4 December 2003

*** REPORT

on the proposal for a European Parliament and Council Regulation on official feed and food controls

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Marit Paulsen
Symbols for procedures

* Consultation procedure
  majority of the votes cast
**I Cooperation procedure (first reading)
  majority of the votes cast
**II Cooperation procedure (second reading)
  majority of the votes cast, to approve the common position
  majority of Parliament’s component Members, to reject or amend
the common position
*** Assent procedure
  majority of Parliament’s component Members except in cases
  covered by Articles 105, 107, 161 and 300 of the EC Treaty and
  Article 7 of the EU Treaty
***I Codecision procedure (first reading)
  majority of the votes cast
***II Codecision procedure (second reading)
  majority of the votes cast, to approve the common position
  majority of Parliament’s component Members, to reject or amend
the common position
***III Codecision procedure (third reading)
  majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the
Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in **bold italics**. Highlighting in **normal italics** is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.
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By letter of 6 February 2003 the Commission submitted to Parliament, pursuant to Articles 251(2), 37, 95 and 152(4)(b) of the EC Treaty, the proposal for a European Parliament and Council regulation on official feed and food controls (COM(2003) 52 – 2003/0030(COD)).

At the sitting of 10 March 2003 the President of Parliament announced that he had referred the proposal to the Committee on the Environment, Public Health and Consumer Policy as the committee responsible and the Committee on Agriculture and Rural Development for its opinion (C5-0032/2003).


The committee considered the Commission proposal and draft report at its meetings of 17 June, 1 October, 3 and 27 November 2003.

At the last meeting it adopted the draft legislative resolution by 30 votes to 22, with 1 abstention.

The following were present for the vote: Caroline F. Jackson; chairman, Mauro Nobilia, Alexander de Roo and Guido Sacconi; vice-chairmen, Marit Paulsen; rapporteur, María del Pilar Ayuso González, Juan José Bayona de Perogordo (for Martin Kastler), Hans Blokland, Armonia Bordes (for María Luisa Bergaz Conesa), David Robert Bowe, John Bowis, Dorette Corbey, Raffaele Costa, Chris Davies, Véronique De Keyser (for Karin Scheele), Avril Doyle, Sáïd El Khadraoui, Anne Ferreira, Christel Fiebiger (for Mihail Papayannakis), Karl-Heinz Florenz, Pernille Frahm, Robert Goodwill, Françoise Grossetête, Cristina Gutiérrez Cortines, Jutta D. Haug (for Bernd Lange), Marie Anne Isler Béguin, Bashir Khanbhai (for Martin Callanan), Peter Liese, Torben Lund, Minerva Melpomeni Malliori, Patricia McKenna, Rosemarie Müller, Riitta Myller, Giuseppe Nisticò, Ria G.H.C. Oomen-Ruijten, Béatrice Patrie, Frédérique Ries, Didier Rod (for Hiltrud Breyer), Giacomo Santini (for Raquel Cardoso), Anne-Marie Schaffner (for Christa Klaß), Ursula Schleicher (for Marialise Flemming), Horst Schnellhardt, Inger Schörling, Jonas Sjöstedt, Maria Somosa Martínez, Dirk Sterckx (for Jules Maaten), Catherine Stihler, Robert William Sturdy (for Cristina García-Orcoyen Tormo), Astrid Thors, Antonios Trakatellis, Elena Valenciano Martínez-Orozco, Peder Wachtmeister, Phillip Whitehead.

The opinion of the Committee on Agriculture and Rural Development is attached.

The report was tabled on 4 December 2003.
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a European Parliament and Council regulation on official feed and food controls

(Codecision procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 52)¹,

– having regard to Articles 251(2), 37, 95 and 152(4)(b) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0032/2003),

– having regard to Rule 67 of its Rules of Procedure,

– having regard to the report of the Committee on the Environment, Public Health and Consumer Policy and the opinion of the Committee on Agriculture and Rural Development (A5-0449/2003),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

<table>
<thead>
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<tr>
<td>(1) Feed and Food should be safe and wholesome. Community legislation comprises a set of rules to ensure that this objective is attained. These rules extend to the production and the placing on the market of both feed and food.</td>
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¹ Not yet published in OJ.
Justification

It should be stressed once again that the main consideration must be that of not causing harm to health.

Amendment 2
Recital 8 a (new)

(8a) The Community framework for the organisation of official feed and food controls should encourage investment and innovation in food safety by rewarding good animal feed and food businesses.

Justification

The controls described in this directive reflect the general principles and rules of food law and are designed to guarantee safe food for consumers. This regulation should also encourage businesses to invest in food safety by rewarding good manufacturers with reduced inspection fees.

Amendment 3
Recital 13

(13) The frequency of official controls should be regular and proportionate to the risk, taking into account the results of the checks carried out by feed and food business operators under HACCP based control programmes or Quality Assurance Programmes, where these are designed to meet requirements of feed and food law. Where necessary, ad hoc controls must be carried out in case of suspicion of non-compliance with feed and food law.

(13) The frequency of official controls should be regular and proportionate to the risk, taking into account the results of the checks carried out by feed and food business operators under HACCP based control programmes or Quality Assurance Programmes, where these are designed to meet requirements of feed and food law. Ad hoc controls must be carried out in case of suspicion of non-compliance with feed and food law.

Additionally ad hoc controls may be carried out at any time, even where there is no suspicion of non-compliance.
Justification

*Ad hoc controls are necessary in every case suspicion of serious non-compliance with feed and food law.*

Amendment 4
Recital 22

(22) Appropriate procedures should be available for the co-operation of the competent authorities in and between the Member States, in particular when official controls reveal that feed and food problems extend to more than one Member State. **In order to facilitate such co-operation, Member States should designate one or more liaison bodies with the role of co-ordinating the transmission and reception of requests for assistance.**

Justification

*Creating additional liaison bodies to carry out tasks which are normally the job of government departments does not facilitate cooperation, but instead gives rise to unnecessary bureaucracy. Different levels of information have already been created. Setting up new liaison bodies is unnecessary.*

Amendment 5
Recital 30

(30) In order to ensure a more efficient organisation of the official controls on feed and food from third countries and in order to facilitate commercial flows, it may be necessary to designate specific points of entry for feed and food from third countries into the territory of the Community. Likewise, it may be necessary to require advance notice of the arrival of goods at the territory of the Community.

(30) In order to ensure a more efficient organisation of the official controls on feed and food from third countries and in order to facilitate commercial flows, it may be necessary to designate specific points of entry for feed and food from third countries into the territory of the Community. **It should be ensured that each designated point of entry has access to the appropriate facilities to operate controls within reasonable time limits.**
Justification

It is important that points of entry (ports) have the logistics and infrastructure to deal with these controls in order to avoid long delays which could have detrimental effect on goods from particularly the fresh produce sector.

Amendment 6
Recital 32

(32) Adequate financial resources should be available for organising official controls. **Where** for that purpose **fees are imposed** on feed and food business operators, common principles **should** apply. It is appropriate therefore to lay down the criteria for setting the level of inspection fees. With regard to fees applicable for import controls, it is appropriate to establish directly the rates for main import items with a view to ensure their uniform application and to avoid trade distortions.

(32) Adequate financial resources should be available for organising official controls. **Fees should be imposed** for that purpose fees on feed and food business operators, **in respect of which** common principles **should** apply. It is appropriate therefore to lay down the criteria for setting the level of inspection fees. With regard to fees applicable for import controls, it is appropriate to establish directly the rates for main import items with a view to ensure their uniform application and to avoid trade distortions.

Justification

Common rules must apply in a common market, otherwise competition between different countries and companies will be distorted.

Amendment 7
Recital 34

(34) In order to have a global and uniform approach with regard to official feed and food controls, Member States should establish and implement national control plans in accordance with broad guidelines elaborated at Community level. These guidelines should promote coherent national strategies, and identify risk-based priorities and the most effective control procedures. A Community strategy should take a comprehensive, integrated approach to the operation of controls.

(34) In order to have a global and uniform approach with regard to official feed and food controls, Member States should establish and implement national control plans in accordance with broad guidelines elaborated at Community level. These guidelines should promote coherent national strategies, and identify risk-based priorities and the most effective control procedures. A Community strategy should take a comprehensive, integrated approach to the operation of controls. **National control plans should be presented to the Commission for evaluation.**
Justification

Given the very detailed requirements imposed on Member States when elaborating the obligatory national control plans and the increased number of Community inspections carried out on the Member States' territories, stronger coherence between national plans is needed. Therefore, it is appropriate that these plans be submitted to the Commission for approval.

Amendment 8
Recital 35

(35) The national control plans should cover food law and feed law, and the legislation on animal health and animal welfare.

Justification

Control of the rules on labelling is an important condition for consumers' freedom of choice and security.

Amendment 9
Recital 39

(39) Community controls in third countries are required in order to verify compliance or equivalence with Community feed and food law as well as with the legislation on animal health. Third countries may also be requested to establish control plans similar to those intended for Member States, in respect of the feed and food exported by them. These plans, which should be established on the basis of Community guidelines, should form the basis for subsequent Commission controls, which should be carried out within a multidisciplinary framework covering the main sectors exporting to the Community. This evolution should allow a simplification of the current regime, enhance effective control co-operation, and consequently facilitate trade flows.
Justification

*Animal welfare is very much a public health issue and must therefore be covered by this regulation.*

Amendment 10
Recital 44

(44) Entrusting to judicial authorities, rather than to administrative authorities the task of imposing penalties, entails giving responsibility for investigating and enforcing the respect of animal health rules and feed and food law to authorities which are independent of those which grant exploitation licences.

Justification

*Animal welfare is very much a public health issue and must therefore be covered by this regulation.*

Amendment 11
Recital 46 a (new)

(46 a) Under article 19 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, and without prejudice to the provisions in articles 39-41, all business operators subject to control under this regulation should immediately alert the competent authorities of all known or suspected cases of irregularity, occurring at their operation, which could endanger food and feed safety.
Justification

These principles should apply only to food and feed controls within the meaning of Article 27 but not to the veterinary controls newly regulated under Article 26, which should be subject to EU-wide uniform fees in order to prevent distortion of competition between Member States.

Amendment 12
Recital 49, indent 9 a (new)

  Official Journal L 109, 06/05/2000 P. 0029 - 0042

Justification

It is important that official food and safety controls do not exclusively check for the compliance with feed and food safety legislation to protect consumer interests. Labelling legislation is equally important to be checked by the enforcement bodies and therefore the sole reference to safety legislation should be deleted under this Recital.

As rightly stated under Recital 3, the legislation should cover basic rules of specific feed law and food law and also cover different areas such as feed and food labelling. It is therefore important to make references to appropriate food and feed labelling legislation.

Amendment 13
Recital 49, indent 9 b (new)


Justification

It is important that official food and safety controls do not exclusively check for the
compliance with feed and food safety legislation to protect consumer interests. Labelling legislation is equally important to be checked by the enforcement bodies and therefore the sole reference to safety legislation should be deleted under this Recital. As rightly stated under Recital 3, the legislation should cover basic rules of specific feed law and food law and also cover different areas such as feed and food labelling. It is therefore important to make references to appropriate food and feed labelling legislation.

Amendment 14
Recital 49, indent 9 c (new)


Justification

It is important that official food and safety controls do not exclusively check for the compliance with feed and food safety legislation to protect consumer interests. Labelling legislation is equally important to be checked by the enforcement bodies and therefore the sole reference to safety legislation should be deleted under this Recital. As rightly stated under Recital 3, the legislation should cover basic rules of specific feed law and food law and also cover different areas such as feed and food labelling. It is therefore important to make references to appropriate food and feed labelling legislation.

Amendment 15
Article 1, paragraph 1, point (b)

(b) protect consumer interests, including those with regard to consumer information. (b) protect consumer interests, including feed and food labelling and other forms of consumer information.

Justification

Simply consumer information does not necessarily cover all the detailed rules of feed and food labelling, therefore it is important to include this specifically in the subject matter and the scope of this legislation.
Amendment 16
Article 1, paragraph 1, point (b a) (new)

(ba) encouraging investment and innovation in food safety by rewarding good animal feed and food businesses.

Justification

The controls described in this directive reflect the general principles and rules of food law and are designed to guarantee safe food for consumers. This regulation should also encourage businesses to invest in food safety by rewarding good manufacturers with reduced inspection fees.

Amendment 17
Article 1, paragraph 1, point (b a) (new)

(ba) ensure full compliance with Community legislation on feed and food.

Or. en

Justification

Self-explanatory.

Amendment 18
Article 3, paragraph 1, introductory part

Member States shall organise official controls on a regular basis and with a frequency appropriate to achieve the objectives of the present Regulation, taking into account:

Member States shall organise official controls on the basis of a risk assessment of the businesses to be inspected and controlled and with a frequency appropriate to achieve the objectives of the present Regulation, being at least once per business per year, taking into account:

Justification

It is extremely impractical and undesirable to inspect all businesses. Firms and manufacturers that present a food safety risk should be inspected more frequently. Similarly, firms that have a good food safety record and present a lower risk can be inspected less frequently. This would create an incentive for investment in food safety, as described in Amendment 16; required for uniformity and reliability of controls.
Amendment 19
Article 3, paragraph 1, point (b)

(b) the experience and knowledge gained from previous controls; (b) the experience and knowledge gained from previous controls and the problems, shortcomings or risks identified;

Justification
It is extremely impractical and undesirable to inspect all businesses. Firms and producers that present a food safety risk should be inspected more frequently. Similarly, firms that have a good food safety record and present a lower risk can be inspected less frequently. This would create an incentive for investment in food safety, as described in Amendment 16.

Amendment 20
Article 3, paragraph 1, point (d)

(d) suspicion of possible non-compliance. (d) suspicion of possible non-compliance and the operator’s past record regarding compliance with feed or food legislation.

Justification
Monitoring more closely these operators with a poor record of compliance is a necessary task for the competent authorities.

Amendment 21
Article 3, paragraph 3

3. Official controls shall be carried out at any stage of production, processing and distribution of feed and food. They shall include controls on feed and food businesses, on the use of feed or food, on any process, material, substance, activity or operation applied to feed and food and, where relevant for achieving the objectives of this Regulation, on live animals and plants.

3. Official controls shall be carried out at any stage of production, processing and distribution of feed and food. They shall include controls on feed and food businesses, on the use of feed or food, on any process, material, substance, activity or operation applied to feed and food for achieving the objectives of this Regulation, on live animals and plants. In the case of compound feed businesses, the competent authority shall ensure that a control of the entire production process is carried out.
Justification

Expressions like "where relevant" leave room for interpretation amongst the Member States and could therefore lead to differing inspection standards under this legislation. All major food crises in the past involved the feed sector (BSE, dioxin, MPA, nitrofen, etc.). There is therefore a need not only to carry out random checks on the controls conducted by compound feed businesses themselves but also to extend official controls in those businesses to the entire production process, if necessary, through the permanent presence of an official inspector (as with slaughterhouses).

Amendment 22
Article 3, paragraph 3

3. Official controls shall be carried out at any stage of production, processing and distribution of feed and food. They shall include controls on feed and food businesses, on the use of feed or food, on any process, material, substance, activity or operation applied to feed and food and, where relevant for achieving the objectives of this Regulation, on live animals and plants. Systematic process controls following the rules foreseen by regulation 2092/91 on organic farming shall be carried out through the whole food and feed chain.

Justification

In addition to controls of the final product, more emphasis must be placed on process control. The organic farming sector has gained good consumer confidence, mainly due to the consumers’ trust in an effective process control system.

Amendment 23
Article 4, paragraph 1

1. Member States shall designate the competent authorities responsible for the purposes and official controls set out in this Regulation.

1. Member States shall designate and publish a list of the competent authorities responsible for the purposes and official controls set out in this Regulation.
Justification

Food and feed business operators have to be informed and aware of their interlocutors.

Amendment 24
Article 4, paragraph 2, point (f a) (new)

(fa) they must ensure effective coordination between their activities and the work of other central authorities in the field of environmental and health protection.

Justification

Problems in the public health sector are best tackled by a multi-disciplinary and cross-disciplinary approach. Food safety is no exception.

Amendment 25
Article 4, paragraph 3

3. Where a central competent authority has conferred the competence to carry out official controls to another authority or authorities, in particular those at regional or local level, there shall be effective and efficient co-ordination between or among the central competent authority and the authority or authorities to which that competence has been conferred.

The quality and uniformity of the controls shall be ensured at all levels at which the competent authorities are operating.

3. Where a central competent authority has conferred the competence to carry out official controls to another authority or authorities, in particular those at regional or local level, there shall be effective and efficient co-ordination between or among the central competent authority and the authority or authorities to which that competence has been conferred. The criteria listed in paragraph 2 must be fully respected by every authority on which the competence to carry out official controls is conferred.

The quality and uniformity of the controls shall be ensured at all levels at which the competent authorities are operating. The central competent authority shall ensure the harmonisation or centralisation of all data bases relevant for the purpose of this directive.
Justification

All authorities, including those at regional or local level, have to be efficient, impartial and free from any conflict of interest. Data bases should be centralised or harmonised in order to ensure efficiency.

Amendment 26
Article 4, paragraph 3, subparagraph 2

The quality and uniformity of the controls shall be ensured at all levels at which the competent authorities are operating.

Justification

The impartiality requirement (see recital 11 of the Commission’s proposal) is the key to effective control and a condition of consumer confidence.

Amendment 27
Article 5, paragraph 4

4. Any Member State wishing to delegate a specific control task to a control body shall notify the Commission and the other Member States. This notification shall provide detailed description of:
(a) the task to be delegated;
(b) the body to which the task will be delegated.

Member States shall have three months from the receipt of a notification to send written comments to the Commission. The Commission may - and, when it receives written comments from one or more Member States, shall – consult Member States within the committee referred to in Article 62(1). The Commission may decide, in accordance with the procedure referred to in Article 62(3), whether the measure may be implemented subject to, if necessary, appropriate amendments.
**Justification**

Delegation of control tasks is subject to strict rules and should only be notified to the Commission. Involvement of the other Member States would prolong the notification process. This is undesirable, since such measures often have to be implemented quickly.

**Amendment 28**

Article 7, paragraph 1 a (new)

*This provision, however, shall not affect the ability of competent authorities in the Member States to disseminate such information as is necessary to prevent a serious risk to human health, animal health and the environment.*

**Justification**

Corresponds to the rule in Directive 95/53/EC, which is repealed by this regulation. The principle of maximum transparency must nevertheless always apply.

**Amendment 29**

Article 8, paragraph 1

1. Official controls by the competent authority shall be carried out in accordance with documented procedures. This documentation shall contain information and instructions for staff performing official controls including *inter alia* the areas referred to in Annex II, Chapter II.

1. Official controls by the competent authority shall be carried out in accordance with documented procedures. This documentation shall contain information and instructions for staff performing official controls including *inter alia* the areas referred to in Annex II, Chapter II and should, upon request, be made available to operators, subject to control.

**Justification**

Enabling business operators to access the documented control procedures will improve the transparency of the proposed measures.

**Amendment 30**

Article 8, paragraph 2 a (new)

2a. Official controls may be carried out at any stage of production, processing or
marketing of food and feed products without prior notification and on an ad hoc basis.

Justification

Where this is considered necessary, the official controllers should also have the possibility of inspecting undertakings without any suspicion of non-compliance and without prior notification.

Amendment 31
Article 9, paragraph 2

2. The competent authority shall establish reports of the official controls that have been carried out. These reports shall at least include a description of the purpose of the official control, the control methods that have been applied, the results of the official controls and where appropriate the corrective action to be taken by the feed or food business concerned. These reports shall be submitted to those who have been the subject of the controls.

Justification

Maximum transparency is a condition of consumer confidence.

Amendment 32
Article 10, point (b)

(b) Inspection of feed and food businesses and their surroundings, premises, offices, equipment, installations, machinery as well as of feed and food.

(b) Inspection of the entire feed and food chain, as well as feed and food businesses and their surroundings, premises, offices, equipment, primary producer installations, machinery, transport, feed and food.
Justification

Clarification that the entire feed and food chain is covered by the regulations’ rules on controls.

Amendment 33
Article 10, point (d)

(d) Assessment of the procedures on good manufacturing practices (GMP), good hygiene practices (GHP) and HACCP, taking into account the use of guides established for that purpose.

Justification

The regulation must take a global approach. The entire feed and food chain must be covered by controls and good practices are an important tool for small and medium-sized businesses which cannot/should not comply with the HACCP principle.

Amendment 34
Article 10, last subparagraph (new)

Official controls should be based on the relevant maximum limits for the presence of residues. If there are no Community maximum limits, Member States may set their own maximum limits. Member States shall immediately notify the Commission thereof. At the request of a Member State or a producer or importer, the European Food Safety Authority shall set Community maximum limits for food safety.

Justification

In the absence of Community maximum limits, the Scientific Committee should be able to set limits to prevent a risk to public health and to prevent distortions of the internal market because of different rules.
Amendment 35
Article 11, paragraph 4

4. The methods of sampling and analysis to be applied for ensuring compliance with feed and food law, including the reference methods to be used in the case of dispute and the acceptance criteria for such methods, may be laid down in accordance with the procedure referred to in Article 62(3).

5. Feed and food business operators, whose products are subject to sampling and analysis, may apply for a second opinion. This implies that a sufficient number of samples, taken under identical conditions, are taken so as to provide feed and food business operators with a counter sample. However, this right shall not prejudice the obligation of the competent authorities to take prompt action in case of emergencies.

Justification

Greater legal security for the businesses concerned.

Amendment 36
Article 11, paragraph 5

5. Feed and food business operators, whose products are subject to sampling and analysis, may apply for a second opinion. This implies that a sufficient number of samples, taken under identical conditions, are taken so as to provide feed and food business operators with a counter sample. However, this right shall not prejudice the obligation of the competent authorities to take prompt action in case of emergencies. Food and feed business operators shall not be obliged to bear the costs of control activities that exceed normal monitoring once compliance with food and feed law has been proven.

Justification

The costs referred to include the carrying-out of controls exceeding the normal monitoring activity and also costs due to action taken by the competent authorities. These financial losses should not be borne by the food and feed business operator as bearing these costs where not
justified may jeopardise the continuation of his business.

Amendment 37
Article 15, paragraph 1, subparagraph 1

The competent authorities shall proceed to regular official controls of feed and food of non-animal origin not covered by Directive 97/78/EC, imported into the territories referred to in Annex I. These controls shall be organised using a plan established on the basis of potential risks and shall include any aspect of feed and food law.

The competent authorities shall ensure that every shipment of feed and food imported into the territories referred to in Annex I is subject to official controls. These controls shall be organised using a plan established on the basis of potential risks and shall include any aspect of feed and food law.

Justification
Due to the number of serious problems linked to the safety of imported products, it is appropriate to undertake systematic controls of every incoming shipment. These regular controls should be also be mandatory for food of animal origin.

Amendment 38
Article 15, paragraph 1, subparagraph 1

The competent authorities shall proceed to regular official controls of feed and food of non-animal origin not covered by Directive 97/78/EC, imported into the territories referred to in Annex I. These controls shall be organised using a plan established on the basis of potential risks and shall include any aspect of feed and food law.

The competent authorities shall proceed to regular official controls of feed and food of non-animal origin not covered by Directive 97/78/EC, imported into the territories referred to in Annex I. These controls shall be organised using a plan established on the basis of potential risks which shall include any aspect of feed and food law and be made available to concerned operators upon request.

Justification
Goods to be delivered directly to third countries should not be submitted to official controls according to Community legislation. Business operators who are concerned should be allowed access to the plan used by the competent authorities.

Amendment 39
Article 15, paragraph 2, subparagraph 1

2. The controls referred to in paragraph 1 shall include at least a documentary check

2. The controls referred to in paragraph 1 shall include at least a documentary check,
and, as appropriate, an identity check and a physical check.

Justification

An identity check and a physical check must always be carried out.

Amendment 40
Article 15, paragraph 3

3. In accordance with the procedure referred to in Article 62(3), a list shall be drawn up of feed and food of non-animal origin, that on the basis of known risks shall be subject to an increased level of official controls at the point of entry into territories referred to in Annex I. The frequency and the nature of these controls shall also be laid down in accordance with the procedure referred to in Article 62(3).

The list shall be made available to concerned operators upon request.

Justification

In order to guarantee transparency, the risk list should be accessible to concerned operators.

Amendment 41
Article 15, paragraph 3 a (new)

3a. In accordance with the procedure laid down in Article 62(3), a list shall be drawn up of feed and food businesses that comply with the import conditions laid down in Articles 47 to 49 but which are established in third countries that do not comply with the import conditions set out in Articles 47 to 49 or which come under the exceptional arrangements referred to in Article 50(a) and (fa). These feed and food businesses may market their products in the territories listed in Annex I.

The competent authorities shall ensure the regular inspection of foodstuffs and
businesses from the third countries referred to in this article.

Justification

A good business from a non-member country that does not comply with EU rules should not be prevented from exporting to the EU. It should therefore be possible to allow individual businesses that have invested in food safety to EU standards access to the internal market. A policy of this kind would have an encouraging effect on other businesses in non-member countries which do not yet comply with all EU rules. It would also encourage the authorities in non-member countries to bring their systems up to standard so that all their manufacturers could gain access to the EU for their products.

Amendment 42
Article 16, subparagraph 1

To the extent strictly necessary for the organisation of the controls referred to in Article 15(3) and for the controls of feedingstuffs, the Member States may designate particular points of entry in their territory for the various types of feed and food products. They shall inform the Commission and the other Member States thereof. These measures shall be designed in such a way as to avoid unnecessary disruption of trade.

Justification

It is important that points of entry (ports) have the logistics and infrastructure to deal with these controls in order to avoid long delays which could have detrimental effect on goods from particularly the fresh produce sector.

Amendment 43
Article 17, subparagraph 1

Where it is suspected that feed law or food law have not been complied with or where there is doubt as to the identity or the actual destination of the consignment, the competent authority shall carry out any control that it deems appropriate in order to confirm or rule out the suspicion.

Where it is suspected that feed law or food law have not been complied with or where there is doubt as to the identity or the actual destination of the consignment, the competent authority shall carry out controls in order to confirm or rule out the suspicion.
Justification

Any control carried out by the competent authorities should be strictly in keeping with the established legal framework. The expression "the competent authority shall carry out any control that it deems appropriate" is vague and leaves the door open for arbitrary actions by the competent authorities. Therefore the expression "that it deems appropriate" should be deleted.

Amendment 44
Article 18, subparagraph 1

Feed or food from third countries not complying with feed and food law may be seized or confiscated, and shall be destroyed, submitted to a special treatment in accordance with Article 20, or re-dispatched outside the Community in accordance with Article 21. Where necessary, products shall be recalled following importation.

Amendment 45
Article 19, subparagraph 2

If the official controls provided for in Articles 14 and 15 indicate that a consignment is likely to have adverse effects on human or animal health, the competent authority shall seize and destroy the consignment in question, or take any other appropriate measure necessary to protect human and animal health.

Justification

This wording seeks to ensure that feed or food not complying with feed and food law will in all cases be seized or confiscated.

Justification

Need to make the requirements consistent with Article 12 of the general food law (Regulation
Re-dispatch shall take place within a maximum time limit of 60 days from the day the decision has been submitted to the feed or food business operator, where this is not precluded by the results of the control. If and when the person responsible for the load gives his agreement, or if re-dispatch is found impossible after 60 days on the basis of the control results, the consignment shall be destroyed.

Re-dispatch shall take place within a maximum time limit of 60 days, unless legal actions have been undertaken from the day the decision has been submitted to the feed or food business operator, where this is not precluded by the results of the control. If and when the person responsible for the load gives his agreement, or if re-dispatch is found impossible after 60 days on the basis of the control results, the consignment shall be destroyed.

Justification

Duplication of controls should be avoided by all means, especially when the product is time-sensitive. It is not clear how the sanitary - phytosanitary, plant health and residues controls - will relate to the controls provided for in the Regulation. If indeed the duplication of controls has to take place, a "fast track" procedure should be provided for in the Regulation in order to deal with fresh, perishable products.

Amendment 47
Article 21, paragraph 3

Pending re-dispatch of consignments or confirmation of the reasons for rejection, the competent authorities shall keep the consignments in question under their supervision.

Pending re-dispatch of consignments or confirmation of the reasons for rejection, the competent authorities shall keep the consignments in question under their supervision. However, where there is a well-founded suspicion that direct danger to human or animal health cannot be excluded, the consignment shall be destroyed immediately.

Justification

The possibility must be left open, where there is exceptional danger to humans and animals, of destroying a consignment without the permission of the country of production and before
the 60-day period has elapsed.

Amendment 48
Article 23, paragraph 5

5. Where border controls reveal significant irregularities, Member States shall immediately inform the Commission and the other Member States, increase the number of consignments checked in accordance with this Article and where necessary to allow a proper analytical examination of the situation, keep an appropriate number of samples under appropriate storage conditions.

Justification

Operators have a legitimate interest in receiving this information at the earliest possible stage.

Amendment 49
Article 24, subparagraph 3

Where samples are taken, the competent authority shall inform the customs services and indicate whether or not the goods can be released prior to the results of the analysis of the samples being available.

Justification

Operators have a legitimate interest in receiving this information at the earliest possible stage. Competent authorities should like business operators be held accountable and liable for wrong decisions.

Amendment 50
Article 26, subparagraph 1

Member States shall ensure that adequate financial resources are made available for official controls.

Member States shall ensure that adequate financial, staff and material resources are made available for official controls.
**Justification**

*It is very important that businesses should be involved in food safety. It should therefore be financially rewarding to invest in continuous risk reduction thereby improving food safety. Businesses that present a lower risk should see a return in reduced fees for inspections and controls.*

**Amendment 51**

**Article 28, introductory part**

*Where for the purpose of Article 26 fees are imposed to feed and food business operators,* the following principles shall apply:

*To achieve the objective of Article 26, fees shall be charged to individual feed and food businesses. Investments in food safety shall be rewarded with reduced fees.*

*These fees shall be calculated on the basis of*

* (a) a risk categorisation established in accordance with the procedure referred to in Article 62(3);*

* (b) the turnover of the businesses; and*

* (c) the cost to the competent authority based on the Member States’ annual reports drawn up in accordance with Article 44.*

*The fee shall be calculated as a proportion of the turnover of the businesses, grouped according to risk category. The fees in Member States may not differ by more than 10% from the average within the Community.*

*The Commission shall calculate this average on the basis of the Member States’ annual reports for the last two years.*

*The following principles shall apply:*
Article 28, point (a)

(a) the following expenses are eligible for calculating the fees:

(i) staff salaries;
(ii) travel and associated costs;
(iii) laboratory and sampling costs;

Justification

Clarification of which salary costs are covered. Expenses eligible for the calculation of control fees should be restricted to those actually linked with the carrying-out of the controls.

Amendment 53
Article 28, point (a), number (iii) a (new)

(iii) All fixed costs relating to official controls pursuant to this regulation

Justification

The businesses affected should of course pay for the controls.

Amendment 54
Article 29 a (new)

Article 29a

The Commission shall monitor the imposition of fees as provided for in articles 26-29. The Commission shall adopt such measures as are necessary in order to ensure that the imposition of fees is not trade distorting or otherwise incompatible with the internal market.

Justification

Formal monitoring by the Commission seems essential to ensure proper functioning of the
system proposed, coherence of the Member States' implementation and necessary harmonisation.

Amendment 55
Article 31, paragraph 2, subparagraph 4

In establishments starting up their activities, the competent authority shall grant an initial approval if it appears from an on-the-spot control that all of the infrastructure and equipment requirements are adhered to and that operational procedures such as the HACCP system are in place.

In establishments starting up their activities, the competent authority shall grant a provisional approval if it appears from an on-the-spot control that all of the infrastructure and equipment requirements are adhered to and that operational procedures such as the HACCP system are in place. The period of validity of the provisional approval shall be fixed by the competent authority and may not be extended.

Justification

The period that elapses before final approval is granted may be dependent upon the type of establishment, the volume of production and the infrastructure. For this reason the period cannot be laid down in general terms. It should be left to the official authority responsible for the establishment to determine the period. It would also be possible to lay down a maximum period. However, in the case of the regulation laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, the European Parliament opted for the approach of restricting the arrangement to a single extension or period before final approval was granted. This amendment is therefore intended to ensure compatibility with the European Parliament’s proposal.

Amendment 56
Article 31, paragraph 2, subparagraph 5

A final approval can only be granted if it appears from a new on-the-spot control carried out within three months after the initial approval has been given that all requirements of relevant feed and food law are complied with.

A final approval can only be granted if it appears from a new on-the-spot control after the period of validity of the provisional approval laid down by the official authority that all requirements of relevant feed and food law are complied with.

Justification

The period that elapses before final approval is granted may be dependent upon the type of
establishment, the volume of production and the infrastructure. For this reason the period cannot be laid down in general terms. It should be left to the official authority responsible for the establishment to determine the period. It would also be possible to lay down an maximum period. However, in the case of the regulation laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, the European Parliament opted for the approach of restricting the arrangement to a single extension or period before final approval was granted. This amendment is therefore intended to ensure compatibility with the European Parliament’s proposal.

Amendment 57
Article 31, paragraph 2, subparagraphs 4 and 5

In establishments starting up their activities, the competent authority shall grant an initial approval if it appears from an on-the-spot control that all of the infrastructure and equipment requirements are adhered to and that operational procedures such as the HACCP system are in place.

A final approval can only be granted if it appears from a new on-the-spot control carried out within three months after the initial approval has been given that all requirements of relevant feed and food law are complied with.

Justification

To restrict administrative costs, an expensive scheme with initial and final approval should be discarded. Final approval should be granted directly. However, the new control after three months should be retained. If the conditions checked three months after approval are no longer met, the approval may be withdrawn.

Amendment 58
Article 31, paragraph 2, subparagraph 6

The competent authorities shall keep up-to-date the list of the establishments that are approved or registered and make it available for the other Member States and to the public.
As primary responsibility for food safety rests with operators they should be able to check whether their suppliers are registered or approved as required.

Amendment 59
Article 34, paragraph 3

3. Articles 35 to 41 shall not prejudice national rules applicable to the release of documents which are the object of, or are related to, court proceedings, nor rules aimed at the protection of commercial interests of natural or legal persons.

3. Articles 35 to 41 shall not prejudice national rules applicable to the release of documents which are the object of, or are related to, court proceedings, nor rules aimed at the protection of commercial interests of natural or legal persons if those interests are likely to be prejudiced should the information be disclosed.

Justification

Maximum transparency is a condition of consumer confidence.

Amendment 60
Article 41, paragraph 2

2. If the sending Member State indicates that the information contains data whose disclosure could undermine the protection of commercial interests of a natural or legal person, the receiving Member State shall undertake not to disclose the information without the prior consent of the sending Member State. If it is not possible for the receiving Member State to give such undertaking, it shall not be contrary to the terms of this Regulation for the sending Member State to withhold it.

deleted

Justification

Maximum transparency is a condition of consumer confidence.
Amendment 61
Article 41 a (new)

For the purpose of evaluation, as referred to in article 42, of the first multiannual control plan from each Member State submitted under this Regulation, the Commission shall set up a temporary task force.

Justification

Evaluation of new, multiannual control plans from 15 Member States and 10 acceding countries will be extremely resource-demanding and will jeopardise the control and inspection duties by the relevant Community bodies, unless a special task force is created with the purpose of evaluating control plans.

Amendment 62
Article 42, paragraph 1

1. For the implementation of Article 17(2) of Regulation (EC) No 178/2002 and of Article 45 of this Regulation, Member States shall within six months after the entry into force of this Regulation prepare an integrated multi-annual national control plan. National control plans shall:

(a) be maintained by the Member States and presented to the Commission upon request; and

(b) be implemented for the first time one year after the entry into force of this Regulation at the latest.

Justification

The present regulation requires a complex implementation procedure in the Member States.

1. For the implementation of Article 17(2) of Regulation (EC) No 178/2002 and of Article 45 of this Regulation, Member States shall, no earlier than six months before and no later than one year after the entry into force of this Regulation prepare an integrated multi-annual national control plan. National control plans shall:

(a) be maintained by the Member States and submitted to the Commission not later than one year after the entry into force of this Regulation. Within three months, the Commission shall appraise the proposed plans to determine whether they are consistent with this Regulation. The Commission shall approve amendments to national control plans.

(b) be implemented for the first time eighteen months after the entry into force of this Regulation at the latest.
More time is needed in order for this implementation to be successful. Given the very detailed requirements imposed on Member States when elaborating the obligatory national control plans and the increased number of Community inspections carried out on the Member States' territories, stronger coherence between national plans is needed. Therefore, it is appropriate that these plans be submitted to the Commission for approval.

Amendment 63
Article 42, paragraph 2, point (aa) (new)

(aa) the risk categorisation of the activities and companies concerned;

Justification

This is a way to encourage companies to invest in food safety, while at the same time enhancing the control of those who do not fulfil the requirements.

Amendment 64
Article 42, paragraph 3a (new)

3a.(a) Without prejudice to the other Articles of this regulation, the Commission may prohibit the release onto the market of products and ingredients covered by this regulation where those products or ingredients originate from a Member State which does not have a national control programme within the meaning of this Article.

(b) Special exemptions from point (a) above may be granted for specific named feed and food businesses in accordance with the procedure laid down in Article 62(2).

Justification

Replaces amendment 19 of the draft report. Puts the power, as appropriate, in the hands of the Commission, not the respective Member States.
Amendment 65
Article 43, paragraph 1, point (b a) (new)

(ba) lay down criteria for the risk categorisation of the activities and companies concerned, including rules for upgrading and downgrading;

Justification

This is a way to encourage companies to invest in food safety, while at the same time enhancing the control of those who do not fulfil the requirements. For example, a farm or a shop which has passed the last inspection(s) with flying colours could be downgraded to a lower risk category, and would therefore have to pay less for the inspections.

Amendment 66
Article 44, paragraph 1, point (b)

b) results of controls and audits conducted in the previous year under the provisions of the national control plan; b) results of controls and audits conducted in the previous year under the provisions of the national control plan and the costs of those controls and audits, grouped according to risk category;

Justification

This information is required in order to calculate the control fees (see Amendment 16).

Amendment 67
Article 44, paragraph 1, point (b a) (new)

(ba) the risk categorisation made of the activities and companies concerned;

Justification

This is a way to encourage companies to invest in food safety, while at the same time enhancing the control of those who do not fulfil the requirements.
Amendment 68
Article 44, paragraph 1

Annual reports

1. One year after starting the implementation of the national control plans, and subsequently every year, the Member States shall submit to the Commission a report indicating:

(a) an update of the initial national control plan in relation to the factors referred to in Article 42(3);

(b) results of controls and audits conducted in the previous year under the provisions of the national control plan;

(c) the type and number of infringements that have been established;

(d) the actions to ensure the effective operation of the national control plans, including enforcement actions and their results.

In order to ensure a uniform presentation of this report and in particular of the results of official controls, this information shall be drawn up in accordance with guidelines to be adopted in accordance with the procedure referred to in Article 62(2).

This report shall be established within four months of the end of the year to which the report relates and shall be sent to the Commission.

The report shall be made available to the public by the competent authority without delay by online publishing and other means.
Yearly reports will not restore public confidence, since they are published too late after the end of the period they cover. Consumers will often have to wait for more than one year in order to know if the products they use are dangerous. Moreover, criticism raised in yearly reports is likely be discarded by the authorities who may claim that errors have already been corrected. In order to be reassuring for the citizens, reporting should take place on a three monthly basis. The public should be granted access to information concerning the identity of food and feed legislation offenders in order to be able to make informed choices between the various operators in the market. In order to enable consumers to make an informed choice, detailed information about operators who do not respect food and feed law must be published.

Amendment 69
Article 44, paragraph 1, point (c a) (new)

\textit{(ca) the penalties imposed for non-compliance;}

Amendment 70
Article 44, paragraph 2

2. In the light of the reports referred to in paragraph 1, the outcome of Commission controls in the Member States and any other relevant information, the Commission shall establish a report on the overall operation of the official control systems in the Member States. It may, where appropriate, include recommendations on:

This report shall also contain an analysis of:
- differences between Member States with regard to the penalties imposed;
- differences between Member States in funding official controls;
- possible shifts in flows of goods from third countries from one point of entry into the EU to another.

It may, where appropriate, include recommendations on:
The Commission’s analysis clearly has to take account of any differences between Member States from the point of view of penalties and fees as these may result in unfair competition and shifts in trade flows. The latter may be an indication that checks are not being carried out equally stringently at all points of entry. On the basis of this vital information, the policy can be adjusted if necessary.

Amendment 71
Article 44, paragraph 2, subparagraph 3

This report shall be submitted to the European Parliament and the Council.

Justification

Maximum transparency is a condition of consumer confidence.

Amendment 72
Article 45, paragraph 1a (new)

1a. The Commission experts or the experts designated by the Commission may, in addition, carry out controls without prior warning at any stage of the production, processing and distribution of feed and food in the Member States.

Justification

Should they consider it necessary, the Commission inspectors should also be able to carry out controls on feed and food businesses independently and without prior warning.

Amendment 73
Article 45, paragraph 2, introductory part

2. The general audits may be supplemented by specific audits and inspections covering one or more specific areas. These specific audits and inspections shall in particular serve to:

2. The general audits may be supplemented by specific audits and inspections covering one or more specific areas. These specific audits and inspections shall as a rule be carried out without prior warning and in particular serve to:
Justification

In line with current EU legislation. See also Article 3, paragraph 2, of the Commission's proposal.

Amendment 74
Article 50, point (f a) (new)

(fa) the import conditions for third countries, set out in Title VI, Chapter II, shall not enter into force fully until it has been established that the necessary technical assistance referred to in Article 50(b) to (f) has been provided.

Justification

Developing countries must be given technical assistance to enable them to comply with Community food safety legislation. A deferment may be granted but not at the expense of food safety.

Amendment 75
Article 51, paragraph 1, point (a)

(a) Community feed and food law; (a) Community feed and food law including animal health and animal welfare;

Justification

In order to improve the quality of controls on animal health and animal welfare, it is necessary to include these fields in the training programmes for staff of the competent authority.

Amendment 76
Article 55, paragraphs 2 and 3

2. For the purpose of paragraph 1, the activities referred to in Annex VI shall be criminal offences when committed

deleted
intentionally or through serious negligence, insofar as they breach rules of Community feed and food law or rules adopted by the Member States in order to comply with such Community law.

3. The offences referred to in paragraph 2 and the instigation to or participation in such offences shall, as for natural persons, be punishable by sanctions of criminal nature, including as appropriate deprivation of liberty, and, as for legal persons, by penalties which shall include criminal or non-criminal fines and may include other penalties such as exclusion from entitlement to public benefits or aid, temporary or permanent disqualification from engaging in business activities, placing under judicial supervision or a judicial winding-up order.

Justification

The proposal for a regulation is based on the first pillar of the Treaty, while Article 55(2) and (3) relate to the third pillar. The Community cannot therefore require the Member States to apply criminal penalties. This legal misunderstanding in the Commission text should therefore rightfully be deleted.

Amendment 77
Article 65, paragraph 1, point (-a) (new)

(-a) the recruitment of Commission experts as referred to in Article 45

Justification

In order to strengthen official controls, it is necessary to provide Community appropriations for a sufficient number of Commission experts.

Amendment 78
Article 66, paragraph 3

However, Article 55 paragraphs 2 and 3 shall apply from 1 July 2006.

However, Article 55 paragraphs 2 and 3 shall apply from 1 July 2006, and Article 28 shall apply from 1 January 2007.
Justification

The new fee system proposed in Amendment 51 can only enter into force two years after the Member States' reporting requirement has commenced (1 January 2005), since the Union's average control fees are to be calculated on the basis of the last two years' reports.

Amendment 79
Annex V, point 6 a (new)

6a. Community reference laboratory for GMOs.

The laboratory referred to in Article 32 and in the Annex in Regulation (EC) n° ... of the European Parliament and of the Council of ... 2003 on genetically modified food and feed.

Commission's Joint Research Centre in Ispra, Italy

Justification

Given that the purpose of the Regulation is to "prevent risks to humans and animals, either directly or through the environment" as well as to "protect consumer interests", the inclusion of the new Reference Laboratory for GMOs is a logical addition to the list. The new regulatory system for GMOs, consisting of Directive 2001/18 and subsequent legislation, is founded on an acceptance that GMOs, as products of a new technology which have been little studied from the point of view of human or animal health, cannot be regarded as substantially equivalent to their conventional counterparts. Given that this has been accepted, failure to include this Reference Laboratory would be out of keeping with other legislation in the field of food safety.
EXPLANATORY STATEMENT

In recent years a large number of important EU regulations and directives have been adopted under the umbrella of the White Paper on food safety and several more are in the pipeline. Much of the credit for this is due to the European Parliament.

Food is an important part of the European cultural heritage. In its legislative work in the field of food safety, Parliament has been consistently protective of cultural diversity, small and medium-sized businesses and rural development, but without lowering standards for food safety.

This regulation is a key piece of the puzzle as we work towards safer food in Europe. We must now shoulder our responsibility and make our visions of protecting family businesses and traditions a reality. We must create a control system which is fair for all countries and all businesses, regardless of size. This is particularly important in regard to the financing of the system. In brief, there is a need to create equivalence, legal security and transparency for those affected by the rules in various ways, producers and consumers alike. Ultimately, it is also a question of tightening compliance with the law.

Equivalence

A common internal market requires common rules in order to avoid distortion of competition. If safety standards have become the same throughout Europe, the price of these standards (i.e. the cost of controls) should also be divided evenly and fairly.

The Committee, aiming at the creation of such a fair system, suggests mandatory fees for official controls, which shall be calculated on the basis of common principles. The criteria to be applied shall be:
- a risk categorisation, to be established by the Standing Committee
- the turnover of the business
- the cost of the competent authority based on the Member States' annual reports

Taking into account the turnover of a business helps to avoid an extra burden for small and medium-sized businesses. Those businesses are currently often disadvantaged and their situation needs to receive particular attention.

The fee may not differ by more than 10% from the average fee in the Union for businesses in the same risk category. Furthermore, investments in food safety shall be rewarded by reduced fees. Ad-hoc controls may be carried out at any time, even where there is no suspicion of non-compliance.

Legal security

To achieve a high level of food safety, the businesses concerned must cooperate and collaborate actively with the competent control authorities. This in turn presupposes that those businesses feel secure in the knowledge that the authorities do not abuse their powers. Businesses must, for example, be expressly given the opportunity to appeal against the authorities' decisions and have the right to ask for another opinion. The Committee also insists...
that controls shall be impartial at all levels. **Transparency**

The single most important condition in order to achieve high safety standards, however, is public scrutiny. The result of work over recent years is legislation, which is effective but, at the same time, extremely cumbersome and complex for those affected by the rules, producers and consumers alike. This places heavy demands on transparency.

The Committee proposes to broaden the scope for scrutiny by introducing what is now the norm and generally accepted requirement of publication. It also introduces a "**name and shame**" mechanism: Member States' annual reports shall identify the feed and food businesses, which have been found responsible for infringing the Regulation.

**Compliance with the law**

Despite all the fine words and rigorous requirements, laws are in danger of becoming paper tigers if the rules are not observed. The Environment Committee therefore believes that the European Commission shall have the power to prohibit the release onto the market of products and ingredients covered by this Regulation where those products originate from a Member State which does not have a national control plan according to Article 42.
6 October 2003

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on the Environment, Public Health and Consumer Policy

on the proposal for a European Parliament and Council regulation on official feed and food controls

Draftsman: Avril Doyle

PROCEDURE

The Committee on Agriculture and Rural Development appointed Avril Doyle draftsman at its meeting of 19 March 2003.

It considered the draft opinion at its meetings of 11 June 2003, 11 September, and 30 September 2003.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Joseph Daul (chairman), Friedrich-Wilhelm Graefe zu Baringdorf, Albert Jan Maat, María Rodríguez Ramos, (vice-chairmen), Avril Doyle (draftsman), (for Elisabeth Jeggle) Danielle Auroi, Niels Busk, Avril Doyle (for Elisabeth Jeggle), Francesco Fiori, Georges Garot, Lutz Goepel, Willi Görlach, María Esther Herranz García (for Encarnación Redondo Jiménez), Liam Hyland, Salvador Jové Peres, Heinz Kindermann, Dimitrios Koulourianos, Vincenzo Lavarra, Astrid Lulling (for Michl Ebner), Emilia Franziska Müller (for Hedwig Keppelhoff-Wiechert), Neil Parish, Mikko Pesälä, Agnes Schierhuber, Dominique F.C. Souchet, Robert William Sturdy,
SHORT JUSTIFICATION

Since the mid-90's, the European Union has adopted an increasing number of legal acts covering health and safety issues linked to food and feed products in order to respond to huge public concern. Community legislation in this area currently consists of a complex and wide ranging framework in what is known as the "from the Farm to the Fork" approach.

Official controls, audits and inspections have therefore become still more demanding in terms of financial resources, education and training of staff and the planning of control efforts. A common legal system for all official controls in both the food and feed sector, as proposed by the Commission, must therefore be welcomed as a major step towards improved safety for consumers and producers.

One of the cornerstones of the Commission's proposal is the 4-stage development of a Community framework for national control systems. This framework requires Member States to produce multi-annual national control plans which will set out the structure and organisation of food and feed control, animal health and welfare systems, and the organisation and division of responsibilities between national competent authorities. The Commission will perform regular audits of these national plans.

While the draftsman supports the Commission's efforts to co-ordinate and rationalise feed and food controls and generally agrees with the 4-stage approach the proposal envisages, she feels the deadlines for implementing the proposal are simply too tight. Given the amount of work required to prepare the plans, and the other work the proposal requires which will inevitably be carried out by the same authorities, it is necessary to give Member States longer than 6 months to prepare these plans, and longer than a year to implement them. However, given the subject matter, and the pressing need for progress in implementing measures which guarantee consumers a high degree of food quality and safety, this extension should not be open-ended. It is therefore appropriate to amend the proposal to allow Member States 12 months to prepare the plans, and 18 months to implement them.

The draftsman welcomes the possibility to delegate control activities to non-governmental bodies and the recognition of the self-controls carried out by companies.

Given the Commission's role as auditor of the national control plans, it is important that the Commission can first of all ensure that the initial plans are up to scratch. Therefore, the proposal should be amended to require that the national control plans, and any subsequent amendments to them, be submitted to and approved by the Commission.

A point of particular concern is the possibility for Member States to impose fees on producers in order to finance the implementation of the new measures. Different levels of fees in different Member States might have market distorting effects, and the draftsman has therefore tabled amendments which call on the Commission to monitor the imposition of fees and, if necessary, to use its powers to stop fees which are incompatible with the internal market from being applied.

Finally, the draftsman wishes to draw attention to the fact that, in its Explanatory Memorandum, the Commission admits that resources are insufficient to allow Community officials to carry out the control, auditing and inspection tasks which follow from already
existing European Union legislation. Since these duties will become even more demanding after the adoption of the Commission's proposal, the draftsman has tabled amendments which pave the way for a stronger Community participation in financing the proposed measures, particularly with a view to improving the unsatisfactory staff situation at the FVO.

**AMENDMENTS**

The Committee on Agriculture and Rural Development calls on the Committee on the Environment, Public Health and Consumer Policy, as the committee responsible, to incorporate the following amendments in its report:

<table>
<thead>
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<th>Text proposed by the Commission¹</th>
<th>Amendments by Parliament</th>
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<td>Amendment 1</td>
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(22) Appropriate procedures should be available for the co-operation of the competent authorities in and between the Member States, in particular when official controls reveal that feed and food problems extend to more than one Member State. In order to facilitate such co-operation, Member States should designate one or more liaison bodies with the role of coordinating the transmission and reception of requests for assistance.

**Justification**

*Liaison bodies should also be responsible for liaison with authorities in third countries.*

Amendment 2
Recital 30

(30) In order to ensure a more efficient organisation of the official controls on feed and food from third countries and in order to facilitate commercial flows, it may be necessary to designate specific points of entry for feed and food from third countries

¹ Not yet published in OJ.
into the territory of the Community.
Likewise, it may be necessary to require advance notice of the arrival of goods at the territory of the Community.

It should be ensured that each designated point of entry has access to the appropriate facilities to operate controls within reasonable time limits.

**Justification**

*It is important that points of entry (ports) have the logistics and infrastructure to deal with these controls in order to avoid long delays which could have detrimental effect on goods from particularly the fresh produce sector.*

**Amendment 3**

Recital 32

(32) Adequate financial resources should be available for organising official controls. *Where for that purpose fees are imposed on feed and food business operators, common principles should apply. It is appropriate therefore to lay down the criteria for setting the level of inspection fees.* With regard to fees applicable for import controls, it is appropriate to establish directly the rates for main import items *with a view* to ensure their uniform application and to avoid trade distortions.

(32) Adequate financial resources should be available for organising official controls and the recruitment of Commission experts. *EU-wide uniform fees must be set for veterinary inspections and controls on live animals and certain animal products.* With regard to fees applicable for import controls, it is appropriate to establish directly the rates for main import items. *These uniform rates serve* to ensure *EU-wide* uniform application and to avoid trade distortions.

**Justification**

*EU-wide uniform rates should apply to veterinary inspections, just as they do for import controls, in order to prevent distortion of competition. Official food and feed controls, however, are a part of state health care, which cannot be subject to a charge unless they are controls required as a result of offences. The proposed system for levying fees in order to finance official controls must not lead to trade distortion and should therefore be subject to monitoring by the Commission according to the competition provisions of the Treaty.*

**Amendment 4**

Recital 34
In order to have a global and uniform approach with regard to official feed and food controls, Member States should establish and implement national control plans in accordance with broad guidelines elaborated at Community level. These guidelines should promote coherent national strategies, and identify risk-based priorities and the most effective control procedures. A Community strategy should take a comprehensive, integrated approach to the operation of controls.

National control plans should be presented to the Commission for evaluation.

Justification

Given the very detailed requirements imposed on Member States when elaborating the obligatory national control plans and the increased number of Community inspections carried out on the Member States' territories, stronger coherence between national plans is needed. Therefore, it is appropriate that these plans be submitted to the Commission for approval.

Amendment 5
Recital 46 a (new)

(46a) Under article 19 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, and without prejudice to the provisions in articles 39-41, all business operators subject to control under this regulation should immediately alert the competent authorities of all known or suspected cases of irregularity, occurring at their operation, which could endanger food and feed safety.

Justification

These principles should apply only to food and feed controls within the meaning of Article 27 but not to the veterinary controls newly regulated under Article 26, which should be subject to EU-wide uniform fees in order to prevent distortion of competition between Member States.
Amendment 6
Article 3, paragraph 3

3. Official controls shall be carried out at any stage of production, processing and distribution of feed and food. They shall include controls on feed and food businesses, on the use of feed or food, on any process, material, substance, activity or operation applied to feed and food and, where relevant for achieving the objectives of this Regulation, on live animals and plants.

3. Official controls shall be carried out at any stage of production, processing and distribution of feed and food. They shall include controls on feed and food businesses, on the use of feed or food, on any process, material, substance, activity or operation applied to feed and food and, where relevant for achieving the objectives of this Regulation, on live animals and plants. **In the case of compound feed businesses, the competent authority shall ensure that a control of the entire production process is carried out.**

**Justification**

*All major food crises in the past involved the feed sector (BSE, dioxin, MPA, nitrofen, etc.). There is therefore a need not only to carry out random checks on the controls conducted by compound feed businesses themselves but also to extend official controls in those businesses to the entire production process, if necessary, through the permanent presence of an official inspector (as with slaughterhouses).*

Amendment 7
Article 4, paragraph 1

1. Member States shall designate the competent authorities responsible for the purposes and official controls set out in this Regulation.

1. Member States shall designate and publish a list of the competent authorities responsible for the purposes and official controls set out in this Regulation.

**Justification**

*Food and feed business operators have to be informed and aware of their interlocutors.*

Amendment 8
Article 5, paragraph 1

1. The competent authority may delegate

1. The competent authority may, *in duly*
specific control tasks to one or more control bodies. However, the activities referred to in Article 54 shall not be the subject of such a delegation.

A list of tasks that may or may not be delegated may be established in accordance with the procedure referred to in Article 62(3).

A list of tasks that may or may not be delegated shall be established in accordance with the procedure referred to in Article 62(3).

Justification

Delegation of specific control tasks should be confined to duly justified exceptional cases. In addition, it is essential to draw up a list of tasks which may or may not be delegated.

Amendment 9
Article 8, paragraph 1

1. Official controls by the competent authority shall be carried out in accordance with documented procedures. This documentation shall contain information and instructions for staff performing official controls including inter alia the areas referred to in Annex II, Chapter II. and should, upon request, be made available to operators subject to control.

Enabling business operators to access the documented control procedures will improve the transparency of the proposed measures.

Amendment 10
Article 11, paragraph 5

5. Feed and food business operators, whose products are subject to sampling and analysis, may apply for a second opinion. This implies that a sufficient number of samples, taken under identical conditions, are taken so as to provide feed and food business operators with a counter sample.

5. Feed and food business operators, whose products are subject to sampling and analysis, may apply for a second opinion. This implies that a sufficient number of samples, taken under identical conditions, are taken so as to provide feed and food business operators with a counter sample.
However, this right shall not prejudice the obligation of the competent authorities to take prompt action in case of emergencies. Food and feed business operators shall not be obliged to bear the costs of control activities that exceed normal monitoring once compliance with food and feed law has been proven.

Justification

The costs referred to include the carrying-out of controls exceeding the normal monitoring activity and also costs due to action taken by the competent authorities. These financial losses should not be borne by the food and feed business operator as bearing these costs where not justified may jeopardise the continuation of his business.

Amendment 11
Article 15, paragraph 1, subparagraph 1

The competent authorities shall proceed to regular official controls of feed and food of non-animal origin not covered by Directive 97/78/EC, imported into the territories referred to in Annex I. These controls shall be organised using a plan established on the basis of potential risks and shall include any aspect of feed and food law.

Justification

Goods to be delivered directly to third countries should not be submitted to official controls according to Community legislation. Business operators who are concerned should be allowed access to the plan used by the competent authorities.

Amendment 12
Article 15, paragraph 3

3. In accordance with the procedure referred to in Article 62(3), a list shall be drawn up of feed and food of non-animal origin, that on the basis of known risks shall
shall be subject to an increased level of official controls at the point of entry into territories referred to in Annex I. The frequency and the nature of these controls shall also be laid down in accordance with the procedure referred to in Article 62(3). The list shall be made available to concerned operators upon request.

**Justification**

*In order to guarantee transparency, the risk list should be accessible to concerned operators.*

**Amendment 13**

Article 16, subparagraph 1

To the extent strictly necessary for the organisation of the controls referred to in Article 15(3) and for the controls of feedingstuffs, the Member States may designate particular points of entry in their territory for the various types of feed and food products. They shall inform the Commission and the other Member States thereof. These measures shall be designed in such a way as to avoid unnecessary disruption of trade.

**Justification**

*It is important that points of entry (ports) have the logistics and infrastructure to deal with these controls in order to avoid long delays which could have detrimental effect on goods from particularly the fresh produce sector.*

**Amendment 14**

Article 23, paragraph 5

5. Where border controls reveal significant irregularities, Member States shall immediately inform the Commission and the other Member States and the concerned operators, increase the number of consignments checked in accordance with this Article and where

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necessary to allow a proper analytical examination of the situation, keep an appropriate number of samples under appropriate storage conditions.

Justification

Operators have a legitimate interest in receiving this information at the earliest possible stage.

Amendment 15
Article 24, subparagraph 3

Where samples are taken, the competent authority shall inform the customs services and indicate whether or not the goods can be released prior to the results of the analysis of the samples being available.

Justification

Operators have a legitimate interest in receiving this information at the earliest possible stage. Competent authorities should like business operators be held accountable and liable for wrong decisions.

Amendment 16
Article 26, paragraphs 1a and 1b (new)

Member States shall ensure that adequate financial resources are made available for official controls.

1. Member States shall ensure that adequate financial resources are made available for official controls.

1a. The costs arising from carrying out veterinary inspections and controls on live animals and certain animal products pursuant to the currently applicable Directive 96/43/EC shall be met by levying Community-wide uniform fees. The level of those fees shall be laid down before this Regulation enters into force in Annexes to this Regulation to be drawn up in accordance with the procedure referred to in Article 62, paragraph 3.

1b. Member States may, after approval by the Commission, alter the level of the
Community-wide uniform fee if they can show that the actual costs arising from the relevant controls are lower or higher than the amount fixed in paragraph 2. The percentage difference, however, may not exceed 10% of the Community-wide uniform fee.

Justification

EU-wide uniform fees should apply to veterinary inspections in order to prevent distortion of competition between the Member States. The Community fee scheme laid down in principle in Directive 85/73/EEC (as it appears in Directive 96/43/EC) should therefore be incorporated in this Regulation. It should be specified, however, that the Member States may only depart from the Community fee by 10% at most. This is necessary to prevent the EU-wide system of uniform fees being undermined, as is the case with the directive referred to, particularly Article 5, paragraph 3, while enabling Member States to take account of the different cost structures for staff etc.

Amendment 17
Article 28, subparagraph 1, point (a)

(a) the following expenses are eligible for calculating the fees:

(iv) staff salaries;  
(v) travel and associated costs;  
(vi) laboratory and sampling costs;

Justification

Expenses eligible for the calculation of control fees should be restricted to those actually linked with the carrying-out of the controls.

Amendment 18
Article 29 a (new)

The Commission shall monitor the imposition of fees as provided for in articles 27-29.

The Commission shall adopt such measures as are necessary in order to
measures as are necessary in order to ensure that the imposition of fees is not trade distorting or otherwise incompatible with the internal market.

**Justification**

*The proposed system for levying fees in order to finance official controls must not lead to trade distortion and should therefore be subject to monitoring by the Commission according to the competition provisions of the Treaty.*

Amendment 19

Article 31, paragraph 2, subparagraphs 4 and 5

In establishments starting up their activities, the competent authority shall grant an *initial* approval if it appears from an on-the-spot control that all of the infrastructure and equipment requirements are adhered to and that operational procedures such as the HACCP system are in place.

*A final approval can only be granted if it appears from a new on-the-spot control carried out within three months after the initial approval has been given* that all requirements of relevant feed and food law are complied with.

**Justification**

*To restrict administrative costs, an expensive scheme with initial and final approval should be discarded. Final approval should be granted directly. However, the new control after three months should be retained. If the conditions checked three months after approval are no longer met, the approval may be withdrawn.*

Amendment 20

Article 31, paragraph 2, subparagraph 6

The competent authorities shall keep up-to-date the list of the establishments that are approved and make it available for the other Member States.

The competent authorities shall keep up-to-date the list of the establishments that are approved and make it available for the other Member States *and for the concerned operators upon request.*

**Justification**

*The concerned business operators should be given the right of access to the list.*
Amendment 21
Article 41 a (new)

For the purpose of evaluation, as referred to in article 42, of the first multiannual control plan from each Member State submitted under this Regulation, the Commission shall set up a temporary task force.

Justification

Evaluation of new, multiannual control plans from 15 Member States and 10 acceding countries will be extremely resource-demanding and will jeopardise the control and inspection duties by the relevant Community bodies, unless a special task force is created with the purpose of evaluating control plans.

Amendment 22
Article 42, paragraph 1

1. For the implementation of Article 17(2) of Regulation (EC) No 178/2002 and of Article 45 of this Regulation, Member States shall within six months after the entry into force of this Regulation prepare an integrated multi-annual national control plan. National control plans shall:

(a) be maintained by the Member States and presented to the Commission upon request; and

(b) be implemented for the first time one year after the entry into force of this Regulation at the latest.

1. For the implementation of Article 17(2) of Regulation (EC) No 178/2002 and of Article 45 of this Regulation, Member States shall, no earlier than six months before and no later than one year after the entry into force of this Regulation prepare an integrated multi-annual national control plan. National control plans shall:

(a) be maintained by the Member States and submitted to the Commission not later than one year after the entry into force of this Regulation. Within three months, the Commission shall appraise the proposed plans to determine whether they are consistent with this Regulation. The Commission shall approve amendments to national control plans.

(b) be implemented for the first time eighteen months after the entry into force of this Regulation at the latest.
Justification

The present regulation requires a complex implementation procedure in the Member States. More time is needed in order for this implementation to be successful. Given the very detailed requirements imposed on Member States when elaborating the obligatory national control plans and the increased number of Community inspections carried out on the Member States' territories, stronger coherence between national plans is needed. Therefore, it is appropriate that these plans be submitted to the Commission for approval.

Amendment

Article 44, paragraph 1

Annual reports

1. One year after starting the implementation of the national control plans, and subsequently every year, the Member States shall submit to the Commission a report indicating:

(a) an update of the initial national control plan in relation to the factors referred to in Article 42(3);

(b) results of controls and audits conducted in the previous year under the provisions of the national control plan;

(c) the type and number of infringements that have been established;

(d) the actions to ensure the effective operation of the national control plans, including enforcement actions and their results.

In order to ensure a uniform presentation of this report and in particular of the results of official controls, this information shall be drawn up in accordance with guidelines to be adopted in accordance with the procedure referred to in Article 62(2).

This report shall be established within four months of the end of the year to which the
report relates and shall be sent to the Commission.

The report shall be made available to the public.

Justification

Yearly reports will not restore public confidence, since they are published too late after the end of the period they cover. Consumers will often have to wait for more than one year in order to know if the products they use are dangerous. Moreover, criticism raised in yearly reports is likely be discarded by the authorities who may claim that errors have already been corrected. In order to be reassuring for the citizens, reporting should take place on a three monthly basis. The public should be granted access to information concerning the identity of food and feed legislation offenders in order to be able to make informed choices between the various operators in the market.

Amendment 24
Article 44, paragraph 2

2. In the light of the reports referred to in paragraph 1, the outcome of Commission controls in the Member States and any other relevant information, the Commission shall establish a report on the overall operation of the official control systems in the Member States. It may, where appropriate, include recommendations on:

Justification

Clarification.

Amendment 25
Article 45, paragraph 1a (new)

1a. The Commission experts or the experts designated by the Commission may, in addition, carry out controls without prior warning at any stage of the production, processing and distribution of feed and food in the Member States.

Justification

Should they consider it necessary, the Commission inspectors should also be able to carry out controls on feed and food businesses independently and without prior warning.
Amendment 26  
Article 65, paragraph 1, point (-a) (new)  

\((-a)\) the recruitment of Commission experts as referred to in article 45  

Justification  

In order to strengthen official controls, it is necessary to provide Community appropriations for a sufficient number of Commission experts.

Amendment 27  
Annex VI, paragraph -1 (new)  


Justification  

Inspections and controls are insufficient, unless the measures are accompanied by the obligation on operators to assist authorities proactively with information on all irregularities occurring at their operation. Failure to do so should be subject to criminal sanction.