Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on official feed and food controls'  

(COM(2003) 52 final — 2003/0030 (COD))  

(2003/C 234/08)  

On 28 February 2003 the Council decided to consult the European Economic and Social Committee, under Articles 37, 95 and 152 of the Treaty establishing the European Community, on the above-mentioned proposal.  

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 27 June 2003. The rapporteur was Mr Chiriaco.  

At its 401st Plenary Session on 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion unanimously.  

1. Introduction  

1.1. The White Paper on Food Safety (1), published by the Commission in 2000, listed deficiencies, contradictions and loopholes in current European regulations among the causes of the repeated food crises over the last few decades. It pointed in particular to the limitations of a sector-based approach and the significant differences in the way Member States applied the regulations and organised their control systems.  

1.2. The new regulations being adopted by the EU, in line with the contents of the White Paper, are based on the priority of an integrated approach to food safety.  

1.3. Regulation (EC) No 178/2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (2), is an essential reference point for the current proposal. It also has to be seen in conjunction with the Proposal for a Regulation on the hygiene of foodstuffs (3), which is being adopted by the European Parliament and the Council, and the Proposal for a Regulation laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, which was adopted by the Commission on 11 July 2002 (4). This package has now been completed by the new proposal on feed hygiene, on which the EESC will issue an opinion in the near future (5).  

1.4. The proposal substantiates the fundamental principle of the priority of food safety through a comprehensive and integrated approach to controlling the feed and food production system. The production process is considered in its entirety, both as a production chain and in terms of the various components making up the product (feed, additives, food) in order to control the entire production cycle from farm (or sea) to table.  

1.5. Moreover, it clearly lays out the Member States' responsibility to ensure that business operators apply Community legislation correctly by implementing an adequate system of controls. It also outlines methods and timescales for Commission services to conduct inspections and audits to assess Member States’ capacity to face up to this responsibility.  

1.6. The system of controls and related activities are already adapting to the priority of food safety. Some Member States have implemented new institutional and procedural solutions, or established Agencies, while at European level the European Food Safety Authority was set up. However, the competences and characteristics of the national Agencies vary, while the EFSA only has scientific consultative powers to evaluate risks and inform the public. Monitoring and control activities are left to the Commission’s services, and in particular the Food and Veterinary Office.  

1.7. Building on the basic principles of Regulation (EC) No 178/2002, under the new strategy the Commission will draw up common guidelines for the organisation of control systems and carry out audits in each Member State to check their effectiveness and efficiency as well as their consistency with national control plans.
1.8. Each Member State will be required, within six months of the entry into force of the Regulation, to prepare a multiannual integrated control plan. Each Member State will also present an annual report on controls carried out and results achieved. The reports by all the Member States will form the basis of the annual report presented by the Commission to the European Parliament and the Council.

1.9. To be effective, this system of controls should be applied not only to Member States and applicant countries (which will be full members by the time it enters into force), but also to imports from countries which have bilateral agreements with the EU in veterinary and phytosanitary fields, those with special agreements (Norway, Iceland and the Faeroe Islands) and other third countries. Besides the European dimension, there is also an international dimension to harmonising controls.

1.10. For countries which have bilateral agreements with the EU in veterinary and phytosanitary fields, the measures negotiated should guarantee an equivalent level of consumer protection and animal health. The Commission is, however, planning special treatment for the less developed countries. They will not receive dispensations but provision will be made for assisting their control programmes, training and if necessary missions of Community experts to the area.

1.11. The implementation of the proposal's initiatives to improve the level of food safety control requires a significant increase in financial support — from 3 to 16 million EUR.

1.12. There should be 'effective, proportionate and dissuasive' sanctions for infringements, based on a minimum safety standard. Criminal sanctions (Article 55) should be used for serious infringements (defined as criminal offences in Annex VI if they are committed intentionally or through gross negligence).

1.13. In the case of serious default by a Member State (e.g. inefficiency or inadequacy of the system of controls), the safeguard measures laid down by Regulation (EC) No 178/2002 will be reinforced, if need be by implementing protective measures such as suspending product marketing.

1.14. Lastly, it must be stressed that the system of controls will be implemented in a Union of 25 members, as the regulation will also apply to the 10 new Member States. This will require a great deal of harmonisation work in order to ensure free movement in the internal market with all the necessary food safety guarantees.

1.15. The Committee is aware of the inspections currently being carried out with the help of experts at European and national level, both by Member States and applicant countries. This comprehensive survey of the situation should allow appropriate measures to be identified.

2. General comments

2.1. The Committee approves the proposal's approach, which is appropriate as regards the Internal Market and the need for improved planning and harmonisation of control systems within the Community, in the interests of consumer protection.

2.2. The focus on food safety and the integrated approach respond to the need to revive and strengthen consumer confidence, which has been shaken by the repeated food crises. It is therefore vital to establish effective and permanent relations with the European Food Authority to draw up control priorities on the basis of risk evaluation, as well as consolidating the European Food and Veterinary Office's operational and coordination capacity. A transparent approach based on partnership is also essential, so as to spread information to consumers.

2.2.1. The Food Authority will become fully operational during the first half of 2003, while the Food and Veterinary Office still needs to be given adequate resources to increase the incisiveness of its actions, as the Committee has pointed out several times. The Committee also stresses the need to establish a strong synergy and communication capacity between Community bodies and the competent national authorities.

2.3. The proposal includes a number of welcome innovations and features that should make the system more effective:

a) Better definition of the responsibilities of Member States regarding their direct competence as ‘controllers’, both as ‘holders of control powers’ and as ‘guarantors of public health’, in the context of business operator responsibility, as set down in the hygiene regulations.

b) Operator and importer responsibility as a means of simplifying control procedures, encouraging effective ‘self-regulation’ of respect for hygiene and safety regulations combined with adequate sanctions for non-compliance, as well as incentives in cases where voluntary certification systems can ease the burden on the competent authorities.
c) Training of control staff — a principle that should underpin all new legislation on foodstuffs, and other areas too.

d) Standardisation of roles, principles and measures adopted.

e) Establishing the principle of ‘support control’ for the control capacity and feasibility of national plans. This method makes the ‘subsidiarity’ principle more acceptable by providing practical ‘instructive’ guidance.

f) Optimising the existing system of controls and harmonising national systems.

g) Formalising the role of inspectors (this already exists but has not been formally defined) and clarifying training areas in Annex II.

h) Quantifying resources and identifying Community budget items and sources of finance (financial record sheet and Articles 26-29).

i) The principle of programming through national multi-annual control plans and annual reports (Title V, Articles 42-44).

j) A single definition of crimes justifying criminal sanctions (Annex VI), as current systems of sanctions, which are primarily administrative, have not always been able to ensure compliance with regulations (Recital 44).

2.4. The adaptation of national control systems to their new functions will vary according to the efficiency and operative equipment of the existing systems, the existence of an effective partnership system with the players in the sector, as well as their different levels of integrated approach; some Member States designate control competences to different authorities, which are not always well coordinated. It is therefore essential to carry out a preliminary audit with the various Member States in order to examine the current system of controls and identify areas where adjustments are necessary in good time.

2.5. Particular attention and adequate resources must be dedicated to the situation in the new Member States, which have had to adapt their systems to the acquis communautaire. At the end of the monitoring work being carried out in these countries, the Committee invites the Commission to identify key points in the system of controls requiring specific measures, in particular regarding staff provision and training, the quality and quantity of laboratories and their level of resources.

2.5.1. Specific measures will also have to be considered for small businesses operating at local and craft level, to promote conformity to standards.

2.6. As regards crisis management and contingency plans (Article 13), working methods need to be updated in view of recent crises. Moreover, control methods, in particular for feed, must also take account of natural disasters. Disasters such as fires, floods, volcanic eruptions or earthquakes can have a serious effect on foodstuffs. At the same time, these events are responsible for a series of complications, mainly due to the ensuing state of emergency, making it easy to avoid even the most basic protection guidelines.

2.7. As regards controls on imports from third countries (Title II, Chapter V), international cooperation needs to be reinforced in the light of the Codex Alimentarius and the WTO/SPS Code. A distinction must also be made between third countries depending on their level of development, paying particular attention to technical and scientific assistance to the least developed countries in order to facilitate respect for Community rules while taking care not to create new barriers. The methods identified in point 34 of the Explanatory Memorandum and spelt out in the body of the regulation are important for avoiding imports of contaminated raw materials and guaranteeing the safety of European consumers. However, these countries have often not mastered the use of pesticides, chemical fertilisers, anabolic substances, etc., in particular as regards cereals, feed and livestock products, and need technical and scientific assistance to implement controls.

2.7.1. Contamination may also be due to subsequent illegal tampering (feed being ‘cut’) outside the country of origin. If objections over the cargo’s conformity to European health and hygiene regulations are raised following checks at the destination, the supplying country could suffer serious consequences.

2.7.2. As part of cooperation with developing countries, support structures are needed to check the required conformity at the point of origin, and if need be useful procedures and solutions should be suggested in order to encourage the development of fragile local production structures. Forms of control specifically identifying the responsibilities of the various parties, including importers, should also be provided for.
2.8. The Committee believes that the public control system should cooperate with quality, safety and traceability certification systems implemented voluntarily by operators in the sector. This means that multidisciplinary safety and quality training must not only cover inspection staff (Article 51 and Annex 2), but also all the actors involved in the food chain. Besides business operators, this includes processing, distribution and storage staff, as reflected in the proposed regulations on hygiene. A preventative approach and the attribution of responsibility are vital to increasing the effectiveness of the public control system, reducing costs and allowing the competent authorities to concentrate on priority risks.

2.8.1. To ensure better consumer protection, synergy between public control systems, self-regulation and traceability procedures implemented by food operators should be encouraged, particularly if these are combined with voluntary certification systems. Interesting experiences are under way in some Member States concerning the negotiation of sector agreements (traceability) on food safety and quality, and these can be benchmarked (1). However, these national voluntary systems do not benefit from the same ‘mutual recognition’ as official controls. This problem should be addressed with a view to harmonising criteria at European level, so that consumers in other Member States can also benefit from these schemes.

2.8.2. Socio-occupational organisations in the sector and consumer associations can make a useful contribution to training operators and spreading information on the implemented system of controls. However, transparency of the schemes remains essential, as well as the involvement of players in the sector in dialogue and partnership.

2.9. A useful synergy could be established by including food safety and quality criteria in the review of the CAP, even though the proposed Regulation delegates COM controls to the existing specific system. The Committee notes that the ‘cross-compliance’ provisions in the Proposal for a Regulation on direct support schemes under the Common Agricultural Policy (2) should play a preventative role and reduce ex-post evaluations, as they make eligibility for aid dependant on conformity to the main regulations regarding public, animal and plant health and animal welfare, with help from an ad hoc farm advisory service. In its opinion the EESC recommends making farm controls voluntary and extending them to cover ‘not only compliance with the statutory standards, but also continuous improvement of the economic, environmental and social situation of farms’, by providing appropriate incentives (3). To establish a useful synergy, communication and cooperation should be established between the different responsible authorities and the various players.

2.10. The Committee welcomes the guidelines for coordination procedures when more than one organisation is involved in controls and above all in cases of delegation (Recitals 13 and 16 and Article 5), as well as the harmonisation of reference laboratories, particularly when controls are delegated to non-governmental organisations (Recitals 17-21), which must be duly accredited and must have their operations monitored.

2.10.1. It is essential to harmonise the conditions and rules regulating the bodies carrying out the controls at Community level, as well as standardising sampling and analysis methods and rates. This means stepping up the role of Community reference laboratories and the Joint Research Centre, and increasing the resources earmarked for this in the sixth framework programme.

2.11. In particular in the light of the forthcoming enlargement to a Europe with 25 members, careful attention should be given to administrative assistance and cooperation between Member States (Title IV), intensifying exchanges of experiences and ‘best practices’ among control staff. The aim of the proposal is not to reinforce the central EU body — the Food and Veterinary Office — numerically, but to consolidate its capacity to operate in a network, coordinating and harmonising control practices.

2.12. As the financing of official controls is a matter of subsidiarity, we need to avoid distortions to competition by establishing joint principles, particularly concerning the inspection fees that will be levied on operators. The provisions in Article 28 regarding fees are very general; the Committee therefore recommends monitoring the fees applied in the Member States to check that they are compatible and to identify more precise harmonisation methods. Checks also need to be carried out on the costs affecting different operators

---

(1) Cf. for example the National Agreement on Food Safety and Quality signed by agricultural, trade union, employers’ and trade organisations and the Italian Minister for Agriculture and Forestry, at the CNEL (Italian Economic and Labour Council), on 8.7.2002.
(3) Ibid 4.3.2.
in the sector, from primary production to final distribution, to avoid forms of discrimination. It is clear however that the costs of controls in cases of non-conformity should normally fall on those responsible, while incentive schemes should also be considered if voluntary conformity certification is carried out.

2.13. As regards the organisation of local public control systems, reference laboratories should be designated at regional level for local services and initially co-financed by Community and national funds.

2.14. The Committee takes note of the repeal of a series of directives (Article 61) which are incorporated in or completed by the present regulation; it nevertheless recommends checking thoroughly whether the measures correspond, particularly as regards the directive on the financing of veterinary controls (96/43/EC), to avoid distortions to competition due to different application by Member States.

3. Conclusions

3.1. The Committee supports the integrated approach of the Commission proposal and considers the proposal a useful contribution to making food safety a more tangible priority of the official system of controls for feed and foodstuffs.

3.2. The Committee considers that to guarantee the success of the integrated approach, a strong partnership between the various players in the sector should be promoted, based on mutual trust and transparency, and an appropriate balance between official control systems and self-regulation, responsibility and voluntary certification on the part of producers.

3.3. The Committee considers that food safety in the European Union cannot be guaranteed without promoting and strengthening cooperation with third countries through agreements and specific measures, in line with their level of development, as well as international cooperation with regard to the Codex Alimentarius, by strengthening the EU’s presence in this field, and the WTO.

3.4. The Committee recommends paying particular attention to harmonising controls in the applicant countries and promoting training and information activities, not only for control staff, but also for the players in the various sectors and the general public.


The President
of the European Economic and Social Committee
Roger BRIESCH