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FINAL REPORT OF A FACT-FINDING MISSION  
CARRIED OUT IN  
THE UNITED KINGDOM  
FROM 13 TO 17 JUNE 2016  
IN ORDER TO  
IN ORDER TO GATHER INFORMATION ON THE OFFICIAL CONTROLS ON  
COMPOSITE PRODUCTS

*In response to information provided by the Competent Authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.*

### ***Executive Summary***

*The fact-finding mission was carried out in the United Kingdom from 13 to 17 June 2016 as part of the published DG Health and Food Safety audit programme. The objective of the mission was to obtain an overview of (i) the measures implemented by competent authorities and food business operators involved in the composite products chain, (ii) the extent to which those measures achieve the objective of ensuring that composite products comply with European Union (EU) animal and public health requirements, and (iii) how the findings may support further development/review of the EU legislation.*

*The official control system inland is based on a risk evaluation which allocates a low priority to the handling of composite products. Therefore, food business operators handling or producing composite products might rarely be subject to official controls, if at all. There is a poor awareness amongst officials with regard to verifying on the market the compliance with animal and public health requirements of imported composite products which are exempted from the veterinary controls at the border inspection posts (BIPs). Thus, imported composite products might be placed on the market without the proper guarantees on animal and public health. The official controls on composite products that should undergo BIP control are correctly implemented when the products are identified. However, the BIPs are confronted with several difficulties: (i) identifying the composite products; (ii) classifying composite products which are exempted or not from controls at the BIPs; and (iii) decisions are sometimes taken on the basis of non-verifiable information.*

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## ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

<b>Abbreviation</b>	<b>Explanation</b>
BIP	Border inspection post
EU	European Union
FBO	Food business operator
IUU	Illegal, unreported and unregulated fishing
The Guidance	The Commission staff working document 'Illustrative Guidance on import/transit conditions and controls of certain composite products, and products which could erroneously be considered as composite products, originating from third countries' (Ref. No SWD(2015)79 of 25 March 2015)

## **1 INTRODUCTION**

The fact-finding mission took place in the United Kingdom from 13 to 17 June 2016. This visit was a part of the published Directorate-General Health and Food Safety's audit programme. The team comprised three auditors who were accompanied by a representative of the central competent authority throughout the mission.

An opening meeting was held on 13 June 2016 with the participation of the central competent authorities and representatives of other authorities involved in official controls. At this meeting, the objectives of, and itinerary for, the fact-finding mission were confirmed and the control system was discussed with the authorities.

## **2 OBJECTIVES AND SCOPE**

The objective of the mission was to obtain an overview of (i) the measures implemented by competent authorities and food business operators involved in the composite products chain, (ii) the extent to which those measures achieve the objective of ensuring that composite products comply with EU animal and public health requirements, and (iii) how the findings may support further development/review of the EU legislation.

The scope of the mission covered the operational criteria of the competent authorities for the controls on the import, trade, production and storage of composite products, including specifically, labelling and traceability, communication between the competent authorities involved, awareness of staff and difficulties faced by the competent authorities in the planning and implementation of controls.

## **3 LEGAL BASIS**

The fact-finding mission was carried out in agreement with the competent authorities.

Full legal references are provided in Annex. Legal acts quoted in this report refer, where applicable, to the latest amended version.

## **4 BACKGROUND**

A composite product is a foodstuff intended for human consumption that contains both processed products of animal origin and products of plant origin and includes those where the processing of primary product is an integral part of the production of the final product.

The composite products produced in the EU can contain processed products of animal origin of EU and/or non-EU country origin. The EU legislation on the official controls required on the production of the composite products leaves it to each Member State to define and implement the type and frequency of controls. This shall be done on the basis of the requirements laid down in the Hygiene Package and Regulation (EC) No 882/2004 of the European Parliament and of the Council, and Member States can also define more detailed national control programmes.

The composite products produced in non-EU countries for the EU market can contain processed products of animal origin from the same non-EU country where the composite product is produced, from other non-EU countries ("triangular trade" for the purpose of this project), EU Member States or can contain a mixture of those origins. To enter the EU, the composite products may:

- be imported via border inspection posts (BIPs), if they are subject to controls under Article 14 of Regulation (EC) No 882/2004
  - in accordance with the requirements of Council Directive 97/78/EC and Commission Decision 2007/275/EC;
  - or under additional national legislation, or
- be imported and controlled under the conditions of Article 15 of Regulation (EC) No 882/2004.

The Commission staff working document 'Illustrative Guidance on import/transit conditions and controls of certain composite products, and products which could erroneously be considered as composite products, originating from third countries' (Ref. No SWD(2015)79 of 25 March 2015, hereafter – the Guidance) was published in 2015 after Member States agreed to apply the procedures laid down in it. The Guidance was prepared with the aim to give guidance on import and transit conditions and controls of certain products of animal origin and plant products as well as for products containing different products of animal origin and for products containing unprocessed products of animal origin and plant products.

The Country Profile for the United Kingdom provides an overview of how the control systems are organised, based on information supplied by the competent authorities, and is available at the following website:

[http://ec.europa.eu/food/audits-analysis/country\\_profiles/details.cfm?co\\_id=GB](http://ec.europa.eu/food/audits-analysis/country_profiles/details.cfm?co_id=GB)

The local authorities have the responsibility for implementation of official controls on the production, distribution, and placing on the market of composite products from another Member State as well as for imported composite products that are not subject to BIP controls. In cases where the food business operator (FBO) has several branches under the responsibility of different local authorities, the FBO may ask to be placed under the scheme defining a legally recognised partnership between the FBO and a single local authority – the primary authority. The official controls on imported composite products subject to veterinary controls falls under the responsibility of the BIPs.

DG Health and Food Safety carried out an audit in 2012 in order to evaluate the follow-up action taken by the competent authorities with regard to the import/transit control system and BIPs (report No DG(SANCO) 2012-6582). The report is available at:

[http://ec.europa.eu/food/audits-analysis/audit\\_reports/details.cfm?rep\\_id=3003](http://ec.europa.eu/food/audits-analysis/audit_reports/details.cfm?rep_id=3003)

## 5 FINDINGS AND CONCLUSIONS

### Legal requirements

Regulation (EC) No 882/2004, Regulation (EC) No 852/2004 of the European Parliament and of the Council, Regulation (EC) No 853/2004 of the European Parliament and of the Council, Directive 97/78/EC, Decision 2007/275/EC.

### 5.1 OFFICIAL CONTROLS ON THE PRODUCTION OF COMPOSITE PRODUCTS

#### Findings

1. The official control system of establishments producing composite products requires:
  - approval if the FBO also processes the product(s) of animal origin which is later added to the content of the final composite product;
  - registration for other producers of composite products.
2. The focus of this mission was on the official controls in registered establishments. The system for the approval of establishments and the organisation and implementation of official controls in approved establishments has been subject to various evaluations in the past and is described in previous Directorate-General Health and Food Safety audit reports, available in the following link:  
  

[http://ec.europa.eu/food/audits-analysis/audit\\_reports/index.cfm](http://ec.europa.eu/food/audits-analysis/audit_reports/index.cfm)
3. Registration of food establishments as well as the organisation and implementation of official controls in such establishments falls under the responsibility of the 419 local authorities. Each local authority maintains a list of registered establishments which is not published. The central competent authority does not have access to these lists, but at the time of the mission it was in the process of establishing a country list. The individual local authorities do not have direct access to each other's lists; they need to contact other local authorities on a case by case basis, when necessary.
4. General guidance on the types of activities that require registration, how FBOs may proceed for registration as well as on the local authorities' risk rating for determining the frequency of controls in such establishments are available on the Food Standard Agency website. The local authorities are required to develop detailed implementing procedures for the above. Registration is required to take place 28 days after an application is made by the FBO. There is an expectation that the local authorities will visit and carry out an initial inspection at all new establishment within 28 days of registration. The frequency and the type of controls may be decided before or after the registration, depending on the activity type for which an application is made and the resources available to the local authorities. In order to decide the frequency and type of controls, the local authorities have to contact the FBO and run through a set of questions. Depending on the answers to the questions, a decision is taken on the risk associated with that activity and whether a physical on-the-spot visit will take place.

5. The criteria used in the risk-based rating is set out in the Food Law Code of Practice. In some instances these criteria are insufficiently developed, allowing for a wide range of interpretation. Consequently, FBOs with a similar activity and size could fall under the low or the high risk category and undergo controls (not necessarily visits on the spot) with different frequencies (from every six months to three years). This may be a concern for big production establishments (the one visited by this mission team was producing 1 million pizzas per week). The central competent authorities explained that the way they ensure consistency of controls is by organising some "calibration" training and joint visits between different local authorities to compare the way they interpret the guidance and rate the related risk.
6. The implementation of the controls depends on the availability of human resources. All local authorities interviewed presented the constraints and difficulties caused by limited resources and the broad range of responsibilities (which also include non-food activities). In this situation, the controls on establishments ranked as low/very low risk are delayed or implemented using alternative intervention schemes (i.e. sending written questionnaires or contacting via phone).
7. The official controls of registered establishments cover the hygiene conditions, infrastructure and reliability of the management (confidence in management) in accordance with dedicated checklists/aide-memoires. This is also the case for registered producers of composite products. Other aspects may be verified, but this is left to each individual inspector and an overview is not available. In the local authorities visited, the official controls did not routinely cover other elements.
8. The composite products producer visited provided evidence of traceability. The commercial documents were available for the ingredients. The mission team noted that the lack of controls on the origin of the ingredients is a missed opportunity for detecting that the raw materials used comply with the rules in place and are fit for human consumption. Such controls would also detect establishments which escaped registration with the local authority or those with an incomplete registration. In addition, controlling the origin of ingredients would be a way of detecting imports of products of animal origin that escaped BIP controls (whether in the UK or in other EU Member States). For example, the mission team noted that the FBO received detailed instructions from its customer to source an ingredient from a non-approved establishment in a non-EU country. This would contribute to better targeting of the controls by the local authorities and BIPs.



9. The verification of effectiveness of the controls in registered establishments is done at local level mainly by documentary review of the control reports and some joint visits. The information fed to the central competent authorities presents the numbers of establishments in each risk category as well as the ones which were registered and not risk-rated in view of their limited activity (for the local authority visited this amounted to approximately 20% of the registered establishments). The effectiveness of controls is determined by the central competent authorities through audits of the local authority. None of these audits specifically covered composite products.

#### **Conclusions on official controls on the production of composite products**

10. The official control system on the production of composite products is risk based. When a low priority is allocated to registered establishments producing composite products, this leads to a low frequency of official controls and sometimes to an absence of physical checks on the spot, potentially also in relation to food business establishments with a high throughput since this is not considered as a risk factor.

## **5.2 OFFICIAL CONTROLS ON THE DISTRIBUTION OF COMPOSITE PRODUCTS (MARKET CONTROLS)**

### **Findings**

11. Composite products produced in other EU Member States are rarely targeted. The competent authorities informed the mission team that such controls fall under general market controls. The decision and criteria for the organisation of market controls are left to the local authority. During the visit the competent authorities explained that there is a perception on the part of officials that EU produce has been controlled at origin. Local authority officers were not specifically trained and had no instructions in order to verify the eligibility of the ingredients used for the production of composite products.
12. The visited local competent authority was not aware of the requirements for imported composite products, which contain dairy ingredients and comply with the requirements of Article 6 of Decision 2007/275/EC (i.e. do not fall under BIP controls). Therefore, there are no official controls to verify that shelf stable composite products containing less than 50% of dairy products are only put on the market if the dairy product originates from approved countries and is treated as required, and the country has an approved residue monitoring plan in place.
13. There are no controls to verify that the animal products in composite products containing less than 50% of products of animal origin other than meat or dairy products (e.g. fishery, honey and egg products) are sourced from countries with an approved residue monitoring plan<sup>1</sup>, and for fishery products, that the country meets the regulation on illegal, unreported and unregulated fishing (IUU) requirements.

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<sup>1</sup> In their response to the draft report the competent authorities informed that the requirement on checks of approved residue monitoring plans will be considered.

### **Conclusions on official controls on the distribution of composite products (market controls)**

14. The verification of compliance of composite products produced in the EU is left to the competent authorities at origin.
15. There is no system in place for verifying the compliance with animal and public health requirements of imported composite products on the market which are exempted from the veterinary controls at the BIPs. Therefore, composite products might be placed on the market without the proper guarantees on animal and public health.

## **5.3 IMPORT CONTROLS**

### **Findings**

16. Heathrow airport BIP does not have access to the relevant databases to verify that all consignments of products of animal origin subject to veterinary checks are notified to the BIP, e.g. the Customs' or Airport Authority's databases. BIP staff stated that manifest checks are not routinely implemented<sup>2</sup>. However, the central competent authorities confirmed that negotiations are ongoing and access to the relevant databases is foreseen shortly. Meanwhile, the BIP implemented alternative measures (routine checks of the airlines' temporary storage facilities) and were able to detect consignments which should undergo veterinary checks.
17. Felixstowe port BIP has access to the port authorities' database and routinely carries out the manifest checks in order to identify consignments which fall under control of the BIP and were not pre-notified by the operator.
18. BIP staff indicated that they get a high number of questions from FBOs on the import requirements for certain composite products. This process is very time-consuming and requires huge efforts of the official staff to evaluate available information and to get the additional information from the importers. The information about complicated cases is shared between BIP staff and the central competent authorities.
19. BIP staff noted a trend in replies of FBOs that dairy products in the content of composite products originated from New Zealand since this country complies with the EU animal and public health requirements. BIP staff is concerned that composite products which do not need to undergo BIP controls, but in their content have a small amount of dairy products (less than 50%) are accompanied only by a commercial document which only contains information on the origin, the manufacturer and the ingredients of the composite product. However, the information on the origin (country and establishment) of the dairy component cannot be verified by any document accompanying the consignment and yet these products are subsequently placed on the market.

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<sup>2</sup> In their response to the draft report the competent authorities informed that the issue was discussed.

20. During the analysis of the questions from the FBOs, BIP staff identified a number of consignments of composite products that do not fall under veterinary control of the BIPs but whose content included dairy products from countries not approved for the EU market. BIP staff informed the FBOs that even though those composite products do not fall under veterinary control at the BIP, they cannot be placed on the market. In parallel, the BIP contacted the local authorities so that they can enforce the requirements and prevent the product from being placed on the EU market. At the BIP, there was no documentation to verify whether the FBO changed its intention to import those products into the EU or whether the local authorities took into consideration the information provided by the BIP and took restrictive measures against the FBO<sup>3</sup>.
21. The BIP staff provided detailed information on the difficulties they face during the controls of the composite products:
- Sometimes the decision on the consignment is taken on the basis of the information provided by the FBOs about the ingredients and production process chart of the composite product. This information cannot be verified by any means.
  - The definition of "processing" laid down in Regulation (EC) No 853/2004 creates uncertainty for the BIP staff on how to handle products containing honey. Honey cannot be removed from barrels without prior heating, which is included in the definition of processing. Therefore, according to the definition of composite products, honey consignments can be considered as processed animal products and consignments containing honey as an ingredient are composite products.
  - The derogation for confectionary in the Annex to Decision 2007/275/EC might lead to some confectionary with non-processed products in their content (e.g. cakes with cream or raw egg) not being presented for veterinary control at the BIP.
  - The derogation for food supplements containing small amounts of animal products without a limit for the small amount having been established opens up the possibility for individual interpretation and causes difficulties in discussions with the FBO on whether these products should fall under BIP control or not.

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<sup>3</sup> In their response to the draft report the competent authorities informed that training course could improve the communication between BIP staff and the officials of local authorities responsible for the controls inland.

### **Conclusions on import controls**

22. The official controls on composite products that should undergo BIP control are implemented when the products are identified. However, the BIPs are confronted with several difficulties: (i) identifying the composite products; (ii) classifying composite products which are exempted or not from controls at the BIPs; and (iii) decisions are sometimes taken on the basis of non-verifiable information.

## **5.4 COMPETENT AUTHORITY'S REMARKS**

### **Findings**

23. BIP staff presented a large number of examples of composite products controlled by the BIPs. Many of these examples related to confectionary, food supplements, honey products etc. The BIP staff had concerns that consignments of composite products rejected by the BIPs in the United Kingdom might enter via other EU Member States due to difficulties identifying the composite products for official control at the BIPs.
24. The competent authorities explained that the requirements applied to processed products of animal origin and to composite products are inconsistent with the animal and public health risks. A product containing the same product of animal origin ingredient can be subject to checks at the BIPs (if it is imported as a processed product of animal origin) or not (if it is imported as a composite product).

## **6 OVERALL CONCLUSIONS**

The official control system inland is based on a risk evaluation which allocates a low priority to the handling of composite products. Therefore, food business operators handling or producing composite products might rarely be subject to official controls, if at all. There is a poor awareness amongst officials with regard to verifying on the market the compliance with animal and public health requirements of imported composite products which are exempted from the veterinary controls at the BIPs. Thus, imported composite products might be placed on the market without the proper guarantees on animal and public health. The official controls on composite products that should undergo BIP control are correctly implemented when the products are identified. However, the BIPs are confronted with several difficulties: (i) identifying the composite products; (ii) classifying composite products which are exempted or not from controls at the BIPs; and (iii) decisions are sometimes taken on the basis of non-verifiable information.

## **7 CLOSING MEETING**

A closing meeting was held on 17 June 2016 with representatives from the competent authority. At this meeting, the main findings and the preliminary conclusions of the audit

were presented by the mission team. No disagreement with the preliminary findings and conclusions were expressed by the competent authorities.

## ANNEX 1 – LEGAL REFERENCES

<b>Legal Reference</b>	<b>Official Journal</b>	<b>Title</b>
Reg. 882/2004	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules
Reg. 852/2004	OJ L 139, 30.4.2004, p. 1, Corrected and re-published in OJ L 226, 25.6.2004, p. 3	Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs
Reg. 853/2004	OJ L 139, 30.4.2004, p. 55, Corrected and re-published in OJ L 226, 25.6.2004, p. 22	Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin
Dir. 97/78/EC	OJ L 24, 30.1.1998, p. 9-30	Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries
Dec. 2007/275/EC	OJ L 116, 4.5.2007, p. 9-33	2007/275/EC: Commission Decision of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC