

# **Amendments to Retained Regulation 2019/1793: Controls Applied to Imported Food and Feed not of Animal Origin**

## **Summary of stakeholder responses**

**July 2022**

### **Introduction**

This consultation was issued on 14<sup>th</sup> April 2022 and closed on 7<sup>th</sup> July 2022.

It is a joint Food Standards Agency (FSA) and Food Standards Scotland (FSS) consultation on proposed amendments to Retained Regulation 2019/1793. This retained EU legislation applies a temporary increase of official controls and special conditions governing the entry into Great Britain of certain food and feed of non-animal origin from certain countries.

The reason we consulted was to seek stakeholder comments and views on proposed amendments to the Annexes of Retained Regulation 2019/1793.

The consultation was published on the FSA and FSS website. Emails were sent to trade bodies, port health local authorities and other interested parties. Prior to the consultation opening, the FSA and FSS wrote to the countries affected by the proposals. We also intend to notify the World Trade Organisation (WTO) in line with our international commitments.

The FSA and FSS are grateful to those stakeholders who responded to the consultation and the table below sets out our responses in order of the date in which they were received.

The key questions on which the consultation sought views were:

- Do you have any comments on the country/commodity recommendations that are being proposed to amend Retained Regulation 2019/1793?
- Are you aware of any impacts of the proposed commodity amendments that have not been identified in this consultation?

The FSA and FSS considered responses to stakeholders' comments are given in the last column of the table. A summary of changes to the original proposal resulting from stakeholder comments is set out in the final table.

A list of stakeholders who responded can be found at the end of the document.

## Summary of substantive comments

Respondent	Comment	Response
<p>1. Institute of Food Science &amp; Technology</p>	<p>It would be useful to understand if there are any significant deviations to EU controls on the same products.</p>	<p>Although this is outside the scope of the consultation, the proposed amendmnets will entail some divergence from the EU, reflecting our approach to food and feed safety risk analysis. Any divergences from the EU controls maintain the overall purpose shared with the EU of maintaining food and feed safety. The EU frequently review their controls and the relevant legislation can be found at <a href="#">EUR-Lex</a></p> <p>It should be noted that the type of goods imported into the UK are often different to those imported into the EU. The amendments we are proposing are to protect GB consumers and are based upon data collected at GB borders. It should be noted that Northern Ireland will remain aligned with EU controls.</p>
Respondent	Comment	Response
<p>2. Suffolk Coastal Port Health Authority</p>	<p>Consider the addition of Betel leaves from Malaysia to Annex I</p> <p>Currently the description in Annex IIa for betel leaves is 'Foodstuffs containing or consisting of betel leaves' including, but not limited to, those declared under CN code 1404 9000. The proposal simply states 'Betel leaves 1404 9000 10'. Most of the imports of products containing betel leaves are imported under CN code 1404 9000 90</p>	<p>This is outside the scope of the consultation. Our risk assessments do not indicate any significant issue with betel leaves imported from Malaysia but we will keep this under review.</p> <p>We have considered this and concluded that the existing 8 digit CN code adequately covers all imports of betel leaves whether processed or not.</p>

Respondent	Comment	Response
	<p>so could this be included in the CN code column for betel leaves imports as 'ex 1404 9000 90' otherwise we will not able to complete import checks on these products.</p> <p>Why is Hazelnut Oil ex 1515 9099 20 included under aflatoxin controls when groundnut oil (1508) isn't?</p> <p>Do controls on Guar Gum from India need to continue?</p> <p>Consider adding the CN code for spice mixes to table 2 of Annex 2 (compound food)</p> <p>Consider adding ethylene oxide controls to spices from India to Annex I</p>	<p>Our risk assessments do not indicate any significant issue with groundnut oil but we will keep this under review.</p> <p>This falls outside the scope of this consultation but we will be considering the controls on guar gum in a separate review.</p> <p>We agree with your observation and will propose the addition of spice mixes to table 2 of Annex II.</p> <p>Thank you outlining your concerns. We are picking up some issues with ethylene oxide but do not have sufficient evidence to support the listing at the moment. However, we will keep this under review.</p>
Respondent	Comment	Response
3. American Pistachio Growers	We support the delisting of pistachios from Annex I and agree with the Food Safety Agency's statement, "Based on our	Thank you for your comments. We welcome the work of the American Pistachio Growers in this area.

<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
	assessment of the data it is no longer necessary to have these enhanced controls in place as it shows with a high level of certainty that removal of the controls represents a negligible risk to public health. Therefore, there is no justification to keeping the current measures in place	
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
4. Blacksea Exporters Associations	The Blacksea Exporters Association requested that Turkish hazelnuts be removed from the scope of controls because of the significant improvement in the non-compliance rate (reported through RASFF) in recent years.	The FSA and FSS have concluded that there is still a risk with hazelnuts from Turkey. The UK left the EU in December 2020 so improvements in RASFF data is not relevant to the UK anymore. We are reducing the control level and if we obtain further evidence to demonstrate increased compliance, we will consider delisting.
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
5. The National Bureau of Agricultural Commodity and Food Standards (ACFS) under the Ministry of Agriculture and Cooperatives	In summary, the last RASFF for betel leaves was in 2020 and an investigation was undertaken by the Department of Agriculture (DOA) as Thailand's Competent Authority and several corrective actions to address this issue were taken. Reports have been produced and sent to the EU's DG SANTE (copy supplied to the FSA).	We welcome your investigations and the intelligence report that you have provided to the FSA/FSS. We hope that with these measures in place, sampling results at the GB border will improve significantly.
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>

<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
6. Sabir hazelnut	In summary, Turkish hazelnuts should be removed from controls due to the significant improvement in the non-compliance rate (of RASFF) in recent years.	The FSA and FSS have concluded that there is still a risk with hazelnuts from Turkey. The UK left the EU in December 2020 so improvements in RASFF data is not relevant to the UK anymore. We are reducing the control level and if we obtain further evidence to demonstrate increased compliance, we will consider delisting.
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
7. Bangladesh Fruit and Vegetable and Allied Products Exporters Association	To move betel leaves from Bangladesh from Annex IIa to Annex II at a frequency of between 2-5% identity and physical examination due to high levels of compliance in produce exported to the EU.	The FSA and FSS can only consider compliance levels in produce imported into the UK. We acknowledge the comments made but still considers betel leaves to be a high risk commodity so feel that GB consumers would be best protected by retaining the higher frequency of checks. With positive sampling results, over time this level will hopefully decrease and/or the controls removed altogether.
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
8. United States Department of Agriculture (USDA)	The USDA has submitted supporting information to the FSA via this consultation process.	Following careful consideration the FSA and FSS confirm the checking frequency of groundnuts will remain at 10%, however we will keep this under review.
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
9. American Peanut Council	The American Peanut Council has requested the supporting evidence and risk assessments to be made available for review.	The full supporting evidence and risk assessment will not be released as part of this consultation process. We are considering how we might make available such data in the future.

Respondent	Comment	Response
	<p>The Council was not made aware of any rejections by the UK relating to peanuts.</p> <p>The Council wish for separate legislation for peanuts intended for food and those intended for animal feed.</p> <p>The Council wish for processed peanuts to be considered separately from raw peanuts.</p> <p>The Council provided additional information on the measures they have implemented to ensure the safety of exported products</p>	<p>The UK is working on a system to enable countries to access this information. As an interim measure, the FSA and FSS has agreed to provide Border Notification data to the USDA via the Embassy. This will enable investigations to take place in the US and the necessary remedial action taken.</p> <p>We have noted this request and will consider this point at our next review meeting.</p> <p>We have noted this request and will consider this point at our next review meeting.</p> <p>Following careful consideration the FSA and FSS confirm the checking frequency of groundnuts will remain at 10%, however we will keep this under review.</p>
Respondent	Comment	Response
<p>10. European Federation of the Trade in Dried Fruit, Edible Nuts, 11. Processed Fruit &amp; Vegetables, Processed Fishery Products</p>	<p>Request for a public portal with data on non-compliance.</p> <p>Support the de-listing of US pistachios, Chinese gogi berries and Turkish dried grapes.</p>	<p>The UK is working on a system to enable countries to access this information.</p> <p>The FSA and FSS have noted this comment.</p>

Respondent	Comment	Response
	<p>Request that US peanuts intended as use in feed be treated separately from peanuts for human consumption.</p> <p>Commented that the proposed amendments are out of date and there is a suggestion that the amendment is being taken to manage perceived risks associated with the 2020 peanut crop.</p> <p>Comment about the pressure the amendments will put on the supply chain.</p> <p>Request for information about the rationale behind the measures in particular peanuts from Brazil moving from Annex II to I at a frequency of 10%, and included within Annex I at 20% for pesticides. In addition to peanuts from india increasing from 10 to 50%.</p>	<p>We have noted this request and will consider this point at our next review meeting.</p> <p>The FSA and FSS only make recommendations to amend the legislation where the level of risk has changed (increased/decreased) and we have evidence to support this. It is not in response to perceived risks associated with the 2020 peanut crop.</p> <p>Whilst we acknowledge this comment, the FSA and FSS must ensure GB consumer health is protected.</p> <p>The full supporting evidence and risk assessment will not be released as part of this consultation process. As outlined in the consultation document. The proposals are in response to changes in risk level, the last available RASFF and Border Notification data and other intelligence.</p>
Respondent	Comment	Response
12. Ministry of Health, Sri Lanka.	The Ministry of Health has implemented legislation in Sri Lanka which requires pre-export testing. Only registered exporters are	It was not clear from the response whether this pre-export testing related to goods sent to the UK or just the EU. We welcome the pre-export testing being undertaken in Sri Lanka but until the level of risk



<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
	<p>permitted to send goods to the EU. For this reason, the Ministry has proposed the level of testing to be reduced from 50% to 10%.</p> <p>The Ministry is concerned about the impact of the amendments on the local community.</p>	<p>changes in goods imported to the UK, we propose to retain the checking frequency that is proposed and protect GB consumer health. Once the evidence confirms that the level of risk is decreasing, the level of testing will be reduced/removed.</p> <p>The FSA and FSS understand this concern but remain committed to protecting GB consumer health.</p>
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
13. Government Chemist	<p>The Government Chemist recommends FSA and FSS ensure UK Official Laboratories have sufficient capability/capacity to undertake pesticide residue analysis at the increased volumes (only one commodity has been delisted for pesticides residues and increased controls are being recommended for 11 commodities), as this will result from the proposed changes to the commodity amendments in this consultation.</p>	<p>The FSA and FSS have noted your comments and are liaising with the relevant authorities</p>
<b>Respondent</b>	<b>Comment</b>	<b>Response</b>
14. Food and Drink Federation (FDF)	<p>No specific comments to the consultation but some general comments made on making better use of trusted trader schemes</p>	<p>The FSA is committed to improving the system for controlling imported food at the border. We are currently engaged in a wider Government project which is reviewing border controls and making better use of industry schemes such as trusted trader to help facilitate the faster clearance of goods at the border.</p>

Respondent	Comment	Response
	<p>Differentiating between ready to eat and those that require further processing.</p> <p>Is it FSA/FSS's intention to review the lists on a quarterly basis in the same way as the EU or will the review be on a less frequent basis</p> <p>FDF would like to understand if FSA/FSS will be taking on board any of the amendments to Regulation 2019/1793 as proposed by the European Commission</p>	<p>We have noted this request and will consider this point at our next review meeting.</p> <p>It is the intention of FSA and FSS to review the lists set out in Annexes I and II on a regular basis not exceeding a period of six months, in order to take into account new information related to risks and non-compliance.</p> <p>We do consider what changes have been made by the European Commission as part of our review, but we will not always be controlling the same commodities. This is because the pattern of commodities imported into the UK and EU differs as does the level of risk. We use data gathered at our borders and elsewhere to inform our legislative controls. There may be alignment in some areas but this will not always be the case.</p>
Respondent	Comment	Response
Fresh Produce Consortium (FPC)	It is not clear what the criteria are for the inclusion of new products, the increased controls or removal and therefore there is no clear transparency for the decisions.	The full supporting evidence and risk assessment will not be released as part of this consultation process. We are considering how we might make available such data in the future.

Respondent	Comment	Response
	Increasing product testing can be significant in terms of disruption and cost	The FSA acknowledges this. UK Port Health and Local Authorities have worked hard to mitigate this. The FSA will continue to explore areas where cost and disruption can be reduced. The FSA and FSS are working cross Government on a project to improve efficiencies at the border and to make better use of data and trusted trader schemes.

## Actions to be implemented

The FSA considers that amending Retained Regulation 2019/1793 remains the preferred option.

- The checking frequency of groundnuts from the USA will be retained at 10%; and
- CN code 0910 91 will be inserted into table 2 of Annex II to ensure that mixtures of spices are also included in the controls.

## List of respondents

1. Institute of Food Science & Technology
2. Suffolk Coastal Port Health Authority
3. American Pistachio Growers
4. Blacksea Exporters Associations
5. The National Bureau of Agricultural Commodity and Food Standards (ACFS) under the Ministry of Agriculture and Cooperatives
6. Sabir hazelnut
7. Bangladesh Fruit and Vegetable and Allied Products Exporters Association
8. United States Department of Agriculture (USDA)
9. American Peanut Council
10. European Federation of the Trade in Dried Fruit, Edible Nuts, Processed Fruit & Vegetables, Processed Fishery Products
11. Ministry of Health, Sri Lanka.
12. Government Chemist

13. Food and Drink Federation (FDF)

14. Fresh Produce Consortium (FPC)