

**27th Meeting of the Forum of
Food Law Enforcement Practitioners
Draft Minutes
12/13 May 2008
Helsinki, Finland**

Day 1

Participants

Organisations from the following countries

Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Hungary, Republic of Ireland, Malta, The Netherlands, Portugal, Slovak Republic, Switzerland, United Kingdom

Observers

JRC - European Commission, EWFC

Apologies

Italy, Poland, Spain, Sweden, Romania

1. Welcome

The Chairman opened the meeting, welcoming all delegates. He thanked Finnish colleagues for hosting the meeting

2. Opening address

Mrs Jaana Husu-Kallio, Director General, Evira, Finland

Mrs Husu-Kallio welcomed delegates to Helsinki. She told delegates that Evira was two years old, had 500 staff at its headquarters, with a further 250 working outside Helsinki. The remit of the Agency was from 'stable to table'. The Agency also included its own laboratory facilities. Evira participated in both formal and informal discussions, for instance meetings involving EFSA, international standards bodies or enforcement practitioners such as FLEP.

A key aim for Evira was increasing co-operation at all levels across the remit of food control. Mrs Husu-Kallio noted that the FVO remit was changing from detailed inspections to auditing activities. However a question remained about the effectiveness of food safety authorities in telling the Commission about their control activities. The aim of the FVO audit was to identify where change was needed. This might be in relation to problems of legislative clarity or to lack of understanding across the Member States. FLEP had the opportunity to address a number of these issues, specifically in identifying where legislation needed to be clarified or amended to achieve required outcomes. It was common to see questions about effective implementation raised.

The depth of focus on food safety appeared to vary across the EU Member States. It seemed likely that food crises in the future might involve food supply and security rather

than safety issues. The scarcity of food was likely to increase and with it problems of fraud. This could be a major challenge for food control in the future. Consistency of standards was a particular issue both in Finland and across the EU and beyond in the global food supply chain. The need for consistent standards created a significant challenge and raised the question about what could be done to ensure equivalent levels of consumer protection. The Commission had a role to harmonise regulation but there must also be flexibilities provided for Member States to address their local conditions. Industry and consumers were beginning to ask about the basis of food control and the associated costs, in particular whether or not they were proportionate to the risks. The food control authorities should respond to these questions, not by quoting EU legislation as the reason for controls but rather provide evidence based supporting material.

In Finland, changes were happening with a greater move towards self control and auditing. There was a need to look regularly at risk management procedures to ensure that they were fit for purpose. Scientific risk assessment was extremely important but there must also be the application of common sense through local risk assessment. In Finland, the level of central prescription was under debate with questions about whether or not this was the most effective approach. There was a view that in order to reach a common sense risk assessment local level determination was required. The introduction of multi-annual national control plans could address a considerable number of these issues but there was a need to find the balance between local and national determination. An illustration of such issues could be seen in demands for national organisations to provide central guidance whilst on the other hand there were calls to recognise local expertise. This tension within Finland was also reflected in the relationship between the Member States and the Commission and raised many challenges for the future.

3. Food control in Finland

Pekka Pakkala, Evira

Pekka Pakkala gave a presentation on the arrangements in Finland. The Ministry of Agriculture and Forestry had overall responsibility for food control and Evira was the national food safety authority. The six provincial governments had veterinary and food control officials that supervised activities within their region. These municipal authorities had a degree of autonomy which could sometimes cause conflicts with national direction. The National Public Health Institute dealt with nutrition and with the provision of epidemiological advice on infectious disease. Evira investigated and controlled safety and quality of food throughout the food chain. Its activities were based on scientific evidence. The vision for Evira was as a customer orientated, highly esteemed and influential evidence based organisation

Evira was composed of two main departments, control and research and an independent risk assessment department. The local (municipal) authorities carried out specific controls. There were 450 municipalities with 197 inspection units. A number of the municipalities shared inspection units and this was encouraged. It was intended, within five years, to reduce the number of inspection units to between 60 and 80. The units were composed of veterinarians, health inspectors, microbiologists and chemists. There were some 40 independent municipal laboratories, which worked for both food authorities and for industry. The laboratories would not pass on industry results without permission from the client. This was intended to maintain independence but in practice industry had to give permission to pass on bad results. The inspection units included environmental health which dealt with food safety and hygiene, food contact materials, water, air, noise and waste; veterinary services and environmental protection services. Currently, about half of all food businesses (around 30,000) were inspected annually. The main infringements discovered involved the

lack of HACCP controls and general hygiene problems. About 31,000 samples were taken in the last year and approximately 11% were found to be non compliant. For imported foodstuffs, sampling showed failures were mostly related to pesticide residues, followed by poor microbiological quality and inappropriate labelling. Domestic sample failures were generally due to poor microbiological rather than pesticide residues.

4. Minutes of the 26th meeting in Bratislava, Slovakia, June 2007

The Minutes from the 26th meeting in Bratislava, Slovakia in June 2007 were agreed.

5. Matters arising from the minutes

No items were raised by delegates.

6. Any other business for discussion on the second day

No items were raised

7. Food control updates from Member States

7.1 The Netherlands

Proposals were being discussed about merging the food inspectorate and the plant inspectorate. It was likely that the current five regions would be merged into one. Completion of the reorganisation was expected by 2011.

7.2 France

There was currently a general review of public policy. The re-organisation of food controls was beginning at both local and regional level. At the local level the directorate for food safety and consumer protection was being established. This would include vets; however the provisions for animal welfare controls were not yet clear. Similarly the consumer protection role still remained unclear and in particular whether or not the focus would be solely on food safety or whether it would also include economic protection. There were further difficulties in the reorganisation as some ministries did not have regional representation. In general, the administration in France was very centralised. It seemed likely that one directorate covering employment, consumer protection and industry would be created. The details for the reorganisation had not yet been fully determined.

7.3 Belgium

The Government had increased the budget for the Food Authority as it had been shown to be considerably lower than in the neighbouring Member States. The food business operators were complaining about the level of contribution they were required to make for food controls but this was unlikely to be reduced.

7.4 Germany

On 1 May 2008, new legislation was introduced on the freedom of consumer information. Consumers now had the right to demand information from public authorities. Consumers could ask for information about food businesses although this might be subject to fees. The only exceptions for release related to personal data or ongoing prosecutions. Fees were not applied to work to address non-compliances unless this was extremely complex.

7.5 Denmark

There was growing interest in animal welfare issues. Food authority budgets had increased to deal with animal welfare. Staffing issues had started discussion about the allocation of roles and whether certain animal welfare work might be done by those other than fully qualified veterinarians.

7.6 Portugal

For the last two years, a new Food Authority had been in existence which included food control and risk assessment. Regulation was in a different department. Food inspectors could also cover economic development issues.

7.7 Switzerland

Switzerland had an agreement to implement the European Community regulations on food hygiene matters to give equivalence within Swiss legislation. The aim was to ultimately achieve a fully equivalent system with the European Community. The implementation of food control was at Cantonal level. There were considerable moves to amalgamate veterinary and public health services. There was a move towards a risk based inspection system; a unit for the food chain was co-ordinating agricultural, veterinary and public health controls.

7.8 Hungary

A central agricultural office existed alongside local offices to deal with food and feed issues. The local level had considerable independence and there was a need to work on strengthening the national/local relationships. Currently, guidance was being devised for local authorities. There was a particular need to improve feedback loops from local to central and to industry. If a problem occurred in one company there was a need to be able to make others in the sector aware of the issues but there were commercial barriers to this information sharing. The Hungarian Food Authority was in the early stages of establishment.

7.9 United Kingdom

A review of food based activities was being carried out. There was a particular focus on diet, nutrition and health, with proposals for a national food strategy covering all aspects of food. A public inquiry in South Wales was looking into an outbreak of E.coli O157, which had resulted in the death of a young child. The report was expected in autumn 2008. It was anticipated that the report would produce a range of recommendations, with a very specific focus on HACCP implementation and time 'allowances' for implementation of new legislative requirements (HACCP).

8. Bt63 GM rice - introduction to the issues

8.1 Sarah Appleby, Food Standards Agency, United Kingdom

Sarah Appleby gave an overview of the issue. The Bt63 GM rice had originated from China. Although the exact details were not clear, this was an unauthorised product. In September 2006, the European Commission became aware of the contamination and asked China to put control measures in place. There had been not been any notifications of contamination to the Commission in 2006. In 2007, contamination reports were occurring. Consequently, the European Commission adopted measures to control and provide harmonised Member State action. The UK was concerned about operational difficulties of enforcement and issues of proportionality. Previous GM contamination issues had led to a judicial review of the FSA's action. The EC decision required an analytical report to confirm products did not contain Bt63 GM rice. The decision set out measures where no analytical reports had been provided. The

particular concerns were about the difficulties of analysis and in particular DNA extraction procedures. If the products could not be appropriately analysed, certification could not be provided. An exacerbating feature of the problem was the small number of laboratories within the UK that could carry out this detailed level of analysis. A further question was raised about the position of products that had been exported from China before the decision came into force. The responsibility currently was delegated to each local authority to survey products and take appropriate action.

A case study was quoted to illustrate some of the difficulties. A reputable importer had commissioned testing in Hong Kong. The laboratory carrying out the testing was not on the approved list and the certification did not meet the requirements. Commission advice in this situation was to refuse importation. However, the FSA had information that the laboratory carrying out the tests met good standards and was therefore likely to be accurate when declaring the product was not contaminated. This raised considerable issues of proportionality.

Case study 2 - six tonnes of rice noodles were presented for importation. These had been cooked so it was not possible to carry out DNA analysis. It was not also possible to trace the source material and this raised the question as to what action should be taken. It was felt that the Commission was remote from the enforcement practicalities and a working group was meeting later in June to consider a range of issues.

8.2 Roseline Lecourt, DGCCRF, France

Roseline Lecourt provided a view from the position of Codex and France. Products contaminated with Bt63 GM rice were reportedly on the market in the UK, France and Germany. France had carried out surveys but had not found contaminated products, perhaps due to low levels present. There were considerable difficulties in finding such contamination. Greenpeace had given information to the Press in France but had not provided evidence to the Food Authority. Consequently, there was considerable concern among the public. There were difficulties in analysing the product. The ISO/CEN group had stopped work on the issue because of the considerable difficulties. The United States was looking to host a workshop on bulk sampling that might provide further information. Codex guidelines on food safety assessment in relation to low levels of GM contamination in plant products were likely to be produced during the summer of 2008. There was a key requirement for data sharing and information sharing; in particular there was a need for agreed methods of analysis.

In response to these presentations, Georg Schreiber from Germany commented that Germany had systems and procedures in place to analyse GM content in rice noodles. In Germany about 2,000 samples had been analysed for Bt63 GM contamination and some 0.065% of samples had been found to be positive. Higher levels had been found in sampling carried out in 2006 where 5% had been positive for Bt63 GM rice. In Germany, there were sufficient numbers of laboratories to carry out the analysis, however there were issues around threshold levels.

Anne Mette Jensen from JRC commented that it was the industry responsibility to provide protocols for analysis. However, if these were deemed not to be effective, the matter should be referred to the Community reference laboratories.

Other Member States contributed views which generally agreed that sampling methods were complex and particularly in relation to bulk sampling. It was agreed there was a need to focus on this area. It was also agreed a need to raise the issue strongly with the Commission that the practical enforcement issues were problematic.

It was concluded that the EC decision was somewhat inflexible and that there were considerable difficulties around sampling and enforcement. Further action was needed in this area. It was suggested that the Commission had dealt with the problem as an emergency issue which was normally related to food safety matters. However, this contamination was not generally thought to be a food safety issue. The UK was particularly concerned about the matter as a result of an earlier judicial review. It was concluded that this matter needed further discussion with the EC. It was suggested that the request should be for a better definition of absence within a product. While this would apply specifically to GM contamination, it had wider implications. An example in this area was the Sudan dye contamination. It was expected that as science developed, it would be possible to detect presence of contaminants at lower and lower levels. This would further enhance the need for determination of threshold levels.

9. Opportunities for FLEP as an expert in practical risk management

David Statham reported that the Heads of Agencies group was keen to use FLEP as practical risk management experts. The earlier debate about Bt63 GM rice provided a good example where FLEP expertise could assist in practical risk management. Suggestions for areas where this practical risk management expertise might be applied were sought. Suggestions included the issue of absence of contamination, determination of methods of detection and threshold limit definitions.

Multi annual national control plans (MANCP) were identified as an area where work might be carried out. It was thought that while MANCPs might be an appropriate matter for consideration, the timing was not yet appropriate to review the use of the MANCPs; rather they should be allowed time to mature and for assessment of effectiveness. It was suggested that a consideration of MANCPs should form a standing item to identify development needs and appropriateness for review. This was further qualified by the fact that the MANCPs had a huge scope and for FLEP the main focus should be on food hygiene and safety issues.

It was suggested that there were considerable opportunities to use the expertise of FLEP, particularly arising from the working groups. The working groups and seminars needed to be a two-way process with FLEP input plus identification of issues for discussion by the Heads of Agencies group.

10. Workshops on issues of interpretation of the hygiene package

Delegates were split into groups to consider questions related to particular regulations. Questions focused specifically on Regulations 882, 853 and 852.

Regulation 882

Questions related to the organisation of official controls. Member States were asked about the ways in which they were implementing Article 3, i.e. establishing a risk based approach to official controls and the frequency of inspection. Assessment of risk was carried out in a range of different ways across the EU. In some places, the risk was based on a general analysis of microbiological, chemical and hygiene risks leading to a group risk for a sector. Depending on levels of compliance within that sector, the inspection frequency would increase or decrease from the norm. This sectoral risk could be seen in a range of Member States and resources were generally provided to support this risk determination.

United Kingdom - The UK system used a different approach to risk categorisation. It based risk on the type of food, the distribution, the processing, the consumers, compliance and confidence in management. This was used as a model in a number of other Member States. Sampling was carried out to determine product risk and this was currently being assembled in a national database. Sampling, however, and risk assessment did not take account of fraud issues.

The Netherlands - The sectoral approach was also used. Sectors were sub-divided into red, amber and green and resources were prioritised on those that were in red or amber.

Finland also had a risk based categorisation focused on sectors. The municipalities did not have sufficient resources to entirely follow a risk based approach. Food business operators were charged for control activities.

Switzerland - The approach was via categorisation of high, medium and low. Within the sectoral categorisations, inspection frequency varied depending on levels of compliance.

Denmark - Compliance had been improved through the introduction of the 'Smiley' system. This had required considerable input in the start up but improvements in compliance had merited this investment.

The groups were then asked to consider the types of control activities that were carried out. In many Member States education and advice was widely used. The extent to which this was used varied. In all countries represented, inspectors were required to give advice though the extent was very variable. In some areas, it was felt that the issue of training and advice was for the private sector. Over time, a movement could generally be seen away from strict enforcement to greater provision of advice.

Sampling and analysis

The amount of sampling was very variable across the Member States and there was a particular issue in relation to the Article 11 requirement for supplementary samples by the food business operator. It was generally felt that it was up to the food business to determine the level of supplementary sampling that would be appropriate.

Article 28 charges for additional controls. The Netherlands had introduced charges from April and these would come into operation where warning of prosecution was given. In Austria difficulties had been encountered with identifying fault. However charges were made. In Germany there had been considerable debate about the issue particularly in light of recalls. In such cases, the debate was where a charge should be levied. Should it be on the shop; should it be on a supplier? This discussion was ongoing.

Regulation 852

Group 2

The initial consideration was around exemptions, e.g. for small quantities. Areas that were covered under the small quantities etc exemption included limitations of distance. In some cases this was not left to local interpretation but specific legislation had been introduced to control the factors e.g. in Belgium. In general, the view was that the exemptions were based on risk.

The groups were also asked to consider issues around mechanically separated meat and whether or not the classification and definitions were clear. It was identified that considerable efforts were in place for businesses to remove every scrap of meat from bones. It was important to ensure that the rules of hygiene and labelling were appropriately applied. It was perhaps necessary to consider the removal of fish meat from bones.

Group 3

The main focus for this group was on the exemptions of small quantities and considerable variation of definition was found. Some exemptions were based on the number of livestock, others on yields and some were undefined criteria. The issue of 'local' also created great variation. It was suggested that it might apply to a whole country if it was small. The UK and Germany had applied distance criteria. There was no consistency in view on these exemptions or approach. It was suggested that FLEP might choose to look at particular areas of inconsistency and perhaps suggest some commonalities for interpretation. However, it was agreed that this should not be too rigid as a flexible approach was extremely valuable.

11. Update on Heads of Agencies group

Issues were discussed under section 9

12. Update from the EWFC

Jan Van De Loo provided an update on the EWFC survey. This had looked at issues around HACCP and independence. An indication of the results was given to delegates and it was intended to publish the report by the end of 2008. Until the time that a full analysis could be carried out of the responses, it was not felt that firm conclusions could be drawn.

13. Update from the JRC

Anne Mette Jensen provided an overview of the work of the JRC and some of the areas of current activity. JRC was currently subject to evaluation and a peer review of its activities. Laboratory refurbishments were also ongoing. Specific projects completed included work on natural toxins, for example proficiency testing on OTA in paprika. CEN methods were under development. Proficiency tests were being carried out on aflatoxins in peanuts and workshops had been held for National reference laboratories. Work was ongoing for methods of detection of natural toxins in a range of products.

PAHs

JRC is the Community Reference laboratory for PAHs. Reports had been produced on proficiency testing for PAHs in vegetable oils. Again, a workshop had been carried out for National reference laboratories. JRC was participating in EFSA's contamination panel working group. Work was ongoing developing proficiency testing for PAHs in meat. Evaluation of alternative analytical techniques for PAHs in food was being carried out. Best practice guidelines were being developed for National reference laboratories.

Work was also being carried out on other process contaminants. Proficiency testing on acrylamide in potatoes was subject to a report as was acrylamide in bakery and potato products. A method for acrylamide detection in roasted chestnuts was also being developed. In order to participate in the EFSA colloquium on acrylamide, a range of issues were being investigated.

Work was also being carried out on furans in babyfood.

Allergens

An investigation had been published on sequential extraction of peanut allergens for ELISA and gel electrophoresis. Collaboration was ongoing with EFSA. Work was being carried out into studying the effects of processing on the detection of allergens in various products.

Food quality

Methods for simultaneous detection of nine intense sweeteners were being developed. There was a contribution to the EFSA opinion on smoke flavouring and a range of publications had been finalised. A feasibility study on differentiation between organic and conventionally grown crops was in process. A new project had begun on markers for ethanol. JRC's work is measured on the numbers of peer reviewed articles that it produces. The best validation, however, for the work of the JRC is the adoption of its methods as international standards. A number have been adopted including one on acrylamide in bakery and potato products. Foreign fats in chocolate is a method that has similarly been adopted. FSQ methods for detecting mycotoxins in foods and simultaneous detection of the nine intense sweeteners are also subject to adoption.

Training

Official control laboratories outside the EU have been trained on analysis of mycotoxins. Workshops for community reference laboratories have been carried, for example on mycotoxins and PAHs. Training on analytical issues for FVO officers has also been carried out. JRC also continues to host PhD students.

Day 2

14. Reports

14.1 Food Fraud conference, Birmingham, UK, January 2008

Jenny Morris provided an overview of the Food Fraud conference in Birmingham. The conference had been held in January 2008 in the UK. It was sponsored by FLEP, the UK Foods Standards Agency and the Heads of Agencies group. About 70 delegates from 22 Member States had attended. In addition, there were representatives from the Commission and the EU Anti-fraud Office (OLAF). The conference had sought to define food fraud and it was suggested that it might use the definition of the UK Food Fraud Task Force which was *"Deliberately placing on the market, for financial gain, foods that are falsely described or otherwise intended to deceive the consumer"*. A full report of the conference would be provided at a later date; however, a brief overview was given.

Presentations were made by eight Member States on their experiences of dealing with food fraud. A representative from OLAF described activities to tackle fraud and a presentation was made by the Netherlands on research carried out to improve the understanding and prediction of food fraud was made. The presentations showed that there were a number of approaches taken to tackle food fraud. In Italy, there was a specialist police unit (Carabinieri NAS), in Denmark there was a national Flying Squad, and in Belgium a national investigation unit. Within the UK, a specialist regional unit existed in Wales. In France, fraud control was under the responsibility of a specific directorate. It was generally agreed that all food inspectors had a role to play, but this was in most case not their main activity. Common themes emerged from past experiences. Fraud was a very complex subject. It crossed Member States' boundaries. Resources were generally limited for proactively tackling issues of fraud. Good intelligence was an essential requirement. Specialist skills beyond those of a normal food inspector were essential. Wide stakeholder partnerships improved effectiveness in dealing with fraud.

Alongside the presentations, a number of workshops were held. These discussed the training needs for inspectors carrying out food fraud investigations; intelligence gathering and information sharing; intervention targeting; and communications and raising awareness. Workshop conclusions were as follows:

- **Training** - most food inspectors were not experts in fraud investigation. Investigation was complex and time consuming. All inspectors would benefit from training to develop an increased awareness of issues indicative of fraud. The examples of specialist units involving multi-disciplinary teams were seen as attractive. Learning from other Member States should be shared more widely.
- **Intelligence gathering and information sharing** - the workshop began by determined the difference between information and intelligence: "intelligence is information that has been analysed and evaluated". The group identified a need to build information networks. These networks might be informal or formal. All networks needed ongoing support and proactive activity to ensure that information was gathered, analysed and shared. A single point of contact would make intelligence gathering and information sharing easier and more effective. However, all this work would require significant resources.
- **Targeting interventions** - it was agreed that interventions needed to be risk based. Member states generally carried out risk based interventions, however, the

levels of evaluation of effectiveness was variable. There was a need to learn from research and from others. For instance, the trade carried out a number of activities to restrict fraud, particularly in relation to wines and spirits. These new approaches to targeting interventions might well require new skills. Intelligence sharing was an essential element of targeting interventions.

- **Communications and raising awareness** - it was identified that in certain Member States there were limitations on publishing information. Any communications needed to be specifically tailored to the audience if they were to have maximum impact and hopefully change behaviour. There were key skills required for effective communications. Awareness raising was essential but communications and awareness raising should not be seen as eliminating the need for enforcement action and control. In any communications and awareness raising activity, good evaluation on impact was essential.

The conference identified a number of steps that could be taken to move the work further forward. The FLEP working group would continue to investigate key issues, for example the possibilities of an EU-wide food fraud network, opportunities to build stakeholder partnerships, the need for additional food inspector training, opportunities to learn from others, mechanisms to share expertise more widely, and detailed consideration of prioritisation in particular the public health impact versus the quality impact on consumers.

14.2 Combating food fraud conference, London, February 2008

Sarah Appleby, FSA, UK, gave a short overview of a conference that had taken place in London in February 2008 on combating food fraud and the use of analytical tools. The conference is an annual event that involved all stakeholders. It looked particularly at new analytical methodologies. These included the use of chemical markers. Consideration was given to differentiation between organic and conventional products and determination of geographical origin. Methods had been developed to determine milk constituents which would allow authentication of buffalo mozzarella declarations. Public analysts played a key role in protecting food fraud and work was ongoing to ensure that a robust system of analytical laboratories continued to be available. The EU project, TRACE, was discussed. This aimed to increase consumer confidence in EU produce. There was a key focus on product traceability. This event assisted in building partnerships and trust. There were opportunities for increasing effectiveness by working across the EU. The full papers from the event were available on the FSA's website.

Delegates discussed the conferences and agreed that the FLEP working group should take the work on identifying measures to more effectively to control food fraud further.

15. Working group reports

15.1 Microbiological criteria

Jan Van Kooij, the Netherlands, provided an update on work on microbiological criteria. This followed on from discussions of the subject in Bratislava. The Commission was working on these issues and so the working group was restricting its activities. The Netherlands's policy in relation to microbiological criteria was discussed. Regulation 2073/2005 gave obligations to food business operators and competent authorities in relation to micro-criteria. The micro-criteria Regulation was intended to support the implementation of effective HACCP based procedures. The preventative approach required validation and verification of HACCP or GHP.

Food Business obligations

The food business operator responsibilities were identified as:

- Provision of a microbiological criteria control programme
- Compliance with defined specific standards e.g. in respect of *Listeria*
- Application of food safety criteria and process hygiene criteria

In the Netherlands, these responsibilities were interpreted as follows:

A business should have its own micro-criteria control programme.

Sampling schemes should be risk based and incorporated into HACCP and GHP. National guidelines had been produced that gave industry standards. In practice, these only applied to butchers and not to bakers or restaurants. There were specific requirements for minced meat. Sampling frequencies had been considered and products categorised in relation to high, medium and low risk. These were applicable only to specific sectors, e.g. not to restaurants. Large businesses were defined as international or large scale national, whereas small businesses had been defined as traditional restaurants or all other medium premises.

High risk product categories were identified as fresh meat, meat preparations, ready to eat products and products for specific risk groups. Medium risk products were others mentioned in the regulations, i.e. detailed specific products.

Analytical methods and laboratories were also considered. If laboratories were external they should be accredited to EN/ISO17025 and analytical methods should be based on ISO/CEN methods detailed in the annex to the Regulation. All methods needed to be validated against reference methods authorised by the competent authority. This would require evaluation reports from analytical experts. There were specific rules for sampling and preparation but where these were not specified ISO norms or Codex standards might be used.

Competent authority obligations

The obligations were to verify food business operator compliance with the regulation. This might involve further sampling and analysis. Based on the results, action would be taken.

VWA activities

The VWA undertook an evaluation of the food business operator programme. This was carried out through inspection/audit. Studies had been carried out on *Listeria monocytogenes*. A project was looking at food business operator implementation of the requirement. The audit team was assisted by a laboratory technical expert in microbiology, sampling, statistics, research methods and reference methods. If the food business operator could demonstrate robust procedures, then visits would be less frequent. Annual monitoring and pathogen surveillance had been introduced. Food safety criteria were focused on presence of bacteria such as *Listeria* in ready to eat foods. Checking was also carried on process hygiene criteria. In the case of *Listeria monocytogenes*, challenge studies had been carried out to look at protocols, evaluation and compliance for delicatessen meats, fruit salads and ready to eat vegetable mixes.

It was believed that detailed consideration should be given to realistic storage conditions. Protocols were generally based on 4°C and this was felt not to reflect actual conditions. Transportation and domestic refrigeration were likely to involve higher temperatures. In the latter case, this could be between 9° and 10°C. It was felt that these real storage conditions should be included in the worst case scenarios. Data collection should also be carried out beyond shelf life as in practice this not

infrequently occurred. The VWA was having discussions with stakeholders about these issues and intended to provide advisory information sheets. It had also been identified that there were training needs for inspectors, as the Regulation was complex.

After the presentation, considerable debate occurred among the delegates. There was a general view that inspectorates were struggling with the regulations and that there were multiple uncertainties. It was agreed that the Regulation must be applied as a HACCP validation process and not as an outcome standard. It was also identified that the competent authority responsibilities for verification of food business operator procedures were not clear. It was also not clear if representative samples needed to be taken for evaluation of process hygiene criteria.

15.2 Labelling and claims - Phil Thomas, United Kingdom

The purpose of the working group was to look at alternative food labelling arrangements. The issues that the group had considered were as follows:

- The target(s) of label information
- The benefits of label information
- Whether or not information available in places other than on the label would be more efficient

The working group looked at these issues from the perspective of an enforcer rather than as a consumer. The group concluded that all the information currently specified was required but that it did not necessarily need to be on the label. The group identified that the key information that should be provided on the label included the description of the food and its durability. The group looked at alternative information provision, in particular leaflets, scanning points and websites. It was agreed that it was essential that any alternatives must be readily useable for both businesses and consumers. Any information provision must not exclude customers, i.e. if the information was web based, there must be alternative provision for those who did not have access to computers. The group believed that nutritional profiling would be beneficial; however, this must be a Member State decision. If there were requirements for provision of nutritional information, this should be based on an EU-wide system. The draft EC proposals for the revision of labelling were focused on labels only and this was seen as a retrograde step. The group recommended that:

- Information should be available other than purely on the label
- Information requirements should continue to have mandatory information
- There should be opportunities for individual Member States to use alternative methods of information provision
- The name and the durability should be a mandatory requirement on any label

On consideration of the next steps the group agreed that:

- Alternative labelling was worth pursuing but this work should be held back until there was greater clarity on the intention of the new EU labelling regulations.
- The Netherlands project was extremely interesting and it should be further evaluated.

The group proposed that FLEP should pursue the issue of alternative labelling and determine whether recommendations on the matter should be made to the EC.

16. Project updates

16.1 Smileys - the second generation - Knud Arne Nielsen, Denmark

The purpose of the Smiley system was to give information to consumers on business hygiene standards and to provide incentives for businesses to raise/maintain high food hygiene/safety standards. There are four Smileys within the scheme; the happy smiley means that the inspector had no remarks to make (currently some 75% of food businesses); the small Smiley means that there are some small issues; the even Smiley means that an injunction or prohibition is in place and the sour face means the business has been fined and reported to the police (currently some 5% of food businesses). The scheme was launched in 2001 and in March 2008 it was revised to include a new risk based inspection approach, bringing in the new generation of Smileys. Each type of business is assigned a different risk based on its sector and frequency of inspection is determined by sectoral risk. Alongside this an elite standard has been introduced that is achieved when four happy Smileys in a row have been given. Attainment of an elite Smiley leads to reduction in frequency of inspection within the Sectoral banding. Using the example of restaurants, these are generally subject to three inspections a year but gaining the elite Smiley can reduce inspection to twice a year, or even once if the elite Smiley is maintained.

Retailers are subject to the smiley scheme but wholesalers and producers are not.

In addition to linking Smileys to a risk based inspection strategy, the review identified the need to make the scheme more visible. Consequently, inspection certificates must now be placed so that they can be seen from the outside and also must be posted on the business website. The new scheme has been supported by increased promotion through campaigns, posters and the Internet.

A new website, 'Findsmiley', has been introduced. On the website, there is a searchable map. The website shows the four most recent reports on the business. If a consumer clicks on a Smiley, this will link back to the full reports.

In the new scheme, re-inspection is no longer provided on request. It will be up to the food control authority to determine the timing of the next inspection. Where standards are poor there will be an automatic re-visit. However, this will be chargeable. The poor Smileys will remain on the website for some time. Industry sees the elite Smiley scheme as being a significant business advantage.

An evaluation of the Smiley scheme had been carried out by the Nielsen company. In particular, this evaluated consumer responses from 2002, 2003, 2004 and 2007. Since 2002, the number of happy Smileys had increased from 70 to 75% (by 2007). There had been some increase in the sour Smileys but this was seen to be linked to a zero tolerance regime for infringements. In 2002, 76% recognised the Smiley scheme; in 2007, 99.8% recognised Smileys. In 2002, 88% of those surveyed believed Smileys were a good idea; in 2007, that had increased to 98%. 60% of consumers said that they would turn down a restaurant with a bad Smiley. For consumers, confidence in the Smiley scheme was high at 86% with only 13% having low levels of confidence in the scheme. Businesses had also been surveyed in 2003; 77% thought the Smiley scheme was a good or very good idea. By 2007, this had risen to 88%. In 2003, 83% felt that their assessment was fair and this had risen to 86% by 2007. The majority of business had discussed the scheme with staff and had implemented changes because of the scheme. Among business, 79% had high or some confidence in the scheme; only 19% had little or no confidence. The conclusions of the evaluation were that

most consumers knew and appreciated the scheme. The majority of consumers would decline to use businesses with a bad smiley. Overall, inspectors believed that standards had improved. The Smiley scheme was being considered currently in other Nordic countries. Norway was trialling its own display scheme and Sweden, Finland and Iceland were interested in a hygiene publication scheme.

16.2 Better regulation, better labelling - Yvonne Huigen, Netherlands

This was an update on the ongoing project in the Netherlands. Currently, consumers and small businesses were not happy with labelling requirements. The consumer wanted as much information as possible but also felt that this could make labelling too difficult to understand, i.e. the labelling paradox. Industry felt that current labelling requirements were too great an administrative burden. The Netherlands pilot project was seeking to find a solution to these issues. The pilot project had focused on small businesses made up of 29 bakeries and 29 butchers. The project had run between May and December 2007. It had focused particularly on businesses where enforcement showed continuing bad standards. There were a number of parties interested in the project, i.e. trade organisations, the Ministry of Health and the VWA.

The project was limited to requirements for mandatory labelling and traceability. A range of different methods of displaying information were trialled. These included information on receipts, in bakeries, on a website which could be accessed within the shop, and on barcodes from which information could be printed out either in the shop or from a website. Other mechanisms involved a product book in the shop with copies of information to be taken home and counter display unit information again with copies of material available to take home. The trade associations had been active in developing the range of tools. Some businesses were very keen and particularly interested in the project. However, it became clear that business needed to invest considerable time in the project. This was particularly the case where seasonal products were involved. QUID was seen to be very difficult for small shops and it was commented that consumers hardly ever asked for this form of information.

The overall conclusion of the project was that it had been successful. Labelling in the pilot stores had improved. Inspectors also appreciated the project because it ensured that labelling could be enforced. Information was provided in written format rather than verbally. The trade organisations believed that the project was successful because it provided more workable methods for local producers. Trade organisations particularly liked the product book. The Ministry of Health believed that the project was successful because it had provided better information for the consumer. It supported the focus on improvement in SMEs and appreciated the good dialogue approach. The next steps will seek to involve a wider span of trade organisations, focusing on local stores with local produce. The VWA believed that the pilot could provide good input into EC discussion about the revision of labelling legislation. The current EC proposals include opportunities for development of innovative practice and national solutions but these are label based. The VWA believes that there should be greater flexibility at the national level to permit some of the types of solutions that had been trialled within their project.

In discussing the working group's work and the work of the Netherlands project comments were made that alternative labelling was likely to be focused on small businesses with a small number of their own products. For larger retailers or those with large numbers of products, it might not be practicable. However, the alternative labelling project would seem to fit well with artisan producers. It was not fully clear at

this stage whether or not it might be more widely extended. It was generally agreed that this was a worthwhile area for FLEP working groups to continue with.

17. Any other business

No issues were raised

17.1 New working groups

Food fraud

Although a food fraud working group had been in existence for some time and had led to the food fraud conference, it was felt that this might be reconstituted. The delegates agreed that the food fraud working group should continue and it was suggested that in light of the joint conference in January, the UK should take the food fraud working group forward. The new Chair would be Sarah Appleby (UK FSA) and the following countries volunteered to participate: the Netherlands, France, Germany, Finland, Denmark, Czech Republic and also the JRC.

Hygiene package and interpretation

The Republic of Ireland volunteered to chair the group (Dorothy Guina Dornan) and volunteers from the Slovak Republic, the Netherlands, Belgium, Finland and the UK also volunteered.

Official control laboratories overview

For the future, it was suggested that there might be a working group to look at the work of the official control laboratories in the different Member States.

17.2 Current working groups

Managing on effects

It was agreed that the working group should continue and suggested that further work on peer review be carried out

Labelling and claims working group

It was also recommended that the group continues with its work.

17.3 Focused seminars

Delegates agreed that the next focused seminar should be on risk based controls. It was suggested that this be in January or February 2009 and it might be hosted in Malta.

18. Date and venue of next meeting

It was confirmed that the next meeting would be held in Rome on 3/4 November. It would be hosted by Carabinieri NAS. Looking to the future, it was suggested that the 2009 plenary, planned for June, should be held in Denmark.

19. Chairman's closing remarks

The Chairman then brought the meeting to a close and thanked Finland for hosting an excellent meeting, accompanied by excellent social activities. The Chairman thanked all the delegates for attending and for their input. The Chairman also thanked the secretariat for organising the meeting and wished delegates a safe return home.