

**25<sup>th</sup> Meeting of the Forum of  
Food Law Enforcement Practitioners  
Draft Minutes  
20/21 November 2006  
Ghent, Belgium**

*DAY 1*

**1. Participants**

**Organisations from the following countries**

Austria, Belgium, Czech Republic, Finland, Germany, Republic of Ireland, Italy, Lithuania, Malta, The Netherlands, Norway, Romania, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom

**Observers**

JRC - European Commission, EWFC

**2. Welcome**

The Chairman, David Statham, thanked the Belgian Food Safety Agency for hosting the meeting and welcomed all delegates, especially new members.

**3. Opening address**

**Guy Mommens, Adviser to the Federal Minister of Public Health and Social Affairs**

Mr Mommens gave apologies on behalf of the Minister who was unfortunately unable to attend. He presented greetings from the Minister who noted that Belgium had been a founding member of FLEP and said that Belgium would continue to fully support the work of the Forum. He recognised the value of FLEP in providing opportunities to share good practice and commented that the topics for the meeting were of great importance, especially discussions around the new hygiene regulations which were now bedding down.

Mr Mommens wished the delegates a good meeting and hoped that they would have the opportunity to see Ghent and get a taste of Belgium.

The Chairman thanked Mr Mommens for his opening address.

**4. Food control in Belgium**

**Geert De Poorter, Food Agency for the Safety of the Food Chain**

Geert De Poorter provided an overview of food control in Belgium. He said that a main consideration for the Food Safety Agency currently was the new requirement for a multi annual national control plan. In Belgium this was being considered in two parts: firstly, around

sampling and secondly, around inspection. The plan did not include audits or validation of auto checking systems. Auto checking systems were a particular approach within Belgium that had been recently introduced. If businesses complied with the sector specific guides, produced by the Belgian Food Safety Agency and industry, and this was confirmed by third party accreditation, then these businesses would be controlled outside the national control plan. The control plan also excluded reactive visits as it was not known when these would occur. These would be managed as they arose. The plan did, however, include proactive inspections, many of which would include sampling. The plan was being put together based on a range of inputs. An advisory board was a key factor and this included representation from a number of stakeholders. Consumers were a key stakeholder group and the meeting would hear later from Robert Remy who was the consumer representative in Belgium.

It was noted that the plan would need to operate within available budgets. There were certain issues fixed within the plan, e.g. the sampling required by legislation. For the sampling to be truly risk based, a good statistical approach would be required. Sampling would cover a range of issues such as chemical contamination, residues, GMOs etc. The risk based approach would be dependent on a variety of factors, e.g. the target population, the prevalence of problems and the potential level of harm. A large number of samples would be taken where the potential for harm was greatest, where there was a high probability of contamination and high levels of exposure were likely.

Belgium held a large databank of samples which covered some 180,000 businesses. The information on the databank would be essential when producing risk based sampling. It was estimated that the sampling plan would involve some 2.5 million samples of animal products and around 56,000 for products not of animal origin.

## **Inspections**

Businesses had raised issues of lack of consistency of controls. The Agency had reviewed the number and frequency of inspections to address these concerns. The inspection approach was now directed at different fields of activity. In some areas, specific legislation required a certain frequency of inspections. In others, the inspections would be more truly risk based. Where third party accreditation systems existed, this would be reflected in the frequency of inspection. Overall, a mathematical model would be used to provide a risk based approach to inspection. IT systems were being transformed to accommodate the risk based targeting of activity. This would need to be managed over a period of time in accordance with the application of the multi-annual national control plan.

At the conclusion of the talk, a number of issues were raised about different types of risks, e.g. political risk and public health risk. The issue of GMOs was particularly cited where there was no apparent public health risk yet consumers saw this as an issue that challenged public health. In response it was identified that there was capacity within the national control plan to address such matters.

A further question was raised about whether or not businesses would be made aware of how they scored in inspection. In response it was stated that in the longer term, it was anticipated that businesses would be able to view their own scores on central IT systems.

A range of further questions were raised about frequency of inspections. In response, it was identified that there were a range of sources of information available to the Agency that allowed them to determine frequency of inspection. A delegate queried whether the number of inspections could be managed within the inspectorate resource. In response it was identified that auto-checking would free up inspection resource. The auto-checking system moved towards a degree of earned autonomy for the business. Businesses would be encouraged to

participate in third party accreditation schemes, incentives would be reduced food control charges and reduced frequency of inspection. Big businesses were likely to see commercial benefits in such a system but this was likely to be less attractive to small businesses. In order to maintain control over the auto-checking systems, the food agency approved the sector guides and then passed them to certification bodies for accreditation. When the certification bodies had identified the accreditation criteria, these would be approved by the Belgian food agency. The food agency would maintain a database of approved auditors and would ensure that checks were carried out to avoid conflicts of interest.

A further question was raised about transparency issues and, in particular, whether or not consumers and other business would be able to see hygiene information.

At present Belgian law did not allow this information to be made public, however it was intended to implement a "Smiley" system. This would give some information but it was envisaged that detailed information would only be made available where there was a real risk to health e.g. where withdrawal or recall was needed.

## **5. Minutes of the 24<sup>th</sup> meeting in Vilnius**

The Minutes were accepted as a true record of the proceedings.

## **6. Matters arising from the minutes**

The following matter was identified.

A meeting of the HACCP working group would be arranged for January to identify the best way to utilise the information gained from the HACCP workshop.

## **7. Any other business for discussion on the second day**

Items suggested by delegates included:

- The forthcoming health claims legislation  
The UK had seen a vast increase in claims being made and wondered whether this was the case in other member states. There were concerns that claims were being registered at this stage in light of the forthcoming legislation and that this could give rise to conflict between different registers in different member states.
- Article 16 of Regulation 178/2002.  
In particular, it was identified that this article related not only to labelling but also to the method of presentation and display. It was suggested that either a working group or a questionnaire should be sent out to member states to ask for information about how this issue was being addressed.
- Salt reduction.  
In the UK, a piece of work was proposed by the Trading Standards Institute to help businesses reduce salt. The input from FLEP delegates was sought.
- Commission annual plans under Regulation 882/2004. It was highlighted that member states must produce information but that the Commission had so far not undertaken to analyse and report back on the member state plans. It was identified that it would be useful for all member states to see an overview report from the Commission.

Germany also updated the meeting on changes in food control. German consumers could now ask control authorities for information about any food businesses. The only exclusions to this requirement related to personal or private data.

Italy would produce a report on its food control activities at a later point in the meeting.

## **8. Consumer view on implementation of the hygiene package**

### **Robert Remy, Food Officer, Test Achats/Bureau Européen des Unions de Consommateurs (BEUC)**

Robert Remy spoke on behalf of both Test Achats and BEUC. He stated that BEUC had been in existence since 1962 and had 40 members from 29 different European member states. Test Achats was a member of BEUC and itself had some 300,000 members. BEUC worked to defend and promote the interest of EU consumers in the EU policy process and contributed expertise to discussions that impact upon consumer health, safety, and economic, legal and environmental issues.

Mr Remy commented that there was no "one consumer"; there were many variations but there was a continuing interest amongst all consumers in food issues. Consumers needed to feel confident about the safety of the food they ate. Attitudes were changing. In the 1990s, the consumer expectation was that food businesses would manage food safety. In the 2000s, it was believed that food businesses must prove that they properly managed food safety. Consumers believed that food hygiene was still a matter for concern. In Belgium the numbers of food problems were going down; however, they still seemed to be above the European average. It was not clear why this might be; it had been suggested that in Belgium the monitoring could be stricter than in other member states.

Test Achats carries out comparative tests on food hygiene and publishes results in its magazine. A recent survey had looked at goat's cheese and found that some 8 out of 11 samples had bad standards. This did not mean that the products contained pathogens; it might just be indicators of poor hygiene. Whilst these might not make people ill, it did not give consumers confidence about hygiene processes. There had also been a survey on direct sales of meat to consumers and once again poor standards of hygiene had been identified. One survey had looked at special events and had sampled food outlets at different types of event. Problems were found not just in the sample results but in the hygiene practices observed. In particular, the survey had identified poor handling practices and poor preservation and temperature control. The survey had also found problems in the quality of soft ices. Samples were taken on the basis of consumer purchase rather than the stricter sampling requirements applied by control authorities. BEUC welcomed harmonisation of the hygiene rules, but felt that the real requirement was to ensure that there was harmonization in the practical application of controls.

BEUC had asked members about the situation in different member states. It was found that there were different situations in different sectors but generally it was believed that the food industry was ignorant of the new hygiene rules. There was a need for greater information to be given to food businesses and more training. Self-regulation was presented by a number of food authorities as the new approach but BEUC had believed that self-regulation should always have been the case. Consumers believed that self-regulation must not replace official controls if confidence in food safety was to be maintained. For practical application, harmonisation was needed in a range of different areas, e.g. in analytical methods and reporting systems. There needed to be a continuous monitoring to assess and report back on changing situations. This would allow identification of weak points and targeted action to address them. It was not clear about the implications/interpretation of exemptions related to direct sale of small quantities of product consumers. There seemed to be considerable variation about how these terms had

been interpreted in different member states. It was perhaps appropriate to take a different approach to food control in large and small businesses but the key objective must be the production of safe food no matter what the size of the business. Sometimes producers complained that hygiene controls put them at a disadvantage compared to imported foods, where they believed the controls were less strict. BEUC did not believe that this truly reflected the situation but would like information to be made more widely available.

For some issues, changes seemed to have taken a step backwards. An example in Belgium was the sale of horse mincemeat. Under previous rules, this was prohibited but now it was allowed with the only requirement being that the product is cooked before use. BEUC did not see this as an appropriate level of control. In slaughterhouses the focus was on presentation of cattle in clean condition. The reasons for this were not clear to consumers and were a further example of a need for better communication with consumers. An EFSA report on 9 November had identified that Salmonella and Campylobacter were the most commonly reported diseases, particularly linked to eggs, egg products and poultry meat. The report had recommended education for all "actors" in the food chain and a common strategy for data collection, monitoring and reporting.

At the end of the presentation, a number of questions were raised by delegates. Germany commented that problems had been identified as occurring as a result of competition. The link between price and quality was important when consumers purchased food and it was suggested that this should be made clear to consumers. In response to this Mr Remy said that Test Achats did not look at price when carrying out studies. The studies were about comparative quality. It was noted that price was a particular issue for consumers in all sectors but it was not agreed that consumer organisations urged people to buy the cheapest products. Comparative tests were carried across a whole range of prices and these showed that generally "cheap" did not mean "bad" and conversely high price did not guarantee good quality.

Overall it was accepted that there was not an endless supply of money to ensure food safety and consequently there was a need to ensure a good enforcement balance was maintained.

The delegate from Switzerland commented that the Swiss authorities had regular discussions with consumer organisations and that these played an important part in reminding politicians about the need for money to be spent on food controls. Mr Remy responded that BEUC recognised its role in informing and educating consumers. BEUC had carried out studies in homes and looked at issues such as the use of refrigerators. They had found that there were significant issues and reported on the need to educate consumers.

The Netherlands commented that business self-regulation was a particular issue for a number of Member States. It was seen to reduce burdens on business and reduce inspection load. Mr Remy was asked how BEUC felt about self-regulation.

Mr Remy replied that consumer representatives feed into the creation of food policy. They were not against self regulation but they were concerned about its effectiveness, in light of the surveys they have carried out on food products.

## **9. The Commission view on the implementation of the hygiene regulations**

### **Willem Daelman, Deputy Head of Unit, Hygiene & Control Measures**

Willem Daelman began the presentation by commenting that FLEP provided a good mechanism for feed back on the effectiveness of the hygiene legislation. He commented that strictly

speaking, the new hygiene package excluded the official controls within Regulation 882/2004. The new hygiene package had been introduced in order to address overlaps, gaps and unnecessary detail in the previous legislation. The new package aimed to produce a single approach for hygiene and as a consequence, simplify the requirements. It will be reviewed further to consider how far these objectives have been met. The new legislation had separated responsibilities between businesses and competent authorities. It had aimed to fill in gaps, e.g. to provide an EC wide basis for controls on imported food of non-animal origin. It had removed unnecessary issues, e.g. the fat content of mince was a quality issue and so had been taken outside the hygiene controls. It had been hoped that quality issues would be picked up elsewhere but as this had not always happened, quality issues would need to be considered in the review of the official controls.

The new legislation had introduced new issues, e.g. controls at primary production level, generalised HACCP, registration, microbiological criteria and flexibility. For flexibility to be effective it must take into account the different issues that apply in the different Member States. There were new systems in place that were more business-friendly and these would be reviewed for effectiveness as part of the upcoming review. The review would begin in December 2006 and items on the agenda would include further consideration of the need for HACCP in primary production.

A review of the need for HACCP in small business would also be carried out. Guidance had been issued and generally it was believed that for many small, simple businesses, good manufacturing practice and good hygiene practice might be sufficient to meet the objective. There might need to be further clarification in this area.

The hygiene review would also include consideration of issues such as composite products and definitions of retail and wholesale. Retail was outside the scope of the hygiene regulations and there needed to be better definition of the term. Issues of subsidiarity would also need to be considered e.g. should there be a role for the Commission in controls on small, local businesses that do not place product on the community market?

There would need to be further consideration on issues around approval. Meat inspection would be re-considered and issues such as the potential for conflict of interest where employees of slaughterhouses had responsibility for meat inspection would be considered. This had been an approach envisaged but there had been concerns raised about whether it could deliver objective controls.

Feed and food controls had been brought together in the new legislation as a result of BSE and the dioxin crisis which had shown the clear need to link food and feed. There had been a number of lessons learnt from food scares such as the requirement for a global approach to traceability and good organisation and co-ordination between competent authorities. Official controls go beyond hygiene and cover areas such as organic products. There will be a review of the official controls requirements. The review had been planned for 2007 but this would not allow sufficient time for the full introduction of multi-annual national controls plans and the application of fees so the timescale would need to be extended. Consideration would be given to the scope for fee application and whether or not it should apply to small businesses. There had been a view that subsidiarity should be applied in such areas. This would be revisited as Parliament had indicated a wish to apply a central charging system. Laboratory accreditation would also be considered as a four year transitional period currently applied. There needed to be identification of what should be accredited and what should not. The approach of the Food & Veterinary Office would also need to be reviewed e.g. should future activities focus on multi-annual national control plans alone or should there be specific areas for examination. Imports would also need further attention, particularly harmonisation in the area of non-animal origin products.

Issues of training were also being considered. The Commission had begun centralised training, with some 1,500 control officials trained in 2006. In 2007, the range of issues would be further extended and it was hoped that future training would cover some 6,000 control officials from the European member states and beyond. It had been suggested that the responsibility for training be transferred to an executive agency, there was already such a model within DG Sanco which delivered public health training. In this sector, the agency carried out organisation and administration and the Commission defined the programmes to be addressed. The HACCP course that had been produced centrally had generally been well received. However, it was accepted that it was difficult to produce a course that addressed the different stages and levels of knowledge that might be found across the member states. Training programmes for the future would need to address a range of issues.

At the end of the presentation, a number of queries were raised as follows:

- Whether or not the requirement to accredit inspection bodies would apply to laboratories.
- Whether or not the hygiene legislation covered food fraud
- Whether or not the review of the legislation would introduce harmonised temperature controls?
- The timescale for the review?

In response Mr Daelman replied that:

- Accreditation for laboratories would only apply if they were private control bodies
- The Official Feed and Food Control Regulation addressed the need to control fraud. Competent authorities were required to put appropriate arrangements in place to address fraudulent activities
- It was not intended that harmonised temperature requirements be introduced, excepting those areas in which they already existed e.g. red meat and poultry. There were likely to be a wide range of variables involved and the food business would be best placed to understand these and determine appropriate storage temperatures
- It is intended that the review be completed by the end of 2009. However there would be an expectation that regular reviews would be planned.

The Chairman thanked Mr Daelman for his presentation and commented that fraud was becoming a significant issue for many member states. He suggested that FLEP might assist the Commission in considering this issue by feeding in the experiences and views of members

## **10. Workshops**

Members were asked to consider specific issues within the new hygiene package.

The issues for discussion were:

HACCP flexibility

Registration and approval

Traceability

Risk based controls

For each issue groups were asked to discuss:

How the new requirements were working?

What, if any problems had been experienced?

Any requirements that had not yet been fully implemented?

### **Feedback**

#### **HACCP flexibility**

Delegates generally believed that the HACCP requirements were being implemented flexibly. Depending on the business circumstance the range would be from full HACCP to GHP. In certain cases e.g. UK there would be a combination of GHP and some HACCP within centrally produced

guidelines. Many large businesses would produce their own HACCP systems whilst smaller businesses would often make use of sectoral guides produced by Industry and “approved” by the regulators. The production of guidelines was at a different stage in different Member States, some were available but others were still being put together. Generally the biggest problems in implementing the food safety management requirements were found in the small and micro-businesses. Delegates had generally found the Sanco training on HACCP helpful in taking the process forward. Enforcement of the requirements was not generally the approach at present, rather the approach was to support and assist. There would however be a time when businesses would be expected to have systems in place and action for non-compliance in this area would be taken. This would be risk based but where businesses would not comply, despite support, formal action would be taken.

### **Registration and approval**

A range of approaches were applied to encourage registration from publicity campaigns to more formal systems. There were difficulties in identifying certain types of businesses such as food brokers. It was felt that better use of legislation might be made in this area. Action taken to encourage compliance was generally risk based. Registration was seen as a key issue because it allowed regulators to become aware of new businesses and ensure appropriate surveillance was in place. Sanctions for failure to register were not seen as effective in some MS and the use of administrative penalties rather than Court action was suggested as an alternative.

### **Traceability**

Arrangements varied across Member States. There was considerable debate about the meaning of and need for internal traceability. Generally systems were much better in larger businesses. The major challenge was in smaller businesses and as a consequence this was the sector receiving greatest attention. Most MS commented that there was still a lot of work to do in implementing the traceability requirement in the small business sector

### **Risk categorisation**

Risk based models for determining food control activities were generally in place. These considered issues such as; product type, volume of product, consumer groups, business history and confidence in the business management. In some MS there was a move towards using more specific intelligence to inform risk based targeting of activities. This might be gained, for example, through survey work or as a result of food poisoning outbreaks. Inspection frequency would generally be risk based. In the Netherlands a “sample” of outlets would be inspected etc for businesses with multiple sites rather than all outlets. This was seen to be indicative of the standards of the whole business. Some newer MS were less advanced in the risk based approach to food control

Although risk based control was being utilised there were a number of difficulties in the general approach. One specific example was the failure to consider the risk of fraud. Similarly primary production was seen as low risk although significant problems could occur. In some MS food safety was not seen as a big issue by politicians and so funding was being reduced forcing prioritisation of activity based on resources rather than risk.

There was a view that as the evidence for risk based control emerged there was likely to be a need to review existing risk assessment models. There would also be a need to consider new and emerging risks within any models.

### **Working group reports**

- **Managing on effects**

The group had produced a draft peer review manual, as requested by the Forum. It was based on a total quality management approach of “plan, do, check and act” It identified

the stages needed for a peer review and drew on existing manuals used in the areas of environmental protection and medicine control. Comments were sought from delegates subsequent to the meeting. Once comments had been integrated it was suggested that the next step should be to trial the manual and that the support of the Heads of the Food Agencies group should be sought to take this forward. The proposal was supported by the Forum

- **Import controls**

The group had focused particularly on controls for mycotoxins as these created the most significant risks for non POAO products. There had been some 900 notifications about mycotoxins in the last year alone. The group had specifically looked at how mycotoxin contamination was controlled within the legislation and where clarification or guidance was needed. This included issues such as defining the "point of entry" e.g. was it outside the border, at the Customs office, point of release etc. The views of the working group had been sent to the Commission who were currently considering the issues raised. The working group had already assisted the Commission in addressing the import of certain foodstuffs. It was proposed that there would be a workshop organised by the Commission and the Dutch in early 2007 and support from FLEP in setting up a two day event was sought.

The proposal was supported by the Forum

- **Multi annual National Control Plans**

A meeting had been convened in September 2006, involving Austria, Finland, Germany, Republic of Ireland, Slovak Republic, and the UK. The group had discussed a range of issues, e.g. the scope of the plan, the level of detail and prescription required, the integration of various components such as strategic objectives, sector by sector approach and stages in the food chain. Consistency and effectiveness, flexibility and the burden on control and competent authorities were also considered. It was agreed that the first stage would be to document the key areas for controls. Initially the plan should focus on existing systems and integrate them as far as possible. The Commission template provided a good framework but would need some tailoring. Development and maintenance of plans could create a drain on the food safety authorities and consequently a phased incremental approach to plan production and implementation was favoured. Concerns had been expressed about the content of the annual report and the support for continuing reporting arrangements over the next few years. It was seen as unrealistic to expect new reporting by June 2008 as information might be available but the format required was unlikely to be achievable. Overall, the group provided a mechanism for information sharing and networking. For the future, the group intended to share learning by email and FLEP input into annual reports was seen as essential. It was commented that there was a need for detailed guidelines before much progress could be made. The Chairman asked the group to produce a report which might be posted on the website for wider dissemination. Dorothy Guina Dornan agreed that the working party would provide such a report.

- **Sampling and analysis benchmarking**

A report on progress was not available but would be provided for the next meeting

- **Transparency workshop**

A report was provided by Cees Maas from the Netherlands. It was proposed that a one and a half day workshop should take place in The Hague in January 2007. The aim would be to invite two representatives from each Member State to attend. The programme would be introduced by David Statham as Chairman of FLEP and André Kleinmeulman as CEO of the Dutch food safety authority. There would be presentations

on transparency as a public policy principle in the Netherlands, on judicial aspects and there would be parallel sessions on actual experiences of transparent approaches. On day two there would be a summary of the parallel sessions, a presentation on naming and shaming together with an overall summary. The proposal was supported by delegates.

- **EFSA workshop**

A brief report on the conference "Science and practical experiences in food safety" at EFSA in June 2006 was given. EFSA had invited FLEP, at the request of NAS Carabinieri, to make a presentation. An overview of FLEP had been given by the Secretary Jenny Morris; Jan Van Kooij had spoken about the involvement of the Netherlands as a founder member and Jan Stulc (Slovak Republic) had talked about the benefits to be gained from participating in FLEP as a new member state. A series of presentations had been made by NAS Carabinieri about their food control activities and there had been discussion about the role of EFSA and its scientific committees, with a specific focus on how science contributed to inspector activities. The workshop had provided an opportunity to build relationships between NAS Carabinieri and FLEP delegates. As a result of the workshop, the Carabinieri had sent a delegate to the FLEP meeting in Ghent who would provide a presentation on their activities later in the programme.

## **11. Update from EWFC**

An update was given on EWFC activities. A seminar "Safe meat matters" had been held in Newport in the UK. A range of experts on animal diseases, meat inspection and meat inspector training had participated in the event. The event had given an opportunity to debate issues such as changes to the ante-mortem inspection system and the HACCP approach in slaughterhouses.

The key objective of EWFC is to ensure the competency of meat inspectors, through appropriate training. As a consequence EWFC welcomed the training made available by the Commission and recommended that FLEP promote the initiative. EWFC was expanding into the new Member States but it was resource constrained and would appreciate FLEP's support

## **12. Update from JRC**

An update was given by Anne-Mette Jensen. The JRC is a Directorate General of the Commission and included seven different institutions. Its main customer was DG Sanco. JRC worked to support national level developments complementing national activities. The aim was to "speak with one voice" and thus increase consumer confidence in food and support enforcement and business. Recent changes in appointed Community Reference Laboratories (CRLs) meant that there were now 27 laboratories working in the areas of authorisation and controls.

JRC was ISO7205 accredited. Its activities included developing analytical methods, organising comparative testing, informing national reference laboratories, conducting training courses, evaluating methods, providing assistance to the Commission and collaboration with laboratories in developing countries. JRC had produced a range of outputs from its activities. The consortium arrangement could be extremely strong when consensus was required. It also improved practical experience, established working relationships and planning for emergencies. The involvement of stakeholders had advantages and disadvantages. One key issue was confidentiality as workshops might include discussion of particular events. The central reference laboratories were an integral part of European risk management and provided benefits to consumers, industry and the scientific community.

## DAY 2

### 13. Introduction to regulatory reform

- **The Netherlands**

In 2001, the Netherlands had introduced administrative fines for food safety issues. Criminal sanctions were still available but these were undertaken by the Criminal Prosecution Service. In 2001, a zero tolerance policy had been introduced, which excluded any compliance assistance. This had involved significant use of administrative fines. In the last five years, some 40,000 fines had been given, with a value of some €25 million. This had resulted in vociferous protests from businesses. Evaluation had shown that the criminal prosecution service was not effective in taking food safety prosecutions because they had higher priorities to address. Administrative fines however had proved inflexible and there was a wish to get a better balance between administrative fines and criminal prosecutions. The current aim was to introduce enforcement with "sense and sensibility". As a result, a new programme had been introduced which involved a number of considerations in determining the enforcement approach:

1. An assessment of the seriousness of the offence.
2. Consideration of the need for re-inspection.  
Where there were minor offences, there would no longer be an automatic administrative fine imposed followed by early re-inspection. The business would be required to agree to a remedial action plan and if this was accepted then it would be left to comply.
3. Development of compliance assistance.  
Research had shown that this was the most effective mechanism to deliver sustained compliance.
4. Proportionate use of enforcement measures.  
Where non-compliance was serious, effective deterrent mechanisms should be used such as criminal prosecution.
5. Close surveillance of repeat offenders.  
In cases where repeat offences have occurred ongoing monitoring would be instituted
6. Reduced inspection frequency where justified.  
For businesses that showed good histories of compliance a light touch inspection would be applied.
7. Charging for repeat inspections.  
Where there were repeated non-compliances, consideration would be given to charging the business for the control costs involved. Routine inspections would continue to be paid from the public purse.
8. Publication of policy decisions and inspection results.  
A move to transparency was ongoing and currently information was available on the trans fat content of cooking oils, on pesticide residues in vegetables and on HACCP in slaughterhouses.

Regulation 882 on official controls provided the tools to allow these changes to take place. Article 45 identified prescribed actions in cases of non-compliance. Currently, the Dutch food authority was acquiring powers for administrative enforcement and to ensure penalty payment. They were also developing policy and protocols for the implementation of Articles 19 and 54.

- **Belgium**

The Belgian food authority was currently devoting considerable time to the development of compliance assistance. This was mainly through the production of sector guides in partnership with the industry. Incentives to compliance were also being introduced e.g. for businesses that complied with the sector guides and had accredited auto-checking systems, would be inspected less frequently and would pay lower charges for official controls.

**Organisation of the controls**

The inspectorate had a range of powers to apply controls:

- A power of entry at any time to any relevant food business. However where a food business operated from domestic premises, then a judicial warrant was required.
- Access to all relevant documents whether paper or IT based
- Powers of interview, with assistance from the police where necessary
- Powers to sample food.

A graduated approach to enforcement was currently being taken. The first step would be a warning with a requirement for action within ten days. If this was not effective then a summons would be produced. A copy would be sent to the public prosecutor who would decide, within 30 days, whether any further inquiry was needed. If further information was not required the commissioner would levy an administrative fine within 2 months. Businesses had a 30 day period to appeal against the fine. If necessary the non-compliance could be referred back for prosecution

The system was advantageous as it reduced the need to go to court and shortened the time required to deal with non compliances. Each case could be dealt with in a period of four months or less. The new approach had resulted in a shift away from prosecution to the levying of administrative fines. This had also led to fewer appeals against enforcement decisions and increased the level of payment of fines. Greater flexibility had been introduced through the different levels of penalties, however there was a need to ensure any changes met the requirements of the hygiene legislation

- **Republic of Ireland**

In Ireland, national law introduced powers, offences and sanctions to give effect to the EU legislation. The food authority used a combination of enforcement and compliance building. Enforcement was usually through action in the criminal courts, very few administrative fines were levied. Compliance building was sometimes covered by the enforcement requirements of the Food Safety Authority Ireland Act 1998. However, there was some non-legislative compliance building. In general, the inspectors would work with businesses to educate and inform them about compliance requirements. The authority had some name and shame activities and these would be built upon further. There were also name and praise activities that operated in partnership with businesses.

**Administrative fines**

Some fixed penalty notices could be applied in relation to products of animal origin. For a minor offence, a fine of €100 could be levied with 28 days to pay. If payment was made then a prosecution would not be taken.

**Products of animal origin**

The food authority had powers to seize, remove, detain and destroy products. They could also require cessation of food processes and business closure. There were powers to deal with unfit food and withdrawal and recall. Approvals might also be suspended.

### **National legislation - Food Safety Authority Ireland Act 1998**

The Act gave additional powers e.g. to serve improvement notices where there were conditions likely to pose a risk to health. Use of improvement notices had reduced the number of prosecutions. If a business did not comply with an improvement notice, escalation to an improvement order could ensue. An improvement order would be issued by a district court, with additional time allowed for compliance. A closure order might also be imposed, which would have immediate effect. Prohibition orders might be applied where there was a serious risk from a particular batch of food. Businesses could appeal against orders but they remained in place during the appeal process. When a business breached a prohibition order the food authority would go to the higher court for action.

The name and shame approach was taken when notices and orders had been served. These were displayed on the Food Safety Authority Ireland website, where they remained for a period of time after the order had been lifted.

### **Legal proceedings**

On conviction by a district court, a fine of up to €5,000 per offence could be levied as well as six months imprisonment. Rights of appeal were available to businesses throughout.

### **Compliance building**

A number of specific projects on compliance building, such as packages to support HACCP implementation in small businesses were being developed. Pilot areas had shown that considerable improvements had been made through this approach. Guidance notes to support inspectors' activities had also been developed. Information, education and communication were key for all stakeholders. Guides to good hygiene practice had been produced with industry. There were also links to the provision of industry training.

### **Name and praise**

These approaches supported approval and quality assurance schemes. The inspectors in these schemes worked to quality management systems, mainly ISO9000. Laboratories were accredited to ISO17025 and veterinarians worked to standard operating procedures.

Transparency and information issues were currently under consideration, with a particular focus on the need to publicise inspection information.

- **United Kingdom**

At present the Food Standards Agency (FSA) was reviewing its enforcement strategy. Food control was delivered for the FSA by 468 local authorities who applied the legislation. The FSA had no general food control inspectorate. At present there was an inflexible enforcement approach, based on codes of practice issued by the FSA. There were a number of drivers for change currently and it had been identified that six issues needed to be considered:

1. The focus of enforcement and the type of approach.
2. Change in the 5 years since the creation of the FSA.
3. Outcomes achieved and the effectiveness of control activities.
4. Flexibility to allow local authorities to address both local and national requirements.
5. Effective use of resources and identification of priorities.
6. The use of evidence to direct approaches

The new enforcement vision was centred on maximising industry compliance, empowering consumers and providing better public protection.

It would include five elements:

1. Effective communication
2. Research to develop the evidence base
3. Development of skills for the future e.g. coaching, mentoring, behavioural change
4. Performance measurement to demonstrate improvement.
5. Effective use of resources - utilised on a risk assessment basis.

There was a need to move from inputs to outcomes. The whole strategy would be underpinned by a risk management matrix with a flexible menu of options, e.g. an intervention might be an inspection, naming and shaming or an educative approach. All interventions would need to be based on evidence of effectiveness and linked to technical guidance.

In the UK, there was considerable discussion about regulatory reform, which would have an effect on compliance tools. A review had been undertaken by Richard Macrory, which had considered the existing regulatory regime with the aim of modernising regulation and reducing reliance on the courts. This linked to a better regulation agenda that aimed to reduce burdens on business. The review had considered administrative penalties, differentiation between small and large businesses and the use of enforceable undertakings. Community service orders were under consideration as well as victim compensation. It had been identified that regulators should not make money from enforcement activities but they should be able to recover their costs. Restorative justice was also under consideration as well as a review of statutory notices. A compliance code for regulators would also be introduced.

The FSA Board had discussed a range of issues raised by the review. It was thought that there would be a role for administrative penalties e.g. for labelling offences, failure to register etc. There would be a need for variable penalties which could introduce more appeals. Restorative justice was not seen necessarily as applicable to food safety issues. There might be a role for tribunals but care would be needed to ensure that this would not introduce additional bureaucracy. A range of principles would be introduced in relation to penalties:

- Any penalty should drive improvements in offender behaviour.
- Any penalty should eliminate financial gains

There would a requirement to publish enforcement policies and outcomes would need to be measured rather than inputs. Enforcement would need to be justified and transparent and there should be no perverse incentives in any enforcement regime.

## **14. Update from the NAS Carabinieri**

### **Captain Sergio Tirrò, Head of Legal Affairs & International Relations Section**

The Carabinieri very much welcomed the opportunity to participate in FLEP and to meet with other food inspectors to share expertise and good practice. There was no single Italian food safety authority. The Minister of Health held the overall remit for food safety. NAS Carabinieri had responsibility for food and public health and reported to the Minister of Health. Food quality was within the remit of the Ministry of Agriculture. The Carabinieri also reported to the Ministry of Defence. There were 35 NAS Carabinieri units in Italy. Training was a particular an issue for NAS as inspectors came from the Carabinieri units, so they were not food specialists. There were a number of key tasks carried out by the NAS and these included sampling and product

seizure. The NAS remit was from field to table and as a consequence they would sample plants for residues, ingredients, feed and food. There were two branches within the Carabinieri - food and pharmaceuticals. The pharmaceutical branch covered medicines, counterfeiting, the illegal use of anabolic steroids, prophylactic medicines for animals, herbal remedies, control of drugs, narcotics and medical aids and devices. NAS Carabinieri could apply both administrative fines and undertake criminal investigations. NAS had found that there were some significant criminal activities in relation to food fraud. Investigation of a case of mozzarella contamination had revealed criminal networks behind the fraud.

Other issues addressed by NAS included olive oil counterfeiting, further investigation of which revealed the involvement of criminal organisations. NAS was well equipped as military investigators to address such criminal activities. NAS used intelligence to direct food monitoring activities e.g. wine bottling took place in November and offered opportunities for adulteration at that time. As a consequence, NAS focused on wine in November. Similarly NAS would look at panettone in December, when it was particularly in demand. Whilst NAS planned ahead to deal with such seasonal issues, it would divert its activities from routine monitoring when problems arose.

Alongside the activities of NAS, local authorities carried out some food sampling work but they did not carry out investigations. As a consequence of the involvement of a range of different bodies in food control it could sometimes be difficult to ensure that there was a consistent approach. This could be further complicated by the fact that some regional laws varied. There were no laboratories within NAS control. Laboratories were independent in order to provide objective results so as to avoid conflicts of interest in the case of prosecution.

NAS believed that co-operation and communication between food inspectors was extremely important. NAS would be very happy to work with FLEP in the future. NAS had good links with EFSA and would be happy to share information and interactions with EFSA regularly with FLEP.

## **15. Any other business**

A number of suggestions were made for new working group activities:

- Investigation of issues related to health claims.  
In particular this should involve consideration of the register of claims of existing products and the need for consistency about the type of claims.  
On discussion it was decided that as guidelines were expected in mid-2007 it would be more appropriate to address the issue later stage.
- Different approaches to controlling the presentation of food  
It was agreed that the initial approach would be to circulate a questionnaire to Member States. (UK lead)
- Assisting businesses to reduce the salt content of products.  
At the conclusion of discussions it was suggested that the UK (Trading Standards) should do a presentation on their work in this area at the next meeting.
- Commission analysis of multi annual national control plans and production of annual reports  
It was identified that there was a task force looking at this area within the Commission. It was suggested that the issue might be discussed further at the next meeting.

A range of issues had been identified by the Steering group for consideration:

- Primary production and approaches to enforcement.  
It was suggested that this might be addressed through a questionnaire. The UK would carry out a survey and bring the results to the next meeting.
- Handling of food incidents.

It was commented that there had been a number of large scale food incidents in recent times and that this might be an item for discussion at the next meeting. This was agreed by delegates.

- Food fraud and risk assessment.  
Food fraud appeared to be increasing across the member states. It was suggested that particular consideration might be given to the need to train inspectors in fraud investigation and inclusion of the likelihood of fraud when determining food business risk and frequency of inspection. This working group was supported by delegates and participation agreed from Republic of Ireland, Germany, the UK, Czech Republic and Italy. In the first instance, Ireland would set up an exploratory meeting.
- The Czech Republic raised the issue of training information and material for inspectors. A request for assistance had been made at previous meetings and the Netherlands had produced some training material for which the Czech Republic was very grateful, however, they would appreciate further assistance from FLEP members.
- The Commission continued to support the new Member States and the Czech food authority had funding for a project on capacity building and, in particular, the practical implementation of regulations 882, 852, and 178. If any FLEP members were interested in taking forward this work, the Czech food authority would be please to hear from them.

The Chairman confirmed that the next meeting would be held in Bratislava in the Slovak Republic. The date of the meeting would be 18/19 June 2007.

Delegates were asked if there were any countries that were willing to hold the 2008 meetings. Finland registered an interest but suggested that it would be more appropriate to hold the meeting in the summer. This would be discussed further by the steering group.

## **16. Chairman's closing remarks**

The Chairman thanked Belgium for an excellent meeting and the opportunities to explore Ghent. He thanked all the organisers for the smooth running of the event, wished everybody a safe journey home, thanked them all for their contributions and looked forward to seeing them in Bratislava in 2007.