

# SEA FISH INDUSTRY AUTHORITY



Minutes of the

## **Seafish Food Legislation Expert Group Meeting**

Held at the MIC Hotel and Conferencing Centre, Euston Street, London on 20 September 2011

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### **Present:**

Ole Norgaard	Seafish Board Member and Chairman to the Expert Group
Ian Farley	The British Frozen Food Federation (BFFF)
Su Dakin	The British Frozen Food Federation (BFFF)
Mike Short	Food and Drink Federation ( <i>from item 6</i> )
Sylvia Ankrah	Food Standards Agency - Hygiene and Microbiology
David Jarrad	Shellfish Association of Great Britain
Dale Rodmell	National Federation of Fishermen's Organisation (NFFO)
Greg Howard	The National Federation of Fish Friers (NFFF)
Chris Leftwich	National Association of British Market Authorities
Peter Wilson	Seafish Legislation/Secretary to the Expert Group
Ivan Bartolo	Seafish Legislation
Fiona Wright	Seafish Legislation
Karen Green	Seafish Communications

### **Apologies:**

Chris Pomfret	Seafish Board Member
Andrea O'Shaughnessy	Marine Management Organisation
Tim Silverthorne	National Federation of Fishmongers
Martyn Boyers	British Ports Association Fishing Ports Working Group (BPAFP)
Steve Norton	The Federation of British Port Wholesale Fish Merchants (FBPWFM)
Malcolm Morrison	Scottish Fishermen's Federation
Gary Hooper	National Federation of Fishmongers

### **1. Welcome by the Chairman and apologies for absence**

The Chair welcomed everyone to the meeting. He announced that although he is to retire in October he expected to continue with his term as a member of the Seafish Board. However the next legislation meeting was likely to be his last.

### **2. Minutes of last meeting held on 10 May 2011**

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

### 3. Seafood Information Chain

The new regulation on fisheries control, review of the CFP and associated Common Organisation of the Markets, amendments to the hygiene requirements and the developing proposals on food information to consumers all add or are likely to add to the information and traceability requirements imposed on the seafood sector. There is a need to consider their likely implication and try to ensure a joined up approach.

#### 3.1 Fisheries Control Regulation and Implementing Measures

Peter Wilson explained that the new seafood traceability requirements will apply to quota species from January 2013 and non quota from January 2015 with consumer information applying from January 2012.

The traceability requirements apply to CN03 customs tariff products and there was a need to agree on a suitable definition as to which fishery products this applied to. This was discussed at a meeting in May with Defra, FDF, BFFF, BRC and Seafish where it was agreed that there is a need for guidance and Seafish agreed to produce a draft for discussion. As most of the product information required is already logged in the sales note it should be possible to find ways of accessing this and adding it to the existing traceability requirements, provided of course this is already being complied with.

It was initially thought that the requirement to provide posters with species names at retail could be met by having a copy of the Fish Labelling Regulations available. However, it has subsequently been reported that the Commission may not consider this to be appropriate. Seafish have reported on the new requirements in their legislation newsletter and industry sector e.alerts. The need to inform if the product had been defrosted also needs consideration as this currently a requirement under the proposed Food Information Regulation.

Peter Wilson and Fiona Wright had attended a recent meeting with the Scottish Marine Directorate and industry catching sector and sales bodies to discuss compliance with the new control measures.

On traceability concern was expressed with likely additional cost associated with achieving this. On consumer information comments included concern with the different interpretation that already exists between authorities on how the information should be declared. Clarification was needed on how information should be presented and which definition of retail would apply.

Greg Howard said that his federation have posters for information in fish shops that may be of use. This can be viewed on their website and he will also post to Seafish. Karen Green added that Seafish used to provide posters and could possibly consider producing them again.

<b>ACTION: Greg Howard to forward a copy of the Fish friers poster to Peter Wilson</b>
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### **3.2 Hygiene Review- date of freezing/production**

The draft proposal to amend the hygiene regulations requires the date of freezing and if different date of capture to be provided within the trade. Sylvia Ankrah reported that the draft remained at Revision 17 but was voted on at last SCoFCAH meeting and its publication should be soon. It is still anticipated that it will come into force in July 2012. It is not expected that it will create any financial burden but an impact assessment will be carried out, possibly in December.

Ian Farley queried the means by which this information could be supplied as the draft states it must be 'retrievable' and not necessarily in hard format. Guidance is required on this.

Sylvia Ankrah added that Regulation 931/2011, extending the traceability requirements set by the Food Law Regulation (178/2002) had been published in the Official Journal today.

### **3.3 Draft Food Information to Consumers Regulation**

Fiona Wright reported that after the triologue discussions between Council, Parliament and Commission the text was finally agreed in June and voted through as Amendment 136. This is likely to be the final text and is expected to be published in the official journal late Autumn 2011 and expected to apply from November 2014.

Fiona has been in touch with Defra as the discussions progressed and drafted guidance on the changes considered of significance to the seafood industry. The next stage is to work with industry and Defra on producing guidance to make sure the issues identified are resolved in the guidance.

The main points are:

Net quantity given, but not gross. This will make labelling clearer for glazed products and is in line with Codex which defines non-edible parts of product as packaging not food. Ian Farley asked whether glazed products can have average weight marking, since weighing free of glaze as required by the Packer's Rules will be difficult to achieve. The Chairman considered this possible by weighing glaze-on and including an accurate measurement of the glaze in the calculation. Ian Farley suggested that the method should be included in guidelines.

Date of freezing or first freezing is a requirement, but only on unprocessed products. Clarification is needed on if the earliest date can be used in mixed batches, whether this would apply if the product is sold defrosted, and the definition of processed. Ian Farley advised that the current draft specifically states that the requirements apply to frozen and not thawed product.

Origin labelling was eventually dropped so the current rules remain that it will only be required where omission could mislead. The only new requirement may be where a provenance is declared and the fish origin is different in a product containing over 50% fish.

Nutrition labelling format has changed to energy, fat, saturates, carbohydrates, sugars and salt, as well as some voluntary additional declarations. A long transitional period will be allowed.

If a food is sold defrosted this must be declared. This is the case now but it is unclear if 'may have been frozen' can be used for variable supply. There are exemptions for ingredients, technical purposes and where there is no risk to safety or quality. As the recitals identify fish as being a risk, it is unclear if this will apply to fish.

Any foreign protein added to fishery products needs to be included in the name of the food. Clarity on 'fishery products' is needed as if it includes compound products these may contain foreign proteins that should be declared in the ingredients but not name of food.

If a fish product has the appearance of a whole piece but is made of several pieces it should be labelled 'formed'. This is the case now, but we need to be able to use a range of terms to reflect the range of products available. Defra will be clarifying with the Commission what other terms will be allowable.

Water added as an ingredient. The 5% allowance has been retained except for unprocessed fishery products and bivalves. We need to clarify if this is just water added as an ingredient or if water pickup during processing would count and how this could be enforced. Ian Farley insisted that unavoidable pickup of water that occurs even during good practice should be allowed for. The Chairman agreed that this issue had to be dealt with because of the ease with which water can be picked up and also because of the need to have some control over fraudulent practices.

### **3.4 Common Organisation of Markets proposals**

Peter Wilson reported that the current regulation had been under review by the Commission for some years which includes the requirement to provide the consumer with catch area, production method and approved commercial designation. This currently applies to CN03 customs tariff products only but under the proposals would be extended to include CN16 products as well which would effectively apply therefore to all fishery products. The Commission are also proposing to extend the CN03 information to include date of capture or harvest and whether the product is fresh or defrosted. Date of capture and defrosted is already included within the other regulations.

Omissions include the current requirement to provide this information, including the scientific name, throughout the supply chain but is effectively covered under fisheries control. The derogation allowing an approved commercial name used in another Member State provided in the same language is also omitted. Of further concern is that the catch areas now refers to sub areas or fishing areas listed in FAO fishing areas and not the current defined 12 locations,

Ian Farley added that it proposes that the scientific name is based upon the Fish Base information system. This is currently used in the UK but applies to finfish only.

### 3.5 Joined up approach

Fiona Wright pointed out that her draft guide to developing legislation for seafood labelling throughout the supply chain had been circulated as a discussion document only and was her interpretation and not necessarily an industry view. It is a breakdown of each of the new regulations at the stage they are currently at that include some provisions for fish labelling. As they have been included under hygiene, consumer information and fisheries control they apply to different types of product, different stages of the food chain and use different definitions. Therefore this had been produced to set out each regulation by scope and coming into force together with a personal view on interpretation and where it fits with the other regulations. There is also a summary and it is the intention to produce a table listing applicable regulation by product.

As a lot of these requirements are still in development or negotiations over interpretation, it is the intention to make this available as a live document on the Seafish website where updates will be added as they occur. Once the document is nearer completion, some products would be chosen and the new regulations applied to them to check how they would work together.

It was agreed that a product list detailing what requirements applied under which regulation could be useful and worth developing.

<b>ACTION: Seafish to continue to develop a seafood product list detailing regulatory requirements for labelling throughout the supply chain.</b>
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## 4. Imports/Exports update

Ivan Bartolo provided the following update:

### 4.1 US FDA inspection

The Food and Drug Administration of the US is currently inspecting Scottish establishments that export to the US. The basis of exporting to the US is EU hygiene law, so there should not be problems, in principle, with establishments that are compliant with EU requirements. However, in view of the experience with the Russian inspection of 2009, the FSA is worried that FDA failures will damage the reputation of the UK as a whole. In August Ivan gave a presentation to industry and government explaining that the US inspectors are likely to focus on HACCP procedures, and also on the implications of the FDA New Food Safety Modernisation Act.

### 4.2 Inward Processing Relief (IPR)

Pelagic processors typically buy fish from third countries during slack periods for processing and re-export. They do so on a tariff-free basis (via IPR) otherwise they would be uncompetitive. They are currently experiencing problems with acquiring HMRC approval of IPR, and when they do acquire approval, it is for only 6 months.

### **4.3 Exporting to China**

There are new certification requirements in place for exporting seafood to China. This has been negotiated with China by the Scottish Government and Defra. The procedures associated with this are not working very well, resulting in hold-ups at UK ports, so the Scottish Government and Defra are consulting with stakeholders, including Seafish, to gain improvement. Ivan had responded to proposed guidance that seemed to place too much emphasis on physical checks at the port of export.

Ian Farley asked if this would apply to those exporting for processing and subsequent re import. Ivan replied if classed as an export it would be needed for China to accept them.

The Chairman asked if Seafish Levy is charged on products subject to inward processing relief. Ivan agreed to investigate.

<b>ACTION: Ivan Bartolo to find out the position regarding Seafish levy payment and IPR.</b>
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### **4.4 FSA Import Board Paper**

An FSA Board Paper presented in early September lays out the FSA's import strategy in broad terms. This focuses on:

- Better cooperation with other agencies, notably HMRC and UKBA
- Better targeting using risk assessment. This requires better collection and analysis of information in order to risk assess properly
- Better support to Local Authorities

### **4.5 Indonesia**

Ivan had received a message from the FSA Imported Food Team to report on discussions between the Indonesian Authorities and the European Commission. It appears that there has been no progress and therefore there will be no relaxation on the current restrictions on farmed crustacea from Indonesia.

### **4.6 India**

A report of a recent FVO inspection of India has been published. The report appears positive, although the response by the Indian authorities to the FVO recommendations appear less so. It is difficult to predict whether the report will result in any relaxation to the current restrictions.

## **5. Hygiene update – changes to food business approval processes**

Sylvia Ankrah reported that a recent High Court Judgement established that a new approval is needed where there is a new Food Business Operator (FBO) at a premises regardless of whether or not the nature of the business remains the same. As a result the FSA must re-asses all establishments that have changed FBO since 2006 and have not subsequently been re-approved. Establishments that have changed FBO after 1 January 2006 and before 31 January 2012 may continue to

operate pending an approval visit and will be able to continue using their existing approval number. However, changes of FBO after 31 January 2012 may need a new approval number unless the business activities are the same.

Concern was expressed that this could result in cost associated with new product packaging if the establishment number is changed. It was also thought that some businesses have more than one approval number associated with different processes.

## **6. King Scallop biotoxin testing**

Peter Wilson explained that there had been a recent press report claiming that the trade in live scallops was being destroyed by Brussels.

As a result of recent product failures associated with algal toxin in whole scallops sent to mainland Europe, the FSA had asked local authorities to ensure that food businesses had adequate own checks in place. A further notification referring to the trade in whole scallops had caused some confusion as some caterers and retailers had taken the reference to 'whole' to include shucked scallops that had then been returned to the cleaned shell for presentation and probably contributing to the adverse press reporting. The FSA are to issue a further letter making it clear that the concerns are with whole unshucked king scallops and providing guidance for scallops sold locally under the small quantities exemption.

## **7. Any Other Business**

### *7.1 Seafish Communications*

Karen Green had circulated a Seafish Communications update prior to the meeting. News items included an announcement of projects under the latest Seafish industry project funding programme and request for applications for funding under the next round due to start in April. Seafish are continuing to provide commentary on their staff blogs and to develop strategies within the website. A new promotional campaign 'Fish is the dish' that focuses on young mothers will also be launched in October. Following the successful outcome from the Supreme Court, Defra and the Devolved Administrations are seeking industry views on Seafish activity going forward. A number of Industry workshops are to take place during October. Other items include the National Fish and Chip Awards 2012, consumer and trade media activity, business e-alerts and guides and fact sheets.

### *7.2 Review of charging for official controls*

Sylvia Ankrah reported that the review of inspection charges under regulation 882/2004 was ongoing although proposals were not expected before late 2012. Jonathan Back was taking the lead with this.

### *7.3 Gangmasters consultation*

Ivan Bartolo reported that the Gangmasters Licensing Authority (GLA) is consulting on how it can improve its standards. According to the accompanying information, the GLA says its objective in its review is to ensure standards

safeguard the welfare and interests of workers, level the playing field for legitimate licence holders, and reduce the burden on business. The consultation has 17 targeted questions and also encourages respondents to raise any other issues not covered by the questions.

Ivan considered the opportunity should be taken to once again urge the GLA to exempt shellfish farmers (as opposed to shellfish gatherers) from the licence requirements. Any comments to Ivan by 24 October.

<b>ACTION: Views on the Gangmasters consultation to Ivan Bartolo by 24 October 2011.</b>
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#### *7.4 Contaminants*

The Commission is proposing a reduction in maximum permitted cadmium levels in a number of fish species. The proposal is expected to be adopted early next year. If business operators feel this will cause problems, they are to contact the FSA.

Sylvia Ankrah reported that the FSA advice on brown crab meat consumption had been delayed whilst data was gathered. However, there should be further discussion with stakeholders in a few weeks time.

### **11. Date of Next Meeting**

The next meeting will take place on Tuesday 17 January 2012 in London

Peter Wilson  
Secretary to the Seafish Food Legislation Expert Group  
7<sup>th</sup> October 2011