



IMTA/PORT HEALTH AUTHORITIES/LABORATORIES/FSA MEMORANDUM OF UNDERSTANDING – IMPORT SAMPLING

Agreed at Major Ports meeting 3rd December 2018

The purpose of this memorandum is to ensure the efficient operation of the import process. It is imperative that transactions between IMTA members and Port Health Authorities are transparent and all appropriate documents for the imported goods are provided by the importer or their representative in a timely manner. It is also incumbent on Port Health officials to give clear guidance and feedback to the importer or their representative in a timely manner to expedite prompt clearance of consignments. Where consignments are subject to laboratory sampling it is key that the laboratories adequately communicate testing timeframes and provide updates when such timeframes are likely to be exceeded.

Memorandum of Understanding between IMTA, Port Health Authorities (PHAs) laboratories undertaking testing of imported consignments on behalf of PHAs and The Food Standards Agency.

The commercial import of most products of animal origin into the United Kingdom is covered by EU legislation. The UK intends to copy and paste EU legislation when it leaves the EU. To protect the public and animal health interests of the UK and EU imported food must undergo veterinary checks at the first point of entry into the territory. As stipulated in The BIP Manual 'Enforcement authorities should ensure that checks are compliant with the legislation and instructions in the BIP manual as well as verify their effectiveness.'¹

CONTENTS	
Memorandum of Understanding	The Importer P.2 Port Health Authority P.3 Sampling SOP P. 4-5 Laboratory P.5-6 The Food Standards Agency P.6
Implementation of this agreement	P.7
Definitions	P.7
References	P.7

¹ P1 BIP Manual, September 2017

MEMORANDUM OF UNDERSTANDING

Responsible Party	Responsibilities
Importer	1. Where possible before goods leave the originating country, the importer should ensure that the required documentation, product and packaging meets EU requirements so that unnecessary delay (or worse) at import can be avoided. 2. The importer must ensure that all packaging materials that come into contact with the food are suitable for the intended purpose and in compliance with EU legislation. 3. Cartons containing chilled or frozen meat must be tamper evident. If the importer is unsure about new packaging they should seek advice from the Official Veterinary Surgeon OVS at the BIP that packaging meets requirements. 4. For packaged meat, the packaging must be marked with an identification mark showing both the country name or 2 letter ISO code and the approval number of the establishment of origin of the meat. The mark must be legible, indelible, clearly displayed and in the case of packaging of cut meat or offal, applied to a label fixed to the packaging, or printed on the packaging, in such a way that the mark is destroyed when the packaging is opened (unless the process of opening will destroy the packaging). 5. The OVS at the BIP of entry must be notified of the intended arrival of the consignment by submission of a fully and correctly completed Common Veterinary Entry Document (CVED) prior to the landing of the consignment. 6. The original veterinary certificate and other required documents must be provided without delay. 7. Importers will recognise that from time to time consignments will be subject to laboratory sampling. This may be routine as part of national and BIP monitoring plans or may be statutorily required under re-enforced checks or on grounds of suspicion (reference Articles 24 and 20 of EU Council Directive 97/78) or as a result of a safeguard measure affecting the product concerned. 8. Where the BIP has notified that a laboratory sample has been taken and provided a clear timeframe by which results can be expected, the importer or their representative should refrain from routinely enquiring about the availability of the results within that timeframe or from contacting the laboratory directly. Details on timeframes can be found in the indicative turnaround times for lab results found on pages 5-6. 9. Importers must not contact the laboratory directly. 10. Importers must recognise that the time taken to produce results varies according to the type of test undertaken and that in the case of suspect positive results, confirmatory tests may be necessary which will extend the time taken to produce the final result. 11. Importers must recognise that expected time frames notified are

	advisory only and cannot be guaranteed. 12. Importers accept that any commercial decisions they make on the basis of such advice are at their own risk and no liability attaches to the PHA or the laboratory concerned should the results not be available within the quoted timeframe. 13. The importer has the right of appeal to a Magistrates Court in the event that the PHA signs the CVED confirming rejection of the consignment. The importer has one month from the date of notification of the decision to lodge his appeal.
Port Health Authority	- PHAs recognise the commercial needs of the FBOs to provide their customers with updates regarding potential delays to product delivery relating to veterinary controls PHAs should ensure that sufficient OVS's, support staff, resources and equipment are provided to enable the required checks, including sampling where required, to be undertaken in a timely manner². - The PHA will ensure that the importer or representative is notified by email at the point at which it is known that samples will be taken. The importer/representative should be notified whether that is at the point of documentary checks or at physical exam but at the earliest point where it is known that the product is to be sampled. Information that should be provided: what is to be sampled, the lab that will be used for analysis and the tests to be undertaken - PHAs will further advise the importer or their representative when the result can be expected provided that this information has been supplied by the laboratory concerned. Where this has not been supplied, the PHA will make the necessary enquiries of the laboratory upon request from the importer or their representative. (A document will be produced which helps to explain to importers the reasons things may take longer. This will help avoid unnecessary chasing as they will have clearer expectations). - Where PHAs become aware that the expected timeframe for reporting results is likely to be exceeded, e.g. because additional testing is required, they will communicate this information to the importer or their representative without delay. Keeping importers/representatives abreast of expected timeframes and any changes enables them to inform their customers accordingly and arrange transport. In turn this should avoid calls chasing PHA for updates. Where delays are expected to occur or any delay to expected timeframes the PHA should notify the importer/representative as soon as possible. - PHAs will ensure that the requirements of EU legislation concerning sampling, in particular Articles 11 and 12 of EU Regulation 882/2004 and the Food Law Code of Practice are followed. - In particular the PHA, in conjunction with their laboratory as appropriate will ensure that the FBO can be provided on request with a representative portion of the sample in order to conduct their own analysis and that a further sample is available for analysis by the Government Chemist in the event of a dispute between the findings of the PHA's and importer's laboratories. - It is recognised that the above point is not applicable for samples taken

² BIP Manual, point 1, Page 9

for microbiological analysis due to the fact that the results of microbiological analysis are unlikely to be routinely repeatable due to the non-uniform distribution of the contamination and potential decline in microbiological viability over time.

8. PHAs will notify the importer or their representative promptly of the results of the testing when these are reported. This should where possible include clear reasons for why further testing may be required e.g. typing of salmonella species and expected timeframes. This will help manage importer expectations and avoid calls chasing for updates.
9. PHAs will notify the importer or their representative if following a result the Food Standards Agency (FSA) needs to be consulted with the likely timescale regarding a decision.
10. Where requested PHAs will provide a copy of the laboratory report to provide the relevant information (if necessary as an extract) to the representative/importer for their records.
11. PHAs will ensure that the fact that the consignment has been sampled, the tests undertaken and any results known prior to release are detailed on the CVED issued.
12. The principles of [The Regulators Code](#) should be borne in mind.

Sampling SOP

The central requirement of any sampling SOP is that the sample accurately reflects the constituents of the material being sampled. The procedure by which a product or substance is sampled for enforcement purposes is of prime importance and must satisfy any statutory requirements. This is to ensure that the sample will constitute valid evidence in any subsequent court proceedings otherwise the court may not accept the evidence submitted by the result.

The basic principles are:

- a) The nature and quantity of the sample must be such as to enable the required analysis to be made and that should be the case where it is divided into three parts.³
- b) The sampling process must not alter the sample in any way that might affect the analysis. PHAs must be able to show maintenance of the cold chain for refrigerated products up till the point of handover e.g. to the courier or laboratory. Instructions should be provided to the courier regarding maintenance of the cold chain
- c) Storage and transportation of the sample must not alter it in any significant way – whether through contamination, loss, deterioration or other means. If anything happens to the sample which could affect it as providing a fair test or in its turnaround time the importer/representative should be notified.
- d) The person taking the sample must be properly authorized and aware of possible cross contamination issues.⁴

³ Food Law Practice Guidance 6.3

⁴ Food Law Guidance 5.5.12.2

	e) Consideration must also be given to the correct type of container for the sample. If necessary it must be secured with a tamper-evident seal. f) The sample must be labelled with the name of the food, the name of the sampling officer, the name of the authority, the place, date and time of sampling and an identification number. g) Port Health Authorities are governed by a code of practice on how to sample which should be followed. h) A record of the chain of custody should be kept so that information can be provided about when a sample was handed over to the courier, when it arrived at the laboratory etc. i) A register should be kept of all samples taken at the BIP for purposes of laboratory tests, together with details of the laboratory tests requested and the results of such tests. TRACES (or equivalent system) should be updated with the results of the analysis when received. j) Officers taking samples are required to wear clean protective clothing consistent with good industry practice. The health status of the officer when sampling must be borne in mind if the health status may contaminate the sampling process. k) The sample must be divided into three representative parts care should be taken to prevent contamination of samples and instruments and containers used should be clean and dry. It is important to avoid the use of cleaning and sterilising methods which may leave residues on the instruments and containers which could affect the results of the analysis. "<i>Regulation 7 of the Food Safety (Sampling and Qualifications) Regulations 2013 requires that the sample be divided into three representative parts and as soon as reasonably practicable give one part to the owner and give the owner notice that the sample will be analysed</i>". The sampling of imported foods at the port of entry in some cases may pose particular difficulties and in the special circumstances found by Port Health Authorities, samples need not be divided on the premises or in the presence of any representative of the seller/owner or importer unless specifically requested. However part of the sample must be made available on request for the importer to analyze. l) Final parts of food which are perishable should be kept refrigerated or in a frozen state, as necessary. The method of storage used will differ depending on the type of test being undertaken and whether the final part is to be submitted to the public analyst or retained for possible submission to the government chemist. • UK list of official food control laboratories (The list has been subdivided by country and according to whether chemical analysis, microbiological examination or both are carried out.)
Laboratory	1. Communication a) The laboratory must notify the BIP of the estimated time for test b) Where the laboratory becomes aware that the expected timeframe for reporting results is likely to be exceeded the laboratory should notify the BIP with a clear reason and expected time frame e.g. need for re-test, typing etc. c) Where PHA requests it, the laboratory will provide the laboratory report for provision of the relevant information (if necessary as an extract) to the representative/importer for their records. It is important that laboratory results are made available to the importer in a timely manner to ensure product recall and brand damage can be avoided and that

- contracts can be met and unnecessary additional costs avoided.
- d) Laboratories should notify PHAs of any general issues relating to overall turnaround times for samples which should be communicated to the representative/importer to give them the best information available to allow them to plan their business.

2. Turnaround of Laboratory Results

These may vary between laboratories as they are guidelines. Account should be taken of time taken to take the sample and for it to be couriered to the lab.

Test type	
Detained Samples	
a) E.coli	Sample sent to lab by courier (1-3 working days If longer due to weekend or holiday PHA should notify the importer. Presence 3-4 working days. If after sample was sent to the lab and 4 days has passed representative/importer can chase PHA if they have not been informed whether further testing will take place e.g. for typing. – 6 working days for type. If after a subsequent 6 days representative/importer has not heard back then request PHA for an update. PHA to contact the lab and provide an update.
b) Salmonella	Sample sent to lab by courier (1-3 working days (if over a weekend or bank holiday) If longer due to weekend or holiday PHA should notify the importer. Presence 3-4 working days. If after sample was sent to the lab and 4 days has passed representative/importer can chase PHA if they have not been informed whether further testing will take place e.g. for typing. – 6 working days for type. If after a subsequent 6 days representative/importer has not heard back then request PHA for an update. PHA to contact the lab and provide an update.
c) Listeria	Sample sent to lab by courier (1-3 working days (if over a weekend or bank holiday) If longer due to weekend or holiday PHA should notify the importer. Presence 3-4 working days. (1-3 working days (if over a weekend or bank holiday) If longer due to weekend or holiday PHA should notify the importer. If after sample was sent to the lab and 4 days has passed representative/importer can chase PHA if they have not been informed whether further testing will take place e.g. for typing. – 7 working days for type. If after a subsequent 7 days representative/importer has not heard back then request PHA for an update. PHA to contact the lab and provide an update.

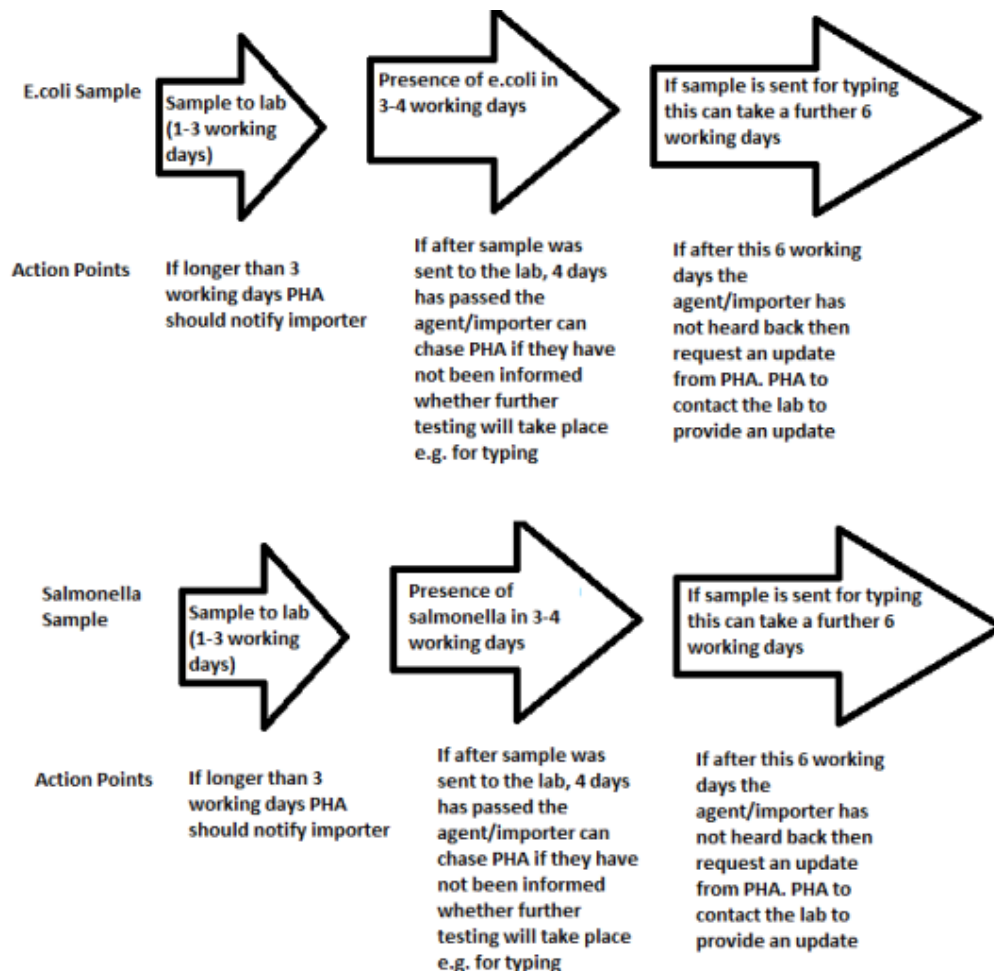
	d) Residues	Sample sent to lab by courier (1-3 working days (if over a weekend or bank holiday) If longer due to weekend or holiday PHA should notify the importer. 5 working days after sample arrives at lab
	e) Informal samples (non-detained samples)	Sample sent to lab by courier (1-3 working days (if over a weekend or bank holiday) If longer due to weekend or holiday PHA should notify the importer. Based on the times given by the various labs the time taken for the routine sample can be 20 working days. Where it is feasible and an option for the labs to offer a special fast-track option for routine samples port health should advise the importer so the importer could opt to pay extra for this.
3. Good Practice a) Laboratories to be accredited to ISO17025 including methods. b) Written documents (SOPs and instructions and validation check) to be in place. c) Validation procedures used comply with government guidelines d) Frozen samples must be checked to see that they have not thawed. e) Staff training procedures to be in place and training records kept. f) Facilities and equipment must be adequate for the analyses carried out. g) The samples arrived in insulated boxes containing sufficient cooling elements if needed and are correctly labelled. h) The laboratory must have in place a record / information management system for accurate and ease of reporting of results. Custody chain check. i) Sample preparation to be performed in a separate room fit for purpose. Staff in charge of the sample reception and initial preparation of the samples performed their tasks satisfactorily avoiding cross contamination. 4. Retention of Samples a) Formal samples: Compliant samples will be stored for another 14 days after submitting the results. Noncompliant samples will be stored until the follow-up investigation is closed by the VMD or the FSA. b) Informal samples are retained for at least 28days after reporting of the data. 5. Sub-contracting a) In cases where third party labs are used all the above must be included in the contract.		
The Food Standards Agency	1. If the PHA requires advice following a result, the Imports Division of the Food Standards Agency will be responsible for providing that advice. 2. The FSA will provide the PHA with a timeframe for responding to such a request. 3. The FSA will ensure that any technical experts handling the query are aware of the urgency. 4. The FSA will keep the PHA updated regarding progress of query. 5. Where APHA audits demonstrate non-compliances with the operation of the PHA against that specified in the BIP manual then timely corrective action will be taken to ensure the PHA and its teams maintain an acceptable level of service to the importer with respect to sampling, testing and reporting of analysis carried out.	

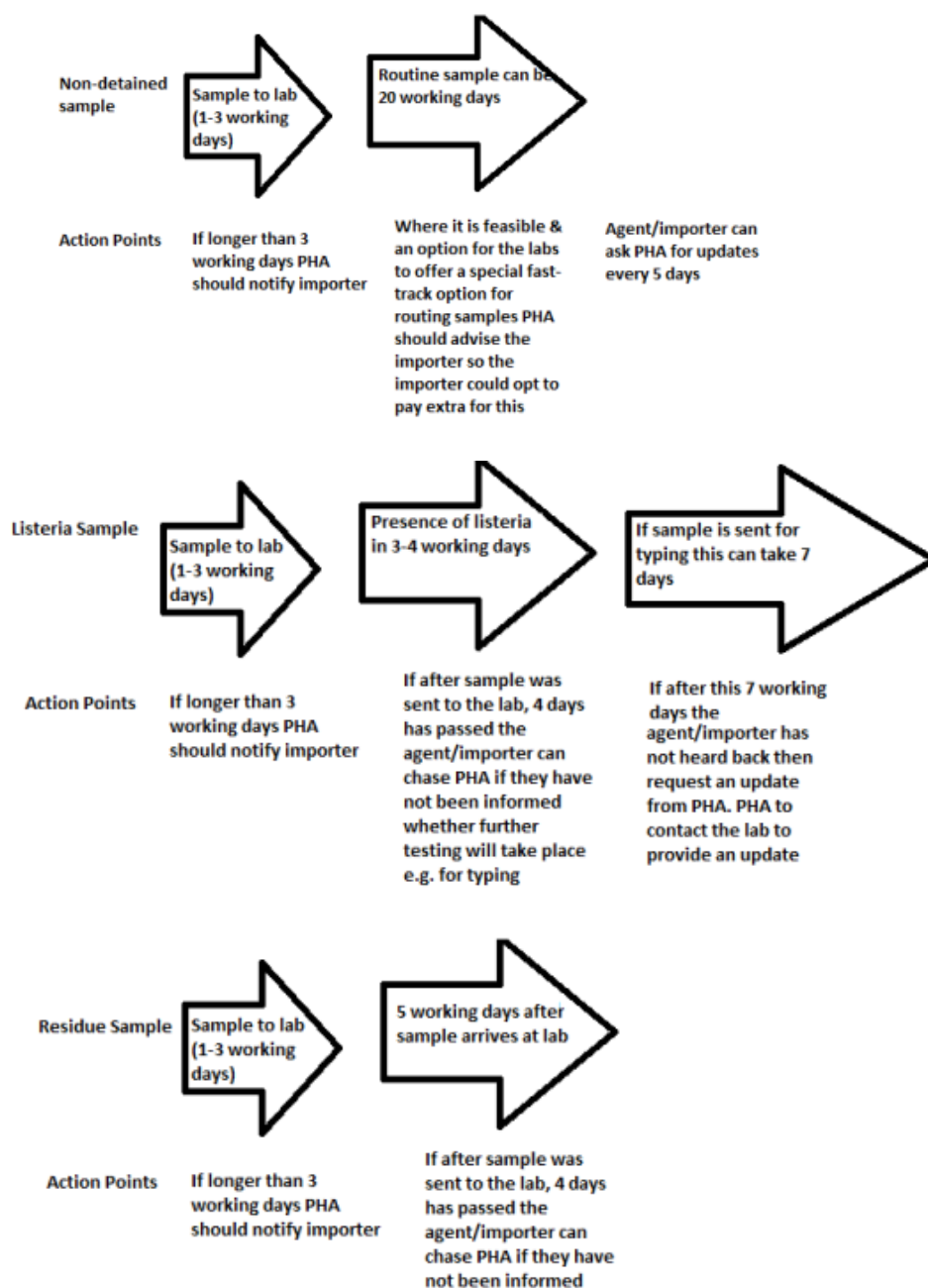
6. FSA will inform IMTA of updates to the BIP manual on changes to legislation relating to public health aspects of imports of products of animal origin that are relevant to its members.
7. The FSA influences BIP checks through its Framework Agreement on Official Feed and Food Controls by Local Authorities, which sets out what the FSA expects from local authorities in their delivery of official controls.
8. The principles of [the Regulators Code](#) should be borne in mind.

Implementation of this agreement:

Where any party considers the requirements of this MOU have not been followed they shall bring this to the Major Ports Group who will seek to resolve this issue with the other parties through mutual agreement. There should be an option to do so in between meetings of the Major Ports group either electronically or by conference call.

Two years after the date of implementation the Major Ports Group will review the MOU.





Definitions

A **"Consignment"** is defined as a quantity of product of the same type covered by the same veterinary certificate(s) or veterinary document(s), or other document(s) provided for by veterinary legislation, conveyed by the same means of transport and coming from the same third country or part of such country.

A consignment therefore consists of all the products included in the veterinary health certificate issued by the exporting country. One consignment may cover many different cuts or batches; it could cover the contents of part of a shipping container or it could cover several such containers.

POAO

Products of Animal Origin.

Working Days

Monday-Friday excluding bank holidays

References

[BIP Manual](#)

Food Law Code of Practice (England) Chapter 6 Sampling & Analysis

[The Food Safety \(Sampling and Qualifications\) Regulations 2013](#)

[LACORS Guidance on Food Sampling for Microbiological Examination](#)

[The Regulator's Code](#)