

# **THE EUROPEAN PRINCIPLE OF THE 'HOME AUTHORITY'**

March 1992

## **THE EUROPEAN PRINCIPLE OF THE 'HOME AUTHORITY'<sup>(1)</sup>**

### **1. THE CONCEPT**

The principle of the home authority has been designed to promote co-operation and mutual respect between food law enforcement practitioners throughout European Economic Area.

Its implementation should help to minimise food hazards, increase the efficiency of enforcement and provide an effective mechanism to assist in resolving trans-border complaints and investigations.

It is applicable to food enforcement authorities whether they are located at state, regional or local level.

### **2. WHO'S WHO**

'Home' authority                      The food enforcement authority in the Member State which has geographical responsibility for the area in which the responsible decision making base of a food enterprise is located e.g. which may be the factory, the head office or address on the label.

'Enforcing' authority              The food enforcement authority in a Member State which is investigating infringements or facts relating to food products received from other Member States.

'Link' authority                      The national representative organisation, office or person identified by the Member State as willing to act as an intermediary between enforcement practitioners.

### **3. THE OBLIGATIONS**

#### **The Home Authority**

(a) European food enforcement authorities, whether at state, regional or local level accept as a priority obligation the active surveillance and monitoring of food products manufactured, produced or packed within their own territory and distributed outside geographical area. The home authority should also accept responsibility for the control of any foods imported into its geographical area and redistributed outside that area.

(1) Working Party "Home Authority Principle"

(b) The home authority should maintain an incident record of all relevant and significant actions and advice concerning 'local' food organisations. This is likely to include the results of all samples, inspections and company quality controls.

(c) The home authority should accept the important function of informing and advising 'local' food organisations on matters which will prevent infringements of the law and so help to achieve the objectives of enforcement.

(d) The home authority should give priority and attention to enquiries from 'enforcing authorities' in other Member States. In particular the home authority will

- (i) acknowledge immediately that the issue of the enquiry or complaint has been received and is being investigated;
- (ii) obtain samples, conduct inspections or scrutinise records as appropriate;
- (iii) take appropriate enforcement action, for example advice, warning, administrative penalty, seizure and/or prosecution;
- (iv) convey the results of those enquiries, inspections and action taken to the enforcing authority without delay. [N.B. The communication of information does not extend to the transmission of commercial secrets or issues which are sub judice].
- (v) be vigilant in ensuring that it does not react to complaints and enquiries from enforcement practitioners in other Member States in a defensive or obstructive manner. Transparency between enforcement authorities is essential in creating mutual recognition and trust.

#### The Enforcing Authority

(a) The enforcing authority as a matter of good practice and co-operation should notify the home authority of substantiated complaints or alleged faults concerning food products received from that Member State. Notifications are routine for inclusion in the home authority incident record and are irrespective of the need to initiate further enquiry.

(b) The enforcing authority should notify the home authority of substantive issues on the standard FLEP Home Authority Notification form giving details:

- (i) Identifying the Enforcing Authority
- (ii) Date of Notification
- (iii) Product Description
- (iv) Product Name or Brand Mark
- (v) Address of packing/importing company
- (vi) Identification codes (if any)
- (vii) Nature of hazard, fault or complaint
- (vii) Results of significant tests, inspections and methods of analysis
- (ix) Measures/Action taken (if any)

(c) Enforcing authorities are encouraged to try to communicate key information and requests in the language of the countries of both the enforcing and the home authorities.

## The Link Authority

- (a) The link authority is one which has been identified by the Member State in the European Economic Area as willing to act as an intermediary. It is the function of that organisation, authority or official to use their best endeavours to facilitate direct communication and co-operation between home authorities and enforcing authorities, as appropriate.
- (b) The link authority should assist with communications between enforcement authorities in Member States using facsimile and other modern technology whenever possible. It should not delay communications.
- (c) The link authority should pursue delays in respect of enquiries and use its best endeavours to promote good understanding and mutual respect.

## **4. OTHER MATTERS**

### General Food Hazards

Food control authorities recognise there will be occasions when the results of a transborder food investigation will need to be conveyed to enforcement practitioners throughout the European Economic Area.

Attention is drawn to the European Commission's Rapid Information Exchange system on dangers arising from consumer products [Council Directive 84/33 and 89/45EEC]. FLEP commends and supports this communication network.