

Seafish Food Legislation Expert Group Update July 2010

The scheduled Food Legislation Expert Group meeting for 20 July was cancelled. The following provides an update on the issues to have been discussed.

Fisheries control regulation

The new EU Fisheries Control Regulation 01224/2009 came into force in January 2010 and applies to seafood caught or farmed within the EU. Third country imports are covered under Regulation 1005/2008 on illegal, unreported and unregulated fishing. However the information required for consumers includes product from both.

From January 2011 catch information must be available throughout the supply chain up to and including retail and makes use of existing traceability requirements under the food law and fish marketing regulations. However, the wording of the regulation is such that it appears to extend the scope of the fish marketing regulations. The Commission had indicated that this was not their intention and that concerns would be dealt with under implementation measures.

A draft implementing measures regulation has now been provided to Member States for discussion. Article 71 covers the information to be available with fishery and aquaculture products in the food chain and Article 72 information to be provided to the consumer.

Information to consumers

Regulation 104/2000 is a fish marketing regulation dealing with trading issues and its scope is defined by reference to community customs combined nomenclature (CN) codes. CN 03 codes cover fresh and frozen fishery products and CN 16 preserved and prepared (including breaded products). For CN 03 products the catch area, production method and commercial designation must be presented at retail sale. Article 72 (3) of the draft implementing measures now makes it clear that this will continue to apply to CN 03 products only.

Regulation 2065/2001 provides more detailed rules on the application of Regulation 104/2000. The catch area, production method, commercial designation and scientific name have to be available at each stage of production. Indication of the scientific name to the consumer is optional and has not therefore become a requirement under the UK Fish Labelling Regulations. Article 72(2) of the proposed implementing measures does not take this option into account.

Article 72(1) also requires CN 03 fishery product labelling to indicate if previously frozen or not. Indication of previously frozen is already the case in the UK anyhow and labelling as not having been frozen therefore superfluous. Use of the term 'fresh' could cover this as it should only be used with previously unfrozen product.

Information in the food chain

Under Article 58(5) of the Control Regulation specific catch information must be available with product lots at all stages of production. This includes the catch area, production method, commercial designation and scientific name as required under Regulation 2065/2001. Article 71(6) of the draft implementing measures extends this beyond CN 03 to CN 16 products.

It was not entirely clear if the catch information required under Article 58(5) had to be with the product or accessible via the traceability chain. Article 71(3) requires the catch information to be with the product although the method appears fairly open.

The practicality of providing all the specified information, such as identification number and name of vessel and date of catches needs consideration, particularly when dealing with product sourced from different lots. Article 71(2) does allow for information to be included as it becomes available and for lots to be merged or split but this could become complicated.

Further development

The draft implementing measures regulation is being discussed by the Commission Expert Working Group. It has removed some of the concerns with the Control Regulation, particularly scope, but others remain and have been raised with Defra. The Food Standards Agency are particularly concerned with the apparent removal of the option on providing the scientific name and have met with Seafish and Defra to discuss this.

FSA two a week and shellfish

Current FSA advice applies to finfish only. Seafish and SAGB met with the FSA at the start of this year to discuss an approach to have shellfish taken into consideration. There has been no further progress with this.

Nutrition and health claims regulation

Updates from the FSA have continued to report on Commission working group discussions on claims.

Health claims that DHA has benefits for pregnant and breast feeding women are looking positive, particularly as they are being applied at fairly high levels that may limit the claim to fish sources only. The benefit of DHA in eye development in infants is also being considered.

There has been some discussion on a reassessment of some Article 13 health claims although there do not appear to be any Omega-3 claims included.

The European Parliament has voted to retain nutrient profiling, although it is not yet known if this will be a continuation of the previous scheme or require the whole consultation process to be repeated.

A new Seafish guide has been produced on how to use the claims that have been approved which is intended to be used alongside the other explanatory guides to the Regulation. The guide gives details of claims that have been approved that may be useful to seafood companies and also the terms and conditions attached to their use. This will be available on the Seafish Omega-3 webpage shortly. The webpage has also been updated with the latest changes.

Imports

Bangladesh

European Commission Decision 2010/387 has recently strengthened the restrictions on imports of farmed crustaceans. These products now need to be accompanied by results of tests for chloramphenicol, nitrofurans metabolites, 3 tetracycline analogues, malachite and leucomalachite green and crystal and leucocrystal violet. Border officials are asked to test 20% of consignments for the residues.

India

European Commission Decision 2010/381 has strengthened the restrictions on aquaculture imports. Aquaculture products will now need not only a nitrofurans test certificate but also results of tests for chloramphenicol and 3 tetracycline analogues. Border officials are asked to test 20% of consignments for the residues.

Crystal violet

This currently has no minimum residue limit, minimum required performance limit or reference point for action (RPA) so any consignment containing detectable residue has to be rejected. The limit of detection (LOD) of the analytical method is effectively the RPA. Accompanying test result certificates that report crystal violet at any level, even if this is below the quoted LOD, is considered a positive. Seafish have asked the FSA to press the Commission to provide an RPA as provided for in veterinary residue Regulation 470/2009.

US restrictions

The EU and the US have not come to an agreement on the equivalence of hygiene measures covering live bivalve molluscs. As a result bivalve molluscs from the US may not be imported into the EU with the exception of roe-off scallops. However this may not apply to processed bivalves.

Health certificates

The transitional period for health certificates for imported fishery products and live bivalve molluscs under Regulation 1250/2008 ends on 31 July 2010. From 1 August 2010 the model health certificate provided in the annex to the regulation will be required.

IUU catch certificates

A recent addendum to the IUU handbook made it clear that catch certificates are not required for non-vessel based fisheries such as blue swimming crab.

Also, there is an issue with IUU catch certificates having been filled in with the landing weight rather than the consignment weight which is incorrect. These have

been let through so far but this concession will end on 15 August 2010. Defra are to produce advice on this.

Composite products

The FSA has circulated a stakeholder letter asking for comments on proposals on health certificates for composite products. Composite products are those containing both products of animal origin and products not of animal origin. The proposals were ambiguously worded so that it was impossible to work out the circumstances under which a specific composite product certificate would be required. Seafish have been in touch with FSA on this.

Origin guidance

Following the consultation by FSA Scotland on draft guidance for consumers on country of origin labelling, the final version has now been published. This is intended to provide guidance on labelling of foods as Scottish. The guide is easy to follow and fish is specifically covered and is now in line with UK guidance.

Hygiene regulation review

Food Hygiene (Amendment) (No 2) Regulations 2010

The FSA have consulted on enforcement measures for amendments made to EU Food Hygiene Regulations published in October 2008. The changes have already been discussed and allow for clean water to be used to clean fishery products in land based establishments, reinstates the 10% allowance for shellfish samples exceeding the limit for category B harvesting areas and clarifies the rules on the use of identification marking.

Removal of non filter feeding marine gastropods from molluscan shellfish harvesting water classification

Of particular relevance to whelk harvesting, Regulation 558/2010 removes the need for their harvesting areas to be classified within current microbiological limits. As with wild scallops, official monitoring will take place at auction or dispatch centres or processing establishments. As with wild scallops though a registration document giving details of harvesting will still be required.

Packaging of live bivalve molluscs

Regulation 558/2010 also clarifies the requirements for packaging of bivalve molluscs at retail. There had been some confusion that bags should remain closed at retail, meaning no bulk bags could be supplied and bivalve molluscs could not be sold loose. This clarifies that it is only consumer sized bags that need to remain closed.

Use of 'moularium' for holding live bivalve molluscs at retail

Moularium are display cabinets used to hold live bivalve molluscs for display and dispensing at retail and use a water spray to help maintain their organoleptic characteristics. Following approaches from Local Authorities on their use of the FSA has circulated advice informing them that as the hygiene regulations do not allow live bivalve molluscs to be re-immersed or sprayed with water after they have left the dispatch centre moularium should not be permitted in retail establishments. They

have also pointed out that they do not consider outlets such as supermarkets and restaurants to be conducting the activities of a dispatch centre.

Small quantities exemption

The Commission are considering the provisions of the hygiene regulations in relation to how they relate to exemptions applied to small quantities of primary products supplied direct to the final consumer. In the UK this is currently less than 25 tonnes for fish and live bivalve molluscs and generally within or adjacent to the local authority area. Interestingly there does not appear to be a mechanism within the UK for knowing how many fishermen trade within this exemption.

Use of wooden containers for the transport fresh fishery products

The Commission are also considering a review of the use of non-returnable (single use) containers as currently permitted under the hygiene regulations. In response to a request from FSA on the use of such containers it was thought that the use of wood was very limited and sometimes used for transporting large fish such as halibut. French style oyster punnets are sometimes used for oysters but do not fit within the definition of fresh fishery products.

Food composition review

This is part of UKfoodcomp an FSA funded project to update current food composition data such as that prescribed in the McCance and Widdowson publication and the EU nutritional information database. Following a workshop in late 2009 to discuss priority foodstuffs for this project, fish and fish products were selected. At a subsequent meeting UKfoodcomp and Seafish discussed a first draft of the sampling plan.

There is funding available for 60 samples and these will be chosen on the basis of greatest consumption in the UK. The samples are composite and made up of 100 sub samples of products that are likely to be nutritionally similar such as frozen and fresh cod. The ratio of sub samples that make up this composite should reflect consumption and Seafish have been supplying data to help develop the sampling plan.

The draft sampling plan should go out for public consultation shortly. There will also be an expert panel selected to steer the work of this project.

Revision of the code of practice on the declaration of fish content in fish products

This code of practice was jointly drafted between industry and enforcement to help resolve problems which both have faced in the labelling of fish products and the determination of fish content. However it was published in 1998 and there have subsequently been problems associated with changing industry production methods that are not covered by the code. This has led to issues with interpretation between local authorities and possible advantage for some businesses. A suggested revision of the code was considered too onerous although it was agreed that this would best be taken forward through LACORS with industry backing, possibly as an addendum to the Code.

This has been discussed with LACORS and FSA with agreement that Seafish should draft a guidance document to help interpret the code where it is not clear and maybe give examples of modern methods and how products could be described within the code. Seafish will take the lead and consult with FSA, LACORS, a consumer organisation if possible and also those members of the expert panel responsible for the original code. Some industry representation is also being sought.

Other issues

E-Borders Controls

New electronic based controls being introduced by the UK Borders agency will include fishermen and Seafish are developing industry guidance with fishermen's organisations. A number of technical issues, which do not impact the marine side, are currently delaying introduction of the controls. Brussels is also questioning the use of e-Borders requirements on EU nationals.

Animal By-Products Regulation update

Defra is now consulting on the SI to enforce the new animal by-product regulations. As well as setting penalties, this SI also contains the implementing measures for small quantities of low risk by-product that are subject to national rules. The consultation can be found at <http://www.defra.gov.uk/corporate/consult/animal-byproducts/index.htm>

Pesticides

Although there are no EU minimum residue limits so far for pesticides in seafood they exist in some countries that fish are exported to, notably Russia. The Pesticides Residues Committee monitor foods and their results can confirm that fish is free of certain pesticides. Seafish has recommended the inclusion of 3 further pesticides in their analysis as they are listed by the Russian authorities.

Food Additives

The FSA has alerted food businesses to proposed changes to the structure of EU food additives legislation and to check for any errors or omissions. The consultation can be found at <http://www.food.gov.uk/consultations/consulteng/2010/eufoodadditiveslegislationeng>

Peter Wilson
Secretary to the Seafish Food Legislation Group
23 July 2010