Legislative update on chemical contaminants in food

Draft Regulation on Maximum Levels for Mercury
At the latest Environmental Contaminants Working Group meeting on 3 February 2017, the Commission informed Member States (MSs) that the discussions and proposal to bring the plant protection product (PPP) MLs for mercury into the contaminants Regulation have been abandoned due to legal hurdles. The Pesticides Committee will now take forward any revision to the MPLs under plant protection legislation taking into account the discussion to date. The proposed changes to the contaminants regulation (an amendment to Commission Regulation 1881/2006) will now only comprise the fish group amendments and a new ML for salt.

Discussions on revised benchmark levels (BML) on acrylamide in food
The Commission are still developing a proposal for a regulatory approach to acrylamide reduction. The expected approach will be made under Regulation 852/2004 on the hygiene of foodstuffs and seeks to embed codes of practice on acrylamide mitigation throughout the food chain and includes measures to support due diligence by FBOs. The Commission is also planning to include benchmark levels (BMLs) for the various food categories in an annex to the Regulation. The intention is that BMLs will replace the previous indicative values and will be set at around the 85 percentile of occurrence to promote ALARA (as low as reasonably achievable). As with the indicative levels the BMLs will not be maximum levels but they will be used as a guide for carrying out further investigation on what action has already been taken to reduce acrylamide.

The latest version (revision 7) of the proposal has yet to be circulated by the EU Commission but the Commission hopes to agree the proposal by the summer, with it coming into force from 1st January 2018 at the earliest.

After the current proposal is adopted, the Commission has indicated a second phase of work will examine the feasibility of setting maximum limits for certain food categories. These discussions are not expected to start before autumn this year.

Discussion of maximum levels for 3-MCPD-esters and glycidyl esters in food
The Commission has indicated that the discussions on a regulatory measure for 3-MCPD-esters will be delayed until later in the year pending a further review by the European Food Safety Authority (EFSA) on the JECFA monograph of the 3-MCPD esters and also some additional studies. The Commission is therefore planning to separately bring forward a measure to establish MLs for glycidyl esters in vegetable oils and infant formulae in the interim. This measure will be brought to a future standing Committee meeting for vote.

Recommendation on Monitoring of Mineral Oil Hydrocarbons
The European Commission recommendation encouraging data collection for mineral oils in foods and to also to investigate sources of contamination was published in January 2017.

MLs for Hydrocyanic acid (HCN) in unprocessed apricot kernels
Following the update provided in September 2016, an ML of 20 mg/kg for cyanide levels in unprocessed apricot kernels has now been agreed at Standing Committee on 8th February 2017. The amendment to Regulation 1881/2006 will now go through the usual scrutiny procedure before being formally adopted by the Commission later this year. The new ML will be applicable to unprocessed whole, ground, milled, cracked and chopped apricot kernels placed on the market for the final consumer and will encompass both free and bound HCN. Additionally, any food business operator who places apricot kernels (unprocessed whole, ground, milled, cracked and chopped) on the market for the final consumer will be expected to provide evidence of compliance with the maximum level if requested by enforcement authorities.

Pyrolizidine alkaloids (PAs) in honey, tea, herbal infusions and food supplements
Following the European Food Safety Authority’s (EFSA) opinion on PAs concluding that 1, 2-unsaturated PAs may act as carcinogens in humans; the Commission has started discussions on possible risk management measures to reduce exposure to PAs. Risk management measures are being discussed for teas, herbal teas, plant-based food supplements and honey.

The importance of following good agricultural practices (GAPs) has been highlighted since the presence of PAs is usually as a result of adventitious contamination from weeds containing PAs. The GAPs put in place by the industry have resulted in a reduction of PA levels in these products.

Ergot alkaloids and a method for determining ergot sclerotia in cereals by microscopic examination
A method for quantifying the presence of ergot sclerotia by microscopic examination has been made available by the Commission. The document does not overrule international standards of ergot sclerotia determination. The methods described may be used for qualitative and quantitative determination of sclerotia where the particle size is greater than
EFSA is carrying out an updated exposure assessment to ergot alkaloids. The relationship between the level of sclerotia and ergot alkaloids will also be examined. The results of this assessment are due to be published by May 2017.

**Ochratoxin A in food. Discussion on possible MLs in foods for which a ML does not currently exist at an EU level**

MLs have been established for ochratoxin A (OTA) in several foods including cereals and cereal products, some spices and dried vine fruit. Recently, higher levels had been found in products such as dried figs, oilseeds, pistachios and edible pork offal. The Commission has requested any data on these commodities should be submitted to EFSA for a revised exposure assessment of OTA. The new assessment will be considered when discussing whether MLs are needed for those products.

**Morphine in poppy seeds**

Following the update provided in September 2016, MSs agreed to a target level of 10 mg/kg for opium in poppy seeds. The term ‘level for intracommunity trade’ will be used to refer to this level (in keeping with similar levels established for other contaminants like perchlorate). This level is applicable to poppy seeds placed on the market destined for the final consumer (direct human consumption or to be used by the consumer as ingredient in food). This was agreed at the Standing Committee on Plants, Animals, Food and Feed on 25 November 2016 and is currently applicable to poppy seeds and products containing poppy seeds.

**Erucic acid in food. Discussion on the regulatory follow-up**

EFSA’s scientific opinion on erucic acid in food and feed identified that some high level consumers could slightly exceed the health based guidance value. The Commission is therefore considering whether the current MLs for erucic acid for vegetable oils and fats and foods containing added vegetable oils and fats, as well as infant formula should be revised.

Currently levels of 20 g/kg for vegetable oils and fats (aligned with the level established at Codex), 4 - 5 g/kg for infant formula and use of Article 2 of 1881/2006 for foods containing added oils and fats are under discussion.

**PAHs in traditionally smoked meat and fish products**

The Commission has recently reminded Member States (MSs) that the derogation from lower maximum levels for PAHs for certain MSs, including the UK, in locally produced, traditionally smoked meat and meat products and/or fish and fishery products sold in national territory (Regulation 1327/2014) is due for its three year review. MSs benefiting from the derogation have been requested to provide information a) on monitoring data for products covered; b) the application of good manufacturing practice and c) justification for products for which the derogation should continue, by early March 2017. This information will be used by the Commission in deciding the application of any future derogation. Any food businesses able to provide such information should send it to us their earliest convenience.

**Repeal and Replacement of Regulation 589/2014 on sampling and analysis for dioxins and PCBs for Official Control**

The new regulation for dioxin sampling and analysis is currently passing through the final stages of preparation for publication. The main change from 589/2014 is that the requirements of the Regulation become incumbent on food business operators conducting or commissioning their own testing. This should not be burdensome on food businesses since sampling must always be representative and the main purpose of the sampling provisions in the regulation is to ensure this (there will be scope to deviate for reasons of practicality or cost). Similarly, testing laboratories need to meet the analytical criteria set out in the regulation to ensure that results are valid and therefore food business operators should already be making this a requirement.

**Non-compliance of some consignments of US peanuts in relation to aflatoxin**

Regulation (EU) 949/2015 provides a special agreement for pre-export checks to be carried out for aflatoxins in peanuts from the US. However, there has been an increase in non-compliance since mid-2016. Therefore, in accordance with Article 23, point 8 of Regulation (EC) No 882/2004 the reduced frequency provided for in Regulation (EU) 949/2015 no longer applies. The Commission intends to include peanuts from the US in Regulation 884/2014 and will be bringing a measure forward to effect this to a future Standing Committee.

**11th Codex Committee on Contaminants in Food**

The 11th session of the Codex Committee on Contaminants in Food (CCCF) will take place in Rio De Janeiro, Brazil from 3-7 April 2017. The provisional agenda together with links to those documents that have currently been made available.

Other requests for assessments to EFSA and progress update
- T2 HT2 in cereal: EFSA has recently published its assessment on the ‘Appropriateness to set a group health based guidance value for T2 and HT2 toxin and its modified forms’. A revised exposure assessment which includes more recent data will be undertaken. A stakeholder forum will be organised by the Commission in summer 2017 to discuss updates.
- DON and its modified forms: EFSA’s opinion on deoxynivalenol (DON) and its modified forms (acetyl and glucoside) is expected to be published shortly.
- Opium alkaloids in poppy seeds: EFSA has called for data on opium alkaloids other than morphine in order to assess any health risks related to those compounds. EFSA will have a continuous call for data where opium alkaloids will be included.
- Glycoalkaloids and quinolizidine alkaloids: assessment expected in June 2018. If any further occurrence data is available, it should be submitted to EFSA.
- EFSA RASFF tool development: EFSA has been requested to develop a RASFF analysis tool to provide a risk analysis for chemical contaminants alerts. The tool will be used as an aid in risk management.
- Tropane alkaloids: EFSA will carry out an exposure assessment based on data that were collected in the survey they commissioned. They will also look at the toxicity of tropane alkaloids other than atropine and scopolamine. It is expected to be completed by 2017.

Addendum to March 2017 legislative update on chemical contaminants in food

The EU Commission has provided a new draft of the proposed acrylamide regulation to EU Member States for discussion at the Standing Committee (SCoPAFF) on 27 March 2017. This is revision 9 of the text.

The draft proposal promotes obligations for acrylamide mitigation via food safety management systems/HACCP under Commission Regulation (EC) 852/2004. The most significant change is that the core elements from the food industry codes of practice are now incorporated directly in the annex of the proposal rather than in separate documentation.

The Commission has indicated that there will be further technical discussion at the expert committee meeting for environmental and industrial contaminants on the 3 May 2017, this will include the draft text and draft benchmark levels.

If suitable progress is made the Commission intends to make the draft proposal available for comment on its website after this meeting. The Commission is hopeful that final agreement on the proposal can be made at the SCoPAFF committee meeting on June 19 2017.

FSA recommends that stakeholders provide any further constructive feedback to the Commission and Member States ahead of the meeting on the 3 May 2017.