

SEA FISH INDUSTRY AUTHORITY



Minutes of the

Seafish Food Legislation Expert Group

Meeting at the British Retail Consortium Headquarters, 21 Dartmouth Street,
London on Tuesday 21 January 2014

Present:

Mike Short	Food and Drink Federation
Su Dakin	British Frozen Food Federation
Catherine Pazderka	British Retail Consortium
Chris Leftwich	National Association of British Market Authorities
Tim Silverthorne	National Federation of Fishmongers
Steve Norton	Federation of British Port Wholesale Fish Merchants
David Jarrad	Shellfish Association of Great Britain
Mike Weavers	Defra
Hefin Davies	Food Standards Agency
Gill Wilson	Food Standards Agency
Greg Howard	National Federation of Fish Friers
Peter Wilson	Seafish and meeting Chairman/Secretary
Fiona Wright	Seafish
Ivan Bartolo	Seafish
Cristina Fernandez	Seafish

Apologies:

Gary Hooper	National Federation of Fishmongers
Malcolm Morrison	Scottish Fishermen's Federation
Martyn Youell	Marine Management Organisation
Gary Owen	Marine Management Organisation
Dale Rodmell	National Federation of Fishermen's Organisation
Martin Morgan	Marine Scotland
Stephen Parry	Seafish Board
John Cox	Scottish Seafood Association
Martyn Boyers	British Ports Association Fishing Ports Working Group
Bindiya Shah	FSA Hygiene and Microbiology

1. Welcome by the Chair and apologies for absence

Peter Wilson welcomed everyone to the meeting and thanked the British Retail Consortium for hosting the meeting.

2. Minutes of last meeting held on 17 September 2013

The minutes of the last meeting were approved as a correct record.

3. Official Controls Review – hygiene charges

Peter Wilson reported that since the last meeting the FSA had consulted on their draft regulatory impact assessment. He had not seen the need to formally respond as Seafish had already been discussing concerns from the seafood industry perspective with FSA. He had however emailed and circulated some comments to FSA. For the live bivalve mollusc sector the cost was proportionately much higher than for other food sectors. Although most of these businesses would be exempt he was concerned that those included would have to cover the high cost associated with harvesting areas, effectively subsidising the exempt businesses. He has also reiterated his concern that businesses already paying toward the cost of inspection via the local business rate could effectively be double charged.

Hefin Davies explained that the Commission proposals do not set out what the controls are but give the principles for Competent Authorities. This includes who can conduct controls, transparency, delegation and analytical standards. This can now be extended to new sectors and the main changes made by the proposal will not be in the food sector with the current regime maintained except for charging.

The consultation has now closed but as there is no Commission deadline and responses will still be accepted and he will circulate a summary of the proposal and impact assessment when completed. The impact assessment considered the costs of this proposal to be £171M a year, of which £59M is already paid by industry. The draft was adopted by the Commission in May and there have been 6 working group discussions to clarify the text, but not amend. This process is about half way through with charging next for discussion. The Greek presidency wants to have this process complete and for negotiations to start at the end of June 2014. The European Parliament is also discussing the text with the first reading scheduled before the elections in May. The elections could result in new MEPs who may wish to make further amendments. It is unlikely that the text will be agreed before 2015 followed by 1-5 years to implement, charging is likely to take 3 years and so this means it should not affect industry until at least 2018.

Mandatory full cost recovery is of most concern to the food industry. This will involve either actual costs or flat rate fees across the sector. HM Treasury favour an actual charge for fairness. There is a small business exemption and these businesses will not be liable for charges unless subject to non-compliance and then they will be liable for extra costs incurred.

Implementing the charges will be difficult and the UK is looking to maintain the current flexibility. The UK has agreed to make sufficient resources available for controls but maintain control of when and how the controls are done. It is likely we will retain the current situation. The issue of business rates covering these types of check has been raised. The Department for Communities and Local Government considers that business rates do not include the cost of inspections.

There were a number of points raised:

Some disagreement was expressed that inspection costs were not included in the business rates. Hefin – agreed to check this. However if indeed included it would have to be taken out as charging is based upon actual cost.

How will this proposal be different as the Local Authority already has a duty to inspect and there is a code of practice? Hefin- it is not different as the proposal sets out rules about those inspections.

How many inspections are going to be mandatory for lower risk business? Hefin - currently the frequency is related to risk, this is strengthened by the proposal but there will not be mandatory inspection frequency.

Charging has the potential to affect business growth to avoid charging. Also if the cost of collection is greater than payments the focus will be on larger companies, when it is the smaller companies that often need more Local Authority support.

Non-payment will be a civil case through the small claims court, so it will not be cost effective to chase small amounts.

Charges will differ with LA overheads as currently seen with waste contracts.

If a business has a minor non-compliance and the Local Authority write a letter, will they be subject to extra charges? Hefin - only if extra work is needed such as visits or sampling.

For live bivalve molluscs the definition of an official control is an issue given the amount of regulation the sector is subject to. Is everything that is an official control to be subject to charging? Sanitary surveys to classify new areas are expensive and once classified can be exploited by other business. Hefin - sanitary surveys are considered to be an official control and subject to full cost recovery although routine monitoring is not considered to be an official control.

4. Fisheries control regulation – traceability enforcement

Peter Wilson reiterated that under the Fisheries Control Regulations product information traceability requirements now applied to CN03 (fresh) products produced from seafood caught in EU waters. There was also a requirement for some catch information to be provided to consumers for all CN03 products. Over a two year period from January 2013 this information transfer has also to be made electronically. At the last meeting Mike Weavers had reported that the MMO were now looking to enforcement although the initial approach would be education. A number of issues had been discussed including involvement with Trading Standards and the setting up of a stakeholder working group.

Peter Wilson had subsequently discussed the establishment of a stakeholder group with Mike Weavers who thought this would be worthwhile. There would also be a

need to consider the additional consumer information requirements being imposed under the revised common marketing order. The Commission was also introducing a draft regulation amending the fisheries control regulation to align with the common fisheries policy. In a subsequent report by the fisheries committee proposing amendment to this draft regulation the rapporteur had explained that some elements of the control regulation required revision due to their impracticability. This included the traceability requirements.

The MMO were now to host a further stakeholder meeting as a follow up to the one held in Newcastle last year.

Mike Weavers reiterated that the MMO would lead the implementation and operational work. The MMO needs to be aware of industry issues and industry to be aware of the constraints on MMO. Solutions are required to resolve issues and burdens on industry need to be minimised whilst ensuring compliance. There will be a review of the control regulation to align with changes brought about by CFP and CMO. This will provide an opportunity to raise practical issues and provide a basis for the UK negotiating position.

A number of points were raised:

The existing food traceability system in place works and could link back to the buyers and sellers information.

The roadshows to educate have been put on hold and possibly abandoned as the MMO prefer to hold bigger industry meetings. If the information stage is delayed enforcement should be also delayed.

A group to help interpretation comprised of industry, MMO and Local Authorities would be a useful group and should be kept small and focussed.

Do staff at MMO/Defra know the current traceability rules and practices. They need to understand what changes are needed. Smaller business will have different complexity than larger business.

IFCA inspectors could inspect business.

Should all boxes be labelled with the information? It was pointed out that this was not the case provided the information is on the invoice and the box can be matched to the invoice.

5. Common Organisation of the Markets Regulation (CMO) – consumer information

Fiona Wright explained that the CMO Regulation EU 1379/2013 was published on 11th December 2013 and came into force on 1st Jan 2014. This does not include Chapter IV on consumer information which does not come into force until 13 December 2014 to align with the food information to consumer regulation.

It was noted that 'where appropriate' has been added to the requirement for date of minimum durability. Further clarification on the implementation of this is needed and concern was expressed that it could lead to an increase food waste. Clarification on the need to specify gear type was also required and it was understood that Defra will be consulting on these outstanding issues shortly.

It was pointed out that enforcement groups can assist with local authority enforcement issues. Fiona Wright offered to circulate the contact details and remit for each group.

6. Imports and exports

General System of Preferences (GSP)

The new GSP Regulation is now in force. The effects so far concern Chinese fish falling under Customs Code Chapter 03 and Thai products under Chapter 1604 and 1605, which due to graduation are liable for the full tariff. Ecuadorian processed seafood was also due to be subject to the full tariff, but it has been granted GSP+ which means zero duty on all seafood, included graduated products. The only exception is CN030617, which are the warm water prawns, subject to 3.6%. GSP+ has been granted to a number of countries. China, Ecuador, Maldives and Thailand will drop out of GSP completely on 1st January 2015.

China export certification

A useful meeting was held with Defra and the Animal Health Veterinary Laboratories agency (AHVLA) in December on procedures for health certification of product for export to China. Defra and AHVLA have tried and tested procedures to allow UK companies to get onto the Chinese approved lists. However, in practice problems occur and the procedures need to move along more smoothly. Ivan Bartolo had agreed to look at the various Customer Information Notes guides and the information AHVLA give over the phone to see whether Seafish can provide any further help with clarifying the procedures.

Defra has raised the issue of animal welfare during air freighting live shellfish. Seafish will consider producing best practice guidelines with the aim of reducing mortalities and safeguarding the reputation of the sector.

It was commented that Seafish needs to consider draft guidance on air freighting live crustacea. There is guidance on road transport but not air.

AHVLA are proposing to charge for providing health certificates. This could affect exports of seafood to several countries, including Australia, China, New Zealand, Russia, South Africa and the US. AHVLA also issue pre-export certificates for products crossing the EU en route to Russia. Initial estimates are £20–£35/certificate, including payment services and postage, with discounts for multiple certificates. The charges do not replace actual certificate sign-off by EHOs or vets, which will still incur a separate charge. A consultation with more details will follow.

Draft Animal Health Regulation

As the proposal stands, all products of animal origin are to be accompanied by an animal health certificate. There is no exemption for wild caught aquatic animals and their products. Currently, their certificates would not normally have the animal health part completed. Defra have pointed out that the Regulation is written to encompass all possible sources of animal diseases so that products made from wild caught aquatic animals will have to be exempted in satellite regulations. The current draft contains provision for this.

IUU

Belize, Guinea and Cambodia have been “red carded”. It is now extremely likely that products caught by vessels flagged to these countries will be subject to import restrictions.

South Korea, Ghana and Curaçao have been identified as possible non-cooperating countries.

7. Hygiene regulations

Adoption of Codex E.coli criteria

A Commission Working Group is currently considering amendment to 854/2004 to adopt the CODEX molluscan shellfish product standard for the classification of class A harvesting areas which would allow a 20% tolerance over the current limit within a five sample batch. This was broadly accepted by most Member States. However there was no clarity regarding the application of this approach to the end product standard as it would require 5 samples to be required with associated increased cost. A number of options have been put forward.

Norovirus controls in live bivalve molluscs

Despite previous agreement that no limits should be set at present the Commission still considers that action must be taken to reduce the risk to public health. The UK has argued against the setting of limits at present and has got the Commission to consider a ‘tool-kit’ approach instead. This would make use of alternative approaches such as buffer zones and use of ‘alert’ systems.

Scallops - shucking

The UK has raised with the Commission the possibility of allowing shucking at restaurants by trained chefs for scallops which could otherwise be over the legislative limit for ASP.

Scallops – French Classification of Harvesting Waters

In an incident towards the end of last year the MMO were informed by the French Authorities that a UK vessel had been harvesting scallops in an area closed to their fishermen due the presence of DSP. The scallops were subsequently seized when landed in the UK.

The area in question went beyond the French 12 mile limit and extended into the channel where the UK vessel had been fishing. Under the hygiene regulations wild scallops are not subject to harvesting area classification unless caught within and

area subject to classification for other species. They would then be subject to the monitoring and closure conditions which was apparently the case.

Although the UK vessel was not subject to French control the FSA view was that they should accept the French closure. However, as the vessel concerned had not apparently been aware of the closure the FSA will talk to their French counterparts and take a lead in ensuring that an effective communication system is established.

Cadmium in the brown meat of crab

David Jarrad reported that the first meeting on crab/cadmium guidance was held the previous week. There was some disagreement as some processors can remove the hepatopancreas before processing to reduce cadmium levels and some processors cannot. The FSA do not want to introduce maximum levels and burden industry and brown meat sales are needed to maintain the viability of the white meat. Consumer advice needs to be clear on the difference between 'brown crab' meat, and the 'brown meat' from crabs.

Ivan Bartolo added that the draft regulation with new cadmium levels is likely to go through. It has some fine tuning but is unlikely to affect crab. He agreed to circulate the latest draft.

8. Labelling - Food Information to Consumers guidance, Label Fishnet Workshop and Food Fraud.

Food Information to Consumers (FIC) guidance

Defra are consulting on technical guidance for FIC and of 36 pages the last 6 are fish specific and is the only sector specific guidance.

Food Fraud

The own initiative report on food fraud has been agreed by the EU Parliament and passed to the Commission with some recommendations for action.

The text calls for

- An EU-wide harmonised definition of food fraud and calls on the European Commission to strengthen the EU Food and Veterinary Office (FVO), which carries out inspections.
- The establishment of a European network to combat food fraud and proposes that DNA tests should be used more widely, to eliminate any species fraud.
- More thorough inspections of frozen foodstuffs and for a draft law to make labelling mandatory for meat and fish.
- Traceability would be improved by making it mandatory to state the country of origin, they observe, including for all meat-based processed products.
- Dissuasive Penalties of at least twice the estimated economic gain sought by the fraudster, and criminal law penalties for cases in which fraud endangers public health.

Elliott Review

This is an interim report, following a review of food integrity. It sets out initial findings and makes recommendations about what needs to change key weaknesses which exist around the integrity and assurance of food supply networks. The report

identifies steps that could and should be taken as soon as possible to address those weaknesses. The final report will be published in spring 2014 and will set out in more detail what will need to be done by Government, industry and others to facilitate implementation of the recommendations.

Label Fishnet Workshop

Ivan Bartolo attended the Labelfish event and heard about developments in DNA-based testing. There are now several techniques for identifying sequences of DNA and associating them with a particular species or even a particular subgroup of the species. The techniques are still largely in the hands of research institutions and private laboratories. Regulatory bodies are frustrated because of the lack of standardised, official techniques. Businesses are keen to use the new tools to help with traceability and assurance, but are confused by the number of different tests that are available and the possible costs. Nevertheless delegates at the meeting identified two tests that are robust enough to stand up in court.

9. Any other business

Ethoxyquin

In 2012 the Japanese authorities initiated a major and ongoing crisis by banning shrimp with ethoxyquin levels of 0.01ppm. Ethoxyquin is an antioxidant approved in fish feed at levels of 150ppm alone or in combination with other antioxidants, so a certain amount ends up in fish. It is also approved in the EU as a pesticide and required by US law to be used in fish meal transported by sea to prevent spontaneous combustion. Thankfully the European Commission did not align themselves with the Japanese authorities to impose similar import restrictions. However, in a response to a European Parliamentary question, Mr Borg (DG Sanco) stated that “a scientific assessment by EFSA is ongoing”.

WELMEC guide on deglazed weight

Su Dakin tabled a recently published guide on deglazed weight. Some of those present asked if the guide could be circulated.

Date of freezing

Su Dakin agreed to forward a recent BFFF paper on date of freezing for circulation.

10. Date of Next Meeting

The next meeting will take place on Tuesday 13 May 2014 at the British Ports Association Offices in London.

Peter Wilson
Secretary to the Seafish Food Legislation Expert Group
January 2014