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Directorate F - Food and Veterinary Office

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FINAL REPORT OF AN AUDIT

CARRIED OUT IN

THE UNITED KINGDOM

FROM 02 TO 12 OCTOBER 2012

IN ORDER TO EVALUATE THE FOLLOW-UP ACTION TAKEN BY THE COMPETENT AUTHORITIES WITH REGARD TO THE IMPORT/TRANSIT CONTROL SYSTEM AND BORDER INSPECTION POSTS

In response to information provided by the Competent Authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.

Executive Summary

This report describes the outcome of an audit carried out by the Food and Veterinary Office (FVO) in the United Kingdom (UK) from 02 to 12 October 2012.

The overall objective of the audit was to evaluate the implementation of the corrective actions presented by the Competent Authorities in response to the recommendations made in a previous FVO audit. In terms of scope, the audit concentrated on the operational criteria of the Competent Authorities, the import/transit control system at central and local level and the structure of Border Inspection Posts (BIPs).

Overall, the audit team concludes that:

The UK has an effective control system on imports and transits in compliance with the requirements of EU legislation. The effectiveness of the controls is ensured by, amongst others, the close co-operation between different Competent Authorities, an effective and targeted training programme and continuous review of procedures and instructions. An effective verification system in place. An evolving internal audit system has been introduced but the low level of experience and training of some regional staff on both the audit process and import controls limits its effectiveness.

The Competent Authority implemented corrective actions to address all the deficiencies included in the 2009 report but areas such as access to airline manifests and internal audits are not yet fully developed.

Although most consignments are correctly notified to BIPs before their arrival, the level of non-compliance in this area remains constant due to the unavailability of proportionate and dissuasive sanctions.

Structurally, the BIPs meet the requirements of EU legislation for the approval categories currently listed.

The report makes recommendations addressed to the UK Competent Authorities, aimed at further enhancing the control system in place.

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Abbreviations and definitions used in this report

Abbreviation	Explanation
AHVLA	Animal Health and Veterinary Laboratories Agency
Approval categories	Categories of live animals and animals products for the receipt of which BIPs are approved in accordance with Commission Decision 2001/881/EC, as follows: HC Products fit for human consumption NHC Other products (Products not fit for human consumption) (1) Checking in line with the requirements of Commission Decision 93/352/EEC taken in execution of Article 19(3) of Council Directive 97/78/EC. (2) Packed products only (3) Fishery products only (4) Animal proteins only U Live animals: ungulates (cattle, pigs, sheep, goats, wild and domestic solipeds) E Live animals: registered equidae (as defined in Council Directive 90/426/EEC) O Live animals: other animals (including zoo animals)
BIP	Border Inspection Post as defined in Council Directives 97/78/EC and 91/496/EEC
CN-code	The goods nomenclature code as laid down by Annex 1 to Council Regulation (EEC) No 2658/87 (i.e., the Combined Nomenclature)
Customs	Her Majesty's Revenue and Customs (HMRC)
CVED	Common veterinary entry document for products of animal origin as laid down in Annex III to Commission Regulation (EC) No 136/2004 and for live animals as laid down in Annex I to Commission Regulation (EC) No 282/2004.
Decision on the consignment	The decision made by the OV at the BIP and entered on the CVED, as to the outcome of veterinary checks and the resulting fate of consignments.

DEFRA	Department for Environment, Food and Rural Affairs
FSA	Food Standards Agency
FVO	Food and Veterinary Office
GB	Great Britain (England, Scotland and Wales)
Manifest	A document specifying in detail the items carried by boat, rail or aeroplane arriving in ports/rails/airports of destination for a specific destination
MMO	Marine Management Organisation
OVS	Official Veterinary Surgeon contracted by the local authority responsible for a BIP
OFI	Official Fish Inspector
PHA	Port Health Authority
POAO	Products of animal origin
Positive list	List of commodities of animal origin which are subject to veterinary checks in BIPs, as specified in Commission Decision 2007/275/EC
RVL	Regional Veterinary Lead
SSCI	Specialist Service Centre for Imports
TRACES	TRAde Control and Expert System introduced by Commission Decision 2004/292/EC
UK	United Kingdom
UKBA	United Kingdom Border Agency

1 Introduction

This audit to the United Kingdom (UK) took place from 02 October to 12 October 2012. The Food and Veterinary Office (FVO) team comprised two auditors from the FVO. An observer from the EFTA Surveillance Authority accompanied the audit team. The audit was carried out as part of the FVO's planned programme.

The first week of this audit and the closing meeting was coupled with an audit carried out by the Directorate-General for Maritime Affairs and Fisheries (DG MARE) on the control system in the UK related to Council Regulation (EC) No 1005/2008 establishing an EU system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

During the audit, the FVO team was accompanied by representatives from the Central Competent Authorities, i.e., the Department of Environment, Food and Rural Affairs (DEFRA), Animal Health and Veterinary Laboratories Agency (AHVLA), Food Standards Agency (FSA), Border Force (an operational command of the Home Office) and the Marine Management Organisation (MMO).

An opening meeting was held on 02 October 2012 with the representatives from the Central Competent Authorities. At this meeting, the FVO team confirmed the objectives of and itinerary for the audit. Additional information required for the satisfactory completion of the audit was requested from the Central Competent Authorities.

2 Objectives

The objective of the audit was to assess the implementation of the action plans developed in response to previous FVO audits and to verify the application of EU requirements related to import/transit controls for products of animal origin (POAO) and live animals in selected Border Inspection Posts (BIPs).

In terms of **scope**, the audit concentrated on:

- as regards Regulation (EC) No 882/2004, follow up of actions taken regarding the organisation of official controls, control and verification procedures and methods, registration and approval of establishments and enforcement, and
- as regards Council Directives 97/78/EC, 91/496/EEC, and relevant implementing legislation, the import/transit control system at central and local level including three listed BIPs, the general elements of the systems put in place to give effect to EU rules on imports of POAO and live animals including transit controls and supervision of non-EU-complying consignments.

The table below lists the sites visited and the meetings held in order to achieve the above objective:

Meetings		**Comments**
Competent Authorities	DEFRA, AHVLA, FSA, Border Force, MMO.	Opening and closing meetings and visits to BIPs

Border Inspection Posts					
Location	**Type**	**Inspection Centres**	**Current approval in Commission Decision 2009/821/EC**	**Consignments in 2011**	**Last visit by FVO**
Bristol	Port		HC-T(FR)(1)(2) HC-NT(1) NHC-NT	0	15/10/01
Falmouth	Port		HC-T(1)(3)* HC-NT(1)(3)*	0	26/02/97
Felixstowe	Port	TCEF	HC-T(1), NHC-T(FR), NHC-NT	20625	04/06/10
		ATEF	HC-NT(1)		
Heathrow	Airport	Centre 1	HC-T(1)(2), HC-NT(1)(2), NHC(2)	13063	04/11/08
		Centre 2	HC-T(1)(2), HC-NT(1)(2)		
		ARC	U, E, O	11,505	
Hull	Port		HC-T(1)(3), HC-NT(1)(3)	16	15/10/01
Invergordon	Port		NHC-NT (4)	0	04/08/97
Peterhead	Port		HC-T(FR)(1)(2)(3)	0	04/02/02

(1) Checking in line with the requirements of Commission Decision 93/352/EEC taken in execution of Article 19(3) of Council Directive 97/78/EC.
(2) Packed products only.
(3) Fishery products only.
(4) Animal proteins only.

* The UK had requested a change in the approval for Falmouth to “fishery products only” but this change was not officially in place via Commission Decision 821/2009/EC at the time of the FVO audit.

3 Legal Basis

The audit was carried out under the general provisions of EU legislation, and in particular:

- Article 45 of Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules;
- Article 4 of Commission Decision 2009/821/EC, Article 6 of Council Directive 2002/99/EC and Article 19 of Directive 91/496/EEC.

A full list of the legal instruments referred to in this report is provided in the Annex 1 and refers,

where applicable, to the last amended version.

4 BACKGROUND

The last audit concerning import controls was in September - October 2009. The results of this audit are described in DG(SANCO)/2009/8204-MR Final (hereafter: the 2009 report), available on the Internet at:

http://ec.europa.eu/food/fvo/ir_search_en.cfm

The report made a number of recommendations to the UK Competent Authorities, who subsequently informed the Commission of actions taken or foreseen to address the recommendations made (hereafter: action plan). This action plan is also available on the internet at:

http://ec.europa.eu/food/fvo/ap/ap_gb_2009-8204.pdf

Where necessary, both the relevant recommendations and the action plan are outlined under the relevant parts of Section 5 of this report.

At the time of the audit, there were no approved free zones or customs warehouses in the UK approved under Articles 12 or 13 of Directive 97/78/EC to receive non-EU complying consignments.

5 FINDINGS AND CONCLUSIONS

5.1 COMPETENT AUTHORITIES

5.1.1 Designation of Competent Authorities

Legal Requirements

Article 4(1) of Regulation (EC) No 882/2004 requires Member States to designate the Competent Authorities responsible for official controls.

Findings

Management structure and organisation of the Central Competent Authorities are detailed in the country profile for the UK (DG(SANCO)/2010/8371 - Final) available on the internet at:

http ://ec.europa. eu/food/fvo/country_profiles_en.cfm

On 1 April 2011, Animal Health merged with the Veterinary Laboratories Agency to form AHVLA. At the same time, most veterinarians working in DEFRA transferred to the Agency. Veterinarians and scientists remain embedded in the policy teams within animal health areas of DEFRA but line management responsibility lies within AHVLA. Movement of veterinarians to AHVLA has not affected the veterinary staffing level in animal health import policy and veterinary checks.

With effect from 1 March 2012, Border Force was split from the UK Border Agency (UKBA) to become a separate operational command within the Home Office. Border Force has statutory enforcement responsibility for delivering anti-smuggling controls on passenger, freight and postal

traffic arriving from non-EU countries at Great Britain points of entry.

HM Revenue and Customs are the responsible UK authority for delivering the customs clearance function for imports of POAO, live animals, and products within the scope of the illegal fishing regime and for the ownership and operation of all import and export customs declaration handling systems. UK Border Agency still has responsibilities for some functions that were previously part of Border Force, such as the criminal investigation of illegal import cases referred to them by Border Force and for delivering publicity and communications in relation to POAO at GB points of entry and to overseas visitors.

5.1.2 Co-operation between and within Competent Authorities

Legal Requirements

Article 4(3) of Regulation (EC) No 882/2004 requires efficient and effective co-ordination and co-operation between different Competent Authorities. Article 4(5) requires that, when more than one unit within the same Competent Authority is competent to carry out official controls, efficient and effective co-ordination and co-operation is ensured between those units.

Findings

DEFRA, the FSA, Border Force and AHVLA meet regularly to discuss imports. In particular the BIP Liaison Committee meets quarterly and the FSA's Imported Food and Feed Working Group which meets twice a year. A Service Level Agreement formalises responsibilities between DEFRA, HMRC, UKBA/Border Force, FSA, AHVLA and Devolved Administrations.

The 2009 report recommended (recommendation No 4) to further strengthen the existing co-operation between Competent Authorities with respect to feed back received regarding the results of official controls, with respect to the agreements in place to cover the exchange of relevant information available in electronic systems.

In its action plan, the Competent Authority indicated that a revised Service Level Agreement between HMRC, UKBA, FSA, AH and Devolved Administrations would cover this point and would cover BIPs in Scotland.

The audit team noted that:

- In the BIPs visited, BIP staff and Border Force officials work very closely, exchanging information as frequently as required, often on a daily basis.
- Separate Service Level Agreements are in place between AHVLA and the English, Scottish and Welsh Agriculture Departments as both Animal Health and Welfare policy and funding is now devolved.

Conclusions on Competent Authorities

The organisation of the Central Competent Authorities and Customs provide for import/transit control requirements. The co-operation between the different Authorities involved in import and transit controls contributes to the effectiveness of import controls, in line with the requirements laid down in Article 4 of Regulation (EC) No 882/2004.

The UK has addressed recommendation No 4 from 2009 report.

5.2 Resources for performing Official Controls

5.2.1 Staff and provision of facilities

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 requires the Competent Authority to ensure that it has access to a sufficient number of suitably qualified and experienced staff and that appropriate and properly maintained facilities and equipment are available.

Findings

The 2009 report recommended (recommendation No 1) to review the staffing in BIPs in order to ensure that, if there is a significant increase in throughput, that staff numbers in place were sufficient to carry out the veterinary checks as required by Annex II to Directive 97/78/EC.

In their action plan, the Competent Authority indicated that a maximum number of consignments would be set which could be checked by a full time OVS. This was subsequently set at 3,500 in the BIP manual.

The audit team noted that:

- In general, the BIPs visited had appropriate and properly maintained facilities and appropriate equipment was available (linked to an effective verification system for facilities as described in section 5.4 below).

5.2.2 Staff qualifications and training

Legal Requirements

Article 6 of Regulation (EC) No 882/2004 requires Competent Authorities to ensure that staff receive appropriate training, and are kept up-to-date in their competencies.

Findings

The system for ensuring that staff receive appropriate training and are kept up-to-date in their competencies remains largely as described in the 2009 report.

Recommendation No 12 from the 2009 report related to the provision of training and in their action plan, the Competent Authority indicated that BIP staff would be required to attend update training days regularly.

AHVLA in conjunction with DEFRA and the FSA, provide two update training days per calendar year for all Official Veterinary Surgeons (OVSs) and Official Fish Inspectors (OFIs) responsible for carrying out veterinary checks at BIPs. The BIP manual requires update training at least once in two years for all OVSs and OFIs.

The audit team noted that:

- When requested, staff at BIPs visited could produce training records which indicated that training was received recently in all cases.

- Staff met at all BIPs were generally aware of where to find the relevant legislation, safeguard measures in place and model certificates.

5.2.3 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 business operator concerned.

Findings

Recommendation No 7 from the 2009 report requested developing the system in place as regards instructions and guidance for official controls in order to fully ensure that BIP staff was aware of and use the latest updated version of EU legislation for their official controls.

In response to this, the Competent Authority referred to proposals to update operating instructions for BIPs and to introduce a web based compendium of legislation.

The audit team noted that:

- The BIP manual is available on the DEFRA website and is updated regularly. The latest version was issued in January 2012.
- The BIP Manual is supplemented by OVS information notes which contain details of changes to import controls for products of animal origin. These notes supplement the standing instructions to inspection officers that are contained in the BIP Manual.
- A web based compendium of legislation has been introduced for BIP staff.

Conclusions on Resources for Performance of Controls

The UK Authorities ensure that sufficient numbers of qualified staff, appropriate and properly maintained facilities and equipment are available for import control checks. They have implemented targeted training and sufficient instructions and information, in line with the requirements laid down in Articles 4, 6, 8 and 9 of Regulation (EC) No 882/2004.

Recommendation Nos 1, 7 and 9 of the 2009 report have been satisfactorily addressed.

5.3 Enforcement Measures

5.3.1 Measures in the case of non-compliance

Legal Requirements

Article 54 of Regulation (EC) No 882/2004 requires a Competent Authority which identifies a non-compliance to take appropriate action to ensure that the operator remedies the situation.

Findings

Non-compliances detected during the audit included late or absence of notification of the arrival of consignments to BIPs and detection of imported consignments of POAO which had not been presented for BIP checks.

The Competent Authority took a range of actions in response to these non-compliances including verbal or written warnings and seizure of illegal imports. Court proceedings were considered on a case by case basis for illegal imports.

5.3.2 Sanctions

Legal Requirements

Article 55 of Regulation (EC) No 882/2004 states that Member States shall lay down the rules on sanctions applicable to infringements of feed and food law and other EU provisions relating to the protection of animal health and welfare and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

Findings

The *Trade in Animals and Related Products (TARPs) Regulations 2011* covers offences and sanctions related to imports of POAO. Section 39 deals with offences and section 42 with penalties. Penalties are only applicable following conviction via a court proceeding. There is no fine / financial penalty available without going to court.

BIPs attempt to improve compliance rates for notification via verbal or written warnings but the next level of available sanction is a court proceeding which has never been used for this requirement.

The audit team noted that:

- Failure to pre-notify has a frequency of ~ 10% at Heathrow (according to local staff) and ~ 20% at Felixstowe (according to an internal audit report). Both locations expressed an interest in using a sanction other than court if it were made available to them.
- Consideration of court proceedings for certain detections of illegal imports was at an advanced stage.

Conclusions on Enforcement Measures

The Competent Authorities take action when non-compliances are detected. However, in the case of non-notification of BIPs, the actions to ensure that the operator remedies the situation are not always effective and the available sanction (which involves a court proceeding) is not used which leads to persistent non-compliances.

5.4 VERIFICATION AND REVIEW OF OFFICIAL CONTROLS AND PROCEDURES

5.4.1 Verification procedures

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 requires the Competent Authorities to ensure the impartiality, consistency and quality of official controls at all levels and to guarantee the effectiveness and appropriateness of official controls. 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

The Competent Authority provided guidance on verification procedures at BIPs receiving POAO via OVS 35/2011 (August 2011 - available on DEFRA website). This guidance states that the verification procedures should ensure that checks are carried out in accordance with the EU requirements and the existing documented procedures. They should cover all the relevant aspects in Annex II, Chapter II of Regulation 882/2004/EC. Each BIP is allowed to implement its own verification system to achieve this.

Local authorities are responsible for verification checks at BIPs approved to check POAO and AHVLA at BIPs approved to check live animals.

The audit team noted that:

- Some BIPs (higher throughput) had sophisticated verification systems which lead to the production of a report. Lower throughput BIPs tend to have simpler systems which may not lead to the generation of a report. Copies of verification reports were provided to the audit team where available.
- When available, verification reports identified structural and hygienic shortcomings at BIP facilities that were, afterwards, properly followed up.

5.4.2 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.

Findings

The 2009 report recommended (recommendation No 2) ensuring that the requirement of Article 4 (6) of Regulation (EC) No 882/2004 regarding audits will be implemented with respect to the import/transit control system at the listed BIPs in Great Britain and further formalised in Northern Ireland.

In their response to this recommendation, the Competent Authorities indicated that formal audits of veterinary controls at BIPs in England and Scotland would be introduced and that the Veterinary Service Audits Branch in Northern Ireland would carry out an audit of import and BIP controls in 2010 and subsequently every 12-18 months.

Veterinary Service Audits Branch in Northern Ireland did carry out an audit in August 2010. AHVLA carry out audits in Great Britain which are “independently scrutinised” by the Specialist Service Centre for Imports (SSCI) in Chelmsford.

AHVLA are currently reviewing their entire audit system including those implemented for import controls.

DEFRA is the main Competent Authority responsible for policy and providing instructions/ guidelines related to import controls. DEFRA has delegated audit function to AHVLA who audit the implementation of official controls at BIPs. The audit system is largely check list based and conducted on a regional level.

Audits at BIPs approved to receive POAO:

A veterinary officer from the local AHVLA office carries out the audit using separate check lists to assess the facilities and procedures at the BIPs. During the audits, AHVLA ensure that the verification checks are being carried out by the local authority (i.e., either the OVS or OFI).

Audits are planed to be carried out annually at low throughput BIPs and every six months at higher throughput ones. Audits lead to the creation of reports which summarise the issues and specify deadlines for resolving them.

Follow-up is checked when the deadline expires or at the next visit depending on frequency of visits and the nature of the issue. Higher throughput BIPs also received "liaison visits" by the auditors about three months after audits to check progress and provide an opportunity to discuss any relevant issues.

Audits at BIPs approved to receive live animals:

The system is similar to the one indicated above except that:

- Regional Veterinary Leads (RVLs) carry out the audits of BIPs in their region (official veterinarians at live animal BIPs are AHVLA employees).
- Audits are planned to be carried out every two years.

Copies of all reports are forwarded to the SSCI who record findings and contact auditors re follow up as required. Staff from the SSCI also visit BIPs to coincide when audits are being conducted and the frequency of theses visits is based on the throughput of the BIPs.

The audit team noted that:

- The scope of the audits does not appear to cover "whether these arrangements are suitable to achieve objectives" as referred to in the definition of audit in Regulation 882/2004/EC, i.e., the audits do not cover activities DEFRA perform such as the content of instructions and guidelines.
- The level of experience and training of the auditors for product BIPs varied considerably. Many of those met had been assigned to this task during the last twelve months. They all had experience of audits in public health and had received some training on import controls. (e.g., the SSCI report for a visit to Hull BIP in August 2012 stated that " The lead Veterinary Officer (i.e., auditor) is unable to spend the time required to be familiar with the legislation and other information provided to BIPs ")
- The check list for procedures at product BIPs was completed differently by several internal auditors at low throughput BIPs. Different sections were completed as "N/A" to indicate that procedures could not be audited as they had not been applied as there were no consignments during the audit period. However, other procedures which also had not been implemented were indicated as compliant.
- The audit report (check list) included an indication of the deadline to solve the deficiencies detected, but the system did not foresee the development of written action plans. In one case,

although the report indicated "immediate" for the time to correct a shortcoming, this had not been addressed as the Official Veterinarian in the BIP did not agree with the finding. Follow-up of detected non-compliances was generally carried out at the indicated deadline (in many cases through an extra visit and in others by phone) and registered in the consecutive audit.
- The summaries of the latest audit reports for all BIPs visited during this FVO audit identified most of the issues detected by the FVO.

Conclusions on Verification Procedures

There is an effective verification system in place. The UK has introduced an internal audit system in response to recommendation No 2 from the 2009 audit report but the low level of experience and training of some regional staff on both the audit process and import controls limits its effectiveness and reduces the possibility to detect weaknesses in the import control procedures.

Recommendation No 2 from the 2009 report has been partially addressed. The ongoing review of internal audits within AHVLA might lead to changes in the existing system.

5.5 Legislative and Administrative provisions

5.5.1 Provisions for implementation

Legal Requirements

A large number of Commission Decisions and Regulations detail the application of import control procedures; i.e., animal-by-products, veterinary fees, approved third country lists, model health certificates and safeguard measures introduced to prevent potentially harmful commodities being introduced into the Union.

Several pieces of EU legislation require entry point lists or certain establishment lists linked to controls to be established (Articles 8 (6) and 12 (4) of Directive 97/78/EC, Chapter XI of Annex VIII to Regulation (EC) No 1774/2002 of the European Parliament and of the Council).

Findings

Recommendations Nos 9 and 13 from the 2009 report related to the provision of clear information with respect to plants approved under Regulation (EC) No 1774/2002 and to improve the procedure for monitoring channelled consignments, respectively.

In their response to these recommendations, the Competent Authority referred to plans to provide instructions / guidance for official controls on these issues.

The audit team noted that:

- The Competent Authority provided a wide range of detailed instructions / guidance for official controls to BIP staff which include the above mentioned two issues.
- No shortcoming regarding channelled consignments and information on animal-by-products approved plans were detected during the audit.

Conclusions

The Competent Authority provided BIP staff access to relevant information and recommendations 7 and 9 of the 2009 report have been satisfactorily addressed.

5.5.2 Implementation of TRACES

Legal Requirements

Article 3 (2) of Commission Decision 2004/292/EC requires that the TRACES system be used for all consignments presented to BIPs. This system is used as a communication means for specific consignments received at BIPs, e.g. live animals, channelled and rejected consignments, non-EU-complying consignments for transit, warehouse storage or ship supply.

Findings

The 2009 report recommended (recommendation No 10) improving the information entered into TRACES in order to avoid confusing statistics in TRACES. In their response to this recommendation, the Competent Authority indicated that OVS would address this issue.

The audit team noted that:

- In general, BIP staff have a good working knowledge of TRACES and the system was used as required in the BIPs visited. In the vast majority of cases, part I of the Common Veterinary Entry Document (CVED) was filled out correctly by the person responsible for the load.
- TRACES had been included in recent BIP update training days, e.g., 28 November 2011 and 19 June 2012.
- A copy of the OVS note dealing with the correct use of TRACES (dated March 2010) was received by the audit team.
- The information on the CVEDs reviewed during the audit was generally correct and correctly entered into TRACES.

Conclusions

TRACES is largely being used correctly and recommendation No 10 of the 2009 report has been satisfactory addressed.

5.6 CONTROLS OF CONSIGNMENTS AT ENTRY BIPS

5.6.1 System to ensure presentation of consignments for veterinary checks

Legal Requirements

Article 4 (1) of Directive 91/496/EEC and Article 3 of Directive 97/78/EC require that Member States shall ensure that no consignment from a third country is introduced into EU territory without having been subjected to the veterinary checks at a BIP and being notified in advance to the BIP and also gives the Member States the possibility to check manifests. Additionally, Article 7 of Directive 2002/99/EC stipulates that POAO intended for human consumption are introduced only if they comply with the EU requirements for animal health.

Article 2 (1) of Regulation (EC) No 136/2004 requires notification of consignments of POAO before their physical arrival on Union territory to the BIP staff and Article 1 (1) of Regulation (EC) No 282/2004 specifies the same for live animals at least one working day before their physical arrival on Community territory.

In order to ensure that all animal products and live animals undergo veterinary checks Articles 5 and 6 of Regulation 136/2004 and Articles 4 and 5 of Regulation 282/2004 require the Member States to gather all pertinent intelligence from Customs, manifests and other information sources and to have

access to the relevant databases held by Customs.

Findings

The 2009 report recommended (recommendation No 11) strengthening the system in place to identify and select consignments which require veterinary checks at the BIP including those checks that are required for transhipped consignments or consignments in transit.

In their response to this recommendation, the Competent Authority indicated that it would continue to explore ways of providing airport BIPs with access to airline manifests or other sources of relevant information to identify and select consignments which require veterinary checks.

At the time of the audit, Port Health Authorities were continuing to work with a telecommunications company on a project to provide access to airline manifests for BIPs located at airports. That company is responsible for a system that provides links between Border Force and airline/customer information and the system was recently piloted and the results of the pilot were being assessed.

Recommendation No 5 from the 2009 report related to ensuring that all imports of commercial live animals are presented to a BIP for veterinary checks. This recommendation was addressed through a change in UK legislation, with the exception of imports of live animals destined for research establishments. After the FVO audit in 2009, the UK Authorities provided information to the Commission services on the alternative system implemented for these types of animals, and they were awaiting a response. These animals are generally imported through import licence and are not notified to BIPs.

The audit team noted that:

- The product BIP at Heathrow Airport considered that Customs checked manifests for POAO and therefore the BIP did not have to duplicate this work (especially under the circumstances that the BIP had no direct access to airline manifests).
- Border Force representatives stated that they apply risk based and selective checks for illegal consignments of POAO which can include use of manifest data and are in line with latest risk information and available resources. However, it should be noted that it is often quite difficult to identify POAO goods on airline manifests and this a common issue for all commodities, so manifest checks alone are not going to necessarily identify illegal imports – particularly in the air environment. The anti-smuggling checks on POAO imports carried out by Border Force to detect suspected illegal imports are risk based and targeted in line with priorities agreed with Defra. These checks take into account latest animal disease risk assessments, any other available threat intelligence (e.g. information exchanges with other authorities involved in the control of POAO at the border or in country) and other priorities. This includes country risk information from Defra.
- Border Force did not screen transhipments to the same level and would not be aware whether all consignments of POAO had been notified to the BIP or not. The BIP set up a system to receive notifications of transhipping consignments but there was no formalised mechanism to detect consignments which were not notified.
- Consignments of fish oil had been imported in the recent past at one of the locations visited during the audit but the BIP was unaware of this. The OVS stated that there was an agreement in place with the Port Authorities whereby they would screen cargo manifests and inform the BIP of all consignments of POAO and the OVS committed to investigate the issue further.

- Felixstowe BIP had developed a range of sophisticated electronic procedures / management tools such as automatic screening of manifests for POAO and daily reports of landed consignments for which no CVED has been presented to BIP. The system worked well and was very efficient regarding resources as using it required very little time from officials.

Conclusions

There is a system in place to ensure that consignments that require veterinary checks are presented at BIPs. Research animals are not always notified to BIPs. Although efforts to provide access to airline manifests to BIPs are ongoing, consignments transhipped at airports could remain undetected due to the impossibility to cross-check notifications received with real cargo.

5.6.2 Veterinary checks

Legal Requirements

Procedures for veterinary checks on consignments of animal origin or live animals are laid down in Directives 91/496/EEC and 97/78/EC, in Regulations (EC) No 136/2004 and 282/2004 and in Commission Decisions such as 94/360/EC, 97/794/EC and 2001/812/EC.

Findings

The BIP Manual provides detailed guidance on veterinary checks.

The audit team noted:

- At the BIPs visited, veterinary checks were applied correctly in most cases and checklists were generally used to record veterinary checks.
- Physical checks of some consignments were based on selecting product only from the back of containers rather than on "a whole range of samples drawn from the entire consignment" as required in point e of Annex III of Directive 97/78/EEC and as set out in the BIP manual. This happened at port BIPs for consignments that required a lot of labour for unloading and re-loading (e.g. Non-palletised small boxes, unwrapped small tins).
- As indicated in heading 5.6.1, consignments of animals for research are not always checked at BIPs. The animals go directly to authorised research establishments and are checked there.
- At BIPs visited where transhipments were a feature of trade, there were procedures to ensure that consignments were checked according to legislation in case they stayed over the legal established periods. However, as outlined in section 5.6.1, the system to control transhipments at Heathrow could not identify such consignments.

Conclusions

Veterinary checks in general were carried out as provided for in EU legislation. However, the way physical checks are sometimes carried out increases the risk that non-compliances with EU requirements would not be detected during checks.

5.6.3 Monitoring plans for sampling imported consignments

Legal Requirements

Point 1 of Annex II to Regulation (EC) No 136/2004 requires Member States to submit consignments of POAO presented for importation to a monitoring plan to detect residues, pathogenic organisms or other substances dangerous to humans, animals or the environment.

Point 4 of Annex II to the above Regulation stipulates that each Member State shall inform the Commission monthly of favourable and unfavourable results of laboratory testing carried out in its BIPs.

Findings

The Competent Authority provides BIPs with guidance on how to draw up an annual sampling plan via the BIP manual. This includes which tests, which products and a recommended sampling rate of 1%. Each BIP draws up its own plan and is responsible for its implementation.

The audit team noted that:

- All BIPs visited that had received a significant number of consignments during 2011 had a documented monitoring plan ongoing. Some BIPs with very low throughput did not create an annual sampling plan each year and staff stated that the plan would be created when a consignment was presented.

Conclusions

Consignments of POAO arriving to the UK are submitted to a monitoring plan in line with the requirements in Annex II to Regulation (EC) No 136/2004.

5.6.4 Decision on the consignment

Legal Requirements

Procedures for the veterinary decision on consignments of animal origin and live animals and the follow up of such specific consignments are laid down in Directives 91/496/EEC and 97/78/EC, in Regulations (EC) No 136/2004 and 282/2004 and in Decisions such as 97/794/EC and 2001/812/EC.

Findings

The audit team noted that:

- At the BIPs visited, the veterinary decision on the consignments was taken properly and the CVEDs were issued correctly in the vast majority of cases.
- Some re-imported consignments were allowed in at Heathrow even though no authenticated copy of the original export certificate was provided. [1]

1 In their response to the draft report, the Competent Authority noted that consignments returned from third countries are only accepted for return to the plant of origin without a health certificate if no export certificate was issued initially. The UK government believes this is legally acceptable and consistent with the intention of article 15 of Council Directive 97/78/EEC.

Conclusions

In general, veterinary decisions are taken as provided for in EU legislation.

5.7 Controls of transit/non-EU-complying consignments

5.7.1 Monitoring of transit consignments by entry and exit BIPs

Legal Requirements

Article 9 of Directive 91/496/EEC and Articles 11 and 12 of Directive 97/78/EC lay down specific requirements in relation to consignments in transit including deadlines for exit. These consignments must enter and leave the EU via an approved BIP and detailed requirements including deadlines for delivery are specified in Commission Decisions 2000/208/EC and 2000/571/EC. Such consignments must fulfil the animal health requirements laid down in Article 7 of Directive 2002/99/EC.

The first indent of Article 11 (2) (b) of Directive 97/78/EC provides for the possibility that documentary checks will be confined to the examination of the on-board manifest.

Article 9 of Directive 91/496/EEC and Articles 11 and 12 (8) of Directive 97/78/EC lay down specific requirements in relation to consignments in transit. These consignments must leave the EU via an approved BIP and additional requirements are specified in Decision 2000/208/EC.

Findings

In the UK transit of POAO is not a major feature of trade.

A system is in place to deal with transit consignments travelling between Heathrow and Gatwick airports. At Heathrow BIP, the system in place to control incoming consignments in transit include notification by TRACES and by fax to the exit BIP. To ensure exit checks for consignments in transit, Gatwick BIP sends the consignments in sealed lorries that are opened by BIP staff at Heathrow. The information received included the estimated time of arrival at Heathrow and the seal number.

The audit team noted that:

- The procedure to control consignments in transit was applied as explained at Heathrow airport. The exit of all consignments in transit reviewed by the audit team had been confirmed by the exit BIP.
- The BIP Manual includes a link to the Commission guidance on transits and transhipments.

Conclusions

The system in place ensures adequate control on consignments transiting the EU.

5.8 BIP FACILITIES, EQUIPMENT AND HYGIENE

5.8.1 Approval/withdrawal procedures for BIPs

Legal Requirements

The procedures for addition of new BIPs to and withdrawal of BIPs from the list of BIPs are laid down in Article 6 of Directives 91/496/EEC and 97/78/EC.

Findings

The *Trade in Animals and Related Products Regulations 2011* deals with approval and suspension of BIPs.

Conclusions

National rules are available which cover approval and suspension of BIPs.

5.8.2 BIPs visited during the audit

Legal Requirements

The requirements for BIP facilities, their equipment and hygiene are laid down in Directive 91/496/EEC concerning live animals and in Directive 97/78/EC and Decision 2001/812/EC concerning products of animal origin.

Bristol Port: HC-T(FR)(1)(2), HC-NT(1), NHC-NT

Findings

This is a very low throughput BIP - two consignments were received during 2012. The previous consignments were checked during 2006.

The BIP structure was well maintained and had all of the rooms and areas required for the relevant approval categories. A shortcoming regarding absence of light at the freezing facilities was identified by the internal supervision and a temporary solution was in place at the time of the audit.

Falmouth Port: HC-T(1)(3)* HC-NT(1)(3)*

Findings

This is a very low throughput BIP - the most recent consignment was checked during 2001.

The BIP structure was well maintained and had all rooms and areas required for the relevant approval categories. Recently before the audit, the BIP was included in the Customs controlled area of the port.

(* The UK had requested a change in the approval for Falmouth to "fishery products only" but this change was not officially in place via Commission Decision 821/2009/EC at the time of the FVO audit).

Felixstowe Port:

1. **IC TCEF: HC-T(1), NHC-T(FR), NHC-NT**
2. **IC: ATEF: HC-NT(1)**

Findings

This is a high throughput BIP - over 20,000 consignments were checked during 2011. Both Inspection Centres presented a high hygiene and structural standard for the relevant approval categories.

Heathrow Airport:

1. **Centre 1: HC-T(1)(2), HC-NT(1)(2), NHC(2)**
2. **Centre 2: HC-T(1)(2), HC-NT(1)(2)**
3. **IC ARC: U, E, O**

Findings

This is a high throughput BIP - over 13,000 consignments of POAO and over 11,500 live animal consignments were checked during 2011. Centre 2 was not visited during the audit.

Centre 1 had all rooms and areas required for the relevant approval categories. At the time of the audit, the freezer did not reach the desired temperature and BIP staff were monitoring this. The IC ARC was well maintained and had all of the rooms, areas and equipment required for the relevant approval categories.

Hull Port: HC-T(1)(3), HC-NT(1)(3)

Findings

This is a low throughput BIP – sixteen consignments were checked during 2011.

The BIP complied with EU requirements for the relevant approval categories although gaps between the roller door and floor at entrance to unloading area need to be rectified.

Invergordon Port: NHC-NT (4)

Findings

This is a very low throughput BIP – the most recent consignment was checked during 2010.

The BIP used commercial facilities adjacent to the BIP office to store consignments. Facilities allowed the storage of one consignment and they were not used again until they were emptied and cleaned.

In case the consignment had to be detained, the OVS stated that the fuses of the gate would be removed by Port Authorities which would prevent the operator from moving the fishmeal.

Peterhead Port: HC-T(FR)(1)(2)(3)

Findings

This is a very low throughput BIP – the most recent consignment was checked during 2004.

The BIP had been supervised in March 2012 for its facilities and the recorded deficiencies had been addressed.

Overall conclusions for BIPs visited

All BIPs visited during the audit complied with EU requirements for the relevant approval categories.

6 Overall Conclusions

The UK has an effective control system on imports and transits in compliance with the requirements of EU legislation. The effectiveness of the controls is ensured by, amongst others, the close co-operation between different Competent Authorities, an effective and targeted training programme and continuous review of procedures and instructions. An effective verification system in place. An evolving internal audit system has been introduced but the low level of experience and training of some regional staff on both the audit process and import controls limits its effectiveness.

The verification system and evolving internal audit system helps ensures the effectiveness of the import controls and the adequacy of the BIP facilities.

The Competent Authority implemented corrective actions to address all the deficiencies included in the 2009 report but areas such as access to airline manifests and internal audits, are not yet fully developed.

Although most consignments are correctly notify to BIPs before their arrival, the level of non-compliance in this area remains constant due to the unavailability of proportionate and dissuasive sanctions.

Structurally, the BIPs meet the requirements of EU legislation for the approval categories currently listed.

7 Closing Meeting

A closing meeting was held on 12 October 2012 with representatives of the Central Competent Authority. At this meeting, the main findings and preliminary conclusions of the audit were presented by the audit team. The Central Competent Authority requested clarification in relation to some issues but did not express disagreement with the findings and conclusions presented.

8 RECOMMENDATIONS

The Competent Authorities are invited to provide details of the actions taken and planned, aimed at addressing the recommendations set out below, within twenty five working days of receipt of this audit report, including deadlines for their completion ("action plan") and within the deadlines indicated in Article 6 of Decision 2001/812/EC where relevant.

N°.	Recommendation
1.	To ensure that, when sanctions are deemed appropriate for non-compliances with EU import rules, e.g., late or no pre-notification of consignments, such sanctions are effective, proportionate and dissuasive as referred to in Article 55 of Regulation (EC) No 882/2004.
2.	To further develop the internal audit system with respect to the import/transit controls to ensure that the requirements of Article 4 (6) of Regulation (EC) No 882/2004 are satisfied.
3.	To further strengthen the system in place to identify and select consignments which require veterinary checks at the BIP, including those transhipped, in order to fully implement Article 3 (1) and Article 9 of Directive 97/78/EC and Article 2 (1) of Regulation (EC) No 136/2004.

The competent authority's response to the recommendations can be found at:

http://ec.europa.eu/food/fvo/rep_details_en.cfm?rep_inspection_ref=2012-6582

Annex 1 - Legal References

Legal Reference	Official Journal	Title
Dir. 97/78/EC	OJ L 24, 30.1.1998, p. 9-30	Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries
Dir. 91/496/EEC	OJ L 268, 24.9.1991, p. 56-68	Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC
Reg. 882/2004	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules
Dir. 2002/99/EC	OJ L 18, 23.1.2003, p. 11-20	Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption
Dec. 2007/25/EC	OJ L 8, 13.1.2007, p. 29-34	2007/25/EC: Commission Decision of 22 December 2006 as regards certain protection measures in relation to highly pathogenic avian influenza and movements of pet birds accompanying their owners into the Community
Reg. 338/97	OJ L 61, 3.3.1997, p. 1-69	Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein
Dec. 2004/292/EC	OJ L 94, 31.3.2004, p. 63-64	2004/292/EC: Commission Decision of 30 March 2004 on the introduction of the Traces system and amending Decision 92/486/EEC

Legal Reference	Official Journal	Title
Dec. 97/394/EC	OJ L 164, 21.6.1997, p. 42-43	97/394/EC: Commission Decision of 6 June 1997 establishing the minimum data required for the databases on animals and animal products brought into the Community
Dec. 97/152/EC	OJ L 59, 28.2.1997, p. 50-52	97/152/EC: Commission Decision of 10 February 1997 concerning the information to be entered in the computerized file of consignments of animals or animal products from third countries which are re-dispatched
Reg. 282/2004	OJ L 49, 19.2.2004, p. 11-24	Commission Regulation (EC) No 282/2004 of 18 February 2004 introducing a document for the declaration of, and veterinary checks on, animals from third countries entering the Community
Reg. 142/2011	OJ L 54, 26.2.2011, p. 1-254	Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive
Dec. 2001/812/EC	OJ L 306, 23.11.2001, p. 28-33	2001/812/EC: Commission Decision of 21 November 2001 laying down the requirements for the approval of border inspection posts responsible for veterinary checks on products introduced into the Community from third countries
Reg. 136/2004	OJ L 21, 28.1.2004, p. 11-23	Commission Regulation (EC) No 136/2004 of 22 January 2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries
Dec. 97/794/EC	OJ L 323, 26.11.1997, p. 31-36	97/794/EC: Commission Decision of 12 November 1997 laying down certain detailed rules for the application of Council Directive 91/496/EEC as regards veterinary checks on live animals to be imported from third countries

Legal Reference	Official Journal	Title
Dec. 2009/821/EC	OJ L 296, 12.11.2009, p.1	2009/821/EC: Commission Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces
Dec. 94/360/EC	OJ L 158, 25.6.1994, p. 41-45	94/360/EC: Commission Decision of 20 May 1994 on the reduced frequency of physical checks of consignments of certain products to be implemented from third countries, under Council Directive 90/675/EEC
Dec. 2000/208/EC	OJ L 64, 11.3.2000, p. 20-21	2000/208/EC: Commission Decision of 24 February 2000 establishing detailed rules for the application of Council Directive 97/78/EC concerning the transit of products of animal origin from one third country to another third country by road only across the European Community