



SAFE FOOD IN ACP
A PROGRAMME FUNDED BY THE EU

HANDBOOK

12.12

TOPIC 12
Official
Controls

12

CONTROL ACTIVITY REPORT



COLEACP



The handbooks are tools designed for civil servants in charge of restructuring the food safety system, and for all operators involved in drawing up the food safety policy and organising official controls (qualified civil servants, heads of laboratories, heads of departments in official organisations, those in charge of official controls, trainers, technicians, researchers, experts or company executives). They aim to provide an overview of the main points of a specific subject. All of the topics addressed by EDES during the training sessions are covered in separate handbooks.

The handbooks have been designed and drawn up by the EDES Training Unit in cooperation with the Consortium members.



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Content

1. Foreword	1
2. Setting up a survey	2
3. The survey: preparation - sequence - incidents	4
4. Results of the controls	7
5. Possible follow-up to the controls	10
6. Examples of follow-ups given to a control	12



1. Foreword

This handbook covers the results of control activities. It is broken down into four parts:

- setting up a verification and a survey in the control unit,
- the control sequence,
- the results of a control,
- the follow-up planned for the control.

It is, however, important to make the following point:

During the survey, verification or control, the investigator(s) will be the sole judge of his actions and decisions, naturally in compliance with the texts and regulations he is responsible for enforcing.

Once he has terminated his control, his firm conviction will dictate his decision on the follow-up required.

No account should be taken of comments by intervening parties who have not taken part in the verification, as only the opinion of the person present on day D at time T during the control counts.

This situation implies that his survey report must reflect faithfully the reality noted, and that it must be precise, impartial and concise, and also that anyone reading it must be able to understand the situation encountered and the reason for the decisions taken.

The entire significance of the control report is thus justified.

2. Setting up a survey

2.1. Reminder of a few basic principles

QUESTION	What is the purpose of quality control?
ANSWER	The purpose of quality control is to protect the consumer by monitoring product quality and safety from its manufacture and/or importing to its marketing. The inspectors control PRODUCTS, not individuals or corporate bodies.
QUESTION	Who has the power to trigger a survey of product quality?
ANSWER	The Government, the competent Minister, his departments through scheduling or investigation, the jurisdictions, the civil (consumers) or merchant (businesses) sphere.
QUESTION	Is a control legal, if based on an anonymous tip-off?
ANSWER	Yes, as long as the control complies with the right of defence and the procedures.
QUESTION	Can an investigator be required to know the extent of a quality control?
ANSWER	No, but when preparing his intervention, the investigator must make sure that he has all the information required for the control to proceed smoothly.
QUESTION	Which premises are the agents allowed to enter?
ANSWER	The agents can enter commercial or production premises including means of transport. More generally any location where trading takes place, except residential premises.
QUESTION	What is the duration of a quality control?
ANSWER	This can vary. Started during normal working hours, it can continue into the night.
QUESTION	Can the agents conduct controls at night?
ANSWER	Yes, if the premises are open to the public or activities relating to the products are in progress.
QUESTION	Which operations are carried out by the inspecting agents?
ANSWER	The agents conduct seven operations in a business: <ul style="list-style-type: none"> – the basic control, – consulting documents, – taking samples, – seizing business-related documents, – impounding goods, – seizing goods, – final withdrawal, if appropriate.

QUESTION	Are there specific procedures for the import of goods?
ANSWER	<p>Provided there are no trade agreements with one or more third countries, for imported goods, an entry regime is set up for products on a specific list that is regularly updated.</p> <p>Checks are made by agents at entry posts for goods coming into the national territory. There can be three types of control:</p> <ul style="list-style-type: none"> – Documentary control that involves checking the reality of goods through the accompanying documents submitted by the importer (bill of lading, pro-forma invoice, certificate of conformity, original packing list, declaration of origin, etc.). – Visual inspection: the agent has the container opened and checks product conformity, in particular the essential inclusion of information in Arabic (importer details, country of origin) and, for some industrial products, the user manual translated into the language of the country. <p>The agent has to go inside the container to examine the load:</p> <ul style="list-style-type: none"> • either he can easily achieve this, given the space taken up by the goods; • or, in the case of a completely full container, he asks the employees of cargo-handling companies to create a 'corridor' so that he can reach the end opposite the opening. <p>For the so-called hazardous goods like aerosols, and in the absence of secure premises in the inspection areas, the examination takes place on the vessel in the presence of an officer.</p> <ul style="list-style-type: none"> – The analytical control which allows the agent to make sure after sampling and analyse the harmlessness and conformity of the goods.

3. The survey: preparation - sequence - incidents

Prior to any survey, remember that all investigators represent the State and the Public Authorities in the field.

This situation gives them **rights**:

Right of inspection, to communicate documents, to take samples, etc.

But also **obligations**:

Politeness, respect for other people, impeccable turnout and above all an image of representing the State, etc.

The oath taken by officials confirms this commitment by making them accountable.



3.1. Preparing the survey

QUESTION	How is a survey file created?
ANSWER	Following a complaint, concerted action at any administrative level whatsoever, personal initiative by one or more agents, a situation encountered during unscheduled controls, etc. This file is normally opened by the head of the control unit and submitted by name to the investigator.
QUESTION	Must there be a survey file for each control?
ANSWER	It is absolutely essential for the traceability of interventions in the businesses and to inform the hierarchy; a survey file can be drawn up at a later date, following a day of controls, if it was not scheduled.
QUESTION	What should a survey file contain?
ANSWER	<ul style="list-style-type: none"> – Initially the complaint or action sheet drawn up by the administration or the control service. – The records of the offending business (which will be put back in their initial place once the survey has been completed with the elements gathered during this intervention). – The most complete regulations possible of the professional sector. – Any other element known to the investigators such as press articles, advertising, etc.
QUESTION	Should you study a survey file before going to the firm?
ANSWER	It is absolutely essential, as you must understand all the ins and outs of this project (regulations, business, etc.). On the other hand, it is clear that knowledge of the regulations is enough under scheduled intensive controls such as the control of restaurants or the control of price displays, for example.

3.2. Survey sequence

QUESTION	Should the reasons for the control be presented and announced?
ANSWER	<p>This is mandatory.</p> <p>You must state your function and present your official identification; each official taking part in the verification process is obliged to execute this process.</p> <p>The professional must know the reasons for the control, even succinctly if, for the needs of the survey, you do not wish to reveal all the reasons for the intervention.</p>
QUESTION	Does the absence of the legally-responsible person mean that the verification cannot be performed?
ANSWER	<p>No, if the business is operating in his absence, he is assumed to have made the necessary arrangements to compensate for this. However, it is advisable to request his presence, if possible, to obtain documents that he perhaps has not passed on to his stand-in.</p> <p>If he is unable to attend, the control must go on, and the missing elements and documents required by the survey should be requested in writing.</p>
QUESTION	Should you restrict yourself to the regulatory domain covered by the verification and not take into account economic breaches noted in the business?
ANSWER	<p>The survey, the purpose of the visit, should take priority, but it is the duty of any investigator to list the anomalies and breaches noted elsewhere in the business visited. The officials would otherwise be liable for any shortcomings in their duties and obligations, above all if consumer health and safety is threatened.</p>
QUESTION	Can a survey be broken down over several occasions?
ANSWER	<p>Only where there is a physical or administrative impossibility. It is always important to intervene under the same conditions; delaying the verification by one or more days distorts the conditions of the visit, and essential proof or information may well disappear, all the more so that all controls must be unscheduled whenever possible.</p>

3.3. Incidents

QUESTION	Can a professional refuse to accept a control?
ANSWER	There are texts in every country that reinforce the protection of investigating agents. They can, frequently, request support from law enforcement officers to help them continue with their mission.
QUESTION	What attitude should you take if the professional persists in trying to disturb the investigator during the survey?
ANSWER	The survey must always be directed by the official. Should the professional try to distract him from his work, it is both important and necessary for the investigator to get the initiative back using simple phrases such as «May I remind you, Sir (or Madam), that I am here following a complaint from one of your customers and I should be grateful if you would only give me elements relating to this matter» or «Sir (or Madam), would you mind only answering the questions I am asking you».
QUESTION	What must you do if the investigators are assaulted?
ANSWER	You must leave the place of the control as quickly as possible and go to the Management offices to advise the hierarchy, who will decide on what action is to be taken in this matter. The physical integrity of officials must always be protected.
QUESTION	Can a professional refuse to hand documents over to the investigators?
ANSWER	No, in principle, the documents requested must be handed over to the officials. Failure to hand them over is assimilated with obstructing duties.

4. Results of the controls

QUESTION	Definition of the role of an investigating agent.
ANSWER	The basic mission of an investigating agent, be he assigned to controlling the domestic market or in a border control post, is to note and list FACTS (for example, the lack of legal notices on a product in the language of the country) or after analysis or not, the conformity or non-conformity of a PRODUCT with a regulatory text or a national or international standard.
QUESTION	Quelles suites peut-il réserver à ses constatations ?
ANSWER	<p>– either by the administration, for breaches that have no effect on consumer health or safety, which can be in the form of a formal notice (see § Possible follow-up to the controls), warning, reminder of regulations, etc.</p> <p>– or if the offence is characterised by establishing a contentious act.</p> <p>The various follow-up options will be examined in section 5 “Possible follow-up to the controls”.</p>
QUESTION	What is the legal value of observations made by an official during his assignment?
ANSWER	<p>The reports written by the investigating agents are believed until proof of the contrary; it is therefore easy to dispute them.</p> <p>It is possible that some legislations qualify the reports «believed until proven otherwise»; in this very special case, the statements by the investigator provide weight of evidence and it is very difficult for the offender to demonstrate the contrary.</p> <p>It is important to make clear that this notion tends to disappear from texts in order to provide for remedies for the defending party.</p>
QUESTION	What must a control report include?
ANSWER	<p>The control report must normally include the following mandatory information:</p> <ul style="list-style-type: none"> – place and date of the control, – the facts noted, – if appropriate, any other fact likely to be brought to the attention of the hierarchical or judicial authority (insults, assaults, control conditions, external intervening parties, etc.), – the offences and their related sanctions, – the identity and quality of the agents, – the identity, relationship, activity and address of the intervening party controlled, – the signature of the investigator. <p>There is no specific template for writing a control report.</p> <p>Some administrations can provide a formal framework for writing reports, but only the facts indicated, reported and recorded by the investigator count.</p>

QUESTION	What must a contentious act include, i.e. an official report?
ANSWER	<p>An official report is a legal act which refers to an observation made by a commissioned and accredited agent. This act takes the form of a legal syllogism which will include:</p> <p>– The Foreword As stipulated by the law or local texts, it must state:</p> <ul style="list-style-type: none"> • the full identity of the agent: name, first name, rank, • that he introduced himself to the contact stating his identity and that he showed him his official identification (never leave this document with the intervening party) • that the agent is authorised to carry out controls (NB: All agents who have taken part in the control must be mentioned in the contentious act with the same information as stated above) <p>It states the place, date and time of the start of the intervention and repeats the identity of the intervening party, with his relationship, his status in the business, the number and title of the Trade Register, the tax identification number, the trading name, which may be different from the company name listed in the Trade Register, the precise activity of the establishment and its place in the production/import-distribution chain.</p> <p>If the control takes place during transport, this must of course be noted in the foreword.</p> <p>– The Observations The agent relates the facts that he has noted and that he will describe in detail. He will be precise and perfectly clear, so as to leave no room for possible interpretation. When the investigations took place after legal opening hours, the agent will note that the establishment was open to the public or that an activity under any form whatsoever was taking place there.</p> <p>The agent must not record any personal impressions, even elliptically. The report must be objective, neutral and cold (it is a photograph of a fact at a given moment). The agent will attach all documents backing up his report (if documents have been seized, he will write a separate document seizure report). To persuade magistrates (prosecution or bench), the agent may illustrate the contentious act with photographs that he was able to take during his investigations, particularly in terms of hygiene.</p> <p>– Pronouncement of the law With respect to the observations made, the agent will list the legislative or regulatory tests breached by the intervening party. Even if the jurisdiction can always re-qualify an offence, the agent will endeavour here also to be as precise as possible by quoting the bill of indictment.</p> <p>If he has any doubts over the text to be applied, he may of course ask advice from the other investigating agents, his hierarchy or the disputes bureau before finally writing the report (a contentious act cannot be altered once it has been finalised).</p> <p>– Act of Accusation This is the part of legal syllogism that incriminates an offender during a survey. The agent will state that the intervening party is rendered guilty of an offence against a regulatory or legislative text.</p> <p>– Position of the agent as to legal proceedings The agent will indicate that for the type of offence noted, the file should either merit a transactional fine or legal proceedings de plano.</p>

– **Closure of the contentious act**

The agent will indicate that the offender has been advised of the date and time of the writing of the report, whether or not he has responded to this summons.

The officer reporting the offence will note the observations of the intervening party or take a copy of his written statements (a short delay could nevertheless be granted to him to present his defence).

The agent will close the act by indicating the place, date and time of writing. Mention will be made of the refusal by the offender to sign the report.

Lastly, he will carefully count the words that are crossed out or invalid and will draw a line through spaces left blank to cancel them.

– **Special statements of offence**

This involves the case of statements of offence recorded when the following take place:

- insults,
- threats or attempted threats (death threats with or without an instrument, involvement of the agent's family, etc.),
- obstructing duties with or without violence.

As was the case for the acts governed by observations, the special statements of offence shall be written extremely carefully. They will relate scrupulously all the details of the incident, so that justice may take its course with all speed.

REMINDER: contentious acts in both form and content are scrutinised by the courts and also by lawyers, who will search out the least flaw to discredit the action of agents by invoking procedural irregularities, fundamental errors or flaws that ultimately bring the contentious act down before the court.

The agents will be required to demonstrate the utmost rigour in accomplishing their assignment.

5. Possible follow-up to the controls

5.1. The classification

(Source : Fotolia.com)



There is no follow-up to the control if no anomaly has been noted.

5.2. Administrative follow-up

5.2.1 Notification of regulatory information

For minor breaches or for general information of professionals, a notification of regulatory information is sent to the professional.

In this case, no reference is made to the breaches noted.

5.2.2 Written warning

A warning is sent to the professional for minor breaches.

In this, reference is made to the breaches noted.



(Source : adlumxtras.com)

5.2.3 Reminder of regulations

When more substantial regularities have been noted, but no litigation is required, a letter is written setting out the facts noted, the regulatory base and the associated offences. The restaurant owner is asked to acknowledge receipt of this letter within two weeks, indicating the corrective actions he wishes to apply. Information is given as to the possibility of a new control.

These corrective actions can be required when the establishment has been seen to represent or is likely to represent a threat to public health due to a breach of regulations. These regulations can cover the establishments and also the products.

In any case, this must be in writing, referring in all circumstances to the breaches to regulatory provisions. Its aim is to advise the professional as comprehensively as possible on the type of anomaly and how this constitutes a failure to observe the regulatory stipulations, especially when these stipulations are expressed as hygiene objectives.

These requests cannot include advice or solutions. It is up to the professionals to choose the relevant means, except when the regulations have set an obligation of means.

5.3. Criminal prosecution

5.3.1 Report

When major anomalies have been detected, a report is written levelling charges against the professional, and is sent to the Public Prosecutor.

The report is the legal act whereby the verifying agent reports the facts he has noted, in the strict order in which they took place and describing the premises faithfully.

5.3.2 Administrative policing measures

When an establishment's operating conditions are such that the physical elements (premises, equipment and foodstuffs) are liable to be a hazard for public health or consumer safety, all corrective measures can be ordered:

- injunction to carry out work and cleaning or disinfecting operations;
- injunction to comply with the basic food safety provisions (compliance with the cold chain, quality of the ingredients used, etc.);
- if appropriate, injunction to reinforce the self-assessments and staff training.

5.3.3 Impounding

This involves suspending the marketing of a product recognised as non-compliant by direct observation. The impounding is lifted once the product is noted as compliant. The product is seized if there is no possibility of making it compliant.

5.3.4 Temporary withdrawal

This involves suspending the marketing of a product that is suspected to be non-compliant whilst awaiting the results of analyses or additional verifications. If the verifications are not made within seven working days or if they do not confirm that the product is non-compliant, the temporary withdrawal is lifted. The product is seized and the jurisdiction is so advised if the product is proven to be non-compliant.

5.3.5 Seizure

This procedure involves the products impounded or temporarily withdrawn that have not been made compliant. The seizure gives rise to a report and the incriminated products are placed under seal and in the custody of the intervening party involved.

5.3.6 Definitive withdrawal

Operated by investigating agents without prior authorisation from the competent judicial authority in the following cases:

- products recognised as falsified, spoiled, toxic or expired,
- products recognised as unfit for consumption,
- products held without legitimate reason and liable to be used for falsification purposes,
- counterfeit products,
- objects or apparatus likely to be used for producing falsifications.

Destruction costs are payable by the intervening party and the jurisdiction is advised. A destruction report is drawn up.

5.3.7 Temporary suspension of activity

The activity of an establishment is suspended when the non-conformity has been established, and remains so until the causes behind the suspension have been totally eliminated.

This decision is taken either by the judicial authority or by the competent administrative authority as proposed by the investigators and on the basis of the duly-explained survey report.

Criminal sanctions can also accompany this notification.

6. Examples of follow-ups given to a control

6.1. Sample NIR (Notification of Regulatory Information)

Regarding: Notification of Regulatory Information on hygiene
Enc.: copy of the Order of 09/05/95

Dear Sir,

During the verification carried out by an agent from my department, ..., on 21 and 29 July 1999 in the restaurants run by yourself, breaches to the hygiene rules defined by the Order of 9 May 1995 on the hygiene of food provided directly to consumers were noted in your presence.
I attach a copy of this Ministerial Order.

I request that you apply without delay the corresponding measures to ensure irreproachable hygiene in your establishment. Please acknowledge receipt of this letter.

I draw your attention to the fact that very exceptionally these breaches have not been made the subject of an official report. Any further breach, however, will be sanctioned immediately by a contentious act submitted to the Public Prosecutor for the purposes of legal proceedings against you.

6.2. Sample written warning

Dear Sir,

During the verification carried out on ... at [time], an agent from my department, ..., noted breaches to the hygiene rules defined by the Order of 9 May 1995.

I list these breaches below:

- presence of dishes stacked on top of each other, without protection, in the cold cabinet,
- dishwashing area used to wash vegetables as well as dishes,
- boxes and crates in the preparation areas,
- dirty cooling unit,
- gas bottles near a heat source,
- interior freezer temperature at -9.3°C instead of the regulatory -18°C.

I request that you apply without delay the corresponding measures to ensure irreproachable hygiene in your establishment. Please acknowledge receipt of this letter.

I draw your attention to the fact that very exceptionally these breaches have not been made the subject of an official report. Any further breach, however, will be sanctioned immediately by a contentious act submitted forthwith to the Public Prosecutor for the purposes of legal proceedings against you.

6.3. Sample reminder of regulations

Regarding: Inspection dated 04/07/2001

Our ref.: Decree of 21 July 1971 - Ministerial Order of 9 May 1995 - Reminder of regulations - Official notification

Enc.: Ministerial Order of 9 May 1995

Your Contact:

Dear Sir,

I am writing to confirm the observations made during the control carried out in your establishment on 4 July 2001 by ... and ...

I should be grateful if you would make sure you comply with the following obligations:

1 - TITLE II - Chapter I - Premises - of the Order of 9 May 1995 regulating the hygiene of food provided directly to consumers stipulates that:

Art. 3-1 «The premises mentioned in this title must be clean and well maintained. They must not cause, through the activities carried out within them, a risk of food contamination.»

Art. 3-2 «The design, dimensions, construction and layout of these premises must allow the implementation of good hygiene practices, and especially:»

Art. 3-2-a «Prevent cross-contamination, between and during operations, through foodstuffs, equipment, materials, water, ventilation, staff and external sources of contamination such as insects and other animals;»

Art. 3-2-b «Allow effective cleaning and/or disinfecting;»

Art. 3-2-c «Prevent contact with toxic substances, spilling of contaminating materials into foodstuffs, including from ceilings, suspended ceilings and other equipment installed at a height;»

Art. 4 «These same premises must include the following, to ensure bodily and clothing hygiene of the staff:»

Art. 4-a «Enough cloakrooms or wardrobes to hold clean protective garments suited to the activity before entering the areas where food is handled;»

Art. 4-b «Enough hand basins and lavatories fitted with a bowl and a flush and connected to an efficient evacuation system. The lavatories must not communicate directly with areas used to prepare or hold foodstuffs.»

«The basins are supplied with hot and cold running water and are fitted with suitable systems for washing and drying hands hygienically. They must be separate from food washing arrangements.

The equipment must be kept clean at all times.

These areas must have adequate ventilation.»

You are currently not complying with these provisions:

- the floor in the preparation areas, dishwashing area, store and staff cloakrooms has deteriorated and is difficult to clean,
- it is difficult to clean part of the walls,
- the overall maintenance of the establishment is far from adequate (cobwebs, debris, black deposits, greasy deposits, etc.),
- the remotely controlled hand-washing facility near the hotplate is out of order, nor are soap and hand towels provided,
- the staff cloakrooms are dirty, and the walls, floors and ceilings cannot be washed,

- the staff lavatories are the 'squat' type,
- there is no suitable arrangement for washing and drying hands hygienically when leaving the staff lavatories.

2 - TITLE II - Chapter II - Equipment - of the Order of 9 May 1995 regulating the hygiene of food provided directly to consumers stipulates that:

Art. 5-1 «Without prejudice to the provisions of the Decree of 12 February 1973 mentioned above, all equipment entering into contact with foodstuffs, including sales counters, sales shelves, tables and utensils, must be kept clean at all times and:»

Art. 5-1-a «Built and maintained so as to avoid the risks of food contamination;»

Art. 5-1-b «Built and maintained to allow effective cleaning and, when this proves necessary to avoid food contamination, suitable disinfecting, except for throw-away containers and packaging;»

Art. 5-1-c «Installed in such a way as to allow the surrounding area to be cleaned.»

Art. 5-2 «Appropriate facilities and/or arrangements must be planned to keep foodstuffs in the temperature conditions mentioned in Article 10 below and to control them.»

You are currently not complying with these provisions:

- the equipment (chiller cabinets, shelves, cooker hood, etc.) are dirty,
- the seals on refrigerated compartments are dirty and damaged,
- the freezer is dirty and needs defrosting.

3 - TITLE II - Chapter V - Foodstuffs - of the Order of 9 May 1995 regulating the hygiene of food provided directly to consumers stipulates that:

Art. 8-1 «All raw materials, ingredients, intermediary products and finished products must be handled, stored, packed, exposed and presented to the consumer in conditions that prevent any deterioration or contamination liable to make them unfit for human consumption or hazardous to health. In particular, storing foodstuffs on the floor and the presence of domestic animals are forbidden in areas where these activities are carried out.»

Art. 8-2 «Everything will be done to ensure that food that is presented in unprotected form is protected from potential pollution caused by the proximity of the consumer or handling by him.»

Art. 9 «When operations such as peeling, slicing and, if appropriate, cleaning, are carried out in a same structure, they must avoid any cross-contamination with foods with a different level of hygiene.

In particular, in establishments preparing food in the place of sale or consumption, the operations mentioned above and food preparation operations can be carried out in a same location, provided they are staggered over time and that the work surfaces are cleaned and disinfected between each operation.»

Art. 10-1 «The raw materials, ingredients, intermediary products and finished products must be stored until presented to the consumers at temperatures that stop them from spoiling and more especially restrict the development of pathogenic micro-organisms or the formation of toxins at levels that could represent a health risk.

For some of these products, excluding foodstuffs with a storage temperature defined by specific regulations, this temperature is fixed in the annex to this order.»

Art. 14 «Products intended for slicing or serving must be unpacked as and when required, and under hygiene conditions preventing their contamination. The information on the product identification and shelf life must be kept as long as it is held.

All hygiene precautions must be taken when slicing foodstuffs. Products sliced on site must be presented in the smallest possible quantity, as and when required for serving.

Foodstuffs that are highly perishable from a microbiological point of view when unpacked must be protected from any contamination when being stored or sold.»

Art. 15 «Hazardous substances and preparations, and products not intended for human consumption must be stored and, if appropriate, presented for sale in special locations that are clearly identified.»

You are currently not complying with these provisions:

- in the chiller cabinet, a piece of meat has no information on its shelf life or means of identifying it,
- foodstuffs (pastries, etc.) are stored in chiller cabinets without protection,
- brooms and cleaning products are not kept in suitable storage units (e.g. lockable stores or furniture, set aside especially for this purpose).

4 - TITLE II - Chapter VII - Controls and verifications - of the Order of 9 May 1995 regulating the hygiene of food provided directly to consumers stipulates that:

Art. 17 «The managers of establishments mentioned in Article 1 must carry out regular controls, each in their own respect, to check the conformity of food with the provisions of this order and, when they exist, regulatory microbiological criteria that they must satisfy.

These controls must especially ensure the state of products at reception and focus on the storage conditions and the cleaning and disinfecting methods.

To establish the type and frequency of these controls, they must identify any aspect of their activities that is decisive for the safety of the products mentioned in Article 1 and make sure that appropriate safety procedures are set up, implemented, complied with and updated, based on the principles used to develop the hazard analysis and critical control point system (HACCP), in particular:

- analyse and assess the potential food risks at the various stages of the selling process and, if appropriate, the preparation process;
- highlight the points in the stages where there are potential food risks;
- identify from these points those that are decisive for food safety, called 'critical points';
- define and implement means of controlling these points and effective follow-up procedures;
- review periodically the procedures established above, especially when operations are modified.

The managers of these establishments must be in a position to bring to the knowledge of administration control agents the type, frequency and result of verifications defined according to the principles mentioned in the previous paragraph and, if appropriate, the name of the control laboratory.»

You are currently not complying with these provisions:

- When questioned by the agents, you were unable to tell them the type, frequency and result of these verifications.

5 - TITLE III - Chapter I - Food preparation areas and equipment - of the Order of 9 May 1995 regulating the hygiene of food provided directly to consumers stipulates that:

Art. 19-a «Surfaces such as floor coverings, wall surfaces and doors must be built or coated with materials with physical characteristics, especially sealing and lack of absorption, that facilitate their cleaning, washing and disinfecting in order to limit the risks of food contamination.»

Art. 19-b «Windows and other openings must be designed and maintained so that they are not a source of insalubrity for the food. Those opening to the outside must, if necessary, be fitted with insect protection screens. It must be easy to remove these screens for cleaning.»

You are currently not complying with these provisions:

- the wall tiles are broken in the preparation area.
- in the preparation area, a (particularly dirty) door without protection opens to the outside (used equipment storage area).

6 - Chapter 1 - Article 1 of the Ministerial Order of 28 June 1994 on the identification and health approval of establishments marketing feed or food of animal origin and on health marking stipulates that:

«Any establishment preparing, treating, processing, handling or storing feed or food of animal origin, subject to the obligation of declaration, is identified by the director of veterinary services, ...»

You are currently not complying with these provisions:

- no declaration of activity has been noted by my services.

Given the activity of your establishment, you must comply with all provisions of the Ministerial Order cited.

Secondly, your establishment must satisfy the provisions of Decree 71-636 of 21 July 1971 taken for the application of articles 258, 259 and 262 of the Rural Code and relating to the organisation and operation of the health and qualitative inspection of living animals and feed and food of animal origin.

Give the provisions of Decree 83-1025 of 28/11/83 for the relations between the administration and the users, I advise you that you have two months in which to undertake work to render your premises compliant and in proper condition.

If the work is not completed before 04/09/2001, an official report and a closure proposal will be drawn up.

You have one week to submit any comments you may have in writing.

This letter is both a warning and a reminder of the regulations. Furthermore, we request that you keep us informed of the cleaning and disinfecting of your premises within two week of receipt of this letter.

6.4. Sample report

- **Breach:** (Text definition): of Articles 3, 4, 5, 7 and 8 of the Order of 9 May 1995 regulating the hygiene of foods supplied directly to the consumer (failure to comply with product or premises hygiene rules)
 - **Penalties:** provided for under Article 26 of the Decree of 21 July 1971 (class 5 violation)
 - **Breach:** (Text definition): of Article 10 of the Order of 9 May 1995 regulating the hygiene of foods supplied directly to the consumer (failure to comply with temperature rules)
 - **Penalties:** provided for under Article 26 of the Decree of 21 July 1971 (class 5 violation)
 - **Breach:** of Article R 112-25 of the Consumer Code for holding out-of-date foodstuffs.
 - **Penalties:** provided for under Article R 214-2 of the Consumer Code (class 3 violations)
- Against Messrs ..., joint managers

We, the undersigned, ... and ...,

qualified to carry out the necessary investigations for the application of texts taken by virtue of the ..., acting under the authority of the head of department ...

On ... at [time], we arrived at the restaurant ...

This establishment is owned by ... and managed jointly by Messrs ...

proved our identity and, in the presence of Mr ..., noted the following in the kitchens, stores and restaurant room of this establishment:

1. FAILURE TO COMPLY WITH HYGIENE RULES

- Numerous cigarette butts were found under the wood-fired oven used to cook pizzas.
- The paint on the kitchen ceiling is flaking and reveals the raw concrete.
- There is no staff cloakroom and the employees leave their belongings in the kitchen itself.
- The handles on the three refrigerators in the kitchen are broken.
- The premises are cramped: the aisle in the kitchen is barely one metre wide, thereby preventing the staff from moving around and working correctly.
- Some food is stacked on soiled wooden shelves.
- The door to the cold room in the basement was open, which caused a rise in the storage temperature of food inside it.

The insufficient hygiene in the kitchen bears witness to certain negligence with potentially serious consequences for the salubrity of foodstuffs served to the customer, mainly due to the contamination it is liable to cause. Messrs ... are responsible for the organisation and hygiene of the kitchen. They have therefore committed breaches of Articles 3, 4, 5, 7 and 8 of the Order of 9 May 1995 regulating the hygiene of food provided directly to consumers.

2. FAILURE TO COMPLY WITH STORAGE TEMPERATURES

In the presence of Mr ..., we have measured the storage temperature for prepared dishes and foodstuffs prepared since the start of the morning:

- In the various cold rooms in the establishment.
- In the refrigerated display case near the oven.
- In the bain marie (stainless steel receptacle containing sauces).

The temperatures were taken at the heart of the products using a calibrated thermometer and Mr ... was invited to note the temperatures taken during the control.

Product	Quantity	Storage location	Recorded T°	Regulatory T°
Bolognese sauce	1 tub	Bain marie	47.2°C	63° C
Stuffed squid	1	refrigerator	22°C	4° C
Slices of shoulder	1 receptacle	Chiller cabinet	12.4°C	4 ° C
anchovies	«	«	«	«
Roquefort	«	«	«	«
mozzarella	9 Kg	Cold room	19.8 °C	4 °C
Fresh pasta	2 plates	«	«	«
Cooked ham	10 Kg	«	«	«
ravioli	11 Kg	«	16.4 °C	4 °C
mascarpone	1.5 Kg	«	«	«
Mozzarella	5 Kg	«	«	«
Quark	4 Kg	«	«	«
Roquefort	6 Kg	«	«	«
anchovies	4 Kg	«	«	«
Vacuum-packed entrecotes	7.4 Kg	«	«	«
Bacon pieces	5 Kg	«	«	«
ham	1 receptacle	Kitchen work surface	23.1 °C	4 °C
tuna	«	«	15 °C	«

Storing foodstuffs at higher temperatures than those fixed by the regulations can make them spoil more quickly and encourage the development of pathogenic micro-organisms or the formation of toxins at levels liable to represent a health risk. By failing to comply with the foodstuff storage temperatures, Messrs ... have breached the provisions of Article 10 of the Order of 9 May 1995.

3. EXPIRED USE-BY DATES

The establishment's cold room contained, among other things, foodstuffs intended for use but with expired use-by dates, as shown in the table below:

PRODUCTS	USE-BY DATE
1 smoked salmon (vacuum-packed)	26.06.2000
2 country-style pâtés	05.06.2000
2 country-style pâtés	21.06.2000

Article R. 112-25 of the Consumer Code states:

«Without prejudice to penalties provided for under Articles 1 and 4 of the law of 1 August 1905 and Article 26 of the Decree of 21 July 1971 mentioned above, it is forbidden to store foodstuffs with a use-by date which has expired, with the intention of offering them for sale, selling them or distributing them free of charge.»

As a catering professional, the interested party had a duty to comply with the said regulations by disposing of products that should no longer be supplied for consumption.

This report has been produced in two copies for forwarding to the Public Prosecutor in

Number of words: _____ lines: _____ struck out void
Terminated on _____ at [time]

Signature of the author of the report,

6.5. Sample request for forced closure

A request for forced closure comprises two documents:

- the survey report
- the closure request to the competent authority.

6.5.1 Sample survey report

SURVEY REPORT

Municipality: ...

Date: ...

Investigators: ...

Establishment: Restaurant ...

Operated by: ...

with the two managing tenants, who are Mr ... and Miss ...

This establishment, installed on a campsite of the same name, has a huge clientele, given the high numbers of campers on this campsite located on the outskirts of ... and near ...; it has to be said that in the off season, this restaurant continues to be busy, mainly on Saturdays and public holidays when numerous dinner-dances are held in the establishment.

In addition, controls in the past had highlighted dysfunctions mainly in compliance with the cold chain; these breaches were therefore sanctioned. At the time, the owner of the establishment had committed to carry out some work, but this has not been done, or at least nothing significant.

This catering establishment has two sections: the restaurant room with an adjoining area for cooking hot dishes on the ground floor, and cold preparation rooms, the dishwashing area and the storage areas located on the lower level.

DESCRIPTION OF THE PREMISES

Upper section

The restaurant room, which does not give rise to special comments, overlooks the swimming pool. Note that there is a bar which the establishment also operates.

In terms of kitchen/room access, the tables are served and cleared through the same door, which implies a crossing of the 'clean' and 'dirty' (photos 1 and 2).

The meal waste is sent to an uncovered bin in the basement through a waste discharge chute, with the upper mouth located next to the prepared dish assembly section (photo 3) and the lower mouth next to the cold preparation area on the lower level (photo 4).

The temperatures recorded in the small refrigerated cabinets where the prepared dishes of the day are stored were +11.9°C and +16.1°C respectively instead of the +4°C provided for under the regulations.

There is no remotely controlled hand-washing facility nor are there soap dispensers in the kitchen area (photo 5).

Lower level

The lower level has three areas:

- 1°) An area used for storage and as a cloakroom and preparation corner for large quantities of starters.
- 2°) A dishwashing section includes a few wooden shelves where the clean crockery is stored.
- 3°) A cold preparation area which includes the cold room and the waste discharge chute from the upper level.

There are no remotely controlled hand-washing facilities or soap dispensers at this level; the staff have to wash their hands in the dishwashing sink.

Storage area

This section is in fact a former garage with a bare concrete floor and breeze blocks (photo 6).

It is used to store preserves, crockery, tea towels and napkins, whether clean or dirty, and staff belongings (photo 7).

The prepared dishes like the cold starters of the day, the dishes of the day and some desserts of the day are prepared in this location on a large wooden table and kept at room temperature with no protection (photo 8)

A gas burner was noted, which had been used, according to the staff, for preparing huge paellas or couscous for special evening events: cooking takes place in an unventilated room with no thought for the safety standards required when using gas.

Dishwashing section

This section does not give rise to special comments, except for the wooden shelves where the clean crockery is stored, a broken electric neon light just above the crockery (photo 9) and a dumbwaiter that is used both for sending the prepared dishes to the upper level and for receiving dirty crockery from the restaurant room (photo 10).

An ashtray full of cigarette butts was also noted near the opening to the dumbwaiter.

Cold preparation area

This section of the lower level corresponds to the cold preparation area for customers ordering from the menu or anything other than dishes of the day prepared in large quantities.

The cold room is also in this section: the ceiling is thrown together with sheets roughly stuck together and the electric ducting and the ceiling light are rusty (photo 11).

The bin (see report on the upper level) opens directly by the side of the cold preparation area which represents an obvious risk of contamination (photo 12).

GIVEN

- the non-compliance of the premises and equipment,
- the health risk run by the consumers,

It does not seem possible to use to tolerate continued activity in this establishment

We therefore suggest that you issue an order for the forced closure of this business as long as there is failure to comply with the regulations in force.

[place], [date]

NB: No photos, as they have been submitted to the courts.

6.5.2 Sample request for closure

The Director
to the Mayor of ...

Regarding: Request for forced closure of the restaurant ... located within your municipality.

Enc. : A survey report.

Under the 'Interministerial Holidays Operation 1999', a control carried by an agent from my department on [date] highlighted serious breaches in hygiene and the failure of this establishment to comply with the texts applicable to this type of business.

Please find enclosed the visit report.

Given the non-compliance of this restaurant, the highly significant differences between reality and the regulations, above all the serious health risks run by the clientele, I propose that this establishment undergo forced closure in application of Articles L 2212-1 and L 2212-2 of the General Regional Authorities Code.

6.6. Sample impounding report

IMPOUNDING

We, the undersigned,

acting on the authority of the Director of ...

on [date] at [time], in [place]

went to

we were received by Mr ..., the manager and legal person in charge

to whom we proved our identity and indicated the purpose of our survey.

controlled the goods in the conditions provided for by the regulatory provisions and noted that the following products:

25 pallets of 200 boxes of six one-litre bottles of a product called 'jus de fruits' (marked in French on each pallet) were stored in a warehouse of the company.

Upon examination of several packaged items sampled at random from boxes we found that the labelling on each bottle was in Chinese, with no translation into French.

We asked Mr ... whether he possessed documents confirming the conformity of products with the regulations in force and whether had the labels stating the product composition in French.

Mr ... then told us that:

- The products had been purchased from a European importer (purchase invoices supplied stating apple juice), who had not handed over the manufacturer's documents

- A sample of the fruit juice was sampled by an independent approved laboratory to confirm the conformity of its composition
- The French labels will be produced when the product composition is known and will be applied to all the packaging

These products with their unknown composition may contain ingredients representing a risk for some consumers (allergies, incompatibility with the ingestion of an ingredient, etc.). They are therefore liable to present a hazard and cannot be marketed as is.

in the presence of Mr ... we have impounded them in the premises of ... until they are made compliant.

These products are arranged as follows: 25 pallets of 200 boxes each containing six bottles, including:

- 12 opened for control purposes and containing six bottles
- 12 opened for sampling purposes and only containing five remaining packaged items

have advised Mr. ... that by virtue of the regulations,

- the impounding can only last for more than one month when authorised by the Public Prosecutor,
- the lifting of the impounding can be ordered at any time by the accredited authorities or by the Public Prosecutor,
- this report will be sent to the Public Prosecutor within 24 hours,
- failure to comply with the impounding is punishable as provided for by the regulations.

Number of words: lines: struck out void

Terminated on [date] at [time]

Signature of the author(s)
of the report

Signature of the interested party

6.7. Sample seizure report

SEIZURE REPORT

We, the undersigned, ...

from (name of department or administration), acting under the authority of the Director

On [date] at [time], in [place]

went to the premises of the restaurant owner, Mr ..., who received us.

we proved our identity and indicated the purpose of our survey.

controlled the goods in the conditions provided for by the regulations in the restaurant premises.

We noted that the positive cold room was not operating and was giving off an appalling smell.

The ambient temperature of the cold room, taken with a calibrated thermometer in several places, was 18.8°C.

In the presence of Mr ..., we measured the storage temperature of various foods, prepared and held in the cold room of the restaurant of this establishment.

The temperatures were taken at the heart of the products using a calibrated thermometer and Mr ... was invited to note the temperatures taken during the control.

We were able to note the following:

Product	Quantity	Storage location	Recorded T°	Regulatory T°
Olivier salad	1 tub	Cold room	23.6°C	4°C
cooked eggs	1 tub	D	23.4°C	D
salmon	1 tub	D	23.2°C	D°
Sausage	7 kg	D°	24.2°C	D
bacon pieces	1 tub	D°	22.9°C	D°
salmon	1.5 kg	D°	22.1°C	D°
Cooked dishes (aubergine, chickpeas, etc.)	3 tubs	D°	22.4°C	D°
Beef	21 kg	D°	21.9°C	D°
Chile con carne	1 tub	D°	19.1°C	D°

The appalling smell came from food stored in these conditions.

We were thus able to see that:

- A greenish film covered the surface of cooked dishes, similar to a rotting crust
- The beef and sausage smelled very rotten and they were grey rather than the normal red
- The smell was unbearable and we asked how long this food had been stored.

Mr ... was incapable of replying to this question nor could he state the use he intended to make of it.

Given the non-conformity of foodstuffs of animal origin, their spoiling and the potential risk that the population would run in eating it,

We seized it,

noted that these products were spoiled and destroyed them, for the reasons stated above and under the following conditions:

goods placed in a sealed receptacle and covered with 5 litres of bleach to ensure their denaturing. Mr ... had to have them removed by the official authorised departments and provide proof that this had happened.

advised Mr ... that this report would be sent to the Public Prosecutor within 24 hours.

The interested party refused to sign the report.

Number of words: lines: struck out void

Terminated on [date] at [time]

Signature of the author(s)
of the report



SAFE FOOD IN ACP
A PROGRAMME FUNDED BY THE EU

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- 9 Procedures
- 10 Animal By-Products
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