

EUROPEAN COMMISSION DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Veterinary and International affairs **Multilateral International relations**

Brussels, 10.06.2015 SANTE G6/PL/BS/ise (2015) 2731764

NOTE FOR THE FILE

Subject: Summary Report of the Expert Group on Veterinary Checks – 13.04.2015

Present: All Member States except Cyprus, Greece, Hungary and Romania

Iceland, Norway and Switzerland

Commission Personnel (COM): DG SANCO: Patricia Langhammer (G6), Bruno Saimour (G6), Jolita Maciulyte (F5), Bibiana Janackova

(F5), Didier Carton (G2), Kaido Kroon (G2)

Introduction:

After the distribution of the Agenda, several points were added on request of MS – Agenda as attached.

ES asked if it would be possible in TRACES to tick both values "Random" and "Suspicion" in Box 29 of CVEDs (Laboratory test), considering that some consignments of fish meal would need to be sampled for both reasons (e.g. mammal proteins and salmonella). COM answered that this option would be rather confusing, because random tests involve releasing the consignment without waiting the laboratory results, while suspicion tests involve detaining the consignment until the laboratory results are known. Moreover, it would create damaging malfunctions in case re-enforced checks are applicable.

UK informed that they rejected several consignments of composite products containing small amounts of dairy products from India due to the lack of an approved residue control plan for dairy products in India. They asked if COM could help India to develop such a residue control plan and COM replied that they would be available in case India requests their assistance.

1. REVIEW OF LEGISLATION

COM informed that reading and discussion of the draft Official Control Regulation (OCR) in the Council's Joint Working Party of Veterinary Experts (Public Health) and Phytosanitary experts continued. COM participated with the Latvian Council Presidency and the Council Legal Service following the Working Parties in the drafting sessions for the revised version of the document. If the Presidency received the mandate in May,

Trilogues might start end of May/beginning of June 2015. (Adoption is still planned by the end of 2015.) The next Council Meeting takes place on 16/17 April 2015.

2. RE-ENFORCED CONTROLS

COM gave a presentation of the re-enforced check regime (REC) in TRACES outlining recent implementation issues. COM indicated that currently around 65 % of RECs are launched/proposed by MS and the remainder by COM, which are mainly based on market controls. In addition, COM thanked the MS for answering quickly to any request of clarification, on a case-by-case basis, as the REC procedure essentially depends on the speed of action. COM raised the following issues.

Consignments "in progress" for ever

COM reminded MS that the CVEDs involved in RECs have to be validated as soon as the laboratory results are available so that the whole process can progress properly. But there is another case where the process could be blocked for unjustified reasons. It may happen that certain consignments are pre-notified in TRACES 1 or 2 months before their arrival, especially in some seaport BIPs. In such case, if the BIP opens the CVED in TRACES and enters data, the status will turn from "New" into "In progress" and in addition, if a REC is requested, the CVED will be added in the series pending the check result. Considering the consignment has not yet arrived at the BIP, it will take 1 or 2 months, plus the sampling/laboratory time, before a final decision can be made and the REC process will be unduly blocked during this time. To avoid such blockings, the BIPs must be very careful with the CVEDs that are pre-notified very early in TRACES, which should be kept in the status "New" until the consignment actually arrives at the BIP.

Fight against cheating

COM noticed that certain operators are still trying to cheat with the weight limit of 10%, by dividing normal consignments into 10 artificial parts with 10 certificates and hoping that the relevant REC could be lifted sooner. COM commented the experience of one BIP that, facing such obvious attempts, has decided to select only one consignment for the REC procedure and to exempt the other ones. However, all of the 10 consignments are detained pending the laboratory results¹. This solution should discourage the operators to divide the consignments on purpose into smaller parts.

Norovirus on cooked clams from Vietnam

COM provided some clarification about Norovirus and processed bivalve molluscs (BM) from Vietnam, which had also been provided during the RASFF working group on 23 February 2015.

Vietnam is authorised to import BM into the Union, provided that they are processed (except the derogation for wild scallops completely separated from viscera and gonads). According to Regulation (EC) No 853/2004, the processing must consist of cooking the BM such that the internal temperature is raised to 90°C and maintained for at least 90 seconds.

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After the end of the meeting, the BIP clarified that all of the 10 consignments were sampled and tested, even if only 1 result is included in the REC series. This allows to react properly in case of unfavourable test result.

On the other hand, if the BM are cooked in accordance with the above requirements, then Norovirus is inactivated and laboratory test with PCR is meaningless because this method does not differentiate between live and inactivated Norovirus.

- If the physical check in the BIPs provides evidence that the BM were not processed in line with the requirements of Regulation (EC) No 853/2004, the consignment has to be rejected as the heat treatment is a pre-requisite for allowing importation. In such case, there is no need for the BIP to carry out any additional laboratory test considering that the above non-compliance is sufficient to justify a rejection.
- If the physical check confirms that the BM were processed in line with the requirements of Regulation (EC) No 853/2004, it is not necessary to carry out the laboratory test for Norovirus as the test result is meaningless. If the consignment is under re-enforced checks (REC) in TRACES, a request should be made to the TRACES team with the relevant CVED number and the proof of the heat treatment.

As usual in case of imposed controls, COM is in contact with the Vietnamese competent authorities to receive detailed information as to which corrective measures have been taken to avoid contamination with Norovirus and to ensure the application of the heat treatment required in EU legislation for all exports of BM to the Union. Once these guarantees are provided by the competent authorities, COM will be in the position to lift the current imposed checks for Norovirus.

On request of MS, COM clarified that BMs are blanched to get a clean surface and if they are opened, it would be visible that they are still raw inside.

3. TRACES ISSUES

a) Classification of seafood mix

COM explained that consignments with frozen seafood mix (mainly from Vietnam) can contain 1 kg bags with pieces of fresh fish, crustaceans, molluscs and also processed bivalve molluscs. As these products have different CN-codes like 0304, 0306, 0307 and 1605, the question arose if all these CN codes must be mentioned in box I.19 of the health certificate and in the CVED.

It was agreed with DG TAXUD that for such a product only one CN code is applicable, e.g.:

seafood mix CN code 1605 containing e.g. of: 25% Raw squid and cuttlefish tentacles, 20% Raw squid and cuttlefish strips, 20% Raw squid rings, 20% Cooked baby yellow clam), 15% Blanched shrimps (whole & small size)

Consequently that CN code should be used in the health certificate in box I.19 and in the CVED in TRACES and the border inspection post/MS introducing the RASFF and proposing the REC in TRACES should specify, which hazard had been found in which species of the seafood mix. If necessary – and depending on the hazard and the species – the BIP/MS can propose additional CN codes to be targeted by the relevant REC, e.g. for raw squid (0307) or for blanched shrimps (1605). In the main the same product (in this case seafood mix) should be targeted for the REC but the correct species needs to be sampled for the relevant hazard. It is not necessary to mention in the CVED the CN code for each species, as this would mess up the consignments to be targeted as only

consignments coming under Chapter 3 of the CN would be targeted and no seafood mix consignments under Chapter 16 any longer.

However, COM was made aware of a German BTI for one importer, in which seafood mix with a similar content is classified under CN 0307 9917. DG TAXUD is currently assessing the BTI and will discuss the issue with MS during their next Customs Code Committee.

b) Transformation of rejected consignments

Some MS raised an issue concerning the application of Article 20 of Regulation (EC) No 882/2004 about special treatment. They would like to know if it is possible to change the 1st CVED after performing the treatment or to issue a 2nd CVED.

COM explained that Directive 97/78/EC does not read that the CVED status must be modified after the special treatment of Article 20 of Regulation (EC) No 882/2004. The only requirement is that the CVED must be ticked for transformation in Box 35 with a status "Rejected for transformation", which means that the consignment can be accepted after transformation according to the provisions of Directive 97/78/EC. So it is the responsibility of the Customs to verify that the consignment has been transformed, through a communication from the veterinary authorities. If necessary, the BIPs must clarify to the Customs that "rejection for destruction or redispatch" does not have the same meaning and consequences than "rejection for transformation". This clarification is especially required for the proper functioning of national single windows.

IT contributed that this is in line with the one-stop-shop approach as customs IT systems would recognise the rejections and then it needs to be dealt with the relevant consignments on a case-by-case basis.

c) Implementation of Regulation (EU) 2015/329 (EXPO 2015)

COM informed that the Regulation derogating certain import conditions for consignments destined to EXPO 2015 in Milano has been applicable since 1st March 2015. The Italian authorities have sent the list of participating third countries to all MS on 20.03.2015 and they have published the customs warehouses² used for the storage for consignments introduced under the above Regulation.

COM reminded MS that the correct organisations in TRACES, in particular the organisation responsible for the EXPO site in Milano, have to be used for consignments introduced under that Regulation. In addition, CVEDs for such non-conforming consignments destined to the EXPO site directly need to be filled in for customs or free warehouses associated to LVU IT03603, box I.19, box I.22, box II.34 and box II.37 of the CVED.

Only IT reported they had received fishery products destined to a customs warehouse and they will inform MS during the next Expert Group of their experiences with the implementation of the Regulation.

d) Progress with the Single Window-CVED pilot project

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² http://www.salute.gov.it/imgs/C 17 pagineAree 1250 listaFile itemName 2 file.pdf

As informed during the last Expert Group, 8 Member States are participating in the pilot project for the automated exchange of CVED-information with customs authorities through the TAXUD platform SPEED2. Four of them passed the test phases and CZ and IE are already benefitting from the automated data exchange. SI and PL will move to the automated exchange around June and the others will start the test phases soon.

As outlined in December, it is important to have the correct CVED number in TRACES and it is also important to leave the CVED in status "new" until the consignments arrive physically in the BIPs and are controlled.

4. MODIFICATIONS TO CVEDS AND IMPORT CERTIFICATE IN TRACES

COM had revised the draft documents after their discussion in the TRACES Working Group on 25.09.2014 and in the Expert Group on 09.12.2014 and distributed them to MS. The detailed discussion started with the CVED for animal products, which would be implemented as an amendment to Annex I to Regulation (EC) No 136/2004. MS asked for clarification on some boxes and provided comments, in particular to boxes I.8, I.9, I.12, I.16, I.29, I.17 in conjunction with II.11 or II.12 and to III.1. COM referred to several comments to the EU legislation currently applicable, which does not provide a legal basis for some of the requests raised by MS, e.g. rejection of part consignments.

COM continued with the detailed discussion of the CVED for live animals, which would be implemented as an amendment to Annex I to Regulation (EC) No 282/2004 and MS commented to boxes I.7, II.3 and II.11 and COM will consider the relevant contributions.

The third document concerns the import certificate and its guidance notes, which will be implemented as an amendment to Decision 2007/240/EC. MS commented in detail on box I.6, I.7, I.11, I.15, I.19, I.20 and I.25 and COM will consider comments, which do have a legal basis in the current legislation.

COM outlined that it is planned to discuss the three documents in the next TRACES Working Group on 20.04.2015 and then they will be prepared for presentation to a Standing Committee on Plants, Animals, Food and Feed for vote. It is planned that the three documents go together and that they should be applied as soon as TRACES NT is in production, which would be in the first half of 2016.

5. UPDATE OF GUIDANCE FOR TRANSIT AND TRANSHIPMENT AND ON CONTROLS ON US MILITARY CONSIGNMENTS

COM had suggested to update the Guidance document on transit and transhipment during Expert Group meetings on 11.12.2013 and 28.03.2014 and comments from MS were taken into consideration. In addition, the requirements for transit of products of animal origin from Bosnia and Herzegovina, derogations from the minimum period for controls on transhipments to third countries and latest developments for US military bases located in the Union have been included in the Guidance.

COM informed of the continued discussions with the United States European Command (USEUCOM) and as announced in the Expert Group on 03.09.2014, Chapter 8 of the Guidance documents has been updated to reflect the extension of the pilot project to US

bases in Germany, Greece, Italy and Spain. All bases registered as exit BIP in TRACES are listed in Annex II to the Guidance.

COM asked MS to make sure that their BIPs use the correct organisations in TRACES for the destination of US consignments destined to the bases and referred to the TRACES unit code in the second column of Annex II to the Guidance. To enable the BIPs to do so, COM provided a short presentation. COM informed that there are currently three authorized customs warehouses dealing with such US consignments (BG, DE and IT) and asked MS to check, if they do not have any more customs warehouses on their territory.

A short discussion on the checks of US consignments arose and COM clarified that composite products destined to US bases are not yet involved in the control project. As all MS agreed with the content of the updated Guidance document, COM concluded that they will publish the document on their website (see: http://ec.europa.eu/food/animal/bips/guidelines_en.htm).

6. ISSUES RELATED TO FRAUD

a) Horse meat from Mexico

COM reminded MS that the entry for Mexico concerning the approved residue control plan for equine has been removed from the list in the Annex to Implementing Decision 2014/891/EU. According to Article 2 of the same Decision, imports of horse meat for human consumption from Mexico are no longer allowed. Nevertheless, imports of horse meat for animal feed are still authorised.

COM was made aware that consignments of horse meat have arrived in the EU, pretending to be intended for pet food plants and maybe diverted to human consumption. According to some other information, horse meat would have entered as bovine meat under CN 0202 30. The concerned MS have been informed accordingly. As a matter of fact, all MS have to be very cautious with those importations of meat from Mexico and should closely monitor the movements of such consignments after importation.

b) Falsified health certificates

COM outlined that in case of suspicions for falsified health certificates, it is important for MS/BIPs to clarify with the competent authorities from the country issuing the certificate, if it had been issued truthfully. It is also very important to launch investigations from where the container and the content of the container was coming to see if fraudulent behaviour is involved and to which nature. It is important to have close co-operation with other authorities, such as customs, fraud agencies.

COM reminded MS that China uses a secured paper for certification. The criteria are described in an official letter, which was circulated some years ago, such as:

• Micro-text "CHINA INSPECTION AND QUARANTINE" placed on the shading and arranged in a circle.

- Special type of paper with fluorescent fibres in red and blue, visible under UV light.
- CIQ symbol in the heading in the upper left corner of the health certificate glowing under UV light.

BE reported that they do not receive any replies from CN in cases the truthfulness of the health certificate is requested and that the producers generally want to have the goods redispatched.

In relation to the fraudulent health certificates for fishery products from Kazakhstan, COM asked MS if they still receive consignments with the pretended origin from establishment starting with the number "KZ No 15-01....". Several MS commented that no such consignments have been received and while the advance notification for fishery products from KZ is working well in one MS, others have problems and only for 25 % of consignments advance notification is provided by the KZ competent authorities. COM promised to remind KZ of the arrangement and in the meantime KZ confirmed that fishery products from KZ should only be released by BIPs if they match with the scanned EU health certificates, which were sent from the KZ contact point.

7. MISCELLANEOUS

a) Update of BIP list

COM informed that the last update to the BIP list was published on 10.10.2014 as Implementing Decision 2014/704/EU. COM has drafted an amendment Decision with changes to the BIP list for Belgium, Germany, Greece, Spain, Italy, Latvia, Netherlands and United Kingdom and with changes to the TRACES units for Italy and Netherlands. The draft (SANTE/10029/2015) is planned to be presented to the Standing Committee on Plants, Animals, Food and Feed on 16/17. April 2015 for vote.

For future updates, COM reminded MS to use the attached template to assist in transferring correctly any changes to the list of BIPs/TRACES units, which should be sent to the following e-mail addresses:

sante-consult-G6@ec.europa.eu or sante-G6-imports@ec.europa.eu



b) Seal checks

COM clarified that most health certificates required for the import of products of animal origin into the EU are legally based on the standard model provided by Decision 2007/240/EC. In the Annex to this Decision, the explanatory note for Box I.23 reads as follows: "The seal numbers <u>may be required</u> by the regulations. If applicable, please indicate all the identification numbers of the seals and containers. <u>If there is no regulatory requirement</u>, this information is optional." In addition, Regulation (EC) No

2074/2005 on certification conditions for fishery products does not add anything on this point. Therefore, for import of fishery products into the EU, seals are not required by an EU regulatory requirement and the information for seals on the certificates is only optional.

Concerning the identification of containers, the reasoning is different because the explanatory notes do not mention any requirement or option. Therefore, when containers are used for the transportation, their identification must be given in the certificates.

Reducing the identity check to a seal check only is possible, if an official seal number is indicated in the health certificate and in the CVED, meaning that the seal has been affixed under supervision of the competent authority. COM has been informed that any seals on consignments originating from Vietnam are of commercial nature and no official seals. BIPs cannot request to include such commercial seal numbers in the health certificates as the competent authority in Vietnam, and in other third countries, is not in the possession of such seals and seal numbers when they issue the health certificates. Consequently such seals cannot be considered as affixed under the supervision of the competent authority and the BIPs do not have the legal basis to carry out seal checks only for such consignments or to reject them, if the seal number is not indicated in the health certificate.

COM queried TRACES and identity checks on consignments from Vietnam and informed MS that most of the BIPs are carrying out full identity checks, except several BIPs in ES, IE, IT, PT, SE, UK and NO. In detail, from 20 262 consignments, 11,6 % of seal checks only were carried out and therefore MS should remind their BIPs to carry out full identity checks in case of consignments which bear commercial seals only.

Some MS shared their experiences with changed seals and COM clarified on request that there are some animal-by-products, such as hides from ungulates, germinal products and some others, including all transit consignments, for which official seals are required in EU legislation.

c) New round of BTSF BIP courses

COM reported of the organisation of a new series of BTSF training sessions for BIP staff and 11 sessions will take place in 2015 - 2016, at port of Felixstowe (UK), airport of Vienna (AT) and road border of Bajakovo (HR). Some of them will be given with translation in French, Russian, Italian or Spanish. Limited numbers of seats for each seminar have been allocated to each MS and COM distributed a table with the seat allocation per seminar. COM asked MS to pay attention to nominate the right number of participants depending on their knowledge level, BIP type and working language.

COM reminded MS that BTSF is a very expensive programme financed by the Commission and all seats must be correctly filled to avoid any waste of resources.

d) Personal imports of Balut eggs

COM explained that Balut eggs are fertilized duck or chicken eggs, which have been kept several days until the embryo is developed. They can arrive by mail or in the

luggage of travellers, raw (CN code 0407 11 00 – 0407 19 90) or cooked (CN code 0407 90).

- If raw, they are considered as hatching eggs and must originate from authorised third countries and accompanied by relevant health certificates for presentation to veterinary checks in BIP. There is no derogation for such live animals to be introduced in personal luggage.
- If cooked, they are considered as egg products and must originate from authorised third countries, approved establishments and accompanied by the relevant health certificate for presentation to a BIP. In personal luggage, they can be imported without veterinary checks according to Regulation (EC) No 206/2009, provided the weight limit of 2 kg is respected and they come from authorised countries.

e) Labelling issues: ID mark and net weight

COM clarified that according to the <u>first indent of Article 4 (4) (a)(ii) of Directive 97/78/EC</u> the official marks and health marks identifying the country and establishment of origin need to be checked during the identity check. This is also applicable for collagen or other not fully harmonised products of animal origin, which need to originate from approved establishments for which there is no EU list established.

For collagen, Article 5(1) of Regulation (EC) No 853/2004 is clear: "Food business operators shall not place on the market a product of animal origin handled in an establishment subject to approval in accordance with Art 4(2) unless ... (not relevant for collagen)".

In case of non-compliance of consignments with the provisions for the official and health marks, they need to be rejected and re-labelling cannot be permitted as the amendment made by Commission Regulation (EC) No 1020/2008 does only allow the <u>health mark to be applied in the establishment of production</u>.

The <u>second indent of Article 4 (4) (a)(ii) of Directive 97/78/EC</u> refers for wrapped or packaged products to the check of the specific labelling provided for in veterinary legislation. This means for such products that all relevant labelling legislation needs to be considered, EU legislation as well as national legislation. COM referred in particular to Regulation (EU) No 1169/2011 on the provision of food information to consumers (FIC-Regulation), which is completely applicable since 13 December 2014.

Questions have been raised from third countries and MS in relation to the net weight and glazing. COM made MS aware that already in the CODEX STAN 165-1989: Standard for quick frozen blocks of fish fillet, minced fish flesh and mixtures of fillets and minced fish flesh (published on: www.codexalimentarius.org/input/download/standards/.../CXS_165e.pdf) reference is made in Point 6.2 to glazed blocks as follows: "Where the food has been glazed, the declaration of net contents of the food shall be exclusive of the glaze." Union legislation has introduced this spirit in the FIC-Regulation and the net weight on the product needs

to refer to the weight of the product without the glazing. This has been clarified in an FAQ on the BIP website³:

"Glazing consists of applying a protective coating of ice to certain frozen seafood products. This ice layer prevents the products from surface drying or dehydration ("freezer burn"). For glazed products, the question arises whether the net weight should or not include the weight of ice.

The answer is provided by Regulation (EU) No 1169/2011 on the provision of food information to consumers, which is applicable from 13 December 2014. In Annex IX (point 5) to that Regulation, it is clearly stated that the declared net weight of glazed food shall be exclusive of the glaze.

According to Decision 2007/240/EC, Box I.20 of the health certificate must be completed with the net and gross weights and Box I.28 must be completed, among other information, with the net weight. According to Regulation (EC) No 136/2004, Box I.15 of the Common Veterinary Entry Document (CVED) must be completed with the net weight of actual product excluding packaging.

Consequently, for consistency with Regulation (EU) No 1169/2011 and the information on food label, the net weight indicated in health certificates and CVEDs for glazed food must follow the same rule and be exclusive of the glaze."

The FIC-Regulation is applicable to food business operators at all stages of the food chain, where their activities concern the provision of food information to consumers. Imported food checked in the BIP and packaged for delivery to the consumer must be labelled in accordance with the FIC-Regulation. If this is not the case, the BIP should reject the consignment (issue the CVED for transformation) and based on the request of the importer, they can allow re-labelling in accordance with Article 19(2)(a) of Regulation (EC) No 882/2004.

COM raised MS attention as well to the outcome of a discussion on glazing in the Customs Committee November 2013, in which it was stated that glazing is sometimes used to artificially add weight to the products concerned and thus to mislead the consumer about the drained net weight.

f) Food supplements and meat products

On request COM clarified the import conditions for food supplements containing e.g. freeze dried powder of bovine thyroid gland:

Freeze dried powder of bovine thyroid gland is considered as a meat product and all relevant import conditions are applicable such as approved establishment of origin, approved third country and approved residue control plan. It needs to be borne in mind that, if such food supplements are packaged for the final consumer, they need to undergo BIP checks as they contain meat products.

Annex II to Decision 2007/275/EC derogates from BIP checks for meat extracts and meat concentrates, however, BIP checks need to be carried out on meat powders (ground

http://ec.europa.eu/food/animal/bips/faq/index_en.htm

up meat). Differentiation between these products is rather difficult and under EU legislation, they all are considered as meat products. Therefore COM supports requests received from some MS in the past to delete meat extracts and meat concentrates from Annex II to Decision 2007/275/EC.

(signed)
G6 – Import Controls

Encl: Agenda List of distributed documents

Cc: Experts in 28 MS, Norway, Iceland, Switzerland, Faroe Islands + ESA, B. Van Goethem, M. Flueh, M. Scannell, B. Gautrais, C. Garau, L. Terzi, A. Fuessel, K. Van Dyck, K. De Smet, P. Caricato, E. Strickland, R. Tascon, C. Laso Sanz, B. Carol Galceran, S. Perucho Martinez, G. Maréchal, N. Guth, A. Dionisi, J. Bloemendal, S. Andre, D. Carton, K. Kroon, P. Bernorio, H. Hansen, H. Klein, B. Logar, M. Klemencic, J. Baele, S. Curzon, G. Balkamos, L. Battistini, I. El Busto Saenz, M. Dodic, M. Cronin, T. Theoharis, J. Maciulyte, B. Janackova, O. Prunaux, K. Bar-Yaacov, V. Enjolras, M. Wils, G. Jennes, Unit G6.

EXPERT GROUP ON VETERINARY IMPORT CONTROLS LEGISLATION "VETERINARY CHECKS"

13 April 2015

- AGENDA -

- 1) Review of legislation
- 2) Re-enforced controls
- 3) TRACES issues
 - a) Classification of seafood mix
 - b) Transformation of rejected consignments
 - c) Implementation of Regulation (EU) 2015/329 (EXPO 2015)
 - d) Progress with the Single Window CVED pilot project
- 4) Modifications to CVEDs and import certificate in TRACES
- 5) Update of Guidance for transit and transhipment and on controls on US military consignments
- 6) Issues related to fraud
 - a) Horse meat from Mexico
 - b) Falsified health certificates
- 7) Miscellaneous
 - a) Update of BIP list
 - b) Seal checks
 - c) New round of BTSF BIP courses
 - d) Personal imports of Balut eggs
 - e) Labelling issues: ID mark and net weight
 - f) Food supplements and meat products