The Architecture of Food Safety Control in the European Union and the Eurasian Economic Union

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Outline of Presentation

• Introduction: the issue—food safety control and its effectiveness in two economic unions
• Supranational competencies
• 5 Key differences on food safety
• Country level competencies
• Conclusions
EU and EAEU

INTRODUCTION
Food safety control—why does it matter for a single market?

• Definition of FS control:
  – System of surveillance and control of FS, animal and plant health
  – Justifiable barrier to trade for all countries
  – Objective is commerce and trade in safe food

• Task of presentation is to investigate effectiveness of FS and SPS control institutions in two economic unions
EU and EAEU

SUPRANATIONAL FOOD SAFETY COMPETENCIES
## FS Competencies for FS

<table>
<thead>
<tr>
<th>Function</th>
<th>European Union</th>
<th>Eurasian Economic Union</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy development (who develops policies?)</td>
<td>European Commission</td>
<td>1. Eurasian Economic Commission</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Eurasian Intergovernmental Council.</td>
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<td></td>
<td></td>
<td>3. Eurasian Economic Commission Collegium</td>
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<tr>
<td>Provision of scientific advice for risk</td>
<td>EC itself</td>
<td>No. The EAEC does not have the mandate for risk assessment. Only at country level.</td>
</tr>
<tr>
<td>assessment</td>
<td>European Food Safety Authority, Member state bodies</td>
<td></td>
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<tr>
<td></td>
<td>All kinds of other govt and civil advisory bodies</td>
<td></td>
</tr>
<tr>
<td>Audits and oversight of control systems</td>
<td>DG SANTE, Audit &amp; Analysis (former FVO)</td>
<td>No. *</td>
</tr>
<tr>
<td>Rapid alert and notification systems for</td>
<td>EUROPHTY, RASFF, TRACES</td>
<td>Not developed.</td>
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EU Central (supra-national) Institutions

European Food Safety Authority (EFSA) (independent expert advice and reports) risk assessment

Member state expertise

DG SANTE, Directorate of Health and Food Audits and Analysis (performs Audits)

European Parliament

COMMISSION

proposes legislation

COUNCIL PARLIAMENT

codecision

11/23/2016
EAEU Central (intergovernmental) Institutions

**Eurasian Supreme Economic Council**—Heads of state (presidents) sets policy on EAEU and appoints EAEC Collegium members (4 year terms)

**Eurasian Economic Commission**
Two Bodies—Intergovernmental Council and Collegium

**Intergovernmental Council**—Dep Prime Ministers

**Collegium or Board** (10 departments)

**Department of Technical Regulation and Accreditation**
Sanitary, Phytosanitary and Veterinary Measures

**Consultative Committee**
For TR, SPS, Vet Issues
### EU and EAEU: Legal instruments

<table>
<thead>
<tr>
<th>Nature of legal instrument</th>
<th>European Union</th>
<th>Eurasian Economic Union</th>
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<tbody>
<tr>
<td>Supra-national legislation applicable to all member countries</td>
<td>EU Regulation</td>
<td>EAEC Council Decision (reshenie)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>EAEC Collegium Decision (reshenie)</td>
</tr>
<tr>
<td>General rules to be transferred into national law by each country</td>
<td>EU Directive</td>
<td>Does not exist</td>
</tr>
<tr>
<td>as deemed appropriate</td>
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</tbody>
</table>
EU and EAEU

KEY DIFFERENCES ON FOOD SAFETY ISSUES
Key Difference 1

Checks and Balances

**EU**

- **Significant balances**
  - President proposed by European Council, elected by Parliament
  - Commissioners chosen by President and MS, approved by Council, Parliament
  - Many small states, no one state dominates
  - The EC is an independent supranational authority separate from governments

**EAEU**

- **Significant domination**
  - Collegium appointed by Supreme Ec Council
  - Small number of states, de facto dominance of largest
  - EAEC has extremely limited independence from MS
  - Best described as Intergovernmental organization
Key Difference 2

**Tools for enforcement**

**EU**
- Dual system of enforcement—
  - EC proscribes and audits MS authorities’ *systems* of control (acc. To proscribed principles)
  - national authorities enforce EU required *processes*
- Control of principles (processes) of national FS control are main means of EC control
  - Both authority and admin capacity to exert oversight of national control systems
  - Monitoring: Single market scoreboard for each MS published on website

**EAEU**
- Much less effective system-
  - No significant competency to enforce EAEC Decisions with MS
  - No authority or admin capacity to exert oversight or audit of national control systems
  - Few enforced prescribed principles for national agencies
  - Monitoring: No single market scoreboard
Key Difference 3
Means, Procedures

EU

• Detailed procedures and institutions to put into practice the principles espoused
  – Perhaps “too effective” (costly and burdensome)
  – Communication: EU rapid alert systems and provision for authoritative, independent scientific risk advice (EFSA)

EAEU

• Lack of detailed procedures for implementation of principles
  – Limited admin ability to
    • implement EAEU rapid alert system,
    • provide for authoritative, independent scientific advice
  – EAEU notes principles, but lacks the provisions to apply them
Key Difference 4

**FS and SPS International standards**

**EU**
- EU (EC+MS) is an incredibly active global developer and adopter of international standards
- EU rapid alert system and provision for authoritative, independent scientific risk advice (EFSA)
- Leader in principle based enforcement

**EAEU**
- Legacy, passivity, isolation
  - Legacy. Onishchenko (2013)—Compliance of Russian technical regulations with international standards—40%
    - Probably pertains to norms, not principles
  - Passivity. Compliance with intl norms assumed unless 3rd country lodges a complaint
  - Isolation. GOST standards and dominance of technical regulations
Key Difference 5

Philosophy of FS Control: Technical Regulations

EU--Int’l best practice

• TR--Lays out product characteristics or processes--compliance mandatory (at production level)
• TRs usually not for food products
  – Conformity assessment, certification
• Food products. Controls needed at every stage of production and distribution
• Focus on safe processes, not mandatory certification
• Legislation, and administrative practices are designed to promote safe processes (e.g., HACCP) and risk-based inspection systems

EAEU (and USSR)

• TR refer to product characteristics, processes and food safety issues
• Implication. Main form of controls are conformity assessment, certification performed at the producer level
• Burden for food businesses in an innovative market economy, and really not enough
• Creates a false sense of safety for the public
EU and EAEU

COUNTRY LEVEL COMPETENCIES
Country level competencies

EU countries

- Clearly stated principles, protocols, procedures and plans mandated by EU institutions, complemented with a system of enforcement to ensure implementation
- Little prescribed institutional structure
- Result: clear, synchronized and effective system

EAEU countries

- Principles are announced, but not enforced
- Result: countries are a bit on their own
Accession

EU accession process—Croatia

• EU accession process on SPS issues is a transformative process
• requiring extreme capacity building, investment in new institutions and preparation
• 10 years. Longest is 14 years (Malta)


• Accession to the EAEU is largely political and very quick
• Kyrgyzstan
  – 4 years, but roadmap approved only in 2014
  – Accession 2015 without single market for livestock products
• Armenia (16 months)
• Legal confusion (local and EAEU legislation may differ)
Effectiveness
EU—“too effective”? 

• Prescription of institutions is limited, but...
  – Principles and rules are same
  – Central control—Multiannual control plans
  – Audit oversight by DG-SANTE

• Independent checks and balances (EC audit, country level SPS experts, EFSA, EU Parliament, DG Health), rapid alert system

• Excellent central enforcement and constant training, but bureaucratic and costly

EAEU—could be more effective

• Prescription of institutions also limited, but...
  – Not very effective implementation

• Transformation and conditionalities

• Limited central enforcement or training

• Advantages of accession for Kyrgyzstan
  – Leg. On animal ID, vet and sanitary issues
  – Uniform border checkpoints to comply with EAEU requirements for SPS external border control
  – Diagnostic vet lab accredited for EAEU
## Conclusions

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<tr>
<th>EU</th>
<th>EAEU</th>
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<tr>
<td>• Real Supranational competencies</td>
<td>• Intergovernmental union</td>
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<td>• Monitoring and enforcement</td>
<td>• Difficult goodwill, trust and consensus</td>
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<tr>
<td>• Food traceability, enforcement of principles, training, consensus, goodwill</td>
<td>• EU project is sui generis--shared democratic values and conviction on cooperation</td>
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<td>• The EAEU is not alone. Others also don’t give away sovereignty to a supranational agency.</td>
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