

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EFTA STATES

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SUBCOMMITTEE I ON THE FREE MOVEMENT OF GOODS

COMMENTS FROM THE EEA EFTA STATES ON THE
PROPOSAL FOR A REGULATION ESTABLISHING
THE EUROPEAN FOOD AUTHORITY¹

I EXECUTIVE SUMMARY

The EEA EFTA States welcome the proposal for the Regulation. It represents a major initiative designed to promote the health of the consumers and to restore and maintain confidence in food safety. The approach to include the entire food chain from farm and fjord to the table to secure public health is supported. Furthermore, the EEA EFTA States welcome the recognised need to include animal health, animal welfare, animal feed, plant health and environmental aspects when these have an impact on food safety. The EEA EFTA States also agree that risk assessment must form the foundation on which food safety policy and legislation are based and that the precautionary principle will be used where appropriate. The organisation of the European Food Authority (EFA) and the tasks assigned to it are supported. The EEA EFTA States note with satisfaction that the proposal for a Regulation established that the Authority shall be open to participation of i.a. EEA EFTA States according to arrangements to be made under the EEA Agreement.

II INTRODUCTION

1. Following the presentation of the White Paper on Food Safety in January 2000, the EEA EFTA States sent a letter to the Commission Services on 28 April 2000 supporting the proposal to establish a European Food Authority (EFA), based on the principles of *independence*, *scientific excellence* and *transparency*, and the aim to establish a common policy on *risk assessment* and *risk communication* on food safety issues. In addition to these comments on the European Food Authority being a supplement to the comments presented earlier, the EEA EFTA States also want to present some views on Chapters I and II of the proposal.

¹ Commission Proposal for a Regulation of the European Parliament and of the Council laying down the general principles and requirements of Food Law, establishing the European Food Authority, and laying down procedures in matters of Food (COM(2000) 716 final)

III GENERAL FOOD LAW

3.1 Scope and definition of Food Law

2. Article 3(1) states that “For the purpose of this Regulation “food law” means the laws, regulations and administrative provisions governing food in general, and food safety in particular, in the European Community. It covers all stages of production of food, and also feed, where feed may have an adverse effect on food safety.” This objective is generally supported, but it is questioned whether the proposed legal text also includes a wider range of provisions than those directly related to food as such. The EEA EFTA States are of the opinion that in order to avoid any doubt on whether or not provisions related to **the labelling of food and materials and substances in contact with food** are also included in the food law, these issues should be clearly spelt out in the text.

3.2 Food safety requirements

3. Article 12 (4) lists considerations to be taken into account when determining whether any food is harmful to health. The wording indicates that occurrence of microbes is not defined as possible hazards to be considered in this context. The nature of microbes as hazards in food also involves the risk of a wider spreading of diseases in the population than to the persons eating the infected food. Such considerations are considered by the WHO, as well as by the Codex Alimentarius (The Committee on Food Hygiene and the Committee on General Principles) in draft guidelines on risk analysis currently developed. The EEA EFTA States are of the opinion that this should be reflected in the wording of Article 12 paragraph 4 (b) and propose the following sentence to be added at the end of the indent (b): **...as well as to the possible risk related to short and long term spreading in human populations of pathogenic organisms occurring in food.**

IV THE ESTABLISHMENT OF A EUROPEAN FOOD AUTHORITY

4. The EEA EFTA States welcome the initiative to establish the EFA. As parties to the Agreement on the European Economic Area (EEA), the EEA EFTA States are part of the Single Market and implement all relevant EC legislation in the field of food safety. It is therefore important that provisions are established which enable the participation of the EEA EFTA States in the work of the EFA. In this respect, it is noted with satisfaction that this issue has been specifically addressed in Article 48 of the Regulation where it is stated that

“[the Authority shall be open to participation of countries which have concluded agreements with the European Community by virtue of which they have adopted and apply to Community legislation in the field covered by this Regulation.

Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which these countries will participate in the Authority’s work, including provisions relating to financial contributions and staff.”

4.1 Mission and tasks of EFA

5. The EEA EFTA States support the fact that the proposed competence of EFA should cover all matters having a direct or indirect impact on food from the primary production of food and feed, processing, storage and final distribution to the final consumer. This includes animal health, animal welfare and plant health, in addition to food safety and certain nutritional aspects. In particular, the EEA EFTA States welcome the definition of food in Article 2, which includes all water intended for human consumption as foodstuffs and thus makes EFA able to address consumer health aspects of drinking water. Furthermore, it is noted with satisfaction that the Rapid Alert system operated by the Authority will not only cover food, but also feed safety.

4.2 Participation of the EEA EFTA States in the work of EFA

6. Since the operation of the Food Authority falls within the scope of the EEA Agreement, it is necessary that EEA aspects be taken into account in the establishment of the new Authority. Furthermore, participation of the EEA EFTA States in the work of the Authority should be based on the general provisions of co-operation in the EEA Agreement, including the issue of financing.

7. The proposed Regulation establishing the European Food Authority (EFA) provides EFA with important tasks in the areas of food safety, nutrition, animal health and animal welfare and plant health. These areas also fall within the scope of the EEA Agreement. The tasks of EFA will have implications on the development and management of legislation in these areas. The proper functioning of the EEA Agreement and the objective to ensure consumer confidence therefore call for participation of the EEA EFTA States in the work of EFA on the basis of the general provisions of co-operation in the EEA Agreement and their application in other areas covered by the Agreement.

8. The financial contribution of the EEA EFTA States should be based on the EEA model as set out in Article 82 of the EEA Agreement.

4.3 Management Board

9. The EEA EFTA States should be represented in the Management Board of EFA in the same way as in the Management Boards of the European Environment Agency and the European Medicinal Evaluation Agency, i.e. have the ability attend the meetings, without voting rights. This enables the EEA EFTA States to follow the development of policy and administration of organisations to which they contribute and whose work has a direct influence on them. The necessary arrangements should be made to secure the EEA EFTA States' participation in the work of the Board.

4.4 Advisory Forum

10. The Advisory Forum shall ensure close cooperation between the EFA and the competent bodies in the Member States which undertake tasks similar to those of EFA. Representatives from corresponding bodies in the EEA EFTA States should

therefore also participate in the work of the Advisory Forum. This would be a key to ensuring that the competent bodies of the EEA EFTA States are able to co-operate fully with the Authority and with competent authorities in the EU Member States.

4.5 Scientific Committee and scientific panels

11. The EEA EFTA States share the view of the Commission that, in the future, the selection of participants in the Committee and various panels should also be based on scientific excellence and independence, following a call for expression of interest open to independent scientific experts on a global basis. In this respect, it is noteworthy that several EEA EFTA nationals have been appointed members to the existing scientific committees established in accordance with Commission Decision 97/579/EC.

4.6 Networking

12. As stated in point 43 in the preamble of the proposal, “the Authority should cooperate closely with competent bodies in the Member States if it is to operate effectively, in particular with regard to the networking system.” For this reason, and the reasons stated above, the EEA EFTA States underline the importance of also involving the competent bodies of these States in the networking system on an equal footing to the EU Member States. The list of competent and independent bodies which may assist EFA as drawn up by the Management Board should accordingly also include corresponding bodies of the EEA EFTA States.

4.7 Risk Management and the Rapid Alert System

13. The EEA EFTA States support that the tasks of EFA should not cover legislation and control. Following this, it is important to ensure a clear separation of roles between those responsible for carrying out risk assessments on the one hand, and those responsible for carrying out risk management on the other. In this context it is essential that there really is an organisational separation between the authorities responsible for legislation and control and the competent structure of EFA. It is necessary to clarify practical aspects related to the need for interaction between risk assessors and risk managers. This is especially relevant in light of the fact that risk assessors should not represent an advisory capacity in risk management issues unless limited to scientific clarifications.

14. Concerning Article 30 on Scientific and technical assistance, the EEA EFTA States are of the opinion that the scientific and technical assistance listed in the last sentence of point 1 cover activities which are clearly defined as risk management activities. Thus, Article 30 seems to authorize the Authority to directly assist the Commission in its risk management activity. Consequently, our understanding of Article 30 as it stands is contradictory to the intention to ensure the independent role of the Authority, and this might undermine the general confidence in the Authority.

15. Article 34 places the responsibility for the operation of the rapid alert system for food and feed with the Authority. The rapid alert system is, in our view, clearly a risk management tool and as such should not be the responsibility of EFA but of the Commission. This would be in line with the principle of clearly separating risk assessment

and risk management activities. The same concern is voiced in relation to Article 54 and in particular paragraph 2, which explicitly express that the crisis unit in which the Authority shall be involved shall have the aim “to manage the crisis effectively”.

4.8 Committee on Food Safety and Animal Health

16. The draft regulation provides for the replacement of the Standing Committee on Foodstuffs, the Standing Committee on Feedingstuffs, the Standing Veterinary Committee and the Standing Committee on Plant Health by the Committee on Food Safety and Animal Health. The EEA EFTA States are looking forward to continuing their work in the new committee established in the proposed regulation. Participation in these structures has been crucial not only to allow specific problems of the EEA EFTA States to be indicated, but also to ensure that officials from the EEA EFTA States have the same understanding of the legislation arrived at and are equally equipped to apply it.

4.9 Recruitment

17. Finally, we are in agreement with the proposed text aimed at increasing consumer information and influence in the areas covered by this Regulation, in particular the proposal of appointing consumer representatives to the Management Board. Furthermore, the EEA EFTA States are of the opinion that the recruitment of staff to the EFA should be on equal terms for all EEA nationals. In this respect, provisions relating to the financial contribution should also be relevant to the EEA EFTA States according to the traditional EEA model.

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