

Case No: 70721  
Event No: 636745

**Final report**  
**EFTA Surveillance Authority mission to**  
**Norway**  
**from 30 January to 8 February 2012**  
**regarding the application of EEA legislation**  
**related to Official Controls on Food Hygiene and Import Controls of Food of**  
**Non-Animal Origin**

Please note that the Norwegian competent authorities did not have any specific comments concerning the facts in the report. Comments and information on the corrective actions already taken and planned by the Norwegian competent authorities are included in Annex 3 to the report.

### ***Executive Summary***

*This report describes the outcome of a mission carried out by the EFTA Surveillance Authority in Norway from 30 January to 8 February 2012.*

*The objective of the mission was to verify that official controls related to food hygiene and import of food of non-animal origin were carried out in compliance with the European Economic Area legislation.*

*The mission team found that the situation in Norway concerning official controls on food hygiene and import controls of food of non animal origin was generally satisfactory and that certain sectors revealed a good level of achievement in relation to, e.g. participation to training on the import control of food of non-animal origin, designation and facilities available at the points of entry and import traceability/labelling (apart minor inconsistencies) and laboratories' services. However certain weaknesses/shortcomings were identified in the following segments:*

*Coordination within the different units of the competent authority concerning a uniform approach related to the official controls of import of food of non animal origin;*

*Appropriate risk assessment to establish the frequency of inspections by competent authorities at food business operators' level;*

*Insufficient human resources allocated to the relevant sectors to achieve certain legal requirements (frequency of inspections at food business operators' level and frequency of sampling of food of non animal origin);*

*A certain number of deficiencies in the implementation of the general food hygiene requirements at food business operators' level;*

*Some inconsistencies in the implementation of HACCP plans by the food business operators and assessment by the competent authority;*

*Delays in the recall of food of non animal origin placed on the market following a Rapid Alert System for Feed and Food notification.*

*The report includes a number of recommendations addressed to the Norwegian competent authority aimed at rectifying the identified shortcomings and enhancing the control system in place.*

## **Table of contents**

<b>1</b>	<b>INTRODUCTION</b> .....	<b>4</b>
<b>2</b>	<b>OBJECTIVES OF THE MISSION</b> .....	<b>4</b>
<b>3</b>	<b>LEGAL BASIS FOR THE MISSION</b> .....	<b>5</b>
<b>4</b>	<b>BACKGROUND - PREVIOUS MISSIONS</b> .....	<b>6</b>
<b>5</b>	<b>MAIN FINDINGS AND CONCLUSIONS</b> .....	<b>6</b>
5.1	LEGISLATION AND IMPLEMENTING MEASURES .....	6
5.2	COMPETENT AUTHORITIES .....	7
5.3	REQUIREMENTS ALONG THE FOOD CHAIN FOR FOOD HYGIENE, TRACEABILITY AND LABELLING ....	10
5.4	REQUIREMENTS FOR IMPORT OF FOOD OF NON-ANIMAL ORIGIN.....	14
5.5	LABORATORIES CARRYING OUT OFFICIAL CONTROL ANALYSES.....	19
5.6	RAPID ALARM SYSTEM FOR FOOD AND FEED (RASFF).....	21
<b>6</b>	<b>FINAL MEETING</b> .....	<b>21</b>
<b>7</b>	<b>RECOMMENDATIONS</b> .....	<b>21</b>
	<b>ANNEX 1 - LIST OF ABBREVIATIONS AND TERMS USED IN THE REPORT</b> .....	<b>23</b>
	<b>ANNEX 2 - RELEVANT LEGISLATION</b> .....	<b>24</b>
	<b>ANNEX 3 - REPLY FROM THE NORWEGIAN COMPETENT AUTHORITIES TO THE DRAFT REPORT</b> .....	<b>26</b>

## 1 Introduction

The mission took place in Norway from 30 January to 8 February 2012, as part of the EFTA Surveillance Authority's (the Authority) planned mission programme. The mission team comprised two inspectors from the Authority.

This was the first mission carried out by the Authority regarding the official control system in place for food and import controls of food of non-animal origin in Norway since the implementation of the "Food Hygiene Package" on 1 May 2010.

The opening meeting was held with representatives of the Ministry of Health and Care Services and the Norwegian Food Safety Authority (NFSA) on 30 January at the NFSA head office in Oslo.

At the meeting, the mission team confirmed the objectives and the itinerary of the mission. The Norwegian representatives provided additional information to that set out in the reply to the Authority's pre-mission questionnaire.

Throughout the mission, the mission team was accompanied by representatives of the NFSA head office together with representatives of the relevant regional and district offices.

A final meeting was held with representatives of the NFSA and the Ministry of Health and Care Services in Oslo (Gardermoen) on 8 February 2012.

The abbreviations used in the report are listed in Annex 1.

## 2 Objectives of the mission

The following main European Economic Area (EEA) Acts and related EEA legislation fall within the scope of the mission:

- a) *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;*
- b) *Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs;*
- c) *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;*
- d) *Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC;*

The objective of the mission was to assess the Norwegian competent authorities' application of the above mentioned legislation and additional legislation referred to in Annex 2 to this document. The mission focused on the following areas:

- a) Official controls related to food business operators' compliance with general rules on the hygiene of foodstuffs; and
- b) The implementation of EEA legislation in relation to import controls of food of non-animal origin.

The meetings with the competent authorities and the visits during the mission are listed in Table 1.

**Table 1: Competent authorities and establishments/sites visited during the mission**

	Number	Comments
Competent authorities	2	An initial meeting and a final meeting between the mission team and the Norwegian competent authorities
	3	Meetings at NFSA district offices with representatives of the region and district offices
	1	Meeting with the Norwegian Customs and Excise authorities
Food processing establishments	7	Including a catering facility, a supermarket, a wholesaler and establishments processing imported food of non-animal origin
Designated points of entry	2	Gardermoen airport and Oslo Port. Oslo Port is also the only designated first point of entry and point of import
Laboratories	2	Carrying out analysis of official samples

### 3 Legal basis for the mission

The legal basis for the mission was:

- a) Point 4 of the Introductory Part of Chapter I of Annex I to the EEA Agreement;
- b) Article 1(e) of Protocol 1 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (Surveillance and Court Agreement);
- c) *Commission Decision 98/139/EC of 4 February 1998 laying down certain detailed rules concerning on-the-spot checks carried out in the veterinary field by Commission experts in the Member States*; and
- d) *Article 45 of 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.*

## 4 Background - Previous missions

The last mission to Norway regarding the application of EEA legislation on official food control and hygiene, including emphasis on import controls was carried out in 2006. Since then there have been changes in the legislation and to some extent the control system in Norway. The final report from this mission can be found on the Authority's website ([www.eftasurv.int](http://www.eftasurv.int)).

## 5 Main findings and conclusions

### 5.1 Legislation and implementing measures

#### Legal requirements

Article 7 of the EEA Agreement states that acts referred to or contained in the Annexes to the Agreement are binding upon the Contracting Parties and shall be, or be made, part of their internal legal order.

#### Findings

The legislation relevant to the objectives of the mission has been transposed into national law; e.g. the Food Hygiene Package (including Regulation (EC) No 852/2004) which has been applicable to Norway from 1 May 2010 and Regulation (EC) No 669/2009 which has been applicable to Norway from 12 June 2010.

The feed and food business operators were informed by the NFSA of the requirements introduced by Regulation (EC) No 669/2009 through information on its website. For Regulation (EC) No 669/2009 the NFSA's website is updated regularly and the following information is available:

- the list of designated points of entry (DPEs) with relevant contact information;
- a copy of the common entry document (CED) that can be filled in by the food business operator and sent to the NFSA by e-mail;
- an explanation of the obligations for importers;
- an updated version of Annex I.

In respect of the implementation, under the EEA Agreement, of the Acts imposing special conditions governing the import of certain feed and food from certain countries, the simplified procedure applies and the relevant Acts are applicable to Norway at the same time as in the European Union<sup>1</sup>.

#### Conclusions

The relevant EEA legislation within the areas covered by the scope of this mission has been incorporated into the Norwegian legislation. Legislation is properly disseminated and publicly available.

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<sup>1</sup> For clarification concerning the simplified procedure please see Annex 1; for the relevant Acts see Annex 2 (Legislation subject to simplified procedures).

## 5.2 Competent authorities<sup>2</sup>

### 5.2.1 *Designation of competent authorities, coordination and cooperation between and within competent authorities*

#### Legal requirements:

Article 4(1) of Regulation (EC) No 882/2004 requires Member States to designate the competent authorities responsible for the official controls set out in the Regulation.

Article 4(3) of Regulation (EC) No 882/2004 requires that efficient and effective coordination and cooperation shall be ensured between all the competent authorities involved in official controls; Article 4(5) of the same Regulation states that when, within a competent authority, more than one unit is competent to carry out official controls, efficient and effective coordination and cooperation shall be ensured between the different units.

#### Findings:

The NFSA is the competent authority designated to perform the controls of general food hygiene and import controls of food of non-animal origin.

The Norwegian Customs and Excise authorities are informed of the new applicable Acts (including amendments) by the NFSA through direct contact by e-mails and telephone calls. For Regulation (EC) No 669/2009 the relevant customs' tariff codes are updated quarterly (simultaneously with the update of Annex I to the Regulation) through a cooperation between the Department of the Legislation of the NFSA and the Norwegian Customs and Excise authorities. The section of import control of the NFSA provided the mission team with a work plan ensuring the quarterly updated of Annex I according to the requirements.

The mission team met the customs authorities in one of the DPEs (see chapter 5.4.1). The staff of this DPE had found five consignments that had been released by customs prior the CEDs being issued by the DPE. The district office had requested a meeting with customs authorities following these cases.

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, a DPE may authorise onward transportation of a consignment pending results from laboratory analyses. The same DPE must notify the local district office responsible for controlling the business operator receiving the mentioned consignment.

The mission team noted however that the principle to allow onward transportation was not applied consistently by the three Norwegian DPEs. (See chapter 5.4.1 on organisation of official controls of food of non-animal origin).

The mission team noted that there was no coordination and follow up of the DPEs by the central levels in cases where the set sampling frequency was not met.

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<sup>2</sup> Further information on the organisation of the competent authorities and how official controls are carried out in Norway is given in the country profile available on the Authority's website; <http://www.eftasurv.int/internal-market-affairs/fields-of-work/food-safety/country-profiles/>

The absence of a coordinated approach on how to perform a proper risk assessment to establish the appropriate frequency of inspection was also noted in the control of food hygiene requirements at food business operator's level (see chapter 5.3.1).

The mission team pointed out the absence of a proper instruction from the central level and the different approach of the DPEs visited on how to ensure that consignments not fulfilling the requirements were destroyed under official detention (see chapter 5.4.5 on procedures for non-compliant consignments).

The mission team noted that the quality of the information submitted quarterly to the Authority regarding the controls carried out in the context of Regulations (EC) No 669/2009 and 1152/2009 revealed some inconsistencies (e.g. wrong reporting of the quantity of incremental samples, wrong classification of the legislative framework e.g. 249 tons of groundnuts from Argentina reported under the frame of Regulation (EC) No 1152/2009 instead of Regulation (EC) No 669/2009). Some consignments reported within the frame of Regulation (EC) No 1152/2009 could not be found in the register of the designated point of import which was the only one in Norway receiving commodities falling within the scope of the mentioned Regulation.

### Conclusions

Competent authorities responsible for the official controls falling within the scope of this mission have been designated in conformity with Article 4(1) of Regulation (EC) No 882/2004.

The cooperation between different competent authorities involved in import control of products of non-animal origin was in general in line with the requirements laid down in Article 4(3) of Regulation (EC) No 882/2004.

Some inconsistencies were observed in the implementation of an efficient and effective coordination, as required by Article 4(5) of Regulation (EC) No 882/2004, between the units of the NFSA involved in the import controls (e.g. with regard to fulfilment of sampling frequency, the consistency of official controls as regards onward transportation of the goods, the procedures for non-compliant consignments, consistency of data contained in the quarterly reports, coordination of follow-up and of enforcement of recall of products) and general food hygiene requirements (risk assessment).

### *5.2.2 Staff of competent authorities, training and enforcement*

#### Legal requirements:

Article 4(2)(c) of Regulation (EC) No 882/2004 states that the competent authorities shall ensure that they have, or have access to a sufficient number of suitably qualified and experienced staff so that official controls and control duties can be carried out efficiently and effectively.

Article 6 of the same Regulation requires that staff performing official controls: (a) receive, for their area of competence, appropriate training enabling them to undertake their duties competently and to carry out official controls in a consistent manner and (b) keep up to date in their area of competence and receive regular additional training as necessary.

Article 54 of Regulation (EC) No 882/2004 requires the competent authority to take action when non-compliances have been identified and to ensure that the food business operator remedies the situation. When deciding which action to take, the competent authority shall



take into account the nature of the non-compliance and the food business operators' past record with regard to non-compliances.

#### Findings:

In one district office the NFSA pointed out that there were insufficient human resources allocated to the sectors controlled under the legislative requirements laid down in Regulation (EC) No 852/2004 and that this influenced the frequency of inspections at food business operators' level.

Furthermore, during a visit to a DPE, the mission team was informed that a consequence of the insufficient human resources allocated to this DPE was a lower sampling frequency than required for products of non-animal origin. Consignments that, according to the established system, should have been sampled would not be sampled due to lack of resources.

Several training activities organised for the NFSA personnel have been documented to the mission team; in particular the participation of NFSA's inspectors to the sessions organised by DG SANCO of the European Commission on import controls of food of non animal origin (within the context of the programme "Better Training for Safer Food). Similar training available in the Nordic countries, have also been followed by NFSA's personnel.

Further training on Hazard Analysis and Critical Control Points plans (HACCPs) was however reported as still needed by some of the official inspectors interviewed by the mission team in one district office (see the chapter 5.3.3 on HACCP).

The approach on how to deal with notifications in the context of the Rapid Alarm System for Food and Feed (RASFF) was different from one district office to another. In the first district office, a decision to recall products was adopted the day after notification of health hazard via RASFF. However, the second district office had in one instance tried to get the food business operator to recall the products by e-mail/telephone conversations prior to adopting the decision. The food business operator did not recall until the written decision was adopted close to one month after the RASFF notification. The regional office confirmed that this food business operator also previously had been late in responding to a RASFF notification and recall relevant products. The NFSA agreed that this delay was not satisfactory.

The RASFF national contact point confirmed in a meeting with the mission team that it was a general problem with delayed feedback from district offices for RASFF notifications where Norway was flagged for follow up action.

#### Conclusions

The competent authorities did not always have sufficient human resources to carry out official controls and control duties efficiently and effectively as required by Article 4(2)(c) of Regulation (EC) No 882/2004.

Appropriate training in relation to official controls of import of food products of non-animal origin was made available for the NFSA personnel, however, a need to strengthen training on HACCP and assessment of such systems in conformity with the requirements laid down in Article 6 of Regulation (EC) No 882/2004 was pointed out during the meetings and the visits on the spot.

In relation to enforcement procedures and requirements laid down in Article 54 of Regulation (EC) No 882/2004, the competent authority did not always take action when non-compliance was identified (RASFF notification) allowing the food business operator to postpone recall.

### **5.3 Requirements along the food chain for food hygiene, traceability and labelling**

#### *5.3.1 Organisation of official controls*

##### Legal Requirements

Article 3 of Regulation (EC) No 882/2004 requires that official controls are carried out regularly, on a risk basis and with appropriate frequency taking account of: (a) identified risks associated with food, the use of food or any process, material substance, activity or operation that may influence food safety, (b) food business operators' past records as regards compliance with food law...(c) the reliability of any own checks that have already been carried out and...(d) any information that might indicate non-compliance. Controls shall be carried out at any of the stages of the production and processing chain and, in general, are to be carried out without prior warning.

Article 8(1) of the same Regulation requires the competent authority to carry out official controls in accordance with documented procedures.

##### Findings

In its reply to the pre-mission questionnaire of the Authority, the NFSA provided data from 2009 to 2011 on official controls at food business operators' level including the number of inspections planned (for the year 2011), the number of establishments inspected and the number of inspections carried out. In relation to the infringements recorded, for the years 2010 and 2011 (after the implementation of the Food Hygiene Package) the infringements have been listed in the reply to the pre-mission questionnaire in accordance with Annex II to Regulation (EC) No 853/2004 on microbiological criteria and labelling. From the information provided by the NFSA, it appears that 87 % of inspections and 65% of audits planned have been carried out in 2011. During several meetings the NFSA explained that this was due to insufficient human resources.

The main priorities and fields of activity for 2012 have been identified by the head office of the NFSA in the sectors related to fish health, animal welfare and potable water. The procedure in place was described to the mission team as follows: together with the identification of the annual priorities at national level, a draft of the budget allocation letter is prepared by the head office and distributed to the regional offices in order to plan the activity at regional level. The regional offices perform a risk assessment at their region taking into consideration the overall aims of the NFSA and the relevant local activities that could compromise the achievement of these goals. Based on this evaluation, the regional offices include their priorities in the draft of the budget allocation letter which is then sent back to the head office for amendments and final approval. In one region the mission team was informed that only minor amendments to their proposal were made by the head office.

Each establishment registered in MATS (the NFSA's quality control system) is identified in a risk category (from 1 to 5) depending of the activities performed. However in all the districts visited, the mission team was informed that this risk category was usually not taken into account and that the frequency of inspections of food business operators falling within the scope of this mission was not based on a proper coordinated and guided risk assessment but was left to the past experience and knowledge of the NFSA inspectors

involved. The system did not yet take into account all the relevant risk factors, e.g. the targeted consumers, the reliability of the establishments' own checks etc., and was influenced by the turnover of staff (new inspectors without experience).

No evidence of a process establishing priorities based on identified risks was observed by the mission team during meetings with several district officers. The mission team confirmed that the NFSA identified important areas of concern both on national and regional level; however, no central guidance was provided on how to categorize and identify appropriate frequency of official controls at food business operators' level.

During the visits of food business operators' premises, the mission team observed that the NFSA inspectors used a check list detailing the hygienic requirements as laid down in the legislation.

In one district office the instances of non-compliance were communicated to the food business operators in the form of a report including deadlines: feedback from the food business operators have been received, corrective actions have been evaluated and follow up of these evaluations notified to the food business operators. In another district, the same procedure was observed.

### Conclusions

Official controls were not carried out on a risk basis and with appropriate frequency taking account of the parameters laid down in Article 3(1) of Regulation (EC) No 882/2004.

Controls were carried out in accordance with documented procedures as required by Article 8(1) of Regulation (EC) No 882/2004.

### *5.3.2 General hygiene requirements*

#### Legal Requirements

Article 4(2) of Regulation (EC) No 852/2004 establishes that food business operators carrying out any stage of production, processing and distribution of food after the stage of primary production/associated operations shall comply with general hygiene requirements as set out in Annex II to the same Regulation. These provisions relate to cleaning and maintenance, layout, design, construction, siting and size of food premises.

#### Findings

The mission team visited seven food business operators' premises; in some cases the visits were led by the NFSA inspectors, in others by the mission team. Establishments were found to be mainly compliant with the general hygiene requirements. In some establishments the deficiencies related to structure and maintenance noted had already been identified by the NFSA and action by the food business operators had been requested. Examples of the deficiencies identified by the mission team, some of them not previously noted by the NFSA, were the following:

- rusted equipment in the food processing area;
- fax and photocopy machine placed and in use in a storage room for packed food products;
- wooden tools used in the preparation of food not maintained in sound condition;
- layout not providing adequate working space to allow for the hygienic performance of all operations (e.g. overhanging structures, a cutting machine placed under the fan/air conditioning engine) and possible cross-flows; in another

case the layout was not such to permit adequate maintenance, cleaning and/or disinfection considering the presence of a big mezzanine overhanging the entrance of the cold storage rooms.

- overhanging structures with condensation, grease, rusted pipeline partly dirty;
- bags of expired products of animal origin found in a cold store;
- facilities for detained consignments (or onward transported consignments pending the laboratory results of sampling) not in sound conditions;
- dirty facilities allowing contamination of exposed vegetable products and no plan of cleaning organised by the food business operator;
- cross-flow in the production area (clean section) of products supposed to be stored in the reception area (lower clean area);
- operation of emptying raw material into crates before mixing (putting the packaging material, plastic bags, directly onto the product).

While drafting this report, the NFSA submitted additional information to the Authority. Most of the identified shortcomings have been addressed by the NFSA in the establishments visited during the mission, in inspection reports following the mission and corrective actions have been required.

### Conclusions

Some deficiencies were noted at the food business operators visited by the mission team in relation to the general hygiene requirements as set out in Annex II to Regulation (EC) No 852/2004.

#### *5.3.3 Hazard Analyses and Critical Control Points (HACCP)*

### Legal Requirements

Article 5(1) of Regulation (EC) No 852/2004 requires that food business operators put in place, implement and maintain a permanent procedure or procedures based on HACCP principles. Article 5(2) of the same Regulation details the HACCP principles referred to in the previous paragraph 5(1).

### Findings

According to information received by the mission team in one district office visited, 30-40% of the food business operators under their control have HACCP plans in place; the two establishments visited by the mission team in this district revealed a certain degree of inconsistency in their own HACCPs and the following was pointed out by the mission team:

- limited understanding of the HACCP (e.g. the explanation of one identified critical control point);
- sampling carried out without a specific established plan revealed products beyond shelf life with high value of total plate count (over 30 millions) but no follow up was taken considering these results;
- hazards and critical control points (boiling and rapid chilling) were identified in a plan, however, a clear explanation on those critical control points and on the application of the critical limits was not reported in the relevant section of the plan;
- temperature and time of a critical control point “boiling” not consistently reported in the working sheet.

In another establishment in a different district the following was observed:

- poor registration of temperature data during several steps when temperature requirements were supposed to be fulfilled; in one particular case, which was already known by the NFSA inspector, the chiller was overloaded (to high piles of minced meat), i.e. temperature raised above 4°C;
- documentation made available to the mission team revealed that pest control was not performed according to the established frequency;
- verification of corrective measures not reliable because of the lack of attention paid by the management to this specific issue.

In two other establishments the system as described in the documents available and verified by the mission team confirmed a consistent implementation of the principles, proper identification of critical control points and appropriate critical limits, reliable registration and records keeping. In both these establishments an exhaustive hazard analysis to identify critical control points on the production line was remarked. The two food business operators also demonstrated the efficiency of their verification tools of the critical control points (metal detectors).

In one establishment visited the own-check system did not include cleaning plans of the facilities. A system was in place to ensure correct labelling. Following an inspection from the NFSA, the food business operator had established a system for temperature registration in the freezer. However, the mission team noted that temperature registration of the cold store reported -17°C for several days without implementation of corrective measures by the food business operator; it was explained that the real temperature records were taken from a different thermometer inside the cold store.

In another establishment visited, the mission team pointed out the inconsistent implementation of the HACCP at establishment level regarding the use of a metal detector (placed in only one of the three production lines processing the same products). The only metal detector in operation was not checked consistently with the supposed frequency (checked only at the start-up of daily production instead of at start-up followed by every two hours and then at end of packaging as required in the HACCP). No specific tools to check the efficacy of the metal detector were available and no reporting of corrective actions was observed. The registration was not always verified.

After completion of the mission, the NFSA informed the Authority of several corrective actions which had been required of the food business operators visited during the mission regarding their HACCPs.

### Conclusions

The food business operators visited by the mission team had not always put in place, implemented and maintained a permanent procedure or procedures based on HACCP principles as required by Article 5 of Regulation (EC) No 852/2004.

#### *5.3.4 Traceability and labelling*

### Legal Requirements

Article 18 of Regulation (EC) No 178/2002 requires the traceability of food, feed, food producing animals and any other substance intended to be, or expected to be, incorporated into a food or feed to be established at all stages of production, processing and distribution.

Directive 2000/13/EC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs provides the legal framework for food labelling.

### Findings

Two of the establishments visited by the mission team had a system in place to trace forward and back their products in 2 – 4 hours.

In one establishment, the traceability system was periodically tested (once a year) by the company; however, in the same facility unidentified final products were not stored in a proper way. According to the representative of the establishment the products were destined to be used as feed, however, the products were not identified as such.

Another food business operator presented documentation to the mission team related to the recall of a product following detection of genetically modified organisms. A fax had been sent to each customer that had received the commodity, stating that the product was recalled. This food business operator had also a system in place for Norwegian labelling of products from third countries. A system for verification of the information on the translated labels were in the process of being established (approximately 50% of products already covered) following a decision adopted by the NFSA in May 2011.

In one establishment containers of products were observed without identification undermining the traceability; the food business operator immediately applied corrective action for at least one of those. In another establishment, unidentified fishery products were observed in the chiller.

Allergens and recipes were mentioned on the labelling observed.

### Conclusions

In general the mission team found labelling and traceability to be in line with the legislative requirements laid down in Article 18 of Regulation (EC) No 178/2002 and Directive 2000/13/EC. Only minor inconsistencies were identified.

## **5.4 Requirements for import of food of non-animal origin**

### *5.4.1 Organisation of official controls*

#### Legal Requirements

Article 4(4) of Regulation (EC) No 882/2004 states that the competent authorities shall ensure the consistency of official control at all levels.

Article 15(1) of Regulation (EC) No 882/2004 establishes that competent authority shall carry out regular official controls on food and feed of non-animal origin imported into the EEA.

Article 24 of Regulation (EC) No 882/2004 requires that, for the organization of official controls, the competent authorities and the customs service shall cooperate closely.

Article 11 of Regulation (EC) No 178/2002 requires that food and feed imported into the EEA for placing on the market within the EEA shall comply with the relevant requirements of food law or conditions recognized by the EEA to be at least equivalent thereto.



### Findings

The mission team observed that the principle to allow onward transportation was not applied consistently by the three authorised DPEs and in particular:

- In relation to one DPE (not visited by the mission team), during the visit to a food business operator importing, through this DPE, relevant quantities of commodities falling within the scope of the mission, the mission team was informed that onward transportation was not allowed from the mentioned DPE and therefore that the consignment had to stand at the DPE till the result of analysis was available;
- In another DPE (visited by the mission team), the DPE would authorise onward transportation if the customs authorities had authorised the importer as custom warehouse. The importers could not move the consignments prior the DPE staff notifying the commercial cargo that the consignment had been cleared for transport (either no sampling then the CED would be issued immediately, or sampled and awaiting result, therefore no CED issued). The DPE also notified the district office of destination where the results of laboratory analyses were still pending.
- In the second DPE visited by the mission team, the DPE authorised the onward transportation on a case to case basis. Sometimes the importer would collect the consignments and sometimes not, and the mission team was informed that there was no need to ask or inform the DPE of the movement. The consignments would be moved under customs authorisation of the importer only (authorised custom warehouse or authorised economic operators). The DPE did not notify the district office of destination.

The mission team met the customs authorities in one of the DPEs. In the normal procedure, they would check individual CEDs prior to releasing the consignment. However, the DPE had found five consignments that had been released by customs prior the CEDs being issued by the DPE. According to the customs authorities, this clearance had been done by an office that did not deal with a lot of import of this kind and that this human error should not occur again.

### Conclusions

The inconsistency of the official controls carried out in different DPEs and evidence of different approaches at the different DPEs (onward transport, notification to the district office of destination, destruction of rejected consignments) is not in conformity with the requirements laid down in Article 4(4) of Regulation (EC) No 882/2004.

A good cooperation was observed between the competent authorities and the customs services as required by Article 24 of Regulation (EC) No 882/2004 with the exception of some mistakes due to human error.

#### *5.4.2 Designated points of entry and designated points of import*

##### Legal Requirements

Regulation (EC) No 669/2009 establishes definition and specific requirements for designation of DPEs by Member States. Article 4 of the same Regulation provides minimum requirements for DPEs.

Article 6 of Regulation (EC) No 1152/2009 establishes definition and specific requirements for designated points of import by Member States.

### Findings

Norway has designated three DPEs (one airport and two ports). The mission team visited the one located at the airport and one at a port.

Both DPEs visited had appropriate facilities available to undertake the necessary checks sampling equipment and facilities to store consignments during the period of detention where appropriate. The mission team noted that representative sampling of consignments could be undermined in one of the DPEs since it was not always possible to perform a complete unloading of containers (big bags). The mission team also noted that the staff of the DPE was aware of this problem.

In relation to Regulation (EC) No 1152/2009, Norway has designated one point of import for consignments under the scope of this Regulation.

### Conclusions

Norway has designated points of entry and import according to the requirements laid down in Regulation (EC) No 669/2009 and Regulation (EC) No 1152/2009; these points fulfilled the requirements apart for the possibilities to fully unload containers with big bags in one of the DPEs visited. This is not in line with the minimum requirements laid down in Article 4 of Regulation (EC) No 669/2009.

#### *5.4.3 Prior notification of consignments*

### Legal Requirements

According to Article 17(1) of Regulation (EC) No 882/2004, for organisation of official controls subject to Article 15(5), Member States shall require from food business operators responsible for consignments to give prior notification of their arrival and nature.

According to Article 6 of Regulation (EC) No 669/2009, feed and food business operators or their representatives shall give adequate prior notification of the estimated date and time of physical arrival of the consignment at the designated point of entry and of the nature of the consignment. For that purpose, they shall complete Part I of the common entry document and transmit that document to the competent authority at the designated point of entry, at least one working day prior to the physical arrival of the consignment.

Article 5 of Regulation (EC) No 1152/2009 also provides that food business operators or their representatives shall give prior notification of the estimated date and time of physical arrival of the consignment at the first point of introduction and of the nature of the consignment in accordance with the procedures laid down in this Regulation.

Article 3 of Regulation (EC) No 1151/2009 provides that importers of sunflower oil from Ukraine shall give prior notification to the first point of entry.

### Findings

According to information provided in the reply to the pre-mission questionnaire of the Authority, any importer who is proceeding to import a consignment of food of non-animal origin into Norway has to submit a pre-notification through MATS at least 24 hours prior to the physical arrival of the consignments (certain fresh fruits and vegetables are exempted from this requirement, however none of the exceptions fall under the scope of Regulation (EC) No 669/2009). According to the same information, no imports of sunflower oil from Ukraine have been recorded by the competent authorities. The eight digit custom tariff code for each commodity group is also included in this pre-notification



and the importer receive a message from the operating system when the products are subject to certain safeguard measures (e.g. falling within the scopes of Regulations (EC) No 669/2009 and 1152/2009) and that the controls should be carried out by specified district offices of the NFSA. For commodities falling under the scopes of the above mentioned Regulations, a notification to the importer that a CED should be prepared is therefore generated by MATS. The CED is prepared and either mailed or faxed to the relevant DPE by the importer.

In one DPE visited, the staff informed the mission team that the pre-notification was not always received 24 hours prior to arrival, due to logistics problems. However, the CEDs would always be received prior to the controls being carried out.

### Conclusions

In general, the NFSA has a system in place to enable the food business operators to pre-notify consignments, and the delays seen in pre-notification at one DPE did not compromise the ability of the competent authority to carry out the necessary and relevant controls according to the legislative requirements laid down in Article 17(1) of Regulation (EC) No 882/2004, Article 6 of Regulation (EC) No 669/2009 and Article 5 of Regulation (EC) No 1152/2009.

#### *5.4.4 Specific import controls*

### Legal Requirements

Article 8 of Regulation (EC) No 669/2009 and Article 7 of Regulation (EC) No 1152/2009 specify the official controls to be carried out by the competent authority on products subject to these Regulations before products are released for free circulation. Annexes I to the above mentioned Regulations specify the feed and food of non-animal origin subject to an increased level of official controls at the designated point of entry or import. In particular, Article 8(2) of Regulation (EC) No 669/2009 states that when the competent authority at the DPE authorise onward transportation, appropriate arrangements should be put in place to ensure that the consignment remains under the continuous control of the competent authorities and cannot be tampered with in any manner pending the results of the physical checks.

According to Article 10 of Regulation (EC) No 669/2009 release for free circulation of consignments shall be subject to the presentation by the food business operators or their representatives to the customs authorities of a CED duly completed by the competent authority once all controls required in accordance with Article 8(1) have been carried out and favourable results from physical checks, where such checks are required, are known.

### Findings

In the reply to the pre-mission questionnaire, the Authority obtained data on import controls on foodstuffs of non-animal origin for the years 2010 and 2011. Further data were obtained on the spot. The mission team observed that the frequency of controls on certain foodstuffs was lower than the required frequency.

As example and for the year 2011 the following frequency of physical and identity checks was reported to the mission team (in brackets the required frequency):

- Curry leaves from India (hazard: pesticides): 6.25% (10%);
- Okra from India (hazard: pesticides): 6.9% (10%);

- Herbs and spices from Thailand (hazard: Salmonella): 4.72% (10%) – increased from 2010 when the frequency attained was 0.68% during the five months and half of implementation of the legislative requirements;
- Herbs and spices from Thailand (hazard: pesticides): 17,16% (20%) – increased from 2010 when the frequency attained was 16.03% during the five months and half of implementation of the legislative requirements;
- Vegetables from Thailand (hazard: pesticides): 36.95% (50%) - increased from 2010 when the frequency attained was 12.95% during the five months and half of implementation of the legislative requirements.

However, in one of the DPEs visited, which was also designated as point of import, the frequency of sampling of commodities was only in one case found to be below the required frequency (pistachio nuts from Turkey (hazard: aflatoxins): 25% instead of 50%).

The mission team noted that both DPEs used an Excel form to record all consignments. The form was also used to determine which consignments should undergo physical checks. The planning was based upon the experience with regard to the number of consignments of each commodity to each importer as well as the timing (period of the year) of the imports. Information on this planning was not made available to the importers. In one of the DPEs, the mission team noted that the form would be updated on a regular basis and the sampling frequency compared to the frequency laid down in the relevant legislation.

In the same DPE, which allowed onward transportation pending results, the mission team noted that the forwarded consignments were not accompanied by a certified copy of the CED. The consignments were also not sealed or otherwise identified by the NFSA in order to secure it under official controls awaiting result and hinder any tampering with the consignment (see also chapter 5.4.3). In one food business operator visited by the mission team and receiving such onward transported consignments, it was confirmed that the detaining of the consignments was left completely in the hands to the food business operator even after the results showed non-conformities resulting in rejection of the consignment (see chapter 5.4.5 for further description).

### Conclusions

The selection of consignments to be sampled was done on the basis of importer and commodity in such a way that the importers cannot predict which consignments will undergo official controls as required by Article 8 of Regulation (EC) No 669/2009.

The frequency of physical and identity checks did not meet the requirements in Annex I to Regulation (EC) No 669/2009, however, the mission team noted that the frequency improved from 2010 to 2011.

The practice of allowing onward transportation awaiting the results of sampling is not in line with Article 8(2) of Regulation (EC) No 669/2009 since the arrangements in place could not ensure that the consignment remained under the continuous control of the competent authorities and cannot be tampered with in any manner pending the results of the physical checks.

### *5.4.5 Procedures for non-compliant lots*

### Legal requirements

Article 13 of Regulation (EC) No 669/2009 states that when official controls establish non-compliance, the responsible official of the competent authority shall complete Part III of the CED and action shall be taken pursuant to Articles 19, 20 and 21 of Regulation (EC) No 882/2004.

Article 19 of Regulation (EC) No 882/2004 establishes that competent authorities shall place under official detention consignments that do not comply with the food or feed law, and that a number of measures shall be taken in respect of such feed or food. These measures include destruction, special treatment, re-dispatch or use for other purposes. Some of these measures are described in Articles 20 and 21 of the above mentioned Regulation.

#### Findings

In one DPE visited by the mission team, consignments failing documentary checks would be rejected and the importer given the choice to destroy or re-dispatch. Given the nature of the commodities (fresh herbs and vegetables) all consignments so far had been destroyed. The consignments would be collected at the DPE by a waste handling company and destroyed in their facilities. For consignments failing the physical checks, a decision would be adopted that the consignment should be destroyed. Such consignments, stored at the DPE, would be collected according to the abovementioned procedure. If consignments that had been onward transported to the destination awaiting analytic result were rejected, the food business operator would arrange for the destruction. The DPE would require documentation that the goods had been destroyed.

One food business operator visited presented two receipts for destroyed consignments. The mission team noted that no clear link existed between the receipt and the rejected consignment. According to the NFSA and the representative of the establishment, the link was the weight of the commodity mentioned on the receipt for destruction. The mission team noted that in one case, according to the food business operator a receipt for 204 kg products destroyed was evidence of the destruction of a consignment consisting of 207.5 kg of coriander (according to CED).

In another DPE, the system for destruction of detained consignments consisted in the issuing of a decision specifying the lot number, quantity and type of commodity. The documentation accompanied the sealed consignment to the rendering plant and was endorsed by the responsible of the plant proceeding with the destruction. The DPE would then stamp and sign the document as presented by the importer.

#### Conclusions

The system to establish official detention of consignments that do not comply with the requirements was found properly implemented in one DPE. However, in the other DPE, the system in place allowed a certain level of uncertainty with regard to the official detention of the consignments in question which is not in line with the requirements laid down in Article 19 of Regulation (EC) No 882/2004.

### **5.5 Laboratories carrying out official control analyses**

#### Legal Requirements

Article 11(1) of Regulation (EC) No 882/2004 requires that sampling and analysis methods used in the context of official controls shall comply with relevant Community rules.

Article 12(1) of Regulation (EC) No 882/2004 requires competent authority to designate laboratories that may carry out the analysis of samples taken during official controls and Article 12(2) of the same Regulation states that competent authority may only designate laboratories that operate and are assessed and accredited in accordance with *inter alia* the following European standard: (a) EN ISO/IEC 17025 on “General requirements for the competence of testing and calibration laboratories”.

### Findings

The mission team visited a public laboratory dealing with official controls of pesticides. The main areas of activity are related to agriculture and environment and several branches of the institution are located all over the country. The section Pesticide Chemistry is responsible for the monitoring program on pesticides residues in food of plant origin in Norway and the number of pesticides which could be detected increased consistently together with the number of analysis from 28 pesticides in 1990 to 332 in 2011.

The laboratory is the National Reference Laboratory (NRL) for pesticides and residues in food of plant origin; the gas chromatography–mass spectrometry (GC-MS) and liquid chromatography-mass spectrometer (LC-MS/MS) are the methods in use for the majority of products falling within the scope of this mission. The section is accredited according to the international standards EN ISO/IEC 17025 and has been accredited for analysis of pesticides since 1997. In particular, from 2000 and for pesticides, the laboratory is allowed to modify accredited methods and use the modified accredited methods, as soon as the changes are validated, properly documented and approved by the responsible in-house personnel.

Results of participation of the NRL to proficiency tests organised by the European Community Reference laboratory were presented to the mission team showing that no corrective actions were required concerning the GC-MS and LC-MS/MS methods in use.

A private international laboratory employed for the official analysis of aflatoxins and aluminium was also visited by the mission team; this laboratory is accredited to EN ISO/IEC 17025 for several methods however does not perform the analytical methods for aflatoxins. Official samples are sent for analysis to the competence centre of the international laboratory in another European country where methods concerning aflatoxins determination in food and feed matrices are performed. The mission team followed a simulation of samples reception, registration and forwarding to the competence centre and noted that the traceability of samples from reception to final results was consistently assured. The time elapsed between the collection of a sample at the DPE and the available results could be maximum 14 days.

This private laboratory also perform official controls for Salmonella in imported products; the information available on the spot confirmed that the laboratory applied accredited methods; a consistent description and traceability of the sample flow during analysis (who is doing what) was observed by the mission team.

### Conclusions

Laboratories are designated to perform official controls in line with the requirements of Article 12(1) of Regulation (EC) No 882/2004. The laboratories are approved and accredited to EN ISO/IEC 17025 as required by Article 12(2)(a) of the same Regulation. The visited laboratories had quality systems in place and quality procedures were properly implemented.

## 5.6 Rapid Alarm System for Food and Feed (RASFF)

### Legal Requirements

Article 50(2) of Regulation (EC) No 178/2002 states that where a Member State has any information relating to the existence of a serious direct or indirect risk to human health deriving from food or feed, this information must be immediately notified to the Authority under the Rapid Alert System for Food and Feed (RASFF).

### Findings

The Norwegian national contact point for the RASFF system is placed in the Section of Export and Import of the Department of Controls of the NFSA. Imported products found to be non-compliant following physical checks are notified by the district offices to the national contact point. If the non-compliance concerns pesticides exceeding the maximum residue level (MRL), the results are forwarded to a toxicologist of the head office who will carry out risk assessment following the European Food Safety Authority guidelines for pesticides. In case the evaluation does not identify a serious acute risk for the consumer, no RASFF notification will be issued. The products will be rejected for import to the EEA and destroyed or re-dispatched independently of the outcome of the risk assessment.

If other hazards are involved exceeding the authorised MRL, the relevant DPE will issue a RASFF notification that is submitted to the national contact point who communicates it further according to established procedures.

The mission team examined some RASFF notifications and confirmed that the system is functioning, with the exception of some cases with delayed feedback from district offices (see previous chapter 5.2.1).

The NFSA officers participate in meetings organised by the RASFF group of the European Commission.

### Conclusions

The RASFF system for the rapid dissemination of information is in conformity with the legislative requirements laid down in Article 50 of Regulation (EC) No 178/2002. A delay concerning follow-up was however pointed out by the mission team.

## 6 Final meeting

The final meeting was held with representatives of the NFSA and the Ministry of Health and Care Services in Oslo (Gardermoen) on Wednesday 8 February 2012. At this meeting, the mission team presented its main findings and some preliminary conclusions of the mission. At the meeting the mission team also explained that, based on a more detailed assessment of the information received during the mission, additional conclusions and recommendations could be included in the report.

The NFSA did not have any objections to the observations made and the preliminary conclusions presented.

## 7 Recommendations

Norway should notify the Authority, within two months of receiving the final report, by way of written evidence, of the corrective actions taken and a plan for corrective measures and actions, including a timetable for completion of measures still outstanding, relevant to

all the recommendations hereunder. The Authority should also be kept informed of the completion of the measures included in the timetable.

No	Recommendation
1	Norway should ensure that the competent authorities have access to a sufficient number of suitably qualified and experienced staff so that official controls and control duties can be carried out efficiently and effectively, in conformity with the requirements laid down in Article 4(2)(c) of Regulation (EC) No 882/2004.
2	Norway should ensure efficient and effective coordination between different units of the competent authority as required by with Article 4(5) of Regulation (EC) No 882/2004.
3	Norway should ensure that the NFSA staff receive relevant training and being kept up-to-date in their competencies in particular regarding assessment of HACCP plans in line with the requirements laid down in Article 6 of Regulation (EC) No 882/2004.
4	The competent authority should take action when non-compliances have been identified to ensure that the food business operator remedies the situation. When deciding which action to take, the competent authority shall take into account the nature of the non-compliance and the food business operators' past record with regard to non-compliances as required by Article 54 of Regulation (EC) No 882/2004.
5	Norway should ensure that official controls are carried out regularly, on a risk basis and with appropriate frequency in accordance with Article 3 of Regulation (EC) No 882/2004.
6	Norway should ensure that establishments fulfil the general hygiene requirements of Annex II to Regulation (EC) No 852/2004.
7	Norway should ensure that HACCP based systems are in line with the requirements laid down in Article 5 of Regulation (EC) No 852/2004.
8	The competent authorities should ensure the consistency of official controls at all levels and in a consistent manner in conformity with the requirements laid down in Article 4(4) of Regulation (EC) No 882/2004.
9	Norway should ensure that the designated points of entry/import have available unloading equipment as appropriate in line with the minimum requirements in Article 4 of Regulation (EC) No 669/2009.
10	Norway should ensure that the frequency of physical and identity checks of consignments of food of non animal origin meet the requirements in Annex I to Regulation (EC) No 669/2009. The competent authorities should ensure that where authorisation to allow onward transportation is given the consignment remain under their continuous control and cannot be tampered with in any manner pending the results of the physical checks, in line with the requirements laid down in Article 8(2)(b) of Regulation (EC) No 669/2009.
11	Norway should ensure that consignments that do not comply with the food or feed law are placed under official detention in line with the requirements laid down in Article 19 of Regulation (EC) No 882/2004.



## Annex 1 - List of abbreviations and terms used in the report

Authority	EFTA Surveillance Authority
CED	Common Entry Document as defined in Regulation (EC) No 669/2009
DPE	Designated Point of Entry as defined in Regulation (EC) No 669/2009
EEA	European Economic Area
EEA Agreement	Agreement on the European Economic Area
EN/ISO	European standards/International Organization for Standardization
Food Hygiene Package	<p>A term that refers to a group of European Regulations that represent a significant reorganisation of the regulatory framework for food and feed hygiene and safety. The package builds on general food law basis established by <i>Regulation (EC) No 178/2002 of the European Parliament and the Council laying down the general principles and the requirements of food law, establishing the European Food Safety Authority and laying down procedures for matters of food safety.</i></p> <p>The Food Hygiene package includes several Regulations, <i>inter alia</i>, Regulations (EC) No 852/2004, 853/2004 854/2004.</p>
HACCP	Hazard Analysis and Critical Control Point
MRL	Maximum Residue Level; means the upper legal level of a concentration for a pesticide residue in or on food or feed set in accordance with Regulation (EC) No 396/2005, based on good agricultural practice and the lowest consumer exposure necessary to protect vulnerable consumers
MATS	NFSA's quality control system
RASFF	<p>Rapid Alarm System for Food and Feed</p> <p>The Rapid Alert System for Food and Feed was put in place to provide food and feed control authorities in the EEA with an effective tool to exchange information about measures taken responding to serious risks detected in relation to food or feed. This exchange of information helps the EEA States to act more rapidly and in a coordinated manner in response to a health threat caused by food or feed.</p>
Simplified Procedures	<p>A simplified procedure is derogation from the general procedures for incorporation of <i>acquis</i> into the EEA Agreement. As a general rule, legal acts have to be incorporated into the EEA Agreement by a Decision of the EEA Joint Committee before becoming applicable to the EEA EFTA States. Simplified procedures signify that acts which are subject to these procedures are no longer incorporated into the EEA Agreement by a Decision of the EEA Joint Committee in order to become applicable in the EEA EFTA States.</p>

## Annex 2 - Relevant legislation

The main EEA Acts on the official control of foodstuffs, on the hygiene of foodstuffs and on control of pesticides, mycotoxins and other contaminants in imported products of plant origin incorporated applicable to Norway are:

- a) The Act referred to at point 18 of Chapter XII of Annex II to the EEA Agreement, *Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to labelling, presentation and advertising of foodstuffs*, as corrected, amended and adapted to the EEA Agreement by the sectoral adaptations referred to in Annex II to that Agreement;
- b) The Act referred to at Point 54zzy of Chapter XII of Annex II to the EEA Agreement, *Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC*, as amended;
- c) The Act referred to at Point 54zzzc of Chapter XII of Annex II to the EEA Agreement, *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety*, as amended and adapted to the EEA Agreement by the sectoral adaptations referred to in Annex II to that Agreement;
- d) The Act referred to at Point 54zzzh of Chapter XII of Annex II to the EEA Agreement, *Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs*, as corrected, amended and adapted to the EEA Agreement by the sectoral adaptations referred to in Annex II to that Agreement;
- e) The Act referred to at Point 54zzzi of Chapter XII of Annex II to the EEA Agreement, *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*, as corrected, amended and adapted to the EEA Agreement by the sectoral adaptations referred to in Annex II to that Agreement;
- f) The Act referred to at Point 54zzzl of Chapter XII of Annex II to the EEA Agreement, *Commission Regulation (EC) No 401/2006 of 23 February 2006 laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs*, as amended;
- g) The Act referred to at Point 54zzzz of Chapter XII of Annex II to the EEA Agreement, *Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs*, as amended and adapted to the EEA Agreement by the sectoral adaptations referred to in Annex II to that Agreement;
- h) The Act referred to at Point 54zzzzm of Chapter XII of Annex II to the EEA Agreement, *Commission Decision 2008/47/EC of 20 December 2007 approving*



*the pre-export checks carried out by the United States of America on peanuts and derived products thereof as regards the presence of aflatoxins;*

- i) *The Act referred to at Point 54zzzzo of Chapter XII of Annex II to the EEA Agreement, Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC;*

Legislation subject to simplified procedures:

- *Commission Regulation (EC) No 1151/2009 of 27 November 2009 imposing special conditions governing the import of sunflower oil originating in or consigned from Ukraine due to contamination risks by mineral oil and repealing Decision 2008/433/EC;*
- *Commission Regulation (EC) No 1152/2009 of 27 November 2009 imposing special conditions governing the import of certain foodstuffs from certain third countries due to contamination risk by aflatoxins and repealing Decision 2006/504/EC;*
- *Commission Regulation (EU) No 258/2010 of 25 March 2010 imposing special conditions on the imports of guar gum originating in or consigned from India due to contamination risks by pentachlorophenol and dioxins, and repealing Decision 2008/352/EC;*
- *Commission Implementing Decision 2011/402/EU of 6 October 2011 on emergency measures applicable to fenugreek seeds and certain seeds and beans imported from Egypt (notified under document C(2011) 7027), as amended;*
- *Commission Implementing Regulation (EU) No 961/2011 of 27 September 2011 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Regulation (EU) No 297/2011, as amended.*

**Annex 3 - Reply from the Norwegian competent authorities to the draft report**



EFTA Surveillance Authority  
Rue Belliard 35  
B-1040 BRUSSELS  
Belgium

Your ref  
CNo 70721 ENo 627921

Our ref  
A 201101337-/ADO -17

Date  
23.04.2012

**Subject: EFTA Surveillance Authority mission to Norway 300112 - 080212**  
**- Food Hygiene and Import Controls of Food of Non-Animal Origin**  
**- Response to draft report**

Please find the Norwegian Food Safety Authority's response to the draft report from the above-mentioned mission.

Yours sincerely,

Cathrine Steinland  
Acting Deputy Director General

Anne Felde Doser  
Adviser

Copy: Norwegian Ministry of Health and Care Services

Enclosure: 1

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Case No: 70721,  
Event No: 612842

Vår ref: 2012/1400 -  
Dato: 20.04.2012  
Org.nr: 985 399 077

Statens tilsyn for planter, fisk, dyr og næringsmidler



**EFTA SURVEILLANCE AUTHORITY (ESA) MISSION TO NORWAY**  
From 30 January to 8 February 2012 regarding application of EEA legislation relating to  
Official controls on Food Hygiene and Import Controls of Food of Non-Animal Origin

The Norwegian Food Safety Authority (NFSA) refers to your letter of 16 March 2012 with the draft report from the above- mentioned mission to Norway.

The NFSA does not have any specific comments concerning the facts in the draft report.

We refer to the ESA recommendations (1-11) and hereby describe the actions that the NFSA will take in order to ensure adherence to the duties laid down in Regulation (EU) No. 882/2004:

Recommendations:

**1. Norway should ensure that the competent authorities have access to a sufficient number of suitably qualified and experienced staff so that official controls and control duties can be carried out efficiently and effectively, in conformity with the requirements laid down in Article 4 (2) (c) of Regulation (EC) No 882/2004.**

We interpret this recommendation to especially cover the points referred to in the recommendation 3 and refer to the answer under that recommendation.

**2. Norway should ensure efficient and effective coordination between different units of the competent authority as required by with Article 4 (5) of Regulation (EC) No 882/2004.**

We understand from the draft report that this point refers to our import control.

The NFSA's head office will make it a routine to evaluate the frequency of sampling of the different products during quarterly reporting of the results.

The NFSA's internal guidelines for onward transportations of sampled consignments will be evaluated. The need for official sealing of consignments that are allowed for onward-transport pending results of import control to secure better control, will also be evaluated. The NFSA will increase focus on control/follow-up (on a random basis and after suspicion) when the NFSA after import control gives order of destruction of non-conform products.

The DPEs will aim at avoiding errors during reporting of samples and the central level must follow-up if information is lacking.

**3. Norway should ensure that the NFSA staff receive relevant training and being kept**

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***up-to-date in their competencies in particular regarding assessment of HACCP plans in line with the requirements laid down in Article 6 of Regulation (EC) No 882/2004.***

As to the training and qualification staff, the ESA emphasizes the competences as to the control/revision of HACCP in the food businesses.

In 2007 the NFSA introduced a web-based learning program on HACCP. The Head Office also organized national training courses in 2007 and 2008.

In 2012 the NFSA has a national project which focuses on HACCP in larger hotel and restaurant kitchens, other larger kitchens and other food businesses including producers approved under Regulation (EC) No. 853/2004, but excluding fish products. This project aims to control around thousand food business operators. In that connection around hundred inspectors were gathered in November 2011 for a two days course on HACCP.

The training of the inspectors on how to conduct controls with the HACCP is, however, mainly the responsibility and priority of each unit on the district level. There are training courses on HACCP on the district level. However, the central level does not have an overview over the extent of such courses.

***4. The competent authority should take action when non-compliances have been identified to ensure that the food business operator remedies the situation. When deciding which action to take, the competent authority shall take into account the nature of the non-compliance and the food business operators' past record with regard to non-compliances as required by Article 54 of Regulation (EC) No 882/2004.***

We understand from the draft report that this point refers to our import control and RASFF. Follow-up and measures after receiving RASFF notifications must improve at the local/regional level. Steering documents for RASFF has been updated in 2012 after implementation of Regulation (EU) No. 16/2011.

The demand for rapid action is clearly described in the RASFF routines. Problems with too slow follow-up of RASFF cases, have been discussed in the management in the Department of Control at NFSA's Head Office. The need for improvement has later been addressed to the regional and local leaders.

***5. Norway should ensure that official controls are carried out regularly, on a risk basis and with appropriate frequency in accordance with Article 3 of Regulation (EC) No 882/2004***

As in our answer to the Pre-Mission Questionnaire, we refer to the overall description of our risk based control in chapter 4 of the Multi-Annual National Control Plan (2012-2014). The requirement to have a risk based control is further taken care of by our long term plan for control (2012-2016). Each section in the Head Office in the Department of Control is meant to have risk as the base for determining the frequency of the area in focus. How far each section at the head office has come in detailing this, varies.

In addition, we have a risk assessment of our efficacy goals as the base of our priorities as well as our analysis of certain areas which also will include risk assessments.

Our data system, MATS, will also be used to support a systematic use of the risk assessments down to the level of the food business operator. This is not yet put into place.

***6. Norway should ensure that establishments fulfill the general hygiene requirements of Annex II to Regulation (EC) No 852/2004 and***

The NFSA is arranging a two day seminar in September this year concerning general hygiene requirements, focusing on HACCP. The participants will be the regional offices.

In addition to this seminar there will be 4 – 5 meetings a year on the regional level on the same topic. There is therefore an expectation that the regional offices will ensure that all inspectors will get sufficient training.

***7. Norway should ensure that HACCP based systems are in line with the requirements laid down in Article 5 of Regulation (EC) No 852/2004***

The training and communication referred to under recommendations 3 and 6 above, will contribute to a better understanding of HACCP within the NFSA. The communication around the HACCP project and the actual controls to a great number of FBOs, will to a great extent increase the awareness of businesses to the HACCP requirements and also the general hygiene requirements.

**8. The competent authorities should ensure the consistency of official controls at all levels and in a consistent manner in conformity with the requirements laid down in Article 4(4) of Regulation (EC) No 882/2004.**

This recommendation refers to the import control. After the ESA mission, the NFSA has discussed making a new system for the recording of consignments falling under the scope of Regulation (EC) No. 669/2009 arriving at the three DPEs. This type of document shared by the DPEs, will enable the NFSA to predefine the frequency and when consignments should be sampled in a random way.

**9. Norway should ensure that the designated points of entry/import have available unloading equipment as appropriate in line with in the minimum requirements in Article 4 of Regulation (EC) No 669/2009.**

The designated points of entry/import do samplings of consignments under the Regulation (EC) No 669/2009. For consignments of certain products packed in big bags, it is difficult to achieve representative sampling at DPE Oslo harbor. Due to the restricted space for unloading, the sampling is only done from the top of the bags/units. NFSA agrees that the sampling of big bags of certain products at this DPE is not optimal.

NFSA is now in an early stage of evaluating the contract at DPE Oslo harbor, since it expires in 2014. The facilities will be evaluated as part of this process.

**10. Norway should ensure that the frequency of physical and identity checks of consignments of food of non animal origin meet the requirements in Annex I to Regulation (EC) No 669/2009. The competent authorities should ensure that where authorisation to allow onward transportation is given the consignment remain under their continuous control and cannot be tampered with in any manner pending the results of the physical checks, in line with the requirements laid down in Article 8 (2) (b) of Regulation (EC) No 669/2009.**

The NFSA believes the actions referred to under recommendation 2, also covers this recommendation. See recommendation 2.

**11. Norway should ensure that consignments that do not comply with the food or feed law are placed under official detention in line with the requirements laid down in Article 19 of Regulation (EC) No 882/2004.**

The NFSA understands that this point concerns the area of import control. The NFSA will increase focus on control/follow-up (on a random basis and after suspicion) when the NFSA after import control gives an order of destruction of non-conform products that has been transported onward pending the results.

Yours sincerely

Atle Wold  
Head of section