



Our ref: FOI2023/08607  
21 June 2023

Dear [REDACTED],

**REQUEST FOR INFORMATION: Food product import - information**

Thank you for your request for information of 3rd May about Food product import - information. APHA have handled your request under the Freedom of Information Act 2000 (FOIA).

Your information request and our response are set out below.

This was a follow up request to FOI2023/8505 in which you asked for the following:

“In accordance with the Freedom of Information Act 2000, I now request the following evidence within 7 calendar days;

1. An official documentary proof that you followed all your policies and procedures
2. Videos and photographic evidence supporting that you indeed conducted laboratory tests on all my consignment, and that all was infested with *Bemisia tabaci* (tobacco whitefly)
3. Relevant official evidence that, *Bemisia tabaci* was in fact in the list of the invasive alien species which countries of the European Union are concerned about consistent with article 4 of Regulation (EU) 2016/2031
4. Relevant scientific evidence proving that no cross-contamination had occur at your airport and your storage facilities which housed my consignment
5. Relevant scientific evidence that *Bemisia tabaci* pose an injurious risk to humans, hence a public health concern.
6. Relevant scientific evidence to prove that the species, strain, or biotype you alleged was indeed from the country of origin where my consignment freighted.

This is not purported to be an exhaustive list of the relevant evidence required from you. So please also provide any other documentation, photographic or other evidence that you consider to be relevant, in accordance with your obligation under the Freedom of Information Act 2000”

APHA asked for clarity on your request and received the following on the 04 May 2023.

### **Clarity on number 1**

“Provide a copy of APHA’s specific policy and procedures which was followed on the 19 April 2023 when the consignment was intercepted.”

APHA follow Standard Operating Procedures (SOP’s) for all inspections and do not have a specific copy for an inspection carried out on a specific day. This information is not held by APHA. In terms of Policy, Part 4 regulations 14, 15 & 16 of The Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019 confers inspectors the powers necessary to enforce the GB Regulations and at Part 9 provides powers to enter, examine & sample.

Please see links to those specific parts of the legislation:

Link to Part 4;

[Part 4.](#)

Link to Part 9;

[Part 9](#)

### **Clarity on number 2**

“Provide photographic evidence to prove each of the content of the 191 boxes were sampled and tested by Fera Science Labs Ltd”

It is not required that inspectors take photographic evidence of their interceptions and therefore there is nothing to provide in this instance. This information is not held by APHA.

“Also provide copies of the lab results for each species, strain, or biotype sampled and tested to prove they were alive, and adaptive with the capacity to vector countless plant pathogenic viruses, thereby pose serious risk to public safety”

This information is withheld citing Section 40 of the Freedom of Information Act (FOIA) 2000.

### **Section 40**

We can confirm that the information is held, Section 40(2), read in conjunction with 40(3)(a)(i), of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 2018 (DPA).

This information if released still engages the exemption because the personal data relates to others who would, or would likely, be identified or identifiable from that information.

APHA consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 of the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute ‘fair’

processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA.

Therefore, we have concluded that this information is exempt from disclosure under section 40 of the FOIA.

It should be noted that any Laboratory reports can and have in some cases been shared with the owners of any intercepted consignment.

### **Clarity on number 3**

“Provide 1 month evidence of your premises sanitary upkeep prior the arrival of the consignment on the 19 April 2023 and evidence of it sanitary upkeep while the consignment was in your care”

This information is not held by APHA.

“Provide evidence of how many consignments which arrived on the 19 April 2023 did you retained and which countries and regions were they from?”

41 Inspections were carried out on the 19<sup>th</sup> April (from Japan, Kenya, Rwanda, Guatemala, Colombia, Ecuador, India, Tanzania, Egypt, Brazil, Sri Lanka and Thailand.

“Provide evidence to prove that the Regulation 20(1)(c) was enforced equitably in accordance with the Trade in Animals and Related Products Regulations 2011”

Trade in Animals and Related Products Regulations 2011 cover animals and animal products. The associated plant health legislation and regulations are below:

The Plant Health (England) Order 2015 in that a Schedule 1, Part A Part 10 – *Bemisia tabaci* Genn. found on produce regulated by Schedule 5.

Any consignment can also in be in contravention of Part 2, Article 6 of The Plant Health (England) Order 2015.

Consignments can also fall under Part 3, Regulation 8, 9 & 10 of The Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019.

Links below:

Link to Schedule1 Part A – <https://www.legislation.gov.uk/uksi/2015/610/schedule/1>

Link to Schedule 5 - <https://www.legislation.gov.uk/uksi/2015/610/schedule/5>

Link to Part 2, Article 6 - <https://www.legislation.gov.uk/uksi/2015/610/article/6>

Link to Part 3

<https://www.legislation.gov.uk/uksi/2019/1517/made#:~:text=Suspicion%20of%20non,case%20may%20be>

### **Clarity on number 4**

Provide official evidence that supports that *Bemisia tabaci* was one of the listed invasive alien species banned in accordance with article 4 of Regulation (EU) 2016/2031

APHA is an Executive Agency of the Department for Environment, Food and Rural Affairs and also works on behalf of the Scottish Government, Welsh Government and Food Standards Agency to safeguard animal and plant health for the benefit of people, the environment and the economy

The Plant Health (England) Order 2015 in that a Schedule 1, Part A, Part 10 – *Bemisia tabaci* as a GB Quarantine pest – Please see links posted in the response to question 3.

### **Clarity on number 5**

“To dispel the suspicion that you are only destroying consignments from third world countries (racial profiling), provide evidence to prove food product brought from those countries are contagious hence a risk to public health.”

*Bemisia tabaci* isn't a public health risk; it is a plant health risk. Consignments in contravention of Part 2, Article 6 of The Plant Health (England) Order 2015.

A link to part 2 is given in the response to question 3 – Information that we intercept all countries that have high risk goods according to our legislation is given in the links.

### **Clarity on number 6**

“Provide evidence to support that *Bemisia tabaci* pose an injurious risk to humans”

*Bemisia tabaci* is not a risk to humans; it is a plant health risk and has an impact to plants and plant products. Bringing in *Bemisia tabaci* is a contravention of The Plant Health (England) Order 2015 in that a Schedule 1 Part 10 – *Bemisia tabaci* Genn. This information is not held by APHA.

### **Additional request number 7**

“Explain your justification why you maintain an inactive contact number as your official contact number and included it in your official document”

The number is not inactive and is the Heathrow offices main number, which is open during normal business hours, the stakeholder could therefore use the published number for Centre for international trade to talk to an officer in relation to the import in question. ([www.gov.uk/guidance/contact-apha](http://www.gov.uk/guidance/contact-apha))

This information is not held by APHA.

Information disclosed in response to this FOI request is releasable to the public. In keeping with the spirit and effect of the FOIA and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](http://GOV.UK), together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

An Annex is attached which explains the copyright that applies to the information being released to you and contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact the Access to Information Team at the email address below or postal address at the top of this letter.

Yours sincerely

**Access to Information Team**

[enquiries@apha.gov.uk](mailto:enquiries@apha.gov.uk)

## **Annex**

### **Copyright**

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### **Complaints**

If you are unhappy with the service you have received in relation to your request, you may make a complaint or appeal against our decision under section 17(7) of the FOIA within 40 working days of the date of this letter. Please write to the Access to Information Team at the address at the top of this letter or email [enquiries@apha.gov.uk](mailto:enquiries@apha.gov.uk) and the team will arrange for an internal review of your case.

If you are not content with the outcome of the internal review, section 50 of the FOIA gives you the right to apply directly to the Information Commissioner's Office (ICO) for a decision. Please note that generally the ICO cannot make a decision unless you have first exhausted APHA's own complaints procedure.

The ICO can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Please click [here](#) for further contact details.