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Environment, Food and Rural
Affairs Committee

Food Contamination

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Additional written evidence is contained in Volume II, available on the Committee website at www.parliament.uk/efracom

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Environment, Food and Rural Affairs Committee

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Summary

Extensive testing of processed and frozen beef products sold in the UK since January has revealed that the horse meat contamination was limited to a relatively small number of products with more than 99% of those tested found free of horse DNA. Tests across EU Member States found 4.66% of products tested contained over 1% horse DNA.

Consumer confidence in the frozen and processed meat sector has fallen, and the Government should work with industry and farmers to rectify this.

The evidence suggests that the contamination was a result of fraud by elements of the food industry seeking to make a profit and able to do so despite food traceability requirements. It is disappointing, six months on, that no prosecutions have been brought in either the UK or in Ireland, where the horse meat contamination was first identified. We support an EU proposal that penalties imposed for food fraud should be higher than the expected gains from this.

In separate EU-mandated tests for the presence of phenylbutazone (bute) in horses slaughtered for human consumption, the UK had the largest number of positive results. This is a cause for concern. There are too many loopholes in the present system of issuing horse passports. The Government must work with the EU to ensure the speedy introduction of a single national database for the issuing of horse passports in every Member State. We recommend that the recently introduced system for testing for the presence of bute before the horse carcass is released into the food chain be continued, with government and industry sharing the cost.

Retailers should have been more vigilant against the risks of adulteration, especially where meat products are traded many times. Consumer confidence would be boosted by shorter supply chains.

Large retailers, who sell much of the food we eat, should carry out regular DNA tests on meat and meat-based ingredients which form part of processed or frozen meat products. The results should be reported to the Food Standards Agency and a summary should be published on the retailer's website. The additional cost of this testing should be borne by retailers and not passed on to consumers.

There has been a lack of clarity about the responsibility of the FSA in this incident. This must be rectified. The Government should consider whether this might be achieved by reversing the machinery of government changes made in 2010 and allowing the FSA to be one step removed from the two government departments it reports to. This would enable a swifter response when major incidents occur. There should also be better communication about the role of the FSA.

The FSA should ensure it is an effective regulator, serving the interests of consumers in ensuring safe and accurately labelled food. It should not be, or be seen to be, beholden to industry. To this end it must be given powers to compel industry to carry out food testing when needed.

The FSA should also create improved communication channels with the devolved administrations and within the EU with those Member States—for example Ireland—who are significant trading partners. It must be more innovative in its testing and vigilant in ensuring all local councils carry out food sampling regularly.

Local authorities are responsible for food sampling and should adopt a more targeted approach, testing food products which are likely to be contaminated, even if there is no intelligence to suggest it. There is significant variation in food sampling levels across local authorities. It is not acceptable for any local authority to have carried out no food sampling for more than a year. The Government should be mindful of the impact of local authority budget cuts and seek to ensure that they do not have a negative impact on food sampling.

We are also concerned about the decline in the number of public analysts who carry out tests and of the public laboratories in which they work. The Government should keep this under review and ensure there are sufficient numbers of properly trained public analysts in the UK.

We welcome the Government's decision to carry out a review of the integrity and assurance of food supply networks.

1 Introduction

Our inquiry

1. In February 2013 we published our Report into *Contamination of Beef Products*.¹ This focused on the discovery of horse and pig DNA in a number of frozen and processed beef products on sale in the UK market and the Government's response to these findings. Our Report also made a number of recommendations in respect of the Food Standards Agency (FSA). Since then, further testing has revealed more incidents of contamination in the UK as well as in other EU Member States.

2. In its reply to that Report in April the Government said its response had been swift and effective in putting in place a testing regime for industry and local government. It had also informed the EU authorities promptly and recommended a European response. The Government said it would consider a number of our recommendations about the FSA and that it was committed to "learning the lessons from the incident, and to make any changes that are needed to reinforce the integrity of the food chain."²

3. We decided to produce a second Report, once UK and EU testing programmes were complete and the full extent of the contamination was known, with the intention of exploring the capacity of the relevant UK authorities to respond to major incidents such as these. This Report focuses on developments since April 2013 including the interim findings of the independent review of the FSA's response to the crisis³ and the forthcoming review of food supply networks announced by the Government on 4 June.⁴

4. We held five additional evidence sessions with Local Government Association, British Meat Producers Association (BMPA), ABP Food Group, Food Safety Authority of Ireland (FSAI), Association of Public Analysts (APA), FSA, Freeza Meats, European Commission and the Minister for Agriculture and Food, David Heath, MP. We are grateful to all who have contributed to our inquiry.

¹ Environment Food and Rural Affairs Committee, Eighth Report of Session 2012-13, *Contamination of Beef Products*, HC 946.

² Environment Food and Rural Affairs Committee, Seventh Special Report of Session 2012-13, *Contamination of Beef Products: Government Response to the Committee's Eighth Report of Session 2012-13*, HC 1085

³ <http://www.food.gov.uk/news-updates/news/2013/jun/horsereview>

⁴ Hansard, 4 June 2013, 92WS

2 Tests and traceability

5. In our previous Report we discussed the different types of tests used to identify the presence of horse or pig DNA in beef products at high (gross) and low (trace) levels of contamination.⁵ This chapter focuses on the tests commissioned after the initial findings, the results of those tests and the results of investigations into identified incidents of contamination.

The testing regime

6. Three sets of tests were carried out on frozen and processed beef products sold in the UK market. The FSA requested local authorities and industry to carry out tests, and the EU requested Member States to carry out additional tests.

7. The first set of tests was requested by the FSA on 6 February. This testing took place across 28 local authorities in two phases: the first tested 224 samples of raw minced beef products including burgers, minced beef, beef sausage or meat balls, all of which were checked for horse and pork DNA; the second phase tested 140 samples of beef-based ready meals including frozen, chilled or canned lasagne, chilli con carne, cottage pie, ravioli, cannelloni and spaghetti bolognese, all of which were checked for horse and pork DNA. The results of these tests were published at the end of May on the FSA website.⁶

8. On 7 February the FSA asked the food and retail industry to conduct extensive tests on a wide range of processed beef products. These industry test results were reported to the FSA and published on their website on a weekly basis from 15 February 2013. Some 5,430 tests had been completed by 1 March, covering the majority of product lines in the manufacturing, wholesale, retail and catering chain.⁷ Testing by industry continued after this point with an additional 19,050 test results submitted. Around 15,000 of the new results were provided by a single company, the ABP Food Group.⁸

9. The third set of tests was announced by the European Commission on 21 February. It requested every Member State to carry out tests on a specified number of samples of beef products for the presence of horsemeat and, on horses taken to be slaughtered for human consumption, for the presence of phenylbutazone (bute).⁹

10. For the EU-mandated tests, the UK tested 150 samples of beef products from 24 local authorities and submitted the test results to the European Commission. The tests included products marketed or labelled as containing beef as a major ingredient; for example, minced meat, meat products and meat preparations. Products such as gelatine, beef dripping, stock cubes, steak, stewing steak and ready meals which contain beef were also

⁵ A beef product refers to food items where beef is an ingredient, and not fresh beef. These products may be processed (for example, ready-made beef meals) and/ or frozen (for example, frozen beef burgers)

⁶ www.fsa.gov.uk

⁷ Ev 87

⁸ <http://www.food.gov.uk/news-updates/news/2013/jun/beef-product-testing>

⁹ A drug used on horses which is banned in the food chain.

included. The results of these EU tests were published on 16 April. The UK also tested 836 samples of horsemeat for the EU and the results are discussed in the following chapter.

Test results and consequences for the processed beef sector

11. Of the 364 local authority tests, three products tested positive for horse DNA above the agreed 1% threshold and three for pork DNA.¹⁰ The 5,430 industry test results up to 1 March revealed 44 positive tests for horsemeat above the 1% threshold.¹¹ The UK undertook an additional 150 tests for the European Commission and none was positive for horse DNA.

12. The FSA commented that “the results from the industry testing were consistent with the local authority testing programmes, confirming that the adulteration was limited to a relatively small number of products.” It reported:

As at 23 April 2013, a total of 24 products in the UK were identified as containing horse DNA at or over the 1% threshold. The results indicated that, in both the industry and local authority testing, over 99% of all samples tested did not contain horse DNA at or over the 1% threshold.¹²

13. Across the EU Member States a total of 4,144 beef products were tested for horse DNA. The Commission reported that 192 beef samples, or approximately 4.66% of the total, contained positive traces of horsemeat.¹³ The largest number of positive tests was identified in products on sale in France, followed by Greece and Denmark.¹⁴

14. Mr Heath commented that “we now have a very clear view about what is going on with beef products in the UK market, with an unprecedented level of testing.”¹⁵ He pointed out that while in the UK 99% of beef product samples tested negative for horse DNA, there was a slightly higher level of contamination in European products, although this was not of a different order.¹⁶ Joanna Darmanin, of the Commission, commented on the EU level of contamination saying that while it was only 5%, it was “5% too much, [...] but nevertheless it remains rather limited in its scale.”¹⁷

15. It is thought that the main cause of the contamination is fraud. Mr Heath told us:

it does seem to me that there was deliberate fraud involved, that that was carried on a pan-European scale, and that we do still need to accumulate the evidence from

¹⁰ Level agreed by FSA with industry on 11 February. The FSA website said: “We’ve asked industry to test for horse DNA down to a level of 1%. There are two reasons for this. First, that’s a pragmatic level above which we think any contamination would be due to either gross incompetence or deliberate fraud; it’s not going to be accidental. Second, some laboratories can only test accurately down to a level of 1%.”

¹¹ The total number of test results positive for horse includes multiple tests on individual affected products where, for example, that product has been supplied to more than one retailer.

¹² Ev 87

¹³ European Commission, Recommendation 2013/99/EU, Reporting Complete, State of Play, 07/05/2013

¹⁴ European Commission, Recommendation 2013/99/EU, Reporting Complete, State of Play, 07/05/2013. It should be noted that while the UK submitted the requested 150 samples, France submitted 353 samples.

¹⁵ Q 627

¹⁶ Q 627

¹⁷ Q 530

across the European Union, not just in this country, as to exactly who was doing what and who was aware of what in the process.¹⁸

The FSA also said the contamination was a result of fraud: “I do not think there is any evidence that this is a labelling issue. It is a fraud issue, and a composition and authenticity control issue.”¹⁹

16. The British Meat Processors Association commented that:

all the evidence to date regarding the instances of gross contamination points to fraud—unlawful behaviour on a serious scale, but in a comparatively small number of product lines and supply chains. We look to police authorities to find and prosecute the perpetrators. There is not a systemic breakdown of the meat supply chain; it would be misleading and would not serve the best interests of consumers or the food industry to suggest this in any way.²⁰

There are obvious concerns within the processed meat industry about the consequences of this level of fraud in a sector which should be highly regulated for food safety reasons. The Chair of the BMPA told us: “Undoubtedly, these incidents of gross contamination have undermined consumer confidence and trust in our industry and have caused reputational damage to it.”²¹ BMPA suggested that when the media interest had diminished, it would be important “for all parties in the food industry, together with government and regulators, to sit down to identify the sensible way forward”.²² Peter Kendall, Chair of the NFU told us: “I think it is a common feeling among the farming community across Europe that this is something that has real potential to damage our reputation, so I think there is widespread concern and anger at what has happened.”²³

17. In the UK, figures for the four week period to 12 May show that while there was a 37.1% increase in the volume of fresh burger sales, frozen burger sales fell by 16.2 % and frozen ready meals by 12.6%.²⁴ In its response to our Report the Government said “consumers need to be confident that food is what it says on the label. It is completely unacceptable that consumers have been buying products labelled beef, but which turn out to contain horsemeat.”²⁵ A survey by Mintel reports that “only 42% of consumers, taken from a nationally representative sample of 2,000 adults, believe the food industry can react to major food scares effectively, while less than a quarter believe that different elements of the supply chain work effectively together.”²⁶

18. Joanna Darmanin, Head of the Cabinet of the European Commissioner for Health and Sanitation said of the situation across the EU:

¹⁸ Q 647

¹⁹ Q 506

²⁰ Ev 94

²¹ Q 43

²² Ev 94

²³ Q 161

²⁴ “Fresh burger sales initially fell but then rose again from March 2013”, *The Grocer*, 10 June 2013.

²⁵ *Contamination of Beef Products: Government Response*, p 11

²⁶ “Tesco hires farmers' voice to restore trust lost in horsemeat scandal”, *The Guardian*, 3 July 2013

What we have witnessed and what we have been told is that, clearly, the readymade meals have indeed suffered. That is where they felt it most. However, for example, if you take fresh meats from butchers, it seems that prices have gone up. Indeed, let us say they were the winners in this situation, if you can use the term “winners” in a situation of this manner.²⁷

19. We asked Mr Heath how he planned to help restore confidence to the frozen and processed meat sector. He said that people should be reassured that “the vast majority of processed meat that was on sale was perfectly as it should be [...] I can only applaud the fact that people are tending to buy British meat products, which they know they can trust.”²⁸

20. The horsemeat contamination has been a result of fraud and other criminal activity across the EU. While overall contamination of beef products has been small, it has been widespread across EU Member States, and caused much public concern. We agree with the Government that consumers must be able to purchase products confident that the product is what it says on the label. We note that there has been an increase in sales of fresh meat from butchers, coupled with a significant reduction in consumer confidence in the frozen burger and beef ready meal sectors in the UK. We recommend that the Government hold talks with those affected—including farmers, food business operators and retailers—to develop a plan for restoring confidence to this sector before the end of the year.

Trace contamination

21. All the tests on beef products reported here have been for horse or pork DNA at a level of 1% or above. However, some of the initial test results from Ireland pointed to lower levels of contamination. This ‘trace’ contamination is of a different order than, for example, the burger which was found to contain 29% horsemeat. Trace contamination is thought to be caused by “carry over” between processing of different types of meat using the same equipment. The Local Government Association explained that trace levels of contamination normally result from cross contamination and that the law did not specify what level of cross contamination was acceptable:

Food labelling law does not specify the levels of DNA contamination that would be acceptable. In the case of horsemeat adulteration there are no established levels above which deliberate adulteration is agreed, however, a DNA test can detect relatively low levels that result from cross contamination rather than adulteration.²⁹

22. We had previously raised the issue of trace contamination of Halal and Kosher beef products with pork.³⁰ The Government said it was not responsible for private marketing standards and that there were no specific regulations governing the sale and labelling of Halal or Kosher meat; certification was provided by private organisations.³¹ Since then the

²⁷ Q 600

²⁸ Q 699

²⁹ Q 24

³⁰ Contamination of Beef Products, paras 36-39

³¹ Contamination of Beef Products: Government Response, p 9

FSA has said it will consult the public on levels of acceptable contamination, and the Government has commissioned some research on how best to assess and measure low-level contamination³². **We request that the Government update us on the results of work streams on trace contamination in meat products in its response to this Report.**

Traceability

23. Because our food system is complex—with ingredients being sourced from many places and traded by different people—the ability to trace the supply chain of a product, for example from the farmer to the retailer, is an important component of the food system. However, the more complex a supply chain is, the more difficult traceability becomes.

24. EU regulation 178/2002 introduced traceability requirements to all food businesses. They must be able to identify the business which supplied them with a food or food ingredient, and the businesses to which their products have been supplied. The Commission describes this as the “one step back, one step forward” approach and it covers all type of food and feed ingredients. The Commission explained the system:

Within the food chain, [there is] a general obligation that a company receiving raw material should know where the raw material comes from and document that. They should then prepare the product, and when the product is sent to another, they have to know the destination.³³

25. However, there are still significant knowledge gaps about the point at which horsemeat entered the production cycle of beef products. This implies that accurate records were not being kept throughout the supply chain of those beef products found to contain horsemeat. The FSA told the Committee that a 50,000 tonne consignment of beef from a factory in the Netherlands had been withdrawn because the Dutch company could not identify the source of the meat:

The difficulty the Dutch authorities experienced is that there were very few, if any, records held by the companies they were investigating, which is why the Dutch issued, in effect, a blanket rapid alert about 50,000 tonnes of meat. They could only say who had been supplied by this company at any point in time. They were unable to trace any of the actual meat itself.³⁴

26. We were assured there were good systems in place for traceability in the UK. Mr Finnerty of ABP Foods, for example, told us he operated to the highest standards in terms of traceability of product, in line with the rest of the industry.³⁵ He went on to explain that frozen food had greater opportunities for being contaminated:

I would like to demonstrate the difference between chilled beef and frozen beef. For chilled beef [...] the supply chain is very short. We try to procure two-thirds of our

³² FSA, *Report of the investigation by the Food Standards Agency into incidents of adulteration of comminuted beef products with horse meat and DNA*, pp 7-8, July 2013

³³ Q 560

³⁴ Q 463

³⁵ Q 65

cattle from within a 30-mile radius of each of the facilities we use. [...] It is a process that takes a matter of days and a short number of weeks. Frozen food is different. It is a product that has a lifespan of up to two years, and the raw material that is bought is much more commoditised. [...] it tends to go through many hands.³⁶

27. Although Mr Finnerty said ABP had “never knowingly bought, ordered or processed any horsemeat,” he was unable to identify at what point horsemeat had entered the supply chain for the Tesco beef burgers which were supplied by the Silvercrest factory of ABP Foods. These contained up to 29% horsemeat. Mr Finnerty said he thought the origin of the horsemeat was Poland.³⁷

28. The results of tests across EU Member States has revealed that the nature of the food supply chain for processed beef products can also be long, and may include many different food business operators from different Member States.³⁸ This has made tracing the source of the contamination difficult. Mr Heath commented on this saying:

These are complex cases. Something that has been very clearly demonstrated during the process of this investigation is the complexity of the supply chains across Europe and the number of different operatives, some of whom may be aware of what they were buying, while others may not have been³⁹.

Peter Kendall, from the NFU, suggested that shorter supply chains would help restore confidence:

We are [...] looking for shorter supply chains, closer working relationships between farmers and their end users. I have been quite clear in asking, why cannot supply chains be simple? When I say “simple”, I mean farmer-processor-retailer/shop. Why does it have to involve crossing many borders, with lots of traders in between? I have quite clearly made the analogy: this is not nuts and bolts, this is not a mobile phone, this is our food. Why does it have to change hands so many times to try to save money?⁴⁰

He also gave some examples of how shorter supply chains had improved traceability in some products and reduced the opportunities for fraud.

29. The system for food traceability, including the requirement that at every stage in the supply chain operators must keep records of the source of each product and its next destination, has been breached. Retailers and meat processors should have been more vigilant against the risk of deliberate adulteration. Trust is not a sufficient guarantee in a system where meat is traded many times before reaching its final destination. We are concerned about the length of supply chains for processed and frozen beef products and welcome efforts by some retailers to shorten these where possible.

³⁶ Q 66

³⁷ Qqs 59, 66; Ev 96

³⁸ A simple supply chain for a beef burger consists of the farmer, abattoir, processor and retailer. More complex supply chains might involve raw meat being traded by more than one agent.

³⁹ Q 628

⁴⁰ Q 165

Prosecutions

30. After police raided two premises in north Wales and Yorkshire and suspended production, the Minister said: “if there is evidence of criminal activity, I will expect the full force of the law to be brought down on anyone involved”.⁴¹ Two men had been arrested and were later released on bail.⁴² To date there has been no prosecution in the UK, or in Ireland, where the alleged fraud was first identified.⁴³

31. Jim Fairbairn of Freeza Meats told us he had been asked to store a consignment of meat for another trader in Northern Ireland in December 2012. This was later found to have been contaminated with horsemeat. However, it is not yet clear where the horsemeat originated.⁴⁴ The Irish Department of Agriculture, Food and the Marine published its Report on *Equine DNA and Mislabelling of Processed Beef Investigation* in March 2013.⁴⁵ The Report listed the results of a number of investigations including the case of Silvercrest of which it concluded that “there was no evidence that they deliberately purchased or used horsemeat in their production processes or that these companies were relabelling or tampering with inward consignments.”⁴⁶ It expressed concern about the actions of meat traders and intermediaries and reported that information has been passed on to the relevant authorities and the European police co-ordination body, Europol.⁴⁷

32. The Government refused to comment on ongoing investigations in the UK saying “that is obviously a matter for the police and for the courts and not for Government ministers.”⁴⁸ At the end of April, Professor Reilly, head of the FSAI told us: “We are awaiting the outcome of what is essentially a criminal investigation, so I really cannot comment on when the results of that investigation will come to fruition.”⁴⁹ The European Commission told us:

as available information indicates the possibility that intentional violations of food chain rules might be taking place, other enforcement authorities are also concerned with investigation and enforcement activities. In several Member States criminal investigations are on-going.⁵⁰

33. The evidence we received from retailers and food processors in the UK and Ireland suggests a complex, highly organised network of companies trading in and mislabelling frozen and processed meat or meat products in a way that fails to meet specifications

⁴¹ Hansard, 14 February 2013, col 1047

⁴² Q 455

⁴³ Department of Agriculture, Food and Marine, *Equine DNA and Mislabelling of Processed Beef Investigation*, March 2013. We have been told that prosecutions have taken place in France and the Netherlands. Q 541

⁴⁴ The consignment originated in Poland but Mr Fairbairn did not know from which company. Qqs 325, 330

⁴⁵ Department of Agriculture, Food and Marine, *Equine DNA and Mislabelling of Processed Beef Investigation*, March 2013

⁴⁶ *Equine DNA and Mislabelling of Processed Beef Investigation*, p 4

⁴⁷ Department of Agriculture, Food and Marine, *Equine DNA and Mislabelling of Processed Beef Investigation*, March 2013.

⁴⁸ Q 630

⁴⁹ Q 198

⁵⁰ Ev 104

and that is fraudulent and illegal. We are concerned at the failure of authorities in both the UK and Ireland to acknowledge the extent of this and to bring prosecutions. We are dismayed at the slow pace of investigations and would like assurance that prosecutions will be mounted where there is evidence of fraud or other illegal activity.

3 Horse passport systems

34. In our last Report we commented on the operation of the horse passport system which failed to prevent unregulated breeding and trading of horses and horsemeat. We asked the Government to set out how it would reform the system so that horses were not being given illegal passports and horses which had been treated with phenylbutazone (bute) and other harmful drugs were kept out of the food chain.⁵¹

35. At present, all horses should have a passport which records all medication, although they are tested for drugs only when they enter the slaughterhouse.⁵² We have been told that there are 75 organisations in the UK able to award horse passports and that horses are being issued with false passports by some of them, which do not always declare the presence of drugs.⁵³ The problem is not unique to the UK, Professor Reilly, Chief Executive of the FSAI told us that in Ireland, where the horsemeat contamination was first identified, “we have many different private organisations that issue horse passports, and the opportunity is there to tamper with passports, and that has been part of our problem.”⁵⁴

36. We were told that there were no checks on the movement of horses between the Republic of Ireland and Northern Ireland.⁵⁵ The FSAI has advised that there is currently no legal requirement to carry out such checks and that there has been an increase in the number of horses slaughtered in Ireland. However, neither ABP Foods nor the NFU had any evidence to suggest that the origin of the horsemeat was in Ireland.⁵⁶ FSAI concurred saying:

If you look at the amount of horsemeat that is in circulation in the UK, there is close to something like 400,000 horses slaughtered in the EU annually. We have probably something like 30,000 tonnes imported into the EU. There is plenty of horsemeat in circulation in the EU. The quantity of horses that would be produced by Ireland is a drop in the ocean in comparison.⁵⁷

FSA also reported that horses slaughtered for food in the UK were mainly exported as there was only a small market for horsemeat in the UK. That which was not exported was probably used in pet food.⁵⁸

Tests for bute

37. In response to the contamination of beef products the Government, through the FSA, instituted a “positive release system” at horse slaughterhouses in the UK in February.⁵⁹ This

⁵¹ Environment Food and Rural Affairs, Eighth Report of Session 2012-13, *Contamination of Beef Products*, paras 13-15.

⁵² Ev 102, Commission Regulation (EC) No 504/2008 of 6 June 2008 requires the checking of passports for identification purposes and for the presence of drugs banned from the food chain.

⁵³ Qqs 495, 596; Ev W6-7

⁵⁴ Q 215

⁵⁵ Q 218

⁵⁶ Qqs 129, 166

⁵⁷ Q 209

⁵⁸ Q 648

meant that every horse carcass would be sampled for the presence of bute and released only if no bute was found. The FSA reported that between 11 February and 3 May, 20 out of 1,145 carcasses tested positive for bute.⁶⁰ The Government told us the UK was the only country in the EU to have instituted such a system.⁶¹ At present the Government is paying for this system, but is considering whether industry should contribute.⁶²

38. The EC-mandated tests on horsemeat reveal that 14 out of 836 UK samples of horsemeat tested positive for phenylbutazone. This was the largest number of positive tests within the EU.⁶³ We asked the Government to explain this result. Mr Heath said:

it is very difficult to give you a definitive answer and I am not going to try. It may be associated with the level of testing that we have engaged in.[...] I think it would be expected that we would identify far more cases than those who are not doing testing.⁶⁴ [...] Any positive test means that somebody, somewhere has not been sufficiently assiduous in maintaining a passport in the form in which it should be.⁶⁵

Mr Rhodes, from the FSA added;

What we have seen so far, in terms of all the traceability exercises that we have conducted with others across Europe, is that origin of the meat appears to be legitimately slaughtered horses in approved premises in Eastern Europe, which has then made its way across Europe and at some point has been used fraudulently.⁶⁶

Towards a new passport system

39. In relation to horse passports the Government's response to our Report indicated that it was working to improve the horse passport system within the framework of EU legislation. This might include "supporting the equine sector in developing a new central equine database which would be managed and funded by the sector."⁶⁷ One industry representative organisation, Zootrack Systems, has suggested this should be a live electronic e-passport system which would be less open to fraud and quick and inexpensive to implement.⁶⁸

40. On 22 March, as part of a five-point action plan, the European Commission proposed to amend Commission Regulation 504/2008 in order "to make mandatory the recording of horse passports in a central national database" and "to transfer the issuing of horse passports entirely to the competent authorities and thereby reduce the number of passport

⁵⁹ *Contamination of Beef Products: Government Response to the Committee's Eighth Report of Session 2012-13*

⁶⁰ Ev 87

⁶¹ Q 640

⁶² Q 640

⁶³ 14 out of 16 positive tests were from UK horsemeat.

⁶⁴ Q 634

⁶⁵ Q 639

⁶⁶ Q 651

⁶⁷ *Contamination of Beef Products: Government Response to the Committee's Eighth Report of Session 2012-13*, p 4

⁶⁸ Ev W7-8

issuing bodies.⁶⁹ The Minister told us the UK was subject to the EU timetable and that he would “certainly like to see a common database system for Ireland and for the United Kingdom, but across Europe as well.”⁷⁰ Mr Heath said he was pressing for an early resolution on this, as well as on the tripartite system between the UK, Ireland and France dealing with thoroughbred animals.⁷¹

41. We are surprised at the number of positive test results for the presence of phenylbutazone in horsemeat originating in the UK in the EU-mandated tests. We welcome the Commission’s proposal to make mandatory the recording of horse passports in a central national database and to reduce the number of passport-issuing organisations. The evidence we received suggests there are many loopholes in the present system which have allowed horses treated with bute to enter the food system. The positive release system for horses presented for slaughter is welcome and should continue with the cost shared between the Government and industry. Given the uncertainty over the origin of horsemeat in beef products, we would like some assurance that the movement of horses within the UK and between the UK and Republic of Ireland is being properly tracked by relevant authorities.

⁶⁹ Ev 109

⁷⁰ Q 637

⁷¹ Q 638

4 Responses

The role of industry

42. As noted in our previous Report it is the responsibility of food retailers to ensure the integrity of their supply chains. The FSA said:

Food businesses are responsible for ensuring that the food they supply meets food safety and labelling requirements. Businesses, including producers, processors and retailers are responsible for ensuring there is effective traceability of food through the food chain and are expected to carry out some testing of products. Specifically retailers are responsible for the quality of products they sell and should take steps to seek assurance of their suppliers' processes.⁷²

43. Mr Fairbairn of Freeza Meats, a UK-based processed meat producer, told us he verified the assurances of his suppliers through a questionnaire, an audit, and whether they had EU approval to trade. Of these, he said the questionnaire and the EU approval were the most important.⁷³ Mr Finnerty of ABP Foods told us that although Tesco had specified seven suppliers of beef for its products, agents at the Silvercrest factory had gone outside this specification, in breach of contract. He said ABP had thought that they were "buying from suppliers who were approved by the British Retail Consortium"⁷⁴

44. Peter Kendall of the NFU said that retailers had focused too much on price, at the expense of quality: "the notion that you can get eight burgers for £1 and not be cutting corners has been proved to be one of the real stumbling blocks of this entire process. You just cannot do it".⁷⁵ Freeza Meats confirmed this:

one would have to pursue the cheapest possible product one can get, in view of the price movement in the raw material that we use [...]The price of that, I can say, has doubled in the past two and a half years, driven to a degree by the desinewed issue, but probably more so by the weak economy over here.⁷⁶

45. As a result of the crisis FSA thought that retailers would now exercise much greater diligence in checking their suppliers.⁷⁷ Tesco had previously told us they would use only British and Irish beef in all their products, including their frozen and value burgers, and that they would carry out regular DNA testing for horse and other contaminants at no extra cost to the consumer.⁷⁸

⁷² Environment Food and Rural Affairs Committee, Eighth Report of Session 2012-13, *Contamination of Beef Products*, HC 946-II

⁷³ Q 352

⁷⁴ Q 79

⁷⁵ Q 176

⁷⁶ Q 351

⁷⁷ Q 503

⁷⁸ Environment Food and Rural Affairs Committee, Eighth Report of Session 2012-13, *Contamination of Beef Products*, HC 946-II

46. As already noted, retailers have a clear responsibility to ensure the products they sell are accurately labelled. While some retailers may have been misled, those serving large sectors of the market need to ‘up their game’ and verify with greater accuracy the assurances of their suppliers. There must be regular, detailed tests on all meat or meat-based ingredients which form part of a processed meat product. We welcome the commitment of some supermarkets to carry out DNA tests on meat products. We recommend that this be made compulsory for large food retailers, with appropriate penalties imposed for those who fail to do so. A summary of these test results should be published on the retailer’s website. The cost of this testing must be borne by the relevant companies as part of their due diligence and should not be passed on to the consumer.

EU proposals for supply chains

47. The main aim of the EU’s five-point action plan is to “strengthen the enforcement of food chain rules” (from horse passport legislation to hygiene and labelling requirements) so as to restore consumer confidence in Europe’s supply chain. The plan includes:

- measures to increase the rapid exchange of information between Member States in cases of food violations which may constitute a fraud—current processes for sharing information apply mainly to serious risks;
- a co-ordinated testing programme and follow-up action;
- improving co-ordination and control of the movement of horses across the EU;
- a proposal to ensure that financial penalties for food fraud or other violations of food law are at a level which is dissuasive and higher than the economic gain expected from the fraud; and
- extending mandatory origin labelling on all types of meat used as an ingredient in foods.⁷⁹

Mr Heath welcomed the proposals and was keen to make progress on them. However the next discussion will not be until the July Agricultural Council.⁸⁰

48. The EU proposals are welcome, although still at an early stage and not likely to be discussed until the July Agriculture Council meeting. The proposals should ensure improved sharing of information between Member States which will make the identification of food fraud in complex supply chains easier. We particularly welcome the proposal that penalties for those seeking to defraud consumers should be higher than the economic gain expected from the fraud. However, legislation will not deter fraudsters unless all Member States are prepared to use proportionate enforcement powers to back it up.

⁷⁹ Ev 109-10

⁸⁰ Q 656

The role of the FSA

49. In our previous Report we examined the role of the FSA. We made two main observations. The first relates to the changed remit of the FSA after the 2010 machinery of government changes, the second to the powers of the FSA in relation to retailers. We discuss each of these further in this Report.

Remit of the FSA

50. The Food Standards Agency is a non-ministerial Government department set up in 2000 to protect the public's health and consumer interests in relation to food across the UK.⁸¹ In 2010, as a result of machinery of government changes, the remit of the FSA was changed. The FSA described its role as follows:

Responsibility for food authenticity is shared between the FSA and Defra, working in close collaboration. The respective roles of the two departments [Defra and the Department of Health] in England were set out in 2010 following Machinery of Government changes. Defra has responsibility for food labelling and food composition policy where this is not related to food safety. This includes a food authenticity programme. The FSA is responsible for investigating incidents, including misleading labelling and food fraud and for liaison between central and local government.⁸²

In February we said that the FSA's diminished role had led to a lack of clarity about where responsibility lay, and this had weakened the UK's ability to identify and respond to food standards concerns.⁸³

51. The Government disputed this conclusion and replied that its response had been "swift and effective, with clear joined-up working between Government departments, local authorities and the European Commission." It also said the "FSA took the lead, responding quickly and decisively when alerted by the Food Safety Authority of Ireland to its findings."⁸⁴ However, the report on the FSA's response to the crisis has since concluded that there was initial hesitation on the part of the FSA and some confusion among the public and retailers about who was in charge of the response because of the 2010 changes. Indeed, the arrangements for managing the incident changed as it became clear that this was not a food safety but a food labelling problem.⁸⁵ While we reiterate our earlier comments that policy is rightly the responsibility of Ministers, the initial hesitation and confusion in this incident leads us to question whether the FSA should be one step removed from the Government departments it reports to so as to enable a swifter response when a major incident occurs.

⁸¹ Food Standards Agency, *Capability Review*, October 2012

⁸² Environment Food and Rural Affairs Committee, Eighth Report of Session 2012-13, *Contamination of Beef Products*, HC 946-II

⁸³ Environment Food and Rural Affairs Committee, Eighth Report of Session 2012-13, *Contamination of Beef Products*, HC 946

⁸⁴ *Contamination of Beef Products: Government response*, pp 4-5

⁸⁵ Pat Troop, *Findings: FSA Response*, 5 June 2013 and reiterated in the final Report: *Review of FSA Response to incident of Contamination of beef Products with horse and pork meat and DNA*, 28 June 2013.

52. The Scottish Government is in the course of consultation with a view to bringing forward legislation to create a stand-alone body in Scotland for food safety and standards, feed safety and standards, nutrition, food labelling, meat inspection policy and operational delivery. The Scottish Government view is that the new food body would be able to focus on questions of diet and obesity which are “unique and complex” in Scotland and, secondly, that “advice on food safety, nutrition and labelling should be independent and transparent and should be provided by an organisation which should remain at arm’s length from central government.”⁸⁶

53. The FSA should consider whether it is performing as a robust regulator of industry. Evidence suggests that the FSA’s testing regime was not sufficiently innovative or forward-looking to pick up the horse contamination—it was the Irish authorities who tested for horse DNA and informed the UK subsequently. The Association of Public Analysts told us that the food testing system in place in England could not have picked up the contamination.⁸⁷ (We discuss this system later on.)

54. In addition, the FSA did not respond pre-emptively with its own tests but waited for the FSAI to confirm conclusively the presence of horsemeat and DNA in beef products six weeks after the initial communication. It was then another three weeks before the European authorities were officially informed of the situation.⁸⁸

55. A 2012 capability review of the FSA found many positive things to say about the organisation, its leadership, strategy and delivery of objectives.⁸⁹ It did not challenge the remit of the FSA, but it did highlight the need for better communication with external stakeholders about the role of the FSA in the broader food and public health agendas in the aftermath of the machinery of government changes and the proposal to create a separate Scottish food body. In particular, the capability review questioned the effectiveness of the FSA’s working across Whitehall departments and with other Government bodies and the devolved Administrations. The more recent final report on the FSA’s response to the horsemeat issue also comments on the need for better communication about its role.⁹⁰

56. The FSA is a regulator of the food industry and has good links with the two Government departments it answers to. On both occasions when we have called the Minister for Agriculture to give evidence, he has been accompanied by FSA staff. This close relationship provides FSA with direct access to Ministers. On the other hand, it could be argued that a more arm’s-length relationship might better enable the FSA to question policy decisions.

57. The FSA’s primary stakeholder is, rightly, consumers. There should never be any suspicion that it is too close to industry: instead, it should be seeking to expose the failings of industry where these occur. Its physical presence in meat plants in the UK should ensure

⁸⁶ The Scottish Government, *A Healthier Scotland: Consultation on creating a new food body*, 28 February 2013

⁸⁷ Q 285. The review of the FSA also notes that “the possibility of this adulteration had not been considered, not just by the FSA.” Professor Pat Troop, *Review of FSA response to the incident of contamination of beef products with horse and pork meat and DNA*, 28 June 2013.

⁸⁸ Q 524, on 8 February 2013

⁸⁹ FSA, *Capability Review*, October 2012

⁹⁰ Professor Pat Troop, *Review of FSA response to the incident of contamination of beef products with horse and pork meat and DNA*, 28 June 2013

visible and evidence-based oversight of the slaughter and hygiene there. However since many meat products are imported, it must rely on routine food sampling by local authorities to monitor the integrity of the supply chain. This would be strengthened if it were to put more resources into monitoring and improving its links with these local authorities. The capability review also commented that the FSA needed to understand better the impact of reduced budgets on local authorities and improve its engagement with them.

58. We reiterate our previous conclusion that, while Ministers are properly responsible for policy, there was a lack of clarity as a result of the machinery of government changes about where responsibility lay for the response to the horsemeat discovery. This initial confusion in the early days of the discovery was unhelpful and there should be better communication about the FSA's role. Greater clarity about the role of the FSA in major incidents is also needed. The Government should consider whether this might be achieved by reverting to the pre-2010 position enabling the FSA to be one step removed from the Government departments it reports to. This would enable a swifter response by the FSA when a major incident occurs.

59. Within its current mandate, the FSA must become a more efficient and effective regulator of industry. The FSA must be independent of industry: it must not be, or be seen to be, beholden to industry. The FSA must serve primarily the interest of consumers in having safe and accurately labelled food products. This also means the FSA must be more innovative and vigilant about its testing regime, and it must build better working relationships, where information is shared earlier, with relevant partners in the UK and Europe.

Powers in relation to industry

60. In our previous Report we suggested that the FSA be given the powers to compel industry to undertake testing when needed and for industry to be obliged to report the results of its own tests to the FSA. The Government response said it would give this consideration, and this point has now been made in the interim report on the FSA's response to the crisis.⁹¹ However the author of this report, Professor Pat Troop, is minded to set up collaborative and voluntary agreements for sharing test results rather than introducing new legislation.

61. The NFU representative, Peter Kendall, told us it would support increased powers for the FSA depending on how the burden of reporting fell:

if there is a sensible, proportionate manner of doing that, then there is a lot to be said for that. We are running commercial businesses, and what I don't want to do is to saddle the whole industry with more bureaucracy and red tape. [...] we need to have the right threat of spot checks, proportional checks on people, without creating an enormous bureaucracy through a very competitive industry.⁹²

⁹¹ Pat Troop, *Findings: FSA Response*, 5 June 2013

⁹² Q 169-72

62. If the FSA is to become a more effective regulator of the food industry, it must be given greater powers in relation to this large and growing sector. It should be given the powers to compel retailers to carry out spot checks and tests where necessary—on both the label and the physical content of the meat—and all test results, whether mandated by the FSA or industry itself, should be reported back to the FSA. In this way the FSA can have a better picture and greater oversight of the industry it is watching over. We do not believe this objective can be met by voluntary agreement alone.

5 Capacity and food supply networks

63. The current system for testing food products, which is “risk-based” and “intelligence-led”, did not pick up the contamination.

Local Government capacity

Implications of reduced funding

64. As noted in our previous Report the FSA does not itself carry out food sampling. Rather, it is local authorities and trading standards officers who take samples and send these to laboratories for testing. If the results are adverse, it is local authorities who are expected to take appropriate action. The Food Law Code of Practice requires each authority to produce an “annual service plan for enforcement of food standards” in conjunction with the authority’s appointed public analyst. The plan should contain a risk assessment of food businesses, the numbers of inspections to be carried out and details of samples to be taken. The code of practice does not specify a minimum sampling rate of any kind.⁹³

65. Local authorities therefore play a big role in ensuring our food is as described on the label and is safe to eat. However, as local authority budgets have been cut, so funding for trading standards, and therefore food sampling, has also been reduced. We noted in our last Report comments by the Trading Standards Institute that “cuts in sampling budgets and officers make it difficult to maintain targeted surveillance of the food sector.”⁹⁴

66. The FSA told us it was working to limit the impact of cuts effectively:

Local Authority budget cuts are resulting in a changing landscape for the delivery of food legislation. Enforcement officers are working hard to protect their services and are looking at innovative solutions to continue to provide effective controls through for example shared services and regional coordination, and more effective targeting of resources. There has been concern that local authorities are losing experienced and knowledgeable staff and the FSA continue to maintain a full programme of training and guidance, to ensure that enforcement officers are effective and provide consistent delivery of controls and sanctions.⁹⁵

It also assured us there had been more targeted interventions:

there have been reductions in the numbers of Local Authority officers working in the areas covered by the FSA. Although the profile of interventions by Local Authority officers has changed, overall compliance in food hygiene levels has continued to improve. In the area of food standards, reductions have been seen in all areas of activity and the numbers of officers deployed in the area of food standards and animal feed have fallen more sharply. Food standards enforcement action, however,

⁹³ Ev 98

⁹⁴ *Contamination of Beef Products*, para 33

⁹⁵ Ev 92

rose in the last full reporting year, suggesting an increased focus on targeted interventions.

The Local Government Association also told us that it was making significant efficiency savings and working ‘smarter’ to take account of reduced budgets.⁹⁶

67. On 26 June the Government’s Comprehensive Spending Review announced a 10% reduction to local government for 2015-16. This will be in addition to the 33% reduction in resource spending since 2010. To some extent, this will be mitigated by the transfer of NHS social care to local authorities.⁹⁷

68. We note that food sampling rates are uneven. The data for 2011-12 show that three local authorities carried out no tests at all and 19 authorities failed to report their sampling by the middle of 2013. Among those who reported their sampling, the number of samples per 100 establishments ranged from 0.1 to 83.0. Across the UK an average of 11.4 samples were taken per establishment in 2011-12. However, there was considerable variation across different types of authority, as shown in the table below. The lowest level of sampling per establishment was observed in London boroughs (average of 2.5) and the highest in Northern Ireland (average of 39.5). The table also shows that the average number of samples per establishment has declined since 2009-10 across all types of authority. The decrease is most pronounced in London boroughs and English county councils, with both showing a 55% decrease in the average number.⁹⁸

Average samples per establishment by authority type		
	2009/10	2011/12
England:		
County Council	7.9	3.6
District Council	11.0	7.1
London Borough	5.6	2.5
Metropolitan Borough Council	18.6	12.8
Unitary Authority	17.2	10.2
Northern Ireland		
Scotland	48.7	39.5
Wales	28.1	19.8
	31.1	19.3
UK	16.4	11.4

Source: Secondary analysis of LAEMS data

69. While local authorities have powers to take samples under Section 29 of the Food Act 1990, they are not required to do so: there is no minimum sampling level. Further, sampling budgets are not ring fenced: Local authorities decide on their priorities and allocate what resources they consider to be appropriate to food sampling. The LGA pointed out that local authorities were increasingly sharing the results of their tests on a database which reduced the need for duplicate tests.⁹⁹ In addition to local authority budgets, the FSA will provide £1.6 million in 2012-13 for additional food sampling,

⁹⁶ Q 30; Qqs 32-33

⁹⁷ Andrew Jones, Spending Review 2013: Analysis, LGIU policy Briefing, 3 July 2013; HM Treasury, Spending Round 2013.

⁹⁸ Figures taken from LAEMS data on the FSA website, 2011-12

⁹⁹ Q 15

specified by the FSA, which local authorities may apply for.¹⁰⁰ The Association of Public Analysts (APA) noted that some local authorities rely entirely on this FSA funding.¹⁰¹

70. The Local Government Association told us that decisions about what to sample were based on intelligence:

We do not routinely sample as such; we are very much driven by intelligence to direct us to where samples are taken. Food sampling is done predominantly by looking at intelligence. There are two types of samples we would take. [...] For example, if there was information about problems with a particular product, we would do some sampling to see what the local situation was, or act regionally. [...] We cannot go on a fishing trip in terms of sampling. We have to be quite clear what we are sampling and why we are sampling it, and what the standards are, because sampling is very expensive. We would need to be quite specific with the laboratory what test we would want it to do.¹⁰²

71. The APA suggested this approach was not strategic: there was a “postcode lottery” of sampling and emerging problems, such as adulteration, were not being picked up, because testing was only being done when a business case could be made for a sample based on a tip-off or a previously identified risk.¹⁰³ They recommend more targeted sampling—looking at particular products that are “likely to be adulterated”.¹⁰⁴ Moreover, because 80% of food was now sold through five big supermarkets, there was a need for greater national direction on sampling to ensure that “if there is a big manufacturing plant manufacturing a meat product that is nationally distributed, there is an adequate inspection sampling regime in place in that plant.”¹⁰⁵

72. Local authorities have a duty to carry out appropriate food testing and must ensure that they do so. We appreciate that each local authority has many objectives and claims on its budget. The Government should be mindful of, and keep an eye on, the likely impact of recent local authority budget cuts on food sampling rates. While we do not recommend setting a statutory minimum sampling level, it is not acceptable that three local authorities have carried out no food sampling at all in the last year. The FSA should more actively oversee the food sampling levels in local authorities and should have the power to compel local authorities to carry out some sampling each year.

73. 80% of food is sold through five supermarkets chains whose food is sourced locally, nationally and internationally. Local authorities must reflect this sourcing pattern in their sampling programme. We recommend a more targeted approach to food sampling, focusing on foods which are likely to be adulterated, even when there is no tip-off about it.

¹⁰⁰ Ev 95

¹⁰¹ Q 284

¹⁰² Q 10

¹⁰³ Q 310

¹⁰⁴ Q 288

¹⁰⁵ Q 310

Public Analysts

74. Public analysts analyse samples of food for compliance with legislation on food safety and standards. All food samples taken by local authorities must be submitted to either a food examiner for microbiological examination, or to a public analyst for chemical analysis. However, while microbiological testing for health protection is centrally funded and free at the point of use for local authorities, there are a number of private and public laboratories who provide food (chemical) sampling services to local authorities, for which they must pay.

75. The APA told us it was concerned about the closure of public laboratories. There are currently 18, of which only six are able to carry out DNA testing for horsemeat. The reduction in the number of labs has led to a reduction in the number of trained public analysts (from 41 in 2007 to 30 today). This has reduced the capacity of the remaining laboratories. The APA said that in order to carry out all the additional testing generated by the horsemeat contamination, the six labs had to work extremely hard, take on extra staff and work long hours, and they had struggled to meet deadlines.¹⁰⁶ The final report on the FSA's handling of the incident notes that concerns expressed by industry about laboratory capacity for sampling and analysis were ignored.¹⁰⁷ The Minister said there was no capacity problem and that all the test results had been returned on time:

actually, despite that unprecedented level of testing, the official control laboratories did not have demonstrable capacity issues. They were able to deal with the influx. When you add to that the industry's own very substantial testing—and, of course, some of that was outwith the official control laboratories; I understand that—our national capacity for doing testing seemed not to have been overstretched in the process.¹⁰⁸

76. We are concerned about the declining number of public analysts and of public laboratories for carrying out food testing. If they fall much further, food samples will have to be sent abroad for testing. This is likely to result in increased costs and fewer samples being submitted. The Government must keep this under review and ensure there are sufficient, properly trained, public analysts in the UK.

Lessons to be learnt

77. On 15 April David Heath MP announced that there would be a review of the crisis and its implications for the food chain and for the regulatory framework for food safety:

This will be wide-ranging, to restore and maintain consumer confidence in the food chain and consider the responsibilities of food businesses, and practice throughout the wider food chain, including: audit, testing, food authenticity, food safety and health issues. It will advise us of vulnerabilities within the food chain and its regulatory framework that might be exploited for other fraudulent activity. The

¹⁰⁶ Q 309

¹⁰⁷ Professor Pat Troop, *Review of FSA response to the incident of contamination of beef products with horse and pork meat and DNA*, 28 June 2013

¹⁰⁸ Q 684

Review will also consider any wider implications of the Food Standards Agency Review's findings.¹⁰⁹

He subsequently announced that the review would be led by Professor Chris Elliott of Queen's University Belfast and would examine the integrity and assurance of food supply networks more widely, including issues which impact upon consumer confidence in the authenticity of food products and how assurances might be strengthened to support consumer confidence. The review will report in 2014.¹¹⁰

78. Questions have been raised, in the review of the FSA's response to the crisis, about communication channels and the sharing of sensitive information. As noted earlier, the FSA was made aware of testing for horsemeat in November but did not seek further communication or take any action over the next six weeks.¹¹¹

79. Food supply and production chains are now ever more varied and complex. Those with responsibility for overseeing these systems must adapt their approaches accordingly. The FSA must ensure information is shared with its counterparts in the EU and with the devolved Administrations in the UK. The level of testing which has been undertaken in the last six months is unprecedented and cannot continue. The FSA will only be able to promote public confidence in its role as regulator of the food industry if it builds open communication channels to share information and intelligence with other bodies early on. It should not in future consider it acceptable to wait six weeks for a final confirmation of adulteration from one of our closest neighbours before acting itself.

80. The consumer organisation Which? has also raised questions about changes to labelling regulations which we have not had time to explore in this Report. It argues that the Government is proposing to decriminalise food labelling violations. This refers to a Government proposal, still under consultation, to replace offences for non-food safety breaches of the regulations with 'Improvement Notices' (IN), with criminal sanctions available where the terms of the IN are not met. This should not reduce the Government's capacity to tackle food fraud—for which there are sanctions available¹¹²—but it is designed to enable enforcement officers to deal with mislabelling without recourse to the courts, the aim being to improve labelling rather than criminalise businesses which may have inadvertently breached rules in minor ways

81. Which? has also commented on a proposal to remove the Quantitative Ingredient Declarations (QUID) on meat products sold loose (in butchers, farmers' markets and delicatessens, for example). The Government is also consulting on this proposal and will announce its decision in the summer.

82. While our Report does not focus on labelling regulations, any changes to these must be considered in the light of the recent horsemeat contamination incident, respecting

¹⁰⁹ Defra, Update on Horsemeat Fraud, WMS, 15 April 2013

¹¹⁰ <https://www.gov.uk/government/policy-advisory-groups/review-into-the-integrity-and-assurance-of-food-supply-networks>

¹¹¹ Qqs 486-88

¹¹² For example under the Consumer Protection Regulations, 2008

the results of public consultation and taking account of the significant reduction in consumer confidence in both supply chains and the ability of the food industry to respond effectively to food scares as a result of the contamination of beef products. These issues should be considered as part of the Government's own review of the integrity and assurance of food supply networks and any decisions on legislation should await the final report on food supply networks.

Conclusions and recommendations

Tests and traceability

1. The horsemeat contamination has been a result of fraud and other criminal activity across the EU. While overall contamination of beef products has been small, it has been widespread across EU Member States, and caused much public concern. We agree with the Government that consumers must be able to purchase products confident that the product is what it says on the label. We note that there has been an increase in sales of fresh meat from butchers, coupled with a significant reduction in consumer confidence in the frozen burger and beef ready meal sectors in the UK. We recommend that the Government hold talks with those affected—including farmers, food business operators and retailers—to develop a plan for restoring confidence to this sector before the end of the year. (Paragraph 20)
2. We request that the Government update us on the results of work streams on trace contamination in meat products in its response to this Report. (Paragraph 22)
3. The system for food traceability, including the requirement that at every stage in the supply chain operators must keep records of the source of each product and its next destination, has been breached. Retailers and meat processors should have been more vigilant against the risk of deliberate adulteration. Trust is not a sufficient guarantee in a system where meat is traded many times before reaching its final destination. We are concerned about the length of supply chains for processed and frozen beef products and welcome efforts by some retailers to shorten these where possible. (Paragraph 29)
4. The evidence we received from retailers and food processors in the UK and Ireland suggests a complex, highly organised network of companies trading in and mislabelling frozen and processed meat or meat products in a way that fails to meet specifications and that is fraudulent and illegal. We are concerned at the failure of authorities in both the UK and Ireland to acknowledge the extent of this and to bring prosecutions. We are dismayed at the slow pace of investigations and would like assurance that prosecutions will be mounted where there is evidence of fraud or other illegal activity. (Paragraph 33)

Horse passport systems

5. We are surprised at the number of positive test results for the presence of phenylbutazone in horsemeat originating in the UK in the EU-mandated tests. We welcome the Commission's proposal to make mandatory the recording of horse passports in a central national database and to reduce the number of passport-issuing organisations. The evidence we received suggests there are many loopholes in the present system which have allowed horses treated with bute to enter the food system. The positive release system for horses presented for slaughter is welcome and should continue with the cost shared between the Government and industry. Given the uncertainty over the origin of horsemeat in beef products, we would like some

assurance that the movement of horses within the UK and between the UK and Republic of Ireland is being properly tracked by relevant authorities. (Paragraph 41)

Responses

6. As already noted, retailers have a clear responsibility to ensure the products they sell are accurately labelled. While some retailers may have been misled, those serving large sectors of the market need to ‘up their game’ and verify with greater accuracy the assurances of their suppliers. There must be regular, detailed tests on all meat or meat-based ingredients which form part of a processed meat product. We welcome the commitment of some supermarkets to carry out DNA tests on meat products. We recommend that this be made compulsory for large food retailers, with appropriate penalties imposed for those who fail to do so. A summary of these test results should be published on the retailer’s website. The cost of this testing must be borne by the relevant companies as part of their due diligence and should not be passed on to the consumer. (Paragraph 46)
7. The EU proposals set out in their five-point plan are welcome, although still at an early stage and not likely to be discussed until the July Agriculture Council meeting. The proposals should ensure improved sharing of information between Member States which will make the identification of food fraud in complex supply chains easier. We particularly welcome the proposal that penalties for those seeking to defraud consumers should be higher than the economic gain expected from the fraud. However, legislation will not deter fraudsters unless all Member States are prepared to use proportionate enforcement powers to back it up. (Paragraph 48)
8. We reiterate our previous conclusion that, while Ministers are properly responsible for policy, there was a lack of clarity as a result of the machinery of government changes about where responsibility lay for the response to the horsemeat discovery. This initial confusion in the early days of the discovery was unhelpful and there should be better communication about the FSA’s role. Greater clarity about the role of the FSA in major incidents is also needed. The Government should consider whether this might be achieved by reverting to the pre-2010 position enabling the FSA to be one step removed from the Government departments it reports to. This would enable a swifter response by the FSA when a major incident occurs. (Paragraph 58)
9. Within its current mandate, the FSA must become a more efficient and effective regulator of industry. The FSA must be independent of industry: it must not be, or be seen to be, beholden to industry. The FSA must serve primarily the interest of consumers in having safe and accurately labelled food products. This also means the FSA must be more innovative and vigilant about its testing regime, and it must build better working relationships, where information is shared earlier, with relevant partners in the UK and Europe. (Paragraph 59)
10. If the FSA is to become a more effective regulator of the food industry, it must be given greater powers in relation to this large and growing sector. It should be given the powers to compel retailers to carry out spot checks and tests where necessary—on both the label and the physical content of the meat—and all test results, whether

mandated by the FSA or industry itself, should be reported back to the FSA. In this way the FSA can have a better picture and greater oversight of the industry it is watching over. We do not believe this objective can be met by voluntary agreement alone. (Paragraph 62)

Capacity and food supply networks

11. Local authorities have a duty to carry out appropriate food testing and must ensure that they do so. We appreciate that each local authority has many objectives and claims on its budget. The Government should be mindful of, and keep an eye on, the likely impact of recent local authority budget cuts on food sampling rates. While we do not recommend setting a statutory minimum sampling level, it is not acceptable that three local authorities have carried out no food sampling at all in the last year. The FSA should more actively oversee the food sampling levels in local authorities and should have the power to compel local authorities to carry out some sampling each year. (Paragraph 72)
12. 80% of food is sold through five supermarkets chains whose food is sourced locally, nationally and internationally. Local authorities must reflect this sourcing pattern in their sampling programme. We recommend a more targeted approach to food sampling, focusing on foods which are likely to be adulterated, even when there is no tip-off about it. (Paragraph 73)
13. We are concerned about the declining number of public analysts and of public laboratories for carrying out food testing. If they fall much further, food samples will have to be sent abroad for testing. This is likely to result in increased costs and fewer samples being submitted. The Government must keep this under review and ensure there are sufficient, properly trained, public analysts in the UK. (Paragraph 76)
14. Food supply and production chains are now ever more varied and complex. Those with responsibility for overseeing these systems must adapt their approaches accordingly. The FSA must ensure information is shared with its counterparts in the EU and with the devolved Administrations in the UK. The level of testing which has been undertaken in the last six months is unprecedented and cannot continue. The FSA will only be able to promote public confidence in its role as regulator of the food industry if it builds open communication channels to share information and intelligence with other bodies early on. It should not in future consider it acceptable to wait six weeks for a final confirmation of adulteration from one of our closest neighbours before acting itself. (Paragraph 79)
15. While our Report does not focus on labelling regulations, any changes to these must be considered in the light of the recent horsemeat contamination incident, respecting the results of public consultation and taking account of the significant reduction in consumer confidence in both supply chains and the ability of the food industry to respond effectively to food scares as a result of the contamination of beef products. These issues should be considered as part of the Government's own review of the integrity and assurance of food supply networks and any decisions on legislation should await the final report on food supply networks. (Paragraph 82)

Formal Minutes

Wednesday 10 July 2013

Members present:

Miss Anne McIntosh, in the Chair

Richard Drax	Iain McKenzie
George Eustice	Sheryll Murray
Mrs Mary Glendon	Ms Margaret Ritchie
Mrs Emma Lewell-Buck	Dan Rogerson

Draft Report (*Food Contamination*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 26 read and agreed to.

Paragraph 27 read, amended and agreed to.

Paragraphs 28 and 27 read and agreed to.

Paragraph 30 read, amended and agreed to.

Paragraphs 31 to 35 read and agreed to.

Paragraph 36 read, amended and agreed to.

Paragraphs 37 to 45 read and agreed to.

Paragraph 46 read, amended and agreed to.

Paragraphs 47 to 57 read and agreed to.

Paragraph 58 read, amended and agreed to (now paragraphs 58 and 59).

Paragraphs 59 to 73, now paragraphs 60 to 74, read and agreed to.

Paragraph 74, now paragraph 75, read, amended and agreed to.

Paragraphs 75 to 81, now paragraphs 76 to 82, read and agreed to.

Summary read, amended and agreed to.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 16 July at 2.30 pm]

Witnesses

Tuesday 5 March 2013

Councillor Mehboob Khan and Steve Jorden , Local Government Association	Ev 1
Andrew Simpson and Stephen Rossides , British Meat Processors Association; Paul Finnerty and Stuart Roberts , ABP Food Group	Ev 7
Peter Kendall , NFU	Ev 18

Tuesday 23 April 2013

Professor Allan Reilly and Raymond Ellard , Food Safety Authority of Ireland	Ev 23
Elizabeth Moran and Dr Duncan Campbell , Association of Public Analysts	Ev 32

Tuesday 14 May 2013

James Fairbairn , Former Commercial Director, Freeza Meats	Ev 38
Catherine Brown , Rt Hon Lord Rooker , Steve Wearne and Andrew Rhodes , Food Standards Agency	Ev 46

Tuesday 21 May 2013

Joanna Darmanin , Bernard Van Goethem , Koen Van Dyck and Jacqueline Minor , European Commission	Ev 60
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Wednesday 5 June 2013

David Heath MP , Defra and Andrew Rhodes , Food Standards Agency	Ev 74
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List of printed written evidence

ABP Food Group Ltd	Ev 96
Association of Public Analysts	Ev 97
British Meat Processors Association	Ev 94
European Commission	Ev 99
Food Standards Agency	Ev 87; Ev 91
Food Standards Agency, Ireland	Ev 110
Local Government Association	Ev 94

List of additional written evidence

(published in Volume II on the Committee's website www.parliament.uk/efracom)

Bob Forsyth	Ev w1
Greencore Group PLC	Ev w4
McAdam Food Products Ltd	Ev w3
National Pig Association	Ev w2
Paul Smith	Ev w1
Zoo Track Systems	Ev w6

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2013–14

First Report	Draft Dangerous Dogs (Amendment) Bill	HC 95
Second Report	Vaccination against bovine TB	HC 258
Third Report	Managing Flood Risk	HC 330
Fourth Report	Wild Animals in Circuses	HC 553

Session 2012–13

First Report	Greening the Common Agricultural Policy	HC 170 (HC 654)
Second Report	The Water White Paper	HC 374 (HC 602)
Third Report	Pre-appointment hearing: Chair of the Water Services Regulation Authority (Ofwat)	HC 471-I & -II
Fourth Report	Natural Environment White Paper	HC 492 (HC 653)
Fifth Report	Desinewed Meat	HC 120 (Cm 8462)
Sixth Report	Draft Water Bill	HC 674
Seventh Report	Dog Control and Welfare	HC 575 (HC 1092)
Eighth Report	Contamination of Beef Products	HC 946 (HC 1085)

Session 2010–12

First Report	Future Flood and Water Management Legislation	HC 522 (HC 922)
Second Report	The Marine Policy Statement	HC 635
Third Report	Farming in the Uplands	HC 556 (HC 953)
Fourth Report	The draft National Policy statement (NPS) on Waste Water	HC 736
Fifth Report	The Common Agricultural Policy after 2013	HC 671 (HC 1356)
Sixth Report	Implementation of the Common Fisheries Policy: Domestic Fisheries Management	HC 858 (HC 1485)
Seventh Report	Pre-appointment hearing: Chair of Gangmasters Licensing Authority	HC 1400-I & -II
Eighth Report	EU proposals for the dairy sector and the future of the dairy industry	HC 952 (HC 1548)
Ninth Report	The Welfare of Laying Hens Directive—Implications for the egg industry	HC 830 (HC 1664)
Tenth Report	The outcome of the independent Farming Regulation Task Force	HC 1266 (HC 1669)
Eleventh Report	The draft National Policy Statement for Hazardous Waste	HC 1465 (HC (Session 2012–13) 540)
Twelfth Report	EU proposals for reform of the Common Fisheries Policy	HC 1563-I & -II (HC (Session 2012–13) 108)

Oral evidence

Taken before the Environment, Food and Rural Affairs Committee on Tuesday 5 March 2013

Members present:

Miss Anne McIntosh (Chair)

Richard Drax
George Eustice
Barry Gardiner
Mrs Mary Glendon

Sheryll Murray
Neil Parish
Ms Margaret Ritchie
Dan Rogerson

Examination of Witnesses

Witnesses: **Councillor Mehboob Khan**, Chair of the LGA Safer and Stronger Communities Board, and Leader of Kirklees Council, West Yorkshire, and **Steve Jorden**, Head of Regulatory Services, Worcestershire, Local Government Association, gave evidence.

Q1 Chair: Good afternoon and welcome, gentlemen. I thank you very much for being present and contributing to our inquiry into the contamination of beef products. May I invite you to give your names and positions for the record?

Cllr Khan: I am Mehboob Khan, chair of the Local Government Association's Safer and Stronger Communities Board, and also leader of Kirklees Council.

Steve Jorden: I am Steve Jorden, head of Worcestershire Regulatory Services. I am also on the LGA Environmental Health Policy Forum and a member of both the Chartered Institute of Environmental Health and the Trading Standards Institute.

Q2 Chair: At the outset, could you explain your respective roles in the process of inspecting meat, and which inspections you both conduct?

Cllr Khan: The Local Government Association represents all local authorities in England and Wales. We have a board, which I chair, that has oversight responsibility for the regulatory activities of local government in England and Wales. We act as a membership organisation and represent our members' interests, and also liaise with Government on any matters of national policy that affect local government.

Steve Jorden: The role is twofold, and it varies between trading standards and environmental health, although in some parts it is combined. It is about supporting businesses and helping them develop and grow, giving them quality advice on compliance, and also seeking compliance of businesses to protect public health and consumers.

Q3 Chair: If a product has been mislabelled, which particular law will have been broken?

Steve Jorden: That would be labelling legislation that is conducted by Trading Standards, who are solely responsible for our food standards.

Q4 Chair: Who would bring enforcement action, and what action would be taken against the perpetrator?

Steve Jorden: Typically, a trading standards officer would take action. It would be a range of interventions. If it was a first offence, it might require advice; it might require a written warning. Prosecution would be a last resort. We are bound by the Regulators Compliance Code, or enforcement code of practice, so we make sure we take a proportional approach.

Q5 Chair: How many prosecutions have taken place to date since January?

Steve Jorden: I cannot speak nationally. I am not aware of any. Certainly, in Worcestershire and the West Midlands region, there have been no prosecutions in relation to horsemeat.

Cllr Khan: I am not aware of that information, but are you asking that in relation to horsemeat or prosecutions in general?

Chair: The latest incidence of horsemeat contamination, or large traces of pork or other meat in what has been labelled as beef.

Cllr Khan: If any legal action is being considered or taken, it is probably too early to determine whether that would result in prosecution because of the due process that would have to be followed. You raise an interesting point. We will ask our member bodies for any information they can provide on the enforcement measures that have been taken since then.¹ We would have thought that, since the issue has had so much national publicity and is on the minds of most consumers, the top priority of manufacturers and retailers would be to put their house in order and ensure action is taken to build public confidence. Only if they fail categorically to make those changes happen would local authorities consider the enforcement route.

¹ Note by witness: The LGA do not collate information on enforcement activity or prosecutions taken by individual council services. The annual data returns submitted by councils across the UK to the Food Standards Agency (FSA) do include high level information about the number and type of prosecutions taken. However, the time taken to undertake a thorough investigation and follow due legal processes means that it is extremely unlikely that the recent issues relating to horsemeat will have had the necessary time to reach the point of formal prosecution.

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Q6 Chair: If a retailer is proven to sell contaminated or mislabelled food, who is held responsible—the retailer or its supplier?

Steve Jorden: It very much depends on the evidence and the retailer's defence of due diligence. The retailer would be expected to know who is supplying them, where that product comes from and make all reasonable effort to establish its efficacy. We would have a look at that. Ultimately, it is the retailer's responsibility. We would also follow down through the chain, and what action we would take, and against whom, would depend on what the evidence is telling us.

Q7 Chair: How would you describe your relationship with the Food Standards Agency?

Cllr Khan: The relationship with the FSA is at several levels. The FSA work closely with local government in setting the national framework around the guidance that local authorities will give regard to when they have their own food safety plans for their local areas. Each local authority has such a plan in place. The FSA have an invaluable role in bringing together national guidance that sets out the national framework that local authorities will work towards. As to relationships, the FSA work closely with local government to ensure that both national and local regulators are working to national priorities and that local authorities are aware of the risks in the food chain that the FSA bring to our attention. I could go on. If you were to describe the relationship, it is an effective one.

Q8 Chair: You chair the LGA's Safer and Stronger Communities Board. Were you consulted on the Food Standards Agency's capability review, which concluded in January this year?

Cllr Khan: I would not have expected to be consulted on that. Officer colleagues in the Local Government Association will have been consulted on that.

Q9 Chair: It concludes that the FSA need to have a greater understanding of the challenges local authorities currently face, and ensure that they have the capability and capacity to deal with an increasingly challenging delivery landscape. Do you believe that, in all the recent tests you have been asked to carry out, the FSA have shown an understanding of the challenges that you face currently?

Cllr Khan: Since this issue became one of national concern, the relationship between the FSA and the Local Government Association has been a very strong partnership to deal with the concerns. At a local level, all local authorities are in very challenging times because of the financial difficulties facing the country as a whole. We know that, by using an intelligence-led and risk-based approach, we can overcome some of the financial challenges by working much more collaboratively with both national regulators and also at a local level. When food testing is done, it is done once and the information is shared among local authorities at a national level. The costs incurred are incurred once, and the information is used much more widely.

The FSA recognise the financial challenge facing local authorities and the complexity of the job that our environmental health officers and trading standards officers do on a day-to-day basis. There are lots of risks to which we have to pay attention and this is just one of them, but from my own experience over the last few weeks, I am very proud of the work that is being done and that public safety is a high priority.

Q10 Ms Ritchie: Do you routinely test food products for contamination, or is this done only when you suspect it?

Steve Jorden: Food sampling is done predominantly by looking at intelligence. There are two types of samples we would take. On the environmental health side, it would be mainly for microbiological issues, so we would be looking at a range of products. Maybe there is a national picture and a problem. For example, if there was information about problems with a particular product, we would do some sampling to see what the local situation was, or act regionally.

From a trading standards point of view, we would look very much at what the national picture is telling us, and that would determine whether we should be sampling. A number of complaints would come through from consumers that might indicate a local or regional problem, so we would talk to colleagues and agree a sampling programme on that basis. We do not routinely sample as such; we are very much driven by intelligence to direct us to where samples are taken. We cannot go on a fishing trip in terms of sampling. We have to be quite clear what we are sampling and why we are sampling it, and what the standards are, because sampling is very expensive. We would need to be quite specific with the laboratory what test we would want it to do.

Q11 Ms Ritchie: Your sampling and testing is on an evidence-based approach?

Steve Jorden: It is.

Q12 Ms Ritchie: Can you, therefore, explain the role of the Food Standards Agency in your decisions to test food products?

Steve Jorden: On the environmental health side, information would generally come down through the Health Protection Agency, so they would be looking at a national picture to determine what types of foods we would want to sample. We would plug into and take part in that as a national programme, but we would also have flexibility to do something of local interest. On the food standards side, it comes down generally through the Food Standards Agency using the Forensic Science Service net of which I think 63% of councils are part. That will identify particular products or types of food that need to be sampled, whether it is a labelling, composition or quality issue. We would plug into that and develop our sampling programmes based on the information coming down through that route.

Q13 Ms Ritchie: Therefore, does the Food Standards Agency provide you with guidance, or do they have the power to direct your work?

Steve Jorden: They provide us with guidance.

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Q14 Ms Ritchie: What funding does the Food Standards Agency provide for your food testing? If it does, would it fully fund any test if it required you to carry it out?

Steve Jorden: They provide some funding, but, if I may refer to the trading standards side, most councils will have a sampling fund. That sampling fund often includes other types of samples, so it is not solely food. That depends on whether the public analyst is part of that council or it is a private/public analyst, so there will be a sampling budget and the council will determine its sampling programme based on that budget. On the environmental health side, the Health Protection Agency will provide credits, which effectively pay for the sample.

If I could reflect on my own situation in Worcestershire, I have a sampling budget of £100,000 a year. That has just been reduced. That will enable me to sample a wide range of products, including product safety, food, water—all those sorts of things—so we will determine locally how best to use that sampling budget.

Cllr Khan: In response to whether the FSA provide any funding, in 2011–12 they provided grants of £900,000, and in 2012–13 £1.6 million, to help with sampling.

Q15 Ms Ritchie: How has your relationship with the Food Standards Agency changed as a result of the changes to the remit of the Food Standards Agency that came into place after the general election of 2010?

Cllr Khan: Can I also refer to your earlier question about whether the Food Standards Agency instruct local authorities on what to do, or whether we comply with the guidance? The relationship has to be one of working collaboratively. The Food Standards Agency absolutely understand the role of local authorities, and vice versa. We do not need prescription from the Food Standards Agency; their guidance is public information. They produce an annual report and they take a risk-based approach nationally, so that shares information among different parts of the country. When issues arise they have effective means of communicating with all local authorities about what they are and how to tackle them. Anything that would change that relationship is not required.

Since October 2010, the Food Standards Agency has had a new chief executive. Local authorities face significant financial challenges, and this has allowed us to have a complete rethink about how we conduct business at a local level. For example, instead of each local authority—of which there are hundreds up and down the country—conducting the same tests on the same food sample, and so on, 62% are sharing it. I think that number will increase significantly over the next year. By sharing the information, you are doing it only once. Even though you have less money to spend, you are making the public pound go further.

Sheryll Murray: I was going to ask about sharing services, which has already been answered.

Q16 Neil Parish: Do the Food Standards Agency give advice only in relation to public health risk related to food? Who gives you advice or assistance

in relation to food composition or contamination? In the incidents involving horsemeat, provided that horsemeat is safe, it is not a public health issue; it is one of labelling and being certain we are eating what we are supposed to be eating. Have you got sole responsibility for that, or where do the FSA kick in on the composition of what is in that meat product?

Steve Jorden: The advice we get is from the FSA. We would also get advice from Defra from time to time on similar topics, and equally the Department of Health would give us advice where it is a health issue. While it is contamination, there is a concern from an environmental health point of view as to whether hygiene standards are sufficiently robust to prevent that contamination. You will get a crossover there.

Q17 Neil Parish: You get that advice directly from the Food Standards Agency?

Steve Jorden: Yes.

Q18 Neil Parish: You have been receiving it throughout the recent problem?

Steve Jorden: Most of the premises involved are licensed or approved premises, on which there is quite detailed guidance that we would all have in mind when dealing with them, so there is very good guidance from the FSA on it.

Q19 Neil Parish: You had direct contact with the FSA immediately?

Steve Jorden: We in Worcestershire were not one of the 28 that did some sampling. However, in response to the media interest, we did our own sampling programme publicly to reassure our residents that there was no horsemeat in the food chain, but we have been in contact with the FSA just to make sure there are no local issues that we need to be aware of.

Cllr Khan: The FSA did send out what is called a general notification on 8 February.² Maybe some background information might help. Over the last few years there has been national interest in the salt, sugar and different types of fat content of processed food, as well as food that we buy from supermarkets and other retailers. Local authorities have worked with the FSA and the Department of Health to identify some of those things that help improve health and wellbeing. That is done as a direct result of the national and local partnership. That information is fed into local authority and primary care trusts with responsibility to try to help people eat better and be healthy. We have lots of examples of good practice between national and local regulators.

Q20 Neil Parish: You said that you were issued with a statement by the FSA on 8 February. This is well into the problems with the horsemeat. Wouldn't you

² Note by witness: The FSA use a national email list to Head of Service to notify councils of new guidance or emerging issues. The FSA used this approach to write to councils about horsemeat on 8th February 2013. A copy of this letter, and subsequent communications, can be found on their website at <http://www.food.gov.uk/enforcement/enforcework/centralref/>

A very small number of councils will have received direct communication from the FSA ahead of this date as a result of ongoing investigations or planned sampling activity.

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have expected something to come out before it happened, rather than afterwards?

Cllr Khan: That is a general notification, which is more of a standardised way for them to notify all local authorities, but because of the media interest and the interest of local authorities and the FSA much earlier than that, we were all talking to each other and working out ways in which we could respond to the issues raised. That was a formal notification, but you did not need a formal notification to respond.

Q21 Neil Parish: That leads me to the next part of the question. Because of the current situation, do you think local authorities should be carrying out more random tests on meat products?

Cllr Khan: That is a really good question. If we knew specifically what the emerging risks were, we would be able to test for those. There is cost in undertaking a test. A useful way of thinking about it would be that, if there was pan-European co-operation between national equivalents of the FSA, and information was given to local authorities, not just in the UK but across other European countries, there would be a risk, intelligence and evidence-based approach to testing. If you walk down the food aisles of major multiple retailers, you will see hundreds of thousands of products on their shelves, but which ones do you test for what? When and how do you test them? It is a really complex issue. We can spend millions of pounds if each local authority does those tests. If we think back to 2009–10, when more tests than now were being carried out, no one can say categorically—this is a bit contentious—that what was in each and every one of those products was what was on the label. Intelligence and evidence-based testing is really important.

Q22 Neil Parish: If random testing was to take place, no one would quite know where a particular test would take place. Mr Jorden said in an earlier reply that he was not able to test various products, or he had to have a good reason to do so. Can you elaborate a bit on why that is the case?

Steve Jorden: Sampling is only one option; it is one of a range of interventions we use to seek compliance. Ultimately, it is the responsibility of business to ensure that it complies with the law. We will sample based on intelligence; it directs us where to put that resource to be most effective. When we sample food, we need to know what we are sampling for. In practical terms, I need to tell the public analyst what test I want him or her to do. I need to have some pretty clear information on that. In the UK I would not necessarily take a sample of beef and go to an analyst and say, “Can you check it for horsemeat?” That would not be my immediate thought. I might say, “Can you check it for fat?” or meat content, or any other sorts of products that we would normally come across. Sampling is not the complete answer.

In this particular case, we are talking about businesses where there is a strong drive for earned autonomy. It is very much about our supporting legitimate business, and that does not mean doing a fairly robust and costly sampling programme.

Cllr Khan: We should place responsibility with the board rooms of businesses. The chief executive, chair, board and so on should have this issue on their agenda prominently, and not just now because there is a national concern about it; it should be there all the time. They should be looking at those risks and ensuring that their businesses are compliant with the law. I also sit on a primary care trust. We look at all the risks in how we provide clinical services at board level. At board level, you have ultimate responsibility in those manufacturers. By and large, British manufacturers want to comply because they want to keep the confidence of their shareholders and the public.

If I may suggest another analogy on sampling, the police stop only those drivers who they think are driving erratically under the influence of drugs or alcohol. They do not sample hundreds of thousands of drivers on our roads, do they? We need to look at the evidence and the risks that have been brought to our attention to make sure that sampling is done in a way that provides us with reassurance.

Q23 Neil Parish: The final part of my question is about trace contamination. How big a percentage is it? Sometimes you have found perhaps 0.1% of pork fat in a beef burger. What level of contamination is acceptable, provided that product is not harmful?

Steve Jorden: If it is a labelling issue, any level of contamination is unacceptable, so we would be in discussions with that particular business to find out why there is that level of contamination. There will be some national guidance about certain levels of trace elements and stuff like that, so we would be guided by that. In this particular instance we know that most of the contamination was less than 1%, but the fact is that it is there and it should not be.

Q24 Neil Parish: Is there anything laid down in statute as to any amount of contamination that can ultimately be allowed?

Steve Jorden: There are certain elements—chemicals and products—where limits are set. I could not give you particular details, but I am happy to go away and seek that if you would like further information.³ There are standards set down for certain types of products, for example meat content, and, in a meat product, there will be limits set for fat and collagen content.

Neil Parish: Perhaps we could have that in writing.

³ Note by witness: Food labelling law does not specify the levels of DNA contamination that would be acceptable. In the case of horsemeat adulteration there are no established levels above which deliberate adulteration is agreed, however, a DNA test can detect relatively low levels that result from cross contamination rather than adulteration. If undeclared DNA were to be found in a product then it would be necessary to work with the business, and potentially other businesses, to establish whether DNA contamination was as a result of cross contamination and poor hygiene practices or an attempt to deliberately defraud consumers by mislabelling. Any action taken by a local authority would need to consider the unique circumstances of the case concerned, compliance history, advice from the public analyst, case law and the principles embedded in the Regulators Compliance Code.

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Q25 Chair: That would be helpful. Cllr Khan, you gave us the figures you get from Defra for testing, but you have not told the Committee whether that covers the total cost of the testing that has been carried out by local authorities. Could you tell us whether all the testing you carried out in the last two months is paid for either by the FSA or Defra?

Cllr Khan: I believe that over the last two months any tests specifically requested by the FSA will have been funded by them; however, councils are also undertaking additional testing based on intelligence and local knowledge, which will be funded by the individual councils. The figures I quoted are grants given by the FSA available to local authorities, so do not reflect the local budget allocation for testing.

Q26 Chair: Give us an example of what testing one product sample costs.

Cllr Khan: I will ask Steve to do that.

Steve Jorden: To clarify, 28 councils were asked by the FSA to do some testing. My understanding is that some, if not all, received FSA funding to do that testing. I am certainly aware of one council locally that was given money for that. The testing we did, which was purely for horse DNA, cost £95. We spent just over £5,000 on testing locally. If you want a full set of DNA tests, the rates we were quoted were around £450 to look for pig DNA and those sorts of things, so the price depends on the range of tests you want carried out.

Q27 Chair: Is the money for meat testing ring-fenced, or does it come out of the public health budget?

Steve Jorden: It is a sampling budget. As I explained earlier, the majority of that is used for food. We might use it for water or air-quality sampling. In Worcestershire it will be for a range of testing, and that is pretty similar to most councils.

Q28 Mrs Glindon: I will carry on with the funding element. Cllr Khan, you said it was a challenging time financially for councils. Has funding for trading standards and environmental health decreased since 2010 and, if so, could you say by how much?

Cllr Khan: Since 2010, in the first comprehensive spending review, generally the funding for local authorities has reduced, depending on where the local authority is. Mine is a northern council based in Huddersfield. We lost about 25% of our budget. It will probably rise to about 33% of our budget, depending on what the Chancellor says in a fortnight's time. I want to quote to you the figures provided by the FSA and the local Better Regulation Office, which are more independent than local authorities, saying what the impact of the cuts has been upon them. The FSA have said that there has been a 12% reduction in enforcement officers. The local Better Regulation Office said that in 2011–12 there was an 8.8% decrease in expenditure on regulatory services in England and a 5.9% decrease in Wales. Trading standards budgets have been hit harder than environmental health budgets, which saw a decrease of about 11.5% in England and 8% in Wales. By and large, those are single-figure percentages, apart from

the 12% reduction in enforcement officers. If you compare that with the general reduction in local government funding, that runs at about 25%, so you can see that local authorities have not necessarily passed on the same percentage cut in their responsibilities on regulation as we would have in other parts of our expenditure.

Q29 Mrs Glindon: That is good to hear. Although it is lower than the general reduction in authorities' funding, what has been the impact of the reduced funding? Do local authorities have fewer staff, inspections or testing? Has it impacted on the day-to-day work?

Cllr Khan: It has impacted on day-to-day work. I am leader of the seventh largest metropolitan council in England. Over the last four years, times have been really tough; it is really difficult. Our approach to ensure we are still compliant with our duties is to look at ways in which we can be much more efficient and focused in our activities. On environmental health inspections, the biggest risk to communities in my area lies in small catering firms, takeaways, hot food establishments and restaurants like that. We have taken the approach of working with them. We help them comply and meet the requirements placed upon them rather than carry out more and more inspections, so the partnership approach to business is to help. We have reduced inspections and testing because we looked at ways in which we could share information with each other.

If you take West Yorkshire as an example, it has the country's second, fifth and seventh largest metropolitan councils. When we had lots of money, we would all be doing our own inspections, keeping that data to ourselves and sharing it where we thought it was appropriate, but we are now looking at joint services across the county. We are sharing information and doing things once. There are joint services not just in terms of sharing information; there are joint legal services and joint building control inspections. All these things help to make sure we can still give the public the confidence that we are there when they need us and things go wrong—when things did go wrong, we were there doing what we had to do—but also ensure that the public pound goes as far as possible.

It would be easy for me as leader of a Labour-controlled council to blame the Government for the austerity cuts and say, "Give us more money," but I have to be absolutely pragmatic and say that money is not the issue in this case. If we were still doing the same level of inspections we did in 2009–10 and not looking for horsemeat or other things, that would not show up in our inspection. Remember that the answer given by Steve is that we were always looking for other things: the fat and meat content; whether it had too much bacteria, salt, sugar or other things in food that are public health concerns.

Q30 Mrs Glindon: You referred to the budget. Can you say what your specific budget is for food testing, and from which budget line that would come?

Cllr Khan: We will give a joint response to that. When I set budgets for our local authority, the budget

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book will have in it the cost of staffing, the cost of premises and the cost of supplies and services. It falls under that budget. The lead environmental health officers will have absolute discretion on how they want to spend the supplies and services budget. It is up to them. They will take a professional risk-based approach to what types of sampling they want to undertake, and they will share the results with their colleagues across the region and nationally as well. Steve, do you want to answer how you do it in Worcestershire?

Steve Jorden: Perhaps I can start by adding some context. Worcestershire has a shared service. They have brought together trading standards and environmental health from seven different councils into one shared service, so from that point of view it is unique in the country. We have a single budget, we look at the demand on the service, and that determines how much resource we put towards it. 80% of our costs are salaries, so we need to be very conscious that full-time equivalents are the big cost. We will be looking at the big-ticket items and what levels of resource we need to devote to respond to that in a way that meets both local and customer expectations.

If I can give an example, our budget has been reduced by 24% because of the efficiency savings we have made by coming together. We will be under pressure to make a lot more savings, but we have been able to achieve that by smarter working and by being far more targeted at the businesses we visit, using intelligence and a risk-based approach, and by dealing with complaints in a different way that gives far better customer satisfaction.

Like a lot of other councils, we are looking at innovative ways of meeting the budget challenges, but our big expense is salaries, so it does come down to resources and how we use them. It is not saying, "You've got so much to spend on food." Each individual council will have different priorities. Food may be a big priority in some councils where there is a lot of food production by food manufacturers; for others it might not be such a big priority, so they would use that resource in other areas, such as environmental protection, counterfeit goods, rogue trading and that sort of thing.

Q31 Sheryll Murray: Could I ask one supplementary question before I move on? I was a county councillor from 2001. I know we have asked you about the implications of budget reductions from 2010, but for all the time I sat on the council the trading standards department was being cut because other departments were ring-fenced. It was widely known that they were the Cinderella services. Has your budget reduction in the last couple of years had any greater implication for your working than the ones you suffered before?

Steve Jorden: It has enabled us to work differently and smarter. From Worcestershire's point of view and from my discussions with lots of my colleagues around the country, we are at the point where further budget cuts will be a significant challenge for us. We have achieved most of those efficiencies now through different ways of working and we will continue to find ways, because we are still committed to providing the

service that we know the customer values. By their very nature, trading standards and environmental health do a lot of proactive work that does not always receive the credit it deserves. You would need to do a lot of proactive work to stop the reactive work.

Q32 Sheryll Murray: If local authorities had more funding, what would be your priorities? Would you increase staff, do more testing, more intelligence gathering and more enforcement, or something else?

Steve Jorden: It could be a range of those. We would be looking very much at the local priorities and how they relate to national priorities. At the moment, stimulating the local economy and supporting businesses is a key priority for us. We influence the success of businesses and create a level economic playing field for businesses, so we certainly see that as a priority. Each individual council will need to decide, if they have extra funding, where that money is best spent to have the biggest impact.

Q33 Sheryll Murray: Cllr Khan, as somebody who makes those decisions, or helps to, what is your view on that?

Cllr Khan: If more funding was available and it was directed towards this particular activity, in my position in the Local Government Association I would be suggesting that early intervention and prevention is far better than dealing with the consequences of it. We have seen that the consequences can be very costly. At a local level, we have, in all parts of the country, local economic partnerships, where business and local government leaders come together to work collaboratively in growing their local economy. We want to use the kinds of partnerships that currently exist between local authorities and businesses to work with business to help it comply better with regulations and share good practice, where it is commercially appropriate for it to do so, to encourage the best standards in all our manufacturers and retailers.

Chair: Cllr Khan, shorter answers would be really helpful.

Cllr Khan: I am sorry; I am not used to short answers.

Chair: I am sure you will get good practice.

Q34 Dan Rogerson: I apologise for missing the beginning of this session. I was at a meeting elsewhere. We have heard, pretty much, the answer to this question, but, for the record, do you think you would have discovered horsemeat in beef products that were sold in the UK if you had had more funding?

Steve Jorden: No.

Q35 Dan Rogerson: Essentially, as you set out, there were other priorities for testing, so if you had had more money, you would have been doing things other than testing for horsemeat?

Steve Jorden: It is a matter of whether the evidence suggests that is where you should focus your resource. In the UK market, that is not an obvious one.

Q36 Dan Rogerson: Now you know it is an issue, things will be different?

Steve Jorden: We would probably focus on particular premises from time to time just to do a check.

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Q37 George Eustice: I want to ask you a bit about the tests. The FSA have told us that the test done by the Food Safety Authority in Ireland was not one that was necessarily accredited for the UK. I think they use the polymerase chain reaction (PCR) testing model rather than enzyme-linked immunosorbent assay (ELISA), which is generally used. Does that cast any doubts on the findings, or accuracy of the findings?

Steve Jorden: I could not comment on it; it is not something of which I am aware.

Q38 George Eustice: The FSA are now asking all local authorities to do this series of tests, and quite a lot of sample tests need to be done. Have you got sufficient testing facilities to do this? Do you have your own test facilities, or do you need to instruct outside labs?

Steve Jorden: From what we have found, we have sufficient facilities, and we had no problem in getting the tests carried out. We are lucky—our council has a public analyst who is licensed or able to do these tests. There are 17 round the country, so we have not experienced any problems in getting tests done.

Chair: You have been very generous with your time. It might be helpful to have a breakdown of the total

costs when we know what the costs are of the remaining councils that are testing, just for the purposes of our inquiry.⁴ Cllr Khan and Mr Jorden, thank you very much indeed for being with us and contributing to our inquiry.

⁴ Note by witness: The resource to physically take all food samples is funded by each council. However, food standards samples are sent to public analysts for the tests to be carried out. This testing is normally paid for by the council. Councils need to specify and pay for each test required, rather than a single cost for one product. Tests for food standards range from different DNA tests for each species, allergens, checks against labelling and contaminants.

The FSA do provide some grant support each year for the analysis of samples, which is allocated for project work on national priorities and emerging local issues. This has risen from £900 000 available in 2011/12 to £1.6 million in 2012/13.

The 28 councils asked by the FSA to take samples for horsemeat DNA as part of the current incident have had the costs of analysis funded by the FSA and a contribution made to resource costs. The FSA will have a full break down of these costs.

If other councils have made the decision to sampling for horsemeat DNA because of local concerns then this will have been funded by the councils concerned.

The tests on microbiological samples are carried out by the Health Protection Agency. Councils receive credits for this to be carried out and do not have to pay for the tests.

Examination of Witnesses

Witnesses: **Andrew Simpson**, President, and **Stephen Rossides**, Director, British Meat Processors Association; **Paul Finnerty**, Chief Executive, and **Stuart Roberts**, Group Agriculture and Livestock Director, ABP Food Group, gave evidence.

Q39 Chair: Gentlemen, good afternoon and welcome. Thank you very much for contributing to our inquiry into contamination of beef and other products. Can I just ask you please in turn to introduce yourselves and give your names and positions for the record?

Stuart Roberts: I am Stuart Roberts, agriculture and livestock director for the ABP Food Group.

Paul Finnerty: I am Paul Finnerty, Chief Executive Officer of the ABP Food Group.

Andrew Simpson: I am Andrew Simpson, President of the British Meat Processors Association.

Stephen Rossides: My name is Stephen Rossides, Director of the British Meat Processors Association.

Q40 Chair: Perhaps initially we can ask some questions of the British Meat Processors Association. First, could you explain the work that you do, the meat that you produce and what your immediate supply chain is, as opposed to aims?

Stephen Rossides: We are a trade association and represent the leading abattoirs that slaughter cattle, sheep and pigs, and also leading meat manufacturers in the UK; companies that produce pies, hams and sausages. Our member companies are, of course, commercial companies, but we do not involve ourselves in commercial activity.

Q41 Chair: Which is your main market?

Stephen Rossides: We represent companies whose operations are based essentially in the UK. They may

have overseas interests and export as well, but essentially we represent those companies based in the United Kingdom.

Q42 Chair: To declare my interest, Newby Foods in my constituency may be one of your members.

Stephen Rossides: They are, indeed.

Q43 Chair: In your view what has been the impact of the contamination crisis on the meat-processing sector?

Stephen Rossides: Undoubtedly, these incidents of gross contamination have undermined consumer confidence and trust in our industry and have caused reputational damage to it, so we take the matter incredibly seriously. The full facts of everything have not yet been established, and it is important to get to the bottom of that. The BMTA and its member companies are co-operating with the FSA in collecting and providing the results of testing. In terms of market impact, I do not know whether my ABP colleagues have more up-to-date figures, but there is no question but that there has been a major impact on the market. I have figures from the Agriculture and Horticulture Development Board for retail beef consumption for the four weeks to 17 February. It shows that, while overall expenditure has been up by almost 2%, the overall volume of fresh and frozen sales has fallen by about 1%, but there has been a substantial fall in the volume of sales of burgers and chilled and frozen ready meals. Whether those are long-term shifts in

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consumption, I do not know; we shall have to see. It is possibly early days, but undoubtedly the main impacts have been loss of consumer confidence, which we have to restore, and more immediately impacts on the market, though we are not sure what the long-term impacts will be.

Chair: It is too early to say?

Stephen Rossides: Possibly it is.

Q44 Chair: How would you describe your relationship with the FSA?

Stephen Rossides: We strongly support the Food Standards Agency as an independent body that provides science and evidence-based advice and information on food safety issues, and this benefits both consumers and industry. We have a lot of dealings with the FSA at all kinds of levels. We are very keen to have a constructive working relationship with the FSA and what I call real partnership working. We aim to provide information and technical assistance to them where we can. We sit on a wide range of stakeholder groups within the FSA and also participate in a range of ad hoc project groups.

We have many shared objectives with the FSA. Our priorities may differ, and we do not always agree on all subjects—we have had our differences with the FSA on aspects of meat inspection, both the cost and the delivery—but we sense a greater openness in recent months and a willingness to hear our views on a range of matters.

My objective in life is to have a very constructive and close partnership working relationship with the FSA. I recognise they are not there to promote or defend our industry—that is not their role in life—but it helps both sides to work closely together. When we are doing what we do with them, it enables them to be an effective and better regulator.

Q45 Chair: Would you say that sometimes you are possibly too close to the FSA?

Stephen Rossides: No, I would not.

Q46 Chair: For example, when the FSA supported the decision of the Commission to ban unilaterally desinewed meat in Northern Ireland and North Yorkshire when the Commission had not actually ruled on whether it was unsafe to eat, you did not really put up much of a fight as an association.

Stephen Rossides: The Government, the FSA and industry did not share the Commission's interpretation of the issue about desinewed and mechanically separated meat. We do not agree with it now. We have a moratorium, not a prohibition, because we do not agree with the Commission's interpretation, nor do the FSA. However, our industry was threatened by the Commission with some very dire measures. The FSA provided a briefing to Ministers. It was a ministerial decision to accede to the Commission's demands, albeit very severe and fast.

We certainly do not agree with the Commission. There are some legal proceedings under way—incidentally, not from us but from industry—on which I cannot comment, which have to see their way through. I do not think we were too close to the FSA, and we still do not accept the Commission's interpretation.

Q47 Barry Gardiner: I want to ask you about full cost recovery. At the moment, your members get a full bill from the FSA for inspections of abattoirs, meat-cutting plants and so on, but then it has a very large discount—up to 95%—doesn't it? Do you know how much that discount represents in terms of the cost to the FSA and public purse?

Stephen Rossides: I do not want to guess at this, Mr Gardiner.

Q48 Barry Gardiner: Would you be surprised if I told you it was £20 million?

Stephen Rossides: The discount is a considerable sum of money.

Q49 Barry Gardiner: Do you think the public would be surprised to find that the cost of inspection of abattoirs and meat-cutting plants—services your industry needs to have provided to it—is not being borne by your industry but by the FSA and, therefore, by them, the taxpayer?

Stephen Rossides: I do not know whether the public would be surprised or not. When the FSA consulted on full cost recovery back in 2010, our response to that consultation was to say we did not object to the principle of full cost recovery as such, but we did say that, before full cost recovery was imposed on the industry, there should be what we called at the time an efficiency and value-for-money review of the FSA's operations in delivering meat inspections. I am happy to say that some two years and a bit later the National Audit Office is now carrying out an efficiency review. The FSA proposals went through the relevant regulatory committees, and those committees did not accept the FSA's proposals for full cost recovery, but we did not object to it in principle.

Q50 Barry Gardiner: It did go to the Regulatory Reform Committee, but are you seriously telling me, Mr Rossides, that no member of your association either met the Minister or an official from the Regulatory Reform Committee to lobby on behalf of the BMPA to ensure that they did not implement full cost recovery?

Stephen Rossides: I think we wrote to the Cabinet sub-committee to say what I have just said: that we did not object to the principle of full cost recovery, but before it was imposed we wanted an efficiency review of the FSA, because once the FSA had imposed full cost recovery, there was no incentive for the FSA to drive their own efficiency.

Q51 Barry Gardiner: I understand the point that you should not be paying for inefficient inspection, but you accept the principle that you should be paying for efficient inspection?

Stephen Rossides: Yes, and we said that publicly.

Q52 Barry Gardiner: You did not lobby against that?

Stephen Rossides: No. We lobbied for a full efficiency review of the FSA before full cost recovery was imposed, and by that we also included looking at ideas for alternative delivery of meat inspections within the framework of EU regulations.

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Q53 Barry Gardiner: We need to move on, but perhaps you could provide the Committee with a list of any meetings that took place between representatives of your organisation and the Government or Government Ministers on the issue of lobbying about full cost recovery. Do you know of any discussions that the FSA have had with Silvercrest about the incidence of 29% of horsemeat found in the Tesco beef burgers?

Stephen Rossides: Mr Gardiner, that is probably not a question for me directly, is it?

Barry Gardiner: No; it is not a question for you.

Stephen Rossides: I cannot answer that question.

Paul Finnerty: Mr Gardiner, perhaps I can deal with Silvercrest. I would like to thank the Committee for the opportunity to be heard today. Prior public pronouncements on this issue have been minimal, but we think the work of this Committee is very important and we have some important things to say in the context of Silvercrest and also the issue generally, with some recommendations as to how we can ensure this never occurs again.

Q54 Barry Gardiner: Thank you for that. Perhaps we can focus on the question about discussions between the FSA and Silvercrest.

Paul Finnerty: Silvercrest has been engaging directly with the FSAI as the competent authority in Ireland. My understanding is that the FSAI have been collaborating with the FSA in the UK.

Q55 Chair: The FSAI having informed FSA UK that they were testing products in November, were you surprised that FSA UK did not start conducting tests of their own?

Paul Finnerty: I think different competent authorities are engaged in different work streams at different times, and this was one that the FSAI had chosen to focus on late in the year. We first became aware as a business of the results of the FSAI work on the evening of 14 January. I was advised that we had an issue with certain burger products that had been contaminated with horsemeat or equine meat, and on the evening of the 14th I asked our team to prepare a report for me overnight. That was made available to me at seven the following morning.

We have taken hundreds of decisions since that time, but our first one that morning was to have the general manager of that site stand aside. The reason for that was that the equine issue that arose at Silvercrest shone a light on the operation at the facility that caused great concern, in that we were made aware that products had been produced at Silvercrest that in certain cases were out of specification.

Q56 Chair: Could you elaborate?

Paul Finnerty: When we were looking at the equine results, we became aware that, for products produced at the facility for certain customers in certain cases, the first pass through of the analysis—obviously, a lot of work has been done since—showed overnight on 14 January, going into 15 January, that we were out of specification.

Q57 Chair: Was that because you were not supplying from approved suppliers, or were you not supplying products as labelled?

Paul Finnerty: The principal issue was that product was coming in from a combination of suppliers who were not approved.

Q58 Chair: For how long do you think that had been going on?

Paul Finnerty: I think it had been going on for a number of months.

Q59 Chair: Do you never visit the plants?

Paul Finnerty: We do, and I would like to come to what we did in the aftermath. At the outset, this is a matter for which we apologise. As a business, we apologise unreservedly for what happened at Silvercrest in the context of specification.

If I may move on to the equine issue caught up in the specification issue, as a business we never knowingly bought, ordered or processed any horsemeat. We were a victim of a fraud, which we now see as a Europe-wide issue in the context of how this has evolved over the last number of weeks at Silvercrest.

Perhaps at this point I might try to join this together and talk about some of the reasons why it happened and how we have fixed it as a business.

Chair: We might come on to that. I will let Mr Gardiner continue, and then I will turn to Margaret Ritchie.

Q60 Barry Gardiner: I have some specific questions with perhaps very specific answers. I am sure that much of what you wish to say, Mr Finnerty, will come out in your response, but perhaps you could try to keep it to the points I ask. Larry Goodman, I understand, is currently the Executive Chairman of ABP, is that correct?

Paul Finnerty: That is correct

Q61 Barry Gardiner: You will recall the 1994 public inquiry report of the Beef Tribunal, in which Mr Goodman's company, Anglo Irish Beef Processors, was found to have faked records, cheated customs officers, commissioned bogus meat stamps, and practised institutionalised tax evasion with the use of fake invoices. What assurance can you give to this Committee that ABP's paper trail is more reliable than that of the previous company that Mr Goodman was involved in?

Paul Finnerty: First, I would say in response that the events you are referring to happened over 25 years ago.

Q62 Barry Gardiner: 1994, I think, was the public inquiry.

Paul Finnerty: That is when the inquiry was, and it was referring to events that significantly preceded that. Most of the allegations made at that time were not substantiated through the tribunal findings, and I think it is very important to say that.

Q63 Barry Gardiner: The inquiry found that the company had cheated customs officers, had commissioned bogus meat stamps, had practised

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institutionalised tax evasion with the use of fake invoices. All those were things that the inquiry found. Let us be absolutely clear.

Paul Finnerty: I think it is fair to say that over 95% of the allegations that were made at the time were found to be unfounded.

Chair: I am going to bring in Margaret Ritchie at this stage.

Q64 Barry Gardiner: Mr Finnerty has not answered the question about ABP's paper trail.

Paul Finnerty: To be quite honest, it is 25 years since those issues arose.

Q65 Chair: Could you just explain the paper trail that related to this out-of-specification supply chain?

Paul Finnerty: Yes, if I might come on to that. Silvercrest represents 3% of our group's activities. It is one site operating in the Republic of Ireland. We have 20 sites operating here in the UK, employing 5,000 people. We operate to the highest standards in terms of traceability of product, in line with the rest of the industry. Our traceability systems in this country, and also in Ireland, are the best in the world. The nub of the issue around Silvercrest and traceability hinges on the difference between chilled beef and the frozen product used for processed foods. It is very important, I suggest, that I am allowed to elaborate on this point just a little.

Chair: I invite Margaret Ritchie to go down this path.

Q66 Ms Ritchie: This is a question to you, I suppose, Mr Finnerty. What is your current understanding of the route by which your beef products came to contain horsemeat?

Paul Finnerty: Yes. In a one-word answer, all our traceability has shown that the substantial part of the contamination derives from Poland in terms of frozen product that entered our system that was contaminated with horsemeat. In explaining how this arose, I would like to demonstrate the difference between chilled beef and frozen beef. For chilled beef, which is 95% of our food business, which we operate through 12 abattoirs and boning halls throughout this country, the supply chain is very short. We try to procure two-thirds of our cattle from within a 30-mile radius of each of the facilities we use. Once the cattle come into our system, we have a highly secure system from there, going through our business, to ending up with our retail and food service customers. It is a process that takes a matter of days and a short number of weeks.

Frozen food is different. It is a product that has a lifespan of up to two years, and the raw material that is bought is much more commoditised. As we have seen in this incident, it tends to go through many hands.

Q67 Chair: No, I am sorry; you are getting too far away from the question. You have just told us that on the evening of 14 January you were told that a consignment, for months, in your view, was out of specification.

Paul Finnerty: Yes.

Q68 Chair: Now, we want to know why it was out of specification, and where the supply chain was deficient, please. Now.

Paul Finnerty: It was, in that the raw material that we were using that went into certain customer products was coming from suppliers who were not approved.

Q69 Chair: Tesco told us that Silvercrest went outside the supply chain to unapproved suppliers. You are confirming that that was the case?

Paul Finnerty: I am confirming that.

Q70 Chair: As far as you are aware, ABP knew nothing about it? This was entirely a lone operation of Silvercrest management at that plant?

Paul Finnerty: Absolutely correct.

Q71 Chair: Where was it sourced from?

Paul Finnerty: The products that contained the contamination in particular were sourced from Poland, as I have said, and the actions we took—

Q72 Chair: No, no. Stop talking about the actions you have taken until we have found out how you got there.

Paul Finnerty: Okay.

Q73 Ms Ritchie: You say, Mr Finnerty, that the source of the contamination was Poland. Was any of it in Ireland?

Paul Finnerty: No.

Q74 Ms Ritchie: Are you absolutely convinced of that?

Paul Finnerty: We are.

Q75 Ms Ritchie: Do you have an evidence base that indicates that?

Paul Finnerty: Yes. We have done extensive testing. We have done over 1,500 tests at Silvercrest since the issue arose, both raw materials and finished goods, and all of the positives we are seeing that are showing anything more than trace are emanating from Poland.

Q76 Chair: I am sorry, but what evidence do you have for that, and why have there not been prosecutions brought?

Paul Finnerty: Our investigation, as well as the investigation of the competent authorities, is still ongoing. There is one important point I need to know. The beef that we understood to be beef that was contaminated was ordered from Poland—from a particular business in Poland. We do not have the evidence that it was contaminated with equine at the point it left their factory in Poland.

Q77 Chair: But you have a paper trail from this plant that was reported on 14 January to be out of line. You have the paper trail that goes from that plant, you are saying, to Poland. Were these labels in English, or were the labels in Polish?

Paul Finnerty: I am not sure what language the labels were in. I do know from our own investigation that

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the products, clearly tracing back the product that was equine-contaminated—

Q78 Chair: How can you say that if you do not have evidence of where the labels were put on and where the switch was made?

Paul Finnerty: Because we have done very substantial work with the competent authorities in Ireland, tracing the product back to source in Poland, Chair.

Q79 Ms Ritchie: What checks did you carry out prior to all this happening, and what checks are you now carrying out, Mr Finnerty?

Paul Finnerty: As an industry we never checked for equine, and our business never checked for equine in the past. Clearly, that is one of the changes we have made since the issues arose, and we now do that. We also now no longer buy from third-party traders or middlemen. We now buy, in our business, only directly from primary sites that provide the raw material. The checks we are making now are to take out the risk, to de-risk the whole supply chain, and to bring us as close as possible to where raw material is coming from. Most importantly, a further change we have made is that, for all frozen burgers we are making now, all the raw material comes from only Britain and Ireland. We are not taking any raw material from further afield.

Q80 Chair: With the greatest respect, Mr Finnerty, that is what you told Tesco. For the last years that they have had their supply chain with you, we heard it was on the basis that you promised them that the beef would be sourced from only Ireland or Britain. Why should we believe a word you are telling us?

Paul Finnerty: Because Silvercrest is a business that trades all over Europe. It is a business that was allowed to trade up to, or allowed to use, 30% of its raw material from non-UK and Irish sources. We were buying 5% of the raw material that went into the Silvercrest facility from Poland. It should not have gone into particular customers' products. It was earmarked for other customer products, quite validly. The mistake was some of it going into the wrong customer products, and, as a result, breaching specification.

Q81 Chair: Surely the mistake was taking produce that was not from a confirmed, approved supplier. Was that mistake a failure of your system, a failure of your management, or a failure to go outside the supplier chain?

Paul Finnerty: We bought only from EU-approved suppliers. We understood we were buying from suppliers who were approved by the British Retail Consortium. They were suppliers that were as fit for purpose as any other, as we understood.

Q82 Chair: I just come back to what Silvercrest told Tesco: unless I dreamt this, we heard from Tesco that Silvercrest had an approved supply chain and were sourcing the beef from only Britain and Ireland.

Paul Finnerty: Yes.

Q83 Chair: At what stage did you stop sourcing from only Britain and Ireland?

Paul Finnerty: When we became aware in the group that we had the issue, we changed the management. We changed the division; we have disbanded the division that Silvercrest reported through, and made the decision that we were buying only from Britain and Ireland. On top of all that, Chair, on the day this issue arose, we withdrew all our product from the marketplace; 10 million burgers were immediately withdrawn when we in the group became aware that there was an issue around specification. The management changes, taking the maximum approach in withdrawing product, and the changes we have made—with not buying from the middleperson or the meat traders any more, buying only directly from source and buying only from Britain and Ireland—are a very radical package of measures to ensure that this cannot happen again on the frozen food side.

Q84 Ms Ritchie: Mr Finnerty, you say you acted quickly by closing Silvercrest facilities and installing new management. What happened to those staff in the facilities you closed? Did they go to another position within ABP, and does that indicate that the incidence of 29% horsemeat in the Silvercrest product was a failure of your systems, rather than those of your suppliers? Chair, I want to go on to ask about Tesco UK.

Paul Finnerty: All the staff are on paid leave at the moment, until we get to the end of this issue, and we are looking at a couple of options around the site. I am not in a position to comment positively or negatively on that. Three members of management from Silvercrest have been stood aside pending the conclusion of the investigation. There is a due process to be gone through there. Also, in disbanding the division that Silvercrest reports through, we have asked the managing director of that division to stand aside, and there is due process to be gone through there also.

Q85 Ms Ritchie: Tesco told us that Silvercrest went outside an approved list of suppliers. To quote them accurately, they said, "We had approved for use seven different suppliers to Silvercrest, no more than that. Silvercrest chose to use suppliers that we had not approved and audited." Therefore, how long had Silvercrest been supplying Tesco UK? When did you sign your most recent contract, and how long was that for?

Paul Finnerty: As I said, the supplier list that was being used went back several months, and that was a breakdown of internal controls on our side. The Tesco contract was one that was generally renewed on an annual basis. That contract is at an end at this stage.

Q86 Ms Ritchie: Tesco told us that they stipulated that you should use only seven approved suppliers from the UK and Ireland. Did you go outside that list?

Paul Finnerty: Yes.

Q87 Ms Ritchie: What was that list, if you went outside that list?

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Paul Finnerty: That was a list of companies or plants that it was appropriate to buy from.

Q88 Ms Ritchie: Were they based in the Republic of Ireland, the North or here in Britain?

Paul Finnerty: It would have been a combination of all. I mentioned that it was a breakdown of trust in terms of our business and the customer arising from that. That is not something we tolerate in our business, and I think our actions reflect that. There were other suppliers that the local team chose to supply from.

Q89 Ms Ritchie: And who were those suppliers?

Paul Finnerty: They were other companies, including supply coming from Poland.

Q90 Ms Ritchie: Can you give us the names of those?

Paul Finnerty: I am not in a position to give the name of individual suppliers at this point.

Q91 Ms Ritchie: Can you say why you are not in a position to do that?

Paul Finnerty: Because the facts are that we were out of specification. The facts are we have paid the ultimate price in having to close the factory and lose the account, at very considerable cost to our business. I have apologised for what went wrong at Silvercrest, and it has been dealt with, with the customer in particular.

Q92 Ms Ritchie: When did that happen? Can you provide us with a date?

Paul Finnerty: Of when it happened with the customer?

Ms Ritchie: Yes.

Paul Finnerty: It is an ongoing discussion with the customer at the moment. It is not concluded.

Q93 Ms Ritchie: In your written evidence you say, "At low threshold levels the tests are not completely reliable, and the tests are also costly." Do you accept the methods and finding of the Food Safety Authority of Ireland?

Paul Finnerty: Yes.

Stuart Roberts: The very simple answer to that is, "Yes, we do." I think there is an issue where the test gets below this 1% that our FSA have discussed. It is not necessarily whether it is accurate or not; it is about the fact that the confidence in it and the repeatability of it is significantly less. Could I touch on the costly point? Things have changed significantly since we made that written submission. Indeed, the gentlemen who spoke before talked about the cost of these tests. Something we have discovered—and I think as a group we have done the thick end of 4,000 tests now—is that actually some of the tests are £300 or £400.

If you want to do PCR tests, you can spend an awful lot of money. You can do ELISA tests externally, which cost between £50 and £100, and they were the ones that I think the gentlemen referred to. However, you can also do rapid tests, which I am led to believe are just as reliable as ELISA, for a few pounds. One of the things that helps me in understanding some of

this is that there is no excuse on cost grounds for not doing testing. You can use rapid tests, if you like, as a quick and dirty look for something, and if you see something, you can ramp up the tests. I was not being misleading in my written evidence, but certainly things have moved on significantly since then.

Q94 Chair: Mr Finnerty, you said the supplier, but we heard from Catherine Brown, the incoming Chief Executive of the FSA, that, in her view, the supplier had been in business for one year—this new, bogus supplier that your firm had been using. What assurance can you give the Committee this afternoon that you have put checks in place to make sure that your business now will take responsibility for testing food going into your processed and frozen meats, to make sure that this never happens again?

Paul Finnerty: A categorical assurance: we have been the most tested company in the world in terms of equine over the last several weeks, and all our business is clean with the exception of Silvercrest. We have developed protocols with our customers, whereby product is now only positively released. If we take product that there could be question marks over in terms of equine, whether that be minced product or whether that be beef product, we are using a combination of testing, ELISA testing and PCR testing, on set sample sizes, and product is only released into the food chain after all tests prove negative, as they have been over the past couple of weeks. It is in conjunction with our customers that we have developed the protocols to do this.

Q95 Chair: And that will carry on now forever and a day?

Paul Finnerty: It will. It will carry on for the foreseeable future.

Q96 Mrs Glendon: Mr Finnerty, you have said that you have the shortest supply chain possible, and you know this is a Europe-wide issue. Could you tell us about any business that ABP does with Brazil in relation to meat products?

Paul Finnerty: We do no business with Brazil at the moment in terms of product that we are working with.

Q97 Sheryll Murray: I would like to turn to trace contamination, and specifically again to ABP. Does Dalepak in Yorkshire use the same suppliers as Silvercrest?

Paul Finnerty: It used largely the same supply base, up to a point in time, but Dalepak is a business that has not shown positives using FSA measurement criteria. It had two instances of trace, but it has changed. The point here, if I might go back to it, is that we have made changes, substantial changes, on the raw material supply chain that we use.

Q98 Sheryll Murray: Specifically, can you update us on your findings and subsequent action in relation to Dalepak, please?

Paul Finnerty: The findings, fortunately, are that Dalepak is clear. There have been hundreds of tests done on product coming out of Dalepak, and also the raw material going in, and none of that has tested

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positive. Dalepak now is a business that we are investing in for significant growth down the line.

Q99 Sheryll Murray: Has any horse DNA been identified in any other meat products from the ABP Food Group?

Paul Finnerty: It is back to my point that we have, through the group, outside of Silvercrest, performed 2,500 tests, which were all negative.

Q100 Sheryll Murray: So you can categorically guarantee that horse DNA has not been found in any other meat products from your company?

Paul Finnerty: No, as I have said, other than a couple of instances at trace levels—not positive, as the FSA would measure it—there is no equine. Do you want to add to that, Stuart?

Stuart Roberts: Yes, and we can be categorical about that. I would also like to put on record that there was some discussion, and there was an announcement, about a potential positive—I think it was a Bolognese sauce that came out of a company called Greencore, who said that the contamination had come from one of our sites. We at that stage said that we were very clear that it could not have come from our site. We traced every animal back to every farm it had gone to, and we were very pleased yesterday when Greencore announced the findings of their investigation, which cleared ABP of having anything to do with any contamination in relation to that.

Q101 Sheryll Murray: Finally, do you have any concerns about specific DNA-type tests, or any type of DNA test, carried out by the Food Safety Authority of Ireland that identified trace contamination?

Paul Finnerty: No. I think there is a lot of noise about different types of testing. There are issues: our scientific adviser from Leatherhead was saying that one needs to be careful about how you interpret individual tests. In particular, you need to be very careful down at trace levels about the validity of results there. What has become clear to us as a business is that there needs to be a combination of ELISA tests, which in the first instance catch if there is contamination at over 1%, and what is called PCR testing, which is a more precise measurement tool.

Q102 Sheryll Murray: Can you avoid trace contamination when the food processors use more than one meat product in the same factory?

Stuart Roberts: This gets to the heart of some of these issues. A little bit like the GM debate a few years ago, the science of detection has moved on much faster than what my colleagues would call the good manufacturing practice or policy in this area. What we do not yet know, and we as a group are engaged with Defra's work on this at the moment, is whether the rigorous controls we have all had in place historically to manage hygiene are the same controls we now need to deal with DNA. The honest answer to that is that nobody has yet given us that answer. As I say, we are busy working with the FSA and Defra. Certainly, when you get down to very low levels, our experience is that the repeatability of the test starts to become, not unreliable, but challenging. Certainly we have

tested the same batch of products in two different ways, at very low levels, and you do not necessarily get the same result every time.

Q103 Barry Gardiner: Mr Finnerty, you said that you were not prepared to give the names of the companies that had gone off your supplier list. Could you tell us, are any of those companies that were in that list UK-based meat traders? You do not need to give us the names.

Paul Finnerty: The very short answer to your question is, no. There were no UK meat traders. The question that the authorities are still trying to get to the bottom of is whether there was any issue en route from Poland through to our business in Silvercrest.

Q104 Barry Gardiner: Yes, indeed. I had understood that ABP had named an Irish meat trader, McAdam Foods, as the supplier of meat to its Silvercrest factory for Tesco burgers. Were they one of the companies that you were saying you could not name?

Paul Finnerty: I have to be very careful with regard to naming companies in this forum, because our investigation is not complete.

Q105 Barry Gardiner: You will know that McAdam has said that they bought meat from Poland and supplied it to you. They say that they delivered mostly pork and not beef to ABP.

Paul Finnerty: Just as a point of detail, McAdam is a trader in the Republic of Ireland, operating at the border, and as I have said, the substantial evidence is that the source of the issue here is Poland. Most of that has come directly into our business. Some of that has come in via traders.

Q106 Barry Gardiner: And McAdam was one of those traders?

Paul Finnerty: I would like to be very careful not to name names.

Q107 Barry Gardiner: McAdam have said they were one of the people who supplied meat to you, haven't they?

Q108 Paul Finnerty: Yes.

Q109 Barry Gardiner: So you are not saying it; they are saying it.

Paul Finnerty: Yes. They are a business that we have been trading with.

Q110 Barry Gardiner: Thank you. Did they deliver mainly beef or did they deliver mainly pork to you?

Paul Finnerty: They delivered both.

Q111 Barry Gardiner: "Mainly" is the question.

Paul Finnerty: They delivered both.

Q112 Barry Gardiner: Perhaps you could delve back in the records and find out what amounts of both were delivered.

Stuart Roberts: I would be very happy. I was going to say, in terms of "mainly", I think they were very

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finely balanced, but I will write to the Committee with those volumes. I would be very happy to do that.

Q113 Barry Gardiner: Thank you very much. Could you tell us whether ABP, or indeed the Executive Chairman, have any stake in Rangeland Meats, to your knowledge?

Paul Finnerty: The answer to the question is, no.

Q114 Barry Gardiner: Thank you. Do you have any stake, or does Mr Goodman have any stake, in Norwest Foods?

Paul Finnerty: The answer to the question is, no.

Q115 Barry Gardiner: When did Ray MacSharry Junior leave the employ of ABP or of Goodman Holdings to work in Norwest?

Paul Finnerty: I am happier to revert to the Committee at a later time. I don't know. It is a long time ago.

Q116 Barry Gardiner: That is fine. When did Eamon Mackle and Jim Fairbairn leave the employ of ABP or Mr Goodman and start work with Freeza Foods?

Paul Finnerty: Again, I am happy to respond to the Committee.

Q117 Barry Gardiner: That would be extremely helpful, thank you. What relationship does ABP Food have with Comigel? Does ABP or Mr Goodman own shares in that company?

Paul Finnerty: No; no relationship, to the best of my knowledge.

Q118 Barry Gardiner: Mackle and Fairbairn were part of what I think was called "the A team" at the Goodman Group, repackaging and re-labelling meat at various plants. Did they engage in this activity at Freeza Foods?

Paul Finnerty: I suggest that is a question for Freeza Foods. I have no knowledge of these people.

Q119 Barry Gardiner: You have no knowledge of the A team?

Paul Finnerty: No, I do not, Mr Gardiner.

Q120 Barry Gardiner: Could you check whether they ever worked for the company or for Mr Goodman?

Paul Finnerty: I am very happy to.

Q121 Barry Gardiner: You will recall that Mr Goodman revealed that he had a hidden group of companies called the "Cork companies". Are any Cork companies still in existence, to your knowledge?

Paul Finnerty: Again, through the Chair, I think this is going back over 25 years, and I have no knowledge of—

Q122 Barry Gardiner: You have no knowledge, and you do not know whether any of those are currently engaged in meat processing at all?

Paul Finnerty: No. I believe not.

Q123 Barry Gardiner: If Cork has gone, was it replaced by any similar structure of secret shares in meat processing companies?

Paul Finnerty: Could you repeat the question?

Barry Gardiner: Cork was a secret set of companies, was it not? To the best of your knowledge, there is no similar structure in place at the moment?

Paul Finnerty: Let me go further. It is very simple. All our meat business is operated through the ABP Food Group.

Q124 Barry Gardiner: Fine. Has Finbarr McDonnell, Managing Director of ABP Poland, authorised the purchase of horsemeat for sale in Europe?

Chair: It may be of help if I say at this stage that we have no power to require any information or provision of papers extending to a non-UK company. If it is sub judice, if it is part of your investigation or the Irish investigation, it would be very difficult for us to push into those areas until such time as the investigation is complete. If you want to write to the Committee in answer to these questions, that would be helpful.

Barry Gardiner: Mr Finnerty has been very transparent and said he is happy to engage with us in these questions, and I am grateful for that. Has Franck (Zhou) Fang, the Marketing and Procurement Manager for ABP China, been authorised to buy horsemeat in China for export to Europe?

Paul Finnerty: Through the Chair, we do not trade in horsemeat, full stop.

Q125 Barry Gardiner: So Franck (Zhou) Fang is not the Marketing and Procurement Manager of ABP China. Or is he?

Paul Finnerty: In response, we do not trade in horsemeat. It is possible that there may be licensing that covers multi-species in terms of how some operations are set up, but we do not deal in horsemeat in any part of our Group. We do not buy it, we do not process it, and we do not sell it. It has nothing to do with our operation.

Q126 Barry Gardiner: So those two gentlemen, Franck (Zhou) Fang and Finbarr McDonnell, could not have been authorised to purchase horsemeat for the Group?

Paul Finnerty: Not to the best of my knowledge. Not unless there is some kind of funny licensing quirk.

Q127 Barry Gardiner: Did Dr Angus Knight meet, at any stage, either any UK or any Irish Minister on behalf of ABP to discuss the validity of the DNA testing?

Paul Finnerty: Not to the best of my knowledge. Mr Knight, who I think is in the room, is our scientific adviser, and any meetings he has been at with any officials, I think, have been with me.

Q128 Barry Gardiner: Will you write to us and let us know if there are any that did not take place to your knowledge?

Paul Finnerty: Again, we wish to be very open and transparent on this. We have nothing to hide. We are very happy to provide additional information.

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Q129 Chair: Thank you. If we could just go back to our original information, that would be helpful. You will be aware that before 2009, 2,000 horses were slaughtered per year in Ireland. After 2008, about 25,000 horses were sent for slaughter at registered abattoirs and slaughterhouses. That is quite a large figure, isn't it?

Paul Finnerty: Again, it is 20,000-odd horses. The annual cattle kill, which is our business, is in excess of 1.5 million per year, and horses is not something we have ever focused on in any shape or form in our business.

Chair: And you have no intelligence to suggest that these horses, slaughtered in Ireland, might have entered the food chain as beef in the United Kingdom?

Paul Finnerty: None whatsoever.

Chair: Categorically.

Q130 George Eustice: I am not a barrister, so my questions will be slightly less narrow. I know you would not name the supplier, but I want to ask, coming back to the ones where you import directly from Poland, do they admit culpability or admit that they supplied products labelled as beef when in fact it was horse? Do they admit that much? They do not dispute your version of events?

Paul Finnerty: They do not dispute the trading relationship. The company in question, to which you are referring, has made a public denial. The facts of the matter are that we have a product in our cold store that we bought as beef, which is testing positive for equine. The key issue is where that contamination or adulteration occurred in the supply chain. Did it occur through their business, or did it occur somewhere else, before it reached our business? The point here is that we are the victims in this, like many other businesses around Europe—I think of Nestlé and Findus and Birds Eye. On the products that we bought as beef, we were defrauded, and it has entered into our business sporadically contaminated with horsemeat.

Q131 George Eustice: You said earlier that you could not say what language the labels were in. Is that because that is an issue that is disputed, or because you do not know?

Paul Finnerty: I have not inspected the labels directly. I don't know whether you have anything further?

Stuart Roberts: I have not.

Q132 George Eustice: Did they supply something that in Polish was labelled as horsemeat in good faith, and you did not read Polish?

Paul Finnerty: No, that is not right.

Stuart Roberts: If I could just make one point on this, I think it goes back to some of the points that Mr Gardiner made as well. As Paul says, we do not know at what point we were defrauded between the licensed premises in Poland, and arrival in our factory. What we have done is that every single piece of information, including labels, et cetera, and health marks, of course, which are very important in this area, has been passed to the authorities and the police. The authorities here and in Ireland, and obviously the police in Ireland, are carrying out a very thorough

investigation as well. We cannot speculate on where that took place, but I hope they will get to the bottom of it very quickly.

Q133 George Eustice: I want to bring the BMPA back in now, as you have had a good break. More generally, on the issue of regulation, Mr Finnerty mentioned earlier that there were more risks, basically, with frozen meat products because you had a longer supply chain and the product was commoditised. Do you think there is a lack of regulation particularly in that area, and maybe we need tougher traceability rules to ensure that you do not have problems with frozen products?

Stephen Rossides: I will make a general comment; I don't know if Mr Simpson wishes to comment as well. I would say the issue here, narrowly in this horsemeat episode, is less one about regulation. There is not a systemic breakdown of the meat supply chain. It is a question of fraud, and there has been criminal behaviour somewhere along this comparatively narrow, small number of supply chains, and comparatively small number of products, as the testing shows. The issue is, from a regulatory point of view, whether you found a legislative regulatory system on the basis that everyone is or could be a criminal. I think it is less a question of regulation—there may be some areas to look at here—than one of fraud.

Q134 George Eustice: The Government are obviously proposing a more risk-based approach to the inspection regime for abattoirs.

Stephen Rossides: We are a long way from that.

Q135 George Eustice: Do you think there is a problem, though, that the issue with food, particularly the meat industry, is that you never know what the next risk will be? It seems that everybody was blind to this possibility that horsemeat could be entering the food chain as beef. That is why you need thorough tests, done regularly.

Stephen Rossides: A number of people have said this, and I don't think anyone would ever have envisaged, in the world, that horsemeat would enter the food chain. I don't think any—

Q136 Chair: Excuse me, but in Paragraph 8 of our Report into desinewed meat last year we said, categorically, that there was a strong possibility that this would happen. I think you would wish to be responsible for your supply chain, and you, Mr Finnerty, and you, Mr Rossides, must take some pride in knowing where the food you are selling is coming from.

Stephen Rossides: Yes, Madam Chair. Food business operators' responsibility, legally and morally, is to produce safe food, and to describe and label it accurately. By far the great majority of businesses do exactly what they are supposed to do, day in, day out. We here have instances of fraud, and I am not sure that, prior to it happening, the regulatory system could have envisaged that. That is why everyone has been so shocked about it.

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It raises a number of questions, and what we have to get to the bottom of is what controls may or may not be needed—and we still have not got to the bottom of the facts of this. What are proportionate controls, what are risk-based controls, what are workable controls, what are affordable controls in the light of this? I don't think in hindsight that anyone would realistically have envisaged that horsemeat would have entered the food chain in the way it has.

Q137 Chair: Not specifically horse, but we warned it was potentially another, cheaper product being passed off. Mr Gardiner would ask, I am sure, Mr Finnerty, if you now know that you have been passed off horsemeat for beef, who will you sue?

Paul Finnerty: That is the subject of our investigation, and that needs to be followed through. Obviously there is a process to be gone through there.

Q138 Barry Gardiner: But, Mr Finnerty, you said, of course, that there were continuing investigations into the criminal activity here, but this is a contract. You had a contract with someone. That contract was to supply you with beef. You now know that you were not supplied with beef, and you know with whom you had that contract. Therefore, it makes perfect sense that there is no investigation to be done at this point. You know they supplied horse instead of beef. Why are you not suing them?

Paul Finnerty: I am not saying we will not get to that point. I am saying that this is a matter that is being investigated not just by our business, but by the competent authorities. The company in question are disputing that they are the source of the equine here, and the investigation now performed by the police authorities—

Q139 Barry Gardiner: It is not a matter of the source, though, is it? They had an obligation to supply you under the contract, wherever it came from.

Chair: Let him finish.

Paul Finnerty: If I might finish, we ordered and paid for beef. What we received was something different. The question is, where did the adulteration arise? Did it arise before it was dispatched from the company we bought from, or somewhere else en route? That question has not been resolved yet.

Q140 Dan Rogerson: So what you are saying, following on from Mr Gardiner's question, is that you will not go to court until you are absolutely sure that you can prove it was not changed en route? The question I want to ask—I am not sure whether you want me to move on to that question or not—is that in terms of public confidence, there are some very serious questions about the length of the chain. The issue is one of people who would find it unpleasant to know they are eating horse, and it is a labelling issue. It is the fact that some people may be repelled by it, and for other people it may not be a problem as long as they know what they are eating. What this also leaves us open to, however, if we have this length of supply chain, is that you are not clear whether the meat you have is the meat that left the supplier, which is why you cannot go to court and sue them. How are

you able to say that that meat is safe for human consumption?

Paul Finnerty: All of that meat has been withdrawn. We withdrew the 10 million burgers—

Q141 Dan Rogerson: After the fact, but prior to the fact, on the basis of a risk-based approach, we need to have confidence that the meat is going from Point A to Point B, and then becomes C, which goes on the shelf in the superstore.

Paul Finnerty: Absolutely, and what we do now is buy only from producers. We do not buy from any middle parties. We only buy, for our frozen burger products, from primary producers in the UK and Ireland, and there is no evidence that there has been any issue in terms of equine contamination emanating from them. We audit all our suppliers now. We did not do that before: we relied on the EU licensing regime and the BRC accreditation. We are now auditing all the suppliers we are buying from. We have shortened the chain; we are auditing who we buy from; and we are restricting it to these two islands.

Q142 Dan Rogerson: That is a lesson everyone has learned, and we will move on from it. How confident are you that, had there been anything that could have been harmful to human health in that meat, you would have picked it up?

Paul Finnerty: In all the sampling that was done originally, where any positives were shown, that product was also tested for bute, and it all showed negative.

Q143 Dan Rogerson: Once the alarm was raised. What I am saying is, prior to that alarm being raised by the decision of the FSA in Ireland to conduct this extra test, how confident are you that there was not contamination within another product, or that it was all handled in hygienic conditions, and so on? How can you have confidence in that meat?

Paul Finnerty: It is going back in time. It would be speculation on my part, because I am not able to test everything that was sold over the past year, but there is no evidence that there was any bute contamination of any of the products that tested positive for equine.

Q144 Dan Rogerson: It is not even just bute. What I am saying is, how do we know that this meat had not been sitting at the wrong temperature for a while? Once you have a problem with the meat you are using that has been commoditised, how are we confident that any of the parameters that could give rise to problems have not been breached?

Paul Finnerty: The only thing we did not test for was equine.

Q145 Dan Rogerson: But you test for all the other stuff?

Paul Finnerty: We do microbiological testing; we test for *E. coli*; we test for salmonella. We have a very sophisticated food safety testing regime right through our business, which ensures good safety. The one thing we had not tested for, and nor had the industry, was equine, but anywhere there has been a positive in

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the product that came out of Silvercrest, where bute is also tested for by the FSAI, that came up negative.

Q146 Richard Drax: Can I ask both of you—perhaps Mr Rossides could answer first, to give Mr Finnerty a rest—where the profits are being squeezed most in the food chain?

Stephen Rossides: The whole food chain is under pressure, Mr Drax. Speaking from the point of view of my members, they feel in a very uncomfortable place. Livestock supplies are falling in the United Kingdom. We are well below self-sufficiency, as you probably know. Livestock supplies are falling, and from the point of view of our members, although farmers would probably disagree, they are facing very high livestock prices. Their other costs are also rising, of course: energy, labour, whatever. All those costs are rising, and on the other side there are extremely competitive retailers and we know the consumer is having a hard time in a difficult economic environment, and retailers are seeking to keep prices to their customers down.

From the point of view of my members—and Andrew runs a company, so he is at the coalface on this—they are in a very uncomfortable position, as I say, between quite high input prices, including raw materials, and very competitive supermarkets seeking to contain prices. I can only speak for my membership, but I think they feel in a rather difficult place in these tough trading times.

Q147 Richard Drax: Has that increased the risk of adulteration, do you think?

Stephen Rossides: I don't think one can go from A to B on that. I don't think one can draw that conclusion, necessarily.

Q148 Chair: Does Mr Finnerty want to reply as well?

Paul Finnerty: I do not believe so. I think British retailers are as sophisticated and as operationally excellent as any in the world. It is a very competitive industry, as we all know. It is very competitive through the supply chain, but there is no evidence that that in turn leads to bad practice. What I have talked about in our business is an exception on one site. The inference is that because of the competitive pressures passed down the chain, rules are broken, and the product is of a poorer quality, perhaps, than it should otherwise be. I would not accept that to be the case. I think there is a line that you do not go over in terms of dealing with specification, as we have evidenced.

Q149 Richard Drax: So in your view it is criminal, rather than companies trying to cut corners? It is fraud, to be blunt, isn't it?

Paul Finnerty: In a nutshell, this is a fraud. This is a fraud on an EU-wide scale of equine entering the beef system that has been perpetrated on the consumer and the rest of the supply chain.

Q150 Chair: You will realise that the difficulty we have, and the problem for consumers, is that we are two months on and we still do not know, or you are telling us you do not know, at what point the product

entered the supply chain. Until we know that, short of sourcing all meat going into processed and frozen food from this country, I don't think our consumers will be satisfied.

Stuart Roberts: I would not disagree with that, Chair. For me, that is why, in disbanding the Convenience division as Paul did, what we have done is brought the rigours that apply in our Chilled division, where we work with 10,000 farmers very closely, and we have shortened the supply chain. That is how we will protect ourselves against the risk of this, by having as short a supply chain as we can, not just for our fresh beef, as we always have done, but applying those same robust rigours to our frozen business.

Q151 Barry Gardiner: Mr Rossides, do you think the loss of desinewed meat has led to increased demand for cheap meat from abroad?

Stephen Rossides: The moratorium on the use of desinewed meat leaves manufacturers with three options. They can either source expensive, what you might call “muscle” meat; they can use and label mechanically separated meat; or they can seek alternative filler materials—trims or whatever. Those are the options available to them, and they will make that commercial decision according to the product they are supplying, according to their customers' requirements, according to availability, quality and price.

Q152 Barry Gardiner: At the end of January, the FSA turned up at Newby Foods to check whether the moratorium on desinewed meat was being respected, but you will know that they were denied access. In fact, they were told that they would not be allowed into the factory to make that check, because they did not have a search warrant. They had to go away; in fact I think they were given a cup of tea whilst they went away and got a search warrant. Is that the sort of co-operation you think your members should be affording to the FSA as it tries to conduct inspections?

Stephen Rossides: I cannot comment, Chairman. I am not trying to be difficult or evasive here, but I cannot comment on that. In fact I did not actually know that. I think Newby are in legal proceedings, and that may have been the basis of some of their thinking, but I am not in a position to speak on their behalf.

Q153 Chair: It is sub judice.

Stephen Rossides: Yes. It would not be fair or right for me to comment, I don't think.

Q154 Mrs Glendon: Tesco says it will now source more meat from the UK. How will this affect you, and will this necessarily lead to higher prices for consumers?

Paul Finnerty: I would respond to that by saying I think some of the consequences of this situation will be very positive for the industry as a whole. As we have said here, it will shorten the supply chain; it will result in more British beef being produced. We spend, in the rural economy, over half a billion pounds per year on the cattle we buy, working with 10,000 farmers. As I say, one of the learnings here is that we will be buying more British going down the line.

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Andrew Simpson: If I could comment, there is an underlying issue, and that is that the UK does not produce enough beef to feed itself, and therefore, inevitably, some beef will have to be imported, period.

Stephen Rossides: Madam Chair, Tesco made a very public commitment to review its sourcing policy and shorten its chain. I think some detail needs to be put into that. They said they would be conducting a lot more testing, and I am sure there will be a lot more testing done across the whole industry. They also said prices to consumers would not go up, which suggests either that the efficiencies they will find in shortening those supply chains will pay for all those extra costs, or that Tesco itself will absorb those costs, or, if prices to consumers will not go up and there are additional costs, that those costs will go back through the supply chain. It must mean one of those three things, and I am not entirely sure which of those it is.

Q155 Mrs Glindon: Could I ask you to say what will be the realistic outcome? Will it be that the prices to consumers will be the ultimate cost?

Stephen Rossides: I said that Tesco stated publicly, at last week's NFU Conference, that prices would not go up to consumers. That is what they said. Therefore, those three options that I described must follow, I would argue.

Paul Finnerty: One of the interesting things about this situation is that chilled beef sales have not fallen. That is where, as I say, 95% of the market at supermarket level and private label is. It is in chilled beef.

Q156 Chair: Could you describe chilled beef?

Paul Finnerty: Non-frozen and non-processed, just the chilled beef that you see on the retail aisle and on the counter. Sales have been flat throughout this whole situation, with the exception of burgers, which have come back. Frozen burgers have obviously come back more. I think fresh burger sales will recover in the near term, and beyond that it becomes a matter of matching demand with supply. Demand has not been negatively affected, and I think more of the supply will be coming from the UK and Ireland as opposed to further afield.

Q157 Chair: Just to conclude, Mr Finnerty, you have said that you have removed the middleman and shortened the supply chain. In this country, we are now familiar with the Red Tractor label, and we have imposed even higher animal welfare standards, probably, than yourselves. Are you looking in Ireland to introduce a similar farm assurance scheme?

Stuart Roberts: Yes, and I had best declare an interest, Chair, as a Director of Assured Food Standards. One of the things ABP are very proud of is that we were one of the organisations very much at the start of farm assurance, and all the stock we look to buy is farm assured. We are equally engaged with the equivalent scheme of farm quality assurance that takes place in Ireland, and we are big supporters of it.

Chair: On behalf of the Committee I thank you very warmly indeed for being so generous with your time and answering all our questions. Thank you very much indeed.

Examination of Witness

Witness: **Peter Kendall**, President, National Farmers Union, gave evidence.

Q158 Chair: Mr Kendall, good afternoon. I welcome you most warmly on behalf of the Committee. Thank you for participating in this inquiry on contaminated food. Would you just like to give your name and position for the record, please?

Peter Kendall: It is Peter Kendall, President of the National Farmers Union.

Q159 Chair: Excellent. Are you personally convinced that this is an EU-wide problem, and that it is one that should be treated to find an EU solution?

Peter Kendall: That is absolutely right. This has occurred now across a number of countries within Europe, but listening to the questioning that has just gone on, I think for us in the UK it is really important to get to the bottom of what has happened in Ireland, because they are a major trading partner of ours. I am surprised that we have seen very rapid responses to questions in France and what happened with the Romania-France connection, yet bearing in mind that this was first raised in Ireland in November, we are still waiting for answers.

Q160 Chair: Is this not a wonderful opportunity for the British farming community to seek to source, not just more fresh meat, but more British produce going into our own produced frozen and processed foods?

Peter Kendall: We have been incredibly measured in how we respond to the crisis, because there will be some people who will be put off, potentially, consuming meat products. We have to balance that with the potential and opportunities of having shorter supply chains, and retailers wanting openly to brag about their sourcing policies and their hopefully strong and profitable relationships with farmers in the UK.

Q161 Chair: Could you tell us of your recent discussions with Copa-Cogeca on this particular issue and about the EU-wide response to the contamination of food products?

Peter Kendall: One of the jobs I do as well as being President of the NFU is to chair the Food Chain Working Party within Copa-Cogeca, and we have had discussions about the scale of the problem. I think it is a common feeling among the farming community across Europe that this is something that has real potential to damage our reputation, so I think there is widespread concern and anger at what has happened. As I said in a speech last week at our NFU Conference, when the beef leaves our farms, it is 100% British, every last kilo of it. We know where it is produced, we know the tagging and the traceability that has gone on. Therefore to find our products, that

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we put so much effort and pride into producing, adulterated when they reach consumers has left farmers incredibly cross.

Q162 Chair: You have just referred to the Irish situation, but is it not the case that we still do not know any more of the food chain across the European Union, whether it is sourced from France or anywhere else? We are still no clearer, across the EU, as to knowing at what point the contamination has entered into the food chain. It is not just in Ireland.

Peter Kendall: The very large adulteration that occurred between Romania and France—I think it was reported that 750 tonnes went through one plant in France—was a large part of that, and very quickly the plant was shut down and cleared out. I understand the management was changed and it has since been licensed to start production again. That strikes me as tackling an issue very rapidly.

Q163 Chair: How would you like to see traceability improved elsewhere in Europe? How would you like to see traceability reach our standards?

Peter Kendall: I have said that I chair the European Food Chain Working Party, but I bat unashamedly for British farmers. I work tirelessly, hopefully, to get more demand for English and Welsh, Scottish and Northern Irish products. My key role is to drive demand for British farmers. We have worked very long and hard to develop the whole farm assurance system in the UK, and the Red Tractor logo is a symbol of that traceability.

It is important that we do not overclaim, but we have independent inspections; as farmers, we pay for an independent person to come and look at our farms, check our records, check how we are doing and police it—it is traceable from the farm to the plate. It is a commitment we have made as a farming industry. Why? Because of bovine spongiform encephalopathy and foot and mouth 15 to 20 years ago.

Q164 Chair: I personally received a written Answer from David Heath, and he confirmed the content in evidence to our initial inquiry on this matter.⁵ I want to ask you whether you are convinced that the inspections at port of exit in all EU member states on all meat products are being conducted, both a physical check and a label check, before they are allowed to leave that country.

Peter Kendall: I think it is incredibly difficult with international trading now to make sure that all inspections are done to the degree that would give my members confidence. We know there are large volumes of illegal meat traded, and that is a concern particularly when we look at disease spread at this moment in time.

Q165 Chair: How would you like to see consumer confidence restored, and what role do you think farmers have in that process?

Peter Kendall: There are a number of things. One, the processors have to carry on the very, very extensive testing that has gone on. It has to be rolled out into other ranges of products, and we have to make sure

that testing is done and relayed clearly to consumers. Then we have to look at how we prevent this sort of scandal from occurring again. We are therefore looking for shorter supply chains, closer working relationships between farmers and their end users. I have been quite clear in asking, why cannot supply chains be simple? When I say “simple”, I mean farmer-processor-retailer/shop. Why does it have to involve crossing many borders, with lots of traders in between? I have quite clearly made the analogy: this is not nuts and bolts, this is not a mobile phone, this is our food. Why does it have to change hands so many times to try to save money?

Q166 Mrs Glendon: Have you any intelligence to suggest that horses slaughtered in Ireland might have entered the food chain as beef in the UK?

Peter Kendall: No.

Q167 Mrs Glendon: You have said a short or dedicated supply chain in meat processing would be helpful. Do you think that would allow for greater traceability?

Peter Kendall: Yes, and there are some really good examples in the UK already. If you look at how Waitrose work with Dovecot Park, for example, just outside Pontefract, they are designated suppliers for whom they have very exacting standards, and they work closely with that retailer, through a designated abattoir, to make sure it meets their specifications. That is an example of how, in designated supply chains, that traceability works very clearly. Why? Because one thing that has come out in all this over the last few weeks is that a retailer’s reputation is everything, so therefore they need to take control of it, and make sure farmers have the ability to invest, make profits and deliver that product at the right time and at the right spec.

Q168 Barry Gardiner: Mr Kendall, what in your view should be the role for the FSA in regulating the supply chain, if any?

Peter Kendall: It is really important that the FSA is an independent body that acts to make sure there is transparency, and that any inspections it is doing are clearly reported back to the industry and consumers. It acts, to me, as a very independent and transparent policeman of food safety.

Q169 Barry Gardiner: Would you agree with the Interim Report of this Committee that suggested that any inspections should automatically have to be reported back to the FSA, no matter who conducts them, whether it is the retailers conducting them for their own account, whether it is the local authorities or whether it is the FSA themselves?

Peter Kendall: I am conscious that we live in a bureaucratic world. I am conscious that we try not to add cost at every point. However, if there is a sensible, proportionate manner of doing that, then there is a lot to be said for that. We are running commercial businesses, and what I don’t want to do is to saddle the whole industry with more bureaucracy and red tape.

⁵ Official Report, 28 Jan 2013, c.588W

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Q170 Barry Gardiner: Do you think there is a role for the FSA in not simply highlighting to local authorities areas that they may care to pursue over the coming year, but also suggesting to retailers that, again, proportionate to the risk and proportionate to the amount of product that they might be shifting in any given case, they should be conducting a given amount of inspections?

Peter Kendall: I am conscious that some of the previous questions were looking forward rather than at what had happened. Immediately, my view would be, because of what has been learned—and I go back to my previous comment about reputation—retailers have so much to lose that I don't believe this will be an issue going forward, unless in a number of years' time we become lazy and complacent. My view is that retailers' reputations are so important that these tests will be relevant tests, and traceability will be demanded as a rite of passage to doing business with the retailers.

Q171 Barry Gardiner: I am sure you are right in the immediate aftermath of this—and of course, if that is the case, the FSA having the power to instruct them or suggest how many tests they should be conducting and so on would not be adding significantly to any regulatory burden there. They would be doing exactly what you said and carrying out those tests themselves. It is more to institutionalise it into the future, if in five or 10 years' time complacency once again sets back in.

Peter Kendall: You have probably picked up from my previous answer, but as a farmer, I am somebody who is loth to institutionalise inspection and regulation in perpetuity.

Q172 Barry Gardiner: I am doing a good job of pressing you, though.

Peter Kendall: I am very conscious that we need to have the right threat of spot checks, proportional checks on people, without creating an enormous bureaucracy through a very competitive industry.

Barry Gardiner: I think we all agree. Thank you very much.

Q173 Chair: Could I just ask you, however, do you consider the FSA as the policeman? Do you see the FSA as the regulator? Should it be more independent as such, or do you see it as an arm of Government, and should it be brought back into one of the two Departments to whom it reports? What do you think, sitting there as a farmer subject to inspections?

Peter Kendall: I suspect that whatever crisis occurs, Ministers will be summoned to the television screen to answer questions, however much they want the FSA to be independent and intervene. However, the fact that they are independent—and knowing the team at the FSA, they are not the sort of people who will be pushed around by anybody—is very important for us as a farming industry. We do not want food safety and standards to be politicised. One of the reasons we as an NFU were supportive of the creation of the FSA was to make sure this was separated out, but I go back to my point that we should be careful that we do not,

as society, becomes more risk-averse, adding burden after burden to everything we do.

Q174 George Eustice: One of the issues that has been thrown up from this is some concern, certainly early on, that bute might have been in quite high concentrations in some of these horses. Although that has subsequently been answered, do you think that there is an issue here, and we need to reconsider the regulations controlling veterinary residues in meat destined for human production? Has it raised any issues there that we should be thinking about?

Peter Kendall: I was generally very pleased with how the media quite quickly came to understand the scale of the problem, and played down some of the early, more extreme concerns around bute residues. I was glad that people understood very quickly what the problem might mean for consumers, and that was quite quickly laid to rest as a concern. The farming industry and beef cattle are incredibly carefully monitored and regulated, and my challenge would be to make sure the rules around horses are equally carefully policed and monitored. We are doing a great job—probably, my members would tell me, too good a job—on regulating the beef industry at this moment in time. This is a bit of a sidetrack, but I know, when we look at some of the fly-grazing that goes on, the movement of horses illegally, that must be an area we need to address. However I would rather horsemeat was not getting anywhere near my beef supply chain anyhow.

Q175 George Eustice: To break that down, everyone keeps saying, “Who could ever have thought that horsemeat would be entering the food chain?” but what if there was a consignment of meat coming from Poland or A. N. Other country that was using veterinary medicines in concentrations much higher than was allowed? Is there a sufficiently robust testing regime that would pick that much up, or would we have another food scare and everyone saying, “No one knew this was happening”?

Peter Kendall: I am not sure you can ever police against these very long, multi-border trades in meat, so I remain very concerned that people should have short supply chains and close relationships where food is produced and where it is being processed and consumed. We have heard previously about third-party, distant middlemen. How do you know where horsemeat has come from? How do you know what it is being tested for? We do have to have spot checks; we do need to know that the retailers and the processors are demanding those checks, but you cannot rule it out when you are buying from far-off suppliers with whom you do not have a strong tie and relationship.

Q176 George Eustice: Everybody keeps saying that we need shorter supply chains, which is great now. Do you think it is a problem that everyone has become too reliant on traceability procedures, and that it becomes a paper exercise where you tick the box, fill in the label and slap it on, and people have not thought about the much more basic question, “Has anyone

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seen the farm that this came from?" Is there a danger of that?

Peter Kendall: I think there has been too much focus on price. There has been a drive to tell people that we must meet a certain spec at a certain value, and then if it has the right paperwork with it, it has potentially been accepted as therefore meeting those standards. It is clear that retailers right across the board will make sure that what it says on the pack will be delivered in future; some of them are already doing a very good job, and some of them are deciding to change the way they do business. We have learned a lesson, and I said this quite publicly last week: the notion that you can get eight burgers for £1 and not be cutting corners has been proved to be one of the real stumbling blocks of this entire process. You just cannot do it.

Q177 George Eustice: That brings me on to my final point, which is about the price. Obviously the beef price has jumped in the aftermath of this. Is it possible that British farmers will increase production to meet that demand? Is there any evidence of that going on? Secondly, can the British beef industry supply the cheaper cuts, the mince? There is a role for low-cost food as well as the premium-end food. Is it possible for British farmers to provide that, or will we always need to import that from abroad?

Peter Kendall: Farmers need confidence. If we give confidence and certainty to farmers, we will see an investment and see a response. I don't think we have seen long-term thinking in the supply chain. We have not seen commitments that are more than "this year" or "this crop". We need that commitment from retailers if people are to make investments. In our offices just down the road, we have had a younger generation brought in for discussion, and a number of them have said to me, "Do you think this creates an opportunity for me to be fattening beef cattle?" I have not yet seen it materialise, but do I think that, given the right signals, we can produce more beef? Emphatically, yes, and it is a real ambition for me to see that as an opportunity for British agriculture. Why not create jobs, production and value here in the UK? As regards the value lines, it is learning to use the whole carcass in a really smart way that should enable us to do that. Most markets now are global. Where we fall down is when we have higher welfare standards—we put stocking densities on our poultry that are not being applied in Holland or Denmark; we put stalls and tethers bans on our pig meat—and we still believe there is a significant amount of pork coming in that would be illegal by our standards. That is one of the challenges I want to make to retailers. I have made it about not just their primary product, but their processed product as well. Is the pork that is coming in legal, by the current EU rules? We cannot compete against that, but given the same level playing field, I believe British agriculture could be up for it.

Q178 George Eustice: I know a few years ago there was an issue that the growing specialisation of dairy herds made them unsuitable for beef production. There was a period when there was a lot of concern about bull calves literally being killed at birth because it was not profitable to raise them for beef. Is that still

a problem, or is it now the case that the progeny from dairy herds are raised for that cheaper meat?

Peter Kendall: I am not an expert in every single aspect of the farming industry, but my understanding now is that Tesco have said for their dairy farmers, they must use a bull sire for beef on the cows. The gentleman to whom I was referring a few moments ago who came to our offices has a father-in-law who is an Aberdeen Angus breeder, and he says now his bulls are all going to the dairy industry to try to solve that problem and give us more beef animals into the supply chain, to try to recover what Stephen Rossides talked about a few moments ago: the decline in beef production. We need to have the confidence that farmers will keep those animals on and fatten them for a profitable market here in the UK.

Q179 Richard Drax: At present, unprocessed meat products must display a country of origin, but there is no requirement for processed meats to do that. What are your views on the country of origin labelling, and should this apply to processed meat as well as unprocessed product?

Peter Kendall: Something I have pushed within my job within the European Copa-Cogeca organisation is for processed meats also to carry a label. We also have to then set sensible levels when that occurs, however. For example, if we have a pizza that might be largely vegetables with a small amount of meat, how do we deal with that, if it has products from a number of areas? We have to set sensible, pragmatic levels: where there is a key meat ingredient, that should be labelled. Some of my colleagues in Europe do not agree with me on that, because if you lived in Luxembourg, for example, and you were running a meat processing plant, you might have product coming in from four different countries within a very small radius around it.

Q180 Richard Drax: So on your pizza example, you are saying you think there is no need for a label on something like a pizza?

Peter Kendall: Again, this is something that is only being talked about now. We would have to have a proper dialogue and consultation about where you set those levels. But if something has a small percentage of the total product as meat, I would therefore say I would not label it. On products that had serious elements of meat, they need country of origin labelling on them.

Q181 Chair: It was put to us in written evidence from the British Meat Processors Association that blanket country of origin labelling could be very onerous to apply. I suppose we would have to get into a definition of what the key ingredient was.

Peter Kendall: I am trying to put an end to promiscuous sourcing from many different countries, and not-very-clear labelling, so if it would make their life harder for doing that, I am up for it.

Q182 Chair: Obviously, I represent a very large sheep-producing area, and I have been in France when the sheep come in and are sold. Just as with the beef, as you say, fattened in this country, the sheep are

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fattened there, and is it not the case that they achieve a higher price per kilo, because then they can be sent to the French? One does have to be very careful, would you agree, as to how the labelling provisions are discussed?

Peter Kendall: Absolutely. We depend on trade, but I still make the argument that we should be able to trade openly, honestly and transparently. I have always said that there is no reason why we should have protectionism in the UK. It is about being clear about labelling and letting people compete in a fair way. In the same way, if I were all about putting barriers up, how would we export 30% of our lamb? That is a message I give to farmers all the time. Let us make sure we are clear, and we win the business on the back of clear and transparent labelling and quality.

Q183 Chair: I know you took an interest in our first report, and just to follow up the question that Barry Gardiner asked, we concluded that there seemed to be a degree of confusion and lack of clarity, which led to a slow response from the FSA. Would you agree with that conclusion?

Peter Kendall: I am not sure I fully share that. The FSA, from where I was sitting, did respond reasonably quickly. I think if anything was lacking, it was an understanding of the realignment that had taken place between the Department of Health, Defra and FSA, and who was being asked to respond to what. I would not put any blame at FSA's door for that response.

Q184 Chair: However, to take a hypothetical case, had you been working for the FSA and you had been told that your Irish counterparts were testing certain meat products that were heading our way in November, might you not have instigated testing at that time, in a hypothetical case?

Peter Kendall: I am a farmer, so it is hypothetically challenging for me to imagine working at the FSA. I remain slightly baffled by the different interpretations I have heard about how and when that notification was given about what they were testing for and what response was required, but again, as I said, I think if anything was lacking it was that clarity of whose job it was to do what, rather than a slowness of action from the FSA.

Q185 Barry Gardiner: Mr Kendall, taking up that point about the confusion over whose role it was, and that separation of responsibility that took place, how would you like to see those varying responsibilities allocated to ensure maximum clarity and maximum effectiveness of the FSA?

Peter Kendall: We have always valued, as I said a few moments ago, the clarity of independence of the

FSA. If other people are to do jobs that the FSA used to do, they must be done really clearly and effectively and communicated properly. In a world where we are having to make efficiency drives and changes, my concern is that it is done properly, rather than where it is done. That is my real response. The food safety stuff is absolutely critical for us. Of course, we are concerned when the origin of the product is being tested as well, but it is food safety that is absolutely critical. I just need to know that Defra is carrying out the work that it is deemed to be doing, and that was a critical part of that.

Q186 Barry Gardiner: Let me phrase it another way. Do you think it would be better if labelling, composition and safety were, both in terms of policy and in terms of implementation, the responsibility of one body?

Peter Kendall: Looking in hindsight at what has gone on, the lack of clarity about who was doing what has led us to have concerns about the current structures. However, I am of the view that we can make the current system work. That would be my repeated response.

Barry Gardiner: You are not a farmer, you are a politician.

Q187 Chair: I have one final question, if I can crave the indulgence of the Committee, while you are here. We have heard from witnesses that Schmallenberg was deemed to be a disease of low economic impact. Would you care to comment?

Peter Kendall: Sorry, low economic impact?

Chair: Yes, on the United Kingdom economy, on our farmers' incomes.

Peter Kendall: I can take you to farmers—probably in your constituency, Madam Chair—where 40% of lambs have been lost. We desperately need a vaccine; we need it urgently. We want, as an industry, to respond responsibly, to find a solution to this, because it is bizarre. It hits one farm and is devastating. It depends on the time of year the tups are going in as well, but it is certainly, to an individual farm, devastating, and I think it will turn out to be of significant economic damage to the sheep industry over the whole course of this year as well.

Q188 Chair: I know there is not a vaccine for liver fluke, but would you say the same for liver fluke?

Peter Kendall: Yes.

Chair: We are very grateful. On behalf of the whole Committee, can I thank you for contributing to our inquiry? I am sure we will meet again in the not-too-distant future. Thank you very much indeed.

Tuesday 23 April 2013

Members present:

Miss Anne McIntosh (Chair)

Barry Gardiner
Iain McKenzie

Neil Parish
Ms Margaret Ritchie

Examination of Witnesses

Witnesses: **Professor Allan Reilly**, Chief Executive, and **Raymond Ellard**, Director, Consumer Protection, Food Safety Authority of Ireland, gave evidence.

Q189 Chair: Good afternoon and welcome. Before I ask you to introduce yourselves for the record, there may be a vote at some stage in the main Chamber, at which point I will simply adjourn for the duration of the vote, and we will come back as quickly as we can. It would normally only be a 15-minute interval. Thank you very much indeed for being with us and agreeing to contribute to our inquiry into food contamination. I invite you, for the record, to give your names and positions for us.

Professor Reilly: Thank you, Chair. My name is Allan Reilly. I'm the Chief Executive of the Food Safety Authority of Ireland, and my colleague is Raymond Ellard.

Raymond Ellard: I am Raymond Ellard. I am the Director of Consumer Protection with the Food Safety Authority of Ireland.

Q190 Chair: Excellent. You are both very welcome. May I ask when you started testing for possible contamination last year?

Professor Reilly: Yes. We started our project on the authenticity of beef products on the Irish market around mid-November 2012.

Q191 Chair: Why would you look to test? Why did you start testing?

Professor Reilly: As a matter of routine for monitoring and surveillance of the food supply in Ireland, we test the authenticity of some foods on the market. In 2005 we started this work, and we started to use DNA technology to look at the authenticity of chicken products we found to be contaminated with both pork and beef proteins. We have looked at—again using DNA technology—the authenticity of wild smoked Atlantic salmon on the Irish market, which turned out to be farmed smoked salmon. We have looked at other fishery products, for instance, those types of products that were sold in fish-and-chippers, and, again using DNA technology, we would look at the authenticity of things such as cod, and we found that it is not cod. In fact, the consumers were being codded. The type of testing we do with respect to authenticity is not new.

Chair: We will come on to the actual testing, if we may.

Professor Reilly: We did it because it is part and parcel of the work we do. That is the reason why we have been doing this since 2005. We decided to look at beef products. When we were deciding what type of products to look at, we thought, "What type of products will the consumer not be able to recognise?"

If you buy a steak you can see it is a piece of steak, but if you buy a cottage pie, a lasagne or a beefburger, you do not know what is in that particular product. We decided to look for horsemeat, pork meat, and beef meat in those types of products.

Q192 Chair: We will come on to the actual testing. When did you inform the FSA UK that you were testing?

Professor Reilly: We would have had a regular meeting. We meet with the FSA Northern Ireland twice a year; senior managers from both organisations meet up and chat over what is going on, projects and so on. We would have informed them that we were developing testing methods for looking at the authenticity of beef products, and that we are looking for things like horse and pork. That was 23 November.

Q193 Chair: What was their response?

Professor Reilly: We agreed to keep them informed of what we were doing and we would have said that maybe it was something that they could do at some stage in the future. Back in November, we had no idea what we were going to uncover; this was a simple, routine monitoring survey, which was part of the normal work we do. We had no clue at that stage that we were going to uncover what we did.

Q194 Chair: The FSA UK told us that they suspect that the contamination could have gone on for as long as one year, since March 2012. Do you agree with that scenario?

Professor Reilly: Yes, we have scientific evidence to support that; we have one burger with something like 12 or 17% equine DNA that was manufactured in April 2012. We can certainly say with scientific justification that it was happening then. The question is, how long was this happening before April 2012?

Q195 Chair: ABP Food told the Committee that Polish suppliers to Silvercrest had denied contaminating beef products with horsemeat. Do you agree with that? That seems to contradict what the Irish Department of Agriculture, Food and the Marine concluded.

Professor Reilly: From our information, certainly some product came directly into Ireland from Poland that was contaminated or adulterated with horsemeat. That would be our opinion: that we did have a direct supply in from Poland. We also had indirect supplies in from UK companies, where Polish label product would have come in to the UK, and from suppliers of

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middle men in the UK, where product would have come in to Ireland. There are essentially two routes, a direct route and an indirect route, whereby we would have taken contaminated or adulterated beef in.

Q196 Chair: From the British press—so not the Irish, French or Polish press—we have compiled a table that shows that by far and away the largest numbers of contamination relate to Ireland and Irish companies. What would you comment on that finding?

Professor Reilly: I am pleased I can comment on this. I do not know the source of the information that you have, but certainly from our perspective, if you look at what we found, and what has taken place right across Europe, and if you look at the recent results from the EU-wide monitoring programme, it would suggest that this was going on in many, many different countries.

Q197 Chair: You started testing in November. You think that it was both through a direct and an indirect route. Do you now know at exactly what point—where in the supply chain—beef was replaced by horsemeat?

Professor Reilly: That matter is now under investigation by a special investigation unit over at the Department of Agriculture, Food and the Marine, and our police force. They are at the present moment trying to determine that particular fact: at what stage did fraud take place?

Q198 Chair: For me, personally, it is a bit surprising that in this country arrests have been made, potentially prosecutions will be brought and that is all in the public domain, and we started to test possible contamination two months after Ireland. When do you think that you will know, as the FSA Ireland, where in the process and at what point the contamination took place?

Professor Reilly: We are awaiting the outcome of what is essentially a criminal investigation, so I really cannot comment on when the results of that investigation will come to fruition. I would say that if you look at what our Minister has said in his report, there are some innocent parties here; some companies have bought contaminated beef, bought it in good faith that it was beef they were buying, and incorporated it into various products.

Q199 Chair: You are being very generous. What particular lessons could be learnt from this scenario?

Professor Reilly: General lessons?

Chair: I find it strange that, in the Irish Government's report, following your conclusions, no penalty is being imposed for the use by a company of a non-approved supplier that was found to have contaminated meat that was then passed on to the public. I find it strange that the Irish Government's report concludes that it is unacceptable to withhold information, but do not seem to be doing anything about it.

Professor Reilly: On the latter point, no law was broken. No law was actually broken.

Q200 Chair: You are saying there was no criminal fraud?

Professor Reilly: There is no legal obligation on a company to inform the competent authorities of—

Q201 Chair: They have at the very least broken EU directives on food law and food labelling. Penalties should follow from that.

Professor Reilly: If the company were aware that the food was unsafe there would be an obligation to inform competent authorities, but they took a commercial decision not to inform the competent authorities. I am not trying to justify what they did. I would much prefer for that company to have told us, and we would not be in the situation that we are in today.

Q202 Chair: Do you, FSA Ireland, routinely test products for export before they go to other parts of the European Union, as you are required to do under EU law?

Professor Reilly: Companies have to conform with EU regulations, and it would be up to the companies to test products. They have to be legally manufactured, they have to comply with EU regulations—

Q203 Chair: No, I am sorry. It was confirmed by our own Minister that we are under a legal obligation, under the EU food directives, to test consignments before they leave our shores. You are under a similar obligation. Who is it in Ireland that would do such tests?

Professor Reilly: We would have monitoring programmes in place for things like veterinary residues, for pesticides, and for contaminants, so we would be monitoring the food supply, but really, the onus is on the food industries to produce and market safe food.

Q204 Chair: I am sorry, that is a bit like asking children to mark their own homework. Our Secretary of State has taken quite a strong lead on this, with support from France and other member states; there has to be an independent check under the EU regulations, and we established that on the record in our initial Report. If it is not you, who would be doing those tests?

Professor Reilly: Of course, we would be monitoring food—

Q205 Chair: You do physical sample checks of the meat and the label to make sure that it is not horsemeat leaving Ireland?

Professor Reilly: We would do physical checks, yes. Samples would be taken. Samples would be tested for veterinary drugs and so on; samples would be tested for pesticides—

Q206 Chair: Bute?

Professor Reilly: For bute? Yes, that would be included in our monitoring programme.

Q207 Chair: Have you ever found anything that would have raised any concerns?

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Professor Reilly: Not to my knowledge with respect to bute in the food chain with our monitoring programme. No, is the answer to that.

Q208 Neil Parish: I have one last question on what the Chairman has been asking you: there were an awful lot of horses being slaughtered in the Republic, partly because of the weather and partly because of the number of horses. Were you a little bit suspicious about where all that horsemeat was going?

Professor Reilly: No; it was being exported. The meat was being slaughtered under veterinary approval, in approved abattoirs, and it was being exported.

Q209 Neil Parish: You were happy, with the number of horses being slaughtered in Ireland and the amount of horsemeat being exported, that the figures were matching up?

Professor Reilly: We did not go and match those figures up. We have not done that. Certainly that would not be part and parcel of the normal programme that we would implement. If you look at the amount of horsemeat that is in circulation in the UK, there is close to something like 400,000 horses slaughtered in the EU annually. We have probably something like 30,000 tonnes imported into the EU. There is plenty of horsemeat in circulation in the EU. The quantity of horses that would be produced by Ireland is a drop in the ocean in comparison.

Q210 Neil Parish: Your Department of Agriculture has said that all food intermediaries will now be registered as food business operators. From what date will this take effect and how will it impact on suppliers from outside the Republic of Ireland?

Professor Reilly: It is one of our big problems when you have traders who are not registered as food business operators; they are operating outside the controlled system. Our Minister has said that such traders will now be registered as food business operators, the controls will be in place to see what they are buying and selling and they will come under the official controls.

For a lot of these traders, the meat would never come into Ireland. They would be buying on the market, the meat would end up in a warehouse somewhere on the continent, and then it would be sold on to somewhere else. That is how traders operate. It would be quite difficult to come in under an official food control system. As to when that will all kick in, as far as I am aware there is not a date set for that, but I can let you know.

Q211 Neil Parish: It would be nice if we could have that in writing. In a way, you were hitting the crux of the matter, because, basically, horsemeat was being traded around. While it was being traded and labelled as horsemeat there was not a problem; it was when it was mixed with beef, or whatever, and then suddenly became beef. Are you confident that the system that you are going to put in place in Ireland would stop this type of thing happening again?

Professor Reilly: Yes. When it comes to the traders, we would not be aware of exactly who they are, but as soon as they come to our attention they will be

required to register as a food business. The controls and the enhanced controls that are currently being suggested by the European Commission will certainly stamp out a lot of what has gone on in the past with respect to the adulteration of the processed beef chain with horsemeat.

Q212 Neil Parish: You are confident that you could hold a French company trading in Luxembourg or Poland to account, are you?

Professor Reilly: Yes. A lot of onus will be put on the industry to do this. Up to this, the food industry would be buying meat at face value. Those days are gone. There is no trader going to sell meat on face value from hereon in; somebody is going to test it. The onus is on the like of the retailers, who have been duped in all this. The retailer is going to drive the standards on their suppliers to come up with some form of authenticity testing and some form of certificate to say that what they are buying is beef and it is not adulterated.

The industry is going to drive a whole lot of this. We will, of course, have controls in place, and we will monitor what is going on, but the onus is on the food industry to produce and market safe food; if they do not do that, they go out of business.

Q213 Iain McKenzie: What is the volume of the beef traded between the Republic of Ireland and the UK, and what percentage of that would be between the Republic and Northern Ireland?

Professor Reilly: We would produce something in the region of 500,000 tonnes of beef, and we are talking about prime quality beef. Probably about half of that comes to the UK, so we are talking about something like 250,000 tonnes of prime beef. When we look at what has gone on in respect of the adulteration of beef products with horsemeat, we are talking about a tiny segment of the beef industry. It is a very, very small segment. The rest of the beef industry is fine; it is operating to the highest standards, and there really is no problem with it. What we are focusing on here is the frozen burger market.

Q214 Iain McKenzie: That small segment reflects on the whole industry, and it certainly has in this respect.

Professor Reilly: It depends. You can recognise when you buy a steak, when you buy a cut of meat, that it is beef. It is only in those types of products where you cannot recognise what you are buying—the consumer does not recognise what they are buying—those are the type of products we are talking about.

Q215 Iain McKenzie: On the identification and traceability of horsemeat, do you support the EU proposal that each member state should hold a national database of horse movements? What benefit would you say there would be in that?

Professor Reilly: I think there would be huge benefits. Certainly what the European Commission are suggesting is that there should be one organisation or one agency in each member state, and that agency has to be a competent authority. At present, we have many different private organisations that issue horse passports, and the opportunity is there to tamper with

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passports; that has been part of our problem. If you look at how we regulate the beef industry, we have a central database and when an animal is born, where it is reared, where it is slaughtered, and so on, are all recorded in the central database. We need the same kind of central database for horses and we need to be able to control the movement of horses and horsemeat going into the food chain.

Q216 Iain McKenzie: At this moment in time, how do you control the movement in Ireland?

Professor Reilly: With respect to horses going into abattoirs to be slaughtered, and so on, the control is under veterinary supervision. The actual movement of horses would not be controlled.

Q217 Iain McKenzie: How do you track them at the moment?

Professor Reilly: Once the animal goes into the slaughterhouse and it is slaughtered, the passport with that horse would go back to the issuing authority. That is how it is controlled at the present moment. We need to strengthen the controls. We need that central database for sure, and we need something very similar to what goes on in the beef industry for tracking and tracing animals. The system we have at the moment is far from satisfactory, but that system is Europe-wide; it is not just in Ireland.

Q218 Iain McKenzie: Between yourselves and Northern Ireland, do you currently regulate and track horse movement over the border?

Professor Reilly: No. There would be no legal requirement to do it. The Food Safety Authority of Ireland would not track and trace animals moving between the North and South.

Q219 Iain McKenzie: Not even the meat portion of it? You do not have to trace the livestock, but there is also no tracing of the slaughtered animal across the border?

Professor Reilly: Are you talking about beef or are you talking about horses there?

Iain McKenzie: Horsemeat.

Professor Reilly: No.

Q220 Iain McKenzie: The trade of horses between southern Ireland and Northern Ireland: there is no tracing of the live animal and there is no tracing of the slaughtered meat either?

Professor Reilly: Not really. There would be no requirement for the agencies to trace that meat. If there is a problem, it is then you would get into some sort of traceability exercise, but for the normal trade that would not be a requirement.

Q221 Iain McKenzie: There would be no handover of passport or anything as it transfers from the south to the north?

Professor Reilly: The passport will move with the horse. Let us say a shipment of horses is coming south or north: those horses will have passports, so the passport will travel with the horse, but once the horse is slaughtered the passport is returned to the agency that has issued the passport.

Q222 Barry Gardiner: I just want to try to clear up a slight discrepancy in what you said earlier, and to distinguish between the notification of a new methodology for testing, which you gave to the FSA at your meeting on 23 November—you said that you had notified them that you were testing for horsemeat—and applying it. It is a slightly different thing, is it not, to notify that you are developing a new methodology for testing for horsemeat, from testing for horsemeat? Can you clarify exactly what it was that you did say? You were not there, so maybe Mr Ellard can answer that.

Professor Reilly: I was not personally at the meeting. We would have told them about what we were doing. By 23 November we probably would have had the test method just about up and running.

Q223 Barry Gardiner: When did you send the first samples to Germany?

Professor Reilly: In December.

Q224 Barry Gardiner: You must have had the tests up and running by 23 November, surely?

Professor Reilly: We started the work about the middle of November. For the first lot of samples that came back positive—do not ask me the exact time—let us say within probably about a week or 10 days of those samples going in we would have got the first lot of samples back that tested positive. We thought, “What is going on?”

Q225 Barry Gardiner: You have just told the Committee that your first set of testing samples were in November, that you sent those off, and within a week you knew that had a positive result?

Professor Reilly: I would say a week to 10 days.

Q226 Barry Gardiner: Indeed. In the conversation that you had on 10 January with our Chief Scientist at the FSA, why did you not tell them? Why did you not mention in that telephone conversation that you had been doing tests and that you had had positive results?

Professor Reilly: When we started to do these tests and we got initial positives back, I found it hard to believe that we were getting positives back. We went and resampled. We went and resampled products that had tested positive; we tested those again and they came back positive. It was then a question of saying, “Can we have these corroborated in a second laboratory?” We took positive samples and sent them off to Germany.

Q227 Barry Gardiner: Right. You were pretty sure, then, by 10 January that this really was positive, were you not?

Professor Reilly: I would say I was pretty sure there was something going on, but I did not have any evidence of deliberate contamination or deliberate adulteration of the food chain with horsemeat.

Q228 Barry Gardiner: We are not talking about “deliberate” here; what we are talking about is whether, on 10 January, when you had that conversation with our Chief Scientist at the FSA—

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you had tested not only once; you had rechecked the samples—you knew for absolute certain that this was horse, and you did. That is what you have just told us. I am asking you why you did not convey that information to our Chief Scientist.

Professor Reilly: In the conversation that I would have had with the Chief Scientist at the time, I said, “We are having results; we do not know how to interpret them.” That is essentially what I said: “We have interesting results here. We really do not know how to interpret them. We do not know what is going on.”

Q229 Barry Gardiner: There was no mention of horsemeat in that conversation, Mr Reilly. I am not talking about your conversation on 14 January; I am talking about your conversation on 10 January, and there was no mention of horsemeat in it.

Professor Reilly: We did not know what was going on at the time. We were trying to check—

Q230 Barry Gardiner: You did. You have just confirmed to this Committee that you knew for sure that your samples, which had been double-checked, had tested positive for horsemeat. Yet you thought it not appropriate to mention that in your conversation of 10 January to our Chief Scientist, and I am asking you why.

Professor Reilly: Essentially, we did not tell anyone.

Q231 Barry Gardiner: Let us go on from there. Our Minister, Mr Paterson, on 11 February, said in the House, “The reason the Irish agency picked up this issue in the Irish plant was that it had local intelligence that there was a problem; that is why it did a random check. I cleared that with Minister Coveney today”. Was that a mistake?

Professor Reilly: We certainly did not have local intelligence.

Q232 Barry Gardiner: You did not have local intelligence. Why was it then that Patrick Wall said that this was intelligence-led?

Professor Reilly: I have no idea; you would have to put that question to him.

Q233 Barry Gardiner: Would you like to explain to the Committee who Patrick Wall is?

Professor Reilly: Yes. You would have to put that question to Patrick Wall himself. Patrick is—

Q234 Barry Gardiner: In your conversation with Catherine Brown, did you not say, when she asked you the very same question, “I do not know why Pat said that; I will have to ask him and find out.” Did you ask him, and did you find out why he said it?

Professor Reilly: No, I have not had that conversation with Pat Wall. Look, can we come back to one issue here, which is that we had to confirm that we had a problem with horsemeat in the food chain?

Barry Gardiner: You had done; you had done it twice.

Q235 Chair: Why did you have reason to test? Had you found something or were you told to look for it? Was it intelligence? Why did you suddenly test?

Professor Reilly: The only intelligence that we had was some common sense that we thought if there was some form of adulteration going on in the food chain, if there was some type of food fraud, what type of products would somebody try and adulterate, and with what would they try to adulterate such products?

Q236 Barry Gardiner: That was not what you said in your press release on 15 January, was it, Mr Reilly? In your press release you announced that the results were, in the words of your press release, “from a targeted survey”, not just general testing.

Professor Reilly: No, of course. The survey was targeted; it was targeted at beef products, things like beef meals, salamis, burgers. It certainly was a targeted survey.

Q237 Chair: You spoke of chicken earlier, so why did you move from chicken to horse? Someone, somewhere, must have said to you, “There is something funny going on”.

Professor Reilly: No. I have been down this road so many times with different people. We were not acting on a tip-off; we were just acting on what I would call sound common sense.

Q238 Chair: Because the cost of beef was so high?

Professor Reilly: Yes, that would be—

Chair: So why did you not check for chicken, pork or other products? Why were you testing for horse and why did you change the whole methodology and use testing that we have never used in this country? What prompted you to do that?

Professor Reilly: We did not change the methodology. When you develop a test like this, you have to look for some new primers; you have to develop the primers for horse, for pork, and so on, and that is what our laboratory did.

Q239 Chair: Why were you testing for horse?

Professor Reilly: Again—

Q240 Chair: I am sorry; do not play the innocent with us, Mr Reilly. You were ahead of the game; you were testing for a product, with which we had hinted in March last year in our Report that there may be a problem. Why did you test for horse and the UK FSA did not? We need to know. It is very simple.

Professor Reilly: You would have to ask the UK why they were not testing. I am telling you the reason we were testing.

Q241 Barry Gardiner: Mr Reilly, you are asking this Committee to believe that you were simply, in response to no particular market information, conducting a test for horsemeat. I have here just what the implications of that are for the capture of what you initially said was a 40-minute window during which the 29% in that Tesco beefburger was apprehended by you. If you assume that the plants work 12 hours a day, seven days a week, 363 days a year, you have a starting point. If you were trying to

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find a 10-minute window, which you would have to do to get that, for a 40-minute window, it would be 6,534 tests costing £2.286 million. To get serious, you would need 26,136 tests, which would cost you £9.147 million to find that contamination. You are really asking this Committee to believe that you were just conducting a random test for horse at that level of DNA specificity and—goodness me—you found it. The luck of the Irish, Mr Reilly.

Professor Reilly: I have thought about that one burger, and thought it was like winning the Lotto. That is exactly what it was.

Q242 Barry Gardiner: It was the Lotto. Okay, in that case let me ask you a further question: why did you decide to use that particular test? You were testing for horsemeat, because you just wanted to find it? Why were you using that particular test?

Professor Reilly: The initial test that we were carrying out was for the presence or absence of equine DNA, porcine DNA, and bovine.

Q243 Chair: You still have not told us why you were going for horsemeat, and why you were not doing—

Professor Reilly: I have told you.

Chair: You have not.

Professor Reilly: I have not told you what you wanted to hear, but I have told you why we were doing it.

Q244 Chair: Tell me again. Humour me.

Professor Reilly: We went out to do an authenticity study on beef products on the Irish market. That is what we did, and we said, “What are the likely sources of adulteration? What type of meat could possibly be put in?” We decided we would look for those three; we would look for bovine, we would look for equine, and we would look for porcine DNA.

Q245 Barry Gardiner: Mr Reilly, can I put it to you that you did have intelligence that said there was a problem here, that the industry had been asked to clean up its act, but it had not actually done so, and that you decided that you would test for horse at a very, very minute level, because these DNA tests that you have used are unusually good at detecting at a low level, but with a test that you knew would not stand up in court? It was a way of gathering all the guys who were not taking notice of the instruction to clean their act up: you gather them all together, you prove that they have been doing horse, but also you cannot make a prosecution on the back of it. Is that not the case?

Professor Reilly: That is a fantastic theory and it certainly is not the case.

Q246 Barry Gardiner: Is it not the theory that you advanced in your conversation with Catherine Brown when she asked you why you used an unaccredited test? This is the Chief Executive of the FSA in the UK. You said, “It would be difficult to take a prosecution on the basis of these tests. Coveney’s job is to protect sustainable Irish industry. Silvercrest is a huge plant. We have identified where it has come from; they have new management, and his agenda is to get it back to work: protect the industry. There will

be regular, experienced testing by Ministry vets in future.” Is that not right?

Professor Reilly: No. Let us go back to what you said initially about the reasons why we carried out this test, and the type of methods that we were using.

Q247 Barry Gardiner: Why did you say that to Catherine Brown: that you could not get a prosecution on the basis of it, and that was part of the rationale for the way in which you conducted the test?

Professor Reilly: When we did this survey we did not go out and take formal samples under our regulations. We just went out and took random samples on the market. If you want to carry out a prosecution, you take formal samples.

Q248 Barry Gardiner: That was the point. You did not want to carry out a prosecution, did you? You wanted to get them to clean their act up, but you did not want to destroy the Irish industry in the process, and your Minister would have been furious with you if you had, so you developed a way of managing to square the circle?

Professor Reilly: All I can say is that that is totally untrue. All we did was, we went out—

Q249 Barry Gardiner: Why did you say that, then, to Catherine Brown?

Professor Reilly: No, we carry out these types of surveys on a yearly basis and we take samples. We do not take formal samples under regulations; we just go out and take random samples. You cannot prosecute with random samples. The aim is not a prosecution. We went back and took formal samples, for sure, and, yes, we have that evidence now, but at the time we were not thinking about taking prosecutions. We went out to find out if these types of product were being adulterated with meat other than beef; that was the purpose of the survey. It was not to go out and take prosecutions.

Q250 Barry Gardiner: How extraordinary; how absolutely extraordinary that you, as the FSAI, were going out to check whether there was a problem here, in the sure and certain knowledge that if there were a problem, you could not do anything to prosecute the people who had created the problem. How does that in any way fit with your regulatory obligations?

Professor Reilly: When we go out and carry out this type of survey, we take a certain type of samples; when we go out to carry out a prosecution, we will take formal samples under regulations.

Q251 Barry Gardiner: You do not associate taking the samples, finding that there is a problem, and checking the authenticity of the food, with, when you find that it is not authentic, being able to prosecute somebody? Is that not a lacuna in your methodology?

Professor Reilly: No, it is not and if you want to go out and take formal samples under regulations for the purpose of prosecution, that is what you do; if you want to go out and do a survey to find out what is going on in the market, you go out and do a survey. We went out in this case to—

Barry Gardiner: Just to test the water.

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Professor Reilly: To have a look and see if we had a problem, and we found the problem.

Q252 Barry Gardiner: Now your investigation will go back to being business as usual, under the radar; you cannot say, “We are still investigating”, because it would be, “a PR disaster”, to quote you.

Professor Reilly: If you look at the outcome of our survey, and if you look at the actions that are being taken at European level at the present moment, with respect to food fraud, with respect to testing, with respect to strengthening monitoring programmes, and with respect to setting up networks for food fraud to report the type of findings that have resulted from our survey, there are huge positive results coming out of what we found, and huge benefits for the European consumer overall. If we had not have done our survey and if we had not have published it, your citizens would still be eating horsemeat.

Q253 Barry Gardiner: You said, “To be honest, we are never going to know what has happened. Record-keeping is so poor. They show us one set of records and then a different set of records. The prosecution may involve, on those grounds, a technicality. We are just trying to get back to normal.” Is that not the whole purpose of the way in which you have conducted this survey/investigation?

Professor Reilly: Certainly not.

Q254 Barry Gardiner: You need to get back to normal; do not stir up the pot.

Professor Reilly: If you think that after what we did, and if you look at the fallout of what we did, we are ever going back to normal, we are never going to back to normal. We are never going to go back to where we were; it is as simple as that. On the back of the results of our survey—and it was a survey—we are changing, at European level, how consumers are protected with respect to food.

Q255 Barry Gardiner: Mr Reilly, do you deny one of the quotations that I have attributed to you?

Professor Reilly: No, if this was the conversation that I had with Catherine Brown, but it was a conversation at a point in time—

Barry Gardiner: You do not deny any of the quotations that I have attributed to you. Thank you.

Q256 Chair: You said earlier, Mr Reilly, that the Garda are still investigating. Do you believe that prosecutions will be brought?

Professor Reilly: It depends on the outcome of those investigations whether prosecutions will ensue.

Q257 Chair: How are you going to restore the confidence of the Irish public in eating Irish beef if prosecutions are not brought?

Professor Reilly: I do not think there is any problem with the reputation of Irish beef; I honestly do not. That is fairly secure. We are talking about a small segment of the food chain. We are talking about the frozen-burger market; that is really what we are talking about. It is those types of products that

consumers have lost a bit of confidence in, but certainly not the quality and the safety of Irish beef.

Q258 Barry Gardiner: The 14 March report from the Department for Agriculture, Food and the Marine states that B&F Meats deliberately mislabelled a consignment of horse as beef. The company has claimed that this was not fraudulent, because both the trader and the eventual customer that they were sending it to were fully aware that this mislabelling was going on, and that the customer they were sending it to had requested the use of that particular label, so that it should be labelled beef. Why are they not guilty of conspiracy to commit fraud? Why has no prosecution therefore taken place?

Professor Reilly: First, I do not know anything about conspiracy charges. That particular—

Q259 Barry Gardiner: If somebody does something that is fraudulent and they agree to do it with somebody else, and in the knowledge that that is then going to be sold on to a third party, then mislabelled as beef—you might want to sell it to me and I might say to you, “Excuse me, could you re-label that horse as beef?” and you say, “Are you sure you want it labelled as beef?”, and I say, “Yes, thanks very much”, and you then do it—you would have a pretty good idea that I am going to pass it off to somebody else as beef and not as horse, would you not?

Professor Reilly: That particular incident was investigated by our Department of Agriculture, Food and the Marine.

Q260 Barry Gardiner: They wanted to get business back to normal. They said, “No prosecutions”.

Professor Reilly: We were not involved in the investigation, but to my knowledge the actual horsemeat was being labelled in the Czech language as beef.

Q261 Barry Gardiner: That would be wrong, would it not? If anybody was doing that, it would be wrong?

Professor Reilly: Yes, it would be wrong, but that was the requirement—

Q262 Barry Gardiner: If somebody was colluding in that, it would be conspiracy, would it not?

Professor Reilly: That was the requirement of the customer. The Irish processor was being paid for horsemeat; they were not being paid for beef meat. From the knowledge that I have, they had already contacted their customer in the UK, and said, “Are you aware that this label in Czech is saying beef, not horse?” The customer here was aware of it. To quote from the Minister’s—

Q263 Barry Gardiner: Is this just a matter of semantics to you? The mislabelling of a product does not matter as long as both parties to that mislabelling know that it is being mislabelled, and we do not ask any questions about that sale or that contract. We do not imagine to ourselves that it might be mislabelled quite specifically for the purpose of defrauding somebody further down the line.

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Professor Reilly: I agree with you. I certainly agree with you. The Minister said in this statement, “The consideration of legal proceedings for possible non-compliance with labelling regulations is under active consideration”. I do not think the Minister is saying that this company is not going to be prosecuted; prosecution is under consideration. I agree with what you are saying.

Barry Gardiner: We look forward to seeing it.

Professor Reilly: Maybe if a prosecution ensues, the judge will also agree.

Q264 Chair: Is it not a straightforward case of passing off horsemeat as beef?

Professor Reilly: Yes.

Chair: That is fraud.

Professor Reilly: Again, if it is labelled as beef, even in the Czech language, and inside the box is horse, yes, you are quite right.

Q265 Neil Parish: Obviously you have been doing an awful lot of testing. Have you been making an assessment of the viability of this in terms of cost and proportion to risk? Are you going to be able to carry on routinely testing at this level? Mr Gardiner brought in some of the figures for the costs of testing. What is your ongoing view of how much testing you will do?

Professor Reilly: We will probably do minimum testing from here on in, as a regulatory authority. The industry are going to test, and the responsibility lies with the industry to test the products that they are buying to ensure their authenticity, and to put correctly labelled products on the market. I would see the industry—being driven by the lack of retailers—requiring their suppliers to do testing.

Q266 Neil Parish: Hang on a minute, when you talk about the industry, what do you mean? Who is going to do the testing? Is it going to be the retailer that buys it? Is it going to be part of this chain that has been casting different labels on different products? How can you be sure that, if you leave it to the industry, they are going to do it properly?

Professor Reilly: I did not say that I am going to leave it to the industry completely; we will do random spot checks. If you are buying something like beef trim, you are going to check; the industry themselves, or any industry that is buying beef trim to put into some form of processed meat product, will be checking themselves to ensure what they are buying is authentic. Their customer—let us say it is a retailer, some big supermarket chain, or whatever—will be testing the product coming from the actual manufacturer, because they want to be sure that what they are getting is genuine beef.

Q267 Neil Parish: I accept what you are saying at the moment: that there is so much in the press and everywhere else about what has happened that people are unlikely to substitute horsemeat for beef at the moment. What we are also trying to tease out of all this is, when the dust settles and everybody gets back to normal, if people collude again—because they did collude in order for this to happen—are you absolutely confident that this industry testing will find

the horsemeat if it is wrongly labelled in a beef product?

Professor Reilly: I would say, yes. We will do surveys; we will test on top of what is going on within the industry—just a spot check to keep everybody honest. What is going to come out of the recommendations from the European Commission is strengthening of official food controls, and the Commission is going to require member states to do such testing in the future. I believe that is the route we are going to go down, so there will be a requirement in the official control regulations for member states to do authenticity testing.

Q268 Neil Parish: When you do your random testing, will it be genuinely random? You will not notify the companies or whatever that you are arriving to do those tests?

Professor Reilly: No, we would be doing the spot checks randomly, as we did for this survey. We should hope that everybody is going to be honest about what they are doing.

Q269 Neil Parish: Do you know, up until now, how much you have actually spent on the testing that you have done?

Professor Reilly: Off-hand I cannot give you a figure for the testing that we have carried out, but for the qualified testing that we carried out using mitochondrial DNA, probably something in the region of €40 per test; for the quantification, where we are looking at the percentage of horsemeat, probably something in the region of €200 per test. I am sure that price will come down depending on the volume of samples one is putting through a lab.

Neil Parish: If you were able to give us some figures in writing it would be quite useful please.

Professor Reilly: I will do. You have to use accredited laboratories. It was said earlier that we were not using accredited laboratories and that the reason we did not use accredited laboratories was because we did not want to bring prosecutions; that is totally untrue. We did use accredited laboratories to do the testing initially.

Q270 Ms Ritchie: Gentlemen, I want to concentrate on the level of co-operation between the south of Ireland and Northern Ireland. I represent a constituency in Northern Ireland. I want to ask you about the level of co-operation between FSA Ireland and the FSA in Northern Ireland, and also between the Department of Agriculture, Food and the Marine in the South, and the Department of Agriculture and Rural Development (DARD) and the Department of Health in the North. What level of co-operation exists in the course of those investigations? If that co-operation exists, how helpful have you found it? What has been the substance of that level of co-operation?

Professor Reilly: I can speak only for the level of co-operation between the Food Safety Authority of Ireland and the Food Standards Agency in Northern Ireland. The level of co-operation has been really excellent; I would not put another term on it. We talk to one another; we have a Food Incident Management Team in the Food Safety Authority of Ireland; they

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have a counterpart in the north of Ireland, and they dialogue with each other on a regular basis, sometimes on a daily basis.

When we request the people in the Food Standards Agency in Northern Ireland for some action or for information, and so on, it is always forthcoming. We have set up a Food Fraud Task Force; a staff member from the Food Standards Agency in Northern Ireland sits on our Food Fraud Task Force. We have carried out joint exercises in the past on traceability of products between north and south, where staff co-operated in a joint team, following different products, to see the level of traceability between north and south. I would say the level of co-operation was excellent.

Q271 Ms Ritchie: Was that level of co-operation between south and north intensified as a result of your alerting, back in January about the Polish incident? Did that co-operation intensify in terms of the investigations, the results and rectification measures between both organisations?

Professor Reilly: When you say “intensified”, there was a lot more traffic between the two organisations during this particular incident. Where we have food incidents that are common to both jurisdictions, the level of dialogue increases, and then it is back to normal. We may have another incident; again, we would talk on a more frequent basis. Going back to 2008, we had a major incident and again we were dialoguing with one another on more than a daily basis.

Q272 Ms Ritchie: Do you intend to have further discussions and further levels of collaboration with the FSA in the north and what areas would that capture?

Professor Reilly: The general areas on which we have collaborations with them are in association with official food controls that are common to both jurisdictions. If some food has gone to the North and there is a problem with the food, we will alert them, and vice versa. We have co-operation on our shellfish monitoring; we have common areas where shellfish are grown, and we share quite a bit of intelligence with respect to that monitoring programme. Whenever we have a food incident that is common to both jurisdictions, we will alert the people in the North, and they will alert us in a similar fashion.

Q273 Ms Ritchie: You agree that it is important to have a joined-up approach between South and North on traceability and labelling, so that that restores trust and confidence among the people on the island, both north and south, in the meat industry and the beef industry, which obviously is the bedrock of the economy?

Professor Reilly: I agree. The senior management—myself leading the group, and Gerry McCurdy leading his senior managers from the Food Standards Agency Northern Ireland—meet twice a year: early in the year and later in the year. Essentially, we meet to talk about common issues. In November, we shared information about what we were doing with respect to testing for horse DNA, and those meetings will continue.

Q274 Iain McKenzie: Going briefly back to the random testing, you said that the industry is driving itself towards completing its own random testing. I am just wondering whether they do that with advice from you as how to go about random testing? If the industry does a random test off its own bat and finds a problem, what do they do then, apart from stop production? Do they come back to you to come in and verify?

Professor Reilly: Is this random testing for everything?

Iain McKenzie: If the industry was conducting a random test on its products and it found a contamination, are they under an obligation to report to you or do they just stop production and deal with it?

Professor Reilly: They would not be legally obliged to report if they found a random problem if the food was still under their control. If the food went outside their control, they are obliged under regulations to inform the competent authority and the same rules exist here—that is a European rule.

Q275 Chair: There was one question you did not answer: the role of Patrick Wall. What was his position with the FSAI?

Professor Reilly: Patrick used to be the Chief Executive of the FSAI; he is now an Associate Professor of Public Health at University College, Dublin.

Q276 Barry Gardiner: Has he just been appointed to another role?

Professor Reilly: Yes. He has been appointed as Chair of the Board of Horse Sport Ireland.

Barry Gardiner: Horse Sport Ireland. Thank you. I just wanted to get that on the record.

Q277 Chair: I asked about bute. How often have you found bute in any of your samples?

Professor Reilly: We have never found bute in any of the food samples that we have looked at.

Chair: Horsemeat for export?

Professor Reilly: When we started off, when we found the level of contamination we did find, any of the positive samples that we found for the burgers were tested for bute. They all came back negative for bute. Within the current controls that were carried out under the European monitoring programme for the last month, one sample from 840 tested positive.

Chair: Could you drop us a line on that? That would be very helpful.

Professor Reilly: Yes, certainly. All that information is available on the website of the European Union—

Chair: For the purposes of our inquiry, will you follow that up?

Professor Reilly: We will.

Q278 Chair: The Irish Government’s Report said that EU labelling regulations should be reviewed with a view to introducing provisions on intermediate labelling. Have you been consulted by the Irish Government in that regard, on labelling?

Professor Reilly: It is something that is under discussion. I think it is under discussion at European level. Yes, we are aware of that recommendation. We

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will have to see where it goes, but in the end it will be European regulation; it will be common agreement among all member states if it does go forward.

Chair: Professor Reilly, Mr Ellard, thank you very much indeed for being with us and for being so

generous with your time this afternoon. Thank you both very much indeed.

Examination of Witnesses

Witnesses: **Elizabeth Moran**, President, Association of Public Analysts, and **Dr Duncan Campbell**, Past President/Honorary Secretary, Association of Public Analysts, gave evidence.

Q279 Chair: I welcome you both to the Committee and thank you for participating in our inquiry. May I ask you, for the purposes of the record, to give your names and positions?

Elizabeth Moran: Good afternoon. I am Elizabeth Moran. I am a public analyst employed by Public Analysts Scientific Services Ltd, part of the Eurofins group, and I am the President of the Association of Public Analysts.

Dr Campbell: I am Duncan Campbell, a public analyst employed on behalf of the five councils of West Yorkshire, currently Honorary Secretary of the Association of Public Analysts and also Past President of the Association.

Q280 Chair: Thank you. You are both very welcome. May I ask, at the outset, who, for the most part, does the actual testing for the purposes of food testing?

Elizabeth Moran: In the whole of the UK, there are two types of testing done for enforcement purposes. There is food hygiene testing, which is microbiological testing, carried out by the Health Protection Agency, which is now Public Health England, a department of the Department of Health. There is chemical testing, which would include contaminants and adulteration and standards, which is carried out by public analysts in public analyst laboratories.

Q281 Chair: Separately, who takes the actual enforcement action if the testing has found something out of order?

Elizabeth Moran: Local authorities are responsible for enforcing food safety and composition regulations. Trading standards and environmental health officers working in local authorities take the samples. If the results of testing are adverse, the local authority would then take enforcement action.

Q282 Chair: Would you say that the current system works well, or is there a potential gap between the testing and finding contamination, and the enforcement action taking place?

Elizabeth Moran: The current system was set up a very long time ago when food production was at a much more local level, and food testing is still done at a local level, so it is up to individual local authorities to decide what they want to test. The Food Standards Agency do set national priorities. The current system probably does not work as well as it could, in that the sampling is not necessarily particularly well targeted. We have an intelligence-led, risk-based system, which is obviously only as good as

the intelligence that that is based on and the identification of risks.

As far as the testing facilities are concerned, we have a difficulty with the chemical analysis on the public analyst side, because there is no centralised laboratory system. There are several local-authority-run labs and private laboratories, and they are left to market forces in terms of the testing that they do. Most local authorities put their testing work out to tender, so all the laboratories are in competition with each other to win the work.

Q283 Chair: Would you say that food testing is adequately funded at present?

Elizabeth Moran: I would say that it is not adequately funded. Central Government provides funding to local authorities via the revenue support grant, but this funding is not ring fenced, so it is up to local authorities to decide how they use it. Most local authorities have seen a reduction in the funding that they have had available to do inspections of food businesses and sampling for analysis.

Q284 Chair: In your written evidence you say that some local authorities rely almost entirely on FSA funding to carry out food sampling. What proportion of local authorities are you referring to in this regard, and is there a regional differential in this practice?

Elizabeth Moran: There certainly are regional variations; perhaps my colleague would like to comment on that further?

Dr Campbell: I shall speak for the area that my laboratory covers, which is Yorkshire and Humberside largely, but also a little bit up into the Tees. I have drawn some figures from my own budget for work that we have done that has been funded by the local authorities and also directly for the Agency's targeted surveys. In the Yorkshire and Humber region for last year, two grants were awarded.

For the authorities sending samples to me, other than West Yorkshire, the FSA-funded work had a value of £67,000; those local authorities spent £83,000 of their own money with my laboratory for analysis last year. That is a population of 2.1 million. West Yorkshire, which has a population of 2.2 million, spent £300,000 of its own money and £13,000 of FSA money. A separate group of five local authorities for which I have appointment spent £11,400 of FSA money with us, and £1,700 of their own money. Some of those local authorities spent no money at all, so they were not taking any samples for analysis at an official control laboratory.

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Even within the Yorkshire and Humber region the picture is very varied. If you look across England you will find similar variation between local authorities, which are more adequately funded, or I might even say less inadequately funded, and others, particularly London boroughs, who do virtually no sampling at all. The levels of sampling are available on the FSA website; they are called LAEMS Returns—that is Local Authority Enforcement Monitoring Service returns—and that details various enforcement work that local authorities do.

Chair: Would we be able to get those figures that you have shared with us in writing? That would be helpful.

Dr Campbell: Yes.

Q285 Chair: Would you say that local authorities are carrying out sufficient food sampling?

Elizabeth Moran: It depends on what you mean sufficient for, but in terms of the remit of this inquiry, obviously the horsemeat contamination issue was not picked up by testing in the UK. Certainly the level of sampling and analysis that is being done at the moment is not sufficient to pick up emerging problems and problems of adulteration. Horsemeat contamination is just one example of a fraud that is taking place in food; there are probably others out there that we do not know about.

As I said previously, although we have a risk-based sampling regime, we need to know what the risks are. The reality is that most local authorities are not assessing the risks—they are assessing the risks, but they are constrained by the budget that they have, so they have to decide which of their high-risk food businesses they are going to look at and whether they are going even to take any samples at all when they visit those businesses.

Q286 Iain McKenzie: Do you believe there should be a minimum sampling rate for each local authority?

Elizabeth Moran: I know that in the past there has been a minimum sampling rate, and although it is a useful way of ensuring—

Q287 Iain McKenzie: Can you tell us what that rate was, in the past?

Dr Campbell: A figure of 2.5 samples per year per 1,000 population has been used in the past, but that is regarded as not being an appropriate figure, given, as my colleague was saying earlier, the changes in the way that food is made and distributed. Certainly until very recently Germany had a sampling rate of five samples per 1,000 head of population. A sampling rate itself is a very crude measure, because in the past, when more credence was given to sampling rates, one of my authorities would go into a butcher's, take two samples of mince—the same mince—submit one sample for fat content and another to check whether the beef mince had pork in it. We could very easily have done the testing on a single sample, but to increase the number of samples that they were showing on their books they were taking two samples. A simple sampling rate is clearly open to abuse, and it is also a matter of how much money you spend: do you carry out one very cheap test on that sample? A sample of milk, for instance: do you simply check that

it has got the right fat content for semi-skimmed milk, or do you also check for added water? Do you also check for antibiotics? Do you also check to see that it has been adequately pasteurised? That is a very simple example.

You could spend £20 on an analysis of one sample or you could spend £1,200 or £1,500. A sampling rate per head of population is a very crude measure, which can be abused, and does not necessarily give you much information.

Q288 Iain McKenzie: You have also said that the trigger is intelligence-led. Do you believe we should introduce random sampling?

Dr Campbell: The Food Law Code of Practice, the Agency has said in evidence to the Committee, requires a risk-based sampling programme to be in place. As Liz said, that risk is constrained by how much money the local authority has to spend. The lead is, how much we have to spend. Random sampling: again, what exactly do you mean by random sampling? Do you just have a random idea? The gentlemen from Ireland were talking about having a common-sense-led approach, which is perhaps somewhere in between.

To have intelligence, you need to have something to base that on, and if you are not doing any sampling at all your intelligence is going to be limited, because there are certain aspects of food fraud that can only be picked up by analysis; inspections or chasing paper will not pick them up. Random sampling has its attraction, but it could result in a scattergun approach, which would be unfocused and not necessarily pick up problems. Intelligence-led sampling does have to be led by intelligence or by common sense, or being able to think, "What will we look at? Where might there be a problem?" rather than being continually restrained by budget.

Elizabeth Moran: Currently local authorities often have to make a business case for taking a sample, and they have to be able to justify taking that sample on the basis of a tip-off, of intelligence, or of a previously identified risk. That can be very constraining. I would not recommend random sampling, but targeted sampling. For instance, the horsemeat issue, we have been testing hundreds and hundreds of meat products in the last few years, but we have never been instructed or asked to test for horse DNA. We have been testing for the fat content of the meat, or the meat content, but not the species of meat in the product. There has not been any specific intelligence on contamination with horse, but there have been incidents in the past: in 2003 there was an issue with horse in salami products; after the Second World War there was a huge horsemeat fraud. These problems arise at particular intervals, so you could argue there is intelligence there for looking at that. Targeted sampling, looking at particular products that are likely to be adulterated, does have a place and currently there is no provision for that in the system.

Q289 Ms Ritchie: 28 local councils were asked to carry out tests for horse DNA contamination by the Food Standards Agency. Did all these tests have to go

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through the six laboratories that are equipped to analyse horse DNA?

Elizabeth Moran: Yes, they did.

Q290 Ms Ritchie: How was that managed?

Elizabeth Moran: Each of the local authorities that was asked to take samples would have submitted those samples to their appointed public analyst. If that public analyst's laboratory was not able to do the DNA testing, they would then have passed the sample on, under provisions in the Food Safety Act, to a public analyst's laboratory that could carry out the testing. As you said, there were only six of those within the UK, so they then had to test all of the samples.

Q291 Chair: You mentioned in your written evidence about the potential closures of labs; are you concerned?

Elizabeth Moran: Yes, I am concerned, and as an association we are very concerned. Because of the constraints in budgets, and because there is no central funding or any kind of baseline funding for public analyst laboratories, the laboratories are completely dependent on the income they get from testing. If they are not receiving many samples, they have no income to invest in new equipment and in new expertise. This is a case in point: although all these labs are official control laboratories, they all have to be accredited for the testing we carry out; when we have a national crisis like this less than half the labs have the capability to do any testing.

Q292 Chair: We are coming on to funding for sampling now, but in response to Mr McKenzie, you said targeted sampling might be better than random sampling. Would that have implications for funding?

Elizabeth Moran: Yes, I think it would. As my colleague mentioned, some local authorities currently do not take any samples at all, so either in those local authorities there are no risks, or they have no food businesses that carry any risk. If targeted sampling was to be included along with risk-based sampling then, clearly, extra funding would be required.

Q293 Chair: If it emerged that there were risks and they did not have the funds, because the funds were allocated to other aspects of local authority work, what is the worst-case scenario that could happen—if they have not tested, because they assumed there was no risk, and then a risk appeared?

Elizabeth Moran: The worst-case scenario with food testing and food safety is that somebody could die as a result of consuming food that was contaminated. That is probably fairly unlikely to happen, but the worst-case scenario in most cases would be that food that is either unsafe or not labelled as it should be is being sold throughout the UK.

Dr Campbell: If I could just add to that: people do die, not in large numbers. An instance is people who suffer from peanut allergy. It happens that a young person grows up in a family, suffering from peanut allergy; their parents look after him or her; they go off to university; they go out for a takeaway; they ask for chicken tikka masala with no nuts in; and they are

provided with one that has nuts in, because the staff in the takeaway do not fully understand what nut allergy is. There are instances of almond powder being adulterated with peanut, because it is cheaper.

I know one of the authorities that I do work for—or do very little work for—had that problem, but they did not follow it up. I gave them a quotation to do a fairly modest amount of analysis, but they never came back to me; someone was certainly in hospital as a result of that. Liz mentioned local authorities where there are no risks; well, there are no local authorities that do not have an Indian takeaway or a fish and chip shop, so there are risks there. It is just that local authorities are choosing—

Q294 Barry Gardiner: Can I just stop you there, and could we talk about just “fast food outlets”, as a constituency Member who represents a vast Indian population, rather than focusing it on one type in particular? I understand the point that you are making. You referred to the LAEMS tables. Does it surprise you to find that in 2011–12 there are 27 authorities who had the responsibility for testing, but did not conduct food composition tests?

Dr Campbell: I have been around for a while, and I am not surprised. I find it difficult that there is this tension between a code of practice that requires local authorities to have a risk-based sampling programme, and local authorities who take no samples. Forgive me for using the example of takeaways, but that was a very simple example; no matter how small the local authority, even if it has no big food manufacturers in it, it is going to have a takeaway, and there are risks there. There is this contradiction between a code of practice that requires risk-based sampling and FSA statistics that show a number of authorities, as you have said, that take no food standard samples. In fact, 7 million people in England live in local authorities that take no food standard samples, so there is this contradiction.

Q295 Barry Gardiner: Have you noticed between 2009 and 2011 that the decline in sampling, whether it is in counties, unitary authorities, metropolitan authorities or London boroughs, has been approximately 50%—

Dr Campbell: I would not have said that it was perhaps quite as high as that.

Barry Gardiner: I have got the figures here: if we are looking at median, it is 43.5% for counties, it is 49% for unitary authorities, it is 50% for metropolitan, and 52.3% for London boroughs. Is it simply down to cost-cutting on the part of local authorities, or is there another reason why that might have happened?

Elizabeth Moran: The main reason is the cuts in budgets to local authorities, not just in the budget for taking samples and the analysis, but cuts to the numbers of qualified officers who can go out and take samples. If there is money there to take samples but no one to go out and take them, it just does not happen.

Q296 Barry Gardiner: That is a beautiful way of leading into my next question: how many public analysts are there in the UK? How many have been

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made redundant in recent years? Do we need more public analysts? If so, where, given that you said it varies from county to county or region to region?

Elizabeth Moran: As of today, there are 30 public analysts working and appointed in the UK. To give you an example of the decline, in 2007 there were 41 public analysts, so the numbers have dropped by more than 25% in the past six years. That is due to retirements and laboratory closures. Some of the public analysts who were made redundant when local authorities closed laboratories have been re-employed in private sector laboratories. In terms of the locations of laboratories, there are 10 laboratories in England, three laboratories in Wales, four in Scotland, and one in Northern Ireland.

Q297 Barry Gardiner: I presume that if you are living in Leicestershire, Derbyshire, Hampshire, or Kent, things look pretty good, but if you are living in Gloucestershire, which conducted only one test in 2011–12, you might want to ask your local authority why.

Elizabeth Moran: Gloucestershire is an interesting case in point, and something I have had some personal involvement with; I was previously the public analyst for Gloucestershire. Their sampling budget was cut very drastically; only two or three years ago they were taking very large numbers of samples for a shire county, and you can see that that is a very stark example of how the funding available to them has been cut.

With regard to your previous question about whether there are enough public analysts, unfortunately, because the numbers of samples being taken have dropped so significantly, there are enough public analysts at the moment. If the numbers of samples continue to drop, the numbers of labs that close will increase, and the number of public analysts working will decrease. If you take that to its logical conclusion, by 2020 we could end up with no enforcement system left at all.

Q298 Chair: The Local Government Association told us in their written evidence that local councils were increasingly sharing their test results, as a way of coping with funding pressures. Do you have experience of this? Is that something you recognise—that they are sharing their results?

Dr Campbell: What the LGA are referring to is what is called the UK Food Surveillance System (UKFSS), which is a software database that the Food Standards Agency have set up. Currently about 62% of local authorities are using it, the idea being that when a sample is taken its details are entered on the system, then the laboratory conducts its analysis and does the results; that is then uploaded. When it is fully fledged there will be a very valuable resource there. It is not by any means complete, and there have been teething problems with it. One of the things that it does require, even if it is working properly, is for the offices in the local authority to have the time and the inclination to interrogate it to get the information from it to help them inform their sampling.

If that were fully developed and working it would be a very valuable tool, because at the moment a trading

standards officer in Cornwall and one in Carlisle may go into a branch of a supermarket and take, effectively, a sample of the same product, find a problem with it, and then refer it back to the home authority. It may be that that product is made in a local authority that does no sampling and analysis, so the problem would never have been picked up anyway. If there was central co-ordination, so there were resources directed to local authorities that had big manufacturing businesses, that sort of database would be much more valuable than it is.

Chair: So it is a useful tool at the moment.

Dr Campbell: It is not fully developed by any means. A number of local authorities have been very reluctant to start using it, because of software issues and double data entry, and so on.

Q299 Neil Parish: The Irish FSA have a new test for testing for contamination below 1%. What is your view of this particular test, scientifically?

Elizabeth Moran: Although the test the FSAI used was developed newly for the survey that they were looking at, it is not a new technology, certainly not in the last five to 10 years. The state of the art of DNA testing currently is to be able to get down to about 0.01% of the target species DNA. The laboratory that FSAI used to corroborate the results used the same methodology and is accredited to ISO 17025 for it. It is a perfectly valid test.

Q300 Neil Parish: That is the one that the Irish are using, is it?

Elizabeth Moran: Yes.

Q301 Neil Parish: Dr Campbell, do you want to add anything?

Dr Campbell: No. Liz has much more expertise in DNA analysis than I have, so she is the expert.

Q302 Barry Gardiner: Can you explain why it is that, according to Mr Reilly, the test would not stand up in a court of law?

Elizabeth Moran: The impression I got from Mr Reilly was that it was not the test itself, but the manner in which the samples were taken that was the reason they would not stand up in court: that the samples were taken informally, rather than formally. To give you an example, local authorities in the UK have the same option when they go out; they can do informal sampling, which is the purchase or picking up of one sample, or they can use a procedure for formal sampling, which is set out in law, where they take a sample and divide it into three parts, one part of which goes to the public analyst, one part is given to the trader, and a third part is retained for the Government Chemist. It is only samples taken formally that can be used to take forward a prosecution.

However, what would normally happen is, if a problem was found with an informal sample, a local authority should then go back and take a formal sample of the same product, in order to enable a prosecution to then be taken, assuming that the results were adverse on that formal sample as well.

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Q303 Barry Gardiner: So the normal way of operating would have been to have revisited those two plants—the ABP plant and the Liffey plant—and to have then immediately taken further samples from them. Is that right?

Elizabeth Moran: Yes. That would be the normal way of doing things.

Q304 Barry Gardiner: That would have allowed the Irish to prosecute, assuming the tests had come up the same?

Elizabeth Moran: Yes. Although the test that was used to test the samples first time around was not accredited, although I do not actually know, I would have expected that it would have been validated, and that the results should therefore have been suitable for use in court. I know that certainly there is a reluctance to use results from non-accredited laboratories, because the European legislation states that official control samples must be tested in accredited laboratories.

Q305 Chair: Is that why we do not use it in the UK?

Elizabeth Moran: The test is used in the UK. The Food Standards Agency survey specified a different testing methodology, because that was based on a project that they had researched and rolled out about 10 years ago, but most of the laboratories that carried out the work for the Food Standards Agency did use the same methodology as the Irish, because it is the most up-to-date and state-of-the-art test.

Q306 Barry Gardiner: Given that the sampling was done on three sites and found this rogue 29% burger, in terms of the one-in-26,136 chance that my figures suggest he would have needed to have pulled out his luck from, in your experience, how likely is it that three tests done in that way, on a random plant in the country, would have managed just to alight on the problem?

Chair: You may not feel able to answer that.

Elizabeth Moran: Statistically it is unlikely, but not impossible.

Barry Gardiner: Nothing is impossible.

Q307 Chair: From the trace element point of view, from a public safety viewpoint, you cannot be nearly as worried up to 1% as with the gross contamination of 29%? There is a public concern about gross contamination, but short of insisting, where there is pork being produced from the same plant as beef you are never going to eradicate a trace element from analysis, are you?

Elizabeth Moran: It certainly is a practical difficulty, but food businesses have to take that into consideration. If a meat plant wants to produce halal products, for instance, then they should not be producing it in a meat plant that processes pork, because of that difficulty. Certain sections of society would not tolerate trace levels of pork in a product sold as halal. For horse in beef products it may be different. Just because the level found is below 1% that does not necessarily mean it is just adventitious contamination; it still indicates that there is a problem, and certainly merits further investigation. Although no

one would expect that zero tolerance should be applied, there is obviously an issue there, and it has implications about hygiene and clean-down in factories.

Q308 Chair: In your written evidence you say that the Food Law Code of Practice means that each food authority is required to produce an annual service plan for enforcement of food standards. Does that happen? There is no indication that that is not happening?

Elizabeth Moran: It does happen. The Food Standards Agency publish national priorities every year, and most local authorities publish a service plan, some in conjunction with their public analysts, and some publish it on their local authority website. The plans can be very detailed, right down to the number of samples being taken, or they can be more vague and more a statement of intent.

Q309 Chair: You mentioned the 18 laboratories reducing to six, and the fact that that leaves the UK enforcement system in a vulnerable position as regards testing capacity being effectively left to market forces. Is there anything else you would like to add?

Elizabeth Moran: The six laboratories relates to the number of labs that were able to carry out the DNA analysis for the horsemeat incident. The Food Standards Agency was clearly under a lot of pressure to do testing and to get results very quickly, and the six laboratories concerned have had to work extremely hard, take on extra staff, work very, very long hours, and have struggled to meet the deadlines. There was no spare capacity in the system, because the laboratories are run as commercial enterprises and have to compete with each other.

Q310 Chair: Dr Campbell seemed to be arguing for a national system of testing; is that something I misunderstood?

Dr Campbell: I have said many times in the past that the sampling should be centrally, nationally funded, co-ordinated regionally, but delivered locally, because although 80% of food is sold through five supermarket chains, obviously there is still 20% of food that is locally produced and sold. Because of the big players there is a need, as I touched on earlier, to ensure that, if there is a big manufacturing plant manufacturing a meat product that is nationally distributed, there is an adequate inspection sampling regime in place in that plant.

Currently, because of the wide variation in local authority inspection and sampling activity that we have been discussing, there is no guarantee that that will happen. There is a sort of postcode lottery, which I know is an overused term, but it is down to a local authority deciding what its priorities are, obviously in very difficult times at the moment; local authorities are making very difficult decisions about how they are going to spend their money all the time, but if that local authority, for whatever reason, decides that this is a low priority for them, the potential ramifications go across the whole country. The food chain is obviously extremely complicated, as we have seen with the whole horsemeat thing.

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Chair: On behalf of the Committee, thank you both very much indeed for being here and sharing your evidence with us, and for contributing to our inquiry. We are very grateful. Thank you very much.

Tuesday 14 May 2013

Members present:

Miss Anne McIntosh (Chair)

George Eustice
Barry Gardiner
Mrs Mary Glendon

Sheryll Murray
Neil Parish
Ms Margaret Ritchie

Examination of Witness

Witness: **James Fairbairn**, Former Commercial Director, Freeza Meats, gave evidence.

Q311 Chair: Good afternoon and welcome, Mr Fairbairn. Thank you very much indeed for being with us this afternoon and for contributing to our inquiry into food contamination. Just for the record, could you give your name and position?

James Fairbairn: It is James Fairbairn. I was Commercial Director of Freeza Meats; I am very recently retired.

Q312 Chair: We are very grateful to you for being with us. I understand that you took some meat into storage for a business partner. If I could just ask you a general question at the beginning: would Freeza Foods, as a company, normally make a habit of storing meat for other business partners?

James Fairbairn: No, and “partner” would not be an appropriate word. He was a trader, certainly known to us. We would have dealt with him pretty infrequently in the past, but he had a particular problem that weekend, approaching 18 August, when a parcel had been refused by Silvercrest Foods. He had a problem getting it into store for the weekend, and rang up and asked if we would store it for him on a very temporary basis.

Q313 Chair: How would you describe your relationship with the firm in question, which I understand was McAdam? How would you describe your relationship, if they were not a business partner?

James Fairbairn: There would not be a relationship, per se. He is a wellknown meat trader who has been in the business for years. There are lots of meat dealers, both in Ireland and the UK, and possibly Europe. They can be quite useful at times, but it would be more rare that we would use a trader than not.

Q314 Chair: It is not something that you would normally do?

James Fairbairn: No.

Q315 Chair: Will you assess the risks in storing meat that was not intended for your company’s use?

James Fairbairn: We would not see a risk in the storage of it, especially since it was indicated to us that it was going to be very short-term.

Q316 Chair: How short-term?

James Fairbairn: He indicated a week, possibly.

Q317 Chair: Did you have a discussion as to what the insurance aspects might be, or any labelling aspects?

James Fairbairn: No, that would not have come into it.

Q318 Chair: Did you discuss the fact that there might be crosscontamination, or any involvement with your own products?

James Fairbairn: No.

Q319 Chair: Is this the first time you have done that for McAdam?

James Fairbairn: Yes.

Q320 Chair: Did McAdam say why they were unable to store the consignment of meat themselves?

James Fairbairn: McAdam rang us to see if we would temporarily store a consignment of beef for him.

Q321 Chair: And you did not think this was an odd request?

James Fairbairn: Oh, no.

Chair: But you would not normally do this.

James Fairbairn: No. The guy was stuck. It was approaching the weekend, and the guy was stuck. There are not that many cold stores about the place that would operate and take it in like that.

Q322 Chair: Did they tell you why they were unable to store the meat themselves?

James Fairbairn: He does not have a cold store.

Q323 Chair: So where would they normally store their meat?

James Fairbairn: Normally what traders do is that they essentially operate on the phone, in an office. They will secure a load of beef from any source in Europe, and ask for it to be delivered to any destination in Europe.

Q324 Chair: As a company, have Freeza Meats sourced their meat from Poland?

James Fairbairn: No. Not knowingly, no.

Q325 Chair: So on this occasion, where did the meat come from that McAdam stored?

James Fairbairn: It turned out that it came from Poland, but we did not know that until it arrived in.

Q326 Chair: So when it arrived in, how was it labelled?

James Fairbairn: Apparently there were Polish labels on it.

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Q327 Chair: “Apparently there were Polish labels”—did your people check the labels?

James Fairburn: The first thing we do is to check that every consignment of beef has an EU approval number on the label, sealing the top to the bottom of the box. We do have Polish workers in the factory, who were able to tell us, “Yes, that is from Poland”.

Q328 Chair: Did it look like beef to your workers?

James Fairburn: Our first observations were that, first of all, it was very badly wrapped. The wrappers were torn. It was very extensively freezer-burned, and some of the beef was exposed, sitting on splintered, dirty, wooden pallets.

Q329 Chair: So did this not raise issues of hygiene to you?

James Fairburn: It raised issues with us, in that we wrapped it solidly with cling wrap and isolated it in the factory, and name-plated it with, “For Storage Only: Do Not Touch.” McAdam was phoned immediately as to the condition of the consignment, repeating exactly what I have just said about the state and nature of it. He was a bit surprised at that. He said “Hold on. If you can hang on to it, I will get on to the supplier of it in Poland”, or wherever it was, and he was going to seek a credit note for it.

Q330 Chair: So who was the supplier that supplied the meat?

James Fairburn: We do not know who it was.

Q331 Chair: You must know which truck brought it in.

James Fairburn: Yes, but he wanted it for storage. It comes in to us frozen. There is no way we would use it. We isolated it and did the necessary to make sure that there was no way it was going to interfere with our own stock in the cold store. It was a simple case of putting it aside and waiting for him to come and collect it.

Q332 Chair: Did he say where the meat was going to?

James Fairburn: No.

Q333 Chair: When were they meant to collect it?

James Fairburn: He indicated in the first instance, prior to it coming into the factory, that he would hope to get it out within a week.

Q334 Chair: How long was it there for?

James Fairburn: What happened then is that the local environmental health officer came down in early September. She saw the consignment. She said, “What is that?” and we said, “It is product that we are storing on behalf of this guy, McAdam”. She looked at it, and she said, “There is no way that is going into the food chain”. We said, “It certainly would not go into our food chain.” So she said, “It is not to move without our approval”.

Q335 Chair: How long had the consignment been with you at that time?

James Fairburn: It had been approximately a fortnight.

Q336 Chair: You were told that the consignment was coming for a week, so why did you not say you wanted rid of it?

James Fairburn: Because, when we saw the state of it, we informed McAdam immediately on the day it arrived that we did not want to hold it longer than was possible. He said, “Hold on until I get a credit note for it”.

Q337 Chair: Who was he going to get the credit note from? Did he tell you?

James Fairburn: He was going to get it from whoever supplied the meat to him.

Q338 Chair: You must have asked what the reason for the delay was, and why you had it for two weeks.

James Fairburn: What he had to do was to contact the supplier in the first instance and tell them the state of the beef. That supplier may or may not have had the opportunity to come and examine the product for themselves.

Q339 Chair: Who was the supplier? You must have been told to expect a call from that supplier, who was going to come to check the meat.

James Fairburn: No. It was absolutely nothing to do with us, except we were storing it. We wanted shot of it.

Q340 Chair: So you just let any Tom, Dick and Harry come into your storage?

James Fairburn: No, absolutely not. No.

Q341 Chair: So McAdam must have told you who to expect the call from.

James Fairburn: We would expect a call from McAdam, to say he had a truck coming in to lift it.

Q342 Ms Ritchie: First, I welcome you, Mr Fairburn, as a constituent from Rostrevor and South Down. Could you talk us through your normal supply chain, with particular reference, obviously, to where you get your meat from, and also in relation to issues to do with traceability?

James Fairburn: In general, we would use probably up to 65% of our raw meat material from the British Isles and Ireland. We would, on occasion, move into Europe: Holland, France, Spain, et cetera, when opportunities arose for consignments from there.

Q343 Chair: Can we just hang on? I am sorry to interrupt, but you have just said you had Polish workers, who were used to reading labels in Polish.

James Fairburn: A label came in with Polish writing on it. None of the indigenous people working in the factory understand Polish, so we asked them, “Where did this label originate?”

Q344 Chair: How often would you get consignments with a Polish label?

James Fairburn: That is the only one I am aware of. It was a totally isolated case.

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Q345 Ms Ritchie: Mr Fairbairn, if you take the last year or two years, where would your supply chain have predominantly come from? Would it have been from Ireland? Would it have been from the UK, or from wider afield?

James Fairbairn: It would be Ireland, first, North and South.

Q346 Ms Ritchie: And what would have been the percentage there?

James Fairbairn: The percentage would be 40%.

Q347 Ms Ritchie: Then where would the 60% have come from?

James Fairbairn: It would have come from the North and England, and the rest from Europe.

Q348 Ms Ritchie: How much would have come from Europe?

James Fairbairn: Probably about 15% or 20%.

Q349 Ms Ritchie: From what countries in mainland Europe would it have come?

James Fairbairn: Holland, France and Spain.

Q350 Ms Ritchie: ABP Food have suggested that supply chains in the meat industry are too long. What is your view of that?

James Fairbairn: I do not know. Is it distance they are talking about, or time?

Chair: They are talking about the number of suppliers.

Ms Ritchie: Yes, the number of suppliers, and it then goes back to the issue of traceability.

James Fairbairn: Certainly no one can be restricted in the number of suppliers that they have. It is important for a stand-alone company like ourselves, who are totally independent, to go out and source as much product as we can get our hands on. As time goes on, it is getting more and more difficult to get. The desinewed issue, for instance, has taken about 60,000 tonnes out of the market here.

Q351 Chair: So were you possibly aware of the fact that there was a potential gap in the market, with desinewed meat coming out of the market, and perhaps people trying to fill in with cheaper cuts of meat?

James Fairbairn: Certainly, one would have to pursue the cheapest possible product one can get, in view of the price movement in the raw material that we use, which is the forequarter of the animal. The price of that, I can say, has doubled in the past two and a half years, driven to a degree by the desinewed issue, but probably more so by the weak economy over here. People are buying huge amounts of mincemeat, more than before, because it is the most versatile, cheapest meat product you can get.

Q352 Ms Ritchie: Mr Fairbairn, how do you verify the assurances of your suppliers?

James Fairbairn: Mostly in the British Isles and Ireland context, where our consistent suppliers are located, we would carry out audits in the factory. They would be sent a questionnaire, followed up by an

audit, et cetera. In the European context, EU approval is critical for everyone—the questionnaire and EU approval is probably the primary criterion we look for.

Q353 Ms Ritchie: As a further supplementary, who are your suppliers in the Republic of Ireland, in Northern Ireland, and here in the UK?

James Fairbairn: They are basically the principal meat abattoir deboning producers: the ABP group, Dawn Meats, Kepak, and Liffey Meats. In the North, we have WD Meats in Coleraine, Omagh Meats, and ABP in Lurgan. There are probably a few more, which I cannot recall. In England, there are the ABP group, Vestey, and Newby, when they were active.

Q354 Barry Gardiner: Mr Fairbairn, can I just ask you about the visit from the EHO in September? That was when you first discovered that this was actually equine and not beef, is that correct?

James Fairbairn: Do you mind me asking you where that information came from? **Chair:** It is a question.

Barry Gardiner: It is a question.

James Fairbairn: Oh, sorry. No, the visit in September by the EHO—

Barry Gardiner: You told us that there had been a visit in September from the EHO.

James Fairbairn: Oh, yes. There was a visit in September, yes; sorry.

Barry Gardiner: I am just asking whether that was the first time that you discovered that it was horse and not beef.

James Fairbairn: Do you want the full profile of the consignment?

Barry Gardiner: It is just a simple question.

James Fairbairn: The EHO came in September, saw the beef consignment in the condition I reported earlier, and she said, “That is not going into the food chain”, for the simple reason that it was unfit—freezer burn, dirty pallets, and torn packaging. That was it. It was detained by the EHO and could not move. It was nothing to do with equine at that point, in September.

Q355 Barry Gardiner: Right. So you did not know in September that this was equine at all, and neither did the EHO, according to you?

James Fairbairn: No.

Q356 Barry Gardiner: When the Chair said, “Was this an odd request to store the consignment of meat?” you said, “Oh, no; the guy was stuck.” Who was it that had rejected the meat?

James Fairbairn: Silvercrest Foods.

Q357 Barry Gardiner: Why then, Mr Fairbairn, in your statement, do you say that it was you who was approached by the meat trader, McAdam Food Service, to purchase a parcel of raw meat, which you declined, and not anybody else?

James Fairbairn: Purchase did not come into the equation.

Q358 Barry Gardiner: I am sorry; I am quoting from your own statement. You, Freeza Meats, said on 5 February, “In August 2012, we were approached by the meat trader McAdam Food Services in County

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Monaghan, Republic of Ireland, to purchase a parcel of raw material, which we declined. Martin McAdam subsequently asked us to hold his product in storage, which we did in good will in a separated area of the storage facility.” So it was you who was actually approached to purchase this, and you declined it, according to that statement. Yet you have told the Committee today that actually, it was somebody else who declined the package. Which was it?

James Fairbairn: I do not recall actually making that statement.

Q359 Barry Gardiner: Is that right? It is a statement that Freeza Meats released on 5 February.

James Fairbairn: Hold on; Freeza Meats may have released that, but it was not me who released it. What has possibly happened there is that when McAdam first of all rang in a panic for the storage, he probably quipped and said, “And if you have a look at it and you think it is useable, you might buy it.”

Barry Gardiner: It does not sound like a quip, really, does it? “In August 2012, we were approached by the meat trader McAdam Food Services to purchase a parcel of raw material, which we declined.” It does not say anything there about “which had already been rejected by Silvercrest”, or anything else. You cannot explain that?

Q360 Chair: Can I just ask what the source of your information is? Who told you—how did you find out—that Silvercrest had rejected the consignment?

James Fairbairn: I heard that in the currency of activity in the factory.

Q361 Barry Gardiner: Oh, right. So you can tell us for sure that it was actually Silvercrest that rejected this?

James Fairbairn: They refused, yes, and McAdam told us it was refused by Silvercrest.

Q362 Barry Gardiner: Do you know on what basis Silvercrest rejected it?

James Fairbairn: When we hear “rejection”, what immediately comes to mind is it is probably a visual lean (VL) out-of-specification situation.

Q363 Barry Gardiner: Out of spec, yes, indeed. Now, you said the guy was stuck, and you were doing him a favour, right?

Chair: Freeza Meats said that.

Barry Gardiner: No. Mr Fairbairn said the guy was stuck, and you were doing him a favour. Freeza Meats in their statement said, “In good will, we held it in storage”. That sounds rather a generous move on your part for somebody who you told the Committee earlier this afternoon you had dealt with only infrequently in the past.

James Fairbairn: The guy wanted to get the stuff placed in a store, lest it be left to thaw out over the weekend.

Q364 Barry Gardiner: McAdam Food say—and this is their written evidence—that McAdam Food Products had no awareness or knowledge whatsoever of any possibility of there being equine content. “Any

such products are bought and imported on the basis of their being ordered, paid for, documented and labelled.” The words that strike me, out of that, Mr Fairbairn, are “paid for”. So if they were paid for, then according to you they were paid for by Silvercrest already. In which case, why was it that McAdam was coming to you to store them? Why were Silvercrest not coming to you to store them? If it was you that rejected them, presumably when they were ordered, according to Mr McAdam, they were already paid for by Freeza Meats. So which is it?

James Fairbairn: That is pure conclusion from you.

Barry Gardiner: No. It is actually Mr McAdam that has written it in his evidence to the Committee.

James Fairbairn: I am giving you my evidence as to what I know that happened. McAdam asked us to store it for not more than a week. A week passed, and he wanted to get a credit note. This is what we were told. He was having problems getting a credit note, and asked whether we could hold on to it for another week or so, until he got his credit note. Two weeks then into September, the EHO comes along. She puts the clangers on it, and it is detained. It now falls into the remit of—and its ultimate destination is controlled by—the environmental health officer. That is what we were told.

Q365 Barry Gardiner: Mr Fairbairn, I am telling you what we have been told, and we have been told by McAdam Food that they do not actually import anything unless it is already paid for. That is here in black and white. You may have read it in the evidence to the Committee. Is he lying? That is what I am asking you. Is McAdam lying?

James Fairbairn: It is totally contrary to the story he told us, yes.

Q366 Barry Gardiner: So he has either lied to you, or he has lied to this Committee. Is that right?

James Fairbairn: That is correct.

Q367 Barry Gardiner: In your view, he has lied?

James Fairbairn: Absolutely.

Q368 Barry Gardiner: Because he does not ensure that payment is received before he imports it in the first place, whether it is from Silvercrest or from Freeza Meats.

James Fairbairn: I do not know what he said in his statement. It is totally irrelevant to what I have told you, which is the absolute truth.

Q369 Chair: Could you just explain something to the Committee? You just said, in answer to a question, that you heard where the meat had been rejected from, and I quote, “in the currency of activity in the factory.” So is this chit-chat on the factory floor, or is it from the factory manager? Could you just tell us what you mean by “in the currency of activity in the factory”?

James Fairbairn: If I can give you a parallel to it, we would have guys ringing us on the doorstep of Christmas, wanting us to store an excess load of turkeys that they had in.

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Chair: But this was not Christmas, and this was not turkeys.

James Fairbairn: We would do that for some local guy. Here was a guy who rang up, who was in trouble getting the product into cold store. There are not that many cold stores available coming up towards the weekend who would take in product. We took the product in. It was frozen, and it was in a bad old state. We doublewrapped it, corralled it, and made sure it did not interfere at all with the current raw material stock that we had in that store.

Q370 Barry Gardiner: Mr Fairbairn, McAdam have also written in their evidence to this Committee that—as you said, quite correctly—“We do not store or process meat products, and our orders of products are dispatched directly to our customers from source”. Now, at that point—and I am taking what you have told the Committee here—they had gone to Silvercrest. It had been dispatched directly to Silvercrest. Silvercrest were therefore responsible for that product at that time, were they not?

James Fairbairn: They were only responsible until they cleared the intake of it. Most likely, in a rejection process like that, it is not a question of opening the back door of a truck, and looking in. The product would have to be offloaded and assessed by Silvercrest Foods as to their determination of whether it was in or out of spec. This particular case had to be out of spec, back on the truck and taken away. That is how it works.

Q371 Barry Gardiner: You say that you do not deal with ABP. Is that right?

James Fairbairn: We do deal with them, yes.

Q372 Barry Gardiner: Oh, you do? All right. It is probably just as well that you do, because there is a factory that they have got just over the back of you in Newry, is there not? You are a close neighbour, are you not?

James Fairbairn: It is very close at hand.

Q373 Barry Gardiner: Do you deal directly with ABP's factory in Newry?

James Fairbairn: No.

Q374 Barry Gardiner: So you deal with ABP, but not with the one that is right next door to you?

James Fairbairn: No.

Q375 Barry Gardiner: Which ones do you deal with, Mr Fairbairn?

James Fairbairn: One in Lurgan, one in Cahir, in the South of Ireland, one in Bandon, and in Tipperary. There are quite a number of factories.

Q376 Barry Gardiner: Right, so you actually deal quite a bit with ABP?

James Fairbairn: Yes, when the opportunity arises.

Q377 Barry Gardiner: And Mr McAdam used to deal quite a bit with ABP as well, did he not?

James Fairbairn: Probably.

Barry Gardiner: Probably?

James Fairbairn: Yes. He is a meat trader. He trades in meat.

Q378 Barry Gardiner: So it is more than probable, is it not?

James Fairbairn: Yes, of course.

Q379 Barry Gardiner: And you will remember the days when he did quite a lot of business, back in the 1980s and 1990s, with ABP and Mr Goodman.

James Fairbairn: I am not familiar with that.

Barry Gardiner: You are not familiar with that?

James Fairbairn: No.

Q380 Barry Gardiner: I would have thought your role at that time, with the whole of the Beef Tribunal, would have meant that those events were very familiar to your memory.

James Fairbairn: Not at all.

Barry Gardiner: Not at all?

James Fairbairn: Not at all. I worked in the international division of Goodman International, which was wholly and exclusively tied up in the export of beef products to destinations outside the EU.

Q381 Barry Gardiner: Yes, but the judge found that you were the person responsible for the cover-up at the ABP factory with Eamon Mackle, did he not?

James Fairbairn: If you are bringing issues up like this, which is not relevant, I will have to decline—

Barry Gardiner: I was not intending to, until you said that you did not know anything about this guy being involved with ABP.

James Fairbairn: I will have to decline in dealing with that, because it is not why I came here.

Q382 Neil Parish: Thank you very much, Mr Fairbairn, for coming to give us evidence. I want to talk now a bit about the principle of the food chain. ABP Foods have suggested that the supply chain in the meat industry is too long. What is your view?

James Fairbairn: I do not understand why they found it too long.

Q383 Neil Parish: I suppose the public have become very distrustful of the situation, because meat transfers from various countries. One minute it is beef, the next minute it appears to be horsemeat, and so therefore I suppose the public could well say that if the food chain was a lot shorter, there is less chance of that being changed from one to the other. I realise it is fraud when it has been done, but I think that is the logic behind it.

James Fairbairn: I suppose, in that context, they are probably right, but that is forced upon the industry because of the diminishing supplies of cattle, and especially the raw material that we as a burger plant—and the minced meat people and the pie people, and in some degree the sausage people—need. They have a problem getting supplies at a reasonable price, so you have to extend your market for sourcing.

Q384 Neil Parish: Perhaps I am leading you slightly now, but would you argue that there is huge pressure

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put on the meat industry by some of the large retailers to actually access very reasonably priced product?

James Fairbairn: Yes, the retailers have a very dominant role, but one would be foolhardy to engage with the retailers if they weren't certain that they could source the product at the right price to meet the price they quoted that would satisfy the retailer.

Neil Parish: So when you are processing meat, or—

Chair: I do not want to encroach on Sheryll Murray's question.

Q385 Sheryll Murray: Thank you very much, Mr Fairbairn. When meat processors determine where they source their ingredients, is it solely price that they base their decision on, or are you given instructions from companies to decide where you are going to source the produce from—quality, or other factors?

James Fairbairn: The product we use is forequarter meat, and we would use it and buy it in essentially degrees of VL, which is fat content. A 70-VL product means it is 70% lean and 30% fat. 80 VL means 20% fat, 80% lean, and up to the nineties. That is what we would order. We know what price we have to pay for it, or want to pay for it, and if we see it low, we would get it in and examine it. If it is what it says on the label, in fact, we buy it.

Q386 Sheryll Murray: So what you are basically saying to me is it is not solely price. It is actually the quality as well.

James Fairbairn: Oh, yes. If we order something at 80 VL or 90 VL and it comes in, our guys examine it, and it is 75, it goes back or there is a discount on it.

Q387 Sheryll Murray: What input do the retailers have in this process?

James Fairbairn: We have only engaged with one major retailer these past two years, and they will nominate source deboning facilities where we must buy our product for them from. That is purely because they have carried out their own supermarket audit on that source, as a credible source.

Q388 Mrs Glindon: What lessons do you think have been learned in the meat-processing industry from this incident?

James Fairbairn: I think, from our point of view, the lesson has been, "Don't do favours for anyone". That is the lesson. As regards the equine issue, this has been a fraud perpetrated by a big organisation somewhere—a big one. I suspect it may have been going on for a long time, because the results that have been coming through since the start on the burger front have been around 1%. For cooked product, they are now going up to 38% or 40%. It almost looks as though the equine stuff is directed selectively between burger plants and cooking plants. Anyway, that is my own personal opinion on it, but it is a unique scenario.

Q389 Mrs Glindon: In light of that serious view, how will food business operators such as yours alter your approach to ensure the integrity of your supply chain in the future?

James Fairbairn: It is unclear at the moment. Certainly, I know that the Commission are going to bring out a directive very shortly as to what they see as the best controls to operate. As regards ourselves, who are an end user in beef, I imagine the controls are going to be centred on the deboning halls and the butchery halls, where they will carry out species tests to confirm that what is in the box is bovine.

Q390 Mrs Glindon: There is nothing you think that your business can proactively do?

James Fairbairn: I do not think so, no. I imagine that every consignment of beef that we take in in the future will have to have clearance on a species test. That will be it, really.

Q391 Neil Parish: Mr Fairbairn, I would like to follow up on my last question about the large retailers. Now, if you take the largest retailer in this country, Tesco, they have now said that they want to source all their beef and meat products from the British Isles. Now, the British Isles means the Republic of Ireland as well. How confident would you be that the integrity of the food chain will be able to differentiate between beef from the Republic and beef from elsewhere in Ireland that will then go into the Tesco food chain? If the meat industry has been able to supplement horsemeat for beef, how traceable will the system be through the Republic and through the UK, to be sure that that beef is actually either British or from the Republic of Ireland?

James Fairbairn: I go back to what the previous speaker said—there will be controls applied to these deboning halls that will be carrying out species clearance certificates, basically, with each load.

Q392 Neil Parish: That is species clearance, but the question I am asking you is not species clearance, is it? In the future, we want to know about the integrity of the food chain, to make sure the beef is from Britain or from the Republic of Ireland. How confident are you that a major retailer can get to that position, whereas before—in the recent past—we have had horsemeat put in place of beef? I suppose you could DNA-test beef that comes from, say, Brazil or Argentina for beef that comes from the Republic of Ireland or Britain, but it would be difficult, I imagine. How would you test for that?

James Fairbairn: I do not know, short of putting armed guards or something on each of these installations. I honestly do not know the answer to that one. If it is doable, it will be done, as you can see from this equine issue.

Q393 Barry Gardiner: Mr Fairbairn, you and I are agreed on one thing, and that is that when the Food Standards Agency of Ireland came before this Committee, Mr Reilly, I think, told us that he thought that this was a one-off. It was like winning the lotto, he said, that they had got this one beefburger that happened to have gone astray. You have said—in my view, quite correctly—that this was a fraud perpetrated by a big organisation and for a long period of time. Can I just ask you—you have worked in the meat industry for a very long time, and you know its

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ways—how would one do it? How would one go about it? Would it involve mislabelling and swapping of labels? Would that be part of how one would go about doing this? Would it involve double bookkeeping? What are the tools of the trade that somebody might use to do this?

James Fairbairn: On the physical side, I have never worked on the butchery floor.

Barry Gardiner: No, but you know the industry.

James Fairbairn: I would say that it is quite obvious from the results that you will not get a full box of equine. What you will get, maybe, is half a box of bovine and half a box of equine.

Barry Gardiner: Yours was 80%.

James Fairbairn: Yes. The effect of that, where you have a very low VL amount of bovine and an amount of horsemeat—especially from horses that are very thin, and have been slaughtered because people cannot feed them—with a minimal fat content, is that it would up the average VL in that box. That is the only motive, because 1% would not be enough for any gangster.

Q394 Barry Gardiner: So if you were going to do it, you would have to swap the labels, would you not?

James Fairbairn: I think it was a mix.

Q395 Barry Gardiner: Would it be sensible to try to falsify the country of origin and pretend that it had come from outside the country?

James Fairbairn: Anything is possible. These EU labels are issued, as far as I remember, by the veterinary office. In the factory—in the deboning hall—a number is catalogued for every box that is used up.

Q396 Barry Gardiner: So somebody there would have to be implicated. You talked about a fraud perpetrated by a big organisation over a long period of time: that means the veterinary office would have to be implicated in this.

James Fairbairn: Going back to my last days in the Goodman organisation, when that was put in force, a tamper-proof label with a serial number at the bottom was issued by the veterinary office at the factory.

Q397 Barry Gardiner: Do you know a company called Eurostock Foods Northern Ireland?

James Fairbairn: I do, yes.

Q398 Barry Gardiner: Do you know where they are located?

James Fairbairn: They are in Lurgan.

Q399 Barry Gardiner: Are they not at Unit 10 on the Green Bank Industrial Estate, just next to you?

James Fairbairn: Well, they were. That was their old address, but they relocated two years ago.

Q400 Barry Gardiner: So they are no longer there?

James Fairbairn: No.

Q401 Barry Gardiner: Did you have any dealings with Eurostock Foods Northern Ireland when they were there?

James Fairbairn: We did, when we ran out of packaging, tape, or labels.

Barry Gardiner: You ran out of labels?

James Fairbairn: They were basically from here to the statue of the horse out there.

Barry Gardiner: Thank you.

Q402 Ms Ritchie: Mr Fairbairn, I suppose that you understand better than the rest of us that the agri-food industry is the bedrock of the economy on the island, both North and South.

James Fairbairn: Absolutely.

Ms Ritchie: So how do you think, having worked in the industry for many, many years, the contamination of the bovine by horsemeat took place?

James Fairbairn: How it took place? I could not conceive in a million years that it happened in the British Isles. I could not conceive of it. Apparently there is 60,000 tonnes of horsemeat created every year, and probably rising, and that seems to be predominantly in Europe. So one can only conclude European origin.

Q403 Chair: Just before we let you go, you said that it was probably a fraud perpetrated by a large organisation somewhere.

James Fairbairn: That is my personal opinion, yes.

Chair: What we have read, and what we have heard, and what the newspapers report, is that perhaps all roads lead to Ireland.

James Fairbairn: No.

Chair: You would absolutely, categorically—

James Fairbairn: Not at all.

Q404 Chair: Is there any particular reason why you could convince us that that is not the case?

James Fairbairn: The volumes required to make it worthwhile would not be in Ireland.

Q405 Chair: But we have established that there is a very large horse trade in Ireland.

James Fairbairn: That is the export of live horses.

Chair: Even just between Northern and Southern Ireland.

James Fairbairn: I would not be familiar with it, but that is my perception of the size of this, because of the apparent low return and high risk to get into it.

Q406 Chair: But I think you just established that it is a high return, because you have put on record this afternoon that you have lost the cheap production of desinewed meat. A lot of it was sourced from my constituency and Margaret Ritchie's constituency. You have put on record this afternoon that that has driven up the price of the hindquarter, which is what you particularly specialise in.

James Fairbairn: No, we specialise in the forequarter.
Chair: Pardon me; the forequarter. You have given us two reasons as to why there would be a market there and why it would be easy to fill.

James Fairbairn: Yes, but honestly I could not conceive of anyone deliberately going out and using horsemeat. From my reading of your inquiries here, there has been a concentration of this in Europe. I

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honestly cannot believe that anyone in Ireland would touch that.

Q407 Barry Gardiner: I agree with all that you have said to Ms Ritchie about the importance of the trade to the Irish economy, but why do you think it was that the FSA Ireland used those tests that they knew were not going to be able to result in a prosecution?

James Fairbairn: I have got an opinion on that too.

Barry Gardiner: Good. Let me hear it.

James Fairbairn: I think there was a whistleblower involved.

Q408 Barry Gardiner: So there was a whistleblower in one of the factories?

James Fairbairn: I am talking about my opinion.

Barry Gardiner: Of course. You are here to give us your views, absolutely.

James Fairbairn: There has got to have been a whistleblower.

Q409 Barry Gardiner: But those DNA tests that they conducted were on very specific factories, were they not?

James Fairbairn: They headed straight for Silvercrest, and they equalised that by going next door to Liffey Meats.

Q410 Barry Gardiner: So you are confident that they were acting on clear tip-off information from a whistleblower?

James Fairbairn: I would be pretty certain.

Q411 Barry Gardiner: Because, of course, that goes against what we also heard from them. They said that this was not on the basis of any tip-off; this was just “winning the lotto”, as he put it—the luck of the Irish.

James Fairbairn: I will not comment on what is in my head. Why did they not try for seagulls or something?

Q412 Chair: Can I just say, on behalf of the whole Committee, that we are immensely grateful to you for making the journey to be with us, and for giving us your views.

James Fairbairn: Could I actually make a statement to the Committee?

Chair: Of course.

James Fairbairn: I just want to go back to the simple train of events that happened. I have told you about the 18 August receipt of product. I have told you about the visit of the EHO, on around about 13 or 14 September.

Chair: That is a month.

James Fairbairn: At which point, she detained that product. Namely, the satellite office of the food standards people in Belfast detained it. They had ultimate say on where it went and what happened.

Q413 Barry Gardiner: How much did McAdam pay you to store the product?

James Fairbairn: We did not charge.

Q414 Barry Gardiner: You did not charge him?

James Fairbairn: No.

Q415 Barry Gardiner: That was very generous.

James Fairbairn: It was very generous, yes.

Barry Gardiner: For somebody that you have only worked with very occasionally in the distant past.

James Fairbairn: And we paid very dearly for it. So Mr McAdam was, as I said to you, told what the product was like on arrival of the product and examination of the product. He was to seek his credit note, and was delayed. The officer came down and detained the product. McAdam rang several times to have it released. My colleague was dealing with it. He rang the EHO, asking, “When can we release this?” and was told “You cannot release it. I will come back to you.” We ended up getting the EHO McAdam’s number to let her talk to McAdam and to explain to McAdam that the product was detained. That product stayed in our cold store over a period incorporating 19 January, when the horse bolted from Silvercrest.

Q416 Barry Gardiner: It was being kept as a hostage, is what you are saying, is it not?

James Fairbairn: It was kept as a hostage. It should have been destroyed.

Q417 Barry Gardiner: Because they knew that it was equine.

James Fairbairn: Pardon? No.

Barry Gardiner: It was being kept as a hostage because they knew that it was equine.

James Fairbairn: In August or September they did not know that there was equine in that.

Q418 Barry Gardiner: They had already been tipped off, you think, by somebody at Silvercrest?

James Fairbairn: Not the environmental health guys in Belfast; not the FSA in Belfast—you are talking about a Dublin and South of Ireland context. There was no mention of equine at that stage; there was no mention of equine until 19 January.

Q419 Barry Gardiner: So why was it kept then?

James Fairbairn: It is not “Why was it kept?” The question is, “Why was it detained for five months?” Don’t ask me. After 19 January, when that blew on Goodman, we had inquiries from four major retailers. It was not a question of, “Can you start?” It was a question of, “When can you start supplying us with burgers?” There was the potential of £3 million or £4 million. Now, how do you think we felt when suddenly some of that consignment of McAdam’s was found to contain 80%?

Q420 Barry Gardiner: When product is rejected, as this one was by Silvercrest, as you have outlined to us, normally what would happen, presumably, is not that somebody would just store it in a freezer; they would take it for disposal.

James Fairbairn: That is correct.

Barry Gardiner: Or they would take it to re-badge, and try to dispose of it in another way.

James Fairbairn: It is either dog food or incineration, one of the two. They were the two decisions facing the FSA.

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Q421 Barry Gardiner: So why stick it in a freezer? Why phone up somebody you have only known infrequently over a number of years and say, “Can you store this for us in your freezer?” Does that not imply to you that they were planning to maybe rebadge it and give it a different specification?

James Fairbairn: No. As I explained earlier on, traders rarely see the product they deal in. They deal on the phone.

Q422 Chair: I think, now, they will probably want to see the product. Can I just check what you told the Committee earlier? You told the Committee that you received the product on 18 August, and it was due to be there for one week. Now you just told us that actually it was still with you on 14 September, which is a month. So I cannot understand—and I do not think the Committee can understand—why you did not go back and ask them to remove it when it was only meant to be with you for a week.

James Fairbairn: That is correct. After we had advised them on 18 August or 19 August that the product was in the condition that it was in, he was obviously surprised, because his first reaction was, “Can you hang on to it until I get a credit note?”

Q423 Chair: It was that stage that you told McAdam the condition the product was in?

James Fairbairn: Oh, yes. We told him almost immediately, because had we not done that and a truck had arrived for it, we would have most likely been blamed for the condition of it, for the tear in the wrappers and the splinters in there.

Q424 Barry Gardiner: Why was it important that you kept it until he got the credit note?

James Fairbairn: Because where was he going to put it? Where was he going to place it? He indicated to us that it was really a matter of days before he would get the credit note, and that dragged on into a month.

Q425 Neil Parish: So this credit note was to come from the original company that he bought it from?

James Fairbairn: Yes.

Q426 Neil Parish: So he would need to prove the condition of that meat?

James Fairbairn: Yes, that is right.

Q427 Chair: Do we know which company that was?

James Fairbairn: No.

Q428 Chair: And you did not ask?

James Fairbairn: No.

Q429 Sheryll Murray: Can I just ask: how many times does this happen?

James Fairbairn: That was an absolute one-off.

Q430 Sheryll Murray: So you do not get regularly approached by people?

James Fairbairn: No. It was a total oneoff.

Chair: Do you think that, now, you and your colleagues at Freeza Meats will have more regard to what products they are receiving into cold storage?

James Fairbairn: We certainly will, yes.

Chair: We are very grateful to you, Mr Fairbairn, for being with us.

James Fairbairn: Can I just continue on with my statement?

Chair: We are enjoying this, so if our guests succeeding you do not mind, we love having you before us.

James Fairbairn: I will be very quick, but for the life of me, I cannot understand how that product was left in that store for five months.

Chair: It was your store.

James Fairbairn: Let me finish. I cannot understand how the FSA in Belfast made their announcement on the website about the 80%, without some degree of thought as to what it would do to our company, or a scintilla of commercialism to ask us. We could have shot up to Belfast in 40 minutes, and we could have said, “Could you not word that differently—that we have it in store?” We had no attachment to that product at any stage of the five to six bloody months it was there, and if that had been portrayed as another load of McAdam beef found to be contaminated, stored in a cold store in County Down, then we might have avoided losing a contract worth £2.5 million, and 31 people would still be in the factory working; they are now on the dole. That is how we have suffered as a result of that, and I think the FSA in Belfast have behaved—I had better not use the word.

Chair: We will have the opportunity to pursue that, but we are very grateful to you, Mr Fairbairn. We thank you very much indeed for being with us, and you are very welcome to stay and hear the rest of the evidence, if you so wish. Thank you.

Examination of Witnesses

Witnesses: Catherine Brown, Chief Executive, Rt Hon Lord Rooker, Chair, Steve Wearne, (Interim) Director, Food Safety, and Andrew Rhodes, Director, Operations, Food Standards Agency, gave evidence.

Q431 Chair: Good afternoon, my Lord, ladies, and gentlemen. We are very grateful to you for being with us for a second time in the context of our further report on food contamination. Could I ask you to introduce yourselves and give your names and positions?

Steve Wearne: My name is Steve Wearne. I am Interim Director of Food Safety at the Food Standards Agency.

Andrew Rhodes: Andrew Rhodes, Director of Operations at the Food Standards Agency.

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Catherine Brown: Catherine Brown, Chief Executive at the Food Standards Agency. I am afraid I am still a bit deaf.

Lord Rooker: Jeff Rooker, Member of the other place and Chair of the Board of the Food Standards Agency.

Q432 Chair: You will have heard the evidence we have just heard, and I am sure the Committee will wish to pursue that. Can I just ask a couple of general questions, to begin with? When you last appeared before the Committee, I think, you did actually say that you would like to work very hard to improve your relations with other food agencies across Europe. How have we worked to improve that?

Catherine Brown: We continue to work very closely through all of the official channels that are in place to enable that to happen. So, clearly, we have been working with and through Europol. In terms of the cross-border issues in the island of Ireland, our team in Northern Ireland work closely. We have had multiple exchanges of information with the FSAI, of course, over the last few weeks, and of course all parties involved continue to use European reporting mechanisms as well, so it is an ongoing area of focus for us. I think one of the areas where we will want to really reflect in our lessons learned is what else we can do, and what we can do, as it were, between the heat of incidents like these to build relationships that work better for us when incidents do occur.

Q433 Chair: Can I just ask when you met your counterpart, the Chief Executive of the Irish FSA?

Catherine Brown: I have not actually met Professor Reilly yet. We are due to meet at a European Food Safety Agency (EFSA)-sponsored event fairly soon.

Q434 Chair: You did not think it was important, having told the Committee the last time you appeared that you wanted to work hard at improving relations, to meet the person who started?

Catherine Brown: No, I think it is very important. That is why I am going to Dublin at the earliest opportunity to do that. I think it is very important.

Q435 Chair: In your capability review—the first ever, I believe—it states at page 15 that the FSA needs to have a greater understanding of the challenges that local authorities currently face, and ensure that it has the capacity and capability to deal with an increasingly changing landscape. The FSA also needs to embed innovative thinking into everything it does, learning from others where it can. How have you worked at that?

Catherine Brown: Some of the people I have spent a bit of time with recently have been local authority people, both the LGA and individual local authorities, and local-authority-based labs. So there are a number of areas. Actually, that capability review also reflected that generally our reputation for dealing with incidents was pretty good, and of course, that's one of the places where you need to liaise very closely. But also, at a more strategic level, our Board has recently reviewed our approach to the review of the delivery of official controls, and said that actually in the light of our capability review—in the light of our strategy—we

wanted to take a more collaborative, more wholesystem approach to that. That has been very much welcomed by the very large number of local authority people that I have talked to over the last couple of months.

So there is quite a lot of work ongoing, but already some good progress has been made. I have been to Wales and met with the Welsh local government people, so a lot of work has been done, in terms of relationships with local authorities. And certainly I think the introduction of the “bird table”, for example, into the process of managing this incident is something that the LGA were welcoming yesterday, and saying it's indicative of a desire to work with and understand local government, but also other people's perspectives.

Lord Rooker: Can I just add to that from a strategic point of view? Since we last met, or since we were last in on 30 January, we have wound up the review of official controls, basically because we had got as far as we could with the research with both local government and other partners, and we took the view that we would be better off with a more partnership collaborative approach—as Catherine has just said—as far as local government is concerned. Because, to be honest, when the review started, over two years ago, there was a misunderstanding with local government. They thought we were coming along to take over, which we were not, but we have done enough research, and we can gain from the research that we have done.

We separated out animal feed from the review to start with, because that is where we have identified some food safety risks, so we have dealt with it quite separately. Even on that approach, on the animal feed, we changed direction some months ago. Andrew can give greater detail if need be, but we have got a different arrangement now with local government in the way we are trying to work. We recognise they are under enormous pressures. Some of the work is discretionary, some is statutory, and they are under enormous financial pressures. We want to encourage crossboundary working. We want to get smarter and to get better value for money. We want to make sure there are no gaps, and therefore in some ways to try to change the approach. I think that came across from your session with the Local Government Association. It came across there that there was more of a collaborative partnership approach, and we have done that quite deliberately as a Board. It was nothing to do with this—it has happened during this incident, which of course is still ongoing—but it was building up to that towards the latter end of last year.

Q436 Chair: Thank you. Could you tell the Committee how many investigations are currently ongoing, and when you expect them to conclude?

Catherine Brown: Just those relating to this group of incidents?

Chair: Yes, on food contamination.

Catherine Brown: Obviously, we cannot talk about live investigations. A lot of the investigations relate to each other, so I do not even know how you would count them. You could count them all as one, or you could count them as groups of cases, so I would not

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put a number on the investigations, but they are live and ongoing.

Q437 Chair: Could you clarify one point on prosecutions? In your annual report and consolidated accounts for 2011–12, you refer to prosecutions taken by the relevant enforcement authority. You then go on to say that 17 cases were brought before the courts by the FSA, Defra, or procurators fiscal, but within that you are saying that 174 faced individual charges. So when convictions were secured in 14 of the cases, is that 14 of the 17 cases brought, or 14 of the 174?

Lord Rooker: Could I ask for the reference? What page number are you on?

Chair: I am on page 19. Page 18 sets out the scale of the prosecution, and 19 sets out the number. It would help us to know whether the conviction rate is high, if it was 14 out of the 17 cases brought, or low, if it was 14 out of 174 individually charged.

Catherine Brown: Andrew thinks it is a high conviction rate. Can we come back and confirm?

Chair: Could you clarify that in writing? So the reference is page 19, and it is a question of whether the 17 cases brought resulted in 14 convictions secured, or it was the 174 individuals charged.

Catherine Brown: We will come back and clarify that.¹ The other thing, possibly, to clarify there is that looks to me to be cases that we took. Because, of course, the other thing to bear in mind is that local authorities take a significant number of cases. So, from our Local Authority Enforcement Monitoring System (LAEMS) return for 2011–12, we can see that there were 413 prosecutions taken by local authorities, of which 66 were for food offences. I do not actually have with me the conviction rate, but we will put that in with a note.

Chair: That would be very helpful indeed.

Lord Rooker: It does say, of course, that these were brought by Defra and the procurators fiscal, not just the FSA.

Chair: Yes. It would just help us to know.

Q438 Ms Ritchie: Are you confident that after the extensive testing of beef products in the UK, all contaminated beef products have been identified and removed from the market?

Catherine Brown: We are still in the process of going through every cold store and looking at what is in every cold store. Although we required the industry to test every product line, of course they will not have tested every batch of every product line, so I think that it is still possible that other cases will emerge. However, we have done a very well based statistical survey, which shows that the incident rate at that point was less than 1%. The fact that the latest tranche—the 150 cases that we did for the European survey, which again were wellgrounded in terms of being a statistically representative survey—came back with no positives over the 1% is reassuring.

Q439 Ms Ritchie: How long do you estimate that it will take you? I suppose that is like a piece of string,

but have you set yourselves any particular time scale or any particular projections?

Catherine Brown: I think we are near to the end of the one-off programme of testing. Now it is a question of how we integrate this ongoing question of horse speciation specifically into the forward tests, and that requires us to balance it against other risks to authenticity, but also other risks worthy of sampling relating to safety issues.

Ms Ritchie: Thank you.

Q440 George Eustice: You heard at the end of his evidence that Mr Fairbairn was quite critical of the way the FSA had handled that particular case, on a couple of things. First, this issue of naming Freeza Meats, given that they were effectively just holding it and were not part of the supply chain. Do you think that is a fair comment, or do you feel it was necessary to name?

Catherine Brown: I think we only stated a set of facts at that stage as they were known to us. There are a number of live investigations, so it is not something that we can really comment on in any detail at this stage. Perhaps once that process has come to its end, we might be able to do a further retrospective summary for you of the issues.

Q441 George Eustice: The second one—which I thought was almost more important—is that in his chronology, he said that he had the product in August and they were holding it for McAdam, but then in September 2012, somebody from the EHO came and condemned it and put in an order, saying, “You cannot move this product.” It then appears that it stayed there right until January. Can you say what was happening in the interim? Is it normal for product just to be condemned and stuck for five months?

Catherine Brown: This is a matter that the local authority, Newry and Mourne, were checking. They were doing checks of cold stores, in connection with the desinewed and mechanically separated meat (DSM/MSM) moratorium, and it was on that basis that they were inspecting things. They found something they were concerned about, so they put a restriction on it. Then it sat there for an amount of time—longer than we might naturally expect, but that is a local authority and local enforcement issue.²

Q442 George Eustice: Was it being held that extra length of time because of the horsemeat?

Catherine Brown: No.

Q443 George Eustice: So it was literally just that it was condemned?

Catherine Brown: It was just a local initiative, checking on the implementation of the moratorium.

Q444 George Eustice: What would normally happen in a normal situation, where meat is condemned because it has got freezer burn?

Catherine Brown: It would not necessarily be brought to our attention. It would be a local issue for resolution.

¹ See FSA Supplementary Written Evidence, page Ev 91

² See FSA Supplementary Written Evidence, page Ev 91

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Q445 George Eustice: So that was really a failure of the local authority, rather than the FSA?

Catherine Brown: Or a success, inasmuch as they were doing checks in cold stores, found something that should be kept out of the chain and kept it out.

Andrew Rhodes: If I could just add something, what sometimes happens in cases like this with local authorities is they will issue a detention notice and then issue a disposal notice, and that can be legally challenged by the food business operator if they do not believe the grounds are sufficient. So Newry and Mourne were going through whatever their processes were. As Catherine says, we would not necessarily have known about a case like that, but it is not as straightforward as, "It then gets disposed of". That can be challenged, and they may have been preparing a case; I am not sure. In relation to the DSM moratorium, it was held for a period of time before the horsemeat incident. It was then sampled as part of that, because it was held in cold store, and then the results were found.

Q446 George Eustice: Do you have any role in giving advice to local authorities and EHOs in terms of protocols for these types of events? It must be quite common to get consignments of meat condemned for all sorts of different reasons.

Andrew Rhodes: We will, in generic events such as the incident itself. We issued a number of enforcement letters to local authorities, asking them to do various things. For example, we asked them to inspect all cold stores throughout the UK, and we said what we would like them to look for, what we would like them to do. We give generic advice on dealing with different enforcement matters, but the detention of meat that they believe was in breach of any particular regulations or might be unfit would be a very standard matter for an environmental health officer to deal with. They would not necessarily consult the FSA for something like that.

Lord Rooker: Can I just add to that? You used the term "failure of the local authority." I do not know anything about this local authority, but it is quite normal. There was a case recently in the Midlands where 40 tonnes of cooked chicken was detained in a cold store by the local authority following some tests. It was disputed and went to court, because the owner of it wanted to do something else with it. This was well before Christmas, and it recently came to the point where it was disposed of—literally destroyed. This had taken quite a long time, and it is a matter for the local authority. They had found it was wrong; it was riddled with salmonella, to tell you the truth. It was challenged, because it went to court before Christmas, and it was only recently that it was disposed of. This was a normal activity of environmental health departments. I do not consider that to be a failure of the local authority, in terms of the time it took.

Q447 George Eustice: I understand and agree, but are you aware whether that was the case? Was it challenged? Was their decision challenged in this particular case with Freeza Meats?

Lord Rooker: No. I just said I do not know about that, but it would be quite normal. The time factor would not surprise me.

George Eustice: If it were challenged?

Lord Rooker: If it were challenged.

Q448 George Eustice: But if it was not challenged, and someone just forgot about it, that would be a failure?

Lord Rooker: Yes, but someone owns it and it is not going into the food chain, so someone is losing money. You would expect someone to say, "Hang on; I want my meat," and they are saying "No, you can't have it." It would either be destroyed or moved on. It could not be moved into the food chain because of the restriction that was placed on it.

Q449 Sheryll Murray: In this instance, where you have a third party holding stored meat for somebody else and it is clearly going to lose them money, they would seek compensation, presumably, from the original owner of the meat.

Andrew Rhodes: It would be a commercial matter for them to explore with them. They may do; they may not. It depends on what their arrangements are.

Q450 Sheryll Murray: What would happen if the local authority held up the process of that meat moving on, and then they found that it was all okay? Would they pay compensation?

Andrew Rhodes: Again, it would be for the individual to decide if they wanted to seek compensation from the local authority for maladministration. That is what the court process is there to adjudicate on. Each case would be taken on its merits.

Q451 Chair: Obviously, a consignment could easily get salmonella or something worse if it is just left to rot. Can you confirm that you were aware that the consignment was in this storage, being held for another company, for five months, and you tolerated that? Was the FSA aware of that fact?

Catherine Brown: We would be highly unlikely to know that. It is not at ambient temperatures, so it should not be rotting. It is a frozen environment.

Q452 Chair: Yes, but what we are trying to get our head around as a Committee is why the meat was held for five months in cold storage by the EHO, before it was suddenly checked in January to see if it was horsemeat. Why was it held because of the state it was in, without something happening to it? Then, hey presto, all of a sudden we are testing it in January for horsemeat.

Catherine Brown: I do not think it will have been the only consignment that will have been sitting in a cold store for a reasonably prolonged period of time. When people started checking for horse contamination, they will have found some of it in old and new consignments of meat. I do not think that there is necessarily a causal link between these things.

Q453 Chair: So it was held, first of all, because the EHO thought it did not look very nice, and then it was held for five months because it did not look very nice.

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Catherine Brown: You would need to talk to Newry and Mourne. They had concerns about compliance with the moratorium, and they decided it did not look fit to enter the food chain, so they took steps to make sure it did not.

Q454 Chair: Of course, when you checked in January, that would be because the FSAI had informed you that the tests they had been doing from November had shown there was horsemeat around in consignments.

Catherine Brown: So it was tested for horsemeat as part of our followup tests on horsemeat, once we knew that was an issue.

Q455 George Eustice: I know you said you could not comment too much on the investigation, but can you say at least how many arrests there have been so far in relation to that? We know there are two publicly.

Andrew Rhodes: There have been two arrests so far, both of which are ongoing police matters. Both individuals have been released on police bail. That is a matter that is now being dealt with by the respective police forces and in conjunction with the larger investigation, which is overseen by the City of London police, involving police forces from around the UK.

Q456 George Eustice: Just to be clear, as yet there have been no prosecutions in either the UK or Ireland, as far as you are aware.

Andrew Rhodes: I am not aware of any prosecutions in Ireland. There have been no prosecutions as yet within the UK, but obviously those police and criminal investigations are ongoing. I am not aware of any prosecutions elsewhere in Europe at this point in time, either.

Lord Rooker: It is worth mentioning that there have been no civil actions, either, between suppliers, retailers and others, suing each other for false labelling and cheating on the funding. That is a reasonable question to ask as well: why not?

Q457 George Eustice: Are you aware of whether there are any under way?

Lord Rooker: No, we would not know.

Q458 Chair: Are you saying that there could be civil cases for fraud?

Lord Rooker: You ask a quite legitimate question about the prosecutions, but I am saying that it is also a reasonable question to ask why, in the trade, those who have been short-changed and cheated and sold to on a false premise have not given rise to any prosecutions or civil actions in court for breach of contract.

Chair: We will ask the questions, and we would like you to answer them.

Lord Rooker: It is a reasonable question to ask.

Chair: Indeed.

Q459 George Eustice: Do you have a view as to why that is? Do you think that there was not a fraud—that they knew what they were doing? Is that what you are suggesting?

Lord Rooker: No, I do not have a view. I am just saying that it is interesting, is it not, that nobody has taken any action?

Q460 George Eustice: It is. Regarding the police Gold Group that was set up to coordinate this, from your own evidence, you said that the first meeting took place on 24 April. Is there a reason why it has only recently taken place? Was it set up in response to a feeling that the coordination was not working as it should without such a focus?

Catherine Brown: No. We have been working very, very closely, but as the complexity became clear and the number of different forces became clear, it became clear that it was appropriate to have a cross-police-force co-ordinating mechanism.

Andrew Rhodes: That is exactly right. It did not impinge on the investigation in any way, but Gold Group is when the collective police forces signify that they feel the investigation has reached a particularly critical juncture, and therefore they convene at that level of grouping.

Q461 George Eustice: So it is not a response to a perceived problem or lack of coordination. It is just that you think this is the right time to pull it together.

Andrew Rhodes: Gold Group can be convened when an investigation reaches a particular threshold. As they collect evidence—that evidence may extend outside of the matter that we are investigating—that can trigger the police to take a level of intervention, and that is what they then do.

Q462 George Eustice: What, in tangible terms, does the Gold Group have? How does it aid the process? Is there a greater level of information-sharing, or a regular meeting at which they exchange updates? What, in practice, does it actually mean?

Andrew Rhodes: Without my divulging anything sensitive, Gold Group will typically involve the establishment of an intelligence cell for the sharing of data. That was already happening from Europol as well. That happened very early in this process. We were the first to submit evidence to Europol. What happens is this: they may establish an intelligence cell. You will have an overseeing police force—in this case, the City of London, because this is considered an economic crime and the City of London police are the lead police coordinating force for economic crime—and that will involve all the different police forces, and any other intelligence agencies as needed, as they step up their response and the investigation reaches certain thresholds. It may never be convened in certain incidents. It depends on the number of forces involved.

Q463 George Eustice: Just another thing: we know that the Dutch authorities are also conducting investigations on a trading company that has got a couple of names, Willy Selten and Wiljo. They, I think, have told you that they think a number of UK businesses may have received products from those. Have you been able to establish whether that is the case so far?

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Andrew Rhodes: We have investigated all the companies that may have received product, and we were not able to identify that any of them had. The difficulty the Dutch authorities experienced is that there were very few, if any, records held by the companies they were investigating, which is why the Dutch issued, in effect, a blanket rapid alert about 50,000 tonnes of meat. They could only say who had been supplied by this company at any point in time. They were unable to trace any of the actual meat itself, so although we investigated all the companies, that does not mean that any of them received any of the goods, and we do not have any evidence that any of them actually did in this case.

Q464 George Eustice: Just to be clear, that is because the company that was supplying it was not keeping adequate records and did not have adequate traceability?

Andrew Rhodes: That is why the Dutch had to issue the type of notification that they did. It is what we would do if we had a company where the records were insufficient. You would issue a blanket warning about all the products affected, and that is exactly what the Dutch did. It does not mean that all 50,000 tonnes were contaminated; it means that all 50,000 tonnes were suspect.

Q465 Barry Gardiner: I want to go over some of the things that we heard earlier, and pick up on what you said, Ms Brown, about the close cooperative working now between yourself and the FSAI. McAdam Food Products, in their written evidence submitted to the Committee, has said, "The sources of the beef products that we ordered, and some of which have been identified to have contained equine DNA, were two factories in Poland and a meat trading company in the UK, the names of which have been provided to the authorities in Ireland." They go on to say: "I provided details of all orders, supplying companies, and original documentation to inspectors of the Department of Agriculture and the FSAI, and I have cooperated fully with the investigations." Has the FSAI passed that information on to you? Are you aware who the alleged suppliers from Poland were?

Catherine Brown: We do not have outstanding information requests with FSAI at the moment.

Q466 Barry Gardiner: Let's speak in English. You say you do not have outstanding information requests with the FSAI.

Catherine Brown: There is nothing we have asked for—

Barry Gardiner: Does that mean you have asked them the question and they have answered it, or does it mean that you have not asked them the question?

Andrew Rhodes: Do we possess the information you are asking about? Yes, we do possess that information as part of the investigation.

Q467 Barry Gardiner: You do possess that information, so you know precisely who the alleged suppliers from Poland were.

Andrew Rhodes: That is part of the investigation, looking at whether that company supplied anyone else.

Q468 Barry Gardiner: But at the moment, you consider it is not right to put that into the public domain. Is that correct?

Andrew Rhodes: I am not sure if it has been named elsewhere in the public domain at this point in time.

Q469 Barry Gardiner: Are you prepared to name those companies?

Catherine Brown: Not without checking.

Q470 Barry Gardiner: Once you have checked, could you write to us?

Catherine Brown: Yes, of course.

Q471 Barry Gardiner: What was your take on—if I can put it that way—the statement made to the Dáil by Minister Coveney, when he said the equine DNA found in consignments of frozen beef products "was labelled to be of Polish origin"? That is a very precise statement, is it not? Did you pick up on that in any way? Did you ask any questions of the FSAI about that, as to why he had been quite so specific in saying that it was "labelled" to be of Polish origin? I mean, it was "labelled" to be beef, was it not? Saying it was "labelled" to be something seems rather perverse in the circumstances.

Catherine Brown: It is not a phrase that we particularly singled out.

Q472 Barry Gardiner: It is not something you picked up on at all. Did you at all question the FSAI about B&F Meats, who were found to have been involved in the mislabelling of a limited quantity of horsemeat for export to the Czech Republic? You will remember that that was in Minister Coveney's own statement, but he went on to say that no fraud was involved, because apparently both sides knew that they were calling this horse "beef." Did you ask the FSAI anything about that—about why their Minister should have said that it was not fraudulent because both parties knew that they were mislabelling this product as beef, when in fact it was horse? Have you queried them about that?

Catherine Brown: No.

Q473 Barry Gardiner: Do you not think it might be a sensible line of questioning? Let me ask you the question in a different way. If two companies in the United Kingdom agreed to label horse as beef, and said, "Oh, well, don't worry; it wasn't fraud because we both knew what we were doing," would you not have them bang to rights for conspiracy to defraud?

Catherine Brown: We certainly would have a lively investigation into what was going on, and we would not think it was acceptable.

Q474 Barry Gardiner: Have you asked the FSAI if they have had, in your words, Ms Brown, "a lively investigation" into what was going on, and asked B&F Meats whether they were engaged in a conspiracy to defraud?

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Catherine Brown: The focus of our efforts and our responsibility is taking forward the investigations in our jurisdiction.

Q475 Barry Gardiner: But it is difficult to do that unless you have got clear sight of where this product is coming from. If you have got the Irish Minister telling you that it was “labelled” to be Polish, and it was not fraud because both parties knew that it was actually horse, then that makes it very difficult for you to get clear sight of your own investigation, does it not?

Catherine Brown: There are two things. There are the things that we can investigate that are within our jurisdiction, and then there is the European process for ensuring that there is appropriate collaboration across Europe, to make sure that all European consumers are appropriately protected. We are taking both of those processes forward.

Q476 Barry Gardiner: Given the history of double book-keeping by many of the companies that were implicated in the beef tribunal—many of whom are still running meat-processing and trading companies in Ireland—what processes does the FSA have in place to identify double book-keeping in any of the companies based in the UK, and what requests have you made of the FSA about their process for identifying double bookkeeping in the companies in Ireland? Specifically, have you impounded computer hard drives and looked at databases?

Catherine Brown: It is a live investigation that we are undertaking with the police.

Q477 Barry Gardiner: Have you impounded computers?

Catherine Brown: I do not think that we should disclose details of the live investigations. I will check with our lawyers, but that was my advice on attending, with regard to the live investigations.

Q478 Barry Gardiner: That is fine. I am very happy to leave that one there. Let me just ask you about Greencore, which is in your jurisdiction. Greencore have miraculously given themselves a clean bill of health, have they not? ASDA did a test on the product—the meat in Bolognese sauce—that found it was 5% equine. Greencore said that they then did their own tests—I think ABP did some of the tests for them—and found that there was not any. Did you just say, “Well, that’s all right, then”?

Catherine Brown: I would not want to comment on Greencore specifically.

Q479 Barry Gardiner: Why?

Catherine Brown: Because these are specific cases that are part of a nexus of things that are under investigation, but what I think it is fair to say is that we have taken enforcement-grade samples through our sampling programme, so that is exactly about not saying, “That’s all right”. We did get the industry to do their own very large testing programme, and that was great, but we did not just say, “I tell you what, then: we will take it that that is true.”

Q480 Barry Gardiner: Have you challenged Greencore Group PLC’s statement that says, “Given it was conclusively proved that we actually had no contamination in our supply chain”?

Catherine Brown: We would not comment on individual statements made by individual companies, necessarily, when we are in the middle of an investigation.

Q481 Barry Gardiner: But ASDA have not withdrawn their finding of that contamination of the supply chain from Greencore that said that the product was 5% contaminated with horse, have they?

Catherine Brown: One of the things that happens is when we take multiple samples—

Barry Gardiner: Is it “No, they haven’t”?

Catherine Brown: No, they have not, but one of the reasons we take three parts of every enforcement sample is so that, if there is a divergence in test results, there can be a ruling by the Laboratory of the Government Chemist on which is correct.

Q482 Barry Gardiner: The last time you were before the Committee, you questioned the methodology used by the FSAI, and you will have seen the evidence session that we had with Mr Reilly since then. Do you still have reservations about the type of DNA tests used by the FSAI, and more specifically, would you consider that the sampling was conducted as it was precisely to ensure that no prosecution of an Irish company could take place?

Catherine Brown: I will answer the second bit, and then I will ask Steve to answer the first bit. No, I do not think that is why they used this methodology. Steve, do you have any comments on the methodology?

Steve Wearne: I think you have to distinguish between the sampling and the analytical test. The analytical test was a commercial test by IdentiGEN. It is their commercial methodology, which is claimed to have a low limit of detection, but the methodological approach taken—qualitative testing, polymerase chain reaction (PCR), semiquantitative testing, and then speciation to determine the species present—is the same basic methodology as the test we use in public analyst laboratories in the UK. There is nothing inherently flawed about the methodological approach; it is simply that it is a commercial method, and for that reason, we do not have access to all the supporting documentation. The question about the analytical methodology is separate from that of sample. You can take a good sample and have it analysed by a poor method, or vice versa.

Q483 Barry Gardiner: Yes, I understand that. Ms Brown, you said that you do not think that it was deliberately done in such a way as to avoid a prosecution. Once they had done that sampling and established that there was equine contamination, would it not have been very simple, given that you usually take three elements of the product, to then have conducted tests or samples or analysis of that product that could have resulted in a prosecution? If that is the case, why do you consider that the FSAI failed to do that?

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Catherine Brown: I am not sure it is for me to speculate on why the FSAI—

Q484 Barry Gardiner: Could you answer the first part of the question? Could they have done that at that stage?

Catherine Brown: Yes. You could go back and sample from the same batch, and take an enforcement sample and take it through.

Q485 Barry Gardiner: So they could have conducted tests that could have resulted in a prosecution of the companies concerned. Had you been in that situation with a company in the UK—where because of the nature of the method of sampling you would not have been able to proceed to a prosecution on that basis, but had nonetheless found high levels of contamination in the product—would you have gone back and taken further samples to ensure that you could, if you chose, carry out a prosecution?

Catherine Brown: Yes, we would have. Indeed, it was to avoid that happening that we went for the enforcement-standard sampling through the surveillance activity that we undertook.

Lord Rooker: Both the laboratories that I have visited—one huge and one small—have confirmed that that is exactly the case. They are doing what we ask them, in terms of the way we ask for the samples. They are two quite separate laboratories.

Q486 Barry Gardiner: You had what I think may have been either a meeting or a conversation prior to the telephone conversation with Mr Reilly. I think you met their chief scientist, or their chief analyst.

Chair: Have we not just established that they have not met?

Barry Gardiner: No, the chief analyst.

Catherine Brown: I think perhaps you are thinking of our chief scientist. The FSA in this country have been in constant contact and had meetings, but I have not personally met with them.

Barry Gardiner: Let me ask the question in a different way, then. I was trying to do it more obliquely, but I will just have to be blunt. Do you believe that the FSAI at any time were withholding information from you that they were in possession of about the level of horsemeat contamination?

Catherine Brown: There was clearly a six-week period, while they were engaged in confirming and checking their results and testing, when they had suspicions and concerns, and clearly they decided that they wanted to be prudent and completely assured that their understanding was correct before they communicated it. There was clearly a period of time when they had concerns that we were not party to.

Barry Gardiner: Of course.

Q487 Chair: Could you just specify when that sixweek period was?

Lord Rooker: It was 23 November until 14 January.

Chair: Previously when you appeared before this Committee, we did ask—I asked myself—why you had not conducted tests at that time yourselves.

Catherine Brown: The Committee asked us why we had not tested while they were testing, but the answer was because we did not know that there was any reason to be concerned.

Lord Rooker: That is why we have indicated some asterisks on our timeline that we have provided you. The asterisks are absolutely crucial, because we are giving you information that we need you to know we did not know at the time on the timeline. Subsequently, we have discovered about the two tests and sending samples to Germany for crosschecking. We did not know about any of this, and we repeat that on the 10 January phone call to our chief scientist from FSAI, no mention whatsoever of horsemeat was made. That was four days before.

Q488 Barry Gardiner: Ms Brown, you have been extremely magnanimous in saying that there was obviously going to be a period of time when the FSAI needed to do that very legitimate checking and so on, where they were aware but they could not go public, and they could not even divulge it to you. Do you believe that there was a time when it no longer could be considered reasonable for them to have delayed divulging that information or sharing that information with you?

Catherine Brown: I think they had confirmation on 10 January, so there were four days when they could have told us that they had confirmation, but I think that the bigger question that is on my mind for the future, in terms of both international relationships with regulators and relations with industry, is how we create an environment where people are prepared to share their suspicions and concerns before they have confirmation. Really, the time when it would be most useful to share intelligence would be when you had a reason to be worried. We could have tested when we all knew there was a reason to be worried, so we are very keen to create an environment and a new process that gives some level of proportionate protection, so that people do not overreact to early-stage intelligence, but enables people to share earlystage concerns.

Q489 Chair: Would that not flow from our initial recommendation that you have the power to request tests? Basically, we are saying that you should have the power to require tests.

Catherine Brown: That is a very helpful suggestion, but sometimes intelligence can predate tests, and you would want to be careful not to make people think that if they did not test something, they did not have to tell you, because you want them to share their suspicions. If they end up with an awareness that something is happening in a particular part of the world that might lead to a problem, even pretesting, we would want them to share intelligence. Your recommendation is a helpful one, but it is not a substitute for intelligence sharing and an improvement to our intelligencesharing approach. This is something that companies have said to us: “It is difficult and uncomfortable for us to share information where there might be commercial advantage or commercial interests at stake, but we see now more clearly that it might be in all of our interests, and the consumer’s

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interest, if we could find a way of doing that.” One of the things we are now going to explore is what kind of mechanisms we could put in place that give a level of confidentiality but enable us to aggregate intelligence.

Lord Rooker: Could I just add to that? I think Catherine has been incredibly generous, and rightly so, because we understand the position that our colleagues were in in the Republic, but in future we want them to have the confidence to tell us. This is the second time in six years this kind of incident has arisen, where we have not been told. The last one was on the dioxins, which predates my tenure at the FSA. Indeed, our current document, our agreement with them on the exchange of information, came about as a result of the last incident, because it was revamped. As I said to you in January, we agree that if the document operated then, we would have the confidence to alert people at the earliest opportunity to details of any food incident or potential food incident that may affect the other or both jurisdictions, and where there may be a risk or potential risk to consumers. It is fairly clear—you do not need to translate—that if you think you have got something, you tip off the others, but with confidence that while you are still testing, nothing is said or done that upsets the arrangements, because it may be that you do not find anything.

Q490 Chair: I remind the panel of what I said at the beginning: regular meetings and the old adage that “it’s good to talk” will promote that kind of transparency.

Catherine Brown: Absolutely, and we do have that. We do have extremely regular meetings. We have a director in Northern Ireland, and the team there are in daily touch. It is not that there was not an opportunity, but that we had not created, somehow, the correct understanding to take that.

Q491 Neil Parish: Carrying on the same questioning, I want to go back to the question of your view of the specific type of DNA test carried out by the Irish FSA, which identified trace contamination. I am not sure you answered on whether we would use such a test here.

Catherine Brown: I thought the public analysts’ comments on it, when they joined you, were very interesting and helpful. They said it was a good, standard, reputable test.

Steve Wearne: The approach to methodology is first of all to do a qualitative test to see whether there is a foreign species present. You then do real-time PCR, which allows you to have some semi-quantitative analysis of what is in the sample, and then for absolute confirmation you sequence some of the DNA sequences present, to determine beyond any doubt what the species are. That three-step approach, that basic methodology, was in the IdentiGEN test conducted by the FSAI and also in the majority of tests that public analysts in the UK conducted, so it is sound. The precise details of the test and how IdentiGEN operates are a matter of commercial confidentiality, but the basic methodology is sound

and common to tests that we ourselves conducted in the UK.

Catherine Brown: I think there have been some questions raised about the specificity—not in a technical sense, but in terms of the exact numbers. When you talk to people in the labs, they say it is unusual to say things like, “There is 29%”. It is usual to say that there is a band. I think there is a desire in the scientific community to understand the underpinnings, and to see the peer reviews. The things that we said last time remain the case. It would be good practice for people to be able to understand the basis of the test, but as Steve says, on the basis of any of the evidence available to us, it is not an unreasonable test to carry out.

Q492 Neil Parish: The cost of testing can be up to £350 a time. When it comes to horsemeat, is there an argument that we could save some of this testing if we had a far better national database for horse passports, knowing where horses are and what they have been injected with? You could have something to back up the situation, instead of testing all the time. In the future, we are not going to test at the level we are now, at £350 a time.

Catherine Brown: Certainly, the point you make about how sampling fits into an overall system of controls is important in this space and in general. As I think we discussed last time we were here, the way that consumers are protected is not through sampling; it is through a system of controls that work together. Sampling is a way of testing that they are working, so certainly in that respect, a well-functioning horse passport system is an important part of that system of controls.

Q493 Neil Parish: Are you confident that in the future you can introduce a genuine spot check, which the industry will not know about before it descends on them?

Catherine Brown: Yes, we already have various unannounced-visit-type modalities that we can deploy, so I do not think it is impossible for us to do unexpected spot checks. The critical thing is having the intelligence to know what to do those spot checks on, because random checking is not going to be efficacious. It is going to be very expensive, and highly likely to miss whatever it is. It has got to be about sharing intelligence, getting better at going to the right place and winning the lottery more often.

Q494 Neil Parish: So that takes us back to the original argument with the FSAI. Was it a lucky dip, or did they have intelligence? I do not suppose you want to comment on that.

Catherine Brown: Our position has not changed since last time.

Q495 Chair: There was a press report at the weekend—one of many—that the FSA had planned to test all horses slaughtered in the UK in January for bute, but then delayed. Is that the case? I think the headline was “The Food Standards Agency explored the idea of testing all horses slaughtered in the UK months before the horsemeat food crisis began in

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January”—so that would be 2012—“but then decided not to do so”. Is that the case? It is your opportunity to tell us that this was a lie.

Andrew Rhodes: I am more than happy to answer that question. We had been looking at passport controls throughout 2012. We doubled the level of controls at slaughterhouses. We introduced new regimes for the control of animals that were presented with faulty, fraudulent or missing paperwork. They are then disposed of as animal by-product; they are not allowed to leave the premises. We invested in new microchip scanning software, and as we looked at this we also explored the issue of veterinary medicines not being recorded on the horse passport. As we now know, we have a positive release system in the UK. At that time we were looking at how to arrive at a position where we had enough evidence to make a number of decisions. These might involve, at one extreme end, saying that horses cannot enter the food chain because of veterinary medicine issues, or introducing a positive release system and charging the industry for it. Either one of those would have consequences, and could have serious upstream consequences if we got it wrong.

What the BBC have looked at is a very small amount of evidence, which is actually an exchange between me and another official, where we talk about testing any new test that is available, and seeing how well it works. It is absolutely not true to say that plans were ever in place to test all horses at that point in time. It was not until January that we had sufficient evidence that said, “We need to get a definitive picture of the level of phenylbutazone being found in horses being slaughtered”. We introduced 100% testing for that. At the same time, in conjunction with Fera, which I know you know well, we were able to develop a faster turnaround test without increasing the cost to us, although there is an overall increased cost. We were then able to introduce positive release, as we started to see positive tests emerging. What was reported at the weekend is not an accurate representation of what was actually happening and being discussed at the FSA in November.

Lord Rooker: In May last year, Jim Paice and I were on the receiving end of complaints from a Member of your House about FSA inspectors slowing down work in a horse abattoir, messing about with extra checks and tests. The owner had been on to the MP. When I wrote to the Member concerned—the date was 14 August—I explained in a long letter, which was at least three pages, that we were doing these extra tests last summer because of the things that we had discovered that Andrew has just explained, and that because of what we had been doing, we were about to start a sampling process for bute. This was going to be quite a systematic programme for a few months, which would take us to the end of the year. That was proceeding in advance, because obviously we knew nothing about the horsemeat. We were on to that and doing that. The complaints were from the abattoir owner that we were slowing down the line. We were slowing down the line because horses were turning up with the wrong passports—horses that were classified as already dead—and then we started to do the checks for the bute. As Andrew has explained, it was quite

unfair. We had not reached the point where we were told it was a three-week test, so, “Get an abattoir or a freezer and keep the carcasses for three weeks”. We could not do that.

Chair: We now turn to machinery of government changes in 2010.

Q496 Mrs Glindon: Thank you, Chair. In Scotland, the FSA is responsible for food safety as well as nutrition and labelling. What difference does this make in Scotland, compared to the situation here in England?

Catherine Brown: We have to work in intense collaboration with other Government departments everywhere. In Scotland we work with the devolved Administration and all the different components of that. That applies in England and Wales. I would say that the important thing to bear in mind is that wherever the exact lines are drawn around responsibilities here, we have to work across them to bring together a UK position, and to work in Europe. That requires us to work very closely with the Defra Secretary of State. While there are differences in where those lines are drawn in the different countries of the UK, in practical terms we work together across those lines wherever they are drawn.

Q497 Mrs Glindon: We know that food issues are not broken down into the simple delineations that are made between Government departments. Something that is initially a labelling issue, for example, could easily become a food safety issue. How do you ensure a close link between on-the-ground enforcement and policy?

Catherine Brown: We play an important part in that, because we manage the relationship with the local authorities, and that is really critical. We work with Defra on the authenticity policy-setting process, working out together what the priorities are and we support local authorities, as well, with guidance and advice on how to do enforcement when they are in an enforcement situation. Does that answer your question?

Q498 Mrs Glindon: How simple is that? Do you feel that it is easy to marry the two together?

Catherine Brown: It is never easy to marry the desire to implement consistent national policy across several hundred different local authorities who have legitimate and different local perspectives, and severe resource pressures. I would not call it easy, but I would say that there are a lot of good linkages and processes in place, where discussions can take place on what the priorities should be. We also have fighting funds that we make available to local authorities, so that local authorities can bid to get extra money to do extra sampling against the sampling plan, and we have never declined a good application to that fund. It is not simple, but it is functional.

Lord Rooker: Going back to your first question and Catherine’s answer, there are key differences between England and Scotland. In Scotland, because the FSA is responsible for all the other issues, we are openly and transparently non-conflicted, because we are not responsible for the economic sponsorship of the food

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industry. In England, whichever way you care to look at it—I am not a civil servant, so I can be quite open about this—to the perception of an outsider, Defra is an ordinary Government department. It does not meet in the open, and it is the economic sponsor of the food industry. Therefore, people might perceive it as being conflicted, as it has the responsibilities for country of origin, labelling, and authentication. That is the key difference between England and Scotland. In Scotland, we are completely open and transparent and in no way conflicted, and that is the way the Scottish Government intends the new Scottish food body to be. In England, a reasonable observer could make a case that there is a conflicted arrangement, but that is for others to debate. That is not something we can change, because it is the Prime Minister's personal decision.

Q499 Mrs Glindon: The next part of the question I would like to ask perhaps leads on from that. When you last came before the Committee you suggested that the decision to reduce the remit of the FSA was the Government's and not yours. Do you consider the current division of responsibilities to be the best one?

Lord Rooker: With respect, you cannot reasonably expect three civil servants to answer about a machinery of government change. The Prime Minister is personally responsible for the machinery of government, not Ministers. After 2010, when the decision was made overnight, without warning or discussion, the civil servants at the FSA carried out, to the best of their ability, the decisions on the machinery of government changes that were announced to the House by the Prime Minister. It was not their job to question it; it was their job to make it work. I genuinely feel that throughout, they have done their best to make it work, and to build good relations. The industry has its own view. The Board was opposed to it, but the Board was never consulted anyway. As it was not a central food safety issue, as opposed to food standards, it was not something worth going to war about. However, I do not think it is fair; generally speaking, even Ministers will not discuss machinery of government changes publicly, because the man at the top makes the decision. Is the current arrangement satisfactory? I ask you to look at the fact that the one country that is about to set up a new food body is going for an all-encompassing body. The consultation is ongoing in Scotland, because they want it to be arm's-length, open and transparent, and non-conflicted. That is the way the Scottish Government are operating in their consultation.

Q500 Mrs Glindon: Thank you, Lord Rooker, for attempting to give the best answer. I have one more question to ask you. What is your assessment of our recommendation that the FSA be given the power to require testing to be undertaken by retailers and local authorities when you have suspicions about particular products?

Catherine Brown: I think, as we touched on earlier, it is helpful. Our own review will think about where there might be regulatory changes that would be helpful, and I am sure other wider reviews will also look at it. One area in which we feel there might be scope to look is at the fact that the powers are in the

system, but at the moment they are very much exercised through local authorities. This is generally good, because in local situations that is a very sensible way of dealing with things. However, when you end up with something that has a supra-regional or national aspect to it—as any kind of large-scale food safety or food standards issue will—it is very hard to get consistency and pace. We think that there would be merit in considering the possibility of a switch-on, switch-off arrangement. It is not that we want to have lots of extra powers; we are perfectly happy for local authorities to deal with things in the normal run of local incidents. However, perhaps somebody should be able to say, whether it be our Board or some third party, “Actually, now we're in a national situation. Let's take some of these powers centrally, just to deal with this situation and this incident.” We think that that is where there might be real mileage, although the ability to require testing and to require the publication of testing could also sometimes be very relevant. In this case, all the people we have asked to test have tested.

Barry Gardiner: I want to give the Chair's apologies for leaving the hearing. A number of constituents are visiting her, and she did not want to be discourteous to them, but equally she did not want to be discourteous to you.

Q501 Neil Parish: I want to talk a little bit about country-of-origin labelling. What are your views on country-of-origin labelling, and should this apply to processed meat as well as unprocessed products?

Catherine Brown: This is a Defra lead, although we support Scotland, Northern Ireland and Wales on this. We are supportive of the requirement to do an impact assessment, because clearly what needs to be weighed up here is the benefits of transparency versus the cost to the industry and the benefit to the consumer. I am not clear on the causal linkage or benefits between these incidents and country-of-origin labelling, but perhaps I am missing an important and obvious point.

Q502 Neil Parish: Yes, but going back to my great friend, Tesco, if they make a statement that they are going to access all meat products from the British Isles, because they want to use that—I am not against that at all; in fact, I am very keen on the promotion of British meat—surely they have got to have a robust system to make sure that that is precisely the case. We have had enough trouble with horsemeat in there, but as I said, I have yet to be convinced that they are going to be able to DNA-test for different types of beef in different parts of the world.

Catherine Brown: Absolutely.

Lord Rooker: You can do that.

Q503 Neil Parish: I know you can do that, but how practical is it? How likely is it to happen?

Catherine Brown: I think that is absolutely right. If you want to make a claim, you have got to be prepared to substantiate that claim. That would not necessarily require changes to country-of-origin labelling; it merely requires you to be able to substantiate whatever claim you put on your packaging.

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Andrew Rhodes: It is exercised through traceability exercises. Tesco's prior policy was that the product had to be from Britain or Ireland. They enforced that through their contracts; that is an issue for them, and not necessarily an issue for us. However, you exercise that diligence through traceability. You look at the product you have received, and you trace it all the way back through the chain. That is what we did in all these cases. It does not have to be DNA testing. Of course, when you get an anomaly, that is where these companies can take whatever steps they feel are necessary to ensure that food chain. That is what they are currently looking at. How do they make sure they can secure that and demonstrate it—and ensure that their suppliers can demonstrate it to their satisfaction? I imagine it has been set at a higher bar than before this happened.

Steve Wearne: It is instructive to reflect on the statements made by key industry players. The Committee will remember that when Tesco gave evidence on 30 January, they were dismayed that the primary control they were exhibiting at that point, which was a commercial contract around GB and Irish sourcing of meat that went into their burgers, was not followed through by the producers. Subsequently, I know that some of you were very recently at the meeting of the All-Party Food and Health Forum, which heard from a senior caterer and another senior retailer. They said that the controls they are now looking to apply in the food chain are about having complete visibility, all the way back through the food chain to the primary producer. Inherently, that must offer much more certainty about the provenance of food than something that just relies on a commercial contract, operating at one stage or another in the process.

Q504 Neil Parish: If you have got a chicken or a piece of beef or pork, and you have got a farm assurance scheme—say a Red Tractor scheme—then you can trace that particular piece of meat very convincingly. You were talking about how there need to be assurance schemes as well as testing. How can you make sure that, for processed products, it is going to go on the label? A product might have quite a number of meats and the like in it. Surely that needs to be on the label in order for it to be traced?

Catherine Brown: No, it does not need to be on the label to be traced. It needs to be in the paperwork, and it needs to be transparently made available to either the purchaser, if that is part of their arrangement, or the regulator. It does not need to go on the label. To have to put an extra 15 countries on the label because of the complexities of the food chain—

Q505 Neil Parish: This is an old chestnut of mine. Is it not possible to put that on a barcode? It does not necessarily need to be on a label. You talk about a paper trail, but surely this is what all this is about. We have landed up with horsemeat in our food. For years, when I was in the European Parliament, I complained that for imported meat, nobody ever actually opened the lorry to see what was in there. With respect, it is not just about a paper trail.

Catherine Brown: No, it is not. Of course, it is a matter for the industry to work out how they are going to deliver on their requirements and commitments, and it is a matter for us to challenge whether the processes and systems they have put in place are adequate.

Q506 Neil Parish: We have this drive towards the retailer really wanting to reassure the public, quite rightly, on where their meat products have come from. Are you satisfied that we have, or can put in place, a system of labelling that is robust?

Catherine Brown: I do not think there is any evidence that this is a labelling issue. It is a fraud issue, and a composition and authenticity control issue. It is important that the entire system of controls is invigorated and moved beyond an entirely paper-based system. It may be that there are changes that could be made to labels that would be conducive to that, but I do not think that they are essential to it.

Q507 Neil Parish: What extra pressures are you going to put on the retailers to deliver this? It is no good if the retailers just say, "We're going to do this", because they are doing it for commercial reasons. I am not complaining about that, but we need to make sure that it happens.

Catherine Brown: Yes, absolutely. One of the areas that is very important now, and where it is very helpful to have input and advice both to us and to the industry, is how transparent should the industry be, and how transparent should they be expected to be? We do believe that it would be in the consumer's interest, and indeed the interest of the industry, for them to be much more transparent about the nature of the controls they are relying on, their samples practices and their sample results. There is a good level of agreement around transparency on the results of testing for horse speciation, but our view on that is that the next issue will not be horse into beef. It will be something else, and the industry needs to be prepared to step up and be more transparent about their wider framework of controls, and their wider sampling practices and results. That is an area where we do not have powers, but there could be a consensus that that is the right thing to do, and the industry might then choose to do it.

Q508 Barry Gardiner: Perhaps one way of addressing Mr Parish's question and avoiding the pitfalls of having to say the 15 different countries that it came from is simply to do what they do in other countries, which is to say "meat products from more than one country of origin". Would that not be a simple and elegant way round it, which would alert the consumer to the fact that this was not single prime Aberdeen Angus that had been minced up in their lasagne?

Catherine Brown: I know you have got Mr Heath coming to see you. They lead on this area for the UK and I am sure they will be happy to talk about these options.

Q509 Neil Parish: With respect, that is exactly what happens now, with the EU. It can come from

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wherever, and we cannot trace it. That is the old chestnut.

Lord Rooker: How can the French claim that the lamb sold in French restaurants is French when, if you DNA test, everyone would find out it started life in Wales or Scotland? If you go down the route of country of origin, from what Catherine said, it might be unwise. Nevertheless, it should be possible to pin people down if they make a claim. They can make a claim, but the claim has got to be able to be tested. If it is a private claim—because it is a commercial claim really—that still has to be tested. There needs to be some kind of arrangement or system for that. Putting a flag on for country of origin is probably not the easy way to do that. There have to be other ways of doing it.

Q510 Barry Gardiner: Going back to the labelling of the product in storage and in the factories, you will recall that Mr Fairbairn said that the labels have to be issued by the veterinary authority. Given that one of the causes of the McAdam consignment being rejected by whoever it was rejected by, and being held in storage because it was deemed unfit, was that the labelling was irregular—not just that it had been bashed about—what questions have you asked about the origin of the labelling and the involvement of the veterinary agency in the sourcing of those labels? Were these labels genuine, or were they stuck on there?

Catherine Brown: One of the core components of the nexus of investigations that we are going through with the policy is about labelling: what labels are put on where, who has put them on, and whether they are appropriate. All the issues around labelling are absolutely core to the investigation.

Q511 Barry Gardiner: You confirm what Mr Fairbairn told us, which was that a large-scale fraud by a big company going on for a long time could not have taken place without the collusion of somebody from the veterinary agency?

Catherine Brown: I would not want to confirm that.

Q512 Barry Gardiner: Do you think he was wrong?

Catherine Brown: I could not hear him, I did not follow his argument, and I would not want to comment on it until I had seen it.

Q513 Barry Gardiner: Can the FSA operate satisfactorily with a staff reduction of 5.5% in 2011–12?

Catherine Brown: We are very confident that the efficiency steps that we are taking are truly efficiency steps, so we are doing things like reducing the footprint of our accommodation. That will have saved £5 million by the time we have done the most recent consolidation. We have taken out management overhead and we have reduced sickness rates. I think it is very important that we do not think that genuine efficiency is a bad thing. We are delivering our activities. We have driven up compliance in the meat industry while we have made efficiencies. We have had the National Audit Office in recently, helping us to think about whether there are other areas we can

make efficiencies. Of course, there will come a time when, if resources continue to shrink indefinitely, we will move beyond being able to make efficiencies, and into not being able to function satisfactorily, but it is not this year.³

Q514 Barry Gardiner: The Chair was keen that I ask you about the consultancy fees that have been incurred while you have suffered that loss of staff. I think there has been £76,000 of consultancy fees, with one supplier paid £38,000. The Chair was keen to know who that was and what it was for.

Catherine Brown: We will need to come back to you.⁴

Q515 Barry Gardiner: If you could do that in writing, it would be helpful. Thank you very much. Perhaps, because of the exigencies of time, you could also respond in writing to another question: in 2009, your Board noted the expectation to cover costs fully, yet in 2010–11 and 2011–12 that did not happen. I think it is about 50% cost recovery at the moment. I know there is a big issue of cost recovery and it would be helpful to get a very full response from you in writing on that.

Catherine Brown: That is fine.⁵

Q516 Barry Gardiner: Thank you. The data on food sampling suggests significant variation between local authorities. For example, 19 local authorities did no sampling in 2011–12. How do you account for that variation?

Catherine Brown: Andrew, do you want to comment on this one?

Andrew Rhodes: Although the official returns show they have not reported any sampling, that does not mean they did not do any. A number of local authorities had issues uploading their returns to us, so in every case where local authorities indicated they have not returned any sampling results, we followed that up. There are only three local authorities in the last two years who have consistently not carried out sampling.

Q517 Barry Gardiner: Which are they?

Andrew Rhodes: Those three local authorities are Camden, Sefton and Leicester City. They have all been audited by the FSA, and we are dealing with them at the moment to understand what is going on in those areas. Of course, local authorities make local decisions on what they feel they should and can do, and that is based on what their members guide them on. However, while the returns that we have had indicate that there are a number of local authorities not sampling, that is not actually accurate. They have not returned the data to us. There are some local authorities which have carried out ad hoc sampling work which they have not necessarily counted as formal enforcement sampling.

³ See FSA Supplementary Written Evidence, page Ev 92

⁴ See FSA Supplementary Written Evidence, page Ev 91

⁵ See FSA Supplementary Written Evidence, page Ev 92

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Q518 Barry Gardiner: You are telling the Committee that there are three authorities that have conducted no sampling at all.

Andrew Rhodes: There are.

Q519 Barry Gardiner: That would be in direct contradiction to the parliamentary Question that was answered by the Minister for Public Health, which stated that none had returned no sample.

Catherine Brown: No, there was an answer to a parliamentary Question, which I think identified 15 as the number, but it was those who had none reported. There is an Answer that says there are a number of local authorities who had none reported in the LAEMS. What Andrew is telling you is that when we followed that through, there were only three who had carried none out. Obviously what we then need to do is to audit and interrogate them on why that is happening, and whether there is appropriate overall control. It is a different definition from that in the Answer to the parliamentary Question.

Q520 Neil Parish: I have a similar question. There appears to be an overall reduction in food sampling since 2009–10 across all types of authority. Is this a local decision?

Andrew Rhodes: There was a 14.6% reduction last year compared to the previous year on the amount of food standards sampling, and that is across the board. Interventions were down in every single category for food standards across the board, with the notable exception of enforcement action, which rose compared to the previous year. That suggests that local authorities are being ever more targeted in their interventions. Essentially this is down to local decisions on where resources are applied. We have not seen a similar shift in food safety interventions. This is about food standards, so the two are quite different.

Catherine Brown: We need to reflect on how we get maximum intelligence value from sampling, wherever it takes place. Risks like the ones we are discussing around authenticity are very unlikely to be entirely localised in Camden, for example. We need to work out how we construct the UK food surveillance system to make it more consistently used, and interrogate the data in it to give a better overall understanding. The real pressure point on the delivery landscape here at the moment is in local authorities; they are trying very hard to protect front-line services, but there is clearly really significant pressure. We have to find ways of getting more intelligence and risk management benefit out of fewer interventions, and ultimately probably fewer samples.

Lord Rooker: Could I just add to that? We talk about local authorities. There is massive sampling at the four major ports for importing food in this country: Felixstowe, Southampton, Heathrow and Tilbury.

Every week, without fail, we and our partners stop food coming into this country that would make people ill. Our prime function is to stop people being ill from food. I read out a list at the March FSA Board that I had culled from just January and February. It included grape soda, pistachio powder, sultanas, figs, okra, beef from Chile, various foodstuffs from Japan, groundnuts, navel oranges and fresh strawberries. There is stuff that we stop and destroy at the port every week. We dealt with 103 food incidents last month, in April this year. It is very true that some are small—some are very small—but while this is going on, we stop a massive amount of imported food coming into the country, because it would make people ill. That has to be placed firmly on the record.

Q521 Neil Parish: I very much welcome that. I have one final slight twist to the question. There has been a big debate about how much the local authorities, the FSA and others—perhaps the restaurants—should be testing food. What about the retailer? There is a big argument about who should be testing what is on the retailer's shelf to make sure it is what it says it is.

Catherine Brown: I think our position has always been entirely clear and consistent with Defra and pretty much everybody else, from a regulatory point of view. It is the responsibility of the food business operator—every single one of them who makes money from selling products—to make sure that they are safe, and that they are what they say they are.

Q522 Barry Gardiner: We will follow up, because of the exigencies of time and maintaining the quorum, with one further question on whether the review of the FSA was requested by the Government, or whether it was your Board's idea. What are the terms of reference of the review? Perhaps you could write to us on that.⁶ Just before we conclude, going back to Greencore, you said you were reluctant to be drawn on the issue of the 5% test for ASDA. Could you simply confirm that the absence of finding equine in other tests does not of itself negate the finding of equine in the test that was carried out by ASDA?

Catherine Brown: Sorry, I do not think I have understood the question.

Barry Gardiner: You will recall that Greencore and ABP did their own sampling, in which they found no equine. I am asking you to confirm that the fact that they found no equine in their sampling of products does in no way negate the fact that ASDA did find equine in its sample.

Catherine Brown: Yes, that is not arguable. That is correct.

Barry Gardiner: Thank you very much. I am very grateful to you for your time this afternoon. The hearing is concluded.

⁶ See FSA Supplementary Written Evidence, page Ev 93

Tuesday 21 May 2013

Members present:

Miss Anne McIntosh (Chair)

Barry Gardiner
Mrs Mary Glendon
Neil Parish

Ms Margaret Ritchie
Dan Rogerson

Examination of Witnesses

Witnesses: **Joanna Darmanin**, Head of Cabinet, **Bernard Van Goethem**, Director of Directorate G (Veterinary and International Affairs), **Koen Van Dyck**, Head of Unit G4 (Food, Alert Systems and Training), and **Jacqueline Minor**, Head of the European Commission Representation in the UK, European Commission, DG Health and Consumers, gave evidence.

Q523 Chair: Good afternoon and welcome. Could I ask for your names and positions for the record?

Jacqueline Minor: Good afternoon. My name is Jacqueline Minor. I am head of the Commission's representation to the United Kingdom.

Bernard Van Goethem: Hello. My name is Bernard Van Goethem, and I am Director in the Commission, working for Consumer and Health, but more specifically veterinary and international affairs.

Joanna Darmanin: My name is Joanna Darmanin, and I am the Head of Cabinet of commissioner boards responsible for consumer protection and public health.

Koen Van Dyck: I am Koen Van Dyck. I am the Head of Unit in the directorate of Bernard Van Goethem, dealing with food and feed hygiene and the rapid alert system.

Q524 Chair: We are extremely grateful to you for being with us this afternoon, and we understand that you have time constraints, so the Committee will try and accommodate that.

Nearly 5% of food samples of those tested were found to contain horsemeat. Is this not particularly alarming, given the size of the meat industry in the EU?

Joanna Darmanin: Madam Chairperson, if I can just recall some of the facts and timelines around this issue, because I think it is important, as we step away from the actions we have taken and look at the long haul, and learn the lessons. This whole incident started on Friday 8 February, when we were first informed by the United Kingdom of the first findings of horsemeat presence in beef lasagne. This was followed by notifications by Luxembourg, I believe, the day after, on the 9th. By 11 February, we had a pretty good picture.

Q525 Chair: Could we just stop for one moment? We know that our own Food Standards Agency were informed by Ireland—the food safety agency in Ireland—that testing for horsemeat was started in November. Are you saying that the European Food Standards Agency and the Commission were not informed that those tests were being carried out in November?

Joanna Darmanin: No.

Q526 Chair: You were not informed. Could you just repeat who first informed you?

Joanna Darmanin: The first notification via the Rapid Alert System for Food and Feed (RASFF) was done by the United Kingdom. I believe that was on 8 February.

Q527 Chair: So you were not informed at all by what was happening in the Irish FSA.

Joanna Darmanin: I believe we had some information about the Irish—that there was some Irish testing that was undertaken on their own initiative some time towards the end of January, but Bernard can correct me. Then the official RASFF notification was on 8 February, after which time it kicked in a series of actions taken at EU level. Just to remind you that five days after the UK notification—

Q528 Chair: You are very kind, but I think we have the timeframe in the documentation you have provided, so it would probably be better if we allow the time for questions, given the short time available. Can I just ask: the European Food Safety Authority will provide you with the information on their work?

Joanna Darmanin: No; this was something that came through the RASFF system and not EFSA. What happened was that on 13 February, when there was the ministerial meeting, we asked EMA and EFSA—so the European Medicines Agency and the Food Safety Authority—to give us a joint assessment on the issue of bute, on which there were some issues about whether there was a health risk or not.

Q529 Chair: Bute is important, undoubtedly, but we are concerned about the fraud, and the evidence that we have taken that this was horsemeat being passed off as beef. We will come on to bute in a moment, but what we are concerned about is when you first heard about the passing off, and whether you were surprised and shocked by the scale of the fraud, or whether you took it for granted.

Joanna Darmanin: No. We take nothing for granted, especially as it affects our food chain, but this was not an issue of risk. EFSA was not involved until that point in time when we asked for the risk assessment on bute, together with EMA. We took it very seriously, because within five days of the initial notification by the United Kingdom, we held an informal ministerial meeting in Brussels under the auspices of the Commission and of the Irish Presidency, where we took a number of actions.

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Q530 Chair: I am very sorry, but we are quite familiar, because you have given us the written documentation, with all the meetings. What we are trying to hear from you is whether you were shocked.

Joanna Darmanin: Yes, I think we were all a little bit taken aback by the scale of the issue. Having said that, you will have also seen that we found after the testing results came in that there was 5% incidence in terms of adulteration of horsemeat. That, I have to say—as the Commissioner said—is 5% too much, so we have to underscore that element, but nevertheless it remains rather limited in its scale. That does not mean that we do not have to learn the lessons and take the actions, but nevertheless I believe, at European level, we did act fast enough to try to take the necessary measures to restore consumer confidence, because this is what this crisis dented severely.

Q531 Chair: Given that it is some four months since it was first discovered, can you tell the Committee if you now know the main sources of the horsemeat, and at what point it entered the food chain?

Joanna Darmanin: The enforcement action and the responsibility for the control lie very much with the member states. Investigations are ongoing in the various member states, so, no, we do not have an overview of where we are. We are informed of specific cases. There was an example, which was something that was very much in the public domain, with the issue with Spangero and what happened in France. There was also the issue with the Netherlands, but as yet, it is not something where we can say we can put our finger on the exact source, because it is likely to be much more complex than that. We will have an overview, I believe, once investigations come to a close.

Q532 Chair: Before we move on to the investigations, which are ongoing, can I just ask: did neither the Cabinet nor the Service see any correlation at all between the ban on desinewed meat, which took effect in about March 2012—and we now know that certainly the Irish believe the fraud first commenced in March 2012—and the passing off of horsemeat?

Joanna Darmanin: No. We do not see any link between mechanically separated meat and horsemeat.

Chair: We will come on and explore that in a moment.

Q533 Ms Ritchie: You are very welcome. We understand that, in several member states, criminal investigations are ongoing. Can you tell us how many investigations are ongoing, and in which member states?

Joanna Darmanin: We do not have that information available. I understand that there has been a request to discuss the outcome of the action plan, the recommendation, the testing results and the followup, and the lessons learned in the agriculture council in June. I expect that a number of member states may indeed share that sort of information with the Commission there.

Q534 Ms Ritchie: What is the likelihood that there could be, or will be, criminal or civil prosecutions?

Joanna Darmanin: The issue of criminal or civil prosecutions, and the issue of sanctions, as you well know, is very much something that is in the hands of the member states. Just to remind you, this was one of the issues that we took up as a result of what we saw in the horsemeat scandal. In our proposal on the control regulation that was adopted on 6 May, we have already incorporated the issue of ensuring that sanctions and penalties in the case of food fraud would have to offset the economic gain of any fraud that is undertaken with respect to the food chain. Once this legislation gets through, we will have the proper legal basis to ensure that the member states do indeed take sanctions that are dissuasive, so that food fraud does not become part of the operation of food business operators.

Q535 Ms Ritchie: If I get you correctly, you are saying that at this moment, and in the past, member states have not been sharing intelligence.

Joanna Darmanin: They do not share intelligence on sanctions. It is a competence of the member states, jealously guarded by the member states.

Q536 Ms Ritchie: Have they shared any intelligence in relation to investigations?

Joanna Darmanin: I think there has been some sharing of information relating to ongoing investigations, but we certainly do not have an overview. I expect that that should become available, hopefully within the context of the potential discussion in the agriculture council in June. I am not sure of the dates of the agriculture council in June.

Q537 Chair: Could you just elaborate on that? Surely there must be suspicions in the various member states as to what the source of the horsemeat into the food chain was, and you said at the outset that you wish to restore consumer confidence. Surely the best way of restoring consumer confidence—particularly in the processed food market, which is certainly very, very important in Britain and Ireland—is to get to the heart of where the fraud started, to be sure that it does not happen again.

Joanna Darmanin: From an EU perspective, there is a level at which our competence kicks in. On the issue of criminal sanctions, et cetera, it is very much up to the member states.

Q538 Chair: I am not talking about sanctions. I think sanctions are obviously the domain of member states. We do not want to get the EU involved. I am talking about intelligence as to where the horsemeat originated from, and where the horsemeat entered the food chain.

Joanna Darmanin: The enforcement powers rest with the member states. What the Commission does, and has done, in this case—

Q539 Chair: Either I am not being clear, or you are misunderstanding the question. I am talking about intelligence. This is nothing to do with enforcement. I am talking about intelligence as to where the horsemeat entered the EU and in which country of the

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EU it entered into another, so that we can share that intelligence and be sure that it will not happen again.

Joanna Darmanin: I believe that once the member states complete their investigations, we should have a clearer picture, and then it is the sort of information that can be shared in the context of lessons learned.

Q540 Chair: So you have not got that information.

Joanna Darmanin: No, not at the moment.

Q541 Chair: Are you surprised that no prosecutions have been brought?

Joanna Darmanin: I believe there were prosecutions in the cases of France and the Netherlands. There were prosecutions, I believe, for Spangero. If I am not mistaken, they actually suspended the operation of the whole plant, and then relicensed it under limited conditions and excluded the part that had led to the problem, which came from that particular source. I am not saying that the source for the whole of the issue came from this particular plant, but certainly that was one issue in the case of the Netherlands, which came late in the testing process. There are ongoing investigations. I do not believe they have yet managed to get to a very specific point, but we are sharing information with them. Once they have that source, I assume that they will be taking action on that.

Q542 Chair: We are going to move to traceability, but before we do, could you just explain how port entry controls of meat imports into the EU currently work, and who polices them?

Joanna Darmanin: For imports of meat, these have to pass through border inspection posts, which are established ports in designated areas around the different member states. In the case of animals and animal byproducts, before a shipment comes in of animal origin, they are to notify the customs authorities and competent authorities, and then consignments are inspected for various issues.

Q543 Chair: Can you just confirm to the Committee that the inspection covers both physical checks of the meat—to see that it is beef, not horsemeat—and label checks at the same time?

Joanna Darmanin: Yes.

Q544 Chair: Who polices that the port state authorities are performing these checks?

Joanna Darmanin: It is different in the different member states.

Q545 Chair: So it is entirely done on trust.

Joanna Darmanin: No, not on trust. They have customs inspectors. In cases, you have veterinarians who are there on the spot to check a particular cargo or a particular consignment. It is not on trust. There will be physical inspections, and also documentary evidence to make sure that it matches. This is why they are obliged to give notice to the port that they will be arriving with this—48-hour notice, if I am not mistaken—so that the member states can adjust their capabilities accordingly, in order to inspect the incoming product.

Q546 Chair: So the Commission has no authority to swoop and see that these controls are taking place?

Joanna Darmanin: No.

Bernard Van Goethem: On the import of meat, if that is your specific question, there are only 10 third countries around the world that are allowed to export fresh meat to the European Union. That is a very restricted number of third countries, which are mainly North America, a couple of countries in South America, one or two in Africa, and then Australia and New Zealand. Those are the only third countries around the world that are allowed to ship fresh meat to the European Union. For all those exports, there is a specific export certificate, which is adopted at European level. This has been in place for decades, and we specify all the conditions that have to be certified by the veterinarian of the third country when meat is exported.

The first condition is that the third country is listed after an inspection by the Food and Veterinary Office (FVO), and the third country must fulfil a very high level in relation to animal health. We have to ensure that it is a country where there is no foot and mouth disease, for example; we know the disaster that can cause. There are a lot of diseases like that that have to be absent from the third country. The second requirement to be on the list to be able to export fresh meat is that the veterinary service must be up to standard. The veterinary service must have the capacity to control what is going on in the territory. The third condition is in relation to slaughterhouses. Those animals that will be exported to the European Union must be slaughtered in a slaughterhouse that has been approved by the third country and is also inspected by our inspectorate, which is located in Ireland.

The last component in relation to export of fresh meat is the fact that the third country must have a residue programme in place, which means that they have to check randomly all the various residues that might be present in the meat. They send us that annual testing programme, and we approve them, and unless they are approved they cannot export fresh meat to the European Union. When all those four conditions are fulfilled, the veterinary service in the third country in question can certify the meat, which is then shipped to the European Union, and which is controlled at the external border post of the European Union. We have around 250 to 300 of those border posts around the European Union—some here in the UK—where there is a compulsory identity check, physical check, and documentary check. Those are the three that have to be done on the import of meat. If the people at the border want to control more—if there are suspicions of fraud, or anything—then they can add laboratory tests, so they would take a sample of the consignment and make additional tests in a laboratory in the European Union. The meat, in that case, would only be released from the border post when those results are favourable. Those are very strict conditions.

Q547 Chair: You, the Commission, have satisfied yourselves that none of the horsemeat came from a third country?

Joanna Darmanin: No.

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Bernard Van Goethem: We have not said that.

Chair: So you do not know.

Joanna Darmanin: From my available data, at EU level, we consume 55,000 tonnes of horsemeat, and imports from third countries represent 36,000 tonnes. There is trade in horsemeat.

Q548 Chair: For the purposes of our inquiry, we are trying to find out what the source of contamination was, so we would be very grateful if you could just reassure the Committee this afternoon that you are satisfied that the source of the contamination was not from a non-EU country. Are you in a position to say so?

Joanna Darmanin: I do not think, until full investigations are undertaken, that we can make such a commitment here. No, I think that would be a little bit premature.

Q549 Chair: When will the results of the full investigations be available?

Joanna Darmanin: As I said, I have no firm date. There will be a discussion, hopefully in the June agriculture council. It depends on the level, I suppose. Each member state has a different level of investigations that are ongoing, and I expect that the member states will give us some first indications of how their ongoing investigations are developing. We should have that indication around June. I believe the agriculture council is mid-June, so in a couple of weeks.

Q550 Barry Gardiner: The agriculture council, I take it, is the group of Ministers who have responsibility for promoting the meat industry in their countries, is it not?

Joanna Darmanin: It is also the Ministers who have the responsibility to ensure the safety of the food chain and consumer confidence in the food chain.

Q551 Barry Gardiner: Does that not strike you as being a conflict of interest for them?

Joanna Darmanin: I am afraid that it is the member states that have the competence for enforcement obligations under new legislations.

Q552 Barry Gardiner: But that was not my question, Ms Darmanin. My question was: does that not strike you as a conflict of interest that they have? On the one hand, they are the promoters of the industry, and on the other, they are charged with getting to the bottom of what might have gone on in the defrauding that took place.

Joanna Darmanin: Let me be clear: if you see the results of the recommendation for the testing, the Commission required a number of tests, ranging from 150 for the larger member states to 10 for the smaller member states. What we saw—and, in fact, I believe you have a copy—is that many member states did more tests than we had recommended. Germany, for example, did almost seven times as many tests as we had recommended, so I think the member states did take their responsibilities in this case very seriously.

Q553 Chair: I am so sorry. Could you just explain when the Commission requested those tests to take place?

Joanna Darmanin: Yes. We requested the tests by means of the recommendation that was adopted on 19 February.

Q554 Chair: Could I just put it to you that the contamination started in March or April last year, and ask what testing went on between March 2012 and February 2013?

Joanna Darmanin: Under the residue plans, the member states are supposed to give us their results on a systematic basis.

Q555 Chair: Did they?

Joanna Darmanin: We did have the results of 2011. Then, if I am not mistaken—it was in the papers we sent—we had four positive notifications. I have to look through the papers for the detail. 2011 were the latest figures that we had.

Q556 Barry Gardiner: Ms Darmanin, on what date did the Commission receive notification from the competent authorities in Ireland that there might be a risk of contamination of beef products with horse?

Joanna Darmanin: I believe it was the end of January—the third week of January.

Q557 Barry Gardiner: Let us be clear: you received no notification that in November, the FSA Ireland had begun to do specific DNA testing for horsemeat. You had no evidence of that. They did not communicate that to you at all.

Joanna Darmanin: I think they were controls taken at the national level, so they were under no obligation to inform us.

Barry Gardiner: I was just wanting to know whether they did or not.

Joanna Darmanin: No.

Q558 Barry Gardiner: They did not. On what date did the Commission receive notification from the competent authorities in Ireland of the evidence of contamination—so not just the risk, but the evidence of the contamination? Or was that one and the same?

Joanna Darmanin: The third week of January, the same one.

Q559 Barry Gardiner: So they did not tell you that they believed there was a risk. They waited until they had hard evidence of contamination from a sample they had taken before they revealed to you that they had either been doing this testing, or suspected that there might be a problem.

Joanna Darmanin: Yes. Just to underline that, it was not an issue of risk, however.

Q560 Barry Gardiner: I know you have set this out in your written evidence, but could you perhaps explain for the Committee the “one step back, one step forward” approach to traceability?

Joanna Darmanin: If you do not mind, I will ask Koen, who is our expert.

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Koen Van Dyck: I think there is, within the food chain, a general obligation that a company receiving raw material should know where the raw material comes from and document that. They should then prepare the product, and when the product is sent to another, they have to know the destination. This is what we say, the step before and the step after. What happened in the case of the horsemeat scandal was that when the final product was found to be containing nonlabelled horsemeat—so it was not a food safety risk, but it was a nonlabelling issue—then it allowed a very short response, because the initial notification from the UK about the Findus company was clear from 8 February. On 11 February, the whole chain was identified through this traceability system we have. They started from the meat product, beef lasagne, then went to the company producing it, and then they could say, “We received the raw material from the French company, which received it from the Dutch company”, and say who the Dutch company bought it from. This allowed the whole chain that this meat followed to be mapped.

Q561 Barry Gardiner: Absolutely. So why would it be that the authorities in Ireland have still been unable to take out a prosecution against the company that had supplied the alleged Polish contaminated beef, or horsemeat, into Ireland? Your very “one step forward, one step back” principle allows them to have identified who the supplier was. Indeed, the company itself must have known who the supplier was, and therefore would have been able to take out a civil prosecution for breach of contract, just as the Irish authorities would have been able to take out a prosecution for breach of the regulations. So why has that not happened?

Joanna Darmanin: If I may offer a possibility, there is one issue of traceability, which I think Koen has probably explained. Since this is fraud, it is not always clear in what part of that trade the contamination, or the fraud, actually took place. I would assume that, from the perspective of a member state, before a member state took out any particular enforcement actions against particular companies, they would have to be pretty sure.

Q562 Barry Gardiner: According to Article 3 of Commission Implementing Regulation EU number 931/2011, food business operators must ensure that the following information concerning consignments of food of animal origin is made available to the food business operator to whom the food is supplied: “an accurate description of the food.” So we know that they did not comply with Article 3 at every point in the chain until you can prove where it actually came about, and if you cannot prove, it goes right the way back to the beginning.

Joanna Darmanin: My point was that—

Q563 Barry Gardiner: My point, with respect, is the one I wish you to address, and that is that there is a very clear instruction—indeed, it is in your own written evidence—under Article 3 that each food business must ensure this, and therefore each food

business that failed to ensure it ought to have been subject to prosecution. Why have they not been?

Koen Van Dyck: I think this is then part of the investigation.

Q564 Barry Gardiner: There is no investigation necessary, Mr Van Dyck, is there? We know.

Koen Van Dyck: No, but we do not know exactly in which step of the chain something went wrong or fraud was committed, and that is part of the investigation by member states. If we go back to the initial case with the French company Spangero, which was the most documented, there are different steps in between, so the investigation is then to identify which food business operator made the fraud.

Q565 Barry Gardiner: No, I am sorry. You are misinterpreting your own regulation. Read very clearly what it says. According to Article 3, the food business operator must ensure that the following information is accurate. They did not do that. Even if they were not responsible for the fraud, they did not ensure that the information was accurate. That was a breach of the regulation. It is subject to a prosecution. Why has the prosecution not taken place? You are trying to focus it back on the fraud—the criminal activity. That is where you are making a mistake in interpretation of the regulation. Article 3 is quite clear. Why has it not been enforced?

Joanna Darmanin: If I may just say something, if we continue with the logic that you pursue in your question, what you seem to be saying is that therefore each and every actor in the food chain should simply be prosecuted for nonimplementation of the regulation.

Barry Gardiner: Ms Darmanin, these are your regulations. They are not mine. They are your regulations in your written evidence, and that is what they say. If you disagree with them, change them. But they are the regulations; therefore, enforce them.

Joanna Darmanin: My only point was that I would assume that the various member states are trying to focus on finding who along the food chain specifically and knowingly committed fraud, in order to take action against them, which I believe is very much the line of questioning of this first set of questions.

Q566 Chair: It is a fairly basic point. If there is a regulation which says that food operators should provide accurate information, and they have failed in their duty to do so, why have they not been prosecuted by the Commission?

Joanna Darmanin: The Commission has no prosecuting powers.

Barry Gardiner: No, they do not have prosecuting powers.

Q567 Chair: So it would have to be by the member states. Why, in your view, do you think that they have not been prosecuted by the member states?

Joanna Darmanin: As I said, the member states are undertaking their investigations, and once they share that type of intelligence with us, then we will have to look at it and see. I believe that, from the enforcement point of view, the member states will be concentrating

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on who in particular fraudulently contaminated the food chain.

Q568 Barry Gardiner: Let us come on to the issue of fraud in a moment. Given the “one step back, one step forward” approach to traceability, why were the Dutch companies Willy Selten and Wiljo unable to identify their suppliers?

Koen Van Dyck: The two names you mentioned there were, according to the ongoing Dutch investigation, key persons in the fraud. It is clear that they do not want to reveal their suppliers, because they are the two players identified by the Dutch authorities as being key in the fraud.

Q569 Barry Gardiner: Mr Van Dyck, what you are telling the Committee, then, is that we have this system of rules in order to safeguard everybody, but if somebody chooses to commit a fraud, it does not work. It is no good at catching people out.

Joanna Darmanin: It is like general activity. I think that when the Commissioner went before the European Parliament, he was faced with similar questions. He said, “Listen, you have a police force, but if somebody slips through the net and wants to commit a crime, it happens”. We know it happens. It is criminal activity. So it is not something you can avoid in the absolute. I think what you can try to do is guard, make sure there is followup, and make sure that our instruments are as tight as possible. This is why we tightened the control regulation to make sure that crime does not pay, because whether fraud could become part of an economic activity was one of the issues.

Q570 Barry Gardiner: Let me ask you about B&F Meats. This was a company referred to in Minister Coveney’s statement to the Irish Parliament, who had entered into an agreement with a Czech company to label horsemeat as beef. Minister Coveney suggested to the Irish Parliament that this was clearly not fraud, because both companies had agreed that they should label the horsemeat as beef. Now, first, do you consider that to be fraud—or, at least, conspiracy on the part of both companies to defraud—and secondly, do you believe that it complies with the regulations as you have set them out?

Joanna Darmanin: I am afraid that I have no specific knowledge of the particular statement by the Irish Minister, so I leave it for the Irish Minister to answer about what he has said.

Barry Gardiner: I can read it to you if you like.

Joanna Darmanin: It is not my role to comment on what Ministers of the member states say.

Barry Gardiner: Perhaps you could read it and write to us afterwards.

Joanna Darmanin: However, under the labelling legislation, if you are labelling something that does not reflect the true nature of the product and doing so intentionally, then yes, in our opinion, that is fraud, and I think that is the opinion of everybody in this room and outside it.

Barry Gardiner: Would you therefore take that up with Minister Coveney, who, as you have suggested, has both the obligation to promote the beef industry

in Ireland and also to get to the bottom of the frauds that have taken place?

Q571 Neil Parish: I want to perhaps take you forward a little bit. This is about what we have learned about the traceability here, and what the outcomes are that are going to happen. There is no doubt that, on reflection, member states were not doing much testing. They did not know what was inside a processed product, especially, and that is something that I have always been very concerned about. We have probably gone from one extreme to another; we have probably gone from very little testing to a whole load of testing. How are we going to get back to a situation where it is much less likely for these frauds to happen, where enough tests are done, and where we actually know what is in our processed product, and where it has come from? It is one of my old chestnuts, as Bernard will know, but it is very much about knowing what is in these products. How are we going to get back to some sort of sanity in the world?

Joanna Darmanin: As I mentioned previously, there were three issues that we took up immediately as a response to what we had learned from the horsemeat scandal. One was to try to ensure that fraud does not pay, so to make sure that our sanctions and penalties offset any economic gain that operators may make from fraud.

The second issue is unannounced inspections: in other words, that you do not necessarily say to the business operator, “Oh, I am coming to inspect you in two months”. Clearly, they can clean up the food chain if they are committing fraud, so that is the second possibility.

The third possibility relates to the fact that, as we witnessed in this instance, all the Commission could do was recommend to the member states. We had no legal basis to require the member states to take actions and to do the testing. As time proved, this was not a problem, because they did indeed take out a lot more tests than we actually required them to, but I think it is important also to fight fraud, and to show that if this were to happen again, there would be consequences. There is now a legal basis for the Commission to require them to test for DNA.

Q572 Neil Parish: One of the lessons to be learned here, surely, is that there was intelligence—in Ireland, in particular—that this was happening. I know it is a competence of the member state and you will say that it is not your competence, and I know we are jealous to keep our competencies and not allow you to have more, but in this instance of food safety and food traceability, is there not an argument that those countries that have suspicions about something going on should actually inform you? Horsemeat is trading all across Europe, therefore, if you keep it jealously in one member state, you have no chance of tracing it back through where it might have come from. Nobody was committing a fraud while that was horsemeat. It was only in the moment that it changed from horsemeat to beef, and was still actually horsemeat, that the fraud occurred. What are you doing to work with member states to get intelligence in the future?

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Joanna Darmanin: I have to highlight—and this was something that the Commission was very concerned about in the beginning—that this was not a risk, because the consequences would have been much worse for the internal market. From that point of view, we were lucky, in that there was no risk that came up. Our rapid alert system, for example, is set up for risk, so we do not have a means to denote fraud. I think this is something that we have to pick up, to ensure that member states systematically are able also to report food fraud in RAFSS.

What we did learn, and something that, I suppose, we all recognise now, is that we are always the wiser with hindsight. If you have one member state who says, “Oh, I have a trace of this here”, a lot of things might have happened. You can have crosscontamination in certain cases of trucks which transport boxes. We were all a little bit taken by surprise at the extent of this potential problem, and this is why we acted quickly and at EU level, with the cooperation of the member states and food business operators, because at the end of the day it is them who suffer the consequences of this; a few are committing fraud, and the whole of the sector has a consequence to deal with. In that case, the fact that there was a measure taken at EU level with the agreement of all member states helped us to calm down the situation, and allow the member states to carry on with their investigations to find the source.

Dan Rogerson: There are regulations in place to ensure that all cattle can be traced. The Commission is proposing that we have electronic tagging of cattle. My first three areas of questioning are: how do you think that this will work in practice; at what stage, and by whom, will the animals be tagged; and who will maintain the register for each country?

Bernard Van Goethem: We have a system now with the double ear tag. That is a system that is applicable throughout the European Union, with a central database in every member state. We are in a situation where we made electronic identification compulsory for sheep last year, and there are more and more incentives on the side of the member states to also do it for bovine, despite the fact that in addition to the double ear tag there is also what we know as the cattle passport. So what we have proposed to the Council—and it is now in discussion between the two institutions, the Council and Parliament—is what we call the voluntary electronic identification of bovine. This would be a step forward which would allow the member states to pass to electronic identification, if they wish. It is already the case in some member states. There are some member states where, in addition to the two ear tags, they have put in electronic identification. We want to legalise that at European level, so allowing the member states to pass to electronic identification, if they wish.

Q573 Dan Rogerson: It is optional. You are not proposing that it be mandatory?

Bernard Van Goethem: No, it is an option. It will be an option, but it will also be an option for the farmers. The farmers will be able to get rid of the double ear tag and replace them with another identification, an electronic ear tag. As I said, there are discussions

between the Council and the Parliament about how to finalise the regulations. We are at the end of the discussions, so the trialogue took place last week. There are some member states that would like to have a certain delay before it is implemented, because, apparently, there will be some problems with the managing of the databases. Is that what you are referring to?

Dan Rogerson: Yes.

Bernard Van Goethem: The idea being, of course, that there is one database for each member state. This would allow them to trace back the animal, as they are now traced back with the two ear tag and the passport. Anyway, it would be compulsory when there are intraCommunity trade agreements. A bovine that leaves a member state where it is not compulsory and goes to another member state would have to be electronically identified.

Q574 Dan Rogerson: So in answer to my question of at what stage, and by whom, it would be the responsibility of the farmer to make sure that this happens?

Bernard Van Goethem: In each member state, there is a procedure to be followed—under the control of the competent authority—to make sure that when an animal is identified, it is really identified. There is not only the fact that you electronically identify the animal itself; you also check year after year that the animals that are in the database are also the cattle that are effectively in the field of a specific farm.

Dan Rogerson: There is quite a deal of flexibility in what you are describing there, for each member state to bring in that system.

Bernard Van Goethem: There is flexibility, indeed, in the member states in relation to the electronic tagging, but not in relation to the two ear tags. The two ear tags have to be there.

Q575 Dan Rogerson: As for who will be responsible for that within each country, you are again allowing each member state to decide?

Bernard Van Goethem: I do not know the details, to be honest. I can give written evidence later, but it is under the control of the competent authority. It is dependent on one member state or the other member state.

Q576 Dan Rogerson: You said these negotiations are reaching an end, so you could let us know what the conclusions are of those discussions.

Bernard Van Goethem: The discussions are now about the transitional period. One of the main issues is the transitional period: how much time will be needed for it effectively to be implemented, between the actual system and the future system? I repeat, this does not preclude the fact that member states could introduce it now.

Dan Rogerson: They have the option.

Bernard Van Goethem: It is not forbidden to do it. What has to be done is the two ear tags.

Q577 Dan Rogerson: Ultimately you foresee a point where we could dispense with the ear tags, once the

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electronic system is in, but until then we will have to have both.

Bernard Van Goethem: Yes, but always to ensure the traceability, from birth to the slaughterhouse.

Q578 Dan Rogerson: It is proposed to remove provisions for voluntary beef labelling. Are you confident—bearing in mind the discussions we have been having—that the removal of voluntary beef labelling will not reduce food safety or traceability? How can you be confident that that is the case?

Bernard Van Goethem: What the Commission is proposing has been recognised by a lot of member states as too much of an administrative burden. In particular, the UK Government is quite keen on highlighting the administrative burden, so we have been going in that direction. The requirements that were laid on them were a long and detailed procedure, to allow what we call voluntary beef labelling. It is not place of birth, place of rearing or place of slaughterhouse, which is compulsory. It is additional things: “Hereford beef, raised in the mountains”, or something like that.

Dan Rogerson: We do not always agree with everything our Government argues for.

Bernard Van Goethem: It is not replaced by new legislation. It will fall under the resulting voluntary labelling.

Chair: If we are going to accommodate your leaving at 4.30, we are going to really have to crack on with shorter answers; otherwise we are going to have to keep you for longer.

Q579 Ms Ritchie: I move on to the new legislation that will require meat products with added proteins to declare this, and I refer to the legislation that will come into effect from 13 December 2014. How will this legislation assist consumers of processed meat products?

Joanna Darmanin: Even currently, if you add proteins, you have to say so if it is a meat product. You have to declare it on the label. The new legislation, as part of the implementing and necessary followup mechanisms, will introduce the issue of origin for fresh meat of goats, sheep, poultry, and swine.

Q580 Ms Ritchie: Will this legislation also require a declaration of the quantity of added proteins from a different source?

Joanna Darmanin: I think it is quantity as well. If you have a percentage of a different protein, it has to say, “So much percentage of this particular protein”.

Q581 Ms Ritchie: Would it be possible for you to provide us with written details of that?

Joanna Darmanin: Yes.

Q582 Ms Ritchie: Will the legislation apply to loose meat, and by that we mean, for example, minced beef sold by a butcher?

Joanna Darmanin: For issues like minced meat and ingredients, that is the issue where the Commission promised to come forward earlier in the autumn to examine the issue of whether to extend origin

labelling to the ingredients. We expect that report to come out in the autumn, in September or October, in order to then assess the next steps of whether we go ahead and propose legislation for origin labelling of meat products as ingredients.

Q583 Neil Parish: I want to carry on the questions about what you, as the Commission, can do to improve food safety and to deter fraud. You have made it absolutely clear that it is up to member states to take these cases where fraud has been committed, and I think you said earlier on that it must be commensurate with the crime. I mean, if you have made €1 million by a fraud and then you get fined €10,000 and told to be a good boy or girl, you are going to carry on doing it. What can you do, as the Commission, to make sure that individual member states are actually bringing strong enough penalties against those who are defrauding the system?

Joanna Darmanin: It is part of our proposal. As you know, the Commission proposes it, and now we are in the hands of the European Parliament and the member states in the Council. My sense is that, after we have seen what happened in this case, the member states and the Parliament will be more on our side. They will be reluctant to try to water down those provisions, so they will want to have an EU legal basis that would allow them to level hefty penalties for food fraud.

Q584 Neil Parish: And you will be expecting member states to actually tell you what those penalties are?

Joanna Darmanin: On the information from the member states, that is something that we see across all EU fields, not only for SANCO (Health and Consumers) issues where the information—if sent to us—comes very late. They always say, “It is not required by the legislation to report on issues of sanctions, et cetera”. We had a report, for example, on animal welfare and animal welfare sanctions, where we had to specifically ask the member states to give us information, and we saw that there was a whole range, from a €200 fine to 10-year imprisonment for animal welfare breaches. Then again, you are in the hands of the information coming from the member states.

Q585 Ms Ritchie: How do you monitor compliance with food safety and labelling regulations across different EU member states?

Joanna Darmanin: Basically, the FVO conducts a number of inspections. There is an annual plan of the FVO, which is agreed a couple of months in advance of an incoming year to see which particular sector requires a closer look. The FVO does its inspections: for example, in the case of horsemeat, it happens that there was an ongoing hygiene inspection in five of the largest horseproducing member states. The report of the FVO on that is now published, I believe, and has been discussed with the member states. The issue is that after an FVO inspection, a report is drawn up, which is publicly available on the website within a couple of weeks, and where necessary the Commission takes out recommendations and asks the member states to tackle this, this, this and this. There

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is a process that we then enter into with the member states to ensure that any deficiencies that we find in the FVO inspections are dealt with in a timely manner.

Q586 Ms Ritchie: What changes, if any, would you now make to your practice?

Joanna Darmanin: I believe that we will factor in the issue of food fraud. That is something that we will have to check in upcoming inspections. We have focused, and our legislation heavily focuses, on risk. Risk is about safety of the food chain. This has taught us that we also need to be looking at consumer confidence, and that includes ensuring that food business operators are checking where their material is sourced and that it is what it says it is.

Q587 Dan Rogerson: You referred briefly, earlier on, to the issue of bute entering the food chain. Do you know how 19 samples with traces of bute were able to enter the food system, and from which countries did these 19 samples originate?

Joanna Darmanin: If you read the report, it is not necessarily that they entered the food chain. If they were detected as a result of this test, they would have had to be withdrawn, which I assume that they were. If I recollect my figures, there was one from Ireland and 14 from the United Kingdom.

Chair: It may be easier for you to write to us.

Joanna Darmanin: There was the Czech Republic, and one from Ireland.

Chair: Will you give us the details?

Dan Rogerson: That is fine. It just gives a picture.

Joanna Darmanin: There were 14 in the UK.

Q588 Dan Rogerson: What steps have these countries taken now to prevent a recurrence of this happening?

Joanna Darmanin: We already have in place certain requirements with respect to how horses go into the food chain. It is clear that one of the key areas where we have to take another look—and where we have announced that we will be taking another look in the action plan that the Commission sent to the member states on 22 March—is, for example, the horse passporting system. For example, you have a situation where you have a central database. In the UK, you currently have a number of databases, so the passports exist but they go into a lot of different databases. The idea would be to have a central database in each of the member states, so that they can crosscheck to make sure that there is not one horse with two passports and they are switching them.

Q589 Dan Rogerson: This is a proposal that you are making?

Joanna Darmanin: This is a proposal that the Commission said it would take up, and it will come into legislation in September, I believe, with the zootechnical legislation.

Q590 Dan Rogerson: That is around the passporting. Do you think there is also a need to look at the regulations controlling veterinary residues in meat destined for human consumption? We heard earlier that the horsemeat may well have been legally

slaughtered. It was only when it became labelled as beef that we had a problem, so there is a separate issue now of horsemeat containing veterinary residues entering the food chain.

Joanna Darmanin: There are two things. First, if a horse is treated with bute at any part of its life, it is automatically excluded, and then you have areas where there needs to be a sixmonth starvation period. That is something that we are also discussing with the member states, in terms of implementation of the existing horse legislation, because we have had legislation enter into force in 2008 which already sets out a number of requirements. For example, the next step would be to ensure that we have a centralised database.

Q591 Dan Rogerson: So your first focus is to make sure that the existing regulations are enforced properly. You do not, at the moment, anticipate any new provisions?

Joanna Darmanin: Yes, but also to improve where we have found gaps, like the central database.

Q592 Neil Parish: Going to the movement of horses, I am intrigued that you are going for electronic tagging of cattle, yet this was horsemeat we were trying to trace. Why are you not going for electronic tagging of horses? It is a serious question.

Bernard Van Goethem: With due respect, it has already been in place for three years.

Joanna Darmanin: Since 2009.

Bernard Van Goethem: So there is compulsory electronic tagging of newborn horses with microchips since 2010. Of course, it is not compulsory for older animals.

Q593 Neil Parish: Is this across all member states?

Bernard Van Goethem: Yes, absolutely, including here.

Joanna Darmanin: Since 2009.

Q594 Neil Parish: So you expect them all to be microchipped in the future, then, do you?

Joanna Darmanin: Yes.

Bernard Van Goethem: There are supposed to be, and I am sure that the competent authorities in the UK are checking that very regularly. But that is indeed the case, yes.

Q595 Neil Parish: How confident are you that you know what horses are moving through the EU, and where they have come from? How confident are you in the movement of horsemeat?

Bernard Van Goethem: I think there are two different issues here. The idea of the passport of horses, which is something that has existed for 10 years, was to link the animals with a piece of paper so that it can be identified. Also, from a technical point of view, to link the animal health situation of the horse, so that racehorses—mainly from the countries which are signatories to the Tripartite Agreement—could move freely without having to go to a vet each time they were moved abroad. The third part was public health, so the residue of veterinary medicine. The passport was linked with the individual horse.

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Now, of course, as Ms Darmanin said, the lessons learned from that are that we want to use the passport to know where the horses have been, where they are going, and where they will be slaughtered. We are adding a fourth dimension to the passport, which is a centralised database, so that the member states will be able to follow the horses and check the horses until the slaughterhouse to avoid the fraud that is ongoing, not only in the UK, but also in other member states.

Chair: Could you be briefer?

Bernard Van Goethem: Yes, but I think it is important.

Q596 Neil Parish: I do want an answer to this. Will you expect—and I am not necessarily arguing with you—Britain to have a centralised database? We do not at the moment.

Bernard Van Goethem: That is indeed our intention in the action plan, which has been forwarded to all the Ministers by our Commissioner. We have ongoing discussions to see how that can be put in practice. It also will not be done from one day to another. Let me highlight that fraudulent activity from the owner—and from the vet, if I can say—is something that is common in the UK, as far as I understand, because then you have two passports for one horse. There is one for competition and one for slaughter. The passport is an ideal system, if everybody would adhere to it, but if I understand what is going on in practice, each and every individual is tempted to cheat a little bit. When everybody cheats a little bit, then the system is not working anymore, and that is the situation we are in.

Neil Parish: We can ask our Minister about how we are going to get it.

Chair: We just want to confirm that it is all horses.

Bernard Van Goethem: Yes, all horses.

Dan Rogerson: All horses destined for the food chain.

Bernard Van Goethem: All horses, independently of whether they go into the food chain or not.

Joanna Darmanin: Food and nonfood.

Q597 Chair: Can I please refer you to your overview report on the audits carried out in member states in 2011 and 2012 by the Food and Veterinary Office. Five audits were carried out in the most significant member states: Belgium, France, Italy, Poland, and Spain. You concluded that in at least one member state, this demonstrated the lack of reliability in the system of that member state. You went on to say that due to missing information, lack of updates and an absence of plausibility tests, the data evaluated meant that the member state visited could not be considered to be reliable. The question we would like to put to you this afternoon is, if that was the case, why safeguard measures were not threatened against those member states, as they were in the United Kingdom in the case of desinewed meat? Why did you decide not to threaten or impose safeguard measures?

Joanna Darmanin: Can you refer me to the specific section of the report? I have a copy of the report.

Q598 Chair: It is in your written evidence, under the FVO, part three, “Action Taken at EU Level.” You

say that there are overview reports. All of these reports into Italy, France, Poland, Belgium and Spain—available on the Commission website—identified shortcomings of varying seriousness, including traceability of horses, records of veterinary drug use, and past horse food information. That was one. Then, in the overview report on the audits carried out, you concluded what I just said. The question the Committee would like to ask is why it was decided not to impose safeguard measures in those cases.

Joanna Darmanin: What would typically happen with the FVO report is that we would write out a number of recommendations to the member states, and give them the chance to respond by taking action. If that fails, we take out infringements.

Chair: You did not do that with the United Kingdom and desinewed meat. You went straight to a unilateral ban.

Joanna Darmanin: I believe there were a number of contacts with the member states on mechanically separated meat.

Q599 Chair: We will come onto that, but there was a visit from the FVO in March 2012, and there was an immediate ban imposed. The Committee would just be very interested to know why safeguard measures and a ban were not imposed there, and also how—following from Mr Rogerson’s questions—the Commission can insist that horsemeat contamination posed no risk to human health, when it came from unknown sources.

Joanna Darmanin: I believe, in the case of mechanically separated meat, there is legislation in place that relates very much to risk and to health issues, whereas in the case of the controls of horses, there was no health risk identified. The Commission will still pursue the specific member states if they do not correct the actions that we have highlighted in the FVO report.

Q600 Chair: We will come on to that in a moment. Following on from the questions from Mr Parish and Mr Rogerson, and the thrust of this afternoon, what do you, in the Commission, believe the impact of this contamination crisis on member states’ processed meat sectors has been? What we have seen in the fresh meat sector is that sales have increased, but what do you think the impact has been on the processed meat sector?

Joanna Darmanin: This is a question that we have asked, and we do not have any precise figures, but indeed—following on, and very much in agreement with what you said—what we have witnessed and what we have been told is that, clearly, the readymade meals have indeed suffered. That is where they felt it most. However, for example, if you take fresh meats from butchers, it seems that prices have gone up. Indeed, let us say they were the winners in this situation, if you can use the term “winners” in a situation of this manner.

Q601 Mrs Glendon: What steps should member states now take to restore confidence to the processed meat sector?

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Joanna Darmanin: I believe that the member states should continue testing for DNA. They should assist the Commission and the European Parliament to have the legislation that we have put on the table rapidly in place. There is also the action plan, which the Commission tabled on 22 March, where, for example, we have started a discussion with the member states on a single database for horse passports. I believe that if we show we are serious about tackling the issue of consumer confidence, the sanctions will be a key area where we hope to continue to have the support of the member states.

Q602 Chair: Thank you very much indeed. You just said there that normally, when the FVO visits, the member state is given time to respond. The United Kingdom was not given time to respond under the desinewed meat regulations, although other member states that were being investigated were. What is the current situation as regards the investigations against other member states?

Joanna Darmanin: My information was that investigations were also carried out in other member states, but they did not result in anything particular. I leave the mechanically separated meat in Bernard's hands, because he has been following this issue also with this Committee.

Bernard Van Goethem: It is indeed an issue here in the UK. Let us be clear: mechanically separated meat from a ruminant is not allowed.

Q603 Chair: I am sorry. My specific question, if you would be good enough, was about what the status is of the investigations against the other member states.

Bernard Van Goethem: The FVO, as you mentioned earlier, has gone to a lot of different member states, and has also checked the investigations that were done, including by UK meat retailers. The FVO has not found any member states where mechanically separated meat was obtained from ruminant bones. As I said earlier, it is something that is not allowed and has been strictly banned following the bovine spongiform encephalopathy (BSE) crisis nearly 10 years ago now, and making such products from bones recovered from ruminants is, and was, strictly prohibited through EU regulations linked with the BSE crisis. Those types of product are not allowed to be produced or traded within the European Union. The only place where it was found—as you mentioned, Ms Chair—was in the UK. You mentioned earlier that following this discovery, a letter was sent to the UK authority, asking them to produce an action plan.

Q604 Chair: That is very helpful. We are aware of that. Could you just help the Committee by explaining to us the difference between desinewed meat and Baader meat?

Bernard Van Goethem: Those two terms—desinewed meat and Baader meat—do not exist in Community legislation. You have meat, meat preparations, mincemeat, and mechanically separated meat. Baader meat and desinewed meat are considered lowpressure and highpressure, but are considered as mechanically separated meat. It cannot be done from ruminant bone. If it is done, it can only be done from pig bones or

poultry bones, and it has to be labelled as such when it is exported or when it is introduced in a product. Our legislation is very clear on that, and that is why we proceeded like that one year ago.

Q605 Chair: Okay. When we initially inquired into this subject of desinewed meat, the Agriculture Minister at the time suggested in his evidence that it was inevitable that mislabelled or unlawful meat products—horsemeat being passed off as beef—would be imported into the UK to replace UK-produced desinewed meat. Do you accept such a link at the Commission?

Joanna Darmanin: I think that the point that Bernard was making is that mechanically separated meat from bovine sources is simply not allowed under EU legislation, so I do not think it is a question of saying, "Let's replace it with imported meat", or, "Let's label it as mechanically separated meat". It is simply not allowed.

Q606 Chair: Sorry, I think we took the hit. We accepted that. We would like to think the moratorium might be lifted, but what we are suggesting is that it was put to us that because that cheap source of meat was banned, it would lead to mislabelling and contamination, which we have subsequently seen. You do not see any correlation between the two?

Joanna Darmanin: I am not an expert on mechanically separated meat, but what we saw with the horsemeat is not that the UK is the sole and primary source of the fraud that took place. I do not think it is in question, whereas what we witnessed is that mechanically separated meat from bovine was only in the United Kingdom and in no other member states.

Q607 Chair: We accept that. I am trying to move the argument on. It is now banned, yes?

Bernard Van Goethem: No, it has been banned—

Chair: It has been banned for the moment. There is a temporary ban.

Bernard Van Goethem: No, it is not temporary. It is banned.

Chair: The evidence that was put to us was that this would lead to mislabelling and to passing off and contamination, which we have seen, and which we were told by our own Food Standards Agency has been happening since March last year. I am just inviting you to suggest that you could see a correlation there as well. The thought never crossed your mind.

Bernard Van Goethem: For us, there is no link between those. The only evidence we have of use of what you call desinewed meat was here in the UK, in one specific establishment. It has never been seen anywhere else, despite all the investigation that we have asked the member states to do, and that the FVO has done in visiting five member states. We have written to all the member states in which rumours did exist that it could have happened, indirectly through what was here in the UK. This was not the case. The fraudulent activity in relation to horsemeat has not started because what you call desinewed meat was banned from here, because it has been banned in Europe for more than 10 years. There was only one

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fraudulent activity, which was here in the UK, in relation to mechanically separated meat.

Q608 Ms Ritchie: You refer to member states that have been visited by the EU. What are those member states?

Bernard Van Goethem: They are the ones that the Chair mentioned earlier. They are the big producers of mincemeat: the UK, the Netherlands, France, Germany and Poland. The Chair did mention those, so those are the member states where there is more production of mincemeat, or mechanically separated meat. Those are two legally existing definitions.

Q609 Chair: If I am a butcher in Holland, and I strip the meat off a pig and make it into mincemeat, I am allowed to sell that into the UK?

Joanna Darmanin: If it is from a pig, yes.

Q610 Chair: So it is just the transmissible spongiform encephalopathy (TSE) regulations that prevent it?

Bernard Van Goethem: The BSE and TSE regulations prevent producing mechanically separated meat from ruminant bones: sheep, goats, or bovine. That is strictly forbidden, due to the risk linked with the BSE agent, which is in the bone. When you crush the bone, obviously, you can widely spread the agent of CreutzfeldtJakob, which is in the bone. That is why the Parliament and the Council, very correctly, absolutely prohibit mechanically separated meat from ruminant bones. You can call it desinewed meat or Baader meat, or whatever, but as long as you crush the bones, you are really putting public health at risk. That is why we took such action one year ago.

Q611 Chair: What you are saying is that is for ruminants, for beef, but for nonruminants like pigs and lamb, we can use mechanically separated meat.

Bernard Van Goethem: No, not lamb. Not ruminant.

Chair: I was just checking.

Bernard Van Goethem: For pigs and poultry, you can do mechanically separated meat. You can crush the bones as much as you want. You can sell it all over Europe, as long as you label it as mechanically separated meat.

Q612 Chair: So you think we were the only country that was using mincemeat in processed foods—possibly sausages—as a cheap filler. You are saying that no other member state did that?

Bernard Van Goethem: I am not saying that. I said that the only evidence that we have, despite a lot of inquiry—in person, and indirectly through the member states—that mechanically separated meat was done with ruminant bones was here in the UK, in one specific factory. That is all I am saying.

Q613 Neil Parish: I just want to be absolutely clear that anybody who wants to take desinewed meat from poultry or pigs in the UK is able to do so.

Bernard Van Goethem: Yes, as always, since 10 years ago, but it has to be called mechanically separated meat. You put on the poultry sausage “80% mechanically separated meat of poultry”. There is

absolutely no problem. You could do it eight years ago, last year, or next year.

Q614 Neil Parish: You are absolutely convinced, then, that across the whole of Europe, people are labelling that on every sausage product and processed product that has got mechanically separated meat. You are confident of that, are you?

Bernard Van Goethem: What I say is that the FVO has been on the spot. The only public health issue that was identified is the one that we have been talking about for five minutes, but there were also issues of mislabelling on those products, for which the member states have received the same warning as the one that was put forward to the UK one year ago. The only product that was definitively produced illegally, with a risk for public health, was the one the Chair was referring to earlier.

Q615 Neil Parish: So if they label the product as having Baader meat in it, then, which is the same as desinewed meat, is that legal across the EU?

Bernard Van Goethem: As I said, Baader meat and desinewed meat are not legal terms in terms of meat in the European Union. It is mincemeat, or it is mechanically separated meat. You can differentiate low pressure or high pressure, but it is mechanically separated meat.

Q616 Chair: So if we tour our supermarkets in our summer holidays in Belgium, Holland, or Denmark—wherever we choose to go—we will see MSM meat labelled on continental sausages?

Bernard Van Goethem: The level of mechanically separated meat does not count in the level of meat. The theory would be that you could have a sausage with 100% mechanically separated meat, but the label would say “Meat: 0%”. The value of mechanically separated meat cannot count in the value of meat, but it would still be 100% mechanically separated meat. This would only be for poultry or pigs, certainly not for ruminants, which is definitively banned from the European Union for obvious reasons.¹

Q617 Chair: In what you have learned so far, what were the greatest incidents of horsemeat contamination? Which member states suffered the highest levels?

Joanna Darmanin: It is difficult to tell from the table. If you look at the bute, I already gave you the figures. To say where the biggest incidents occurred is a little

¹ Further to this line of questioning, the Committee requested clarification on a number of points. The response was: The BSE agent is found in the nervous system. However certain elements of the nervous system as ganglia are closely associated to certain types of bones (vertebral column in particular). The use of such bones presents therefore a BSE risk and hence the prohibition based on BSE grounds.

In view of the potential risk of inadequate separation and confusion between the different types of bones during the deboning process, all ruminant bones have been excluded for the production of MSM by the co-legislators i.e. the European Parliament and the Council.

The use of ruminant bones for the production of mechanically separated meat is prohibited according Regulation (EC) N° 999/2001. No derogation is given for the production of low pressure MSM.

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bit difficult off the top of my head now, because, number one, it depends on the extent to which the sector provides for the specific member states. If you have a very large sector, then it is likely that your results are going to be much higher. The way in which it falls between the prepacked and the nonprepacked sector is also significant, so I think it would be difficult for me to say, "I think the biggest culprit is X member state."

Bernard Van Goethem: If I can add, I think the report will be distributed to you. You have asked, and you may have a copy. It is important to realise that in some member states, when one batch was contaminated, the inquiry has gone on, and they have gone into the separation of the batch and you will have some member states that find a lot of DNA in the same batch. It is not because the results are high that the contamination was high. It is also the way the inquiry has gone on and the targeted sampling that has been done. If there were suspicions of fraud, I think it was the duty of the service to concentrate on those things that were more likely to be fraudulent, and therefore they would have a high percentage of DNA whilst the rest of the market is free. If you do not know how those results entered the table, it is very difficult to say if the results in one member state were more damaging than in others.

Q618 Mrs Glindon: With the gap in the market where there is no longer any desinewed meat from this country, does all the filler that is now produced come from member states that are fully integrated into Europe and that are fully regulated by the European Union?

Joanna Darmanin: As Bernard said, they are covered by the EU internal market rules, and there have been a number of FVO inspections to follow up on leads that we had heard in the beginning. They did not result in the fact that you had mechanically separated meat from ruminants.

Q619 Mrs Glindon: So there are sufficient supplies of mechanically separated meat that would make up for the desinewed meat that was lost, or, rather, that can no longer be produced within Europe?

Joanna Darmanin: I would be the last one to try to give any figure on that, but what normally happens, as happens in any sector, is that if there is a withdrawal of a particular product, then others will fill it up. Now, whether it is mechanically separated meat from pigs and poultry or other types of cuts or preparations, I would not have those figures.

Chair: If you had them, you could write to us, just for our interest. That would be helpful.

Joanna Darmanin: Yes.

Q620 Mrs Glindon: Now that the ban has been lifted on examining British bovine meat by the inspectors for mad cow disease, will that not make any difference about using the bones? Do you have more confidence in this country, now the ban has been lifted?

Joanna Darmanin: In terms of the EU market, there is no ban. I know there are bans by certain third countries. I believe Japan has just announced that it will lift its ban, which is good news, because it is

something that we have pursued very vigorously. It is also an offensive point that we have raised with the United States in the context of the EU-US Free Trade Agreement, and we have seen some moves; there may be more to come, hopefully. We do take it up systematically with third-country partners and we will continue to keep up the pressure. You can be sure of that.

Q621 Mrs Glindon: Sorry, Chair, I should have said, "Now that the requirement to examine for mad cow in the spine has been lifted by the EU".

Joanna Darmanin: As far as I know, there is still a requirement to test. What we have done, as far as I recollect, is that the age at which you have to take the test has been raised to make it more flexible. It is more riskbased. I cannot remember how old the cow has to be, but we lifted it so that there would be fewer tests and more concentration on the risk, which I believe is the older cows, correct?

Bernard Van Goethem: Yes, the older cows.

Joanna Darmanin: So more on the older and less on the younger.

Neil Parish: It is 42 months, I think.

Joanna Darmanin: I believe that is right.

Koen Van Dyck: To add something on the testing, I think that healthy slaughtered cattle do not have to be tested any more. We focus now on the risk animals, which are fallen stock: I would say cattle that fall dead on the farm, or that arrive in the slaughterhouse with some symptoms, should be tested, but for healthy slaughtered animals, they have stopped testing in 25 member states, including the UK.

Bernard Van Goethem: But the risk materials remain as they were, including the bones.

Chair: Thank you. We understand.

Q622 Ms Ritchie: A final question: I represent a constituency in Northern Ireland, where the ban is in operation. Obviously, we have a land border with the Republic of Ireland, and a different set of circumstances pertain there. What can the EU do to restore confidence in the processed meat industry in the UK, with particular relevance to Northern Ireland?

Joanna Darmanin: Which ban are you referring to?

Ms Ritchie: Desinewed.

Q623 Chair: If I can add a rider to that, we understood that the temporary ban was dependent on a final decision as to whether there were any health risks or not. When are we expecting that final study to be available?

Bernard Van Goethem: As I said, the ban has existed for at least 10 years throughout the European Union. There was a clear breach of that ban here in the UK, but we have said that we will continuously ask the European Food Safety Authority to see if any risk remains. I remind you that the risk was linked with BSE, CreutzfeldtJakob, and scratching the bone of ruminants. There is a continuous request from our side.

Q624 Chair: There is a debate going on, and we were told in October last year that the study was meant to conclude. The British Government and the

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British producers argued that the bone is left intact. I have seen the bone immediately after the meat has been stripped off it. The bone is intact. Why was there a delay in this moratorium being reviewed, which has led to this broader problem—particularly in Northern Ireland—and where we lost jobs in two particular constituencies?

Koen Van Dyck: The report you refer to is the question that the Commission posed to the European Food Safety Authority on the safety of mechanically separated meat. There were three parts to this question. The first part was to compare the risk of mechanically separated meats, compared with regular meat, mincemeat, and meat products. We speak about mechanically separated meat from nonruminants, so we speak about the risk linked to MSM from pigs and poultry. Because we had a discussion with member states, including the UK, who said that this lowpressure MSM is very comparable to mincemeat—the second question we asked EFSA was, “Can you give some criteria to differentiate lowpressure poultry and pig MSM from mincemeat?” The third question we asked was “If you have criteria to differentiate between mincemeat, on the one hand, and lowpressure MSM on the other, where should we put the barrier between mincemeat, with less destruction, and mechanically separated meat?” We received the opinion and the report has been published.

Koen Van Dyck: It was published at the end of March, and it is available on the website of the European Food Safety Authority. The main conclusions of the report, which I can highlight, were that mechanically separated meat, when produced according to the normal rules that exist, is not a safety issue. It means that it is a safe product that you can eat. When it follows the rules that are laid down in the regulations, there is not a food safety issue—again, when you speak about poultry and pigs. However, it is not possible to define criteria to separate lowpressure MSM from mincemeat, for example. We are now in the process, as already announced before, of scrutinising this EFSA advice, and then we will see what will be the next step and whether we have to lay down additional rules, or what has to be done relating to mechanically separated meat. This report is available for the public.

Chair: We thank you so much for being so generous with your time. We have gone two minutes over, but we hope that you will have a safe journey back to Brussels, and that we might have the pleasure of your evidence another time. We are very grateful to you for participating in this present inquiry. Thank you very much indeed.

Joanna Darmanin: Thank you, and thank you to all of you.

Q625 Chair: When?

Tuesday 11 June 2013

Members present:

Miss Anne McIntosh (Chair)

Richard Drax
George Eustice
Barry Gardiner

Neil Parish
Ms Margaret Ritchie

Examination of Witnesses

Witnesses: **David Heath, CBE MP**, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, **Mr Andrew Rhodes**, Director of Operations, Food Standards Agency, gave evidence.

Q626 Chair: Good afternoon and welcome, Minister. Just for the record, would you give your position and that of Mr Rhodes?

Mr Heath: David Heath, Minister of State at Defra, and Andrew Rhodes will introduce himself.

Andrew Rhodes: Director of Operations for the Food Standards Agency.

Q627 Chair: You are both very welcome. Thank you very much indeed for appearing before us as our conclusion to the inquiry into food contamination. Minister, what conclusion have you drawn on the results of the tests on products sold in the UK, on the instance of contamination seeming to be relatively low, but nevertheless concerning? Do you think we have worked through to the end of the crisis at this time?

Mr Heath: First of all, thank you for inviting me back. I think we do have a pretty good understanding now of the extent of the issue. I have to reiterate from the beginning that no level of contamination above the 1% threshold is acceptable, so let us put it in that context. We now have a very clear view about what is going on with beef products in the UK market, with an unprecedented level of testing. The most recent tests that we have published were those done by local authorities for the FSA and Defra on 23 April. There were 514 samples, and they showed that over 99% of the samples tested negative for horse DNA. That is consistent with the industry tests that we had previously; there were 5,340 tests over the six-week period up to 1 March, which was in the same area. We have continued with industry testing; we should have some more results later this week.

However, it is pretty clear that we know the size of the problem in this country. The Europe-wide survey during March has also been published by the European Commission, as you will be aware. They show a slightly higher level of contamination in European products, with about 4–5% of samples proving positive. That is higher but not of a different order to what we have seen in the UK.

Q628 Chair: Are you now in a position to say at what point the contamination entered the food chain in this country?

Mr Heath: There is a great deal of investigation still going on. A lot of it is in police terms and with colleagues in other agencies across Europe. In terms of Britain, the City of London Police are co-ordinating the investigations across the country. I do not think I

am in a position to give you a definitive answer to that at this stage. The police have accumulated a great deal of evidence, but these are complex cases. Something that has been very clearly demonstrated during the process of this investigation is the complexity of the supply chains across Europe and the number of different operatives, some of whom may be aware of what they were buying, while others may not have been. That is what we have to get to the bottom of.

Q629 Chair: I think it was the Secretary of State who said at the outset, in about February, that prosecutions would be brought. However, where there were arrests—and in fact the companies seem to have been given the all-clear—I understand that those are only still out on bail. Will they be cleared, and might they be compensated for false arrest?

Mr Heath: I really cannot comment on that.

Q630 Chair: Shall I ask Mr Rhodes to comment?

Mr Heath: Certainly Mr Rhodes may, but I suspect he may be in the same position. We would certainly like to see, if there is clear evidence, prosecutions mounted and hopefully convictions sought. However, that is obviously a matter for the police and for the courts and not for Government Ministers.

Andrew Rhodes: There is not much I can add to that, as the Minister said. It would not be true to say that anyone who has been arrested has been cleared. It is an ongoing criminal investigation, and it will run its full course. They may be on police bail, but that is not unusual in such cases, and the police are continuing to convert intelligence into evidence. It will be for them to decide what steps they need to take next.

Q631 Chair: So there is concrete proof that they are responsible for contamination?

Andrew Rhodes: That is drawing a conclusion from the evidence, which I cannot do. It is for the police to decide whether they feel it is concrete proof, and then for the CPS to decide whether they believe that passes the bar for prosecution. That is quite rightly in the hands of the police and the Crown Prosecution Service, and they will work through that. As the Committee is aware, the police Gold Group has been meeting regularly. We have been working with agencies across Europe, and that investigation is ongoing.

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Q632 Chair: Do you have plans to prosecute suppliers of products contaminated with horsemeat offered for sale in the UK?

Andrew Rhodes: Again, that is part of the police investigation. It is not the FSA that would necessarily bring the prosecution.

Q633 Chair: Yet this is now June and some months have elapsed since the original contamination took place.

Andrew Rhodes: The FSA cannot directly influence the speed at which a police investigation goes. That is quite deliberate; the police have amassed quite a lot of evidence, which they have reviewed. It is for them to decide whether they feel that passes the bar for formal charges to be brought and for the CPS to believe they can prosecute or not. There is not much more I can say from the FSA on that, because it is a police matter.

Q634 Ms Ritchie: Minister, how do you account for the fact that the UK has the largest number of positive tests for bute (phenylbutazone) across the EU? We understand that there are about 14 out of 16 across the EU.

Mr Heath: I think it is very difficult to give you a definitive answer and I am not going to try to. It may be associated with the level of testing that we have engaged in. As you will recall, once it was clear that we needed to have a review of the extent of potential bute contamination we instituted a testing regime for horses entering the food chain. No, I am not aware that other countries are testing at that level, and therefore I think it would be expected that we would identify far more cases than those who are not doing testing.

Q635 Ms Ritchie: Supplementary to that, have you or your officials collectively undertaken any further research with other European countries in relation to this issue of bute?

Mr Heath: I am not sure what you mean by “research”.

Q636 Ms Ritchie: I mean explorations to find out what they have been doing.

Mr Heath: We have certainly been talking to other countries about their processes. It is probably important to underline the advice of the Chief Medical Officer on this, which is that the levels of bute contamination that have been found are very, very far below what, according to her advice, could possibly cause deleterious effects to human health. It is important that we get that message through. Having said that, the system ought to prevent bute getting into the human food chain via horsemeat and it clearly is failing to do that at the moment, which is one of the reasons why we are discussing with the European Commission and with other member states how we can improve the passport system, which is designed to prevent this from happening.

Q637 Ms Ritchie: In that respect, what is your timetable for establishing a single national horse

passport issuing agency, in line with the Commission’s recommendations?

Mr Heath: The Commission’s timetable is the crucial one. We would like that at the earlier opportunity. We are discussing with our colleagues in the Republic of Ireland, in particular, what they are doing. We can see that there are ways of implementing a passport issuing process with a common database. We would certainly like to see a common database system for Ireland and the United Kingdom, but across Europe as well. We hope to continue our discussions with the Commission to provide a solution to this problem.

Q638 Ms Ritchie: Have you any idea, or can you give an estimate, of when those discussions will be completed?

Mr Heath: Giving an estimate of when European discussions will be complete is always difficult. I can only tell you that we are pressing for an early resolution of this. We are exploring a number of different areas. One is a new process for a single passport issuing authority for each member state. The second is a separate set of discussions where we are looking at the tripartite arrangement between ourselves, the Republic of Ireland and France, to deal with thoroughbred animals—sporting horses—to see whether there are any improvements that we need to make in that process. The third element is to at least recognise that this will have a knock-on effect for the various breed societies and studbooks around the country, which are currently passport issuing organisations. We do need a sense of the impact on them and therefore an impact assessment will be part of that process.

Q639 Chair: May I press you on that, Minister? There is an absolute ban on any horsemeat containing bute entering the food chain. You could say that we have found more bute because we do more testing, but there must be concern about the number of positive tests that we have had.

Mr Heath: As I said earlier, any positive test means that somebody somewhere has not been sufficiently assiduous in maintaining a passport in the form it should be.

Q640 Chair: We obviously now know that some of this will have entered the food chain.

Mr Heath: It will have, but again, I stress that the advice from the Chief Medical Officer is that any person eating it is very, very unlikely to have had any ill effects.

Chair: But it is still objectionable.

Mr Heath: Of course, yes.

Andrew Rhodes: Since we introduced the positive release system, nothing testing positive for phenylbutazone has entered the food chain produced in the UK. The current test positive rate that we are seeing is less than 2% of horses being presented for slaughter. None of them should be testing positive because none of them should be presented for slaughter. As the Minister has outlined, that means that someone along the line, either the veterinarian or the owner, has not properly signed that horse out of the human food chain. That is an issue that is being

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addressed. Just as a point of clarity, nothing that is slaughtered in the UK that is positive for phenylbutazone enters the food chain, because we have a positive release system. We are the only ones in Europe to operate such a system.

Q641 Chair: I do not know how much it must cost—you might like to give us a figure, Mr Rhodes—but the FSA continues to insist that veterinary attendance and supervision takes place in every UK abattoir throughout operations, but this did not help in this particular circumstance and it is not required under EU law. Can you tell the Committee what the actual cost of providing veterinary attendance at such abattoirs will be? Would the resources not have been better devoted to focusing on the areas that we know might lead to something more productive?

Andrew Rhodes: There are two separate points in your question. The first is it would not be correct to say that the FSA insists on veterinary presence; the EU regulations insist on veterinary presence. Those are the subject of debate in Europe and reform as we speak. The cost of the official controls delivery in approved meat premises is less than £50 million. I can provide the Committee with the exact figure based on last year's accounts. That figure has reduced some 40% in recent years and has been the subject of a recent National Audit Office efficiency study, which we at the FSA commissioned to look at the effectiveness under which we deliver those controls in terms of the value for money. That will shortly be presented at the open board of the FSA next month. The controls themselves are mandated under European regulations, so we have to carry them out. In terms of veterinary medicines, that is not covered by the veterinary presence regulations. That is covered by controls on veterinary medicines themselves. That is not something that a vet in an abattoir can see or visually check. It is something that must be tested for. We introduced a testing regime for that above and beyond the existing veterinary medicines regime because the normal statutory surveillance identified a problem. We have taken the necessary steps to protect consumers. The two are quite separate issues in reality.

Q642 Chair: How would you respond to the charge that domestic production is perhaps over-regulated, whereas imported meat is under-regulated?

Andrew Rhodes: It depends where the meat is imported from. Any meat imported into the UK must have an equivalency agreement with the EU, which means it has been regulated to a very similar standard. The regulatory burden would be similar; I cannot say it is exactly the same because it will not be exact. If it is meat that has come from elsewhere in Europe it has been regulated to exactly the same standard, as laid out by the European regulations.

Q643 Neil Parish: I have one final question on the horse passports. I think there are something like 70 agencies that can actually issue passports. It is not unusual for a horse to have more than one passport, and on one passport it will be clean, while on another passport it will not be. Therefore, is there not a fair

bit of urgency from the Government to do something about this?

Mr Heath: We are very clear about the deficiencies that have been very clearly demonstrated. We are currently working within a European framework. Commissioner Borg has already indicated that he wishes to change that framework. We are very keen to see that change. We want to get the most workable thing emerging. The fact that we have, I think, 75 passport issuing organisations in this country underlines what a very convoluted system we have at the moment. We think that we can do far better than that; we think we can improve on the quality of the information that passports can provide. Certainly, we would like to see something akin to the sheep regime in terms of identification, which we can then take forward.

Q644 Neil Parish: Are you working towards one central database?

Mr Heath: What we do not want to see is a gap between the abolition of passport issuing organisations and the single database that will replace it, which we think would be more effective in the long run. Of course, this is very different from the old national equine database, which was simply an agglomeration of the different passport issuing organisations, and therefore did not take us very far forward. That is what we are discussing with our Irish colleagues in the first instance, and with the French. Our Chief Veterinary Officer has been working very hard on that. We hope to then have proposals that we can take to the Commission, and say, "Here is something that we believe will work and is consistent with our arrangements, and which we can commend to the rest of the member states."

Q645 Neil Parish: Thank you. Going on to the EU market, nearly 5% of food samples were found to contain horsemeat across the EU. Given the size of the EU food market, this is quite alarming. Were you surprised by the scale and size of the horsemeat problem across Europe?

Mr Heath: Obviously, Andrew can speak for himself. I can say that I was surprised at the scale. Again, without wishing to pre-empt police investigations, the suspicion remains that there was an element of organised crime involvement in this across Europe. I do not know that that is the case; it is purely conjecture.

Q646 Neil Parish: There is a view within the meat trade that a couple of small guys were picked upon and that the big boys and girls have largely got away with it. Now, this may or may not be fiction, but I believe that, with the scale of horsemeat being 5% across the whole EU, there were some big players involved, and yet there do not appear to be any big players in the frame. Is that fair, Minister?

Mr Heath: I do not think it is entirely fair, given that there were some very, very big players who were investigated in other member states and found to be wanting.

Q647 Neil Parish: What about here?

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Mr Heath: Andrew will have to answer for his investigations. From my point of view—which is a lay point of view and not based on evidence that has evidential value—it does seem to me that there was deliberate fraud involved, that that was carried on a pan-European scale, and that we do still need to accumulate the evidence from across the European Union, not just in this country, as to exactly who was doing what and who was aware of what in the process. Andrew, you can speak about the investigations in this country.

Andrew Rhodes: There are quite a few points to unpick in there. In terms of the European level, I suppose it depends on the percentage level of contamination in the products themselves. Were we surprised? “Surprised” is perhaps the wrong word, but we were certainly very concerned. If you were to take production level contamination, we are talking about a magnifier effect. If we were to contaminate a tonne of beef, and then that is used in comminuted products, you would numerically expect quite a large number of end products to be affected. That does not mean the source contamination is all that large. We have to bear that in mind. We also have to think about the relative prevalence of horsemeat in those countries. There are countries in Europe where you would more likely see cross-contamination and levels of contamination of horsemeat which may not be solely due to fraud or criminality.

There is an interesting debate as to whether the FSA has particularly focused on some small people versus some large people. We have not failed to investigate anyone at all, which has included the largest retailers, the largest businesses and the largest producers. In order for something to happen, there has to be evidence that they have actually done something wrong, and if there is evidence that they have done something wrong then they will be dealt with. If there is no evidence then they have not done anything wrong and therefore nothing will happen. In terms of these large companies, they have submitted huge numbers of test results to us, which have been assessed, as well as our own assessments of what they have done, including inspections and searches of premises where evidence has suggested that needs to happen. That is something that is ongoing, but so far nothing has emerged that suggests that these companies have necessarily done anything wrong.

Q648 Neil Parish: I have one final question. There seems to be quite a lot of horsemeat missing from the amount of horses slaughtered compared to the amount of horsemeat that is being traded. Have you any ideas about where this horsemeat is?

Andrew Rhodes: It could be any number of destinations. It is quite likely to be in pet food or disposed of. The demand for horsemeat exists mostly in continental Europe.

Q649 Neil Parish: I will interrupt you there. Surely, if the companies had this meat and it was going into pet food they would be immediately declaring that. Therefore, what is happening to it? What has happened to all this undeclared horsemeat?

Andrew Rhodes: The horsemeat that has been slaughtered in the UK has almost exclusively been exported. We obviously cannot physically see what happens to it after that because it is outside our borders. If there is insufficient demand for it, it will be channelled into other products as well. That is as much as we can say. The question that you are trying to get to is: has any surplus horsemeat been used illegitimately? That is part of the European investigations. In terms of what we found in the UK, with the exception of some investigations—which the Committee is aware of and knows I cannot comment on—we found the horsemeat being pretty much exclusively exported, particularly to France, Belgium, parts of northern Italy and the Netherlands. All of the authorities in those countries, as we know, are investigating what is happening, generally, with horsemeat. That is where the demand to eat it is.

Q650 Chair: You seem remarkably complacent, Mr Rhodes. There is nothing to reassure us in the Committee, or the consumer, that this horsemeat did not re-emerge in processed food. When the Commission say they believe this is the result—as the Minister has said—of criminal activity, it seems extraordinary that there has not been a high level of prosecutions and people being brought to account.

Andrew Rhodes: The question I was answering is: what happens to the horsemeat? I have given the best explanation I can.

Q651 Chair: Let us do it in stages. I am going to turn to Mr Gardiner in a moment. Were you not alarmed that this huge amount of horsemeat that seems to be unaccounted for going to mainland Europe could have come back in processed form, given that we know what has been happening since March last year?

Andrew Rhodes: The investigations we have seen so far have not suggested that UK horsemeat has come back in processed form, but those investigations in Europe are not complete. What we have seen so far, in all the traceability exercises that we have conducted with others across Europe, is that the origin of the meat appears to be legitimately slaughtered horses in approved premises in Eastern Europe, which has then made its way across Europe and at some point has been used fraudulently.

Q652 Chair: You said earlier that it is a requirement of EU law to have vets placed at slaughterhouses throughout the EU.

Andrew Rhodes: That is right, yes.

Q653 Chair: Can you confidently say today that Spanish vets were at Spanish slaughterhouses and French vets were at French slaughterhouses, where horses have been slaughtered, and followed the process of where the carcasses went after slaughter?

Andrew Rhodes: Those are two different questions. Yes, they will have to have had a veterinary presence as mandated by European regulations.

Q654 Chair: There is a difference between a requirement and it actually happening. We are going

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to come on to the review that has just been concluded and the new review that has been announced, which talks about better co-operation with other authorities. Presumably you will be in a position to say, because you will speak to FSA Ireland and you will speak now to your counterparts in other countries. Can you say, hand on heart, that these checks have gone on in other slaughterhouses across Europe, where these horses have been slaughtered?

Andrew Rhodes: The second half of my answer was that the Food and Veterinary Office, on behalf of the European Commission, independently audits these countries and publishes the audit reports. I have absolutely no reason to believe that the veterinary presence has not taken place; I have not seen any evidence that that is the case. The issue we have here is that animals must be supervised in terms of animal welfare, their fitness to enter the food chain, and hygienic production. After the slaughterhouse process, the receiving company must have backwards traceability as to where their products have come from. That is not part of the veterinary supervision regime. Where there is production going on, in terms of, "I'm taking some meat, I'm turning it into another product," that is completely different to the slaughterhouse environment. The question you asked me is about veterinary supervision, which is to do with slaughter. The other half of the question, I think you were asking me, is to do with production. Those are actually regulated in two different ways.

Chair: That is helpful.

Q655 Barry Gardiner: Minister, you have rightly said at the beginning that it was only conjecture, and I do not want to lead you down the road of conjecture. The EU Commission did tell us, however, that they believed that the contamination was the result of fraud and not of inadequate legislation. Let us deal with what is officially in the public domain. I do not know whether you have read it, but you may well be aware that there was a report by the Irish Department of Agriculture in March of this year on equine DNA. In paragraph 3.2.4 of that report they talked about the consignment of meat that had been rejected by Rangeland and come to Freeza Meats. We dealt with that in our last oral evidence session—or perhaps it was the one before.

The next paragraph talks about a different package of horsemeat that was rejected—again, by Rangeland—and it states very clearly that it came from another UK trader, not from Flexi Foods, and it was destined for the Netherlands. Now, it is believed that that UK trader was Norwest, where Ray MacSharry Jr has an interest, and that the holding transshipment company in the UK was Dino's.¹ The destination in the Netherlands was Selton, the Dutch launderer where Polish workers have already gone on record as saying that they have been mislabelling product there and handling horse for the past five years. Sorry, they did not say "mislabelling"; they only said handling and

mixing up horse and beef for the past five years. That is what is there. What I am trying to get at here is the complexity of the inter-country transfer that is going on.

Mr Heath: Precisely so.

Q656 Barry Gardiner: I want to know how we can begin to get a grip on European regulations that can control that. It looks as if, in this particular instance, documented by the Irish Ministry of Agriculture, the *modus operandi* was that Irish horsemeat came up over the border into Northern Ireland. It was mixed with horse and beef that had come in from Europe. It got mixed and relabelled with fake labels, which we know had been the speciality of one of our previous witnesses, Jim Fairbairn, back in the 1980s. It looks as if that was mixed at Freeza Meats and then repackaged, relabelled, and shipped back out over the border to ABP and to Rangeland. Now, given the complexity of that supply and repackaging and relabelling operation, when we know that labels have been found that were fake labels—the Polish authorities have already said that in their reports—what European regulation can be put in place that is going to cut through that sort of complex fraudulent activity?

Mr Heath: That is a very good question. You have set out very clearly the complexity of what has been going on and the difficulties that are attendant on that. One of the things that has been abundantly clear since we started looking at this in detail is exactly that: the supply chains are very complex, even in entirely legitimate operations. That is not to say that every complex supply chain is fraudulent. It is not, but even those that are perfectly legitimate are very complex. This is why we have welcomed Commissioner Borg's five point plan, which he has brought forward, for hopefully addressing some of these issues. We want to see progress on all those points, and we have asked for this to be on the agenda, yet again, for the next Council of Ministers—not the June one, which I am afraid will be entirely taken up with CAP reform, for obvious reasons, but the July meeting—and we will be pressing for effective action in those areas.

Now, there is an additional line of work, which I think is important to the Committee, which is the review that we have commissioned. Professor Elliott has been asked to lead the review for us, which has quite a wide brief. Not, I fear, to set regulation for the whole of Europe—I think that would be beyond the scope of what we can expect—but certainly advising both my Department and the Department of Health on where there are inadequacies in the present arrangement, if indeed there are, and how we can address them. The review has been given a very wide-ranging brief.

Q657 Chair: That is a partial answer, but we are interested in the EU regulations. Will you address that aspect?

Mr Heath: To sum up, we are, to an extent, one voice amongst many on this, but I think we are the leading voice amongst many in saying that we need to have better controls at a European level. I think Commissioner Borg appreciates that there is a need for action. We will be asking for the five point plan to

¹ Norwest Foods contacted the Committee to say that it was not the UK trader referred to in the speech by the Irish Minister for Agriculture, Food and the Marine to the Irish Dáil and that it has never traded or stored product directly or indirectly with McAdam Food Products, Rangeland Meats or Dino's.

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be given some substance in terms of how it deals with exactly the sort of cases that you are putting forward, Mr Gardiner.

Q658 Barry Gardiner: Mr Rhodes, clearly the FSA's expertise is in foods, sampling and the risks relating to that, but I am wondering what you do in terms of assessing risk that might look at the connections between companies. Let me, again, give you an example in the public domain. If you go on the site Duedil, which, I presume, is short for due diligence, you can pull up connections between Norwest and a circular network of companies that are owned by the same beneficial owner, Norwest, via Ireland: Claddagh Foods, Celtic Foods Trading House—that is a “u”, not an “r”. You can go right back and trace those connections to Hibernia Foods and to Navona, which is the same name as a company set up by Goodman back in the 1980s. They are still connected in. There are 288 companies owned or with some shareholding ownership by Ray MacSharry Jr from Norwest.

What sort of risk analysis are you doing, examining the corporate structures and the links between these companies to look at the beneficial ownerships involved? To my mind, they gave as clear a picture of who is doing what to whom, and for whom, as any investigation into the sampling of meat that you can carry out.

Andrew Rhodes: The nub of your question is a key point about who owns which companies, why, and how they behave. We have seen growth in the private-equity ownership of food companies within the UK. That does not necessarily translate into something, but it does make us ask questions as to how these companies may behave and how they are steered.

Q659 Barry Gardiner: Can I ask you to be specific on that? Have you made those investigations, therefore, into the company structures and the ownerships? Have you done that due diligence? Were you aware that Ray MacSharry Jr had a beneficial interest in 288 directorships?

Andrew Rhodes: I am not personally aware of the one you have cited there. That does not mean that detail is not recorded in the formal investigation, however. I would not know every single element of it.

Our role is to ensure hygiene and physical standards. In cases where we have reason to believe there is a risk, we may well investigate further into the companies and look at linkage, particularly if we are tracing a product or we are interested in contamination. That would not mean we would profile the ownership and directorship of every single company that we are involved in regulating. We regulate 347 slaughterhouses and over 1,000 cutting plants. We would not necessarily profile the ownership of all of those companies.

Q660 Barry Gardiner: Mr Rhodes, you said that you thought the surplus was going into pet food. Have you ever seen a label on a can of pet food that said anything other than, “This is beef,” “This is lamb,” “This is chicken,” or, “This is turkey”? Have you ever

seen one that says “horse”? Because I have not. If they are not labelling it as such, what confidence do you have that this is where it is going? If it is, is this not, equally, fraud? If I object to eating horse, I might also object to feeding it to my dog.

Andrew Rhodes: I was referring to Europe; I was not referring to the UK. My answer to the earlier question was merely that this was one of the places the horsemeat can go to, if it is not going into the human food chain. I am not saying that all of it goes into pet food. However, horsemeat sometimes is used in pet food, but generally less so in the UK, because pet owners are often squeamish about eating horsemeat themselves and they do not always want to feed it to their cats and dogs either.

Q661 Barry Gardiner: Finally, Mr Heath, again specifically referring to the issue of fraud, you will recall that, in his address to the Dáil Éireann, Minister Coveney referred to the company B&F Meats and their relationship with the Czech company. He said to the Dáil Éireann that it was not fraud to have labelled this as beef, because both parties knew it was horsemeat and indeed the Czechs had requested that it should be horsemeat, although it should be labelled as beef.

Are you as astonished as I am that this was an excuse for not prosecuting for fraud? Certainly, under English law—and, I presume, under Irish law—it would constitute conspiracy to defraud.

Mr Heath: It is a perfectly reasonable hypothesis to say that, under English law, it would indeed be that. I am not an expert on either the law of the Republic of Ireland or the Czech Republic.

Barry Gardiner: You do not wish to conjecture.

Mr Heath: I would not like to speculate on whether it comprises an offence under either of those jurisdictions.

Q662 Barry Gardiner: If it does not constitute an offence in law, would you be surprised?

Mr Heath: If their laws are in any way consistent with the English common law system, I would then be surprised, but they may not be.

Barry Gardiner: Of course, you are absolutely right.

Q663 Chair: Could you clarify, Minister, one thing you said in response to Mr Gardiner? Is the May package of proposals to improve and increase testing and traceability operational, or is that something that will be adopted in July?

Mr Heath: Do you mean the European five-point plan?

Chair: Yes.

Mr Heath: Parts of it are in motion. For instance, EU-wide testing has been done as a one-off. We are urging that it be repeated later in the year so that we have a clearer picture of what is happening. Some parts of this are things that will continue to be worked on, where the Commission have not yet produced concrete proposals. Some of it is work that is already in progress in other forms: for instance, country-of-origin labelling for meat products is already a matter that the Commission is looking at.

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We have asked for that work to be accelerated, so that we have a clearer view of what is going to emerge.

Q664 Chair: Do you think the package addresses Mr Gardiner's issue; that it will prevent future contamination and lead to better traceability?

Mr Heath: I do not honestly think that I can make that assessment until I see exactly what emerges from the discussions. I certainly hope that it will and I hope that if we can influence the decision of the Commission towards greater rigour across member states, it will be to our advantage. I certainly hope that Professor Elliott's review will inform us what we should be asking not only our authorities to do, but others as well.

Q665 George Eustice: I want to dig down a bit more, because it is going to be important to learn the lessons from this review. Could you tell us a little bit more about the terms of reference? You started to talk about this. What areas is it going to look at, specifically in terms of the supply chain and its potential weaknesses and vulnerabilities?

Mr Heath: As a matter of fact, we provided very wide terms of reference. I can provide the Committee, if it has not already had it, with a written copy of the terms of reference.

Perhaps I can give the headlines: "To provide advice to the Secretaries of State"—that is, of the two Departments—on any inherent weaknesses in the current regulatory/enforcement framework that leave food-supply networks vulnerable to fraudulent activity; how best to support consumer confidence; the audit, testing and other verification within supply networks by regulatory and enforcement authorities; the role and responsibilities of food businesses including manufacturers and caterers; any changes that we need to make in the regulatory framework, the legal background and how we work with industry in order to press for those changes; and how we might work within Europe with other member states to improve things across the board.

It is a very wide-ranging review. We have asked for interim findings, if at all possible, by December, because we think there is a degree of urgency, but we expect the full report next year.

Q666 George Eustice: Will it also cover the role and remit of the FSA?

Mr Heath: Yes, it will. It will not entirely replicate the Troop review, with which you will be familiar and which has already taken place, but it will certainly look at how the FSA fits into the regulatory framework and any advice that we should be giving to the FSA. That is one of the reasons why it is a joint review to the Secretaries of State for Defra and for the Department of Health.

Q667 George Eustice: You talked about the possible need for additional regulation which the EU might need to consider. Given that we have a single market and that you cannot stop the movement of these goods, what has really happened here is that there was a weak point somewhere in terms of enforcement. Do

you think it is more a problem of enforcement than a lack of regulation?

Mr Heath: I do not want to pre-empt the review, because, as we have already said in your Committee, as recognised, this is an extremely complex area. Certainly, I will say that the two go together: you must have adequate regulation. The initial findings—Andrew may correct me, if I have misinterpreted this—of the Troop review were that there was not a failure of the regulatory framework, but that you need to be able to enforce it not only within this country, but elsewhere.

Q668 George Eustice: Mr Gardiner hinted at this very complex and long supply chain. A lot of the evidence we have had is that a shorter supply chain would be easier to enforce and would improve things. Do you think there is a bit of a danger that the whole traceability system has lulled purchasers and processors into a false sense of security: they believe what is on a label, rather than actually going to trusted sources, so that they actually know where the meat has come from and have seen the cattle from which the meat was produced?

Mr Heath: I am going to give a subjective view in response to that. In my discussions with major retailers, this has actually been an alarm call in terms of what they are currently doing. They are recognising that there is consumer demand for better-tested provenance, which is also influencing their behaviour. That is not to say there will not be circuitous and complex supply chains in some areas, but there is a view, certainly amongst the bigger retailers and the major processors and catering companies, that if they can simplify their supply chains they would perhaps be better placed to be able to give the assurances in terms of what is on the plate, which they are, actually, legally required to do.

Q669 Richard Drax: Lord Rooker, who is currently Chair of FSA, told this Committee he thought the Scottish model was, "openly and transparently non-conflicted, because it is not also responsible for the economic sponsorship of the food industry." The Scottish Government intends to create a new food body, which will be responsible for food safety, in addition to nutrition and labelling. What further consideration have you given to this option for England?

Mr Heath: Can I be clear? The reason we have the Food Standards Agency is precisely to avoid that potential conflict, which was evident in previous historical episodes: to take the Departmental interest in producer activity away from the regulatory functions of the FSA. The FSA is answerable to the Department of Health for the very good reason of that separation. We already have that separation in terms of operational control in England.

Q670 Richard Drax: The next question takes this on a little further; perhaps you have answered it. Do you think the FSA should have greater independence from the Government, so there can be no danger it could be seen as working to protect the interests of UK food producers? The example we have is that it has been

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argued that the FSAI, for example, has attempted to protect the Irish beef industry. I take it from your previous answer you do not think it needs any further independence.

Mr Heath: Certainly, I would argue that the previous Government that took that decision and made that separation was right to do so, because that level of separation is important. Clearly, there is a potential conflict in the mind of any Minister who has responsibility for both sides at the same time. That may be the case in Ireland; it is not for me to comment on arrangements in the Republic of Ireland. The FSA value their operational independence, not only from my department, but, because of the way they are set up in operational terms, from the Department of Health as well. Andrew, you might want to comment on that.

Andrew Rhodes: I would not say anything on the past few questions; it would be wrong for me to do so. Being independent of the two main departments, but reporting through them to Parliament, the FSA does everything in open session in order to demonstrate openness and transparency and show that it is not doing anything at the behest of industry. We publish everything: we publish all our consultation responses; we publish all our policy papers; and we hold all our meetings in public. That is all to the same end your question is getting at, which is whether or not the FSA is being unduly influenced by industry or is in any way conflicted. That is the way the FSA does business and that is the way it has done business all through this. The difficulty in this incident, of course, is that we cannot comment on operational matters in terms of investigations, which leads people to ask questions, as were asked earlier, as to whether we have gone after the right people, which is a slightly more difficult issue.

Q671 Richard Drax: Minister, bearing in mind that all of this happened, are you happy with the position that the Government and the FSA are in at this stage? I mean with hindsight, which is a wonderful thing to have, I accept.

Mr Heath: I am still absolutely clear, in terms of the machinery of government, that you have a separation between the implementation—which is the responsibility of the FSA, the training centres and officers in local authorities—and the broad policy on food labelling, which falls within my department or, in terms of the nutrition elements, within the Department of Health.

The Troop review suggested that this was not always understood fully by some staff within the Agency and some outside bodies. If so, there is a communications issue that we need to address; I accept that. However, it is not unusual for agencies in Government to have separate responsibility for executive actions away from the policy determinations, which remain with Ministers. It is a perfectly appropriate model.

Of course, this is one of the things Professor Elliott and his team may have comments on in due course. I do not want to pre-empt the review that will take place. I simply say that I am certainly comfortable with that separation as it currently is.

Q672 Barry Gardiner: Mr Rhodes, who do you work for?

Andrew Rhodes: I work for the Food Standards Agency.

Q673 Barry Gardiner: Who pays your salary at the end of each month?

Andrew Rhodes: The Food Standards Agency does.

Barry Gardiner: It is not the Government.

Andrew Rhodes: The Food Standards Agency is a Government department.

Q674 Barry Gardiner: Minister, perhaps the issue is less the conflict with the FSA as the conflict with the Government. In Scotland the responsibility for policy on labelling—and policy in general, actually—is the domain of the Food Standards Agency in Scotland. There is no suggestion that the department that is responsible for setting policy on labelling is also the department that is responsible for advocating for the industry, as there could be in England. Surely, that is the issue here, is it not? There is still this lingering perception that there could be—I am not saying there is or that it has made anything that the Government has done improper—a conflict of interest here between your role in setting labelling policy and your role in advocating for the industry. We know that one of the key elements of this fraud has been mislabelling.

Mr Heath: I do not accept that. Ministers very often have a responsibility for setting policy for regulation across industries for which they have other responsibilities. I can look at a large number of departments of state where that is the case. There is clearly logic in it. I am here now, defending the machinery of government changes that were not my department's responsibility, of course. However, there is a clear argument for the Ministers who need to go and have a view on these matters at European level—and who need to agree or not agree to proposals from the European Commission—having a handle on the policy formation.

Yes, of course, those who wish to suggest inappropriate linkages will do so, but it is a matter of fact that this is the case. That being the case, it is far better for the policy advice, the Civil Service advice, to be given directly to Ministers, rather than mediated through the Agency. That is my view; clearly, you could construct it in a different way. Indeed, it was, at one point, constructed in a different way, but I do not see any evidence that it actually produced a different outcome. It just provided more ponderous Civil Service machinery in order to come to the same point.

Q675 Chair: If you look at the FSA as being an independent regulator—perhaps the most unhappy moment of any independent regulator was when the last Government threw the independent rail regulator out the window—like other regulators such as Ofgem and Ofwat, they are truly independent and are one step, physically, removed from the Department. I note that it is a health expert you have appointed to do the strategic review into the FSA. Obviously, there are

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two departments on the review. Who will look at the food and non-health aspects?

Mr Heath: I am confident the review team will cover all aspects. Professor Elliott is a good candidate—I hope the Committee would agree—to marshal those arguments. Coming back to the point you make: yes, you have arm's length agencies who are responsible for actually running the operation of a system, but it is not a rail regulator that determines the legal framework within which they are operating. It is Ministers in Parliament.

Q676 Chair: You saw the conclusions of our first Report; they speak for themselves. We were quite blunt: we did say the FSA in its present form did not appear fit for purpose. Surely, the Department must have given some thought—and had discussions with the Department of Health, as well—as to whether this is a good moment to look at the FSA and whether it should be a clear-blue thinking, stand-alone regulator; a policeman.

Mr Heath: That is something I would certainly expect Professor Elliott and his team to look at. As I say, they have a very wide remit. The only thing they are actually excluded from looking at, in the terms of reference, is the matter we were talking about earlier, Mr Parish: the horse passports and equine-database issue.

Chair: We will move on to the powers of the FSA.

Q677 Neil Parish: The Chair has talked about our Report. One of its recommendations was that the FSA be given statutory powers to require testing by retailers and local authorities. What further consideration have you given to that idea?

Mr Heath: Can I ask Mr Rhodes to answer, in the first instance, so that he can explain where we are at the moment?

Andrew Rhodes: Certainly. Professor Pat Troop outlined her initial findings last week to the FSA board in open session. She will publish her report later this month. One of the things that she has identified in her review is exactly the issue you have raised, which is whether or not the FSA should have powers to compel businesses—she did not restrict it to retailers—to test products or to share their test findings. Most of them do a huge amount of testing anyway, but they are not compelled to share that information with us. She has raised that, amongst other things, in relation to the powers the FSA does or does not have.

Q678 Neil Parish: Quite a lot of testing takes place at the moment but those companies actually keep that private to themselves, do they?

Andrew Rhodes: It is their testing; it is part of what they do for the microbiological and pathogenic assessments of their products to make sure that they are safe and they are what they are supposed to be. They carry out a tremendous amount of testing every year on their products before they ever reach sale.

Mr Heath: That is, of course, in line with their legal responsibilities to their consumers. One would expect them to be doing that. One of the early issues that we had to face, in dealing with this matter, was bringing

in the major companies and saying, “Look: you now have to share these results, because we need to know exactly what is happening.” They were not overly reluctant. There was an initial, “Well, we do not do that.” I said, “Sorry, you have to do it, because we need this.” They were very happy to co-operate and I applaud them for the degree of their co-operation.

Q679 Neil Parish: That leads me on to my next question. Retailers are rightly responsible for ensuring their products are accurately labelled and for checking the assurances of their suppliers. In this case, they have failed. How can the system be made more effective, especially in a processed product?

Mr Heath: You can answer that on several different levels. What I have been trying to impress upon both retailers and processors is that they need to be able to show that at each stage they have taken the appropriate level of care to know where things have come from. That does not, I am afraid, prevent them from being victims of fraudulent mislabelling. That is where the regulatory process, the testing regime, comes in, which has to be intelligence-based if it is to be cost-effective. Otherwise, you are wasting a huge amount of money for no benefit. It has to be intelligence-based, but it certainly has to be accurate and effective. It needs to be effective not just in this country but across the whole of Europe, which is what we are trying to achieve.

Q680 Neil Parish: Are you looking at the labelling of processed products? I have said this for many years: many of those labels do more to confuse than they do to enlighten. Therefore, they are, “Product of more than one country”, or, “Product of the EU”, or, “Processed in the UK and product of the EU”. It does not really give us any real idea of exactly where those products are coming from. Do you not think this is an opportunity to do more about it?

Mr Heath: Not only is it an opportunity, it is something that is in process through the country-of-origin labelling proposals that are going through the Commission at the moment. As a Government, we are very clear that we believe that labelling should be clear and honest and that it should actually inform the consumer, rather than confuse—exactly as you have said. Obviously, there is a trade-off between the mountain of information you put on a label and the extent to which that helps the consumer make an informed choice. We think, however, that origin is a key part of that. This is relatively simple, when you are talking about a joint of meat. It is much more complex when you are dealing with a processed product, which may have many constituent parts from many different places.

There are a number of things that we are currently looking at and discussing with the Commission and processed meat products is certainly one of them. We are looking, for instance, at how you helpfully label additives to meat: whether water has been added, for instance, or protein from a different species to the one that is the obvious source of the meat. There is a great deal of complexity in this; it is about getting the balance right so that you have appropriate and useful

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labelling without providing an absolute nightmare either for the consumer or, indeed, for the producer.

Q681 Neil Parish: The most major retailer is very keen to have all products from the British Isles, which will include the Republic of Ireland. If that is the case, they will have to have in place a very robust—

Mr Heath: I am not sure the Republic of Ireland identify themselves as a British Isle.

Neil Parish: I think you will find they are. If you look at the—

Mr Heath: We see it that way.

Q682 Neil Parish: If a retailer is convinced that they want to make sure a product comes from the British Isles, are you sure that there is a robust system in place to do this?

Mr Heath: We are working on this with the Commission. Mr Parish, you need to have a discussion with your neighbour in the Committee as to exactly what is the appropriate nomenclature.

Q683 Chair: We will let them have a little dialogue. Do you think, Minister, the Government should have a greater oversight or monitoring role of the food industry?

Mr Heath: It depends how you define Government in these terms. It is very important that we have the independent regulator that we have doing most of that work, and that local authorities play the part that they are required to play in this, as well. If you are asking whether or not Defra should be doing this, my answer is no. I do not think we should be doing it, because we have other organisations that are tasked with that job.

Q684 Barry Gardiner: Minister, you will recall the oral evidence given to us by Elizabeth Moran and Dr Duncan Campbell of the Association of Public Analysts. In that, Ms Moran, who is the President of that organisation, said, “Certainly the level of sampling and analysis that is being done at the moment is not sufficient to pick up emerging problems...” Ms Moran said, “Targeted sampling, looking at particular products that are likely to be adulterated, does have a place and currently there is no provision for that in the system.”

Under questioning from the Chair, Ms Moran said that, “...there is no central funding or any kind of baseline funding for public analyst laboratories, the laboratories are completely dependent on the income they get from testing. If they are not receiving many samples, they have no income to invest in new equipment and in new expertise. This is a case in point: although all these labs are official control laboratories, they all have to be accredited for the testing we carry out; when we have a national crisis like this less than half of the labs have the capability to do any testing.”

There would appear to be huge pressure on the capacity of our public analysts to fulfil the requirements that they have. We know that local authority spending cuts are one pressure upon them, but, equally, they have made a very strong case that there should be increased funding to maintain a baseline and that that funding should come from

central Government. Is that a concern that you have taken on board? Will you be looking at the resourcing of public analysts and their laboratories to ensure that baseline capacity—I would have said “is maintained”, but they are actually saying that it is not there at the moment.

Mr Heath: I did see their evidence. I have some difficulty, in that the advice we have received during this whole episode—where, obviously, a very large number of samples were being taken—is that, actually, despite that unprecedented level of testing, the official control laboratories did not have demonstrable capacity issues. They were able to deal with the influx. When you add to that the industry’s own very substantial testing—and, of course, some of that was outwith the official control laboratories; I understand that—our national capacity for doing testing seemed not to have been overstretched in the process.

Again, Mr Rhodes may be able to give you more information on that. I do have figures here in terms of the sheer numbers of tests that were carried out, which we can share with the Committee. I am not sure it entirely supports the contention that these are laboratories that are either starved of funds or lack capacity, at present.

Andrew Rhodes: There is not a lot that I can add to what the Minister has said; it is absolutely correct that throughout the incident and the testing there was no issue with laboratory capacity, despite the huge volume of testing that took place. There were no issues around capacity. It is true that there is a question for public analysts in terms of the strategy for how they go forward and how that should be funded. That is a very large question, but there is no sign in terms of capacity and in terms of what we saw during the incident at all.

Q685 Barry Gardiner: There is no sign of any capacity issues and yet we know that, in fact, 7 million people in England live in local authorities that take no food-standards samples. You do not see a contradiction in that? Minister, in your own county, which I believe is Somerset, there has been a 30.96% reduction in testing in the past year. There are a number of authorities that take no samples whatsoever. To finish with the President of the Association of Public Analysts quotation to this Committee, “If you take that to its logical conclusion, by 2020 we could end up with no enforcement system left at all.” Yet the two of you are sitting here and telling this Committee that there is no problem.

Mr Heath: With respect, Mr Gardiner, you are conflating two different issues: one is the capacity of laboratories, as they are, and the second is the propensity of the local authorities to do testing and the capacity or desire that they have for doing testing. If you recall the previous session in which I gave evidence, I expressed my concern that there are a number of authorities who have reduced the amount of testing they are doing. I believe they should be doing more. They have a very clear responsibility, on behalf of their constituents, to make sure that this is done. They have a duty to protect the health of people in their areas and, of course, also to ensure that trading

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standards are maintained in terms of composition. If they are not doing that, I hope the Committee will remind local authorities that they do have that clear duty.

If every authority were to increase the amount of testing and it was shown, then, that the laboratories could not cope with that capacity, I would then agree with you that I ought to be looking at the capacity of the laboratories. All I am saying is, at present, the capacity of the laboratories was sufficient to cope with an unprecedented demand over the period of our key investigations.

Q686 Barry Gardiner: Minister, let me welcome your admonition to local authorities who are not carrying out any testing to protect the 7 million residents who are living in those areas.

Mr Heath: Precisely.

Q687 Barry Gardiner: I welcome that. However, the connection you said you did not see is precisely the one that Ms Moran outlined to this Committee, in that she pointed out that because there is no central funding and the laboratories are completely dependent on the income they get from testing, if they are not receiving many samples they have no income to invest in new equipment and expertise. For that reason, given that there has been almost a 50% reduction in the tests that are being carried out by local authorities and others—but mainly by local authorities—it means that their capacity to continue is being depleted all the time. That is why I asked the question about whether there should be some sort of baseline support from central Government to ensure that it does not fall below that level.

Mr Heath: As I say, at the moment they have spare capacity, as has been demonstrated by what happened. We hugely increased the number of tests taking place over a limited period of time and they could cope without capacity issues. Obviously, if local authorities were doing more testing, the income would then go up to those laboratories. That would not provide a difficulty until you reach physical capacity issues for the laboratories. I understand the point you are making, but I do not think it is demonstrated by what has happened over the last few months. It clearly would be a concern if local authorities completely abandoned their responsibilities in this area and there were a massive reduction in the number of tests taking place which put the viability of public laboratories at risk. However, what I am saying to you is that my perception is that we have not reached that point. Again, I am very conscious of the fact that, certainly, I am at one remove from this issue. Mr Rhodes may have a different view, which he ought to share with the Committee.

Andrew Rhodes: Part of the question presupposes that the testing must be done by public analysts. They have to be qualified to a certain level. There has been a decreasing number of public-analyst laboratories, but, as the Minister said, there has not been an issue with capacity.

The other half of your question is about local authority testing. The figure you have quoted of 7 million comes from a parliamentary Question, which I would

have filled in the Answer to, which was on the number of local authorities that had reported no tests. As I have said in previous evidence, that is not quite the same as not testing. Some of those did not report test results for various reasons, but had carried out tests. There are, however, a number of local authorities who have done no tests at all and I named, in previous evidence, three that had consistently, in the last two years, conducted no tests. That is certainly an area of concern, in terms of what they are doing to protect consumers, not just in their areas, but also those who may be buying food produced in those areas. That is a concern of ours.

Q688 Ms Ritchie: As a follow-on from Mr Gardiner's question, the data on food sampling suggests significant variation between local authorities, with three carrying out no food sampling at all in the financial year 2011–12. The first question is this: is there a need for greater central direction over food sampling rates? Secondly, because of the lack of proper funding within local government for this particular area of expertise, is there not a case for local government and council funding for food sampling to be ring-fenced? Is there a case for the Government providing directives to local government to ring-fence such funding to ensure that it takes place?

Mr Heath: First of all, I have already expressed my view that this is extremely important work for local authorities. Local authorities have a very clear duty in this area and they ought to be carrying it out. It is just as important as making sure that they can fight fires. This is a matter of public safety and public confidence; they have a clear responsibility. I am in danger, here, of taking a view on behalf of the whole of Government, which I perhaps am not entitled to do other than through collective responsibility, but the Government's general view is that we do not direct local authorities in the decisions they take on behalf of the people in their areas. We do not ring-fence funding in general terms. We allow local discretion to determine priorities. I would simply say that this is a priority and I hope that any responsible local authority will see it as a priority.

Q689 Ms Ritchie: As a supplementary to that, am I interpreting you correctly as saying that local authorities should be ring-fencing funding because of the priority they should give to this work?

Mr Heath: I will only say that, when I was leader of an authority, I considered providing this sort of support to be a very high priority. I expect responsible leaders of councils to take the same view.

Q690 George Eustice: I want to ask Mr Rhodes a question. Obviously, budget cuts are a reality all local authorities have to deal with. In previous evidence, you mentioned that a number of them are looking at innovative solutions such as shared services and regional co-ordination. Could you give some more tangible examples of which local authorities are doing that and what it looks like in practice?

Andrew Rhodes: Typically, local authorities are sharing services where they no longer have critical mass. We have seen it happen on the south coast,

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where a number of authorities have banded their functions together. We have seen it with a number of London boroughs, who now share enforcement officers, because, geographically, it makes logical sense for them to do that. There is a coalition of authorities centred on Worcester, which have formed a shared-services agreement whereby their enforcement officers now work together, although they still report to elected members. There has not been a blurring of the electoral boundaries, however; that would obviously be a concern, because electors should be able to vote for the services that they get. We have seen this increasingly happen in order for local authorities to form a critical mass for the functions they need, which means they, in a lot of cases, do more work with, possibly, fewer people and certainly work more effectively across larger geographical spans. That is tending to be what happens.

We have also seen, through trading standards bodies, this happen a bit more with animal feed work, which, of course, is spread much more widely geographically. We are seeing officers and funding being spread through partnership organisations as well, to deal with this. They are increasingly moving away from dealing with things solely in their local authority areas and working on greater partnership. Although that has been happening for a number of years, it has obviously increased somewhat over the last few years.

Q691 George Eustice: Is there any correlation between those local authorities that are sampling effectively and those that are taking part in such joint partnerships?

Andrew Rhodes: I could not answer in detail. I am sorry; I would need to check. I would need to look at the question of whether or not there is a correlation between those who are not sharing services and those who are not testing. I do not think that there are enough that have formed shared services for us to say whether that is statistically significant or not, but I am happy to provide the Committee with a written answer afterwards as to what we find on that.

Mr Heath: It may be affected by local government reorganisation, as to whether you have small unitary authorities or large county authorities. Large county authorities normally have the critical mass.

Q692 Ms Ritchie: Moving on to the issue of labelling, although this incident is seen to be the result of fraud, rather than of problems with labelling regulations, are the Government confident that labelling regulations for loose and processed meats are sufficient?

Mr Heath: As I say, we are engaged in dialogue at the moment with the European Commission, which is bringing forward proposals on processed meats and the labelling requirements there. It would probably be better for me to say that we await with interest what emerges from that and we will respond accordingly. I certainly have the view that, where we can establish country of origin, for instance, more clearly, it is helpful to the consumer. I do not, however, underestimate the difficulty when we are dealing with processed meats, because it is quite complicated.

Chair: We will be coming on to that.

Q693 Ms Ritchie: I have a further question, then, to Mr Rhodes. Next Wednesday, the Northern Ireland Food Standards Agency, which is a constituent part of the wider UK network, is launching a significant food-labelling branding exercise, shall we say. Is that to do with or in response to the horsemeat scandal or is it for other reasons?

Andrew Rhodes: It probably helps if I say that in Scotland, Northern Ireland and Wales, policy on labelling remains the responsibility of the FSA. This will be standard work that they are doing, but, no doubt, they are very mindful of what has happened recently in relation to consumer concerns about labelling and the horsemeat incident itself. It will not necessarily be provoked by it, but it will be informed by it.

Q694 George Eustice: I want to move on to sanction penalties—briefly, because we are running out of time. The Commission have said that the fines on those processors that commit fraud should be commensurate with the economic gain they get. Are you supportive of that basic principle?

Mr Heath: That must be the case, although, of course, within the English and Welsh jurisdiction we are bound by our laws, in terms of the Fraud Act and other provisions, if the offence is fraud. That can carry a prison sentence, of course, as well.

Q695 George Eustice: On my earlier question, you touched on an interesting point in this area as well, which was that retailers are already obliged to ensure that what they mark it as is what they say it is. Is that the case? Is it considered a valid defence to say, “I relied on the label, which complied with a particular system”? Is that not a defence? I am thinking about how you could translate responsibility through the system. Should there be tougher fines for people who stock meat that is not what they say it is, even though they accepted it in good faith based on the labelling?

Andrew Rhodes: If you were a retailer buying from a manufacturer, to simply rely on information would not, on its own, be enough. We would look at the systems of control you had for verifying these things, as well. Large retailers in particular—although this is also true of the manufacturers—will conduct traceability exercises, audits and various other checks and measures, which will be part of their system. We could debate whether that was sufficient in this case, which it was not, in preventing this. That is something that will be reflected on. Simply relying on information, however, is not generally enough. You would expect other steps and other checks and balances to be in place, but it will depend, obviously, on the exact circumstances.

Q696 George Eustice: Are those criteria set down in case law or are they somewhere in primary legislation?

Andrew Rhodes: Primary legislation will dictate exactly what should be labelled. In terms of an accusation of fraud, you would then be looking at whether somebody had taken reasonable steps to protect their customers from an act of fraud or whether they had been negligent in some way.

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Q697 George Eustice: That would be jurisprudence, rather than legislation?

Andrew Rhodes: Yes, it would be. If somebody received an invoice simply saying “one tonne of meat”, I would argue they had not taken reasonable steps to ensure that meat was exactly what they had ordered.

Q698 George Eustice: Finally, the Commission also said that official control should be unannounced checks and things like that. Is that something you think is a good idea?

Andrew Rhodes: Unannounced checks would always be our preference. Unannounced checks give you a true view of what is actually going on in a business. That is how local authority enforcement officers carry out food-hygiene inspections. They are unannounced. There is a role to be played by some announced visits, where you need to have access to very detailed information that would not ordinarily be available on the shop floor, but, in the main, unannounced visits would always be a preference, yes.

Q699 Chair: As we close the session, Minister, may I ask about the lessons learned? Certainly, locally, fresh meat sales seem to have gone up hugely. Obviously, that is very pleasing in a livestock area such as my own. There is still concern, however, about restoring confidence in the processed-meat sector. What steps will you take to go about restoring confidence in the processed and, indeed, frozen-meat sector?

Mr Heath: First, we need to repeat what has been done in order to test the situation at present. People should certainly not be complacent, but there is some reassurance that 99% of the tests were negative for contamination, which means the vast majority of processed meat that was on sale was perfectly as it should be. That does not excuse for one moment the 1% that was not, but, nevertheless, people need to understand that this is the case.

The message, as far as fresh meat is concerned, is something that has had a degree of resonance with the consumer. That is evidenced by fresh meat sales. As the Minister for Agriculture, I can only applaud the fact that people are tending to buy British meat products, which they know they can trust. There is a clear message to retailers that they need to be absolutely satisfied that what they put on the shelves is what it says it is. I believe that message has got home to both retailers and, indeed, catering operations as well, because we very often forget the catering operations.

Q700 Chair: Is there any evidence that there is more home-produced meat going to processed and frozen foods?

Mr Heath: It is too early to tell whether that is a permanent effect. Certainly, some large retailers have announced they will now be sourcing from home-produced sources. There are some that always

have and have actually received a reputational boost from the fact they are always obtaining their meat from local sources. I do not think we can necessarily extrapolate that to a long-term trend, but I certainly would not be arguing against it, as far as the industry is concerned. I want to be absolutely clear—this is the message we have attempted to convey all the way through—that it does not matter whether meat is expensive or cheap. Even the cheapest meat must still be what it says on the label. That is an absolute responsibility.

Q701 Chair: Is there better collaboration now between the FSA and local authorities and the FSA and other equivalents across Europe?

Mr Heath: In terms of the collaboration between the FSA and local authorities, Mr Rhodes can speak for himself, but my perception is that it has always been very good and remains good. We have established better links—this, again, is my perception—with other European agencies. What will emerge from Commissioner Borg’s work on this subject is a better integrated system across Europe. I sincerely hope that is the case, because I think that is actually what we need.

Q702 Chair: Obviously, the cost of meat will be a factor in sourcing, locally, more home-produced meat into processed and frozen foods. In the fourth written evidence that we received from the FSA, I understood that the cost of official controls delivered to the meat industry were reduced from £56.4 million in 2010–11 to £50.2 million in 2011–12. Presumably, however, there will have been a massive increase because of the additional testing that has been done. Has this been reflected in meat prices?

Andrew Rhodes: Those are different things. The testing that has been done has been done by local authorities with some funding from the FSA. The controls to which you are referring there are official controls in approved meat premises. That is for the physical inspection that we undertake. Authenticity testing does not factor into that cost rate. It has no bearing on the cost of meat in that respect at all.

Mr Heath: There is one element there where there is a completely new cost, which is the universal bute testing. That is a significant cost, which, at the moment, is borne by Government.

Andrew Rhodes: That is right.

Q703 Chair: However, that will be passed on, too.

Mr Heath: Whether or not it is sustainable for Government to bear the full cost of that forever and a day remains to be seen.

Chair: May I thank both of you, on behalf of the Committee, for being so generous with your time and, especially, for rearranging the evidence session because of the business last week. It will enable us to report to the House before we break for the end of the summer term. We are very grateful indeed.

Mr Heath: Thank you very much.

Written evidence

Written evidence submitted by FSA

INTRODUCTION

1. The Environment, Food and Rural Affairs Committee has invited the Food Standards Agency (FSA) to give further evidence, following the publication of its report 'Contamination of Beef Products'. The FSA has contributed to the Government response to this report and is submitting this additional written statement in advance of the committee hearing on 14 May 2013.

GOVERNMENT RESPONSE

2. At the outset of this incident, on 16 January 2013, the Prime Minister asked the FSA to launch an urgent investigation in response to the findings of the Food Safety Authority of Ireland (FSAI) study published the previous day, and we immediately published an action plan for this investigation. We have progressed this and continue with our investigations into the origin of instances of gross adulteration, working closely with others, including Local Authorities, the police and their counterparts across Europe, in a complex and far-reaching investigation. The FSA recognises the role that all organisations, especially Local Government in the four countries of the UK, have played in responding to this incident. We are preparing a report on this for the Prime Minister.

3. The FSA has sought to keep the public informed throughout this incident with regular updates on our website. The FSA Board has been regularly updated, including through oral reports by the Chief Executive to three Open Board Meetings. In addition, up to 3 May 2013, the FSA has handled 62 Freedom of Information requests and responded to Westminster on 82 Parliamentary Questions (and 17 contributions), 25 Ministerial Correspondence, and 102 Treat Official correspondence, since this incident started in January.

UK AND EUROPEAN SAMPLING PROGRAMME

4. Further to the information provided in the Government response to the Committee's report, sampling programmes have continued. The FSA UK-wide survey, undertaken by Local Authorities, has been completed and where levels over the 1% threshold are confirmed details have been published. The final report of this will be published by the end of May. At our request industry also carried out an unprecedented testing programme of beef products in the supply chain and on sale across the UK to provide reassurance that food was accurately labelled and to take appropriate action in the event gross adulteration was found.

5. Industry test results were reported and published weekly by the FSA from 15 February 2013. The final publication of weekly results was 1 March 2013 by which time 5,430 tests had been completed by industry, covering the majority of product lines in the manufacturing, wholesale, retail and catering chain. The results from the industry testing were consistent with the local authority testing programmes, confirming that the adulteration was limited to a relatively small number of products. As at 23 April 2013, a total of 24 products in the UK were identified as containing horse DNA at or over the 1% threshold. The results indicated that, in both the industry and local authority testing, over 99% of all samples tested (5,944 samples) did not contain horse DNA at or over the 1% threshold.

6. Investigations by authorities across Europe have identified multiple instances of the adulteration of comminuted beef products. On 21 February the European Commission published a Recommendation for testing to be carried out for the presence of horsemeat throughout the food supply chain and for the presence of phenylbutazone (bute) in horses at slaughter for human consumption. The results of this EU wide testing programme were published on 16 April. Of 4,144 tests by competent authorities for horse DNA, 193 were positive for traces of horsemeat DNA. The UK carried out 150 tests as part of this EU testing programme with no samples testing positive for horse at or above the 1% threshold for reporting.

7. Since 11 February, the FSA has operated a 'positive release system' at horse slaughterhouses in the UK, where every horse carcass is sampled for the presence of residue from the veterinary medicine phenylbutazone (bute). Carcasses are only released from the slaughterhouse if no bute is found. From 11 February to 3 May 2013, of 1145 carcasses tested for bute, 20 carcasses have been found to contain bute and prevented from entering the food chain. In the UK the FSA has also required all foods testing positive for horse DNA at or above the 1% threshold to be tested for the presence of bute. To date only one product identified as part of the industry and LA testing programmes has tested positive for bute, and this was at very low level (4 parts per billion), close to the limit of detection. Across Europe, 3,115 samples were tested for bute following the European Commission Recommendation, with 16 positive results. The Chief Medical Officer has issued a statement as part of the UK response to the incident confirming that horsemeat containing bute presents a very low risk to human health. This view has been endorsed by the European Food Safety Authority and European Medicines Agency in a recent joint statement.

8. Industry is continuing to test products for the undeclared presence of horse and reporting results to the FSA. The FSA will publish the results of the current industry testing quarterly. The next collated report will

be published in early June although industry continues to report immediately to the FSA any product testing positive for horse above the 1% threshold.

FUTURE UK WORK PROGRAMME

9. The FSA are liaising with industry on measures to increase the transparency of controls and on the testing carried out by industry, and on necessary measures to improve intelligence and assurance across the food chain.

10. The increasing sensitivity of DNA tests also raises issues about action that should be taken in response to the detection of extremely low levels of DNA from an undeclared species in a meat product, even when processors are adhering to good hygiene, cleaning and manufacturing practices. While the 1% threshold has been supported in the UK and in Europe as a pragmatic reporting level above which gross adulteration is likely to have occurred, there is a need for more information on how best to define and control trace or adventitious contamination. The FSA is working with Defra and key industry stakeholders on a study, through the Laboratory of the Government Chemist, to look at the issue. This work will inform discussion at UK and EU level and with industry on the action levels and controls which should be adopted by both industry and regulators in the longer-term for assuring the integrity of meat products.

EUROPEAN WORK PROGRAMME

11. Following the Secretary of State's role in seeking agreement for rapid action at the European level, we have continued to support further developments and discussions. We have pressed the European Commission to consider ways of improving the sharing of information and intelligence, which will enable food and law enforcement authorities to coordinate investigations across the continent, this could perhaps involve changes to the current RASFF system. We have submitted evidence to Europol.

12. The European Commission has presented a proposal for a 5-point action plan including measures dealing with food fraud, testing programmes, horse passports, official controls and origin labelling. This was discussed at a meeting of the Standing Committee of the Food Chain and Animal Health (SCoCAH) on 19 April 2013. Members agreed at that meeting to the cessation of EU-wide testing for now, with the intention to undertake a further phase of testing at an unspecified time in the future. The Commission also announced that it is establishing a Food Fraud section and are planning to resource this with subject matter experts seconded from Member States.

LEARNING THE LESSONS

13. Following agreement by its Board, the FSA has commissioned an independent external review to learn the lessons of the horsemeat incident. This review is being led by Professor Pat Troop, and will report by the end of June 2013. The findings from this will feed into the wider Government Strategic review of this incident.

TIMELINE

14. A chronology of key events is attached to 3 May 2013.

Timeline

<i>Date</i>	<i>Detail</i>
Early-mid Nov 2012	*Food Safety Authority of Ireland (FSAI) start sampling burgers
23/11/2012	FSANI senior management meeting with FSAI. FSAI said they were developing a methodology for testing for horse DNA. Food Standards Agency in Northern Ireland (FSA NI) agreed a possible joint sampling initiative at some time in the future should the methodology prove robust.
End Nov 2012	*FSAI received first results
Mid Dec 2012	*FSAI collect further samples for testing
21/12/12	*FSAI is aware of a possible issue in relation to trace amounts of horse DNA and pig DNA in some products.
Mid-late Dec 2012	*FSAI samples sent to Germany for confirmatory tests
10/01/13	FSA Chief Scientist spoke to FSAI CE, as part of their regular contact. FSAI Chief Executive (CE) refers to authenticity checks on meat products and agreed to share results as soon as they are confirmed.
11/01/13	*FSAI receive test results
14/01/13	*FSAI inform Silvercrest and Liffey foods
14/01/13	FSAI CE rang FSANI Director to inform him of investigation outcomes.
14/01/03	FSAI CE rang FSA Chief Scientist.
14/01/13	FSAI CE advised FSA NI Director that FSAI was intending to meet with industry the following day. No indications that communications/media were intended at this stage.
14/01/13	FSA Incidents Team notified by FSA NI of survey undertaken by FSAI finding horse DNA in beef products.

15/01/13	FSAI informs retailers of the survey results.
15/01/13	FSAI makes a public announcement regarding the test results.
15/01/13	FSAI issues Press release with FSAI survey results.
15/01/13	FSA Board, Department of Health, Department of Environment Food and Rural Affairs (Defra), and Ministers notified of incident.
16/01/13	Prime Minister (PM) questions. PM charges FSA with urgent investigation.
16/01/13	FSA issues first statement in response to FSAI findings and announces urgent investigation, the voluntary withdrawal of potentially affected products by retailers and the FSA issues a 4-point plan.
16/01/13	Scoping Meeting held in Aviation House—TESCO attended meeting and confirmed that they were undertaking their own investigation into practice and procedures at Silvercrest.
16/01/13	Update submissions issued to Ministers which provides details of the 4-point plan.
18/01/13	Update teleconference between FSAI and FSA to discuss latest positions regarding the incident and share information.
18/01/13	Defra/FSA officials meeting with industry to discuss incident and seek information on how the supply chain is checked and monitored.
19/01/13	FSAI update web story and table of sampling results
21/01/13	FSA received results of further testing of Silvercrest product in Republic of Ireland from FSAI
21/01/13	FSAI Press Release—Minister Coveney (Republic of Ireland) announces further laboratory test results, Liffey Meats burger test results clear
22/01/13	Information about methodology for DNA testing using in the survey published on 15 January obtained from FSAI
22/1/13	FSA Chief Executive updates FSA open Board meeting on the horse meat incident
23/01/13	FSA meeting with ABP to discuss incident and share information.
24/01/13	Defra Minister of State and officials met with BMPA for an update on industry's reaction to the FSAI survey. BMPA outlined what checks are in place to ensure that processors/suppliers know what is in their products, and what further steps industry is taking in response to this incident.
24/1/13	FSA issues statement that horses that have been treated with the drug phenylbutazone (bute) are not allowed to enter the food chain and that regular enhanced sampling and testing is carried out for phenylbutazone in meat from horses slaughtered in the UK.
25/01/13	FSA update website with details of testing at the Dalepak plant by North Yorkshire Trading Standards—results are negative for horse and pork DNA.
26/1/13	Minister Coveney (Republic of Ireland) issues statement identifying source of 29% horse DNA in burgers as being meat from Poland.
1/2/13	FSA announces that it has called an urgent meeting of retailers and suppliers, to take place on 4 February, following Ministry of Justice statement about pork DNA discovered in Halal meat products served in prisons.
4/2/13	FSA announces that it has agreed with the food industry to publish the results of routine industry testing of meat products; FSA also announces that horsemeat had been found in Northern Ireland cold store.
6/2/13	The Agency publishes the protocol for the UK-wide survey of food authenticity in processed meat products as set out in the 4-point plan.
7/2/13	FSA statement that the meat content of Findus beef lasagne products have tested positive for more than 60% horse meat and products previously recalled. FSA also announces that it is requiring a more robust response from the food industry in order to demonstrate that the food it sells and serves is what it says it is on the label, and demands that food businesses conduct authenticity tests on all beef products, such as beef burgers, meatballs and lasagne and provide the results to the FSA. The tests are for the presence of horse meat.
8/2/13	FSA publishes update webstory on horsemeat investigations and Aldi withdrawal of two beef products after tests find between 30% and 100% horse meat in samples.
9/2/13	Secretary of State, Defra holds 1 st summit between Defra, FSA and representatives from the food industry regarding the ongoing contaminated meat incident, it was agreed that the industry would deliver meaningful results from its testing programme by 15 February.
10/2/13	FSA issues interim advice to public institutions, such as schools and hospitals, caterers on procurement and reminds them to check meat supplies.
11/2/13	FSA announces that it has begun a system for 'positive release' for horses slaughtered in the UK, which requires horse carcasses to have tested negative for bute before being released into the food chain from UK slaughterhouses.
12/2/13	2nd summit meeting held with industry.
12/2/13	FSA and police enter two meat premises, one in West Yorkshire and the other in West Wales, involved in alleged supply of horse meat.
13/2/13	FSA suspended approval on both plants (Peter Boddy Licensed Slaughterhouse in West Yorkshire and Farmbox Meats Ltd in Aberystwyth), meaning that neither plant could then operate.

13/2/13	Secretary of State, Defra attended Informal Ministerial meeting with Commissioner Borg and other affected Member States. European Commission proposes that all Member States carry out DNA tests for horsemeat for one month from 1 March (with preliminary findings to be reported after 30 days).
14/2/13	Arrests made at Farmbox Meats Ltd and Peter Boddy.
14/2/13	FSA officials, accompanied by Local Authority Enforcement Officers and police, entered a further 3 premises in England and seized documents and computer equipment. Samples were also taken.
15/2/13	First set of industry test results of beef products published by FSA.
15/2/13	Standing Committee of the Food Chain and Animal Health (SCoFAH) Meeting, at which Member States agree a Commission Recommendation for a coordinated control plan to sample and test meat products for horse DNA and bute across the EU
18/2/13	European Parliament debate which Director General, for Health and Consumers (SANCO) attended to answer MEP questions on horsemeat issue.
19/2/13	Commission Recommendation adopted by Standing Committee
19/2/13	French authorities publish report into Comigel suppliers
19/2/13	FSA publishes details of the expanded UK-wide survey of food authenticity being carried out through local authorities.
20/2/13	Committee of Agriculture and Rural Development (AGRI) of the European Parliament meeting at which there was an exchange of views with Commissioner Tonio Borg, Health and Consumer Policy on horsemeat issues.
21/2/13	FSA publishes latest webstory updates on products withdrawn because results positive for at least 1% horsemeat.
22/2/13	Second tranche of industry test results published by FSA
28/2/13	Horsemeat issue discussed at European Parliament Committee on the Environment, Public Health and Food Safety.
28/2/13	FSA publishes further details of the expanded UK-wide survey of food authenticity being carried out through local authorities.
1/3/13	Third tranche of industry test results published by FSA
5/3/13	FSA Chief Executive updates FSA open Board meeting on the horse meat incident.
7/3/13	FSA lifts the suspension of approval for Peter Boddy to operate as an approved slaughterhouse and cutting plant.
8/3/13	FSA announces it has lifted its suspension of Farmbox Meats Ltd.
8/3/13	FSA publishes first set of local authority sampling results from Phases 1 and 2 of FSA meat testing survey.
18/3/13	FSA announces that it has granted conditional approval (to 5 April 2013) to Farmbox Meats Ltd.
20/3/13	Letter from Commissioner Tonio Borg presenting Commission 5-point plan including measures dealing with food fraud, testing programmes, horse passports, official controls and origin labelling.
22/3/13	FSA is informed by Lancashire County Council that it has identified 100kg of horse meat imported from Hungary labelled as beef.
26/3/13	FSA publishes updated local authority sampling results.
5/4/13	Farmbox Meats Ltd informed 6-month deadline has expired and therefore cannot undertake activity for which approval would be required
9/4/13	FSA publishes further local authority sampling results and that very low levels of phenylbutazone (bute) have been found in 340g tins of Asda Smart Price Corned Beef. Asda recalls the product.
12/4/13	FSA notifies European Commission that all 150 samples of UK beef products tested in response to the European Commission Recommendation are negative for horse DNA at the 1% reporting threshold.
12/4/13	FSA report to European Commission under Commission Recommendation 2013/99/EU of bute tests since positive release instigated at slaughterhouses
15/4/13	Joint Assessment from European Food Safety (EFSA) and European Medicines Agency (EMA) on bute concluded that the illegal presence of residues of phenylbutazone in horsemeat is of low concern for consumers due to the low likelihood of exposure and the overall low likelihood of toxic effects.
16/4/13	European Commission publishes the results of the EU-wide testing for horsemeat DNA and bute.
17/4/13	FSA Chief Executive updates FSA open Board meeting on the horse meat incident. FSA Board agrees that an independent review of the FSA's handling of the incident should be carried out.
23/4/13	FSA confirms the final result for the remaining sample taken as part of the Agency's UK-wide sampling programme of beef products.
24/4/13	First meeting of Police Gold Group (strategic co-ordination of police elements on ongoing investigations) held.

May 2013

Supplementary written evidence submitted by the Food Standards Agency

INTRODUCTION

The Food Standards Agency (FSA) gave further evidence on the contamination of beef products with horse and pig DNA at the Environment, Food and Rural Affairs Committee on 14 May 2013. Further to the enquiry, and the written statement the FSA submitted on 7 May, the FSA is providing further information in response to questions raised by the Select Committee at the evidence session and subsequent questions raised.

QUESTIONS RAISED AT THE EVIDENCE SESSION

Q1. The FSA agreed to explain the figures on Page 19 of their annual report in relation to the number of prosecutions.

The FSA investigates and prosecutes on its own behalf in relation to alleged breaches of food hygiene and food safety legislation at approved premises (primarily slaughterhouses and other meat plants) in England and Wales. It also investigates alleged breaches of animal welfare, animal by-products and Bovine spongiform encephalopathy (BSE) testing requirements in England on behalf of the Department for Environment, Food and Rural Affairs (Defra). Investigation reports in such cases are now referred to the Crown Prosecution Service who prosecute on behalf of Defra. Investigations into alleged offences, under all legislation at approved premises in Scotland, are referred to the relevant Procurator Fiscal's office.

During 2011–12, 17 cases investigated by the FSA, and which had resulted in the initiation of prosecution action by FSA, Defra or Procurators Fiscal, were concluded. A number of the cases were comprised of more than one investigation referral, with individual referrals being made for separate alleged regulatory breaches. In total, 46 separate referrals were covered in the 17 prosecutions and a total of 174 individual charges were laid against companies and individuals.

Of the 17 cases, 14 resulted in convictions.

Q2. Confirmation of what consultancy fees in report were for.

Consultancy spend in 2011–12 was £76,000 relating to eleven suppliers with the greatest spend by one supplier being £38,000.

The following payments were made:

Deloitte LLP for actuarial work (£38,000)

Socitm Consulting Ltd for professional advice re tender for outsourcing IT function (£17,000)

Midland Software—consultancy re payroll software (£5,000)

London Pensions Fund Authority for actuarial advice (£3,000)

Xpert HR—professional advice line and content licences (£3,000)

Other non-material payments (£10,000)

Total : (£76,000)

Q3. The Committee would like to find out from the relevant Environmental Health Officer why the consignment of meat being stored by Mr Fairbairn was held for five months before being tested for horse DNA. Could you either, a) obtain a response from the relevant EHO, or b) send me the contact details to follow up.

Response: The consignment of meat stored in Freeza Meats Ltd was detained in September 2012 by Environmental Health officials from Newry and Mourne District Council because of queries over the provenance of the product. The FSA worked closely with the District Council throughout the investigation. The FSA requested information from the Polish authorities regarding the consignment's provenance and from Local Authorities in Hull and Haringey regarding the traceability of the consignment once it left Poland. It is not unusual for these investigations to take several months. A decision was made that the product would be removed from the food chain due to the traceability and labelling issues just before Christmas. There was a subsequent delay in the disposal of the consignment because further clarification was required as to the ownership of the consignment of meat.

That the consignment contained horse meat was not apparent until after the publication of the Food Safety Authority of Ireland's (FSAI's) authenticity survey in January 2013. Following publication of the results, the FSA ascertained that the product stored in Freeza Meats Ltd was imported from the same Polish source involved in the FSAI's survey. Speciation testing was therefore conducted on the consignment and on 4 February 2013, the FSA received results that two of the twelve samples taken tested positive for equine DNA

at levels between 60% and 100%. The FSA cannot comment further so as not to jeopardise any potential enforcement action or legal proceedings.

FOLLOW-UP QUESTIONS

Staff Numbers

Q4. Can FSA operate satisfactorily with staff reductions of 5.5% in 2011–12?

Response: In the Spending Review 2010 settlement letter, the FSA committed to meeting its spend reductions without impacting on front line delivery. This obligation has been met, and FSA will be able to meet its front line services in 2013–2014 and 2014–2015 within its settlement

Q5. How are staff and budget cuts in local government affecting the delivery of your objectives?

Response: Local Authority budget cuts are resulting in a changing landscape for the delivery of food legislation. Enforcement officers are working hard to protect their services and are looking at innovative solutions to continue to provide effective controls through for example shared services and regional coordination, and more effective targeting of resources. There has been concern that local authorities are losing experienced and knowledgeable staff and the FSA continue to maintain a full programme of training and guidance, to ensure that enforcement officers are effective and provide consistent delivery of controls and sanctions. It is also important that the FSA continues to coordinate a grant funded national programme of sampling and surveillance, to get better information, and to encourage local authorities to provide intelligence about issues that may affect more than just their local area. This can help us better target enforcement work and make the best use of resources. Local Authorities have welcomed this stronger leadership role for the FSA. However, there have been reductions in the numbers of Local Authority officers working in the areas covered by the FSA. Although the profile of interventions by Local Authority officers has changed, overall compliance in food hygiene levels has continued to improve. In the area of food standards, reductions have been seen in all areas of activity and the numbers of officers deployed in the area of food standards and animal feed have fallen more sharply. Food standards enforcement action, however, rose in the last full reporting year, suggesting an increased focus on targeted interventions.

Recovery of Costs

Q6. In 2009 that the FSA Board noted the expectation to recover costs fully, yet in 10–11 and 11–12 you have languished around the 50% mark. Why is this?

Q7. There appears to have been very little progress between 10/11 and 11/12. What steps are being taken to address the shortfall in cost recovery from industry?

Q8. Your objective does not give a timeframe for achieving full cost recovery. How long do you expect it to take before you are fully recovering your costs?

Combined Response: Following the decision by Ministers in 2009 not to agree to the proposed increase in charges for meat official controls the FSA Board reviewed the policy on charging for meat official controls, and the principles agreed by the FSA Board in November 2009, and confirmed at their meeting in May 2011, that:

- It is not a function of the FSA to subsidise industry and if a continuing subsidy is to be paid it should come from elsewhere;
- Providing the best possible protection for consumers from food risk should not be based on economic circumstances or the ability of an industry to pay;
- The FSA should consult with industry and government stakeholders on proposals for implementing the Board's decision to recover full costs for meat official controls.

The FSA undertook a full public consultation, from 10 November 2010 to 1 February 2011, detailing proposals for future charging arrangements for meat official controls, which included a move to full cost recovery by removal of current discounts, with options for a phased introduction and lower charges for low throughput businesses. A number of stakeholder meetings were held during the period of the consultation.

At their meeting on 25 May 2011 the FSA Board considered a package of evidence, including stakeholder comments made in response to the formal consultation and during numerous events and meetings, and agreed that:

- Full cost recovery should be introduced over a three-year period, beginning in April 2012.

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- The consultation proposals should be amended to allow more small businesses to be included in the “low throughput” category. The revised proposals meant that these meat plants would pay reduced charges in a tiered system, depending on the volume of livestock units or meat they process. For the first 1,000 livestock units processed, the reduction would be a maximum of 70% of the full cost charge. The next 1,000 would be subject to a 50% reduction. The next 3,000 would be subject to a 25% reduction. For meat plants processing more than 5,000 livestock units per year full cost charges would apply with no discount for any of the throughput.

This would have provided increased support for approximately 500 establishments, as opposed to about 420 establishments as originally proposed.

The FSA estimated that removing the discount would have resulted in cost increases to the GB meat industry of approximately £16.8 million. This is against a UK meat market (excluding game) worth about £6.34 billion to the UK economy.

A detailed Impact Assessment was prepared by the FSA. The FSA Chair discussed the Board’s decision with Ministers in all four countries of the UK. The final Impact Assessment was sent to the Regulatory Policy Committee (RPC) and the FSA received an amber response. The proposals and impact analysis were sent to the Reducing Regulation Committee (RRC). However in April 2012 the RRC rejected the FSA’s charging proposals.

The FSA’s key objective is to deliver the best possible public protection for consumers and it does not consider that providing this should be based on economic circumstances or the ability of industry to pay. The FSA Board is clear that it is not the function of the FSA to subsidise the industry which it regulates. However, the FSA does not wish to place an undue burden on business and has itself achieved significant efficiencies in the delivery of meat official controls.

The FSA has reduced the cost of official controls delivered to the meat industry in GB from £56.4 million in 2010–11 to £50.2 in 2011–12 while over the same period operational staffing has been maintained at a relatively stable level (1,135 full time equivalents in 2010–11 and 1,115 in 2011–12).

At its meeting on 12 September 2012 the FSA Board reconsidered the Agency’s position on charging and agreed that:

- The FSA’s priority in relation to charging policy is to protect the interests of consumers.
- That the FSA should pursue a more collaborative approach with stakeholders interested in these issues, working in partnership to deliver shared outcomes.
- That priority should be given to building a more consensual approach to progressing three issues:
 - A review of the current discount system making recommendations on how to reform the system to address anomalies.
 - Joint working to identify further ways to reduce costs while continuing to deliver effective consumer protection, building on the outcomes of an efficiency review.
 - Exploring with stakeholders the options for alternative delivery models, including through the use of a control body.
- An external efficiency review of the delivery of UK meat official controls and support functions should be carried out
- Discussions should continue with other Government departments on their appetite for taking on responsibility for allocating any ongoing subsidy

The FSA has commissioned the National Audit Office to undertake an efficiency review on the delivery of official controls in meat premises, to help identify any further areas where efficiency savings could be implemented without loss of consumer protection or infraction of EU regulations. The results of this report are scheduled to be discussed at the FSA Board meeting in July 2013. Once the outcomes and recommendation have been considered and evaluated by the executive and Board a programme will be implemented to deliver any further efficiencies. This will also be an opportunity to review the future policy on full cost recovery.

FSA Review

Q9. Was the review of the FSA requested by the Government or was it the Board’s idea? What are the terms of reference for the Review?

Response: The FSA Board was asked by the FSA Executive, at its Open Board meeting on 14 April, to decide whether to commission a review of the FSA response to the incidents of adulteration of comminuted beef products with horse and pig meat and DNA. The Board agreed to proceed and agreed the terms of reference.

The terms of reference for the review are attached in the Annex.

Q10. You have appointed a Health Expert to lead the review. How will you ensure that concerns about food authenticity and other non-health related aspects of your remit are given sufficient attention in the review?

Response: The review is focused on issues relating to incident management, the disciplines of which relate equally to authenticity and safety issues. Professor Troop is taking evidence from a wide range of stakeholders, including industry and consumer groups, and the FSA Board will consider the full report with a clear focus on authenticity as well as potential learnings from a health perspective.

May 2013

Further written evidence submitted by the British Meat Processors Association

The incidents of gross contamination of some beef products and mislabelling have undermined consumer confidence and trust in the meat industry, and have caused reputational damage to it. We take the matter most seriously. It is important to fully establish the facts as the basis for identifying effective ways to address the issues raised.

The BMPA and its members are cooperating with the FSA in carrying out tests on a wide range of products and publishing the results. We have also urged our members to be vigilant, and to review their raw material and ingredients sourcing policies in order to ensure that they meet their responsibilities to produce safe food and to describe and label their products accurately.

The FSA has quite rightly made a clear distinction between gross contamination due to negligence or fraud, and incidents where powerful DNA testing technology is able to detect low level traces of unintended material in normal manufacturing operations.

It is very important to recognise that all the evidence to date regarding the instances of gross contamination points to fraud—unlawful behaviour on a serious scale, but in a comparatively small number of product lines and supply chains. We look to police authorities to find and prosecute the perpetrators. There is not a systemic breakdown of the meat supply chain; it would be misleading and would not serve the best interests of consumers or the food industry to suggest this in any way.

Some have suggested that modern food supply chains are too dependent on trust. To a considerable extent, the system must rely on a high element of trust, and the assumption that operators adhere to the relevant legislation. It would be unworkable to found a modern livestock and meat production system on the basis that everyone is or may be a crook. The great, great majority of food businesses have very high technical and ethical standards. They meet their responsibilities 365 days, year in, year out. They should not be tarred with the brush of crooked operators.

These incidents will no doubt lead to wider use of testing, and calls for more regulation. On testing, it is important to ensure that the thresholds of properly validated DNA testing are consistent with good hygiene and manufacturing practices. We must also recognise that at low threshold levels, the tests are not completely reliable. The tests are also costly.

Any further measures—whether required by regulators or initiated by industry—must be relevant, workable, risk-based, proportionate and affordable. We will achieve little if we knee-jerk respond to recent events and simply add further cost into the supply chain, and so exacerbate the very problems that some point to as part of the explanation for the current incidents.

There will also be calls for blanket country-of-origin labelling, not only of fresh meat, but also of processed products using meat as an ingredient. However, country-of-origin labelling of processed products would be very onerous to apply. And, in any case, it would not, of itself, have detected or prevented the incidents of fraudulent contamination.

When media interest is calmer, the real issues remain, and it will be important for all parties in the food industry, together with government and regulators, to sit down to identify the sensible way forward.

February 2013

Supplementary written evidence submitted by the Local Government Association

Further to our recent evidence session at the EFRA Select Committee on the contamination of beef products, please find attached the additional information that was requested by the Committee members.

Councils take their role in supporting food businesses to fulfil their legal duties seriously and the LGA are pleased that we could represent these local services during your discussions.

Councils provide invaluable support and advice that helps the many responsible businesses understand complex food law and ultimately we are prepared to step in where they believe these legal responsibilities are not being met, however, it is critical to remember that it is the responsibility of each and every food business to comply with their legal obligations to ensure the food they supply is safe and contains what it says on the label.

While councils provide crucial support to food businesses, we must also be clear that increasing consumer pressure for low food prices is not an excuse for breaking the law by lying to consumers about what they eat.

The Committee members expressed a specific interest in the impact of cuts to food services. It is perhaps worth reiterating that councils will have to manage up to a 33% budget reduction over the current CSR period. All councils, including regulatory services, have sought to minimise the impact of cuts on residents and businesses, by exploring new approaches to service delivery such as shared services, collaboration and improved targeting of resources.

How many prosecutions have taken place nationally in relation to horsemeat?

The LGA do not collate information on enforcement activity or prosecutions taken by individual council services. The annual data returns submitted by councils across the UK to the Food Standards Agency (FSA) do include high level information about the number and type of prosecutions taken. However, the time taken to undertake a thorough investigation and follow due legal processes means that it is extremely unlikely that the recent issues relating to horsemeat will have had the necessary time to reach the point of formal prosecution.

When did the FSA communicate with councils about the horsemeat issue?

The FSA use a national email list to Head of Service to notify councils of new guidance or emerging issues. The FSA used this approach to write to councils about horsemeat on 8th February 2013. A copy of this letter, and subsequent communications, can be found on their website at <http://www.food.gov.uk/enforcement/enforcework/centralref/>

A very small number of councils will have received direct communication from the FSA ahead of this date as a result of ongoing investigations or planned sampling activity.

What levels of horsemeat contamination are deemed acceptable in law?

Food labelling law does not specify the levels of DNA contamination that would be acceptable. *In the case of horsemeat adulteration there are no established levels above which deliberate adulteration is agreed, however, a DNA test can detect relatively low levels that result from cross contamination rather than adulteration.*

If undeclared DNA were to be found in a product then it would be necessary to work with the business, and potentially other businesses, to establish whether DNA contamination was as a result of cross contamination and poor hygiene practices or an attempt to deliberately defraud consumers by mislabelling. Any action taken by a local authority would need to consider the unique circumstances of the case concerned, compliance history, advice from the public analyst, case law and the principles embedded in the Regulators Compliance Code.

Provide clarification on the funding arrangements for sampling, including a breakdown of costs for those councils that have been involved in additional sampling.

The resource to physically take all food samples is funded by each council. However, food standards samples are sent to public analysts for the tests to be carried out. This testing is normally paid for by the council. Councils need to specify and pay for each test required, rather than a single cost for one product. Tests for food standards range from different DNA tests for each species, allergens, checks against labelling and contaminants.

The FSA do provide some grant support each year for the analysis of samples, which is allocated for project work on national priorities and emerging local issues. This has risen from £900 000 available in 2011–12 to £1.6 million in 2012–13.

The 28 councils asked by the FSA to take samples for horsemeat DNA as part of the current incident have had the costs of analysis funded by the FSA and a contribution made to resource costs. The FSA will have a full break down of these costs.

If other councils have made the decision to sampling for horsemeat DNA because of local concerns then this will have been funded by the councils concerned.

The tests on microbiological samples are carried out by the Health Protection Agency. Councils receive credits for this to be carried out and do not have to pay for the tests.

March 2013

Supplementary written evidence submitted by ABP Food Group

Thank you for the opportunity to address the Environment, Food and Rural Affairs Committee last week. We hope our contribution to the committee's work was helpful. As we expressed at the time we are hugely concerned at the recent horsemeat issue and its implications, not only for our business, but also for our customers and for other stakeholders: farmers, retailers, and, especially, consumers.

In this response we address three key issues:

- (A) Responses to questions posed by the Committee to which we agreed to respond in writing.
- (B) Clarifying a potential misunderstanding in the language used in relation to unapproved suppliers.
- (C) A brief update on an issue concerning Dalepak which relates to information that was not available to us at the time of the Select Committee hearing.

(A) Responses to questions posed by the Committee to which we agreed to respond in writing

1. In response to questions from Mr Gardiner's we confirm that:

- 1.1.1 In the course of the 2012 calendar year McAdam Food Services supplied 172 tonnes of beef, and 111 tonnes of pork to Silvercrest Foods. These figures include 34 tonnes of pork which was not actually delivered until January 2013.
- 1.1.2 Mr Ray McSharry Jor was employed by AIBP until November 1992.
- 1.1.3 We do not believe that Mr Eamon Mackie was ever an employee of ABP. However, he was employed by a contractor of ABP until approximately 1986/87.
- 1.1.4 Mr Jim Fairbairn left the company in July/August 1994.
- 1.1.5 As we advised the Committee, ABP and Mr Goodman have no relationship with or interest in Comigel.

1.1.6 As we advised the Committee, Dr Knight has not met with Ministers in either the UK or Ireland in relation to the equine DNA issue.

- 1.1.7 Having checked the position, we have confirmed that some traders previously supplying Silvercrest were UK based. As I informed the Committee, we have stopped buying from traders since the equine issue arose.
- 1.1.8 Mr Finbarr McDonnell has never authorised or engaged in trading in horse meat.
- 1.1.9 Frank Zhou Fang has never authorised or engaged in horsemeat. (In fact, Mr Fang's procurement role is directed towards the purchase of equipment and clothing in China, he is not involved in the purchase of meat products by the ABP Group; he is also ABP's Sales Manager in China, responsible for the sale of ABP beef products in China.

2. In response to questions from the Chair we confirm that:

- 2.1.1 Some labels on Polish product were in English, others in Polish language. For the avoidance of doubt, we should make clear that none referred to equine in either language.
- 2.1.2 We said that the staff of the Silvercrest plant were on paid leave. For the sake of completeness, we wish to make clear that the staff were on paid leave but have since been assisting with the testing programme and with the work required to dispose of recalled stock. Key members of the original management team have not been reinstated.

(B) Clarifying a potential misunderstanding in relation to unapproved suppliers

Having read the transcript we feel there is some potential confusion around the issue of approved and unapproved suppliers and we wish to clarify this in relation to specification breaches. As we explained to the Committee, our equine investigation at Silvercrest led us to discover a different issue, the breach of certain customers' contractual specifications. Most beef at Silvercrest was of British or Irish origin, but Silvercrest also imported from other EU members states (and exported finished products across Europe). For example, Polish beef represented around 5% of all the beef used at Silvercrest (although such Beef was within the contractual specification for more than 25% of the products produced at the site). Such product was sourced in good faith from EU approved suppliers, and, but for the (unsuspected) equine issue, its use was perfectly permissible in many products manufactured at Silvercrest. However, some customers had stipulated that their products should only contain meat from particular sources. For example, the use of Polish beef in some products breached the contractual specification. ABP does not tolerate any breaches of contractual specifications. We responded to the discovery by putting in place a new management team at Silvercrest and we disclosed the issue to the customers. As well as appointing new management to Silvercrest, we disbanded the Convenience Foods division in which it was previously incorporated. We also established new reporting lines at plant level and from our Technical and Quality Assurance departments. We reminded employees throughout ABP of our commitment to compliance with all our legal and contractual obligations, and to the quality of our products. We also reviewed our whistleblowing procedures to encourage employees to escalate any issues.

(C) Dalepak update

At the time of the Committee hearing we stated that we were not aware of any equine DNA results above trace levels (1%) from any ABP facility other than Silvercrest. At the time of the hearing this was factually correct but we felt in this response we should inform the committee that this situation has now changed.

In mid-January, as a precautionary measure, Asda withdrew its Frozen Lean Mince (454g) product which had been processed at Dalepak. On March 9th (4 days after the Select Committee hearing) we were informed that whilst a number of tests from this batch had tested negative for equine DNA, one sample of this withdrawn product had in fact tested positive for equine DNA above trace elements (1%).

We have carried out a full traceability exercise on this batch of product and this demonstrates that the beef was sourced from third party suppliers (i.e. not ABP). We are currently carrying out investigations to establish how this incident could have occurred. At Dalepak we have carried out approximately 600 tests since mid-January including samples from this particular day's production of Asda frozen mince and all our results have been negative for equine DNA.

In conclusion, I wish you and the Committee every success with your work. We at ABP take pride in our business and in the reputation which we have developed over many years, serving many leading retailers around the world. We are committed to producing quality products for our customers and consumers. We have never knowingly engaged in the purchase of equine, nor do we process horsemeat at any of our plants. We are concerned that the equine issue appears to be the result of a deliberate and sophisticated fraud on the industry and on the consumer, affecting many companies and their products. For our part, we have learnt from recent events and we are determined to take all appropriate steps to prevent any recurrence of such events. We trust that, in time, the reputation of British beef will emerge stronger than ever. We as a company are determined to do everything necessary to restore confidence in the supply chain and to ensure that consumers can buy beef products with confidence.

Paul Finnerty
Group Chief Executive

March 2013

Written evidence submitted by the Association of Public Analysts

INTRODUCTION

1. The Association of Public Analysts (APA) represents the professional interests of public analysts. Formed in 1953, the APA is the successor to the Society of Public Analysts which dates back to 1874.

2. Food authorities¹ must appoint at least one public analyst under The Food Safety Act 1990 to analyse samples of food for compliance with legislation relating to safety and standards and report on their findings. Uniquely, a Food Safety Act Certificate is sufficient evidence of the facts stated in it unless its author is specifically required to be called as a witness.

3. Public analysts must hold the Mastership in Chemical Analysis (MChemA), a competence based postgraduate qualification awarded by the Royal Society of Chemistry (RSC). Public analysts are also members or fellows of the RSC.

FUNDING OF OFFICIAL CONTROLS ON FOOD

4. The Food Safety Act 1990, Regulations made under this Act and EU Regulations lay down the responsibilities of food businesses and enforcement authorities.

5. The Food Standards Agency (FSA) is the competent authority in the UK within the meaning of EC Regulation 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. The delivery of many official controls is delegated to local authorities.²

6. The bulk of funding for official controls is provided by central government to local authorities via the Revenue Support Grant (RSG). The funding is not ring-fenced and each authority will decide on the basis of local priorities how much funding to allocate to official controls. Often the local funding for official controls may be held in a budget covering other areas and it is difficult to ascertain exactly what resources are actually allocated to official controls.

7. The FSA has made separate direct funding available to local authorities in the last few years. This has consisted of £1–2 million per annum which local authorities or consortia of local authorities can bid for. The FSA specifies exactly what sampling and analysis it requires. The bulk of the funding covers analysis costs with the remainder used to cover costs of sampling (sample purchase and officer time and travel). The FSA

¹ In effect this includes all local authorities except district councils where two tier local government exists.

² This includes district councils who are responsible for food hygiene in two tier areas.

has always made it clear that this separate funding should be used to supplement existing sampling budgets, but it is used by some local authorities to partially or entirely replace their own sampling budgets.

8. Enforcement powers are held by local authority officers, usually Trading Standards or Environmental Health. Under the Food Law Code of Practice each food authority is required to produce an annual service plan for enforcement of food standards. This should be prepared in conjunction with the authority's appointed public analyst and contain details of risk assessment of food businesses, numbers of inspections to be carried out and details of samples to be taken. The code of practice does not specify a minimum sampling rate of any kind.

OFFICIAL CONTROL LABORATORIES

9. All food samples taken in the course of official controls must be submitted to either a food examiner for microbiological examination or to a public analyst for chemical analysis. In England there is a centralised network of laboratories for food examination work which is part of the Health Protection Agency³ (HPA). The HPA's activities in this area are centrally funded and coordinated. Their services are free at the point of use to local authorities through a system of credits.

10. Public analysts, on the other hand, do not work in a centralised laboratory system but are employed by a number of public and private laboratories who decide to offer public analyst services to local authorities. There are currently eighteen laboratories in the UK, ten in England, four in Scotland, three in Wales and one in Northern Ireland. Eleven of the laboratories are provided by individual local authorities. These laboratories have not been immune to cuts in their operational budgets and four laboratories have closed in England alone since 2011 (Bristol, Durham, Leicestershire and Somerset⁴). This has led to highly qualified and experienced analysts being made redundant.

11. The remaining public sector laboratories have seen a reduction in the income received for testing from their own and other local authorities. The majority of local authorities, who do not have their own laboratory, generally go out to tender every three to five years. This, together with the year on year reductions in budgets for analysis, has resulted in fierce competition for contracts and in an inability to make the medium to long term investments in instrumentation and new technology to ensure laboratories are able to respond to emerging risks and food contamination issues.

12. There are two private sector providers, Public Analyst Scientific Services Ltd, a subsidiary of the multinational life sciences group Eurofins, which runs four of the UK laboratories and Minton, Treharne and Davies, which run two of the three Welsh laboratories.

HORSE DNA TESTING CAPACITY

13. Of the eighteen laboratories currently operating only six are equipped to analyse samples for horse DNA. The other laboratories either do not have the required instrumentation or do not have expertise in this field. As most laboratories are required to be run as businesses (including local authority laboratories), unless the establishment of a particular methodology such as DNA analysis and the accompanying investment required is considered to be economically viable, ie the laboratory will receive sufficient samples to cover the costs, then the laboratory will not develop the methodology.

14. This leaves the United Kingdom enforcement system in a vulnerable position as the country's testing capacity is effectively left to market forces. When demand for testing is low, as in the current climate of reducing local authority budgets, suitably qualified staff and facilities are lost to the system and cannot easily be retrieved when the demand for analysis increases.

15. The horse meat incident has highlighted this problem. Laboratories were not previously being asked to test for horse and validated methodology was either dormant or non-existent as no mechanism exists to provide any base level of capability or capacity to respond to major incidents. The ability to react to the sudden influx of samples and the urgency of the reporting requirements has demonstrated the shortcomings of the system and led to capacity issues within the laboratories.

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³ On the 1 April 2013 the HPA will become Health Protection England, an executive agency of the Department of Health

⁴ The laboratory in Taunton will continue to operate beyond March 2013 but will not be carrying out analysis for official controls.

Written evidence submitted by the European Commission

PART I: LEGAL FRAMEWORK

Traceability of food

Food and feed traceability is the ability to track any food, feed food producing animal or substance that may be destined for human consumption through all stages of production, processing and distribution of foods. The principle of food and feed traceability is established in Regulation (EU) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety,⁵ and originates primarily from the need to ensure food safety.

As stated in Regulation (EC) No 178/2002, the functioning of the internal market could be jeopardized where it is impossible to trace food and feed, and therefore, the establishment of a comprehensive system of traceability within food businesses throughout the food chain is necessary for the protection of public health and consumers' interests.⁶

Traceability does not itself make food safe; it is a means to contain a food safety problem. In particular, traceability records:

- (a) facilitate targeted and accurate withdrawal and recall of foods and feeds, thereby avoiding unnecessary disruption of trade;
- (b) enable consumers to be provided with accurate information concerning implicated products, thereby maintaining consumer confidence;
- (c) facilitate risk assessment by control authorities;
- (d) ensure fair trading amongst operators;
- (e) the reliability of information supplied to consumers in terms of substantiating claims made by food business operators.⁷

The traceability requirements for food and feed are laid down in Article 18 of Regulation (EC) No 178/2002.

The requirement to identify suppliers and other businesses to which products are supplied is known as the “one step back—one step forward” approach. This approach implies the following:

- (a) Food business operators must have in place a system enabling them to identify the immediate supplier(s) and immediate customer(s) of their products.
- (b) A link “supplier-product” must be established, *ie* which products supplied from which suppliers.
- (c) A link “customer-product” must be established, *ie* which products supplied to which customers (except for final consumers).

The products covered by the general traceability requirement are “*any substance intended to be, or expected to be incorporated into a food or feed*”, as a part of a food or feed during its manufacture, preparation or treatment. As such, it covers all types of food and feed ingredients.

The general traceability requirement applies to food business operators at all stages of the food/feed chain, from primary production (food producing animals, harvests), food/feed processing to distribution and supply, including brokers, regardless of whether they take physical possession of the food/feed in question, as well as transporters and storage businesses and businesses involved in the distribution of food/feed.

In addition, Article 18 of Regulation (EC) No 178/2002 requires food and feed operators to have in place systems and procedures to ensure the traceability of their products. Although the latter provision does not provide any details about these systems, the use of terms “systems” and “procedures” implies a structured mechanism able to deliver the needed information upon request from the national competent authorities. Each business is responsible for its own activities within a chain, but there is a joint responsibility throughout the chain.

The type of information to be kept by the food and feed business operators is not specified in Article 18 of Regulation (EC) No 178/2002. However, to ensure compliance with the objective of this provision, food business operators should keep at least the following information:

- Name, address of supplier and identification of products supplied.
- Name, address of customer and identification of products delivered.
- Date and, where necessary, time of transaction/delivery.
- Volume, where appropriate, or quantity.

⁵ OJ L 31, 1.2.2002, p. 1.

⁶ Recital (28) of Regulation (EC) No 178/2002.

⁷ Section III of Commission Guidance on the implementation of Articles 11, 12, 14, 17, 18, 19 and 20 of Regulation (EC) No 178/2002 on General Food Law—Conclusions of the Standing Committee on the Food Chain and Animal Health, dated 26 January 2010, to be found at: http://ec.europa.eu/food/food/foodlaw/guidance/docs/guidance_rev_8_en.pdf, at pp. 15–22.

Article 18 of Regulation (EC) No 178/2002 does not specify a minimum period of time for keeping records, and therefore it is for the food business operators to decide, bearing in mind that failure to produce adequate records would constitute an offence. The Commission Guidance on the application of this provision suggests that a five-year period following the date of manufacturing or delivery for traceability records would likely meet the objective of the provision at issue. However, this common rule would need to be adapted in some cases:

- In some cases, for highly perishable products, which have a “use by” date less than three months or without a specified date, destined directly to final consumer, records could be kept for the period of six months.
- For products with a “best before” date, records could be kept for the period of the “shelf-life” plus six months.
- For products without a specified durability date, the general rule of five years could apply.

The general traceability requirement **does not apply outside the EU**; it only covers all stages of production, processing and distribution in the Union, *ie* from the EU importer to retail level.

If a food business operator considers or has reason to believe that a food which it has imported, produced, processed, manufactured or distributed is not in compliance with the **food safety** requirements, it shall immediately initiate procedures to withdraw the food in question from the market where the food has left the immediate control of that initial food business operator and inform the competent authorities or where necessary to recall where the product has reached the consumer.

1. *Specific EU requirements on traceability for foods of animal origin*

To ensure the correct application of Article 18 of Regulation (EC) No 178/2002, additional traceability requirements for food of animal origin are laid down in Commission Implementing Regulation (EU) No 931/2011,⁸ which is applicable as of 1 July 2012. The adoption of such rules was considered appropriate as experience had shown that food business operators did not generally possess the information needed in relation to foods of animal origin to ensure that their systems identifying the handling or storage of foods of animal origin was adequate. This had resulted in this sector to unnecessarily high economic losses due to the lack of quick and full traceability of the food.⁹

Commission Implementing Regulation (EU) No 931/2011 applies to food of animal origin defined as “unprocessed and processed products” in Article 2(1) of Regulation (EC) No 853/2004 of the European Parliament and of the Council on the hygiene of foodstuffs.¹⁰ It does not apply to food which contains products of plant origin together with processed products of animal origin.¹¹

According to Article 3 of Commission Implementing Regulation (EU) No 931/2011, food business operators must ensure that the following information concerning consignments of food of animal origin is made available to the food business operator to whom the food is supplied and, upon request, to the competent authority:

- (a) an accurate description of the food;
- (b) the volume or quantity of the food;
- (c) the name and address of the food business operator from which the food has been dispatched;
- (d) the name and address of the consignor (owner) if different from the food business operator from which the food has been dispatched;
- (e) the name and address of the food business operator to whom the food is dispatched;
- (f) the name and address of the consignee (owner), if different from the food business operator to whom the food is dispatched;
- (g) a reference identifying the lot, batch or consignment, as appropriate; and
- (h) the date of dispatch.

The above mentioned information must be updated on a daily basis and as a minimum be kept at least until it can be reasonably assumed that the food has been consumed.

When requested by the national competent authority, the food business operator must provide the information without undue delay. The appropriate form in which the information must be made available is up to the choice of the supplier of the food, as long as the information requested is clearly and unequivocally available to and retrievable by the business operator to whom the food is supplied.

2. *Specific EU requirements on traceability for beef*

Regulation (EC) No 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and

⁸ Commission Implementing Regulation (EU) No 931/2011 of 19 September 2011 on the traceability requirements set by Regulation (EC) No 178/2002 of the European Parliament and of the Council for food of animal origin Text with EEA relevance, OJ L 242, 20.9.2011, p. 2.

⁹ Recitals (4) and (5) of Commission Implementing Regulation (EU) No 931/2011.

¹⁰ O.J. L139,30.4.2004, p.1

¹¹ Article 2 of Commission Implementing Regulation (EU) No 931/2011.

repealing Council Regulation (EC) No 820/97.¹² The basic objectives for Community rules on the identification of bovine animals are:

- the localisation and tracing of animals for veterinary purposes, which is of crucial importance for the control of infectious diseases;
- the traceability of beef for public health reasons; and
- the management and supervision of livestock premiums as part of the common organisation of the market in beef and veal.

The system for the identification and registration of individual bovine animals includes the following elements:

- double ear tags for each animal with an individual number;
- maintaining a register on each holding (farm, market etc.);
- cattle-passports; and
- a computerised database at national level.

Operators and organisations marketing beef must indicate on the label information about the beef and the point of slaughter of the animal or animals from which that beef was derived. Currently mandatory rules on origin labelling exist for several sectors, (fruit and vegetables, bananas, olive oil, wine, eggs, imported poultry, honey and hops). In the case of beef, the labelling requirements must indicate where the animal or animals from which the beef was derived were born, raised and slaughtered.

Additional Information may be provided under the voluntary beef labelling system; however, there is a Commission's legislative proposal (currently under Co-decision) which aims to delete the provisions for voluntary beef labelling. Voluntary beef labelling provisions does not provide information on traceability. Information on traceability is ensured by Mandatory beef labelling.

3. Labelling of food. EU requirements

Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs¹³ sets out Union rules on food labelling applicable to all foods.

According to Directive 2000/13/EC, the labelling and methods used should not mislead the consumer, particularly as to the characteristics of the food, including its true nature and its identity.¹⁴ Furthermore, in the absence of specific Union or national rules, the name under which a food is sold should be the name customary in the Member State in which it is sold, or a description of the food, which is clear enough to let the purchaser know its true nature.¹⁵

Moreover, all ingredients must be mentioned on the label of pre-packaged foodstuffs intended for the final consumer or mass caterers. In particular, foods containing meat as an ingredient, when intended for the final consumer or mass caterers, must also indicate the animal species from which the meat originates directly on the package or on a label attached thereto.¹⁶ If an ingredient is mentioned in the name of the food, its quantity expressed as a percentage must also be provided in the list of ingredients in order to avoid the consumer being misled as regards the identity and the composition of the food.¹⁷

As of 13 December 2014, Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers will repeal and replace Directive 2000/13/EC.¹⁸ Regulation (EC) No 1169/2011 maintains all the above-mentioned food labelling requirements. In addition, in the case of meat products or meat preparations containing added proteins as such, including hydrolysed proteins, of a different animal origin, the latter Regulation requires the name of the food shall bear an indication of the presence of those proteins and of their origin. Accordingly, a beef burger containing horse protein would have to be designated under the name "beef burger with horse protein". The new rules will apply as of 13 December 2014.

Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin¹⁹ provides for additional labelling requirements applicable to specific foods of animal origin. In particular, it provides that packages intended for supply to the final consumer containing minced meat, amongst others, from solipeds are to bear a notice indicating that such products should be cooked

¹² OJ L 204, 11.8.2000, p. 1

¹³ OJ L 109, 6.5.2000, p. 29.

¹⁴ Article 2 of Directive 2000/13/EC.

¹⁵ Article 5 of Directive 2000/13/EC.

¹⁶ Article 6 of Directive 2000/13/EC read in conjunction with Annex I thereto.

¹⁷ Article 7 of Directive 2000/13/EC.

¹⁸ Regulation (EU) No 1169/2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, OJ L 304, 22.11.2011, p. 18.

¹⁹ O.J. L139, 30.4.2004, p.55

before consumption, if, and to the extent that, national rules in the Member State in the territory of which the product is placed on the market so require.

The responsibility for enforcing the EU labelling requirements remains with the national competent authorities, which are to conduct official controls in accordance with Regulation (EC) No 882/2004.

4. General Hygiene rules regarding the production of horsemeat

(a) Identification of animals

Article 4(1) of Regulation (EC) No 852/2004 requires that FBOs carrying out primary production shall also comply with some specific requirements provided for in Regulation (EC) No 853/2004 including sending only properly identified animals to the slaughterhouse and to provide slaughterhouse operators with the FCI. FBOs operating slaughterhouses must ensure that the procedures that they have put in place in accordance with the general requirements of Article 5 of Regulation (EC) No 852/2004 guarantee that each animal or, where appropriate, each lot of animals accepted onto the slaughterhouse premises is properly identified (Annex II, Section II of Regulation (EC) No 853/2004). Regulation (EC) No 504/2008 **implementing Council Directives 90/426/EEC and 90/427/EEC as regards methods for the identification of equidae**²⁰ sets out specific requirements for identification of these animals.

(b) EU equine passport system

The current EU rules for the identification of *equidae* are laid down in Commission Regulation (EC) No 504/2008 of 6 June 2008. This Regulation is the key document in relation to two aspects of the current “horse meat scandal”:

- (a) identification of equidae for traceability purposes
- (b) medication record allowing to exclude individual animals from the food chain if treated with substances dangerous for human health.

The passport became obligatory for movements of all *equidae* after the date of 1 July 2000. Since 2000 the medication record is a compulsory tool:

- (a) to ensure an extended waiting period of 6 months following the treatment with essential substances or
- (b) to exclude the individual animal entirely and irreversibly from the food chain.

The Regulation aims at preventing the issuance of more than one passport by the following:

1. the obligation to issue within the first year of life only a single passport for lifetime after verification that the animal has no traces of previous identification;
2. the obligatory implantation of an electronic identifier (chip) in equidae born after the 1 July 2009 in order to tighten the link between the animal and the passport;
3. the unique life number under which records on the passport of an equid are accessible;
4. a restrictive mechanism for the issuing of replacement or duplicate documents in case of loss, which automatically excludes such animals from the food chain; and
5. a deadline by which all *equidae* born before 1 July 2009 had to be identified or their existing passports registered, and after which old animals can only receive a replacement passport, excluding them from the food chain.

The principle mechanism of that medication record is, that *equidae* which are by default food producing animals, can only be treated with medicaments authorised for food producing animals. In case treated with essential substances the passport must report an extended waiting period of six months or the horse must be excluded from the food chain.

(c) General hygiene requirements

Article 4(2) of Regulation (EC) No 852/2004 sets out that the FBO carrying out any stage of production, processing and distribution of food after the stage of primary production/associated operations shall comply with the general requirements of Annex II to this Regulation. These provisions relate to cleaning and maintenance, layout, design, construction, site and size of the food premises.

(d) Specific requirements

Article 3 of Regulation (EC) No 853/2004 sets out that the FBO shall comply with the specific requirements of Annexes II and III to this Regulation. Article 4(3) of Regulation (EC) No 852/2004 states that the FBO shall adopt specific hygiene measures regarding compliance with hygienic criteria for foodstuffs, compliance with temperature control requirements, sampling and analysis.

(e) Microbiological criteria

Microbiological criteria for foodstuffs are contained in Regulation (EC) No 2073/2005.

(f) HACCP-based systems

²⁰ O.J. L149, 7.6.2008, p.3

Article 5 of Regulation (EC) No 852/2004 requires that the FBO shall put in place, implement and maintain a permanent procedure or procedures based on the HACCP principles. The specific requirements for HACCP-based procedures in slaughterhouses are given in Section II of Annex II to Regulation (EC) No 853/2004.

(g) Traceability

Article 4(6) of Regulation (EC) No 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption²¹ requires that verification of compliance with traceability requirements takes place in all approved establishments.

(h) Animal welfare at slaughter

Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing²² lays down requirements to protect animals at time of killing and applies from 1st January 2013. The main improvements are: appointment of an animal welfare officer, certificate of competence for all personnel, compulsory monitoring of loss of consciousness when the animal is stunned or slaughtered without stunning, obligation to implement Standard Operating Procedures, new technical and equipment requirements.

(i) Inspection tasks

Article 5(1) of Regulation (EC) No 854/2004 requires that the OV shall carry out inspection tasks in slaughterhouses in accordance with the general requirements of Section I, Chapter II, of Annex I, and with the specific requirements of Section IV, in particular as regards the FCI, ante-mortem inspection, animal welfare, post-mortem inspection and laboratory testing.

Article 5(2) of Regulation (EC) No 854/2004 requires that the health marking of carcasses shall be carried out in slaughterhouses and game-handling establishments in accordance with Section I, Chapter III, of Annex I. Health marks shall be applied by, or under the responsibility of, the official veterinarian (OV) when official controls have not identified any deficiencies that would make the meat unfit for human consumption.

Article 5(2) of Regulation (EC) No 854/2004 requires that after carrying out the controls mentioned in points 1 and 2, the OV shall take appropriate measures as set out in Annex I, Section II, in particular as regards the communication of inspection results, decisions concerning the food chain information (FCI), decisions concerning live animals, decisions concerning animal welfare and decisions concerning meat.

(j) Audits of good hygiene practices and hazard analysis and critical control point (HACCP)-based procedures

Article 4 of Regulation (EC) No 854/2004 requires that OV shall carry out audits of good hygiene practices and HACCP-based procedures and any particular auditing tasks specified in the Annexes.

Article 4(4) requires that audits of good hygiene practices shall verify that FBOs apply procedures continuously and properly concerning at least checks on the FCI, the design and maintenance of premises and equipment, pre-operational, operational and post-operational hygiene, personal hygiene, training in hygiene and in work procedures, pest control, water quality; temperature control and controls on food entering and leaving the establishment and any accompanying documentation.

Article 4(5) requires that audits of HACCP-based procedures shall verify that FBOs apply such procedures continuously and properly, having particular regard to ensuring that the procedures provide the guarantees specified in Section II of Annex II to Regulation (EC) No 853/2004.

5. Official Controls on the Food chain

Member States are responsible for the enforcement of EU food chain legislation and are required to verify, through the organisation of official controls, that the requirements deriving thereof are complied with by operators at all stages of production, processing and distribution.

The organisation of official controls must conform to the requirements of Regulation (EC) No 882/2004. Member States shall organise such controls (in the form of inspections, audits, sampling and testing, as appropriate according to the type of requirement to be enforced) and implement them regularly, on all operators along the food chain, without prior notice, and with appropriate frequency.

The competent authorities in the Member States are also under the obligation to take suitable measures to eliminate non-compliances and ensure enforcement of EU food chain legislation in relation to both domestic products and imports from outside the Union.

The Commission constantly monitors delivery by the Member States of their control duties, including through on-the-spot audits carried out by its Food and Veterinary Office.

Member States shall determine the intensity of their control efforts (and in particular the frequency of such controls in relation to the different categories operators) having regard to potential risks to human/animal health posed by the commodity or production method concerned; to the record of compliance of the operator; to

²¹ O.J. L139, 30.4.2004, p.206

²² O.J. L 303, 18.11.2009, p.1

measures taken by the operator to mitigate risk, and to the risk of non-compliance in certain segments or by certain operators of the food chain.

In some areas, however, the frequency and modalities of official controls are established by Union legislation because of the recognised, intrinsic risks presented by certain products. This is the case for instance of ante and post mortem inspections in slaughterhouses and meat plants and of the control plans required by Directive 96/23 for residues of veterinary medicines. Union provisions dictate the details and the frequency of such mandatory controls.

As to meat inspection, for instance, competent authorities are to ensure that at least one official veterinarian is present in the slaughterhouse throughout ante-mortem and post-mortem inspections, and in game handling establishments during the post-mortem.

In meat cutting plants, an official veterinarian or official auxiliary must be present when meat is being worked on.

Harmonised modalities and frequencies are also established for import controls on certain commodities arriving from outside the EU (including animals and meat).

As said above, official controls must be carried out at all stages of production, processing and distribution along the agri-food chain, and with the same care irrespective of whether the products are destined to the local or national market, to another Member State within the Union's market or to a third country. This is to ensure that the same level of protection is achieved across the Single Market, where products circulate freely. Where the chain of events necessary to bring food to the market takes place over more than one Member State, this ensures that each Member State competent authority plays its part by performing the relevant official controls, from the first stages of production to the placing of the final product on the market.

To this end, and in line with single market principles, the results of official controls performed in one Member State are to be respected by other Member States in which a product might be further produced, processed or distributed. If, during such controls however, a serious risk to human or animal health is identified, the Commission shall immediately take emergency (safeguard) measures.

Because official controls play such important role in ensuring the safety of the agri-food chain in the Union, and thus in protecting consumers and citizens, Regulation (EC) No 882/2004 obliges Member States to adequately resource official control activities, so as to ensure that whichever the level of controls required by the different situations competent authorities can sustain the corresponding effort.

In certain sectors (and notably, in the meat sector) the Regulation requires that fees reflecting the actual cost of official control activities are to be collected from operators on a mandatory basis, to finance controls on slaughter and cutting operations (this also applies to cold storage of meat, production and placing on the market of fishery products, and milk production). In other areas, Member States are free as to whether or not to collect fees from operators.

Mandatory fees are also collected in the dairy sector, for the initial controls on feed establishments and for import controls on animals and meat from third countries.

6. Other enforcement mechanisms, the role of EUROPOL

Many actors are involved in surveillance and control mechanisms along the food chain in the Member States, depending on the nature and the stage of the investigation, on the nature of the findings and the applicable law and procedures (sanitary authorities, customs, law enforcement agencies, administrative and criminal prosecutors and jurisdictions). Similarly, different mechanisms are available at EU level mirroring the different activities carried out in the Member States (from information sharing and administrative cooperation mechanisms to police and judicial cooperation tools).

In the case at hand, as available information indicates the possibility that intentional violations of food chain rules might be taking place, other enforcement authorities are also concerned with investigation and enforcement activities. In several Member States criminal investigations are on-going.

Existing tools and mechanisms, including the European Police Office (EUROPOL), were activated (no new intelligence sharing information system was created or will be created).

As regards EUROPOL, Council Decision 2009/371/JHA of 6 April 2009, states that the latter's objective is to support and strengthen action by the competent authorities of Member States and their mutual cooperation in preventing and combating organised crime, terrorism and other forms of serious crime affecting two or more Member States.

In accordance with existing rules, some Member States with on-going criminal investigation into the horsemeat scandal (including the United Kingdom) have contacted, shared information and actively involved EUROPOL in their investigations. In such cases, EUROPOL is assisting in the said investigations and has been making its resources available to national law enforcement authorities in conformity with Article 5 of Council Decision 2009/371/JHA, whilst also fully respecting national mandates. Where the situation so warrants, EUROPOL may suggest setting up a joint investigation team. A JIT or a dedicated Target Group are

only one of the tools that can be used in this case. Nevertheless for the moment Europol does not have enough intelligence (based on contributions regarding criminal cases) to start a JIT or open a dedicated Target Group.

PART II: FACTUAL BACKGROUND

1. *Initial incident*

A UK company (Findus UK) admitted it had been selling beef lasagne supplied by a French company which tests show is 80–100 % horsemeat.

On **Friday 8 February 2013** UK informed the Commission about the specific findings and the origin of the consignments. The meat was supplied to Findus by a French company Comigel and the product was manufactured in the company Comigel—Tavola in Luxembourg. This information was circulated through the Rapid Alert System for Food and Feed (RASFF) in order for the competent authorities in France/Luxembourg to launch the necessary investigations.

On the same day France informed the Commission that the supplier of Comigel is a French company called Spanghero, which transforms and trades meat. The frozen meat involved in this case, which was presumed to come from Romania, was bought through middlemen based in Cyprus and the Netherlands. Samples of the remaining meat analysed by Spanghero confirmed the presence of horse meat. The Luxembourg-based Comigel's factory appears to be the only client of Spanghero for these batches of meat, apart from a very small part used for the local production of sausages by Spanghero. Comigel has withdrawn the involved products from the market.

Based on a precautionary approach, the information has been circulated through the Rapid Alert System for Food and Feed (RASFF) in order to allow concerned Member States to investigate the incident rapidly and take the necessary immediate actions.

On **Saturday 9 February 2013**, the Luxembourgish competent authorities informed through the Rapid Alert System for Food and Feed (RASFF) that, following the internal traceability of the producer (Comigel—Tavola), the contaminated batches distributed to UK can be traced back to a batch of bovine meat delivered by Spanghero in Castelnaudary. The French authorities were informed and investigations are on-going.

On **Monday 11 February 2013** UK informed the Commission through Rapid Alert System for Food and Feed (RASFF) that Aldi tested beef lasagne (Today's Special Beef Lasagne) and Spaghetti Bolognese (Today's Special Spaghetti Bolognese) both produced by the company Comigel (Luxembourg). They contained between 30–100 % of horse meat. The products have only been distributed to Aldi Stores in Ireland. Affected products have been withdrawn from sale. Ireland has been informed.

The investigations conducted by the French inspection authorities have established the distribution channel. French operator Spanghero bought questioned product from trader from Cyprus who itself bought it from Dutch trader located in the Netherlands. Dutch trader bought pieces of beef from a slaughterhouse in Romania. The meat was then sent and stored in a cooling facility in the Netherlands. From the storage it was sent to French operator Spanghero from where it was sent to Luxembourg.

Samples were performed on the sample library of Spanghero, ongoing analyses will determine the presence or absence of horse meat. Analyses are underway to identify the possible presence of residues of veterinary drugs. Additional information will be sent as soon as the traceability of the consignment has been collected from the company Comigel and the analytical results obtained.

PART III: ACTION TAKEN AT EU LEVEL:

1. *EU reaction*

On **Wednesday 13 February 2013**, there was an informal Ministerial meeting organised by the Irish Presidency where Member States that are most affected by the horsemeat scandal were invited (FR, UK, LU, SE, RO, PL and IE). In that context, Commissioner Borg announced Commission's intention to recommend a coordinated control plan.

On **Friday 15 February 2013**, at an extraordinary Standing Committee of the Food Chain and Animal Health (SCFAH) conveyed by the Commission, the Member States endorsed a draft Recommendation for a coordinated control plan announced by Commissioner Borg on Wednesday 13th February.

On **Tuesday 19 February 2013**, the Commission adopted Recommendation 2013/99/EU on a coordinated control plan with a view to establish the prevalence of fraudulent practices in the marketing of certain foods.²³

The recommended coordinated control plan consists of two actions:

- Official controls on foods destined for the final consumer or mass caterers, which are marketed and/or labelled as containing beef.

²³ Commission Recommendation of 19 February 2013 on a coordinated control plan with a view to establish the prevalence of fraudulent practices in the marketing of certain foods (2013/99/EU), O L 48, 21.2.2013, p. 28.

- Official controls on horse meat destined for human consumption, as classified under the Combined Nomenclature Code 0205, to detect phenylbutazone residues, a veterinary drug whose use in food producing animals is illegal.

The plan is being carried out for an initial period of 1 month, which may be extended by an additional period of two months.

Competent authorities should report to the Commission a summary of the results of the controls, including information on sampling, type of analysis and follow-up controls by 15 April 2013 and will be published immediately. Any positive results should be reported immediately to the Commission. In addition, positive findings related to horse meat, the country where the animals concerned were certified for slaughter should also be reported. Competent authorities should also report to the Commission the results of own checks carried out at their request by food business operators.

The Union is co-financing the recommended coordinated control plan at the rate of 75% for the initial period of one month.

On Monday 25 February 2013, during the AGRI Council meeting, AGRI Ministers supported and welcomed the rapid response of the Commission with the coordinated control plan and asked the Commission to accelerate the publication of the report on the labelling of the origin of any meat used as an ingredient.

On Thursday 28 February 2013, the EP debated the horse meat scandal at the COMENVI meeting.

On Wednesday 6 March 2013, at a meeting of the EU Chief Veterinary Officers (CVOs) the Commission informed on the latest state of play. The CVOs updated the Commission on the situation in each MS and insisted on the need to take appropriate actions on different aspects (equine passports, traceability, etc.) and to enhance cooperation between MS.

2. Action plan

A five-point action plan (Appendix III) is proposed to address the shortcomings identified in the wake of the horsemeat scandal.

The plan aims to strengthen the enforcement of food chain rules (from horse passport legislation to hygiene and labelling requirements) so as restore consumer confidence in Europe's food supply chain.

The plan consists of a series of measures to be taken in the short, medium and long term in five key areas: 1) Food fraud; 2) Phenylbutazone; 3) Horse passports; 4) Official controls and penalties and 5) Origin labelling.

3. FVO

There is already a scheduled audit in the UK in April on residues of veterinary drugs which will include the establishment at the origin of one of the Rapid Alerts notified by the UK in recent days for phenylbutazone in horsemeat. The audit will focus closely on the residue controls in horses, including passports and food chain information, ie records of administration of veterinary drugs. Anyone looking to highlight problems, actual or potential, in relation to misuse of veterinary drugs in horsemeat will find relevant material in most FVO reports on veterinary residues, including in third countries (Canada, Mexico, Argentina, Brazil etc.) from which horsemeat is imported. The common problem is the food chain information in relation to the administration of veterinary drugs including the passport required to accompany horses intended for slaughter and the traceability of horses in general.

There will be an overview report on hygiene conditions in the horsemeat sector shortly. It is based on a series of individual audit reports in several Member States (Italy, France, Poland, Belgium, and Spain) which are available on the Commission website. All of these reports identified shortcomings of varying seriousness including traceability of horses, records of veterinary drug use, passports and food chain information and hygiene conditions. The recommendations for corrective action addressed to the Member States concerned are currently being pursued.

4. Phenylbutazone

Horses are the only animal species that can be considered "food producing" or "non-food producing". The "food status" of the horse is registered in the horse passport (see point 7). Changing a horse from "non-food" to "food" (falsifying horse passport) is illegal.

Scarcity of registered veterinary drugs for horses is at the basis of an exception scheme for horses: the "essential substances list". This scheme is aimed at a sustainable broadening of therapies in order to meet the health-care and welfare needs of the food-producing horses, without compromising the high level of consumer protection.

Treatment for "food producing horses" with "essential substances" must be recorded in the horse passport and withdrawal period of six months is applicable. **Phenylbutazone is not an "essential substance" therefore horses treated with this drug at whatever moment in their life cannot enter the food chain.**

Additional information:

- Phenylbutazone is included in the national residue monitoring plans of the Member States. The results of the national control plans are published every year.
- 2011 Member States' national residue control plans results: 4 non-compliant results in bovines (DE 1, UK 2, BE 1), 3 non-compliant results in horses (CZ 1, UK 1, BE 1)
- Data on 2012 must be submitted to the Commission by 31 of March 2013; however preliminary results communicated so far (9 Member States) demonstrate no positive results.
- In the period 2006—2013 (until onset of the incident), there are 17 RASFF notifications on “phenylbutazone in horse meat (origin of the meat: 1 Canada, 1 Poland and 15 United Kingdom).

APPENDIX I

Statistics

(a) Movement of horses

Please find enclosed summary table on the circulation of horses based on TRACES data. A more detailed table regarding the movement of horses for slaughter in 2012 is enclosed as well. 75% of the horses are destined to Italy.

	<i>Horses for Slaughter</i>	<i>Registered horses*</i>	<i>Horses for breeding</i>	<i>Horses for any other purpose</i>
2011	40 000	36 000	14 000	20 000
2012	37 000	40 500	13 000	17 000

**Registered horses are high value horses in state books or registered in national equestrian federations. Recording in TRACES is only voluntary; therefore data may not reflect the total number of movements.*

(b) Annual production and trade of horse meat*

Production in the EU (Source: Eurostat 2011)	55 000 tonnes
Imported to EU (Source: TRACES 2012)	36 000 tonnes

**See details in the Annex*

The total production linked to intra-community trade of horses sent for slaughter would be around 8.800 tonnes horse meat per year.²⁴ This means that 85 % of the horses are slaughtered within the Member State.

(c) Data on frauds

- The extent of food-related crime is difficult to assess due to the lack of reliable global data on the subject but European customs seized nearly 2.5 million counterfeit food and drink items in 2008.
- Although this figure only covers 80 confirmed cases of fraud in Europe (that is 0,16 % of all cases of counterfeiting and 1,36% of all counterfeit products seized), it nevertheless shows an increase of 26% from 2007.
- A joint INTERPOL-Europol operation (Operation Opson II **3–9 December 2012**), which involved 29 countries from all regions of the world, targeting fake and substandard food and drink, as well as the organized crime networks behind this illicit trade, has resulted in the seizure of more than:
- 135 tonnes of potentially harmful goods ranging from everyday products of coffee, soup cubes and olive oil, to luxury goods such as truffles and caviar.
- A further 100 tonnes of misdeclared and/or potentially hazardous food was confiscated together with more than 385.000 litres of counterfeit liquids including vodka, wine, soy sauce and orange juice in addition to fish, seafood and meat declared unfit for human consumption, as well as fake candy bars and condiments.

This amount represents a very small part of the overall production (less than 0.01% rough estimate)

(d) RASFF

The following table gives an overview of RASFF notifications related to “adulteration/fraud” Data from the RASFF annual reports 2010, 2011 and RASFF database (2012):

²⁴ According TRACES (2011), 40 000 horses are traded between Member States for slaughter. With an average weight of 220 kg/ carcass, horse meat produced following this trade amounts up to 8 800 tonnes of horse meat i.e. 15% of the total horse meat production in 2011.

RASFF: FOOD FRAUD DETECTION IN RELATION TO OTHER FOOD INCIDENTS				
	<i>Total number of RASFF notifications (Total food incidents)</i>	<i>Total</i>	<i>RASFF notifications related to fraud (Food fraud incidents)</i>	
			<i>Internal market</i>	<i>imports</i>
2010	3 287	87 (3%)	15 (0.5%)	72 (2.5%)
2011	3 710	96 (3%)	29 (1%)	67 (2%)
2012	3 424	85 (2%)	11 (0.3%)	74 (2.7%)

As can be seen from the table above, the (potential) fraud or adulteration cases reported to RASFF are only a fraction of the information circulated in RASFF.

(e) Data on current fraud case

The biggest case is 2013.0166 (meat traded via Spanghero): 550 tonnes of raw meat could represent up to 2600 tonnes of prepared foods.

The other reported cases amount to:

- 177 tonnes of raw material reported, if all processed would be 885 tonnes of food.
- Another 106 tonnes of processed products reported.

So the cases reported up to now would represent already around 3600 tonnes of processed foods but likely considerably more because of investigations ongoing and reporting not yet complete.

APPENDIX II

Detailed data on horse meat production in the EU and imports from third countries

PRODUCTION

EU PRODUCTION 2011—SOURCE EUROSTAT*—TONNES

<i>Member State</i>	<i>Source: Eurostat 2011</i>
Austria	Not available
Belgium	Not available
Croatia	Not available
Czech Republic	20
Denmark	Not available
Estonia	Not available
Finland	70
France	2 000
Germany	Not available
Greece	Not available
Hungary	Not available
Ireland	Not available
Italy	25 000
Latvia	Not available
Lithuania	180
Luxembourg	Not available
Malta	Not available
Netherlands	Not available
Poland	7 000
Portugal	100
Romania	1 000
Slovakia	Not available
Slovenia	Not available
Spain	7 000
Sweden	300
United Kingdom	Not available
EU27	55 000

Only Data Available for 10 MS and for EU27 Aggregate.

IMPORT FROM THIRD COUNTRIES 2012—SOURCE TRACES—TONNES

<i>Country</i>	<i>Source: TRACES 2012</i>
Argentina	8 000
Australia	300
Brazil	2 000
Canada	12 000
Iceland	100
Mexico	11 000
New Zealand	100
Uruguay	2 500
Total	36 000

APPENDIX III

Action Plan following horse meat fraud

<i>Issues identified</i>	<i>Envisaged actions</i>	<i>Timing</i>
1. Food fraud	To map existing tools and mechanisms to fight food fraud, with a view of developing synergies and contacts amongst competent authorities.	March—June 2013
	To promote the involvement of Europol in food fraud investigations where and as appropriate.	March—June 2013
	To ensure a procedure for the rapid exchange of information and alerts in cases of violations which may constitute a fraud (similar to what the RASFF does for serious risks).	Second half 2013
2. Testing programme	To assess and present the results of the ongoing DNA monitoring and, if necessary, undertake appropriate follow-up measures.	As of 15 April 2013
	To assess and present the results of the ongoing monitoring of horsemeat for residues of phenylbutazone and, if necessary, undertake appropriate follow-up measures.	As of 15 April 2013
	Following the delivery by EFSA and EMA by 15 April 2013 of a joint statement on the risks related to the presence of phenylbutazone in meat, to consider appropriate follow-up measures	April 2013
3. Horse passport	Member States to report on the measures through which they enforce Union rules on horse passports (Commission Regulation 504/2008) in relation to: - the rules on the identification of horses and the measures taken to prevent that meat from unidentified horses enters the food chain, in particular by verifying how the passport of treated horses is completed following administration of phenylbutazone; - the obligation to regularly perform official controls and to increase the level of controls where there are indications of possible non-compliances (as in the present case);	end April 2013
	To present a draft to the Standing Committee on the Food Chain and Animal Health (SCoFCAH) to amend Commission Regulation 504/2008 in order to make mandatory the recording of horse passports in a central national database, based on Animal health and Zootechnical legislation.	March—June 2013
	To transfer the issuing of horse passports entirely to the competent authorities and thereby reduce the number of passport issuing bodies in the forthcoming proposal on Zootechnics.	Second half 2013

<i>Issues identified</i>	<i>Envisaged actions</i>	<i>Timing</i>
4. Official Controls, implementation and penalties	To propose in the forthcoming review of the Official Regulation (Regulation 882/2004) requirements so that: (a) where financial penalties are used in relation to intentional violations of food chain law, they are at a level which is sufficiently dissuasive and higher than the economic gain expected from the fraud; (b) Member States include in their control plans and perform regularly mandatory unannounced official controls (including inspections and testing) directed at combating food fraud; (c) the Commission can impose (not only recommend) coordinated testing programmes in specific cases, in particular in case of fraud. To prepare an overview report on horse meat hygiene by the Commission Food and Veterinary Office (FVO). To adopt a Commission report on the possibility to extend mandatory origin labelling of all types of meat used as ingredient in foods.	March—June 2013 March 2013 Autumn 2013
5. Origin labelling	To proceed, based on this report, to any necessary follow up action. To adopt implementing rules on the mandatory origin labelling of unprocessed meat of sheep, goat, pig and poultry, based on the Regulation on food information to consumers. To adopt implementing rules to prevent misleading use of voluntary origin labelling in foods, based on the Regulation on Food information to consumers. To adopt Commission reports, based on the Regulation on Food information to consumers, on the possibility to extend mandatory origin labelling to: - other unprocessed meats not already covered by mandatory origin labelling rules, such as horse, rabbit, game meat etc.; - milk; - milk as an ingredient in dairy products; - single ingredient foods; - unprocessed foods; - ingredients that represent more than 50% of a food.	 December 2013 December 2013 December 2014

March 2013

Supplementary written evidence submitted by the Food Safety Authority of Ireland

BACKGROUND

On Tuesday 23 April 2013 the Food Safety Authority of Ireland (FSAI), by invitation, provided oral evidence to the Environment, Food and Rural Affairs Committee (EFRA).

This submission is made in the context of this appearance and it addresses issues under two headings:

- (A) the statutory role of the FSAI and the background to its exposure of the horsemeat scandal.
- (B) issues raised during the course of the Committee's hearing on 23 April 2013.

(A) THE STATUTORY ROLE OF THE FSAI AND THE BACKGROUND TO ITS EXPOSURE OF THE HORSEMEAT SCANDAL

(i) Context

This issue is addressed because, notwithstanding an arrangement agreed with the Committee prior to the meeting of 23 April that the representatives of the FSAI would be allowed to make a brief introductory statement, the Chair—without any prior consultation—decided not to permit this; accordingly, it is considered that there should be a record of what would have been said by the FSAI representatives if the agreed

arrangements had been allowed to stand.²⁵ However, in view of the course and conduct of the meeting, the information now supplied is considerably more extensive than was originally intended.

(ii) *Role of the FSAI*

The FSAI was established in 1999 as a national body with responsibility for the enforcement of food law in Ireland. It is a statutory, independent and science-based agency, dedicated to protecting public health and consumer interests in the area of food safety. The FSAI was set up to be independent of the food industry and we operate under the aegis of the Minister for Health. The FSAI receives its annual allocation from the Health Vote. Ultimate political accountability for the FSAI is a matter for the Minister for Health.

The FSAI's principal function is to take all reasonable steps to ensure that food consumed, distributed, marketed or produced in Ireland meets the highest standards of food safety and hygiene. We are also charged with bringing about the general acceptance that the primary responsibility for the safety of food is borne by the food industry across the food chain. Over the past 14 years, the FSAI has worked in partnership with all interested parties to ensure a consistent standard of enforcement of food legislation and to underpin food law with science-based risk assessment.

(iii) *Surveillance and Monitoring of the Food Chain*

The FSAI oversees an extensive programme of food testing in Ireland. Annual monitoring programmes are agreed with official agencies that work under service contract to the FSAI. Based on a collective risk assessment, these programmes cover a diverse range of microbial and chemical compounds that are tested in a network of official laboratories. Each year, the FSAI organises additional surveys, of which the November 2012 survey on the authenticity of meat products was one.

Surveillance, sampling and analysis are recognised activities for official control purposes under EU law. The aim is consumer protection, compliance, and the identification of areas where enforcement attention is required.

(iv) *Survey of Beef Products November 2012*

In November 2012, the FSAI selected beef meat products for examination. As was the case in earlier surveys we conducted on the authenticity of chicken fillets and smoked wild and farmed fish, we used sophisticated molecular analytical techniques (real time PCR) to differentiate between the animal species present.

We sampled 19 salami products, 31 beef meal products and 27 beef burger products from major retail outlets. We tested these for bovine, porcine and equine content using DNA profiling.

It will be noted that, at this stage, there was no particular concern about the possible presence of horsemeat—it was one of three ingredients being looked at.

The FSAI does not maintain its own laboratory, so testing in this case was contracted out to specialist laboratories.

(v) *Survey Results*

The first sets of results were all qualitative (ie presence or absence) and were received by the FSAI on 30 November 2012.

- Of the 19 salami products analysed, 10 tested positive for bovine DNA, all were positive for porcine DNA and equine DNA was not detected. These results were not surprising and there were no significant issues with the salami products that warranted further concern or investigation.
- Of the 31 beef meal products (cottage pie, beef curry pie, lasagne, etc), all were positive for bovine DNA, while 21 (68%) were positive for porcine DNA and none were found to contain equine DNA. Only two of these beef meal products declared on the label that they contained pork—which was found at very low levels—and therefore, we considered its presence may be unintentional and due to cross-over from processing of different animal species in the same plant.
- However, of the 27 burger products analysed, all were positive for bovine DNA, while 23 (85%) were positive for porcine DNA and 10 (37%) were positive for equine DNA. Most of the burgers positive for porcine DNA were not labelled as containing pork—which was found at very low levels. Again we considered its presence may be unintentional and due to cross-over from processing of different animal species in the same plant.
- The 27 burgers which were tested in this study came from nine different manufacturers, six in Ireland and three in the UK. The burger products which tested positive for equine DNA came from three plants, two in Ireland and one in the UK.

²⁵ The FSAI requested the Committee secretariat to inquire as to the possibility of making an opening statement. The Committee did not agree to this request.

- At the time, the detection of equine DNA in 10 beef burgers was highly surprising and of major concern. None of these products were labelled as containing horse meat.
- As a precaution, the laboratory was asked to sequence the positive DNA (PCR-bands) to ensure that the DNA detected was of equine and porcine origin. This was later confirmed to be the case by the laboratory on 10 December 2012.

(vi) *Re-confirmation of Positive Results*

Nevertheless, in view of the likelihood of possible further action, and also because of the possible reputational risk to the FSAI, we decided that the positive results needed to be re-confirmed and, consequently, the following steps were taken -

- On 10 December 2012, we purchased additional burger samples from the same or from similar batches to the original samples that tested positive. Results for these extra set of samples were received on 18 December 2012- and again all were positive for equine DNA.
- On 21 December 2012, for the avoidance of doubt, 20 sub-samples (10 positives and 10 negatives) from the initial 27 samples were taken from the testing laboratory (Identigen in Ireland) and were sent as blind samples to the Eurofins laboratory in Germany for additional independent testing.
- All results up to this date were qualitative—which indicated the presence or absence of equine DNA, but not the amount. Both laboratories were therefore asked to quantify the amount of equine DNA in the samples.
- On 21 December 2012, the FSAI also requested the Department of Agriculture, Food and the Marine to obtain samples of raw ingredients from the two implicated meat processing plants. These were sent to the Identigen laboratory on 4 January 2013 and results received on 11 January 2013. These showed very low or trace levels of equine DNA in beef products from The Netherlands, Spain and Ireland. These products however were not identified as the ingredients in the burgers that tested positive. We advised our counterparts in Spain and The Netherlands of our findings.
- The quantitative results were received by the FSAI late on the late evening of Friday 11 January 2013. Of the 10 burger products that tested positive for equine DNA all but one were at low levels. The quantification of the horse DNA in this one burger product gave an estimated amount of 29% equine DNA relative to beef DNA in the burger product (this product was manufactured by Silvercrest on behalf of Tesco).

The FSAI is conscious that the programme of re-testing and re-confirmation summarised above may be seen as over meticulous. We were dealing with an unprecedented situation and were developing responses as it unfolded. We had to be 100% certain that the results were correct. We were also conscious that if such confirmation were not obtained, we would have been criticised for not obtaining it.

In any event, these were the calls we made at the time and we stand over them.

The FSAI made a public announcement of its findings on 15 January 2013. It is relevant to recall that the first indication that there was a problem was received on 30 November 2012: given the complexity of the situation and the time required to run tests this lapse of time is reasonable.

(B) ISSUES RAISED DURING THE COURSE OF THE COMMITTEE'S HEARING ON 23 APRIL 2013

(i) *Testing for Phenylbutazone*

Phenylbutazone (colloquially known as “bute”) is a commonly used medicine in horses: once administered to a horse, the animal is not allowed in the food chain.

Committee's Query

During the oral evidence session on 23 April 2013, the Chair asked for information on testing in Ireland for the presence of phenylbutazone.

The FSAI Response

When assessing risk, the FSAI bases all its decisions on sound science. In the case of our survey samples in November 2012, we evaluated the potential risks, one of which was the presence of residues of animal drugs. The burgers that tested positive for horse DNA were tested for the presence of a range of animal remedies—including phenylbutazone—by the State Laboratory on 10 December 2012. The FSAI received results on 19 December 2012. All were negative. No food samples tested by the FSAI have proved positive for phenylbutazone.

Additional Information on Phenylbutazone Testing

As part of the EU co-ordinated control programme organised by the European Commission, all horses received at horse abattoirs during March 2013 were tested for phenylbutazone and the meat was not released until the test result was known. Of the 840 horses tested in Ireland, one was positive for phenylbutazone: the carcass in question was detained and destroyed and therefore, did not enter the food chain.

In contrast, it is perhaps noteworthy that, as part of the same EU co-ordinated control programme, during the same period, the UK tested 836 horses of which 14 were positive for phenylbutazone. Across Europe a total of 3,232 samples of horsemeat were taken of which 17 tested positive, the majority being the 14 from the UK.

(ii) *Not an Isolated Case*

The finding of 29% equine DNA in one sample was not an isolated case.

In January 2013, we did not have an explanation of the finding of 29% equine DNA relative to beef DNA in the single burger sample. However, subsequent testing in the UK—and elsewhere—revealed similar results in processed beef products, which clearly indicated that the issue of substituting horsemeat for processed beef was a widespread practice in Europe. Two months after the FSAI published its findings, a pan-European testing programme, organised at the request of the European Commission, showed that around 5% of the beef products tested on sale in EU Member States contained horsemeat at a level above 1%, with some countries finding up to 13% adulteration. The discovery by the FSAI was surprising at the time, but is far less so in retrospect, given the practices we now know were taking place across Europe. It is now evident that the problem was not just confined to Ireland and the UK, as most countries in Europe became involved. The scale of the scandal is unprecedented. Numerous foods—beef burgers, beef meals, pasta dishes, pies, meat balls, kebabs, chicken nuggets—were found to be adulterated with horsemeat and were removed from sale. One recall alone in The Netherlands involved 50,000 tonnes of meat and the scandal extended as far afield as Hong Kong, Singapore and the Caribbean. Leading international food brands and retailers were caught in a web of deception that was perpetuated in Europe for at least a year and possibly longer.

(iii) *Laboratory Competence*

The issue of the competence of the laboratories used by the FSAI to conduct these tests has been raised.

The FSAI Response

The FSAI wishes to state that attempts to cast doubt on the veracity and robustness of the DNA testing carried on its behalf by a number of laboratories smack of “shooting the messenger” and are disingenuous and without merit.

Specifically:

- The FSAI confirms that for its survey on equine DNA in beef products, it employed the services of two internationally recognised laboratories—in the first instance Identigen in Ireland and later, Eurofins Laboratories in Germany. The tests by Eurofins confirmed both the positive and negative findings by Identigen.
- The FSAI is confident about the competence of both laboratories, which operate quality management systems that are accredited to the European Standard EN ISO/IEC 17025:2005.
- The particular test method used by Eurofins to identify the equine DNA is included in its scope of accreditation. In Identigen’s case, the lack of current accreditation for its test method does not invalidate its test findings on the FSAI’s samples, as these have been corroborated and demonstrated as accurate by the accredited confirmatory tests undertaken by Eurofins. The services of both laboratories continue to be used by regulators and industry alike across Europe. The Food Standards Agency, UK (FSA, UK) uses the Eurofins laboratory as one of the laboratories for its current testing programme.

(iv) *Informing the Food Standards Agency, UK*

The EFRA Committee is concerned that the FSAI informed FSA, UK of the position on 14 January 2013, the day before the FSAI issued its first press release and not earlier.

The FSAI Response

- It is important to note that the FSAI was careful to ensure that its survey results were reliable and scientifically sound. Given the likely implications for trade and consumer confidence, the FSAI was also careful not to be the source or cause of unfounded rumours about the authenticity of processed beef products in retail sale. For these reasons, it only informed the food business operators affected and relevant Government officials in the Department of Agriculture, Food and the Marine and the Department of Health, who then informed their Ministers, on Monday 14 January 2013, about the results of the confirmatory tests that were received late on Friday 11 January 2013. The FSA, UK was informed on the same day—14 January 2013.
- If the Committee feels that the FSA, UK should have been informed earlier, it may wish (having regard to the sequence of events set out above) indicate when this communication should have taken place. In addition, the Committee might also wish to consider when the FSA, UK would have advised the FSAI had the situation been reversed? It now appears from reports from the BBC that the FSA, UK was aware that it had a problem with phenylbutazone in horsemeat as far back as November 2012 and that it chose to ignore as the cost of testing would have shut the industry down.
- The FSAI and the Food Standards Agency, Northern Ireland (FSA, NI) meet regularly and co-operate frequently on many levels, particularly in relation to food incidents. On 23 November 2012, at a scheduled meeting between the senior management teams of the FSAI and the FSA, NI, the FSAI informed FSA, NI of the survey work which was in progress, and of the development of test methodology for horse DNA. The FSAI also informed FSA, UK's chief scientist on 10 January 2013 that authenticity checks on beef products were underway.
- It is worth noting neither the FSA, UK nor any other food control body, including private inspection bodies, were carrying out checks on the authenticity of beef products in retail sale over this period. It is now clear that the practice of substituting horsemeat for beef in processed products was widespread across Europe and went on unknown and undetected in many countries. As was mentioned by the FSAI on 23 April 2013, had it not been for the FSAI's initiative, British consumers would still be eating horsemeat.

(v) EFRA Committee Theories

Suggested Prior Knowledge of the FSAI

- During the EFRA Committee's session on 23 April 2013, one member, Mr Barry Gardiner MP, advanced a theory that the FSAI was aware of adulteration of processed beef with horsemeat in Ireland and had tried and failed to get the industry to "clean up its act". He further suggested that the FSAI set about organising a survey using a test method which was unaccredited and sampling and other methods which would not be admissible in court proceedings, all with the aim of proving the undeclared use of horsemeat, restoring order in the industry but avoiding legal actions.

The FSAI Response

- This theory is a bizarre fabrication, without merit and is not supported by any facts. The FSAI had no knowledge prior to the survey that beef ingredients in Ireland or elsewhere (widely throughout the EU, as it transpired) were adulterated with horsemeat; there had been no instruction to industry to "clean up its act"; the test methods used were accredited, and survey samples were, and are, regularly used by the FSAI in monitoring the food chain.
- The FSAI also wishes to express its concern that Mr Gardiner MP had in his possession transcripts of a private conversation between the Chief Executive of the FSAI and Ms. Catherine Brown, Chief Executive of the FSA, UK. A record was taken of this conversation by Ms Brown without the knowledge of the FSAI and subsequently released without the consent from the FSAI. The conversation, partly speculative on the part of the FSAI, took place early on in the horsemeat investigations and at a time when few of the facts were known. The FSAI is also concerned that the placing of some of this information in the public domain may be in breach of the EU rules on the protection of professional secrecy.

Suggested "Tip-off"

- Another theory that was proposed during the oral evidence session was that the FSAI acted on a "tip-off". The FSAI wishes to reiterate that the survey of beef products was a routine, albeit infrequent survey. It was not based on a tip off or so called "intelligence". It was based on common sense and a detailed understanding of the food chain which we are required to police. In any event, why would the FSAI seek to cover up that it had received a tip-off—if this were the case? Acting on tip-offs is a recognised response by any enforcement body: it is entirely uncontroversial.

- The EFRA Committee contention that FSAI had acted on a “tip off” seems to rely on assertions by the FSA, UK and on reported comments of the Secretary of State for the Environment, Food and Rural Affairs. However, it is understood that when the issue arose, the latter was contacted by his Irish counterpart, the Minister for Agriculture, Food and the Marine, who clarified the matter.

(vi) *Cost of the FSAI November 2012 Survey*

The EFRA Committee also asked about the cost of the survey conducted by FSAI in November 2012. As mentioned earlier, the FSAI engaged the services of two laboratories. Sample test costs varied from €50 to €300 depending on whether the test was qualitative or quantitative, the type of DNA quantified and which laboratory was used. The total cost for the multiple testing of the 77 samples was of the order of €14,500.

(vii) *Source of Adulterated Meat*

British Press Analysis

During the meeting of 23 April 2013, the Chair stated that the Committee “had compiled from the British Press (so not the Irish, French or Polish Press?) . a table that shows that by far and away the largest numbers of contamination relate to Ireland and Irish Companies”.

The FSAI Response

By way of a general comment, this has more to say about the priorities and editorial judgement of the British press than anything else. The FSAI is of the view that surveys of press coverage are neither a scientific nor a reliable method of establishing the source of adulterated meat or meat products. Also, a brief examination of the notifications from the EU’s Rapid Alert for Food and Feed (RASFF) on adulteration of meat products shows that at least 23 countries were the source of such products and the raw materials used came from at least 14 of those countries.

CONCLUSIONS

The FSAI survey demonstrated that modern analytical techniques are essential in combating food fraud. The FSAI’s survey uncovered a widespread and illegal practice across Europe which up to then had gone unnoticed and undetected. As a direct result of the FSAI’s work food control agencies, the European Commission, manufacturers and major retailers have taken action to prevent a recurrence. Exposure of the malpractice will result in the improved protection of the consumer in Ireland, the UK and elsewhere.

May 2013

Further supplementary written evidence submitted by ABP Food Group

ABP has followed with interest the investigation of your Committee into horsemeat contamination, and we look forward to the publication of your final report into the matter, which I understand is due in July.

When you invited me to appear before your Committee, I took the opportunity to clearly explain how seriously ABP takes its responsibilities to industry stakeholders and, in particular to end consumers. In addition to my testimony, ABP provided two written submissions to your Committee, all of which demonstrate ABP’s willingness to work with you and to collaborate to ensure the integrity of the food supply chain.

It is very important to ABP that the beef industry can be trusted and that the industry’s reputation is preserved so that British consumers can have full confidence in the products they purchase. ABP works tirelessly with our customers to ensure that the highest standards are achieved.

In advance of the report being published I wanted to flag briefly our concern about recent media coverage (including Guardian 10 May 2013 “Horsemeat Scandal: fear the culprits will not face justice” <http://www.guardian.co.uk/uk/2013/may/10/horsemeat-scandal-fear-culprits-justice?>), alluding to concerns about the Irish beef industry and the commitment of authorities and companies in Ireland ensuring the highest standards are maintained.

Our particular concern is that your Committee may draw conclusions that the contamination of beef occurred in the UK or in Ireland. Such a conclusion runs contrary to all available facts and if made would have profound implications for the reputation of the industry. So, to avoid an erroneous report being published you might find the following helpful:

- All beef originating in the UK and Ireland (both for ABP and other processors) has consistently tested negative for equine DNA.
- The Food Safety Authority of Ireland was the first competent authority to identify equine contamination in beef and has moved decisively to demonstrate that Ireland is a “zero-tolerance” jurisdiction with regard to threats to the integrity of the food supply chain.

- In the case of contamination at ABP's Silvercrest facility, we believe that this occurred due to fraudulent activity by third party suppliers.
- All contaminated product identified by ABP was from Continental sources (the majority from Poland).
- Investigations into contaminated beef are continuing in several EU member states. ABP is doing everything it can to assist these investigations, which we believe will demonstrate that criminal activity outside the UK and Ireland was the reason contaminated beef entered the supply chain.
- Suggestions that potential contamination at a Greencore plant came from ABP product has been demonstrated as false and Greencore has acknowledged ABP has no issue to answer in this regard.
- Any contamination that did arise, caused by the criminal activity outside the UK and Ireland as referred to above, was confined to processed meat products. Such frozen processed product accounts for less than 5% of ABP's business, and it is important that your Committee understands that portion of ABP's business is the only one in the UK or Ireland where beef was sourced from outside our own UK and Irish supply chain. There has been no question of any contamination of ABP's fresh beef supply chain.

ABP has rejected, and continues to reject any allegations or inference that it knowingly allowed horsemeat to enter its supply chain. ABP has both acknowledged and acted on failures of plant management at Silvercrest to purchase beef within specification. This failure led to the acquisition of contaminated beef (we believe from Poland) being used in the production of frozen burgers. It is important that you and your Committee understand that ABP was the unwitting victim of fraudulent activity, and any suggestions to the contrary are false, hurtful and damaging to a successful business providing thousands of jobs in the UK. and Ireland.

In addition, the Committee should be aware of the steps ABP has taken to ensure that an event like this can never happen again and how ABP continues to lead the way in guaranteeing supply chain integrity:

- ABP has conducted over 15,000 tests across our product ranges to verify their integrity. ABP has also cooperated with rigorous reviews of our processes by both customers and the UK and Irish Authorities.
- In addition, ABP has partnered with *idenngen* to introduce DNA testing swabbing regime for all carcasses we produce which will enable us to verify traceability from pack to carcass. We believe this testing to be the most advanced and sophisticated regime in Europe.
- The senior management responsible for the Silvercrest plant no longer work for ABP, and as you are aware, ABP disposed of this facility in April.
- ABP's British and Irish plants are now only buying product originating in the UK and Ireland for burger production and ABP has ceased to purchase beef from 3rd party dealers.
- We continue to prepare materials "for potential civil litigation" against parties who may have sold contaminated product to ABP.

While ABP's part in these events was unwitting, we are determined to ensure that such events cannot recur.

We trust that the Committee will base its report on the established facts, and will take account of the reality that ABP—like many other leading UK and Irish beef processors or food manufacturers—has been the unwitting victim of fraudulent activity.

June 2013

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