

AUDIT  
REPORT

Official Controls on Import  
of Foods of Non-animal Origin  
supervised by the Health  
Service Executive

SEPTEMBER 2012



# AUDIT REPORT

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## 1. GLOSSARY

AT	Audit Team
CED	Common Entry Document
DPI	Designated Point of Import
DPE	Designated Point of Entry
EHO	Environmental Health Officer
EU	European Union
EHS	Environmental Health Service
FoNAO	Food of non animal origin
FSAI	Food Safety Authority of Ireland
HSE	Health Service Executive
RASFF	Rapid Alert System for Food and Feed
SOP	Standard Operating Procedure
WTE	Whole Time Equivalent

## 2. EXECUTIVE SUMMARY

This is a summary of the outcome of an audit of official controls on the imports of food of non animal origin supervised by the Health Service Executive (HSE). The audit was carried out under the provisions of Regulation (EC) No 882/2004 between 5 - 9 December, 2011.

The objective of this audit was to assess the organisation and implementation of official controls at import points for foods of non animal origin supervised by the HSE. The audit focused in particular on the official controls in places that regulate foods/products that require increased official controls or are subject to emergency measures.

The opening meeting took place on the first day of the audit and the audit team (AT) reviewed the procedures and paperwork associated with official controls at import points. Two regions, Dublin and Cork were visited by the AT and in both regions the port and airport were inspected. The AT reviewed the paperwork associated with official controls carried out on selected consignments, including information in relation to selection and inspection of consignments, non compliances and enforcements. At the point of import an audit was conducted of the facilities where official controls are carried out, a review of how official controls are undertaken and how non-compliances are identified and dealt with. A short closing meeting took place after the fieldwork was complete and the preliminary audit findings were verbally outlined to HSE representatives.

In Dublin, six environmental health officers (EHOs) work in food import controls equating to approximately 4 to 5 WTE. In Cork, four EHOs equating to approximately 0.4 WTE work in food import control. Adequate staffing levels have been provided for import controls at both Dublin and Cork and levels have been assigned to meet present needs as by safeguard measures and legislation as it applies. Staff are authorised under the appropriate legislation in both areas and are qualified, knowledgeable and experienced in import controls. Training is organised on an ad hoc basis locally as there is no formal national food import control training plan. The national port health forum does not discuss food import controls on a regular basis.

Routine import controls take place in both Dublin and Cork. The HSE has adequate facilities in place at Dublin port to carry out official controls. The numbers of consignments into Cork Airport and port are small relative to Dublin. Informal arrangements exist with customs to allow official controls to take place at Cork Port. At Cork Airport and Dublin Airport, the importers facilitate official controls in their warehouses.

Two Designated Points of Entry (DPEs) are nominated under Regulation (EC) No 669/2009; Dublin Port and Dublin Airport. The facilities for official controls at Dublin Airport are not at the required standard for a DPE. Although Cork Airport and Cork Port are not DPEs and therefore the legal requirements for facilities in these ports are less onerous, the HSE should put more formal arrangements in place to ensure access to appropriate facilities.

The Environmental Health Service (EHS) at Dublin Airport and Dublin Port has a system in place for monitoring imports to ensure sampling frequencies laid down in Regulation (EC) No 669/2009 as amended, are met. The AT reviewed the consignment numbers that arrived in Dublin Airport and port that have minimum frequencies laid down. Seven of the eight food types that arrived in Dublin meet the inspection targets. Only one product category type, chillies, curry from India has not undergone the appropriate percentage physical examination. In Cor, the audit team reviewed the EHS files/port health database to determine if any consignments relevant to Regulation 669/2009 arrived in Cork Airport or Cork Port. Two consignments were identified and were rejected as required.

In Dublin, a port sampling programme is in place for both microbiological and chemical parameters. The EHS at Cork Airport and port does not take samples at the points of entry as part of routine official controls. In Dublin, the audit team reviewed the paperwork for 10 consignments where prior notification was required. Paperwork/Common Entry Documents (CED) for nine of the ten consignments were received from the importer after the consignment had physically arrived at the port. The EHS will need to consider the penalties for importers who do not comply with this legal requirement.

In Cork and Dublin, official controls are carried out regularly and on a risk basis depending generally on the type and the volume of foodstuff and on the information provided by the food business operator. Information on official controls and consignments checked by the EHS is held on port health databases that have been developed locally.

Documented procedures and instructions for official controls are in place at a high level at the visited DPEs and Cork. The procedures do not take account of any new legislation that has been introduced for import control and in particular Regulation 669/2009.<sup>1</sup>

Detailed instructions, in particular for the increased level of controls that take place in Dublin, are not in place. The documented procedures do not specify how to select consignments or to deal with non-compliant consignments. This is done on a case by case basis following in house consultation. In Cork and Dublin, reports are provided to food business operators at a minimum in the event of non-compliances occurring and in Dublin when sampling occurs.

Informal coordination exists between Dublin and Cork. Similar port health databases have been developed by both services using each other's experience which demonstrates the cooperation between the units. Informal cooperation with customs at both points was good. There is good cooperation between points of entry and the RASFF point in Ireland.

Regulation 882/2004 requires competent authorities to carry out internal audits or have external audits carried out, to ensure that they are achieving the objectives of this Regulation. The HSE does not carry out internal audits on import control activities.

The HSE has an efficient system of import controls on products of non-animal origin based on good cooperation at a local level. The system monitors efficiently the importation of foods of non-animal origin into Ireland and the EHS is very familiar with the legal requirements in both regions visited. Action is taken on non-compliant consignments to ensure a high level of consumer protection.

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<sup>1</sup> Comment from HSE (Cork): In Cork, a letter is sent to each importer/agent at the beginning of the year detailing their responsibilities to inform us of food imports of non animal origin through Cork Port/Airport. This letter will be amended to include a link to the FSAI website which provides ongoing updates on controls of imports of foodstuffs.

### 3. INTRODUCTION

The Food Safety Authority of Ireland (FSAI) is responsible for the enforcement of all food legislation in Ireland. The FSAI carries out this enforcement function through service contracts with official agencies. These service contracts outline an agreed level and standard of food safety activity that the official agencies are required to perform as agents of the FSAI. The HSE has entered into a service contract with the FSAI. The HSE, through the EHS, is responsible for the implementation and enforcement of national and EU legislation as it applies to the imports of food of non animal origin from third countries. It is a requirement of the service contract that the HSE ensures that official controls are carried out regularly, on a risk basis and with appropriate frequency. As part of its legal mandate, and in accordance with schedule five of the service contract, the FSAI is required to verify that the system of official controls is working effectively. For the purposes of assessing the delivery of official controls by the HSE at import points, this audit of import controls of foods of non-animal origin (FoNAO) was carried out. Compliance by the HSE with regard to relevant food legislation as well as conformance with relevant documented procedures was assessed.

The audit formed part of the FSAI planned programme for 2011. The audit took place in Dublin and Cork from 5-9 December. The closing meeting was held on the 16 December. The team comprised of two auditors from the FSAI. Representatives from the competent authority, the HSE, accompanied the audit team for the duration for the audit.

#### 3.1. Audit Objectives

The objectives of the audit were to evaluate the implementation of Regulation 882/2004 in relation to import controls of FoNAO, in particular the implementation of Regulation (EC) No 669/2009 on increased levels of import controls and some emergency measures, as listed in Section 3.3.

#### 3.2. Audit Scope

The scope of the audit was the implementation of official controls at four points of import by the HSE. The FSAI audits of official controls involve verifying compliance by official agencies with regard to relevant legislation and adherence to the FSAI Service Contract, guidance notes and codes of practice.

The following sites were visited as part of this audit: Dublin Airport, Dublin Port, Cork Airport and Cork Port.

#### 3.3. Audit Criteria and Reference Documents

During the audit, the audit team assessed compliance with audit criteria, which included:

[Regulation 882/2004](#) on official controls performed to ensure verification of compliance with feed and food law, animal health and animal welfare rules, as amended

[Commission Regulation \(EC\) No 669/2009](#) of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and FoNAO and amending Decision 2006/504/EC & [Commission Regulation \(EU\) No 212/2010](#) amending Regulation (EC) No 669/2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin as amended (most recently by Regulation 799 of 2011)

[Regulation 178/2002](#) laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, as amended

[Regulation 852/2004](#) on the hygiene of foodstuffs, as amended

[Commission Regulation EU No 284/2011](#) of 22 March 2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China

[Regulation EC No 1152/2009](#) imposing special conditions governing the import controls of certain foodstuffs from certain third countries due to contamination risk by aflatoxins and repealing Decision 2006/504/EC

[Regulation EC No 1151/2009](#) imposing special conditions governing the import of sunflower oil originating in or consigned from the Ukraine due to contamination risks by mineral oil

[Regulation EC No 1135/2009](#) imposing special conditions governing the import of certain products originating in or consigned from China

[Regulation EC No 258/2010](#) imposing special restrictions on the imports of guar gum originating in or from India due to contamination risks by pentachlorophenol and dioxins

[Commission Decision EC No 2008/289](#) on emergency measures regarding the unauthorised genetically modified organism 'Bt 63' in rice products

[Commission Decision EC No 2010/315](#) repealing Decision 2006/601 relating to LL601 rice

[Commission Implementing Regulation EU No 961/2011](#) imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station

[Commission Implementing Decision 2011/402/EU](#) on emergency measures applicable to fenugreek seeds and certain seeds and beans imported from Egypt as amended by [Commission Implementing Decision 2011/662/EU](#)

[Commission Decision No 2007/157/EC](#) on emergency measures regarding the non-authorised genetically modified organism Bt 10 in maize products repealed Decision 2005/317 and required increased controls for a further 6 months. Regulation 2007/157 is no longer applicable

[Council Regulation EC No 733/2008](#) on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station

European Communities (Official Control of Foodstuffs) Regulations, 2010 ([S.I. No 117 of 2010](#))

European Communities (Official Controls on the Import of FoNAO) Regulations, 2010 ([S.I. No. 391 of 2010](#))

The FSAI Service Contract (including FSAI Act)

HSE Business/Service Plans and data supplied to the FSAI

HSE documented procedures and guidance notes/codes of practice detailed in the FSAI Service Contract.

### 3.4. Audit Methodology

This audit of official controls was undertaken using documented procedures which are included in the FSAI Quality Management System, namely the FSAI Audit Procedure and Charter. These procedures implement the FSAI audit obligations, defined in Schedule Five of the service contract between the FSAI and the HSE, and are in accordance with the requirements of Regulation 882/2004 (including Art. 6.1 of Commission Decision 677/2006) and the FSAI Act.

Four individual audits of HSE import points were carried out as part of this programme and the on-site activity took place in December, 2011.



As part of the audit, the official controls arising from consignments entering the country were assessed. This evaluation included assessment of compliance with the requirements of:

- National and European legislation
- Environmental Health Service (EHS) documented procedures

Consignment files were used to provide evidence of official control activity relevant to Regulation 882/2004, Regulation 669/2009 and more specific imports legislation as appropriate. A total of 22 consignment files (14 files in Dublin and 8 files in Cork) were examined by the AT (see below).

**Table 1: Overview of Consignment Files reviewed in Dublin and Cork**

<b>DUBLIN</b>	<b>Number of Files</b>	<b>Legislation</b>
	<b>4</b>	Regulation 669/2009
	<b>3</b>	Regulation 882/2004
	<b>2</b>	Regulation 1135/2009
	<b>2</b>	Regulation 1152/2009
	<b>1</b>	Regulation 258/2010
	<b>2</b>	Regulation 284/2011
<b>CORK</b>	<b>Number of Files</b>	<b>Legislation</b>
	<b>4</b>	Regulation 669/2009
	<b>2</b>	Regulation 882/2004
	<b>1</b>	Regulation 258/2010
	<b>1</b>	Regulation 961/2011

The audits included on-site verification of the facilities at four import points. Two import points in Dublin and two import points in Cork were selected as they are the largest points of entry for the import of FoNAO into Ireland. It is important to note that the findings in this report are, by the nature of the scope of this audit, focused on import points visited and are not necessarily reflective of the situation at other import points and thus, should not be interpreted as such.

## 4. FINDINGS AND CONCLUSIONS

### 4.1. Routine Import Controls under Regulation (EC) No 882/2004

#### 4.1.1 Routine Import Controls

##### **Legal Requirements**

Article 15(1) establishes that the competent authorities shall carry out regular official controls on FoNAO imported into the EU. Article 16 requires that physical checks on import of FoNAO shall be carried out at a frequency depending on the risk associated with different types of food.

##### **Findings**

In Cork and Dublin, routine official controls are carried out regularly and on a risk basis, depending generally on the type and the volume of foodstuff and on the information provided. Information on official controls and consignments checked is held on port health databases that have been developed by EHS locally.

There are four large food importing agents in Cork port and the EHS acquires manifests from them weekly. In Cork Port, manifests are collected by the EHOs from the agent's offices over the course of the working week. They are reviewed and details are inputted to the port health database. One agent submits manifests via email. Inspections of consignments are carried out as necessary. EHS official controls are categorised into; inquiry, documentary, compliance (import documentation is checked against consignment) and physical (full examination where non-compliance is expected) see table 2 below.

The target for physical examination at Dublin Sea Port is four consignments per week. In Dublin Airport and port, manifests are reviewed daily and details are recorded on a port health database. Official controls are categorised into 5 types; Information, Documentary, Physical Examination, Identity Check, Sampling. See tables 3 & 4 for routine official controls carried out between January to March at Dublin Airport and port.

**Table 2: Official Controls - Cork Airport and Cork Port**

Official Control	2010	2011 (Q1;Q2)
Inquiry	1336	310; 419
Documentary	30	9;20
Compliance Check	15	1;4
Physical Check	13	4;4
Sample	2	0
Destroyed	3	0
Detained	6	0

**Table 3: Official Controls - Dublin Sea Port - Jan to March 2011**

Official Control	Routine	Additional	Total
Document Check	243	47	290
Physical Check	20	21	41
ID Check	15	19	34

**Table 4: Official Controls - Dublin Airport - Jan to March 2011**

Official Control	Routine	Additional	Total
Official Control	Routine	Additional	Total
Document Check	273	6	279
Physical Check	39	3	42

There was no sampling at the ports visited on the days of audit. In Dublin in 2011, chemical and microbiological sampling plans at points of import were random for products not detailed in specific imports legislation. In 2012, a targeted sampling plan is being developed for import controls, this programme will form part of the EHS national sampling programme.

**Table 5: 2011 Sampling Programme for Dublin Import Points**

Sampling	Target	Achieved 2011
Micro Sampling	300	299
Chemical Sampling	100	142
Bulk Sampling	100	97

Cork Airport and port EHS does not take samples as part of routine official controls. The last sample taken at Cork Port was in 2010 when a foodstuff subject to an emergency measure was presented.

### **Conclusions**

Official controls on import of FoNAO are organised on a risk basis using the experience of EHOs and are in general in accordance with the requirements of Articles 3 of Regulation (EC) No 882/2004. However, the procedures used to select consignments are not documented. Official control sampling is carried out on routine samples at Dublin Airport and port. Sampling is not carried out at Cork Airport or port for any parameters, microbiological or chemical.<sup>2</sup>

### **4.1.2 Facilities for Routine Import Controls**

#### **Legal Requirements**

Article 15(2) of Regulation (EC) No 882/2004 requires competent authorities to perform official controls at an appropriate place, including point of entry of goods, point of release for free circulation, warehouses, the premises of the importing food business operators, or other points on the food chain.

#### **Findings**

Routine import controls take place in both Dublin and Cork.

Details regarding the facilities available for official control activities in Dublin are detailed in 4.2.2 and in Appendix 1.

The numbers of food consignments into Cork Airport and port are small relative to Dublin. There are four regular food importers into Cork Port, shipping manifests are emailed by one agent and for the other three agents they are collected by the EHOs for review. In Cork Airport and Cork Port, the HSE does not have its own official control facilities in place. At Cork Port, arrangements with customs allow official controls to be carried out in the customs inspections area. At Cork Airport, controls are carried out in the agent's warehouses. Portable sampling and inspections kits are used to facilitate sampling.

#### **Conclusions**

Informal arrangements exist with customs to allow official controls to take place at Cork Port. At Cork Airport, the importers facilitate official controls in their warehouses. The HSE does not have facilities in Dublin Airport, Cork Airport and port. Although facilities are available locally on a good will basis, the HSE should put more formal arrangements in place to ensure access to appropriate facilities for official controls.

## **4.2. Import Controls of Food of Non-Animal Origin subject to Regulation (EC) No 669/2009**

### **4.2.1 Regulation 669/2009 Controls**

#### **Legal Requirements**

Article 8 of Regulation (EC) No 669/2009, specifies the level of documentary, identity and physical checks to be carried out by the competent authority on foods subject to this Regulation before they are released for free circulation.

According to Article 8(1)(b) of Regulation (EC) No 669/2009 the competent authority at the DPE shall carry out without undue delay identity and physical checks, including laboratory analysis, at the frequencies set down in Annex I of that legislation, and in such a way that it is not possible for food business operators to predict whether any particular consignment will be subjected to such checks.

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<sup>2</sup> Comment from HSE (Cork): The reasoning behind this is that under current emergency decisions and safeguards, we have no legal obligation to carry out either microbiological or chemical sampling within the port. Regulation 882/2004 states that official controls including sampling must be performed at an appropriate place. The Cork Port health team notify the district EHO in the case of a food importation. It is commonplace that consignments through Cork port/airport are destined for an FBO within the HSE South Area, where we have prior knowledge of the FBO, the premises and the space in which official controls can be carried out. We consider that areas other than the port can be deemed an "appropriate place".

According to Article 10 of Regulation (EC) No 669/2009 release for free circulation of consignments shall be subject to the presentation of a completed CED by the food business operators or their representatives to the custom authorities once all controls required (in accordance with Article 8(1)) have been carried out.

### **Findings**

The AT reviewed four files in Dublin where official controls under Regulation 669/ 2009 had taken place. In two cases, documentary checks were carried out on consignments from India as required under Regulation 669/2009 and in both instances the consignees did not provide prior notification. Blank CEDs were forwarded by the EHS to the importer for completion after the physical arrival of consignments. The other two files reviewed by the AT included sampling by EHOs under Regulation 669/2009. One consignment was deemed satisfactory and one was deemed unsatisfactory and destroyed. Prior notification was not observed for either consignment. A destruction notice was provided to the AT for the consignment that failed but it did not identify a specific link to the consignment<sup>3</sup>.

The legislation sets down target percentage identity and physical checks, including sampling for specific food items. However, the AT noted not all of these food items will come through Dublin Airport and Dublin Port in one calendar year. The DPEs in Dublin use the port health database to select consignments for sampling and staffs at these points are responsible for the correct inspection frequency. Eight consignments were sampled under Regulation 669/2009, as amended and only one product category containing chillies, curry powders etc. from India did not meet the targeted sampling rate. Appendix 2 identifies the products that arrived in Dublin Airport and port that have minimum frequencies laid down.

In Cork, the AT reviewed the EHS files and the port health database to determine if any consignments relevant to Regulation 669/2009 arrived in Cork Airport or Cork Port. Two consignments were identified. In one case, the food business operator abandoned the product rather than rerouting to a DPE. The second consignment identified was rerouted to UK and back to Dublin DPE. Evidence was provided to the AT that Cork EHS informed Dublin EHS of the rejected consignment and the rerouting.

### **Conclusions**

Official controls are being carried out under Regulation 669/2009. The EHS is informed by customs when products are flagged and inspections are taking place before product is released. Regular screening of consignments entering Cork allows the EHS to identify 669/2009 products as required.

## **4.2.2 Requirements for Designated Points of Import (DPI) and Designated Points of Entry (DPE)**

### **Legal Requirements**

Article 17 of Regulation (EC) No 882/2004, requires Member States to designate particular points of entry (DPE) for increased official controls for the importation of specific FoNAO that are perceived to have a higher food safety risk associated with them as specified under Article 15 (5) of the Regulation. Article 3(b) and 5 of Regulation (EC) No 669/2009 establish definition and specific requirements for DPEs. Article 4 of Regulation (EC) No 669/2009 provides minimum requirements for DPEs.

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<sup>3</sup> Comment from HSE (Dublin): All correspondence regarding the destruction of products including the destruction notice to the consignee would identify the consignment using the unique Airway bill or container number. If the destruction notice referred to is the notice of destruction and deep burial the unique identifier for each consignment was not formally recorded on this. This procedure will be updated to identify the exact consignments that are included in any one destruction lot (skip.) and the system record of the destruction updated with the destruction date.

### **Findings**

Two DPEs are nominated under Regulation 669/2009; Dublin Port and Dublin Airport. The HSE has adequate facilities in place at Dublin Port to carry out official controls. In addition, the HSE has access to a contract logistics company for unloading consignments. Chilled facilities are available for renting. A cleaning schedule for the examination room is in place at the port. There is no shared use of facilities with the border inspection post.

In Dublin Airport, the HSE has an office and hand washing facilities but relies on agents and consignees facilities for the inspection of foodstuffs.

### **Conclusions**

In Dublin Port, adequate facilities for examination of consignments and sampling are in place. The facilities for official controls at Dublin Airport are not at the required standard for a DPE<sup>4</sup>.

## **4.3. Import Controls of Food of Non-Animal Origin Subject to Emergency Measures and Regulation 284/2011**

### **Legal Requirements**

Article 7 of Regulation (EC) No 1152/2009 and Article 4 of Regulation (EC) 1151/2009 specify official controls to be carried out by the competent authority on foods subject to these Regulations before they are released for free circulation. Article 6 of (EC) No 1152/2009 establishes specific requirements for Designated Points of Import (DPI) for foods subject to this Regulation.

Article 5 of Regulation (EU) No 258/2010 (guar gum) specifies checks to be carried out by the competent authority on foods covered by this Regulation presented for first placing on the market.

Regulation 1135/2009 melamine in products from China sets down 100 per cent documentary checks and identity and physical checks at 20 percent

Regulation 284/2011 melamine in kitchen ware from China sets down 100 percent documentary checks and identity and physical checks at 10 percent

Commission Implementing Regulation (EU) No 961/2011 imposes special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and sets down official control inspection rates for products from within the region and other rates for products from Japan outside the affected region.

### **Findings**

Appendix 2 sets down the consignments that have targeted inspections rates that entered Dublin Port and airport in 2011.

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<sup>4</sup> Comments from HSE (Dublin): Airport facilities - Dublin

At Dublin airport consignment checks are carried out at the ACP (authorised consignee premises) located in and at close proximity to the airport. Goods are transported from aircraft directly to these locations operated by a number of logistics companies. These are not necessarily operated by the importer of the goods. These warehouses are within customs control (formally called bonded warehouses) and products are held at these locations until they receive customs clearance. It must be noted that the multi location nature of airport warehousing and the constraints of transport logistics in the airport make this difficult not only in Ireland but in any large airport. Currently, a number of agencies including customs, and Department of agriculture (plant health) use these warehouses for physical goods inspection. The provision of improved facilities at Dublin Airport is being discussed via the Import Controls Group hosted by the FSAI. This is being carried out in consultation with other stake holders including customs and representatives of the Department of Agriculture, Food and the Marine. In addition, any cost implications for such a unit may lead to further delays to secure such funding. As these units are ACPs, goods can be held by the HSE while remaining within customs control and having to be entered into Ireland for free circulation.

### **Commission Regulation 1152/2009**

Two consignments that arrived at Dublin where official controls under Regulation 1152/2009 were carried out were selected by the AT for review. A consignment of hazelnuts from Turkey, was accompanied by the appropriate paperwork, was sampled by EHOs at the port, was deemed satisfactory and was released within the 15 working days as required by the Regulation. However, the consignment was notified to the EHS after it physically arrived in the port so prior notification was not observed. The second consignment identified on the port health database for review by the AT was incorrectly red routed by customs and Regulation 1152/2009 did not apply to it. The port health database had not been amended to reflect this. Dublin Port and Dublin Airport are the DPs for this Regulation.

In Dublin, three food types were sampled under Regulation (EC) No 1152/2009. One food type presented in Dublin dried figs from Turkey, did not meet the target inspection frequency set. Details of the facilities available are outlined in 4.2.2.

### **Commission Regulation 258/2010**

One file regarding a consignment of guar gum was selected by the AT for review. The product arrived in Dublin airport on the same day as the product was notified to the EHS. Prior notification was not observed. The file did not include a health certificate or sampling and analysis certificate. An official sample was taken by an EHO for pentachlorophenol (PCP) analysis and this was deemed satisfactory. The product was held at the airport until the tests results were received from the laboratory. The CED form was complete within 15 working days.

In October 2010, a consignment of guar gum from India was presented at Cork Airport. The product was a sample and was not intended for human consumption. It was detained and sampled at Cork Airport. The Irish contact point for RASFF was informed and it was agreed, pending satisfactory results, that the product could be released. No other consignments of guar gum from India have been identified at Cork Airport.

### **Regulation EC No 1135 /2009**

Two consignments inspected under Regulation 1135/2009 were reviewed by the AT. Official control samples were taken from both consignments and both consignments were deemed satisfactory and subsequently released. Prior notification was observed for one of the two consignments. This Regulation does not require completion of a CED although one importer completed a CED form.

### **Commission Regulation EU No 284/2011**

Two consignments inspected under Regulation 284/2011 were reviewed by the AT. One consignment did not provide prior notification and did not present the correct paperwork. When sampled some of the consignment did not comply with legal requirements. As a result, the consignment was voluntarily surrendered by the importer. The Irish contact point for RASFF was informed. It was not possible from the information provided for the AT to link the destruction notice to the consignment.

On the second consignment reviewed, the consignee provided a health declaration after the consignment had arrived. No laboratory analysis report was provided. The EHS inspected the consignment and it was deemed satisfactory following inspection.

### **Commission Implementing Regulation (EU) No 961/2011**

Two consignments from Japan were sampled as required and both are in compliance with targeted sampling frequency.

### **Conclusion**

In Dublin Port and airport, official controls are being carried out as required under the emergency measures and Regulation 284/2011.

#### 4.4. Horizontal Measures associated with Import controls/Regulation 882 Requirements

##### 4.4.1 Resources for Performance of Official Controls

###### **Legal Requirements**

Article 4 of Regulation (EC) No 882/2004 requires the competent authorities to ensure that they have access to a sufficient number of suitably qualified and experienced staff; that appropriate and properly maintained facilities and equipment are available. Article 6 of Regulation (EC) No 882/2004 requires the competent authority to ensure staff performing official controls receives appropriate training for their area of competence and keep up to date in their area of competence and receive regular additional training as necessary.

###### **Findings**

The EHS provides a range of food safety/food control services in accordance with the service contract between the FSAI and the HSE. These services include inspection of relevant food businesses together with food sampling to ensure compliance with food law, the management of food alerts and outbreaks, a range of compliance building/education measures and import control on foods of non-animal origin. The HSE is divided into four geographical regions: Southern Region, Western Region, Dublin Mid-Leinster Region and Dublin North Eastern Region.

In Dublin, six environmental health officers (EHOs) work in food import controls equating to approximately 4 to 5 WTE. In Cork, four EHOs equating to approximately 0.4 WTE work in food import control. The WTE for food import controls nationally was not confirmed. Separate port health databases have been built by EHS at both Dublin and Cork. The databases are used to collect and analyse data on the consignments entering the import points and the official controls. Consultation has taken place between the two regions regarding the development of these databases.

The HSE has a national port health forum in place to allow information exchange for all port related functions. Food import controls were discussed at one of these meetings in May 2010. In Dublin, the imports unit is a member of Association of Port Health Authorities (UK). This affords staff in Dublin the opportunity to attend training courses run by this Association which include presentations regarding food import controls. In addition, staff in Dublin attend a cross agency import controls working group organised by the FSAI. Imports legislation information updates are circulated nationally by the FSAI to all principal environmental health officers. Local meetings, in both Dublin and Cork, provide information and legislative updates to staff. Informal communication between port EHS regarding consignments was evident during the course of the audit.

###### **Conclusions**

Present staffing levels have been assigned to meet current needs as required by the safeguard measures/legislation applicable at both Dublin and Cork. Staff are authorised under the appropriate legislation in both areas and are qualified, knowledgeable and experienced in import controls. Training is organised locally on an ad hoc basis. Although a national port health forum has been established by the HSE it does not meet regularly to discuss food import controls.

##### 4.4.2 Prior Notification of Consignments

###### **Legal Requirements**

Article 6 of Regulation (EC) No 669/2009 requires food business operators responsible for consignments to give prior notification of their arrival. For this purpose, food business operators shall provide a Common Entry Document (CED) to the competent authority at least one working day before the physical arrival of the consignment.

Article 4 of Regulation 284/20011 requires the competent authority to give at least two working days in advance of the estimated date and time of the physical arrival of consignments

Article 5 of Regulation (EC) No 1152/2009 requires prior notification with a CED at least one working day prior to the physical arrival of the consignment.

Article 3 of Regulation 1135/2009 requires prior notification in advance of the physical arrival of consignments.



Article 4 of Regulation (EU) No 258/2010 requires the food business operator to provide prior notification of the estimated date and time of arrivals of the consignments.

### **Findings**

In Dublin, EHOs have issued two guidance notes updating importers of legal requirements; Guidance Note No. 2 explains the requirement of prior notification. In Dublin, the AT reviewed the paperwork for 10 consignments where prior notification was required. Paperwork/CED for nine of the ten consignments reviewed was received from the importer after the consignment had physically arrived at the port<sup>5</sup>.

Prior notification is not required for consignments entering Cork Airport or Cork Port.

### **Conclusions**

Importers are not providing prior notification for the majority of consignments. However the AT verified that consignments were not released until official controls were carried out if required. The EHS will need to consider further the penalties for importers who do not comply with this legal requirement.

## **4.4.3 Splitting of Consignments**

### **Legal Requirements**

Regulations (EC) No 669/2009, No 1151/2009, No 1152/2009 and Regulation (EU) No 258/2010 provide provisions for the splitting of consignments.

### **Findings**

The AT was informed that consignments are not split before the final customs clearance.

### **Conclusions**

Irish legislation does not permit the splitting of consignments by food business operators before customs clearance.

## **4.4.4 Fees and Costs**

### **Legal Requirements**

Article 14 of Regulation (EC) No 669/2009 establishes that Member States shall ensure the collection of fees occasioned by the increased level of official controls provided for in this Regulation, in accordance with Article 27(4) and criteria laid down in Annex VI of Regulation (EC) No 882/2004

According to Article 7 of Regulation (EC) No 1151/2009 and Article 10 of Regulation (EC) No 1152/2009 all costs resulting from official controls including sampling, analysis, storage and any measures taken following non-compliance shall be borne by the food business operator

Article 7 of Regulation (EU) No 258/2010 establishes that all costs resulting from the official controls referred to in Article 5(1), including sampling, analysis, storage and any measures taken following non-compliance, shall be borne by the food business operator

Article 6 of Regulation (EC) No 1135/2009 establishes that all costs resulting from the official controls referred to in Article 4(1), including sampling, analysis, storage and any measures taken following non-compliance, shall be borne by the food business operator

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<sup>5</sup> Comment from HSE (Dublin): While adequate notification was not received these goods are held by customs and cannot be released until the appropriate checks by EHS have been carried out. It is of no advantage to the consignee to delay notification as it delays the release of their goods. Consignees may not know the actual date of arrival until after the goods have landed and they are notified by their agent of this. In addition, the recorded date of notification is when correct documents are submitted. In some cases incorrect documentation and incomplete CED cannot be processed. Consignees are subject to demurrage charges or storage charges where release is delayed.

### **Findings**

Fees to cover the costs of official controls are charged for the disposal /destruction of consignments at both Cork and Dublin. In Dublin, the fees associated with unloading consignments are also charged to the food business operator.

### **Conclusions**

Full cost recovery for the costs of the additional official controls associated with imports is not in place and this is not in compliance with relevant legislation<sup>6,7</sup>.

## **4.4.5 Organisation and Prioritisation of Official Controls**

Article 3 of Regulation (EC) No 882/2004 requires that official controls are carried out regularly, on a risk basis and with appropriate frequency, taking account of (a) identified risks; (b) the food business operators past record as regards compliance; (c) the reliability of any own checks that have already been carried out; and (d) any information that might indicate non-compliance.

### **Findings**

Official controls are organised locally in both Dublin and Cork. Databases are used to select consignments and data on the types of foodstuffs imported. The EHS in both regions are experienced and knowledgeable about the legislation and as a result plan activities on a risk basis. However, the mechanism by which consignments are selected is not documented in a procedure in either region.

### **Conclusion**

Official controls are well organised in both offices and there is a good understanding amongst staff to ensure a risk based system for selecting consignments for inspection is in place however, this is not documented<sup>8</sup>.

## **4.4.6 Procedures for Performance and Reporting of Control Activities**

### **Legal Requirements**

Article 8 of Regulation (EC) No 882/2004 requires that competent authorities carry out their official controls in accordance with documented procedures, containing information and instructions for staff performing official controls.

Article 9 of the above Regulation requires competent authorities to draw up reports on the official controls carried out, including a description of the purpose of official controls, the methods applied, the results obtained and any action to be taken by the food business operator concerned.

### **Findings**

In Dublin, a documented procedure, SOP 15, issued by a regional QMS steering committee in September 2009, 'Control of Food Imports at Point of Entry into Ireland' is in place. In Cork, a documented procedure, SOP 21, issued by a national QMS steering committee, in March 2008 'Control of Food Imports at Point of Entry into Ireland' is in place. A new national protocol is being drafted that will be used by both Cork and Dublin and a draft was provided to the AT.

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<sup>6</sup> Comment from HSE (Cork): To date, the costs of all "additional" controls in Cork relating to either re-exportation or destructions, have been borne directly by the food business operator. In the case of all abandoned consignments, the recovery of any costs has not been possible. In the case of detention this has been at either (1) the expense of the food business operator or (2) the expense of the HSE but the recovery of costs in the latter case would not have been cost efficient due to the very small quantities involved.

<sup>7</sup> Comment from HSE (Dublin): The cost recovery in place currently covers the external cost charged to the HSE, i.e. unloading cost, destruction and facilities costs. The issue is being addressed in consultation with the FSAI Import Control Group including standardising the cost recovery by all agencies. Further clarification is required as to what is included in full cost recovery.

<sup>8</sup> Comment from HSE (Cork): An informal risk mechanism exists whereby consignments subject to 669/2009 and products subject to emergency decisions not included in 669/2009 and general high risk products are targeted. This will be documented.

In Dublin, a new system of reporting is being developed by the EHOs this includes consignment inspection reports. In both Dublin and Cork, written reports are provided in the event of non-compliances as a minimum. In addition, Dublin provides a report if sampling/testing is undertaken<sup>9</sup>.

#### **Conclusion**

Documented procedures and instructions for official controls are in place at a high level at Dublin and Cork. The procedures do not take account of any new legislation that has been introduced for import control and in particular Regulation 669/2009. Detailed instructions in particular for the increased level of controls that take place in Dublin are not in place. Reports are provided in both regions in the event of non-compliances and in Dublin when sampling occurs<sup>10</sup>.

### **4.4.7 Coordination and Cooperation between and within Competent Authorities**

#### **Legal Requirements**

Article 4(3) of Regulation (EC) No 882/2004 provides for efficient and effective coordination between competent authorities.

Article 4(5) of Regulation (EC) No 882/2004 requires that, when, within a competent authority, more than one unit is competent to carry out official controls, efficient and effective coordination and cooperation shall be ensured between the different units.

Article 24 of Regulation (EC) No 882/2004 requires that competent authorities and customs should cooperate closely.

#### **Findings**

Informal coordination exists between Dublin and Cork. Similar port health databases have been developed by both services using each other's experience which demonstrates the cooperation regarding the units. Informal cooperation with customs at both points was good. Customs contact the HSE in the event of any issues with consignments and where necessary, codes are flagged.

#### **Conclusions**

The national port health forum set up by the EHS has only discussed food import controls on one occasion. There are very few formal opportunities for the EHS at Dublin and Cork to coordinate how controls are being implemented to ensure a consistency of approach for the importation of foods into Ireland.

### **4.4.8 Procedures for Non-Compliant Lots**

#### **Legal Requirements**

Article 19 of Regulation (EC) No 882/2004 establishes that competent authorities shall place under official detention consignments that do not comply with food legislation, and that a number of measures shall be taken in respect of such food. These measures include destruction, special treatment, re-dispatch or use for other purposes. Some of these measures are described in Articles 20 and 21 of the above mentioned Regulation.

#### **Findings**

In Dublin Airport and Dublin Port, 14 consignments were reviewed by the AT. All consignments were held until the appropriate documentation was provided by the food business operator. In two instances, the consignments failed

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<sup>9</sup> Comment from HSE (Dublin): A national EHIS database is being developed which will include a port health module for imports of food national.

<sup>10</sup> Comment from HSE (Dublin): Each piece of additional control legislation contains very detailed instruction on how the legislation is to be implemented including documents required frequency of inspection. These are discussed at regular team meeting to insure consistency. Any changes and there implications are discussed and implemented. An up to date list of legislation is available on the shared access folder for reference. Regarding the selection of consignments the reports available on the database such as previous import history, consignments % examined required and carried out for a particular 669 annex 1 products are all reviewed by the EHO. Further document procedures will be developed. An informal risk mechanism exists where by consignments subject to additional official controls; high risk products and previous import history are used to target consignments. This will be documented.

as a result of sampling and in both cases the consignments were destroyed. Eight non-compliant consignment files were reviewed in Cork; four consignments were destroyed, two were rejected at Cork and sent to an appropriate DPE, one was sampled and one was detained. Where the consignments were sent onwards to a DPE, official control personnel at the DPE were informed and consultation with the FSAI where necessary.

#### **Conclusions**

The procedures for non-compliant consignments were followed in-line with Articles 19 - 21 of Regulation (EC) No 882/2004. In both Cork and Dublin, the documented procedures do not specify how to deal with non-compliant consignments. This is done on a case-by-case basis following in-house consultation.

### **4.4.9 Verification Procedures and Audit**

#### **Legal Requirements**

Under Article 4 of Regulation (EC) No 882/2004, competent authorities are required to carry out internal audits, or have external audits carried out. These must be subject to independent scrutiny and carried out in a transparent manner. Article 8 states that they must have procedures in place to verify the effectiveness of official controls, to ensure effectiveness of corrective action and to update documentation where needed.

#### **Findings**

Internal verification for import controls by the EHS is done by team leaders and senior staff. The HSE is developing an audit system to conduct internal audits. Internal audits as described under Regulation 882/2004 have not been carried out to date.

#### **Conclusions**

No internal audit has been carried out and there are no planned audits of official controls of imports of FNAO as required by Article 4(6) of Regulation (EC) No 882/2004<sup>11,12</sup>

### **4.4.10 Rapid Alert System for Food and Feed**

#### **Legal Requirements**

Article 50 of Regulation (EC) No 178/2002 requires member states to immediately notify any information relating to the existence of a serious direct or indirect risk to human health deriving from food, to the Commission under the RASFF system.

Regulation (EU) No 16/2011 lays down the implementing measures for RASFF and establishing duties of members of the network.

#### **Findings**

In Cork, one consignment of guar gum arrived at Cork Port. The consignment was detained and the Irish RASFF contact point was informed. The food was sampled, found to be satisfactory and released. The consignment was not intended for human consumption. In Dublin, two consignments were sampled and deemed unsatisfactory. Both consignments were destroyed and the RASFF system was notified on both occasions.

#### **Conclusions**

There is good cooperation between points of entry and the RASFF point in Ireland.

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<sup>11</sup> Comment from HSE (Cork): In addition there is a commitment in the national EHS Business plan for 2012 that an internal audit system will be set up and will be compliant with the provisions on internal audit as set out in Regulation 882).

<sup>12</sup> Comment from HSE (Dublin): Internal audit as described in Regulation 882/2004 is not carried out. An internal audit of port health SOP was carried out in 2010. Further audits will be carried out in line with the implementation of the new EHS protocols.

## 5. OVERALL CONCLUSIONS

The HSE have an efficient system of import controls on FoNAO based on good cooperation and information exchange locally. Staff are very familiar with the legal requirements in both Cork and Dublin. The system in place monitors efficiently the importation of FoNAO into Ireland.

Action is taken on non-compliant consignments to ensure a high level of consumer protection.

Some shortcomings were identified, in particular for facilities at Dublin Airport and Cork Airport and port as well as a failure to document properly the official controls in place. In addition, internal audit is not carried out and there is no national food imports training programme.<sup>13</sup>

## 6. AUDIT FINDINGS REQUIRING CORRECTIVE ACTION

See Corrective Action Plan

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<sup>13</sup> Comment from HSE: National management of the EHS are addressing the core training needs in all areas including food import control. A needs assessment questionnaire has already been circulated to all PEHO areas in relation to food control in general and one on port health (including food import control), which has already been drawn up, will soon be circulated. Training on all aspects of port health is being prepared for later in 2012.

**APPENDIX 1. FACILITIES AT DESIGNATED POINTS OF ENTRY VISITED**

Facilities at Import Point	Dublin Port	Dublin Airport
Sheltered Area	Yes	Food business operator warehouse*
Storage	Yes	Food business operator warehouse
Cold/Ambient/Frozen	Yes Ambient storage Rent Cold Store	Food business operator warehouse
Sampling Equipment (saw, knife, tin opener, containers, seals, tape)	Yes	Yes
Share with Border Inspection Posts?	No	No
Separation of FoAO and Non FoAO	N/A	Yes
Cleaning Detergents and Procedure	Yes	Food business operator
Office Facilities	Yes	Yes
Changing Room, WHB, toilet	Yes	Yes
Inspection Room	Yes	Food business operator warehouse
Walls	Good	Food business operator warehouse
Floors	Good	Food business operator warehouse
Ceiling	Good	Food business operator warehouse
Lighting	Good	Food business operator
Water - Hot and Cold	Yes	Food business operator warehouse
Weighing scales, thermometer, pH meter, thawing machine	Yes	Sampling kit
Examination Table	Yes	Food business operator warehouse
Temp Control	Yes	Food business operator warehouse
Storage Facilities for Samples	Yes	Yes
Transport Containers for Samples	Yes	Yes

\* Reliant on the facilities at the warehouse where the importer has stored the goods

- Cork Airport reliant on the facilities at the warehouse where the importer has stored the goods
- Cork Port avails of customs facilities

## APPENDIX 2. 2011 PERCENTAGE INSPECTION OF CONSIGNMENTS WHICH HAVE LEGAL TARGETS (DUBLIN PORT & DUBLIN AIRPORT) (JAN–MID DEC 2011)

Country	Product	Hazard	Physical Exam Satisfactory	Physical Exam Unsatisfactory	Total	% Examined	Legal Target (%)	Target Achieved	Legal ref.
Turkey	Dried figs	Aflatoxin			2	0.0	20	No	1152/2009
USA (Almond board certified)	Almonds	Aflatoxin	1		3	33.3	random	Yes	1152/2009
Turkey	Hazelnuts	Aflatoxin	2		2	100.0	10	Yes	1152/2009
South Africa	Ground Nuts	Aflatoxin	2	2	9	44.4	10	Yes	799/2011
All T1 Countries	Chilli,Chilli products,curry, palm oil, tumeric	Sudan Dyes	30		253	11.9	10	Yes	799/2011
Argentina	Groundnuts (peanuts) derived products	Aflatoxin	4		41	9.8	10	Yes	799/2011
India	Chillies, curry,turmeric,nutmeg, mace, ginger	Aflatoxin	18		130	13.8	50	No	799/2011
India	Groundnuts (peanuts) derived products	Aflatoxin		4	5	80.0	20	Yes	799/2011
Pakistan (NA)	Basmati Rice	Aflatoxin	6		32	18.8	20	Yes	669/2009 old
China	Noodles	Aluminium	89	26	198	58.1	10	Yes	799/2011
Nigeria	Melon seeds/ derived products	Aflatoxin		2	2	100.0	50	Yes	799/2011
Japan (outside Zone)	PONAO	Radiation	12		62	19.4	20	yes	961/2011
Japan (in zone)	PONAO	Radiation	7		35	20.0	10	Yes	961/2011







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