



Mr. Koen Van Dyck
Head of Unit
SANCO.E.2.
European Commission
Rue Belliard, 232
1049 Brussels

Brussels, 23 June 2011
UECBV Ref: 1033

Hygiene package – Prior to the impact assessment to be launched – Update on the UECBV position UECBV-L-027-2007

Dear Mr. Van Dyck,

The UECBV welcomes very much the consultation of the stakeholders dealing with the impact assessment on the review of the hygiene package.

Prior to this impact assessment, the UECBV wishes to remind of some issues it raised at the time of the consultation on the implementation of the hygiene package in 2007.

In order to facilitate the work, are only kept:

- The elements dealing with the core of the Regulations belonging to the hygiene package (the other issues being for committee procedure) and
- Those which do not deal meat inspection as a separate consultation is going on for this specific issue.

From a general point of view, the UECBV reminds that it welcomes the implementation of the hygiene package, particularly the principle of fixing the objectives rather than the means. Then, when the Commission studies the amendments to propose, the UECBV will ask the Commission to continue pursuit of the objectives and the main principles of the hygiene package, i.e.:

- To put in place an integrated approach: the hygiene package deals with all foodstuffs at all stages of the food chain production (from the farm to the fork) in order to fill the gap.
- To simplify, setting the objectives rather than the means.
- To give a certain flexibility in order to be applicable to all kinds of enterprises (small, in remote area, traditional production, etc), including on the implementation of the HACCP system, identification of the hazards control points, documentation, etc.
- To be focused on the real risks. It means to base the measures on the risk analysis and on scientific knowledge. This point should be reinforced for meat inspection but also for other elements such as the temperature during storage and transportation.
- To reinforce the primary responsibility of the food business operators.
- To ensure the controls of the competent authorities at national level and EU level.

Before going into the details, the UECBV would like to make a few general comments for which it was not possible to make any proposal of amendments of the texts, but it is nevertheless important to make comments which should be taken into account in the best way to be chosen by the Commission Services.

Some important problems with the implementation of the hygiene package deal with:

- ◆ The relationship between the FBOs and the competent authorities. In effect:
 - The competent authorities are not always aware of what should be their new way of working: leaving from what the FBOs have done to better focus on the official controls; applying risk-based analysis to determine the nature and intensity of the audits; applying risk-based approaches for setting the number of official staff to be present on the slaughter-line.
 - The competent authorities work more than before as authorities of penalties instead of acting as advisers. There is a need both to emphasise the advisory role of official authorities and to remove the issue of the fees of this relationship. That is why the UECBV is in favour of a public financing.
 - There is a lack of a kind of "right of appeal" for the FBOs. Indeed, there is no consequence for the competent authorities when they make mistakes. As some decisions taken by the official authorities may have great consequences for the companies, there is a need for a multinational referee team as it existed within the framework of the former Directive 64/433/EEC (*see the references p.6 in the table here-after*). It happened in the past that some companies had to close because it was impossible to cope with the financial effects of decisions which have revealed being a mistake afterwards. In that case, compensation must be possible. When the competent authority decided to withdraw a product, he/she

does not have to prove there is a food safety concern while FBOs need to prove that the products are safe. The relationship is not always balanced.

- ◆ The lack of harmonisation between Member States, creating distortion of competition.
 - When the understanding is not the same between Member States, and in some cases within the same Member State.
 - When some Member States are applying any derogation to the system or when some Member States do not apply all the system (for example, in some Member States the job of auxiliary does not exist).

The UECBV thanks the Commission Services to take its comments into account. Please do not hesitate to contact us for any further information. In any case, the UECBV will be glad to contribute as well to the impact assessment (in particular through the questionnaires planned).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Meriaux', with a large, stylized initial 'J'.

Jean-Luc MERIAUX
UECBV Secretary General

[Regulation \(EC\) No 852/2004](#)

Reference	Proposal
Article 1 – Scope.	
New.	It is important, for ready-to-eat foods, to be protected from cross-contamination from raw food.
<p>Motivation: <i>Maintenance of the 'cold-chain' is included as one of the general principles which an FBO must take account of.</i> <i>Protecting ready-to-eat foods (RTE) from cross-contamination from raw foods should be added as a general principle.</i></p>	
Article 2. 1.(f)	
'contamination' means the presence or introduction of a hazard;	CODEX General Principles of Food Hygiene [CAC/RCP 1-1969, Rev 3 (1997), Amd. (1999), defines 'Contaminant' as:- <i>"any biological or chemical agent, foreign matter, or other substances not intentionally added to food which may compromise food safety or suitability."</i>
<p>Motivation: <i>This definition is flawed and should be replaced with the Codex version.</i> <i>The mere presence of a hazard should not mean that the food has been contaminated.</i> <i>There are many examples of physical hazards which are naturally present in food which should not be considered to be 'contaminated'. E.g. the nut inside a peach or bones in fish are physical hazards which can cause choking.</i></p>	

[Regulation \(EC\) No 853/2004](#)

Reference	Proposal
Article 1 pt 5 a) - Need to include retail trade	
Article 1: Scope 5. a) Unless expressly indicated to the contrary, this Regulation shall not apply to retail. b) However, this Regulation shall apply to retail when operations are carried out with a view to the supply of products of animal origin to another establishment, unless: i) the operations consist only of storage or transport; or	Article 1 5. a) Unless expressly indicated to the contrary, this Regulation shall not apply to retail. However, premises adjacent to points of retail trade which carry out the activities described in the present Regulation, notably cutting, storage, transport and maturation of meat, are included in its scope.

Reference	Proposal
<p>ii) the supply of products of animal origin from the retail establishment is to another retail establishment only and, in accordance with national law, is a marginal, localised and restricted activity.</p> <p>c) Member States may adopt national measures to apply the requirements of this Regulation to retail establishments situated on their territory to which it would not apply pursuant to subparagraphs (a) or (b)</p>	<p>b) suppressed</p> <p>c) suppressed</p>
<p>Motivation:</p> <p><i>The proposal does not clearly lay down whether establishments adjacent to points of retail, which carry out cutting, storage and transport activities equivalent to the activities of specialised establishments, are, likewise, included in the scope of the Regulation. Clarification is necessary to make sure that same activities are subject to the same rules, in order to guarantee the same level of food safety throughout the European territory.</i></p> <p><i>Excluding those establishments from the scope of the "Hygiene 2" Regulation has multiple consequences in a sector where a large majority of establishments are small- and medium-sized enterprises (SMEs).</i></p> <p><i>In practice, it means that cutting plants of small- and medium-sized supermarkets and of traditional retail-wholesale butcheries which process volumes at least as important as in specialised cutting plants:</i></p> <ul style="list-style-type: none"> - <i>are not approved (no on-site visit before carrying out the activity, no list up-dated),</i> - <i>are much less controlled as they are not submitted to Regulation (EC) No 854/2004,</i> - <i>are in a situation of distorting the competition.</i> <p><i>In addition, the UECBV considers the wording is incompatible with European harmonisation as it provides for maximum flexibility for the Member States, without fixing any timetable for coming back to a harmonized system.</i></p> <p><i>The UECBV requests compliance with the objective of completion of the internal market: Establishments that carry out same activities must be subject to the same rules throughout the European territory.</i></p> <p><i>At least, a date should be fixed, from which all establishments would be under the same system.</i></p>	
<p>Article 5 – Health and identification marking</p>	
<p>New Proposal.</p>	<p>4. Food business operators may apply only their own identification mark. The use of another identification would be considered as a fraud.</p>

Reference	Proposal
Motivation:	
<i>Unauthorized use of an ID Mark is not an offence under the current legislation.</i>	
<i>Use of an FBO's ID Mark needs to be legally restricted to that FBO.</i>	
<i>It should be illegal for anyone other than the appropriate FBO to use their own ID Mark.</i>	

[Regulation \(EC\) No 854/2004](#)

Reference	Proposal
Article	
New	<p>When any decision taken by the competent authorities has consequences on the activity of a food business, the FBO may ask for a second opinion to a multinational EU reference team.</p> <p>The rules for the implementation of this article shall be adopted by the procedure of delegated act.</p>
<p><i>It happened several times in the past that some mistakes made by competent authorities had dramatic consequences for the companies concerned. So it is important to establish a right of a second opinion in order to avoid such mistakes. UECBV recommends putting in place a "multinational reference team". It would be an independent panel composed of (at least) a representative of each Member State. Each case would be examined by some of them (3 of them for example). It is recommended that the answer remains short (one-page report). This article should be included also in Regulation (EC) No 882/2004.</i></p> <p><i>The set-up of the reference team could be based on the model of what was put in place in the framework of Directive 64/433/EEC, modified by Directive 83/90/EEC and implemented by Decision 83/638/CEE.</i></p>	
Article	
New	<p>When it appears that an official authority took a wrong decision, and that this decision had some financial consequences on a food business, the food business shall be refunded by the official authority up to the prejudice.</p>
<p><i>It is unfair that FBOs have to bear the consequences of wrong decisions taken by the official authorities, in particular in the meat sector where most of them are SMEs and where there may have consequences on the employment.</i></p> <p><i>This article should be included also in Regulation (EC) No 882/2004.</i></p>	