organic crops), phytochemicals (phenolic compounds and flavonoids higher in organic crops) and sugars (higher in organic crops). In analysis restricted to satisfactory quality studies, significant differences in content between organically and conventionally produced crops were found only in nitrogen content (higher in conventional crops), phosphorus (higher in

organic crops) and titratable acidity (higher in organic crops).

Analysis of differences in content of nutrients and other substances in livestock products (meat, dairy, eggs) was more limited given the smaller evidence base. Analysis was conducted on nutrients or nutrient groups for which numeric data were provided in at least 5 of the 25 livestock product studies identified by the review. In analysis including all studies

(independent of quality), no evidence of a difference in content was detected between organically and conventionally produced livestock products for the following nutrients and other substances: saturated fatty acids, monounsaturated fatty acids (cis), n-6 polyunsaturated fatty acids, fats (unspecified), n-3 polyunsaturated fatty acids, nitrogen and ash. Significant differences in content between organically and conventionally produced livestock products were found in some fats (polyunsaturated fatty acids [unspecified], trans fatty acids and fatty acids [unspecified] higher in organic livestock products). In analysis restricted to satisfactory quality studies, significant differences in content of organically and conventionally produced livestock products were found only in nitrogen content (higher in organic livestock products).

No evidence of a difference in content of nutrients and other substances between organically and conventionally produced crops and livestock products was detected for the majority of nutrients assessed in this review suggesting that organically and

conventionally produced crops and livestock products are broadly comparable in their nutrient content. The differences detected in content of nutrients and other substances between organically and conventionally produced crops and livestock products are biologically plausible and most likely relate to differences in crop or animal management, and soil quality. It should be noted that these conclusions relate to the evidence base currently available, which contains limitations in the design and in the comparability of studies. There is no good evidence that increased dietary intake, of the nutrients identified in this review to be present in larger amounts in organically than in conventionally produced crops and livestock products, would be of benefit to individuals consuming a normal varied diet, and it is therefore unlikely that these differences in nutrient content are relevant to consumer health.

B. Comparison of putative health effects of organically and conventionally produced foodstuffs: a systematic review

Report for the Food Standards Agency

Nutrition and Public Health Intervention Research Unit, London School of Hygiene & Tropical Medicine

1.0 EXECUTIVE SUMMARY

There is currently no independent authoritative statement on differences in the putative health effects of organic and conventional produced foodstuffs. This systematic review of the available published literature was designed to review the evidence of differences in putative health effects of organically compared with conventionally produced foodstuffs. The focus of the review was the nutritional content of foodstuffs, and only outcomes of clear direct relevance to human health were included. This review does not address contaminant content (such as herbicide, pesticide and fungicide residues) of organically and conventionally produced foodstuffs, or the environmental impacts of organic and conventional agricultural practices.

The systematic review search process identified eleven relevant articles, published with an English abstract in peer-reviewed journals between 1st January 1958 and 15th September 2008. Articles included in the review were assessed for study quality (satisfactory quality studies provided a clear definition of organic agricultural practices, and statements on the nature of the organic component of the foodstuff or diet under investigation, the type and method of measurement of health outcomes, and the statistical methods used); one third of relevant included studies (3/11; 27%) met the pre-defined satisfactory quality criteria.

The studies included in the review contained a large degree of variability in their designs, the exposures tested and the outcomes measured, and this variability precluded any numeric meta-analysis of the reported results. In a narrative review, the

following themes were highlighted:

- Study hypothesis: most studies (8/11; 73%) hypothesised that differences detected in health effects would be due to the higher levels of specific nutrients in organic foods;
- Study design: a variety of different study designs were employed; six (55%) were human studies including 4 clinical trials, one cohort study and one cross-sectional study, and five (45%) were in vitro or ex vivo studies on human cell lines or serum;
- Exposure: most studies (9/11; 82%) investigated the health effects of specific foodstuffs rather than the diet as a whole;
- Health outcomes: most studies (9/11; 82%) collected information on measures of antioxidant activity (variously defined).

The narrative review highlighted several short-comings in the design, interpretation and reporting of the studies included in the review.

In conclusion, because of the limited and highly variable data available, and concerns over the reliability of some reported findings, there is currently no evidence of a health benefit from consuming organic compared to conventionally produced foodstuffs. It should be noted that this conclusion relates to the evidence base currently available on the nutrient content of foodstuffs, which contains limitations in the design and in the comparability of studies.

Commission guidance documents on hygiene regulations 852/2004 and 853/2004

The European Commission Health & Consumer Protection Directorate-General has published its revised guidance documents on the hygiene regulations 852/2004 and 853/2004. These can be accessed from the Europa website at <http://tinyurl.com/kvx8zu>

- **Guidance document on the implementation of**

certain provisions of Regulation (EC) No 852/2004 on the hygiene of foodstuffs

- **Guidance document on the implementation of certain provisions of Regulation (EC) No 853/2004 on the hygiene of food of animal origin**

Although only just published, these documents are dated February 2009.

Of particular interest to wholesaler members of the Federation is that part of the guidance on Regulation 853/2004 on the position of 'wholesale operations consisting only of storage and transport', and whether

such operations need approval under Regulation 853/2004 as standalone cold stores.

The relevant text is reproduced below.

Extract from Guidance document on the implementation of certain provisions of Regulation (EC) No 853/2004 on the hygiene of food of animal origin

3. SCOPE (ARTICLE 1 OF THE REGULATION)

3.5. Retail

Unless expressly indicated to the contrary, Regulation (EC) No 853/2004 does not apply to retail [Article 1, paragraph 5(a)].

The definition of retail sale is in Article 3, point 7 of Regulation (EC) No 178/2002. It reads as follows:

“retail” means the handling and/ or processing of food and its storage at the point of sale or delivery to the final consumer, and includes distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets.

As explained in recitals 12 and 13 of Regulation (EC) No 853/2004, this definition which includes wholesale operations was considered to be too wide for food hygiene purposes. In the context of food hygiene, retail should generally have a more limited meaning as follows: “activities involving direct sale or supply of food of animal origin to the final consumer”. This means that:

- For activities involving direct sale or supply of food of animal origin to the final consumer, Regulation (EC) No 852/2004 would suffice. In accordance with the definition of “retail”, the term “activities” includes processing (e.g. the preparation of bakery products containing products of

animal origin, the preparation of meat products in a local butcher shop) at the point of sale to the final consumer.

- With regard to wholesale activities (i.e. when a wholesale or retail establishment carries out operations with a view to supplying food of animal origin to another establishment), Regulation (EC) No 853/2004 applies except:

» for establishments for which the wholesale activities consist only of storage and transport. In that case, the requirements of Regulation (EC) No 852/2004, and the temperature requirements laid down in Regulation (EC) No 853/2004 apply

» if the supply is, in accordance with national law, a marginal, localised and restricted activity of a retail establishment that mainly supplies the final consumer. In that event, only Regulation (EC) No 852/2004 applies.

However, in accordance with Article 1, paragraph 5(c), Member States may decide to extend the provisions of Regulation (EC) No 853/2004 to retail establishments situated on their territory to which they would not apply. In applying this possibility, Member States should be led by the general principles of food law, i.e. proportionality and the need to have rules that are risk based.

4. APPROVAL OF ESTABLISHMENTS (ARTICLE 4 OF THE REGULATION)

4.4. The approval of cold stores

Article 1, paragraph 5(a) of Regulation (EC) No 853/2004 lays down that: “Unless expressly indicated to the contrary, this Regulation shall not apply to retail”.

Since cold stores could be considered as retail establishments in the broader sense of the definition in Article 3, paragraph 7 of Regulation (EC) No 178/2002, one might conclude that cold stores are generally excluded from the scope of Regulation (EC) No 853/2004 and are therefore not the subject of approval by the competent authorities (see Article 1, paragraph 5(a) of Regulation (EC) No 853/2004).

However, with regard to cold storage, Regulation (EC) No 853/2004 lays down requirements which must be considered as expressly indicating that cold storage operations fall within the scope of the Regulation, e.g.:

- Annex III, Section I, Chapter VII of Regulation (EC) No 853/2004 contains requirements regarding cold storage for meat, and cold stores for meat are therefore establishments handling products for which Annex III to the

Regulation lays down requirements. Such establishments shall not operate unless the competent authority has approved them;

- Article 4 of Regulation (EC) No 853/2004 expressly excludes storage of products not requiring temperature-controlled storage conditions from the approval obligations, it being understood that establishments proceeding to cold storage must be approved.

Cold stores must therefore be approved insofar as they are used in relation with activities for which Annex III of Regulation 853/2004 lays down requirements.

However, in the light of Article 1, paragraph 5(b), cold stores operated by genuine retail outlets not covered by the Regulation are not subject to the Regulation, and **cold stores that are involved in wholesale operations which are physically limited to transport and storage, do not need to be approved but remain subject to the temperature requirements.** When wholesale activities include more than storage and transport (for instance re-wrapping), the cold stores remain establishments to be approved in accordance with Article 4.

The European Commission has published a report on the new hygiene legislation that was implemented from January 2006. It was a requirement of the legislation that the Commission should submit a report to the European Parliament and Council, reviewing the experience gained from the application of the regulations and, if appropriate, accompanying the report with relevant proposals.

The report is described as a factual account of experience so far (including difficulties encountered), as reported to the Commission by Member States, industry and consumer representatives, and the Commission's Food and Veterinary Office.

The report is accompanied by a staff working document where the Annexes referred to in the report can be found.

- Annex I – Abbreviations and Technical Terms
- Annex II – Structure of the EU Hygiene Legislation
- Annex III – Acts adopted in connection with the Hygiene Package
- Annex IV – Guidance Documents
- Annex V – Repealed Legislative Acts
- Annex VI – Extracts from the Hygiene Regulations
- Annex VII – Consultation Process
- Annex VIII – Guides to Good Practice

Both documents can be found on the Europa website at <http://tinyurl.com/n22jsy>

- Report from the Commission to the Council and the European Parliament on the experience gained from the application of the hygiene Regulations (EC) No 852/2004, (EC) No 853/2004 and (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 9
(Brussels, 28.7.2009: COM(2009) 403 final)
- Commission Staff Working Document accompanying the Report from the Commission to the European Parliament and the Council on the experience gained from the application of the hygiene Regulations (EC) No 852/2004, (EC) No 853/2004 and (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004
(Brussels, 28.7.2009: SEC(2009) 1079 final)

The following extract is from the Executive Summary:

“The report concludes that overall Member States have taken the necessary administrative and control steps to ensure compliance but that there is still room for improvement in relation to implementation. These conclusions are supported by the findings of audits and inspections carried out by the Commission's Food and Veterinary Office. Consulted stakeholders consider that the new principles and requirements introduced by the hygiene package have had a positive impact. It also

indicates the clear position expressed by the Member States and private stakeholders not to extend at present the requirement for HACCP-based procedures to food business operators carrying out primary production.

“The main difficulties identified are in relation to certain exemptions from the scope of the hygiene Regulations, certain definitions laid down in the Regulations and the procedure for adapting those definitions, certain practical aspects concerning the approval of establishments handling foods of animal origin and the marking of such foods, the import regime for certain foods, the implementation of HACCP-based procedures in certain food businesses and the implementation of official controls in certain sectors.

“This report does not suggest any detailed solutions to the difficulties reported and is, therefore, not accompanied by proposals. However, on the basis of the difficulties identified, the Commission will consider the need for any proposals to improve the food hygiene package.”

The Food Standards Agency has said that it is not yet clear how the Commission intends to take forward the review, or whether it plans to bring forward any proposals to amend the current legislation. Sweden currently has the rotating EU Presidency, and has held Working Group meetings to give Member States opportunity to discuss the content of the Commission's report. Council Working Group meetings took place on 14 and 29 September and reports of these meetings are available from the Food Standards Agency website at:

- Council Working Group Working Party on Veterinary Experts (Public Health): 14 September 2009
<http://www.food.gov.uk/foodindustry/regulation/europeleg/eufoodhygieneleg/histeu/vetexperts0909>
- Council Working Group on food hygiene legislation: 29 September 2009
<http://www.food.gov.uk/foodindustry/regulation/europeleg/eufoodhygieneleg/histeu/cwghl090929>

The FSA says that member states have expressed their general satisfaction with the draft Council conclusions but more detailed comments will be dealt with in the Commission's Hygiene Working Group. The Presidency will put a slightly revised version of the Council conclusions to ministers in due course.

At the 29 September meeting, under a discussion of 'Other priority areas' the Presidency asked member states if there were any other important areas that had not been reflected in the Commission's report. Member states raised a number of technical points including a request for a definition of frozen products.

More detail can be seen in a European Council document (ref 13895/09) which also includes written contributions from several delegations, taking the opportunity offered by the Swedish Presidency to further elaborate their

positions in written contributions.

Council Document 13895/09 can be downloaded from <http://tinyurl.com/ylp4x5x>

The written comments from the UK are reproduced below in full.

Following the meetings of the Working Party of Veterinary Experts (Public Health), and 'with a view to providing input to the Commission for its future initiatives in this

field', draft Council Conclusions reflecting the identified political priorities of delegations have been prepared and will be submitted to Coreper/Council for adoption.

The Council Conclusions can be found in documents ref 14299/09 and 14299/09 ADD 1. These can be downloaded from the Europa website as <http://tinyurl.com/yhxyaz9> and <http://tinyurl.com/ykt6auo>

UK COMMENTS

from Council Document 13895/09(13 October 2009: 'Outcome of Proceedings'
from Working Party of Veterinary Experts (Public Health) on: 14 and 29 September 2009)

The UK's objectives for the hygiene package and its application were that the resultant legislation should be:

- risk-based,
- proportionate,
- flexible,
- outcome-focussed,
- apply throughout the food chain and
- clarify the obligation of food business operators to produce safe food.

The UK considers that the hygiene package met these objectives to a significant degree. For this reason, the UK agrees with the Commission's conclusion that the legislation does not need a fundamental overhaul. The UK also considers that the objectives outlined above continue to be relevant and has therefore considered the Commission's report with these in mind. Like the Commission, we have focussed our observations on those aspects of the hygiene legislation which are subject to amendment by co-decision.

Our top priority for future work is official controls in relation to products of animal origin, followed by (in order of priority) imports, on farm slaughter, Food Chain Information, and HACCP.

Scope

In many cases where the report identifies difficulties in implementation we do not consider that amendments to the legislation are necessary. In general we favour the development of additional guidance or clarification of existing Commission guidance documents. This approach would allow Member States to exercise flexibility and to reflect the conditions in their countries.

Definitions

The UK believes that there is a need to clarify the egg processing activities that fall within the scope of 853/2004. The definitions in Annex I as read with Article 1(2) of Regulation 853/2004 mean that the manufacture of finished foods such as bakery products or pasta requires the approval of establishments and the application of an identification mark. The definitions in Annex I Regulation 853/2004 also mean that the manufacture of (for example) boiled eggs for sale to food service providers is also covered. The UK considers that the hazards associated with producing such finished foods are adequately controlled under Regulation 852/2004 alone. This was the sense also of the discussions in Council. We believe there is an inconsistency between the regulations and Annex III of the Commission's guidance (which mentions bakery products as an example of a food benefiting from the exemption in Article 1(2)). We suggest

the whole issue needs further discussion with a view to amending Article 1(2) and the definition of an egg product.

Primary production

The UK supports the application of the hygiene package to primary production, but considers that there is insufficient evidence to support the extension of HACCP-based procedures to the generality of primary production. It should continue to be an option for Member States to encourage this approach, rather than a legislative requirement. We agree with the report that guides to good practice are useful tools in this area.

HACCP

We should continue to explore ways to help SMEs with the application and implementation of HACCP based principles, reducing the burden but ensuring that the hazards associated with the process(es) are controlled.

The flexibility that the Commission guidance provides for the application of HACCP based procedure is not reflected in the legal text in Regulation 852/2004. This has given us difficulties in enforcing this requirement.

Registration and approval

The UK considers that the status of all types of cold stores should be clarified with regard to the need for approval and that any hygiene requirements be contained in the hygiene legislation or guidance as necessary. The UK feels that a solution to this may lie in a specific definition of "retail" for the purposes of the hygiene legislation, which could then lead to greater clarity for other aspects of Regulation 853/2004.

More generally, the UK would welcome discussion of whether there should be a specific provision in the legislation permitting (for those businesses required to be registered) registration to be removed in the event of substantial non-compliance. This would parallel the approach to premises requiring approval, and increase enforcement flexibility.

Guides to good practice

We strongly support the concept of guides to good practice. They have been extremely practical to help FBOs to comply with the legal requirements and to clarify which types of premises and activities are outside the scope of the hygiene package.

Imports

UK has previously raised our concerns that, unlike animal health requirements, the public health requirements that apply to imports of composite products are unclear and that EU harmonized measures should be established.

We would therefore encourage the Commission to establish as a priority harmonised public health requirements for imports of

“composite products”, to ensure that appropriate measures are in place to protect public health and to provide clarity for food business operators and enforcement bodies. If it is not practical to do this in the short term, an interim harmonised position may be appropriate.

Official controls in relation to products of animal origin

The UK believes that this is the priority area for further work, particularly as the meeting of Chief Veterinary Officers agreed conclusions on modernising meat official controls in November 2008.

The UK believes that the human resources difficulties identified in the report are a matter for Member States which could be solved by local solutions. The key issue is to establish which inspection tasks have the greatest impact on public health, and to discuss ways in which we can better focus controls on current microbiological hazards rather than parasitic conditions that were historically relevant. While the hygiene package represents a shift to a less prescriptive, more risk based approach, we believe that there is more scope for improvement.

We strongly support more discussion of these issues, with an aim of the Commission bringing forward proposals for modernisation as soon as possible.

As a first step, the UK suggests a risk assessment is carried out of the risks associated with visual inspection of pigs that have been reared outdoor. Slaughterhouses receive different batches (outdoor/ indoor) during the same slaughter day making the effective redeployment of Officials challenging.

Food Chain Information (FCI)

The UK supports the principle of supplying relevant FCI but believes that there should be some evaluation of the use that is made by the FBO and the OV of this information supplied to the slaughterhouse

On Farm Slaughter

We would like to see greater flexibility for on-farm slaughter both on the grounds of animal welfare and the health and safety of those involved in loading animals on vehicles for transport to a slaughterhouse. Currently only bison can be slaughtered on-

farm with the agreement of the competent authority. We would like to see this extended where there are grounds either on animal welfare or on health and safety. In exceptional cases, where the transport of fractious bovine animals and water buffalo is considered to present an unacceptable risk to the safety of farm, haulier and slaughterhouse staff, it should be possible to slaughter such animals on farm.

Other issues

As previously noted in our response to the Commission during the preparation of its report, we maintain that the Commission should review all instances in the hygiene legislation where food business operators are required to notify the competent authority. The aim would be to establish the value of the requirement to notify, the extent to which it is clear what action the competent authority is to take and which food business operator should be responsible for notification. The UK considers that this would give useful reassurance about the administrative burdens of the hygiene legislation and might identify requirements that could be dropped without compromising public health protection.

There is one issue that the UK has identified in relation to working with the new legislation that needs further consideration. That is that the outcome-focussed approach and removal of prescription puts a greater onus on those auditing compliance (both of food business operators and of enforcement by competent authorities) to be able to interpret the legislation in a risk based fashion. The UK in no way wishes to see the reintroduction of prescriptive requirements, but the legislation must be clear and unambiguous as to its desired outcomes. If there are sound risk based reasons why, for example, flexibility for food business operators as to how those outcomes may be achieved in practice needs to be constrained, then that needs to be clear in the legislation. Those auditing compliance must be able to reach judgements on the effectiveness of the combination of controls in place that achieve the outcome objectives.

Lifecycle greenhouse gas assessments

Defra has published reports from three projects that have investigated greenhouse gas emissions along the food chain.

PAS 2050 (the Publicly Available Specification for the assessment of the life cycle greenhouse gas emissions of goods and services) was published in October 2008. Its development by BSI as an independent standard was co-sponsored by Defra and the Carbon Trust. At the time of publication Defra indicated that a considerable amount of research work had been carried out, but relatively little by way of results was made available at that time (ref 2008/06/D, 06/11/08)

“Defra has also carried out research testing of the PAS on up to 100 food products through their production, manufacture and distribution and is studying the greenhouse gas impacts of food preparation and consumption in the home.”

The Guide to PAS 2050 did include croissant production as a worked example throughout the guide, and there was also a separate case study example from Defra of a cottage pie ready meal (**‘applying PAS 2050 to a complex meal’**), but it was hoped that much more would eventually become available.

Defra has now made available from its website the results of three research projects which it says it funded “to test and inform the development of PAS 2050”. These projects were intended to establish the suitability of the PAS 2050 methodology for use in the food sector by generating robust data on GHG impacts for:

- **food production pre-farm gate and manufacturing** (project FO0404)
- **retail and distribution** (project FO0405)
- **in-home use and disposal** (project FO0409)

In summary Defra says that the projects have shown that PAS2050 can be applied to a variety of food commodities and products through the supply chain.

“In general, GHG emissions were of the same order for production systems with different levels of intensification. Extensive systems have lower emissions associated with inputs and processes per area of land, but also have lower yields from that land. Intensive systems have higher yields but also require more inputs and therefore have higher GHG emissions.

“Emissions of GHGs from manufactured foods tended to be dominated by emissions from the production stage, i.e. agriculture. At the retail and distribution stage, refrigeration is responsible for a major part of the electrical energy consumption of retail food stores. Refrigeration systems are also responsible for direct emissions through refrigerant gas leakage. In the home, packaging and pack size are key drivers of household waste. Wasted energy (oven use) is also an important factor in the home.”

Full details are available from the Defra website at <http://tinyurl.com/m3odmr>. The individual research reports can be accessed as follows:

- **Scenario building to test and inform the development of a BSI method for assessing GHG emissions from food** - FO0404: from <http://tinyurl.com/l5ayox> (final report and separate annex)
- **Greenhouse gas impacts of food retailing** - FO0405: from <http://tinyurl.com/md2ekg>
- **Understanding the GHG impacts of food preparation and consumption in the home**. Phase 2 - FO0409: from <http://tinyurl.com/mhwol3>

The Defra webpage also draws attention to the previously published Cottage Pie Case Study (download as <http://tinyurl.com/l62han>) and to two earlier research reports:

- **Comparative life-cycle assessment of food commodities procured for UK consumption through a diversity of supply chains** (FO0103) which looked at the impacts of various imported foods, such as Brazilian beef, New Zealand lamb and Spanish strawberries: from <http://tinyurl.com/qa848s>
- **Methods Review to support the PAS 2050 on measuring embodied GHG emissions in products and services**; from <http://tinyurl.com/m2evpp>

PAS 2050:2008 (Specification for the assessment of the life cycle greenhouse gas emissions of goods and services) and the Guide to PAS 2050 (How to assess the carbon footprint of goods and services) can be downloaded freely from the BSI website at <http://tinyurl.com/yfmqpp6>

The Code of Good Practice for Product Greenhouse Gas Emissions and Reduction Claims is available from the Carbon Trust website and can be downloaded from <http://tinyurl.com/6dyzol> (free to download, but with registration and log-in procedure). Carbon Trust has also published a booklet entitled ‘Product carbon footprinting:

the new business opportunity’, which is available from the same web address.

Food production and manufacturing project

The main purpose of this project was to explore the validity and suitability of the methods described in PAS 2050 for food products. The work reported covers all major stages of the food chain from farm production (including transport from the farm to first purchaser), through to manufacturing, ending at the factory outlet. The distribution/retail, in-use, and disposal stages are not included.

Results of greenhouse gas emissions assessments are presented for a wide range of commodities and products. Greenhouse gas emissions values are given in units of kg CO₂e per functional unit(FU) for

- livestock products (FU; typically 1 kg hung carcass)
- animal feed crops (per kg product)
- food crops (per kg product)
- manufactured food products (per kg product and per FU)

Emissions of GHGs from manufactured foods tended to be dominated by emissions from agriculture. For example, approximately 70% of GHG emissions from a beef cottage pie were from raw materials, and of these raw materials, approximately 75% were from agriculture.

It was not always possible to complete the analysis at the most detailed level. For example, referring again to the beef cottage pie,

“The beef cottage pie is manufactured in a factory that produces more than 150 different products. The differences in the characteristics and processing steps required for different products are significant. Some products require cooking operations while some do not; some products are frozen while some are chilled. However, the factory monitors energy use only at a facility level and differentiation of energy use by production lines or at a product level cannot be done at present. This imposes a limitation on the calculation of product specific GHG emissions from processing operations.”

Retail and Distribution project

The main aim of the project was to investigate and quantify the greenhouse gas impacts of retail food operations and identify business and technology approaches that could offer significant potential to reduce these impacts. The project was carried out in 3 phases.

The GHG emissions from the distribution and retail of a number of products (including frozen peas, and frozen chips) were considered and quantified with the view to testing the applicability of PAS 2050 to the distribution and retail of food products.

The boundary for the study included emissions from

storage in the Regional Distribution Centre (RDC); transportation from the RDC to the supermarket and, retail of the product in the supermarket.

Regarding the comparison of frozen distribution against chilled distribution, the report notes;

“Chilled distribution should normally require a lower refrigeration capacity than frozen food distribution due to the higher temperature difference between the refrigerated compartment and the ambient. Not much data is available for infield energy consumption of transport refrigeration equipment. Infield fuel consumption is dependent on many factors such as the

type of operation and type of product transported, solar load, fuel density, control software setup e.g. continuous compressor modulation or on/off control and defrost cycle initiation and termination.

“In many cases, the in-field energy consumption for chilled distribution can be higher than frozen food distribution due to the more stringent temperature control requirements, product respiration and the higher air flow rates required to maintain uniform temperature distribution in the container.”

GM Crops and Foods

Defra and the Food Standards Agency have published a joint report on ‘GM Crops and Foods’ as a follow-up to the Food Matters report.

‘Food Matters: Towards a Strategy for the 21st Century’ from the government’s Strategy Unit was published in July 2008. The report included two parallel action points for Defra and the FSA on genetically modified crops and foods. Both related to the concern that the EU approval regime for GM products could disrupt food and, in particular, animal feed imports, and that there could be associated problems with enforcement of, and public

confidence in, GM regulations.

Defra and the FSA have now reported on the work that they have undertaken. Details are available from both FSA and Defra websites:

- FSA: <http://tinyurl.com/ygwne7b>
- Defra: <http://tinyurl.com/yjz6pdm>

For a detailed extract from the Food Matters report see below. The new Defra / FSA report summarises the main findings as follows:

Main findings from the Defra and FSA analyses

4. Annexes A and B to this paper cover in more detail the work carried out by Defra and the FSA respectively in response to the Food Matters action points. The following paragraphs summarise the main overall findings.

5. UK livestock farmers are currently dependent on soya feed imports from Brazil and Argentina. These two countries supply about 90% of UK soya imports, which in 2007/08 totalled 3 million tonnes. If this supply chain were disrupted due to asynchronous authorisations it could have serious adverse effects on the livestock sector (and potentially on consumer prices). The precise impact would depend on the extent and duration of the shortfall in soya imports. There would be limited scope to obtain alternative supplies of soya from other countries, and using other protein feeds instead of soya would involve higher costs and reduce productive efficiency.

6. However, there are arguments as to whether Brazil and Argentina would actually adopt new GM soya varieties before these have secured authorisation in the EU, and there is little certainty about the position going forward.

7. With the continued increase in GM soya cultivation in the main exporting countries (Argentina’s production is already about 94% GM while Brazil’s is at least 65% and rising), the UK feed and food sectors are worried that it will become impossible to maintain the current non-GM soya supply chain. The situation is of more immediate concern for parts of the animal feed industry due to the volume of soya imported for feed use. Certified non-GM soya costs more than GM, with the premium varying according to the supply and demand situation (it has been anywhere from US\$5/tonne to US\$80/tonne in recent years). The poultry sector is based on the use of non-GM feed

ingredients, including soya, as is the organic livestock sector generally. The availability of non-GM soya is also likely to be an issue for the food industry within the next 1-2 years.

8. There is no legislative requirement to label products (milk, meat and eggs) from animals fed with GM feed. Imports of such products from third countries where GM feed has been used (which may not be authorised in the EU) are likely to distort competition for EU producers. Consumers cannot distinguish between the products and may be misled.

Current EU position and the way ahead

9. Towards the end of 2008 the EU approved the import of two new GM feed commodities (one soya and one maize), lessening the immediate concern that there might be an imminent problem with feed import supplies. The Commission has also said that it will bring forward a ‘technical solution’ which might allow for a more pragmatic interpretation of the EU’s zero threshold for non-approved GM material. It nevertheless remains conceivable that a scenario might arise where soya imports to the UK are severely disrupted. According to industry sources there are a number of new GM soya varieties that are due to be commercialised over the next few years, starting in the USA, creating the potential for difficulties to occur because of asynchronous GM approvals. In concluding this work Defra and the FSA will:

- send their analyses to the European Commission, and discuss the implications further with UK stakeholders.
- continue to argue for a more streamlined EU decision-making process for GM products (without compromising on safety).

- argue for a proper consideration of the EU's policy in relation to the potential presence of low levels of non-EU approved GMOs in bulk-traded commodities, taking account of what is proportionate in safety terms and what might be pragmatic from a trade perspective.
- monitor the timetable for the potential adoption of new GM feed crops in the main supplier countries, relative to the timing of their possible approval for EU import, to gauge the risk that a supply problem might arise if no remedial action is taken.

10. In spring 2009 the Commission initiated an independent evaluation of the EU legislative framework on GM food and feed. The main focus of the evaluation will be the risk assessment and regulatory approval process, the adventitious presence of and zero tolerance for unauthorised GM food and feed, and the labelling rules for approved GM food and feed products. In addition, in June 2009 the Commission indicated that it would be funding a study to look in detail at the implications of asynchronous GM approvals for EU imports of maize and soya animal feed. The work is expected to be completed in the second half of 2010.

Defra has also published a number of additional papers arising from its analysis. I am not forwarding copies, but they can be accessed from the Defra webpage above.

- What is the potential to replace imported soya, maize and maize by-products with other feeds in livestock diets? (paper by ADAS Ltd)
- Assessing the impact of GM animal feed restrictions in the UK/EU livestock sectors (paper by George Philippidis)
- GM Analysis Project – Supply Chain Segregation – Literature Review (paper by Promar International)
- GM Analysis Project – Segregation of Supply Chain (paper by Promar International)
- Defra feed import project: summary of modelling work (paper by Defra)

- Defra feed import project: summary of work on farm-level impacts (paper by Defra)

Readers may also be interested in other recent reports in this area:

(i) **The global pipeline of new GM crops: implications of asynchronous approval for international trade**, recently published by the European Commission's Joint Research Centre

The report provides an overview of the issues and concerns on the asynchronous approval/zero tolerance topic. The number of commercialised GM crops in the world is foreseen to multiply by four from about 30 today to over 120 in 2015.

Full details are available from <http://tinyurl.com/yz2qmyz>

Abstract

The commercialisation of GM crops is a regulated activity and different countries have different authorisation procedures, i.e. new GM crops do not get simultaneously approved worldwide. This "asynchronous approval" (AA) is of growing concern for its potential impact on international trade, especially if countries operate a "zero tolerance" policy that may result in rejections of imports that contain only traces of such GMOs; a similar problem of "low-level presence" (LLP) of unapproved GM material in imports arises when developers of new GM crops do not seek approval in export markets, i.e. when there is "isolated foreign approval" (IFA) in their home countries only. LLP incidents have already caused trade disruption and economic problems, in particular for the EU feed and livestock sector.

To forecast the future evolution of LLP, a global pipeline of new GM crops was established. While currently there are around 30 commercial GM events cultivated worldwide, by 2015 there could be over 120. If problems with LLP have occurred in the

past, these are likely to intensify. Moreover, GM events can easily be combined ("stacked") by conventional cross-breeding, thus creating more "new" GMOs (in countries where stacked crops are regulated like new GMOs). Also the issue of IFA is bound to increase with more GM crops being developed by technology providers in Asia for domestic markets.

For actors in the global agri-food chain the main problem of LLP is the economic risk of rejections of shipments at the EU border. Part of this problem consists of the "destination risk", i.e. the official testing for unauthorised material only in the port of destination. When compliance with a zero tolerance policy for LLP becomes impossible, exporters may only deal with "preferred buyers" who are known to create little problems. Otherwise, if the risk of rejection increases, so will the price. This will affect EU businesses that are dependent on cheap agricultural imports.

(ii) **Evaluation of EU legislative framework for GM food and feed:** August progress report

The Defra/FSA report refers to an independent evaluation of the EU legislative framework on GM food and feed initiated by the Commission spring 2009.

A short progress report is available from the Food Chain Evaluation Consortium can be found at <http://tinyurl.com/yf6slrm>

‘Food Matters: Towards a Strategy for the 21st Century’
from section 5: Engaging the supply chain

Maintaining consumer confidence in the claims made for food, and in the regulatory safeguards that the food system operates under, is critically important. Potential problems arising from the interaction of the international animal feed market and the EU regime for GM products should be better understood

28 The EU is a major net importer of some animal feed products, such as soya and maize gluten. Producers in some exporting countries have been switching to GM varieties of soya and maize that are subject to special controls in the EU. Any genetically modified organism (GMO) grown or marketed in the EU for food use must first be granted marketing consent. Animal feed is covered by the regulations, which apply to GMOs themselves (e.g. grain) and to animal feed ingredients derived from processed GM crops. Restrictions do not apply to imported meat from animals that have eaten GM feed.

29 Approval of new GM plant lines in the USA and elsewhere is currently happening faster than in the EU (the EU process currently takes around 24 months). A number of farming and food industry stakeholders have expressed concern that producers in the EU could have increasing problems:

- • finding sources of non-GM feed, as a result of global suppliers switching to GM crops. There are anecdotal reports that it is already becoming more difficult and costly to source non-GM feed (which some retailers have specified for suppliers of certain products, such as poultry); and
- • securing imported supplies of both non-GM and approved GM feed, because of the slow operation of the EU approval system for GM products. Where a supplier country adopts a new GM feed crop before it is approved for EU import, traders are reluctant to import that commodity in any form because of the risk that a trace of unauthorised GM material might be found (under EU rules there is zero tolerance of unapproved varieties).

30 With UK feed prices already high, further price rises could have significant impacts on some livestock farmers. If imports were highly constrained or expected to become so, the pressure to maintain supplies would increase the risk that feed coming to

the UK might inadvertently or even deliberately be wrongly labelled as non-GM, when in fact either approved or non-approved GM material is present. In the case of non-approved GM varieties, this could be despite efforts that are made to maintain segregated supplies.

31 Consumer confidence in UK regulations, regulators and food supplies might be prejudiced if GM feed was found in systems claiming to be GM-free, or if non-authorised varieties were detected in the UK food chain. If non-authorised material is found, there are also significant cost implications associated with recall, disposal and consumer advice.

32 The Directorate-General for Agriculture of the European Commission identified the UK as one of the EU member states that, because of its normal trade pattern, is potentially more exposed to the problem of feed imports being disrupted due to the slow pace of GMO approvals in the EU228. The facts and the risks for the UK need to be examined in more detail. These include potential impacts on the integrity of the regulatory system and on livestock production, including the risk that additional costs will be imposed on producers that will ultimately impact upon the price of food.

Action 5.3: Animal feed and the regulation of GM products

Defra, working with the FSA, will publish an analysis of the potential impacts on the livestock sector arising from global trends in GM production and the current operation of the GM approval system in the EU.

In parallel, the FSA, working with Defra, will publish an analysis of the extent to which changes in the market are putting a strain on the regulatory system for GM products (including animal feed) and the implications for UK consumers.

The Government will continue to lobby the EU to improve the regulatory regime for GM products – including speeding-up decisions on the import of GM feedstocks, without prejudicing safety.

Phase out of HCFC refrigerants (R22)

The phase-out timetable for HCFC refrigerants was established in the EU’s Regulation on Ozone Depleting Substances (EC/2037/2000). This regulation has recently been ‘recast’ and a new regulation comes into force from 1 January 2010. The content of the new regulation has been agreed (download as <http://tinyurl.com/yjucc5p>), but at the time of writing the text has not yet been published in the Official Journal.

A useful summary of the changes introduced by the new regulation is available from the Institute of Refrigeration, as Issue 31 in their series of Good Practice Guides (‘News on R22 use and bans’: GPG31). This can be downloaded free of charge from the IoR website (www.ior.org.uk), following links to ‘Technical Information’ and

‘Publications’ (or download directly as <http://tinyurl.com/yfrfsrn>).

Most importantly, the phase out dates remain unchanged:

- **from 1st January 2010 it is illegal to use virgin HCFCs to service refrigeration and air conditioning (RAC) equipment. This ban applies even if HCFC was purchased before the ban date. It is illegal to stockpile and use any supplies of virgin HCFCs after the end of 2009.**
- **from 1st January 2015 it will be illegal to use recycled or reclaimed HCFCs to service RAC equipment.**

The new regulation makes a clear and important distinction between “recycled” and “reclaimed” gases.

- **Recycled HCFCs are recovered HCFC that has been subject only to a basic cleaning process (this might include mechanical filtering and moisture removal).**

Recycled HCFCs may only be used by either the undertaking which carried out the recovery (in most cases the refrigeration contractor) or the undertaking for which the recovery was carried out (the owner). Recycled HCFCs may not be placed on the market – "placing on the market" means the supplying or making available to third persons within the Community for payment or free of charge. For example, the owner could use the recycled HCFC in RAC equipment at other sites they operate from but they cannot sell recycled HCFC to a third party.

- **Reclaimed HCFCs are recovered HCFC gas that has been chemically reprocessed to a specified standard.**

Reclaimed HCFCs may be placed on the wider market and used by undertakings other than the original contractor and owner. Reclaimed HCFCs must be held in containers labelled as such, with information on the batch number and name and address of the reclamation facility. Reclaimed material has been reprocessed to a specified quality that is suitable for use in a refrigeration system whereas recycled material is of an unknown quality – it might contain contaminants that could impair the performance of a refrigeration plant.

There are also requirements for the labelling of equipment which uses recycled or reclaimed HCFC and there are obligations for the operator (or equipment end user) for leak testing (and rectification), which are broadly similar to those of the EU's F Gas Regulation:

Information is also available from F Gas Support, the UK Government's free helpline to deal with individual queries about the F Gas Regulations and to provide a central resource for information, particularly for end users but also for anyone else affected by the F Gas or ODS Regulations.

Telephone Helpline: 0161 874 3663;
Email: Fgas-support@enviros.com;
Website: www.defra.gov.uk/fgas).

Readers should also refer to Information Sheet RAC 8 from F Gas Support ('The EC Ozone Regulation: Legislative Update and Strategies for HCFC Phase-out'), which has been updated (from Defra website above, or download directly as <http://tinyurl.com/yk7m4f3>)

List II imports to end

The Food Standards Agency has issued information to stakeholders by way of Fishery Information Note FIN 09/2009 concerning the importation of fishery products and bivalve molluscs, echinoderms, tunicates and marine gastropods from certain non-EU countries - available from the FSA website at <http://tinyurl.com/36fc4a> or download directly <http://tinyurl.com/yzdprbp>

Similar information is contained in OVS Note 09/52 for enforcement bodies, available from the Defra website at <http://tinyurl.com/yknjs9k>

Imports from 'List II' countries are allowed under transitional arrangements contained in Commission Regulation 2076/2005. Imports are permitted from the individual countries listed in the Annexes to Regulations 1666/2006 and 146/2009, if a member state has a bilateral agreement in place with the country concerned.

The transition arrangements in Regulation 2076/2005 end on 31 December 2009 and the Commission has advised that the provision allowing such bilateral agreements will not be extended.

The FSA writes:

"Therefore from 1 January 2010 the UK will no longer be able to import fishery products and bivalve molluscs, echinoderms, tunicates and marine gastropods in whatever form under "bilateral agreements" with any non-EU "List II" countries."

It is not yet clear how the end-year deadline will apply – will there be an absolute prohibition of all consignments arriving at UK BIPs from 1 January 2010, or will consignments continue to be accepted beyond 1 January where there is a valid health certificate issued before 31 December 2009 under the bilateral agreement. The FSA has advised that it is waiting for the Commission to advise further with regard to cut off date for imports.

The UK currently has bilateral arrangements with Azerbaijan, Eritrea, Israel, Myanmar and St Helena for the import of fishery products, and Canada and the USA for the import of bivalve molluscs, echinoderms, tunicates and marine gastropods in any form.

The FSA also reports that the Commission is examining the guarantees provided by the "List II" countries).

"If any of these third countries meet the necessary EU standards, they may be added to the list of approved third countries in Decision 2006/766/EC as amended (the "List I" countries)".

Members of the British Frozen Food Federation requiring further information about any item in this newsletter should contact Ian Farley, Technical and Legislative Co-ordinator

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