

Third Country Imports Subject to Community Plant Health or Veterinary Checks Regimes

A study of the legislative framework,
the use and definition of key terms,
and the conditions for release
into free circulation



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1. Introduction

The Cabinet Office has recently explored the legislative framework governing the importation of products of animal origin (POAO) and plant materials and products into England from third countries, and into free circulation within the Community in the case of products in which there is a harmonised internal market¹.

This report is of a review of the legislation identified in the Cabinet Office document to confirm its accuracy, to highlight any differences in key terms such as the definition of "consignment", and conditions applicable to goods being released into free circulation, and to produce a legislation and enforcement organogram.

2. The Cabinet Office Document

The Cabinet Office document includes a comprehensive summary of most relevant EC Regulations, Directives and Decisions, and English domestic legislation, but does overlook a number of important legislative controls that apply to products that are subject to the respective Community regimes.

These legislative controls relate principally to:

- ◆ Live fish and shellfish, which are enforced in England and Wales by the State Veterinary Service of Defra, including:
 - i. Diseases of Fish Act 1937;
 - ii. Fish Health Regulations 1997;
 - iii. Diseases of Fish (Control) Regulations 1994;
 - iv. Shellfish and Specified Fish (Third Country Imports) Order 1992;
 - v. Importation of Salmonid Viscera Order 1986.

- ◆ Marketing standards for fruit, vegetables, salad, edible nuts, mushrooms, cut flowers & foliage, and bulbs, which are enforced in England and Wales by the Horticultural Marketing Inspectorate (HMI) of Defra, including:
 - i. Commission Regulation 2200/1996 EC
 - ii. Commission Regulation 175/2001 EC (Walnuts)
 - iii. Commission Regulation 1148/2001 EC
 - iv. Commission Regulation 982/2002 EC (Mushrooms)
 - v. Commission Regulation 48/2003 EC
 - vi. Council Regulation 234/1968 EEC
 - vii. Council Regulation 315/1968 EEC
 - viii. Council Regulation 316/1968 EEC

- ◆ National standards that pre-date the UK's accession into the Community, which are enforced by Port Health Authorities (PHAs) and Local Authorities (LAs), such as those contained in:
 - i. The Meat Products and Spreadable Fish Products Regulations 1984

The schedule of legislation contained in the Cabinet Office document also includes a small number of duplicates and repealed legislation.

¹ The Cabinet Office, London, 2003

<http://www.cabinet-office.gov.uk/reports/pdf/Illegal%20Imports%20paper.pdf>

The Cabinet Office document does not, however, highlight the differences that exist in the legislative frameworks of the devolved administrations that now make-up the United Kingdom.

This point is important, not least because differences between laws in England, Northern Ireland, Scotland and Wales have the potential to widen as the respective National legislative frameworks develop.

It is also important to be aware of the differences between EC Regulations, Directives and Decisions.

EC Regulations are directly applicable in all Member States and are not generally re-enacted in domestic legislation, although Member States may have to put National measures in place to enforce them.

EC Directives do not have direct effect in Member States, but have to be enacted in domestic legislation by a specified date. This is where the potential for “gold-plating” or under-implementation arises, and occurs when the content of the domestic implementing legislation differs significantly from the text of the Directive.

EC Decisions relate primarily to emergency measures and are issued under enabling Directives, i.e. Directives that provide the framework for emergency measures to be issued, and for the administrative update, revision or interpretation of existing Directives, e.g. the amendment of country and establishment lists for the import of POAO.

3. Key Terms

Although the legislation that regulates the importation of products that are subject to the veterinary checks, plant health and fish health regimes uses common or similar terms, many of these terms are undefined and therefore subject to inconsistent interpretation by officials.

The following table uses the four key terms “consignment”, “import”, “free circulation” and “owner” and their corresponding definitions in six pieces of legislation to illustrate the point.

The terms “consignment” and “owner” are defined in only one piece of legislation, the Products of Animal Origin (Third Country Imports) (England) Regulations 2002.

The term “import” is defined in two pieces of legislation, the Products of Animal Origin (Third Country Imports) (England) Regulations 2002, and the Animals and Animal Products (Import and Export) (England and Wales) Regulations 2000. The two definitions are different. The term “importer” is defined in the Plant Health (Great Britain) Order 1993 and the Plant Health (Forestry)(Great Britain) Order 1993 and includes “owner”.

The term “free circulation” is also defined in two pieces of legislation, the Products of Animal Origin (Third Country Imports) (England) Regulations 2002, and the Imported Food Regulations 1997. Again the definitions differ, although both refer to the same Treaty that established the European Community.

The absence of common definitions, and the scope for inconsistent interpretation by officials where no definitions exist, should be a matter of some concern.

It is recommended that the organisations concerned should agree consistent definitions for these terms.

The definition of common terms in third country import legislation:

Legislation	Consignment	Import	Free circulation	Owner
Products of Animal Origin (Third Country Imports) (England) Regulations 2002	A quantity of products of the same type covered by the same veterinary certificate or veterinary document, or other document provided for by veterinary legislation, conveyed by the same means of transport and coming from the same third country or part of a third country.	Release for free circulation within the meaning of Article 79 of the Customs Code.	The same meaning as in Articles 23(2) and 24 of the Treaty establishing the European Community.	In relation to a product, consignment or part of a consignment, means the person in whom the property in the product, consignment or part is for the time being vested.
The Plant Health (Great Britain) Order 1993 / The Plant Health (Forestry) (Great Britain) Order 1993	Not defined.	"Import is not defined, but "Landed" is defined as: "introduced into Great Britain by any means and includes imported by post or introduced through the tunnel system as defined in the Channel Tunnel Act 1987, and "land" and "landing" shall be construed accordingly;	Not defined	Not defined
Animals and Animal Products (Import and Export) (E&W) Regulations 2000	Not defined.	Import into England or Wales	Not defined	Not defined
Commission Regulation (EC) No. 1788/2001 (Organic produce)	A quantity of products under one or more Combined Nomenclature Codes, covered by a single certificate of inspection, conveyed by the same means of transport and coming from the same third country.	Not defined.	(Release for Free Circulation) – the clearance given by the Customs authorities to allow a consignment free movement within the Community.	Not defined.
Commission Regulation (EC) No. 1184/2001 (Marketing standards for fresh fruit and vegetables)	Quantity of produce to be sold by a given trader found at the time of control and defined by a document. The consignment may consist of one or several types of produce: it may contain one or several lots of fresh fruit and vegetables.	Not defined.	Not defined.	Not defined.
Imported Food Regulations 1997	Not defined.	Not defined.	The same meaning as in Article 9.2 of the Treaty establishing the European Community.	Not defined.

4. Release into Free Circulation

Products for which there is a harmonised internal market within the Community may be freely traded between Member States without being checked at inter-State frontiers.

Such products are produced under harmonised conditions that apply throughout the Community, and must normally be certified by the relevant control authority in the producing Member State as meeting the requirements of Community legislation.

Although actual requirements differ between POAO and POPO, in general terms, products that originate in third countries must normally be:

- ◆ Produced under equivalent conditions to those that apply within the Community;
- ◆ Certified as meeting those requirements in the country of origin, and;
- ◆ Granted Community certification on importation from the third country into a Member State.

These conditions are enforced at points of entry into the Community by the relevant control authority of the Member State concerned on behalf of all Member States. The control authorities in England and Wales include PHAs, the State Veterinary Service, the Plant Health and Seeds Inspectorate, and the Forestry Commission.

Once such products have been formally accepted into the Community, they are legally entitled to be moved freely between Member States without undergoing further cross-border checks.

Procedures for the release of goods into free circulation comprise:

- ◆ Customs requirements that apply globally throughout the Community, irrespective of the Member State into which products are first imported;
- ◆ Additional specific global requirements for particular classes or types of goods such as POAO, POPO, and Organic Produce, and;
- ◆ Local procedures that determine how these operate in practice in individual Member States and in individual points of entry.

These additional specific requirements for release into free circulation for different product types are similar in many respects, but there are important differences.

4.1 Products of Animal Origin (Animal and Public Health)

Products of animal origin (POAO) are subject to the “Community Veterinary Checks Regime” that requires imports of POAO from third countries to enter the Community only through a limited number of designated “Border Inspection Posts” (BIPs).

PHAs and LAs operate BIPs at most sea ports, and LAs operate them at airports. The SVS operates BIPs at a small number of sea ports, e.g. Shoreham. The Veterinary Checks Regime is set out in Council Directive 97/78, and implemented in England by the Products of Animal Origin (Third Country Imports) (England) Regulations 2002.

Third countries from which POAO can legally enter the Community are further limited by a positive list, maintained by the European Commission, that sets out the third countries that

may export POAO to the Community, and the types of product that each country may export. POAO from countries that are not on the list may not legally be imported into the Community.

Commission Decision 2002/349/EC provides a full list of POAO, which includes:

- ◆ Animal casings;
- ◆ Apiculture products;
- ◆ Animal blood products for technical use;
- ◆ Bones and bone products;
- ◆ Bristles, wool, hair and feathers;
- ◆ Crocodile and other reptile meat;
- ◆ Eggs and egg products;
- ◆ Fish & fishery products (except Iceland);
- ◆ Fresh meat, offal, and products, of bovine (beef), ovine (sheep), caprine (goat), porcine (pig) and equine (horse), species;
- ◆ Frogs legs and snails;
- ◆ Gelatine;
- ◆ Hay and straw;
- ◆ Hides and skins;
- ◆ Honey;
- ◆ Horns and horn products, hooves and hoof products;
- ◆ Hunting trophies;
- ◆ Lard and rendered fats;
- ◆ Milk and milk products for human consumption;
- ◆ Milk and milk products NOT for human consumption;
- ◆ Pathogens;
- ◆ Poultry, rabbit, game (farmed or wild) – meat and products;
- ◆ Animal protein for human consumption;
- ◆ Animal protein NOT intended for human consumption;
- ◆ Processed pet food, raw material for the manufacture of pet food;
- ◆ Raw material, blood, blood products, glands and organs from animals intended for pharmaceutical use;
- ◆ Animal semen, embryos, ova;
- ◆ Manure;
- ◆ Ratites (e.g. ostrich, rhea).

The Commission Decision does not, however, include compound products that are not on the list, and these are therefore subject to National rules in the UK under the “TAY” licence scheme.

Directive 97/78 requires the person responsible for the load to notify the Official Veterinary Surgeon (OVS), or the Official Fishery Products Inspector (OFI) in the case of fish and fishery products, at the BIP of the arrival of POAO, and to present it for examination.

The Products of Animal Origin (Third Country Imports) (England) Regulations 2002 require this notice to be given not less than one working day in advance for sea freight, and not less than six hours in advance for air freight.

Consignments of POAO from third countries must be presented at the BIP with the appropriate commercial documentation, including the Health Certificate(s) that relate to it.

Health Certificates are issued by the competent authority of the country of origin, and must contain the information required by relevant EC Decisions and Directives.

In general, health certificates must:

- ◆ Be original documents;
- ◆ Have a unique reference number;
- ◆ Be fully completed;
- ◆ Not have alterations or be defaced, e.g. no correcting fluid, crossings out etc.;
- ◆ Be written in English (i.e. the official language of the Member State where the checks are to be carried out);
- ◆ Be made out to a single recipient;
- ◆ Consist of a single sheet of paper (for fish & fishery products);
- ◆ Be signed by the Official Veterinary Surgeon or equivalent official representative of the Competent Authority of the country of origin and have an official health stamp of the country of origin in a different colour to that of the printing ink;
- ◆ Be dated with the date of loading of the products for dispatch to the Community;
- ◆ Include the address(es) and approval number(s) of the processing plant of origin, which must correspond with those on the product packaging.

Imported consignments of POAO from third countries must be presented to the OVS with a Certificate of Veterinary Checks (CVC) that has been partially completed with relevant details by the person presenting the consignment for examination.

Every consignment of POAO from a third country undergoes a documentary check, which involves checking whether pre-notification has taken place within the required time-scale, that official documents have been completed correctly, that certification is correct, and that the product comes from an approved establishment.

Consignments also undergo an identity check that involves information in the official documents being checked against quantities of, and labelling, markings, stamps and other identifying marks on, the POAO itself.

A proportion of consignments must also undergo a physical check, involving a detailed examination of the POAO itself. The proportion of consignments undergoing physical checks varies between 1% and 100%, according to the country of origin and the type of product, and is set out in relevant EC Decisions.

In the very specific case of un-skinned furred game, identity and physical checks may be deferred to the first point of destination in the UK.

In the case of POAO intended for the manufacture of animal feed (including pet food), or pharmaceutical or technical products covered by Chapter 10 of Annex 1 of Directive 92/118, consignments are required to be monitored from the BIP to the premises of destination or intermediate cold store. This is to be achieved, according to Community law, by use of the Customs T5 procedure. Such products must be transported in sealed, leak-proof containers or vehicles.

Consignments of POAO from third countries may be sampled by the OVS where intelligence gives cause for suspicion, in which case it is detained by the OVS at the BIP until results are known.

If the consignment meets the requirements for importation of POAO into the Community, the OVS will complete the remainder of the CVC, sign and stamp it, and release the consignment into free circulation.

POAO that fails any stage of the veterinary checks regime because it does not meet import requirements is subject to a statutory notice that is served on the importer under Regulation 21 or 25 of the Products of Animal Origin (Third Country Imports) (England) Regulations 2002.

The notice specifies that the consignment must be re-exported to a third country (except Iceland, Norway & the Faroe Islands) by a given date or be destroyed. The re-export option does not apply if it would be unacceptable on animal or public health grounds.

There is a right of appeal against the notice within one month of date it was served by way of complaint to a Magistrates Court.

4.2 Products of Plant Origin (Plant Health)

Products of plant origin (POPO) are subject to a "Community Plant Health Regime" that regulates their importation into the Community from third countries. The current Plant Health Regime is set out in Council Directive 2000/29/ EC, and implemented in Great Britain by the Plant Health (Great Britain) Order 1993 and the Plant Health (Forestry) (Great Britain) Order 1993.

POPO includes plants, plant material (including fruits, vegetables, potatoes, cut flowers, wood and wood products, and foliage and seeds) invertebrate plant pests, soil, and growing media.

The Community Plant Health Regime is enforced in England and Wales by Defra's Plant Health and Seeds Inspectorate (PHSI), or by the Forestry Commission's Plant Health Service (PHS) in Great Britain in the case of Forestry Products, including trees and timber.

Unlike the Veterinary Checks Regime, where a positive list determines the third countries from which POAO may be imported, imports of POPO from third countries are permitted, subject to conditions, unless they are:

- ◆ Carrying or infected by any plant pest specifically listed in Schedules 1 and 2 to the Orders; or
- ◆ Not normally present in Britain and are likely to be harmful to plants in this country; or
- ◆ Carrying or infected by any plant pests that have been genetically modified; or
- ◆ From specified countries that are listed in Schedule 3 to the Orders.

However, POPO from third countries that is prohibited from entering the Community may be specially licensed to do so for trial or scientific purposes or for work on varietal selections. Licences must be applied for in advance and are issued on application by Defra or the Forestry Commission, as appropriate. They are subject to detailed quarantine and containment conditions.

Prohibited material may also be imported under derogations from Community provisions, although derogations are only available for limited periods, and are frequently subject to stringent conditions. Requests for new derogations are assessed against the potential risks to all member states, which is a complex procedure that may take more than 12 months to complete. In some cases, a licence is still required for imports made in this way.

The Import of permitted POPO into the Community from third countries should normally be accompanied by a Phytosanitary Certificate that is issued by the relevant plant health authority in the country of origin. A Phytosanitary Certificate certifies that the material to which it relates has been inspected in the country of origin, meets requirements for importation into the Community, and is generally free from disease and pests.

In general, Phytosanitary Certificates must:

- ◆ Accompany each consignment;
- ◆ Be affixed to the outside of the packaging in the case of postal consignments;
- ◆ Indicate that the inspection took place not more than 14 days before the date of dispatch of the consignment;
- ◆ Have been signed not more than 14 days before the date of dispatch of the consignment;
- ◆ Be issued by the official plant protection service of the exporting country or re-exporting country, not by a state, province, or regional or local government (e.g. only certificates issued by the Federal Department of Agriculture in the USA are acceptable: state certificates are not);
- ◆ Be signed by or on behalf of an authorised officer of the plant protection service of the issuing country;
- ◆ Be accompanied by a translation if it is in a language other than English. If the translation is a separate document, it must also be signed by an authorised officer.

A reforwarding phytosanitary certificate must accompany a consignment that has been moved between two or more third countries prior to export to Britain. This must be attached to either the original phytosanitary certificate or a copy of the original certificate, as long as this is certified as a true copy by an authorised officer.

For plants and plant products where controls are enforced by the PHSI, Customs retains original phytosanitary certificates and reforwarding phytosanitary certificates at the time and place where Customs formalities are completed.

Customs detain any POPO that is not accompanied by the required certificate or is accompanied by inaccurate or incomplete certificates. Clearance is generally permitted only on presentation of original documents or certified copies.

If imports are to be moved to a third country after clearing Customs, the importer is required to ask Customs to ensure that the original certificate is made available to the relevant plant health authority to enable certified copies and reforwarding phytosanitary certificates to be issued.

Phytosanitary certificates and reforwarding phytosanitary certificates must be stamped (or otherwise endorsed) by a Customs officer at the time of import.

For wood and wood products where controls are enforced by the PHS, importers must notify the PHS at least 3 days in advance of landing, and produce phytosanitary certificates to the inspector.

On completion of the documentary and physical checks, the inspector issues a Certificate of Inspection to the importer which is addressed to Customs and which the importer lodges with the Customs entry. The issue of this certificate also triggers collection of an import inspection fee by the PHS, which retains the phytosanitary certificate and issues reforwarding phytosanitary certificates if required.

These arrangements have been developed in consultation with the industry and reflect the fact that many imports of wood and wood products will remain on the dockside for lengthy periods of time – up to 45 days in the case of goods imported by sea - prior to declaration to Customs and delivery to customers following clearance. There are very few instances of import of wood or wood products by air.

All POPO entering Great Britain are liable to inspection by PHSI or PHS Inspectors on arrival, whether or not it requires a phytosanitary certificate. In practice, however, inspection is generally limited to those products requiring a phytosanitary certificate.

POPO that is found to be infested or landed in contravention of plant health legislation may be required to be destroyed, treated or re-exported by the importer.

POPO that is imported with a Phytosanitary Certificate may need to have a "Plant Passport", issued by the registered importer, before further movement is permitted, and for entry into free circulation within the Community. Inspections are conducted by PHSI or PHS Inspectors at the point of entry or at the point of destination in the case of plants moved to an Approved Site by an Approved Importer (see below).

Any importer of POPO from third countries that requires a Phytosanitary Certificate for importation into the Community, regardless of whether it requires a Plant Passport for further trade within the Community, must register with Defra or the Forestry Commission. Registered importers are allocated a registration number.

Importers Registered with Defra must:

- ◆ keep a detailed plan of the areas where plants are grown or stored;
- ◆ notify the PHSI of any change:
 - of species of plants propagated, grown or traded;
 - in the location of propagation, growing or trading;
 - in the stage of growth at which plants and plant products are marketed;
 - to the authorised person (the person registered with the PHSI for plant passporting purposes);
- ◆ keep records of any plants purchased for storage or planting on the premises, those under production, or sold to others, and retain the records for at least one year;
- ◆ keep any plant passports received for at least one year;
- ◆ nominate somebody who is fully familiar with plant production, as a "responsible person" to liaise with the PHSI and to issue (or supervise the issue of) plant passports;
- ◆ carry out frequent visual inspections of premises and stock to ensure plant health standards are maintained;
- ◆ allow access for the PHSI to inspect premises and stock, to take samples and check records;
- ◆ report any outbreaks or suspected outbreaks of quarantine or non-indigenous pests or diseases to the PHSI immediately;
- ◆ undertake any special requirements: for example being required by the PHSI to destroy or treat diseased plants.

Importers may apply for "Approved Importer" status that enables consignments to be inspected at "Approved Sites" instead of the point on entry. POPO that would normally require a plant passport may travel without one from the point of entry to the Approved Site, providing the Approved Importer is also registered to issue plant passports.

Importers registered with the Forestry Commission must, generally, meet the same obligations as importers registered with Defra. However, as wood is not grown on the

premises (dockside), they are much less rigorous. Plant passports are only required for wood in exceptional circumstances.

Plant passports provide documentary evidence that plants that have been imported from third countries have been:

- ◆ Landed by a registered importer;
- ◆ Inspected on arrival in the UK or in another Member State;
- ◆ Found to meet the requirements of the Community Plant Health Regime, and
- ◆ Been permitted to enter into free circulation.

Unlike the CVC that is issued under the Veterinary Checks Regime, there is no standard format for a Plant Passport. It must, however, include the following:

- ◆ the phrase "EC Plant Passport";
- ◆ the code "UK" (to show that the plants were grown in, or imported into, the UK);
- ◆ the code for the enforcing authority, e.g. "EW" (the code for the PHSI in England and Wales) or "FC" (the code for the PHS in Great Britain);
- ◆ the registration number issued by the enforcing authority;
- ◆ an individual serial, week or batch number;
- ◆ the botanical name of the product(s);
- ◆ the quantity in the consignment;
- ◆ the letters "ZP" and a Protected Zone code (only where necessary);
- ◆ the letters "RP" if it is a replacement plant passport;
- ◆ the country of origin of the consignment, if the product has been imported from a third country.

Plant Passport information may

- ◆ appear on a delivery note or other document travelling with the consignment;
- ◆ be split between labels attached to the plants or plant products and the delivery note or other document accompanying the consignment (full details must still appear on the delivery note or accompanying document while a shorter list can also appear on labels);
- ◆ appear on labels attached to the plants, plant products or their packaging, without appearing on a delivery note or accompanying document. If this option is chosen, there must be at least one label for each "tradable unit" (that is, plants of the same variety, grown in the same lot, by the same producer and destined for the same customer).

Records must be kept of all plant passports that are issued.

4.3 Live Fish and Shellfish

Community policy on fish health matters is largely determined by the Community Fish Health Regime set out in Council Directive 91/67 EEC.

The rules are enforced in relation third country imports by the State Veterinary Service of Defra (SVS) and apply to all imports of live fish, molluscan and crustacean shellfish, and their eggs and gametes.

Apart from live fish of the salmon family which are absolutely prohibited, all imports of live fish, and most shellfish from third countries must be licensed. Licences are issued on application by CEFAS.

Consignments of shellfish intended for relaying, and most consignments of live fish and eggs etc. must also be accompanied by a Health Certificate provided by the fish health service of the exporting country.

The Importer must retain licences and other documents relating to a consignment for at least 12 months from the consignment's arrival.

As with POAO, consignments may only legally be imported through a Border Inspection Post (BIP). BIPs for this type of product all are airports.

At least one working day's notice in writing must be given to the SVS at the relevant BIP of the arrival of a consignment at a BIP.

Every consignment and its accompanying documentation is subject to inspection by an SVS Veterinary Officer who will issue a "Certificate of Examination" or "Border Crossing Certificate", providing everything is in order.

All consignments of fish eggs must be disinfected on arrival.

The movements of live fish, shellfish and their eggs etc. from the UK to other Member States must generally be accompanied by the appropriate movement document. Movement Documents are issued on application by CEFAS.

4.4 Organic Produce

The importation into the Community from third countries of produce that is described as "Organic" is also subject to additional requirements for the release of such produce into free circulation.

Conditions for the organisation and operation of the internal market in organic produce in the Community are set out in EC Regulations 2092/91, 94/92 and 1788/2001.

In general, organic produce may be legally imported into the Community from third countries that are listed in the Annex to Commission Regulation 94/92. The Annex lists the third countries concerned, their recognised inspection bodies, and in some cases the produce that may be imported from them into the Community. It is amended from time to time as more third countries meet the eligibility criteria.

Organic produce from these countries may be legally imported into the Community and released into free circulation without the need for additional prior authorisation from UKROFS, providing the produce in each consignment has been inspected and certified by an approved inspection body in the third country concerned.

An importer who wishes to import organic produce from a third country that is not listed in the Annex to Commission Regulation 94/92, or produce that is not approved from a country that is listed, must first apply to UKROFS for an import authorisation. This arrangement is due to end on 31 December 2005, whereupon imports of organic produce will only be permitted from third countries that are listed in the Annex.

The format of the application form is specified in Commission Regulation 1788/2001.

UKROFS will only issue an import authorisation if it is satisfied that the produce:

- ◆ Will have been produced to standards that are equivalent to those set out in Articles 6 and 7 of Council Regulation 2092/91; and

- ◆ Will have been inspected in the third country of origin to standards that are equivalent to those set out in Articles 8 and 9 of Council Regulation 2092/91.

Third country inspection bodies must meet the requirements of EN45011 (ISO 65) in order to be acceptable for the certification of organic production for dispatch to the Community, and importers therefore have to provide UKROFS with evidence that such compliance exists.

It is the third country inspection bodies that are responsible for issuing the “Certificate of Inspection for Import of Products from Organic Production”, which must accompany each consignment of third country organic produce that is intended to be imported into the Community.

PHAs, or LAs at non-sea port points of entry, have responsibility for enforcing these controls. Importers must present a Certificate of Inspection for Import of Products from Organic Production to the relevant PHA or LA for every consignment of organic produce from a third country that is to be imported into the Community. This also applies to consignments for which prior authorisation from UKROFS is not required.

In general, Certificates of Inspection must:

- ◆ Be original documents;
- ◆ Cover the whole of a consignment, but may include more than one product;
- ◆ Be in the format specified in the Annex to Commission Regulation 1788/2001;
- ◆ Be drawn-up in an official language of a Member State, and preferably in an official language of the destination Member State;
- ◆ Not include any uncertified alterations;
- ◆ Be issued by an inspection body in the exporting third country that:
 - i. Is listed in the Annex to Council Regulation 94/92, or
 - ii. Was specified in the importer’s authorisation application to UKROFS;
- ◆ Be presented to the PHA or LA for endorsement on arrival of a consignment;

PHAs and LAs will check Certificates of Inspection to verify that they have been issued correctly and that consignments from third countries that are not listed in Council Regulation 94/92 have been authorised by UKROFS. The PHA or LA makes a charge of £45 for this check and for endorsing the certificate.

Traders who wish to prepare or process a consignment whilst under a Customs suspensory regime (e.g. Customs Warehousing or Inward Processing Relief) may do so, providing the Certificate of Inspection has been verified and endorsed by the PHA or LA before preparation or processing begins.

This also applies where a consignment is to be split into batches (e.g. for onward distribution) under a Customs procedure that suspends the duty. In this case, a separate “extract” of the Certificate of Inspection must also be produced for each sub-part of the consignment by the operator who performs the splitting, which must also be endorsed by the PHA or LA. The extracts must accompany the batches to their respective first consignees in order to allow Customs clearance.

Movement Control Orders are issued for consignments of organic produce that do not meet the conditions for importation into the Community. A Movement Control Order is lifted if the correct documentation is produced to the PHA or LA, otherwise it remains in force until all references to “organic” have been removed from the consignment, or the consignment is destroyed or re-exported to a third country.

Importers must retain endorsed certificates of inspection for 2 years.

4.5 Fresh Fruit & Vegetables Subject to EC Marketing Standards

Most fresh fruit, vegetables, salad, hazelnuts and walnuts that are produced within, or imported into the Community from third countries are subject to Community Marketing Standards that are defined in EC Regulations.

Provisions that come progressively into force from 31 March 2003 under the provisions of Commission Regulation (EC) No. 1148/2001 require imports of such produce from third countries to be certified as conforming to Community Marketing Standards before they are released into free circulation.

Fresh produce that is intended for industrial processing requires a Certificate of Industrial Use. Other fresh produce requires a Certificate of Conformity. Certification requirements do not apply to produce that has already been processed.

An Approved Inspection Service issues certificates in the third country of origin if the inspection service has been recognised by the European Commission. Currently the Czech Republic, Cyprus, Hungary, Morocco, Slovakia, South Africa, and Switzerland have approved inspection services.

Imports from other third countries are certified on arrival in the Community by the relevant inspection service of the Member State concerned. In England and Wales this is the HMI.

Not all consignments are physically inspected, the decision whether or not to physically inspect being based on a risk assessment by the HMI, following notification by the trader.

Produce that does not meet the requirements of relevant Community Marketing Standards may, with Customs approval, be moved from the port or airport to an ERTS pending resolution of the problem.

Conformity checks do not necessarily involve the physical inspection of a consignment, and may be deferred from the port or airport of entry to designated premises where the trader has met CFSP requirements.

Consignments that do not meet Community Marketing Standards may be brought into conformity and re-submitted to the HMI for checking, used for industrial processing if the HMI issues a Certificate of Industrial Use, re-exported to a third country, or destroyed.

The HMI has established the "PEACH" internet-based application system to facilitate the issue of Certificates of Conformity and Industrial Use. Traders can use "PEACH" to pre-notify the HMI of the arrival of a consignment. Those who have registered to use the service submit their applications and receive decisions online. Pre-notifications and applications may also be made in writing.

It is recommended that such an internet-based application should be considered as a model for a more uniform inter-agency approach to the provision of data for import control authorities.

5. Community Entry Requirements for Third Country Products

The following table summarises the specific additional requirements for the entry of certain third country products into free circulation within the Community:

Product	BIP Only	Pre-notify	Enforced	Import Document
Animal Origin	Yes	1 working day (sea) 6 hours (air)	PHA / LA	Health Certificate
Wood and Wood Products	No	3 working days	PHS	Phytosanitary Certificate
Other Plant Origin	No	No	PHSI	Phytosanitary Certificate
Live Fish etc.	Yes	1 working day (air)	SVS	Licence and/or Health Certificate
Organic Produce	No	No ^{*2}	PHA / LA	Certificate of Inspection
Fruit, Vegetables, Salad, Nuts	No	No ^{*2}	HMI	Certificate of Conformity or Industrial Use

6. Conclusion and Recommendations

This study has confirmed that the legislative framework, and the enforcement procedures adopted by the various enforcement agencies, is complex and in need of review for the sake of efficiency, effectiveness, and simplification.

The following specific recommendations are made in this report:

- ◆ That the organisations concerned with enforcement of the legislation covered by this report should agree consistent definitions for key terms (Page 4);
- ◆ That an internet-based application should be considered as a model for a more uniform inter-agency approach to the provision of data for import control authorities (Page 15).

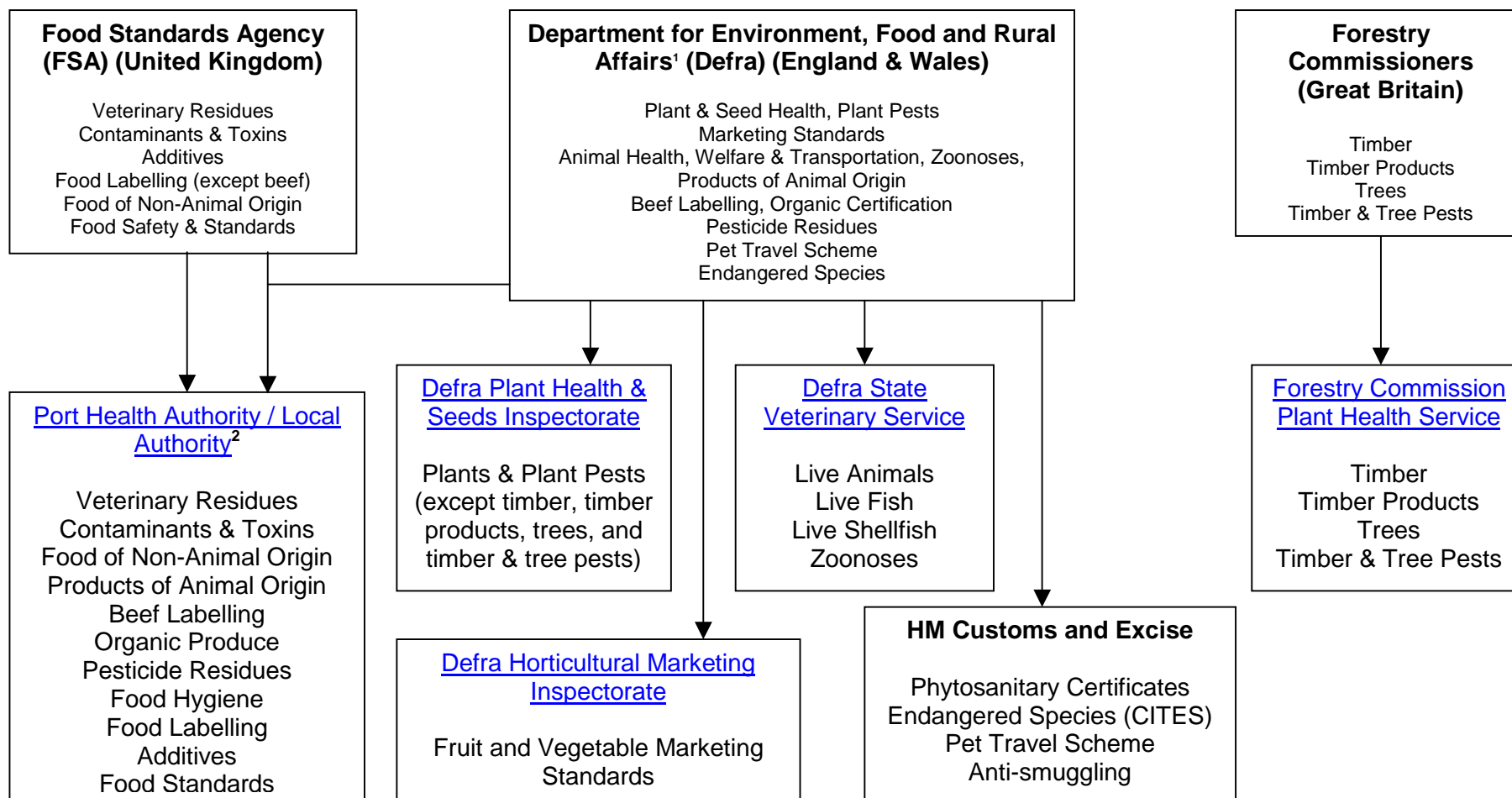
In addition, it is recommended that SITPRO facilitates liaison between all the organisations concerned with a view to achieving the necessary general improvements.

² Pre-notification procedures for organic produce and produce subject to marketing standards have been established in order to simplify the relevant processes and facilitate trade.

Glossary of Abbreviations and Acronyms

BIP	Border Inspection Post
CEFAS	Centre for Environment, Fisheries and Aquaculture Science
CFSP	Customs Freight Simplified Procedures
CVC	Certificate of Veterinary Checks
Defra	Department for the Environment, Food, and Rural Affairs
EC	European Commission
EN45011	European Normative Standard for product certification bodies
ERTS	Enhanced Remote Transit Shed
HMI	Horticultural Marketing Inspectorate
LA	Local Authority
OVS	Official Veterinary Surgeon
PHA	Port Health Authority
PHS	Forestry Commission Plant Health Service
PHSI	Defra Plant Health and Seeds Inspectorate
POAO	Products of Animal Origin
POPO	Products of Plant Origin
SVS	State Veterinary Service
UKROFS	United Kingdom Register of Organic Food Standards

**Imports from Third Countries
Goods Subject to Animal or Plant Health Regimes
7. Responsibilities of Central Competent Authorities and Enforcement Agencies**



1. Defra operates in England and Wales only. Equivalents in Scotland and Northern Ireland are SEERAD and DARDNI respectively

2. Port Health Authorities operate in and around certain sea ports only. Local Authorities have responsibility for enforcement outside Port Health Authority areas, including at airports and rail terminals. The list of legislation that is enforced by Port Health Authorities and Local Authorities has been restricted to legislation that is specific to imports. The full list would run to many pages

Imports from Third Countries

Goods Subject to Animal or Plant Health Regimes

8. Enforcement Responsibilities for Implementing Legislation

Port Health Authority (PHA) / Local Authority (LA)

Products of Animal Origin (Third Country Imports) Regulations 2002
Miscellaneous Products of Animal Origin (Import Conditions) Regulations 1999
Products of Animal Origin (Import & Export) Regulations 1996
Fresh Meat (Import Conditions) Regulations 1996
Importation of Processed Animal Protein Order 1981
Importation of Animal Products and Poultry Products Order 1980
Animals and Animal Products (Import and Export) Regulations 2000
Council Regulation 2092/91
Commission Regulation 94/92
Commission Regulation 1788/2001
Food (Peanuts From Egypt) (Emergency Control) Order 2000
Food (Peanuts From China) (Emergency Control) Regulation 2002
Food (Figs, Hazelnuts And Pistachios From Turkey) (Emergency Control) Regulation 2002
Imported Food Regulations 1997

Defra Plant Health & Seeds Inspectorate

Plant Health (Great Britain) Order 1993

Forestry Commission Plant Health Service

Plant Health (Forestry) (Great Britain) Order 1993

Defra State Veterinary Service

Importation of Bovine Semen Regulations 1984
Importation of Embryos, Ova and Semen Order 1980
The Welfare of Animals (Transport) Order 1997
Animals and Animal Products (Import and Export) Regulations 2000
The Animals (Post-Import Control) Order 1995
The Importation of Animals Order 1977
Diseases of Fish Act 1937
Fish Health Regulations 1997
Diseases of Fish (Control) Regulations 1994
Shellfish and Specified Fish (Third Country Imports) Order 1992
Importation of Salmonid Viscera Order 1986

Defra Horticultural Marketing Inspectorate

Commission Regulation 2200/1996
Commission Regulation 1148/2001
Commission Regulation 2379/2001
Commission Regulation 2540/2001
Commission Regulation 46/2003
Commission Regulation 47/2003
Commission Regulation 48/2003

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