

DRAFT

Mr W Daelman
European Commission
DG Sanco
Belliardstraat 232
1049 Brussels
Belgium

25th June 2003

Dear Mr Daelman,

OFFICIAL FOOD AND FEED CONTROLS

Further to our letter to you in January 2003, the European Food Law Enforcement Practitioners Forum has further discussed the most recent draft of the Official Food and Feed Control Regulations.

In this instance we would wish to make comments on three sections, Financing of Controls (Art 22, 26-29 and Art 40.4), Administrative assistance and Co-operation (Art 34-4) and Enforcement Measures (Sanctions) Art 5.1, Art 54 and 55 and Annex VI.

1. Financing of Controls

FLEP believe that there should be a “level playing field” for charging across the Community. It is clear that this is an area of some variation across the Community, some member states make charges others do not. FLEP believe that industry should meet costs that exceed “normal” enforcement costs and those costs should reflect the full cost of the inspection including all overheads and on costs. These charges will reflect the time spent on the extra enforcement activities which will then be greater for large enterprises. FLEP believes that fees should be harmonised across the Community for Import Controls. The current system for Products of Animal Origin works effectively. This could be extended to Non Animal Original products which are high or

medium risk. These products should be routed through Border Inspection Posts. In the case of other products of non-animal origin the importer should pay the full costs where products are found to be defective.

2. Administrative Assistance

Communication between member states needs to be managed with management criteria being carefully defined.

FLEP believes that member states Official Control Authorities should not normally need to attend inspections in another Member State except in exceptional circumstances.

Member states should apply the Home Authority Principle to dealings over complaints or infringements that affect products purchased in one Member State but produced in another.

FLEP believes the Commission should not use intervention powers except in exceptional circumstances where a Member State is failing significantly to tackle a problem effectively.

3. Enforcement Measures

FLEP believes activities listed in Article 54 should not be subject to delegation. It may be possible to delegate tasks but not responsibility or sanctions. FLEP support the scope of the sanctions listed in Art 54 with the “catch all” of other appropriate action being use to cover new or innovative measures. When such measures are used, they should be shared with other Member States so their wider application can be explored.

FLEP believes that Member States should ensure that food enforcement activity is independent of the political process. This may be of particular significance where control is the responsibility of local or regional government.

FLEP believes that the Commission should be kept informed by Member States of the penalties applied to food law offences but that Member States should retain the responsibility for setting and applying sanctions and penalties.

FLEP believes that the activities in Annex VI should be criminal activities. In some cases Administrative penalties could apply in some Member States but this would be unacceptable for other Member States.

4. Other Comments

FLEP is of the opinion that, once food is declared unfit for human consumption, it must be permanently removed from the food chain.

I hope you will find these comments helpful and if you would like discuss any of the points raised further, please contact the FLEP secretary, Mr Jan van Kooij.

Yours sincerely,

MARTIN WOLFS
Chairman FLEP