ESA | EFTA Surveillance Authority

Brussels, 15 December 2022
Case No: 88775
Document No: 1334546

Final report

EFTA Surveillance Authority's audit to Norway from 12 to 21 September 2022 on official controls of food and feed of non-animal origin entering Norway from third countries

In response to the information provided by Norway, any factual error noted in the draft report has been corrected. Comments to the draft report are included in Annex 3 and information on the corrective actions already taken and planned are included in Annex 4.

Executive Summary

This report describes the outcome of an audit carried out by the EFTA Surveillance Authority (the Authority) in Norway from 12 to 21 September 2022.

The objective of the audit was to verify compliance with the applicable European Economic Area (EEA) legislation governing official controls on products of non-animal origin (PNAO) from third countries; temporary increase of official controls and emergency measures on imports of certain food and feed of non-animal origin entering Norway from third countries.

The audit team found that there is an effective system in place for the official controls of products of non-animal origin entering Norway from third countries. The official controls are mostly in line with the EEA requirements and the system is based on adequate documentary, identity and physical checks performed by knowledgeable and experienced staff. Close cooperation and communication with the Norwegian Customs (Customs) and within the Norwegian Food Safety Authority (NFSA), and proper use of the Trade Control and Expert System New Technology (TRACES NT) are important elements of the system put in place.

The effectiveness of the system can be further strengthened by consistent implementation of documented procedures which are updated as appropriate. Furthermore, the shortcomings regarding the supervision of official laboratories and non-compliances of BCPs with minimum requirements weakens the system and may lead to non-compliant products of non-animal origin entering Norway from third countries being placed on the market.

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

Table of Contents

1 INTRODUCTION 4

2 OBJECTIVES AND SCOPE OF THE AUDIT 4

3 LEGAL BASIS FOR THE AUDIT 5

4 BACKGROUND INFORMATION AND PREVIOUS AUDITS 6

5 FINDINGS AND CONCLUSIONS 6

5.1 Competent authorities and national legislation 6

5.2 Designation of BCPs and CPs and compliance of border control posts with minimum requirements 7

5.3 Organisation of official controls 9

5.3.1 Legal powers, enforcement and sanctions 9

5.3.2 Cooperation between and within authorities involved in controls of products of non-animal origin entering Norway from third countries 9

5.3.3 Planning of official controls, training and documented procedures 10

5.3.4 Verification of effectiveness 12

5.3.5 System to ensure presentation of consignments for checks and system for import control according to Regulation (EU) 2019/1793 12

5.4 Implementation of official controls on consignments of food and feed of non-animal origin entering Norway from third countries 14

5.4.1 Prior notification 14

5.4.2 Official controls on transit, transhipment and onward transportation 14

5.4.3 Documentary, identity and physical checks of consignments 14

5.4.4 Decisions on consignments and follow-up 16

5.5 Use of the Trade Control and Expert System (TRACES) 17

6 OVERALL CONCLUSIONS 18

7 FINAL MEETING 18

8 RECOMMENDATIONS 19

ANNEX 1 - LIST OF ABBREVIATIONS AND TERMS USED IN THE REPORT 20

ANNEX 2 - RELEVANT LEGISLATION 20

ANNEX 3 – NORWAY'S COMMENT TO THE DRAFT REPORT 23

ANNEX 4 – NORWAY'S ACTION PLAN FOR CORRECTIVE MEASURES 24

1 Introduction

The audit took place in Norway from 12 to 21 September 2022. The audit team comprised two auditors from the EFTA Surveillance Authority (the Authority) and an observer from the Health and Food Audits and Analysis Directorate (Directorate F) of Directorate General Health and Food Safety (DG SANTE) of the European Commission.

A pre-audit questionnaire was sent by the Authority to the Norwegian Ministry of Agriculture and Food on 3 June 2022. A reply ('the pre-audit documents') was provided on 9 August 2022.

The opening meeting was held with representatives of the Norwegian Ministry of Agriculture and Food, Ministry of Health and Care Services, Norwegian Customs (Customs) and the Norwegian Food Safety Authority (NFSA) on 12 September 2022 at the NFSA's head office in Oslo. At the meeting, the audit team confirmed the objectives and the itinerary of the audit. The Norwegian representatives provided additional information to that set out in the pre-audit document.

Throughout the audit, representatives of the NFSA accompanied the audit team.

A final meeting was held at the head office of the NFSA in Oslo on 21 September 2022, during which the audit team presented its main findings and preliminary conclusions from the audit.

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

2 Objectives and scope of the audit

The objective of the audit was to verify compliance with the applicable legislation governing official controls on products of non-animal origin from third countries; temporary increase of official controls and emergency measures on certain food and feed of non-animal origin entering the European Economic Area (EEA), in particular the implementation of the following requirements of EEA legislation:

a) Regulation (EU) 2017/625 of the European Parliament and of the Council ("Official Controls Regulation" ('OCR')) including its implementing regulations and delegated acts regarding official controls;

b) Commission Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain good from certain third countries;

c) Commission Implementing Regulation (EU) 2019/1014 laying down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points;

d) Commission Implementing Regulation (EU) 2019/1715 laying down rules for the functioning of the information management system for official controls and its system components ('the information management system for official controls (IMSOC) Regulation');

e) Commission Implementing Regulation (EU) 2019/2130 establishing detailed rules on the operations to be carried out during and after documentary checks, identity

checks and physical checks on animals and goods subject to official controls at border control posts.

The scope of the audit included the review of:

a) relevant national legislation;

b) Competent authorities (CAs): their designation, resources and allocation of their responsibilities under the OCR and communication and co-operation within and between CAs;

c) the organisation of official controls to verify compliance with the applicable EEA legislation governing official controls on products of non-animal origin from third countries;

d) the temporary increase of official controls and emergency measures on imports of certain food and feed of non-animal origin, including the general requirements and operational criteria;

e) the implementation of controls at border control posts ('BCPs') and control points ('CPs') other than BCPs, including identification of consignments, identity and documentary controls and sampling and enforcement procedures.

The assessment was carried out based on, and related to, the legislation referred to in Annex 2 to this report.

The assessment was further based on the CA's response to the pre-audit questionnaire.

The meetings with the competent authorities and the visits to operators, undertaken by the audit team, are listed in Table 1.

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

	Number	Comments
Competent authorities	2	An initial and a final meeting between the audit team and the Norwegian competent authority in Oslo
NFSA	2	
National Reference Laboratory (NRL)	1	
Norwegian Customs (Customs)	1	
Border control posts (BCPs)	3	
Official Laboratory	1	Virtual meeting

3 Legal basis for the audit

The audit was carried out under the general provisions of the EEA Agreement and relevant legislation, in particular Articles 116, 117 and 119 of Regulation (EU) No 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (the OCR), as amended and

as adapted to the EEA Agreement by the sectoral adaptations referred to in Annexes I and II thereto.

4 Background information and previous audits

The audit was a part of the Authority's planned work programme.

The latest audit with a similar scope was carried out by the Authority in Norway in 2012. That audit covered the application of EEA legislation related to official controls on food hygiene and import controls of food of non-animal origin. Since then, there have been changes to the legislation and the control system in Norway. The final report can be found on the Authority's website (www.eftasurv.int). In cooperation with the EEA (European Free Trade Association (EFTA) States, the Authority draws up Country Profiles. The Country Profile for Norway was updated in July 2020, following a general review audit in February 2020.

Part 1 describes the organisation of the Norwegian authorities and their control systems covering the entire chain of animal feed and food production.

Part 2 gives the status of corrective actions undertaken in response to recommendations made in ESA's audit reports in Norway.

5 Findings and conclusions

5.1 Competent authorities and national legislation

Legal Requirements

Article 7 of the EEA Agreement requires acts referred to or contained in the Annexes to the Agreement to be made part of the Norwegian legal order. Simplified procedures apply *inter alia* to acts adopted pursuant to Article 53 of Regulation (EC) No 178/2002 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 adapted. Article 3 of the EEA Agreement requires the EEA EFTA States to take all appropriate measures to ensure the fulfilment of their obligations under the EEA Agreement.

Article 4(1) of Regulation 2017/625 lays down the requirement of EEA States to designate the competent authority or authorities to organise or perform official controls and other activities.

Findings

1. The NFSA has been designated as CA according to Article 4(1) of the OCR for the official controls on products of non-animal origin (PNAO) entering Norway from third countries.
2. The NFSA confirmed that
    a. Regulation (EU) 2017/625 was made part of the Norwegian legal order by Forskrift 3. mars 2020 nr. 704 om offentlig kontroll for å sikre etterlevelse av regelverket for mat, fôr, plantevernmidler, dyrehelse og dyrevelferd
    b. Commission Implementing Regulation (EU) 2019/1793 was made part of the Norwegian legal order by Forskrift 9. mars 2020 nr. 717 om offentlig kontroll – importkontroll av ikke animalske produkter – forordning (EU) 2019/1793
    c. Commission Implementing Regulation (EU) 2019/1014 was made part of the Norwegian legal order by Forskrift 9. mars 2020 nr. 709 om offentlig kontroll –

grensekontrollstasjoner – forordning (EU) 2019/1012, forordning (EU) 2019/1014 og forordning (EU) 2019/1081

d. Commission Implementing Regulation (EU) 2019/1715 was made part of the Norwegian legal order by Forskrift 9. mars 2020 nr. 715 om offentlig kontroll – IMSOC – forordning (EU) 2019/1715

e. Commission Implementing Regulation (EU) 2019/2130 was made part of the Norwegian legal order by Forskrift 9. mars 2020 nr. 708 om offentlig kontroll – generelle regler for grensekontroll forordning (EU) 2019/2123, forordning (EU) 2019/2126, forordning (EU) 2019/2129 og forordning (EU) 2019/2130

3. The audit team noted that the head office of the NFSA monitors EU level processes regarding the review of Regulation (EU) 2019/1793 and prepares amendments to the national legislation to ensure that updates enter into force in Norway on the same date as in the EU Member States (MSs). The NFSA stated that a slight delay of a couple of days might occur. The audit team did not observe longer delays in the implementation of the amendments to Regulation (EU) 2019/1793.

Conclusions on competent authorities and national legislation

4. CA within the scope of the audit are clearly designated.
5. The EEA legislation relevant for the audit has been made part of the Norwegian legal order. A procedure is implemented to ensure that amendments to Regulation (EU) 2019/1793 enter into force in Norway at the same time as in the EU, or shortly thereafter.

5.2 Designation of BCPs and CPs and compliance of border control posts with minimum requirements

Legal Requirements

Articles 5(1)(f), 53(2), 60(1), 61, 64(1) and (3) of Regulation (EU) 2017/625

Article 44 of Regulation (EU) 2019/1715

Regulation (EU) 2019/1014

Findings

6. The NFSA informed the audit team that they had re-designated the Border Inspection Posts and points of entry as BCPs in accordance with Article 61 of the OCR.
7. The NFSA has made available on the internet a list[1] of the designated BCPs in Norway. No CPs were designated at the time of the audit. The NFSA confirmed they had received five applications concerning CPs and at the time of the audit, were in the process of assessing them. See Table 2 for BCPs designated in Norway at the time of the audit.

[1] www.mattilsynet.no

Table 2: BCPs designated in Norway

BCP	TRACES code	Type of transport	CP	Categories of animals and goods for which the BCP is designated	Additional specifications
Borg port	NO BRG 1	P	-	POA-HC(2) POA-NHC(2) PNAO-HC(food)-NT-T(2) PNAO-NHC(feed)-NT-T(2) PNAO-NHC(other)-NT-T(2)	-
Larvik port	NO LAR 1	P	-	POA-HC(2) PNAO-HC(food)-NT-T(2) PNAO-NHC(feed)-NT-T(2) PNAO-NHC(other)-NT-T(2)	-
Oslo airport	NO OSL 4	A	-	POA HC(2) POA NHC(2) LA U,E,O PNAO-HC(food)-NT-T(2) PNAO-NHC(feed)-NT-T(2) PNAO-NHC(other)-NT-T(2)	-
Oslo port	NO OSL 1	P	-	POA HC(2) POA NHC(2) PNAO-HC(food)-NT-T(2) PNAO-NHC(feed)-NT-T(2) PNAO-NHC(other)-NT-T(2)	-

8. The audit team noted that, Borg port BCP had no storage area or room for goods for human consumption to be stored at ambient temperature. This is not in line with Article 3(1)(c) of Regulation (EU) 2019/1014. It had storage rooms dedicated for chilled and frozen goods for human consumption.
9. The documentary checks are carried out at the BCPs Oslo and Borg Port, however for certain consignments which arrive in bulk bags, the identity and physical checks are not done at the BCPs as they do not have premises and other facilities appropriate to the nature and volume of those goods as required by Article 64(3)(b) of the OCR. In the case of Borg port, the identity checks and physical checks, including sampling, are performed at the operator's premises approximately five kilometres away from the BCP and point of entry. In the case of Oslo port, the identity check and physical check

are carried out in a private warehouse adjacent to the BCP. This warehouse does not meet the minimum requirements as provided for in Article 3(11) of Regulation (EU) 2019/1014, e.g. the inspection area does not have a supply of hot and cold running water for washing and drying hands as required by Article 3(1)(b) of that Regulation, and is not equipped with a table with smooth washable surface easy to clean and disinfect as required by Article 4(2)(a) of that regulation. The above situations do not meet the conditions laid down in Article 3(11) of Regulation (EU) 2019/1014 and are not in line with Article 49(1) of the OCR.

10. The Oslo port BCP confirmed that they receive 80% of the consignments of PNAO imported to Norway subject to official controls within the scope of the audit.
11. The BCPs visited informed the audit team that they had not received feed which would be subject to official controls within the scope of the audit over the past three years.

Conclusions on designation of BCPs and CPs, and compliance of border control posts with minimum requirements

12. The BCPs have been re-designated according to the EEA legislation. However, two of the BCPs visited had premises and facilities which were not appropriate to the nature and volume of certain goods handled. This resulted in official controls being performed outside the BCP at facilities. Furthermore, the facilities used for carrying out controls, including sampling, did not meet the minimum requirements for BCPs which could compromise the integrity of the samples.

5.3 Organisation of official controls

5.3.1 Legal powers, enforcement and sanctions

Legal Requirements

Articles 5, 66, 69, 137,138 and 139 of Regulation (EU) 2017/625

Findings

13. Act No 124 of 19 December 2003 on food production and food safety (Food Act) specifies the legal powers, enforcement and sanctions regarding the scope of the audit.
14. Paragraph 23 of the Food Act specifies the measures that NFSA may take to ensure implementation of the Food Act. This includes, *inter alia*, the prohibition of imports, exports and marketing, and orders on withdrawal from the market, isolation, destruction, rejection, restrictions, labelling or special treatment. The audit team reviewed recent examples where PNAO had been rejected, destroyed or sent for further treatment by NFSA and found their actions satisfactory.
15. The Food Act lays down rules on closure of premises (Paragraph 25), coercive fines (paragraph 26) and penalties (paragraph 28).

5.3.2 Cooperation between and within authorities involved in controls of products of non-animal origin entering Norway from third countries

Legal Requirements

Articles 75(1) and 76 of Regulation (EU) 2017/625

Findings

16. A formal cooperation agreement is in place between the NFSA and Customs. The latest version was signed on 19 August 2021. It includes, *inter alia*, designated contacts, collaboration regarding supervision and control, retention, storage, seizure and destructions, communication and information exchange. In addition, there are also agreements at regional and local level between the two authorities.
17. The NFSA confirmed that meetings are organised between head office of NFSA and Customs officials annually.
18. The NFSA recently provided training to Customs regarding access to the Trade Control and Expert System New Technology (TRACES NT). Another training session by NFSA is planned for 5 October 2022 for Customs officers regarding controlling the Common Health Entry Document (CHED), import control of both PNAO and products of animal origin (see also paragraph 71).
19. The structure of Customs was reorganised in 2020. As a consequence, under the high-level cooperation agreement referred to in paragraph 16, a sub-agreement document on cooperation at local level is planned to be signed by 11 October 2022.
20. New customs legislation is planned to include the Movement of Goods Act and the Customs Duty Act (see also paragraph 73). The new provisions will include, *inter alia*, obligation to declare all goods entering Norway from third countries before placing such consignments under a customs procedure. Declaration requirements before entry will apply to all customs procedures including customs warehousing.
21. In the case of legislative amendments, in particular to Regulation (EU) 2019/1793, the NFSA informs Customs so that they can update their electronic database 'TVINN'. This ensures that Customs can identify consignments from specific third countries that should undergo official controls at a BCP. The information process starts with a consultation on matching the EU Combined Nomenclature (CN) codes with the Harmonised System (HS) codes when the EU proposal for changes becomes available. This action is necessary as Norway is not part of the EU Customs Union and uses a system where only the first six digits of the customs codes are identical to the EU ones.

5.3.3 Planning of official controls, training and documented procedures

Legal Requirements

Articles 5(4), 12, 43 and 64(3) of Regulation (EU) 2017/625

Findings

22. Staff met at BCPs, with responsibility for official controls related to PNAO, held a veterinary degree or a degree in food science. Specific training on PNAO for new staff is provided by more experienced staff at the BCP and involved "shadowing" the more experienced staff member. A procedure (2021/40637) for training and maintenance of competence for staff who carry out checks in accordance with import regulations was provided in the pre-audit documentation. This procedure includes, *inter alia*, the requirement for a training record to be maintained and signed off by both trainee and trainer. In one BCP visited, these training records were not available.
23. In addition, staff receive updates from the Section Border control and fraud of the NFSA regarding Regulation (EU) 2019/1793 and they participate in Better Training for Safer Food (BTSF) on-line courses such as TRACES in Member States. Although

suspended during the COVID pandemic the NFSA confirmed that they plan to re-establish annual meetings for BCP staff.

24. The NFSA further confirmed that a BCP working group has been established which discusses relevant issues. Points requiring clarification are passed to an inter-regional forum (a monthly meeting between the five regions and head office) which then provides relevant guidance. An example of a recent inter-regional forum agenda was reviewed by the audit team which included an item on better preparedness for amendments to Regulation (EU) 2019/1793.

25. The competent authority have produced documented procedures for officials involved in the import of PNAO. These documents include, inter alia:

    - 2014/139177 on supervision of food establishments engaged in EEA trade or import of foodstuffs from third countries;
    - 2014/8487 on official control requirements related to import from third countries of feed and food of non-animal origin;
    - 2017/112974 on sampling of feed; and
    - 2021/40637 on training of BCP staff.

26. The NFSA confirmed that not all central documented procedures referred to in paragraph 25 are up to date. For example, documents 2014/139177 and 2014/8487 have not been updated to incorporate changes to the relevant legislation and the consequences of these changes. These documents are still based on Commission Regulation (EC) No 669/2009 which is no longer in force which can be misleading for control staff. BCP staff met by the audit team confirmed they update staff directly rather than have them rely on the outdated documented procedures. The failure to update documented procedures is not in line with Article 12(3)(b) of the OCR.

27. In all BCPs visited, local guidance had been developed at each site e.g. in one BCP, guidance had been developed for performing documentary and identity checks, sampling and dealing with rejected product, The guidance was kept up to date and stored on a common platform. The other BCPs had also developed their own guidance related to e.g. dealing with rejected goods.

28. In one BCP visited by the audit team, official samples were closed using a commercial cable tie with no means of ensuring sample security and integrity. The NFSA confirmed that the documented procedures regarding sampling does not include sample sealing. This is not in line with Article 12(1) of the OCR.

29. In another BCP visited, two examples of rejection and destruction of PNAO were reviewed. In one case, officials decided to directly supervise the transport and destruction of a PNAO consignment and in the second case, officials accepted photographic evidence of destruction. In a second BCP, staff confirmed they never directly supervised transport and destruction of goods but reconciled the weight of product sent for incineration with a receipt of goods document sent to them by the establishment incinerating the goods (see also paragraph 63).

30. One BCP visited developed their own local checklists for e.g. sampling and a procedure to follow subsequent to pre-notification of a consignment. The audit team saw an example of these checklists being shared with another BCP where they were also used. The NFSA confirmed no such checklists were produced centrally.

31. The audit team noted that documented procedures regarding training records were not systematically followed by the NFSA staff since individual training records for BCP staff was not always completed in line with the relevant procedures.

5.3.4 Verification of effectiveness

Legal Requirements

Articles 5, 6, 12(2) and (3) of Regulation (EU) 2017/625

Findings

32. The NFSA head office, Section Border Control and Fraud, carries out internal audits of BCPs based on an established plan for the period 2020-25. Internal audits were carried out at the four BCPs designated for PNAO in 2022: Borg port, Oslo port, Oslo airport and Larvik port. In addition, in 2017 Oslo port and Borg port and in 2018 Oslo airport and Larvik port were audited.
33. The audit team reviewed the internal audit reports of 2022 and associated documentation. The reports were comprehensive and set out a timeline for drafting a corrective action plan and implementation of corrective actions. Corrective actions had been taken by the BCPs visited. The NFSA head office, Section Border Control and Fraud, had verified the corrective actions through virtual video meetings with one of the BCPs visited.

Conclusions on the organisation of official controls

34. There is a framework for legal powers of the NFSA, enforcement and sanctions and verification of effectiveness.
35. The cooperation and communication within the NFSA and the co-operation between NFSA and Customs ensures that PNAO subject to a temporary increase of official controls or emergency measures are identified and subjected to relevant official controls in advance of their release into free circulation.
36. Staff met were generally knowledgeable and adequately trained. Documented procedures were mostly available though in some cases these were not up to date, did not address all official controls and were not consistently followed. This could lead to inconsistent application of regulatory requirements.

5.3.5 System to ensure presentation of consignments for checks and system for import control according to Regulation (EU) 2019/1793

Legal Requirements

Articles 47-49 and 56 of Regulation (EU) 2017/625

Regulation (EU) 2019/1793

Findings

37. All operators responsible for any consignment of PNAO subject to Article 47(1) of the OCR are required to be registered within the NFSA's document handling system MATS.
38. When importing goods subject to the legislation within the scope of the audit operators complete part I of the CHED-D in TRACES NT. The NFSA also confirmed that importers also inform the BCP of the arrival date of the goods by mail, e-mail or by phone call.
39. Information is available on the website of the NFSA regarding import requirements of PNAO from third countries including an information package to help new importers.

The BCPs visited stated that they also provide help to importers, in particular smaller operators to submit the correct documentation.

40. In the cases where goods are not notified, two mechanisms are in place to ensure that goods within the scope of the audit are presented for control by the NFSA at BCPs. Operators importing specified vegetables and fruits have to declare the goods to be imported in MATS. The NFSA checks whether the goods are subject to any official controls at BCPs, i.e. import requirements for food and feed of non-animal origin. Any consignments listed in Annexes I and II of Regulation (EU) 2019/1793 are automatically flagged in the MATS to alert BCP staff to carry out the necessary controls. Customs also have a flagging system to ensure that goods that are required to be controlled at a BCP are not placed on the market without a CHED-D having been issued by the NFSA

41. Data provided by the NFSA regarding the number of consignments received and rejected under Regulation (EU) 2019/1793 at the BCPs visited by the audit team is provided in table 3.

Table 3: The number of consignments received and rejected under Regulation (EU) 2019/1793 at the BCPs visited

BCP	Number of consignments received		Number of samples taken		Number of consignments rejected		Additional information
	2020	2021	2020	2021	2020	2021	
Borg port	36	35	4	3	0	1	
Oslo port	472	423	47	54	8	14	
Oslo airport	54	43	6	2	11*	19*	All consignments destroyed by incineration.

*Most non-compliances due to inadequate documentation.

42. Larvik port, which was not visited, also receives a small number of consignments subject to official controls within the scope of this audit. According to data in TRACES NT 20 consignments of products of non-animal origin had been received from March 2020 to the time of the audit.

Conclusions on system to ensure presentation of consignments for checks and system for import control according to Regulation (EU) 2019/1793

43. There are systems in place to ensure that PNAO subject to Article 47(1) of the OCR are presented for checks thereby ensuring that goods placed on the market comply with EEA requirements.

5.4 Implementation of official controls on consignments of food and feed of non-animal origin entering Norway from third countries

5.4.1 Prior notification

Legal Requirements

Articles 56(1), (3)(a), (4) and 57(3) of Regulation (EU) 2017/625

Findings

44. The NFSA stated that the use of TRACES-NT is mandatory for official controls on relevant food and feed of non-animal origin entering Norway from third countries.
45. Evidence was provided that operators generally inform the BCP of import well in advance of arrival, which can be about a month. In some cases if the arrival of the consignment is delayed, a new CHED-D is submitted. In cases where operators do not notify consignments in advance of their arrival, the NFSA writes to those operators. BCPs visited stated that it only rarely happens that the arrival of consignments is not pre-notified.
46. The BCPs visited provided some examples where Customs or the NFSA had identified consignments that were not pre-notified and controlled. In such cases the relevant BCP informed the operator of the requirement to enter the relevant information in TRACES NT after which the BCP carried out the official controls.

5.4.2 Official controls on transit, transhipment and onward transportation

Legal Requirements

Regulation (EU) 2019/2124

Findings

47. NFSA confirmed that they were not aware of any consignments of PNAO moving in transit, transhipments or onward transportation through Norway. The audit team noted that there is no record of such activity in TRACES NT either. The audit team further noted that consignments had been in the past transported onwards pending laboratory results, but this is no longer practiced since the internal audits carried out by the head office in April 2022.
48. The NFSA also confirmed that no onward transportation facilities were approved in Norway at the time of the audit. The NFSA stated that they had received five applications concerning onward transportation facilities and were in the process of assessing them.

5.4.3 Documentary, identity and physical checks of consignments

Legal Requirements

Articles 45(1)(a) and (b), 47(1), 49(1), 50(1) and (2) and 54(1) and (2) of Regulation (EU) 2017/625

Regulation (EU) 2019/2130

Findings

Documentary checks

49. The NFSA staff at the BCPs perform documentary checks on consignments of categories of goods referred to in Article 47(1) of the OCR as required by Article 49(1) of the OCR. The audit team noted that the documentary checks are carried out in line with Article 2 of Regulation (EU) 2019/2130 and included checks to ascertain that the information contained in the certificates or documents is compliant.

Identity checks

50. The NFSA staff of the BCPs perform the identity checks in most cases at the BCP to verify the elements specified in Article 3 of Regulation (EU) 2019/2130. The checks include content, quantity and seal of consignments.

Physical checks

51. The audit team noted that the frequency of physical checks on consignments of food of non-animal origin subject to a temporary increase of official controls or emergency measures were generally in line with the frequencies set out in Commission Implementing Regulation (EU) 2019/1793. Each of the BCPs visited maintain their own excel table to ensure the required frequency of identity and physical checks is met. They work with a limited number of importers and the BCPs know the importers trading patterns. The BCPs visited explained that they select the consignments for sampling so that it is not predictable. Also, they alternate the importers of whose products are chosen. One of the BCPs did not carry out sampling between April and August 2022 due to a misunderstanding as regards the selection process for consignments for physical checks by TRACES and only two consignments have been sampled so far. Manual selection for sampling of consignments had resumed by the time of the audit.

52. At the BCPs visited, the audit team was provided with an explanation of how sampling for *Salmonella,* pesticides and mycotoxins is performed. The sampling procedures described were largely in line with the applicable EEA legislation. The inspectors interviewed referred to the EEA legislation and the pesticide surveillance plan which includes instructions for sampling for pesticide residues.

53. The audit team further noted that, at one of the BCPs visited, official samples were closed using a commercial cable tie with no means of ensuring the integrity of the sample when bulk bags are sampled for mycotoxin analysis. This is not in line with point A.3.8 of Annex I of Regulation (EC) No 401/2006.

54. Analysis for *Salmonella*, aflatoxins/ochratoxin A and ethylene oxide are carried out in contracted private laboratories. The private laboratory confirmed that for aflatoxin and ethylene oxide analyses, the samples are sent abroad to a branch of the laboratory located in an EEA State.

55. The audit team noted that there is a contract between the NFSA and private laboratories, which was signed on 15 February 2022 for two years following a tendering process. Chapter 2.6 of the tender document states that NFSA contracted laboratories will be designated as official laboratories and are obliged to deliver according to Article 38 of the OCR. The framework agreement specifies requirements including elements referred to in Article 37(3), (4) and (5) of the OCR, *inter alia*, regarding accreditation according to ISO/IEC 17025, audit/performance assessment by the NFSA, delivering documented results and timeframe. The NFSA confirmed that the signed contract with the private laboratory includes subcontractors. In their bid on the tender, information about subcontractor's methodology, accreditation status and

proficiency test results are provided. It is also stated in the terms that the NFSA requirements also apply to subcontractors.

56. The audit team met the contracted private laboratory designated as official laboratory for aflatoxins/ochratoxin A and ethylene oxide analysis. The laboratory confirmed that they send the samples abroad to a subcontractor located in an EEA State, which has not been designated as official laboratory by the NFSA. During the audit, the NFSA presented the document of designation of the laboratory as official laboratory by the competent authority of the EEA State where the laboratory is located. The audit team further noted that no arrangements were in place under which the NFSA is enabled to perform the audits and inspections referred to in Article 37(2)(a) of the OCR or delegate the performance of such audits and inspections to the competent authorities of the relevant EEA State. The laboratory stated that the process they follow is according to the conditions specified in the framework agreement.
57. The audit team met the NRL for mycotoxins and for *Salmonella* analysis. The NRL confirmed that accreditation for *Salmonella* analysis is in place but accreditation for aflatoxins/ochratoxin A is not expected until 2023. The NFSA confirmed that there is no agreement in place with the EEA State where the official laboratory for mycotoxin analysis is located to ensure that the NRL coordinates the activities of the official laboratory with the view of harmonising and improving laboratory analysis, test and their use.
58. Regarding analysis for pesticide residues, the NRL is also the designated official laboratory. Import samples for pesticide residues other than ethylene-oxide are analysed there.

Conclusions on documentary, identity and physical checks

59. Adequate documentary, identity and physical checks on consignments are carried out in line with the EEA legislation. Some shortcomings in the sampling procedures at one of the BCPs visited might compromise the integrity and legal identity of the sample.
60. The absence of supervision arrangements for a contracted laboratory located in another EEA State, and the lack of accreditation of the NRL may undermine assurances that only safe PNAO entering Norway from third countries are placed on the market.

5.4.4 Decisions on consignments and follow-up

Legal requirements

Articles 55 and 65-68 of Regulation (EU) 2017/625, Regulation (EU) 2019/2130

Findings

61. Decision on consignments are taken by the NFSA inspectors at BCPs.
62. Pending laboratory results, the detained consignments are normally stored in the storage rooms of the BCP or in the transport container kept by the BCP, and in one case at the operator's premises.
63. In the case of rejected consignments, the operator is ordered to either send the rejected consignment for destruction by incineration, special treatment or send it back to the country of origin or to a third country which accepts it. Evidence was provided that related documentation is kept at the BCP. BCP staff stated that in some high-risk cases where the volume of the rejected goods was large they follow the consignment

to the destruction facility and supervise destruction of the goods (see also paragraph 29).

64. In the case of unfavourable laboratory test results for products and where the result shows significantly higher value than the maximum residue level (MRL), the BCP inspector drafts a Rapid alert system for food and feed (iRASFF) notification. The draft is sent to the RASFF team of the NFSA for review and completion of the necessary risk assessment according to the RASFF risk evaluation procedure. The notification is then sent through iRASFF. Evidence was provided where iRASFF notifications regarding PNAO entering Norway from third countries were triggered during the past three years.

65. The audit team noted that the NFSA has taken decisions on consignments in line with Article 55 of the OCR and had also taken measures in case of confirmed non-compliance or risk.

Conclusions on decisions on consignments and follow-up

66. Correct decisions on consignments are assured.

5.5 Use of the Trade Control and Expert System (TRACES)

Legal Requirements

Articles 50(3), 56, 57, 64(3)(f) and (g), 66(5), 74(1)(a), 75(1)(b) and 133(3) of Regulation (EU) 2017/625

Regulation (EU) 2019/1715

Findings

67. NFSA informed the audit team that the use of TRACES NT is mandatory for relevant food and feed of non-animal origin, subject to official controls, entering Norway.

68. Guidelines are available for operators via the NFSA website for the completion of Part I of the CHED-D in TRACES NT. In addition, the competent authority provides assistance to operators through a dedicated helpline and functional mailbox.

69. The NFSA stated that all HS codes for products of non-animal origin subject to official controls at BCPs are entered in the Customs' database, TVINN, which ensures that consignments of those goods are automatically identified and will not be processed by Customs unless the NFSA has finalised the relevant CHED-D. Where there are any changes or updates to the relevant codes, these are sent to Customs by the NFSA in advance of their implementation.

70. The NFSA further stated that certifying officers at BCPs do not make use of CHED-Ds in an electronic format (referred in Article 41 of Commission Implementing Regulation (EU) 2019/1715).

71. Once the CHED-D is finalised in TRACES NT, the BCP staff notify Customs of the decision on the consignment by sending an electronic copy of the CHED to a functional mailbox. NFSA stated that it intended to replace this system of notifying Customs by instead providing Customs with access to TRACES NT. Currently, 15 Customs officers have access to TRACES NT (see also paragraph 18).

72. The NFSA noted difficulties where consignments of goods are not pre-notified in TRACES NT and have not been identified by Customs before entry of the goods into the EEA. Examples of such cases were shown at one BCP where the consignments were recalled and subjected to the measures set out in Article 66 of the OCR.
73. Customs stated that they were in the process of replacing the current Customs Act with two new Acts as regards customs duties and movement of goods (see also paragraph 20). Under the new provisions, operators will be required to lodge declarations for consignments of goods of non-animal (and animal) origin before placing such consignments under a customs procedure, including customs warehousing. The inclusion of HS codes for goods of animal and non-animal origin will be mandatory in the new declarations. The new provisions are expected to enter into force as of 1 January 2023.
74. The NFSA informed the audit team that it is the national contact point for the iRASFF. As noted in section 5.4.4, the NFSA has documented procedures in place for submitting iRASFF border rejection notifications, in line with Article 20 of Regulation (EU) 2019/1715. Examples of iRASFF notification were provided to the audit team.

Conclusions on use of TRACES NT

75. The NFSA uses TRACES NT appropriately for the purpose of official controls of products of non-animal origin entering Norway from third countries. Some Customs officials have been granted access to and are undergoing training in TRACES NT.

6 Overall conclusions

The audit team found that there is an effective system in place for the official controls of products of non-animal origin entering Norway from third countries. The official controls are mostly in line with the EEA requirements and the system is based on adequate documentary, identity and physical checks performed by knowledgeable and experienced staff. Close cooperation and communication with the Customs and within the NFSA, and proper use of the TRACES NT system are important elements of the system put in place.

The effectiveness of the system can be further strengthened by consistent implementation of documented procedures which are updated as appropriate. Furthermore, the shortcomings regarding the supervision of official laboratories and non-compliances of BCPs with minimum requirements weakens the system and may lead to non-compliant products of non-animal origin entering Norway from third countries being placed on the market.

7 Final meeting

A final meeting was held on 21 September 2022 at the NFSA premises in Oslo with representatives from the relevant competent authorities present. At this meeting, the audit team presented its main findings and preliminary conclusions of the audit. At the meeting, the audit team also explained that, based on a more detailed assessment of the information received during the audit, additional findings and conclusions could be included in the report.

8 Recommendations

In order to facilitate the follow-up of the recommendations hereunder, Norway should inform the Authority **by 15 February 2023**, by way of written evidence, of the corrective actions taken in relation to each of the recommendations below and provide a plan for corrective measures and actions, including a timetable for completion of measures still outstanding. Norway should ensure that such corrective actions are designed in line with a root cause analysis of the situation. The Authority should also be kept informed of the completion of the measures included in the timetable.

No	Recommendation
1	The competent authority should ensure that border control posts have storage areas or storage rooms as required by Article 3(1)(c) of Regulation (EU) 2019/1014. Recommendation based on conclusion at paragraph 12. Associated finding: paragraph 8.
2	The competent authority should ensure that identity checks and physical checks on products of non-animal origin referred to in Article 47(1) of Regulation (EU) 2017/625 are carried out at the border control post of arrival as required by Article 49(1) of that regulation, in premises or other facilities appropriate to the nature and volume of the categories of goods handled as required by Article 64(3)(b) of that regulation; if applicable, in commercial storage facilities complying with the conditions laid down in Article 3(11) of Regulation (EU) 2019/1014. Recommendation based on conclusion at paragraph 12. Associated finding: paragraph 9.
3	The competent authority should ensure that official controls are performed in accordance with documented procedures as required by Article 12(1) of Regulation (EU) 2017/625, and that documented procedures are updated as appropriate, as required by Article 12(3)(b) of the same regulation. Recommendation based on conclusion at paragraphs 36 and 59. Associated finding: paragraphs 26, 28, 31 and 53.
4	The competent authority should have arrangements to ensure that official laboratories are supervised as required by Article 37(2)(a) of Regulation (EU) 2017/625 and that activities of the official laboratories are coordinated by national reference laboratories also when they are located in other EEA State as required by Article 101(1)(b) of the same Regulation. Recommendation based on conclusion at paragraph 60. Associated finding: paragraphs 56 and 57.

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

Authority	EFTA Surveillance Authority
BCP	Border control post
BTSF	Better Training for Safer Food
CHED	Common Health Entry Document
CHED-D	Common Health Entry Document for consignments of food and feed of non-animal origin
CN	Combined Nomenclature
CP	Control point
DG SANTE	Directorate General Health and Food Safety
EC	European Community
EEA	European Economic Area
EEA Agreement	Agreement on the European Economic Area
EFTA	European Free Trade Association
EU	European Union
FTE	Full-time equivalent
HS	Harmonised System
IMSOC	Information management system for official controls
iRASFF	The electronic system implementing the Rapid alert system for food and feed
MATS	NFSA document handling system
MRL	maximum residue level
MS	Member State
NFSA	Norwegian Food Safety Authority
OCR	Regulation (EU) 2017/625 (“Official Controls Regulation”)
PNAO	Products of non-animal origin
TRACES NT	Trade Control and Expert System New Technology

Annex 2 - Relevant legislation

The following EEA legislation was taken into account in the context of the audit:

a) The Act referred to at Point 11b in Part 1.1 of Chapter I and at Point 31q of Chapter II of Annex I and at Point 164 of Chapter XII of Annex II to the EEA Agreement, Regulation (EU) No 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation), as amended and as adapted to the EEA Agreement by the specific and the sectoral adaptations referred to in Annexes I and II thereto;

b) The Act referred to at Point 11bs in Part 1.1 of Chapter I and at Point 31qs of Chapter II of Annex I and at Point 164s of Chapter XII of Annex II to the EEA Agreement, Commission Implementing Regulation (EU) 2019/2130 of 25 November 2019 establishing detailed rules on the operations to be carried out during and after documentary checks, identity checks and physical checks on animals and goods subject to official controls at border control posts, as amended and adapted to the EEA Agreement by the specific and the sectoral adaptations referred to in Annexes I and II thereto ;

c) The Act referred to at Point 11bd in Part 1.1 of Chapter I and at Point 31qd of Chapter II of Annex I and Point 164d of Chapter XII of Annex II of the EEA Agreement, Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components ('the IMSOC Regulation'), as amended and as adapted to the EEA Agreement by the specific and the sectoral adaptations referred to in Annexes I and II thereto;

d) The Act referred to at Point 11bg of Part 1.1. of Chapter I and at Point 31qg of Chapter II of Annex I and at Point 164g of Chapter XII of Annex II, Commission Implementing Regulation (EU) 2019/1014 of 12 June 2019 to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points, as adapted to the EEA Agreement by the sectoral adaptations referred to in Annexes I and II thereto;

e) The Act referred to at Point 11bm in Part 1.1 of Chapter I, Point 31qm of Chapter II of Annex I and at Point 164m of Chapter XII of Annex II to the EEA Agreement, Commission Implementing Regulation (EU) 2019/1793 of 22 October 2019 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries, as amended and as adapted to the EEA Agreement by the sectoral adaptations referred to in Annexes I and II thereto;

f) The Act referred to at Point 11bw in Part 1.1 of Chapter I, Point 31qw of Chapter II of Annex I and at Point 164w of Chapter XII of Annex II to the EEA Agreement, Commission Delegated Regulation (EU) 2019/2124 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European

Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transhipment and onward transportation through the Union, and amending Commission Regulations (EC) No 798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC, as amended and as adapted to the EEA Agreement by the sectoral adaptations referred to in Annexes I and II thereto;

g) The Act referred to at Point 54zz of Chapter XII of Annex II to the EEA Agreement, Commission Directive 2002/63/EC of 11 July 2002 establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive 79/700/EEC, as adapted to the EEA Agreement by the sectoral adaptations referred to in Annex II thereto;

h) 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 and as adapted to the EEA Agreement by the sectoral adaptations referred to in Annex II thereto.

i) Commission Implementing Regulation (EU) 2021/1533 of 17 September 2021 imposing special conditions governing the import of feed and food originating in or dispatched from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) 2016/6, incorporated into the EEA Agreement by simplified procedure;

j) Commission Implementing Regulation (EU) 2020/1158 of 5 August 2020 on the conditions governing imports of food and feed originating in third countries following the accident at the Chernobyl nuclear power station, incorporated into the EEA Agreement by simplified procedure;

k) Commission Implementing Decision 2011/884/EU of 22 December 2011 on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC, incorporated into the EEA Agreement by simplified procedure.

Annex 3 – Norway's comment to the draft report

Comments to the draft report EFTA Surveillance Authority's audit to Norway 12.-21. September 2022

Reference is made to the letter from the EFTA Surveillance Authority dated 25 October 2022 concerning the draft report to the EFTA Surveillance Authority's audit to Norway from 12 to 21 September 2022.

This letter contains the NFSA's response to the recommendations given in the draft report.

We have some comments to the Overall conclusions in Point 6, repeated in the Executive Summary on page 2.

We do not fully agree with the following statements given in:
- The Overall conclusions repeated in the Executive Summary on page 2, 4th para: "Furthermore, the shortcomings in the designation of the official laboratories, a National Reference Laboratory not fulfilling its coordination role and non-compliances of BCPs with minimum requirements weakens the system and may lead to non-compliant products of non-animal origin entering Norway from third countries being placed on the market."

The official laboratories (OL) are designated in contracts. Furthermore, in meetings held with OL and NRL, their roles have been presented.

The statement "A national reference laboratory is not fulfilling its coordination role", is related to the NRL of mycotoxins for which the OL is in another MS, and hence it is the role of the NRL in that MS to follow up on OL. Enclosed please find the email correspondence with DG Sante, where they conclude "there is no need for duplication by requesting supervision also by the NRL of Member State 1". Our shortcoming is the lack of an agreement with the MS country where the OL is located.

www.mattilsynet.no

Norwegian Food Safety Authority
Head Office

Official in charge: Ian Christian Burman
Phone: +47 22 40 00 00
E-mail: postmottak@mattilsynet.no

Postal address: Head Office
P.O. Box 383
N - 2381 Brumunddal
NORWAY

- Findings 55
The signed contract with the private laboratory includes subcontractors. In their bid on the tender, information about sub contractor's methodology, accreditation status and PT-results are provided. It is also stated in the terms that the NFSA requirements also apply for subcontractors.

- Findings 57
The last sentence is not quite correct as the OL is in another MS, and hence it is the NRL in that MS that has the role to follow up the OL. (However, we lack the agreement with the MS where the OL is located).

Annex 4 – Norway's action plan for corrective measures

Concerning recommendation 3:

We are currently working on updating our guideline concerning Regulation (EU) 2019/1793, and we will be finished with this update by the middle of December and aim to have the guideline enter into force by the end of January 2023. We will have to a have an internal review of the updated guidelines before it can enter into force which will take some time. As mentioned, our aim is to have this issue closed by the end of January 2023.

We are also planning to take the local procedures from the BCP's and place them at the central level to ensure that the procedures are uniform and that the BCP's perform the controls based on the same procedures. This will also ensure that the procedures will be kept up to date. The procedure concerning sampling will be a part of this work. We will start the work on our procedures in January 2023 and aim to conclude this work by the end of January 2023 and update the procedures/guidelines continuously.

The issue concerning procedures and their usage will be a part of our annual meeting with the inspectors at the BCP's, to ensure that the procedures are known, and to answer questions concerning the use of them. This last point will also be performed throughout the year through our inter-regional meetings.

Concerning recommendation 4:
See opening comments.

Concerning recommendation 5:
See opening comments.

Concerning recommendation 1:
This issue is already closed. The storage room at BCP Borg Port was marked incorrectly, and this has been rectified. As mentioned at the final meeting. The room is now marked for goods to be stored at ambient temperature, either for human consumption or for non-human consumption. If the BCP receives goods of both types at the same time, special arrangements will be put into force to avoid cross-contamination.
Enclosed, please find the pictures that verifies this correction.

Since this recommendation is already closed, there is no need for this recommendation in the final report.

Concerning recommendation 2:
Consignments in bulk bags (big bags) arriving at BCP Borg Port and BCP Oslo Port.

With the understanding that an inspection centre can be appointed for other types of consignments than its BCP, we have the understanding that we can appoint control points to perform controls on bulk bags and the BCP (Borg Port and Oslo Port) can be appointed to control PNAO with the exemption of bulk bags (since we have the control points to perform such controls).

Comments to Findings 9.

BCP Borg Port.
Norway sent information to ESA back in 2017 regarding a solution where we would perform identity and physical controls of bulk bags at the premises of the operator. No response was received on the matter, and Norway has used this solution the last years. This practice is now coming to an end with the new regime for control points. The operator has applied to establish a control point at their premises which will end this solution and end the need to control bulk bags at the BCP.

BCP Oslo Port.
We are currently in the process of following up the options concerning the control of bulk bags at this BCP. Controls of bulk bags can be done at control points, as for BCP Borg Port. We are also considering an option if is possible to use the private warehouse next to the BCP for controls of PNAO in accordance with Regulation (EU) 2019/1014 art. 3. This will necessitate the need for an upgrade of the warehouse to comply with the requirements of Regulation (EU) 2019/1014. We are also considering if we can include this area as a part of the BCP. This alternative solution will also necessitate an upgrade of the location.

We are currently in the process of appointing control points for the control of bulk bags.
These control points will be appointed continuously from January 2023.

As mentioned, the re-designation of the BCP's was performed after several questions and enquiries to the Commission at the OCR-meetings, to ensure that this was done correctly. The work done has been in accordance with the guidance received from the Commission.