

Memorandum of Understanding

between the

**Food Safety Authority of Ireland (FSAI)**

and

**Revenue's Customs Service (Customs)**

on core elements of mutual responsibility, shared expertise and shared interest in relation to: -  
the importation of food of non-animal origin and food contact materials from third countries and

food fraud and counterfeit food

Signed:

Signed:

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Ms. Josephine Feehily  
Chairman  
Revenue Commissioners  
Date

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Prof. Alan Reilly  
Chief Executive  
Food Safety Authority of Ireland  
Date

# MEMORANDUM OF UNDERSTANDING

## BETWEEN

**FOOD SAFETY AUTHORITY OF IRELAND (the Authority)**

## AND

**REVENUE'S CUSTOMS SERVICE (Customs)**

### **1. Background**

- 1.1 Mindful of the mutual benefits of close co-operation, the purpose of this Memorandum of Understanding is to maintain formal links between the FSAI (hereafter referred to as the "Authority") and Revenue's Customs Service (hereafter referred to as "Customs"), in relation to providing increased controls on: food of non-animal origin and food contact materials from third countries; foods which are subject to EU emergency decision; and/or foods which are suspected of being unfit for human consumption.
- 1.2 While the Authority and Customs have enforcement powers for dealing with counterfeit or fraudulent food; it is recognised that clear and agreed lines of demarcation between both agencies will lead to enhanced enforcement action.
- 1.3 The arrangements and procedures set out in this memorandum of understanding will not prevent the application of European Union rules containing more specific provisions, relating to food fraud<sup>i</sup>, counterfeit food and import controls to be applied, in respect of specified food of non-animal origin and food contact materials. The Authority will inform Customs of such provisions.
- 1.4 The Authority and Customs agree to co-operate and work closely within their respective competencies, where food fraud and counterfeit food and where the importation of food of non-animal origin and food contact materials from third countries is concerned in order to promote high standards of food safety in the interests of and for the protection of public health.

- 1.5 For the purposes of this memorandum 'Food' includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point of compliance as defined in Article 6 of Directive 98/83/EC and without prejudice to the requirements of Directives 80/778/EEC and 98/83/EC<sup>1</sup>.

## **2. Roles**

- 2.1 The Authority is responsible for the enforcement of all food legislation in Ireland. The principal function of the Authority is to take all reasonable steps to ensure that food produced, distributed or marketed in the State meets the highest standards of food safety and hygiene. The Authority aims to ensure that food complies with legal requirements, or where appropriate, with recognised codes of good practice. Actions assigned to the Authority will be completed by it or by an official agency, acting on its behalf.
- 2.2 Customs is responsible for protecting citizens, by ensuring that goods crossing the frontiers of the State and the EU are properly controlled. This is achieved through the operation of controls at the frontiers of the State and the EU (including controls at inland premises approved by Customs), with a view to the detection, interception, detention and where necessary seizure, of prohibited and restricted goods.

## **3. Responsibilities**

The Authority agrees to provide such information and assistance to Customs, as may be necessary, to enable it to fulfil its role under this Memorandum of Understanding.

### **3.1 Food Fraud and Counterfeit Food**

Where Customs officers detain counterfeit food product or food related product or where there is a suspicion of risk to public health, they will promptly notify the Authority through the agreed contact personnel.

The Authority, via the agreed contact personnel will provide expert assistance to Customs in the identification of suspect food. The analysis of detained products will be

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<sup>1</sup> 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.

carried out by arrangement with the Authority. In the case of suspected counterfeit food or food contact materials, samples will be provided by arrangement of both parties for analysis, test or examination.

The Authority and Customs shall engage in the full exchange of information and intelligence between them in regard to suspected food fraud and counterfeit food and, in this regard, each agency shall facilitate the other in exchanging information (including information obtained in the course of investigations).

### **3.2 Food of non-animal origin and food contact materials subject to increased levels of official controls**

(i) The Authority to supply Customs with list of food of non-animal origin and food contact materials and their combined nomenclature (CN) codes, which are subject to increased level of official control (which may include EU emergency decisions). The Authority will provide instructions for Customs officials in the event of such products being imported. The list will be provided in advance of the date of application of legislation insofar as possible.

(ii) Customs will profile all relevant CN codes and include appropriate instructions on the Customs Automated Entry Procedure System (AEP), as requested by the Authority.

(iii) Where the AEP system identifies such a product, Customs officials will contact the relevant official agency i.e. Port Health Service of the Health Service Executive or the Department of Agriculture, Food and the Marine (DAFM) Pesticide Control Division who will carry out the requisite official controls on the product. . The product will not be cleared for free circulation until the environmental health officer of the Health Service Executive or DAFM PCS as appropriate has indicated that the product can be released.

(iv) Following product clearance by the environmental health officer of the Health Service Executive or DAFM, customs officials will release the product for free circulation, once all customs formalities have been completed.

### **3.3 Food of non-animal origin and food contact materials not subject to increased levels of official controls or EU emergency decisions:**

Where, in the course of checks, Customs find food of non-animal origin and/ or food contact materials being imported from a third country:

- (i) which is suspected may be a serious and immediate risk to public health, in the event of it being used under normal and foreseeable conditions and/or in breach of food legislation or
- (ii) which it is not accompanied by the correct documentation, or
- (iii) which has been highlighted by the Authority to Customs

Customs shall detain the consignment in question for up to a maximum of three working days and shall immediately notify the Authority. If the product in question does not present a serious and immediate risk to public health and/or is not in breach of food legislation, the Authority must immediately notify Customs. Customs will then arrange for the product to be released for free circulation, provided all other requirements and formalities pertaining to such release have been met.

### **3.4 . Action in the case of non-compliance**

3.4.1 Following notification by Customs of a suspicious consignment, the Authority will determine within three working days of the date of such detention, whether the product in question presents a serious and immediate risk to public health and/or is in breach of food legislation.

3.4.2 If the product in question has been found by the Authority to present a serious and immediate risk to public health or is in breach of legislative requirements, the Authority will, in accordance with the food legislation, take measures to prohibit the product from being placed on the market, and will immediately liaise with Customs regarding the necessary action. Measures taken will depend on the provision of the specific food legislation, and may include:

- Release of product after non-conforming product has been treated, so that it complies with food legislation
- Rejection, redirecting product for uses other than human consumption
- Rejection, with re-exportation option or return to country of export option at exporter expense
- Rejection with destruction order
- Other measures, as appropriate

3.4.3 To the extent that it is possible for it to do so, Customs, on request by the Authority, agree to afford such assistance and facilities, as may be necessary to:

(i) Examine food of non-animal origin and/ or food contact materials, with suspended release from Customs control, as outlined in Section 3.3 above

(ii) Help trace consignments of food of non-animal origin and/ or food contact materials, that are suspected of being a risk to consumers' health and, that have been imported from third countries and have been released for free circulation by Customs

(iii) Facilitate the detention by the Authority of consignments of food of non-animal origin and/ or food contact materials, which it has examined under Section 3.4 above, and which have been found to be a risk to consumers' health, or which are suspected of being a risk to consumers health and/or in breach of food legislation.

3.4.4 If within three working days, Customs has not been informed by the Authority that the product in question is a serious and immediate risk to public health and/or is in breach of food legislation, Customs will, following notification to the Authority, arrange for the product to be released for free circulation, provided all other requirements and formalities pertaining to such release have been met.

#### **4 Operational Co-operation**

4.1 In the context of this memorandum and the wider context of food safety and public health protection, the Authority and Customs agree to establish and maintain a close relationship based on cooperation and consultation.

- (a) Meetings between the Authority and Customs will be held bi-annually or more frequently, as requested by either party.
- (b) Customs will attend the cross agency import control working grouping hosted by the Authority.
- (c) Customs will attend the cross agency Food Fraud Task Force hosted by the Authority
- (d) Additional meetings covering more specific areas in detail may be arranged if required.
- (e) The Authority and Customs agree to share relevant reports, data, information and other documentation. Data on all CN codes profiled for the Authority on Customs AEP system will be supplied quarterly to the Authority as agreed by the Authority and Customs. Changes to CN codes profiled for the Authority will be notified to Customs by the Authority. The Authority will request as necessary, the

Classification Unit of Customs to confirm the validity of the profiled CN codes. Additional data may be requested from time to time, by agreement.

- (f) Exchange contact details of designated Liaison Officers at national and local level.
- (g) An up-to-date list of the contact details and areas of responsibility of key personnel involved in the work covered by this memorandum shall be maintained. This contact list is provided in the Annex.
- (h) Observe data protection legislation
- (l) Develop training and liaison exchange programmes for relevant personnel, as necessary

4.2 Customs and the Authority, in any dealings with other authorities that are not party to this Memorandum of Understanding, shall be mindful of the importance of joint consideration of any new initiatives in the area covered by this document and both parties shall be mindful of the importance of not entering into any agreement or commitment that could have an adverse impact on the resources or work practices of the other signatory. When considering proposals at EU level, the Authority will, where appropriate, consult with Customs to ensure that those proposals take account of existing EU customs arrangements.

4.3 The Authority and Customs are placed under a special duty to support and co-operate fully with each other in connection with all aspects and matters that arise in an area for which one agency has been given primary responsibility and in which the other agency may be expected to have a special interest.

## **5. Duration and Review**

- 5.1 It is agreed that this Memorandum of Understanding will remain in force for a period of five years from the date of signature and will be subject to review on an annual basis.
- 5.2 The Memorandum of Understanding may be subject to review, modification or amendment, and may be extended by agreement.

